

OFFICE OF THRIFT SUPERVISION

Approval of Applications for Voluntary Supervisory Conversion And Acquisition and Merger of a Savings Bank

Order No.: 2001-33
Date: May 4, 2001
Docket Nos.: H-1385, 1587, & 7545

CloverBank, Pennsauken, New Jersey (Savings Bank), has applied to convert from a Federal mutual savings bank to a Federal stock savings bank through a voluntary supervisory conversion pursuant to sections 5(i) and 5(p) of the Home Owners' Loan Act (HOLA), 12 U.S.C. §§ 1464(i) and (p), and Subpart B of 12 C.F.R. Part 563b. In conjunction with the voluntary supervisory conversion, FMS Financial Corporation, Burlington Township, New Jersey (Holding Company), applied for approval to acquire all of the to-be-issued common stock of the Savings Bank pursuant to section 10(e) of the HOLA, 12 U.S.C. § 1467a(e) and 12 C.F.R. Part 574, and to merge the Savings Bank into Farmers & Merchants Bank, Burlington Township, New Jersey (Association), the wholly owned subsidiary of the Holding Company, pursuant to section 18(c) of the Federal Deposit Insurance Act (Bank Merger Act), 12 U.S.C. § 1828(c), and 12 C.F.R. §§ 552.13, and 563.22 (collectively, the Applications).


OTS has considered the Applications, as supplemented by representations by the Holding Company, the Association, the Savings Bank and their attorneys, under the factors set forth in 12 U.S.C. §§ 1464(i), 1464(p), 1467a(e) and 1828(c), and 12 C.F.R. §§ 552.13, 563.22 and 574.7, and 12 C.F.R. Part 563b, Subpart B, and other applicable statutes and regulations. OTS also has considered the Applications under the Community Reinvestment Act (CRA), 12 U.S.C. § 2901, *et seq.*, and OTS regulations thereunder, 12 C.F.R. Part 563e. OTS has considered an analysis prepared by the OTS Northeast Regional Office (Regional Office), a legal opinion by the Business Transactions Division, and a summary by Examination Policy (collectively the Staff Memoranda). For the reasons set forth in the Staff Memoranda, OTS finds that the Applications satisfy all applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the Northeast Regional Director, or his designee (Regional Director). Accordingly, the Applications are hereby approved, subject to the following conditions:

1. The Holding Company, the Association, and the Savings Bank must consummate the transactions described in the Applications in accordance with the Agreement and Plan of Merger Conversion, dated January 25, 2001, in not less than 15 nor more than 120 calendar days after the date of this Order;
2. The Holding Company, the Association, and the Savings Bank must receive all required regulatory approvals for the proposed transactions and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transactions;
3. On the business day prior to the date of consummation of the proposed transactions, the chief financial officers of the Holding Company, the Association, and the Savings Bank must certify in writing to the Regional Director that no material adverse events or material adverse changes have occurred with respect to the financial condition or operation of the respective entities as disclosed in the Applications. If additional information having an adverse bearing on any feature of the Applications is brought to the attention of the Holding Company, the Association, the Savings Bank, or the OTS since the date of the financial statements submitted with the Applications, the transactions must not be consummated unless the information is presented to the Regional Director, and the Regional Director provides written nonobjection to consummation of the transaction;
4. No later than five days from the date of consummation of the proposed transactions, the Holding Company must file with the Regional Director a certification by legal counsel stating the effective date of the transactions, and that the transactions have been consummated in accordance with the provisions of all applicable laws and regulations, the Applications, and this Order;
5. No later than 30 calendar days after the date of consummation of the proposed transactions, the Association must advise each accountholder whose withdrawable accounts in the resulting savings institution would increase above \$100,000 as a result of the merger of the effect of the transaction on insurance coverage. The Association must submit a representative copy of the notice to the Regional Office;
6. No later than 30 calendar days after the date of consummation of the proposed transactions, the Holding Company and the Association must submit a final accounting of the transactions to the Regional Director;
7. OTS must receive the information necessary to complete its background investigation of a director of the Holding Company and an officer of the Association, and such information must not disclose any information that the Regional Director finds objectionable; and

8. The Association must establish and maintain a liquidation account in accordance with 12 C.F.R. § 563b.3(f). Within 30 calendar days after the date of consummation of the proposed transactions, the Association must inform the Regional Director of the beginning liquidation account balance and the basis for determining the amount.

The Regional Director may extend any time period specified herein, for good cause, for up to 120 calendar days.

By order of the Director of the Office of Thrift Supervision, or her designee,
effective May 4, 2001.



Scott M. Albinson
Managing Director
Office of Supervision