

OFFICE OF THRIFT SUPERVISION

Approval of Applications for Permission to Organize and Acquire a Federal Savings Bank, and Branching Application

Order No.: 2005-33
Date: August 29, 2005
Docket Nos.: 17996 and H-4201

Continental Bank Holdings, Inc., Plymouth Meeting, Pennsylvania (Holding Company), and the Arthur J. Kania Subchapter S Trust, Bala Cynwyd, Pennsylvania (Trust), have applied to the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. §§ 1464(e) and 1467a(e), and 12 C.F.R. §§ 552.2-1 and 574.3, to organize and to acquire Continental Bank, Plymouth Meeting, Pennsylvania (Savings Bank). The Savings Bank has filed a branch office application pursuant to 12 C.F.R. §§ 545.93 and 545.95, with respect to a proposed Devon, Pennsylvania, office. The Holding Company has filed an application with the Federal Deposit Insurance Corporation (FDIC) for insurance of the Savings Bank's deposits under the Savings Association Insurance Fund (SAIF).

The Proposed Transaction

The Holding Company and the Trust propose to establish and to operate a *de novo* federal stock savings association, the Savings Bank. The Savings Bank intends to conduct traditional thrift operations. The Holding Company proposes to engage in a private placement offering of the Holding Company's common stock to raise approximately \$29 million. The Trust is the investment vehicle being used by a significant investor in the proposed transaction and the trustee is both a law partner of that investor and, himself, an investor. The Holding Company will exchange most of the proceeds of the offering for all of the stock of the Savings Bank.

Permission to Organize Application

OTS may grant a federal savings association charter only: (i) to persons of good character and responsibility; (ii) if, in OTS' judgment, a necessity exists for such association in the community to be served; (iii) if there is a reasonable probability for the association's usefulness and success; and (iv) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions. In addition, OTS must consider whether the association will provide credit for housing consistent with the safe and sound operation of a federal savings association. OTS also considers the initial capitalization of the federal savings association, and the residence and composition of the savings association's board of directors.

Further, 12 C.F.R. § 563e.29(b) provides that an applicant for a federal thrift charter must submit with its application a description of how it will meet its Community Reinvestment Act (CRA) objectives. OTS is required to take this description into account when considering the application and may deny or condition approval on CRA grounds.

With respect to character and responsibility, the backgrounds of the identified officers and directors of the Holding Company and the Savings Bank, and the trustee of the Trust, revealed no adverse information and also indicated that the proposed officers and directors of the Savings Bank have adequate managerial resources to operate a federal savings association. However, OTS is imposing condition 9 below because background checks of three proposed directors are not yet completed. Thus, OTS concludes that this approval criterion is satisfied, subject to the imposition of condition 9, which is intended to help ensure the officers and directors of the Savings Bank and the Holding Company have the requisite character and responsibility.

As for the necessity for the Savings Bank in the community, the Savings Bank will commence deposit taking, mortgage lending, consumer lending, construction, and commercial lending from its Plymouth Meeting office and a branch office in Devon, Pennsylvania. The Savings Bank's proposed market area, Montgomery and Chester Counties, Pennsylvania, has experienced steady population and deposit growth in recent years and is expected to continue to grow. Therefore, OTS concludes that this criterion is satisfied.

With respect to undue injury to properly conducted existing local thrift and home financing institutions, the Savings Bank will provide new competition in the local market. The Savings Bank's projected level of deposits in its first three years of operations will constitute less than one percent of the deposits in Montgomery and Chester Counties. Accordingly, OTS concludes that the Savings Bank will not cause undue injury to properly conducted existing local thrift and home financing institutions.

With respect to the reasonable probability of the Savings Bank's usefulness and success, OTS reviewed the Savings Bank's business plan, proposed capital levels, and the competence and experience of proposed management. OTS concludes that the business plan is reasonable, that the Savings Bank will have adequate capital, and that the Savings Bank's managerial and financial resources are consistent with a reasonable probability of success. The Savings Bank expects to name additional senior officers. Conditions 5 through 7 below are designed to help ensure compliance with the business plan included in the application, that changes to or from that plan would not be detrimental to the Savings Bank, and that the Savings Bank operates pursuant to appropriate policies and procedures. OTS is imposing condition 8 below to ensure compliance with regulatory provisions and policies concerning affiliated persons or related entities and to ensure that the Savings Bank is operated in a safe and sound manner. Also, OTS is imposing condition 10 below to enable OTS to confirm that the Savings Bank will be operated properly and by qualified personnel.

Based on the foregoing analysis, OTS concludes that the probability of the Savings Bank's usefulness and success is consistent with approval, subject to the imposition of the conditions, which are intended to help ensure the probability of the Savings Bank's usefulness and success.

With respect to the provision of credit for housing, the Savings Bank will indirectly extend credit for housing. The purchase of mortgage loans will enable the Savings Bank to satisfy the qualified thrift lender test. OTS has determined that the Savings Bank will have adequate policies, procedures and controls. Based on the above, OTS concludes that the Savings Bank will provide credit for housing in a safe and sound manner.

With respect to capital, the Savings Bank will have capital in excess of that required by 12 C.F.R. § 543.3(b) and plans to be well capitalized under OTS' prompt corrective action (PCA) regulations throughout the first three years of operations. Accordingly, OTS concludes that the Savings Bank's proposed capital levels are consistent with approval.

OTS regulations require that a majority of a *de novo* federal association's board of directors be "representative" of the state in which the association is located. OTS regulations also require that a *de novo* federal association's board of directors be diversified and composed of individuals with varied business and professional experience. Based on the residency and experience of the Savings Bank's proposed directors, OTS concludes that the Savings Bank's proposed board of directors meets those two criteria. Further, the regulations provide that, except in the case of a *de novo* federal association that is wholly owned by a holding company, no more than one-third of a *de novo* federal association's board of directors may be in closely related businesses. When the holding company does not have substantial independent economic substance, OTS applies the related business criterion to the holding company's board of directors. The Savings Bank will be a wholly owned subsidiary of the Holding Company, a holding company that does not have substantial independent economic substance. No more than one third of the Holding Company's board members are currently in closely related businesses, and thus, this criterion is satisfied.

With respect to the CRA and OTS' CRA regulations, the Savings Bank's initial CRA assessment area will consist of Montgomery and Chester Counties, Pennsylvania, and complies with CRA regulations. The Savings Bank intends to meet the borrowing needs of its assessment area through purchases of residential mortgages and other lending. OTS concludes that the Savings Bank has satisfactorily demonstrated that it will meet its CRA objectives.

Holding Company Application

Section 10(e)(1)(B) of the Home Owners' Loan Act and the Acquisition of Control Regulations thereunder provide that OTS must approve a proposed acquisition of a savings association by a company, other than a savings and loan holding company, unless OTS finds that the financial and managerial resources and future prospects of the company and association involved would be detrimental to the association or the insurance risk of the SAIF. OTS must also consider the impact of the acquisition on competition. Finally, OTS must take into account assessments under the CRA when considering holding company applications.

For the reasons set forth in the discussion of the permission to organize application, OTS concludes that the managerial resources of the Holding Company and the Savings Bank are satisfactory, subject to the conditions discussed above regarding management and the board of directors. The trustee of the Trust appears qualified and the Trust will not be operating a business. Therefore, OTS concludes that the Trust's managerial resources are consistent with approval.

With regard to financial resources, OTS reviewed the Holding Company's and Trust's financial positions and the Savings Bank's proposed capitalization and business plan. The Holding Company demonstrated adequate resources and operations. The Trust has adequate resources. The application projects that the Savings Bank will meet all of its capital requirements and will be well capitalized under the OTS PCA regulation throughout the first three years of operation. Based on the foregoing, OTS concludes that the financial resources of the Holding Company, the Trust, and the Savings Bank are consistent with approval of the holding company application.

Based on the factors considered in the above discussions regarding the managerial and financial resources of the Savings Bank, the Trust, and the Holding Company, the character and responsibility of the officers and directors of each entity, the probability of the Savings Bank's usefulness and success, and the composition of the Savings Bank's board of directors, OTS concludes that the future prospects of the Holding Company, the Trust, and the Savings Bank are consistent with approval, and will not pose undue risk to the SAIF, subject to the imposition of the conditions discussed above.

The transaction will not result in any currently operating, unaffiliated depository institutions becoming affiliated. Accordingly, OTS finds no basis for objection to the transaction on anti-competitive grounds.

With respect to the Holding Company's and Trust's performance under the CRA, the Holding Company and the Trust have not been subject to the CRA. Accordingly, OTS concludes that there is not any basis for objection to the holding company applications based on CRA grounds.

Branch Office Application

Pursuant to 12 C.F.R. §§ 545.93 and 545.95, a branch office application has been submitted for the establishment of the branch office, which will be located at 227 Lancaster Avenue, Devon, Chester County, Pennsylvania. Under 12 C.F.R. § 545.95, OTS approves a branching application only if the overall policies, condition and operations of the savings association afford no basis for supervisory objection and the proposed branch will open within twelve months of approval. In accordance with 12 C.F.R. § 545.95(b), the Savings Bank will exceed the minimum capital requirements and OTS' evaluation of the Savings Bank's proposed CRA plan indicates that the Savings Bank will fulfill its obligation of meeting the credit needs of its entire community, including low- and moderate- income neighborhoods. OTS has concluded that the Savings Bank's policies, condition and operations are consistent with approval of the branch office application, and that the proposed branching is consistent with applicable regulations.

Conclusion

Based on the foregoing, OTS concludes that the applications satisfy the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the Regional Director. Accordingly, the applications are hereby approved, subject to the following conditions:

1. The Holding Company, the Trust, and the Savings Bank must receive all required regulatory approvals prior to consummation of the proposed transaction with copies of all such approvals provided to the Regional Director;
2. The proposed transaction must be consummated within 120 calendar days from the date of this Order;
3. On the business day prior to the date of consummation of the proposed transaction, the chief financial officers of the Holding Company and the Savings Bank must certify in writing to the Regional Director that no material adverse changes have occurred with respect to the financial condition or operation of the Holding Company and the Savings Bank, respectively, as disclosed in the applications. If additional information having a material adverse bearing on any feature of the applications is brought to the attention of the Holding Company, the Trust, the Savings Bank, or OTS since the date of the financial statements submitted with the applications, the transaction must not be consummated unless the information is presented to the Regional Director, and the Regional Director provides written non-objection to consummation of the transaction;
4. The Holding Company, the Trust, and the Savings Bank must, within 5 calendar days after the effective date of the proposed transaction: (a) advise the Regional Director in writing of the effective date of the proposed transaction and of the Savings Bank's insurance of accounts; (b) advise the Regional Director in writing that the transaction was consummated in accordance with all applicable laws and regulations, the applications, and this Order; and (c) provide a reconciliation of the Savings Bank's capital to the Regional Director;
5. The Savings Bank must submit independent audit reports to the Regional Director for its first three fiscal years of operations. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
6. The Savings Bank, which has submitted a three year business plan, must operate within the parameters of an OTS approved business plan for the first five years of operations. Accordingly, prior to the expiration of the proposed three year business plan, the Savings Bank must submit a new or updated business plan for an additional period of at least two years for the prior written nonobjection of the Regional Director. At all times during these five years, the Savings Bank must maintain no less than 8% core and 10.5% tier-1 risk-based capital ratios, unless the

Regional Director advises the Savings Bank in writing that it may maintain lower capital ratios. The Savings Bank must submit to the Regional Director for prior approval, requests for any proposed major deviations or material changes to the three year plan and the final two year business plan, no later than sixty calendar days prior to the desired implementation date with a copy sent to the FDIC Regional Office;

7. For five years following the Savings Bank's commencement of operations, the Savings Bank must submit to the Regional Director within 45 calendar days after the end of each calendar quarter, a business plan variance report detailing the Savings Bank's compliance with the business plan, and an explanation of any material deviations;
8. For three years following the Savings Bank's commencement of operations, any contracts or agreements pertaining to transactions with affiliated persons or related interests, as defined in 12 C.F.R. § 561.5(d), not yet submitted to the OTS for review, or any material changes to previously submitted contracts or agreements, must be provided to the Regional Director for his written non-objection at least 30 calendar days prior to their execution and implementation;
9. With respect to the three proposed directors for whom the background checks are in process, if the Regional Director objects to their respective service based on information developed in the background checks, the respective person will promptly resign from the boards of directors of the Holding Company and the Savings Bank; and
10. For two years following the Savings Bank's commencement of operations, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers not already reviewed by OTS, or any significant change in responsibilities of any senior executive officer.

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

By order of the Director of the Office of Thrift Supervision, or his designee, effective

August 29, 2005.



Scott M. Albinson
Managing Director
Office of Examinations, Supervision,
and Consumer Protection