

OFFICE OF THRIFT SUPERVISION

Approval of Application for Permission to Organize a Federal Savings Bank

Order No.: 2006-27
Date: July 12, 2006
OTS No. 18020

Southeastern Bank Financial Corporation, Augusta, Georgia (Applicant), has applied for approval of the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1464(e) and 12 C.F.R. § 552.2-1, for permission to organize Southern Bank & Trust, Aiken, South Carolina (Savings Bank).

The Applicant, a bank holding company, holds all of the stock of a state-chartered bank, Georgia Bank & Trust Company of Augusta, Augusta, Georgia. In the proposed transaction, the Applicant will form the Savings Bank as a wholly owned subsidiary. The Applicant will capitalize the Savings Bank with \$10 million. The Applicant has received approval from the Federal Deposit Insurance Corporation (FDIC) for insurance of the Savings Bank's deposits.

OTS has considered the application under the standards set forth in 12 U.S.C. § 1464(e) and 12 C.F.R. §§ 543.3 and 552.2-1. OTS also has considered the application under the Community Reinvestment Act (CRA), 12 U.S.C. §§ 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e. In addition, OTS has considered the submissions made by the Applicant and the Savings Bank, and the results of examinations conducted by other banking agencies.

OTS may grant a federal savings association charter only: (1) to persons of good character and responsibility; (2) if, in OTS' judgment, a necessity exists for such association in the community to be served; (3) if there is a reasonable probability for the association's usefulness and success; and (4) 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 promote credit for housing consistent with the safe and sound operation of a federal savings association. OTS also takes into account an applicant's description of how it will meet CRA objectives when considering the application. Furthermore, OTS considers the amount of initial capital and the residence and composition of the savings association's board of directors.

With respect to the character and responsibility of the organizers, materials available to OTS indicate that the Applicant's character and responsibility are consistent with approval. Background checks of the Applicant and the proposed directors and executive officers of the Savings Bank, have not disclosed any information that is

inconsistent with approval. Also, the application indicates that the members of the Savings Bank's proposed board of directors possess varied business experience and expertise. Based on our review of the relevant information, we conclude that the character and responsibility of the organizers of the Savings Bank are consistent with approval of the application.

With respect to the necessity for the Savings Bank, the Savings Bank will conduct its operations in Aiken County, South Carolina. Deposits in Aiken County grew from \$1.07 billion, at June 30, 2000, to \$1.4 billion, at June 30, 2005, an increase of 30.84 percent. In addition, the population of Aiken County increased 4.5 percent between 2000 and 2004. Therefore, we conclude that there is a necessity in the community for the Savings Bank.

With respect to undue injury to local thrift and home financing institutions, the Savings Bank's projected deposits at the end of its fifth year of operations, would equal approximately 10.6 percent of the aggregate deposits in Aiken County as of June 30, 2005. However, deposits have been growing at about 6.2 percent per year in Aiken County and are expected to continue to grow at this rate. Accordingly, the Savings Bank's actual market share is likely to be significantly less than 10.6 percent of deposits at the end of its fifth year of operations. In addition, no one opposed the application in response to the public notice. Therefore, we conclude that the Savings Bank will not cause undue injury to local thrift and home financing institutions in the geographic area where its customers will be located.

With respect to the probability of the Savings Bank's usefulness and success, the Savings Bank will be well-capitalized. The Savings Bank's business plan projects that it will remain well-capitalized throughout the duration of the business plan. The Applicant's and the Savings Bank's managerial resources are consistent with approval. Conditions five, six, seven and nine, below, are intended to ensure that the Savings Bank maintains safe and sound operations by requiring compliance with the business plan submitted with the application, requiring reports that will be used for appropriate monitoring of the Savings Bank's progress and condition, and by ensuring that changes in the Savings Bank's management are appropriate. Also, because the Savings Bank will share certain management officials with the Applicant and the Savings Bank is expected to have transactions with its affiliates, OTS is imposing conditions eight and ten, below, to ensure that the Savings Bank's probability of usefulness and success is consistent with approval. We conclude that there is a reasonable probability of the Savings Bank's usefulness and success, provided that the Savings Bank (and the Applicant, to the extent applicable) complies with the conditions set forth below.

With respect to the provision of credit for housing consistent with the safe and sound operation of a federal savings association, the Savings Bank plans to extend credit for housing within its proposed market area. In addition, the Savings Bank is projected to meet its Qualified Thrift Lender requirements. As discussed above, the Savings Bank's

management is competent and should be able to conduct lending appropriately. Accordingly, we conclude that this approval criterion has been satisfied.

With respect to the CRA and OTS' CRA regulations, OTS received no public comments objecting to the application. OTS has reviewed the Savings Bank's CRA Plan. Consistent with OTS' CRA regulations, the Savings Bank's CRA assessment area will be Aiken County, South Carolina, where the Savings Bank's marketing efforts will be concentrated. The Savings Bank plans to provide credit to all segments of its community. Accordingly, we conclude that the Savings Bank has satisfactorily demonstrated how it will meet its CRA objectives.

The Savings Bank intends to adopt a charter and bylaws that are consistent with OTS regulations. In addition, the Savings Bank's initial capitalization will exceed the minimum regulatory requirement.

A majority of the Savings Bank's board members will live and/or work in South Carolina. The Savings Bank's board of directors will be made up of persons with varied backgrounds. The Savings Bank and the Applicant are not subject to the provisions of 12 C.F.R. § 543.3(d)(2), regarding the participation of directors in closely related businesses. Accordingly, we conclude that the application complies with 12 C.F.R. § 543.3(d).

OTS has reviewed the Savings Bank's proposed purchase of an office building from the Applicant for an amount equal to the lesser of the appraised value of the building or the Applicant's purchase price and the cost of renovations. The Applicant has requested that the proposed sale of the office building to the Savings Bank be approved under the exemption for a newly formed institution, 12 C.F.R. § 223.42(i).

The Savings Bank will be a de novo federal savings association. OTS has conducted a detailed review of the proposed office building transaction, and has concluded that the transaction is consistent with safe and sound banking practices. Accordingly, OTS hereby approves the Savings Bank's proposed purchase of the office building from the Applicant, pursuant to 12 C.F.R. § 223.42(i).

Based on the foregoing analysis, OTS concludes that the application meets the applicable approval criteria, and is hereby approved, provided that the following conditions are complied with in a manner satisfactory to the Southeast Regional Director, or his designee (Regional Director):

1. The Savings Bank and the Applicant must receive all required regulatory approvals and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction;
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 consummation of the proposed transaction, the chief financial officers of the Applicant 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 Applicant and the Savings Bank as disclosed in the application. If additional information having a material adverse bearing on any feature of the application is brought to the attention of the Applicant, the Savings Bank or OTS since the date of the financial statements submitted with the application, 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 Applicant and the Savings Bank must advise the Regional Director in writing within 5 calendar days after the effective date of the proposed transaction: (a) of the effective date of the transaction; (b) that the transaction was consummated in accordance with all applicable laws and regulations, the application, and this Order;
5. The Savings Bank must submit independent audit reports to the Regional Director for its first three 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 must operate within the parameters of the business plan submitted with the application. The Savings Bank must submit any proposed major deviations or material changes from the plan (including those initiated by the Applicant) for the prior, written non-objection of the Regional Director. The request for change must be submitted no later than 60 calendar days prior to the desired implementation date with a copy sent to the FDIC Regional Office;
7. For three years following 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 deviations;
8. At least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Applicant or its affiliates and who have not otherwise been determined by the Regional Director to lack sufficient independence; and at least one member of the Savings Bank's board of directors must be an individual who is not an officer, director or employee of the Applicant or its affiliates and who is not an officer or employee of the Savings Bank, and has not otherwise been determined by the Regional Director to lack sufficient independence. At least 50 percent of any audit or investment committees established by the Savings Bank must be directors who are not officers or employees of the Savings Bank, the Applicant or its affiliates and have not otherwise been determined by the Regional Director to lack sufficient independence;

9. For two years following the consummation of the transaction, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers or any significant change in responsibilities of any senior executive officer; and
10. For the first eighteen months following consummation of the transaction, any contracts or agreements pertaining to transactions with affiliates, not yet submitted to the OTS for review, must be provided to the Regional Director, at least 30 days prior to execution and must receive the Regional Director's written non-objection prior to implementation.

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 July 12, 2006.



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