

OFFICE OF THRIFT SUPERVISION

Approval of Applications for Permission to Organize a Federal Savings Bank and Holding Company Acquisition

Order No.: 2007- 50
Date: October 19, 2007
Docket Nos.: H-4407 and 18060

Wedbush, Inc., Los Angeles, California (Holding Company) has 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 Wedbush Bank, Los Angeles, California (Savings Bank) (collectively, the Applications). A shareholder group consisting of Mr. Earl Feldhorn and his family members has filed a rebuttal of control submission, pursuant to 12 C.F.R. § 574.4(e). The Holding Company has applied to the Federal Deposit Insurance Corporation (FDIC) for deposit insurance under the Deposit Insurance Fund (DIF) for the Savings Bank's deposit accounts.

The Proposed Transaction

The Holding Company controls a broker-dealer, Wedbush Morgan Securities, Inc. (Brokerage Company), and five other subsidiary entities. The Holding Company proposes to establish and operate a *de novo* Federal savings bank, the Savings Bank, and to hold all of the Savings Bank's capital stock. The Savings Bank intends to offer traditional deposit and lending products.

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's 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.

OTS has reviewed the background of the Holding Company and has not found any information that would lead OTS to conclude that the Holding Company does not have the requisite character and responsibility. OTS has reviewed the backgrounds of the officers and directors of the Holding Company and the Savings Bank. OTS's review did not reveal any material adverse information regarding such persons. Thus, OTS concludes that the character and responsibility of the Holding Company and the proposed officers and directors of the Holding Company and the Savings Bank are consistent with approval.

As for the necessity for the Savings Bank in the community, the Savings Bank's home office will be in Los Angeles, California. For the period 1990 to 2006, the population in Los Angeles County grew by 15.6 percent, including a 0.8 percent growth rate between 2005 and 2006. The population of Los Angeles County is projected to grow by approximately 18.6 percent between 2005 and 2020. Deposits in Los Angeles County have increased by approximately 60 percent for the six year period of June 30, 2000, to June 30, 2006, including an approximately 7.1 percent growth for the year ended June 30, 2006. Accordingly, OTS concludes there is a necessity for the Savings Bank.

With respect to undue injury to properly conducted existing local thrift and home financing institutions, the Savings Bank will provide a range of deposit and lending products. After one year, the Savings Bank is projected to have approximately 0.02 percent of Los Angeles County deposits as of June 30, 2006. At the end of the third year of operations, the Savings Bank's projections indicate total deposits of approximately 0.08 percent of all deposits in June 30, 2006, in Los Angeles County. Thus, OTS concludes that the permission to organize application satisfies this approval criterion.

With respect to the reasonable probability of the Savings Bank's usefulness and success, OTS reviewed the competence and experience of the proposed management of the Savings Bank, its business plan, and its proposed capital levels. OTS concludes that the business plan is reasonable, that the Savings Bank will have adequate capital, that the Savings Bank will be able to conduct its operations appropriately, and that the Savings Bank's managerial and financial resources are consistent with a reasonable probability of success. OTS is imposing conditions 5 and 6 to help ensure that the Savings Bank operates pursuant to an OTS-approved business plan and changes to and from such a business plan are not detrimental to the Savings Bank. To help ensure that the Savings Bank's probability of usefulness and success is consistent with approval, OTS is imposing conditions 7 and 8, below, to enable OTS to confirm that the Savings Bank is being operated properly. The Savings Bank has submitted draft copies of certain policies and procedures. To help ensure that the Savings Bank's operations are conducted in a safe and sound manner and that the Savings Bank is in compliance with fair lending laws, OTS is imposing condition 9, below.

The Savings Bank proposes to conduct business with its affiliates. To help ensure the independence of the Savings Bank's board of directors and its audit committee, in light of the proposed affiliate transactions, OTS is imposing condition 11 addressing the composition of the Savings Bank's board and its audit committee. Condition 11 will help ensure that the Savings

Bank is operated safely and soundly and that its probability of usefulness and success is consistent with the standard for approval.

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 Savings Bank's usefulness and success.

With respect to the provision of credit for housing, the Savings Bank will engage in multi-family real estate lending, home equity lending, and 1-4 family residential lending. The Applications indicate compliance with the Qualified Thrift Lender test for all periods based on its lending and investments in mortgage-backed securities and other qualifying investments. Based on these considerations, and the facts discussed in connection with the probability of the Savings Bank's usefulness and success, OTS concludes that the Savings Bank will provide credit for housing in a safe and sound manner, subject to the imposition of the conditions.

With respect to capital, the Savings Bank will have more initial capital than is required by OTS regulations regarding *de novo* federal savings associations, and the Savings Bank plans to be well capitalized throughout its 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. The majority of the members of the Savings Bank's board of directors reside in the state in which the Savings Bank will locate its home office. Therefore, OTS concludes that the Savings Bank meets this criterion.

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. The proposed board of the Savings Bank consists of two senior officers of the Holding Company; a banker; a retired banker; an investment banker and financial consultant, and a business consultant. OTS concludes that these persons have sufficiently varied business and professional experiences and meet the regulatory standard.

OTS 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 regulations provide that this approval criterion is inapplicable if the holding company has substantial independent economic substance. The Savings Bank will be a wholly owned subsidiary of the Holding Company, which, by virtue of its ownership of the Brokerage Company, has substantial independent economic substance. Accordingly, OTS concludes that this approval criterion is inapplicable.

With respect to the CRA and OTS's CRA regulations, the Savings Bank's CRA assessment area will consist of Los Angeles County. To help ensure that the Savings Bank is meeting its CRA obligations, OTS is imposing condition 10. Based on the Savings Bank's CRA Plan, OTS

concludes that the Savings Bank has satisfactorily demonstrated that it will meet its CRA objectives.

The Savings Bank's proposed charter and bylaws conform to OTS regulations in all material respects.

Holding Company Application

Section 10(e)(1)(B) of the Home Owners' Loan Act and the Acquisition of Control Regulations (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 DIF. 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 above, OTS concludes that the managerial resources of the Holding Company and the Savings Bank are consistent with approval.

With regard to financial resources, OTS reviewed the Holding Company's financial positions and the Savings Bank's proposed capitalization and business plan. The Applications demonstrate that the Holding Company will have sufficient resources and that the Savings Bank will meet all of its capital requirements and will be well capitalized, as defined in the OTS Prompt Corrective Action regulation, throughout the first three years of its operations. Based on the foregoing, OTS concludes that the financial resources of the Holding Company 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 and the Holding Company, the character and responsibility of the officers and directors of each entity, and the probability of the Savings Bank's usefulness and success, OTS concludes that the future prospects of the Holding Company and the Savings Bank are consistent with approval, and will not pose undue risk to the DIF, subject to the imposition of the above described conditions.

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 applicants' performance under the CRA, the applicants have not been subject to the CRA. Accordingly, OTS concludes that there is not any basis for objection to the holding company application based on CRA grounds.

Rebuttal of Control

Mr. Earl Feldhorn and his family members (the Feldhorn family group) have the power to vote more than 10 percent of the voting stock of the Holding Company, and the Feldhorn family group is the Holding Company's second largest shareholder. Under 12 C.F.R. § 574.4(b), Mr. Earl Feldhorn and his family members will be subject to a rebuttable control determination with respect to the Holding Company and the Savings Bank, upon consummation of the proposed transaction. As a result, Mr. Feldhorn and his family members have submitted a rebuttal of control filing, pursuant to 12 C.F.R. § 574.4(e).

The Control Regulations, at 12 C.F.R. § 574.4(e), provide that OTS may reject any rebuttal of control which is inconsistent with the facts and circumstances known to OTS or which does not clearly and convincingly refute the rebuttable determination of control under 12 C.F.R. § 574.4. In addition, an acquiror that is in conclusive control of a savings association may not rebut control.

OTS has concluded that Mr. Feldhorn and his family members, who hold approximately 14.9 percent of the Holding Company's outstanding shares, do not have conclusive control of the Holding Company or the Savings Bank as the term "conclusive control" is defined in the Control Regulations.

In addition, Mr. Feldhorn and his family members have submitted a statement of rebuttal that represents that they are passive investors and that they will not act, directly or indirectly, to control the Holding Company or the Savings Bank. Mr. Feldhorn and his family members have submitted an acceptable rebuttal of control agreement. Based on the information presented and available information, OTS concludes that Mr. Feldhorn and his family members have clearly and convincingly rebutted the rebuttable control determination.

Conclusion

Based on the information provided with the Applications, OTS's analysis of such information, and the representations and commitments provided by the Holding Company and the Savings Bank, OTS concludes that the Applications satisfy the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the West Regional Director or his designee (Regional Director). Accordingly, the Applications are hereby approved, subject to the following conditions:

1. The Holding Company 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 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 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 comply with the business plan submitted with the Applications and must submit any proposed major deviations or material changes from the business plan for the prior, written non-objection of the Regional Director. The request for change must be submitted a minimum of 60 calendar days before the desired implementation date with a copy sent to the FDIC Regional Office;
6. For three 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 explanations of any material deviations;
7. Prior to opening for business, the Savings Bank must finalize detailed policies and procedures for all major areas of operations, including those submitted in draft form with the Applications, and submit them to the Regional Director along with a resolution of its board of directors evidencing its review and approval of such policies and procedures;
8. 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;
9. No later than 30 calendar days after the end of each calendar quarter, the Savings Bank must submit a status report, in a form acceptable to the Regional Director, that details the implementation of its compliance management program and fair lending programs and the results of its compliance monitoring efforts as required by the compliance management program. This quarterly report is required until at

least the completion of the Savings Bank's first full examination cycle, but in no case beyond 18 months after opening for business;

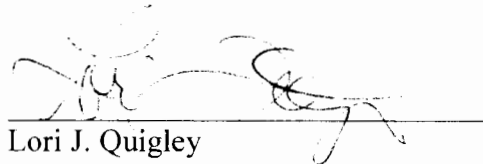
10. No later than 30 calendar days after the end of each calendar quarter, the Savings Bank must submit a status report, in a form acceptable to the Regional Director, that details: (i) the results of its various lending programs and initiatives; and (ii) its level of lending to low- and moderate-income individuals, to low- and moderate-income communities, and to small businesses. This quarterly report is required until at least the completion of the Savings Bank's first CRA examination cycle, but in no case beyond 18 months after opening for business; and
11. At least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Holding Company or affiliates thereof, and who have not otherwise been determined by the Regional Director to lack sufficient independence. 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 Holding Company or any affiliate, and who is not an officer or employee of the Savings Bank, and who has not otherwise been determined by the Regional Director to lack sufficient independence. At least 50 percent of any audit committee established by the Savings Bank must be directors who are not officers or employees of the Savings Bank, the Holding Company or any affiliates, and who have not otherwise been determined by the Regional Director to lack sufficient independence.

In addition, OTS hereby accepts the rebuttal of control submission by the Feldhorn family group.

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

12/19/2007



Lori J. Quigley
Managing Director
Examinations and Supervision - Operations