



**Conditional Approval #1128
September 2015**

August 4, 2015

Eshel Bar-Adon
EVP/Chief Legal Officer
BoFI Federal Bank
4350 LaJolla Village Dr., Suite 140
San Diego, CA 92122

Re: Application by BoFI Federal Bank, San Diego, CA to purchase certain assets and assume certain deposits from H&R Block Bank, Kansas City, MO
OCC Control No.: 2014 WE Combination 144247

Dear Mr. Bar-Adon:

The Office of the Comptroller of the Currency (OCC) hereby deems complete and conditionally approves the application filed by BoFI Federal Bank, San Diego, CA (Bank) to purchase certain assets and assume certain deposits of H&R Block Bank, Kansas City, MO. This conditional approval is granted after a thorough evaluation of the application, other materials you have supplied, and other information available to the OCC, including representations made in the application by representatives of the bank during the application process.

The OCC reviewed the proposed purchase and assumption (P&A) transaction under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c), law and applicable OCC regulations and policies. Among other matters, we found that the proposed transaction would not have significant anticompetitive effects. We also considered the financial and managerial resources of the banks, their future prospects, their effectiveness in combating money laundering activities, the convenience and needs of the communities to be served and the risk of the transaction to the stability of the United States banking or financial system. Furthermore, OCC reviews records of compliance with the Community Reinvestment Act, 12 U.S.C. § 2903(a)(2). We considered these factors and found them consistent with approval.

Finally, the OCC must consider the capital level of the resulting federal savings association, the conformity of the transaction to applicable law, regulations, and supervisory policies, and various factors related to fairness and disclosure.

We considered these factors and found them consistent with approval under the statutory and regulatory provisions.

This approval is subject to the following conditions:

1. The Bank shall maintain at all times a leverage ratio of no less than eight and one half percent (8.5%), as defined in 12 C.F.R. § 3.10(b)(4). Provided however, during the “tax season,” which term shall mean the first calendar quarter of each calendar year, the leverage ratio calculation shall exclude from “average total consolidated assets,” cash and investments funded by all short-term deposits related to “Emerald Products Deposits,” as defined below. In addition, during the “tax season” the Bank also shall maintain a leverage ratio of not less than eight percent (8%) as defined in 12 C.F.R. § 3.10(b)(4), which calculation shall include all short-term deposits related to “Emerald Products Deposits,” as defined below.
2. The Bank shall ensure that it maintains liquidity in compliance with its Liquidity Management Policy dated January 22, 2015 or any subsequent liquidity policy, and shall further ensure that the Bank’s Liquidity Policy shall not, under any circumstances, require less than the following:
 - (a) Level 1 on balance sheet liquidity of no less than five percent (5%) of total assets; and
 - (b) Level 2 on balance sheet liquidity of no less than seven percent (7%) of total assets.

The term “Level 1 on balance sheet liquidity” is defined as Cash, Federal Funds Sold, Bank CDs less than or equal to \$250,000, Agency Securities, General Obligations, Municipal Revenue Bonds, as well as other Type I securities as described in 12 C.F.R. § 1.2, and shall not include cash or investments funded by any short-term deposits relating to the Emerald Products (“Emerald Products Deposits” as defined below), nor shall Emerald Products Deposits be included in Total Assets for calculation of liquidity requirements in (a) and (b) of this paragraph. The term “Level 2 on balance sheet liquidity” is defined as Level 1 Liquid Assets plus held-for-sale single-family loans or similar assets that can be sold immediately with minimal loss.

In addition to the above minimum liquidity requirements, the Bank shall ensure the daily maintenance of Cash, Federal Funds Sold, Bank CDs less than or equal to \$250,000, Agency Securities, General Obligations, Municipal Revenue Bonds, as well as other Type I securities as described in 12 C.F.R. § 1.2 (j), at least equal to 100 percent (100%) of its outstanding deposits relating to Emerald Products Deposits, as defined below. Nothing in the above requirement shall preclude the Bank from utilizing Emerald Product Deposits to reduce short-term borrowings. “Emerald Products Deposits” for purposes of paragraphs 1 and 2 hereof, shall not include any deposit related to tax deferred benefit plans, such as Individual Retirement Account deposits or similar fiduciary related accounts, nor shall such deposits include base line stable retail deposits. Emerald Products Deposits shall include short-term, seasonal tax related deposits related to tax products and tax refunds in connection with or related to the Emerald Card, Emerald Refund Transfer and Emerald Advance.

3. Immediately upon consummation of the P&A, the Bank shall execute and thereafter comply with the Program Management Agreement, Service Level Agreement, and Joint Operating Agreements (collectively, the “Emerald Program Agreements”), for which the terms, products and services shall not materially deviate from those set forth in the drafts submitted as exhibits in the Bank’s application to the OCC pursuant to 12 U.S.C. § 1828(c) and 12 C.F.R. § 163.22 for approval to purchase certain of the assets and deposits of H&R Block Bank.
4. Upon proper execution of the Emerald Program Agreements, the Bank shall periodically review and revise, as appropriate, the Emerald Program Agreements to ensure that its offerings of financial products and services to customers of HRB Tax Group, Inc., a subsidiary of H&R Block, Inc., including but not limited to the Emerald Card, Emerald Refund Transfer, and Emerald Advance (collectively, the “Emerald Products”), comply with safe and sound practices, and applicable laws, regulations and guidance issued by the OCC or any other appropriate Federal agency.
5. The Bank must receive prior no supervisory objection from the OCC before making any material changes to the Emerald Program Agreements, offering any new Emerald Products to HRB Tax Group customers, or engaging in cross-marketing of new products to HRB Tax Group customers. The request for supervisory no objection shall include the reasons for the proposed change, the expected impact, and any other relevant information for OCC’s consideration. Materiality shall be determined at the sole discretion of the OCC.

The conditions of this approval are conditions “imposed in writing by a Federal banking agency in connection with any action on any application, notice, or other request” within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

Consummation Guidance:

1. The proposed transaction between BofI Federal Bank and H&R Block Bank shall be consummated in accordance with the Purchase and Assumption Agreement, dated April 10, 2014 (or as amended), not less than 15 calendar days but no more than 120 calendar days after the date of this letter, unless an extension is granted for good cause by this office;
2. On the business day prior to the date of consummation of the proposed transaction, the Chief Executive Officer of BofI Federal Bank shall certify to this office, in writing, that no material adverse events or material changes have occurred with respect to the financial condition or operations of BofI Federal Bank since the date of the financial statements submitted with the application;
3. BofI Federal Bank must provide notice to this office within five (5) business days after the effective date of the proposed transaction, that states: (i) the effective date of the

transaction; and, (ii) that the transaction was consummated in accordance with the provisions of all applicable laws and regulations, the application, and this approval letter; and,

4. BofI Federal Bank shall advise each accountholder whose withdrawable accounts would increase above \$250,000 as a result of the transaction of the effect of the transaction on their insurance coverage no later than thirty (30) calendar days after the effective date, and provide evidence of such notification to this office.

This conditional approval and the activities and communications by OCC employees in connection with the filing do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. Our approval is based on the bank's representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind this approval if a material change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may continue to improve our service.

If you should have any questions concerning this matter, please feel free to contact Senior Licensing Analyst Louis Gittleman by email at louis.gittleman@occ.treas.gov or by telephone at (720) 475-7650.

Sincerely,

Stephen A. Lybarger

Stephen A. Lybarger
Deputy Comptroller, Licensing

Enclosure: Survey