

OFFICE OF THRIFT SUPERVISION

**APPROVAL OF AN APPLICATION FOR CONVERSION TO
FEDERAL SAVINGS BANK CHARTER,
HOLDING COMPANY APPLICATION, AND
REBUTTAL OF CONTROL**

Order No.: 2000-27

Date: March 10, 2000

FDS National Bank, Mason, Ohio (the Bank), has applied to the Office of Thrift Supervision (the OTS), pursuant to 12 U.S.C. § 1464 and 12 C.F.R. § 552.2-6 for permission to convert from a national bank to a federal stock savings bank, FDS Bank (the New FSB). Federated Department Stores, Inc., New York, New York (the Acquiror) and FDS Thrift Holding Company, Inc., Cincinnati, Ohio (collectively, the Applicants) seek approval under 12 U.S.C. § 1467a(e) and 12 C.F.R. § 574.3 to acquire the New FSB. In addition, FMR Corp. and Fidelity Management & Research Company, Boston, Massachusetts, and Abigail P. Johnson and Edward C. Johnson, III, have filed, pursuant to 12 C.F.R. § 574.4(e), a rebuttal of control submission that includes a rebuttal of control agreement for approval to acquire up to 25% of the stock of the Acquiror. (The foregoing are collectively referred to as the Applications.) The Bank is, and the Savings Bank will remain, a member of the Bank Insurance Fund.

The OTS has considered the Applications under the factors set forth in 12 U.S.C. §§ 1464(e) and 1467a(e), and 12 C.F.R. §§ 552.2-1(b)(1), 552.2-6, 574.4 and 574.7, and other applicable statutes and regulations. The OTS also has considered the Applications under the Community Reinvestment Act, 12 U.S.C. §§ 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e. The OTS has considered a digest from the OTS Central Regional Office, an analysis prepared by the Office of Examination and Supervision, a legal opinion from the Business Transactions Division, and a memorandum from Compliance Policy (collectively, the Staff Memoranda). For the reasons set forth in the Staff Memoranda, the OTS finds that the Applications satisfy the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the Central Regional Director, or his designee (Regional Director). Accordingly, the Applications are hereby approved, subject to the following conditions:

1. The Applicants and the 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 one hundred and twenty (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 officer of the Applicants and the 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 Applicants and the Bank 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 Applicants, the Bank, the New FSB or the 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 the consummation of the transaction;

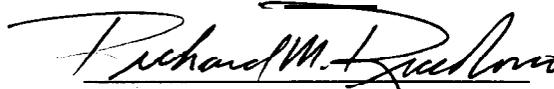
4. The Applicants, the Bank, and the New FSB must advise the Regional Director, in writing, within five (5) calendar days after the effective date of the proposed transaction: (a) of the effective date of the proposed transaction; and (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Applications and this Order;
5. At least 40 percent of the New FSB's board of directors must be individuals who are not officers or employees of the Applicants, or affiliates thereof, or have not otherwise been determined by the Regional Director to lack sufficient independence, and at least one member of the New FSB's board of directors must be an individual who is not an officer, director, or employee of the Applicants or their affiliates and is not an officer or employee of the New FSB, or has not otherwise been determined by the Regional Director to lack sufficient independence. At least 50 percent of any audit and investment committees established by the New FSB must be directors who are not officers or employees of the New FSB, the Applicants, or any affiliates, or have not otherwise been determined by the Regional Director to lack sufficient independence. If compliance with this condition involves the selection of additional director(s), each director must receive the prior approval of the Regional Director;
6. The New FSB must submit independent audit reports to the Regional Director for the first three fiscal years after the conversion. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
7. The New FSB must operate within the parameters of its business plan. The Applicants and New FSB must submit any proposed major deviations or material changes from the plan (including changes resulting from decisions made by the Applicants), and in particular, but not limited to, those pertaining to cross-marketing of products of the New FSB and any affiliates and the establishment of a transactional web site, for the prior written non-objection of the Regional Director. The request for change must be submitted a minimum of 30 days before the proposed change is proposed to be implemented;
8. The New FSB must submit quarterly variance reports on the business plan to the Regional Director for the first three years after the conversion, beginning with the first quarter after the conversion;
9. Prior to initiating mortgage and home equity lending, the New FSB must develop and implement final non-discriminatory underwriting policies and procedures for mortgage and home equity loans;

10. Prior to consummating the proposed transaction, the New FSB must implement a compliance management program that covers its new lending- and deposit-related operations that includes, at a minimum, the following components:
 - a) the assignment of specific compliance responsibilities to individuals who are knowledgeable and experienced in administering consumer protection, nondiscrimination, and other compliance laws administered by the OTS;
 - b) regular and comprehensive self-assessment reviews to ensure compliance on a day-to-day basis;
 - c) periodic compliance audits;
 - d) comprehensive training for all affected staff;
 - e) an ongoing system for assuring compliance with federal fair lending statutes and regulations, and for handling consumer inquiries and complaints; and
 - f) appropriate written policies and procedures;
11. New FSB must submit a status report, in a form and on a schedule acceptable to the Regional Director, that details the implementation of the compliance management program required by the preceding condition. This report is required until such time as the Regional Director deems it no longer necessary;
12. For the first eighteen months after the conversion, 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 his written non-objection prior to implementation;
13. The Applicants, its affiliates, and the New FSB must comply with the anti-tying restrictions of 12 U.S.C. § 1464(q) and 1467a(n) and must develop written procedures to effect such compliance. The procedures must disclose any proposed bundling arrangements and must be submitted for review and non-objection of the Regional Director at least 30 calendar days prior to the commencement of the cross-marketing activity; and,

In addition, the OTS concludes, based upon the Staff Memoranda, that grounds exist under 12 U.S.C. § 1464(q)(6) to grant an exemption from 12 U.S.C. § 1464(q)(l) to permit the New FSB to continue to offer its private label credit cards. Accordingly, pursuant to 12 U.S.C. § 1464(q)(6), the OTS grants an exemption from 12 U.S.C. § 1464(q)(l) to permit the New FSB to continue to offer its private label credit cards.

Any time period specified herein may be extended by the Regional Director, for good cause, for up to 120 calendar days.

By order of the Director of the Office of Thrift Supervision, or her designee, effective MARCH 10, 2000.



Richard M. Riccobono
Deputy Director
Office of Supervision