

OFFICE OF THRIFT SUPERVISION

Approval of Application by a Credit Union to Convert to a Federal Mutual Savings Association and Approval of Establishment of Service Corporations

Order No.: 2007-03
Date: February 5, 2007
Re: OTS No. 17971

Sunshine State Credit Union, Tallahassee, Florida (Institution) seeks approval of the Office of Thrift Supervision (OTS) pursuant to 12 C.F.R. §§ 543.8 and 543.9 to convert to a federal mutual savings association, Sunshine Savings Bank, Tallahassee, Florida. In addition, the Institution seeks OTS approval under 12 U.S.C. § 1828(m) and 12 C.F.R. Part 559 to establish two service corporations.

The Proposed Transaction

In the proposed transaction, the Institution will convert directly from a state-chartered credit union to a Deposit Insurance Fund (DIF)-insured, federal mutual savings association. The Institution's members' interests in the Institution will not change as a result of the transaction.

The Institution proposes to organize a service corporation, Sunshine Member Insurance Services, Inc. (Insurance Services), and reorganize the Institution's existing interest in Tallahassee Shared Services, Inc. (Tallahassee), to make Tallahassee a second-tier service corporation under Insurance Services.

Approval Standards

The proposed conversion of the Institution to a federal mutual savings association requires OTS approval under 12 C.F.R. §§ 543.8 and 543.9. Section 543.8 states that a depository institution, as defined in section 552.13, that is in mutual form, may convert to a federal mutual savings association with OTS approval, provided that: (i) the depository institution, upon conversion, will have its deposits insured by the Federal Deposit Insurance Corporation (FDIC); (ii) the depository institution, in accomplishing the conversion, complies with all applicable state and federal statutes and regulations, and OTS policies, and obtains all necessary regulatory and member approvals; and (iii) the resulting federal mutual association conforms, within the time prescribed by OTS, to the requirements of section 5(c) of the Home Owners' Loan Act (HOLA).¹

The Institution is a "depository institution" within the meaning of section 552.13. With regard to the first two requirements, the Institution applied to the FDIC for DIF insurance of accounts, and approval is being conditioned on the Institution receiving all necessary regulatory and member approvals before the transaction is consummated.

¹ 12 C.F.R. § 543.8(a) (2006).

With regard to the third requirement, conformity with the requirements of section 5(c) of the HOLA, based on the representations in the Institution's charter conversion application, we conclude that the Institution will comply with the lending and investment limitations contained in section 5(c) of the HOLA. The Institution has stated that it will withdraw its member capital accounts in the entity specified in the application as soon as possible but not later than three years after the Institution's charter conversion. We are conditioning approval of the application on the Institution's withdrawing its capital accounts with such entity as soon as possible but no later than 3 years after the consummation of the transaction.

Accordingly, OTS concludes that the requirements of section 543.8 have been satisfied.

Section 543.9 of OTS's regulations adopts the approval standards of section 5(e) of the HOLA and section 543.2(g)(1). The HOLA provides that 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 for such savings association exists in the community to be served; (iii) if there is reasonable probability of 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.² OTS regulations implementing this statute set forth the same standards, and, in addition, require OTS to consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association.

In addition, OTS's Community Reinvestment Act (CRA) regulations provide that an applicant for a federal thrift charter must submit with its application a description of how it will meet its CRA objectives.³ OTS takes the description into account when considering the application and may deny the application on that basis.

As to character and responsibility, the Institution's management has received ratings that are consistent with approval, and accordingly, OTS concludes that this approval criterion has been satisfied.

With respect to the probability of usefulness and success, the Institution has been operating profitably and the Institution will be "well-capitalized" upon consummation of the conversion. The Institution's business plan is not objectionable. To help monitor the Institution's progress and, therefore, help increase the probability of the Institution's usefulness and success, we are imposing condition 6. In addition, we are imposing conditions 5 and 8 to help ensure that the Institution has sound management during the transition to a federal charter and that their employment contracts comply with regulatory policy and requirements.

² Section 5(e) of the HOLA, 12 U.S.C. § 1464(e).

³ 12 C.F.R. § 563e.29(b) (2006).

Based on the foregoing, we conclude that there is a reasonable probability of the Institution's usefulness and success, subject to the imposition of the conditions described above.

OTS concludes that there is a necessity for the institution in the community, based on the Institution's existing operations. In addition, OTS concludes that the conversion of the Institution to a federal mutual savings association will not cause undue injury to local thrifts and home financing institutions, in light of the Institution's existing operations.

As for the provision of credit for housing, the Institution has provided mortgage loans, and the Institution projects that it will increase mortgage lending after the proposed transaction. As for the compliance with the CRA, the Institution has not been subject to the CRA and it has satisfactorily demonstrated how it will meet its CRA obligations after the proposed transaction. Therefore, OTS concludes that approval of the charter conversion application is consistent with these standards.

In sum, OTS concludes that the requirements under section 543.9 have been satisfied.

Service Corporation Application

The Institution proposes to organize Insurance Services as a service corporation, , and reorganize the Institution's existing interest in Tallahassee to make Tallahassee a second-tier service corporation under Insurance Services. The Institution will invest less than two percent of its assets in service corporations.

Insurance Services will be a wholly owned, Florida-chartered subsidiary of the Institution. Thus, Insurance Services meets the organizational requirements of 12 C.F.R. §§ 559.3(d)(2) and 559.5(a). Moreover, as proposed, Insurance Services will engage exclusively in activities that are preapproved for service corporations under 12 C.F.R. § 559.4. Therefore, we conclude that the Institution may organize Insurance Services.

The Institution proposes to hold its investment in Tallahassee as a second-tier entity under Insurance Services, in accordance with 12 C.F.R. § 559.3(f)(2) and subject to limitations outlined in 12 C.F.R. § 559.5. As proposed, Tallahassee's activities will involve handling deposits, withdrawals, and loan payments, for both credit union customers and customers of the Savings Bank. While Tallahassee's deposit taking activities on behalf of the Savings Bank are not preapproved under 12 C.F.R. § 559.4, those activities may be approved under 559.3(e)(2). We are imposing condition 10 below to ensure that the Tallahassee's deposit taking activities are conducted safely and soundly. Tallahassee's other activities are preapproved for service corporations under 12 C.F.R. §§ 559.4(a), 559.4(b)(5), 559.4(c)(4). Accordingly, we conclude that the Institution may hold its investment in Tallahassee as a second-tier service corporation.

Conclusion

For the reasons set forth above, OTS finds that the applications satisfy the applicable approval standards, provided that the following conditions are complied with

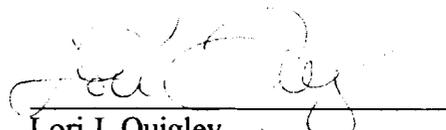
in a manner satisfactory to the Southeast Regional Director, or his designee (Regional Director). Accordingly, the applications are hereby approved, subject to the following conditions:

1. The Institution must receive all required member and regulatory approvals prior to consummation of the proposed transaction with copies of all such approvals provided to the Regional Director;
2. The conversion of the Institution must be consummated no later than 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 Institution 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 Institution 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 Institution, 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 the consummation of the transaction;
4. The Institution must advise the Regional Director in writing within Five 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. For one year following the date it commences operation as a federal savings association, the Institution must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers or any significant changes in responsibilities of any senior executive officer;
6. The Institution must operate within the parameters of its business plan, and submit for the prior, written non-objection of the Regional Director, any proposed major deviations or material changes from the plan. The request for change must be submitted no later than 60 days prior to the desired implementation date with a copy sent to the FDIC Regional Office.
7. For three years following the date it commences operation as a federal savings association, the Institution must submit to the Regional Director within 30 calendar days after the end of each calendar quarter, a business plan variance report detailing the Institution's compliance with the business plan and an explanation of any deviations;

8. The Institution must withdraw the deposit with the all capital accounts with the entity described in the application as soon as possible but no later than three years after consummation of the transaction. The Institution must submit satisfactory evidence to the Regional Director upon the withdrawal of these accounts;
9. Subsequent to the Institution's conversion, the employment agreement for the Institution's President must be submitted to the Regional Director, or his designee, for his review and non-objection before the Institution enters into a new or extends an existing agreement with that officer; and,
10. Prior to the effective date of the transaction, the Institution must submit to the Regional Director for his non-objection, the policies and procedures the Institution will employ to ensure that appropriate oversight and controls are in place with respect to its relationship with the share services facility.

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

By order of the Director of the Office of Thrift Supervision, or his designee,
effective 2/5/07.



Lori J. Quigley
Assistant Managing Director
Examinations and Supervision-
Operations