OFFICE OF THRIFT SUPERVISION

Denial of Operating Subsidiary Application

Order No.:	**2011-02**
Date:	**January 18, 2011**
Re:	**OTS No. 06679**

United Western Bank, Denver, Colorado (Bank) has applied for Office of Thrift Supervision (OTS) approval, pursuant to 12 U.S.C. § 1828(m) and 12 C.F.R. § 559.11, to establish an operating subsidiary to engage in securities clearing and related activities (Application). In order to effectuate this transaction, the Bank proposes to acquire Legent Clearing, LLC, a Delaware limited liability company (Legent), and establish it as a wholly owned operating subsidiary.

The Parties

The Bank is a federally chartered, Deposit Insurance Fund insured, stock savings bank headquartered in Denver, Colorado, with seven branch offices. It is wholly owned by United Western Bancorp, Inc.

Legent, a limited liability company, is a registered broker-dealer and Financial Industry Regulatory Authority (FINRA) member firm, headquartered in Omaha, Nebraska, with offices in Chicago, New York, and Denver. Legent provides securities clearing and other services to correspondent FINRA member firms, including transactional, clearing and settlement services and operations outsourcing services. Legent Group, LLC (Legent Group) currently owns all of Legent's ownership interests.

The Proposed Transaction

The Bank proposes to purchase all the issued and outstanding membership interests in Legent from Legent Group.

Operating Subsidiary Notice

The Bank proposes to acquire Legent and establish it as a wholly owned operating subsidiary to engage in certain securities clearing and related activities. The OTS Subordinate Organization Regulations provide that OTS may, at any time, limit a savings association's investment in any subordinate organization (including an operating subsidiary), or refuse to permit activities in a subordinate organization (including an operating subsidiary), for supervisory, legal, or safety and soundness reasons.[1]

---

[1] 12 C.F.R. § 559.1(a) (2010). The Subordinate Organization regulations set forth several additional approval standards for operating subsidiary filings. <u>See</u>, 12 C.F.R. §§ 559.2, 559.3(c)(1), and 559.3(e)(1)(2010). Based on OTS's conclusion with respect to supervisory and safety and soundness considerations, we do not address the other approval standards.

OTS concludes that the proposed establishment of the operating subsidiary raises significant supervisory and safety and soundness concerns based on concerns regarding Legent's business operations, the Bank's concentration of deposits and asset growth, and Legent's clearing operations compliance record.

With regard to Legent's business operations, Legent has experienced difficulties in the past few years as disclosed in the Application. In addition, the Bank has been severely impacted by the economic and real estate downturn and has not been able to operate profitably in recent years. Accordingly, OTS has significant concerns as to whether the Bank's proposed acquisition of Legent and entering into a new line of business at this time is advisable or could be conducted in a safe and sound manner.

With respect to concentration of deposits, based upon daily liquidity reports provided by the Bank, institutional deposits from four major institutional depositors totaled $1.147 billion at December 31, 2010, representing approximately 74 percent of total deposits. One depositor alone is the source of almost half of the Bank's deposits. The Bank's perceived chief advantage or purpose for acquiring Legent, as noted in the Application, is the access to customer sweep deposits it controls, which it anticipates will grow significantly. As further noted in the projections submitted, following the acquisition of Legent, the level of institutional deposits is anticipated to constitute between 72 percent and 81 percent of total deposits, representing a further increase in deposit concentration.

Liquidity risk is of heightened concern because of the Bank's significant concentration in institutional deposits as a funding source, especially in light of the Bank's continuing asset quality problems. OTS does not believe that maintaining and increasing the already-high concentration of institutional deposits by the Bank upon acquisition of Legent is acceptable from a safety and soundness perspective.

With respect to asset growth, the Bank contemplates a significant increase in asset size. However, the Bank is subject to a Cease & Desist Order (C&D), effective June 25, 2010, that restricts growth in total assets to no more than net interest credited on deposits. Further, the level and type of asset growth proposed in connection with the transaction relies upon an increase to the Bank's already-excessive concentration of institutional deposits. OTS does not intend to remove the subject C&D provision in the near future and finds this rapid level of asset growth to be unacceptable in light of the Bank's condition.

With respect to Legent's compliance with FINRA regulations, Legent has been fined on two occasions, as disclosed in the Application. OTS concludes that due to the past violations of rules, laws, and regulations, there are significant supervisory and safety and soundness concerns regarding Legent's compliance programs and its management's ability to ensure compliance with such programs.

Conclusion

OTS concludes that the Application is objectionable, based on the safety and soundness and supervisory concerns presented by the matters discussed herein. Accordingly, consistent with 12 C.F.R. § 559.1(a), the Application is hereby denied.

By order of the Director of the Office of Thrift Supervision, or his designee, effective January 18, 2011.

G. N. Gardineer

Grovetta N. Gardineer
Managing Director
Corporate & International Activities