

OFFICE OF THRIFT SUPERVISION

**APPROVAL OF APPLICATIONS FOR PERMISSION TO
ORGANIZE A FEDERAL SAVINGS BANK, HOLDING
COMPANY ACQUISITION AND RELATED APPLICATION**

Order No.: 2000-61
Date: July 3, 2000

Stichting Cumulatief Preferente Aandelen ING Groep, Stichting Administratiekantoor ING Groep, ING Groep, N.V., and ING Bank, N.V., Amsterdam, The Netherlands, and ING USA Holding Corporation, Wilmington, Delaware, (collectively, the Applicants), have applied for approval of the Office of Thrift Supervision (the OTS) pursuant to 12 U.S.C. §§ 1464(e) and 1467a(e), and 12 C.F.R. §§ 552.2-1 and 574.3 for permission to organize and acquire ING Bank, fsb, Wilmington, Delaware (the Savings Bank) and to establish two marketing offices, pursuant to 12 C.F.R. § 545.96(b) (collectively, the Applications). The Savings Bank will be a member of the Savings Association Insurance Fund.

The Savings Bank has requested a waiver of the requirement of 12 C.F.R. § 543.3(d)(1) that a majority of a *de novo* association's board of directors be representative of the state in which the Savings Bank is located.

The OTS has considered the Applications under the standards set forth in 12 U.S.C. §§ 1464(e) and 1467a(e), and 12 C.F.R. §§ 543.3, 545.96, 552.2-1, and 574.7 and under the Community Reinvestment Act (the CRA), 12 U.S.C. § 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e. In addition, the OTS has considered a digest prepared by the OTS Northeast Regional Office (Regional Office), an analysis by the Office of Examination and Supervision, an analysis from Compliance Policy and a legal opinion by the Business Transactions Division (collectively, the Staff Memoranda). For the reasons set forth in the Staff Memoranda, the OTS finds that the waiver request meets the standard set forth under 12 C.F.R. § 500.30(a), and hereby waives the applicability of 12 C.F.R. § 543.3(d)(1). In addition, for the reasons set forth in the Staff Memoranda, the OTS finds that the Applications satisfy all applicable approval standards, other than 12 C.F.R. § 543.3(d)(1), provided that the following conditions are complied with in a manner satisfactory to the Northeast Regional Director, or his designee (Regional Director). Accordingly, the Applications are hereby approved, subject to the following conditions:

1. The Applicants and the Savings Bank must receive all required regulatory and shareholder approvals for the proposed transaction and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction;
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 officers of the Applicants and the Savings 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 Savings Bank as disclosed in the Applications. If additional information having an adverse bearing on any feature of the Applications is brought to the attention of the Applicants, the Savings Bank, 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 consummation of the transaction;
4. The Applicants and the Savings Bank must advise the Regional Director in writing within 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. The Savings Bank must submit annual independent audit reports to the Regional Director for its first three fiscal years. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
6. The Savings Bank must operate within the parameters of its business plan. The Applicants and the Savings Bank must submit any proposed major deviations or material changes from the plan (including changes resulting from decisions made by the Applicants), and in particular, those pertaining to any changes in the proposed delivery system of the Savings Bank's products or cross-marketing of products of the Savings Bank and its affiliates, 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 proposed change is implemented with a copy to the FDIC Regional Office. The Savings Bank must submit to the Regional Office quarterly variance reports on the business plan for the first three years of its operations;
7. For one year following the date of consummation of the proposed transaction, the Savings Bank must receive the prior, written non-objection of the Regional Director for any proposed appointment of any executive officers or directors;
8. For the first eighteen months of operation, 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 calendar days prior to execution and must receive his written non-objection prior to implementation;
9. Prior to the consummation of the proposed transaction, the Applicants must submit an acceptable Foreign Holding Company Agreement to the Regional Director;

10. Prior to implementing its transactional website, the Savings Bank must provide evidence to the Regional Director that an independent security review and test of its Internet banking platform has been performed. This review must be conducted by an independent computer security specialist (Reviewer) and must include testing to determine the adequacy of protection against unauthorized external access, including individual penetration attempts, computer viruses, denial of service, and other forms of electronic access. In addition, the review must assess the adequacy of internal security. The Reviewer must confirm, in writing, that security measures, including the firewall, have been satisfactorily implemented and tested. The report must critique the effectiveness of security policies and controls and confirm, with reasonable certainty, that unauthorized internal or external data and network access or access attempts are detected and recorded. The Savings Bank must agree that it will attempt to correct all deficiencies noted in the report within a reasonable amount of time. In addition, the Savings Bank must perform such a review prior to the initial implementation of any subsequent Internet service delivery software systems or platforms, or contracting with Internet service providers, and provide the report to the Regional Director. These reviews are subject to any additional standards or requirements set by the Regional Director, including prior OTS review of the qualifications of the independent computer security specialists;
11. Within 30 calendar days after consummation of the proposed transaction, the Savings Bank must appoint a Compliance Officer dedicated to the development, implementation and management of the Savings Bank's compliance program, including Federal fair lending and consumer protection laws and regulations
12. Within 60 calendar days after consummation of the proposed transaction, the Savings Bank must submit to the Regional Director for his review and approval, a plan that includes, at a minimum, a comprehensive compliance management plan that describes and ongoing system for assuring compliance with Federal fair lending and consumer protection statutes and regulations, inclusive of procedures that will be implemented to train and oversee all persons who offer or process Savings Bank products;
13. A majority of the Savings Bank's board of directors must not be comprised of individuals who are directors or employees of any affiliate of the Savings Bank that engages in securities brokerage, securities dealing, investment company, or investment advisor (Securities Affiliate(s)); and
14. The Savings Bank is prohibited from sharing common officers with any Securities Affiliate unless prior written approval is obtained from the Regional Director, which shall be based on criteria such as regulatory compliance, experience, character, integrity and the ability to perform both duties.

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

By order of the Director of the Office of Thrift Supervision, or her designee, effective

July 3, 2000.



Scott M. Albinson
Managing Director
Office of Supervision