

OFFICE OF THRIFT SUPERVISION

Approval of Application for Permission to Organize a Federal Savings Bank

Order No.: 2003-38

Date: August 26, 2003

OTS No. 17956

Southwest Bancorp Inc., Stillwater, Oklahoma (Holding Company) has applied for approval of the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1464(e) and 12 C.F.R. § 552.2-1, for permission to organize SNB Bank of Wichita, Wichita, Kansas (Savings Bank) (Application).

OTS has considered the Application under the standards set forth in 12 U.S.C. § 1464(e) and 12 C.F.R. §§ 543.3 and 552.2-1. OTS also has considered the Application under the Community Reinvestment Act (CRA), 12 U.S.C. §§ 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e. In addition, OTS has considered the submissions made by the Applicant, the results of examinations conducted by federal agencies, census data and insured deposit data.

In the proposed transaction, the Holding Company will form the Savings Bank as a wholly owned subsidiary. The Holding Company will capitalize the Savings Bank with \$6.0 million in return for the stock of the Savings Bank. The Holding Company has applied to the Federal Deposit Insurance Corporation for insurance of the Savings Bank's deposits under the Savings Association Insurance Fund.

OTS may grant a federal savings association charter only: (1) to persons of good character and responsibility; (2) if, in OTS' judgment, a necessity exists for such association in the community to be served; (3) if there is a reasonable probability for the association's usefulness and success; and (4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions. In addition, OTS must consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association. OTS also takes into account an applicant's description of how it will meet CRA objectives when considering the application. Furthermore, OTS considers the composition of the savings association's board of directors, the amount of initial capital provided by the organizers and the business plan for the savings association, including projected financial information.

With respect to character and responsibility, the persons who will become the Chief Executive Officer and President, Chief Financial Officer and Chief Vice President -- Lending of the Savings Bank have extensive financial industry experience. The application materials indicate that the remaining members of the Savings Bank's proposed board of directors possess

extensive experience in the operations of financial institutions and other business endeavors. In addition, routine background checks were made, and disclosed no material adverse information. The Regional Office contacted the Holding Company's regulators, and reviewed examination reports, and found no information that would provide a basis for denying the Application. In sum, a review of this information warrants the conclusion that the character and responsibility of the organizers of the Savings Bank are consistent with approval of the Application.

With respect to the necessity for the Savings Bank, the Savings Bank will engage in deposit and lending activities. The Savings Bank will initially undertake its deposit taking and lending activities in the Wichita, Kansas Metropolitan Statistical Area (MSA), with particular focus on Sedgwick County, Kansas. The population of both the Wichita, Kansas MSA and Sedgwick County are increasing and those areas have experienced a significant increase in insured deposits. Thus, we conclude that there is a necessity in the community for the Savings Bank.

With respect to the probability of the Savings Bank's usefulness and success, the Savings Bank will be well capitalized. In addition, the Savings Bank's business plan is reasonable, and the proposed management meets relevant approval standards. In addition, approval of the Application will be subject to various conditions, set forth below, intended to ensure that the Savings Bank maintains safe and sound operations. We conclude that there is a reasonable probability of the Savings Bank's usefulness and success, provided that the Savings Bank (and the Holding Company, to the extent applicable) complies with the conditions set forth below.

With respect to undue injury to local thrift and home financing institutions, while the Savings Bank may take some business from existing institutions, those institutions generally are larger and many operate over a larger territory than will the Savings Bank. Moreover, the Savings Bank proposes to obtain only a small fraction of the deposits in the Wichita, Kansas MSA and Sedgwick County and no one opposed the application in response to the public notice. Therefore, we conclude that the Savings Bank will not cause undue injury to local thrift and home financing institutions in the geographic area where its customers will be located.

With respect to promotion of credit for housing consistent with the safe and sound operation of a federal savings association, the Savings Bank's business plan projects substantial residential mortgage lending and that the Savings Bank will meet its Qualified Thrift Lender requirements. In addition, we have concluded above that the Savings Bank's probability of usefulness and success is consistent with the standards for approval of the Application. Accordingly, we conclude that the Savings Bank will provide credit for housing consistent with the safe and sound operation of a federal savings association.

With respect to the CRA and OTS's CRA regulations, OTS received no public comments objecting to the Application. The Savings Bank's CRA assessment area will be Sedgwick County, Kansas. The Savings Bank projects that it will make loans in low- and moderate-income areas within its CRA assessment area and to low- and moderate-income customers. We find that the Savings Bank has satisfactorily demonstrated how it will meet its CRA objectives.

The Savings Bank intends to adopt a federal charter and bylaws that conform to the model charter and bylaws for a federal stock institution. The Savings Bank will have an initial capitalization that exceeds the minimum regulatory requirement. Moreover, in accordance with OTS's regulations, the Savings Bank's board of directors will be made up of persons with varied backgrounds.

Only 40 percent of the members of the Savings Bank's board of directors will live and/or work in Kansas. That percentage does not comport with the requirement contained in 12 C.F.R. § 543.3(d)(1), that the majority of the membership of a de novo institution's board of directors be "representative" of the state in which the institution is located. However, OTS may waive any regulatory requirement that is not mandated by statute, provided there is good cause for such a waiver.¹

No statute mandates the regulatory requirement for "representative" directors. Moreover, the Federal Home Loan Bank Board (FHLBB) added the provision in question as a policy statement in 1984. At that time the FHLBB stated that it considered that some knowledge of an institution's local market and community is important, and helps to foster the institution's commitment to furnishing housing finance. The FHLBB also noted that having a majority of the board of directors being representative of the state in which the institution is located helps to ensure the viability of the institution because the board of directors will have knowledge of the needs of the institution's market.

With respect to the Savings Bank, 40% of the board's members will be representative of Kansas. Moreover, the Savings Bank is being established by an experienced bank holding company whose bank subsidiary has been operating in the market. The Savings Bank will be taking over an established loan business and will be run by experienced persons who successfully established and grew that business. In addition, the non-Kansas directors are residents of the Stillwater, Oklahoma, area. Stillwater is only about 60 miles from Kansas, 90 miles from the Wichita, Kansas MSA and about 125 miles from the city of Wichita, Kansas. Accordingly, we conclude that there has been a sufficient showing of good cause for the waiver to be granted, and therefore OTS waives the section 543.3(d)(1) requirement to the extent contemplated by the Application.

Based on the foregoing analysis, OTS concludes that the Application meets the applicable approval criteria, and is hereby approved, provided that the conditions are complied within a manner satisfactory to the Midwest Regional Director, or his designee (Regional Director):

1. The Savings Bank and the Holding Company must receive all required regulatory and shareholder approvals and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction;

¹ 12 C.F.R. § 500.30(a)(2003)

2. The proposed transaction must be consummated within 120 calendar days from the date of this Order;
3. On the business day prior to the consummation of the proposed transaction, the chief financial officers of the Holding Company and the Savings Bank must certify in writing to the Regional Director that no material adverse changes have occurred with respect to the financial condition or operation of the Holding Company and the Savings Bank as disclosed in the Application. If additional information having a material adverse bearing on any feature of the Application is brought to the attention of the Holding Company, the Savings Bank or OTS since the date of the financial statements submitted with the Application, the transaction must not be consummated unless that information is presented to the Regional Director, and the Regional Director provides written non-objection to consummation of the transaction;
4. The Holding Company 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 transaction; (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Application, and this Order; and must provide a reconciliation of the Savings Bank's capital;
5. The Savings Bank must submit independent audit reports to the Regional Director for its first three years of operations. 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 three-year business plan. The Savings Bank must submit any proposed major deviations or material changes from the plan (including those initiated by the Holding Company) for the prior, written non-objection of the Regional Director. The request for change must be submitted no later than 60 calendar days prior to the desired implementation date with a copy sent to the FDIC Regional Office;
7. For three years following commencement of operations, the Savings Bank must submit to the Regional Director within 30 calendar days after the end of each calendar quarter, a business plan variance report detailing the Savings Bank's compliance with the business plan and an explanation of any deviations;
8. For two years following the date of consummation, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers or any significant change in responsibilities of any senior executive officer;
9. During the first eighteen months of operations, any contracts or agreements pertaining to transactions with affiliates not yet submitted to OTS for review, must be provided to the Regional Director for his written non-objection at least 30 days prior to their execution and implementation; and

10. For three years following commencement of operations, at least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Holding Company or affiliates thereof or have otherwise been determined by the Regional Director to lack sufficient independence, and at least one member of the Savings Bank's board of directors must be an individual who is not an officer, director, or employee of the Holding Company or any affiliate and who is not an officer or employee of the Savings Bank or has otherwise been determined by the Regional Director to lack sufficient independence

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 his designee,
effective August 26, 2003.



Scott M. Albinson
Managing Director
Office of Supervision