

OFFICE OF THRIFT SUPERVISION

Approval of Applications for Permission to Organize a Federal Savings Bank and Holding Company Acquisition

Order No.: 2009-32

Date: June 2, 2009

Docket Nos: H-4526, 18113

Eleven individuals (Organizers) and GreenChoice Holding Company, Inc., Chicago, Illinois (Holding Company), have applied for the approval of the Office of Thrift Supervision (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 GreenChoice Bank, Chicago, Illinois (Savings Bank) (collectively, the Applications).

The Proposed Transaction

In the proposed transaction, the Holding Company will form the Savings Bank as a wholly owned direct subsidiary. The Holding Company, which will be chartered as an Illinois corporation, will sell its common stock in a private placement offering. The Savings Bank has applied to the Federal Deposit Insurance Corporation (FDIC) for insurance of the Savings Bank's deposits.

Permission to Organize Application

OTS may grant a federal savings association charter only: (1) to persons of good character and responsibility; (2) if, in OTS's 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.

Also, OTS's regulation regarding the establishment of *de novo* federal savings associations sets forth standards regarding: (i) initial capitalization of the federal savings association; and (ii) the residence and composition of the savings association's board of directors.

Further, 12 C.F.R. § 563e.29(b) provides that an applicant for a federal savings association charter must submit with its application a description of how it will meet its Community Reinvestment Act (CRA) objectives. OTS is required to take this description into account when considering the application and may deny or condition approval on CRA grounds.

With respect to character and responsibility, the Applications and OTS's background checks did not disclose any material information inconsistent with approval regarding the proposed directors and senior officers of the Holding Company and the Savings Bank. The

Applications and background checks indicate that the members of the Savings Bank's and the Holding Company's proposed boards of directors possess sufficient experience in the operations of financial institutions and various other business endeavors.

However, because the background checks for certain persons have not been completed, OTS is imposing condition nine. This condition is intended to ensure that such persons have the requisite character and responsibility and that the Savings Bank has the appropriate managerial resources to operate safely and soundly.

Accordingly, OTS concludes that the character and responsibility of the organizers of the Savings Bank, and the management of the Holding Company and Savings Bank, are consistent with approval.

With respect to the necessity for the Savings Bank, the Savings Bank will engage in deposit and lending activities. The Savings Bank's proposed marketing area is the Chicago-Naperville-Joliet, IL-IN-WI, Metropolitan Statistical Area (MSA). Insured deposits in the MSA increased from \$268.873 billion to \$272.401 billion, or 1.31 percent, between June 2007 and June 2008. The population of the MSA increased from 9,119,158 to 9,579,510, or by 5.05 percent, from 2000 to 2008, and is expected to continue to increase. Based on the foregoing, OTS concludes that there is a necessity in the community for the Savings Bank.

With respect to undue injury to local thrift and home financing institutions, the Savings Bank projects that at the end of its third year of operations its deposits will equal about .04 percent of the June 30, 2008, deposits in the MSA. In addition, no one objected to the application. Therefore, OTS concludes that the Savings Bank will not have an undue adverse impact on local thrift and home financing institutions in the geographic area where its customers will be located.

With respect to the probability of the Savings Bank's usefulness and success, the Savings Bank will be well capitalized. The Savings Bank's business plan projects that it will remain well capitalized throughout the three-year duration of the plan. The Savings Bank's directors and management include experienced bankers and business management. Conditions five through eight are designed to enhance OTS's ability to provide oversight of the Savings Bank, to help ensure adherence by the Savings Bank to generally accepted accounting principles and the business plan, and to help ensure that the Savings Bank has appropriate managerial resources. These conditions help ensure the safe and sound operation of the Savings Bank and thus contribute to its usefulness and success. OTS concludes that the probability of the Savings Bank's usefulness and success is consistent with approval, provided that the Savings Bank complies with the conditions set forth below.

With respect to promotion of credit for housing consistent with the safe and sound operation of a federal savings association, the Savings Bank will extend credit for housing within its proposed marketing area. In addition, the Savings Bank is projected to meet its Qualified

Thrift Lender requirements. As discussed above, the Savings Bank's management should be able to conduct lending appropriately. Accordingly, OTS concludes that this approval criterion has been satisfied.

With respect to the CRA and OTS's CRA regulations, OTS received no comments objecting to the Applications. The Savings Bank's proposed CRA assessment area is consistent with OTS's CRA regulations. OTS concludes that the Savings Bank has satisfactorily demonstrated how it will meet its CRA objectives.

The Savings Bank's initial capitalization will exceed the minimum regulatory requirement. In addition, consistent with 12 C.F.R. § 543.3(d)(1), a majority of the Savings Bank's board of directors live or work in Illinois. The Savings Bank's board of directors will include individuals with varied backgrounds in financial institutions and other businesses. Section 543.3(d)(2) of the OTS regulations also requires that, except in the case of a *de novo* association that is wholly owned by a holding company, no more than one-third of the board of directors may be in closely related businesses. Where a *de novo* association is owned by a holding company that does not have substantial independent economic substance, as here, the above standard is applied to the board of the holding company. No more than one-third of the proposed directors of the Savings Bank and the Holding Company are in closely related businesses. OTS concludes that the proposed composition of the boards of directors complies with 12 C.F.R. § 543.3(d).

Holding Company Application

Section 10(e)(1)(B) of the Home Owners' Loan Act and the OTS Acquisition of Control Regulations provide that OTS must approve a holding company application seeking permission to acquire one savings association by a company other than a savings and loan holding company unless OTS finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the savings association or to the insurance risk of the Deposit Insurance Fund. Also, OTS must consider the impact of any acquisition on competition.¹ Further, 12 C.F.R. § 563e.29(a) requires that OTS take into account assessments under the CRA when approving savings and loan holding company acquisitions.

For the reasons set forth above, OTS concludes that the managerial resources of the Holding Company and the Savings Bank are consistent with approval.

With regard to financial resources, OTS reviewed the financial resources of the Holding Company, and the Savings Bank's proposed capitalization and business plan. The Applications project that the Savings Bank will meet all of its capital requirements and that it will remain well capitalized throughout its first three years of operations. The Holding Company's only activity

¹ 12 U.S.C. § 1467a(e)(2) and 12 C.F.R. § 574.7(c)(2) (2009).

will be its ownership of the Savings Bank. Based on the foregoing, OTS concludes that the financial resources of the Holding Company and the Savings Bank are consistent with approval.

Based on the discussions above regarding the probability of the Savings Bank's usefulness and success, the character and responsibility of the organizers of the Savings Bank, and the financial and managerial resources of the Holding Company and the Savings Bank, and the inclusion of the conditions set forth below, which are intended to ensure that the future prospects of the Holding Company and the Savings Bank are consistent with approval, OTS concludes that this approval criterion has been satisfied.

The transaction will not result in any currently operating, unaffiliated depository institutions becoming affiliated. Accordingly, OTS finds no basis for objection to the transaction on anti-competitive grounds.

With respect to the CRA, the Holding Company has not been subject to the CRA. Accordingly, OTS concludes that there is not any basis for objection to the holding company application based on CRA grounds.

Conclusion

Based on the foregoing analysis, pursuant to delegated authority, OTS concludes that the Applications meet the applicable approval criteria, and hereby approves the Applications, provided that the following conditions are complied with in a manner satisfactory to the Central Regional Director, or his designee (Regional Director):

1. The Savings Bank must receive all required regulatory approvals 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 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 Savings Bank and the Holding Company 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 Savings Bank or the Holding Company 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 Savings Bank, the Holding Company or OTS since the date of the financial statements submitted with the Application, 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 Savings Bank must within 5 calendar days after the effective date of the proposed transaction: (a) advise the Regional Director in writing of the effective date of the

transaction and of the Savings Bank's insurance of accounts; (b) advise the Regional Director in writing that the transaction was consummated in accordance with all applicable laws and regulations, the Applications, and this Order; and (c) provide a reconciliation of the Savings Bank's capital to the Regional Director;

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 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 45 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. Before commencement of the Savings Bank's operations, and for the three years after commencement of the Savings Bank's operations, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or executive officers or any significant changes in responsibilities of any executive officer; and
9. With respect to any proposed director, executive officer or any other person identified by the Regional Director as an individual who exercises significant influence over, or participates in, major policymaking decisions, for whom a background check has not been completed on the date of this decision, the Savings Bank must take such action as is required by the Regional Director, if the Regional Director objects to such person based on the information obtained from the background check.

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

By order of the Acting Director of the Office of Thrift Supervision, or his designee,
effective June 2, 2009.



Grovetta N. Gardineer
Managing Director
Corporate & International Activities