

This handbook section provides guidance on applications filed by institutions that have previously been approved as a limited purpose or wholesale institution, as defined in 12 C.F.R. Part 563e, to expand its business activities. In many instances, when Office of Thrift Supervision (OTS) approves an application for a limited purpose or a wholesale institution, said approval includes a condition that the institution must apply to OTS and receive approval of its application to engage in additional business activities. The basis for this condition is that when an applicant files an application for limited powers, it is often the case that the breadth of the review is also somewhat limited, given the lack of diversification of the operations.

When an institution proposes to engage in additional business activities, a greater review of the operations is warranted. OTS will consider an application for expanded powers under the standards required of a new federal thrift charter, which are set forth at section 5(e) of the HOLA and OTS regulations thereunder, as well as the Community Reinvestment Act and OTS regulations thereunder at 12 C.F.R. § 563e.29. This section provides guidance for reviewing applications filed by limited purpose or wholesale institutions to expand its business activities.

FILING REQUIREMENTS

Delegated Authority

The application is not eligible for delegated processing. See Delegation Section 040 of the handbook for information on the delegation process.

Expedited and Standard Processing Procedures

This application is not subject to the expedited processing procedures set forth in 12 C.F.R. Part 516. Accordingly, the application to convert from limited purpose or wholesale savings institution to a full service savings institution will be processed utilizing the procedures set forth in 12 C.F.R. §§ 516.210-516.290.

Prefiling Meeting Requirements

It is the applicant's responsibility to contact the Regional Office in a reasonable time period in advance of filing the application, to discuss whether a prefiling meeting will be required. Since this application is similar to the type that may necessitate a prefiling meeting, OTS anticipates that a meeting will be held in most cases. The purpose of the meeting is to permit OTS and the applicant to identify any legal or policy issues before submission of the application, and enable the applicant to address these issues early in the process. The Regional Office has the discretion to require a prefiling meeting, and will work with the applicant to determine a schedule and forum for a meeting. The forum for the meeting will usually be in person at the Regional Office, although the Regional Office may consider meetings by telephone or video conferencing at its discretion on a case-by-case basis. OTS may decide not to accept a submitted application until the prefiling meeting requirements in 12 C.F.R. Part 516 are met, leading to significant delays in processing the application.

When a meeting is required, the applicant should contact the Regional Office to determine which individuals should be present at the meeting. These individuals will be expected to discuss the salient

aspects of the proposed transaction. The applicant must submit a draft business plan to the Regional Office prior to the meeting in a time frame in advance of the meeting acceptable to the Regional Office. At a minimum, the plan should:

- Describe clearly and completely the projected operations and activities;
- Provide financial projections for a three-year period;
- Discuss the associated risks and the impact of the additional business activities on the institution;
- Identify any additional directors and/or senior executive officers that will be appointed as a result of the new activities, with documentation to support that these individuals have the required qualifications and experience to prudently oversee the resulting operations; and
- Demonstrate how the charter will serve the credit and lending needs in its target market.

Information and Form Requirements

The applicant must file the application with the appropriate Regional Office and the Applications Filing Room (AFR) in OTS-Washington in accordance with 12 C.F.R. Part 516. The applicant is required to file the original and two copies of this application with the appropriate Regional Office, and file three copies with the AFR. Four additional copies should be sent to the Regional Office for transactions subject to the Bank Merger Act. The original filing, all copies, and all exhibits and other pertinent documents must be clearly marked and captioned as to the type of filing. One copy must contain original signatures on all executed documents. See Application Filing Requirements in Section 010 of this handbook.

As the application will be reviewed under Section 5(e) of the HOLA and OTS regulations thereunder, as well as the Community Reinvestment Act and OTS regulations thereunder at 12 C.F.R. § 563e.29, it will be necessary to require a filing similar to those required for a de novo institution. However, unlike a de novo applicant, the institution will only have to address certain items required in a de novo application. Such information will vary depending on the circumstances present in the additional activities. The required items will be discussed in the prefiling meeting to ensure that the Regional Office will have sufficient information to accept the application.

The applicant is required to submit certain documents and information set forth in OTS Form 138, "Application for Permission to Organize." The application form addresses seven categories of information requirements:

- Overview
- Management
- Capital
- Characteristics of the Community
- Community Reinvestment Act

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- Premises and Fixed Assets
 - Other Information

Additional forms to supplement OTS Form 138 may be necessary, i.e., forms seeking approval for subsidiaries, holding companies, trust powers, biographical and financial reports complete with supporting documentation, and business plan. These forms and instructions are available on the OTS Website.

Confidentiality

The applicant must submit in writing, concurrently with the submission of the application, any requests to keep specific portions of the application confidential. In accordance with the Freedom of Information Act, the request should discuss the justification for the requested treatment and should specifically demonstrate the harm (e.g., to competitive position, invasion of privacy) that would result from the public release of information. OTS will not treat as confidential the portion of an application describing the plan to meet the Community Reinvestment Act objectives.

Information for which confidential treatment is requested should be: (i) specifically identified in the public portion of the application by reference to the confidential section; (ii) separately bound; and (iii) labeled “confidential.” The applicant should follow these same procedures when filing supplemental information to the application. OTS will determine whether information designated as confidential must be made available to the public under the Freedom of Information Act. OTS will advise the applicant before it makes information designated as confidential available to the public.

Special Considerations

Publication Requirements

The applicant must publish notice of its intent to engage in additional activities no earlier than seven days before and no later than the date of filing of the application, in accordance with the requirements of 12 C.F.R. Part 516, Subpart A. Notice must be published in a newspaper printed in the English language and having a general circulation in the community in which the home office of the savings institution is located. If the Regional Office determines that the primary language of a significant number of adult residents of the community is a language other than English, the applicant may also be required to publish notice simultaneously in the appropriate language(s).

OTS may require an applicant to publish a new public notice of the application in circumstances when an applicant submits a revision to the application, or submits new or additional information, or when a major issue of law or change in circumstance arises after filing the application. OTS has the discretion in these circumstances to require republication if it determines that the public has not had adequate notice and opportunity to comment on the application due to the substantial change. OTS will notify the applicant if a new public notice of a revised application must be published.

Additional public notice requirements may apply for transactions involving mergers or branch purchase applications filed pursuant to 12 C.F.R. § 563.22, or holding company applications filed

pursuant to 12 C.F.R. § 574.3. Combined public notice may be published consistent with existing OTS policy. See Publication Forms Section 020 of the handbook for examples of publication language.

- **Comment Procedures**

Any person may submit a written comment to the Regional Office supporting or opposing the application within 25 days after the filing date of the application. OTS will not consider any late filed comments unless: the commenter demonstrates good cause for why they could not submit a timely comment, or, OTS concludes that the comment addresses a significant regulatory concern and will assist in the disposition of the application. OTS can extend the 25 day comment period with demonstrated good cause for why a commenter was unable to submit a timely comment. The duration of an extension request is subject to the discretion of OTS on a case-by-case basis, after consideration of the unique circumstances of each extension request.

The comment should recite relevant facts, including any demographic economic or financial data supporting the commenter's position. If the commenter opposes the application, the comment should also: 1) address at least one reason for denial based upon regulatory criteria for denial; 2) support the reason for denial with relevant facts and supporting data; and 3) address how the approval of the application is harmful to the community or the commenter. While OTS will accept and consider all comments, including those that do not meet all of the content criteria, commenters are encouraged to include all relevant information and arguments. The commenter may also request an informal meeting pursuant to 12 C.F.R. §§ 516.120 and 516.170 with their comment, along with a description of the issues and facts to be discussed and justification for why written submissions are insufficient to adequately address those facts or issues.

If the commenter has filed a written request for a meeting and the request contains the required information set forth in 12 C.F.R. § 516.120(b), OTS will arrange a meeting. If an informal meeting is requested, the commenter must simultaneously send a copy of the written request to the applicant. OTS will generally provide an applicant an appropriate opportunity and period of time to respond to submitted comments.

OTS will facilitate the informal meeting between the applicant, the commenter(s) and any other interested person(s). OTS has discretion to determine the format of the meeting, including telephone conference or face-to-face meetings. OTS will inform the applicant and commenters requesting an informal meeting of its decision on a request for a meeting, or of its decision to hold an informal meeting on its own initiative. OTS may also invite any other interested persons to attend. OTS will inform the participants of the date, time, location and format for the meeting in reasonable time in advance. OTS anticipates that informal meetings will be sufficient to facilitate the resolution of issues in most cases.

If an informal meeting fails to facilitate the resolution of issues to the satisfaction of any participant in an informal meeting, OTS may proceed to conduct a formal meeting before a presiding officer upon the filing of a request. Any participant requesting a formal meeting, pursuant to 12 C.F.R. §§ 516.170 and .180, should submit a request to OTS within three days

after the informal meeting, and provide copies of its request to the other participants of the informal meeting. The request must describe the nature of the issues or facts to be presented, must demonstrate that material issues or facts have not been adequately addressed by the informal meeting, and that a formal meeting is necessary to develop a record sufficient to support a determination on those facts or issues. OTS will not arrange an informal meeting where a request is clearly frivolous or clearly lacking a factual basis. OTS may elect to hold a formal meeting on its own initiative if deemed necessary to assist in the disposition of the application or issues raised by the application.

OTS will issue a Notice of Formal Meeting if it decides to hold a formal meeting, and send the notice to the applicant, to any person requesting a formal meeting, and to any interested person, in its discretion, it desires to invite. Any person receiving the Notice of Formal Meeting must notify OTS within ten days of receipt of the notice of their intent to participate in the meeting. All participants in the formal meeting must provide the names of their presenters and copies of proposed exhibits to OTS, to the applicant, and to any other person designated by OTS, no later than five days before the date of the formal meeting. All presenters of documentary material must furnish copies of the material to OTS and to each other participant. OTS will arrange for a transcript of the meeting, with each participant bearing the cost of any copies of the transcript it requests for its use.

OTS anticipates that most formal meetings will follow an informal meeting. Accordingly, OTS will not grant a request for a formal meeting unless an informal meeting has occurred. However, OTS has the authority to conduct a formal meeting without holding an informal meeting if the meeting is beneficial to the review process and will facilitate a resolution of the issues raised by application.

If OTS has arranged an informal or formal meeting, the processing time frames for the application are suspended until OTS determines that a sufficient record has been developed to address the issues raised in the comments.

Background Checks

OTS policy requires background investigations of all proposed senior executive officers, directors, and any individuals or groups acting in concert who own or control, directly or indirectly, ten percent or more of the institution's stock, if such information has not already been provided to OTS. At a minimum, individuals must submit an Interagency Biographical and Financial form, FBI Fingerprint Card, and a Regulatory Bulletin (RB) 20 Certification Form. RB-20 authorizes OTS to request supplemental information from applicants if the information is useful in completing a thorough background investigation. Applicants can request a waiver from filing portions of this information by providing justification stating why this information is unduly burdensome or unnecessary. Waiver requests will only be granted in limited circumstances and consistent with current OTS policy. The Regional Office will conduct a background investigation in compliance with RB-20. If appropriate, the review may also require OTS to contact other regulatory agencies to seek additional comments on the applicants. Individuals must be fingerprinted by an independent third party unrelated to the individual or companies affiliated with the individual on fingerprint cards bearing the OTS

identification number. Results of all background checks should be addressed in the Regional Office's digest.

Holding Company Applications

In some cases, the institution's conversion to full service activities may result in a change in the holding company structure that may require the filing of the appropriate holding company acquisition application (typically, an H-(e)1) in addition to the proposed application. The Regional Office should review the proposed transaction to determine whether such an application is warranted.

Subsidiaries of bank holding companies are exempt from submitting a holding company application as a result of the passage of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPR). EGRPR adds Section 10(t) to the HOLA, which exempts bank holding companies from having to seek OTS' approval to acquire a thrift institution. The Federal Reserve has the regulatory authority over such a transaction.

National Historic Preservation Act

If the institution proposes to establish its home or branch office in any historical district, site, building, structure, object or archaeological site, included in, or eligible for inclusion in, the National Register of Historic Places pursuant to the National Historic Preservation Act (NHPA), 16 U.S.C. § 470, the application is subject to the requirements set forth in Section 106 of the NHPA.

Section 106 of the NHPA requires Federal agencies to consider the effects of their actions on historic properties and provide the Advisory Council on Historic Preservation (Advisory Council) an opportunity to comment with regard to such actions. To successfully complete Section 106 review, OTS must:

- Determine if Section 106 of NHPA applies to a given project and, if so, initiate the review;
- Gather information to decide which properties in the project area are listed on or eligible for the National Register of Historic Places;
- Determine how historic properties might be affected;
- Explore alternatives to avoid or reduce harm to historic properties; and
- Reach agreement with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) (where tribal lands or historic properties of significance to such tribes are involved) on measures to deal with any adverse effects or obtain advisory comments from the Advisory Council, which are sent to the head of the agency.

The SHPO/THPO coordinates state participation in the implementation of the NHPA, is a key individual in the Section 106 process, and should be involved in each step.

In order to facilitate the Section 106 review, the institution must indicate in the application if the proposed main office and/or any branch site affects any district, site, building, or structure listed in, or

eligible for listing in, the National Register of Historic Places, specify how such determination was made (e.g., National Register, SHPO/THPO or other), and provide documentation of consultation with SHPO/THPO.

The involvement of Section 106 of NHPA in an application is considered an issue of law or policy. As a result, the analysis of the application must address the requirements set forth in Section 106 of the NHPA, and the analysis must address the requirements set forth in Section 106 of the NHPA.

National Environmental Policy Act

Similarly, with respect to the application, the institution should provide a statement on the impact of the proposal on the human environment, including information on changes in air and/or water quality, noise levels, energy consumption, congestion of population, solid waste disposal, or environmental integrity of private land within the meaning of the National Environmental Policy Act, 42 U.S.C. § 3421, et. seq.

REGULATORY GUIDELINES

Processing Procedures and Time Frames

As this application is nondelegated, correspondence from OTS regarding applications will generally be transmitted from OTS-Washington.

Within five business days of receipt of the application, by both OTS-Washington and the Regional Office, and the application fee, the Regional Office must notify the applicant of the application's receipt. The appropriate application fee must accompany each application in order for it to be considered filed.

For nondelegated applications that involve specialty areas, such as trust activities or CRA issues, a copy of the application must be provided to the corresponding OTS-Washington specialist.

Within 30 calendar days of receipt of a properly submitted application, OTS shall take the following actions.

- Deem the application complete;
- Request, in writing, any additional information necessary to deem the application complete; or
- Decline to further process the application if it is deemed by OTS to be materially deficient and/or substantially incomplete.

Failure by OTS to act within 30 calendar days of receipt of the application for processing shall result in the application being deemed complete, commencing the period for review.

OTS must review requests for a waiver of an application requirement that certain information be supplied, in a timely manner. Unless OTS requests, in writing, additional information about the waiver request, or denies the waiver request, the waiver request shall be deemed granted.

If additional information is requested, a response must be submitted within 30 calendar days of the letter requesting such information. The applicant may, in writing, request a brief extension of the 30-calendar day period for responding to a request for additional information, prior to the expiration of the 30-calendar day time period. OTS, at its option, may grant the applicant a limited extension of time in writing. Failure to respond to a written request for additional information within 30 calendar days of such request may be deemed to constitute withdrawal of the application or may be treated as grounds for denial or disapproval of the application.

After the timely filing any additional information in response to any initial or subsequent request by OTS for additional information, OTS has 15 calendar days to review the additional information for completeness or appropriateness and take one of the following actions.

- Request, in writing, any additional information necessary to deem the application complete;
- Deem the application complete; or
- Decline to further process the application if it is deemed by OTS to be materially deficient and/or substantially incomplete.

The 15-day review period commences when the OTS receives a response that purports to respond to all questions in the information request. OTS may extend the 15-day review period for an additional 15 calendar days, if OTS requires the additional time to review the response. OTS will notify the applicant that it has extended the period before the end of the initial 15-day period.

Failure by OTS to act within 15 calendar days of receipt of the additional information shall result in the filed application being deemed complete, commencing the period for review.

During the course of the review period, OTS may decide to conduct an eligibility examination. OTS will not deem an application complete until it concludes the examination. In addition, OTS may request additional information as a result of the eligibility examination that must be submitted in accordance with the time frames set forth in this section.

Once the application has been deemed complete, there is a 60-calendar day review period during which time OTS will take into consideration all factors present in the application and render a decision thereon. If, upon expiration of the 60-day review period, assuming no extension has been granted, OTS has failed to act, the application is deemed approved automatically, and the applicant may thereafter consummate the transaction. If multiple applications are submitted in connection with one transaction, the applicable review period for all applications is the review period for the application with the longest review period, subject to statutory review periods.

During the review period, OTS may request additional information if the information is necessary to resolve or clarify the issues presented in the application. OTS may also notify the applicant that the application is incomplete and require that the applicant submit additional information to complete the

application. The review period can be extended an additional 30 calendar days if OTS determines that additional time will be required to analyze the proposed transaction. In such cases, OTS must notify an applicant prior to the expiration of the period for review. In situations in which an application presents a significant issue of law or policy, OTS may extend the applicable period for review of such application beyond the time period for review. In these cases, written notice must be provided to an applicant no later than the expiration of the time period.

For purposes of calculating processing time frames, OTS does not include the day of the act or event, in determining the date the time period commences. In determining the conclusion of a time period, when the last day of the time period is a Saturday, Sunday, or a Federal holiday, the last day will become the next day that is not a Saturday, Sunday, or Federal holiday.

Under 12 C.F.R. § 516.290, if OTS has not acted on a pending application within two calendar years after the filing date, OTS may deem the application withdrawn unless OTS determines that the applicant is actively pursuing a final determination on the application. Applications that are subject to this withdrawal provision are those that have failed to timely take action such as filing required additional information, or OTS has suspended processing of an application based on circumstances that are, in whole or in part, within the applicant's control and have failed to take reasonable steps to resolve these circumstances.

Regulatory Criteria

Section 5(e) of the HOLA, as amended, sets forth the basic criteria that OTS must consider when granting a charter. Although OTS is not specifically granting a charter, the standards set forth in the statute and regulations must be considered when granting additional powers to an institution. Section 5(e) states that OTS may grant a Federal charter only if, in OTS' judgment:

- The persons are of good character and responsibility;
- A need exists for the institution in the community to be served;
- There is a reasonable probability of the institution's usefulness and success; and
- The institution can be established without undue injury to other local thrift and home-financing institutions.

In addition to the Section 5(e) factors noted above, 12 C.F.R. § 543.2(g) also required that OTS consider the following factor for approval:

- Whether the institution will perform a role of providing credit for housing consistent with safe and sound operation of a federal savings institution.

12 C.F.R. § 543.3 also sets forth certain policy considerations regarding applications for permission to organize including:

- Minimum Initial Capitalization

While not as applicable for this type of applicant, an institution should have at least two million dollars in capital stock or a greater amount to mitigate the risks the institution will incur as a result of the expanded operations. Applications proposing substantial internet-based operations will require additional capital consistent with current OTS policy.

- Business Plan

The applicant shall submit a business plan materially consistent with OTS requirements, describing the major areas of operations for the first three years of the expanded operations. The business plan should address the following areas of operation:

- * Lending, leasing and investment activity, including plans to meet the Qualified Thrift Lender requirements;
- * Deposit, savings and borrowing activity;
- * Interest-rate risk management;
- * Internal controls and procedures;
- * A discussion of the requirements set forth in The Community Reinvestment Act and plans for meeting the credit needs of the community, including low- and moderate-income neighborhoods; and
- * Comprehensive financial projections for the first three years of operation.

The business plan shall provide for the continuation or succession of competent management subject to the approval of the Regional Director, or his/her designee, and shall further provide that any material change in, or deviation from, the business plan must receive the prior approval of the Regional Director, or his/her designee. The business plan must also demonstrate the institution's ability to maintain required minimum regulatory capital pursuant to 12 C.F.R. Parts 565 and 567 for the duration of the plan.

- Composition of the Board of Directors

As required by regulation, a majority of the institution's board of directors must be representative of the state in which the institution is located. The board must be diversified and composed of individuals with varied business and professional experience. In addition, no more than one-third of the board of directors may be in closely related businesses, except in the case of a institution that is wholly owned by a holding company with substantial economic substance. The background of each director must reflect a history of responsibility, personal integrity, and competence sufficient to direct the institution in a safe and sound manner.

- Policies Pertaining to Management Officials

In addition to new officers and directors, any stockholders that acquire ten percent or more of the stock of the institution as a result of the transaction will be considered management

officials of the institution for the purpose of OTS's evaluation of the character and qualifications of the institution's management. These individuals will be required to submit to the Regional Office an Interagency Biographical and Financial Report (OTS Form 1623), FBI Fingerprint Card and RB-20 Applicant Certification.

Pursuant to 12 C.F.R. § 563e.29, OTS must consider the institution's plans for meeting its objectives under the Community Reinvestment Act. OTS will review the proposed plan for satisfying the CRA and may deny or condition approval based upon this review.

Decision Guidelines

The statutory and regulatory requirements are designed to ensure the viability and safe and sound operation of the institution. In general, the analysis should conclude that capital is sufficient to engage in the additional activities and management has the necessary expertise and controls to implement the additional activities. In addition, OTS should conclude that the community will be served and that the proposed activities will be done in compliance with applicable rules and regulations. If, based upon the review, OTS have determined that the additional activities will adversely effect or jeopardize the financial well being of the institution or be detrimental to the community; a denial recommendation may be the course of action. OTS should consider the following factors in analyzing the application to determine if the transaction satisfies the applicable statutory and regulatory criteria for approval:

- Did the applicant submit the following forms and information?
 - * Appropriate and properly executed application OTS Form 138 for Permission to Organize;
 - * Each newly appointed director/trustee, senior officer and new controlling shareholder(s) must submit an OTS Form 1623 (Interagency Biographical and Financial Report), properly executed RB-20 Certification and FBI Fingerprint Card;
 - * Resume or description of the managing officer's qualifications and discussion of salary and benefits, if a change has occurred;
 - * Copies of proposed employment contracts and evidence of regulatory compliance;
 - * Description of any proposed stock option plans;
 - * Three-year business plan;
 - * Charter and bylaws;
 - * Sample Certificates and Passbook Accounts and a legal opinion that such forms of certificate comply with applicable laws, regulations, and the institution's charter and bylaws;
 - * Copies of all proposed contracts with affiliates, all contracts not in the ordinary course of business or in excess of 15 percent of the proposed operating budget;

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- * Map of Primary Market Area. The Map should be outlined with a heavy line to indicate the proposed market area; the proposed office location should be indicated by an encircled x; and home office locations and branch facilities of competing thrift institutions and commercial banks should be clearly identified. The Map must be legible and contain a distance scale;
 - * Description of the Proposed Market Area (value, type and number of existing and proposed residential units, shopping centers, office buildings, industries and major economic base, etc.); and
 - * The latest audit report and annual report to shareholders.
- Did the certification or background check (FBI, LEXIS/NEXIS and/or Westlaw, and CIIS) of the newly appointed director/trustee, senior officer and new controlling shareholder(s) indicate that they have been the subject of any enforcement, criminal or questionable actions?
 - Was any adverse information found in the background reviews not disclosed by any individual in their RB-20 Certification or on OTS Form 1623?
 - Do the Interagency Biographical and Financial Reports (OTS Form 1623) disclose any questionable information? (i.e., prior employment with any type of financial institution must be checked.)
 - Do the board of directors and senior management, have the qualifications and experience necessary to engage in the additional operating powers in a safe and sound manner?
 - Will the board of directors have sufficient independence from its parent holding company to ensure that the institution will continue to operate without undue influence from its parent company and affiliates?
 - Will the board of directors continue to meet the composition requirements of 12 C.F.R. §§ 543.3(d) and 563.33(a)?
 - Has management established a strong system of internal controls to ensure the overall adequacy and adherence to policies and procedures?
 - How has management performed under its existing business plan? Is there a propensity on the part of management and/or the board of directors to forego long-term stability in favor of short-term profits?
 - Has the board of directors properly monitored and controlled management's adherence to the institution's business plan?
 - Do the proposed employment agreements comply with the requirements of 12 C.F.R. § 563.39 and Regulatory Bulletin 27-a?
 - Does the proposed business plan satisfy OTS requirements?
 - Are the institution's new business plan and its underlying assumptions reasonable?
 - Is there a need for the additional products and services in the institution's market area?
 - Can the additional operations be established without undue injury to other local thrift and home financing institutions?

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- Do the proposed savings and lending services appear reasonable?
 - Will the institution rely on the excessive use of brokered deposits?
 - Do the new activities present unusually high elements of risk, such as a significant volume of sub-prime loans, speculative lending, or credit card activity?
 - Will the proposed balance sheet and business strategy comply with the lending and investment limitations of Section 5(c) of HOLA and 12 C.F.R. Part 560?
 - Does the proposed business plan demonstrate compliance with OTS capital requirements over the three-year projections?
 - Does the institution have sufficient capital resources necessary to fund the additional operations and offset potential adverse changes in market conditions or poor operating performance?
 - Is capital adequate based upon business philosophy or for institutions with specialized operations or higher risk profiles (i.e. internet based banking)?
 - If conducting Internet operations, will the Internet banking activities be conducted in compliance with OTS and Interagency policy?
 - Does the investment in fixed assets by the institution meet current OTS policy for limitations of initial capital invested in fixed assets?
 - In those instances where the office quarters will be purchased or leased from an affiliated person, as defined in 12 C.F.R. § 561.5, did the applicant follow the procedures as set forth in 12 C.F.R. § 563.41?
 - Do the business plan projections indicate that QTL compliance will be maintained?
 - Does the description of the local community adequately demonstrate the community's credit needs?
 - Are the business plan assumptions reasonable and consistent with local community needs?
 - Does the description of the proposed market area include historical and projected demographic data and trends, e.g. population, unemployment, income, housing, deposit account activity, etc.?
 - For transactions with affiliates, will the transactions and contracts comply with Sections 23A and 23B of the Federal Reserve Act, and with 12 C.F.R. §§ 563.41 and 563.42?
 - Do the additional activities raise any cross marketing or tying issues?
 - Does the institution have a reasonable plan to meet its obligations under the CRA?

Conditions

Standard Conditions

Listed below are the standard conditions of approval for this application type. If OTS imposes any additional or different conditions, they must be justified in the supporting documentation.

- The institution must receive all required regulatory approvals for the proposed transaction and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction;
- The applicant must consummate the proposed transaction within one hundred and twenty (120) calendar days from the date of the approval;
- On the business day prior to the date of consummation of the proposed transaction, the chief financial officers of the proposed holding company(s) and 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 proposed holding company(s) and the institution as disclosed in the applications. If additional information having an adverse bearing on any feature of the applications are brought to the attention of the proposed holding company(s), 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 consummation of the transaction;
- The institution 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 the approval; and
- The applicant must operate within the parameters of its business plan. The proposed holding company(s) and the institution must submit any proposed major deviations or material changes from the plan (including changes resulting from decisions made by the holding company), 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 provided to the FDIC Regional Office.

OTS may condition its approval of applications filed by limited purpose or wholesale institutions to expand its business activities to additional nonstandard conditions. If such nonstandard conditions are utilized, the Regional Office's digest must include appropriate justification for imposing such condition.

Any nonstandard conditions incorporated into the approval letter must be summarized in the National Applications Tracking System record for the application. This requirement helps OTS to provide the public a complete listing of all applications approved with nonstandard conditions of approval.

RECORDKEEPING REQUIREMENTS

OTS is required to consolidate all correspondence related to the processing of the notice or application into a file copy to be sent to a central file. Both the Regional Office and OTS-Washington will maintain a separate file copy for nondelegated filings. The file copy must include a copy of the original filing including all exhibits, all amendments, all internal and external correspondence between interested parties, all documentation associated with the review and analysis of the filing, and all decision, recommendation memorandum, and compliance material. The file copy must be organized and separated into public and confidential material, and clearly identified as such. The public and confidential sections must be arranged in chronological order.

MONITORING AND CONTROL

The approval order or letter will generally include conditions of approval. The Regional Office will monitor compliance with all conditions imposed in connection with an application's approval. The applicant must submit evidence of satisfaction of the conditions included in the approval order or letter to the Regional Office within the stated time frames.

OTS should notify the appropriate staff responsible for the supervision and examination of the institution regarding the action taken on an application. In addition, OTS should provide the appropriate staff with copies of the approval order or letter. If an application is approved, the first examination of the institution following the approval should include a review of compliance with all conditions of approval and any changes in operations as a result of the transaction.

A review of the application file should be made after all compliance material is received to ensure that the file is complete. Any deficiencies should be corrected before the file is sent to storage.

OTS-Washington may conduct a post audit review of the application in the Regional Office, including a review of the documentation maintained in the application file.

INFORMATION SOURCES

Statutes

12 U.S.C. § 1464	HOLA Section 5(b); Deposits and Related Powers
12 U.S.C. § 1464	HOLA Section 5(c); Loans and Investments
12 U.S.C. § 1464	HOLA Section 5(e); Character and Responsibility
12 U.S.C. § 1464	HOLA Section 5(q); Tying Arrangements
12 U.S.C. § 1467a	HOLA Section 10(m); Qualified Thrift Lender Test
12 U.S.C. § 1468	HOLA Section 11; Transactions with Affiliates
12 U.S.C. §§ 2901 et seq.	Community Reinvestment Act
12 U.S.C. §§ 3201 et seq	Depository Institution Management Interlocks Act

Regulations

12 C.F.R. Part 516	Applications Processing Guidelines
12 C.F.R. § 543.2	Application for Permission to Organize
12 C.F.R. § 543.3	“De Novo” Applications for a Federal Association Charter
12 C.F.R. Part 560	Lending and Investment Limitations
12 C.F.R. § 561.4	Affiliate Definition
12 C.F.R. § 561.5	Affiliated Person (Definition)
12 C.F.R. § 561.14	Controlling Person (Definition)
12 C.F.R. § 561.35	Officer (Definition)
12 C.F.R. § 563.33	Directors, Officers and Employees
12 C.F.R. § 563.39	Employment Contracts
12 C.F.R. § 563.41	Loans and other transactions with affiliates and subsidiaries
12 C.F.R. § 563.42	Additional standards applicable to transactions with affiliates and subsidiaries
12 C.F.R. § 563.43	Restrictions on Loans and Other Investments Involving Affiliated Persons
12 C.F.R. Part 563e	Community Reinvestment Act
12 C.F.R. Part 563f	Management Interlocks Act
12 C.F.R. Part 563g	Securities Offerings
12 C.F.R. Part 565	Prompt Correct Action
12 C.F.R. Part 567	Capital

Other

Regulatory Bulletin 20	Background Investigations
Regulatory Bulletin 27-a	Executive Compensation and Employment Contracts
Regulatory Bulletin 32-5	Qualified Thrift Lender Test
Thrift Bulletin 48-(current)	Fees and Assessments
23A and 23B of the Federal Reserve Act	Transactions with Affiliates

Forms

OTS Form 138	Application for Permission to Organize
OTS Form 1623	Interagency Biographical and Financial Report
OTS Business Plan Guidelines	