

## **OFFICE OF THRIFT SUPERVISION**

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

**Order No.: 2007-01**

**Date: January 12, 2007**

**Re: OTS Nos. 18032, H-4323 and  
H-4324**

OneCalifornia Foundation, Oakland, California (Foundation) and OneCalifornia Bancorp, Inc., Oakland, California (Holding Company) (collectively, the Applicants) and the organizers (Organizers) of OneCalifornia Bank, FSB, Oakland, California (the Savings Bank), have applied for 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 to acquire Savings Bank. In addition, the Savings Bank has requested a waiver of 12 C.F.R. § 563.33(a)(1)(ii) to permit three members of the Organizers' immediate family to serve as directors of the Savings Bank. (Collectively, the foregoing filings are referred to herein as the Applications.)

#### **The Parties**

The Organizers, Thomas Steyer and Kathryn Ann Taylor, propose to organize the Foundation, the Holding Company and the Savings Bank. The Savings Bank will be organized as a federally chartered, Deposit Insurance Fund (DIF)-insured, stock savings bank. The Savings Bank will be headquartered in Oakland, California.

The Foundation is a non-profit non-stock corporation organized under Delaware law. It was created and funded by the Organizers to engage in charitable and educational activities. The Holding Company, a Delaware corporation, is a shell holding company, organized for the purpose of becoming the holding company for the Savings Bank.

#### **The Proposed Transaction**

The Organizers will organize the Savings Bank as a wholly owned direct subsidiary of the Holding Company. The Holding Company will issue two classes of stock to the Organizers, Class A voting common stock and Class B non-voting common stock. The Organizers will donate 100 percent of the Holding Company's Class B non-voting common stock to the Foundation.

#### **Permission to Organize Application**

The Home Owners' Loan Act (HOLA) provides that OTS may grant a federal savings association charter only: (i) to persons of good character and responsibility; (ii)

if, in OTS's judgment, a necessity exists for such association in the community to be served; (iii) if there is a reasonable probability for the association's usefulness and success; and (iv) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions. OTS regulations implementing the HOLA include the same standards, with the additional requirement that OTS consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association.

In addition, OTS regulations regarding the establishment of de novo federal savings associations set forth standards OTS considers in granting a de novo federal charter, regarding: (i) initial capitalization of a federal association; and (ii) the residence and composition of an association's board of directors.

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

OTS has conducted background checks of the Organizers and the directors and officers of the Applicants and the Savings Bank and has reviewed the relevant information submitted in the application. Based on the relevant information, OTS concludes that the character and responsibility of the Organizers of the Savings Bank are consistent with approval of the application.

The Savings Bank will focus its deposit taking and lending in its primary service area, defined as the city of Oakland, California, and in its secondary service area, defined as four low-to-moderate income neighborhoods of West Oakland, San Antonio, Fruitvale and East Oakland. Demographic information provided in the application indicates that between 1995 and 2005, the population of Oakland has increased by 8.4 percent and total deposits at FDIC-insured branches in the city increased by 78 percent. We conclude 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 will provide new competition in the local market, and may take some business from existing institutions, but those institutions generally are much larger banks with more financial resources than the Savings Bank. In addition, the Savings Bank's projected level of deposits will constitute less than one percent of the deposits in the Oakland, California market at the end of its first year of operations. OTS received no comments opposing the application in response to the public notice. Therefore, we conclude that the Savings Bank will not have an 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" and the Savings Bank's business plan is

reasonable. The Savings Bank's proposed officers have considerable experience, and its management's character and responsibility are consistent with approval of the application. In addition, approval of the application will be subject to a number of conditions designed to help ensure that there is a reasonable probability of the Savings Bank's usefulness and success. Conditions 5 through 8 below are designed to help ensure compliance with the business plan included in the application, that changes to or from that plan would not be detrimental to the Savings Bank, and that the Savings Bank operates pursuant to appropriate policies and procedures. OTS is imposing conditions 9 through 11 below to enable OTS to confirm that the Savings Bank will be operated properly and by qualified personnel, and that any employment contracts are not detrimental to the Savings Bank. Also, OTS is imposing condition 12 below to ensure compliance with regulatory provisions and policies concerning related persons or affiliated entities.

Based on the foregoing analysis, OTS concludes that the probability of the Savings Bank's usefulness and success is consistent with approval, subject to the imposition of the conditions, which are intended to help ensure the probability of the Savings Bank's usefulness and success.

The Savings Bank's business plan projects substantial residential mortgage lending and that the Savings Bank will meet Qualified Thrift Lender requirements. The Savings Bank will have experienced management, and appropriate procedures regarding lending will be in place. Accordingly, we conclude that the Savings Bank will provide credit for housing consistent with the safe and sound operation of a federal savings association.

OTS received no public comments objecting to the application. In addition, OTS has reviewed the Savings Bank's CRA statement and has found it to be acceptable. The Savings Bank has designated the City of Oakland as its CRA assessment area. We find that the Savings Bank has made a satisfactory showing that it will satisfy the requirements for the CRA and OTS' implementing regulations.

The Savings Bank intends to adopt a federal charter and bylaws that conform to the model charter and bylaws for a federal stock savings association. The Savings Bank will have an initial capitalization that exceeds the minimum regulatory requirement. In addition, the composition of the Savings Bank's board of directors will comply with 12 C.F.R. § 543.3(d), because a majority of the Savings Bank's directors live or work in California and the Savings Bank's board of directors will be made up of persons with varied backgrounds. Because the Savings Bank will be owned by a holding company that does not have substantial independent economic significance, as provided under 12 C.F.R. § 543.3(d), we reviewed the Foundation's and the Holding Company's boards of directors and have determined that both of those boards will be made up of persons with varied backgrounds and no more than one-third of the Holding Company's directors are in related businesses.

### **Holding Company Application**

Section 10(e)(1)(B) of the HOLA and the acquisition of control regulations thereunder provide that OTS must approve a proposed acquisition of a savings association by a company, other than a savings and loan holding company, unless OTS finds that the financial and managerial resources and future prospects of the company and association involved would be detrimental to the association or the insurance risk of the DIF. OTS must also consider the impact of the acquisition on competition. Finally, OTS must take into account assessments under the CRA when considering holding company applications.

For the reasons set forth above, OTS concludes that the managerial resources of the Foundation, the Holding Company and the Savings Bank are satisfactory, subject to the conditions regarding management and the board of directors.

With regard to financial resources, OTS reviewed the Foundation's and the Holding Company's financial positions and the Savings Bank's proposed capitalization and business plan. The Holding Company has demonstrated adequate resources. The application projects that the Savings Bank will meet all of its capital requirements and will be "well-capitalized" under the OTS prompt corrective action regulation throughout the first five years of operations. Based on the foregoing, OTS concludes that the financial resources of the Foundation, the Holding Company and the Savings Bank are consistent with approval of the holding company application.

Based on the factors considered in the above discussions regarding the managerial and financial resources of the Foundation, the Holding Company and the Savings Bank, the character and responsibility of the officers and directors of each entity, and the probability of the Savings Bank's usefulness and success, OTS concludes that the future prospects of the Foundation, the Holding Company and the Savings Bank are consistent with approval, and will not pose undue risk to the DIF, subject to the imposition of the conditions discussed above.

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 Foundation's and the Holding Company's performance under the CRA, they have 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.

### **Waiver Request**

The Savings Bank has requested a waiver of 12 C.F.R. § 563.33(a)(1)(ii), which prohibits more than two members of the same immediate family from serving as directors

of a savings association. The Savings Bank seeks a waiver to allow concurrent service on its board of directors by James and Thomas Steyer and Kathryn Taylor, who are immediate family members, as defined by 12 C.F.R. § 561.24. The Savings Bank will have a fifteen-member board of directors, which will include eleven outside directors. OTS may waive the applicability of any regulation for good cause, to the extent permitted by statute.<sup>1</sup> Based on the size and composition of the Savings Bank's board we conclude that there is an adequate basis to grant the waiver in this case.

### **Conclusion**

OTS finds that the Applications satisfy the applicable approval standards, provided the following conditions are complied with in a manner satisfactory to the West Regional Director, or his designee (Regional Director). Accordingly, the Applications are hereby approved, subject to the following conditions:

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 officer of the Savings Bank, the Foundation 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, the Foundation 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 Foundation, the Holding Company 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;
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;

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<sup>1</sup> See 12 C.F.R. § 500.30(a) (2006). The regulatory requirements under section 563.33(a) are not set forth in any statute.

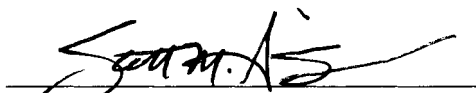
5. The Savings Bank must submit independent audit reports to the Regional Director for its first three fiscal years of operations. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
6. The Savings Bank must operate within the parameters of its business plan submitted with the Applications. The Savings Bank must submit for the prior, written non-objection of the Regional Director, any proposed major deviations or material changes from the plan. 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. The Savings Bank, prior to opening, must establish detailed policies and procedures for all operations and provide copies of such policies and procedures to the Regional Director with a resolution of the Savings Bank's board of directors evidencing its review and approval of these policies and procedures;
9. Until two years following commencement of operations, the Savings Bank, the Foundation and the Holding Company must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers not already reviewed by OTS or for any significant change in responsibilities of any senior executive officer;
10. The Savings Bank's management, prior to opening the Savings Bank for business, must meet with designees of the Regional Director to demonstrate that the Savings Bank has completed its pre-opening staffing effort and has implemented effective policies, procedures, and controls;
11. The Savings Bank, for two years following the commencement of operations, must receive the prior written non-objection of the Regional Director for any proposed new employment agreement not already submitted to OTS; and
12. During the first eighteen months of the Savings Bank's operations, any contracts or agreements pertaining to transactions with affiliates, or related interests of affiliated persons as defined in 12 C.F.R. § 561.5(d) of the Savings Bank, the Foundation and the Holding Company, not yet submitted to OTS for review, must be provided to the Regional Director at least 30 calendar days prior to their planned execution and receive his written non-objection prior to their implementation.

Further, based on the foregoing, OTS concludes that there is good cause to waive the requirements of 12 C.F.R. § 563.33(a)(1)(ii) to the extent the Savings Bank has

requested. Accordingly, pursuant to 12 C.F.R. § 500.30(a), the requested waiver of 12 C.F.R. § 563.33(a)(1)(ii) is hereby granted.

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

By order of the Director of the Office of Thrift Supervision, or his designee, effective January 12, 2007.



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Protection