

**OFFICE OF THRIFT SUPERVISION**

**Receivership of a Federal Savings Bank**

**Date:** December 17, 2010  
**Order No.:** 2010-72  
**Docket No.:** 18033

The Acting Director of the Office of Thrift Supervision (OTS), or his designee, in cooperation with the Federal Deposit Insurance Corporation (FDIC), has determined to appoint the FDIC as receiver of Appalachian Community Bank, FSB, McCaysville, Georgia (Savings Bank).

**GROUND FOR APPOINTMENT OF FDIC AS  
RECEIVER FOR THE SAVINGS BANK**

The Acting Director, or his designee, based on the administrative record, finds and determines the following:

- (i) The Savings Bank's assets are less than the Savings Bank's obligations to its creditors and others;
- (ii) The Savings Bank, by resolution of its board of directors, has consented to the appointment of a receiver; and
- (iii) The Savings Bank is critically undercapitalized.

The Savings Bank is a Deposit Insurance Fund-insured, federally chartered stock savings bank. The Savings Bank's home office is in McCaysville, Georgia, and the Savings Bank has two branch offices, located in Ducktown, Tennessee, and Murphy, North Carolina. The Savings Bank is wholly owned by Appalachian Bancshares, Inc. (Holding Company).

As of September 30, 2010, the Savings Bank reported in its Thrift Financial Report (TFR) that it had approximately \$68.2 million in assets, \$76.5 million in liabilities, and negative \$8.3 million in stockholders' equity. At September 30, 2010, the Savings Bank reported tangible, tier 1 (core) and total risk-based capital of negative 12.13 percent, negative 12.13 percent and negative 18.95 percent, respectively. The Savings Bank experienced a net loss for the year ended December 31, 2009, of approximately \$2.4 million. Net losses for the nine months ended September 30, 2010, were approximately \$14.2 million, including a net loss for the three months ended September 30, 2010, of approximately \$11.2 million. These losses have depleted all of the Savings Bank's equity and regulatory capital. The Savings Bank's September 30, 2010 TFR indicates that the Institution is insolvent and critically undercapitalized.

On December 2, 2010, the Savings Bank's board of directors resolved to consent to the appointment of a conservator or receiver, and on December 2, 2010, the Savings Bank's board of directors entered into an agreement and consent with OTS for such an appointment.

### **DISCUSSION OF GROUNDS FOR APPOINTMENT OF A RECEIVER FOR THE SAVINGS BANK**

Section 5(d)(2)(A) of the Home Owners' Loan Act (HOLA), 12 U.S.C. § 1464(d)(2)(A), provides that OTS may appoint a receiver for any insured savings association if OTS determines that one or more grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1821(c)(5), exist.

#### **The Savings Bank's Assets are Less Than the Savings Bank's Obligations to its Creditors and Others**

Under section 11(c)(5)(A) of the FDIA, OTS may appoint a receiver for a savings association if the savings association's assets are less than its obligations to its creditors and others. The Savings Bank reported to OTS that as of September 30, 2010, its equity capital was negative \$8.3 million. As a result, the Savings Bank's assets are less than its obligations to its creditors and others. Therefore, OTS may appoint a receiver for the Savings Bank under this standard.

#### **Consent**

Under section 11(c)(5)(I) of the FDIA, OTS may appoint a receiver for a savings association if the savings association's board of directors, by resolution, has consented to such an appointment. The board of directors of the Savings Bank, by resolution dated December 2, 2010, agreed to the appointment of a conservator or receiver, and on December 2, 2010, the board of directors entered into an agreement and consent with OTS for such an appointment. Therefore, the Acting Director, or his designee, concludes that a receiver may be appointed on the basis of the Savings Bank's consent.

#### **Critically Undercapitalized**

Under section 11(c)(5)(L)(i) of the FDIA, OTS may appoint a receiver for a savings association if the savings association is critically undercapitalized, as defined in 12 U.S.C. § 1831o(b). Under section 1831o(b), an institution is critically undercapitalized if it fails to meet any level of capital specified under 12 U.S.C. § 1831o(c)(3)(A). Section 1831o(c)(3)(A) provides for the appropriate banking agency to set a ratio of tangible equity to total assets at which an institution is critically undercapitalized. OTS has promulgated 12 C.F.R. § 565.4(b)(5), which defines an institution as critically undercapitalized if it has a ratio of tangible equity to total assets that is equal to or less than two percent. As of September 30, 2010, the Savings Bank reported a tangible capital ratio of negative 12.13 percent. Therefore, the Acting Director, or his designee, concludes that the Savings Bank is critically undercapitalized.

The Acting Director, or his designee, therefore, has determined that grounds for the appointment for a receiver for the Savings Bank exist under section 5(d)(2) of the HOLA, and sections 11(c)(5)(A), (I) and (L)(i) of the FDIA, 12 U.S.C. §§ 1821(c)(5)(A), (I) and (L)(i).

**ACTIONS ORDERED OR APPROVED**

**Appointment of a Receiver**


The Acting Director, or his designee, hereby appoints the FDIC as receiver for the Savings Bank, for the purpose of liquidation or winding up the affairs of the Savings Bank, pursuant to section 5(d)(2) of the HOLA, 12 U.S.C. § 1464(d)(2), and section 11(c)(6)(B) of the FDIA, 12 U.S.C. § 1821(c)(6)(B).

**DELEGATION OF AUTHORITY TO ACT FOR OTS**

The Acting Director, or his designee, hereby authorizes: (i) the OTS Southeast Regional Director, or his designee; or (ii) the Deputy Chief Counsel for Business Transactions of the Chief Counsel's Office, or his designee, to: (1) certify orders; (2) sign, execute, attest or certify other documents of OTS issued or authorized by this Order; (3) designate the person or entity that will give notice of the appointment of a receiver for the Savings Bank and serve the Savings Bank with a copy of this Order pursuant to 12 C.F.R. § 558.2; and (4) perform such other actions of OTS necessary or appropriate for the implementation of such Order. All documents to be issued under the authority of this Order must be first approved, in form and content, by the Chief Counsel's Office. Further, the Acting Director, or his designee, authorizes the Deputy Chief Counsel for Business Transactions, or his designee, to make any subsequent technical corrections, that might be necessary, to this Order, or any documents issued under the authority of this Order.

By Order of the Acting Director of OTS, or his designee, effective: (a) as to the above matters regarding the delegation of authority, immediately upon signature; and (b) as to the above matters regarding the appointment of the FDIC as receiver, immediately upon service of this Order on the Savings Bank.

Executed this 17th day of December, 2010.

  
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John E. Bowman  
Acting Director