

## OFFICE OF THRIFT SUPERVISION

### Approval of an Application by a Federal Credit Union to Convert to a Federally Chartered Mutual Savings Bank

Order No.: 2004-17  
Date: April 16, 2004  
Re: OTS No. 17972

Share Plus Federal Credit Union, Plano, Texas (Credit Union) seeks approval of the Office of ~~Thrift~~ Supervision (OTS) pursuant to 12 C.F.R. §§ 543.8 and 543.9 to convert to a federal mutual savings bank, Share Plus Federal, Plano, Texas (Savings Bank). (The foregoing is referred to as the Application.)

#### The Proposed Transaction

In the proposed transaction, the Credit Union proposes to convert directly from a federally chartered credit ~~union~~ to a Savings Association Insurance Fund (SAIF)-insured, federally chartered mutual savings bank. The Credit Union's members' interests in the newly converted savings bank would be identical to their interests in the Credit Union.

The Credit Union has a deposit with the National Credit Union Share Insurance Fund (NCUSIF) and accounts and a membership in the Southwest Federal Corporate Credit Union (Southwest). The Credit Union represents that it will phase out investments in these entities.

#### Conversion Application

The proposed conversion of the Credit Union to a federally chartered mutual savings bank requires OTS approval under 12 C.F.R. §§ 543.8 and 543.9. Section 543.8 allows a depository institution, as defined in 12 C.F.R. § 552.13, that is in mutual form, to convert into a federal mutual savings bank, provided that: (i) the depository institution, upon conversion, will have its deposits insured by the Federal Deposit Insurance Corporation (FDIC); (ii) the depository institution, in accomplishing the conversion, complies with all applicable state and federal statutes and regulations, and OTS policies, and obtains all necessary regulatory and member approvals; and (iii) the resulting federal mutual association conforms, within the time prescribed by the OTS, to the requirements of § 5(c) of the Home Owners' Loan Act (HOLA).

The Credit Union is a "depository institution" within the meaning of § 552.13. The Credit Union has applied to the FDIC for SAIF insurance of accounts for the Savings Bank. OTS is conditioning approval of the Application on the Credit Union obtaining all

required approvals. The Credit Union's members **are** scheduled to vote on the conversion at a July 23, 2004 meeting.

With regard to permissible investments, OTS is imposing a condition requiring the Savings Bank, as the successor to the Credit Union, to withdraw the Credit Union's deposits with the NCUSIF and Southwest as soon **as** possible, and its investment in the capital account at Southwest as soon as practicable, but no later than 3 years **after** consummation of the transaction.

Accordingly, OTS concludes that the requirements under § 543.8 have been satisfied, subject to the imposition of the above-described conditions.

Section 543.9 of OTS' regulations adopts the approval standards of § 5(e) of the HOLA and § 543.2(g)(1). The HOLA provides that OTS may grant a federal savings association charter only: (i) to persons of good character and responsibility; (ii) if, in OTS' judgment, a necessity for such savings association exists in the community to be served; (iii) if there is reasonable probability of 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 this statute set forth the same standards, and, in addition, require OTS to consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association.

In addition, OTS' Community Reinvestment Act (CRA) regulations provide that an applicant for a federal thrift charter must submit with its application a description of how it will meet its CRA objectives. OTS takes the description into account when considering the application and may deny the application on that basis.

Based upon review of the application and other materials, **as** well **as** the fact that the Credit Union's management **has** been well rated, OTS concludes that the Credit Union's management's character and responsibility **are** consistent with approval.

With respect to the probability of usefulness and success, the Savings Bank, **as** the successor to the Credit Union's business, **has** demonstrated a reasonable probability of success after the transaction, provided the Savings Bank complies with the conditions set forth below. OTS has not objected to the Savings Bank's business plan. Accordingly, OTS concludes that this approval criterion has been satisfied.

OTS concludes that there is a necessity for the institution in the communities it serves, based on the Credit Union's existing operations. In addition, OTS concludes that the conversion of the Credit Union to a federal mutual savings bank will not cause undue injury to local thrift and home financing institutions, in light of the Credit Union's existing operations.

As for the provision of credit for housing, residential mortgage lending currently represents a substantial portion of the Credit Union's lending activities, and the business plan indicates that residential mortgage lending will continue to grow after conversion to a federal savings bank. The business plan indicates compliance with the Qualified ~~Thrift~~ Lender test. Based on the current and projected level of mortgage lending and the Credit Union's managerial record, OTS concludes that the Savings Bank will provide credit for housing in a safe and sound manner.

Based on the foregoing, OTS concludes that the requirements under 12 C.F.R. § 543.9 have been satisfied.

The Credit Union ~~has~~ provided an acceptable plan for compliance with the CRA. Accordingly, OTS concludes that approval of the application is consistent with the CRA.

For the reasons set forth above, OTS finds that the Application satisfies the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the Midwest Regional Director, or his designee (Regional Director). Accordingly, the Application is hereby approved, subject to the following conditions:

1. The Savings Bank and the Credit Union must receive all required regulatory approvals prior to consummation of the proposed transaction with copies of all such approvals provided to the Regional Director;
2. The proposed transaction must be consummated no later than 120 calendar days from the date of this Order;
3. On the business day prior to the date of consummation of the proposed transaction, the chief financial officer of the Credit Union 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 Credit Union ~~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 Credit Union 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 the consummation of the transaction;
4. 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 proposed transaction; and (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Application and this Order;

5. The Savings Bank must operate within the parameters of its three year business plan and submit any proposed major deviations or material changes from the plan during the three year period 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;
6. For three years following the charter conversion, 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;
7. For two years following the charter conversion, 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 changes in responsibilities of any senior executive officer;
8. For three years following the charter conversion, the Savings Bank must submit independent audit reports to the Regional Director. The reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4. The Regional Director may modify or waive this condition as he deems necessary; and
9. The Savings Bank must withdraw all capital accounts with Southwest as soon as practicable, but no later than 3 years after the consummation of the transaction, and must withdraw the deposits with the NCUSIF and Southwest as soon as possible. The Savings Bank must submit satisfactory evidence to the Regional Director upon the withdrawal of these accounts.

Any time period specified herein may be extended by the Regional Director, for good cause, for up to 120 calendar days.

By order of the Director of the Office of Thrift Supervision, or his designee, effective

April 16, 2004



Scott M. Albinson  
Managing Director  
Examinations, Supervision  
and Consumer Protection