



Comptroller of the Currency
Administrator of National Banks

US Department of the Treasury

Office of the Comptroller of the Currency

Becoming a National Bank



Washington D.C.,

Whereas, satisfactory evidence has been presented to the Comptroller of the Currency that
located in *State of* *has complied*
with all provisions of the Act of the United States required to be complied with before
being authorized to commence the business of banking as a National Banking Association;
Now, therefore, I hereby certify that the above-named association is authorized
to commence the business of banking as a National Banking Association

February 2011



Becoming a National Bank

Office *of the* Comptroller *of the* Currency

February 2011

Introduction

“Becoming a National Bank” is a guide to establishing a national bank charter. This publication focuses on key elements of the Office of the Comptroller of the Currency’s (OCC) review of proposals to establish national bank charters, the general process the OCC follows in reviewing and approving new national banks, and, briefly, what an owner of a national bank can expect with respect to supervision by the OCC. The information in this guide is meant only as an overview of certain types of regulatory filings that result in national bank charters. For more in-depth information, please see relevant booklets in the *Comptroller’s Licensing Manual*, available on the OCC’s Web site, www.occ.gov/corpapps/corpapplic.htm.

Overview: How to Become a National Bank

A national bank can be established by the creation of a de novo (new) national bank or the conversion of an existing institution, such as a state-chartered bank or a thrift institution, to a national bank.¹

When proposing a de novo charter or a charter conversion, the interested party files an application with the OCC and may be required to file other applications with the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve.

Banking is a highly regulated industry, subject to extensive statutory and regulatory requirements. The OCC’s key considerations when chartering a national bank are:

- **Quality of the business plan.** The OCC requires a viable and realistic business plan. After a charter is granted, the OCC considers deviation from the proposed business plan a significant matter requiring advance notification and review.

¹ While this document focuses on charters and conversions, the OCC also processes a variety of transactions involving existing national bank charters. Examples include mergers of state-chartered banks or thrifts into national bank charters and acquisitions resulting in changes in control. For more information on mergers and acquisitions and changes in control, see the *Comptroller’s Licensing Manual*, available on the OCC’s Web site, www.occ.gov/corpapps/corpapplic.htm.

- **Character and competence of the bank’s management and directors.** The OCC performs independent background checks of directors and senior management in addition to reviewing their financial disclosure statements.
- **Financial resources, including the ability to maintain regulatory capital levels.** Financial resources must be sufficient to support the proposed bank in both normal and stressed operating environments.

Prefiling communication is a vital initial stage of the chartering or conversion process and minimizes the amount of time required for the application process. Early communication provides potential applicants with a clear understanding of OCC requirements and the level of information required for a particular filing. In addition, potential applicants and the OCC have opportunities to identify issues that need to be addressed, reducing the chances of emerging issues derailing the application process later on.

Information continues to be exchanged during the formal stages of the application process. Open and direct communication is essential to a successful application.

Depending on the type of proposal, it is normal for the OCC to impose operational, capital, or other conditions with approval decisions. Subsequent to opening under its new charter, the national bank is periodically examined and subject to other types of review under the OCC’s supervision program.

De Novo and Conversion Applications

De Novo Applications

Chartering a new national bank requires not only approval of a charter application by the OCC but also approval of a deposit insurance application by the FDIC and, if a bank holding company (BHC) is involved, approval of a BHC filing by the Federal Reserve. The agencies strive to coordinate and make the process as efficient as

possible. Given that more than one regulatory agency is involved in all de novo charter proposals, potential applicants are encouraged to discuss their proposals with all regulatory agencies with which filings will be made well before actual applications are filed.

Anyone seeking to charter a national bank should file the Interagency Charter and Federal Deposit Insurance Application (www.occ.treas.gov/corpbook/forms/CharterApp.doc) with the OCC and the FDIC. If a BHC is part of the structure, organizers also need to file a BHC formation form with the Federal Reserve. The “Charters” booklet (www.occ.gov/static/publications/charters.pdf) in the *Comptroller’s Licensing Manual* contains detailed information on the chartering process. The *Comptroller’s Licensing Manual* is available at www.occ.gov/corpapps/corpapplic.htm.

Converting an Existing Institution

Conversion involves changing the charter of an existing institution, whose existing owners may wish to convert it to a national bank when the institution’s business plan is better suited to a national bank charter than the existing charter.²

While charter choice is a long-standing tenet of the U.S. dual banking system, the recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act places restrictions on the ability of depository institutions with outstanding formal or informal enforcement with respect to significant supervisory matters to convert. In general, in those cases, both the current and prospective regulators of the institution must act to allow the conversion. The OCC generally will not entertain conversion applications when such matters are pending and will want to see evidence of successful compliance or correction before considering a conversion application in those circumstances.

Conversions require filing the OCC’s Conversion Application (www.occ.gov/static/licensing/form-conversion-app-v2.pdf). The

² Similarly, an individual or group can acquire a non-national bank and convert it to a national bank.

“Conversions” booklet (www.occ.gov/static/publications/conversi.pdf) in the *Comptroller’s Licensing Manual* contains detailed information on converting an existing institution to a national bank. As in the de novo application process, new owners should coordinate filing activities with relevant regulators to effect the change in control.

A Note on ‘Shelf’ Charters

A shelf charter (so-called because it waits “on the shelf” to become active) enables potential bank owners who are not currently affiliated with an insured depository institution to qualify to bid on failed financial institutions for which the FDIC is acting as receiver.

The OCC expects an individual or group applying for a shelf charter to have access to capital to readily inject into the target institution and to have identified core senior management before filing a charter application.

In a shelf charter filing, applicants often have not identified the target institution or institutions at the time the OCC reviews the application, and they consequently cannot file a detailed business plan. As a result, the OCC conditions its preliminary approval on the applicants providing a detailed business plan acceptable to the OCC. The business plan normally is submitted to the OCC as part of the acquisition proposal for a failed institution. The OCC notifies the applicant as to its eligibility to bid on the failed institution. Final OCC approval is not given unless the bid of an approved applicant is successful.³

³ Another means to bid on a failed institution in FDIC receivership is an “inflatable” charter. An inflatable charter is a type of change in control transaction and results when an individual or group wishes to acquire an existing relatively small national bank but plans to significantly alter the size or business lines of the bank. See the “Change in Bank Control” booklet (www.occ.gov/corpbook/group3/public/pdf/cbca.pdf) in the *Comptroller’s Licensing Manual* for detailed information on filing for the purchase of an existing national bank.

Key Considerations in the OCC's Review of Applications

The OCC applies “evaluative factors” to each application it reviews. Evaluative factors are the criteria, set forth in law and/or regulation for each type of application, that the OCC must use to evaluate a particular proposal. The evaluative factors for the relevant OCC applications may be found in 12 CFR 5, which is the OCC’s regulation on rules, policies, and procedures related to the application process.

While each type of application has its own set of evaluative factors, assessment of the factors for all applications to enter the national banking system involves three key elements: the business plan, the board of directors and senior management, and capital.

The level of review given to a particular application depends on the OCC’s assessment of the strength of the three elements, individually and as a whole. For example, an application involving an existing institution in good condition—in which the owners plan to keep critical senior officers and no significant change to the business plan is involved—would likely receive the OCC’s standard review. More information, however, is required from the applicant for proposals involving niche business plans, high-risk activities, or proposed owners and senior management with limited banking experience. In these situations, the OCC’s review process can take significantly more time. If the relevant evaluative factors are met, the application can be approved. If the relevant evaluative factors are not met, the applicant may decide to withdraw the application or the application is denied.

A discussion of the three key elements follows.

Business Plan

The business plan sets forth the bank’s strategy, generally, for the first three years of operation. The level of detail and supporting documentation that an applicant should provide in the business plan depends on the level of risk in the plan. For charter filings and filings

involving significant growth or a significant change in the business plan of an existing bank, a comprehensive business plan should be submitted. In those cases, the plan should provide considerable detail on the markets in which the bank intends to operate, the products and related pricing the bank intends to offer, the planned funding, and an analysis of the bank's competitors in the identified market(s). The plan should include a quarterly balance sheet and income statement and capital ratio projections for each of the three years, and it should discuss underlying assumptions. The business plan should describe the bank's sources of capital and, if not yet raised, how the bank plans to raise capital.

The OCC evaluates the business plan on the basis of current economic conditions (local and national), the nature and risk profile of the types of products and services being offered, management's experience, and planned risk mitigants. The OCC determines if projections and their underlying assumptions appear reasonable.

Detailed guidance on the information to be contained in the business plan is available in the "Charters" booklet (www.occ.gov/static/publications/charters.pdf) in the *Comptroller's Licensing Manual*.

Board of Directors and Senior Management

A critical element of the OCC's review of a proposal is the assessment of the quality of the proposed board of directors and senior management. For de novo charter filings, the OCC also assesses the organizing group, which often comprises the future board of directors and at least a portion of the senior management team, but can include individuals involved in forming the bank who will not be as involved once the bank is open.

The assessment of key personnel is based on the experience and abilities of the individuals in light of the proposed business plan. The OCC assesses these persons individually, on the basis of their roles, and evaluates the qualifications and abilities of the team collectively.

BOARD OF DIRECTORS

The board of directors of a national bank provides oversight to and direction of the bank's activities. At a minimum, the board of directors should consist of a collection of individuals with the following attributes:

- Sufficient banking experience to oversee the bank's activities. The OCC looks for at least one outside director with prior banking experience relevant to the business plan; often more than one such outside director is desirable. All directors need knowledge of national bank laws and regulations.
- Ties to the local community or targeted customer base that can attract capital and business to the bank.
- Experience as business and community leaders and as professionals who can provide guidance to the proposed institution.
- Ability to commit time and effort to the institution's success.
- Integrity.

The OCC evaluates the adequacy and competency of the directorate as a whole on the basis of the business plan's riskiness, the institution's size and complexity, and the quality of senior management. The ultimate question that the OCC must consider is whether the board has the ability collectively to effectively oversee the bank's safe and sound operations.

The OCC provides publications relevant to national bank directors in the *National Bank Director's Toolkit*, available at www.occ.gov/toolkit.htm.

SENIOR MANAGEMENT

The competency of proposed management is assessed on the basis of the management's background and expertise, both generally and

specifically with respect to the business plan. The senior management team should comprise persons with the following attributes:

- Strong working knowledge of the proposed business plan.
- Recent experience relevant to the specific duties they will be performing in the proposed institution.
- Recent experience relevant to the types of products and services the proposed institution plans to offer.
- Experience and contacts within the local community or targeted customer base.
- Appropriate understanding of the rules and regulations pertinent to the specific area to be managed.
- Integrity.

Each proposed member of the senior management team does not necessarily need to have served in similar bank positions in the past, but the OCC expects the team collectively to have sufficient banking experience to operate the bank successfully. Applications for larger or more complex banks must demonstrate experience that is commensurate with the proposal's complexity. For specialized business lines, the management team should have specific knowledge and experience.

BACKGROUND INVESTIGATIONS

As part of its review of key personnel involved in a proposal, the OCC conducts background checks. The checks consist, in part, of contacting other government agencies, including law enforcement agencies, and searching relevant databases for information on the individuals. As part of the background check, individuals provide fingerprint cards. Proposed managers and directors should file disclosures containing complete and accurate personal and financial information. Discrepancies between filed information and background investigation findings result in additional information requests and delays and,

potentially, denial of the application. Individuals serving as directors or executive officers of a regulated depository institution about whom the current regulator reports no adverse information may be eligible for background check waivers.

Capital

The OCC assesses the adequacy of capital for a bank on the basis of an evaluation of that bank's particular proposal. In most cases, the OCC expects banks to operate with capital levels well above the regulatory minimums for leverage and risk-based capital in the OCC's capital regulations at 12 CFR 3.6.

Specifically, the OCC determines acceptable capital levels for a given institution based on:

- The proposed business plan and the risks inherent in that plan.
- Management's skills, experience, and abilities relative to those required to execute the plan successfully.
- Prevailing economic conditions and competition (in the proposed market and nationally).
- The bank's ability to raise capital in the future.

For more complex institutions or those with aggressive growth projections, the OCC may determine that relatively higher levels of capital are necessary. The OCC may also condition final approvals on the execution of agreements between a bank and a parent company for capital and liquidity maintenance. High-risk products or concentrations in specific products may also require higher capital levels and are assessed on a case-by-case basis.

Application Process

Parties interested in gaining entry into the national banking system should review the *Comptroller's Licensing Manual* at www.occ.gov/corpapps/corpapplic.htm for more detailed information about

the application process for chartering a national bank, purchasing a national bank, or converting to a national bank.

Prefiling Support

For a complex or nontraditional proposal, the OCC strongly encourages a potential applicant to contact the director for district licensing at the appropriate OCC district office to informally discuss the proposal well before a final application is submitted (see OCC Licensing Contact Information on page 18 of this booklet). These preliminary meetings, referred to as exploratory meetings, enable early identification of issues related to the proposed business plan, management, and capital. Early identification of issues is important to the efficient processing of an application. Depending on the proposal's complexity and potential issues, the OCC licensing director may suggest further communications prior to a formal filing. This could take the form of a written submission or draft application from the potential applicant or further discussions between the potential applicant and the OCC. Licensing staff brings in other appropriate staff from, for example, the OCC's bank supervision or district counsel office to discuss specific issues.

For less complex proposals for which no exploratory meetings have been held, the OCC normally requires a potential applicant to attend a "prefiling meeting" or participate in a conference call before filing an application. Providing information on the proposed business plan, management, and capital before the prefiling meeting allows the OCC to provide more substantive comments and feedback at the meeting. The meeting is an opportunity for the OCC to provide feedback on the group's plans and additional information on the application process. The OCC staff also discusses supervisory perspectives or legal issues that may affect the proposal.

Both types of meetings provide an opportunity for the bank organizers to meet local supervisory staff. FDIC and Federal Reserve staff may also participate in exploratory or prefiling meetings to discuss requirements for applications with their respective agencies.

Filing the Application

When ready, the applicant files a final, completed, signed application (found at www.occ.gov/corpapps/corpapplic.htm under the appropriate OCC document type). The submission should include all necessary supplemental material including business plan with financial projections, “Interagency Biographical and Financial Report” (www.occ.gov/static/licensing/form-ia-bio-financial-v2.pdf), and a determination that the transaction complies with all applicable laws and regulations. It is important to designate a contact person in the application material to facilitate and expedite the flow of information.

Different types of applications have different publication requirements and public comment periods (see 12 CFR 5.8 and the “Public Notice and Comments” booklet at www.occ.gov/static/publications/PI.pdf). During the comment period, members of the public may provide comments to the OCC on the application.

Reviewing the Application

The OCC begins the process of reviewing each application and supporting material immediately upon receipt. During this phase, the OCC reviews and analyzes the proposal, completes background investigations, and resolves any unusual or novel issues. At times, resolution of issues requires the applicant to alter its plans in order for an application to meet the evaluative factors.

The time frame for completing the review varies depending on the type of application filed and whether the application is eligible for expedited review (see appendix A in the “General Policies and Procedures” booklet at www.occ.gov/static/publications/gpp.pdf). The OCC may extend review time frames as necessary to gather and process adequate information, particularly in the case of novel or complex proposals.

As previously noted, the OCC conducts background checks to assess the competence, experience, integrity, and ability of key personnel. The OCC independently determines the accuracy and

completeness of information submitted for each person. No insider can serve in a proposed position unless the OCC decides not to object. The “Background Investigations” booklet (www.occ.gov/static/publications/backgrnd.pdf) in the *Comptroller’s Licensing Manual* provides more information about this review process.

For de novo charters, there are two major stages in the approval process:

1. Preliminary conditional approval.
2. Final approval.

For de novo charter applications, the OCC conducts field investigations to develop background information and make determinations on the competency of management and the organizing group and on their abilities to execute the proposed business plan. Additionally, the field investigation team typically meets with members of the community and financial competitors to assess market needs and support for a new bank in the community. An important step of the field investigation is a series of interviews with the proposed bank’s key personnel.

For institutions proposing to convert to national banks, preconversion examinations typically are performed. In these examinations, examiners evaluate targeted risk areas, bank policies and procedures, and control and risk programs. They also evaluate management information systems to monitor, assess, and manage risk. When material risk areas of an institution’s operations are identified, the OCC may condition approval of or deny the conversion application.

The OCC may require additional information at any time to reach an informed judgment about an application. The OCC requests clarifications or additional information through the contact persons.

To approve applications, the OCC’s review of proposals must conclude that the proposals meet the evaluative factors relevant for the types of transactions proposed.

If the charter application meets the supervisory and legal requirements to charter a national bank, the OCC grants preliminary conditional approval. The organizers need not wait until their application receives preliminary conditional approval to begin raising capital. Once the OCC grants preliminary conditional approval, the group can begin the organizational phase of chartering the bank. In this phase, while the bank is “in organization,” the group drafts policies, continues to hire bank personnel, prepares the physical facility, and finishes raising capital, among other things. Once the organizational phase is complete and the OCC confirms that the bank is ready to open, the OCC can grant final approval.

It is not uncommon for the approvals to include conditions or requirements that must be met prior to opening for de novo banks. Significant application decisions, including those imposing enforceable conditions, are available at www.occ.gov/interp/monthly.htm.

Going Forward as a Federally Regulated National Bank

There are a number of benefits to being a national bank. Significant advantages include working with the OCC—a federal banking regulator that has a highly expert supervisory program and that implements consistent national standards, combined with a strong local presence. The OCC’s experts include bank chartering and related corporate licensing specialists, seasoned examiners, and legal staff. Bankers primarily interact with field OCC staff members, who understand local markets. Headquarters’ staff members provide a broad perspective on the industry and are active in monitoring and contributing to legislative developments and policy matters that affect banks. In addition, the OCC continuously strives for increased efficiency in its application process for entry into the national banking system and in its ongoing supervision.

Risk-Based Supervisory Approach

Supervisory efforts are directed toward ensuring the bank is operated safely and soundly; providing guidance on safe and sound bank operations; assessing compliance with laws and regulations; identifying existing and emerging risks; and ensuring that those risks are addressed and corrected.

Because banking is essentially a business of managing risk, supervision is centered on the bank's ability to identify, measure, monitor, and control risks. The OCC expects banks to establish and follow appropriate risk identification, evaluation, and control practices.

The OCC portfolio manager or the examiner-in-charge assigned to the bank is the OCC representative with whom the bank management and board have the most personal contact.

Bank Examinations

Examination frequency depends on a bank's size, complexity, risk profile, and condition. A de novo bank is generally subject to a targeted on-site examination four to six months after opening, with a full examination conducted within the first year. Other new entrants to the national banking system are generally on an annual examination schedule.

National banks receive numerical ratings from examiners as a result of safety and soundness examinations. Ratings are based on the bank's capital adequacy, asset quality, management quality, earnings, liquidity, and sensitivity to market risk (CAMELS).⁴ Examination results generally are not public information.

⁴ CAMELS is a rating system, on a scale of one to five, that bank regulators use to determine banks' level of risk.

Compliance Issues

In addition to the requirement to maintain safe and sound operations, there are a number of specific community reinvestment, consumer, information security, privacy, anti-money laundering, and other laws and regulations with which a national bank must comply. As part of its ongoing supervisory process, the OCC examines national banks for compliance with laws and regulations for which it has statutory responsibility. For example, the OCC conducts Community Reinvestment Act (CRA) examinations that result in published bank ratings. See the OCC's CRA section at www.occ.gov/crainfo.htm.

Enforcement Approach

The OCC addresses operating deficiencies, violations of laws and regulations, and unsafe or unsound practices at national banks through the use of supervisory actions and civil enforcement powers and tools. Once problems or weaknesses are identified and communicated to the bank, management and the board of directors are expected to correct them promptly.

When the normal supervisory process is insufficient or inappropriate to effect bank compliance with the law and the correction of unsafe and unsound practices, the OCC takes enforcement action. For less serious problems, the OCC begins at one end of this enforcement spectrum with informal enforcement actions. The OCC takes formal enforcement actions, which are public, when the bank has serious problems coupled with less than satisfactory management; there is uncertainty about the ability or willingness of management and the board of directors to take corrective measures; or the nature of the underlying problem is consequential.

Director and Manager Training and Information

The OCC offers a variety of training for directors and management through publications and educational events. In addition to the *National Bank Director's Toolkit*, the OCC conducts workshops

and Web-based seminars (or “webinars”) for directors and bank management on topics of interest to the banking industry. An annual series of Director Workshops is specifically targeted to new directors of national banks under \$1 billion in asset size.

Conclusion

Organizers and owners may seek to hold a national bank charter for a variety of reasons: the benefits of a nationwide regulatory regime with a strong local presence; access to OCC supervisory and legal expertise; or interest in bidding on a bank in receivership. Key considerations in the granting of a national bank charter are the quality of the business plan; the credentials, experience, and integrity of proposed managers and directors; and the sufficiency of the bank’s capital resources under normal and stressed market conditions.

The OCC application process is designed to provide open and consistent communication of information and feedback at all informal and formal stages. The agency emphasizes early communication and identification of issues in order to assist organizers and owners in meeting the robust standards and requirements for becoming a national bank.

Sources of Information

The list below contains links to Web pages with information relevant to the application and supervision processes.

Applications

OCC's Web Site www.occ.gov

Comptroller's Licensing Manual www.occ.gov/corpapps/corpapplic.htm

OCC Contact Information www.occ.gov/corpapps/response.htm

OCC Application Forms www.occ.gov/corpapps/forms.htm

Interagency Biographical and
Financial Report www.occ.gov/static/licensing/form-ia-bio-financial-v2.pdf

Partial List of OCC Actions on Applications www.occ.gov/interp/monthly.htm

FDIC Deposit Insurance Policy Statement www.fdic.gov/regulations/laws/rules/5000-100.html

Supervision

Comptroller's Handbook www.occ.gov/handbook/amgt.htm

National Bank Director's Toolkit www.occ.gov/toolkit.htm

OCC Licensing Contact Information

Initial contact with the OCC on licensing matters should occur with the appropriate district office. The OCC's Web site shows the states for which each district is responsible (www.occ.gov/corpapps/response.htm). In some situations, district licensing staff may refer you to the appropriate contact at the OCC's headquarters in Washington, D.C.

Districts

Central District

Travis Wilbert

Director for District Licensing

(312) 360-8881

CE.Licensing@occ.treas.gov

One Financial Place, Suite 2700

440 South LaSalle Street

Chicago, IL 60605

Northeastern District

Steven Maggio

Director for District Licensing

(212) 790-4055

NE.Licensing@occ.treas.gov

340 Madison Avenue, Fifth Floor

New York, NY 10173

Southern District

Karen Bryant

Director for District Licensing

(214) 720-7052

SO.Licensing@occ.treas.gov

500 North Akard Street, Suite 1600

Dallas, TX 75201

Western District

Ellen Tanner Shepherd

Director for District Licensing

(720) 475-7650

WE.Licensing@occ.treas.gov

1225 17th Street, Suite 300

Denver, CO 80202

Washington, D.C., Headquarters

Stephen A. Lybarger
Deputy Comptroller, Licensing
(202) 874-5060
HQ.Licensing@occ.treas.gov

250 E Street SW, MS 7-13
Washington, DC 20219

Beverly Evans
Director for Licensing Activities
(202) 874-5060
HQ.Licensing@occ.treas.gov



Office of the Comptroller of the Currency
250 E Street S.W. • Washington, DC 20219
Phone (202) 874-5000 • FAX (202) 874-5263

Rev. February 9, 2011