



**Comptroller of the Currency
Administrator of National Banks**

Washington, D.C.

September 4, 2007

**Conditional Approval #825
December 2007**

Mr. Joseph R. Bielawa
Vice President and Assistant General Counsel
Legal Department
J.P. Morgan Chase & Company
270 Park Avenue, Floor 39
New York, NY 10017

Re: Applications to reorganize certain trust and other operations of J.P. Morgan Chase & Co.
Application Control Numbers: 2007-ML-01-0003, 2007-ML-05-0250,
2007-ML-12-0134, 2007-ML-12-0135,
2007-ML-0136, 2007-ML-12-0137 and
2007-ML-02-0006

Dear Mr. Bielawa:

The Office of the Comptroller of the Currency (“OCC”) hereby grants preliminary approval for the applications and requests described below, for the reasons and subject to the requirements set forth herein. These transactions will effect a reorganization of certain trust and other operations of J.P. Morgan Chase & Co. This preliminary approval is granted based on a thorough evaluation of all information available to the OCC, including the representations and commitments made in the applications and by the applicants’ representatives.

List of Applications and Requests Approved

On June 21, 2007, J.P. Morgan Trust Company, National Association, Los Angeles, California (“JPMTC”) and JPMorgan Chase Bank, National Association, Columbus, Ohio (“JPMCB”) filed applications to complete a reorganization of certain trust and other operations of J.P. Morgan Chase & Co. (“JPMC”). The applications involved in this reorganization are as follows:

2007-ML-01-0003: JPMTC’s application to establish JPMorgan Bank and Trust Company, National Association, San Francisco, California, (“JPMBTC”) as a limited purpose trust bank, and to hold the new trust bank as an operating subsidiary for a moment in time.

2007-ML-12-0134: Request from JPMTC on behalf of JPMBTC (proposed) to waive the residency requirements of 12 U.S.C. § 72 for the majority of its board of directors.

2007-ML-12-0135: Request from JPMTTC on behalf of JPMBTC (proposed) to waive the citizenship requirement of 12 U.S.C. § 72 for proposed director Lloyd F. Conner.

2007-ML-12-0137: JPMTTC's application to reduce its permanent capital stock by distributing its stock in JPMBTC (proposed) up to its parent company, CMC Holding Delaware, Inc. ("CMC Holding").

2007-ML-12-0136: Request from JPMTTC on behalf of JPMBTC (proposed) for JPMBTC to amend its articles of association shortly after opening and after JPMTTC's distribution of JPMBTC's capital stock up to CMC Holding for the purpose of expanding JPMBTC's activities to include cash management controlled distribution.¹

2007-ML-05-0250: Application by JPMTTC on behalf of JPMBTC (proposed) for JPMBTC to establish a branch in Columbus, Ohio.

2007-ML-02-0006: Application to merge JPMTTC with and into JPMCB under the charter and title of the latter.

As represented in the transaction summary of the applications, you are reminded that the applications must be consummated in the sequential order described. We also made our decision to grant preliminary approval with the understanding that the proposed bank will apply for Federal Reserve membership and will obtain deposit insurance from the FDIC

Description of the Transactions and Legal Authority

The reorganization will be accomplished through the following steps in sequential order.

A. Establishment of JPMBTC

JPMTTC will charter JPMBTC as a limited purpose national trust bank and will own JPMBTC as an operating subsidiary. Initially, JPMBTC will be authorized only to provide fiduciary services, including the securities custody services currently provided by JPMTTC. The chartering of JPMBTC includes a request that the OCC waive the residency and U.S. citizenship requirements set forth in 12 U.S.C. § 72. It is permissible for to charter a national bank that limits its business to fiduciary activities. *See, e.g.*, 12 U.S.C. § 27(a); 12 C.F.R. §§ 5.20(e) and 5.20(l). Moreover, a national bank may establish or acquire an operating subsidiary to conduct activities that are part of or incidental to the business of banking. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 5.34. National banks are authorized to engage in a wide range of trust and other fiduciary activities. 12 U.S.C. § 92a. JPMTTC currently conducts such activities. Thus, it is permissible for JPMBTC

¹ JPMTTC on behalf of JPMBTC also has applied to the Federal Deposit Insurance Corporation ("FDIC") for deposit insurance for JPMBTC. The application requests the FDIC make the grant of deposit insurance effective after JPMBTC has been distributed up to CMC and has amended its articles of association to include cash management activities.

to be chartered and for JPMTTC to hold it as an operating subsidiary.² The OCC approves these applications.

Preliminary approval of the charter application is also based on the understanding that JPMBTC comply with the capital guidance for trust banks contained in OCC Bulletin 2007-21, attached, to ensure the proposed bank's capital remains adequate for the scope and risk of its business operations.

The OCC poses no objection to Beth A. Andrews, John J. Hyland, Joel L. Lieberman, Lloyd F. O'Connor and James W. Putnam as executive officers, directors, and/or organizers of JPMBTC as proposed in the charter application.

B. Director Waivers

In connection with the charter application for JPMBTC, (1) a waiver of the requirement that a majority of the bank's directors meet the residency requirement and (2) a waiver of the citizenship requirement for one director have been requested under 12 U.S.C. § 72. The OCC has the discretion to waive the residency requirement and to waive the citizenship requirement if a majority of directors are U.S. citizens.

The OCC grants the request to waive the residency requirements of 12 U.S.C. § 72 for the majority of the board of directors of JPMBTC. The OCC also grants the request to waive the citizenship requirements of 12 U.S.C. § 72 for Lloyd F. O'Conner to serve as a member of the board of directors of JPMBTC. These waivers are granted based upon a review of all available information, including the filing and any subsequent correspondence and telephone conversations, and the applicants' representation that the waivers will not affect the board's responsibility to direct JPMBTC's operations in a safe, sound, and legal manner. The OCC reserves the right to withdraw or modify the waivers and, at its discretion, to request additional information at any time in the future.

C. Capital Reduction

After JPMBTC has been formed and has had transferred to it certain fiduciary business of JPMTTC, JPMTTC will upstream the shares of JPMBTC to CMC Holding, and JPMBTC will become a subsidiary of CMC Holding. This distribution constitutes a reduction in permanent capital under 12 U.S.C. § 59 and 12 C.F.R. § 5.46(h). JPMTTC will continue to be well-capitalized after the reduction, and the OCC approves the application.

D. Amending JPMBTC's Articles of Association

² At this step in the process, JPMBTC will not be federally insured, will not take demand deposits, and will not make commercial loans. Thus, it will not be a "bank" as defined by the Bank Holding Company Act, *see* 12 U.S.C. § 1841(c)(1), and JPMTTC will not become a bank holding company.

After JPMBTC becomes a subsidiary of CMC Holding, it will amend its Articles of Association to authorize cash management controlled disbursement activities in addition to fiduciary activities. National banks may amend their articles of association pursuant to 12 U.S.C. § 21a. When JPMBTC is formed, it will originally have provisions that limit its activities to fiduciary activities and that require OCC approval for any change to that limitation. The applicants request OCC approval to amend the Articles to include cash management controlled disbursement activities, and the OCC hereby grants that request.

E. JPMBTC's Establishment of a Branch in Ohio

Applicants seek approval for JPMBTC, whose main office will be in California, to establish a branch at 1111 Polaris Parkway, Columbus, Ohio (the Ohio Branch). The Ohio Branch would be JPMBTC's initial branch in that state. At the time the Ohio Branch would be established, JPMBTC will be an insured bank. See note 1 above. A national bank may establish a *de novo* branch in a new state if (A) the new state has a law in effect that (i) applies equally to all banks and (ii) expressly permits out-of-state banks to establish *de novo* branches in the state, and (B) the application satisfies certain conditions, particularly compliance with (i) applicable state filing requirements, (ii) applicable community reinvestment requirements, and (iii) capital adequacy and management skills requirements. 12 U.S.C. §§ 36(g)(1) & (2); 12 U.S.C. §§ 1831u(b)(1), (2) & (3).

This application meets the requirements. Ohio has enacted a law permitting interstate *de novo* branching. Ohio Rev. Code Ann. § 1117.01(A). Furthermore, JPMBTC will meet three conditions. First, it commits to complying with the filing requirements of Ohio Division of Financial Institutions. Second, the Community Reinvestment Act ("CRA") is not applicable because JPMBTC will be exempt from the CRA as a special purpose bank under 12 C.F.R. § 25.11(c)(3). Third, JPMBTC will meet the capital adequacy and management requirements. The OCC approves the application to establish the Ohio Branch.

F. Merger of JPMTTC into JPMCB

After the preceding transactions have occurred, JPMTTC will merge with and into JPMCB, under the charter and title of JPMCB under 12 U.S.C. §§ 215a-1, 1828(c), and 1831u (the "Interstate Merger"). JPMCB does not plan to retain the main office of JPMTTC as a branch. It will retain that office, and JPMTTC's other existing trust offices, as trust offices. This is an interstate merger of two insured banks with different home states under the Riegle-Neal Act. The OCC may not approve an interstate merger if the transaction involves a bank whose home state has enacted a law between September 29, 1994 and May 31, 1997 that expressly prohibits all mergers with all out-of-state banks ("opt-out law"). See 12 U.S.C. § 1831u(a)(2). With respect to the proposed Interstate Merger, neither California nor Ohio enacted an opt-out law.³

³ Both states have laws permitting interstate mergers. See Cal. Fin. Code § 3824; Ohio Rev. Code Ann. § 1115.05.

Approval of an interstate merger transaction is also subject to certain requirements and conditions set forth in sections 1831u(a)(5) and 1831u(b). These conditions are: (1) compliance with state-imposed age limits, if any; (2) compliance with certain state filing requirements; (3) compliance with nationwide and state concentration limits; (4) community reinvestment compliance; (5) adequacy of capital and management skills; and (6) surrender of bank charters to the relevant supervisory agency by all banks involved in the merger, other than the resulting bank. The application for approval of the Interstate Merger satisfies all these conditions to the extent applicable, and the OCC approves the application.⁴

Bank Merger Act and Community Reinvestment Act Reviews

The OCC reviewed the proposed Interstate Merger under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c), and applicable OCC regulations and policies. Among other matters, we found that the proposed merger would not have any anticompetitive effects. The OCC considered the financial and managerial resources of the banks, their future prospects, and the convenience and needs of the communities to be served. In addition, the Bank Merger Act requires the OCC to consider "...the effectiveness of any insured depository institution involved in the proposed merger transaction in combating money laundering activities, including in overseas branches," 12 U.S.C. § 1828(c)(11). We considered these factors and found them consistent with approval under the statutory provisions.

The Community Reinvestment Act ("CRA") requires the OCC to take into account the applicants' record of helping to meet the credit needs of the community, including low- and moderate-income ("LMI") neighborhoods, when evaluating certain applications, including charters, establishment of branches, and merger transactions that are subject to the Bank Merger Act. 12 U.S.C. § 2903; 12 C.F.R. § 25.29. The OCC considers the CRA performance evaluation of each institution involved in the transaction. A review of the record of these applicants and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that the applicants' record of helping to meet the credit needs of their communities, including LMI neighborhoods, is less than satisfactory.

⁴ In the Interstate Merger, JPMCB will acquire WF Auto Exchange, LLC ("WF Auto"), a wholly owned subsidiary of JPMTC. WF Auto was established as an operating subsidiary of JPMTC in 2002 and provides services with respect to Section 1031 Exchange Transactions of personal property under the Internal Revenue Service Code. The merger will not affect WF Auto's activities. The OCC has determined that national banks and their operating subsidiaries may act as intermediaries in Section 1031 exchanges. *See, e.g.*, OCC Conditional Approval No. 706 (October 6, 2005); OCC Corporate Decision No. 2001-30 (October 10, 2001).

Organization and Consummation Requirements

A. Formation of JPMBTC

You may begin organizing the Bank as soon as you adopt and forward Articles of Association and the Organization Certificate to this office for our review and acceptance. As a “body corporate” or legal entity, you may begin taking those steps necessary for obtaining final approval. The bank may not begin the business of banking until it fulfills all requirements for a bank in organization and the OCC grants final approval.

Enclosed are standard requirements and minimum policies and procedures for new national banks. The bank must meet the standard requirements before it is allowed to commence business and the Board of Directors must ensure that the applicable policies and procedures are established and adopted before the Bank begins operation.

Prior to the bank’s opening, the bank must obtain the OCC’s prior written determination of no objection for any additional organizers or executive officers, or directors appointed or elected before the person assumes the position. For a two-year period after the bank commences business, the bank must seek a no objection from the Examiner in Charge of JPMBTC regarding any new executive officer or director assuming such position.

The OCC has granted preliminary approval only. Final approval and authorization for the bank to open will not be granted until all pre-opening requirements are met. Until final approval is granted, the OCC has the right to alter, suspend, or revoke this preliminary approval should the OCC deem any interim development warrants such action.

B. The Interstate Merger

With respect to the merger application, please ensure that you have submitted the following prior to your desired consummation date:

1. A Secretary’s Certificate for each institution, certifying that a majority of the board of directors approved.
2. An executed merger agreement.
3. A Secretary’s Certificate from each institution, certifying that the shareholder approvals have been obtained.

C. Capital Reduction

With respect to the reduction in capital, a reduction in capital stock requires approval by shareholders owning at least two-thirds of the bank’s capital stock and, if necessary, amendments

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to the Articles of Association. Also following the completion of the transaction, the bank must advise the OCC of the effective date of the decrease.

Conclusion

If these transactions are not consummated within one year from the approval date, the approval shall automatically terminate, unless the OCC grants an extension of the time period.

These approvals and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

All correspondence regarding this application should reference the application control numbers. If you have any questions, please contact me at (202)874-5294 or by e-mail at Stephen.Lybarger@occ.treas.gov.

Sincerely,

Stephen A. Lybarger

Stephen A. Lybarger
Large Bank Licensing Lead Expert

Enclosures:

Standard Requirements
Minimum Policies and Procedures
OCC Bulletin 2007-21 (Revised Capital and Liquidity Guidance - Trust Banks)