



Comptroller of the Currency
Administrator of National Banks

250 E Street, SE
Washington, DC 20219

Conditional Approval #518
April 2002

March 27, 2002

John P. C. Duncan, Esquire
Duncan Associates, LLC
180 North LaSalle Street, Suite 2410
Chicago, Illinois 60601-2704

Re: Application to convert Legacy Trust Company, Houston, TX, into a national trust bank to be entitled Legacy Trust Company, National Association (Bank).
Application Control Number: 2001-SW-01-0010

Dear Mr. Duncan:

The Comptroller of the Currency (OCC) has reviewed the subject application. After a thorough review of all information available, including the representations and commitments made in the application and by Bank's representatives, we find that your application meets the requirements for conditional approval to convert to a national bank that will engage solely in fiduciary activities. We made our decision to grant conditional approval with the understanding that the proposed national bank will apply for membership in the Federal Reserve System and will not be FDIC-insured.

This conditional approval is subject to the following "conditions imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 U.S.C. § 1818 and, as such, are enforceable under 12 U.S.C. § 1818.

1. The Bank's initial capital upon conversion shall be no less than \$5.3 million in Tier 1 capital.
2. At all times, after conversion the Bank shall maintain a minimum of \$5 million in Tier 1 capital.
3. If the Bank fails to maintain Tier 1 capital in the amount of \$5.0 million, the Bank shall be deemed "undercapitalized," for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6, and the OCC shall have the authority to take any action authorized under all provisions of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 applicable to an undercapitalized national bank. For purposes of section 1831o(e)(5), an action "necessary to carry out the purpose of this section" shall

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include restoration of the Bank's capital so that it is not "undercapitalized," and any other action deemed advisable by the OCC to address the Bank's capital deficiency or the safety and soundness of its operations.

4. The Bank shall obtain prior non-objection from the OCC's Assistant Deputy Comptroller ("ADC") in Houston before any significant deviation or change from the proposed operating plan occurs during the Bank's first three years of operation, including, without limitation, any material change from the Bank's plan to diversify its customer base and any increase in concentration of assets under management from the Bank's founding family. The Bank must notify the ADC at least (60) days prior to any proposed significant deviation or change.
5. All transactions between the Bank and any affiliates, domestic or foreign, shall be conducted subject to the applicable provisions of 12 U.S.C. § 371c and c-1, or other applicable Federal law. The Board of Directors of the Bank annually shall review and approve the service agreements and any other transactions with domestic and foreign affiliates, including in particular any cost allocation, fee-sharing or tax-sharing provisions in such agreements or other transactions.
6. The Bank must notify all potential technology-related vendors in writing of the OCC's examination and regulatory authority under 12 U.S.C. § 1867(c). All final technology-related vendor contracts must stipulate that the performance of services provided by the vendors to the Bank is subject to the OCC's examination and regulatory authority. The provisions of 12 C.F.R. 9 would be applicable to any fiduciary activities contracted out to vendors.
7. The Bank shall establish and maintain an Audit Committee, a majority of the members of which are not officers or employees of the Bank or which are not officers, directors, or employees of companies affiliated with the Bank.

Please be advised that the OCC is currently reviewing its capital and liquidity policy with respect to national trust banks. Should there be a change to our policy as a result of the review, we will advise you accordingly. In addition, if the Bank's future assets under management increase significantly, or if the Bank assumes additional risk, the OCC may require the Bank to hold additional capital.

The OCC also has reviewed and evaluated the Interagency Biographical and Financial Report Forms involving Director's Isaac Arnold, Jr., Harry H. Cullen, Robert L. Cullen, Gary E. Hippenstiel, J.K. Jones, Harris L. Kempner, Jr., Edward R. Naumes, and Champion T. Traylor, III and Executive Officers Edward R. Naumes, Gary E. Hippenstiel, and Glenn Francis. Based on that and other information available to this Office, this letter conveys our intent not to disapprove the proposed appointments. These individuals may assume their director and/or officer positions upon conversion.

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All background checks requested by the OCC have not been received yet. Although we have decided not to delay action pending receipt of those responses, continued service of the affected individuals will be dependent on satisfactory completion of the background investigation process.

You are reminded that the following are required before the effective date of the conversion:

1. The institution must purchase adequate fidelity bond coverage in accordance with 12 CFR 7.2013, which lists four factors the directors should consider to determine adequacy.
2. If a director, officer, employee, or principal shareholder of the Bank (including an entity in which such person owns an interest of 10 percent or more) is involved in the sale of credit life insurance to loan customers, the Bank should ensure compliance with 12 CFR 2, which among other things, prohibits a covered person from retaining commissions or other income from the sale of credit life insurance connected with any loan the Bank makes.
3. The board of directors must adopt and have in place policies, practices, and procedures to ensure the safe and sound operation of the Bank. The board also must review those policies, practices, and procedures continually and ensure bank compliance with them.
4. The limitations of the Bank's activities must be fully enumerated in the Bank's Articles of Association. Specifically, the articles must state clearly that: 1) the business of the association will be limited to that of a national trust bank; and 2) the Bank must obtain the prior written approval before amending its Articles of Association to expand the scope of its activities and services.
5. The converting institution must obtain any other required regulatory approvals. Please provide us with a copy of your application to purchase Federal Reserve Bank stock.

The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications.

The trust officers should become thoroughly familiar with "Fiduciary Activities for National Banks" at 12 CFR 9 and 12 CFR 5.26. Management is reminded that 12 CFR 5.26 requires a national bank which already have approval to engage in fiduciary activities to provide written notice to the OCC when commencing fiduciary activities in a new state. Also, in addition to the independent annual audit requirement referenced in the enclosed standard requirements, the Bank will need to develop and implement a fiduciary audit program as required by 12 CFR 9.

This approval, 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 U.S., any agency or entity of the U.S., or an officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities

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under applicable law and regulations. The foregoing may not be waived or modified by any employee or agency of the OCC or the U.S.

If the conversion is not consummated within six months from the date of the decision, approval will be withdrawn. The OCC is opposed to granting extensions, except under the most extenuating circumstances and expects the conversion to occur as soon as possible. Upon conversion, please submit a letter certifying that you have completed all steps required to convert to a national banking association (sample enclosed). If you have any questions, please contact the undersigned at (202) 874-5060.

Sincerely,

/s/

J. Greg Parvin
Senior Licensing Analyst
Licensing Department

Enclosures

cc: Edward R. Naumes, President
Legacy Trust Bank