



Comptroller of the Currency
Administrator of National Banks

Midwestern District Office
2345 Grand Boulevard, Suite 700
Kansas City, MO 64108

June 5, 2002

**Conditional Approval #533
July 2002**

Mr. Marc J. Degenhardt
910 Broadway
Marysville, KS 66508

Re: Preliminary Conditional Approval for De Novo Charter
First Commerce Bank, National Association, Marysville, Kansas (The Bank)
CAIS Control #2001-MW-01-007

Dear Mr. Degenhardt:

The Comptroller of the Currency (OCC) has reviewed your application to establish a new national bank with the title of First Commerce, National Association. On this date, after a thorough evaluation of all data available to the OCC, we found that your proposal met the requirements for preliminary conditional approval. The Bank also may offer credit life, health, and accident insurance in accordance with 12 CFR 2.

This approval is granted based on a thorough review of all information available, including the representations and commitments made in the application and by the proposed Bank's representatives. We also made our decision to grant preliminary conditional approval with the understanding that the proposed national Bank will apply for membership in the Federal Reserve System and obtain FDIC insurance.

This approval is subject to the following conditions:

1. The Bank shall establish and maintain an independent audit committee (of at least three members), which shall be composed of independent directors only. The committee's duties shall be consistent with guidance found in the OCC's publication, *The Directors Book*. In addition, the independent audit committee shall review the internal audit system for effectiveness prior to any board of directors' review of that system. For purposes of this independent audit committee requirement, the term "independent" shall be defined to include any individual who:

- Is not an officer or employee of the Bank or its affiliates;
- Is not related by birth or marriage to any executive officer, or organizer of the Bank;
- Has not served as an executive officer, director, advisory director, or employee of any financial institution that has, since January 1, 1997, employed any executive officer or organizer of the Bank; and
- Is not now, and since January 1, 1997 has not served as, an executive officer, director, employee, or principal shareholder of any related interest of an executive officer or organizer of the Bank.

For purposes of this requirement, the terms “executive officer,” “director”, “advisory director,” “principal shareholder,” and “related interest” shall be defined in the manner set forth in 12 C.F.R. § 215.2.

2. The Bank shall engage an independent, external auditor to perform audits on an annual basis according to generally accepted accounting standards of sufficient scope to enable the auditor to render an opinion on the financial statements of the Bank (or consolidated holding company).
3. If the Bank implements a transactional web site within the first three years of operation, it is considered a significant change in the business plan. Prior to implementing such an operation, the Bank must follow the requirements of Condition Number 5 as well as:
 - The Bank must submit to the Kansas City North Field Office for review and approval, a complete description of the Bank’s final information systems and operations architecture as well as the information systems risk assessment and management plan. This should include a schematic drawing and discussion of the following items:
 - Vendor due diligence and contracts; electronic banking security mechanisms and policies; information systems personnel; internal controls; audit plans; and operating policies and procedures, including, but not limited to, vendor management, weblinking, customer authentication and verification, and business resumption contingency plans.

- The Bank must have performed an independent security review and test of its electronic banking platform. The Bank must have this review performed regardless of whether the platform is operated in-house or by one or more third-party service providers. If the Bank outsources the technology platform, it can rely on testing performed for the service provider to the extent that it satisfies the scope and requirements listed below. An objective, qualified independent source (Reviewer) must conduct the review. The scope should cover:
 - All access points, including the Internet, Intranet, or remote access.
 - The adequacy of physical and logical protection against unauthorized access including individual penetration attempts, computer viruses, denial of service, and other forms of electronic access.
 - By written report, the Reviewer must confirm that the security measures, including the firewall, have been satisfactorily implemented and tested. For additional guidance, see “The Internet and the National Bank Charter” booklet of the Comptroller’s Corporate Manual, pages 37-38, 74-75.
4. 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).¹ 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.
 5. This approval is also subject to the condition that the Bank: (i) shall give the Kansas City North Field Office at least sixty (60) days prior notice of the Bank’s intent to significantly deviate or change from its business plan or operations, and (ii) shall obtain the OCC's written determination of no objection before the Bank engages in any significant deviation or change from its business plan or operations.² The Bank must also provide a copy of such notice to the FDIC's Kansas City Regional Office during the first three years of operation.

The conditions of this approval are conditions “imposed in writing by the agency in connection with the granting of any application or other request” within the meaning of 12 USC 1818. As such, the conditions are enforceable under 12 U.S.C. 1818.

¹The OCC has the authority to assess the bank for the cost of examining a service provider. See 12 C.F.R. 8.6.

² If such deviation or change is the subject of an application filed with the OCC, no notice to the supervisory office is required.

The Bank's initial paid-in capital, net of organizational and pre-opening expenses, shall be no less than \$3 million. The manner in which capital is raised must not deviate from that described in the operating plan without prior OCC notification. If the capital for the new Bank is not raised within 12 months or if the new Bank is not opened for business within 18 months from the preliminary conditional approval date, the OCC will withdraw approval. The OCC is opposed to granting extensions, except under the most extenuating circumstances and when the OCC determines that the delay is beyond the applicant's control. The organizers are expected to proceed diligently, consistent with their application, for the Bank to open for business as soon as possible.

This is preliminary conditional approval only. Final approval will not be granted until and unless the Federal Reserve Board acts favorably on your application with them to acquire this new Bank. You must furnish the OCC's Midwestern District Office with a copy of all related filings to the Federal Reserve, including registration material.

Until final approval is granted, the OCC has the right to alter, suspend, or revoke preliminary approval should any interim development be deemed by the OCC to warrant such action.

Please refer to the "Corporate Organization" booklet in the Comptroller's Corporate Manual for the instructions on organizing your Bank. The booklet contains all of the steps you must take to receive your charter. As detailed in the booklet, you may establish the corporate existence of and begin organizing the Bank as soon as you adopt and forward acceptable Articles of Association and the Organization Certificate to this office. As a "body corporate" or legal entity, you may begin taking those steps necessary for obtaining final approval, but you may not begin the business of banking until you fulfill all requirements for a bank in organization and you are granted final approval by the OCC.

Enclosed are standard requirements that must be met before the Bank will be allowed to commence business. Management must ensure that the applicable policies and procedures are established and adopted by the board of directors before the Bank begins operation. Applicable standard requirements also must be satisfied before the Bank will be allowed to commence business.

The OCC poses no objection to the following persons serving as executive officers as proposed in the application. Additional executive officers are subject to the OCC's prior review and clearance.

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Chairman of the Board/President/Chief Executive Officer:
Marc J. Degenhardt

Executive Vice President
Max E. Searcey

Vice President/Ag Lending Officer
Gerald W. Meyer

Cashier/Operations Officer:
Jeanne M. Tjaden

The OCC poses no objection to Marc J. Degenhardt, Max E. Searcey, David L. Hamel, Robert G. Kohake and John C. Lowdermilk serving as directors. All other directors are subject to the OCC's prior review and clearance.

You are also reminded that for a period of two years after the Bank has opened for business, the OCC must review and have no objection to any new executive officer or director prior to that person assuming such position.

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

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

You should direct any questions concerning this preliminary conditional approval to me at (816) 556-1860.

Yours truly,

-signed-

Ellen Tanner Shepherd
Licensing Manager

Enclosures: "Corporate Organization" Booklet
Minimum Policies and Procedures
Standard Requirements