



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

Washington, D.C.

**Conditional Approval #897
May 2009**

April 10, 2009

Jeffrey S. Maurer
Managing Director
Evercore Partners, Inc.
55 East 52nd Street, 43rd Floor
New York, New York 10055

**Re: Application to Charter Evercore Trust Company, National Association
Application Control Number: 2008-NE-01-0015
National Charter Number: 24907**

Dear Mr. Maurer:

The Office of the Comptroller of the Currency (“OCC”) hereby grants conditional preliminary approval for the application to charter Evercore Trust Company, National Association, a national bank limited to the activities of a trust company. This approval is granted after a thorough review of the application, other materials supplied by the applicant’s representatives, and other information available to the OCC, including commitments and representations made in the application and during the application process. This approval is also subject to the pre-opening requirements and conditions set out herein.

The OCC’s decision to grant preliminary conditional approval is made after a determination that the charter application met regulatory and policy requirements. This decision also is made with the understanding that the Bank will apply for membership in the Federal Reserve Bank of New York and will not obtain deposit insurance from the Federal Deposit Insurance Corporation, since the Bank will not engage in deposit-taking.

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

The Proposed Bank

An application was made to the OCC, under 12 U.S.C. §§ 21 through 27 and 12 C.F.R. § 5.20, to charter Evercore Trust Company, National Association, (“Bank”) to be located in New York, New York. The Bank would be an uninsured national bank whose operations would be limited to those of a trust company and activities related thereto. *See* 12 U.S.C. § 27(a) (last sentence). The application was made on behalf of Evercore Partners, Inc., (“EVR”) and Evercore LP (“LP” and together with EVR, collectively “Evercore”). EVR is the sole general partner of LP, a limited partnership. EVR and LP engage in a variety of investment banking, investment management and advisory services through operating companies that are direct or indirect subsidiaries of LP. LP will own approximately 86% of the stock of the Bank, and thus LP directly and EVR indirectly will control the Bank. The remainder of the stock will be owned by directors and employees of the Bank. EVR and LP seek to establish the Bank to add fiduciary services to the services they offer clients.

This conditional preliminary approval also constitutes the OCC’s grant to the Bank of authority to conduct fiduciary powers, under 12 U.S.C. § 92a and 12 C.F.R. § 5.26. You will note that 12 C.F.R. § 9.4 places responsibility on the board of directors for the proper exercise of the Bank’s fiduciary powers. The board, trust officers, and other employees should become thoroughly familiar with the OCC’s regulations regarding the fiduciary activities of national banks at 12 C.F.R. Part 9 and 12 C.F.R. § 5.26.

Organizers, Directors, and Officers

The OCC poses no objection to the following persons serving as executive officers, directors, and/or organizers as proposed in the application:

<u>Name</u>	<u>Title</u>
Maureen Scamell Bateman	Organizer and Director
Adam Frankel	Organizer and Director
Anthony G. Van Schaick	Organizer and Director
William Shutzer	Organizer and Director
Robert B. Walsh	Organizer and Director
Harry L. You	Organizer and Director
Charles E. Wert	Organizer, Director, President, and Chief Executive Officer
Jeffrey S. Maurer	Organizer, Director, and Chairman of the Board
Norman P. Goldberg	Senior Executive and Chief Fiduciary Officer
Otis A. Sinnott, Jr.	Senior Fiduciary and Administrative Officer
Gloria E. Pollack	General Counsel
William N. Glasgow	Senior Vice President

All of the background checks requested by the OCC have not yet been received from some sources. While we have decided not to delay action pending receipt of all remaining background information, the continued service of these individuals as directors and executive officers will be dependent on satisfactory completion of the background investigation process. The OCC may require an individual to be replaced if warranted.

Prior to opening, the Bank must obtain the OCC's prior written determination of no objection for any additional organizers, 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 file an *Interagency Biographical and Financial Report* with the OCC and receive a letter of no objection from the OCC prior to any new executive officer or director assuming such position.

Organizing Steps and Pre-opening Requirements

The "Charters" booklet in the *Comptroller's Licensing Manual* provides guidance for organizing the Bank. The booklet contains all of the steps needed to complete the organizing of the Bank and receive its charter. The booklet is located at the OCC's web site:
<http://www.occ.treas.gov/corpbook/group4/public/pdf/charters.pdf>.

As detailed in the booklet, you may establish the corporate existence of and begin organizing the Bank as soon as you adopt and forward Articles of Association and the Organization Certificate to Senior Licensing Analyst Sandya Reddy in the OCC's Northeastern District Licensing Office for our review and acceptance. As a "body corporate," or legal entity, the Bank may begin taking those steps necessary to obtain final approval. The Bank may not commence business 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 the OCC will issue final approval and the Bank is allowed to commence business. The Board of Directors also must ensure that the applicable policies and procedures are established and adopted before the Bank begins operation.

In addition to the standard requirements for all new national banks, the Bank must also satisfy the following special requirements before the OCC will grant final charter approval:

- A. The Bank must submit to the OCC National Trust Banks Supervisory Office for review, and prior written determination of no supervisory objection, 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.

- B. 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 herein. The review must be conducted by an objective, qualified independent source (“Reviewer”). 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, refer to the *FFIEC IT Examination E-Banking Handbook* (pages 26-30, Information Security Program). The booklet is located at the FFIEC’s Web site:

http://www.ffiec.gov/ffiecinfobase/booklets/e_banking/e_banking.pdf.

- C. The Bank must have a security program in place that complies with the “Interagency Guidelines Establishing Information Security Standards” specified at 12 C.F.R. Part 30, Appendix B. This would include the appointment/designation of an Information Security Officer for the Bank, as well as the development of a job description for this position.
- D. The project plans for outsourcing trust accounting and processing and fiduciary services processing to the third party processor, including readiness for implementation to production, must be completed.

- E. Access privileges to the Bank's systems must be defined. Such access shall be based on job responsibilities and assign administrative responsibilities for determining access privileges. The Bank will need to provide documentary evidence that access to the Bank's systems and applications have been appropriately defined and reviewed by management.
- F. Establish or clarify, through coordination with Evercore, the level of monitoring that will be performed over the activities of the technology provider engaged to support network operations and security for Evercore and the Bank.
- G. Finalize staffing and operating procedures for the Middle Office support operations and ensure that operating procedures have been documented and are ready for implementation.

Conditions

This approval is subject to the following conditions:

1. The Bank shall limit its business to the operations of a trust company and activities related or incidental thereto. The Bank shall not engage in activities that would cause it to be a "bank" as defined in section 2(c) of the Bank Holding Company Act.
2. Within one (1) business day after the Bank opens for business, EVR and LP shall enter into a written Agreement with the OCC on terms and conditions acceptable to the OCC, and EVR and LP shall thereafter implement and adhere to such written Agreement.
3. Within one (1) business day after the effective date of the above written Agreement between EVR, LP and the OCC, EVR and LP shall cause the Bank to enter into a written Operating Agreement with the OCC on terms and conditions acceptable to the OCC, and EVR and LP shall thereafter continue to assure the Bank's compliance with such written Operating Agreement.
4. Within one (1) business day after the effective date of the above written Agreement between EVR, LP and the OCC, the Bank shall enter into a written Operating Agreement with the OCC on terms and conditions acceptable to the OCC, and the Bank shall thereafter implement and adhere to such written Operating Agreement.

5. Within five (5) business days after the effective date of the above written Agreement between EVR, LP and the OCC, EVR, LP, and the Bank shall enter into a written Capital and Liquidity Support Agreement (“CSA”) with the OCC on terms and conditions acceptable to the OCC, setting forth EVR’s and LP’s obligations to provide capital and liquidity support to the Bank if and when necessary. EVR, LP, and the Bank shall thereafter implement and adhere to such written CSA.
6. Within five (5) business days after the effective date of the above written Agreement between EVR, LP and the OCC, EVR and LP shall enter into a written Capital Assurance and Liquidity Maintenance Agreement (“CALMA”) with the Bank on terms and conditions acceptable to the OCC, setting forth EVR’s and LP’s obligations to provide capital and liquidity support to the Bank if and when necessary. EVR, LP, and the Bank shall thereafter implement and adhere to such written CALMA.

The conditions of this approval are conditions "imposed in writing by a Federal banking agency in connection with any action on any application, notice, or other request" within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

Conclusion

This conditional preliminary 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 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. Our approval is based on the representations, submissions, and other information provided in connection with the application available to the OCC as of this date. Any material change in the information on which the OCC has relied, may result in modification, suspension or rescission of this approval. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications. This information does not include the *Comptroller’s Licensing Manual*, which is available in electronic form on our Web site at:

<http://www.occ.treas.gov/corpapps/corpapplic.htm>.

If the Bank has not commenced business within eighteen (18) months from the conditional preliminary approval date, this approval expires, unless extended by the OCC.

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New York, New York, Charter No. 24907
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All correspondence, information required to be submitted to the OCC, or any questions concerning this conditional preliminary approval should be directed to Senior Licensing Analyst Sandya Reddy in the OCC's Northeastern District Licensing Office at (212) 790-4055. You should include the application control number on any correspondence related to this filing.

Sincerely,

signed

Lawrence E. Beard
Deputy Comptroller for Licensing

Enclosures: Standard Requirements
Minimum Policies and Procedures