



Comptroller of the Currency
Administrator of National Banks

Northeastern District Office
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New York, New York 10173-0002

Licensing Division
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Conditional Approval #904
June 2009

May 8, 2009

Mr. Patrick J. McEnerney
Managing Director
Deutsche Bank AG
60 Wall Street, Room 3631
New York, New York, 10005-25858

Re: Deutsche Bank Trust Company, National Association, New York, New York, request to amend articles of association and application to purchase certain assets and assume certain liabilities from Deutsche Bank Trust Company Americas, New York, New York and to establish an operating subsidiary to engage in certain lending activities.

Application Control Numbers:

2009-NE-12-0029, 2009-NE-12-0030, 2009-NE-02-0001 and 2009-NE-08-0003

Charter Number: 24452

Dear Mr. McEnerney:

The Office of the Comptroller of the Currency (“OCC”) hereby conditionally approves the request by Deutsche Bank Trust Company, National Association, New York, New York (“Bank”) to amend its articles of association and the Bank’s application to purchase certain assets and assume certain liabilities from Deutsche Bank Trust Company Americas, New York, New York (“DBTCA”) and to establish an operating subsidiary to be known as DB Private Wealth Mortgage, Inc. (“DBPWM”). The request and application are hereafter referred to collectively as the “Application.” This approval is based on a thorough review of the Application and its supporting documentation, and other information available to the OCC, including commitments and representations made in the Application, its supplements, and by the Bank’s representatives during the Application process. This approval is also subject to the conditions set out herein.

Background

The Bank is currently an uninsured non-depository national trust bank with its main office located in New York, New York. DBTCA is a state chartered insured member bank, also with its main office in New York, New York. Both institutions are wholly owned indirect subsidiaries of Deutsche Bank Aktiengesellschaft (“Deutsche Bank AG”). DBTCA will continue to operate after the transaction; no branches are being acquired. The Application is part of a series of steps in the intended reorganization of certain private wealth management (“PWM”) activities into the Bank. As part of the restructuring, the Bank will also receive from its immediate parent, Deutsche Bank Trust Corporation, a cash

Mr. Patrick J. McEnerney

Deutsche Bank AG

Re: 2009-NE-12-0029, 2009-NE-12-0030, 2009-NE-02-0001 and 2009-NE-08-0003

Page 2

contribution to capital. Concurrent with its Application to the OCC, the Bank submitted an application to the FDIC for federal deposit insurance; notice was filed with the Federal Reserve Board as well.

Legal Authority

The Bank was originally approved as a limited purpose national trust bank¹ and so its articles of association limit its activities accordingly and require the OCC's approval prior to any amendment expanding the scope of the Bank's activities. Upon receiving the OCC's prior approval, subject to the requirements and conditions contained herein, the Bank's articles of association may be amended in accordance with 12 U.S.C. § 21a. The Bank seeks to acquire certain assets and assume certain liabilities from DBTCA. National banks have long been authorized to purchase bank permissible assets and assume bank permissible liabilities from other institutions, including assuming the deposit liabilities from other institutions, as part of their general banking powers under 12 U.S.C. § 24(Seventh).² Such purchase and assumption transactions are commonplace in the banking industry. No nonconforming or impermissible assets or activities will be acquired by the Bank. The Bank is legally authorized to acquire the assets and assume the liabilities that are the subject of the Application. The Bank also plans to establish a wholly owned operating subsidiary through which it intends to conduct its proposed PWM primary lending activities, *i.e.*, mortgage lending to PWM clients.³ National banks and their operating subsidiaries are clearly permitted to engage in mortgage and other lending activity.⁴ Accordingly, the OCC may approve the Application.⁵

Bank Merger Act and Community Reinvestment Act Reviews

The Application involves the acquisition of deposits from an insured depository institution. Thus, the transaction is subject to the requirements of 12 U.S.C. § 1828(c), (the "Bank Merger Act"). The OCC reviewed the proposed purchase and assumption transaction under the criteria of the Bank Merger Act and applicable OCC regulations and policies. Among other matters, we found that the proposed transaction would not have significant anticompetitive effects; this transaction is between affiliated institutions, therefore, it will have no impact on competition. The OCC also considered the financial and managerial resources of the institutions, their future prospects, and the convenience and needs of the communities to be served. The Bank Merger Act requires the OCC to consider the institutions'

¹ See OCC Conditional Approval # 692 (May 25, 2005) ("CA#692"); See also OCC Conditional Approval #845 (November 2, 2007) ("CA#845").

² See *e.g.*, *City National Bank of Huron v. Fuller*, 52 F.2d 870, 872-73 (8th Cir. 1931); *In re Cleveland Savings Society*, 192 N.E. 2d 518, 523-24 (Ohio Com. Pl. 1961). See also 12 U.S.C. § 1828(c)(purchase and assumption transactions included among transactions requiring review under the Bank Merger Act).

³ The Bank's proposed PWM lending activities may also include, on a more limited basis, secured and unsecured personal loans and business loans connected to PWM clients.

⁴ 12 U.S.C. § 24 (Seventh); 12 U.S.C. § 371; 12 C.F.R. § 5.34(e)(5)(v)(C).

⁵ The Bank's Application constitutes a significant deviation from its business plan or operations that is subject to prior OCC notification and no-objection under condition #4 in CA#845. Because the significant deviation is the subject of an application filed with the OCC, no separate notice to the Supervisory Office was required.

Mr. Patrick J. McEnerney

Deutsche Bank AG

Re: 2009-NE-12-0029, 2009-NE-12-0030, 2009-NE-02-0001 and 2009-NE-08-0003

Page 3

effectiveness in combating money laundering activities as well. We considered these factors and found them consistent with approval under the statutory provisions.

The OCC also reviewed the purchase and assumption transaction under the Community Reinvestment Act (“CRA”), to the extent applicable. The OCC is required to take into account each applicant’s record of performance under the CRA when evaluating certain applications, including transactions that are subject to the Bank Merger Act.⁶ Because the Bank is currently an uninsured national trust bank, it has not previously been subject to the CRA.⁷ DBTCA is designated as a “Wholesale bank” for CRA purposes.⁸ A review of DBTCA’s record and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that DBTCA’s CRA record of helping to meet the credit needs of its communities is less than satisfactory.

Consummation Process and Requirements

You are reminded that the following items must be satisfactorily addressed on or before consummation of the purchase and assumption transaction:

1. The Bank must ensure its information security program continues to comply with the “Interagency Guidelines Establishing Information Security Standards” specified at 12 C.F.R. Part 30, Appendix B., given the Bank’s contemplated expansion of activities.
2. The Bank must ensure its fidelity bond coverage is adequate, given the Bank’s contemplated expansion of activities. Please refer to 12 C.F.R. § 7.2013.
3. All new bank directors must own qualifying shares in conformance with 12 U.S.C. § 72 and 12 C.F.R. § 7.2005.

Please advise the Northeastern District Licensing Division in writing in advance of the desired effective date for the purchase and assumption transaction so we may issue the necessary certification letter. The effective date must follow the proposed amendment to the Bank’s articles of association and the FDIC’s final approval of the Bank’s deposit insurance application, and any other required regulatory approvals.

⁶ See 12 U.S.C. § 2903; 12 C.F.R. § 25.29.

⁷ See 12 U.S.C. § 2902(2); See also 12 C.F.R. §25.11(c)(3). In conjunction with filing of the Application, the Bank requested designation as a “Wholesale bank” under 12 C.F.R. § 25.25(b). The OCC recently approved the designation, effective once the Bank is insured and its articles amended.

⁸ See e.g., 12 C.F.R. §25.12(x).

Mr. Patrick J. McEnerney

Deutsche Bank AG

Re: 2009-NE-12-0029, 2009-NE-12-0030, 2009-NE-02-0001 and 2009-NE-08-0003

Page 4

The OCC will issue a letter certifying consummation of the purchase and assumption transaction once we have received the following documents executed in the original:

1. The final copy of the purchase and assumption agreement.
2. A Secretary's Certificate for each institution, certifying that a majority of the board of directors approved the transaction.
3. Documentation evidencing shareholder approval of the proposed amendment to the Bank's articles of association and a certified copy of the amendment to the Bank's articles.

Please also notify us of the effective date of the increase to the Bank's capital, in accordance with 12 C.F.R. § 5.46(i)(3), so that the OCC may issue the proper certification.

If the purchase and assumption transaction is not consummated within one year from the date of this approval, this approval shall automatically terminate.

Conditions

This approval is subject to the following conditions:

1. The Bank: (i) shall give the appropriate OCC Supervisory Office at least sixty (60) days prior written notice of the Bank's intent to significantly deviate or change from its business plan or operations⁹ 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. The OCC may impose additional conditions it deems appropriate in a written determination of no objection to the Bank's notice. The Bank must also provide a copy of such written notice of its intent to significantly deviate or change from its business plan or operations to the FDIC's New York Regional Office. For purposes of this condition, "significant deviation or change" is the same as defined in OCC PPM 5400-9(REV), Appendix B. This condition shall remain in effect for three (3) years from the effective date of the purchase and assumption transaction.
2. For a period of two (2) years from the effective date of the purchase and assumption transaction, the Bank shall provide to the OCC at least thirty (30) days prior written notice of the appointment or election of any director or the hiring or appointment of any executive officer and obtain the OCC's prior written no-objection to the election, appointment, or hiring of such director or executive officer.

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. The conditions of this approval supersede and replace the conditions in CA #692 and CA #845.

⁹ If such deviation is the subject of an application filed with the OCC, the OCC does not require any further notice to the Supervisory Office.

Mr. Patrick J. McEnerney

Deutsche Bank AG

Re: 2009-NE-12-0029, 2009-NE-12-0030, 2009-NE-02-0001 and 2009-NE-08-0003

Page 5

Conclusion

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 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 Bank's representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind this approval if a material change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. 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 appropriate control numbers. A separate letter is enclosed requesting your feedback on how we handled the Application. We would appreciate your response so we may continue to improve our service. If you have any questions, please contact Licensing Analyst Robin Miller at 212-790-4055 or robin.miller@occ.treas.gov.

Sincerely,

signed

Steven Maggio
Acting Director for District Licensing

Enclosure