



Comptroller of the Currency
Administrator of National Banks

Northeastern District Office
340 Madison Avenue, Fifth Floor
New York, New York 10173-0002

Licensing Division
Telephone No.: (212) 790-4055
Fax No.: (301) 333-7015

Conditional Approval #998
June 2011

May 17, 2011

Geoffrey S. Kay
Fenimore, Kay, Harrison & Ford, LLP
111 Congress Avenue, Suite 820
Austin, Texas 78701

Mark Levine
c/o SPNY Capital
499 Park Avenue, 10th Floor
New York, New York 10022

Re: De Novo Charter Application
M.Y. Safra Bank, National Association, New York, New York

Control Number: 2010 NE 01 0001

Dear Messrs. Kay and Levine:

The Comptroller of the Currency (“OCC”) has reviewed your application to establish a new national bank with the title of “M.Y. Safra Bank, National Association” (“the Bank”). On May 17, 2011, the OCC granted preliminary conditional approval of your charter application after a determination that your proposal met certain regulatory and policy requirements.

This preliminary conditional approval is granted based on a thorough evaluation of all information available to the Office of the Comptroller of the Currency (“OCC”), including the representations and commitments made in the application and by the Bank’s representatives. We also made our decision to grant preliminary conditional approval with the understanding that the Bank will apply for Federal Reserve membership and will obtain deposit insurance from the Federal Deposit Insurance Corporation (“FDIC”).

The OCC has granted preliminary conditional approval only. Final approval and authorization for the Bank to open will not be granted until all preopening requirements are met. Until final approval is granted, the OCC has the right to modify, suspend or rescind this preliminary conditional approval should the OCC deem any interim development to warrant such action.

This preliminary conditional approval is subject to the following conditions:

1. During its first three (3) years of operation, the Bank: (i) shall give the New York Metro South Field Office (the "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 operations¹ 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 a bank's notice. For the first three years of operation, the Bank also must 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.
2. Prior to the opening of the Bank, organizers must hire an experienced and qualified individual(s) to serve as BSA and Compliance Officer(s) for the Bank. The Bank must submit information on the qualifications of the proposed individual(s), file an Interagency Biographical Report with the OCC and obtain prior OCC written determination of no objection before the individual(s) can assume such positions.
3. The Bank shall obtain the OCC's written determination of no objection before the Bank engages in any purchase, sale, or consulting arrangement or in any covered transaction, as defined in 12 U.S.C. § 371c and 12 C.F.R 223.3(h), with an existing or prospective affiliate or related interest, as defined by 12 C.F.R 215.2(n), of Jacob Moise Safra.

These conditions of 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 Bank's initial paid-in capital, net of all organizational and preopening expenses, shall be no less than \$30 million. The manner in which capital is raised must not deviate from that described in the business plan without prior written OCC notification. If the capital for the Bank is not raised within 12 months or if the Bank is not opened for business within 18 months from the preliminary conditional approval date, this approval expires. 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.

The OCC poses no objection to the following persons serving as executive officers, directors,

¹ If such deviation is the subject of an application filed with the OCC, no separate notice to the supervisory office is required.

and/or organizers as proposed in the application:

<u>Name</u>	<u>Title</u>
Jacob M. Safra	Organizer/President/Chief Executive Officer
Julia D. Fernald	Organizer/Director
Haim J. Hallac	Organizer/Director
Nathan Hasson	Organizer/Director
Allen I. Isaacson	Organizer/Director
Venkateshwar Lal	Organizer/Director
Gerald A. Iervolino	Chief Financial Officer
Kevin A. McCabe	Chief Operating Officer
Howard Ross	Chief Credit Officer

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 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.

Background checks requested by the OCC have not been received from several sources for Ms. Fernald; Messrs. Hallac, Iervolino, McCabe and Ross. While we have decided not to delay action pending receipt of these responses, the continued service of these individuals will be dependent on satisfactory completion of the background investigation process. Additionally, the OCC may consider remedies available to it if adverse or previously withheld information is received.

The OCC also granted your request to waive the citizenship requirements of 12 U.S.C. § 72 for Jacob M. Safra to serve as a member of the board of directors of the Bank. This waiver is based upon a review of all available information, including the filing, subsequent correspondence and telephone conversations, and the Bank's representation that this waiver will not affect the board's responsibility to direct the Bank's operations in a safe and sound manner. The OCC reserves the right to withdraw or modify this waiver and, at its discretion, to request additional information at any time in the future.

The "Charters" booklet in the *Comptroller's Licensing Manual* provides guidance for organizing your bank. The booklet is located at the OCC's web site: <http://www.occ.treas.gov/corpbook/group4/public/pdf/charters.pdf>. 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 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.

In addition to the standard requirements for all new national banks, the following special requirements must be satisfied prior to the Bank's request for a preopening examination and before the OCC will grant final charter approval:

1. The Bank must submit to the 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.
2. 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 website:
http://www.ffiec.gov/ffiecinfobase/html_pages/it_01.html

3. The Bank must have a security program in place that complies with the “Interagency Guidelines Establishing Standards for Safeguarding Customer Information” specified at 12 C.F.R 30, Appendix B.

Under separate cover, the OCC will send to you 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 only in electronic form at our Web site:

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

This preliminary 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 preliminary conditional 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.

Please direct any questions concerning this preliminary conditional approval to Wai-Fan Chang, Licensing Analyst, at (212) 790 - 4055.

Sincerely,

Steven Maggio

Steven Maggio
Director for District Licensing

Enclosures:

Standard Requirements
Minimum Policies and Procedures