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Comptroller of the Currency  
Administrator of National Banks

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March 14, 2011

**Corporate Decision #2011-02**  
**March 2011**

Brian R. Marek, Esq.  
Hunton & Williams LLP  
1445 Ross Avenue  
Suite 3700  
Dallas, Texas 75202-2799

RE: Application to Establish a New Branch  
Bank of Whittier, National Association, Whittier, California  
OCC Control Number 2010 WE 05 0060

Dear Mr. Marek:

The Office of the Comptroller of the Currency (“OCC”) hereby approves the application that you submitted for Bank of Whittier, National Association, Whittier, California (“Bank”) to establish a new, full service branch at *1431 East Spring Valley Road, Richardson, Texas 75081*. This approval is granted based on a thorough review of the application, materials you have supplied, and other information available to the OCC, including commitments and representations made in the application and by the Bank’s representatives during the application process. Based on this review, the OCC has determined that this approval is consistent with the relevant statutory factors set forth in 12 U.S.C. §§ 36(g) and 1831u(b), applicable state branching law, and the Bank’s record of compliance with the Community Reinvestment Act (“CRA”), 12 U.S.C. §§ 2902(3)(C), 2903(a)(2). This letter also serves as authorization for the Bank to establish Branch No. 149362A at the above-noted address.

***The Establishment of a de novo Branch is Authorized Under 12 U.S.C. §§ 36(g) and 1831u(b)***

On December 14, 2010, the OCC received an application from the Bank to establish a *de novo* branch at 1431 East Spring Valley Road, Richardson, Texas 75081. The Bank has its main office in Whittier, California. The Bank has applied for approval to establish an initial interstate *de novo* branch in a state other than its main office state in which it does not already operate

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branches. Under 12 U.S.C. § 36(g), as amended by section 613(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”),<sup>1</sup> a national bank may:

. . . establish and operate a *de novo* branch in a State (other than the bank’s home State) in which the bank does not maintain a branch if – (A) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State . . . .<sup>2</sup>

Texas permits statewide branching without geographical limitations provided that there are no significant supervisory or regulatory concerns regarding the proposed branch, applicant, or affiliate of the applicant.<sup>3</sup> Approval of this application is consistent with this standard. Texas also prohibits the establishment or maintenance of a branch on the premises of an affiliate engaged in a “commercial activity.”<sup>4</sup> The Bank has represented that the branch will not be on the premises of any affiliate.

In addition, establishment of an interstate branch under 12 U.S.C. § 36(g) is subject to certain conditions, which are enumerated in the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (“Riegle-Neal”).<sup>5</sup> These conditions include: (1) compliance with certain filing requirements; (2) expanded community reinvestment analysis and compliance; and (3) adequacy of capital and management.

### **Filing requirements**

Riegle-Neal requires that a bank seeking to establish an interstate *de novo* branch must: (1) comply with the filing requirements of the host state as long as the filing requirements do not discriminate against out-of-state banks and are similar in effect to filing requirements imposed by the host state on out-of-state nonbanking corporations doing business in the host state, and (2) submit a copy of the application to the state bank supervisor of the host state.<sup>6</sup> The applicant

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<sup>1</sup> Pub. L. No. 111-203, 124 Stat. 1376, 1614 (July 21, 2010).

<sup>2</sup> 12 U.S.C. § 36 (g)(1)(A)).

<sup>3</sup> TEX. FIN. CODE § 32.203(a) (2010).

<sup>4</sup> TEX. FIN. CODE § 32.203(c).

<sup>5</sup> 12 U.S.C. § 36(g)(1)-(2)(A) (2010)(incorporating Riegle-Neal Interstate Banking and Efficiency Act, 12 U.S.C. § 1831u(b)(1), (3)-(4) (2010)).

<sup>6</sup> See 12 U.S.C. § 36(g)(2)(A)(incorporating § 1831u(b)(1)).

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provided a copy of the application to the state bank supervisor on December 15, 2010, and has complied with the Texas filing requirements.<sup>7</sup>

### **CRA requirements**

In determining whether to approve an application under section 36(g), Riegle-Neal requires that the OCC must: (1) comply with its responsibilities under section 804 of the Community Reinvestment Act (“CRA”); (2) take into account the written CRA evaluations of any bank which would be an affiliate of the resulting bank; and (3) take into account the applicant’s record of compliance with applicable state community reinvestment laws.<sup>8</sup> The OCC has reviewed the Bank’s CRA record and determined that its record of compliance with CRA is consistent with approval of this application.<sup>9</sup>

### **Adequacy of capital and management skills**

The OCC may approve an application for a *de novo* branch under section 36(g) only if the bank is adequately capitalized as of the date the application is filed, and will remain “adequately capitalized and adequately managed” after the transaction.<sup>10</sup> The term “adequately capitalized” has the same meaning here as it does under the Prompt Corrective Action (“PCA”) statute found in 12 U.S.C. § 1831o.<sup>11</sup> As of the date the application was filed, the Bank satisfied all regulatory and supervisory requirements relating to adequate capitalization. The OCC has also determined that following the transaction, the Bank will continue to exceed the standards for an adequately capitalized and adequately managed bank.

Accordingly, the OCC has determined that the Bank satisfies the conditions specified in 12 U.S.C. § 36(g), as well as the corresponding requirements as enumerated in 12 U.S.C. § 1831(u)(b), to the extent applicable.

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<sup>7</sup> TEX. FIN. CODE § 203.002(a)(2)-(3), (b) (2010); TEX. FIN. CODE § 201.102 (2010). See Letter from Robert L. Bacon, Deputy Commissioner, Texas Department of Banking, to Brian R. Marek, Outside Counsel, Hunton & Williams LLP (Dec. 30, 2010).

<sup>8</sup> 12 U.S.C. § 36(g)(2)(A)(incorporating § 1831u(b)(3); see also 12 U.S.C. §§ 2903(a)(2), 2902(3)(C) (2010); 12 C.F.R. § 25.29(a)(1) (2010).

<sup>9</sup> The other requirements are inapplicable because the Bank is not affiliated with any other bank, and California, the only state in which the Bank is located, does not have applicable state community reinvestment laws.

<sup>10</sup> 12 U.S.C. § 1831(u)(b)(4)(A) and (B). The Dodd-Frank Wall Street Reform and Consumer Protection Act amended 12 U.S.C. § 1831u(b)(4)(B) by requiring that an applicant for an interstate merger or the establishment of interstate *de novo* branch be well capitalized and well managed. These new standards, however, do not take effect until July 21, 2011. See Pub. L. No. 111-203, 124 Stat. 1376, 1390 (2010).

<sup>11</sup> See 12 U.S.C. § 1831u(g)(1).

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***Conclusion***

Based on the information above, the OCC approves the Bank's application to establish and operate the proposed branch in Texas. If the branch is not opened within 18 months from this approval date, the approval automatically terminates unless the OCC grants an extension.

Within ten days of opening, the bank must advise this office in writing of the branch's opening date. If not previously provided, advice of the branch's popular name should also be given at that time. Please reference the OCC control number in your letter.

If this branch is closed, a 90-day advance notice of proposed branch closing must be submitted to the OCC pursuant to 12 U.S.C. § 1831r-1. Following the closing of the branch office, a final closing notice should be submitted to this office.

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 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 laws 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.

If you have any questions, please contact Licensing Analyst Beth Honea, by telephone at (720) 475-7650 or by email at [beth.honea@occ.treas.gov](mailto:beth.honea@occ.treas.gov). Please reference the application control number in any correspondence regarding this application.

Sincerely,

*Ellen Tanner Shepherd*

Ellen Tanner Shepherd  
Director for District Licensing