



Washington, DC 20219

**Interpretive Letter #1150**  
**November 2014**  
**12 CFR 3, Subpart E**

September 29, 2014

Andrew Cecere  
Chief Financial Officer  
800 Nicollet Mall  
BC-MN-H23G  
Minneapolis, MN 55402

Subject: U.S. Bank Trust Company, National Association, Portland, Oregon; U.S. Bank Trust National Association, SD, Sioux Falls, South Dakota; and U.S. Bank Trust National Association, Wilmington, Delaware – Exemption from Internal Ratings-Based and Advanced Measurement Approaches

Dear Mr. Cecere:

We are writing to exempt U.S. Bank Trust Company, National Association, Portland, Oregon (Oregon Trust); U.S. Bank Trust National Association, SD, Sioux Falls, South Dakota (South Dakota Trust); and U.S. Bank Trust National Association, Wilmington, Delaware (Delaware Trust) from calculating their capital requirements in accordance with the *Risk-Weighted Assets—Internal Ratings-Based and Advanced Measurement Approaches* (Basel III Advanced Approaches Framework).<sup>1</sup> Based on the facts and circumstances, the OCC determines that application of the Basel III Advanced Approaches Framework is not appropriate for Oregon Trust, South Dakota Trust, and Delaware Trust (the Bank(s)) based on the Banks' risk profile and scope of operations.

### **Discussion**

OCC regulations provide that a bank that is subject to the Basel III Advanced Approaches Framework must use that Framework to calculate its capital requirement “unless the Office of the Comptroller of the Currency determines in writing that the application of [the Framework] is not appropriate in light of the bank’s asset size, level of complexity, risk profile, or scope of operations.”<sup>2</sup> In considering this exemption, the OCC reviewed the Banks’ risk profiles, the scope and size of operations, and the current capital levels and balance sheet.

Based on the facts and circumstances reviewed by OCC supervisory staff, including an evaluation of its risk profile, the OCC has determined that the application of the Basel III

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<sup>1</sup> 12 C.F.R., part 3, subpart E.

<sup>2</sup> 12 C.F.R. § 3.100 (b)(2).

Advanced Approaches Framework to the Banks is not appropriate, subject to the conditions below. Applying the Basel III Advanced Approaches Framework would not meaningfully enhance the banking group's overall risk management due to the limited asset size, level of complexity, scope of operations, and risk profile of these subsidiary banks. The scope of operations of each of the banks is limited to trust powers. Credit and operational losses at these banks has been and continues to be de minimis. Furthermore, as a condition to the OCC's determination, discussed below, the Banks will be required to capture credit and operational loss events as specified by the Basel III Advanced Approaches Framework in the event that the Internal Ratings-Based and Advanced Measurement Approaches become appropriate for the Banks.

### **Conditions on Approval for the Exemption from the Basel III Capital Framework**

The OCC has determined that it will exempt the Banks from the Basel III Capital Framework pursuant to 12 C.F.R. § 3.100 (b)(2),<sup>3</sup> subject to the conditions set forth below. Each Bank must meet these conditions, unless notified otherwise by the OCC.

1. The Banks will calculate their tier 1 and tier 2 capital under risk-based capital standards set forth in 12 C.F.R. part 3, subpart D, as applicable, as reported in the Banks' Consolidated Reports of Condition and Income (Call Reports), and any subsequent revisions thereto.
2. The Banks must continue to capture information on credit and operational loss events as specified by 12 C.F.R. part 3, subpart E. The Banks must be able to provide the OCC with all data submitted to its parent company that the parent company uses to comply with the Basel III Advanced Approaches Framework.
3. The Banks are not required to fill out the FFIEC 101, but must continue to file the FFIEC 031 or 041 reports.
4. The Banks must provide its OCC Examiner-in-Charge with at least 60 days notice of their intent to significantly deviate from or change their business plan or operations.
5. The Banks must provide an annual statement to the OCC that addresses whether the exemption is still appropriate. The annual statements, which must be provided no later than April 1<sup>st</sup> of each year, must include a description of the Banks' asset size, level of complexity, risk profile, and scope of operations in order to support the continuation of the exemptions.
6. The OCC may rescind or modify this exemption if the OCC determines that application of the risk-based capital standards set forth in 12 C.F.R. part 3, subpart D, as applicable, as reported in the Banks' Call Report, and any subsequent revisions thereto are no longer appropriate for the Banks.

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<sup>3</sup> Id.

The above-listed conditions of this approval are conditions "imposed in writing by [the OCC] in connection with any action on any application, notice, or other request" within the meaning of 12 U.S.C. § 1818 and, as such, are enforceable under 12 U.S.C. § 1818.

This exemption determination is based on the Banks' information available to the OCC as of December 18, 2013. The OCC may rescind or modify this exemption if the OCC determines that any representation, submission, or information provided by the Banks is not accurate, is not fulfilled, or if the Banks fail to satisfy the conditions set forth above.

This exemption determination and the activities and communications by OCC employees in connection with this determination, 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. The non-contractual nature of the OCC's communications with the Banks or with any of their affiliates and the OCC's continuing ability to exercise its supervisory, regulatory, and examination authorities are terms and conditions that may not be waived or modified by any employee or agent of the OCC or the United States.

If you have any questions about the approval or the conditions specified above, please do not hesitate to contact Examiner-in-Charge Grace E. Dailey at (612) 303-4091.

Sincerely,

*signed*

Martin Pfinsgraff  
Senior Deputy Comptroller  
Large Bank Supervision