



Conditional Approval #1249
August 2020

July 29, 2020

Ms. Stephanie E. Kalahurka, Partner
Fenimore, Kay, Harrison & Ford LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106

Re: New Bank Charter Application
Agility Bank, National Association (Proposed), Houston, Texas
OCC Control No.: 2020-SO-Charter-314136
Proposed Charter No.: 25225

Dear Ms. Kalahurka:

The Office of the Comptroller of the Currency (OCC) has reviewed the application you submitted on behalf of Agility Bank, National Association, Houston, Texas (Bank) (Charter No. 25225) to establish a new national bank. The OCC has determined your proposal satisfies applicable regulatory and policy requirements for preliminary approval and therefore hereby grants preliminary conditional approval of your charter application, subject to the conditions set forth in this letter.

This preliminary conditional approval is granted based on a thorough evaluation of all information available to the 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 proposed Bank will apply for Federal Reserve membership and will obtain deposit insurance from the Federal Deposit Insurance Corporation (FDIC).

This preliminary conditional approval is subject to the following conditions:

1. The Bank shall: (i) give the Houston Supervisory Office at least sixty (60) days prior written notice of its intent to significantly deviate or change from its business plan or operations,¹ and (ii) 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

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

written determination of no objection to a bank’s notice. This condition shall remain in effect during the Bank’s first three years of operation.

2. The Bank shall maintain minimum capital levels commensurate with the prospective risk of the Bank’s business plan, with a tier 1 leverage ratio of no less than 8.0 percent throughout the first three years of operation; and
3. After the Bank commences business, the Bank must file an Interagency Biographical and Financial Report and related background investigation documents with the Houston Supervisory Office and receive a letter of no objection from the OCC prior to any new executive officer or director assuming such position. This condition shall remain in effect during the Bank’s first two years of operation.

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 USC 1818. As such, the conditions are enforceable under 12 USC 1818.

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.

The Bank’s initial paid-in capital, net of all organizational and preopening expenses, shall be no less than \$28.9 million. The manner in which capital is raised must not deviate from that described in the application 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, and/or organizers as proposed in the application:

<u>Name</u>	<u>Title</u>
Lauren M. Sparks	Chairwoman, President, CEO & Organizer
Raymond L. Harrison, III	Chief Financial Officer, Director & Organizer
Diamantina Veserra	Chief Operations Officer
Jose Pedraza	Chief Technology Officer
Maureen Ippolito Sanders	Director & Organizer
Deborah Green Sopher	Director & Organizer
Edna Meyer Nelson	Director & Organizer
James E. McLean	Director & Organizer

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.

Background checks requested by the OCC have not been received yet from two sources for Diamantina Veserra. Accordingly, the continued service of Ms. Veserra will be dependent on satisfactory completion of the background investigation process.

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: <https://www.occ.gov/publications/publications-by-type/licensing-manuals/charters.pdf>. The booklet contains all of the steps you must take to receive final approval.

As detailed in the booklet, you may begin organizing the Bank as soon as you adopt and forward Articles of Association and the Organization Certificate to the Director for District Licensing in 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.

Attached 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:

- The Bank must file an Interagency Biographical and Financial Report and related background investigation documents with the Houston Supervisory Office and receive a letter of no objection from the OCC for the individual selected for the position of Chief Credit Officer/Chief Lending Officer.

The Bank must submit to the Houston 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.

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/html_pages/it_01.html.

The Bank must have a security program in place that complies with the "Interagency Guidelines Establishing Standards for Safeguarding Customer Information" specified at 12 CFR 30, Appendix B.

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 preliminary conditional 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

A separate letter is attached requesting your feedback on how we handled the referenced application. We would appreciate your response so we may improve our service. If you have any questions, contact Licensing Analyst Valarina Oliver-Dumont at (312) 360-8886 or by email at Valarina.dumont@occ.treas.gov. Please include the OCC control number on any correspondence related to this filing.

Sincerely,

Louis Gittleman
Director for District Licensing

Attachments: Survey
Minimum Policies and Procedures

