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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

**Conditional Approval #462**  
**May 2001**

April 4, 2001

Gregory J. Lyons, P.C.  
Spokesperson  
Goodwin Procter LLP  
Exchange Place  
53 State Street  
Boston, MA 02109

Re: Applications to convert Treasury Bank, Ltd., Washington, D. C., into a national banking association, to merge an interim national bank, Treasury Bank Interim, National Association, Washington, D. C. with and into Treasury Bank Ltd., to relocate Treasury Bank Ltd. to Alexandria, Virginia and change its name to Effinity Bank, National Association.  
Charter Number: 24141  
Application Control Numbers: 2000-NE-01-0026, 02-0025 and 07-0037

Dear Mr. Lyons:

On August 17, 2000, and as subsequently supplemented, Treasury Bank, Ltd., Washington, DC, filed applications with the Office of the Comptroller of the Currency (OCC), to convert into a national banking association, to merge an interim national bank, Treasury Bank Interim, National Association, Washington, DC, with and into Treasury Bank Ltd.,<sup>1</sup> to relocate Treasury Bank Ltd. to Alexandria, Virginia and operate under the title of Effinity Bank, National Association (the Bank). Countrywide Credit Industries, Inc. (CCI), and its wholly-owned subsidiary, Countrywide Financial Holding Company, Inc. (CFHC), both of Calabasas, California, and Effinity Financial Corporation, Alexandria, Virginia (EFC)<sup>2</sup>, (collectively referred to as Acquirers) have

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<sup>1</sup>The Bank has represented that Treasury Bank's inactive mortgage subsidiary, Treasury Bank Mortgage Capital Corp., will be liquidated and dissolved as soon as practicable following the merger; and Treasury Worldwide, L.L.C., an online service offering foreign currency time deposit accounts, will be disposed of prior to consummation.

<sup>2</sup>Acquirers' application to form an interim national bank was approved on September 8, 2000. In addition, Acquirers have filed with the Federal Reserve Bank of Richmond to become bank holding companies, and elect to be treated as financial holding companies in accordance with Section 4(1) of the Bank Holding Company Act. EFC is the proposed direct parent of the target bank.

represented that, simultaneous with the aforementioned transactions, Acquirers will acquire the Bank. Public comments were received from a community organization with respect to the applications.

After a thorough evaluation of all data available to the OCC, we found the proposal met the requirements for conditional approval of the proposed conversion, merger, relocation, and residency waivers. The conditions imposed are set forth in Attachment One. Conditional approval is granted based on the representations and commitments made in the applications and by the Bank's representatives. We also made the decision to grant conditional approval with the understanding that the Bank will apply for membership in the Federal Reserve System.

CCI's principal subsidiary is Countrywide Home Loans, Inc. (CHL), which is one of the top five mortgage lenders in the United States. CCI also engages in loan servicing, capital markets, insurance,<sup>3</sup> and miscellaneous other operations such as credit reporting and appraisals. As of the nine months ending November 30, 2000, CCI reported total loan production of \$48.4 billion, equity of \$3.2 billion, and net income of \$360 million.<sup>4</sup> Acquirers intend to enhance and strengthen Treasury Bank's marketing strategy by transforming it into an Internet-primary bank. CCI should have the requisite financial capacity, including access to public and private capital sources, to provide capital support to the Bank if necessary.<sup>5</sup>

The Bank's main office will be located in Alexandria, Virginia, where customers will be able to conduct limited banking business. No other dedicated banking offices will provide access to customers, as the Bank will deliver products and services to its retail customers through a variety of electronic delivery channels including the Internet, automated teller machines (ATMs) and/or remote service units.<sup>6</sup> In addition, customers will be able to access information on banking

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<sup>3</sup>The OCC has sent letters to the insurance commissioners in the states of residency for CCI's insurance subsidiaries notifying the commissioners of the proposed affiliation of Bank with the CCI organization, which includes companies engaged in insurance activities.

<sup>4</sup>According to CCI, its consolidated tier one leverage ratio was 11.3 percent at November 30, 2000.

<sup>5</sup>We have imposed a condition requiring CCI, CFHC, and EFC to execute an agreement with the Bank setting forth the obligation to provide the Bank with any necessary capital and liquidity support, and, if required by the OCC, to provide collateral to support those obligations. CCI has committed that no more than 25 percent of Effinity Bank's tier one capital will be in the form of mortgage servicing rights. Refer to condition numbers one and four.

<sup>6</sup>The OCC expects national banks to exercise appropriate caution and due diligence when opening accounts using the Internet, mail, telephone, call center, and other non-traditional means. Internal systems and controls should address the risks associated with such accounts and include appropriate procedures to authenticate customers and to verify customer information as part of the account opening process and to monitor for fraud after an account has been opened. Pursuant to condition number three, we will ensure that the Bank has developed and implemented satisfactory internal systems and controls in this area prior to launching its Internet strategy. Additionally, the Bank has committed to comply with applicable regulatory requirements relating to customer authentication including such requirements that the OCC may issue in the future.

services through CHL's nationwide network of offices. The Bank's customers will be required to have a valid U.S. address, proper identification, and a valid social security number.

The Bank will allow customers to initiate most transactions on-line, including opening, closing, and funding of deposit accounts, and completing loan applications.<sup>7</sup> Credit decisions will be conveyed to customers through use of mail services, the telephone, and secure e-mail. With respect to deposit account functions, the Bank may use ACH transfers in order to reduce the time associated with closing of accounts.<sup>8</sup> The Bank represents that the OCC will review and approve any implementation of new authentication mechanisms. In addition, the Bank represents that it will comply with the operating rules, operating guidelines, and other issuances of the National Automated Clearing House Association (NACHA).<sup>9</sup>

The Bank's business and marketing strategies are based upon CCI's extensive experience in securing and maintaining customer loyalty programs as a source of loan volume. The Bank will solicit "affinity partnerships" through cross-selling its products and services to customers of the Acquirers by establishing a private label clientele. The Bank will establish individual divisions to provide products and services specific to the needs expressed by the affinity groups. The Bank represents that its products and services will be open to all individuals nationwide, as will the banking divisions of all affinity groups. The Bank represents that under its affinity banking and marketing agreements, and its privacy policy,<sup>10</sup> affinity groups will never be provided individual

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<sup>7</sup>Bank represents that it will properly disclose Bank's legal name and charter authority on all division correspondence, checks, disclosures, and the like in accordance with the OCC's policy on branch and trade names and to avoid customer confusion relating to federal deposit insurance limits. In the event an individual should open a deposit account under more than one banking program offered by the Bank under different Bank divisions and/or the brand name of different affinity groups, the accounts will be consolidated for purposes of FDIC deposit insurance. *See* 12 U.S.C. §§ 1813(m), 1817(i), and 1821(a). Insured deposit limits are determined in accordance with regulations prescribed by the FDIC at 12 C.F.R. Part 330.

<sup>8</sup>The Bank is investigating a number of products, including an interbank check referral, that might streamline the account opening process. Bank has represented that an inter-bank check referral product will not likely be among the immediate product offerings.

<sup>9</sup>The NACHA has recently approved new rules dealing with Internet-initiated debits (effective March 16, 2001) and telephone-initiated debits (effective September 14, 2001). The Bank will need to ensure that its customers also conform to these new rules.

<sup>10</sup>At the examination (discussed further below), the OCC also will review the Bank's policies, procedures, and controls for ensuring customer privacy and compliance with consumer protection laws and regulations. This review will include confirmation that adequate policies have been implemented in these areas. The Bank also must ensure compliance with the regulations implementing Subtitle A of Title V of the Gramm-Leach-Bliley Act (GLBA) entitled "Privacy of Consumer Financial Information" ("Privacy Rule"). 65 Fed. Reg. 35162 (June 1, 2000) (to be codified at 12 CFR Part 40). Compliance with such regulations is mandatory on July 1, 2001. In addition, the OCC has issued guidance for national banks on examples of effective practices for informing customers over the Internet about bank policies for the collection and use of personal information. The guidance discusses examples of effective practices for the development of bank privacy policies and measures for ensuring adherence to those policies. *See* "Guidance to National Banks on Web Site Privacy Statements," OCC Advisory Letter 99-6, May 4, 1999. *See also* OCC Bulletin 2000-6 (Privacy of Financial Information), March 2, 2000.

account or usage data; only aggregated data (usages) profiles will be provided. The Bank commits to comply with OCC guidance with respect to co-brands and private labels. The Bank represents that it will undertake an extensive due diligence on every prospective affinity group, including analyses of reputation risks, privacy practices, and performance.

For those specific services not previously discussed, the Bank will perform some key operational functions internally, while contracting with affiliates and third party service providers for the provision of other functions.<sup>11</sup> The Bank staff will perform business and strategic planning, marketing, call center operations, and loan review and approval. CHL will perform asset/liability management services and CCI's Internal Audit Department will administer the internal audit function. Each function to be performed by affiliates is covered in various written agreements between the Bank and the affiliate. The Bank will outsource its Internet banking system, core processing services, check processing, check imaging, financial reporting, and customer scoring.<sup>12</sup>

The Bank will offer traditional deposit and credit products and services to consumers. Deposit-related products and services include checking and savings accounts, certificates of deposit, electronic bill payment, and an ATM card. Initially, loan products will include mortgage-related and overdraft protection loans only. In the future, the Bank may add products and services such as consumer loans, credit cards, and trust services.<sup>13</sup> By letter dated March 27, 2001 amending its application, the Bank committed to several specific undertakings related to compliance with RESPA. The Bank committed to comply with the policies and procedures described in the letter and to not modify them without prior approval of the OCC. The OCC relied upon those representations and commitments in making its decision on the applications.

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<sup>11</sup>The Bank Service Company Act (BSCA) requires that the Bank notify the OCC of service relationships within thirty days after the making of such service contract or the performance of the service, whichever occurs first. 12 U.S.C. §1867(c)(2). To the extent that third-party vendors perform the services for the Bank through EFC or otherwise, third-party vendors will be subject to federal banking regulations and examinations to the same extent as if such services were being performed by the Bank itself. In addition, such arrangements must conform to 12 U.S.C. §§ 371c & 371c-1.

<sup>12</sup>See OCC Advisory Letter 2000-12 and FFIEC Statement, "Risk Management of Outsourced Technology Services" (November 28, 2000).

<sup>13</sup>Bank may also offer an additional strategy that will not be part of its initial product set. The Bank may reframe the Treasury brand as a division and offer commercial banking services such as cash management, lockbox operations or escrow services. The viability of these services will be tested through a pilot program (included in its financial projections) with CHL that will provide cash management services for escrow balances held in the form of: (1) taxes and insurance, and (2) principal and interest. The Bank represents that it will consult with the OCC prior to implementation of any re-branding programs. The OCC considers a change in banking products such as is described here to be a "significant deviation or change from the operating plan", and requires prior notification and approval by the District Deputy Comptroller. Refer to condition number nine.

The Bank will contract with CHL for certain origination and underwriting services for loans funded and booked by the Bank, and for servicing. The Bank will not purchase loans from CHL on a routine basis. The Bank may purchase mortgage loans within its assessment area from CHL or other third-party lenders in connection with its Community Reinvestment Act (CRA) activities. The Bank has committed that any such loan purchases from CHL will comply with 12 CFR § 250.250. Delegated underwriting services and servicing will be conducted by CHL in accordance with parameters and policies established, approved and monitored by the Bank. The Bank has the discretion to reject any loan to be made on its behalf that does not meet applicable underwriting guidelines. Further, the Bank will establish an independent credit review committee to review loans based on underwriting guidelines and policies adopted by the Bank's Board of Directors. The Bank has committed to comply with the requirements of 12 U.S.C. § 371c and 371c-1 with respect to these arrangements.

The Bank plans to offer securities and insurance services eventually via web links to a third-party provider.<sup>14</sup> The web links will be consistent with OCC's guidance on transactional web sites set forth in Interpretive Letter No. 889, reprinted in [current] Fed. Banking L. Rep p 81-408 (Apr. 24, 2000), OCC Conditional Approval No. 313 (July 9, 1999) and OCC Conditional Approval No. 221 (Dec. 4, 1996), and any further OCC issuances on the subject.<sup>15</sup> The Bank represents that it will comply with applicable law, including 12 C.F.R. Part 14, the Interagency Statement on Sales of Nondeposit Investment Products and subsequent OCC guidance, and the regulations implementing section 305 of the GLBA, entitled "Consumer Protections for Depository Institution Sale of Insurance," 65 Fed Reg. 75822 (December 4, 2000) (to be codified at 12 CFR Part 14). However, until a provider agreement is executed for insurance services, Countrywide Insurance Services, Inc. will provide all insurance products.

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<sup>14</sup>Consistent with the Bank's requirement of all vendors, the Bank has represented that the provider arrangements will require a privacy policy that is substantially similar in all material respects to the Bank's policy (or in the alternative, comply with the Bank's privacy policy with respect to the Bank's customers referred to the provider).

<sup>15</sup>The OCC has found that national banks may, as part of the finder authority (*See* 12 C.F.R. §7.1002), establish hyperlinks between a bank's retail web pages and the web pages of third parties. *See, e.g.,* Conditional Approval No. 347 (Jan. 29, 2000) (chartering AeroBank.com to deliver products and services to customers through a variety of electronic delivery channels, including the Internet); Interpretive Letter No.875 (Oct. 31, 1999) (national bank may operate a "virtual mall;" i.e. a bank-hosted set of web pages with various links to third party web site offering a range of financial and non-financial products and services).

The OCC previously has indicated that it expects national banks offering these hyperlinks to take reasonable steps to clearly distinguish between products and services that are offered by the bank and those offered by a third party or bank affiliate. Bank customers should be able to identify when they are dealing with the bank itself and when they are dealing with another party. Unless the Bank is jointly offering, sponsoring, or endorsing a product in accordance with the joint agreement exception in section 40.13 of the Privacy Rule, the Bank should indicate that it does not provide, endorse, or guarantee any of the products or services available through the third party web pages. For links to pages that provide nondeposit investment products, the disclosures also should alert customers to risks associated with these products, for example, by stating that the products are not insured by the FDIC, are not a deposit, and may lose value. Further, the Bank should ensure the appropriate placement of disclosures via electronic means on its web page(s). *See, e.g.* OCC Bulletin 98-31 (July 30, 1998)("FFIEC Guidance on Electronic Financial Services and Consumer Compliance").

The Bank plans to modify Treasury's existing CRA Plan to include additional products and services, and the alternative delivery channels. The Bank will retain the existing assessment area defined as including the Washington, D.C., Maryland, Virginia, and West Virginia Primary Metropolitan Statistical Area, consistent with the requirements in the CRA regulations. *See* 12 C.F.R. § 25.41. The Bank plans to expand the Plan to include regular community outreach programs and to concentrate its investment portfolio on CRA qualified investments.

Although Acquirers have no CRA obligations, they support the Bank's CRA efforts and believe their own efforts in this regard are worthy of mention. In connection with the filing of the applications, CCI has reaffirmed representations made under its voluntary declaration with the U. S. Department of Housing and Urban Development. Under the declaration, CCI has established fair lending goals and objectives encompassed in its House America lending program. Its pledge under House America includes specific numerical goals and lending standards established to meet the needs of low- to moderate-income (LMI) persons in historically under-served segments of the community, including the Bank's assessment area. One of House America's major goals was modified recently by increasing total financings in home loans to LMI families and communities from \$50 billion to \$80 billion. Other goals include establishment of at least 15 House America branches, free credit counseling and education, free educational materials on home ownership, partnerships with minority home counseling associations, and community outreach efforts.

As of December 2000, CCI had exceeded most of its goals and objectives, including establishing 22 House America branches and providing funds amounting to \$60 billion for home loans. Within the Bank's assessment area, CCI has established two House America branches, held six home buying fairs, and participated in several down payment and closing costs assistance programs. CCI has represented that it will provide the OCC with an annual report of accomplishments for the House America program, which will include its performance in the Bank's assessment area. The Bank and CCI will also make available to examiners on request, updates to its CRA and compliance training for staff in CHL's nationwide branches.

The Bank has also represented that it intends to retain its membership in the Federal Home Loan Bank (FHLB) System. If, at any time, the Bank ceases to be a member of the FHLB System, it must use its best efforts, including contacting the appropriate FHLB and/or the Federal Housing Finance Board, to dispose of any stock in the FHLB. The OCC will consider this stock a nonconforming asset for any period that the Bank is not a member of the FHLB System.

In evaluating this proposal, the OCC performed a thorough assessment of management and the proposed operating plan, including the results of a pre-conversion field investigation. The OCC also took into consideration comments that were filed by a community organization.

The OCC has concluded that the proposed management team and directorate have satisfactory experience to run the proposed operations in a safe and sound manner. On a pro forma basis, the Bank is considered to have an overall satisfactory composite rating, to have a satisfactory rating

for management, and to be well capitalized. In addition, based on publicly available Home Mortgage Disclosure Act (HMDA) data and correspondence from the Acquirers, the OCC has found no evidence of disproportionately higher rates being charged to protected classes, as alleged by the community organization.

The OCC poses no objection to the following persons serving as executive officers and directors as proposed in the applications. The OCC's non-objection does not include other executive officer positions such as the Chief Risk, Chief Compliance, Vice President for Business Development, and Senior Vice President/Chief Credit officers, and such officers are subject to the OCC's prior review and clearance.

<u>Name</u>	<u>Proposed Position</u>
Edward E. Furash <sup>16</sup>	Chairman, Chief Executive Officer, Director
James S. Furash	President, Chief Operating Officer, Director
Mark P. Suter	Senior Vice President and Chief Strategy Officer
Sean Sievers	Senior Vice President, Finance and Treasurer
David Herbert	Chief Information Officer
Kevin W. Bartlett	Director
Thomas H. Boone	Director
Carlos M. Garcia	Director
Stanford L. Kurland	Director
David Sambol	Director
Clarence Simmons, III	Director

The OCC also grants your waiver requests of the residency requirements of 12 U.S.C. § 72 for Messrs. Bartlett, Boone, Garcia, Kurland, Sambol, and Simmons. This waiver is granted 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, sound, and lawful manner. Please understand that 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 Bank's proposed operating plan appears to be reasonable. The financial projections show the Bank becoming profitable within three years and maintaining a minimum leverage ratio of eight (8) percent. However, the OCC recognizes that the market segment comprised of "Internet-primary" financial institutions remains in its infancy. Market competitors have not yet achieved consistent and sustained growth and profitability. Accordingly, the Bank is expected to perform

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<sup>16</sup> Mr. Furash is presently a director and Chairman of the Audit Committee of Pennsylvania Business Bank (PBB), Philadelphia, Pennsylvania, with total assets of \$82 million (12/31/2000). Because Treasury and PBB do not presently maintain offices in the same community or relevant metropolitan statistical area and will not maintain offices in the same community or RMSA following the closing of the transactions, the interlock is not prohibited under the Depository Institution Management Interlocks Act, as implemented by the OCC at 12 CFR § 26.3(a) and (b).

in accordance with its operating plan and financial projections. Any significant deviations from the original operating plan, or changes in the organizing group or chief executive officer, must receive the prior written approval of the OCC. As stated in condition number eight, the Bank staff should send the written request to the Northeastern District Deputy Comptroller.

The OCC received a CRA-related comment from a community organization during the comment period. The commenter expressed concern that CCI is heavily involved in subprime lending and through Full Spectrum Lending, Inc., (FSL - a separate CCI subsidiary that deals specifically with sub-prime home mortgage lending), disproportionately targets protected classes with high interest rate loans in several MSAs across the country.

The OCC reviewed publicly available financial statements for CCI. Based upon this review, subprime loans comprised 3 percent of CCI's total production in fiscal year (FY) 1999 and 6 percent in FY2000. The Bank has represented that FSL has a "referral up" program, in which applicants for subprime products will be offered the opportunity to apply for prime products if they qualify. Finally, the Bank and CHL have represented that CHL does not make subprime loans.

In addition, with respect to the fair lending issues raised by the community organization, CCI represented that it has fair lending programs in place that provide tools for monitoring for issues and assisting with training, and to prevent the origination of predatory loans. These tools may include using mystery shoppers or matched pair testing, and regression or other statistical analyses. Further, CCI and FSL represent that (a) it engages in self-testing, and (b) will take corrective measures if an issue is found as a result of self-testing. CCI, CHL, and FSL have confirmed that they comply with the requirements of the Equal Credit Opportunity Act and Regulation B. Further, CCI, CHL, and FSL have represented that no final determination has ever been made by the Federal Trade Commission, HUD, or any state authority that CCI, CHL, or FSL violated fair lending laws or regulations.

The commenter further alleges that the limitation of [the Bank's] CRA assessment area would be particularly harmful, as it would limit scrutiny and review of CHL's lending. The OCC has determined that the delineation of the Bank's initial assessment area is in accordance with the CRA regulations. To the extent that the Bank's operations change in the future, its assessment area will be reevaluated.

In summary, our investigation and analysis of the issues identified no basis for denying the applications, based on any CRA considerations.

Please be advised that the OCC also authorizes the resulting bank, should the merger occur between Call Report dates, to recalculate its legal lending limit. The new lending limit should be calculated by using data from the last Call Report of Treasury Bank Ltd. filed prior to consummating the merger, as adjusted for the merger. The resulting bank will then file a new Call Report and begin calculating its legal lending limit according to 12 C.F.R. § 32.4(a) at the end of the quarter following consummation of the merger.

We will not issue a letter certifying consummation of the merger until we have received:

1. A Secretary's Certificate for each applicant institution, certifying that 100 percent of the board of directors has agreed to the proposed merger;
2. An executed merger agreement with Articles of Association for the resulting bank attached;  
and
3. A Secretary's Certificate for each institution, certifying that 100 percent of the shareholders have approved the transaction(s).

The Licensing Operations division in our Northeastern District Office must be advised in writing in advance of the desired effective date for the conversion, merger, and relocation so that the OCC may issue the necessary certification and authorization letters. If the transactions are not consummated in the timeframes discussed below, the approvals contained in this letter shall automatically terminate unless the OCC grants an extension on the time period.

The conversion must be consummated within six months from the date of the approval date. Upon conversion, please submit a letter certifying that you have completed all steps required to convert to a national banking association (sample enclosed).

The steps to complete the merger are contained in the "[Business Combination](#)" booklet. The effective date of the merger must be after the expiration of the period during which the DOJ may file an injunction to stop the merger, i.e., at least 15 days after the date of this letter. The merger must be consummated within one year from the approval date.

Bank's sole office must be relocated within 18 months from the approval date.

Effinity Bank, National Association  
Mr. Gregory Lyons, Spokesperson  
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The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications. You should direct any questions concerning this conditional approval to Mrs. Linda Leickel, Senior Licensing Analyst in our Northeastern District Office at (212) 790-4055.

Sincerely,

-signed-

Julie L. Williams  
First Senior Deputy Comptroller and Chief Counsel

Enclosures: Conversion Completed Certification Sample Letter  
Minimum Policies and Procedures

### Attachment One

All of the conditions of this approval are “conditions imposed in writing by the agency in connection with the granting of any application or other request” within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

1. The Bank’s initial Tier 1 capital, as defined by 12 CFR, Part 3, must be no less than \$37.6 million at consummation of the transaction and at the end of year one, \$71.0 million at the end of year two, and \$114.5 million at the end of year three of operations, including the effects of the Bank’s representation that mortgage servicing rights as a component of tier one capital shall not exceed 25 percent.
2. Within 30 days after the effective date of the conversion, the Bank’s Board of Directors must execute a binding written agreement with the OCC setting forth certain actions the Bank will take, including but not limited to actions to maintain capital levels set forth in the Bank’s operating plan, developing a corrective action plan or new satisfactory business plan to remedy plan shortfalls or failures; or developing and implementing a contingency plan for sale or merger, or liquidation of the Bank under 12 U.S.C. § 181, if the Bank does not achieve Internet operating plan results. The Board shall implement and ensure continued adherence to the terms of the agreement. The agreement shall remain in existence for the Bank’s first three years of operations, or until the Bank reports four (4) consecutive quarters of profitability, whichever is longer.
3. Within 60 days after the effective date of the conversion, the Bank must develop and implement a comprehensive data security program that sets forth policies, procedures and controls to safeguard the Bank’s information and defines individual responsibilities and ensures compliance with final regulations implementing Subtitle A of Title V of the GLBA. 66 Fed. Reg. 8616 (February 1, 2001) (to be codified at 12 CFR Part 30). The level of controls established should be commensurate with the degree of risk. Security controls should specifically address network and data access, user authentication, transaction verification, and virus protection. In addition, an intrusion protection strategy and risk management plan is needed to ensure compliance with OCC Bulletin 2000-14.
4. Prior to the effective date of the conversion, the Bank must develop the following operating policies and procedures, programs, agreements, or other specified actions, which it shall thereafter implement:
  - (a) The Bank and CCI, CFHC, and EFC must enter into a binding written agreement setting forth the parent companies’ obligations to provide capital maintenance and liquidity support to the Bank, if and when necessary. The terms and provisions of this capital and liquidity maintenance agreement must be acceptable to the Bank and the OCC, and shall include a provision for collateral to support those obligations, if required by the OCC.

- (b) The Bank must develop and implement a bank-wide disaster recovery contingency plan pursuant to OCC and Federal Financial Institutions Examination Council (FFIEC) interagency guidelines. Plans should establish the Bank's course of action in the event of a system failure, unauthorized intrusions, and other events, and should be integrated with all other business continuity plans for the Bank operations.
- (c) The Bank must implement an independent internal audit function that is appropriate for its size and scope of activities. The internal audit function should be supervised and staffed by individuals with sufficient expertise to identify the risks inherent in the Bank's operations and to assess the effectiveness of internal controls.
- (d) The Bank must develop and implement a comprehensive Affiliate Transaction Policy pursuant to federal regulatory guidelines. Any services performed by affiliates for the Bank and payment to said affiliates by the Bank must be rendered pursuant to contracts that comply with federal law and regulation, reflect safe and sound practices, and are at costs no higher than those that the Bank would pay an independent third party for the same services.
- (e) The Bank must develop and implement a credit underwriting policy that covers each bank product. The policy should communicate the Board's desired risk tolerance by addressing underwriting standards and processes; financial information requirements; deposit reserve requirements; override authority; and exception reporting.
- (f) The Bank must develop and implement a comprehensive Risk Management program, policies, procedures, and operating practices to ensure compliance with laws and regulations applicable to national banks; and rules, guidelines, and issuances of the National Automated Clearing House Association with respect to ACH transactions, including as to exposure limits required thereunder.
- (g) The Bank must develop and implement and implement a formal vendor management program. The program should include an overall vendor management policy, accompanied by general procedures. The program should cover general contract contents, management roles and responsibilities, MIS reporting, security of customer information, and minimum standards for quality assurance reviews, including review of financial statements, business resumption contingency plans, third-party audits, service level agreement reports, and ongoing communications. (As CCI's vertical integration reduces the need for vendor management, expertise must be developed at the bank level.)
- (h) The "Management Services Agreement" (MSA), similar affiliate agreements, and

related contracts between Countrywide Credit Industries, Inc., affiliates, and the Bank must be finalized. The MSA constitutes a critical component of the business model, and is expected to address affinity relationships, marketing, delegated underwriting, loan servicing, internal audit, compliance, technology, and asset liability management, along with other support areas. Such agreements must be in compliance with federal law and regulation, reflect safe and sound practices, and be similar in cost to those that the Bank would pay an independent third party for the same services.

- (i) Policies and procedures specific to the Bank's operations and financial profile must be developed and implemented for all material areas, including, but not limited to, risk management processes, lending and deposit activities, asset liability management, consumer privacy,<sup>17</sup> and the Bank Secrecy Act.
  - (j) The Bank must recruit a full-time Chief Credit Officer with risk management responsibilities, an Operations Manager, and a Chief Compliance Officer, as well as an outside director. These individuals are subject to the OCC's prior review and clearance.
5. The Bank must develop and maintain alternative business strategies and integrate them into its operating and strategic plans and funds management and capital policies. The objective of the alternative business strategies is to help ensure that the Bank can prudently, efficiently, and effectively manage potential scenarios where the loan or deposit mixes, interest rates, losses, operating expenses, marketing costs, and/or growth rates differ significantly from the operating plan. This includes identification of primary and secondary sources of additional capital in the future if necessary. The Bank should update the alternative business strategies periodically as the Bank's condition and marketplace conditions change. The Bank must submit the alternative business strategies to the OCC for review and approval.
6. The Bank must notify all potential vendors in writing of the OCC's examination and regulatory authority under 12 U.S.C. § 1867(c). All final vendor contracts must stipulate that the performance of services provided by the vendors to the Bank is subject to the OCC's examination and regulatory authority.
7. The Bank will notify the OCC's Assistant Deputy Comptroller in the Washington Field Office, at least 30 days before it begins to enable electronic payments by means other than

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<sup>17</sup>See "Privacy of Consumer Financial Information," 65 Fed. Reg. 35162 (June 1, 2000)(to be codified at 12 CFR Part 40). The OCC has issued guidance for national banks on examples of effective practices for informing customers over the Internet about bank policies for the collection and use of personal information. The guidance discusses examples of effective practices for the development of bank privacy policies and measures for ensuring adherence to those policies. See "Guidance to National Banks on Web Site Privacy Statements," OCC Advisory Letter 99-6, May 4, 1999," <http://www.occ.treas.gov/advlst99.htm>.

wire transfers, debit or credit cards or ACH transfers.

8. During the first three years of operations, or until the Bank has reported four (4) consecutive quarters of profitability, whichever is longer, the Bank must request and obtain prior approval from the District Deputy Comptroller for the Northeastern District before implementing any significant deviation or change from the operating plan. The Bank must seek such approval sixty (60) days prior to any proposed significant deviation or change. The Bank must also provide a copy of such notice to the relevant FDIC regional office.

## Letter Certifying Conversion Completion

Date

Licensing Manager, District  
Comptroller of the Currency  
Address  
City, State, ZIP Code

Re: Application Description, CAIS Control Number

Dear Licensing Manager:

This certifies that we have taken all steps required to convert to a national bank, executed all documents required to organize, and retained them in the bank's file. We also certify that:

- The shareholders' approved and a majority of the board of directors authorized the conversion.
- The Bylaws have been adopted (*amended*).
- All directors have acquired shares in accordance with 12 USC 72 and 12 CFR 7.2005.

The following documents are enclosed:

- Oath and List of National Bank Directors (joint/individual).
- Executed Articles of Association.
- Executed Organization Certificate.

We plan to open as a national bank on (*date*). We look forward to receiving a national bank charter certificate and (if applicable) branch authorizations.

Sincerely,

Authorized Representative

Enclosures