



Comptroller of the Currency
Administrator of National Banks

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September 27, 2004

**Conditional Approval #652
October 2004**

Mr. David F. Freeman, Jr.
Arnold & Porter LLP
555 Twelfth Street, NW
Washington, D.C. 20004-1206

Re: Bessemer Trust Company of Delaware, National Association (Proposed), Wilmington, DE
(Charter #24547)
Trust Company Charter - Application No. 2004-NE-01-0009
Operating Subsidiary - Application No. 2004-NE-08-0021
Citizenship Waiver - Application No. 2004-NE-12-0239

Dear Mr. Freeman:

The Office of the Comptroller of the Currency (“OCC”) has reviewed your application, filed on behalf of Bessemer Trust Company, National Association, New York, NY to establish a new national trust bank, which will engage solely in fiduciary activities, with the title of Bessemer Trust Company of Delaware, National Association (“Bank”). On September 23, 2004, the OCC granted preliminary conditional approval of your charter application after a determination that your proposal met certain regulatory and policy requirements. In addition, your request to establish the new bank as an operating subsidiary of Bessemer Trust Company, National Association is approved.

This approval is granted based on a thorough review of all information available, including the representations and commitments made in the application and by the proposed Bank’s representatives. We also made our decision to grant preliminary conditional approval with the understanding that the proposed national bank will apply for membership in the Federal Reserve System and will not be FDIC-insured.

The Bank’s initial Tier 1 capital, net of all organizational and preopening expenses, shall be no less than \$5 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

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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.

This preliminary conditional approval is subject to the following conditions:

1. At all times, the Bank shall maintain a minimum of \$3 million in Tier 1 capital.
2. If the Bank fails to maintain Tier 1 capital in the amount of \$3 million, the Bank shall be deemed "undercapitalized," for the purposes of 12 U.S.C. § 1831o and 12 C.F.R. § 6, and the OCC shall have the authority to take any action authorized under all provisions of 12 U.S.C. § 1831o and 12 C.F.R. § 6 applicable to an undercapitalized national bank. For purposes of section 1831o(e)(5), an action "necessary to carry out the purpose of this section" shall include restoration of the Bank's capital so that it is not "undercapitalized," and any other action deemed advisable by the OCC to address the Bank's capital deficiency or the safety and soundness of its operations.
3. The Bank (i) shall give the OCC's Boston Field Office at least sixty (60) days prior written notice of its intent to significantly deviate or change from the business plan or operations and (ii) shall obtain the OCC's written determination of no objection before the Bank engages in any significant deviation or change from the business plan or operations.
4. The Bank must notify all potential technology-related vendors in writing of the OCC's examination and regulatory authority under 12 U.S.C. § 1867(c). All final technology-related 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. The provisions of 12 C.F.R. § 9 would be applicable to any fiduciary activities contracted out to vendors.
5. The Bank shall establish and maintain a Fiduciary Audit Committee consistent with requirements of 12 C.F.R. § 9.9 (c).
6. All transactions between the Bank and any affiliates, domestic or foreign, shall be conducted subject to the applicable provisions of 12 U.S.C. § 371c, 12 U.S.C. § 371c-1, or other applicable Federal law. The Board of Directors of the Bank annually shall review and approve the service agreements and any other transactions with domestic and foreign affiliates, including in particular any cost allocation, fee-sharing or tax-sharing provisions in such agreements or other transactions.

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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 and, as such, are enforceable under 12 U.S.C. § 1818.

The Bank is reminded that we expect it to maintain adequate capital and liquidity as set forth in OCC Bulletin 2000-26, dated September 28, 2000. Please be advised that the OCC is currently reviewing its capital and liquidity policy with respect to national trust banks. Should there be a change to our policy as a result of the review, we will advise you accordingly. In addition, if through future acquisitions, growth, or otherwise, the Bank's trust assets increase significantly, or if the Bank assumes additional risk, the OCC may require the Bank to hold additional capital. In acting on future applications, we would expect to raise the capital levels set forth in the above conditions if growth in trust assets or risks warrant.

Until final approval is granted, the OCC has the right to alter, suspend, or revoke conditional preliminary approval should any interim development be deemed by the OCC to warrant such action.

Please refer to the "Corporate Organization" booklet of the *Comptroller's Licensing Manual* at <http://www.occ.treas.gov> for the instructions on organizing the Bank. 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 acceptable Articles of Association and the Organization Certificate to this office. As a "body corporate" or legal entity, you may begin taking those steps necessary for obtaining final approval, but you may not begin the business of banking until you fulfill all requirements for a bank in organization and you are granted final approval by the OCC.

Enclosed are standard requirements that must be met, as applicable, before the Bank will be allowed to commence business. Management must ensure that the applicable policies and procedures are established and adopted by the Board of Directors before the Bank begins operation. Applicable standard requirements also must be satisfied before the Bank will be allowed to commence business.

The OCC poses no objection to the following persons serving as executive officers and directors of the Bank as proposed in the application.

Christopher Angell	Director
John Hilton	President, CEO, Director
Stuart Janney	Chairman of the Board
Winthrop Rutherford	Director
Thaddeus Shelly	Senior Managing Director, Director
John MacDonald	Managing Director, Chief Financial Officer, Treasurer
Richard Davis	Managing Director, General Counsel, and Secretary
William Forsyth	Managing Director, Senior Fiduciary Counsel

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The OCC hereby grants multiple waivers of the residency requirements of 12 USC 72 for the majority of the board of directors of the Bank. We understand that after their election, one of the bank's board of directors will meet the residency requirement of 12 USC 72. The bank may continue to appoint directors who do not meet the residency requirements without applying for individual waivers, as long as the ratio of directors remain the same as in this approval.

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.

You are reminded that additional executive officers to be appointed prior to opening are subject to the OCC's prior review and clearance. Also, for a period of two years after the Bank has opened for business, the Bank must seek and receive no objection from the OCC prior to any new executive officer or director assuming such position.

This 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 U.S., any agency or entity of the U.S., or any officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the U.S.

If you have any questions, please contact Kerry T. Rice, Licensing Analyst at (212) 790-4055.

Sincerely,

/s/ Linda Leickel

Linda L. Leickel
Acting Licensing Manager