March 23, 2018

CRA Decision #188
April 2018

Brian D. Christiansen, Esq.
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1440 New York Avenue, NW
Washington, DC 20005-2111

Re: Application to merge Trust Company of America, Centennial, Colorado, with and into E*TRADE Savings Bank, Arlington, Virginia
OCC Control No.: 2017-NE-Combination-300822 Charter No.: 718000

Dear Mr. Christiansen:

The Office of the Comptroller of the Currency (OCC) hereby approves the application to merge Trust Company of America, Centennial, Colorado (TCA), with and into E*TRADE Savings Bank, Arlington, Virginia (ETSB), under the charter and the title of the latter. This approval is granted based on a thorough review of all information available, including commitments and representations made in the application, merger agreement, and those of ETSB's representatives.

I. The Transaction

ETSB is a $4.3 billion federal savings bank that is headquartered in and operates from a single location in Arlington, Virginia. ETSB is a wholly-owned subsidiary of E*TRADE Bank, which in turn, is a wholly-owned subsidiary of E*TRADE Financial Corporation (ETFC), a financial services company that provides online brokerage and related products and services primarily to individual retail investors. ETSB's primary purpose is to provide sweep deposit accounts to brokerage clients of E*TRADE Securities, LLC (a registered broker-dealer and operating subsidiary of ETFC). ETSB does not have any branches, originate loans, or offer traditional bank customer deposit products or other traditional banking services.

TCA is a Federal Deposit Insurance Corporation-insured, non-member, state chartered depository trust company headquartered in Centennial, Colorado. TCA is a wholly-owned subsidiary of TCA Financial Corporation (TCAF). TCA provides custodial, trading, and recordkeeping services for over 180 independent registered investment advisors and their respective customers. TCA does not provide any investment advice or have any investment discretion. TCA holds approximately $18 billion in institutional assets under custody. TCA does not have any branches. ETSB intends to retain TCA's single office as a non-branch office of the resulting bank.

As described in the application, TCA will merge with and into ETSB, with ETSB being the surviving entity. In exchange, ETFC will make a cash payment of approximately $275 million to TCAF.

II. Bank Merger Act

The OCC reviewed the proposed merger transaction under the criteria of the Bank Merger Act (BMA) and applicable OCC regulations and policies. 12 USC 1828(c). Among other matters, we found that the proposed transaction would not have significant anticompetitive effects. We also considered the financial and managerial resources of the banks, their future prospects, their effectiveness in combating money laundering activities, the convenience and needs of the communities to be served, and the risk of the transaction to the stability of the United States banking or financial system. Furthermore, the OCC reviews records of compliance with the Community Reinvestment Act (CRA). 12 USC 2903(a)(2). We considered these factors and found them consistent with approval.

III. CRA and Convenience and Needs

In evaluating this proposed transaction, the OCC has considered (i) ETSB's most recent CRA performance evaluation (PE),[1] (ii) information available to the OCC as a result of its supervisory responsibilities, (iii) written public comments, and (iv) information provided by ETSB in response to public comments.

A. Community Reinvestment Act

The CRA requires the OCC to take into account a bank's performance record in helping to meet the credit needs of its communities, including low- and moderate-income (LMI) neighborhoods, when evaluating applications under the BMA. Under the regulations implementing the CRA, a bank's record of performance may be the basis for denying or conditioning approval of an application subject to the BMA. 12 CFR 195.29(d). Accordingly, the OCC considered ETSB's CRA PE. Based on this review, the OCC concluded that ETSB's record of performance under the CRA is consistent with approval of this application.

ETSB's most recent CRA PE is dated December 31, 2014. The bank's CRA overall rating was "satisfactory."[2] The major factors that supported this rating included the bank's (i) overall

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[1] The target, TCA, is a trust company that is not subject to evaluation under the CRA; therefore, no CRA PE has been prepared for this institution. See 12 CFR 345.11(c)(3). The resulting bank will be subject to CRA.

[2] A copy of ETSB's CRA PE is available at: https://www.occ.gov/static/cra/craeval/aug16/718000.pdf. On October 17, 2012, ETSB was approved for a "wholesale" designation starting January 1, 2013. During the course of the 2014 CRA evaluation, examiners reviewed ETSB's performance within its AAs in Arizona, California, Colorado, Florida, Georgia, Illinois, Michigan, Minnesota, New York, Oregon, Pennsylvania, and Texas for the period of January 1, 2013, through September 30, 2013. ETSB closed all the branches effective September 30, 2013, maintaining only a home office in Arlington, Virginia. As of October 1, 2013, ETSB's assessment areas (AA) consisted solely of two metropolitan divisions within the Washington-Alexandria-Arlington DC-VA-MD-WV metropolitan statistical area (District of Columbia MMSA). The OCC evaluated these AAs starting January 1, 2013, through December 31, 2014. In its 2014 CRA evaluation, ETSB received a "needs to improve" rating in the states

adequate level of community development (CD) activities; (ii) level of qualified investments; (iii) investment in a mortgage-backed security which demonstrated adequate responsiveness to meeting the financing need for permanent single-family housing for LMI individuals; (iv) high level of CD services in the District of Columbia and New York; and (v) overall adequate responsiveness to CD needs in its assessment areas (AA).

B. Convenience and Needs

Under the BMA, the OCC considers the convenience and needs of the communities to be served by the resulting bank.[3] Though a bank's CRA performance and the probable effects of the proposed transaction on the convenience and needs of the communities to be served are interrelated, as explained in the "Public Notice and Comments" booklet of the *Comptroller's Licensing Manual* (November 2017), consideration of a bank's CRA performance primarily looks to how the bank has performed in the past. A convenience and needs assessment considers how the combined bank will help to meet the needs of its community on a prospective basis. The OCC concluded that approval of this transaction is consistent with the convenience and needs of the communities that the resulting bank will serve.

IV. Summary of Public Comment, Applicant's Response, and Analysis

The OCC received and considered one comment letter opposing the proposed transaction. The commenter expressed concerns about ETSB's "needs to improve" ratings in six states. The commenter also requested that the OCC extend the comment period and hold a public hearing.[4]

The OCC also considered ETSB's responses to the comments. ETSB is not a traditional bank in that it does not offer retail products such as checking accounts or loans[5] or accept retail deposit accounts. ETSB receives deposits only through a deposit sweep program implemented in conjunction with ETSB's broker-dealer affiliate and larger federal savings bank affiliate, E*TRADE Bank. Prior to September 30, 2013, ETSB had designated 26 branches in 12 states and the District of Columbia, all located inside of E*TRADE financial service centers. These branches did not offer traditional retail banking services or products and were designated as branches solely in connection with non-cash deposits made by its affiliate's securities brokerage customers. ETSB stated that during a broad rationalization of its business and cost structure, ETSB closed all the branches effective September 30, 2013, maintaining only a home office in Arlington, Virginia. The financial service centers remain open but no longer offer banking

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of Arizona, Colorado, Florida, Georgia, Michigan, and Oregon, a "satisfactory" rating in the states of California, Illinois, Minnesota, New York, Pennsylvania, and Texas, and an "outstanding" rating in the District of Columbia.

[3] See 12 USC 1828(c)(5); 12 CFR 5.33(e)(1)(ii)(C).

[4] The commenter also referenced an article about a censure and fine that the Financial Industry Regulatory Authority imposed. The censure and fine related to E*TRADE Securities LLC and, therefore, the comment was outside the scope of the matters the OCC considers in reviewing BMA applications.

[5] ETSB no longer originates loans, but its balance sheet as December 31, 2017, carries approximately $45 million in legacy 1-4 family residential real estate loans.

services. Based on ETSB's structure after it closed the branches, its only AAs consist of two metropolitan divisions within the Washington-Alexandria-Arlington DC-VA-MD-WV metropolitan statistical area (District of Columbia MMSA).

ETSB represented that it remains committed to meeting the credit needs of the communities in which it operates, including the needs of LMI geographies and individuals. ETSB further represented that since the conclusion of its most recent CRA PE, it has made more than $500 million in CRA qualified investments and its employees completed more than 2,000 hours of volunteer services that benefit its two AAs in the District of Columbia MMSA. In addition, ETSB asserted that the proposed transaction would help serve the convenience and needs of its community because it will allow the bank to expand its product offerings to Registered Investment Advisors and their respective customers.

Regarding the commenter's request to extend the comment period, the standard that the OCC applies to determine whether to extend a public comment period is set forth in 12 CFR 5.10(b)(2), which provides:

> The OCC may extend a comment period if (i) the applicant fails to file all required publicly available information on a timely basis to permit review by interested persons or makes a request for confidential treatment not granted by the OCC that delays the public availability of that information; (ii) any person requesting an extension of time satisfactorily demonstrates to the OCC that additional time is necessary to develop factual information that the OCC determines is necessary to consider the application; or (iii) the OCC determines that other extenuating circumstances exist.

After considering all relevant factors, the OCC did not grant the commenter's request to extend the comment period.

Regarding the commenter's request that the OCC hold public hearings on the proposed transaction, the standard that the OCC applies to determine whether to grant or deny a hearing request is set forth in 12 CFR 5.11(b), which provides:

> The OCC generally grants a hearing request only if the OCC determines that written submissions would be insufficient or that a hearing would otherwise benefit the decision-making process. The OCC also may order a hearing if it concludes that a hearing would be in the public interest.

After careful consideration, the OCC did not to grant the commenter's request to hold a public hearing on the proposed transaction.

V. Summary of Consideration of Public Comments

The OCC considered all the facts of record, including ETSB's record under the CRA, the institutions' records of compliance with fair lending and other consumer protection laws, as applicable, confidential supervisory information, information provided by ETSB, and the public comment on the proposal. Based upon this review, the OCC finds the facts to be consistent with approval.

VI. Consummation Requirements

The Northeastern District Licensing Office must be advised in writing in advance of the desired effective date for the merger so it may issue the necessary certification letter. The effective date must follow the applicable Department of Justice's injunction period and any other required regulatory approval.

The OCC will issue a letter certifying consummation of the transaction when we receive documentation that all other required regulatory approvals, non-objections, and or waivers have been obtained.

If the merger is not consummated within six months from the approval date, the approval shall automatically terminate, unless the OCC grants an extension.

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 law 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.

We have enclosed a letter requesting your feedback on how we handled your application. We would appreciate your response, so we may improve our services.

All correspondence regarding this application should reference the control numbers. If you have any questions, please contact Licensing Analyst Justin E. Holder at (212) 790-4014 or by e-mail at holderje@occ.treas.gov.

Sincerely,

/s/

Stephen A. Lybarger
Deputy Comptroller for Licensing

Enclosure: Survey Letter