



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Conditional Approval #587
May 2003

April 25, 2003

Mr. James E. Becker
Trust Counsel
Zions First National Bank
10 East South Temple, #300
Salt Lake City, Utah 84111

RE: Application to charter an uninsured national trust bank with the title Western National Trust Company, Los Angeles, California (Charter #24398) and to hold it as an operating subsidiary of Zions First National Bank
OCC Control Number: 2002-WE-01-0009

Dear Mr. Becker:

The Office of the Comptroller of the Currency (OCC) has reviewed your application to establish a new uninsured national trust bank, which will engage solely in fiduciary activities with the title of Western National Trust Company (“Bank”), and to establish the new charter as an operating subsidiary of Zions First National Bank. Your charter proposal meets applicable standards and we herewith grant preliminary conditional approval. In addition, your request to establish the new bank as an operating subsidiary of Zions First National Bank is approved.

This decision 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 to the charter with the understanding that the proposed national bank will apply for membership in the Federal Reserve System and will not be FDIC-insured.

This preliminary approval is subject to the following conditions:

1. At all times, the Bank shall maintain a minimum of at least \$10 million in Tier 1 capital.
2. If the Bank fails to maintain Tier 1 capital in the amount of \$10 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 Deputy Comptroller for Large Bank Supervision at least sixty (60) days prior written notice of the Bank’s intent to significantly deviate or change from its 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 its business plan or operations¹.

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 CFR § 9.9(c).

6. All transactions between the Bank and any affiliates, foreign or domestic, 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 foreign and domestic affiliates, including in particular any cost allocation, fee-sharing or tax-sharing provisions in such agreements or other transactions.

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.

The Bank’s initial paid-in capital, net of organizational and preopening expenses, shall be no less than \$15,000,000. The manner in which capital is raised must not deviate from that described in the operating plan without prior OCC notification. If the capital for the new bank is not raised within 12 months or if the new bank is not opened for business within 18 months from the preliminary conditional approval date, the OCC approval will expire. 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.

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

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 in our policy as a result of the review, we will advise you accordingly. In addition, if the Bank's future assets under management increase significantly, or if the Bank assumes additional risk, the OCC may conclude that increased capital is required.

The operating plan will provide the context for the supervisory review at the pre-opening examination. 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/corpapps/corpapplic.htm> 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 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 of the Bank as proposed in the application:

Thomas Trine – Interim President/CEO
Richard Sullivan – SVP/Trust Operations and Employee Benefits
Rick Baird – SVP/Chief Investment Officer
Robert Blakemore - SVP/Division Manager, National Bank of Arizona
Yvonne Baca – SVP/Division Manager, Vectra Bank, N.A.
Randall J. Campanale – SVP/Division Manager, Nevada State Bank
Robert Steenblik – SVP/Division Manager, Zions First National Bank

The OCC poses no objection to Thomas Trine as a Director of the Bank. The OCC poses no objection to the following serving as directors of the Bank and grants a waiver of the residency requirements of 12 U.S.C. § 72 for each: Harris Simmons, David Hemingway, James Jensen, Susan Johnson, Peter Ellison, Clinton Gurney, Diana Kirk, Bruce Alexander, and Richard Veitz. The residency waivers are granted based upon a review of all available information, including the filing, subsequent correspondence and telephone conversations, and the proposed bank's

representation that this waiver will not affect the board's ability to direct the Bank's operations in a safe, sound, and legal manner. Please understand the OCC reserves the right to withdraw or modify these waivers and, at its discretion, to request additional information at any time in the future.

You are also reminded that for a period of two years after the Bank has opened for business, the Bank must request and obtain OCC's non objection to any new executive officer or director prior to that person assuming such position.

The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications.

These decisions, 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.

Please direct any questions relative to this preliminary conditional approval to Licensing Analyst Sherry Gorospe at 415-545-5922.

A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may improve our service.

Sincerely,

/s/ Julie L. Williams

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

Enclosures

Standard Requirements

Western National Trust Company (Bank) must meet the following standard requirements:

- Organizers must notify the OCC promptly and obtain the OCC's written determination of no objection for any significant deviation or change during the organization phase. A significant deviation or change that has not received the OCC's written determination of no objection may be grounds for delaying issuance of the charter or withdrawing preliminary conditional approval. (See the Significant Changes discussion in the Introduction of the "Corporate Organization" booklet.)
- For a period of two years after the bank has opened for business, the Bank must file and obtain the OCC's written determination of no objection prior to any new executive officer or director assuming such position. Since this condition is imposed under the OCC's chartering authority, the OCC is not subject to the 30-day review period imposed by 12 U.S.C. 1831i. However, the OCC will process all such notices in a timely manner using the procedures in the "Change in Directors and Senior Executive Officers" booklet.
- The bank's financial statements must be prepared on an accrual basis according to generally accepted accounting principles.
- The president must serve as a member of the board of directors.
- Each person who, together with their interests, subscribes to 10 percent or more of the initial stock offering must submit biographical and financial reports for review to the Licensing staff prior to acquisition of his or her shares. The Licensing staff must have no objection to each person before he or she purchases shares. After opening the Bank, requirements of the Change in Bank Control Act (12 U.S.C. 1817(j)) will apply. Changes in the composition of members or trustees of a voting trust or voting agreement also may be subject to the requirements of the Change in Bank Control Act.
- Stock subscription funds collected during the organization of the bank and held for investment may be invested, directly or indirectly (e.g., mutual funds) only in U.S. government securities (bills, bonds, or notes).
- Stock certificates must not be issued prior to the date the bank opens for business, but must be issued immediately following the bank's opening.
- The bank must have adequate fidelity insurance covering all persons authorized to collect, receive, or deposit funds from stock subscriptions. The bank must purchase adequate fidelity bond coverage in accordance with 12 C.F.R. 7.2013, which lists four factors the directors should consider to determine adequacy. This insurance must be in force from the effective date of the registration statement until the bank opens for business (see the "Corporate Organization" booklet).
- The board of directors must develop written policies and procedures that will guide the

bank's operations in a safe and sound manner. Those policies must be completed no later than the date of the applicant's request for a preopening examination. In addition, the board of directors must review and adopt the policies and procedures at its first meeting (see Appendixes, Minimum Policies and Procedures). The board of directors is responsible for regular review and modification of policies and procedures and for assuring continuous compliance with them.

- Organizational and pre-opening expenses significantly exceeding those projected in the application, and/or net capital significantly less than that projected in the application, is a basis for revocation of preliminary conditional approval. Capital adequacy is not the sole reason to determine the acceptability of organization costs. The OCC will evaluate the reasonableness of pre-opening expenses (see the "Corporate Organization" booklet).
- The limitations of the bank's activities must be fully enumerated in the bank's Articles of Association. Specifically, the articles must state clearly that: 1) the business of the association will be limited to that of a national trust bank; and 2) the bank must obtain the prior written OCC approval before amending its Articles of Association to expand the scope of its activities and services.
- Any services performed by affiliates for the bank and payments to said affiliates by the bank will be rendered pursuant to contracts that comply with federal law and regulation, reflect safe and sound practices, and are at costs similar to those the bank would pay an independent third party for the same services. The contracts must be submitted to the Deputy Comptroller for Large Banks for review prior to or at the time corporate existence is established.

Minimum Policies and Procedures

Some of these policies and procedures may not be applicable to special purpose banks. The board must adopt and monitor those policies and procedures applicable to the bank's activities.

1. Lending policy, including:
 - a. Fundamental elements of a sound loan policy as described in the "Loan Portfolio Management" booklet of the *Comptroller's Handbook*.
 - b. Loan administration procedures designed to ensure that no extensions of credit are granted without first obtaining and analyzing current and satisfactory credit information as well as satisfactory and, in the case of secured loans, perfected collateral documentation.
 - c. Internal loan review procedures to review periodically the loan portfolio to identify and categorize problem credits.
 - d. Board approval of management's review of the adequacy of the bank's allowance for possible loan losses and maintenance of an adequate allowance consistent with the comments in the "Allowance for Loan and Lease Losses" booklet of the *Comptroller's Handbook*.
 - e. Procedures to ensure that the bank:
 - Takes immediate and continuing action to protect its interest in any and all assets displaying any evidence of weakness.
 - Monitors concentrations of credit and safeguards against unsound concentrations of credit.
 - Prices its credits properly.
 - f. Procedures to ensure compliance with *all* applicable laws and regulations, including, for example, lending limits and loans to insiders.
2. Funds management, investment securities, and interest rate risk policies, including:
 - a. A funds management policy and strategies consistent with the comments in the "Funds Management" section 405 of the *Comptroller's Handbook*.
 - b. Procedures to enable the board and management to monitor liquidity and interest rate risk.

- c. Guidelines for the bank's use of brokered and other volatile funds with a specific description of the nature, extent, and purpose of their use. The policy should comply with 12 CFR 337.6 - Brokered Deposits.
 - d. An investment securities policy consistent with the comments in the "Investment Securities" section 203 of the *Comptroller's Handbook*; OCC Bulletin 96-69: Investment Securities: 12 CFR 1 - Final Rule dated 12/11/96; and OCC Bulletin 98-20: Investment Securities - Policy Statement dated 4/27/98, within which the bank must operate when purchasing and selling investment securities. The policy should specifically define the bank's investment strategies.
 - e. A borrowed funds policy consistent with the comments in the "Borrowed Funds" section 302 of the *Comptroller's Handbook*.
 - f. An interest rate risk policy and strategy consistent with comments in the "Interest Rate Risk" booklet of the *Comptroller's Handbook* and OCC Bulletin 96-36: Interest Rate Risk - Final Policy Statement dated 7/12/96.
3. Capital policy, including:
- a. Specific plans to maintain capital at a level consistent with the requirements of 12 CFR 3. [For trust bank charters: Specific plans to maintain capital at an acceptable level, addressing the risks unique to this type of business, should be established.]
 - b. Procedures to develop and maintain a three-year capital plan, with projections for growth and capital requirements based on a detailed analysis of the bank's assets, liabilities, earnings, fixed asset expansion, and dividends.
 - c. A dividend policy consistent with the three-year capital plan and the bank's plans to maintain capital at or above the level required by 12 CFR 3 (or an otherwise adequate level as approved by the OCC).
 - d. Procedures to develop annual profit plans that contain realistic and comprehensive budgets (with projected balance sheets and year-end income statements) and to describe the operating assumptions that form the basis of the projections.
 - e. A process whereby the bank periodically reviews the policy to ensure it reflects any changes in laws, rules, or regulations pertaining to capital and dividends.
4. Internal and external audit policies, including:
- a. The development and implementation of an internal control system, including internal and external audit functions, that provides for effective

risk assessment, timely and accurate reports, safeguarding and management of assets, and compliance with applicable laws and regulations. The audit functions and control systems should be consistent with the “Internal and External Audit” and “Internal Controls” booklets of the *Comptroller’s Handbook*.

For additional reference, see the OCC’s *The Directors Book: The Role of the National Bank Director*; OCC Bulletin 98-1: Interagency Policy Statement -- Internal Audit/Outsourcing dated 1/7/98; and OCC Bulletin 99-37: Interagency Policy Statement on External Audit Programs dated 10/7/99.

- b. Procedures to ensure that the bank maintains minimum security devices and procedures as required by 12 CFR 21.
 - c. Internal control systems to ensure ongoing compliance with the currency reporting and recordkeeping requirements of the Bank Secrecy Act (BSA). Personnel should be trained in BSA procedures and one or more persons designated to monitor day-to-day compliance.
 - d. [If applicable] The development and implementation of a fiduciary audit program to ensure that the bank is complying with 12 CFR 9, applicable state and federal law, and sound fiduciary principles. Also required (12 CFR 9.9) are the appointment and establishment of a trust audit committee.
5. Insider policies, including:
- a. The development and implementation of a written policy according to the “Insiders Activities” booklet of the *Comptroller’s Handbook*.
 - b. [Applicable to trust banks] Written policies and procedures, as required by 12 CFR 9.5 to prohibit the use of material side information in investment decisions or recommendations.
6. Compliance policies, including, if applicable:
- a. A compliance program covering consumer, fair lending, and community laws and regulations, approved by the board and management, that includes (see the Compliance Handbook):
 - Delegation of compliance responsibilities to specific bank personnel.
 - Written guidance for, and training of, employees covering applicable laws and regulations.
 - A mechanism to report deficiencies and ensure corrective action.

- b. Branch closing policy (applicable to national banks with branches), including:
- Procedures for determining objectively which branch or branches to close and which customers to notify.
 - Procedures and methods for providing the notices required by 12 USC 1831r-1.
- c. A BSA program to fulfill the requirements of 12 CFR 21.21. The board of directors for each national bank must approve written procedures designed to monitor the bank's compliance with the requirements of the Bank Secrecy Act regulations, 31 CFR 103. The compliance program must provide for a system of internal controls to ensure ongoing compliance; provide independent testing for compliance; designate a person responsible for coordinating and monitoring day-to-day compliance; and provide training for appropriate personnel. The BSA compliance program must be approved by the board of directors.
- d. [If applicable] Development and implementation of policies and procedures for the administration of the rules governing securities transactions for broker-dealer activities. These include banking laws and regulations under 12 CFR 1, 12 CFR 10, 12 CFR 12, 15 USC 78o (Municipal Securities Rulemaking Board rules), and 17 CFR 400 (regulations under section 15C of the Securities Exchange Act of 1934 as amended by the Government Securities Act of 1986). In addition, the procedures should be consistent with the Securities Exchange Act of 1934 and the SEC's rules, specifically 17 CFR (commodity and securities).

The procedures should address:

- Municipal and government securities dealer registration and professional qualifications.
 - Trading and underwriting.
 - Sales and uniform practices.
 - Recordkeeping and retention.
 - Supervision.
- e. Development and implementation of procedures for the preparation, review for accuracy, and submission of required regulatory reports. The procedures should address:

- The requirements that the bank prepare all financial statements on an accrual basis according to generally accepted accounting principles.
 - Regular financial report filings (such as Quarterly Reports of Condition and Income, Annual Report of Trust Assets and Special Report of Trust Activities, as applicable, annual financial disclosures (12 CFR 18), and annual minimum security devices and procedures report).
 - Operations reports (such as bank robbery notification reports).
 - SEC reports (for covered banks).
 - Reports to shareholders.
 - Other reports as detailed in the *Comptroller's Handbook*.
7. Board supervision policy consistent with the “Duties and Responsibilities” booklet of the *Comptroller's Handbook* and *The Directors Book*, including:
- a. A method for periodically reviewing and revising, as necessary, the aforementioned policies.
 - b. Procedures to assess management's performance.
 - c. A method to assess whether board members are receiving adequate information on the bank's operation to enable them to fulfill their fiduciary responsibilities.
 - d. A method to evaluate whether board members are acting responsibly and expeditiously in fulfilling their duties as directors.
8. Disaster recovery plan.
9. Policies and procedures for maintaining the privacy and security of consumer information, including:
- a. Establishing privacy policies and opt out mechanisms (if appropriate) in accordance with 12 C.F.R. Part 40. This includes:
 - Developing privacy notices
 - Delivering initial and annual notices on timely basis
 - Revising privacy notices as necessary
 - Developing acceptable methods of delivery
 - Implementing consumer opt out elections where applicable
 - Limiting disclosure of account numbers for marketing purposes
 - Limiting use and disclosure of information received from nonaffiliated

financial institutions. Developing confidentiality contract clauses where applicable.

- b. Implementing training programs for employees about privacy policies and procedures.
- c. Adopting internal controls, policies, and audit procedures to ensure continued compliance with privacy regulations.
- d. Implementing a written information security program to safeguard customer information pursuant to the guidelines in 12 C.F.R. part 30. This includes:
 - Board approval and oversight of program
 - Assessing risks to security of customer information
 - Designing information security program to control identified risks
 - Overseeing arrangements with service providers
 - Adjusting program in light of changes in technology, threats to information, sensitivity of customer information, changing business arrangements.