



**Comptroller of the Currency
Administrator of National Banks**

Washington, D.C. 20219

**Conditional Approval #776
January 2007**

December 27, 2006

Mr. Stephen Cesso
Secretary
Computershare Trust Company, N.A.
250 Royall Street
Canton, Massachusetts 02021

**Re: Application to Merge Computershare Trust Company of New York and
Computershare Trust Company, Inc., into Computershare Trust Company, N.A.
Application Control Number: 2006-NE-02-0025**

Dear Mr. Cesso:

The Office of the Comptroller of the Currency (“OCC”) hereby approves the application captioned above for the reasons, and subject to the requirements and conditions, set forth herein. This approval is granted based on a thorough review of all information available, including commitments and representations made in the application and the merger agreement and by you and the applicant’s other representatives. This approval is also subject to the conditions set forth later in this letter.

Description of the Transaction

Computershare Trust Company, N.A., (“CTC-NA”), Canton, Massachusetts, is a non-deposit-taking limited purpose national trust bank. It is not insured by the Federal Deposit Insurance Corporation. Its immediate parent is Computershare Shareholder Services, Inc. (“CSSI”). In 2005, CTC-NA and CSSI (then named Equiserve Trust Company, N.A., and Equiserve, Inc, respectively) were acquired by Computershare Limited, Victoria, Australia (“Computershare”).¹ Computershare owns two other, state-chartered uninsured trust companies: Computershare Trust Company of New York, New York, New York (“CTC-NY”), and Computershare Trust

¹ The OCC’s decision not to disapprove Computershare’s change in control notice under 12 C.F.R. § 5.50 was subject to Computershare’s execution of an Agreement with the OCC, CTC-NA’s execution of an Operating Agreement with the OCC, and the execution of a Capital Assurance and Liquidity Maintenance Agreement between Computershare and CTC-NA. *See* OCC Corporate Decision No. 2005-06, June 10, 2005.

Company, Inc., Golden, Colorado (“CTC-CO”). CTC-NA also operates trust offices in New York and Colorado.

CTC-NA applied to the OCC for approval to merge the two state trust companies into CTC-NA under 12 U.S.C. § 215a. The application indicates that CTC-NA will retain an office in Colorado after the merger, but does not intend to retain an office in New York. The overall restructuring plan calls for CTC-CO to be converted into a limited liability state trust company under state law immediately prior to the merger into CTC-NA.

Legal Authority

A national bank may merge with another national bank or a state bank “located within the same State” under section 3(a) of the National Bank Consolidation and Merger Act (“NBCMA”), 12 U.S.C. § 215a(a). A limited purpose national trust bank is located in any state in which it has a trust office for purposes of merging with another national trust bank or a state trust company in that state under section 215a.² CTC-NA has trust offices in New York and Colorado. Thus, it is located in those states for section 215a purposes. Section 215a also requires that, when the target bank is a state bank, the merger shall not be in contravention of the law of the state under which the state bank is chartered. 12 U.S.C. § 215a(d). Neither New York nor Colorado prohibits the merger of a state trust company into a national bank.³ And so the proposed merger would not be in contravention of state law.

The overall restructuring plan calls for CTC-CO to convert from corporate form into a trust company organized as a limited liability company (“LLC”) immediately prior to the merger.⁴ “State bank” for purposes of section 215a is defined as follows:

“State bank” means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in the business of receiving deposits and which is *incorporated under the laws of any State*, or which is operating under the Code of Law for the District of Columbia (except a national banking association located in the District of Columbia;

National Bank Consolidation and Merger Act § 7(1), 12 U.S.C. § 215b(1) (emphasis added).

² See, e.g., *Decision on the Application to Merge Neuberger Berman Trust Company, New York, New York, with and into Neuberger Berman National Trust Company, Seattle, Washington* (OCC Corporate Decision No. 2001-29, September 28, 2001).

³ New York and Colorado permit state banks and trust companies to merge with national banks. N.Y. Banking Law §§ 137 & 600(6); Colo. Rev. Stat. §§ 11-103-701 & 7-90-203.

⁴ Colorado allows trust companies to be organized as limited liability companies, and allows a trust company organized as a corporation to convert into a limited liability company. Colo. Rev. Stat. § 11-109-206(4).

Since CTC-CO is converting into LLC form prior to the merger, a question arises whether it would be a “state bank” under sections 215a and 215b(1) at the time of the merger. We believe the “incorporated under” clause in section 215b(1) need not be interpreted as referring strictly only to entities organized as corporations, but more generally as meaning “organized under” state law. The purpose of the “incorporated under” clause is not to single out a particular type of organizational form, but to describe that the entity must be organized under *state* law.⁵ Thus, CTC-CO is a “state bank” for purposes of sections 215a and 215b(1).⁶

The merger of CTC-NY and CTC-CO into CTC-NA is authorized under section 215a.

Consummation Procedures

Please notify the OCC in advance of the desired effective date for the merger so the OCC may issue the certification letter for the merger. The OCC will issue a letter certifying consummation of the merger when we receive confirmation that all other required regulatory approvals have been obtained.

Conclusion

The OCC’s approval of the merger is subject to the following conditions:

1. Within thirty (30) days after the consummation of the merger, the Board of Directors of CTC-NA shall execute a Modification to Existing Operating Agreement Dated June 23, 2005, with the OCC on terms and provisions acceptable to the OCC.
2. Within thirty (30) days after the consummation of the merger, Computershare shall execute an Agreement with the OCC on terms and provisions acceptable to the OCC that replaces the Agreement By and Between Computershare Limited and the OCC Dated June 10, 2005.

⁵ The Federal Deposit Insurance Corporation (“FDIC”) interprets similar language in the definition of “state bank” in the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1813(a)(2), in a similar way. The FDIC has provided that “a banking institution that is chartered as a limited liability company (LLC) under the law of any State is deemed to be ‘incorporated’ under the law of the State,” for purposes of the definition in section 1813(a)(2), if the LLC and the state law meet four conditions. *See* 12 C.F.R. § 303.15(a). The OCC interprets a provision in our regulations that authorizes national banks to follow state “corporate” governance laws to refer not only to state corporation laws but also to state LLC laws, subject in both instances to the limits in the regulation. *See Decision on the Application of Brown Brothers Harriman Trust Company, LLC, to Convert to a National Banking Association* (OCC Conditional Approval No. 696, June 9, 2005) (pages 5-6) (interpreting 12 C.F.R. § 7.2000(b)).

⁶ Moreover, if a state trust company organized as a LLC is deemed not to be a “state bank” in the NBCMA, the merger of CTC-CO into CTC-NA would still be authorized. If CTC-CO were not a “state bank,” then, since it is affiliated with CTC-NA, it would be a nonbank affiliate. And the merger with CTC-NA would be authorized under section 6 of the NBCMA, 12 U.S.C. § 215a-3.

3. Within thirty (30) days after the consummation of the merger, Computershare and CTC-NA shall execute a Capital Assurance and Liquidity Maintenance Agreement with the OCC on terms and provisions acceptable to the OCC.

These conditions of 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.

If the merger is not consummated within one year of the approval date, the approval shall automatically terminate, unless the OCC grants an extension of the time period.

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. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

All correspondence and documents concerning this transaction should be directed to John Aponte, Senior Licensing Analyst, in our Washington office at (202) 874-5060.

Very truly yours,

/s/

Stephen A. Lybarger
Acting Deputy Comptroller for Licensing