



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

**Conditional Approval #804
June 2007**

May 1, 2007

Mark T. Giles
President and CEO
Virginia National Bank
222 East Main Street
Charlottesville, Virginia 22902

Re: Application filed to establish a de novo national trust bank entitled VNB Trust, National Association, Charlottesville, VA, and to establish an operating subsidiary entitled VNB Investment management Company, LLC that will engage in fiduciary activities.
Application Control Numbers: 2006-SO-01-0028 and 2006-SO-08-0022.

Dear Mr. Giles:

The Office of the Comptroller of the Currency (“OCC”) hereby approves your application to establish a new national trust bank with the title VNB Trust, National Association (“VNBTrust”), which will be a wholly owned subsidiary of Virginia National Bank, Charlottesville, Virginia (“VNB”). The OCC also approves your application for VNBTrust to create a wholly owned operating subsidiary, VNB Investment Management Company, LLC (“Investment Subsidiary”), which will organize and manage two private investment funds (the “Funds”), and your application for the Investment Subsidiary to hold special limited equity interests (“Special Interests”) in each of the Funds of \$100,000 or 1% of the equity capital of the Funds, whichever is less.

The OCC grants preliminary approval of your charter application. This preliminary conditional approval is granted based on a thorough evaluation of all information available to the OCC, including the representations and commitments made in the application and by VNB’s representatives. Final approval and authorization for VNBTrust to open will not be granted until all preopening requirements are met. Until final approval is granted, the OCC has the right to alter, suspend, or revoke this preliminary conditional approval should the OCC deem any interim development to warrant such action. This preliminary conditional approval is subject to the specific conditions described herein.

In addition, based on the representations and commitments made by VNB, and prior OCC precedent, the application to create the Investment Subsidiary to engage in the activities described herein, is approved subject to the conditions described herein.

I. VNB and VNBTrust

VNB is a national bank with its main office in Charlottesville, Virginia. VNB currently exercises a full range of fiduciary activities permitted under Virginia law, and seeks to exercise those activities through VNBTrust once that entity is chartered and authorized to conduct business. VNBTrust's operations will be limited to those of a trust company and activities related thereto.¹ It will exercise the fiduciary powers currently conducted by VNB under 12 U.S.C. § 92a and 12 C.F.R. Part 9. It will also engage in additional investment advisory activities permissible for trust companies and national banks, as discussed herein. It will not make loans or accept deposits, and it will not be insured by the Federal Deposit Insurance Corporation. VNBTrust's investment advisory activities will include providing additional investment options for high net worth and institutional customers of VNBTrust and VNB through the Funds which will be organized and managed by VNBTrust's proposed Investment Subsidiary.²

VNBTrust's proposed Investment Subsidiary will be a wholly-owned operating subsidiary, which will be structured as a Delaware limited liability company. The Investment Subsidiary will organize and serve as the special general partner and investment manager³ of the Funds, which will be structured as Delaware limited partnerships. The Funds will only be offered to high net worth and institutional customers.⁴

As investment manager for the Funds, the Investment Subsidiary may receive both a management fee and a fee for performance for each of the Funds. The management fee is a percentage of the assets of each Fund. The fee for performance (the "Profit Allocation") is a percentage of the profits of each Fund above a certain hurdle rate. In order for the Investment Subsidiary to receive the Profit Allocation, the Investment Subsidiary must own a special general partnership interest (*i.e.*, the "Special Interest") in the Funds. VNB represents that investors in the Funds are subject to less taxation if the Investment Subsidiary's compensation for performance is paid as a share of

¹ See 12 U.S.C. § 27(a) (last sentence).

² VNB represents that no accounts or account assets of any client of VNB or VNBTrust will be unilaterally transferred to either of the Funds, unless the client affirmatively instructs VNB or VNBTrust to do so, the investment in the Funds is otherwise in compliance with applicable law, and the client submits the required subscription agreement.

³ The Investment Subsidiary will be exempt from registration under the Investment Advisers Act of 1940 pursuant to Section 203(b)(3) of that act, which exempts from registration any investment adviser that: (i) has fewer than 15 clients in any 12-month period; (ii) does not hold itself out to the public as an investment adviser; and (iii) does not act as an investment adviser to a registered investment company or business development company.

⁴ The limited marketing to high net worth individuals and institutional customers will be necessary to assure that the Funds will not be required to be registered under the Investment Company Act of 1940 ("ICA"). The Funds want to qualify for an exclusion from the definition of investment company under Section 3(c)(1) of the ICA for any issuer whose outstanding securities are beneficially owned by not more than 100 investors and which is not making and does not presently propose to make a public offering of its securities. To rely on this exclusion, each Fund will be offered through a private placement to less than 100 high net worth individuals and institutional investors that are accredited investors under the Securities Act of 1933 ("Securities Act"). Because the Funds will be offered only to accredited investors in a private placement, the Funds will also be exempt from registration under Regulation D of the Securities Act.

profits, rather than as a fee. To receive a share of the profits, the Investment Subsidiary needs to hold an interest in the Funds. This interest will take the form of a special general partnership interest in the limited partnerships that constitute the Funds. As a special general partner, the Investment Subsidiary would hold a special, limited equity interest in the Funds in order to facilitate its receipt of the performance fee to which the Investment Subsidiary is entitled as investment manager. The Investment Subsidiary would receive the performance-based compensation as an allocation to its capital account in the Funds.⁵ The OCC has previously recognized and permitted national banks to own such limited special interests in order to conform with industry practice with respect to private investment funds.⁶

The Investment Subsidiary's ownership interest in the Funds will be limited. The maximum investment by the Investment Subsidiary in each Fund will not exceed the lesser of \$100,000 or 1% of the equity capital of the Funds. VNB has represented that neither it nor VNBTrust will guarantee the Investment Subsidiary's obligations or extend credit to the Investment Subsidiary.

VNB represents that the Investment Subsidiary will receive Special Interests in the Funds only while the Investment Subsidiary provides investment management services to the Funds, and only if the terms of the instruments governing the Funds allow the Investment Subsidiary to sell, redeem or otherwise dispose of its equity allocation if it no longer services the Funds. The Investment Subsidiary will withdraw all profit allocations immediately, so that its initial limited equity investments in the Funds will not increase in value.⁷ The Investment Subsidiary will hold a Special Interest only in the Funds, which in turn, will invest in securities and financial instruments. Each Fund's investments will not include real estate or tangible personal property.

II. Legal Authority

A. VNBTrust as National Trust Bank Subsidiary

It is permissible under the National Bank Act to charter a national bank that limits its activities to the activities of a trust company and activities related thereto, and the OCC has chartered many such banks. *See, e.g.*, 12 U.S.C. § 27(a) (last sentence); 12 C.F.R. §§ 5.20(e)(1) and 5.20(l).

⁵ VNB represents that investors prefer that investment funds structure performance compensation in this way in order to obtain the investors' desired tax treatment.

⁶ We note that the OCC has previously concluded that an operating subsidiary of a national bank may hold limited interests in private investment funds for which the operating subsidiary serves as investment manager. *See* Conditional Approval No. 755 (August 25, 2006) ("Conditional Approval No. 755"); Conditional Approval No. 643 (June 16, 2004) ("Conditional Approval No. 643"); Conditional Approval No. 578 (February 27, 2003) ("Conditional Approval No. 578"); and Interpretive Letter No. 940 (May 24, 2002) ("Interpretive Letter No. 940").

⁷ VNB has indicated that the Investment Subsidiary will have a standing request for redemption of all equity allocations from the Funds. The Investment Subsidiary will receive the redemption proceeds on the same business day that the Funds determine the final amount of each allocation. Because the Investment Subsidiary will in effect withdraw all profit allocations immediately, the amount of the Investment Subsidiary's interest in each Fund as a practical matter will never exceed 24.99 percent of the total equity in the Fund, consistent with Interpretive Letter No. 897 (October 23, 2000) ("Interpretive Letter No. 897").

In addition, national banks are permitted to own limited purpose trust banks as operating subsidiaries, provided the trust bank engages only in activities permissible for national banks (such as fiduciary activities authorized by 12 U.S.C. § 92a), in accordance with OCC regulations for operating subsidiaries found in 12 C.F.R. § 5.34.⁸ It is permissible for a national trust bank, as here, to conduct investment management services, including organizing and managing investment funds, and to engage in those activities through a subsidiary.⁹ Because an uninsured, non-deposit taking trust bank is not a “bank” for purposes of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841, *et seq.*), a national bank that holds such a trust bank as an operating subsidiary will not become a bank holding company. Thus, the proposal to charter VNBTrust is legally authorized.

B. Investment Subsidiary

The OCC has long held that a national bank may provide investment management services as part of the business of banking authorized under 12 U.S.C. § 24(Seventh) and pursuant to their fiduciary powers under 12 U.S.C. § 92a.¹⁰ VNBTrust will organize the Investment Subsidiary as a wholly owned, limited liability company subsidiary to engage in the authorized activities of acting as an investment advisor to private investment funds and receiving compensation for such services. The OCC has previously permitted national bank subsidiaries to serve as the managing member for private investment funds that are limited liability companies.¹¹ Therefore, the Investment Subsidiary will engage in authorized activities, and VNBTrust may legally create and operate the Investment Subsidiary under 12 C.F.R. § 5.34.

C. Special Interests in the Funds

VNB requests authorization for the Investment Subsidiary to hold Special Interests in the Funds. Section 5.34(e) of the OCC’s operating subsidiary regulation provides that “a national bank may conduct in an operating subsidiary activities that are permissible for a national bank to engage in directly either as part of, or incidental to, the business of banking, as determined by the OCC, or

⁸ See, e.g., Conditional Approval No. 678 (March 22, 2005); *Application of First Union National Bank to Acquire Certain Subsidiaries of Wheat First Butcher Singer, Inc.* (Conditional Approval No. 270) (pages 5-6); *Decision on the Application to Merge Delaware Trust Company into CoreStates Bank, N.A.* (Corporate Decision No. 96-44) (page 10, note 10).

⁹ See Interpretive Letter No. 1047 (December 20, 2005); Conditional Approval No. 617 (December 22, 2003); Conditional Approval No. 190 (December 18, 1995).

¹⁰ See, e.g., Conditional Approval No. 755, *supra.*; Interpretive Letter No. 897, *supra.*; Interpretive Letter No. 851 (December 8, 1999); Interpretive Letter No. 871 (October 14, 1999); Conditional Approval Letter No. 164 (December 9, 1994); Interpretive Letter No. 648 (May 4, 1994); Interpretive Letter No. 647 (April 15, 1994); Interpretive Letter No. 622 (April 9, 1993); and Interpretive Letter No. 403 (December 9, 1987). See also 12 C.F.R. § 5.34(e)(v)(I) (listing acting as an investment adviser as an activity eligible for an operating subsidiary to engage in by following after-the fact notice procedures).

¹¹ See Conditional Approval No. 755, *supra.*

otherwise under other statutory authority.”¹² As discussed above, the Investment Subsidiary will engage in the authorized and permissible activities of acting as an investment advisor to investment companies and receive compensation for such services. Holding the Special Interests is an alternative means to receive payment of performance compensation for advisory services, and is therefore incidental to permissible investment advisory activities.

The OCC confirmed in Conditional Approval No. 578 the authority of an operating subsidiary of a national bank to hold Special Interests in advised funds, subject to certain conditions.¹³ In that approval, the OCC permitted an operating subsidiary to own Special Interests in private investment funds the operating subsidiary managed, reasoning that such ownership is directly related to, and an integral part of, the subsidiary’s activity of providing bank-permissible investment management and administrative services to the private investment funds.¹⁴

In the instant proposal, consistent with the OCC’s determination in Conditional Approval No. 578, the Investment Subsidiary’s ownership of the Special Interests in the Funds it advises will be restricted to a context where the holdings are integral to facilitating a recognized bank-permissible activity and therefore such holdings are permissible as an incident to the bank-permissible investment management activities. VNB represents that the Investment Subsidiary receiving the Special Interests enables the Investment Subsidiary to engage in permissible banking activities and act as investment manager for investment funds that, in practice, require the Investment Subsidiary to take equity interests. VNB further represents that the investors in the Funds require the Investment Subsidiary to structure the payment of performance fees in this fashion.¹⁵ VNB represents that the Investment Subsidiary would be unable to offer the Funds on a competitive basis unless the Investment Subsidiary makes these investments.¹⁶

Accordingly, the Investment Subsidiary holding the Special Interests as described by VNB is permissible. The investment management services provided by the Investment Subsidiary are part of the business of banking as authorized under 12 U.S.C. §§ 24(Seventh) and 92a. Holding the Special Interests is an integral component of the investment management services provided by the Investment Subsidiary. The OCC previously has found that, as a practical matter, in order to offer certain types of funds, national banks and their operating subsidiaries must structure their

¹² 12 C.F.R. § 5.34(e)(1).

¹³ See also Conditional Approval No. 643, *supra*; Interpretive Letter No. 897, *supra*.

¹⁴ The OCC also concluded that holding the special equity interests is not prohibited by 12 U.S.C. § 24(Seventh).

¹⁵ VNB represents that the Investment Subsidiary will receive performance fees as allocations to the Investment Subsidiary’s special general partnership equity accounts in the Funds. The Investment Subsidiary will withdraw all such allocations immediately, so that the Investment Subsidiary’s special general partnership equity account in each Fund does not exceed the value of the Investment Company’s special general partnership interest in each Fund, which will be \$100,000 or 1% of the equity capital of each Fund, whichever is less.

¹⁶ VNB states that it would be advantageous to hold these investments in the form of special general partnership equity investments in the Funds not exceeding \$100,000 or 1% of the equity capital of each Fund, whichever is less, that will facilitate competitive tax treatment for investors in the Funds.

compensation in this way.¹⁷ Thus, consistent with OCC precedents for both national banks and their operating subsidiaries, holding the Special Interests is a proper incident to these bank-permissible investment management activities.¹⁸

III. Organizing Process for VNBTrust

If VNBTrust's future assets under management increase significantly, or if VNBTrust assumes additional risk, the OCC may conclude that increased capital is required.

The OCC poses no objection to the following persons serving as executive officers, directors, and/or organizers as proposed in the application:

<u>Name</u>	<u>Proposed Position</u>
Albert D. Ernest	Chairman of the Board
Charles H. Ewald	President, CEO and Director
Paul B. Barringer	Organizer/Director
Andrew D. Hart	Organizer/Director
James T. Holland	Organizer/Director
Irving L. Kron	Organizer/Director
Leslie B. Disharoon	Organizer/Director
James T. Holland *	Organizer/Director
Andrew D. Hart *	Organizer/Director

* Background checks requested by the OCC have not yet been received. Accordingly, the continued service of these individuals will be dependent on satisfactory completion of the background investigation process.

Prior to the Bank's opening, the Bank must obtain the OCC's prior written determination of no objection for any additional organizers, executive officers, or directors appointed or elected before the person assumes the position. Any individual subscribing to the stock offering in an amount exceeding 10% of outstanding stock will need to undergo OCC review and approval, including background checks, prior to the Bank's opening. Also, for a two-year period after the Bank commences business, the Bank must file an *Interagency Biographical and Financial Report* with the OCC and receive a letter of no objection from the OCC prior to any new executive officer or director assuming such position.

The "Charters" booklet in the *Comptroller's Licensing Manual* provides guidance for organizing your bank. The booklet is located at the OCC's web site: <http://www.occ.treas.gov/corpbook/group4/public/pdf/charters.pdf>. The booklet contains all the steps you must take to receive your charter.

¹⁷ See Conditional Approval No. 643, *supra.*; Conditional Approval No. 578, *supra.*; and Interpretive Letter No. 940, *supra.*

¹⁸ *Id.*

As detailed in the booklet, you may establish the corporate existence and begin organizing VNBTrust as soon as you adopt and forward Articles of Association and the Organization Certificate to National Bank Examiner John Aponte in this office for our review and acceptance. As a “body corporate” or legal entity, you may begin taking those steps necessary for obtaining final approval. VNBTrust may not commence business until it fulfills all requirements for a bank in organization and the OCC grants final approval.

Enclosed are standard requirements and minimum policies and procedures for new national banks. VNBTrust must meet the standard requirements before it is allowed to commence business and the Board of Directors must ensure that the applicable policies and procedures are established and adopted before VNBTrust begins operation.

Under separate cover, the OCC will send to you an appropriate set of OCC handbooks, manuals, issuances, and selected other publications. This information does not include the Comptroller’s Licensing Manual, which is available only in electronic form at our web site: <http://www.occ.treas.gov/corpapps/corpapplic.htm>.

IV. Conclusion, Approval, and Conditions

For the reasons noted above, the OCC hereby grants preliminary approval of your charter application. The OCC also approves your application to create the Investment Subsidiary, and for the Investment Subsidiary to engage in the activities described herein. These approvals are subject to the following conditions:

Capital and Liquidity

1. At the time it commences operations, and at all times thereafter, VNBTrust shall maintain a minimum of \$1,500,000 in Tier 1 Capital, or such other higher amount as may be required by the OCC pursuant to the exercise of its regulatory authority under 12 C.F.R. Part 3, Subparts C or E (“the Minimum Tier 1 Capital Requirement”). At all times, liquid assets¹⁹ shall comprise at least seventy-five per cent (75%) of VNBTrust’s Minimum Tier 1 Capital Requirement (“the Minimum Liquid Capital Requirement”). The Minimum Tier 1 Capital Requirement and the Minimum Liquid Capital Requirement are collectively referred to as the “Minimum Capital Requirement.” For purposes of meeting the Minimum Capital Requirement, VNBTrust shall deduct the liquid assets used to meet the Liquidity Requirement referred to in paragraph (2) below.
2. At the time it commences operations, and all times thereafter, VNBTrust shall maintain liquidity in the form of liquid assets in an amount at least equal to the greater of (a) \$325,000 or (b) ninety (90) days operating expenses (the “Liquidity Requirement”). For purposes of meeting the Liquidity Requirement, VNBTrust’s Minimum Capital

¹⁹ The term “liquid assets” means (a) cash and cash equivalents, (b) deposits at insured depository institutions, and (c) investment securities eligible for investment by national banks under 12 C.F.R. Part 1 and valued at the lower of cost or market value. But liquid assets do not include any assets encumbered or pledged by lien, right of setoff, preference, or otherwise, or any other asset pledged as security in any transaction with any party.

Requirement is not an available liquidity source and shall not be included in determining VNBTrust's compliance with the Liquidity Requirement.

3. If, at any time, VNBTrust fails to maintain the Minimum Capital Requirement or the Liquidity Requirement, then VNBTrust shall take such corrective measures as the OCC may direct from among the provisions applicable to undercapitalized depository institutions under 12 U.S.C. § 1831o(e). For purposes of this paragraph, an action "necessary to carry out the purpose of this section" under section 1831o(e)(5) shall include restoration of VNBTrust's Minimum Capital Requirement or VNBTrust's Liquidity Requirement to the levels required in this Article, and/or any other action deemed advisable by the OCC to address VNBTrust's capital or liquidity deficiency or the safety and soundness of its operations. If VNBTrust fails to maintain the Minimum Capital Requirement or the Liquidity Requirement, then the Investment Subsidiary may maintain its Special Interests in existing funds it advises, but it shall not invest in any new private investment funds without prior written determination of no objection from the OCC.
4. By June 30, 2007, VNBTrust's Board shall adopt, implement and maintain a system to analyze and maintain, in conformance with OCC Bulletin 2000-26, Supervision of National Trust Banks – Capital and Liquidity (and any subsequent OCC guidance), capital and liquidity commensurate with VNBTrust's risk profile.

Private Investment Fund Operations

5. At least ten business days prior to accepting investments in any private investment fund organized, managed, or advised by VNBTrust or a subsidiary:
 - (i) VNBTrust shall cause the Investment Subsidiary to submit offering memoranda and customer disclosure materials to VNB's examiner-in-charge ("EIC"), with a written certification that VNBTrust and the Investment Subsidiary have reviewed, and caused legal counsel to review, such memoranda and disclosure materials for compliance with applicable laws; and
 - (ii) VNBTrust shall cause the Investment Subsidiary to create a detailed contingency plan for the departure or incapacity of the manager for each private investment fund, which shall include a contingency for liquidating the funds within sixty (60) days after the departure or incapacity of such manager if no successor to the manager is promptly hired (or if the OCC objects to the hiring of such manager).
6. Prior to commencing activities and receiving Special Interests in any private investment funds, VNBTrust and its Investment Subsidiary shall adopt and implement an appropriate and comprehensive risk management process, acceptable to VNB's EIC, to properly manage the activities and monitor these interests, which shall include the policies, procedures, and information listed below.

- (i) Adoption and implementation of a conflict of interest policy addressing all inherent conflicts associated with the activities and the Investment Subsidiary's holding of the special interest in the Funds;
- (ii) Adoption and implementation of risk management policies and procedures for managing the activities and monitoring the Special Interests in the Funds and the risks associated with those interests, taking into account relevant factors noted in OCC guidance (e.g., OCC Banking Circular 277 (BC-277 - October 1993), Supplemental Guidance 1 to BC-277 (January 1999) and the Handbook for National Bank Examiners, *Risk Management of Financial Derivatives* (January 1997));
- (iii) Adoption and implementation of an appropriate contingency funding plan and conformance with OCC Bulletin 2004-2, Banks/Thrifts Providing Financial Support to Funds Advised by the Banking Organization or its Affiliates;
- (iv) Adoption and implementation of adequate asset valuation procedures, including specifics on valuations of illiquid holdings;
- (v) Adoption and implementation of adequate procedures for defining, measuring and managing leverage used in investment strategies as constrained by representations made to investors in the Funds;
- (vi) Procedures for obtaining periodic reports from VNBTrust and the Investment Subsidiary on the investments in funds it advises, including information on the Investment Subsidiary's risk management policies and procedures;
- (vii) Adoption and implementation of adequate procedures to ensure eligibility and suitability standards are met for investors in proposed funds; and
- (viii) Adoption and implementation of all applicable legal and fiduciary requirements when carrying out the activities.

7. VNBTrust shall ensure that the Investment Subsidiary adopts and adheres to the following limits for the Investment Subsidiary's investments in funds it advises that contain bank-ineligible assets:

- (i) *Individual fund basis*: The Investment Subsidiary's maximum investment in a fund it advises shall not exceed the lesser of \$100,000 or 1% of the equity capital of the fund measured at the time the Investment Subsidiary makes the investment; and

(ii) *Aggregate funds basis*: The Investment Subsidiary's maximum aggregate investment, measured at the time of the investment, in all such funds shall not exceed an amount equal to 10% of VNBTrust's capital.

8. VNBTrust shall cause the Investment Subsidiary to notify the OCC's Virginia Field Office in writing within one day of becoming aware of the departure (or pending departure) or incapacity of the investment manager of the Investment Subsidiary. Upon being so directed by the OCC, VNBTrust shall cause the Investment Subsidiary to implement the contingency plan listed in Condition (5)(ii) above. If the contingency calls for hiring a new manager for a private investment fund, VNBTrust shall submit the names of a proposed investment manager, along with an interagency biographical and financial report concerning this individual, to the Virginia Field Office, and shall not hire such manager unless the OCC provides a written finding of no objection (unless the OCC grants a waiver of this requirement) in writing.
9. VNBTrust shall maintain staff or third party contractors with sufficient competence with respect to the management of, and compliance with regulations relating to, private investment funds at all times, to the satisfaction of VNB's EIC.
10. VNBTrust (a) shall give the OCC's Virginia Field Office at least sixty (60) days prior written notice of its organization of (or undertaking to advise or obtain a special equity investment in) a private investment fund other than the Funds, and (b) shall obtain the OCC's written determination of no objection before it creates or undertakes to advise or obtain a special interest in a private investment fund other than the Funds.
11. Any private investment funds organized or advised by VNBTrust or its subsidiaries shall be considered "affiliates" of VNBTrust and VNB for purposes of Sections 23A and 23B of the Federal Reserve Act.
12. VNBTrust, through the Investment Subsidiary, shall not receive Special Interests in funds other than funds that invest in securities and financial instruments, and shall not invest in any fund that holds real estate or tangible personal property.
13. VNBTrust shall account for the Investment Subsidiary's Special Interests in private investment funds under the equity method of accounting.
14. VNBTrust, through the Investment Subsidiary, shall hold a special interest in a private investment fund only when, and only for so long as, the Investment Subsidiary is providing investment management services to the fund.
15. VNBTrust shall cause the Investment Subsidiary to provide copies of any revised private investment fund offering memoranda or customer disclosure materials to VNB's EIC at least ten business days before such changes become effective. The revised materials shall be accompanied by a written certification that VNBTrust and the Investment Subsidiary

have reviewed, and caused legal counsel to review, the revised materials for compliance with applicable laws.

General Operations

16. VNBTrust (a) shall give the OCC's Virginia Field Office at least sixty (60) days prior written notice of its intent to significantly deviate or change from the business plan and operations described in the charter application and (b) shall obtain the OCC's written determination of no objection before it engages in any significant deviation or change from its business plan or operations.²⁰ The OCC may impose additional conditions it deems appropriate in a written determination of no objection to VNBTrust's notice.

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.

These approvals 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.

A separate letter is enclosed requesting your feedback on how we handled your applications. We would appreciate your response so we may continue to improve our service. If you have questions regarding this letter, please contact Senior Licensing Analyst John Aponte at (202) 874-5060. Please reference the application control numbers in any correspondence.

Sincerely,

/s/

Lawrence E. Beard
Deputy Comptroller, Licensing

Enclosures: Standard Requirements
Minimum Policies and Procedures
Survey Letter

²⁰ If such deviation is the subject of an application filed with the OCC, the OCC does not require any further notice to the supervisory office.