



December 16, 2014

**Conditional Approval #1117
February 2015**

Mr. Matthew Audette
Chief Financial Officer
E*TRADE Bank
671 North Glebe Road
Arlington, Virginia 22203

RE: Capital Distribution Application filed on behalf of E*TRADE Bank, Arlington, Virginia
OCC Control Number: R2-2014-0070 Charter Number: 705848

Dear Mr. Audette:

The Office of the Comptroller of the Currency (OCC) hereby conditionally approves the Capital Distribution Application (Application) filed on behalf of E*TRADE Bank, Arlington, Virginia (Bank). The Bank is a federal stock savings bank that is wholly owned by ETB Holdings, Inc., (Holding Company 1), which is in turn wholly owned by E*TRADE Financial Corporation (Holding Company 2). Both Holding Company 1 and Holding Company 2 are savings and loan holding companies. The OCC received the Application on September 25, 2014. The Bank subsequently has supplemented the Application in response to the OCC's additional information requests.

The Application, filed pursuant to 12 C.F.R. Part 163, Subpart E, requests the OCC's approval for the Bank to dividend all of its interest in two subsidiary companies, E*TRADE Clearing LLC and E*TRADE Securities LLC (Securities), to Holding Company 1. Securities engages in certain activities that have not been found permissible under the Home Owners' Loan Act.¹ The Bank will no longer be engaged in these activities through ownership of Securities upon the distribution of Securities to Holding Company 1.

The OCC reviewed the Application in accordance with applicable laws, regulations, and OCC policy. Based on a thorough review of all available information, including the representations and commitments made in the Application and by the Bank's representative, the OCC has concluded that the Application satisfies the applicable approval standards, provided the Bank complies with the conditions set forth herein. The OCC's approval is subject to the consummation requirements and conditions set forth herein.

¹ OTS approval Order 2009-10 (Feb. 9, 2009).

Capital Distribution

Pursuant to 12 C.F.R. § 163.146, the OCC may deny a capital distribution application in whole or in part if the proposed distribution would: (i) cause the federal savings association to become undercapitalized;² (ii) raise safety and soundness concerns; or (iii) violate any statute, regulation, agreement between the Bank and the OCC or the Office of Thrift Supervision (OTS), or violate a condition imposed on the federal savings association by the OCC or OTS in the approval of an application or notice.³

The OCC has reviewed the Application pursuant to the terms of 12 C.F.R. § 163.146. The OCC has concluded that the proposed capital distribution will not cause the Bank to become undercapitalized, is consistent with the Bank's safety and soundness (subject to the conditions set forth herein), and rather than violating any statute, regulation, agreement or condition, will facilitate the Bank's activities' compliance with applicable statutes and regulations.

Accordingly, the OCC concludes that the Application is consistent with the approval standards in 12 C.F.R. § 163.146, subject to the conditions set forth herein.

Conditions

The OCC approves the Application subject to the following conditions:

1. No later than the date of consummation of the first portion of the proposed capital distribution, the Bank shall enter into an Operating Agreement with the OCC on terms and conditions acceptable to the OCC, and the Bank shall thereafter implement and comply with the terms of the Operating Agreement.
2. No later than the date of consummation of the first portion of the proposed capital distribution, the Bank shall enter into a legally enforceable Capital Assurance and Liquidity Maintenance Agreement with Holding Company 1 and Holding Company 2, on terms and conditions acceptable to the OCC, setting forth the obligations of Holding Company 1 and Holding Company 2 to provide capital and liquidity support to the Bank.

The conditions of this approval are conditions "imposed in writing by a Federal banking agency in connection with any action on any application, notice, or other request" within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

² If this factor is met, the OCC may still approve the capital distribution request if it determines that the capital distribution is permitted under 12 U.S.C. § 1831o(d)(1)(B).

³ If this factor is met, the OCC may still determine whether it may permit the proposed capital distribution notwithstanding the violation. 12 C.F.R. § 163.146(c).

Consummation Requirements

The approval set forth herein is granted based on our understanding that other regulatory approvals, non-objections or waivers with respect to the proposed capital distribution will have been received prior to consummating the first portion of the capital distribution.

No later than five business days after the date of consummation of any portion of the capital distribution, a certification must be filed with Licensing stating the effective date of the capital distribution. The certification must specify the transaction that was consummated and that such transaction was completed in accordance with all applicable laws and regulations, the Application, and this letter.

If the capital distributions approved herein do not consummate within 120 calendar days of the approval date, the approval for any transaction not yet consummated shall automatically terminate, unless the OCC grants an extension in writing for good cause.

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.

A separate letter is enclosed requesting your feedback on how the OCC handled the Application. We would appreciate your response so we may continue to improve our service.

All correspondence regarding the Application should reference the control number. If you have any questions, please contact Donald Dwyer, Thrift Licensing Lead Expert, Licensing Division, at (202) 649-6347 or at Donald.Dwyer@occ.treas.gov.

Sincerely,

/s/

Stephen A. Lybarger
Deputy Comptroller for Licensing