



## Office of the Comptroller of the Currency

Northeastern District  
340 Madison Ave., Fifth Floor  
New York, NY 10173

### Conditional Approval #1141 December 2015

November 2, 2015

Ms. Kristine M. Nishiyama  
Senior Vice President and General Counsel  
Capital Bank and Trust Company  
333 South Hope Street  
Los Angeles, California 90071-1406

Re: Applications by Capital Bank & Trust Company, Irvine, California to seek full fiduciary trust powers; acquire Capital Guardian Trust Company, a Nevada Company, Reno, Nevada; and to purchase certain assets from Capital Guardian Trust Company, Los Angeles, California through a bulk transfer

OCC Control Numbers: 2014-NE-Fiduciary-144169  
2014-NE-Combination-144211  
2014-NE-5.53-144168

Dear Ms. Nishiyama:

The Office of the Comptroller of the Currency (OCC) hereby grants conditional approval for the applications by Capital Bank and Trust Company, Irvine, California (CB&T or Bank) to exercise full fiduciary powers, to merge Capital Guardian Trust Company, a Nevada corporation, Reno, Nevada, (CGTN) with and into CB&T, and to purchase certain assets from Capital Guardian Trust Company, Los Angeles, California (CGTC). The OCC grants these conditional approvals based on a thorough review of the applications, other materials you have supplied, and other information available to the OCC, including the commitments and representations made in the applications and supplemental materials, and by the applicant's representatives during the application process. These approvals are subject to the conditions set out herein.

#### **Background and Transactions**

CB&T is a federal savings association whose activities are limited to trust and fiduciary related activities. It is a wholly owned subsidiary of The Capital Group Companies, Inc. (CGCI), a global, privately held investment management and service organization with various subsidiaries engaged in investment management related activities. CB&T provides non-discretionary trust and custodial services to various retirement plans, and discretionary trust services to collective investment funds. CB&T seeks to expand its business plan to provide trust and fiduciary services to high net worth individuals and entities through the acquisition of

an existing business line, Capital Group Private Client Services (PCS), from two affiliates. CGTN, an uninsured Nevada chartered trust company, and CGTC, an uninsured California chartered trust company currently operate the PCS business. CB&T proposes to acquire the PCS business line through two separate transactions. The first, merger of CGTN with and into CB&T (the Merger), and second, the acquisition of CGTC's assets and accounts associated with the PCS business line (the Bulk Transfer). Accordingly, CB&T filed applications with the OCC for approval to exercise full fiduciary powers (the Fiduciary Powers Application), to acquire by merger CGTN (the Merger Application), and to purchase certain assets from CGTC (the Bulk Transfer Application).<sup>1</sup>

## **Legal Authority for the Transactions**

### **1. Fiduciary Powers**

In connection with its proposed acquisition of the PCS business, CB&T filed an application with the OCC to expand its fiduciary powers pursuant to 12 CFR Part 150, Subpart A. The OCC reviewed the Fiduciary Powers Application and considered the factors listed in 12 CFR 150.100, including CB&T's financial condition, overall performance, the sufficiency of its capital, the fiduciary powers CB&T proposes to exercise and its supervision of those powers, the availability of legal counsel, the needs of the community to be served, and other proper facts and circumstances.<sup>2</sup> The OCC found them consistent with approval and conditionally approves CB&T's Fiduciary Powers Application.

### **2. The Merger**

In connection with its plan to acquire the PCS business line, CB&T proposes to merge with CGTN, an uninsured Nevada chartered trust company. The OCC reviewed the proposed Merger in accordance with applicable OCC regulations, 12 CFR 152.13 and 12 CFR 163.22.<sup>3</sup>

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<sup>1</sup> The Fiduciary Powers Application, the Merger Application and the Bulk Transfer Application, are collectively the "Applications."

On May 18, 2015, the OCC adopted a final rule with an effective date of July 1, 2015, integrating its rules relating to policies and procedures for corporate activities and transactions involving national banks and federal savings associations. *See Integration of National Bank and Federal Savings Association Regulations: Licensing Rules; Final Rule*, 80 Fed. Reg. 28346 (May 18, 2015) ("New Rules"). Since the Applications were filed prior to the July 1, 2015 effective date, consistent with its established policy, the OCC reviewed the Applications based on regulatory requirements governing the corporate activities of federal savings associations in effect prior to July 1, 2015.

<sup>2</sup> See 12 CFR 150.100 (2014).

<sup>3</sup> See also 12 USC 1464(d)(3)(A).

The OCC found CB&T met the requirements outlined in 12 CFR 152.13.<sup>4</sup> The OCC also applied the criteria set out in section 163.22(d).<sup>5</sup> The OCC considered the capital level of CB&T after the Merger, financial and managerial resources, future prospects, the convenience and needs of the communities to be served, conformity of the transaction to applicable law, regulation, and supervisory policies, and factors relating to the fairness of and disclosure concerning the transaction.<sup>6</sup> The OCC found these factors consistent with approval and conditionally approves the Merger Application.<sup>7</sup> Upon the effective date of the Merger, the assets and property held by CGTN will transfer to CB&T by operation of law and CB&T will succeed to the rights and obligations of CGTN.<sup>8</sup>

### 3. The Bulk Transfer

In addition to the proposed Merger, CB&T proposes to acquire from CGTC assets and accounts that are part of the PCS business line. The OCC reviewed the Bulk Transfer in accordance with the applicable requirements of 12 CFR 163.22(d).<sup>9</sup> The OCC found these factors consistent with approval and conditionally approves the Bulk Transfer Application.<sup>10</sup>

### 4. Trust Offices

In addition to its main office in Irvine, California, CB&T maintains a trust office in Carmel, Indiana. Upon consummation of the Merger and Bulk Transfer, CB&T proposes to establish

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<sup>4</sup> Among other things, 12 CFR 152.13 sets forth requirements for provisions in the merger agreement, board approval, and state law requirements applicable to the state chartered institution involved in the transaction. See 12 CFR 152.13 (2014). See also Nev. Rev. Stat. Ann. 92A.190 (regarding the authority of a Nevada trust company to merge with an out of state federal savings association).

<sup>5</sup> The Merger, a combination with an uninsured state trust company, is a “transfer” under 12 CFR 163.22(c). See 12 CFR 163.22(c) last sentence: “[f]or purposes of this paragraph, the term “transfer” means...combinations with a depository institution other than an insured depository institution.” 12 CFR 163.22(c)(2014).

<sup>6</sup> See 12 CFR 163.22(d)(1)(i)-(vi)(2014).

<sup>7</sup> The OCC also reviewed the Merger for compliance with the requirements on transactions with affiliates under 12 USC 371c and 12 USC 371c-1 and Regulation W.

The Merger is also subject to review by the Federal Deposit Insurance Corporation (FDIC) under the Bank Merger Act, 12 USC 1828(c). See 12 USC 1828(c)(1)(A). The FDIC approved the Merger on February 10, 2015.

<sup>8</sup> See 12 CFR 152.13(l)(2014).

<sup>9</sup> Under section 163.22(c), “transfer” includes purchases of assets in bulk not made in the ordinary course of business. See 12 CFR 163.22(c)(2014), last sentence. Also see 12 CFR 163.22(d)(1)(i)-(vi).

<sup>10</sup> The OCC also reviewed the Bulk Transfer for compliance with the restrictions on transactions with affiliates under 12 USC 371c and 12USC 371c-1 and Regulation W.

additional trust offices in New York, Nevada, Georgia, Illinois, Florida, and several other locations in California. Federal savings associations may establish trust offices on a nationwide basis.<sup>11</sup>

## **Section 1818 Conditions**

These approvals are subject to the following conditions:

1. Within one business day after consummation of the Merger and Bulk Transfer, CB&T shall enter into a written Operating Agreement with the OCC on terms and conditions acceptable to the OCC. CB&T shall thereafter implement and adhere to the terms of the Operating Agreement.
2. Within three business days after the effective date of the Operating Agreement between CB&T and the OCC, CB&T shall enter into a written Capital and Liquidity Support Agreement (CSA) with CGCI and the OCC on terms and conditions acceptable to the OCC, setting forth CGCI's obligation to provide capital and liquidity support to CB&T, if and when necessary. CB&T shall thereafter implement and adhere to the terms of the CSA.
3. Within three business days after the effective date of the Operating Agreement between CB&T and the OCC, CB&T shall enter into a written Capital Assurance and Liquidity Maintenance Agreement (CALMA) with CGCI on terms and conditions acceptable to the OCC, setting forth CGCI's obligation to provide capital and liquidity support to CB&T, if and when necessary. CB&T shall thereafter implement and adhere to the terms of the CALMA.

These conditions of 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 USC 1818. As such, the conditions are enforceable under 12 USC 1818.

## **Consummation Requirements**

This approval is granted based on our understanding that other applicable regulatory approvals, non-objections or waivers with respect to the proposed transactions will have been received prior to consummation of the transaction.

The Merger and Bulk Transfer must be consummated no later than 120 calendar days from the date of this approval letter unless the OCC grants an extension of this time for good cause.

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<sup>11</sup> See 12 CFR 150.130.

On the business day prior to the date of the consummation, the Chief Financial Officers of CB&T, CGTN, and CGTC must certify in writing to the OCC that no material adverse events or material adverse changes have occurred with respect to the financial condition or operation of their respective institutions, as disclosed in the Applications. If additional information having a material adverse bearing on any feature of the Application is brought to the attention of CB&T, CGTN, CGTC, or the OCC since the date of the financial statements submitted with the Applications, CB&T must not consummate the transactions, unless the information is presented to the OCC, and the OCC provides written non-objection to consummation of the transaction.

In addition, CB&T must submit the following information to the OCC Northeastern District Licensing Office within the timeframe noted:

- No later than five calendar days after the date of consummation of the transaction, CB&T must file a certification stating the effective date of the transaction and that the transaction consummated in accordance with all applicable laws and regulations, the Applications, and this letter.
- No later than five calendar days after the date of consummation, CB&T must provide copies of all regulatory approvals not previously submitted.

These conditional approvals and the activities and communications by OCC employees in connection with the filings 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. These conditional approvals are based on the Bank's representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind these approvals, if a material change in the information on which the OCC relied occurs prior to the date of the transactions to which these conditional approvals pertain. 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 these conditional approvals should include the control numbers listed above. If you have any questions regarding this letter, please contact Wai-Fan Chang, Senior Licensing Analyst, at (212) 790-4055.

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

Sincerely,

*signed*

Stephen A. Lybarger  
Deputy Comptroller for Licensing

Enclosure