DREHER TOMKIES LLP

ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

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FDIC AND OCC TOUT IMPROVEMENTS TO PROMOTE NEW BANK CHARTERS

On August 10, the Federal Deposit Insurance Corporation ("FDIC") announced a new two-phase process for reviewing deposit insurance applications. The new process is intended to encourage new bank formation, accelerate the speed of the review process and improve the efficiency of the application process. The FDIC has historically been notoriously reluctant to approve deposit insurance applications for a variety of reasons, some of which were seemingly more political than pragmatic.

Under the new approach, the FDIC will provide *de novo* applicants who satisfy relevant requirements: (i) a *contingent authorization* within 120 days of receiving the application and (ii) approval within the subsequent 12 months following the receipt of additional information and completion of key organizational steps. This two-phase process is intended to provide organizing groups with early feedback.

The FDIC intends to better coordinate its review of applications with chartering authorities to promote efficiency, avoid duplication and ensure timely action.

The Office of the Comptroller of the Currency ("OCC") cheered the FDIC's effort, noting that over the past 15 years, *de novo* chartering declined significantly, contributing to a less dynamic and competitive banking industry. The OCC touted its own efforts to improve the chartering process, noting that in the last 18 months, the OCC has received 40 *de novo* applications, including applications for national trust banks, and that in many cases, the OCC has made decisions on charter applications within 120 days of receipt of a complete application.

"For more than a decade, regulators signaled that those seeking a federal bank charter and federal deposit insurance need not apply," said Comptroller of the Currency Jonathan V.Gould. "Entities that engage in legally permissible activities, including those involving digital assets and other novel technologies, should have a path to becoming a national bank. America and the OCC are once again open for business."

Among the recent conditional approvals from the OCC are:

- World Liberty Trust Company (national trust bank charter)
- Upstart Bank, N.A.
- Circle (national trust bank charter) plus a limited-purpose trust charter from the State of New York

There have been notable returns and denials:

- Zerohash (national trust bank charter)
- Wise (national trust bank charter)
- Bunq US Bank, N.A.

Many recent applicants that have had their applications returned or denied plan to re-submit once they address the OCC's concerns. A number of applicants await FDIC or Federal Reserve Board decisions.

We will continue to monitor and report on these and other important charter developments. ❑

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