

DRAFT

OFFICE OF THRIFT SUPERVISION

APPLICATION FOR FIDUCIARY POWERS

PAPERWORK REDUCTION ACT STATEMENT

Office of Thrift Supervision (OTS) will use this information to evaluate a Federal savings association's proposed fiduciary activities in light of statutory and regulatory criteria.

Collection of the information is mandatory for Federal savings associations as defined in Section 2 of the Home Owners' Loan Act (HOLA) (12 U.S.C. § 1462(5)).

PUBLIC REPORTING BURDEN FOR THIS COLLECTION OF INFORMATION IS ESTIMATED TO AVERAGE 27 HOURS PER RESPONSE, INCLUDING THE TIME FOR REVIEWING INSTRUCTIONS, SEARCHING EXISTING DATA SOURCES, GATHERING AND MAINTAINING THE DATA NEEDED, AND COMPLETING AND REVIEWING THE COLLECTION OF INFORMATION. SEND COMMENTS REGARDING THIS BURDEN ESTIMATE OR ANY OTHER ASPECT OF THIS COLLECTION OF INFORMATION, INCLUDING SUGGESTIONS FOR REDUCING THIS BURDEN, TO THE OFFICE OF THRIFT SUPERVISION, 1700 G STREET, N.W., WASHINGTON, DC 20552 AND TO THE OFFICE OF MANAGEMENT AND BUDGET, PAPERWORK REDUCTION PROJECT (1550-0037), WASHINGTON, DC 20503.

An organization or a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

OFFICE OF THRIFT SUPERVISION
APPLICATION FOR FIDUCIARY POWERS

Instructions to Applicant

An "Application For Fiduciary Powers" (application) must be completed by all Federal savings associations (you or your), as defined in Section 2 of the HOLA, 12 U.S.C. § 1462(5), seeking authorization to engage in fiduciary activities, pursuant to 12 U.S.C. § 1464(n) and 12 C.F.R. Part 550. The application is required whether the fiduciary activities will be offered directly through the savings association, through an operating subsidiary, or through a service corporation as defined in 12 C.F.R. § 559.2.

OTS will use the information you provide on the fiduciary powers application to evaluate your proposed fiduciary activities using applicable statutory and regulatory criteria. You must provide complete responses to each item. You may include additional information that would clarify or support your request to engage in fiduciary activities. OTS may also request that you provide additional information. Refer to 12 C.F.R. Parts 516 and 550 for the appropriate filing procedures. All questions concerning OTS procedures for processing fiduciary powers applications should be directed to the OTS Regional Office responsible for your supervision.

OTS will consider the following factors when reviewing your application:

- your financial condition;
- whether your capital can support the proposed fiduciary activities;
- your overall performance in operating your other activities;
- the nature of the proposed fiduciary activities;
- whether your directors and management appear qualified to supervise the proposed fiduciary activities;
- whether your legal counsel appears qualified to advise you regarding your proposed fiduciary activities;
- your proposed business plan;
- the needs of the community for the proposed fiduciary activities; and
- any other factors or circumstances that the OTS considers proper.

If approval is granted, you must provide written notice to OTS within ten days of acceptance of your first account relationship. If you do not commence the fiduciary activities within one year of the date of approval, you may be asked to furnish current or additional information prior to accepting any accounts. If you do not commence the fiduciary activities within five years of the date of approval, your fiduciary powers will be considered as revoked and you must reapply before accepting any fiduciary accounts.

**OFFICE OF THRIFT SUPERVISION
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Section I

1. You intend to exercise fiduciary powers: exclusively
 in addition to other activities
 (e.g., taking deposits, lending)
2. You intend to use fiduciary powers: primarily as a customer accommodation
 to establish a viable profit center
3. You intend to exercise fiduciary powers at: the savings association
 an operating subsidiary
 a service corporation
4. You intend to exercise fiduciary powers under the name of (i.e., doing business as):

5. You are requesting: full fiduciary powers (skip to No. 6)
 limited fiduciary powers (complete No. 5a)

5a. You intend to seek fiduciary accounts where you will be named:

- Personal:** trustee conservator
 executor other (specify)
 administrator _____
 guardian _____
- Employee Benefit:** trustee other (specify)

- Corporate:** trustee other (specify)
 transfer agent _____
 registrar _____

Investment Manager - (having sole or shared authority to determine what securities or other assets to purchase or sell on behalf of another)

or

Investment Advisor - (giving investment advice for a fee)

for: ___ individuals ___ mutual funds
 ___ personal trusts ___ endowments
 ___ employee benefit plans ___ foundations
 ___ corporate trusts ___ charities
 ___ common or collective funds ___ other (specify)

6. Addresses where you will operate offices that provide core fiduciary functions, such as entering into binding commitments, making discretionary decisions, and giving advice:

7. Person to whom questions regarding this application should be addressed:

Name and Title: _____
Mailing Address: _____
Phone and Email: _____

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APPLICANT (Name and Home office location)

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**Section II
General Information**

- 1. Provide a copy of the Board of Director's resolution approving the exercise of fiduciary powers and the name of the entity(s) that will be exercising them.**
- 2. Provide a legal opinion of independent counsel stating that the fiduciary services you intend to offer are permitted under state law in all states where you intend to conduct core fiduciary activities. Include citations and copies of cited state laws and regulations.**
- 3. Submit a certification stating that the capital you intend to maintain, at a minimum, is equivalent to the state law requirements for state-chartered banks, trust companies, and corporations exercising fiduciary powers in the states where you intend to conduct core fiduciary activities.**
- 4. If the state requires corporations acting in a fiduciary capacity to deposit securities with state authorities for the protection of private or court trusts, indicate how you will meet this requirement.**
- 5. Submit an organizational chart of the overall institution (parent, subsidiaries, and affiliates) including descriptions of the business lines of each entity. Discuss in detail the intended use of affiliates or other related entities to support the proposed fiduciary activities.**
- 6. Submit an organizational chart of personnel, including the Board of Directors, various committees, and management responsible for the oversight, direction, and performance of the proposed fiduciary activities.**
- 7. Provide resumes and discuss specific qualifications of your Board of Directors to supervise the proposed fiduciary activities. Discuss any anticipated changes to your Board's composition.**

- 8. Discuss anticipated Board of Directors' committee structure relating to the proposed fiduciary activities, specifically addressing the duties of each committee and naming committee members.**
- 9. Provide resumes and discuss specific qualifications of anticipated management and staff to support the proposed fiduciary activities.**
- 10. Discuss any proposed use of dual Board members, officers or staff (i.e., individuals employed by both the entity offering the trust services and any related entity) and the proposed reporting structure. Address the potential for conflicts of interest arising from their dual roles and how they will be managed. Explain how costs such as overhead and salaries will be allocated for dual employees.**
- 11. Identify your proposed legal counsel for fiduciary matters and describe their qualifications and experience in handling fiduciary activities. Detail any services they currently perform for you.**
- 12. Provide a copy of policies and procedures to support your proposed fiduciary activities, including, as applicable, but not limited to, the specific requirements of 12 C.F.R. § 550.140.**
- 13. Describe the proposed audit program for overseeing fiduciary activities in compliance with 12 C.F.R. §§ 550.440 through 550.480. Identify the internal and/or external auditors to be used and their specific fiduciary auditing qualifications.**
- 14. Describe your proposed investment decision-making process relating to discretionary fiduciary account relationships. State whether you, or any related entity, are a registered investment advisor under the Investment Advisers Act of 1940 (15 USC 80b-1, et. seq.).**
- 15. Describe your current or proposed Internet site and how your proposed fiduciary activities may be incorporated into it. Describe anticipated customer access capabilities. Address requirements under 12 C.F.R. Part 555 if applicable.**
- 16. Identify the data processing system to be used to support the proposed fiduciary activities. Describe the types of records it will generate and how they will be maintained to ensure compliance with 12 C.F.R. §§ 550.410 through 550.430. Address the qualifications and training of data processing and support staff. Also address compliance with recordkeeping and confirmation requirements for securities transactions under 12 C.F.R. Part 551, if applicable.**

- 17. Supply names of anticipated fiduciary service providers, including related entities, describing their qualifications and experience and the activities you expect to delegate to them. Provide copies or details of anticipated service agreements. If agreements will be between you or your subsidiary and a parent or affiliate, describe how the arrangements will comply with Section 23B of the Federal Reserve Act (12 USC 371c-1), Section 1468 of the HOLA, 12 C.F.R. § 563.41, and Regulation W.**
- 18. Describe the anticipated role of any employees, agents, or independent contractors of the parent, affiliate, subsidiary, service corporation, or independent third-party in the marketing, advertising or soliciting of customers for your proposed fiduciary activities. Describe the training you intend to provide to them to ensure compliance with applicable law and your fiduciary policies and procedures.**
- 19. Describe any anticipated payments of direct or indirect referral fees, how they will be determined, who will be eligible, and the anticipated impact on fiduciary income.**
- 20. Describe any litigation pending against you, your parent, affiliates, or subsidiaries, including the names of plaintiffs, docket numbers, and the nature and amount of claims. Provide details of any government investigations (e.g., SEC, NASD, state attorneys general, state insurance commissions) of you, your parent, affiliates, or subsidiaries performed during the past ten years.**
- 21. Provide information on your major insurance coverage (e.g., fidelity, errors and omissions, employee dishonesty) and state whether it meets the requirements of 12 C.F.R. § 550.190. Discuss any anticipated changes to address your proposed fiduciary activities.**
- 22. Provide any additional comments or information in support of your application.**

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Section III

PROPOSED FIDUCIARY POWERS

Directors, Fiduciary Officers and Managers

Submit the following information for EACH Director, Manager of Fiduciary Activities, and Fiduciary Officer:

Name of Director, Manager or Officer:

Present Employer:

Present Position and Years Employed:

Present Duties:

Proposed Position:

Proposed Duties:

Proposed Location:

Proposed Duality of Employment (internally or with a parent, affiliate or subsidiary):

Describe any specialized fiduciary or investment training and any prior employment history that would support their qualifications related to fiduciary or investment activities.

Furnish the name, location, individual's position, and business description for all companies and partnerships in which the individual is a director, officer, employee, partner or substantial shareholder. Indicate whether any of these business interests involve entities that do business with you or compete with you in any manner.

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Section IV

Proposed Fiduciary Powers

Committee Structure

Submit the following information for EACH member of any committee (e.g., fiduciary, investment, audit) with fiduciary supervision responsibilities and indicate whether the committee is at the Board of Directors level or lower:

Name of Committee:

Name of Committee Member:

Position with you or your subsidiary, parent, or affiliate:

Principal Occupation:

Discuss the committee member's qualifications to fulfill the committee assignment.

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**Section V
Fiduciary Business Plan**

Submit a copy of your business plan for the proposed fiduciary activities. The plan should, at a minimum, address the following issues:

- 1. Specify the fiduciary services to be offered and fees to be charged.**
- 2. Discuss the reasons for seeking fiduciary powers. If the fiduciary powers will be used to establish a profit center, estimate a realistic timeframe for achieving profitable operating results and discuss factors that may affect meeting business goals or influence profitability.**
- 3. Discuss how you intend to market your services and establish your customer base. Include any plans to acquire business through the purchase or transfer of existing fiduciary account relationships.**
- 4. Discuss your current financial condition and performance, including available capital resources. Prepare pro-forma financial statements reflecting the addition of fiduciary activities to your operations over the next three fiscal years. Discuss your ability to support fiduciary activities, including potential operating losses, and their impact on your overall financial condition.**
- 5. Discuss the anticipated budget process as it relates to fiduciary activities.**
- 6. Discuss your assessment of the risks to you associated with the proposed fiduciary services. Include your plans for identifying, measuring, monitoring, and controlling those risks on an ongoing basis.**
- 7. Address general economic conditions and competitive conditions relating to fiduciary services you intend to provide in your market area.**
- 8. Address the knowledge and expertise of management and staff, system capabilities, and other factors discussed in Sections I through IV of this application.**
- 9. Complete Tables 1 and 2 (attached) and discuss the underlying assumptions supporting the information furnished.**

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**ESTIMATED INCOME AND EXPENSE FROM FIDUCIARY ACTIVITIES
 Table 1**

| Description | Year One | Year Two | Year Three |
|--|----------|----------|------------|
| Income from Fees | | | |
| Income/Credit from Fiduciary Cash Deposited in Own/Related Institution | | | |
| Other Income (specify) | | | |
| TOTAL INCOME | | | |
| Personnel Expense | | | |
| Occupancy Expense | | | |
| IT Expense | | | |
| Investment Related Expense | | | |
| Legal Fees | | | |
| Other Expense (specify) | | | |
| TOTAL EXPENSE | | | |
| NET PROFIT/(LOSS) | | | |
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**ESTIMATED STAFFING AND ACCOUNT INFORMATION
 Table 2**

| Description | Year One | | Year Two | | Year Three | |
|---|--------------|--------------|--------------|--------------|--------------|--------------|
| | Amount (000) | Accounts (#) | Amount (000) | Accounts (#) | Amount (000) | Accounts (#) |
| DISCRETIONARY ACCOUNTS | | | | | | |
| Estate/Court Accounts | | | | | | |
| Personal Trust | | | | | | |
| Employee Benefit Trust | | | | | | |
| Corporate Trust | | | | | | |
| Investment Management & Investment Advisory Accounts | | | | | | |
| Other (specify) | | | | | | |
| Total Discretionary Accounts | | | | | | |
| | | | | | | |
| NON-DISCRETIONARY ACCOUNTS | | | | | | |
| Estate/Court Accounts | | | | | | |
| Directed Personal Trust or Agency | | | | | | |
| Directed Employee Benefit Trust or Agency | | | | | | |
| Corporate Trust/Agency | | | | | | |
| Custody and Safekeeping Accounts | | | | | | |
| Other (specify) | | | | | | |
| Total Non-Discretionary Accounts | | | | | | |
| | | | | | | |
| Total Discretionary and Non-Discretionary Accounts | | | | | | |

RESOLUTION AND CERTIFICATION OF BOARD OF DIRECTORS

This application is made pursuant to authorization and direction of the Board of Directors of this institution, as evidenced by the following resolution adopted by said Board at a meeting duly called and held on the _____ day of _____, 20____.

RESOLVED, That an application be made by this institution for the written approval of the Office of Thrift Supervision to exercise full fiduciary powers / limited fiduciary powers (strike one) as set forth in the accompanying "Application for Fiduciary Powers" dated _____.

FURTHER RESOLVED, That the Chief Executive Officer and the Secretary of the association are hereby authorized and directed, on behalf of this institution, to execute and submit such application to the Office of Thrift Supervision.

(SEAL)

Applicant Name

Location

ATTEST:

BY:

Chief Executive Officer

Secretary

Date