

Fiduciary Powers Application

General Information and Instructions

Preparation and Use

This application is used to effect a transaction under 12 USC 92a and 12 CFR 5.26 for national banks and 12 USC 1464(n) and 12 CFR 150 for federal savings associations (collectively, banks).

A “Fiduciary Powers Application” (application) must be completed by all banks seeking authorization to engage in fiduciary activities. The application is required whether the fiduciary activities will be offered directly through the bank, through an operating subsidiary, or through a service corporation.

All questions must be answered with complete and accurate information that is subject to verification. If the answer is “none,” “not applicable,” or “unknown,” so state. Answers of “unknown” should be explained.

The questions in the application are not intended to limit the applicant’s presentation nor are the questions intended to duplicate information supplied on another form or in an exhibit. For such information, a cross-reference to the information is acceptable. Any cross-reference must be made to a specific cite or location in the documents, so the information can be found easily. Supporting information for all relevant factors, setting forth the basis for the applicant’s conclusions, should accompany the application. The regulatory agency may request additional information.

This application form collects information that the Office of the Comptroller of the Currency (OCC) will need to evaluate a fiduciary powers application. The OCC must consider the applicable statutory requirements set forth above, as well as applicable regulatory requirements, when acting on this application. For additional information regarding these statutory and regulatory requirements, as well as processing procedures and guidelines and any supplemental information that may be required, refer to the OCC’s procedural guidelines in the *Comptroller’s Licensing Manual*. The applicant may contact the OCC directly for specific instruction or visit the OCC’s Web site at www.occ.gov.

Notice of Publication

Generally, public notice under 12 CFR 5.8 does not apply to a fiduciary powers application, unless the OCC determines that the application presents a significant or novel policy, supervisory, or legal issue where a public notice is considered necessary. A public notice also may be required when a fiduciary application is accompanied by a second application that requires a publication notice under 12 CFR 5.8. In this instance, a public notice describing the entire transaction may be necessary to ensure the public has a full understanding of the entire transaction.

If a notice is required, the applicant must publish notice of the proposed fiduciary powers in a newspaper of general circulation in the community or communities in which the applicant proposes to engage in business. The OCC will provide specific requirements for the notice of publication.

Submission

In addition to an original application and the appropriate number of signed copies, submit an electronic copy of the information in the application, especially of the business plan's financial projections, if applicable. For e-mail submissions, contact the OCC for instructions and information about secure transmission of confidential material.

Confidentiality

Any applicant desiring confidential treatment of specific portions of the application must submit a request in writing with the application. The request must discuss the justification for the requested treatment. The applicant's reasons for requesting confidentiality should specifically demonstrate the harm (for example, loss of competitive position, invasion of privacy) that would result from public release of information (5 USC 552 or relevant state law). Information for which confidential treatment is requested should be (1) specifically identified in the public portion of the application (by reference to the confidential section); (2) separately bound; and (3) labeled "Confidential." The applicant should follow the same procedure when requesting confidential treatment for the subsequent filing of supplemental information to the application. Contact the OCC for any further questions regarding requests for confidential treatment.

Fiduciary Powers Application

Applicant

Name Charter no.

Current street address

City County State Zip code

Parent Company Identifying Information (if applicable)

Name

Street

City State Zip code

Contact Person

Name Title

Employer

Street

City State Zip code

Telephone no. Fax no. E-mail address

Section I
Applicant and Contact Information

1. Please state whether the bank is requesting full or limited fiduciary powers and describe in detail the type of fiduciary activities the bank will be performing.
2. Does the bank intend to exercise fiduciary powers under a different name, or will an operating subsidiary be exercising fiduciary activities or, in the case of a federal savings association, a service corporation? If so, please provide details. If an operating subsidiary will be exercising fiduciary powers, both the bank and the operating subsidiary will have to submit separate applications for fiduciary powers.
3. Please list addresses where the bank will operate offices that provide core fiduciary functions, such as entering into binding commitments, making discretionary decisions, and giving advice (per 12 CFR 9.2(e) and 150.30):

Current street address

City

County

State

Zip code

Section II

General Information

1. Provide a copy of the board of directors' resolution approving the exercise of fiduciary powers and the name of the entity(ies) that will be exercising them.
2. Submit a certification stating that the capital the bank intends 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 the bank intends to conduct core fiduciary activities.
3. 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 the bank will meet this requirement.
4. Discuss in detail the intended use of affiliates or other related entities to support the proposed fiduciary activities.
5. Submit an organizational chart.
6. Provide résumés and discuss specific qualifications of anticipated senior management, e.g., senior vice president, executive vice president, to support the proposed fiduciary activities.
7. 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 these potential conflicts will be managed. Explain how costs such as overhead and salaries will be allocated for dual employees.
8. Describe the proposed audit program for overseeing fiduciary activities. Identify the internal or external auditors to be used and their specific fiduciary auditing qualifications.
9. Describe the proposed investment decision-making process relating to discretionary fiduciary account relationships, if applicable. State whether the bank, or any related entity, is a registered investment advisor under the Investment Advisers Act of 1940 (15 USC 80b-1, et seq).
10. Will proposed fiduciary activities be incorporated into the bank's online banking platform? Please describe anticipated customer access capabilities.
11. 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 applicable laws and regulations. Describe management qualifications for systems oversight and discuss training program for systems staff. Also address compliance with record keeping and confirmation requirements for securities transactions, if applicable.

12. List all anticipated fiduciary service providers, including related entities, and discuss their qualifications and experience related to the services that will be provided by the bank.
13. 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. Also describe any anticipated payments of direct or indirect referral fees, how the fees will be determined, who will be eligible, and the anticipated impact on fiduciary income. Provide information on training to ensure compliance with applicable law and the bank's fiduciary policies and procedures.
14. Provide information concerning any litigation related to fiduciary activities, pending against the bank, its parent, affiliates, or subsidiaries, including the names of plaintiffs, docket numbers, and the nature and amount of claims, if applicable.
15. Provide details of any government investigations (e.g., SEC, FINRA, state attorneys general, state insurance commissions) on the bank, its parent, affiliates, or subsidiaries performed during the past five years.

Section III

Fiduciary Business Plan

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

1. Discuss the reasons for seeking fiduciary powers.
2. Discuss the fiduciary services to be offered.
3. Discuss the bank's marketing strategies for its services and customer retention. Include any plans to acquire business through the purchase or transfer of existing fiduciary account relationships.
4. Provide pro forma financial statements reflecting the addition of fiduciary activities to the bank's operations over the next three fiscal years. Discuss the bank's ability to support fiduciary activities, including potential operating losses, and their impact on the bank's overall financial condition.
5. Discuss the anticipated budget process as it relates to fiduciary activities.
6. Discuss the bank's assessment of the risks to the bank associated with the proposed fiduciary services. Include the bank's plans for identifying, measuring, monitoring, and controlling those risks on an ongoing basis.
7. Discuss economic conditions and competitive conditions relating to fiduciary services that the bank intends to provide in the market area to be served.

OCC CERTIFICATION

I certify that the bank’s board of directors, shareholders, or a designated official has authorized the filing of this application. I certify that the information contained in this application has been examined carefully and is true, correct, complete and current as of the date of this submission. Additionally, I agree to notify the OCC if the facts described in the filing materially change prior to receiving a decision or at any time prior to consummation of the action contemplated herein.

I acknowledge that any misrepresentation or omission of a material fact with respect to this application, any attachments to it, and any other documents or information provided in connection with this application may be grounds for denial of the application or revocation of its approval, and may subject the undersigned to legal sanctions, including the criminal sanctions provided for in Title 18 of the United States Code.

I acknowledge that the approval of this application is at the discretion of the OCC. The activities and communications by OCC employees in connection with the filing, including approval of the application if granted, 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. I further acknowledge that the foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

President or other authorized officer

Typed name

Title

Employer

(Seal) (Applicable to national banks only)