

Federal Deposit Insurance Corporation
APPLICATION FOR CONSENT TO EXERCISE TRUST POWERS

DISCLOSURE OF ESTIMATED REPORTING BURDEN

An agency may not conduct or sponsor, and an organization (or a person) is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Public reporting for this collection of information is estimated to range between 8 hours (if the bank is an "eligible depository institution under 12 CFR 303.2(r)) to 24 hours for other applicants), this includes 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 Paper Reduction Act Clearance Officer, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429, and the Office of Management and Budget, Paperwork Reduction Project (3064-0025), Washington, D.C. 20503. An agency may not conduct or sponsor, and a person is not required to respond to, a collection unless it displays an currently valid OMB number.

Name of Applicant Bank

Street Address

City

State ZIP

Code

TYPE OF TRUST POWERS FOR WHICH YOU ARE APPLYING (Check One)

☐ **Full** Trust Powers or ☐ **Limited** Trust Powers *(Complete Schedule Below)*

Schedule of Limited Trust Powers for which you are Applying (Check all applicable box(es))

Personal Trust Powers

☐ Executor and Administrator ☐ Guardian ☐ Agent
☐ Trustee ☐ Investment Advisor Agent
☐ Committee or Conservator ☐ Investment Management Agent
☐ Other *(Specify)* _____

Employee Benefit Trust Powers

☐ Trustee ☐ Agent ☐ Investment Management Agent
☐ Custodian ☐ Investment Advisor Agent
☐ Other *(Specify)* _____

Corporate Trust Powers

☐ Trustee ☐ Paying Agent ☐ Agent
☐ Transfer Agent ☐ Escrow Agent
☐ Other *(Specify)* _____

PERSON(S) TO WHOM INQUIRIES REGARDING THIS APPLICATION MAY BE DIRECTED

(Provide name, title, mailing address, and telephone number)

SIGNATURE AND TITLE OF CEO OR DESIGNEE

DATE

INFORMATION FOR SIGNER

Title 18 U.S.C. 1007 provides as follows: "Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

GENERAL INFORMATION AND INSTRUCTIONS

Regulatory Requirement

This application is used by insured state nonmember banks to request FDIC consent to exercise trust powers granted by the chartering state authority. Applications are required by Section 303.281 of FDIC's Rules and Regulations as a change in the general character of the bank's business. Activities constituting trust powers are governed by state statute, regulation, or policy.

Instructions

Complete the cover page of the application and provide a response to each item requested in the Specific Instructions section of this application. Any attachments will be considered a part of this application. Send the completed original application to the appropriate Regional Director (DOS).

The applicant is responsible for presenting and documenting information sufficient to process the application. 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 informational questions in the application are not intended to limit the applicant's presentation. You may provide any additional information deemed appropriate to a complete understanding of the proposal. The FDIC may request additional necessary information.

If any information initially furnished in the application changes materially during the processing of the application, such changes should be communicated promptly to the appropriate Regional Director (DOS) with which the application was filed.

"Eligible Depository Institution"

A depository institution that meets the following criteria: (1) has been chartered and operating for three or more years; (2) has an FDIC-assigned composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (UFIRS); (3) with regards to filings set forth in Section 303.5 of FDIC's Rules and Regulations, has a satisfactory or better Community Reinvestment Act (CRA) rating; (4) has a compliance rating of 1 or 2; (5) is well-capitalized as defined in the appropriate capital regulation and guidance of the institution's primary Federal regulator; and (6) is not subject to a cease and desist order, consent order, prompt corrective action directive, formal or informal written agreement (excluding any board of directors' resolution addressing corrective action taken pursuant to regulatory recommendations), or other administrative agreement with its primary Federal regulator or chartering authority. Section 303.2(r), FDIC Rules and Regulations [12 CFR 303.2(r)]

Confidentiality

This application will be made available to the public upon request under the provisions of the Freedom of Information Act, unless the information is confidential in nature and qualifies for exemption under this Act.

In general, requests for confidential treatment of specific portions of the application must be in writing and must be submitted concurrently with the application. The request should specifically demonstrate the harm (e.g., to its competitive position, invasion of privacy) that would result from public release of information (5 U.S.C. 552).

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 regarding a request for confidential treatment with regard to the subsequent filing of supplemental information to the application.

SPECIFIC INSTRUCTIONS
INFORMATION REQUIRED FOR CONSENT TO EXERCISE TRUST POWERS

Applications from "Eligible Depository Institutions" for expedited processing should include the cover page and questions 1 through 4 below. Applications from all other institutions for standard processing should include the cover page and all of the questions below. The term "eligible depository institutions" is defined in the General Instructions of this form.

1. **Adoption of Statement of Principles.** Provide a certified copy of the resolution of the applicant's board of directors adopting the Statement of Principles of Trust Department Management.
2. **State Trust Powers.** Indicate (a) the trust powers granted by the state authority, (b) the date(s) those powers were granted, and (c) the status of any application(s) filed with the state authority regarding the granting of, or consent to exercise, trust powers.
3. **Trust Officer.** Identify the individual designated to be the primary Trust Officer. Indicate their age, proposed title, and proposed annual salary, and the percentage of time to be devoted to fiduciary activities. Indicate the candidate's current position and responsibilities, employment history, and business and educational qualifications in the fiduciary, employee benefit and tax areas. Also indicate any professional licenses or similar certificates. Note: In lieu of this descriptive information, the proposed Trust Officer may complete the biographical information portion of the *Interagency Biographical and Financial Report*.
4. **Servicing Arrangements.** If the institution intends to use another organization to manage the administration of its trust accounts and/or to manage trust investments, please provide: (a) the name, address and phone number of each such organization; (b) the organization's relationship (if any) to the applicant and its directors and officers; (c) the type of service(s) to be provided; (d) the basis for selecting each such organization; (e) whether such service(s) will be governed by a written agreement; (f) the projected annual cost of such service(s); and (g) how the applicant intends to monitor the outside organization's performance and compliance with the scope and terms of fiduciary responsibilities and the written agreement. *Please note: This question does not cover EDP servicing or custody of trust assets by correspondent banks.*
5. **Trust Committee.** List proposed members of the Trust Committee and specify their trust-related experience and knowledge. For each person, provide: Name, position with the applicant, number of years associated with the applicant, principal occupation, and qualifications in fiduciary, investment, employee benefit, and tax areas.
6. **Trust Counsel.** Identify the attorney or legal firm which will serve as trust counsel, and describe their qualifications in fiduciary matters. Provide: (a) name and location of firm [if individual attorney include name], (b) experience in probating estates and administering other fiduciary business, (c) any present professional services performed for the applicant, and (d) any present fiduciary services performed for competing trust institutions.
7. **Projection of Trust Activity.** Provide a projection of trust accounts, assets, and profitability for the first three calendar years after the trust department begins operations.
 - **Trust Accounts and Assets:** As of each year-end, show the number of accounts expected to be generated, broken down by general type(s) of trust activity (personal trust, employee benefit accounts, corporate trust, etc.), together with the dollar volume of trust assets expected to be under the trust department's administration for each general type of trust activity.
 - **Trust Profitability:** For each of the three calendar years, show gross trust account fees, other income, and a breakdown of direct and allocated expenses (such as salaries and benefits, audits, data processing, advertising, operations, legal, overhead, etc.). If the bank intends to provide an internal credit for bank earnings generated by trust deposits, the credit for deposits should be included as a separate item for each year.
8. **Impact on Applicant.** For years where the trust profitability projections indicate a net operating loss from offering trust services, discuss the extent of the adverse impact of these losses on the condition of the applicant.

STATEMENT OF PRINCIPLES OF TRUST DEPARTMENT MANAGEMENT

The minimum requirements to provide for sound banking practices in the operation of a trust department and to provide safeguards for the protection of depositors, fiduciary beneficiaries, creditors, stockholders, and the public, should include:

- Involvement by the board of directors in providing for the establishment and continuing operation of a trust department;
- Operation of the trust department separate and apart from every other department of the bank, with trust assets separated from other assets owned by the bank, and the assets of each trust account separated from the assets of every other trust account; and
- Maintenance of separate books and records for the trust department in sufficient detail to properly reflect all trust department activities.

Nothing herein is intended to prohibit the board of directors from acting as the trust committee, or from appointing additional committees and officers to administer the operations of the trust department. When delegating duties to subcommittees and/or officers, the board and the trust committee continue to be responsible for the oversight of all trust activities. Sufficient reporting and monitoring procedures should be established to fulfill this responsibility.

The board of directors, by proper resolution included in its minutes, should:

1. Designate an officer, qualified and competent, to be responsible for and administer the activities of the trust department. In addition, the board should define the officer's duties.
2. Name a trust committee consisting of at least three directors to be responsible for and supervise the activities of the trust department. The committee should include, where possible, one or more directors who are not active officers of the bank.

The trust committee should:

- a) Meet at least quarterly, and more frequently if considered necessary and prudent to fulfill its supervisory responsibilities;
- b) Approve and document the opening of all new trust department accounts; all purchases and sales of, and changes in, trust assets; and the closing of trust accounts;
- c) Provide for a comprehensive review of all new accounts for which the bank has investment responsibility promptly following acceptance;
- d) Provide for a review of each trust department account, including collective investment funds, at least once during each calendar year. The scope, frequency, and level of review (trust committee, subcommittee, or disinterested account officer) should be addressed in appropriate written policies which give consideration to the department's fiduciary responsibilities, type and size of account, and other relevant factors.

Generally, discretionary account reviews should cover both administration of the account and suitability of the account's investments, and nondiscretionary account reviews should address account administration;

- e) Keep comprehensive minutes of meetings held and actions taken; and
 - f) Make periodic reports to the board of its actions.
3. Provide comprehensive written policies which address all important areas of trust department activities.
 4. Provide competent legal counsel to advise trust officers and the trust committee on legal matters pertaining to fiduciary activities.
 5. Provide for adequate internal controls including appropriate controls over trust assets.

6. Provide for an adequate audit (by internal or external auditors or a combination thereof) of all fiduciary activities, annually. The findings of the audit, including actions taken as a result of the audit, should be recorded in its minutes.

If a bank adopts a continuous audit process instead of performing annual audits, audits may be performed, on an activity-by-activity basis, at intervals commensurate with the level of risk associated with that activity. Audit intervals must be supported and reassessed regularly to ensure appropriateness given the current risk and volume of the activity.

7. Receive reports from the trust committee and record actions taken in its minutes.

8. Review the examination reports of the trust department by supervisory agencies and record actions taken in its minutes.