



FEDERAL RESERVE BANK OF MINNEAPOLIS

Pursuing an economy that works for all of us

Chris P. Wangen
ASSISTANT VICE PRESIDENT

January 13, 2022

Sent Via Email to adam.cohen@stblaw.com and spencer.sloan@stblaw.com

Mr. Spencer J. Sloan
Mr. Adam Cohen
Simpson Thacher & Bartlett LLP
900 G. Street, NW
Washington, D.C. 20001

Dear Messrs. Cohen and Sloan:

The following relates to the application submitted by U.S. Bancorp (“USB”), Minneapolis, Minnesota, the parent of U.S. Bank National Association (“US Bank”), Cincinnati, Ohio, to acquire MUFG Union Bank, National Association (“Union Bank”), San Francisco, California, under section 3 of the Bank Holding Company Act. Please provide written responses to the items listed below, including in the Confidential Annex:

1. In USB’s response to question 6 in the Additional Information Response submitted by USB on November 16, 2021 (the “AI Response”), USB asserts that “[b]ecause ‘Service Recipients’ are defined under the Transitional Services Agreement to consist of only Union Bank and its *subsidiaries* (or, following the Bank Merger, U.S. Bank and its subsidiaries), any non-bank Service Recipient under the Transitional Services Agreement will not be an ‘affiliate’ of Union Bank (or U.S. Bank, following the Bank Merger) for purposes of Regulation W” (emphasis in original). However, the Board’s Regulation W, 12 CFR part 223, does not exclude all member bank subsidiaries from the definition of a “affiliate.” Accordingly, confirm, if such is the case, that none of the service recipients of the Transitional Services Agreement will be “affiliates” of US Bank or Union Bank under Regulation W.
2. Regarding USB’s response to question 5 in the AI Response:
 - a. USB states that “the indemnification provisions for payments by U.S. Bancorp in Sections 5.9 and 8.1 of the Purchase Agreement do not provide for U.S. Bancorp to make indemnification payments to any *current or former* institution-affiliated party of U.S. Bancorp” (emphasis added). Clarify whether any person indemnified by U.S. Bancorp pursuant to the Purchase Agreement *will be* an institution-affiliated party of

U.S. Bancorp or U.S. Bank after the consummation of the proposal and, if so, describe those persons or classes of persons.

- b. In addition, USB states that “most (if not all) matters for which Sections 5.9 and 8.1 provide for indemnification between the MUFG group, on the one hand, and the U.S. Bancorp group, on the other hand, would not constitute civil money penalties or judgments resulting from an administrative or civil action instituted by a federal banking agency, or other liability or legal expense with regard to an administrative proceeding or civil action instituted by a federal banking agency.” Clarify whether the indemnification provided by USB pursuant to the Purchase Agreement to those persons or classes of persons described in your response to item 2.a. above extends to the payment or reimbursement of any civil money penalty or judgment resulting from any administrative proceeding or civil action instituted by any federal banking agency, or any other liability or legal expense with regard to any administrative proceeding or civil action instituted by any federal banking agency that results in a final order or settlement pursuant to which such person is assessed a civil money penalty, is removed from office or prohibited from participating in the affairs of US Bank or Union Bank, or is required to cease and desist from or take any affirmative action described in section 8(b) of the Federal Deposit Insurance Act with respect to US Bank or Union Bank (except for those payments described in 12 CFR 359.1(l)(2)).
3. To the extent that final versions of the Transitional Services Agreement and the Reverse Transitional Services Agreement (“Agreements”), including schedules A and B to each of the Agreements, are not yet available, provide updated versions of the Agreements, including a list of specific services to be performed by USB and Union Bank. If updated versions are not available, provide a detailed summary of the anticipated services that will be provided pursuant to each of the Agreements. Also, provide an update on when the Agreements will be available.
4. Provide actual and pro forma balance sheets for USB, on a parent-only and consolidated basis, and for US Bank and Union Bank on a stand-alone and pro forma basis, as of December 31, 2021, and projections for the next three years of operations, when available. The response should include:
 - a. Explanatory detailed footnotes for the debit and credit adjustments.
 - b. If not reflected in the explanatory footnotes, supporting analysis for the valuation of the transaction.
5. Provide actual and pro forma income statements for USB, on a parent-only and consolidated basis, and actual for US Bank and -Union Bank, on a stand-alone and pro forma basis, showing

separately each principal source of revenue and expense for the period ending December 31, 2021, and projections for the next three years, when available. Your response should include relevant adjustments and explanatory detailed footnotes.

6. Provide actual and pro forma capital calculations for USB, US Bank, and Union Bank as of December 31, 2021, when available. Also, provide projected capital calculations for the next three years of operations. Your response should include relevant adjustments and explanatory detailed footnotes.
7. Provide liquidity metrics, including on actual and pro forma basis net stable funding ratio and liquidity coverage ratio, for USB as of December 31, 2021.
8. Provide actual and pro forma cash flow statements for USB, on a parent-only basis, as of December 31, 2021, and projections for the next three years of operations.
9. Provide related asset quality ratios (with relevant calculations) for USB, US Bank, and Union Bank as of December 31, 2021. The asset quality analysis should include the following:
 - a. A breakdown of actual asset quality information for Union Bank as of December 31, 2020, and December 31, 2021.
 - b. A breakdown of actual asset quality information for USB and US Bank as of December 31, 2020, and December 31, 2021.
 - c. A breakdown of pro forma asset quality information for USB and US Bank as of December 31, 2021.
 - d. A focus on two separate elements: (i) criticized and classified assets, comprised of the four separate categories of other assets especially mentioned (“OAEM” or special mention), substandard, doubtful, and loss (with relevant components of other real estate owned (“OREO”) separately identified in each category),¹ and (ii) nonperforming assets, comprised of the four separate categories of nonaccrual loans, restructured loans in compliance with their terms, OREO, and other repossessed assets. Also, separately provide the category of loans 90 days past-due.
 - e. Indicate what level of (i) criticized and classified assets, (ii) nonperforming assets, and (iii) loans 90 days past-due that may be affected by the purchase accounting adjustments and other known events. To the extent not explained elsewhere, discuss the basis and justification for such adjustments.
 - f. A calculation of relevant asset quality ratios; for example, the level of criticized and classified assets should be compared to the total amount of tier 1 capital and allowance for loan loss reserves, while the level of nonperforming assets should be compared to the total amount of gross loans and OREO. The numerator and denominator of each calculated ratio must be as of the same point in time. Also, the ratios should be calculated in connection with all actual and resulting pro forma columns.
 - g. The amount of criticized and classified assets should be either as confirmed by relevant examiners at a recent examination or as more recently determined by the

Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 4 of 11
January 13, 2022

applicant's internal credit monitoring systems. Also, the breakdown provided for criticized and classified assets should encompass all such assets on the balance sheet, not just loans.

10. In the application, USB represents that it would finance \$1.25 billion of the cash consideration through securities issuances. In the AI Response, in response to question 15, USB notes that it has earmarked \$900 million toward the cash consideration and expects to issue an additional \$350 million of preferred stock at a later date.
 - a. Indicate when the \$350 million of capital issuance will occur.
 - b. Reflect the full capital raise, including the \$350 million, in the December 31, 2021 actual and pro forma financial information for USB on a parent company only and consolidated basis, US Bank, and Union Bank, as appropriate.
11. Provide the names of the entities of USB and/or US Bank that conduct international operations. Your response should also include the type of operations that are being conducted.

Please provide your response via E-Apps within eight business days of this letter. Any information for which confidential treatment is desired should be so labeled and separately bound in accordance with section 261.17 of the Board's Rules Regarding Availability of Information, 12 CFR 261.17. Please also send a copy of your response to the regulators listed below, and please provide a copy of the public portion of your response (together with any attachments) directly to the commenters listed below. The addresses of these parties are listed below.

If you have any questions regarding this letter, you may contact Senior Mergers & Acquisitions Analyst Linda Anderson by email at lindaa.anderson@mpls.frb.org.

Sincerely,



Chris P. Wangen

CPW/LAA

c:

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Office of the Comptroller and the Currency
U.S. Department of Justice, Antitrust Division
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Nancy Halpern Ibrahim
Evelyn Stivers
Richard Girling
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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 5 of 11
January 13, 2022

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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 6 of 11
January 13, 2022

ATTACHMENT
U.S. Bancorp, Minneapolis, Minnesota

Please send a copy of your response to the following regulators:

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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 7 of 11
January 13, 2022

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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 8 of 11
January 13, 2022

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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 9 of 11
January 13, 2022

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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 10 of 11
January 13, 2022

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Mr. Adam Cohen
Mr. Spencer J. Sloan
Page 11 of 11
January 13, 2022

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