

FEDERAL RESERVE SYSTEM

The Charles Schwab Corporation
San Francisco, California

Order Approving the Acquisition of a State Savings Bank

The Charles Schwab Corporation (“Charles Schwab”), San Francisco, California, a savings and loan holding company (“SLHC”), has requested the Board’s approval under section 10(e) of the Home Owners’ Loan Act, as amended (“HOLA”),¹ to acquire Charles Schwab Trust Bank, Henderson, Nevada, a *de novo* state savings bank that has elected to be treated as a savings association pursuant to section 10(l) of HOLA.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (82 Federal Register 58604 (December 13, 2017)).³ The time for submitting comments has expired, and the Board has considered the proposal, all comments received, and the factors set forth in section 10(e) of HOLA in light of all the information of record.⁴ The Federal Deposit Insurance Corporation (“FDIC”) has approved the related application under section 18(c) of the Federal Deposit Insurance Act⁵ for Charles Schwab Trust Bank to acquire certain assets and assume certain liabilities from Charles Schwab Bank, Henderson, Nevada.⁶

¹ 12 U.S.C. § 1467a(e).

² 12 U.S.C. § 1467a(l).

³ 12 CFR 238.14(c)(2).

⁴ 12 U.S.C. § 1467a(e)(2); see also 12 CFR 238.15.

⁵ 12 U.S.C. § 1828(c).

⁶ Charles Schwab proposes to establish Charles Schwab Trust Bank as a *de novo* state-chartered savings bank to consolidate the firm’s trust services and related activities into a single fiduciary-oriented bank. Charles Schwab Trust Bank would acquire certain trust assets and assume certain liabilities from Charles Schwab Bank. On December 26, 2017,

Charles Schwab, with consolidated assets of approximately \$243.3 billion, is the 15th largest insured depository organization in the United States.⁷ Charles Schwab controls two insured depository institutions, Charles Schwab Bank and Charles Schwab Signature Bank, both of Henderson, Nevada, with approximately \$165.3 billion in consolidated deposits, which represent approximately 1.3 percent of the total amount of deposits of insured depository institutions in the United States.⁸

Competitive Considerations

Section 10(e)(2) of HOLA prohibits the Board from approving a proposal that would result in a monopoly, or that would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States.⁹ HOLA also prohibits the Board from approving a proposal if the proposal would substantially lessen competition, tend to create a monopoly, or in any other manner restrain trade in any section of the country, unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the

the FDIC approved Charles Schwab Trust Bank's deposit insurance application. On December 28, 2017, the state of Nevada approved Charles Schwab Trust Bank's charter application.

⁷ The national asset datum is as of December 31, 2017, and the deposit and ranking data are as of September 30, 2017.

⁸ For purposes of HOLA, a state bank or state savings association's home state is the state by which the savings association is chartered. See 12 U.S.C. § 1467a(e)(7)(B)(ii). An SLHC's home state is the state in which the total deposits of all insured depository institution subsidiaries of such company were the largest on the date on which the company became an SLHC. See 12 U.S.C. § 1467a(e)(7)(B)(iv). Nevada is the home state for Charles Schwab, its subsidiary depository institutions, and Charles Schwab Trust Bank. In addition, Charles Schwab Trust Bank has offices only in Nevada. Accordingly, the proposed acquisition does not trigger the interstate provisions of HOLA. See 12 U.S.C. § 1467a(e)(2)(E) and 1467a(e)(3).

⁹ 12 U.S.C. § 1467a(e)(2)(A); see also 12 CFR 238.15(a)(1).

probable effect of the proposal in meeting the convenience and needs of the community to be served.¹⁰

The proposal involves the formation and acquisition of a *de novo* state-chartered savings bank in the Las Vegas, Nevada banking market, which would expand the operations of Charles Schwab in the market and increase its ability to offer products and services to customers in that market.¹¹ The Board previously has noted that the establishment of a *de novo* bank enhances competition in the relevant banking market and is a positive consideration in an application under section 3 of the Bank Holding Company Act.¹² The Board believes the same considerations are applicable under section 10(e) of HOLA.

The DOJ has conducted a review of the potential competitive effects of the proposal and has advised the Board that consummation of the proposal would not likely have a significantly adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all of the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in any relevant banking market. Accordingly, the Board determines that competitive considerations are consistent with approval.

Financial and Managerial Resources and Future Prospects

In reviewing proposals under HOLA, the Board considers the financial and managerial resources and the future prospects of the institutions involved. In its evaluation of financial factors, the Board reviews public and supervisory information regarding the financial condition of the organizations involved on both parent-only and

¹⁰ 12 U.S.C. § 1467a(e)(2)(B); see also 12 CFR 238.15(a)(2).

¹¹ The Las Vegas, Nevada, banking market is defined as the Las Vegas Metropolitan Area in Clark County, Nevada.

¹² See Synovus Financial Corp., 91 Federal Reserve Bulletin 273, 274 (2005); Wilson Bank Holding Company, 82 Federal Reserve Bulletin 568, 568 (1996).

consolidated bases, as well as information regarding the financial condition of the subsidiary depository institutions and the organizations' significant nonbanking operations. In this evaluation, the Board considers a variety of information regarding capital adequacy, asset quality, liquidity, and earnings performance, as well as the public comment on the proposal. The Board evaluates the financial condition of the combined organization, including its capital position, asset quality, liquidity, earnings prospects, and the impact of the proposed funding of the transaction. The Board also considers the ability of the organization to absorb the costs of the proposal and to complete effectively the proposed integration of the operations of the institution. In addressing financial factors, the Board considers capital adequacy to be especially important. The Board considers the future prospects of the organizations involved in light of their financial and managerial resources and the proposed business plan. The Board has consulted with the Office of the Comptroller of the Currency ("OCC") and the Consumer Financial Protection Bureau ("CFPB") regarding this proposal.

Charles Schwab is well capitalized and would remain so on consummation of the proposal. The asset quality, earnings, and liquidity of Charles Schwab and its subsidiary depository institutions are consistent with approval, and Charles Schwab appears to have adequate resources to absorb the costs of the proposal. In addition, future prospects of the institutions under the proposal are considered consistent with approval.

The Board also has considered the managerial resources of Charles Schwab and Charles Schwab Trust Bank.¹³ This consideration included an evaluation of the competence, experience, and integrity of the officers, directors, and principal shareholders of Charles Schwab and Charles Schwab Trust Bank; their record of compliance with laws and regulations; and the record of Charles Schwab and its affiliates of fulfilling any commitments to, and any conditions imposed by, the Board in connection with prior applications.¹⁴ The Board has reviewed the examination records of

¹³ 12 CFR 238.15(b)(2).

¹⁴ See 12 U.S.C. § 1467a(e)(1)(B); 12 CFR 238.15(b)(2).

Charles Schwab and its subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered information provided by Charles Schwab; the supervisory experiences of the Board and of other relevant bank supervisory agencies with Charles Schwab and its subsidiary depository institutions; and the organization's record of compliance with applicable banking, consumer protection, and anti-money-laundering laws.

The existing risk-management program and the directors and senior management of Charles Schwab are considered to be satisfactory. The directors and senior executive officers of Charles Schwab have knowledge of and experience in the banking and financial services sectors. Charles Schwab has indicated that it will devote significant financial and other resources to address all aspects of the post-integration process for this proposal.

Based on all the facts of record, including the supervisory record of Charles Schwab and its subsidiary depository institutions, the managerial and operational resources of Charles Schwab, the business plan of Charles Schwab Trust Bank after consummation, and the public comment received on the proposal, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal, as well as the record of effectiveness of Charles Schwab in combatting money-laundering activities, are consistent with approval.

Convenience and Needs Considerations

In acting on a proposal under section 10(e) of HOLA, the Board considers the effect of the transaction on the convenience and needs of the communities to be served.¹⁵ In its evaluation of the effect of the proposal on the convenience and needs of the communities to be served, the Board considers whether the relevant institutions are helping to meet the credit needs of these communities, as well as other potential effects of the proposal on the convenience and needs of the communities to be served. In this

¹⁵ 12 U.S.C. § 1467a(e)(2); 12 CFR 238.15(b)(3).

evaluation, the Board places particular emphasis on the records of the relevant depository institutions under the Community Reinvestment Act of 1977 (“CRA”).¹⁶ The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation,¹⁷ and requires the appropriate federal financial supervisory agency to assess a depository institution’s record of helping to meet the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating expansionary proposals.¹⁸

In addition, the Board considers the institutions’ overall compliance records and recent fair lending examinations. Fair lending laws require all lending institutions to provide applicants with equal access to credit, regardless of their race, ethnicity, or certain other characteristics. The Board also considers assessments of other relevant supervisors, the supervisory views of examiners, other supervisory information, information provided by the applicant, and public comments received on the proposal. The Board also may consider the institutions’ business models, their marketing and outreach plans, the combined organization’s plans following consummation, and any other information the Board deems relevant.

In assessing the convenience and needs factor in this case, the Board has considered all the facts of record, including reports of examination of the CRA performance of Charles Schwab Bank and Charles Schwab Signature Bank, the fair lending and compliance records of both savings associations, the supervisory views of the OCC and the CFPB, confidential supervisory information, information provided by Charles Schwab, and the public comment received on the proposal.

¹⁶ 12 CFR 238.15(b)(3).

¹⁷ 12 U.S.C. § 2901(b).

¹⁸ 12 U.S.C. § 2903.

Summary of Public Comment on Convenience and Needs

A commenter objected to the proposal alleging that, based on data reported under the Home Mortgage Disclosure Act of 1975 (“HMDA”),¹⁹ Charles Schwab Bank lent only to white borrowers with incomes above 120 percent of the area median income in the Reno, Nevada, Metropolitan Statistical Area (“Reno MSA”).²⁰

Businesses of Involved Institutions and Response to Comment

Charles Schwab, a savings and loan holding company headquartered in San Francisco, California, engages in securities brokerage, retail banking, and related financial services. The subsidiary depository institutions of Charles Schwab offer a range of loan and deposit products, including checking, savings, and residential mortgage loans, as well as trust and custody services and related products to retirement plan sponsors and participants. With respect to Charles Schwab Bank’s lending record in the Reno MSA, Charles Schwab notes that Charles Schwab Bank’s existing CRA rating is “Outstanding.” Charles Schwab also argues that with respect to its full lending record in the Reno MSA, it is meeting the needs of the communities it serves.

Records of Performance under the CRA

In evaluating the convenience and needs factor and CRA performance, the Board evaluates an institution’s performance record in light of examinations by the

¹⁹ 12 U.S.C. § 2801 et seq.

²⁰ The commenter also criticized the workplace benefit plans of Charles Schwab, noting that employees of Charles Schwab had filed a lawsuit alleging that the 401(k) plans of Charles Schwab have expensive fees and poor performance that have benefited Charles Schwab at the expense of its employees. See Severson v. Charles Schwab Corp., No. 4:17-cv-00285-CW (N.D. Cal. 2017). Charles Schwab has denied any wrongdoing. The allegations regarding the performance of 401(k) plans and fees charged by plan sponsors are matters that are reviewed under the Employee Retirement Income Security Act of 1974. See 29 U.S.C. § 1001 et seq. The allegations are currently under review in the appropriate legal forum, and action on this proposal would not interfere with the court’s ability to resolve the pending litigation. See Natcom Bancshares Inc., FRB Order No. 2017-37 at 6 n.18 (December 18, 2017); M&P Community Bancshares, Inc., 92 Federal Reserve Bulletin C156, C156 n.7 (2006).

appropriate federal supervisors of the CRA performance records of the relevant institutions, as well as information and views by the appropriate federal supervisors.²¹ In this case, the Board considered the supervisory views of the OCC and CFPB.

The CRA requires that the appropriate federal financial supervisor for a depository institution prepare a written evaluation of the institution's record of helping to meet the credit needs of its entire community, including LMI neighborhoods.²² An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation by the institution's primary federal supervisor of the institution's overall record of lending in its communities.

Under the CRA, an institution may elect to use a strategic plan for the evaluation of its record of helping to meet the credit needs of its assessment areas. Under this alternative, a bank submits a plan, subject to the approval of the firm's primary federal regulator, specifying measurable goals for meeting the lending, investment, and service needs of the bank's assessment areas.²³ The primary federal regulator then evaluates the bank on its success in achieving the goals in the approved plan.²⁴ The primary federal regulator generally evaluates the plan's measurable goals by examining (1) the extent and breadth of lending or lending-related activities; (2) the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels; (3) the extent of community development lending; (4) the use of innovative or flexible lending practices to address credit needs; (5) the

²¹ See Interagency Questions and Answers Regarding Community Reinvestment, 81 Fed. Reg. 48506, 48548 (July 25, 2016).

²² 12 U.S.C. § 2906.

²³ See 12 CFR 25.27, 12 CFR 228.27, and 12 CFR 345.27. Before submitting its plan for approval, the institution must seek suggestions from members of the public in the bank's assessment areas, and, once the plan has been developed, the bank must solicit public comment on its plan for at least 30 days. See, e.g., 12 CFR 228.27(d).

²⁴ See, e.g., 12 CFR 228.27(f)(3).

amount and innovativeness, complexity, and responsiveness of the bank’s qualified investments; and (6) the availability and effectiveness of the bank’s systems for delivering retail banking services and the extent and innovativeness of the bank’s community development services.²⁵

The Board is concerned when HMDA data reflect disparities in the rates of loan applications, originations, and denials among members of different racial or ethnic groups in local areas. These types of disparities may indicate weaknesses in the adequacy of policies and programs at an institution for meeting its obligations to extend credit fairly. However, other information critical to an institution’s credit decisions is not available from HMDA data.²⁶ Consequently, HMDA data disparities must be evaluated in the context of other information regarding the lending record of an institution.

CRA Performance of Charles Schwab Bank

Charles Schwab Bank was assigned an overall “Outstanding” rating by the OCC at its most recent CRA performance evaluation, as of January 6, 2014 (the “Charles Schwab Bank Evaluation”).²⁷ Charles Schwab Bank received “Outstanding” ratings for each of the Lending Test, the Investment Test, and the Service Test.

²⁵ Id.

²⁶ Other data relevant to credit decisions could include credit history, debt-to-income ratios, and loan-to-value ratios. Accordingly, when conducting fair lending examinations, examiners analyze such additional information before reaching a determination regarding an institution’s compliance with fair lending laws.

²⁷ The Charles Schwab Bank Evaluation was conducted pursuant to an OCC-approved strategic CRA plan. See 12 CFR 25.27. The evaluation period for the Charles Schwab Bank Evaluation was October 1, 2010, through December 31, 2013, and the evaluation reviewed the bank’s CRA performance under strategic plans approved by the OCC in October 2012 for the period of October 1, 2012, through December 31, 2015 (the “2012 Plan”) and by the Office of Thrift Supervision in 2009 for the period of October 1, 2009, through September 30, 2012 (the “2009 Plan”). The Charles Schwab Bank Evaluation reviewed the bank’s performance toward meeting the strategic plan in the Reno MSA, as well as the San Francisco–Oakland–Hayward and the San Jose–Sunnyvale–Santa Clara MSAs, both in California.

Examiners found that Charles Schwab Bank significantly exceeded the community development lending thresholds in both the 2009 Plan and the 2012 Plan for outstanding performance. Examiners also noted that the bank's percentage of LMI loans exceeded the 2009 Plan thresholds for satisfactory performance and met the 2012 goals for satisfactory performance. In the Reno MSA, an area of concern to the commenter, examiners found that the bank's overall lending performance exceeded the goals for outstanding performance for the entire evaluation period. Examiners also noted that Charles Schwab Bank's lending to LMI borrowers and in LMI geographies exceeded the satisfactory performance goals set forth in the bank's plans. Examiners found that the bank exceeded its satisfactory performance goals for originating HMDA loans to LMI borrowers and in LMI geographies.

Examiners found that Charles Schwab Bank's community development investments exceeded the threshold for satisfactory performance in the 2009 Plan and substantially exceeded the 2012 Plan thresholds for outstanding performance. In the Reno MSA, examiners found the bank exceeded its goals for outstanding performance in originating community development investments. Examiners also noted that some of the bank's investments were highly responsive to assessment area needs.

Examiners found that the bank's community development services exceeded the goals set for outstanding performance in the 2009 Plan and substantially exceeded the thresholds for outstanding performance in the 2012 Plan. In the Reno MSA, examiners noted that Charles Schwab Bank exceeded its outstanding performance goals for community development services. Examiners found that Charles Schwab Bank was a service leader in the Reno MSA, and its community development services were highly responsive to identified needs in the Reno MSA.

Charles Schwab Bank's Efforts Since the 2014 CRA Evaluation

Charles Schwab represents that, since the Charles Schwab Bank Evaluation, the bank has continued its CRA efforts in its community and continues to strive to implement innovative and complex lending, investing, and services programs. Charles Schwab Bank represents that it is now operating under a new strategic plan that

runs from 2016 through 2018. The bank also represents that its CRA program includes a number of services in its assessment areas, including to promote financial opportunities for low-income students and to bring together community partners to work on improving initiatives for the public benefit, such as food access, employment opportunities, affordable housing, health care access, and health education.

CRA Performance of Charles Schwab Signature Bank

Charles Schwab acquired Nordstrom fsb (“Nordstrom Bank”) in November 2017, renaming it Charles Schwab Signature Bank and fundamentally changing its business plan. The OCC has not yet conducted a CRA evaluation of Charles Schwab Signature Bank.²⁸

Charles Schwab notes it is in the process of constituting a new CRA program at Charles Schwab Signature Bank. Charles Schwab represents that the new CRA program will be based on Charles Schwab Bank’s existing CRA program and will be integrated with the overall CRA efforts of Charles Schwab.

Additional Supervisory Views

In its review of the proposal, the Board has considered the supervisory views of the OCC and the CFPB regarding the records of Charles Schwab Bank and

²⁸ Nordstrom Bank, the predecessor bank to Charles Schwab Signature Bank, received an “Outstanding” rating by the OCC at its most recent CRA performance evaluation, as of September 28, 2015 (the “Nordstrom Bank Evaluation”). The Nordstrom Bank Evaluation was conducted using limited-purpose CRA examination procedures. The limited-purpose evaluation reviewed the bank’s community development lending, qualified investments or community development services, use of innovative or complex qualified investments, community development loans or community development services, and the bank’s responsiveness to community development credit needs within its assessment area. The evaluation period was from January 1, 2010, through August 31, 2015. The Nordstrom Bank Evaluation included a review of the bank’s assessment area in the Phoenix–Mesa–Scottsdale, Arizona MSA. Examiners found that the bank demonstrated a high level of community development lending, qualified investments, and community development services. Examiners also noted that the bank demonstrated excellent responsiveness to credit and community development needs in its assessment area.

Charles Schwab Signature Bank in complying with the CRA, fair lending laws, and other consumer statutes

The Board has considered the results of recent consumer compliance examinations of Charles Schwab Bank conducted by the OCC and the CFPB. As part of its consumer compliance review, the OCC reviewed Charles Schwab Bank's policies, procedures, board reports, audits, internal risk reports, risk assessments, and consumer compliance management processes for complying with fair lending and other consumer compliance laws. The CFPB also conducted supervisory reviews of Charles Schwab Bank's compliance with certain consumer laws, including a review of the bank's compliance policies, procedures, training, and monitoring and corrective action process.²⁹

The Board has taken these consultations into account in evaluating this proposal, including in considering whether Charles Schwab has the experience and resources to ensure that it helps to meet the credit needs of the communities within its assessment areas.

Additional Convenience and Needs Considerations

The Board also considers other potential effects of the proposal on the convenience and needs of the communities to be served. Charles Schwab represents that, as a result of the proposal, Charles Schwab Trust Bank would be a fiduciary-oriented bank that offers the trust and custody services and related products currently offered by a division of Charles Schwab Bank to retirement plan sponsors and participants and that this will better allow the firm to serve the needs of the growing retirement market. Charles Schwab also represents that Charles Schwab Trust Bank would be able to offer more consistent services that are better tailored to its customers' needs than those currently offered by Charles Schwab Bank.

²⁹ No consumer compliance examination of Charles Schwab Signature Bank has yet been completed.

Conclusion on Convenience and Needs Considerations

The Board has considered all the facts of record, including the records of Charles Schwab Bank and Charles Schwab Signature Bank under the CRA, the records of compliance with fair lending and other consumer protection laws, consultations with the OCC and the CFPB, confidential supervisory information, information provided by Charles Schwab, the public comment on the proposal, and other potential effects of the proposal on the convenience and needs of the communities to be served. Based on that review, the Board concludes that the convenience and needs factor is consistent with approval.

Effect of the Transaction on the Savings Association and Insurance Risk to the Deposit Insurance Fund

In acting on a proposal under section 10(e) of HOLA, the Board considers the likely effect of the transaction on the savings association and any insurance risk to the Deposit Insurance Fund.³⁰ As discussed above, the financial and managerial resources and the future prospects of the combined organization are consistent with approval. The Board has considered the likely effect of the transaction on the insured depository institutions of Charles Schwab and believes that it is consistent with approval. In view of the current resources, capital, and future prospects of Charles Schwab; the managerial resources of Charles Schwab and its insured depository institutions; the significant financial, managerial, and other resources being devoted to support the *de novo* bank; and the likely effect of the transaction on the proposed organization, the Board, after consulting with the FDIC, believes that the proposal would not appear likely to have any material effect on the insurance risk to the Deposit Insurance Fund.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved. In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is

³⁰ 12 U.S.C. § 1467a(e)(2).

required to consider under HOLA. The Board's approval is specifically conditioned on compliance by Charles Schwab with all the conditions imposed in this order, including receipt of all required regulatory approvals, and on the commitments made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The proposal may not be consummated later than three months after the effective date of this order unless such period is extended for good cause by the Board or the Federal Reserve Bank of San Francisco, acting pursuant to delegated authority.

By order of the Board of Governors,³¹ effective March 20, 2018.

Margaret M. Shanks (signed)

Margaret McCloskey Shanks
Deputy Secretary of the Board

³¹ Voting for this action: Chairman Powell, Vice Chairman for Supervision Quarles, and Governor Brainard.