



**Interpretive Letter #1147
November 2014
12 CFR 3, Subpart E**

September 29, 2014

Richard Leigh
President
HSBC Trust Company (Delaware), N.A.
300 Delaware Avenue, Suite 1400
Wilmington, DE 19801

Subject: HSBC Trust Company (Delaware), N.A. – Exemption from Internal Ratings-Based and Advanced Measurement Approaches

Dear Mr. Leigh:

We are writing to exempt HSBC Trust Company (Delaware), N.A. (HTCD) from calculating its capital requirements in accordance with the *Risk-Weighted Assets—Internal Ratings-Based and Advanced Measurement Approaches* (Basel III Advanced Approaches Framework).¹ Based on the facts and circumstances discussed below, the OCC determines that application of the Basel III Advanced Approaches Framework is not appropriate for HTCD based on the bank’s risk profile and scope of operations.

Discussion

OCC regulations provide that a bank that is subject to the Basel III Advanced Approaches Framework must use that Framework to calculate its capital requirement “unless the Office of the Comptroller of the Currency determines in writing that the application of [the Framework] is not appropriate in light of the bank’s asset size, level of complexity, risk profile, or scope of operations.”² In considering this exemption, the OCC reviewed HTCD's risk profile, the scope and size of operations of HTCD, and HTCD's current capital levels and balance sheet.

Based on the facts and circumstances reviewed by OCC supervisory staff, including an evaluation of its risk profile, the OCC has determined that the application of the Basel III Advanced Approaches Framework to HTCD is not appropriate, subject to the conditions below. Applying the Basel III Advanced Approaches Framework to HTCD would not meaningfully enhance the banking group’s overall risk management because HTCD's credit risk, operational risk, and other forms of Pillar II (Supervisory Assessments) risk are captured and recorded by HTCD's affiliates, and those affiliates hold capital against such risks pursuant to the Basel III Advanced Approaches Framework. Furthermore, as a condition to the OCC's determination,

¹ 12 C.F.R., part 3, subpart E.

² 12 C.F.R. § 3.100 (b)(2).

discussed below, HTCD will be required to capture credit and operational loss events as specified by the Basel III Advanced Approaches Framework in the event that the Internal Ratings-Based and Advanced Measurement Approaches become appropriate for HTCD.

Conditions on Approval for the Exemption from the Basel III Capital Framework

The OCC has determined that it will exempt HTCD from the Basel III Capital Framework pursuant to 12 C.F.R. § 3.100 (b)(2),³ subject to the conditions set forth below. HTCD must meet these conditions, unless notified otherwise by the OCC.

1. HTCD will calculate its tier 1 and tier 2 capital under risk-based capital standards set forth in 12 C.F.R. part 3, subpart D, as applicable, as reported in HTCD's Consolidated Reports of Condition and Income (Call Report), and any subsequent revisions thereto.
2. HTCD shall maintain a system to analyze and maintain capital commensurate with the HTCD's risk profile, in conformance with OCC Bulletin 2007-21, Supervision of National Trust Banks – Revised Guidance: Capital and Liquidity.
3. HTCD must continue to capture information on credit and operational loss events as specified by 12 C.F.R. part 3, subpart E. HTCD must be able to provide the OCC with all data submitted to its parent company that the parent company uses to comply with the Basel III Advanced Approaches Framework.
4. HTCD is not required to fill out the FFIEC 101, but must continue to file the FFIEC 031 or 041 reports.
5. HTCD must provide its OCC Examiner-in-Charge with at least 60 days notice of its intent to significantly deviate from or change its business plan or operations.
6. HTCD must provide an annual statement to the OCC that addresses whether the exemption is still appropriate. The annual statement, which must be provided no later than April 1st of each year, must include a description of the Bank's asset size, level of complexity, risk profile, and scope of operations in order to support the continuation of the exemptions.
7. The OCC may rescind or modify this exemption if the OCC determines that application of the risk-based capital standards set forth in 12 C.F.R. part 3, subpart D, as applicable, as reported in HTCD's Consolidated Reports of Condition and Income (Call Report), and any subsequent revisions thereto are no longer appropriate for HTCD.

The above-listed conditions of this approval are conditions "imposed in writing by [the OCC] in connection with any action on any application, notice, or other request" within the meaning of 12 U.S.C. § 1818 and, as such, are enforceable under 12 U.S.C. § 1818.

³ Id.

This exemption determination is based on HTCD's information available to the OCC as of June 5, 2014. The OCC may rescind or modify this exemption if the OCC determines that any representation, submission, or information provided by HTCD is not accurate, is not fulfilled, or if HTCD fails to satisfy the conditions set forth above.

This exemption determination and the activities and communications by OCC employees in connection with this determination, 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. The non-contractual nature of the OCC's communications with HTCD or with any of its affiliates and the OCC's continuing ability to exercise its supervisory, regulatory, and examination authorities are terms and conditions that may not be waived or modified by any employee or agent of the OCC or the United States.

If you have any questions about the approval or the conditions specified above, please do not hesitate to contact Examiner-in-Charge Kris McIntire at (212) 525-1828.

Sincerely,

signed

Martin Pfinsgraff
Senior Deputy Comptroller
Large Bank Supervision