Office of the Comptroller of the Currency

Washington, DC 20219

Interpretive Letter #1152
June 2015

March 19, 2015

Mr. Mike Pedersen, President and Chief Executive Officer
TD Bank, N.A. and TD Bank USA, N.A.
Atrium Building
1701 Route 70 East
Cherry Hill, NJ 08034

VIA – Facsimile and Mail

Subject: Advanced Approaches Exemption Requests: TD Bank, N.A. and TD Bank USA, N.A.

Dear Mr. Pedersen,

The Office of the Comptroller of the Currency is writing to exempt TD Bank, N.A. and TD Bank USA, N.A. (together, the Banks) from calculating their capital requirements in accordance with the *Risk-Weighted Assets—Internal Ratings-Based and Advanced Measurement Approaches* (Advanced Approaches Framework).[1] As discussed below, the OCC has determined that application of the Advanced Approaches Framework is not appropriate in light of each bank's risk profile and scope of operations.

Discussion

OCC regulations provide that a bank subject to the 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 each bank's risk profile, scope and size of operations, and its current capital levels and balance sheet.

The Banks are both part of a banking group that is ultimately owned and controlled by a foreign banking organization (FBO), The Toronto Dominion Bank Group. On a consolidated basis in its home jurisdiction, The Toronto Dominion Bank Group is subject to an advanced risk-based capital framework that is based on the Basel Committee on Banking Supervision's advanced approaches risk-based capital rules.

[1] 12 C.F.R., part 3, subpart E.
[2] 12 C.F.R. § 3.100(b)(2).

Based on a review by OCC supervisory staff, including an evaluation of each bank's risk profile, the OCC has determined that the risks posed by the activities of the Banks are appropriately addressed by the generally applicable risk-based capital rules (*i.e.*, the OCC's Standardized Approach), which are applied to each of the Banks, and by the advanced approaches capital requirements applied to The Toronto Dominion Bank Group on a consolidated basis in its home jurisdiction.

Because the advanced approaches rules applicable to The Toronto Dominion Bank Group and the OCC's Advanced Approaches Framework are consistent in most material respects, we believe that the application of the OCC's Advanced Approaches Framework to the Banks would add a layer of complexity to each Bank's capital requirements without meaningful enhancements to its safety and soundness.

Therefore, the OCC has determined that the application of the Advanced Approaches Framework to the Banks is not appropriate, subject to the conditions below.

Conditions on Approval for the Exemptions from the Advanced Approaches Risk-Based Capital Framework

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

1. Consistent with 12 C.F.R. 3.10(d)(2), the Banks shall maintain internal systems and processes to analyze and maintain appropriate levels of capital commensurate with their respective risk profiles.

2. The Banks will calculate their respective 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 the company's Consolidated Reports of Condition and Income (Call Report), and any subsequent revisions thereto.

    a. Except for the advanced approaches capital ratio calculations, the Banks will continue to be subject to the minimum capital requirements and capital conservation buffer amounts, including any countercyclical buffer adjustments, set forth in 12 CFR 3.10 and 3.11.

    b. For the purpose of calculating their respective amounts of common equity tier 1 capital, the Banks will not be permitted to opt out of the requirement to include all components of accumulated other comprehensive income (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet).

[3] Id.

3. The Banks will continue to be subject to the supplementary leverage ratio calculation requirements under the regulatory capital standards set forth in 12 C.F.R. 3.10(c)(4), as applicable, as reported in the company's Call Report, and any subsequent revisions thereto.

4. The Banks must continue to capture information on credit and operational loss events as specified by 12 C.F.R. part 3, subpart E. The Banks must provide upon request the OCC with all data submitted to their parent company that their parent company uses to comply with any capital requirements applicable on a consolidated basis.

5. The Banks will not be required to file the FFIEC 101 as of March 31, 2015, but must continue to file the FFIEC 031 or 041 report, as appropriate.

6. Each of the Banks must provide its respective OCC Examiner-in-Charge with at least 60 days notice of its intent to significantly deviate from or change its business plan or operations.

7. Each of the Banks must provide an annual statement to the OCC that addresses whether the exemption is still appropriate. Each annual statement must be provided to the OCC no later than March 31, 2016, and annually thereafter, and it must include a description of each bank's asset size, level of complexity, risk profile, and scope of operations in order to support the continuation of the exemptions.

8. The OCC may rescind or modify these exemptions 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 the Banks' respective Call Report, and any subsequent revisions thereto, are no longer appropriate.

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.

This exemption determination is based on the Banks' information available to the OCC as of September, 30, 2014. The OCC may rescind or modify these exemptions if the OCC determines an exemption is no longer appropriate in light of changes to a bank's risk profile and scope of operations, or if the OCC determines that any representation, submission, or information provided by the Banks is not accurate, is not fulfilled, or if the Banks fail to satisfy any of 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 the Banks or with any of their 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 Carlos D. Hernández, Examiner-in-Charge, at (856) 552-2534.

Sincerely,

signed

Martin Pfinsgraff
Senior Deputy Comptroller
Large Bank Supervision