



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

**Corporate Decision #2008-10
December 2008**

November 6, 2008

Herbert D. Haughton
Igler & Dougherty
2457 Care Drive
Tallahassee, FL 32308

Subject: Charter Application submitted for ExTran International Bank, N.A. (Proposed),
Fort Lauderdale, Florida
OCC Control Number: 2008-SO-01-0009

Dear Mr. Haughton:

The Office of the Comptroller of the Currency (“OCC”) has reviewed the application to charter a *de novo* national bank that would be entitled ExTran International Bank, N.A. (“ExTran”), which would be located in Fort Lauderdale, Florida. For the reasons discussed below, the application is denied.

On March 13, 2008, the Organizers met with OCC representatives from Licensing, Compliance Policy, and Legal to discuss the OCC’s concerns with the ExTran’s draft application that previously had been submitted to the OCC. Following that meeting, the Organizers submitted additional information to the OCC. On March 31, 2008, we sent to you on behalf of the Organizers a letter (“March 31 letter”) reiterating the concerns outlined at the March 13 meeting and setting forth a list of questions that represented some of the more significant matters that the Organizers would need to completely and comprehensively address if they were to submit a charter application. In posing these questions, the letter stated “the subject proposal had major deficiencies under [the 12 C.F.R. § 5.20] factors.” The letter went on to advise you:

Should you file an application that fails to completely and comprehensively address each of the concerns enumerated above, the OCC will find the application materially deficient. Moreover, it is important to reemphasize, as was discussed with you at our meeting in Washington D.C., that we view the nature of the proposed activities as posing particularly high supervisory and regulatory risks, including risks surrounding Bank Secrecy Act and anti-money laundering. Given the fundamental nature of the proposal, it is highly questionable whether those risks can be surmounted so as to satisfy our regulatory requirements for new national bank charters.

Having been advised by the OCC of deficiencies in the draft application and of the need for certain information to address those deficiencies, the Organizers responded by filing the application on June 11, 2008 (the “June 11 application”).

OCC regulations provide that:

(b) The OCC may deny a filing if:

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(3) the applicant fails to provide information requested by the OCC that is necessary for the OCC to make an informed decision.

12 C.F.R. § 5.13. As discussed below, despite the detailed description in our March 31 letter of the information that we would need in connection with this application, our review of the application discloses significant issues identified in the March 31 letter for which complete and comprehensive information was not provided. We are, therefore, unable to make an informed decision to conclude that the application satisfies the requisite standards for a national bank charter. These issues include:

1. The March 31 letter required complete and comprehensive information to demonstrate that the proposed bank would have competent management, including a board of directors with ability and experience relevant to the types of services to be provided, as required by 12 C.F.R. § 5.20(f)(2)(i)(B). The March 31 letter identified a variety of factors to be taken into account in making this finding and explained that the applicant was required to completely and comprehensively address them in the application. These factors included, among others: the requisite expertise and ability of the proposed technology consultant to provide services related to sophisticated IT platforms, and a comprehensive discussion of the staffing plan that would enable the OCC to determine if the applicant has developed such a plan.

The June 11 application, however, failed to completely and comprehensively address these issues. For example, the application: (1) provided no explanation or justification to demonstrate that the proposed level of staffing of the compliance department would be sufficient given the high supervisory and regulatory risks raised by the application; (2) while stating that Axxess IFMS, the operating system to be provided to ExTran by Centuric and Axxess Americas, LLC, was involved in the opening of several *de novo* banks in Florida, provided no information as to actual experience with the system, the size and scope of the banks involved, or details about the types of compliance functions designed by Axxess Americas and whether any related to the BSA/AML function; and (3) aside from identifying positions held by each of the Organizers, provided no specific explanation of the relevance of their experience to the types and scope of services proposed to be provided by ExTran.

2. The March 31 letter required complete and comprehensive information to enable the OCC to make an informed decision about the projected profitability of the proposed bank, as required by 12 C.F.R. § 5.20(f)(2)(i)(D). In this regard, the March 31 letter required the applicant to

adequately identify the level of market demand and interest from the bank's primary and secondary customer base, and to establish financial projections that would be commensurate with the risks being undertaken by the bank, including adequate projections for expenses related to a comprehensive BSA compliance program.

The June 11 application, however, did not completely and comprehensively address these issues. For example, the application: (1) while providing details of a market survey undertaken on behalf of the applicant, did not assess ExTran's market prospects among merchants in low and moderate income areas that do not provide any financial services, a market segment that ExTran identified as part of its business plan; and (2) did not take into account ExTran's intent to impose collateral requirements and to charge fees higher than other banks, both of which the survey indicates were areas of concern to some respondents; and (3) in setting financial projections, did not justify the proposed level of compliance costs; under different financial scenarios, did not, among other things, account for both realized and unrealized gains, thus failing to provide information needed to assess interest rate risk; did not take into account the use of borrowed funds, even though identified elsewhere as inherent in asset/liability management; and reported all investments as "available for sale" without making corresponding adjustments to income statements, balance sheets, or capital accounts that reflect the impact of interest rate movements on the bank's investment portfolio.

3. The March 31 letter required complete and comprehensive information relating to whether the proposed bank would operate in a safe and sound manner, as required by 12 C.F.R. § 5.20(f)(2)(i)(E). The letter required that the applicant provide complete and comprehensive information about bank compliance policies and procedures including those related to risk identification, money laundering and fraud mitigation, BSA/AML compliance, monitoring of MSBs and their agents, and appropriate technology.

The June 11 application, however, did not completely and comprehensively address compliance procedures and policies, such as: (1) conduct of due diligence with respect to the laws of foreign countries where ExTran customers might be located; (2) establishment of different or more stringent screening requirements for foreign MSBs, other than whether an employee of the bank has personal knowledge of the customer; (3) risk ranking and customer due diligence to identify OFAC risks related to foreign MSB customers; (4) identification of OFAC risk in ACH transactions; (5) identification of risks from wire transfers coming from applicant's target market through a foreign MSB; (6) clearly stating what services will be provided to various types of foreign customers; and (7) how ExTran would eliminate or at least limit risk of dealing with customers who might not be able to submit underlying transaction information when using file interfaces.

With respect to technology, the March 31 letter required the applicant to completely and comprehensively assess the ability of the bank's proposed IT systems and platforms to integrate all outsourced functions and to assess the appropriateness of the proposed IT platforms, BSA compliance software, OFAC systems and filters, IT security and automated monitoring systems and how these systems would function both internally and externally. Among other things, the June 11 application did not provide sufficient information for the OCC to determine whether and

how Access IFMS interacts with other systems (OFAC filters, ACH, Remote Deposit Capture, Customer Identification Program systems). The application also failed to provide lists or descriptions, as required by the Interagency Charter Application, of the primary IT systems and flowcharts of the general processes related to the products and services of the applicant, as well as other information including security and safeguarding of customer information. The application also lacked material information about ExTran's IT systems including fundamental information such as a detailed installation program and plan, with benchmarks, for testing and implementing its systems.

4. The March 31 letter required complete and comprehensive information necessary to determine whether the proposed level of capital would be sufficient to support the projected volume and type of business, as required by 12 C.F.R. § 5.20(f)(2)(i)(C). The June 11 application, however, did not provide sufficient information to enable the OCC to assess the sufficiency of ExTran's proposed capital of \$12.5 million less organizational expenses, given the uncertainties throughout the application relating to the bank's target market, appropriate level of staffing, compliance risks and expenses, and inconsistencies underlying the bank's financial projections.

For the reasons stated above, the OCC finds that the application fails to provide information required in the March 31 letter that is necessary for the OCC to make an informed decision to conclude that the application satisfies the requisite standards for granting a national bank charter. These standards, as set forth in 12 C.F.R. § 5.20(f)(2)(i), relate to whether management, including the board of directors, has the ability and experience relevant to the types of services to be provided; whether the bank can reasonably be expected to achieve and maintain profitability; whether the bank will be operated in a safe and sound manner; and whether the proposed level of capital is sufficient to support the projected volume and type of business. Consequently, pursuant to 12 C.F.R. § 5.13(b)(3), the charter application is denied.

Sincerely,

Signed

Lawrence E. Beard
Deputy Comptroller
Licensing