
Comptroller of the Currency
Administrator of National Banks

Western District Office
50 Fremont Street, Suite 3900
San Francisco CA 94105
(415) 545-5900; Fax (415) 545-5925

Conditional Approval #416
November 2000

October 23, 2000

Peter Raffetto, Spokesperson
CalNet Bank, N.A. (Proposed)
c/o R.L. Miller & Company
111 Howe Avenue, Suite 265
Sacramento, California 95825

Re: **New Bank Charter - CalNet Bank, National Association (Proposed)**
Sacramento, California
Control Number: 2000-WE-01-013

Dear Mr. Raffetto:

The Comptroller of the Currency (OCC) has reviewed your application to establish a new national bank with the title of CalNet Bank, National Association. **On October 20, 2000, we found that your proposal met the requirements for preliminary conditional approval.** The Bank also may offer credit life, health, and accident insurance in accordance with 12 C.F.R. §2.

This approval is granted based on a thorough review of all information available, including the representations and commitments made in the application and by the proposed Bank's representatives. We also made our decision to grant preliminary conditional approval with the understanding that the proposed national bank will apply for membership in the Federal Reserve System and obtain FDIC insurance.

This charter approval is subject to the following conditions:

- The Bank must notify all potential vendors in writing of the OCC's examination and regulatory authority under 12 U.S.C. §1867(c). All final vendor contracts must stipulate that the performance of services provided by the vendors to the Bank is subject to the OCC's examination and regulatory authority.
- This approval is subject to the condition that the bank shall obtain prior approval from the OCC's San Francisco Field Office before any significant deviation or change from the proposed operating plan occurs during the bank's first three years of operation. The bank must notify the San Francisco Field Office at least sixty (60) days prior to any proposed

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significant deviation or change. The bank must also provide a copy of such notice to the FDIC's San Francisco Regional Office.

The above listed conditions of this approval will be deemed to be "conditions imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 U.S.C. §1818. As such, the conditions are enforceable under 12 U.S.C. §1818.

In addition, the Bank must meet the following five additional requirements prior to opening:

1. The Bank's initial Tier 1 capital, net of any and all organizational and preopening expenses, must be no less than \$7.5 million.
2. The Bank must submit to the OCC for review and approval a complete description of the Bank's final information systems and operations architecture as well as the information systems risk assessment and management plan. This should include a schematic drawing and discussion of the following items:

vendors and vendor contracts; vendor management policy; security policies; security mechanisms; security testing plans; customer, vendor, and employee authentication; personnel; business resumption plans; internal controls; and internal audit plans.

3. The Bank must have performed an independent security review and test of its electronic banking platform. The scope of the review should encompass all access points, including the Internet, Intranet, or remote access. The Bank must have this review performed regardless of whether the platform is operated in-house or by one or more third-party service providers. If the Bank outsources the technology platform, it can rely upon testing performed for the service provider to the extent that it satisfies the scope and requirements listed herein. The review must be conducted by an objective, qualified, independent source ("Reviewer"). The scope must cover the adequacy of physical and logical protection against unauthorized internal and external access including individual penetration attempts, computer viruses, denial of service, and other forms of electronic access. By written report, the Reviewer must confirm that the security measures, including the firewall, have been satisfactorily implemented and tested. The report must critique the effectiveness of security policies and controls and confirm, with reasonable certainty, that unauthorized internal or external data and network access or access attempts will be detected and recorded. As part of its decision to grant final charter approval, the OCC will consider the results of the report as well as any subsequent actions by the Bank or service provider to implement any recommendations or to remedy any noted security or control deficiencies.
4. The Bank must provide a full description of all planned web linking and other arrangements with third-party providers of financial or non-financial services, including draft contracts and

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legal opinions as appropriate. All such arrangements must be in compliance with applicable laws, regulations, and OCC policies.¹

5. The Bank must develop alternative business strategies and integrate them into the business and strategic plans. The Bank must submit the alternative business strategies to the OCC for review and approval. The objective of the alternative business strategies is to help ensure that the Bank can prudently, efficiently, and effectively manage potential scenarios where the proposed nontraditional income, operating expenses, and/or growth rates differ significantly from the operating plan. This includes access to additional capital in the future if situations dictate. The Bank should update the plan periodically after opening, including as the Bank becomes more complex and as industry conditions change.
6. As proposed, the Bank must name individuals to serve as the Chief Credit Officer and the Chief Financial Officer. The OCC must review and have no objection to these individuals, who will be deemed Senior Executive Officers for purposes of 12 C.F.R. § 5. We will evaluate the candidates relative to the community banking nature of the charter, paying particular attention to the credit administration skills of the Chief Credit Officer.

Please refer to the “Corporate Organization” booklet (enclosed) in the *Comptroller’s Corporate Manual* for the instructions on organizing your Bank. The booklet contains all of the steps you must take to receive your charter. As detailed in the booklet, you may establish the corporate existence of and begin organizing the Bank as soon as you adopt and forward acceptable Articles of Association and the Organization Certificate to this office. As a “body corporate” or legal entity, you may begin taking those steps necessary for obtaining final approval, but you may not begin the business of banking until you fulfill all requirements for a bank in organization and you are granted final approval by the OCC.

Enclosed are standard requirements that must be met before the Bank will be allowed to commence business. Management must ensure that the applicable policies and procedures are established and adopted by the board of directors before the Bank begins operation. Applicable standard requirements also must be satisfied before the Bank will be allowed to commence business.

¹ The OCC previously has indicated that it expects national banks offering hyperlinks to take reasonable steps to clearly distinguish between products and services that are offered by the bank and those offered by a third party or bank affiliate. Bank customers should be able to identify when they are dealing with the bank itself and when they are dealing with another party. In general, the bank should indicate that it does not provide, endorse, or guarantee any of the products or services available through the third party web pages. For links to pages that provide nondeposit investment products, the disclosures should alert customers to risks associated with these products, for example, by stating that the products are not insured by the FDIC, are not a deposit, and may lose value. Further, banks have responsibility for the appropriate placement of disclosures via electronic means on their web page (s). *See, e.g.*, OCC Bulletin 98-31 (July 30, 1998)(“FFIEC Guidance on Electronic Financial Services and Consumer Compliance”). The OCC will continue to work with banks as these aspects of electronic commerce and the Internet develop.

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We note that the operating plan includes an association with Richard Miller's related interest, InterCal Securities. Since you have not yet finalized the operational details of this proposed arrangement, we are unable to conclude that the arrangement does not raise any legal, supervisory, policy, or compliance issues. In order not to delay a decision of your application, we are granting preliminary conditional approval of the charter at this time. However, we reserve the right to modify our preliminary conditional approval, including imposition of additional requirements or conditions, to address any issues that may arise from this arrangement. To the extent that the Bank cannot offer this service as proposed in the operating plan, it would constitute a significant change in the operating plan, necessitating additional review and approval of the OCC, due to the potential material impact on the Bank's growth and earnings projections. As required by the "Minimum Policies & Procedures" enclosed with this letter, the Bank must adopt policies and procedures to address insider transactions and a conflict of interest policy. It would also be prudent for the organizers to obtain an independent legal analysis of the proposed insider association.

The OCC poses no objection to the following persons serving as executive officers as proposed in the application. Additional executive officers are subject to the OCC's prior review and clearance.

President & Chief Executive Officer: Peter J. Raffetto
Chief Technology Officer: Robert A. Wood.

We have not yet completed one background check on Mr. Wood. If adverse information is revealed in that check, we reserve the right to take appropriate supervisory action.

The OCC poses no objection to the following individuals serving as Directors:

William R. Allen;	William W. McClintock;
Michael J. Bozich;	Richard L. Miller;
James J. Cardano III;	Robert W. Naylor; and
Hartley T. Hansen;	Hilton L. Williams.

All other directors are subject to the OCC's *prior* review and clearance. You are also reminded that for a period of two years after the bank has opened for business, the OCC must review and have no objection to any new executive officer or director *prior* to that person assuming such position.

The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications.

You should direct any questions concerning preliminary conditional approval to Senior Bank Structure Analyst Maeve O'Meara at (415) 545-5923.

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A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may improve our service.

Very truly yours,

-signed-

James A. Bundy
Licensing Manager
Western District

**Enclosures: Minimum Policies and Procedures
Standard Requirements
Survey Letter
"Corporate Organization" Booklet**