



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

August 27, 2001

Mr. Robert H. Frey
c/o FinNet
33 Broad Street, Suite 7
Boston, Massachusetts

Conditional Approval #480
September 2001

Re: Application to charter a national trust bank with the title of Family Capital Trust Company, National Association, Boston, Massachusetts
Application Control Number: 2000-NE-01-0024

Dear Mr. Frey:

The Office of the Comptroller of the Currency (“OCC”) has reviewed your application to establish a new national trust bank with the title of Family Capital Trust Company, National Association (“Bank”). After a thorough evaluation of all data available to the OCC, we have found that your proposal meets the requirements for preliminary conditional approval.

This preliminary conditional 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. In particular, we note the representations that the proposed national bank will apply for membership in the Federal Reserve System and will not be FDIC-insured. We understand that the Bank will be located in shared office space with FinNet Corporation. You are reminded that the Bank must comply with guidelines set forth in 12 C.F.R. § 7.3001.

The operating plan will provide the context for the supervisory review at the pre-opening examination. Until final approval is granted, the OCC has the right to alter, suspend, or revoke preliminary approval should any interim development be deemed by the OCC to warrant such action.

In addition to the standard requirements for all new national banks included in an attachment to this letter, the following requirements must be satisfied prior to the bank’s request for a pre-opening examination and before the OCC will grant final charter approval:

1. The Bank’s initial Tier 1 capital, net of all organizational and pre-opening expenses, shall be \$2 million. The manner in which capital is raised must not deviate from that described in the operating plan without prior OCC notification. If the capital for the new bank is not raised within 12 months or if the new bank is not opened for business within 18 months from the

preliminary conditional approval date, the OCC will withdraw approval. The OCC is opposed to granting extensions, except under the most extenuating circumstances and when the OCC determines that the delay is beyond the applicant's control. It is expected that the organizers will proceed, as presented in the application, to take the steps necessary for the bank to open for business as soon as possible.

2. The Bank must provide a written independent valuation of the fair value of the trust accounts that are being contributed from Family Capital Fiduciary, LLC to the Bank. A qualified firm must perform the independent valuation. The valuation must be reviewed and accepted by the OCC. To be qualified the firm must not have been previously associated with the preparation of the application.
3. The Bank must provide a written description of the form and method of transfer from Family Capital Fiduciary, LLC, including an analysis demonstrating compliance with 12 U.S.C. § 371c and 12 U.S.C. § 371c-1 and must describe the ultimate disposition of Family Capital Fiduciary, LLC.
4. The Bank must provide a written representation from the preferred stockholder confirming that the preferred stock of the bank is held for investment purposes only and that the preferred stock holder will not directly or indirectly control the operations of the Bank, as control is defined in 12 C.F.R. § 5.50, unless the preferred stock holder provides 60 days prior written notice of a change in control to the OCC.

Management must ensure that the applicable policies and procedures are established and adopted by the Board of Directors before the Bank commences business. In addition to the independent annual audit requirement referenced in the standard requirements, the Bank will need to develop and implement a fiduciary audit program as required by 12 C.F.R. § 9.

This preliminary conditional approval is subject to the following "conditions imposed in writing by the agency in connection with the granting of any application request" within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

1. The limitations of the Bank's activities must be enumerated fully in the Articles of Association. Specifically, the articles must state that: 1) the business of the association will be limited to that of national trust bank as specified in the Competitive Equality Banking Act of 1987; and 2) the Bank must obtain the OCC's non-objection in writing before amending its Articles of Association to expand the scope of its activities and services.
2. At all times, the Bank shall maintain a minimum of \$2 million in Tier 1 capital, and also shall maintain at all times capital that meets or exceeds minimum regulatory capital levels required under 12 C.F.R. § 3.
3. The Bank shall obtain the OCC's non-objection 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 OCC's Boston Field Office at least sixty (60) days prior to any proposed

significant deviation or change, and obtain the OCC's non-objection in writing to such a proposed deviation or change.

4. To the extent books and records of the Bank are in the possession or control of FinNet, Inc., or its affiliates, upon request by the OCC they shall provide the OCC access to, permit the OCC to examine, and provide the OCC with copies of all books and records of the Bank.
5. All transactions between the Bank and any affiliates, shall be conducted subject to the applicable provisions of 12 U.S.C. § 371c, and 12 U.S.C. § 371c-1, and other applicable Federal law. The Board of Directors of the Bank annually shall review and approve the service agreements, and any other transactions with affiliates, including in particular any cost allocation, fee-sharing or tax-sharing provisions in such agreements or other transactions. Any services performed by affiliates for the Bank and payment to affiliates by the Bank shall be rendered pursuant to contracts that comply with federal law and regulation, and reflect safe and sound practices. The contracts will be reviewed during the pre-opening examination.

In addition to the above, you should be aware that as part of the final charter approval, the OCC may impose additional conditions requiring one or both of the following described agreements be executed prior to opening the Bank:

1. A written binding agreement between the Bank and Capital Formation Group, Inc., and the Bank and FinNet, Inc., setting forth Capital Formation Group, Inc. and FinNet, Inc.'s obligations to provide capital maintenance and liquidity support to the Bank, if and when necessary.
2. A binding written agreement between the Bank's Board of Directors and the OCC setting forth certain actions that the Bank will take including, but not limited to, actions to maintain capital levels set forth in the bank's operating plan, developing a corrective action plan or new satisfactory business plan for sale or merger, or liquidation of the bank under 12 U.S.C. § 181, if the bank does not achieve original operating plan results.

Until final approval is granted, the OCC has the right to alter, suspend, or revoke preliminary approval should any interim development be deemed by the OCC to warrant such action.

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.

The OCC poses no objection to the following persons serving as executive officers and directors as

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proposed in the application:

John D. Williams	Director and Secretary
Peter L. Winslow	Director and Treasurer
Robert H. Frey	Director and CEO
Letitia Beauregard	Director and Chief Fiduciary Officer
George L. Cushing	Director

You are reminded that additional executive officers are subject to the OCC's prior review and clearance. Also, 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.

This preliminary conditional approval, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the U.S., any agency or entity of the U.S., or an officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the U.S.

Please direct any questions concerning this preliminary conditional approval to Licensing Analyst Linda Leickel in the Northeastern District Office at (212) 790-4055, or to me at (202) 874-5060.

Sincerely,

-signed-

Alan Herlands
Director of Licensing Operations

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