

FEDERAL RESERVE SYSTEM

The Warehouse Trust Company LLC
New York, New York

Order Approving Application for Membership

The Warehouse Trust Company LLC (“Warehouse Trust”), an uninsured trust company under New York law,¹ has requested the Board’s approval under section 9 of the Federal Reserve Act (the “Act”)² to become a member of the Federal Reserve System.³ Warehouse Trust proposes to operate a central trade registry for credit default swap (“CDS”) contracts and to offer related services, including the processing of life-cycle events for the contracts and facilitation of payments settlement.

Warehouse Trust is a wholly owned subsidiary of DTCC Deriv/SERV LLC (“Deriv/SERV”), which in turn is a wholly owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”).⁴ Through its subsidiaries, DTCC provides clearing and settlement services with respect to equities, corporate and municipal bonds, government and mortgage-backed securities, money market instruments, and over-the-counter (“OTC”) derivatives.

¹ Under New York law, a limited-liability trust company may not accept deposits from the general public and must obtain an exemption from the general requirement under state law that New York-chartered banks and trust companies have federal deposit insurance. See New York Banking Law §§ 32 and 102a. The New York State Banking Board (“NYSBB”) has approved Warehouse Trust’s articles of organization and its exemption from the deposit insurance requirement. See letter from NYSBB to Douglas J. McClintock, Esq., November 5, 2009.

² 12 U.S.C. § 321 et seq.

³ 12 U.S.C. §§ 221 and 321. Warehouse Trust would be a bank for purposes of the Act and, therefore, is eligible for membership in the Federal Reserve System.

⁴ Neither The Depository Trust Company (“DTC”), a state member bank subsidiary of DTCC in New York, New York, nor Warehouse Trust, are banks as defined in the Bank Holding Company Act (“BHC Act”) (12 U.S.C. § 1841 et seq.). See 12 U.S.C. § 1841(c)(1). Deriv/SERV and DTCC, therefore, are not bank holding companies for purposes of the BHC Act. The NYSBB has approved DTCC’s application to become a bank holding company under New York law when Warehouse Trust opens for business. See New York Banking Law § 142.

MarkitSERV LLC (“MarkitSERV”), a subsidiary of Deriv/SERV, provides a confirmation and matching service for OTC derivatives trades, under which parties to trades submit transaction information to MarkitSERV, which then compares the information received, and matches, confirms, and reports discrepancies in unmatched trades.⁵ Information on confirmed CDS transactions flows into Deriv/SERV’s Trade Information Warehouse (“TIW”).⁶ TIW creates a unique electronic record for each contract, which then is deemed to be the official record of the contract for the contracting parties. TIW updates the record for credit events over the life of the contract, including transfers, terminations, and reorganizations, and for credit events such as a reference entity’s bankruptcy or default. In addition, TIW calculates payments as they come due on the contracts and transmits payment instructions to facilitate settlement. All of TIW’s operations will be transferred to Warehouse Trust when Warehouse Trust opens for business.

Factors Governing Board Review of the Proposal

In acting on an application for membership in the Federal Reserve System, the Board is required by the Act and Regulation H to consider the financial history and condition of the applying bank; the adequacy of its capital in relation to its assets and to its prospective deposit liabilities and other corporate responsibilities; its future earnings prospects; the general character of its management; whether its corporate powers are consistent with the purposes of the Act; and the convenience and needs of the community to be served.⁷ In addition, all state member banks are required to establish and maintain programs for compliance with the Bank Secrecy Act.⁸

⁵ MarkitSERV is a joint venture of Deriv/SERV and Markit, a company that provides data, trade processing, and other services to the derivatives markets.

⁶ MarkitSERV also provides matching and confirmation services for OTC equity and interest rate derivatives in addition to CDS, but only confirmed CDS contracts are recorded by TIW.

⁷ 12 U.S.C. §§ 322 and 329; 12 CFR 208.3(b)(3).

⁸ 12 CFR 208.63.

According to DTCC, TIW currently houses the records of approximately 95 percent of CDS trades worldwide. The Board, therefore, has also reviewed the applicable factors in light of elements of the Federal Reserve's Policy on Payment System Risk ("PSR Policy") that are relevant to Warehouse Trust.⁹ These elements include standards regarding participation and access criteria, operational risk and reliability, and governance.¹⁰

Financial Considerations

In considering the financial history and condition, future earnings prospects, capital adequacy, and other financial factors as they relate to this proposal, the Board has reviewed Warehouse Trust's business plan and financial projections and has assessed the adequacy of its anticipated capital levels in light of the proposed assets and liabilities. TIW has been in business since November 2006, and because Warehouse Trust will assume TIW's operations, the Board has also considered TIW's financial history and condition. Warehouse Trust will be well capitalized at the time it commences operations, and it will maintain capital that is sufficient to allow for an orderly wind-down if confronted with the need to cease operations.¹¹

After carefully considering all the facts of record, the Board has concluded that Warehouse Trust's financial condition, capital adequacy, future earnings prospects, and other financial factors are consistent with approval of the proposal.

⁹ Federal Reserve Policy on Payments System Risk, available at <http://www.federalreserve.gov/paymentsystems/psr/default.htm>. The PSR Policy incorporates minimum standards issued jointly by the Committee on Payment and Settlement Systems of the Bank for International Settlements and by the Technical Committee of the International Organization of Securities Commissioners with respect to central counterparties (Recommendations for Central Counterparties ("RCCP"), issued in November 2004) and with respect to securities settlement systems (Recommendations for Securities Settlement Systems ("RSSS"), issued in November 2001).

¹⁰ RCCP 2, 8, and 13; RSSS 11, 13, and 14.

¹¹ In addition, the Board retains the authority to specify capital requirements for Warehouse Trust if the Board at any time concludes that Warehouse Trust's capital is inadequate in view of its assets, liabilities, and responsibilities. 12 CFR 208.4(a).

Managerial Considerations

In reviewing Warehouse Trust's managerial resources, the Board has considered carefully the experience of Warehouse Trust's proposed management, as well as its planned risk-management systems, operations, and anti-money laundering compliance program. In addition, the Board has reviewed Warehouse Trust's proposed governance arrangements. The Board notes that the directors and officers of Warehouse Trust are all currently employed in similar capacities by DTCC and its subsidiaries. The Board has also considered its supervisory experience with the DTCC organization, the parent of Warehouse Trust, including the compliance record of DTC with applicable banking laws and anti-money laundering laws.

Based on this review and all the facts of record, the Board has concluded that the general character of Warehouse Trust's management is consistent with approval of the proposal.

Other Considerations

In considering whether the corporate powers exercised by Warehouse Trust are consistent with the purposes of the Act, the Board notes that Warehouse Trust's proposed activities are permissible for a state member bank under the Act's applicable provisions and would not pose substantial risks to the bank's safety and soundness.¹² Under Regulation H, Warehouse Trust would be required to obtain the Board's approval before changing the general character of its business or the scope of the corporate powers it exercises.¹³ In addition, Warehouse Trust has provided the Board with several commitments intended to ensure that the Board will have adequate enforcement authority over Warehouse Trust as an uninsured state member bank.¹⁴ For these reasons and based

¹² See 12 U.S.C. §§ 330 and 335.

¹³ 12 CFR 208.3(d)(2).

¹⁴ Warehouse Trust has stipulated that it will be subject to the supervisory, examination, and enforcement authority of the Board under the Federal Deposit Insurance Act as if Warehouse Trust were an insured depository institution for which the Board is the appropriate federal banking agency under that act.

on a review of the entire record, the Board has concluded that this consideration is consistent with approval of the proposal.

The Board also has considered the convenience and needs of the community to be served.¹⁵ As the primary trade repository for CDS, the TIW is an essential component of the market infrastructure for CDS, and Warehouse Trust membership in the Federal Reserve System would subject DTCC's provision of CDS trade repository services to active federal banking agency oversight for the first time. Warehouse Trust would promote greater market transparency by making CDS data publicly available pursuant to applicable statutes, regulations, policy statements, and guidance. For these reasons and based on a review of the entire record, the Board has concluded that the convenience and needs considerations are consistent with approval of the proposal.

Conclusion

Based on the foregoing and all the facts of record, including all the commitments, stipulations, and representations made in connection with the application, and subject to all the terms and conditions set forth in this order, the Board has determined that Warehouse Trust's application for membership in the Federal Reserve System should be, and hereby is, approved. The Board's approval is specifically conditioned on compliance with Regulation H,¹⁶ with receipt of required authorizations from the New York State Banking Department,¹⁷ and with all the commitments, stipulations, and representations made in connection with the application, including the commitments and conditions discussed in this order.¹⁸ The commitments, stipulations,

¹⁵ Because Warehouse Trust will not accept deposits or have federal deposit insurance, it will not be subject to the Community Reinvestment Act. 12 U.S.C. § 2901 et seq.

¹⁶ 12 CFR part 208.

¹⁷ Before Warehouse Trust may begin operations, the Superintendent must issue an authorization certificate. See New York Banking Law § 25.

¹⁸ As a condition of the Board's approval, Warehouse Trust will, before purchasing stock in the Federal Reserve Bank of New York, take certain actions and execute certain commitments to the Board. These commitments and conditions also shall be deemed to

representations, and conditions relied on in reaching this decision shall be deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

Warehouse Trust will become a member of the Federal Reserve System upon its purchase of stock in the Federal Reserve Bank of New York (“Reserve Bank”). This transaction must occur not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Reserve Bank acting pursuant to delegated authority.

By order of the Board of Governors,¹⁹ effective February 2, 2010.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

be conditions imposed in writing by the Board in connection with its findings and decision on Warehouse Trust’s application.

¹⁹ Voting for this action: Chairman Bernanke, Vice Chairman Kohn, and Governors Warsh, Duke, and Tarullo.