

RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION
DATED SEPTEMBER 25, 2014
FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
IN CONNECTION WITH THE
APPLICATION
TO THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
RELATING TO THE PROPOSED ACQUISITION OF
IMB HOLDCO LLC
BY
CIT GROUP INC.
AND
CARBON MERGER SUB LLC

October 9, 2014

Responses to the Request for Additional Information, dated September 25, 2014, from the Board of Governors of the Federal Reserve System¹

- 1. Discuss in further detail the impact of the proposed acquisition on the convenience and needs of the communities to be served by the CIT Group and IMB organizations, and the public benefits, if any, resulting from the proposal. To the extent not previously provided in the applications, your response should also describe any planned or contemplated changes to the following:**
 - a. The products and services currently offered by the two organizations, including by identifying products and services currently available to CIT Group customers that are not currently, but will become, available to IMB customers as a result of the proposed transaction and vice versa; and**
 - b. Customers' access to products and services on a pro forma basis, including, for example, changes to business hours, ATM locations (including by closure of locations), etc.**

The Applicants continue to review the suite of products and services offered by CIT and OneWest and continue to anticipate that all of the products and services currently offered by each institution will continue to be available following the closing of the Transaction. Moreover, each organization's existing customers will benefit from the expanded product and service platforms of the combined organization. For example, OneWest's small business and middle market customers will have access to CIT's wider suite of business financing products. OneWest's current small business lending consists primarily of SBA 504 and 7A lending products. OneWest's existing and future micro-, small- and medium-sized business customers will benefit significantly from access to CIT's small-ticket leasing, commercial lending and factoring products (indeed, OneWest currently does not offer factoring or leasing products). Similarly, CIT's business customers will have access to OneWest's deposit (checking) and cash management services (which are not currently offered by CIT), and CIT's smaller business customers, in particular, will have access to additional products and services from OneWest's lending platform. In addition, it is expected that CITB's existing internet deposit customers will receive access to new online and mobile banking services that are expected to be launched by CITBNA following closing. Finally, both CIT's and OneWest's existing and future customers benefit from CIT's enhanced loan capacity resulting from its lower funding costs.

As noted in the Application, OWB's retail customers will continue to be able to use their current branches, as no branch closures are anticipated in connection with the Transaction. As a result of the Transaction, the main office of CITB, which is not open to the public, will become a non-branch

¹ Capitalized terms used but not defined herein shall have the meanings set forth in the Application to the Board of Governors of the Federal Reserve System, dated August 20, 2014, relating to the proposed acquisition of IMB Holdco LLC by CIT Group Inc. and Carbon Merger Sub LLC.

office of CITBNA.² There are no anticipated changes to the business hours, ATM locations or services provided in the branches. Customers who access online products and services will continue to have online access as well.

CITBNA will continue to have the same assessment area as does OWB today and will continue OWB's commitment to providing lending, investment and service to the southern California community.

2. **Provide a copy of the Oxygen Disclosure Schedule and the Carbon Disclosure Schedule, each as defined in the Agreement and Plan of Merger among CIT Group, IMB, Merger Sub, and the Holders' Representatives ("Merger Agreement"). In addition, to the extent not already provided, provide copies of all other schedules, exhibits, and appendices to the Merger Agreement and any other agreement related to the proposed transactions.**

Copies of the Oxygen Disclosure Schedule and the Carbon Disclosure Schedule are attached as Confidential Exhibit G.

A copy of the form of Merger Agreement relating the Bank Merger is attached as Public Exhibit A.

A copy of the form of Merger Agreement relating to the Upstream Merger is attached as Public Exhibit B.

3. **Sections 5.2(f)(ii)(A) and (B) of the Merger Agreement provides that IMB must obtain CIT Group's written consent prior to "increas[ing] in any manner the compensation or benefits payable to any current or former director, employee or other service provider of Oxygen or any of its Subsidiaries or pay any amount to any such individual not otherwise due, other than increase in the ordinary course of business consistent with past practice (A) of 2% or less in the aggregate base salaries (and corresponding increases in target bonuses occurring solely as a result of such increases in base salaries) payable to any current employee of Oxygen or its Subsidiaries whose annual target compensation is less than \$500,000 or (B) of 5% or less in the aggregate base salaries (and corresponding increases in target bonuses occurring solely as a result of such increases in base salaries) payable to any current employee of Oxygen or its Subsidiaries whose annual target compensation is less than \$500,000 in connection with the promotion of such employee in the ordinary course of business consistent with past practice and provided that such increase does not raise such employee's annual target compensation above \$500,000."**

²

[REDACTED]

- a. **Indicate the number of times that IMB has sought CIT Group’s prior consent pursuant to sections 5.2(f)(ii)(A) or (B) of the Merger Agreement.**

None.

- b. **Confirm or clarify our understanding that under the provisions of sections 5.2(f)(ii)(A) and (B), CIT Group’s consent is required before IMB and its subsidiaries may undertake ordinary course of business decisions relating to compensation and benefits. Your response should indicate how the provisions of sections 5.2(f)(ii)(A) and (B) will be implemented so that they do not permit CIT Group to control the ordinary course of business decisions of IMB and its subsidiaries.**

Section 5.2(f)(ii) provides that CIT Group’s consent is is not required for increases in compensation to any director, employee or other service provider with annual target compensation of less than \$500,000 so long as (A) such increase is an ordinary course increase consistent with past practice defined by reference to the 2% threshold noted in Question 3 or (B) such increase is in connection with the promotion of such employee and the increase is an ordinary course increase consistent with past practice defined by reference to the 5% threshold noted in Question 3 (and does not result in an annual target compensation above \$500,000).

[REDACTED]

[REDACTED]

OneWest has indicated that the annual increases (based on aggregate base salary and corresponding increases in target bonuses occurring solely as a result of such increases in base salaries) for employees with annual target compensation of less than \$500,000 was [REDACTED] % for 2013, [REDACTED] % for 2012 and [REDACTED] % for 2011.

[REDACTED]

With respect to promotional increases, OneWest has indicated that the promotion-related increases (based on aggregate base salary and corresponding increases in target bonuses occurring solely as a result of such increases in base salaries) for employees with annual target compensation of less than \$500,000 was [REDACTED] % for 2013, [REDACTED] % for 2012 and [REDACTED] % for 2011.

[REDACTED]

[REDACTED] The Applicants submit, therefore, that Section 5.2(f)(vii)'s consent requirement covers only extraordinary events and, therefore, does not provide CIT with the ability to direct the ordinary course employment decisions of IMB or its subsidiaries.

5. Section 5.2(g) of the Merger Agreement provides that IMB must obtain CIT Group's written consent prior to "commenc[ing], settl[ing] or compromise[ing] any Proceeding, except for (i) any settlement (A) involving only monetary remedies with a value not in excess of \$1 million, with respect to any individual Proceeding or \$5 million, in the aggregate (in excess of, in each case, any settlement payments that are actually recovered from trusts or other third parties or reserves in respect thereof to the extent reflected in the Oxygen Unaudited Financial Statements), subject to prior consultation with Carbon and (B) that is not otherwise reasonably likely to be material to Oxygen or its Subsidiaries (or following the Closing, Carbon and its Subsidiaries)."

a. Indicate the number of times that IMB has sought CIT Group's prior consent pursuant to section 5.2(g) of the Merger Agreement.

[REDACTED]

b. Explain whether the requirement that IMB obtain CIT Group's written consent prior to commencing, settling, or compromising any proceeding in excess of the \$1 million individual and \$5 million aggregate amounts as provided in section 5.2(g) of the Merger Agreement provides CIT Group with the ability to direct the ordinary course litigation decisions of IMB and its subsidiaries prior to approval of the applications. Information supporting your response could include, for example:

- i. The number of proceedings settled by IMB and its subsidiaries and the total amount of the monetary remedies involved in such settlements during a recent period;
- ii. The number and total amount of monetary remedies involved of proceedings settled by IMB and its subsidiaries during a recent period that involved only monetary remedies with a value in excess of \$1 million; and
- iii. The number of proceedings settled by IMB and its subsidiaries during a recent period that did not involve only monetary remedies.

[REDACTED]

OneWest has indicated that in 2014, year-to-date (covering over 75% of the year), [REDACTED] matters have been settled with a total settlement amount of approximately \$ [REDACTED]. None of these settlements involved monetary remedies in excess of \$ [REDACTED]

Furthermore, in 2013 [REDACTED] settlements involved monetary remedies exceeding \$1 million and in 2012 and 2011, [REDACTED] settlements involved amounts exceeding \$1 million. Indeed, the average settlement in the last three years typically has been approximately \$ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Thus, the Applicants submit that this provision does not provide CIT Group with the ability to direct the ordinary course litigation decisions of IMB and its subsidiaries.

6. Section 5.2(p) of the Merger Agreement provides that IMB must obtain CIT Group's written consent prior to "mak[ing] any capital expenditure in excess of \$2,500,000 individually or \$10,000,000 in the aggregate."

a. Indicate the number of times that IMB has sought CIT Group's prior consent pursuant to section 5.2(p) of the Merger Agreement.

None.

b. Explain whether the requirement that IMB obtain CIT Group's written consent prior to making capital expenditure in excess of \$2,500,000 individually or \$10,000,000 in the aggregate provided in section 5.2(p) of the Merger Agreement provides CIT Group with the ability to direct the ordinary course capital expenditures of IMB and its subsidiaries prior to approval of the applications. Information supporting your response could include, for example:

i. The number and aggregate dollar amount of capital expenditures made by IMB and its subsidiaries during a recent period; and

ii. The number and aggregate dollar amount of capital expenditures made by IMB and its subsidiaries during a recent period that were in excess of \$2,500,000 individually.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thus, the Applicants submit that this provision does not provide CIT Group with the ability to direct the ordinary course capital expenditures of IMB and its subsidiaries.

PUBLIC EXHIBITS
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PUBLIC EXHIBIT A

Form of Bank Merger Agreement

**FORM OF AGREEMENT AND PLAN OF MERGER
OF
CIT BANK
WITH AND INTO
ONEWEST BANK, NATIONAL ASSOCIATION**

THIS AGREEMENT AND PLAN OF MERGER, dated as of [●] [●], 2014 (this "Agreement"), is made and entered into between OneWest Bank, National Association ("OWB") and CIT Bank ("CITB").

WITNESSETH:

WHEREAS, OWB, OCC Charter No. 718129, is a national banking association duly organized and existing under the laws of the United States with its main office located at 888 East Walnut Street, Pasadena, California;

WHEREAS, OWB has authorized capital stock consisting of 10,000,000 shares of common stock, par value \$1.00 per share ("OWB Common Stock"), of which 10,000,000 shares of common stock are issued and outstanding as of the date hereof;

WHEREAS, OWB is wholly-owned by OneWest Bank Group LLC, a registered bank holding company and Delaware limited liability company with its main office in Pasadena, California ("OWB Group");

WHEREAS, OWB Group is wholly-owned by IMB Holdco LLC, a registered bank holding company and Delaware limited liability company with its main office in Pasadena, California ("IMB");

WHEREAS, CITB is a commercial bank duly organized and existing under the laws of the State of Utah with its main office located at 2150 South 1300 East, Suite 400, Salt Lake City, Utah;

WHEREAS, CITB has authorized capital stock consisting of 5,000,000 shares of common stock, par value \$10 per share ("CITB Common Stock"), of which 500,000 shares of common stock are issued and outstanding as of the date hereof;

WHEREAS, CITB is wholly-owned by CIT Group Inc., a registered financial holding company and a Delaware corporation with its principal executive offices in New York, New York ("CIT Group");

WHEREAS, CIT Group wholly-owns Carbon Merger Sub LLC, a Delaware limited liability company ("Merger Sub"), that CIT Group formed to effect the transactions that directly relate to the subject matter of the Subsidiary Merger Agreement (as defined below);

WHEREAS, CIT Group, Merger Sub and IMB are parties to that certain Agreement and Plan of Merger, dated as of July 21, 2014 (as it may be amended from time to time, the

“Subsidiary Merger Agreement”), pursuant to which, subject to the terms and conditions of the Subsidiary Merger Agreement, (i) OWB Group shall be dissolved and liquidated and (ii) IMB shall merge with and into Merger Sub (the “Subsidiary Merger”), whereby (A) the corporate existence of IMB shall cease and Merger Sub shall continue its corporate existence as the surviving company in the Subsidiary Merger and (B) OWB shall become a wholly-owned direct subsidiary of Merger Sub;

WHEREAS, the parties intend that upon consummation of the Bank Merger, subject to the approval of the Office of the Comptroller of the Currency, the existing main office of OWB will be designated as the main office of CITB, National Association; and

WHEREAS, the respective boards of directors of OWB and CITB, acting pursuant to resolutions duly adopted pursuant to the authority given by, and in accordance with, applicable law, have approved this Agreement and authorized the execution hereof.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements herein contained, the parties hereto do hereby agree as follows:

1 - THE MERGER

1.1 Merger; Surviving Bank

Subject to the terms and conditions of this Agreement, at the Effective Time (as hereinafter defined), CITB shall be merged with and into OWB, pursuant to the provisions of, and with the effect provided in, applicable law (said transaction, the “Bank Merger”) and the corporate existence of CITB shall cease. OWB shall continue its corporate existence under the laws of the United States and shall be the entity surviving the Bank Merger (the “Surviving Bank”). The parties hereto intend that the Bank Merger qualify as a “reorganization” within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the “Code”) and this Agreement shall be, and is hereby adopted as, a “plan of reorganization” for purposes of Sections 354 and 361 of the Code.

1.2 Articles of Incorporation and Bylaws

From and after the Effective Time (as defined in Section 1.3 below), the Articles of Incorporation of OWB as in effect as of the date hereof, which are attached hereto as Exhibit A, shall be the Articles of Incorporation of the Surviving Bank until thereafter amended in accordance with applicable law; provided that at the Effective Time such Articles of Incorporation shall be amended to change the name of the Surviving Bank to “CIT Bank, National Association”. From and after the Effective Time, the Bylaws of OWB as in effect as of the date hereof, which are attached hereto as Exhibit B, shall be the Bylaws of the Surviving Bank until thereafter amended in accordance with applicable law; provided that at the Effective Time such Bylaws shall be amended to fix the number of directors at the number provided for in Section 1.6 of this Agreement and to change the name of the Surviving Bank to “CIT Bank, National Association”.

1.3 Effective Time of Merger

Unless OWB and CITB agree otherwise, the Bank Merger will take place immediately after the closing of the Subsidiary Merger, subject to the satisfaction of the conditions set forth in Section 3.1. The date and time of such effectiveness is herein referred to as the “Effective Time”.

1.4 Effect of Merger

All assets of CITB as they exist at the Effective Time shall pass to and vest in the Surviving Bank without any conveyance or other transfer. The Surviving Bank shall be responsible for all of the liabilities of every kind and description, including, but not limited to, liabilities arising from any operation of a trust department, of the merging institutions existing as of the Effective Time of the Bank Merger.

1.5 Business of Surviving Bank

The business of the Surviving Bank after the Bank Merger shall continue to be that of a national banking association and shall be conducted at its main office, which shall be located at 888 East Walnut Street, Pasadena, California, and at all legally established branches.

1.6 Directors

OWB and CITB shall take such actions as are necessary, including changing the size of the Board of Directors of the Surviving Bank, if necessary, such that upon consummation of the Bank Merger, the directors of the Surviving Bank shall be [●]. Directors of the Surviving Bank shall serve until their successors shall have been duly elected or appointed and qualified, or their earlier death, resignation or removal, in each case, in accordance with the Articles of Incorporation and Bylaws of the Surviving Bank.

2 - TREATMENT OF SHARES

2.1 Treatment of Shares

At the Effective Time, by virtue of the Bank Merger and without any action on the part of the holder thereof: (a) each share of CITB common stock issued and outstanding immediately prior to the Effective Time shall cease to be outstanding and shall be cancelled and (b) the shares of OWB common stock issued and outstanding immediately prior to the Effective Time shall remain outstanding, shall be unchanged after the Bank Merger and shall immediately after the Effective Time constitute all of the issued and outstanding capital stock of the Surviving Bank.

3 - CONDITIONS PRECEDENT

3.1 Conditions

The respective obligations of the parties to effect the Bank Merger shall be subject to the satisfaction at or prior to the Effective Time of the following conditions:

(a) Shareholder Approval. The Agreement shall have been approved by the sole shareholder of each of OWB and CITB.

(b) Regulatory Approvals. The approval of the Board of Governors of the Federal Reserve System to effect the Subsidiary Merger and the transactions related thereto and the approval of the Office of the Comptroller of the Currency consummate the transactions contemplated by this Agreement, including the Bank Merger, shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired.

(c) No Injunctions or Restraints. There shall not be in effect any order, injunction or decree by any court or agency of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Bank Merger. There shall not be any law enacted, entered, promulgated or enforced by any governmental entity which prohibits or makes illegal consummation of the Bank Merger.

(d) Subsidiary Merger. The Subsidiary Merger shall have been consummated in accordance with the terms and conditions of the Subsidiary Merger Agreement.

4 - TERMINATION AND AMENDMENT

4.1 Termination

Notwithstanding the approval of this Agreement by the sole shareholder of each of OWB or CITB, this Agreement shall terminate forthwith prior to the Effective Time in the event the Subsidiary Merger Agreement is terminated as therein provided. This Agreement may also be terminated at any time by mutual written consent of the parties hereto.

4.2 Amendment

This Agreement may not be amended, except by an instrument in writing signed on behalf of each of the parties hereto.

5 - MISCELLANEOUS

5.1 Representations and Warranties

Each of the parties hereto represents and warrants that this Agreement has been duly authorized, executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with the terms hereof.

5.2 Assurances

If at any time the Surviving Bank shall consider or be advised that any further assignments, conveyances or assurances are necessary or desirable to vest, perfect or confirm in the Surviving Bank title to any property or rights of CITB or otherwise carry out the provisions hereof, the proper officers and directors of CITB, as of the Effective Time, and thereafter the officers of the Surviving Bank acting on behalf of CITB, shall execute and deliver any and all

proper assignments, conveyances and assurances, and do all things necessary or desirable to vest, perfect or confirm title to such property or rights in the Surviving Bank and otherwise carry out the provisions hereof.

5.3 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to any applicable conflicts of law, except to the extent federal law may be applicable.

5.4 Successors and Assigns

This Agreement is binding upon and is for the benefit of the parties hereto and their respective successors and permitted assigns; provided, however, that neither this Agreement nor any rights or obligations hereunder may be assigned by any party hereto to any other person without the prior consent in writing of the other party hereto.

5.5 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

[Signature page follows]

PUBLIC EXHIBIT A

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized officers, all as of the date first set forth above.

ONEWEST BANK, NATIONAL
ASSOCIATION

By _____
Name:
Title:

CIT BANK

By _____
Name:
Title:

[Signature page to Agreement and Plan of Merger]

Exhibit A

Exhibit B

PUBLIC EXHIBIT B

Form of Upstream Merger Agreement

AGREEMENT OF MERGER

This AGREEMENT OF MERGER, dated this ___ day of _____, 2015, pursuant to Section 264 of the General Corporation Law of the State of Delaware and Section 209 of the Limited Liability Company Act of the State of Delaware, between CARBON MERGER SUB LLC, a Delaware limited liability company (the "**Terminating Subsidiary**") and CIT GROUP INC., a Delaware corporation ("**Parent**").

WITNESSETH that:

WHEREAS, Parent is the legal and beneficial owner of one hundred percent (100%) of the outstanding membership interest in Terminating Subsidiary ("**Membership Interest**"); and

WHEREAS, said Membership Interest of the Terminating Subsidiary is the only issued and outstanding ownership units of the Terminating Subsidiary; and

WHEREAS, the appropriate governing body of the parties hereto deem it desirable, upon the terms and subject to the conditions stated herein, that the Terminating Subsidiary be merged with and into Parent and that Parent be the surviving corporation which will assume all of the rights and obligations of Terminating Subsidiary;

NOW, THEREFORE, the parties to this Agreement, in consideration of the mutual covenants, agreements and provisions hereinafter contained, do hereby prescribe the terms and conditions of said merger and mode of carrying the same into effect as follows:

Section 1. Terms.

1.1 On the effective date of the merger (as hereinafter defined), Terminating Subsidiary shall be merged with and into Parent, with Parent as the surviving corporation. The corporate name of Parent shall not change as a result of the merger.

1.2 Upon the effective date of the merger:

(a) The then outstanding Membership Interest of Terminating Subsidiary held by the Parent shall be cancelled and cease to be outstanding, without any payment being made in respect thereof;

(b) Each then outstanding share of Common Stock of the Parent shall continue to be outstanding.

(c) Upon the merger becoming effective, all the property, rights, privileges, franchises, patents, trademarks, licenses, registrations and other assets of every kind and description of the Terminating Subsidiary shall be transferred to, vested in and devolve upon the Parent without further act or deed and all property, rights, and every other interest of the Parent and the Terminating Subsidiary shall be as effectively the property of the Parent as they were of the Parent and the Terminating Subsidiary, respectively. The Terminating Subsidiary hereby agrees from time to time, as and when

requested by the Parent or by its successors or assigns, to execute and deliver or cause to be executed and delivered all such deeds and instruments and to take or cause to be taken such further or other action as the Parent may deem to be necessary or desirable in order to vest in and confirm to the Parent title to and possession of any property of the Terminating Subsidiary acquired or to be acquired by reason of or as a result of the merger herein provided for and otherwise to carry out the intent and purposes hereof and the proper managers, officers and directors of the Terminating Subsidiary and the proper officers and directors of the Parent are fully authorized in the name of the Terminating Subsidiary or otherwise to take any and all such action.

Section 2. Effective Date.

2.1 This Agreement shall be approved by each of the constituents as provided by the applicable laws of the State of Delaware.

2.2 The merger shall become effective on the date hereof and a Certificate of Merger shall be filed with the Secretary of State of the State of Delaware reflecting such effective date.

Section 3. Certificate of Incorporation; By-Laws; and Officers

3.1 The Certificate of Incorporation of the Parent, as heretofore amended and in effect on the date of the merger provided for in this Agreement, shall continue in full force and effect as the Certificate of Incorporation of the corporation surviving this merger.

3.2 The by-laws of the Parent as they shall exist on the effective date of this Agreement shall be and remain the by-laws of the surviving corporation until the same shall be altered, amended and repealed as therein provided.

3.3 The directors and officers of the Parent shall continue as the directors and officers of the surviving corporation until the next annual meeting of stockholders and until their successors shall have been elected and qualified.

Section 4. Amendment and Termination.

4.1 This Agreement may be amended by at any time prior to the time that this Agreement and/or Certificate of Merger filed with the Secretary of State becomes effective.

4.2 Anything herein or elsewhere to the contrary notwithstanding, this Agreement may be terminated and abandoned by the Board of Directors of any constituent corporation at any time prior to the time that this Agreement and/or Certificate of Merger filed with the Secretary of State becomes effective.

PUBLIC EXHIBIT B

IN WITNESS WHEREOF, the parties to this Agreement have caused these presents to be executed by the officers of each party hereto as the respective act, deed and agreement of said companies on this ____ day of _____, 2015.

CIT GROUP INC.
("Parent")

By:
Its:

CARBON MERGER SUB LLC
("Terminating Subsidiary")

By:
Its: