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November 2, 2026

Via Email

Sebastian R. Astrada
Deputy Comptroller for Chartering, Organization and Structure
Office of the Comptroller of the Currency
400 7th St., SW, Washington, DC 20219
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RE: ICBA LETTER IN OPPOSITION TO MODERN TREASURY NATIONAL TRUST BANK'S CHARTER APPLICATION

Dear Deputy Comptroller Astrada:

The Independent Community Bankers of America ("ICBA")[1] objects to the application, dated October 1, 2026, filed by Modern Treasury Corp. ("Modern Treasury" or "Applicant") to organize Modern Treasury National Trust Bank ("MTNTB"), a proposed national trust bank in New York, New York (the "Application"). ICBA urges the Office of the Comptroller of the Currency ("OCC") to deny the Application. If the OCC does not deny the Application, ICBA urges the OCC to defer action until the Applicant provides further public disclosure, the public has an opportunity to comment, and the OCC has addressed the legal and supervisory concerns identified below.

ICBA opposes the Application for the following reasons:

- The proposed activities exceed the limited powers of a national trust bank; by the Applicant's own description a core line of business would be conducted in a non-fiduciary capacity;
- MTNTB would serve as the chartered component of Modern Treasury's payment platform, holding customer payment balances that resemble deposits outside the insured banking system and potentially reducing the funds available for local lending;
- MTNTB would depend on its parent for its operations and a portion of its capital, without any enforceable commitment by the parent to support MTNTB, and the broader enterprise would not be subject to oversight comparable to consolidated supervision; and

[1] The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at www.icba.org.

- The public record omits information needed to provide the public with a meaningful opportunity to evaluate and provide informed comments on the Application, particularly related to risks posed by the proposed cross-border and conversion activities.

The OCC should not permit or approve a national trust charter applicant to conduct activities that facilitate an unlimited pathway for conducting a nationwide commercial payments business. If the OCC nonetheless approves the Application, it should impose express conditions limiting MTNTB's payment-related activities to bona fide fiduciary custody relationships and requiring parent-level safeguards comparable to consolidated supervision.

The Activities Disclosed in the Application Exceed the Permissible Powers of a National Trust Bank

As ICBA has repeatedly explained, the OCC lacks statutory authority to charter a national trust bank that engages in non-fiduciary activities.[2] Neither Section 27(a) nor Section 92a of the National Bank Act authorize an uninsured national trust bank to engage generally in the business of banking or to provide non-fiduciary custody, transfer, settlement, or payment services simply because those services accompany fiduciary activity or involve digital assets.[3]

This Application proposes three lines of business: "(i) digital asset custody in a fiduciary capacity; (ii) fiat custody *in a non-fiduciary capacity*, including cross-border settlement and currency conversion, non-U.S. dollar custody, and various funds transfer methods; and (iii) related conversion services, allowing Bank customers to convert between stablecoins and fiat currency (and vice-versa)."[4] The Applicant expressly describes its fiat custody as non-fiduciary and does not say in what capacity it would provide the third line of business, conversion between stablecoins and fiat currency. Further, the Applicant does not state how its business would divide between the three lines of business. The Applicant's permissibility analysis and its request for fiduciary powers are contained in the confidential business plan.[5] The OCC has this information, but the public does not. Commenters cannot tell whether fiduciary activity would be MTNTB's principal business or a small part of a payments operation, and so cannot meaningfully evaluate or comment on whether the proposed activities fall within the scope of permissible fiduciary authority under the National Bank Act for a national trust bank.

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[2] *See* ICBA, *Letter Urging the OCC to Withdraw National Bank Chartering Proposal* (Feb. 11, 2026) (arguing that the OCC's proposal to permit limited-purpose national trust banks to engage substantially in non-fiduciary activities is inconsistent with the OCC's statutory authority), https://www.icba.org/w/letter-urging-occ-to-deny-coinbase-s-application-for-a-national-trust-bank-charter; *see also* ICBA, *Letter Urging OCC to Deny Coinbase's Application for a National Trust Bank Charter* (Nov. 3, 2025) (arguing that the OCC lacks authority to charter uninsured national trust banks for activities that are not fiduciary in nature or incidental to fiduciary operations), https://www.icba.org/w/letter-urging-occ-to-deny-coinbase-s-application-for-a-national-trust-bank-charter.

[3] 12 U.S.C. §§ 27(a), 92a.

[4] Application, Item 1(a), at 2 (emphasis added).

[5] Application, Item 1(b), at 2–3.

The OCC should deny the Application because, based on the limited information available to the public, the proposed activities exceed the limited scope of permissible activities for a national trust bank. At a minimum, before taking any action, the OCC should determine and disclose to the public the legal basis for MTNTB's proposed non-fiduciary fiat custody activities, especially its cross-border settlement, currency conversion, and funds transfer activities; the capacity in which MTNTB would provide conversion services; and what portion of MTNTB's business would be conducted in a fiduciary capacity.

MTNTB's Integration With Modern Treasury's Existing Payments Platform Raises Significant Regulatory Parity and Broader Economic Concerns

Modern Treasury already operates a substantial payments and money-movement platform across traditional and digital payment rails. MTNTB would add federally chartered custody, settlement, conversion, and funds-transfer capabilities that Modern Treasury intends to integrate with that existing platform. The OCC must ensure that the national trust charter does not become the regulated banking component of a broader general-purpose payments business that, viewed functionally, extends materially beyond bona fide fiduciary activities. At a minimum, any approval should expressly condition the payment, settlement, conversion, and funds-transfer activities on a genuine and substantial fiduciary custody relationship and require those activities to involve assets held by MTNTB in a fiduciary capacity.

Modern Treasury currently operates a payment service provider business that maintains sponsor banking relationships through its subsidiary, M-Cubed Labs, Inc.[6] The Applicant seeks the charter "to consolidate custody of customer assets in a supervised institution, and to support the transfer, settlement, and conversion of those custodied balances."[7] In practice, customers would leave cash with MTNTB and direct it to move those funds on their instruction, much as they would with a transaction account. Under the proposal, those balances may sit in an uninsured trust bank and outside the framework that governs deposit-taking. In contrast, a bank offering the same transaction-account-like service would be subject to significant prudential requirements.

The proposal also raises a question about the effect on credit availability. Today, funds in Modern Treasury's payment service provider business are held in for-benefit-of accounts at its sponsor bank.[8] Bank deposits fund a bank's balance sheet, so to the extent these balances are held as deposits, they indirectly support lending, even though Modern Treasury itself does not lend.[9]The Applicant states that MTNTB's clients would include "existing and future Modern Treasury

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[6] Application, Item 1(a), at 2.

[7] *Id.*

[8] Modern Treasury, *Sub-Accounts for FBO & Virtual Accounts*, https://www.moderntreasury.com/solutions/sub-accounts (last visited Oct. 30, 2026).

[9] Modern Treasury, *Modern Treasury Applies to Establish National Trust Bank* (Oct. 5, 2026), https://www.moderntreasury.com/newsroom/press-releases/modern-treasury-applies-to-establish-national-trust-bank.

commercial customers,"[10] a group that includes customers of its software business, who can connect the software to accounts at their own banks.[11] The Application does not say which services those customers would use or whether their funds would move to MTNTB. If customer funds move from these banks to MTNTB, their effect on lending to households and small businesses would depend on where MTNTB places those funds. Consistent with the OCC's commitment to considering commenters' policy concerns in its review of applications and its statement that it has "fulsomely and publicly addressed the comments received" in its recent national trust bank decisions,[12] ICBA urges the agency to fully consider the implications for local lending capacity resulting from allowing an entity like MTNTB to siphon funds from customers' own banks.

The OCC should determine and explain in any decision on the Application:

- whether customer funds now held at other banks, including those of Modern Treasury's software customers, would move to MTNTB;
- where MTNTB would hold those funds; and
- what effect that would have on the funds available for lending in local communities.

MTNTB's Dependence on Its Parent Raises Concerns Regarding Affiliate Risk, Operational Independence, and the Absence of Consolidated Prudential Oversight

MTNTB would be a wholly owned subsidiary of Modern Treasury. The Applicant states that MTNTB's clients would include affiliates of MTNTB, that MTNTB would share premises with Modern Treasury, and that it would rely on intercompany service arrangements.[13] The form of the intercompany services agreement and MTNTB's Affiliate Transactions Policy are not included in the public record. The Applicant nevertheless reports no actual or potential conflicts of interest.[14] That representation is difficult to reconcile with an institution whose customers include its affiliates and whose principal service provider is its parent. Additionally, a portion of MTNTB's initial capital would be contributed in noncash form through Modern Treasury's secondment and license support program, including software licenses.[15] Such assets, including licenses to the parent's proprietary software, cannot readily absorb losses or fund an orderly wind-down, and they would lose value at the same time as the parent.

Where a national trust bank depends materially on its nonbank parent for capital, technology, infrastructure, personnel, or other critical functions, the financial and operational condition of the parent will likely have significant implications for the bank. These dependencies warrant stringent

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[10] Application, Item 1(a), at 2.

[11] *Id.* (describing Modern Treasury's software for "over 300 commercial customers").

[12] National Bank Chartering, 91 Fed. Reg. at 9980 & n.34.

[13] Application, Item 1(a), at 2 (clients); Item 5, at 10–11 (premises); Item 2(d), at 5; Item 2(h) at 7 (intercompany services).

[14] Application, Item 2(g), at 6.

[15] Application, Item 3(b), at 8.

scrutiny because the broader Modern Treasury enterprise would not be subject to the same rigorous consolidated prudential supervision applicable to a traditional bank holding company.

The OCC should consider whether integrating a national trust bank with a broader payments enterprise invites risks that cannot be adequately addressed without consolidated supervision. At a minimum, the OCC should ensure MTNTB has sufficient capital and impose protections comparable to those provided by consolidated supervision such as parent-level capital and liquidity support obligations, affiliate transaction restrictions, and contingency planning commitments. The OCC should also ensure that MTNTB would possess sufficiently independent governance, personnel, systems, risk-management capabilities, and decision-making authority to identify and manage its own risks and to continue critical operations if its parent's financial or operational condition deteriorates.

The Limited Public Record Prevents Meaningful Comment, Particularly on Cross-Border and Conversion Risks

ICBA's comments are necessarily based on the limited information contained in the public portion of the Application. Because the Applicant submitted its substantive exhibits as confidential, including its business plan, operational flows, organizational charts, and parent company financial information, neither Applicant nor the OCC has provided the public a sufficient record in which to comment.[16]

The scarcity of publicly available information in the Application is most troublesome when attempting to evaluate the Applicant's cross-border and conversion activities. The Applicant proposes cross-border settlement, currency conversion, non-U.S. dollar custody, and conversion between stablecoins and fiat currency.[17] These activities carry elevated money laundering, sanctions, and operational risks, but MTNTB's Bank Secrecy Act/anti-money laundering and sanctions compliance program is not public. Before acting, the OCC should determine how MTNTB as a de novo national trust bank would manage financial-crimes risk at the scale of the more than $600 billion in payments Modern Treasury says it has powered,[18] how it would screen conversions between stablecoins and fiat currency, and how it would apply sanctions screening to cross-border settlement.

The confidential materials may raise additional issues that ICBA cannot identify on the current record.

Meaningful public comment requires meaningful public disclosure. The OCC should not approve a federal charter based on material information that the public has had no opportunity to evaluate. Accordingly, the OCC should defer action and require sufficient public disclosure to permit meaningful review of the Application.

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[16] Application, Confidential Exhibits C-1 through C-13.

[17] Application, Item 1(a), at 2.

[18] Modern Treasury, *supra* note 12.

Requested Agency Action

For the reasons above, ICBA respectfully urges the OCC to deny the Application. By the Applicant's own description, a core line of MTNTB's business would be conducted in a non-fiduciary capacity, which exceeds the limited powers of a national trust bank.

Alternatively, the OCC should defer action until the Applicant publicly supplements the record, followed by an additional public comment period. If the OCC approves the Application, it should, at a minimum, limit MTNTB's funds transfer, settlement, currency conversion, and stablecoin conversion services to bona fide fiduciary custody customers, and only in connection with assets actually held in MTNTB's custody; and require the Applicant to enter into direct, enforceable commitments comparable to consolidated supervision.

If you would like to discuss these comments further, please contact me at joseph.chaves@icba.org.

Sincerely,

/s/

Joseph Chaves

Senior Director, Safety & Soundness Regulatory Policy