

**INTERPRETIVE LETTER 91-26 (SEPTEMBER 30, 1991)**

**Date of bank charter resulting from conversion of trust company is date of certificate of authority issued to predecessor trust company.**

In connection with the process of conversion of \* Trust Company to a state bank, you have requested confirmation of your interpretation of Section 19.1 of the Illinois Banking Act ("Act") that the date of existence of the resulting bank is measured from the date the Certificate of Authority to accept and execute trusts was first issued to \* Trust Company [Date]. This date is relevant principally to determine compliance with the provision in the Illinois Bank Holding Company Act that prohibits a multi-bank holding company from owning an Illinois bank organized after January 1, 1982, which has not been in existence for 10 years.

Section 19.1 of the Act states:

As used in Section 20 through 30 both inclusive of this Act and for purposes of any Section of the Illinois Bank Holding Company Act of 1957, as now or hereafter amended, the existence of a bank converted from a state bank to a national bank or vice versa, or from a trust company to a state bank shall be measured from the date of the charter of the original entity. Ill. Rev. Stat. Ch. 17, Par. 326.1 (1989).

The "date of the charter" for a bank is a specific, unambiguous term referring to the date the Commissioner chartered a state bank or the Comptroller of the Currency chartered a national bank. The "date of the charter" is not usually used in connection with a trust company, but rather with two events in the corporate life of a trust company that might comprise the "date of the charter."

First in time would be when the Secretary of State in approving the articles of incorporation issues a Certificate of Incorporation. Second in time would be when the Commissioner of Banks and Trust Companies issues a Certificate of Authority permitting the corporation to accept and execute trusts. While a charter of a corporation is sometimes used as another name for the Certificate of Incorporation, under the bifurcated procedure for formation of trust companies in Illinois no corporation is initially incorporated as a trust company. It is only after the second step in the procedure, the issuing of the Certificate of Authority, that the trust company is clothed with the authority to accept and execute trusts, and it is only such specially authorized corporation that is permitted to convert to an Illinois state bank.

Because it is this Certificate of Authority that makes the corporation a "trust company," the Commissioner concurs in your interpretation. It seems clear the General Assembly intended to measure the date of existence of a bank formed by conversion of a trust

company from the date the corporate entity became a trust company--i.e. the date the Certificate of Authority was issued.