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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

**Conditional Approval #328  
September 1999**

August 17, 1999

Mr. Robert J. Flax  
Executive Vice President and General Counsel  
Bay View Bank, NA  
2121 South El Camino Real  
San Mateo, California 94403-1897

Re: Application by Bay View Bank, NA to change its permanent capital by receiving a material noncash contribution. Application Control No. 99-WE-12-0108

Dear Mr. Flax

The Office of the Comptroller of the Currency (OCC) granted approval today for Bay View Bank, NA to change its equity capital as outlined in your application of May 20, 1999 and subsequent revisions, subject to the following condition:

Prior to receiving the capital contribution, Bay View Bank will enter into an agreement with the Federal National Mortgage Corporation (FNMA) to limit to \$15 million the amount of FMAC's and Bay View Bank's liability under the FNMA Delegated Underwriting and Servicing program with respect to the approximately \$2 billion of multi-family loans that FMAC has sold to FNMA. The bank shall not amend or withdraw from the agreement without OCC's prior approval.

Please be advised that this condition of approval is a condition "imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 U.S.C. § 1818 and, as such, may be enforced under 12 U.S.C. § 1818.

This conditional approval is based on a thorough review of all information available, including the representations and commitments made in the application and by the bank's representatives. Bay View Capital Corporation will contribute the stock of Franchise Mortgage Acceptance Company (FMAC) to Bay View. The noncash capital contribution will have the effect of increasing the bank's surplus account by approximately \$307,665,000. Decisions on additional capital change applications related to this transaction will be provided to you by officials in our Western District office.

Shareholders should approve the material noncash capital contribution by a majority vote. In proceeding with the proposed transaction, please refer to the *Comptroller's Corporate Manual, Capital and Dividends Booklet*, for complete instructions.

Please notify the OCC after you have completed the change and complied with applicable legal requirements (see Notices - Noncash Capital Contribution to Surplus). Upon receipt of your notification, the OCC will authorize the change. The change in capital should be completed within one year of the date of this letter.

A separate letter is enclosed requesting your feedback on how we handled the referenced application. We would appreciate your response so we may improve our service. For further information regarding this corporate filing, you may contact Licensing Manager James Bundy at (415)545-5916 or me at (202) 874-5060. Please include the referenced application control number in all correspondence.

Sincerely,

/s/

Alan Herlands  
Director, Washington-Directed Licensing