Office of the Comptroller of the Currency

Washington, DC 20219

CRA Decision #180
March 2017

February 24, 2017

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Hermitage, Pennsylvania 16148

Re: Application by First National Bank of Pennsylvania, Greenville, Pennsylvania to merge with Yadkin Bank, Statesville, North Carolina
OCC Control Number: 2016-NE-Combination-292729

Dear Mr. Orie:

The Office of the Comptroller of the Currency (OCC) hereby conditionally approves the application by First National Bank of Pennsylvania, Greenville, Pennsylvania (FNBPA), to merge with Yadkin Bank, Statesville, North Carolina (Yadkin). The OCC also grants approval for FNBPA to retain its main office and branches, to retain as branches Yadkin's main office and branches, and to retain the Yadkin subsidiaries in the attached list. These approvals are granted after a thorough evaluation of the application, other materials FNBPA's representatives have provided, and other information available to the OCC, including commitments and representations made in the application and by FNBPA's representatives during the application process.

I. Background and Transaction

FNBPA is a subsidiary of F.N.B. Corporation (FNB), a bank holding company, with financial holding company status, regulated by the Federal Reserve Board (FRB). Following consummation of FNB's acquisition of Yadkin's holding company,[1] FNBPA proposes to acquire Yadkin, a North Carolina chartered bank, by merger. Consequently, at the time of the merger, Yadkin will be affiliated with FNBPA. The deposits of both institutions are insured by the Federal Deposit Insurance Corporation (FDIC). FNBPA's main office is in Greenville, Pennsylvania; it has branches in Pennsylvania, Ohio, Maryland and West Virginia. Yadkin is headquartered in Statesville, North Carolina, with additional branches in North Carolina and South Carolina. FNBPA requested approval following the merger to retain its main offices and

[1] FNB filed an application with the FRB to acquire Yadkin Financial Corporation on or about September 17, 2016. FNBPA has represented that it will not consummate the merger prior to consummation of the holding company merger.

branches, and to retain as branches, Yadkin's main office and branches. FNBPA also requested approval to retain several Yadkin subsidiaries and represented that it will conduct each subsidiary's activity in a manner consistent with published OCC guidance.

The OCC and the FRB received a number of comments on the proposed merger. The OCC has carefully considered the concerns of the commenters as they relate to the statutory and regulatory factors considered by the OCC in acting on the application, including performance under the Community Reinvestment Act, and the probable effects of the transaction on the convenience and needs of the communities to be served. The public comments will be discussed subsequently.

II. Legal Authority for the Transaction

Mergers of insured banks with different home states are authorized under 12 USC 1831u(a)(1),[2] which was adopted as part of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal). Riegle-Neal imposes certain conditions on interstate merger transactions. These are: (i) compliance with state-imposed age limits, if any, subject to Riegle-Neal's limits; (ii) compliance with certain state filing requirements, if any; (iii) compliance with nationwide and state concentration limits; (iv) expanded community reinvestment compliance; and (v) adequacy of capital and management skills.[3] The OCC has considered these factors and determined that the merger satisfies all applicable Riegle-Neal requirements.

Following an interstate merger transaction under Riegle-Neal, subject to the approval of the OCC, the resulting bank may retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.[4] Therefore, upon consummation of the merger, FNBPA may retain and operate all of the offices of both banks.

The OCC reviewed FNBPA's request to retain certain Yadkin subsidiaries and determined the activities in which the subsidiaries engage are permissible for national banks. The attached list identifies each subsidiary and the legal authority for its activities.

III. The Bank Merger Act

The OCC reviewed the proposed merger under the criteria of the Bank Merger Act (BMA), 12 USC 1828(c), and applicable related OCC regulations and policies. Under the BMA, the OCC generally may not approve a merger that would substantially lessen competition. The OCC must also consider the financial and managerial resources and future prospects of the existing and resulting banks, the convenience and needs of the community to be served, and the risk to the stability of the banking and financial system.[5] The BMA also requires the OCC to take into

[2] *See also* 12 USC 215a-1, which authorizes a national bank to merge with an out-of-state bank if the merger is approved pursuant to Riegle-Neal. 12 USC 215a-1(a).
[3] See 12 USC 1831u(a)(5) and 1831u(b).
[4] 12 USC 1831u(d)(1) and 12 USC 36(d).
[5] 12 USC 1828(c)(5)(last sentence). *See also* 12 CFR 5.33(e)(1)(ii)(B)(C) & (E).

consideration the effectiveness of each insured depository institution involved in the proposed transaction in combating money-laundering activities.[6] The OCC found conditional approval of the application consistent with these factors.[7] The OCC's consideration of the probable effect of the merger on the convenience and needs of the community to be served is discussed in detail under the Analysis of Public Comments section of this approval at Section VI.

IV. Community Reinvestment Act

The Community Reinvestment Act (CRA) requires the OCC to take into account the records of the banks' performance in helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods, when evaluating applications under the BMA. The OCC considered the CRA performance evaluation (PE) of each bank involved in this transaction. For the reasons discussed below, after a review of these records, information provided by FNBPA in response to additional information requests made by the OCC and the FRB, and other information available to the OCC as a result of its regulatory responsibilities, the OCC has concluded that the banks' records of helping to meet the needs of their communities support approval of this application, subject to the condition discussed in Section VII of this letter.

A. First National Bank of Pennsylvania

FNBPA's most recent CRA PE, dated August 10, 2015, assigned the bank an overall "Satisfactory" rating.[8] The major factors supporting this rating include: (i) lending levels reflected excellent responsiveness to credit needs of the bank's assessment areas (AAs); (ii) geographic distribution of loans reflected good penetration through many of the AAs; (iii) distribution of borrowers reflected good penetration among retail customers of different income levels, as well as among business and farm customers of different sizes; (iv) an adequate level of qualified community development investments; (v) delivery systems reflected accessibility across all AAs; (vi) generally, the opening and closing of branches did not adversely affect the accessibility of delivery systems, particularly in low- and moderate-income (LMI) geographies and/or to LMI individuals; and (vii) an adequate level of community development services.

B. Yadkin Bank

Yadkin's most recent CRA PE, dated March 23, 2015, assigned the bank an overall "Satisfactory" rating.[9] The major factors supporting this rating include: (i) lending levels

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[6] 12 USC 1828(c)(11). *See also* 12 CFR 5.33(e)(1)(ii)(D).

[7] The OCC also may not generally approve a merger if the resulting bank's level of deposits and consolidated liabilities exceed certain limits. *See* 12 USC 1828(c)(13), 12 USC 1852 and 12 CFR Part 251. Given the size of the banks involved in this transaction, these limits are not an issue in this case.

[8] FNBPA was evaluated for CRA purposes as a large institution. With the exception of community development loans, the evaluation period for the lending test is January 1, 2010, through December 31, 2014. For community development loans, the investment test, and the service test, the evaluation period is January 22, 2011, through December 31, 2014. A copy of the PE is available at: https://www.occ.gov/static/cra/craeval/mar16/249.pdf.

[9] Yadkin was evaluated for CRA purposes as a large institution. Yadkin's CRA PE explained that the bank went through a merger in the middle of its CRA evaluation period, and therefore the PE focused on the bank's pre-merger

reflected good responsiveness to credit needs of the bank's AAs; (ii) an adequate percentage of loans were originated in AAs; (iii) the geographic distribution of lending reflected good penetration of home, small business, and small farm loans throughout the bank's AAs; (iv) distribution of borrowers reflected good penetration among retail customers of different income levels, businesses of different sizes, and farms of different sizes; (v) the level of community development lending was adequate; (vi) extensive use of flexible lending practices to serve AAs; (vii) an adequate level of qualified community development investments and grants; (viii) rare use of innovative and/or complex instruments to support community development initiatives; (ix) service delivery systems were reasonably accessible to geographies and individuals of different income levels located within AAs; (x) the record of opening and closing branches had not adversely affected the accessibility of delivery systems, including to LMI geographies and LMI borrowers; (xi) services did not vary in a way that inconvenienced certain portions of the AAs; and (xii) a relatively high level of community development services.

During Yadkin's most recent evaluation period, Yadkin more than doubled its asset size from $1.8 billion to $4.2 billion through its acquisition of VantageSouth Bank, Cary, North Carolina (VantageSouth). Yadkin's PE noted that it did not analyze Home Mortgage Disclosure Act (HMDA) and CRA data from VantageSouth because the acquisition occurred near the end of the evaluation period. However, VantageSouth's most recent CRA PE, dated October 11, 2011, also assigned that bank a satisfactory rating.[10] In addition to acquiring VantageSouth during its most recent CRA evaluation period, Yadkin also acquired NewBridge Bank, Greensboro, North Carolina (NewBridge), at the very conclusion of the cycle. Yadkin's CRA PE did not make any mention of its acquisition of NewBridge, and thus does not factor in NewBridge's CRA performance. Nonetheless, NewBridge's CRA PE, dated September 2, 2011, assigned that bank a satisfactory rating.[11]

V. Summary of Public Comments

The OCC received three public comments that raised concerns relating to FNBPA's past record of CRA performance, and lending to minorities and predominantly minority communities, as well as the effects the proposed transaction might have on FNBPA's ability to meet the convenience and needs of the communities it serves. The FRB also received a public comment related to the proposed transaction that raised concerns similar to the three comments received by

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performance with respect to home mortgage lending. Yadkin's CRA PE further provided that its community development lending, investment and service test evaluation covered the period from the date of Yadkin's last CRA PE through issuance of the 2015 PE. A copy of the PE is available at: https://www5.fdic.gov/crapes/2015/19861_150323.PDF.

[10] See VantageSouth CRA PE, *available at* https://www5.fdic.gov/crapes/2011/58136_111011.PDF. VantageSouth Bank, in the form that Yadkin acquired it, was the product of several prior mergers, some of which occurred in the middle of CRA PE periods. Accordingly, in addition to considering VantageSouth's CRA PE, the OCC considered the CRA PEs of the following target institutions acquired by VantageSouth: (i) Crescent Bank, *available at* https://www5.fdic.gov/crapes/2011/35006_110329.PDF; (ii) East Carolina Bank, *available at* https://www5.fdic.gov/crapes/2009/02017_091216.PDF; and (iii) Community Bank of Rowan, *available* *https://www5.fdic.gov/crapes/2011/58250_110222.PDF*.. Each of these institutions received a satisfactory rating on its most recent CRA PE.

[11] *See* NewBridge's CRA PE, *available at* https://www5.fdic.gov/crapes/2011/16799_110902.PDF.

the OCC; the FRB forwarded this comment to the OCC for consideration in its decision process. In addition, the OCC received sixteen public comments supporting the proposed transaction. These comments expressed general support for FNBPA's record of community development lending and investing, as well as the bank's efforts to serve LMI communities. Detailed below are summaries of the comments expressing concerns regarding the underlying transaction.

Two commenters raised concerns related to FNBPA's lending to LMI communities and individuals. One of these commenters raised general concerns about FNBPA's level of LMI loan originations and its denial rate to LMI individuals. The second commenter cited 2013 through 2015 HMDA data as the basis for its contention that FNBPA is not meeting the credit needs of LMI individuals in certain geographic areas. The commenter also expressed concern that FNBPA's HMDA-reportable mortgage lending denial rates to LMI applicants were high. Specifically, the commenter asserted that FNBPA's LMI lending in the Cleveland-Elyria, Ohio (Cleveland) Metropolitan Statistical Area (MSA), and the Akron, Ohio (Akron) MSA trailed the market.[12]

Four commenters expressed concerns related to FNBPA's lending in majority-minority communities. The commenters cited HMDA data from 2013 through 2015 as the basis for their contention that FNBPA is not meeting the credit needs of minority borrowers overall and in certain geographic areas within FNBPA's footprint. The commenters asserted that originations to minority borrowers trailed peers in the Cleveland MSA, the Akron MSA, the Baltimore-Columbia-Towson, Maryland (Baltimore) Metropolitan Division (MD), and the Pittsburgh, Pennsylvania (Pittsburgh) MSA. One commenter also asserted that Yadkin trailed the market in originating loans to minority borrowers in the Mecklenburg County, North Carolina area located within the bank's Charlotte-Concord-Gastonia (Charlotte) Multistate Metropolitan Statistical Area (MMSA).[13]

Two of these commenters also expressed concerns regarding FNBPA's community development lending and investing as compared to Yadkin's performance in these areas. Citing both banks' CRA PEs, the commenters asserted that Yadkin's performance was stronger overall than FNBPA's. The commenters expressed concern that FNBPA's CRA PE assigned the bank an overall "Low Satisfactory" investment test rating. The commenters also commended Yadkin's community development activity, and expressed concern that its merger with FNBPA might negatively impact the level of future community development lending activities of the combined institution when compared to Yadkin's record of community development lending. The commenters requested that prior to approving the proposed transaction, FNBPA should be required to develop a community benefits plan to address community needs. One of these commenters expressed concern regarding FNBPA's low satisfactory ratings on the lending and service tests for the Cleveland and Akron MSAs in its most recent CRA PE. The same

[12] In general, commenters referenced geographic locations by county or city. However, for the purposes of analyzing comments that raise concerns regarding the bank's activities in specific geographic regions, the OCC considered MSAs encompassing the geographic areas referred to by commenters.

[13] In total, the AAs referenced by the commenters include FNBPA's AAs within the Cleveland MSA, Akron MSA, Baltimore MD, and Pittsburgh MSA, as well as Yadkin's AA within the Charlotte MMSA.

commenter also expressed concern that FNBPA received a low satisfactory rating on its investment test.

One commenter also submitted concerns regarding FNBPA's small business lending in Allegheny County, Pennsylvania. Specifically, the commenter asserted that FNBPA's small business lending trailed all non-credit card lenders in Allegheny County.

Two commenters raised issues with FNBPA's overdraft policies and practices. These commenters referenced private litigation related to FNBPA's overdraft disclosures, which was settled in 2013. Both commenters requested that FNBPA alter its transaction processing practices. One commenter specifically asked that the bank develop an overdraft-free account and an overdraft-free second chance checking account.[14]

VI. Analysis of Public Comments

The OCC has carefully considered the commenters' concerns as they relate to the statutory and regulatory factors considered by the OCC when reviewing an application under the BMA. In evaluating the proposed transaction, the OCC considers the banks' CRA performance and the probable effects of the proposed transaction on the convenience and needs of the community to be served. Though interrelated, as explained in the Public Notice and Comments booklet of the Comptroller's Licensing Manual (Mar. 2007), consideration of a bank's CRA performance primarily looks to how the bank has performed in the past. A convenience and needs assessment considers how the merged entity will serve the needs of its community on a prospective basis.

With regard to FNBPA's recent CRA performance, FNBPA's CRA PE rated the bank an overall "Satisfactory," with specific ratings of "High Satisfactory" for its lending and services tests, as well as a "Low Satisfactory" for its investment test.[15] FNBPA's CRA PE focused on two AAs in Pennsylvania, one each in Ohio and Maryland, as well as two MMSAs where FNBPA has offices. In each of these areas, FNBPA was rated overall "Satisfactory." FNBPA received "Low Satisfactory" ratings for one or more of the three CRA tests in each AA referenced by the commenters—the Cleveland MSA, Akron MSA, Baltimore MD, and Pittsburgh MSA. For example, FNBPA received "Low Satisfactory" scores for all three tests in Ohio and Maryland.

Appendix A to 12 CFR 25 explains, for purposes of the CRA, the circumstances under which a bank's performance will be rated "Low Satisfactory." Appendix A to 12 CFR 25 provides that "[a] bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate

[14] Another commenter expressed concerns that FNBPA's non-bank subsidiary, Regency Finance, will offer products to sub-prime borrowers in North Carolina that exceed the state's usury limits. FNBPA represented in its response to the commenters' concern that it does not have plans to operate Regency Finance in North Carolina. Further, FNBPA stated that it would strictly adhere to all relevant federal laws and regulations and state statutes including those governing usury.

[15] In its CRA PE, FNBPA's Pennsylvania AAs were weighted more heavily than the bank's performance in Ohio and Maryland, because approximately 75 percent of its deposits and 78 percent of its loan originations were in Pennsylvania.

for weak performance in others."[16] When considering a bank's CRA performance in a particular AA, the OCC also considers the performance context, which includes consideration of the demographic data of the bank's AA; information related to lending, investment, or service opportunities in the bank's AA; the bank's product offerings and business strategy; the institutional capacity and constraints of the bank; the economic climate; safety and soundness limitations; and any other factors that significantly affect the bank's ability to provide lending, investments, and services in its AA.

A. Home Mortgage Lending

As detailed above, commenters expressed concerns regarding FNBPA's home mortgage lending to LMI and minority borrowers, as well as its home lending efforts in LMI and high minority census tracts. Specifically, several commenters cited FNBPA's CRA PE and HMDA data to support the assertion that FNBPA's lending to LMI and minority borrowers trailed the market in the Cleveland MSA, Akron MSA, Pittsburgh MSA, and Baltimore MD. One additional commenter asserted that Yadkin's lending to minority borrowers in the Charlotte MMSA trailed the market. In responding to commenters' concerns, FNBPA represented that "there is a very high direct correlation between LMI census tracts—meaning that 78 [percent] of all FNBPA LMI census tracts are also classified as predominantly minority census tracts." Accordingly, FNBPA maintained that its responses to LMI lending-related concerns also apply to concerns regarding lending to minority borrowers and high-minority geographies.

In response to commenters' concerns, FNBPA represented that it is committed to raising its level of lending to LMI and minority individuals, as well as LMI and predominantly minority geographies across its entire footprint. Specifically, FNBPA provided details on its efforts to expand the reach of its products tailored to the needs of LMI and minority borrowers and communities, such as through fostering relationships with community organizations on the delivery of products, such as its Family Home Improvement/Rehabilitation Program (FHIRP) and Family Home Ownership Program (FHOP).[17]

Further, FNBPA summarized elements of a recently developed Community Benefits Plan (Plan)[18] that concern lending to LMI and minority borrowers. FNBPA stated that it developed

[16] 12 CFR § 25, App. A(a)(2).

[17] FNBPA represented that its FHOP product offers low-income borrowers mortgages featuring reduced down payment requirements, flexible down payment/closing cost assistance, acceptance of 620 credit scores with evidence of two hours of home ownership counseling, and reduced closing costs. FNBPA's FHIRP product offers reduced down payment, closing costs, and underwriting standards similar to those of the FHOP on home improvement or refinance loans.

[18] FNBPA stated that it voluntarily developed this Plan. FNBPA described its Plan as a product of internal reviews and collaboration with nearly 30 community entities, including some of the commenters. Although FNBPA has not made the Plan public, it summarized several aspects of the Plan in responding to commenters' concerns. The description of the Plan in this letter relies on that publicly available information.

its Plan in consultation with some of the commenters.[19] The Plan outlines FNBPA's goals of (i) increasing staff and resources dedicated to LMI lending; (ii) increasing its level of lending to LMI individuals; and (iii) strengthening partnerships with community groups. In particular, FNBPA represented that it will work with business partners to develop uniformity across markets in terms of types of product offerings and community development lending activities, scaled for efficiency. Further, FNBPA stated that it aims to dedicate more resources to financial literacy programs, including investments that support counseling agencies. FNBPA also represented that it aims to increase and expand its marketing efforts to LMI and minority borrowers; provide ongoing training to community development staff on expectations and opportunities in local markets; centralize data collection and reporting; and expand its Community Advisory Boards (CA Boards) to include representatives from community development groups.

FNBPA explained that its CA Boards cover various regions throughout its footprint,[20] and consist of clients, former board members from acquired banks, and business leaders. FNBPA explained that CA Boards meet quarterly and provide regional and headquarter leadership teams with feedback, local information, and guidance regarding the community activities and the state of regional markets. FNBPA represented that it recently hired a Community Development Officer, and plans to hire a Community Development Lending Officer. FNBPA further represented that these new hires will be responsible for overseeing implementation of its Plan, as well as monitoring and reporting to its CRA Risk Committee and Board of Directors (Board) regarding FNBPA's progress in meeting the needs of LMI and minority individuals and communities.

In addition to providing information on FNBPA's overall lending performance with respect to LMI and minority borrowers and geographies throughout its entire footprint, FNBPA also provided responses to concerns raised by commenters regarding specific AAs, detailed below.

1. Cleveland and Akron MSAs

FNBPA received an overall "Low Satisfactory" on its lending test in the Cleveland MSA. With respect to the lending test, FNBPA's CRA PE stated that its lending levels reflected excellent responsiveness to the AA's credit needs relative to its deposit market share in the Cleveland MSA. FNBPA's CRA PE reflected weaker performance in the bank's Akron MSA AA, which the CRA PE noted was primarily the result of the bank's limited presence throughout most of the evaluation period.

In response to the commenters' concerns about lending in the Cleveland and Akron MSAs, FNBPA asserted it has shown progress in lending to LMI and predominantly minority

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[19] The CRA does not require banks to enter into agreements with private parties, and the OCC does not monitor or enforce such agreements. *See* "Interagency Questions and Answers Regarding Community Reinvestment," 81 Fed. Reg. 48,506, 48,548 (July 25, 2015) (Q&A § __.29(b)-2).

[20] FNBPA indicated that CA Boards may serve more than one AA.

geographies, as well as LMI and minority borrowers.[21] FNBPA also reiterated the same observations expressed in its CRA PE that it was a new entrant in both MSAs as of the beginning of 2013. FNBPA represented that, upon entry into the Cleveland and Akron markets, it faced competition in loan originations from larger, more established market competitors during the performance evaluation period. Moreover, FNBPA asserted that its weaker performance in the Akron MSA was a result of its mid-CRA performance evaluation period acquisition of a bank in Ohio that had only four branches in that MSA. These four branches are situated in the northwestern most quadrant of the Akron MSA, which is located adjacent to the outskirts of the Cleveland MSA. FNBPA continues to operate with a limited presence in the Akron MSA.

2. Pittsburgh MSA

Citing HMDA data, commenters expressed concerns about the denial rates associated with minority loan applications in the Pittsburgh MSA. In response to these concerns, FNBPA asserted that its market penetration to minority borrowers has shown positive and meaningful trends, despite competition with large bank competitors in its headquarters market.[22] FNBPA further asserted that the combination of its branch network, community group collaboration, financial literacy program, and marketing strategies contained in its Plan will further strengthen its lending to minority borrowers in the Pittsburgh MSA.

FNBPA's CRA PE assigned the bank a "High Satisfactory" rating for the lending test in Pennsylvania. With respect to the Pittsburgh MSA, FNBPA's CRA PE stated that the bank's home mortgage lending levels reflected excellent responsiveness to credit needs throughout the AA. Further, the CRA PE stated that the bank's geographic distribution of loans throughout the Pittsburgh MSA reflected good penetration, without any conspicuous or unexplained gaps. The CRA PE carried this same observation over to the bank's lending distribution by borrower in the Pittsburgh MSA, and reflected that FNBPA's distribution was excellent with respect to LMI borrowers.

3. Baltimore MD

As detailed above, commenters expressed concerns that FNBPA's home mortgage lending in the Baltimore MD, in particular with regard to Baltimore City and Anne Arundel County, trailed FNBPA's peers. In responding to commenters' concerns, FNBPA represented that it was a new entrant to the Baltimore MD market in 2013. FNBPA asserted that its home mortgage lending activity in the Baltimore MD has improved since 2013, and its originations have reflected an

[21] The OCC conducted an analysis and peer comparison of FNBPA's home mortgage products for the years 2012 through 2015 with respect to LMI borrowers and geographies. The results of the OCC's HMDA data reflected increased growth in markets where FNBPA was a new entrant during its most recent CRA evaluation cycle. The data also reflected that, as a new market entrant, FNBPA's HMDA reportable lending trailed its peers.

[22] The OCC's review of FNBPA's 2012 through 2015 HMDA data with respect to LMI borrowers and geographies is not inconsistent with the bank's assertion that its home mortgage lending levels have increased over time in the Pittsburgh MSA

upward trend in predominantly minority areas.[23] FNBPA's CRA PE stated that the bank's lending exhibited an adequate record of serving the credit needs of the most economically disadvantaged areas and LMI borrowers.

4. Charlotte MMSA

In addition to the above areas regarding FNBPA's performance, one commenter expressed concerns regarding Yadkin's lending performance to minority borrowers and in majority-minority geographies in the Charlotte MMSA. The commenter asserted that Yadkin trailed its peers in lending to minority borrowers in the Charlotte MMSA. In responding to commenters' concerns, FNBPA outlined its plans to improve its home mortgage lending to borrowers in the Charlotte MMSA. Specifically, FNBPA described portions of its Plan that address LMI and minority borrowers, as well as LMI and majority-minority geographies. To address the commenter's concerns, FNBPA represented that its plans include using its HMDA data to develop strategies for responding to market trends and community needs, partnering with community organizations, making FHOP and FHIRP loans available, and offering and supporting financial literacy programs. FNBPA also affirmed that it plans to establish a CA Board in the Charlotte MMSA.

B. Fair Lending

As noted previously, commenters expressed concerns regarding FNBPA's level of lending to minority borrowers and high minority geographies across its entire footprint, as well as in specific geographies. Pursuant to 12 CFR 25.28(c), the results of the OCC's evaluation of a bank's CRA performance may be adversely affected by evidence of discriminatory or other illegal credit practices. The OCC may lower the overall rating of an institution based on findings of discriminatory or other illegal credit practices in any geography by the bank, or in any AA by any affiliate whose loans are considered as part of the bank's lending performance. FNBPA's most recent CRA PE, dated August 10, 2015, noted that the OCC had not identified evidence of discriminatory or other illegal credit practices during the evaluation period.[24] Similarly, Yadkin's most recent CRA PE, dated March 23, 2015, noted that the FDIC had not identified evidence of discriminatory or other illegal credit practices during the evaluation period.

With regard to the commenters' concerns based on HMDA data, it should be noted that HMDA data alone are not adequate to provide a basis for concluding that a bank is engaged in lending

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[23] The OCC's review of FNBPA's 2012 through 2015 HMDA data with respect to LMI borrowers and geographies is not inconsistent with the bank's assertion that its home mortgage lending levels have increased over time in the Baltimore MD. The OCC'S review also revealed that, as a new market entrant, FNBPA's increased performance still trailed its peers in each year.

[24] Section 1025 of the Dodd-Frank Wall Street Reform and Consumer Protection Act assigns to the Consumer Financial Protection Bureau (CFPB) examination authority, and primary enforcement authority, to ensure compliance by banks and federal savings associations with Federal consumer financial laws, including the Equal Credit Opportunity Act, for institutions with more than $10 billion in assets. FNBPA's August 2015 CRA PE noted that the CFPB had not provided the OCC with any information about, or other evidence of, discriminatory or other illegal credit practices relative to FNBPA.

discrimination or to indicate whether its level of lending is sufficient. Specifically, HMDA data do not take into consideration borrower creditworthiness, housing prices, collateral values, credit scores, and other factors relevant to each credit decision, nor do they fully reflect the range of a bank's lending activities and efforts.

The OCC reviewed FNBPA and Yadkin's 2012 through 2015 HMDA data for home mortgage loans to minority borrowers and geographies, and compared the results to peer lenders in the same geographies. The OCC's review revealed lending data similar to the data presented by the commenters. For FNBPA in Pittsburgh and Yadkin in the Charlotte MMSA, the OCC review of HMDA data indicated that the bank's share of lending tended to trail its peers in majority-minority tracts. The OCC's review also confirmed that as a new market entrant in the Baltimore MD, Cleveland MSA, and Akron MSA during the 2012 to 2015 timeframe, FNBPA's share of mortgage home lending increased over time in all three areas; although it generally trailed peer banks for several years after its entry. Overall, the OCC's review of FNBPA's home mortgage lending has not resulted in findings that would be inconsistent with approval of this application.[25]

In response to the commenters' concerns, FNBPA represented that it maintains a fair lending program that is intended to ensure that the bank's products and services are available to all applicants on a consistent and fair basis. FNBPA represented that its fair lending program requires that its Board review and approve its fair lending policies and procedures on an annual basis, and the policies are designed to ensure compliance with all federal and state anti-discrimination lending laws and regulations. FNBPA further represented that it has policies and procedures in place to guide staff through all phases of lending, and to ensure the bank's commitment to making its credit products and services available on a fair and equitable basis to all protected classes of people identified in the fair lending laws.

FNBPA explained that its fair lending program requires the bank to conduct routine analysis and file reviews to ensure compliance with its fair lending policies and procedures, as well as fair lending laws. FNBPA represented that, in addition to HMDA data, its analysis incorporates other variables, such as credit score, debt-to-income ratio, and loan-to-value ratio, to ensure credit decisions are appropriate. FNBPA further explained that it monitors HMDA data on a quarterly basis to determine penetration rates for minority borrowers, as well as high-minority census tracts. FNBPA also represented that these data are shared with its Board Level, Credit Risk and CRA Committee. FNBPA further represented that its Credit Risk and CRA Committee exercises oversight of CRA, fair lending and other consumer lending activities. If these reviews identify potential issues or concerns, FNBPA represented that such issues are shared with its senior management and its Audit and Risk Committees on its Board. Further, FNBPA stated that it implements corrective action aimed at addressing issues confirmed by its internal reviews.

[25] FNBPA is subject to the OCC's ongoing supervision and any concerns identified in the course of the OCC's supervisory activities, including those related to fair lending, will be addressed through the supervisory process as necessary and appropriate in accordance with any applicable statutes and regulations. As part of its supervisory process, the OCC is committed to working with the CFPB to address issues that arise at institutions within the CFPB's jurisdiction.

FNBPA represented that it requires all of its employees, and its Board, to participate in annual fair lending training courses. FNBPA explained that it delivers its periodic fair lending continuing education programs to employees through its information technology systems, and tracks and monitors employee completion of fair lending training requirements electronically. FNBPA also committed to requiring all Yadkin employees to take its fair lending training program within the quarter the proposed transaction closes.

In addition to explaining its fair lending program, FNBPA responded to commenters' concerns by detailing its general marketing and outreach efforts. FNBPA currently conducts mass media and direct mail marketing. FNBPA explained that it does not have any designated marketing programs for specific minority groups, but it is exploring the possibility of deploying tailored marketing campaigns. Further, as detailed above, FNBPA represented that it plans to increase its marketing efforts to expand its efforts to provide information on its products to minority borrowers.

C. Community Development Activities

Two commenters expressed general concerns about FNBPA's community development lending, and qualified investments across its entire footprint. In responding to the commenters' concerns, FNBPA represented that it intends to build upon its current levels of community development activities. To achieve this goal, FNBPA represented that it has developed a Plan containing community development strategies and goals. FNBPA represented that the bank has already completed one facet of its Plan by hiring a Community Development Officer. FNBPA represented that the Community Development Officer will be responsible for, among other things, implementing the bank's Plan. FNBPA explained that its Plan calls for increased levels of community development activities and increased participation from community development groups on the bank's CA Boards.

In connection with FNBPA's overall community development lending performance, commenters compared FNBPA's community development activities to Yadkin's, and asserted that Yadkin had superior community development lending performance. FNBPA's CRA PE stated that it made a relatively high level of community development loans in the Pittsburgh MSA. Additionally, the CRA PE indicated that FNBPA's community development lending in other geographic regions outside of the Pennsylvania area was adequate. The CRA PE cited FNBPA's entrance into the Cleveland MSA, Akron MSA, and Baltimore MD through business combinations as a performance context factor that impacted FNBPA's ability to engage in community development activities within those geographic regions. Despite FNBPA's mid-evaluation period entrance into these markets, the CRA PE reflected that the bank originated a combined approximate total of $15 million in community development loans for the Cleveland MSA, Akron MSA, and Baltimore MD.

In responding to commenters' concerns regarding its current and future levels of community development lending, FNBPA represented that, since the banks' most recent CRA PEs, FNBPA has originated approximately $27.5 million[26] and Yadkin has originated $46.8 million[27] in community development loans. FNBPA represented that it has additional community development loan originations in its pipeline of approximately $21.3 million, which would bring its total community development lending to $48.8 million by the end of 2017 and its estimated annualized community development lending to $16.3 million.

To provide context for its performance during the current evaluation period, FNBPA explained that it has faced increased market pressures from larger banks and competitors with respect to community development lending opportunities in several of its AAs. FNBPA elaborated that it has faced challenges as an institution growing in asset size, including the loss of key community development lending staff at banks it has acquired. Further, FNBPA stated that it has faced difficulties competing with larger banks throughout its footprint that have priced FNBPA out of deals, for example, by paying premiums for associated low-income housing tax credits in order to originate community development loans. To account for these market forces, and to strategically plan for competition in the community development lending market throughout its footprint, FNBPA further represented that its Plan provides for increased staffing and support for community development lending. FNBPA's Plan also provides strategies for increasing its community development lending levels going forward. FNBPA also represented that its goal of increasing lending levels would carry over to Yadkin's footprint upon consummation of the proposed transaction.

FNBPA's CRA PE indicated that FNBPA's performance under the investment test was strong in some geographic areas, such as the Pittsburgh MSA, and adequate in areas FNBPA had entered into during the PE cycle, including the Cleveland MSA and the Baltimore MD. With respect to the Akron MSA, which was another area FNBPA entered during the PE cycle, the CRA PE explained that the bank's investment performance was weaker than its "Low Satisfactory" performance in its full scope AA in Ohio. However, due to FNBPA's shorter term presence in that MSA, the CRA PE stated that its performance on the investment test in the Akron MSA had a neutral impact on its overall investment test rating in Ohio.

In response to commenters' concerns regarding community development services, FNBPA detailed its efforts to increase its provision of community development services to LMI individuals and geographies. FNBPA represented that such strategies include financial literacy

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[26] In responding to the commenters' concerns, FNBPA provided descriptions of its community development loans during the current CRA evaluation cycle as of December 31, 2016. FNBPA represented that it made a total of twelve loans. Some of these loans included: (i) a $1 million line of credit to assist a community group that provides a breadth of services to disadvantaged and impoverished citizens; (ii) a $1.8 million loan to help a low-income housing group purchase a 104 unit apartment complex; and (iii) a $3 million line of credit to finance emergency shelters and transitional housing for homeless families.

[27] FNBPA represented that Yadkin's community development loans during the current CRA performance evaluation period totaled 29 loans as of November 1, 2016. Some of these loans included: (i) a $1.1 million refinance loan used to purchase a 41 unit apartment building for rental to LMI tenants; (ii) a $4.2 million loan to purchase and renovate a 116 unit apartment building for rental to LMI tenants; (iii) a $75,000 loan to finance the purchase of a fire truck for a volunteer fire department; and (iv) a $730,000 loan to finance the purchase of a 29 unit apartment building in Mecklenburg, NC for rental to LMI tenants.

programs that the bank plans to introduce through its more than 400 branches and online. FNBPA described the financial literacy program as a tool that will combine bank-supplied educational materials and courses with one-on-one consultative conversations with branch staff. Additionally, FNBPA stated that branch staff will make referrals to local, approved counseling organizations for continued financial education.

FNBPA represented that its recently hired Community Development Officer will also focus on significantly enhancing community development services. For example, FNBPA represented that the Community Development Officer will oversee the bank's plans to: (i) work with community partners through outreach efforts to better understand community needs and develop solutions; (ii) offer low-cost deposit products such as the bank's freestyle checking, which has no minimum balance requirements or monthly maintenance fees; and (iii) partner with community groups to deliver much needed financial education.

D. Small Business Lending

As detailed above, one commenter expressed concerns about the level of FNBPA's small business lending in the Pittsburgh MSA, and asserted that FNBPA trailed the market. FNBPA's most recent CRA PE stated that the bank's geographic distribution of small loans to businesses reflected excellent penetration throughout the Pittsburgh AA. The CRA PE stated that FNBPA's distribution of loans to businesses in low-income geographies paralleled the total geographic distribution of businesses that are located within LMI census tracts. The CRA PE further stated that FNBPA's distribution of loans to small businesses in low-income geographies is below the market share, while its distribution of loans to businesses in moderate-income geographies exceeds the percent of businesses located in these geographies. Moreover, FNBPA's CRA PE reflected that the bank's distribution of small loans to small businesses was good. The CRA PE also reflected that the percentage of FNBPA's loans to small businesses was below the percentage of small businesses in the AA; however, the bank's market share of loans to small businesses exceeds its overall market share of loans to all businesses.

In responding to commenters' concerns, FNBPA noted Yadkin's extensive and successful Small Business Administration lending activities and committed to incorporating Yadkin's program across its entire footprint after the merger. FNBPA stated that it has grown its small business loan balances annually, from a $205 million balance in 2013 to a $290 million balance in 2016. Additionally, FNBPA indicated that it has 12 Business Development Officers covering the Pittsburgh MSA, and 44 across all six of its existing AAs. FNBPA stated that its Business Development Officers partner with branch managers and work with small entities to understand their needs and offer products that support their businesses. FNBPA specified that it plans to hire additional business development officers based in North Carolina to focus solely on supporting small business lending needs. Specifically, in response to commenters, FNBPA represented that it plans to continue to support agricultural opportunities throughout the state of North Carolina. FNBPA represented that Yadkin had extended approximately $27 million to agricultural businesses and farms from January 2016 through October 2016.

E. Overdraft Program

As detailed above, commenters expressed concerns regarding FNBPA's overdraft protection program. Citing class action litigation from 2013 regarding FNBPA's overdraft product, commenters expressed concerns that the bank's current policy of processing debits to checking accounts in the order of highest to lowest dollar amount creates a greater probability that consumers will incur overdraft fees. The commenters requested that FNBPA adopt a different policy to meet the convenience and needs of the community the bank serves.

In response to these concerns, FNBPA represented that it settled the 2013 overdraft litigation and that there were no court findings regarding the claims made in that case. The settlement included a $3 million settlement fund and revisions to the FNBPA's overdraft policy disclosures.

FNBPA also provided descriptions of the differences between its overdraft protection program and Yadkin's and NewBridge's programs.[28] Specifically, while FNBPA, Yadkin and NewBridge have similar per item overdraft fees of $37 and $36, FNBPA uses a high-to-low processing order, while Yadkin and NewBridge use a low-to-high processing order. FNBPA customers whose accounts remain overdrawn for more than 3 days are subject to a continuous overdraft fee, whereas Yadkin and NewBridge do not charge such a fee. Additionally, in contrast to Yadkin and NewBridge, FNBPA represented that it does not have a de minimis transaction amount for incurring an overdraft fee, and FNBPA's limit on the number of fees that may be charged in one day is higher than those for Yadkin and New Bridge.

FNBPA represented that its funds availability policy is more preferential to customers, because its daily cut-off time at ATMs is later than Yadkin's or NewBridge's. FNBPA also explained that it accepts deposits via mobile banking and such deposits will be available the next business day if made before 6:00 pm.

To assist consumers in avoiding overdraft fees, FNBPA represented that it provides account opening education, web-based account management tools, and mobile banking applications. FNBPA explained that these tools allow customers to access their respective account policies, view transaction histories, monitor account balances, review transfer activities, and establish banking alerts. FNBPA also noted that it offers overdraft lines of credit and transfers from linked accounts to cover overdrafts.

FNBPA represented that it provided Yadkin and former NewBridge customers with a welcome guide and disclosure forms detailing changes to their account agreements that will result from the merger. These materials consisted of approximately 75 pages detailing new deposit account terms, with scattered references to overdraft policies throughout.

[28] FNBPA explained that Yadkin has continued to provide services to former NewBridge customers on separate data systems, and therefore, due to differing system capabilities, former NewBridge and Yadkin customers have operated under slightly different overdraft and transaction processing policies.

In order to ensure that this transaction is consistent with the convenience and needs of the Yadkin and NewBridge accountholders, and that these customers have the necessary information and adequate time to make decisions about managing their accounts, the OCC conditions approval of this application as set forth in Section VII of this letter.

VII. Summary and Condition of Approval

As stated above, the CRA requires that the OCC consider the records of the banks' performance in helping to meet the credit needs of their communities, including LMI individuals and geographies, when evaluating applications under the BMA. In addition to considering the banks' past records of performance under the CRA, the OCC also applies the convenience and needs standard, which considers how the resulting institution will help meet the credit needs of its communities. The discussion above details the factors that the OCC considered in arriving at its decision.

Information detailed in FNBPA's most recent CRA PE, FNBPA's record of serving its community, its responses to commenters concerns, and information available to the OCC as a result of its supervision of FNBPA, warrant approval of the proposed transaction subject to the condition below. With respect to concerns raised by the commenters, and in considering the proposed transaction, the OCC reiterates that FNBPA is subject to the OCC's ongoing supervision and any concerns identified in the course of the OCC's supervisory activities, including those related to FNBPA's overdraft program, will be addressed through the supervisory process as necessary and appropriate in accordance with any applicable statutes and regulations.

To ensure that the effects of this proposed business combination are consistent with the convenience and needs of the Yadkin and NewBridge customers, the OCC is conditioning its approval as detailed below. FNBPA's overdraft protection program significantly differs from Yadkin and NewBridge's existing programs with respect to check processing order, maximum daily overdraft fees, the absence of a de minimis amount to incur an overdraft fee, and application of continuous overdraft fees. In considering the convenience and needs of the communities to be served by FNBPA after this transaction, the OCC has concluded that Yadkin and NewBridge customers should receive additional information and time to make decisions about their accounts.

Accordingly, based upon our review of the application, the public comments and FNBPA's response to those comments, FNBPA's responses to OCC and FRB information requests, and supervisory materials and other information available to the OCC as part of its regulatory responsibilities, the application is approved, subject to the following condition:

Part A: As expeditiously as possible, FNBPA shall develop additional materials for all Yadkin and NewBridge customers that shall include the following information:

- Notification that FNBPA is providing Yadkin and NewBridge customers with additional information regarding FNBPA's overdraft and transaction processing policies.

- A clear statement that FNBPA's overdraft and transaction processing policies differ from Yadkin's and NewBridge's programs and that these differences could affect the number of overdrafts and amount of fees an accountholder may incur.
- A clear and detailed explanation of the differences between the overdraft and transaction processing policies of FNBPA, and Yadkin or NewBridge, including examples of how each set of policies would apply to the same series of transactions.
- An updated "What You Need to Know about Overdrafts and Overdraft Fees" notice that conforms to 12 CFR 1005.17(d) & App. A.
- Notification that the customer has 30 days from the date of receiving the "What You Need to Know about Overdrafts and Overdraft Fees" notice to provide the customer's election regarding whether to opt-in to FNBPA's overdraft service for one-time debit card and ATM transactions

FNBPA shall provide proposed copies of the above materials to the OCC for its review and written determination of supervisory non-objection prior to distribution to the Yadkin and NewBridge customers. Following receipt of the OCC's written determination of supervisory non-objection, FNBPA shall transmit these materials, prior to the date of data conversion, to all Yadkin and NewBridge customers in compliance with the terms of its commitment, memorialized below in Part B.

Part B: FNBPA shall comply with all the terms and obligations relating to the implementation of, and record retention for, the condition in Part A set forth in its letter to the OCC's Director for District Licensing, Northeastern District, dated February 24, 2017.

This condition of approval is a condition "imposed in writing by a Federal banking agency in connection with any action or any application, notice, or other request" within the meaning of 12 USC § 1818. As such, the condition is enforceable under 12 USC § 1818.

VIII. Consummation Requirements

The OCC Northeastern District Licensing Office must be advised in writing ten (10) days in advance of the desired effective date of the merger, so that the OCC may issue the necessary certification letter. The effective date must be after all other required regulatory approvals and after consummation of FNB's acquisition of Yadkin's holding company. The OCC will issue a letter certifying consummation of the merger after it receives the following:

• A Secretary's Certificate for each bank, certifying that a majority of the Board of Directors has approved the proposed merger.

• A Secretary's Certificate for each bank, certifying that any required shareholder approvals have been obtained.

• Documentation that all other required regulatory approvals have been received.

If the merger has not been consummated within six months from the approval date, the approval will automatically terminate unless the OCC grants an extension of time.

These approvals, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory, and examination authorities under applicable law and regulations. The OCC may modify, suspend or rescind any portion of these approvals if a material change in the information on which the OCC relied occurs prior to the date of the merger. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

We have enclosed a letter requesting your feedback on how we handled your application. We would appreciate your response, so we may improve our service. Please include the OCC control number listed above on any correspondence related to this filing. If you have questions regarding this letter, please contact Wai-Fan Chang, Senior Licensing Analyst, at (212) 790-4055.

Sincerely,

signed

Stephen A. Lybarger
Deputy Comptroller for Licensing

Enclosure
Attachment

AUTHORIZED SUBSIDIARIES

	Subsidiary Name	Activity/Authority
1	Yadkin Wealth, Inc. Elkin, NC	Provides wealth management, securities brokerage, investment advice and insurance services. 12 CFR 5.34(e)(5)(v)(I), (N), (P) and (T).
2	PBRE, Inc. Elkin, NC	Serves as trustee with respect to deeds of trust for real estate loans. 12 CFR 5.34(e)(5)(v)(C).
3	Henry Properties, LLC Raleigh, NC	Holds OREO properties. 12 CFR 5.34(e)(5)(v)(A).
4	Green Street I, LLC Raleigh, NC	Holds foreclosed and OREO properties. 12 CFR 5.34(e)(5)(v)(A).
5	Green Street II, LLC Raleigh, NC	Holds foreclosed and OREO properties. 12 CFR 5.34(e)(5)(v)(A).
6	Green Street III, LLC Raleigh, NC	Holds foreclosed and OREO properties. 12 CFR 5.34(e)(5)(v)(A).
7	Green Street IV, LLC Raleigh, NC	Holds foreclosed and OREO properties. 12 CFR 5.34(e)(5)(v)(A).
8	Green Street V, LLC Raleigh, NC	Holds foreclosed and OREO properties. 12 CFR 5.34(e)(5)(v)(A).
9	LBS Properties, Inc. Elkin, NC	Holds foreclosed and OREO properties. 12 CFR 5.34(e)(5)(v)(A).
10	Yadkin Valley Condominium Association, Inc. Elkin, NC	Collects funds for shared expenses related to condominium in which Yadkin has an 89% ownership interest and uses as bank premises. 12 USC 29,12 CFR 7.100,12 CFR 5.34(e)(5)(v)(B).