Office of the Comptroller of the Currency

Washington, DC 20219

CRA Decision #176
October 2016

August 11, 2016

Mr. Jeffrey A. Watiker, Attorney
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019-6150

Re: Application for the merger of FirstMerit Bank, N.A., Akron, Ohio with and into The Huntington National Bank, Columbus, Ohio Charter No.: 7745
OCC Control Nos.: 2016-CE-146880, 147348, and 147331.

Dear Mr. Watiker:

The Office of the Comptroller of the Currency (OCC) hereby conditionally approves the application to merge FirstMerit Bank, N.A., Akron, Ohio (FirstMerit) with and into The Huntington National Bank, Columbus, Ohio, (Huntington or the Bank), under the charter and title of the latter (Merger Application) and the related application by Huntington to establish one *de novo* branch in Illinois and one *de novo* branch in Wisconsin. These approvals are granted after a thorough review of the application, other materials each of the banks and its representatives supplied, and additional information available to the OCC, including commitments and representations made in the application, and by the bank's representatives during the application process.

I. The Transaction

Huntington is a national bank with its main office in Columbus, Ohio and branches in Ohio, Michigan, Pennsylvania, Indiana, West Virginia, Kentucky, and Florida. It is a wholly-owned subsidiary of Huntington Bancshares, Incorporated (HBI), a Maryland corporation.

FirstMerit is a national bank with its main office in Akron, Ohio and branches in Ohio, Michigan, Pennsylvania, Illinois, and Wisconsin. It is a wholly-owned subsidiary of FirstMerit Corporation (FMC), an Ohio corporation.

Huntington filed an application with the OCC requesting approval to: (i) merge FirstMerit with and into Huntington under Huntington's charter pursuant to 12 USC 215a and 12 USC 1828(c); (ii) retain and operate FirstMerit's main office and branches as branches of Huntington; and (iii) retain and operate FirstMerit's twenty subsidiaries. In related applications Huntington also applied to establish a *de novo* branch in Illinois and a *de novo* branch in Wisconsin, pursuant to 12 USC 36(g), at locations currently occupied by two FirstMerit branches.

HBI submitted an application to the Federal Reserve Bank of Cleveland to acquire FMC through a merger transaction. Following the consummation of the holding company merger, FirstMerit will merge with and into Huntington in an affiliated intrastate merger transaction. The Federal Reserve Board approved the holding company transaction on July 29, 2016.

II. Legal Authority for the Transaction

A. Merger

The Bank applied to the OCC for approval to merge FirstMerit with and into Huntington under 12 USC 215a and 1828(c) and applied for approval to retain the offices of the merging banks as branches under 12 USC 36(b)(2). Section 215a authorizes mergers between national banks "located within the same State." In prior decisions, the OCC has concluded that a national bank with its main office and branch offices in more than one state is "located" in each such state for purposes of section 215a.[1] Both Huntington and FirstMerit have main offices in Ohio. Consequently, both banks are located in Ohio, and the merger is authorized under 12 USC 215a. As a result of the merger Huntington will acquire FirstMerit's eleven active subsidiaries and nine dormant subsidiaries. A list of the proposed subsidiaries and their related activities is attached. The active subsidiaries engage in activities permissible for a national bank.[2] Huntington Bank may retain the dormant subsidiaries but may not engage in any activities in these subsidiaries unless it files an application or notice with the OCC, as appropriate, in accordance with 12 CFR 5.34 or 12 CFR 5.39. The activities performed by the FirstMerit Insurance Group, Inc., a financial subsidiary, are permissible activities for a financial subsidiary of a national bank pursuant to 12 CFR 5.39. Accordingly, Huntington may retain the FirstMerit subsidiaries after the merger under 12 USC 215a(e) and 24(Seventh) and 12 CFR 5.34 and 5.39. The OCC acknowledges that Huntington will continue to exercise trust powers after the merger.

B. Branches

The resulting bank's retention of branches in a merger under 12 USC 215a is governed by 12 USC 36(b)(2). Under 12 USC 36(b)(2)(A), a national bank resulting from a merger with another bank may retain and operate as a branch any office which immediately prior to the merger was in operation as a main office or branch office of the target bank, if it may be established as a new branch of the resulting bank under 12 USC 36(c) and the OCC approves its continued operation. Twelve USC 36(c) authorizes a national bank to establish and operate new branches within the state in which the bank is "situated," to the extent that state law specifically authorizes such establishment and operation by state-chartered banks at that time and subject to any state law restrictions concerning location imposed on state-chartered banks. For purposes of

[1] *See, e.g.,* Decision on the Application to Merge NationsBank of Texas, N.A., Dallas, Texas, into NationsBank, N.A., Charlotte, North Carolina (OCC Corporate Decision No. 98-19, April 2, 1998) (Part II-A-1) (pages 6-8).

[2] The dormant subsidiaries currently do not engage in any activities.

12 USC 36(c), a national bank is "situated" in any state in which it has its main office or a branch.[3]

In this transaction, the target bank, FirstMerit, has its main office in Ohio and branches in Ohio, Michigan, Pennsylvania, Illinois, and Wisconsin. At the time the Merger Application was filed, Huntington had its main office in Ohio and branches in Ohio, Michigan and Pennsylvania, [4] and so was "situated" in those states for purposes of additional branches under 12 USC 36(b)(2)(A) and 36(c). It did not have branches in Illinois and Wisconsin. In connection with the planned merger, therefore, Huntington filed applications to establish and operate a *de novo* branch in Illinois and a *de novo* branch in Wisconsin under 12 USC 36(g). Section 36(g) authorizes a national bank to establish and operate a *de novo* branch in a State in which the bank does not maintain a branch, provided that the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State and that certain additional conditions are met.[5] Illinois and Wisconsin state laws would permit a state bank to establish branches at the proposed branch locations. In addition, the OCC has determined that Huntington has satisfied the conditions imposed by 12 USC 36(g)(2).[6] Therefore, Huntington may establish a *de novo* branch at 7227 West Addison Street, Chicago, Illinois and a *de novo* branch at 2201 Roosevelt Road, Marinette, Wisconsin.

Thus, at the time of the merger, Huntington will be "situated" in Ohio, Michigan, Pennsylvania, Illinois, and Wisconsin. State laws in each of these states would permit a state bank to establish branches at the FirstMerit main office and branch locations. Therefore, Huntington may retain and operate, as branches, FirstMerit's main office in Ohio and FirstMerit's branch offices in Ohio, Michigan, Pennsylvania, Illinois, and Wisconsin after the bank merger under 12 USC 36(b)(2)(A).[7]

---

[3] *See, e.g., Seattle Trust & Savings Bank v. Bank of California, N.A.,* 492 F.2d 48, 51 (9th Cir. 1974), *cert. denied,* 419 U.S. 844 (1974); OCC Corporate Decision No. 98-19, April 2, 1998) (Part II-A-2) (pages 9-10). *See also* 12 USC 1831u(d)(2).

[4] Huntington also has branches in Indiana, West Virginia, Kentucky, and Florida, but the branches in those states are not relevant to Huntington's authority to retain FirstMerit branches under 12 USC 36(b)(2)(A).

[5] 12 USC 36(g)(1).

[6] Twelve USC 36(g)(2) requires that an application by a national bank to establish and operate a *de novo* branch in a host state shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject to under 12 USC 1831u(b)(1),(3), and (4) relating to compliance with state filing requirements, CRA compliance, and adequacy of capital and management skills.

[7] We note that Huntington and FirstMerit each obtained their branches in states other than Ohio in previous interstate merger transactions under the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal Act), 12 USC 215a-1 & 1831u. *See,* Decision on the Application to Merge The Huntington National Bank of Florida, Maitland, Florida, The Huntington National Bank of Indiana, Noblesville, Indiana, Huntington National Bank West Virginia, Charleston, West Virginia, Huntington Banks of Michigan, Troy, Michigan, The Huntington Trust Company, NA, Columbus, Ohio, and The Huntington Trust Company of Florida, NA, Naples, with and into The Huntington National Bank, Columbus, Ohio (OCC Corporate Decision No. 97-46, June 4, 1997) and Decision on the Application for the Merger of Citizens Bank, Flint, Michigan with and into FirstMerit Bank, National Association, Akron, Ohio (OCC CRA Decision #156, April 5, 2013). The Riegle-Neal Act has a simple express provision for the resulting national bank to retain the branches of all participating banks. *See* 12 USC 36(d)

Under 12 USC 36(b)(2)(C), a national bank resulting from a merger with another bank may retain and operate any branch of the national bank that existed prior to the merger, if the OCC approves its continued operation, unless a state bank resulting from a merger would be prohibited by state law from retaining as a branch an identically situated office of the state bank. Prior to the merger, Huntington had branches in Ohio, Michigan, Pennsylvania, Indiana, West Virginia, Kentucky, and Florida. There is no provision in any of these states' laws that would prohibit a state-chartered bank, following a merger with another bank, from retaining its own similarly situated branches in the state. Therefore, Huntington may retain and operate its existing branches after the bank merger.

III. Bank Merger Act

Huntington's proposed merger with FirstMerit is also subject to OCC review under the Bank Merger Act. The OCC reviewed the proposed merger under the criteria of the Bank Merger Act, 12 USC 1828(c), and applicable OCC regulations and policies. Under the Bank Merger Act, the OCC generally may not approve a merger that would substantially lessen competition. The OCC reviewed the competitive effects of this transaction and found that when considering the commitment made by Huntington to the Department of Justice (DOJ) to make certain divestitures, the proposal satisfies the criteria for a merger transaction.[8]

The Bank Merger Act also requires the OCC to take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served. 12 USC 1828(c)(5). The OCC must also consider the effectiveness of any insured depository institution involved in the proposed merger transaction in combating money laundering activities. 12 USC 1828(c)(11). Furthermore, the OCC must consider the risk of the transaction to the stability of the United States banking or financial system. 12 USC 1828(c)(5) (as amended by section 604 of Dodd-Frank). The OCC considered these factors and found them consistent with approval of this application.[9]

& 1831u(d)(1). The present Merger Application does not come under the Riegle-Neal Act because the banks have the same home state of Ohio and the Riegle-Neal Act applies to mergers between insured banks with different home states. Thus, branch retention in this merger is governed by 12 USC 36(b)(2). If the banks had different home states (*e.g.,* if FirstMerit's home state were Illinois or Michigan), it could have been governed by the Riegle-Neal Act.

[8] On July 12, 2016, HBI and FMC entered into a Letter of Agreement with the DOJ and committed to divest of thirteen branches with deposits totaling approximately $735 million and $115 million in loans in Stark County, Ohio and Ashtabula County, Ohio, within 180 days of the merger consummation. The OCC's competitive factor conclusion took into consideration that the branch divestiture would occur.

[9] Under 12 USC 1852, as implemented by Regulation XX, 12 CFR Part 251, an insured national bank generally may not merge with or acquire all or substantially all of the assets of another company, if the total consolidated liabilities of the acquiring institution upon consummation of the transaction would exceed 10 percent of the aggregate consolidated liabilities of all financial companies at the end of the preceding calendar year. The OCC has examined the proposed transaction in light of this provision and determined that the proposed transaction is permissible.

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 Bank Merger Act. 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 Huntington in response to additional information requests from the OCC and the Board of Governors of the Federal Reserve System (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 set forth in section V.E. of this letter.

A. The Huntington National Bank

Huntington's most recent CRA PE, dated January 1, 2012, assigned the bank an overall "Satisfactory" rating.[10] The major factors that supported Huntington's rating include: (i) performance under the lending test, investment test, and service test would have warranted an outstanding rating, absent factors discussed in the Fair Lending and Other Illegal Credit Practices section of the CRA PE;[11] (ii) responsiveness to community credit needs was excellent during the evaluation period, which included a time when the economy was significantly affected by a recession; (iii) community development lending was very strong, and elevated otherwise good lending performance to the excellent level; (iv) the geographic distribution of loans was good, including loans made in low- and moderate-income neighborhoods; (v) the borrower distribution of lending was good overall, including loans made to low- and moderate-income borrowers and businesses of different sizes; (vi) qualified investment activity was good, stemming from both the bank and its subsidiary, the Huntington Community Development Corporation; (vii) delivery systems provided good accessibility of products and services to areas and individuals of different income levels, including the low- and moderate-income segments of the communities; and (viii) community development service activity was good.

B. FirstMerit Bank, N.A.

FirstMerit's most recent CRA PE, dated June 17, 2013, assigned the bank an overall "Satisfactory" rating.[12] The major factors that supported FirstMerit's rating include: (i) good

---

[10] Huntington was evaluated for CRA purposes as a large bank on January 1, 2012 for the period between January 1, 2007 and December 31, 2011. Data for Sky Financial activity prior to its merger with Huntington was not included within the scope of this evaluation. Accordingly, the evaluation period for the assessment areas new to Huntington as a result of the Sky Financial merger is July 1, 2007 to December 31, 2011. A copy of the CRA PE is available at: http://www.occ.gov/static/cra/craeval/mar16/7745.pdf.

[11] Pursuant to 12 CFR 25.28(c), in determining a national bank's CRA rating, the OCC considers evidence of discriminatory or other illegal credit practices in any geography by the bank.

[12] FirstMerit was evaluated for CRA purposes as a large bank on June 17, 2013. The evaluation period under the lending test includes all reportable loans originated or purchased (except Illinois) from January 1, 2008 until

lending activity; (ii) adequate geographic distribution of loans; (iii) good borrower distribution of loans; (iv) a neutral impact on the lending test related to community development lending; (v) an adequate level of qualified investments; and (vi) delivery systems that were accessible to geographies and individuals of different income levels. [13]

V. Public Comments and Analysis

Five commenters provided the FRB and the OCC with ten public comments addressing Huntington's and FirstMerit's records of helping to meet the needs of their communities. Two of the commenters focused on the requirement that the OCC consider the convenience and needs of the communities to be served, and asserted that prior to approving the merger, Huntington should be required to develop a CRA plan to address community needs. Another commenter, while concurring with the need for a CRA plan, provided local insight into the specific needs of Cuyahoga County, Ohio (Cuyahoga County). A fourth commenter focused on the banks' lending record, and the branch closures and consolidations that would result from the proposed transaction. The final commenter asserted specific concerns related to the potential job losses and the potential loss of beneficial products and services offered by FirstMerit following consummation of the proposed transaction.

Two of the commenters expressed concerns with the effect of the proposed transaction on competition, and emphasized that the Bank Merger Act requires that financial regulators consider the convenience and needs of the community to be served.[14] The commenter requested that the FRB extend the comment period to enable it to engage in community meetings with Huntington and develop a CRA Plan. Subsequently, one of the commenters submitted a second comment letter requesting that the OCC condition approval of the proposed transaction on Huntington complying with the terms of the Huntington Bank Community Plan (Community Plan) that Huntington announced on May 20, 2016.

A third commenter, which represents the interests of a coalition of housing and community development organizations in Cuyahoga County, stated that it had begun a dialogue with Huntington aimed at developing a Countywide Housing Plan. Further, the commenter stated that it could provide local input on several housing issues, including tax collection and delinquency,

---

December 31, 2012. FirstMerit entered the state of Illinois in 2010; therefore, the lending test for Illinois included all loans originated and purchased from January 1, 2010 until December 31, 2012. The OCC performed two separate lending analyses for each rating area for the lending test. Loans originated between January 2008 and December 31, 2011 were analyzed using 2000 census data, whereas loans originated from January 1, 2012 through December 31, 2012 were analyzed using 2010 census data. The evaluation period for community development loans, the investment test, and the service test for the states of Ohio and Pennsylvania included all activities from November 17, 2008 through June 17, 2013. For the state of Illinois, the community development loan, investment, and service test evaluation period included all activities from January 1, 2010 through June 17, 2013. A copy of the CRA PE is available at: http://www.occ.gov/static/cra/craeval/oct15/14579.pdf.

[13] Since the conclusion of the OCC's most recent CRA PE for FirstMerit, the OCC has cited FirstMerit for violations of Section 5 of the FTC Act for having engaged in unfair practices associated with certain add-on products offered by the bank. *See* section IV.E. of this letter.

[14] *See* 12 USC 1828(c)(5).

housing insecurity, special populations, confidence in the housing market, fair housing, and access to capital, which it identified as the most pressing housing issues in Cuyahoga County. The commenter stated that it also supported the development of a community benefit plan in connection with the proposed transaction, and, in addition, would like Huntington to provide access to capital for Cuyahoga County residents, funding for rehabilitation and maintenance, down payment assistance, temporary rental and housing assistance, and consistent funding for shared local priorities. The commenter requested that Huntington, in the context of the proposed transaction, leverage the experience, data, resources, and leadership of the Cuyahoga County government.[15] In addition, the commenter asserted that any approval of the proposed transaction should be subject to a condition that Huntington comply with a community benefits plan.

A fourth commenter submitted four comments regarding the proposed transaction that expressed concerns related to Huntington's and FirstMerit's lending records to African American and Latino/Hispanic borrowers and the branch closures and consolidations that would result from the proposed transaction. The commenter cited 2014 Home Mortgage Disclosure Act (HMDA) data for the Akron, Ohio metropolitan statistical area (Akron MSA) and Cleveland, Ohio MSA (Cleveland MSA) to assert that Huntington and FirstMerit are not meeting the credit needs of minority individuals in their assessment areas (AA). Specifically, the commenter asserted that in the Akron MSA and Cleveland MSA, Huntington originated significantly more home purchase loans, home refinance loans, and home improvement loans to white borrowers than to African American and Latino/Hispanic borrowers. Further, the commenter asserted that with regard to home improvement loans in the Akron MSA, Huntington did not originate any loans to Latino/Hispanic borrowers. Similarly, in the Akron MSA, the commenter asserted that FirstMerit originated significantly more home purchase loans, home refinance loans, and home improvement loans to white borrowers than to African American and Latino/Hispanic borrowers. Further, the commenter asserted that, in some loan categories, FirstMerit did not originate any loans to Latino/Hispanic borrowers. The commenter also asserted that in several loan categories, Huntington, in the Akron MSA and Cleveland MSA, and FirstMerit, in the Akron MSA, had higher denial rates for African American and Latino/Hispanic applicants than for white applicants. In addition to the comments related to the banks' lending records, the commenter asserted concerns regarding the 105 branch consolidations and closures that would result from the proposed transaction. The commenter alleged that these branch closures and consolidations would cause harm to the community, particularly given the concentration of nearly 50 proposed consolidations and closures in the Cleveland, Akron, and Canton, Ohio areas. The commenter further alleged that in instances where the proposed transaction would result in the closure or consolidation of a branch in a low- or moderate-income census tract, the receiving branch was often in a higher income census tract. Based on these concerns the commenter requested

[15] The commenter stated that the community benefits plan should address the following issues: (i) mortgage lending and home improvement lending to low- and moderate-income borrowers and census tracts; (ii) community development lending and investment for distressed neighborhoods; (iii) outreach to distressed neighborhoods and reporting of results; (iv) measures to address vacant and abandoned homes; (v) philanthropy benefitting low- and moderate-income individuals; (vi) maintenance of branches in distressed neighborhoods; and (vii) creation of local and national advisory councils to oversee the implementation of any community benefits agreement created during the merger process.

extension of the FRB's comment period and that the regulators hold public hearings on the proposed transaction.[16]

The fifth commenter expressed concerns regarding the potential for job losses in the Akron, Ohio area that could result from the proposed transaction.[17] In addition, the commenter inquired as to whether Huntington would keep some of the programs and features that made FirstMerit appealing.

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 Bank Merger Act. These concerns are addressed below.

A. CRA Performance

As mentioned above, pursuant to the requirements of the CRA, the OCC considers the records of the banks' performance in helping to meet the credit needs of their communities, including low- and moderate-income geographies, when evaluating applications under the Bank Merger Act. The banks' overall CRA performance is summarized above.

Huntington has a strong record of serving the needs of its community under the CRA. Specifically, the most recent CRA PE notes that performance under the lending test, investment test, and service test would have warranted an outstanding rating. In addition, in the state of Ohio, the area where commenters expressed concerns with the bank's performance, Huntington received an overall "Outstanding" on the lending test, "High Satisfactory" on the investment test, and "High Satisfactory" on the service test.[18]

With respect to the lending test in the geographies focused on by one commenter, Huntington's CRA PE states that in the Cleveland MSA, the geographic distribution of home purchase loans was adequate, home improvement loans was good, home refinance loans was adequate, and small loans to businesses was good. As for the distribution of loans by income level of the borrower, in the Cleveland MSA, the borrower distribution of home purchase loans, home improvement loans, and home refinance loans were good. Further, in the Cleveland MSA, the borrower distribution of small loans to businesses was excellent. The CRA PE also states that

---

[16] In addition to these concerns, the commenter also expressed two additional concerns: (i) that there is a "revolving door" between the banking industry and the government; and (ii) that there is a pending lawsuit related to the proposed transaction. These comments are outside the scope of the OCC's consideration of the banks' records of performance under the CRA and the convenience and needs standard. 12 CFR 5.33(e)(1)(ii)(C).

[17] Huntington represented that it has agreed in its application to: (i) establish an operations/call center within Akron, Ohio (or in a city with a Joint Economic Development Agreement with Akron, Ohio) and use reasonable best efforts to ensure that such operations/call center is fully operational by no later than the date of the second anniversary of the proposed transaction's closing date, and (ii) use reasonable best efforts to maintain employment levels in Akron, Ohio that are consistent with FirstMerit's employment levels as of the proposed transaction's closing date, by no later than the second anniversary of such date.

[18] These ratings were primarily based on the full scope review of the Cleveland MSA and the Columbus, Ohio MSA. The Akron MSA was subject to a limited scope review.

community development lending had a significant positive impact on lending performance in the Cleveland MSA. For the Akron MSA, the CRA PE states that performance was weaker than in the full scope AAs; the weaker performance was attributed to relatively lower levels of community development lending.

With respect to the investment test in the geographies focused on by the commenter, Huntington's CRA PE states that the bank's performance in the Cleveland MSA was good. The investment test performance in the CRA PE was based on Huntington making a total of $30.9 million worth of investments during the evaluation period. Huntington's investments in the Cleveland MSA were in low-income housing tax credit (LIHTC), new market tax credit, and historic tax credit funds; a mortgage backed security backed by mortgages to low- and moderate-income borrowers from the AA; and cash contributions to local community organizations for community development purposes. The CRA PE states that these investments were responsive to the identified needs of the AA. The CRA PE further states that performance in the Akron MSA was stronger than the bank's overall performance in the state, due to a higher level of qualified investments.

With respect to the service test in the geographies focused on by the commenter, Huntington's CRA PE states that the bank's performance in the Cleveland MSA was good. The CRA PE states that, in the Cleveland MSA, Huntington's branches were accessible to geographies and individuals of different income levels. Further, the CRA PE states that, in the Cleveland MSA, Huntington had a good record of providing community development services relative to its presence in the AA. In the Akron MSA, the CRA PE states that the bank's performance under the service test was not inconsistent with the bank's overall "High Satisfactory" performance under the service test in the state of Ohio.

With regard to FirstMerit's CRA performance, in the state of Ohio, the bank received an overall "High Satisfactory" rating on the lending test, "Low Satisfactory" rating on the investment test, and "High Satisfactory" rating on the service test. FirstMerit's performance was based on full scope reviews of the Akron MSA and Cleveland MSA. For the lending test in particular, although FirstMerit's overall performance was rated "High Satisfactory," the CRA PE states that FirstMerit's geographic distribution of HMDA loans was poor in the Cleveland MSA and good in the Akron MSA.

The banks' CRA performance records provide a foundation for the OCC's consideration of the probable effects of the proposed transaction on the convenience and needs of the community to be served.

B. Convenience and Needs

Several commenters expressed concerns regarding the extent to which the bank that would result from the proposed transaction will benefit the communities it serves. These commenters asserted that the Community Plan would help ensure that the proposed transaction created a public benefit.[19]

In addition to reviewing the banks' past records of performance, as documented in their respective CRA PEs, the OCC considers "the probable effects of the business combination on the convenience and needs of the community to be served." 12 CFR 5.33(e)(1)(ii)(C). The OCC also considers additional relevant factors, including the resulting national bank's ability and plans to provide expanded or less costly services to the community.

In an effort to address the subjects raised by several of the commenters, Huntington worked with community groups, including several of the commenters, to develop a Community Plan.[20] Huntington represented that the Community Plan is a five-year lending, investment, and philanthropy plan that was developed after meeting with more than 100 locally-based community organizations. Communications with members of the community may provide a valuable method for a bank to assess how best to address the credit needs of its community; however, the CRA does not require banks to enter into agreements with private parties, and the OCC does not monitor or enforce such agreements.[21] Nonetheless, several aspects of Huntington's Community Plan relate to the issues raised by the commenters. Therefore, additional details of Huntington's Community Plan are discussed below.

The convenience and needs assessment is prospective, and as such, considers how the combined institution will serve the needs of its communities following consummation of the proposed transaction. In connection with the proposed transaction, Huntington represented that it prioritizes community reinvestment and active community involvement and is eager to serve the banking and credit needs of all of the customers and communities of the combined institution. Huntington represented that the proposed transaction will benefit legacy customers of FirstMerit and customers of Huntington by providing them with broader branch and automated teller machine (ATM) networks. Further, Huntington represented that the proposed transaction will enable it to provide legacy FirstMerit customers with its broader suite of products and services.

[19] Pursuant to 12 CFR 225.24(a)(2)(iii), which applies to proposals submitted to the FRB by bank holding companies seeking to engage in nonbanking activities, such transactions require a "statement of the public benefits that can reasonably be expected to result from the proposal." In reviewing Huntington's application to merge FirstMerit with and into itself, the OCC applied the convenience and needs standard as required under 12 USC 1828(c)(5).

[20] Huntington represented that the Community Plan will further Huntington's existing strategies for community support by: (i) funding $5.7 billion in single-family mortgage lending to low- and moderate-income census tracts; (ii) funding $6.6 billion in small business lending, including within low- and moderate-income census tracts; (iii) funding $3.7 billion in community development lending and investments targeting affordable housing access and community-based loan funds; (iv) funding $25 million of additional grants and philanthropy primarily targeting housing and small business credit service access; and (v) creating $30 million in further economic impact through support including 10 new branch locations (of which three will be in the Cleveland MSA) in majority minority census tracts and/or low- and moderate-income census tracts, the addition of dedicated community mortgage loan officers, and the formation of a dedicated mortgage processing team to handle unique underwriting opportunities.

[21] "Interagency Questions and Answers Regarding Community Reinvestment," 81 Fed. Reg. 48,506 (July 25, 2016) (Q&A § __.29(b) – 2).

Even so, Huntington stated that it intends to discontinue five FirstMerit products that currently serve the needs of low- and moderate-income individuals.

Huntington represented that it intends to offer existing Huntington products that it believes serve the needs of low- and moderate-income individuals at least as well, or better, than the discontinued FirstMerit products. The FirstMerit products that Huntington plans to discontinue, and the Huntington products that customers will be mapped into are: (i) FirstMerit's Reality Checking will be discontinued and replaced with Huntington's Asterisk Free Checking (Huntington represented that it believes that its product will better serve the needs of the low- and moderate-income community because Asterisk Free Checking has all of the features of Reality Checking, as well as additional features); (ii) Popmoney, a third-party person-to-person payment service, will be discontinued (Huntington represented that it believes that, in aggregate, its products and services in this area will serve the needs of the low- and moderate-income community at least as well because Huntington's Bill Pay services also permit money to be sent to another individual, and when Bill Pay is funded through an Asterisk Free Checking Account, the money transfer can be done without a monthly services fee); (iii) FirstMerit's prepaid card product will be discontinued and in some instances the features of the prepaid card may be replicated by Huntington debit cards (Huntington represented that it believes that, in aggregate, its products and services in this area will serve the needs of the low- and moderate-income community at least as well because all Huntington checking account products offer debit card access, and when customers maintain the opt-out default for overdraft services, the product delivers the same functionality as a prepaid card); (iv) FirstMerit's BEST Loan Program will be discontinued and replaced with Huntington's Community Access Mortgage (CAM) Loan Program,[22] discussed below (Huntington represented that it does not believe that replacing the BEST program will have any negative impact as its CAM and Hometown Mortgage programs will serve the needs of the low- and moderate-income community at least as well as the BEST program); and (v) FirstMerit's secured credit card will be discontinued (legacy FirstMerit customers will be permitted to continue using their existing FirstMerit secured credit cards until Huntington can replace them with its own secured credit card product currently under development).

To serve the banking needs of its communities, Huntington represented that it offers deposit products for all segments of the communities it serves, including the underserved. Specifically, Huntington represented that it has developed and implemented innovative products and product features as part of its "Fair Play" banking strategy. Huntington represented that this strategy is a cornerstone of its corporate culture and embodies Huntington's guiding customer advocacy principle for providing banking services and products with terms and features that are "fair, transparent and the right thing for customers." Products or services that Huntington represented were developed under its "Fair Play" strategy and serve the convenience and needs of its communities include: (i) All-Day Deposit – a service that credits same-day deposits made up to midnight, including deposits made on mobile devices and at ATMs; (ii) Asterisk-Free Checking – an account that offers no-fee automated transfers and no monthly maintenance fees on

[22] Huntington represented that it also offers a version of the CAM loan program called Hometown Mortgage, in partnership with non-profit organizations, that permits credit scores as low as 580, subject to a financial education requirement. The Hometown Mortgage program is discussed below.

checking accounts with a linked savings account; and (iii) Community Checking Account – a business checking account with no monthly fees for businesses that have up to 100 transactions. In addition, as part of its Community Plan, Huntington represented that it will consider other innovations that provide greater access to traditional banking services to the unbanked and underbanked.

In addition to its deposit products, Huntington represented that it offers several lending products that serve the credit needs of its communities, including low- and moderate-income borrowers and individuals in low- and moderate-income geographies. For example, Huntington represented that it offers innovative lending programs, such as its proprietary CAM loan program. Huntington represented that its CAM loan program assists low- and moderate-income borrowers or borrowers in a low- or moderate-income community with purchasing or refinancing residences by allowing higher loan-to-value ratios, requiring no private mortgage insurance (PMI), and requiring no interest rate adjustment for lower credit scores. Another lending program Huntington highlighted is its Consumer First Mortgage program, which it represented is designed to provide convenient, low-cost refinancing of a residence or a cash-out option with no PMI requirement.

In addition to these specific programs, Huntington represented that it actively participates in a variety of national, state, and locally based mortgage lending programs designed to assist low- and moderate-income individuals and low- or moderate-income or minority communities. Specifically, Huntington represented it participates in the following national mortgage lending programs, Veterans Affairs, Federal Housing Administration, Federal Home Loan Bank (FHLB) of Cincinnati, U.S. Department of Agriculture, and Fannie Mae mortgage programs. Huntington also provided examples of state and county-sponsored affordable mortgage programs in states of Ohio and Michigan that it participates in, including (i) the Cuyahoga County Housing Enhancement Loan Program (Cuyahoga HELP), which is designed to assist in the revitalization of the Cleveland, Ohio area by offering loans linked to customer deposits that provide for alteration, repair, maintenance, improvement, code violation compliance, and other property upgrades;[23] (ii) the State of Ohio ECOLink Home Equity Loan Secured and Unsecured Loan Programs, which are designed to provide reduced rate financing for Ohioans completing weatherization improvements and installing energy efficient products in their primary homes;[24] (iii) the Ohio Housing Finance Agency's down payment assistance program, which provides down payment assistance of up to 5 percent of the purchase price at competitive rates;[25] and (iv) the Michigan State Housing Development Authority down payment assistance programs, which provide up to $7,500 in down payment assistance to individuals with qualifying income levels in

[23] Huntington represented that for 2013, 2014, and 2015, it originated 73 loans under this program, for a total of approximately $1.17 million in lending.

[24] Huntington represented that for 2013, 2014, and 2015, it originated 68 loans under the ECOLink program, for a total of approximately $1.1 million in lending.

[25] Huntington represented that for 2013, 2014, and 2015, it originated 363 loans under this program, for a total of $36.3 million in lending.

the form of a second lien mortgage loan.[26] Moreover, Huntington represented that in an effort to increase lending and promote homeownership in low- and moderate-income communities, it is waiving closing costs for borrowers purchasing or refinancing a home in a low- and moderate-income census tract.[27]

In addition to these existing programs, in its Community Plan, Huntington committed to adopting a single family lending goal for low- and moderate-income borrowers and low- and moderate-income census tracts of $5.7 billion over the next five years. Further, the Community Plan states that Huntington plans to establish a new position, the Community Mortgage Loan Officer, and hire 18 of these persons to assist in community outreach serving the needs of low- and moderate-income and minority borrowers and geographies. In addition, Huntington's Community Relationship Management and Community Development Lending and Investment teams have been realigned to meet the needs of the combined organization's footprint.

One of the commenters specifically requested that Huntington commit to more robust marketing and outreach efforts. Huntington represented that it does not traditionally market its first mortgage products, except in situations where one of its specialty products is offered through a non-profit partner organization. However, Huntington explained that through community conversations in connection with the development of its Community Plan, it learned that some community based organizations were not aware of some of its products, such as its Hometown Mortgage product, which offers a mortgage with: (i) no closing costs; (ii) no minimum loan amount; (iii) no mortgage insurance; and (iv) lower or non-traditional credit requirements if the borrower participates in a financial education program. To address these concerns, Huntington stated that its Community Plan includes a marketing component for all its mortgage products (both traditional and community products), which will focus on outreach to underserved communities.[28]

The same commenter discussed the particular lending needs of Cuyahoga County. In addition to the county's general home mortgage lending needs, the commenter identified two areas of particular concern, home repair lending and vacant and abandoned homes. The commenter asserted that low- and moderate-income borrowers and borrowers in low- and moderate-income census tracts are in need of home repair lending. The commenter further asserted that 2014 HMDA data indicates that Huntington and FirstMerit did not originate many home improvement loans to low- and moderate-income homeowners in Cuyahoga County.[29] After learning from community organizations in various markets that consumers in low- and moderate-income

---

[26] Huntington represented that for 2013, 2014, and 2015, it originated 80 loans under this program, for a total of $6.5 million in lending.

[27] Huntington represented that, since January 2015, it has waived more than $6 million in closing costs for an average of $1,600 per mortgage loan.

[28] Huntington represented that the marketing and outreach will also include other existing and new programs and products.

[29] Huntington represented that it reported all of its home improvement lending under HMDA. FirstMerit represented that it reported some of its home improvement lending under HMDA.

census tracts need small, affordable loans for home improvement, Huntington represented that it implemented an unsecured home improvement loan program for homeowners in low- and moderate-income communities.[30] Huntington represented that its home improvement loan program offers short-term loans (12 to 36 month terms) in amounts ranging from $999 to $3,000 at an affordable rate (*i.e.,* fixed rate of 2.99 percent). The commenter also asserted that the need for affordable home repair loans is compounded by the approximately 12,000 structures in Cleveland, Ohio that are vacant, roughly half of which are blighted and in need of demolition. As discussed above, Huntington represented that it participates in the Cuyahoga HELP program, which is designed to assist in the revitalization of the Cleveland, Ohio area by offering loans linked to customer deposits that provide funds for alteration, repair, maintenance, improvement, code violation compliance, and other property upgrades.

Outside of Cuyahoga County, Huntington represented that it is making efforts to revitalize the communities it serves by being the largest bank participant in the newly announced Detroit Home Mortgage Fund,[31] which it represented to be an innovative program through which home purchasers in Detroit, Mich., one of the geographies impacted by the proposed transaction, can obtain low-cost mortgage loans to cover the gaps between the amount of mortgage funds needed, including for required repairs and rehabilitations, and the low appraised value of homes in Detroit, Mich.[32] Huntington further represented that it has developed partnerships with local housing and development groups that can offer its Hometown Mortgage product[33] in most of its markets.[34] In addition, in its Community Plan, Huntington represented that it has established a goal of achieving parity or better performance when compared to deposit accepting peers for lending to the underserved in 75 percent of markets within a three-year period. Huntington's Community Plan states that it will aim to achieve this goal through programs such as its unsecured home improvement loan, its secured rehabilitation programs, and local programs such

[30] Huntington represented that for 2013, 2014, and 2015, it originated a total of 1,161 home improvement loans under this program, which reflects approximately $12.5 million in lending.

[31] Huntington represented that under the program, homebuyers with good credit and stable income may obtain a first mortgage for the appraised value of a home, minus a down payment of 3.5 percent, and a second mortgage of up to $75,000 will cover the gap between the home's appraised value and the sales price and/or the cost of renovations.

[32] Huntington represented that, through its subsidiary community development corporation and two other participating banks, it has committed to provide initial funding to the Detroit Home Mortgage Fund of up to approximately $18.2 million in order to fund the purchase by the Detroit Home Mortgage Fund of the second mortgage loans originated by program lenders. Huntington further represented that it has committed to provide the most funding, initially approximately $8.2 million, and up to a total of $18.5 million, if additional participating investors are admitted to the fund.

[33] Huntington represented that its Hometown Mortgage product requires that borrowers have $500 of their own funds invested in the home purchase transaction; however, it allows sellers to pay the closing costs, escrow items, and prepaid items up to 6 percent of the sales price or appraised value of the property, whichever is less. Huntington represented that it has financed more than $90 million in loans since January 2015 through the Hometown Mortgage product.

[34] Huntington represented that it has partnerships with local housing and development groups in Akron, Ohio; Canton, Ohio; Charleston, W.Va., Cincinnati, Ohio, Columbus, Ohio; Dayton, Ohio; Detroit, Mich.; Grand Rapids, Mich.; Indianapolis, Ind.; Pittsburgh, Pa.; Toledo, Ohio; and Youngstown, Ohio.

as Cleveland CASH,[35] Cuyahoga HELP, Ohio ECOLink Secured and Unsecured, and other programs as they become available. Further, the Community Plan states that Huntington will explore the development of rehabilitation loan programs within the confines of regulatory requirements and safe and sound business practices.

The commenter also sought commitments regarding Huntington's philanthropic activities following consummation of the proposed transaction. Huntington represented that, in connection with the related bank holding company merger agreement for the proposed transaction, it agreed to establish a new charitable foundation to support community development in Akron, Ohio, which will be funded with at least $20 million over a 10-year period. Moreover, Huntington represented in its application for the proposed transaction that it would contribute $5 million over the same 10-year period to The Huntington Foundation for the express purpose of providing additional community development support in the greater Canton, Ohio and Flint, Mich. communities. Subsequently, in its Community Plan, Huntington committed to an additional $25 million in philanthropic funding to its expanded footprint as a result of the proposed transaction, with philanthropic efforts focused on the geographies discussed above and the Charleston, W.Va.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio; Columbus, Ohio; Detroit, Mich.; Indianapolis, Ind.; Pittsburgh, Pa.; Toledo, Ohio; and Dayton, Ohio areas, at a minimum.[36]
The commenter also requested that Huntington express goals to commit a certain amount of funds to community development lending and investments. Particular community development needs that the commenter focused on include affordable housing and economic development. Huntington represented that it will continue a high level of community development lending, investment, and services, throughout the combined institution's footprint, taking into account the proposed transaction. In particular, Huntington represented that it helps community organizations obtain Affordable Housing Program (AHP) grants from the FHLB of Cincinnati. Huntington represented that from 2012 through 2015, it worked to obtain $18.6 million in Affordable Housing grants from the FHLB of Cincinnati. As part of its participation in the FHLB's AHP, Huntington represented that it implemented a small developer loan product with criteria specific to underwriting loans for non-profit and small developers; and it will expand this product beyond AHP. Further, Huntington represented that since its most recent CRA PE, it has made community development loans totaling $238.8 million in Cleveland, Ohio, and $70.7 million in Akron, Ohio, and qualified investments totaling $39.6 million in Cleveland, Ohio, and $11.1 million in Akron, Ohio.[37] In terms of Huntington's community development service

[35] The Cleveland Action to Support Housing (Cleveland CASH) program is a citywide partnership between the City of Cleveland, Ohio and financial institutions that allows creditworthy homeowners to obtain low-interest rehabilitation loans with terms of up to 12 years and in amounts of up to $30,000. Details of the Cleveland CASH home repair loan program are available at: http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/CommunityDevelopment/DivisionofNeighborhoodServices.

[36] Huntington represented that its philanthropic goals focus funding on economic development, community service, small businesses, education, affordable housing, and diversity and inclusion initiatives.

[37] Examples of the community development loans and investments that Huntington has made since its most recent CRA PE include: (i) a $4.0 million construction loan for a LIHTC project to create 30 affordable residential units in Cleveland, Ohio; (ii) a $5.1 million LIHTC investment to create 126 affordable family housing units in Cleveland, Ohio; (iii) a $4.8 million loan to a LIHTC project to construct affordable single family homes in Akron, Ohio; and

activities, Huntington represented that its management and employees have addressed financial literacy needs through credit counseling, first-time home buyer seminars, foreclosure prevention workshops, and other financial education programs targeted to low- and moderate-income individuals throughout its AAs. Huntington stated that it does not intend to discontinue any of FirstMerit's community development activities. Further, in its Community Plan, Huntington set a $3.7 billion five year community development lending and investing goal.[38]

Regarding small business lending, Huntington represented that since its most recent CRA PE, it ranked as the nation's second largest lender of small business loans guaranteed by the Small Business Administration (SBA) under the SBA 7(a) program. These loans are provided to start, acquire, or expand small businesses. Since the CRA PE, the bank has made 14,165 SBA loans totaling more than $2.10 billion. Further, Huntington represented that it participated in state-sponsored programs designed to finance small business and small farms that are having difficulty obtaining loans through conventional underwriting standards or otherwise needing more affordable loans. Huntington represented that since the CRA PE, it provided funding in state-sponsored programs in Ohio and Michigan totaling $71.3 million and $17.0 million, respectively. To identify and complete community development activities, Huntington represented that its community development function currently includes 29 dedicated employees. Huntington represented that following consummation of the proposed transaction, it will increase its dedicated community development staff by about six employees. In addition to Huntington's dedicated community development staff, Huntington represented that it has a committee of the Board of Directors of Huntington Bancshares Incorporated, the Community Development Committee, which is anticipated to include four Board members following consummation of the proposed transaction and is responsible for, among other things, matters relating to community development and involvement and fair and responsible lending.

Finally, Huntington represented that as part of its Community Plan it plans to charter a National Community Advisory Council (Council) and select a slate of members. Huntington represented that this Council would meet four times per year. The Council's objectives include (i) reviewing Huntington's progress against the Community Plan; (ii) providing insight and counsel on current or future strategies, products, services, emerging issues, and other topics of mutual interest; (iii) remaining knowledgeable about Huntington's products and services; and (iv) actively advocating and referring people and opportunities to Huntington to help ensure the success of the Community Plan. Additionally, Huntington represented that it will hold regional meetings and forums to discuss with the community progress against the Community Plan and to gain insights on current or future strategies.

(iv) a $4.3 million LIHTC investment to create 60 affordable units of housing for special needs and homeless individuals in Akron, Ohio.

[38] In its Community Plan, Huntington noted that its ability to achieve this goal is subject to the availability of CRA qualified loans and investments, and regulatory caps, and may be inhibited by intense competition from other institutions which have recently committed to community plans developed in conjunction with community groups.

C. Fair Lending

One of the commenters expressed concern regarding Huntington's and FirstMerit's level of lending to African American borrowers and Latino/Hispanic borrowers in the Akron MSA and Cleveland MSA. The commenter further expressed concern that the denial rates for African American borrowers and Latino/Hispanic borrowers were higher than to white borrowers in the Akron MSA and Cleveland MSA for Huntington, and in the Akron MSA for FirstMerit. The commenter that focused on the needs of Cuyahoga County reiterated the concerns raised with regard to the Cleveland MSA.

Regarding the lending concerns raised by the commenter, it should be noted that HMDA data alone are not adequate to provide a basis for concluding that a bank is engaged in lending 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.

In considering the proposed transaction, the OCC reviewed Huntington's 2014 HMDA data in the Cleveland MSA and Akron MSA and FirstMerit's 2014 HMDA data in the Akron MSA and compared the results to the commenters' concerns relating to Huntington's and FirstMerit's home mortgage originations and denials to African American and Latino/Hispanic applicants. The OCC also reviewed FirstMerit's HMDA data in the Canton, Ohio MSA. The OCC's review revealed lending data similar to most of the data presented by the commenters. Additionally, the OCC's review took into account HMDA data reported by other lenders in the Cleveland and Akron MSAs and other relevant factors, such as Huntington's conservative underwriting practices. Based on the OCC's assessment of Huntington's and FirstMerit's HMDA data, as well as data gathered during the ongoing supervisory process, the OCC did not identify information inconsistent with approval of the application.

Huntington responded to the two commenters' concerns by asserting that any implication that Huntington or FirstMerit have engaged in prohibited discrimination in their home mortgage lending is unfounded. Further, Huntington stated that it is firmly committed to making its credit products and services available to prospective and existing customers on a fair and equitable basis, in strict compliance with the letter and spirit of the fair lending laws and regulations.

Huntington represented that in furtherance of its commitment to making its credit products and services available on a fair and equitable basis, it maintains a Fair Lending Program, which includes its Fair and Responsible Banking Policy (Policy). Pursuant to this Policy, Huntington stated that it understands the importance of fair lending to its customers, its business, and the communities served. Huntington's Fair Lending Program states that it is designed to provide a framework to integrate elements of its Policy into daily operations. As such, Huntington represented that its Fair Lending Program applies to all business units and operational areas of the bank that are responsible for product development, sales, marketing, credit risk, pricing, origination, and servicing practices. The components of Huntington's Fair Lending Program include: board and management oversight, policies and procedures, a risk assessment framework, monitoring and testing, a system of internal controls, training, and a customer complaint response program. Huntington's Fair Lending Program supports the bank's overall Compliance Risk Management Program. Under Huntington's Fair Lending Program, Huntington's Fair Lending Compliance Officer is responsible for providing updates regarding the state of the bank's fair lending compliance to the Community Development Committee on a quarterly basis, and to the Risk Oversight Committee and the Legal, Regulatory, and Compliance Committee as needed. In addition, Huntington's fair lending compliance management system includes three lines of defense: the business segment,[39] the fair lending compliance division,[40] and Internal Audit.[41] Huntington represented that it has a robust customer complaint system that includes root cause and trend analysis, escalation of any fair lending-based complaints, and tracking and monitoring of complaint resolutions.[42] In its Community Plan, Huntington represented that it will continue to conduct a second review of denied applications. Additionally, as part of the Community Plan, Huntington represented that it will continue to explore alternative credit scoring methodologies for borrowers in underserved communities.

To ensure compliance with fair lending statutes and regulations, Huntington represented that it conducts extensive fair lending compliance training for its employees. Specifically, Huntington represented that employees in business lines that report to the Chief Risk Officer, the Chief Compliance Officer, the Chief Credit Officer, and the Chief Technology and Operations Officer must complete fair lending training annually.[43] Huntington represented that fair lending training is monitored, tracked, and subject to accountability measures. In addition, Huntington represented that certain employees or employee groups are required to take additional job-specific fair lending training. Huntington further represented that a portion of employees'

[39] The first line of defense in Huntington's fair lending compliance management system is the business segment, which includes components that address: (i) general procedures and controls, (ii) new product and product modification, (iii) advertising and marketing, (iv) sales practices; (v) credit risk and underwriting; (vi) development pricing; (vii) servicing practices; (viii) compensation practices; (ix) third-party relationships; and (x) fair lending data.

[40] The second line of defense in Huntington's fair lending compliance management system is the fair lending compliance division, which includes components that address: (i) fair lending risk assessments that are conducted annually or more frequently, as needed, which include qualitative and quantitative analyses and an assessment of the quality of the controls and the resulting residual risks; and (ii) Fair Lending Compliance Officer fair lending monitoring and testing.

[41] The third line of defense in Huntington's fair lending compliance management system is the bank's Internal Audit, which is responsible for independently evaluating the effectiveness of the Policy and the Fair Lending Program, and the effectiveness of the first and second lines of defense. Internal Audit findings of material non-compliance will inform corrective action and future monitoring and testing activities. In addition, Internal Audit will monitor remediation of such findings.

[42] Huntington represented that its Customer Complaint Management Program requires that certain types of complaints be subject to escalation procedures for resolution. Examples of the type of complaints that require escalation include those that suggest a person was treated differently or wrongfully due to a certain circumstance, those that allege mistreatment of a vulnerable class member, those that allege violations of a law or regulation, or those that are received from regulatory or consumer protection agencies.

[43] Huntington represented that employees who must complete annual training include employees in Regional Banking, Private Client Group, Retail and Business Banking, Commercial Banking, Commercial Real Estate, Auto Finance, and Human Resources.

performance evaluations is based on successful completion of assigned training. In addition, Huntington represented that annual compliance training for the bank's Board of Directors covers fair lending compliance, and the Board's Community Development Committee receives annual fair lending compliance training. Huntington represented that it will roll out its current enterprise-wide fair lending training for former FirstMerit employees within their first 30 days of employment at Huntington.

Huntington represented that it conducts various periodic reviews of HMDA loan applications, approvals, denials and originations for: (i) minority individuals and majority minority census tracts; and (ii) low- and moderate-income individuals and low- and moderate-income census tracts. Specifically, Huntington represented that, in 2016, its performance under these reviews will be periodically presented to the Fair and Responsible Banking Committee of its management team. In addition, Huntington represented that on an annual basis, it analyzes its HMDA data and compares it to relevant peer and demographic data. Huntington further represented that its HMDA data analysis includes a redlining analysis and contextual analysis for the bank's performance.[44] Further, Huntington represented that it analyzes actions taken in connection with, and the reasons for, denial of loans to minority individuals and loans in majority minority census tracts. Huntington provided a list of nondiscriminatory reasons for the denied applications by Huntington in the Akron MSA and Cleveland MSA, and for FirstMerit in the Akron MSA.[45]

Huntington responded to the commenters' concerns related to its home lending, in part, by stating that it has taken actions to increase the number of home mortgage applications from African Americans, Latino/Hispanics, and low- and moderate-income individuals. Huntington represented that its efforts to increase such applications include entering into partnerships with organizations that focus on affordable housing. For example, Huntington represented that it partnered with the East Akron Neighborhood Development Corporation[46] and the Neighborhood Housing Services of Greater Cleveland.[47] Huntington further represented that it offers all of its mortgage products through its relationships with these organizations, including its Hometown Mortgage product, discussed above, which is a product that allows flexible sources for down payment and/or closing costs. As discussed above, Huntington represented that it participates in a variety of national, state, and locally based mortgage lending programs with features that may

---

[44] Huntington represented that this analysis involves a comparative file review against performance of peers in terms of volume and dollar percentage rankings under each HMDA purpose category for overall lending rank, ranking for lending to minority versus non-minority borrowers, and ranking for lending in majority minority census tracts.

[45] Examples of the nondiscriminatory denial bases include: collateral, incomplete credit application, credit history, debt-to-income ratio, and insufficient cash availability.

[46] Huntington stated that the East Akron Neighborhood Development Corporation is an organization that works to improve communities by providing quality and affordable housing, comprehensive homeownership services, and economic development opportunities.

[47] Huntington stated that Neighborhood Housing Services of Greater Cleveland is an organization that works to strengthen urban neighborhoods and communities by offering various programs supporting affordable homeownership.

benefit low- and moderate-income individuals and communities and minority individuals and communities.

To demonstrate the effectiveness of its efforts with regard to increasing lending to minority individuals, Huntington represented that the number and percentage of its overall total HMDA loans originated to African American and Latino/Hispanic borrowers in its branch footprint was higher during 2013, 2014, and 2015 than it was in 2012. Huntington further represented that during these years, changes to its branch network did not disproportionately impact its lending opportunities to African American and Latino/Hispanic borrowers. In particular, Huntington represented that overall home mortgage lending peaked in 2013 and then declined to 2012 levels or below; however, lending to African American and Latino/Hispanic borrowers either stayed level or increased, which represents a higher rate of lending to African American borrowers and Latino/Hispanic borrowers when compared to 2012. Moreover, Huntington represented that these overall trends also apply to the Akron MSA and the Cleveland MSA where the commenters raised concerns.

To serve the needs of the Huntington's non-English speaking customers, Huntington represented that it provides general customer service assistance in Spanish through its centralized phone bank team of 11 full-service bankers during the hours of 8:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturday. In addition, Huntington represented that if a Spanish speaking customer has questions that are specific to a specialty product offered by Huntington, then a third-party interpreter service will be engaged. Huntington represented that 100 of its branches have at least one banker that is bilingual in Spanish. In addition, Huntington represented that for customers that speak a foreign language other than Spanish, the bank can also engage an interpreter service for assistance. Moreover, Huntington's Community Plan states that it will expand its outreach and customer service efforts for non-native English speakers, as permitted by regulation. Specifically, the Community Plan states that, in relevant locations, branches will strive to employ bilingual staff, and as permitted by regulation, translate marketing materials, and provide other services that are deemed important.

Finally, in promoting its products and services to its communities, Huntington represented that although it does not currently have special marketing programs for specific minority groups, it does ensure that its marketing and advertising are inclusive of all segments of the population. Nonetheless, when conducting outreach or marketing activities, Huntington represented that it measures the effectiveness of its outreach and marketing activities to minority individuals and majority minority census tracts by tracking the change in loan applications during a marketing campaign period versus when the marketing campaign was not available.[48]

D. Branch Network

In Huntington's and FirstMerit's CRA PEs, the OCC considered how each bank's branch network serves its AAs. The banks' CRA PEs reflect that Huntington and FirstMerit each

---

[48] Huntington represented that to determine the effectiveness of its marketing campaigns, it looks 30 days prior to a marketing campaign to get a loan run rate, then it looks at the campaign period, and then it looks 30 days post campaign to get a second view on the run rate to measure the marketing's impact on loan volume.

received an overall "High Satisfactory" rating for the service test. As stated above, Huntington's CRA PE states that its delivery systems provided good accessibility of products and services to areas and individuals of different income levels, including low- and moderate-income segments of the communities. Similarly, FirstMerit's CRA PE states that its retail delivery systems are accessible to geographies and individuals of different income levels.

As explained in the Branch Closings booklet of the *Comptroller's Licensing Manual* (Apr. 2003), the OCC is not authorized by the branch closing statute to prohibit a bank from closing a branch.[49] However, in the context of business combinations, the OCC's convenience and needs analysis includes consideration of anticipated changes in services that will result from consummation of the proposed transaction.[50]

In connection with the proposed transaction, Huntington represented that it has been transparent in publicly disclosing its branch consolidation and closure plans. Specifically, Huntington represented that due to some overlap in the legacy branch networks of Huntington and FirstMerit, and in order to reduce redundancy and make the delivery of customer services more efficient, Huntington plans to consolidate or close 105 branches following consummation of the proposed transaction, which are a combination of Huntington branches and legacy FirstMerit branches. Huntington's intent to consolidate or close these branches was published in the newspaper notice of the Bank Merger Application. Huntington has provided detailed information about each planned branch consolidation or closure, including: (i) the addresses of the consolidating or closing branch, (ii) the address of the branch that will receive the deposits of the consolidating or closing branch, (iii) the distance between the branches; and (iv) a detailed explanation of why the branch is being consolidated or closed.

In the context of the proposed transaction, Huntington represented that it will be conducting 61 consolidations that meet the definition of short distance branch relocations under the applicable regulation.[51] Ten of those short distance relocations involve a branch located in a low- or moderate-income census tract. For consolidating branches, Huntington represented that customers of a branch to be consolidated will be transferred to the branch designated as the surviving branch of the two consolidating branches. Of the 44 branch closings that will result from the proposed transaction, three involve a facility located in a low- or moderate-income census tract. Huntington represented that, in most cases, the customer accounts of branches to be closed will be transferred to the next nearest branch, either a legacy FirstMerit branch or an

---

[49] *See* http://www.occ.gov/publications/publications-by-type/licensing-manuals/brclose.pdf.

[50] According to the regulations governing business combinations, when the OCC evaluates an application under the Bank Merger Act, the application shall describe the probable effects of the business combination on the convenience and needs of the community to be served, including any planned office closings or reduction in services following the business combination and the likely impact on the community. 12 CFR 5.33(e)(1)(ii)(C).

[51] As explained in the Branch Closings booklet of the *Comptroller's Licensing Manual* (Apr. 2003), for purposes of branch closing rules, branch consolidations are considered relocations if they meet the short distance relocation definition in 12 CFR 5.3(l). Pursuant to 12 CFR 5.3(l), a short distance relocation means moving the premises of a branch of a national bank within a: (i) one thousand foot-radius of the site if the branch is located within a principal city of an MSA; (ii) one-mile radius of the site if the branch is not located within a principal city of an MSA; or (iii) two mile radius of the site if the branch is not located within an MSA.

existing Huntington branch. For each of these consolidations or closures, Huntington provided an explanation of its decision, and how the receiving branch will serve the needs of the community.

In considering the proposed transaction, the OCC analyzed the current branch network of the two institutions, and the proposed post- consummation branch network. The OCC's analysis indicates that the proposed branch closures, consolidations, and divestitures do not appear to substantially change the proportion of branches across geographies with different racial, ethnic, and income characteristics from the branches currently operated by Huntington and FirstMerit.

In deciding whether to close or consolidate a branch, Huntington represented that it adheres to a comprehensive Branch Opening, Closing, Relocation & Consolidation Policy (Branch Policy) to ensure compliance with applicable laws and regulatory guidance.[52] Specifically, Huntington represented that its Branch Policy requires that the bank: (i) ensure compliance with applicable laws and regulatory guidance for branch openings, closings, relocations, and consolidations; (ii) conduct appropriate analysis of impacts of branch opening, closing, relocation, and consolidation activity on considerations related to the CRA, considering the effect on the community, the ability of Huntington to provide service to the area and the presence of other financial institutions in the area; (iii) ensure that all branch changes are approved by Huntington's Board of Directors or a committee or member of management as delegated by the Board; (iv) ensure that the necessary regulatory and client notices, applications, and legal notices are completed and comply with the regulations governing branching; and (v) escalate, as necessary, risk and compliance issues to the Chief Risk Officer and Legal Regulatory Compliance Committee.

In addition, Huntington represented that its CRA Compliance and Analytics team reviews branch-related decisions and provides feedback to the Retail Branch Network Team prior to a confirmed decision. Huntington represented that this team focuses on the effect of any branch-related decision on low- and moderate-income census tracts and majority-minority census tracts. Factors that the CRA Compliance and Analytics team consider include: (i) community demographics; (ii) branch parity ratios, compared to low- and moderate-income demographics and majority-minority demographics; (iii) income level of the census tract where the branch is located; (iv) minority population percent of census tract where the branch is located; (v) availability of alternative delivery channels, such as ATMs (both number of alternative delivery channels and locations); (vi) history of Huntington's branch activity in the MSA, region, or state; (vii) comparisons to peer institution branch distributions; (viii) distances to nearest branches; (ix) maps of CRA AAs, MSAs, regions, or states; (x) community activity or responses by community organizations; and (xi) need for early disclosure under sunshine agreements or governmental ordinances.

In addition, in its Community Plan, Huntington represented that it will open 10 new branch locations in low- or moderate-income census tracts and/or majority-minority census tracts. Specifically, Huntington committed to opening three locations in each of the cities of Detroit,

---

[52] In connection with the proposed transaction, Huntington provided a copy of its Branch Opening, Closing, Relocation & Consolidation Policy. In addition, Huntington provided a copy of its branch relocations, consolidations, and closings procedures.

Mich. and Cleveland, Ohio, two locations in Chicago, Ill., one location in Toledo, Ohio, and one location in a city to be determined.

E. 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 low- and moderate-income individuals and geographies, when evaluating applications under the Bank Merger Act. In addition to considering the banks' CRA records, the OCC also considers the convenience and needs of the communities to be served. As explained in the Public Notice and Comments booklet of the *Comptroller's Licensing Manual* (Mar. 2007), the convenience and needs standard is distinguished from the CRA requirements in that the convenience and needs analysis is prospective.

Accordingly, based upon the OCC's review of the application, the public comments and Huntington's response to those comments, Huntington's responses to the OCC's and the FRB's additional 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:

> In connection with FirstMerit's violation of Section 5 of the FTC Act through unfair practices associated with certain add-on products offered by the bank, the OCC has required FirstMerit to take various remedial measures to address the violation, including to provide remediation to affected consumers. Huntington shall complete those actions to the satisfaction of the OCC.

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

VI. Consummation Requirements

The Central District Office must be advised in writing 10 days in advance of the desired effective date for the merger, so it may issue the necessary certification letter. The effective date must follow the applicable DOJ injunction period and any other required regulatory approval.

If the merger is not consummated within six months from the approval date, the approval shall automatically terminate, unless the OCC grants an extension of the time period.

This approval 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. Our approval is based on the Bank's representations, submissions, and information available to the OCC as of this date. The

OCC may modify, suspend or rescind this approval if a material change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

A separate letter is enclosed requesting the Bank's feedback on how we handled the referenced application. If you have any questions, please contact Director for District Licensing Nancy M. Sundstrom at (312) 360-8866 or by email at Nancy.sundstrom@occ.treas.gov or Senior Licensing Analyst Kimberly M. Lynch at (312) 660-8716 or by e-mail at Kimberly.lynch@occ.treas.gov. Please include the OCC Control Number on any correspondence related to this filing.

Sincerely,

signed

Stephen A. Lybarger
Deputy Comptroller of Licensing

Enclosure: Survey Letter

AUHORIZED OPERATING and FINANCIAL SUBSIDIARIES:

- Cascade Holdings LLC - Holds OREO properties
- CPHCSUB, LLC - Holds OREO properties
- CREPD, LLC - Holds OREO properties
- DKG Audit Services, LLC - Verifies receivables securing asset-based loans
- FirstMerit Community Development Corporation - Holds CRA qualified investments
- FirstMerit Equipment Finance, Inc. - Equipment leasing company
- FirstMerit Mortgage Corporation - Mortgage lending company
- FirstMerit Mortgage Reinsurance Company, Inc. - Captive insurance company providing mortgage reinsurance
- FirstMerit Securities, Inc. - Currently holding viaticals - formerly a licensed broker-dealer, no longer licensed
- Midwest Funding LLC - REIT – Invests in real estate loans
- FirstMerit Insurance Group, Inc. - Life insurance agency
- Cumberland Trail Golf Course, LLC - Dormant - formerly held OREO property *
- FirstMerit Advisors, Inc. - Dormant - formerly an investment advisor*
- FirstMerit Financial Services, Inc. - Dormant - formerly a licensed broker-dealer, no longer licensed *
- FirstMerit Insurance Agency, Inc. - Dormant - formerly a life insurance agency*
- FirstMerit Moss Creek Ventures, LLC - Dormant - formerly held OREO properties *
- FirstMerit Title Agency, Ltd. - Dormant – formerly a title insurance broker*
- FMRC, Inc. - Dormant - formerly owned REMICs*
- FMSC, Inc. - Dormant – former activity unknown *
- Mobile Consultants, Inc. - Dormant – previously financed modular homes*

The activities performed by the above-listed operating subsidiaries are permissible activities for an operating subsidiary of a national bank. A national bank operating subsidiary is authorized to engage in the following activities: (i) hold OREO pursuant to 12 CFR 5.34(e)(5)(v)(A); (ii) verify receivables securing asset-based loans pursuant to 12 CFR 5.34(e)(5)(v)(B); (iii) hold qualified CRA investments pursuant to 12 USC 24(Eleventh) and 12 CFR 5.34(e)(1); (iv) engage in equipment leasing pursuant to 12 CFR 5.34(e)(5)(v)(M); (v) engage in mortgage lending pursuant to 12 CFR 5.34(e)(5)(v)(C) and (D); (vi) provide mortgage reinsurance through captive insurance agency pursuant to 12 CFR 5.34(e)(5)(v)(Q); (vii) hold viaticals pursuant to 12 CFR 5.34(e)(5)(v)(N); and (viii) invest in REIT which invests in real estate loans pursuant to 12 CFR 34.3 and 12 CFR 5.34(e)(5)(v)(C) and (D). The activities performed by the FirstMerit Insurance Group, Inc., a financial subsidiary, are permissible activities for a financial subsidiary of a national bank pursuant to 12 CFR 5.39.

*Huntington Bank may retain these dormant subsidiaries but may not engage in any activities in these subsidiaries unless it files an application or notice with the OCC, as appropriate, in accordance with 12 CFR 5.34 or 12 CFR 5.39.