



Office of the Comptroller of the Currency

Central District
425 S. Financial Place, Suite 2700
Chicago, IL 60605

Conditional Approval #1230
October 2019

September 17, 2019

James M. Kane, Esq.
Vedder Price P.C.
222 North LaSalle St.
Chicago, IL 60601

Re: Change in Asset Composition and Merger with Non-Bank Affiliate applications filed by South Central Bank, NA, Chicago, Illinois
OCC Control Nos.: 2019-CE-215a3-309947, 2019-CE-5.53-309948,
2019-CE-Subs&Equities-310402
OCC Charter No.: 24430

Dear Mr. Kane:

The Office of the Comptroller of the Currency (OCC) hereby conditionally approves the applications (Applications) of South Central Bank, National Association, Chicago, Illinois (Bank) to: change the composition of all or substantially all, its assets by sale; establish a wholly-owned operating subsidiary SCBNA, LLC and then merge the Bank with and into SCBNA, LLC; and make a liquidating dividend. This approval is granted after a thorough evaluation of the applications, other materials supplied by the Bank's representatives, and other information available to the OCC, including the representations and commitments made in the applications and during the application process by the Bank's representatives. The OCC reviewed these proposals under the criteria of 12 USC 215a-3, 12 CFR 5.33, 12 CFR 5.34, and 12 CFR 5.53(d)(3) and deemed them consistent with approval.

This approval is subject to the following conditions:

1. The merger of South Central Bank, National Association into SCBNA, LLC shall not occur until after consummation of the purchase and assumption transaction between South Central Bank, National Association and Verve, A Credit Union and termination of South Central Bank, National Association's Federal Deposit Insurance Corporation (FDIC) deposit insurance.
2. If the merger of South Central Bank, National Association with and into SCBNA, LLC does not occur within seven (7) calendar days after the termination of FDIC deposit insurance, South Central Bank, National Association shall immediately notify the OCC

James M. Kane, Esq.
Vedder Price P.C.

and submit a plan acceptable to the OCC to wind up its affairs and terminate its status as a national bank.

The conditions of this approval are conditions “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 conditions are enforceable under 12 USC 1818.

The Transactions

The Applications relate to a series of transactions pursuant to which the Bank proposes to terminate its national bank charter. The Bank will sell or transfer substantially all of its assets and liabilities, including all of its insured deposits, to Verve, A Credit Union, Oshkosh, Wisconsin (Buyer), in a purchase and assumption transaction,¹ will request the FDIC terminate the Bank’s deposit insurance and then merge the national bank with and into SCBNA, LLC, thereby terminating the Bank’s charter.

Discussion

A. Substantial Asset Change

The Bank applied to the OCC for prior approval of a substantial asset change under 12 CFR 5.53. Pursuant to section 5.53(d)(2), a national bank must obtain prior written approval of the OCC before engaging in a substantial asset change. In the purchase and assumption transaction with the Buyer, the Bank will sell or transfer all or substantially all of its assets and liabilities, including all of its deposits.

The principal purpose of adopting 12 CFR 5.53 was to address supervisory concerns raised by so called “dormant” bank charters by providing the OCC with regulatory oversight and a means to monitor them. Following consummation of the purchase and assumption transaction, the Bank would become a “dormant” charter. The Bank, however, plans to merge into SCBNA, LLC promptly after consummation of the purchase and assumption transaction and termination of FDIC deposit insurance. Thus, OCC concerns over the continuation of “dormant” charters are addressed, and so OCC approval of the section 5.53 application is consistent with the language and purpose of section 5.53.

B. Establish SCBNA, LLC as an Operating Subsidiary

The Bank intends to establish SCBNA, LLC, an Illinois limited liability company, to facilitate the merger. An entity may qualify as an operating subsidiary if the bank has the ability to control the management and operations of the subsidiary, the bank owns and controls more than 50 percent of the voting interest of the subsidiary, the operating subsidiary engages only in activities permissible for a national bank to engage in directly, and the subsidiary is

¹ 12 CFR 5.53. After consummation of the purchase and assumption, the Bank will notify the FDIC of the transfer of all its insured deposits to the Buyer and pursue termination of insurance pursuant to 12 USC 1818(p).

James M. Kane, Esq.
Vedder Price P.C.

consolidated with the bank under generally accepted accounting principles. 12 CFR 5.34(e)(1)-(2). SCBNA, LLC will meet these requirements.

C. Merger of South Central Bank, National Association with and into SCBNA, LLC

In this merger, the Bank will merge into SCBNA, LLC, which will be the surviving entity, and the Bank will cease to exist. The merger is authorized under 12 USC 215a-3. Section 215a-3 authorizes a national bank to merge with a nonbank subsidiary or affiliate: “Upon the approval of the Comptroller, a national bank may merge with one or more of its nonbank subsidiaries or affiliates.”² The statute does not limit its scope to mergers in which the national bank is the surviving entity, and so a merger into a nonbank affiliate is within its scope. The OCC’s implementing regulation, discussed below, expressly provides for mergers into a nonbank affiliate. However, the regulation limits these transactions to mergers involving a national bank that is not an insured bank. The Bank will not be an insured bank at the time of the merger.

The OCC’s regulations implementing 12 USC 215a-3 set out substantive and procedural requirements for the merger of an uninsured national bank with its nonbank affiliate in which the nonbank affiliate is the resulting entity.³ The regulation requires that the law of the state or other jurisdiction under which the nonbank affiliate is organized allow the nonbank affiliate to engage in such mergers. SCBNA, LLC is organized under the law of Illinois, which permits limited liability companies to merge with other organizations organized under the laws of another jurisdiction, with the SCBNA, LLC as the survivor.⁴

The OCC regulation also requires that: (1) the bank comply with the procedures of 12 USC 214a as if it were merging into a state bank; (2) the nonbank affiliate follow the procedures for mergers of the law of its state of organization; (3) shareholders of the national bank who dissent from the merger have the dissenters’ rights set out in 12 USC § 214a, and (4) the rights of dissenting shareholders and appraisal of the stock of dissenting shareholders in the nonbank affiliate shall be determined in the manner prescribed by the law of the state or other jurisdiction under which the nonbank affiliate was organized. The Bank is in the process of meeting applicable procedural requirements under section 214a and SCBNA, LLC is in the process of complying with the procedures for mergers by an Illinois limited liability company.

Consummation Guidance

The OCC will not issue a letter certifying the consummation of the merger into SCBNA, LLC and the termination of the charter until the following items are submitted to the satisfaction of the Senior Licensing Analyst named below:

1. Written confirmation that the Bank is no longer FDIC insured;

² 12 USC 215a-3(a), as added by section 1206 of the Financial Regulatory Relief and Economic Efficiency Act of 2000 (Title XII of the American Homeownership and Economic Opportunity Act of 2000), Pub. L. No. 106-569, 114 Stat. 2944, 3034 (December 27, 2000).

³ 12 CFR 5.33(g)(5).

⁴ 805 ILCS 180/ *et seq.*

James M. Kane, Esq.
Vedder Price P.C.

2. An executed Agreement and Plan of Merger by and among First Business Bancorp Co., South Central Bank, National Association and SCBNA, LLC;
3. An original Secretary's Certificate certifying the shareholders of the Bank approving the merger;
4. Certification that the Bank's charter certificate and all OCC Reports of Examination have been returned to the OCC or destroyed;
5. Copies of any other required regulatory approvals, and
6. A copy of the final Certificate of Merger filed with the Illinois Secretary of State.

This conditional 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.

If these transactions are not consummated within nine months from the approval date, the approval shall automatically terminate, unless the OCC grants an extension of the time period.

A separate letter is enclosed requesting your feedback on how we handled the referenced application. We would appreciate your response so we may improve our service. Please include the OCC control numbers on any correspondence related to this filing. If you have any questions, contact Senior Licensing Analyst Yoo Jin Na at (202) 649-6335 or yoojin.na@occ.treas.gov.

Sincerely,

signed

John A. O'Brien
Director for District Licensing