



CRA Decision #206
August 2021

July 8, 2021

Mr. Derek W. McGee
Fenimore Kay Harrison & Ford, LLP
812 San Antonio Street, Suite 600
Austin, Texas 78701

Re: Branch Application by Guaranty Bank & Trust, National Association,
Mt. Pleasant, Texas, Charter No. 25053
OCC Control No.: 2021-SO-Branch New-321044

Dear Mr. McGee:

The Office of the Comptroller of the Currency (OCC) hereby approves the application by Guaranty Bank & Trust, National Association, Mt. Pleasant, Texas (Bank) to establish a branch at 120 W 8th Street, Georgetown, TX 78626, to be known as the Georgetown branch. This approval is granted based on a thorough review of all information available, including representations and commitments made in the application and by the Bank's representatives. Based on our review, the OCC determined that approval to establish the branch is consistent with the relevant statutory factors set forth in 12 USC 36, applicable state law, and with the Community Reinvestment Act (CRA), as more fully discussed below. This letter also serves as authorization for the Bank to establish Branch Number **213421A** at the above noted address.

I. Community Reinvestment Act

The CRA requires the OCC to take into account a bank's performance record in helping to meet the credit needs of its communities, including low-and moderate-income (LMI) neighborhoods, when evaluating applications for the establishment of a domestic branch. 12 USC 2903(a). The OCC considered the Bank's most recent CRA performance evaluation (PE), information available to the OCC as a result of its supervisory responsibilities, and written public comments. Based on this review, the OCC has concluded that the Bank's record of performance under the CRA is consistent with approval of this application.

The OCC assigned the Bank an overall rating of "Satisfactory" in its most recent CRA PE, dated January 28, 2021 (2021 PE).¹ The major factors supporting this rating included: (i)

¹ The PE evaluated lending for the period from October 1, 2017, through December 31, 2019, and community development lending, services, and investments from February 17, 2018, through December 31, 2019. The OCC

lending activity that reflected good responsiveness to meeting the credit needs of the Bank's assessment areas (AAs); (ii) a good distribution of loans by borrower income level, given performance context; (iii) an excellent geographic distribution of loans, given performance context and considering the substantial majority of lending was inside the bank's AAs; (iv) the good level of community development (CD) loans that were responsive to community needs; (v) good level of qualified investments (vi) accessibility of the Bank's branches to essentially all geographies within the Bank's AAs and individuals of different income levels; and (vii) a good level of CD services responsive to community needs.

II. Summary of Public Comments

The OCC received and considered two comment letters from the same commenter regarding the proposed transaction. The commenter opposed the establishment of a branch at the Georgetown location. The commenter expressed concern that the Bank's activities in the Dallas-Fort Worth-Arlington, Texas Metropolitan Statistical Area (DFW MSA),² do not serve the needs of LMI and minority communities. The commenter placed particular emphasis on Southern Dallas and Fort Worth.³ According to the commenter, the Bank excluded portions of Southern Dallas from its AA, did not place branches in low-income and high minority census tracts in the DFW MSA, does not offer solutions for the unbanked or underbanked in the MSA, and engaged in unlawful redlining. Additionally, the commenter expressed concern with the level of the Bank's commercial and small business loan originations in low-income and high-minority census tracts in the DFW MSA. Moreover, citing Home Mortgage Disclosure Act (HMDA) data from 2018 and 2019, the commenter stated that the Bank made no HMDA-reportable mortgage loans to African Americans in Dallas⁴ and no loans in Southern Dallas.⁵ Finally, the commenter expressed concern with a lack of marketing to minority communities and the lack of Hispanic or African American commercial loan officers and executives in the DFW MSA.

evaluated the Bank's performance using the large bank performance tests. A copy of the PE is available at [CRA - Community Reinvestment Act \(CRA\) \(occ.gov\)](#). The Bank received a "High Satisfactory" on the lending, investment, and service tests.

² The DFW MSA is comprised of the Fort Worth-Arlington Texas Metropolitan Division (MD) (Fort Worth MD) and the Dallas-Plano-Irving MD (Dallas MD). The Dallas MD consists of seven counties and the Fort Worth MD consists of four counties. For purposes of the CRA, the Bank delineates two AAs in the DFW MSA, including portions of the Dallas MD (Dallas AA) and the Fort Worth MD (Fort Worth AA).

³ The commenter generally describes "Southern Dallas" as the City of Dallas and Dallas County, and more specifically, those areas south of Interstate 30. The commenter also highlighted specific "high minority" zip codes in Southern Dallas and Fort Worth. Southern Dallas is located within the Dallas MD.

⁴ We understand the commenter's reference to "Dallas" in this context to be referencing Dallas County.

⁵ The commenter also references a CRA PE, dated January 16, 2018, which predates the 2021 PE. The 2018 PE is available at <https://www.occ.gov/static/cra/craeval>. A review of the Bank's HMDA data from 2018 to 2019 indicates that the Bank received a relatively small number of applications in Dallas County, and only one application from an African American applicant. The Bank originated no mortgage loans to African American applicants in Dallas County in 2018 and 2019. The Bank received only three applications in 2018 and 2019 in the Southern Dallas zip codes the commenter identified as being high minority; none of these applications were from African Americans. The Bank originated two loans in this area during 2018 and 2019.

The commenter stated that the Bank was unwilling to discuss an actionable plan with the community earlier this year. The commenter further described the community needs in Southern Dallas and suggested that the Bank respond by entering into a Community Benefits Agreement⁶ or locating the proposed branch in a low-income census tract in Southern Dallas or Fort Worth.⁷

With respect to the Bank's HMDA-reportable lending to Hispanic and African American borrowers, the OCC notes that HMDA data alone are generally not adequate to provide a basis for concluding that an institution is engaged in lending discrimination, nor do they reflect the full range of an institution's lending activities and efforts. However, disparities in mortgage lending that are correlated with prohibited basis characteristics are of concern to the OCC, and the OCC monitors HMDA data reported by the institutions it regulates to determine those institutions that exhibit increased fair lending risk. The Bank is subject to the OCC's ongoing supervisory program to monitor fair lending risk and compliance with the Equal Credit Opportunity Act (ECOA), the Fair Housing Act, and their implementing regulations.⁸

In response to the commenter, the Bank indicated that it is committed to complying with all laws and regulations, including ECOA and the Fair Housing Act. The Bank noted that in addition to traditional branch services, it has invested in alternative delivery systems such as deposit-taking ATMs, remote deposit capture, direct deposit, mobile banking, online account opening, and online banking. The Bank provided a general overview of its CRA program in the DFW MSA and disputed many of the commenter's assertions.

Specifically, the Bank represented that full and equal access to the Bank's services has been, and continues to be, a priority since its entry into the DFW MSA in 1999. The Bank indicated that it has eight full-service branches and seven deposit-taking ATMs in the DFW MSA. The Bank represented that one of its branches is located in a low-income, majority-minority census tract and one proprietary ATM is located in a low-income census tract in the Dallas AA. The Bank further represented that the percentage of branch locations and ATMs in low-income census tracts in the Dallas AA exceeds the percentage of the population in low-income geographies. With respect to the Fort Worth AA, the Bank acknowledged that the sole Fort Worth branch location is in downtown in an upper-income census tract but asserted that the branch is easily accessible from surrounding LMI and majority-minority census tracts.

The Bank stated that the commenter's claims regarding commercial and small business lending in high minority and LMI communities are not consistent with the Bank's lending activities in

⁶ The CRA does not require applicants to submit a community benefits plan as part of the application. 12 USC 2901 *et seq.*

⁷ Please note that the proposed Georgetown branch is to be located in the Austin-Round Rock, Texas MSA, not in the DFW MSA.

⁸ 15 USC 1691 *et seq.*; 12 CFR Part 1002; 42 USC 3601 *et seq.*; 24 CFR Part 100.

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the DFW MSA, citing loan data for 2018 to 2020. Further, citing the 2021 PE, the Bank stated that the Bank's Dallas AA satisfies applicable CRA requirements.⁹

Finally, the Bank described its community investment and outreach activities in the Dallas and Fort Worth AAs and stated that it considers suggestions from organizations such as the commenter in connection with its CRA needs assessment. The Bank highlighted examples of its CRA and investment activities in the Dallas and Fort Worth AAs during its most recent CRA evaluation period, including its \$4.2 million in CD investments and its support for organizations such as the commenter. The Bank also referenced additional CD lending in the Dallas AA during its most recent CRA evaluation period totaling \$24.9 million and its participation in the Federal Home Loan Bank's Affordable Housing Program, which facilitated a \$300,000 grant in the Dallas AA for the construction of affordable housing.

III. Summary of Consideration of the Public Comment

The OCC has considered all the facts of record, including the Bank's record under the CRA, compliance with fair lending and other consumer protection laws, confidential supervisory material, information provided by the Bank, and the public comment on the proposed transaction. Based on this review, the OCC finds the facts to be consistent with approval.

IV. Consummation Requirements

If the branch is not opened within 18 months of approval, the approval automatically terminates unless the OCC grants an extension.

Within 10 days of opening the branch, the Bank must advise this office of the branch's opening date, so the OCC may complete its records. Please reference the OCC Control Number in your correspondence.

If a branch is closed, a 90-day advance notice of proposed branch closing must be submitted to the OCC pursuant to 12 USC 1831r-1. Following the expiration of the 90-day notification period, a final closing notice should be submitted to this office.

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.

⁹ 2021 CRA PE, at p. 10 ("The AA meets the requirement of the regulation and does not arbitrarily exclude LMI [census tracts].").

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If you have any questions, please contact Licensing Technician Phyllis Williams at phyllis.williams@occ.treas.gov or at (214) 720-7052.

Sincerely,

/s/

Karen Marcotte
Director for Licensing Activities