



**CRA Decision #195
November 2018**

October 18, 2018

Ms. Nance Rothgeb
Operations Staff
Bank of America, NA
411 Deertrail Drive
Hailey, Idaho 83333

Re: Branch Application by Bank of America, National Association,
Charlotte, North Carolina Charter No. 13044
CATS Control Number: 2018-LB-BranchNew-304770

Dear Ms. Rothgeb:

The Office of the Comptroller of the Currency (OCC) hereby approves the application by Bank of America, National Association (Bank) to establish a branch office at 8601 SW Beaverton Hillsdale Highway, Portland, Oregon, to be known as Raleigh Hills. This approval is granted based on a thorough review of all information available, including the 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 CFR 5.30, applicable state law, and with the Community Reinvestment Act (CRA), the National Historic Preservation Act, and the National Environmental Policy Act. This letter also serves as authorization for the Bank to establish Branch Number 208836A 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. Under the regulations implementing the CRA, a bank's record of performance may be the basis for denying or conditioning approval of an application for a branch establishment.

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 Bank's most recent CRA PE is dated December 31, 2011, and assigned the Bank an overall rating of "satisfactory."¹ The PE noted: (i) good lending performance demonstrated through good geographic and borrower income distributions; (ii) community development lending that had a positive or significantly positive impact on lending performance in some assessment areas, and a neutral impact in most assessment areas; (iii) investment activity reflecting excellent responsiveness to the credit needs throughout the assessment areas, which was often provided in a leadership role; (iv) provision of retail banking services through branch delivery and alternative delivery systems demonstrating excellent responsiveness to the banking needs of geographies and individuals of different income levels throughout the assessment areas. However, discriminatory or other illegal credit practices occurred during the rating period, and, as a result, the Bank's CRA PE rating was lowered from "outstanding" to "satisfactory".

II. Summary and Analysis of Public Comment

The OCC received and considered one comment letter regarding the application. The commenter requested that the OCC delay approval of the application until the Bank has met with the Governor of Hawaii to discuss an allegedly outstanding commitment to make \$150 million in residential mortgage loans to native Hawaiians for housing on Hawaiian home lands (Department of Hawaiian Home Lands (DHHL) program). The Bank's ultimate parent corporation (currently named Bank of America Corporation) made the commitment in connection with Bank of America, FSB's merger with Liberty Bank, Honolulu, Hawaii, in 1994.² The commenter asserts that Bank of America Corporation subsequently affirmed the commitment. Additionally, the commenter disputed the accuracy of certain statements that Bank of America, FSB, made in 1997 regarding its lending activity in Hawaii. Finally, the commenter disputed the validity of a 2007 letter from the Deputy to the Chairman of the State of Hawaii DHHL stating that Bank of America Corporation had fulfilled the commitment.

The OCC notes that the commenter raised substantially similar issues in connection with a 2012 application by the Bank, as well as a more recent application to establish a branch in Minnesota. The OCC's decisions on those applications noted that, regardless of whether the DHHL program was subject to one of the conditions OTS imposed as part of the 1994 approval,³ the condition is no longer in effect. Bank of America, FSB, was merged into an affiliate in 1995, at which time its charter ceased to exist and the conditions to which it was subject ceased to be in effect. While Bank of America Corporation may have subsequently continued to refer to the DHHL program as a commitment, the CRA does not require banks to enter into these agreements, and the OCC

¹ The OCC issued the CRA PE, which was based on an evaluation period of April 1, 2009, through December 31, 2011. The OCC evaluated the Bank's CRA performance using the large bank performance tests.

² The Office of Thrift Supervision (OTS) issued the decision approving Bank of America, FSB's merger with Liberty Bank. All functions of OTS with respect to Federal savings associations were transferred to the OCC as of July 21, 2011. *See* 12 USC 5411 and 5412(b)(2)(B)(i)(I).

³ *See* CRA Decision No. 154 (Nov. 18, 2012) and Letter from Stephen A. Lybarger, Deputy Comptroller for Licensing, to Ms. Kelly Shanahan (Aug. 16, 2018).

does not enforce them.⁴ The commenter has not submitted any information that would lead the OCC to adopt a different conclusion with respect to the current application.

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 upon this review, the OCC finds the facts to be consistent with approval.

IV. Consummation Requirements

If the branch is not opened within 18 months from the date of this 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 that the OCC may complete its records. Please reference the CATS Control Number in your letter. If the 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.

If you have any questions, contact David Reilly at (202) 649-6260 or by email at Largebanks@occ.treas.gov.

Sincerely,

/s/

Stephen A. Lybarger
Deputy Comptroller for Licensing

⁴ See Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Guidance, 81 Fed. Reg. 48,524, 48,548 (July 25, 2016) (§ _____.29(b)—2). Because the OCC does not enforce these types of commitments, for the purposes of this application, it is not necessary to investigate the accuracy of statements made involving lending activity related to the commitment or to determine the validity of the 2007 letter the commenter referenced.