



**CRA Decision #167
July 2015**

June 26, 2015

Amanda K. Allexon, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019-6150

RE: Application to merge Hudson Valley Bank, National Association, Yonkers, New York with and into Sterling National Bank, Montebello, New York
OCC Control No.: 2014-NE-Combination-140788 Charter No.: 25075

Dear Ms. Allexon:

The Office of the Comptroller of the Currency (OCC) hereby conditionally approves the merger of Hudson Valley Bank, National Association, Yonkers, New York (Hudson Valley), with and into Sterling National Bank, Montebello, New York (Bank or Sterling), under the title and charter of the Bank (Application). This conditional approval is 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

Hudson Valley is a wholly owned subsidiary of Hudson Valley Holding Corporation, Yonkers, New York (HVHC), a bank holding company incorporated in New York. Hudson Valley is a national bank with its main office in Yonkers, New York and operates 27 branches in New York.

The Bank is a wholly owned subsidiary of Sterling Bancorp, Montebello, New York (SBC), a bank holding company and a financial holding company incorporated under Delaware law. The Bank is a national bank with its main office in Montebello, New York and operates 32 branches in New York and one branch in New Jersey.

SBC submitted an application to the Federal Reserve Bank of New York to acquire HVHC through a merger transaction. Immediately following the consummation of the bank holding company merger, Hudson Valley will merge into the Bank. The Board of Governors of the Federal Reserve System approved the holding company transaction on June 15, 2015.

II. Bank Merger Act

The OCC reviewed the proposed merger transaction under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c), and applicable OCC regulations and policies.¹ Under the Bank Merger Act, the OCC generally may not approve a merger that would substantially lessen competition. 12 U.S.C. § 1828 (c)(5). 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 U.S.C. § 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 U.S.C. § 1828(c)(11). In addition, the OCC may not approve a merger if the resulting insured depository institution (including all insured depository institutions which are affiliates of the resulting depository institution), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States. 12 U.S.C. § 1828(c)(13). Furthermore, the OCC must consider the risk of the transaction to the stability of the United States banking or financial system. 12 U.S.C. § 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. OCC review under 12 U.S.C. § 215a included consideration of the provisions contained in 12 U.S.C. § 36(b)(2) for the request in the Application of the Bank to retain, following the merger, the main office and branches of Hudson Valley. That OCC consideration resulted in a finding that the request could be approved and would be consistent with approval of the Application.

III. 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. Under the regulations implementing the CRA, a bank's record of performance may be the basis for denying or conditioning approval of an application subject to the Bank Merger Act. 12 CFR 25.29(d). For the reasons described below, after a review of the banks' records, the public comments relating to the proposed transaction, information provided by Sterling in response to the public comments, and information provided by Sterling in response to additional information requests from the OCC and the Board of Governors of the Federal Reserve System (FRB), the OCC has concluded that the banks' records of helping to meet the needs of their communities support approval of this application with the condition discussed in Part IV.E. of this letter.

A. Sterling National Bank

Sterling's most recent CRA PE, dated January 21, 2014, assigned the bank an overall "Satisfactory" rating.² The major factors supporting the overall "Satisfactory" rating were: (i)

¹The transaction was also reviewed under 12 U.S.C. § 215a.

lending levels that reflected adequate responsiveness to assessment area (AA) credit needs; (ii) a substantial majority of the home mortgage loans and small loans to businesses and farms originated by Sterling over the evaluation period were within the bank's AA; (iii) Sterling's distribution of borrowers reflected, given the product lines offered by Sterling, adequate penetration among retail customers of different income levels and business customers of different sizes in the AA over the evaluation period; (iv) a relatively high level of community development lending originated during the evaluation period involving loans that have an affordable housing or other community development purpose; and (v) satisfactory lending test performance in New York State. Further, based on a full-scope review, Sterling's performance in the New York State Non-MSA portion of the AA was adequate.

B. Hudson Valley Bank, N.A.

Hudson Valley's most recent CRA PE, dated May 6, 2013, assigned the bank an overall "Satisfactory" rating.³ The major factors supporting this rating were: (i) a majority of Hudson Valley's home mortgage loans and small business loans were made within the bank's AAs, with no lending gaps identified; (ii) Hudson Valley's geographic distribution of home mortgage loans was good, and small loans to businesses by income level of the geography was adequate; (iii) Hudson Valley's distribution of home mortgage loans by borrower income level and borrower distribution of small loans to businesses were poor; (iv) positive consideration was given to the lending test based on the high level of community development loans made; (v) the level of qualified investments was significant and exhibited good responsiveness to community needs; and (vi) retail services were reasonably accessible and the level of community development services provided were adequate.

IV. Public Comments and Analysis

A commenter provided the OCC with two public comments addressing Sterling's and Hudson Valley's records of helping to meet the needs of their communities. The comment letters expressed concerns related to the banks' home mortgage lending practices. The commenter cited 2013 Home Mortgage Disclosure Act (HMDA) data as the basis for its contention that the banks are not meeting the credit needs of minority individuals in certain AAs. In addition, the commenter asserted that Sterling's CRA program is not robust enough to justify an acquisition. With regard to Sterling, the commenter asserted that, in the Nassau-Suffolk Metropolitan Division (Nassau-Suffolk MD), Sterling originated significantly more home purchase loans to white borrowers than to African American borrowers, and that Sterling did not originate any

² Sterling was evaluated for CRA purposes as a large bank for the period of January 1, 2011 through September 30, 2013 for home mortgages and small business loans reported under the lending test, and for the period of November 1, 2010 through January 20, 2014 for community development loans and for the investment and service tests. A copy of the CRA PE is available at: <http://www.occ.gov/static/cra/craeval/jun14/25075.pdf>.

³ Hudson Valley was evaluated for CRA purposes as a large bank for the period of January 1, 2010 through December 31, 2012 for home mortgage and small business loans reported under the lending test, and for the period of June 7, 2010 through May 6, 2013 for community development loans and for the investment and service tests. A copy of the CRA PE is available at: <http://www.occ.gov/static/cra/craeval/oct13/24790.pdf>.

home improvement loans to African American borrowers. In the New York-Wayne-White Plains MD (NY-NJ MD),⁴ the commenter asserted that despite receiving fifteen home refinance applications from African American applicants, Sterling did not report any denials, only withdrawals and incompletes. Further, the commenter expressed concern that Sterling's home mortgage lending to African Americans and Hispanics is substantially below that of its peers. With regard to Hudson Valley, the commenter asserted that, in the New York AA,⁵ the bank did not originate any home purchase loans or home refinance loans to African Americans or Hispanics.

The OCC has carefully considered the commenter's concerns as they relate to the statutory and regulatory factors considered by the OCC when reviewing an application under the Bank Merger Act. The commenter's concerns are addressed below.

A. CRA and Convenience and Needs

In evaluating the proposed transaction, the OCC considers the banks' CRA performance and the probable effects of the proposed transaction on the convenience and needs of the community to be served. Though interrelated, as explained in the Public Notice and Comments booklet of the Comptroller's Licensing Manual (Mar. 2007), consideration of a bank's CRA performance primarily looks to how the bank has performed in the past. A convenience and needs assessment considers how the merged entity will serve the needs of its community on a prospective basis. Consideration of these factors is discussed below.

a. CRA

The commenter expressed concern related to the adequacy of Sterling's CRA program. As previously discussed, the Bank Merger Act requires the OCC to consider the banks' records of performance in serving the needs of their communities when reviewing a proposed merger. Sterling asserted that the merger will not result in any changes to its current AA. As such, the OCC considered how the banks' recent CRA-related activities have served its community. With regard to Sterling's recent CRA performance, Sterling's CRA PE rated the bank an overall "Low Satisfactory" for the lending test. This rating was based on a full scope review of Sterling's AA.⁶ In the New York-Newark-Jersey City, Multistate Metropolitan Statistical Area

⁴ The commenter referred to this area as the New York City MSA (NYC MSA). In order to maintain consistency with the terms used in Sterling's CRA PE, this area is referred to as the NY-NJ MD.

⁵ The commenter referred to this area as the NYC MSA. In order to maintain consistency with the terms in Hudson Valley's CRA PE, this area is referred to as the New York AA.

⁶ Sterling's AA is comprised of the NY-NJ MD and the Nassau-Suffolk MD, which are part of the New York-Newark-Jersey City, NY-NJ-PA Multistate Metropolitan Statistical Area, the Poughkeepsie-Newburgh-Middletown MSA, the Kingston MSA, and the New York State Non-MSA. Sterling received a separate rating for the State of New York based on the New York State Non-MSA portion of its AA; however, this portion of the AA did not receive significant weight in the CRA PE ratings because it accounted for less than 2.1 percent of home mortgage loans and small business lending and has only two branches.

(NY-NJ-PA MMSA) and the State of New York, Sterling received an overall “Low Satisfactory” on the lending test.⁷ The lending test rating weighted Sterling’s home mortgage lending and small business lending equally. With regard to home mortgage lending, Sterling’s CRA PE stated that overall within the NY-NJ-PA MMSA, which included consideration of the Poughkeepsie-Newburgh-Middletown MSA (PNM MSA) and the Kingston MSA, the geographic distribution of loans was adequate considering the limited number of low- or moderate-income tracts within the AA. Further, the CRA PE stated that, in the NY-NJ-PA MMSA, the overall distribution of borrowers reflected adequate penetration among retail customers of different income levels. Similarly, within the NY-NJ-PA MMSA, the CRA PE states that the distribution of borrowers reflected adequate penetration among businesses of different sizes, and the geographic distribution of loans reflected adequate penetration of small business loans in the AA. However, there were segments of Sterling’s home mortgage lending within the NY-NJ-PA MMSA that reflected weaker performance. For example, Sterling’s CRA PE states that, in the NY-NJ MD, the geographic distribution of home improvement loans reflected poor distribution throughout the MD, particularly to low- and moderate-income geographies, and home refinance loans reflected poor distribution, when taking into account the difficulty that low- and moderate-income individuals have in refinancing a home in this MD. In addition, in the NY-NJ MD, the CRA PE states that Sterling’s distribution of home purchase loans, home refinance loans, and home improvement loans by income level of the borrower reflects poor penetration. Moreover, Sterling’s CRA PE noted that the bank’s lending test performance in the PNM MSA needs to improve.⁸ In making these assessments, the CRA PE indicates that the OCC considered demographic factors, including the high cost of housing compared to the median family income of a low-income borrower and the high percentage of individuals living below the poverty level.

Sterling’s CRA PE rated the bank overall “High Satisfactory” on the service test. For the NY-NJ-PA MMSA, Sterling’s CRA PE states that the distribution of Sterling’s branches was satisfactory, and that Sterling’s delivery systems were reasonably accessible to essentially all portions of the AA. Further, in the NY-NJ-PA MMSA, Sterling’s CRA PE states that the bank provided a relatively high level of community development services. For the State of New York, Sterling’s service test performance was weaker and was rated “Low Satisfactory”; however, because the bank only has two branches in the New York Non-MSA portion of its AA, this rating did not carry significant weight in the overall service test rating. The proposed transaction will result in Sterling acquiring 28 branches already located in its current AA. Of the branches

⁷ The State of New York rating was not heavily weighted in the CRA PE and, therefore, is not discussed in depth.

⁸ In the PNM MSA, the geographic distribution of home purchase loans, home improvement loans, and home refinance loans was very poor. Also, the distribution by borrower income level for home purchase loans and home improvement loans was good and for home refinance loans was poor. The commenter also expressed concerns with the Nassau-Suffolk MD; however, in the CRA PE, Sterling’s performance in this MD was based on only the first nine months of 2013. For that period, the bank did not originate any home mortgage loans to low- or moderate-income borrowers, and originated one out of a total of five home purchase loans in a moderate-income geography, and one out of a total of nine home refinance loans in a moderate-income geography.

being acquired, none are located in a low-income census tract and five are located in moderate-income census tracts.⁹

For the investment test, Sterling's CRA PE rated the bank an overall "Low Satisfactory." In the NY-NJ-PA MMSA, Sterling's CRA PE states that the bank had an adequate level of qualified community development investments and grants. Also, the CRA PE notes that, in the NY-NJ-PA MMSA, Sterling exhibited adequate responsiveness to credit and community development needs in the form of affordable housing.¹⁰ For the State of New York, Sterling's CRA PE rated the bank's investment test performance as "Needs to Improve."¹¹ To improve its investment test rating, Sterling represented that, in May 2014, it undertook an analysis of its overall investment program and compared it to publicly available information from similarly situated financial institutions. Following this analysis, Sterling represented that it adopted new investment and charitable giving goals.¹² Sterling further represented that it revisited and increased its investment commitment for 2015. Sterling also represented that it will revisit and adjust its CRA goals in connection with the proposed transaction.

b. Convenience and Needs

In addition to reviewing Sterling's past record of performance, as documented in its CRA PE, the OCC also assesses, "the probable effects of the business combination on the convenience and needs of the community served." 12 CFR 5.33(e)(1)(i)(C). The commenter noted that Sterling's application to the FRB indicated that, in connection with the OCC's recent evaluation of Sterling's CRA performance, it was recommended that the bank develop a "more robust CRA program." The commenter also asserted that Sterling's CRA Program "is nowhere near robust enough to justify another acquisition." This comment was largely based on the commenter's concerns, as discussed above.

In response to the commenter's concerns, Sterling represented that it believes that the resulting institution will be responsive to the needs of the communities it serves. Sterling stated that,

⁹ Sterling's CRA PE reflects that the bank had a total of 33 branches, with no branches in low-income geographies and four branches in moderate-income geographies.

¹⁰ Sterling's CRA PE states that during the investment period the bank invested: (i) \$6.1 million in four FNMA loan pools that were secured by multifamily and single family residential properties that provide affordable housing to low- and moderate-income individuals, (ii) \$10.4 million in four FNMA DUS bonds that financed multifamily residential properties that provide affordable housing to low- and moderate-income individuals, and (iii) \$750 thousand in a New York State Housing Finance Agency bond that financed a multifamily residential property that provides affordable housing to low- and moderate-income individuals. In addition, the CRA PE states that Sterling made donations totaling \$45 thousand to Gateway to Entrepreneurial Tomorrows, Inc., "a nonprofit organization that promotes economic development from the bottom up in the underserved urban and rural areas across the Mid-Hudson Valley region of New York State."

¹¹ Sterling's CRA PE states that the bank did not originate any community development investments or provide grant funding or donations in the New York State Non-MSA portion of the bank's AA.

¹² In its public submissions to the OCC, Sterling provided information regarding its first quarter 2014 results towards its goals. Sterling has not made its overall 2014 or 2015 goals public.

following its recent CRA performance evaluation, the bank undertook an analysis of its overall CRA Program. Sterling stated that in June 2014 it adopted a CRA Plan “which embodies the bank’s business initiatives and strategies and established goals for penetration and outreach in the bank’s AA.”¹³ In addition to developing a CRA Plan, Sterling represented that following its 2013 merger with Provident Bank, discussed below, it hired a new Chief Compliance and CRA Officer. Sterling represented this individual administers its CRA Plan, which is overseen by its CRA Oversight Committee. In addition, Sterling represented that its CRA Plan is monitored and evaluated quarterly, can be adjusted over time, and will be updated on an annual basis. Sterling indicated that it reviewed and adjusted its CRA goals when preparing the bank’s 2015 CRA Plan. Further, Sterling represented that it would revisit its CRA goals to determine if the goals need to be adjusted following consummation of the proposed transaction.

Sterling stated that, in addition to establishing goals, the CRA Plan includes a series of tactics and specific activities that focus on serving the bank’s AA. Examples of these activities include outreach events such as seminars on elder financial abuse, financial literacy, and for first-time homebuyers and homeownership counseling. Sterling also represented that it launched the “Sterling Women” program with a “commitment to lend to women-owned small businesses, while providing access to networking, education and capital.” Further, Sterling stated that it recently engaged in a direct mail campaign to help promote its lending products and services in low- and moderate-income census tracts.¹⁴ Sterling represented that it is tracking the response to these activities and the bank will adjust its CRA strategy, as necessary, based on the result of such efforts.¹⁵

In describing how it serves its AA, Sterling emphasized that it is primarily a business lender. The CRA PE notes that Sterling’s strategic focus throughout the evaluation period was to expand its CRA AA into the New York City markets¹⁶ and capture the owner-led lower middle-market business customers and small businesses. Sterling further represented that its strategic focus and plans with respect to the proposed transaction involve serving the small- to mid-sized commercial and business market in the New York metropolitan area. In serving this market,

¹³ Examples of Sterling’s 2014 CRA Performance Plan Program Objectives include: (i) balancing lending in the bank’s AA to meet the needs of all tracts in the area, specifically low- and moderate-income tracts; (ii) refocusing the investment strategy to include targeted AA investments and community development investments; and (iii) identifying new ‘innovative and creative’ CRA-related activities. Sterling has declined to make public any specific data related to these objectives and the goals established to meet the objectives.

¹⁴ According to information provided by Sterling, the direct mail solicitation related to the bank’s home improvement loan product and was targeted to homeowners in all low- and moderate-income census tracts in its AA. Sterling represented that this mailing was completed in December 2014, and that a similar mailing is planned for 2015.

¹⁵ Although Sterling represented that it is tracking the response to these activities, Sterling did not provide any public information regarding the results of these events and its impact on low- and moderate-income individuals.

¹⁶ As mentioned above, Sterling National Bank is the result of the former Provident Bank’s 2013 acquisition of a wholesale bank that did not provide retail loans. Prior to this 2013 acquisition, Provident Bank did not have a presence in the Nassau-Suffolk MD. Therefore, following the 2013 merger, the Bank had to expand the former Provident retail lending products into the Nassau-Suffolk MD.

Sterling represented that it offers small business credit products through the Small Business Administration's (SBA) 504 Loan Program¹⁷ and 7(a) Loan Program,¹⁸ and plans to continue offering such products following consummation of the proposed transaction. Furthermore, Sterling represented that it participated in several events hosted by such entities as the New York State Small Business Development Centers, the SBA, and the Women's Enterprise Development Center. Sterling stated that some of these events targeted women-led or women-owned businesses and Hispanic-led or Hispanic-owned businesses. However, Sterling noted that as a participant it did not control the target audience. In addition to its participation in such events, Sterling represented that it has sponsored and hosted twelve programs for women-led and women-owned businesses in its AA since mid-2014. In response to the commenter's concerns, Sterling represented also that in 2012 and 2013, 36 percent of its business loans were to businesses with revenues of \$1 million or less in the NYC MSA.¹⁹ In addition, Sterling further represented that in 2013 and 2014 it originated 227 small business loans totaling approximately \$41.7 million. Of the small business loans originated in 2014, Sterling represented that 22 percent were to businesses located in a low- or moderate-income census tract.

Further, Sterling represented that, in order to expand its public finance portfolio, in 2015 it acquired staff from Green Campus Partners, LLC.²⁰ Sterling stated that the new team acquired from Green Campus Partners will focus on direct lending to government, not-for-profit healthcare, and higher education institutions. In addition, Sterling stated that the new team brings expertise that will help the bank develop expanded relationships with municipal and government clients.

In terms of expanded services and product offerings that will result from the proposed transaction, Sterling represented that its specialty finance products will be available to Hudson Valley's customers and existing Sterling customers will have access to additional deposit products. In addition, Sterling's CRA PE noted that the bank offers unsecured loans in amounts ranging from \$1,000 to \$3,000 with terms of up to 36 months to applicants with 80 percent or less of median family income.²¹

¹⁷ The SBA 504 Loan Program provides financing for major fixed assets such as equipment or real estate. Additional information related to the 504 Loan Program can be found at: <https://www.sba.gov/category/navigation-structure/loans-grants/small-business-loans/sba-loan-programs/real-estate-and-eq>.

¹⁸ The SBA 7(a) Loan Program is the SBA's most common loan program and loan proceeds can be used to finance a large variety of business purpose. Additional information related to the program can be found at: <https://www.sba.gov/7a-loan-program>.

¹⁹ See *supra* note 3.

²⁰ According to the Green Campus Partners, LLC website, "[Green Campus Partners] is a direct lender to governmental units, not-for-profit healthcare and higher educational institutions throughout the United States."

²¹ The CRA PE indicates that during the evaluation period the bank originated 23 affordable unsecured loans totaling \$48,000.

To ensure that its community is aware of the products and services offered by the bank, Sterling represented that, in 2014, it conducted a number of outreach meetings throughout its AA. As discussed above, these meetings targeted different groups and topics, including homeownership, first-time homebuying, elder financial abuse, and financial literacy, including for children. Sterling represented that it plans to expand its outreach efforts in 2015 and has conducted three such seminars on homeownership as of April of this year.

In addition to its outreach efforts, Sterling represented that it has engaged in community development lending and investments both inside and outside its AA. Specifically, Sterling represented that, in 2014, it had a total of \$77.4 million in community development lending in its AA and an additional \$5.3 million outside its AA.²² This represents an increase in community development lending as compared with the volume of community development lending reflected in Sterling's CRA PE. Sterling further represented that its community development lending supported the construction or maintenance of affordable housing units throughout its AA. In addition to community development lending, Sterling represented that, in 2014, it had a total of \$22.9 million in new community development investments, which indicates an upward trend in qualified investments since the end of the prior evaluation period. Sterling stated that its investments included approximately ten Fannie Mae mortgage pools that targeted affordable housing in its AA. Further, Sterling stated that it made \$274,750 in charitable donations to organizations.²³ Sterling represented that some of its community development investments are made through the Sterling National Bank Charitable Foundation, which is a not-for-profit organization established by Sterling with the mission of contributing to community organizations in order to enhance the quality of life within the greater New York City area and New Jersey. Sterling represented also that it plans to maintain its current relationships with community groups, government programs, and other local organizations and endeavors to continuously expand its efforts to engage all communities in its AA.

In addressing the commenter's home mortgage lending concerns, Sterling asserted, as mentioned above, that it is primarily a business lender. To this end, Sterling represented that it does not have a large mortgage loan operation. Nonetheless, the bank offers home mortgage products and the commenter's primary concerns centered on Sterling's home mortgage lending practices. In describing its home mortgage lending business, Sterling represented that mortgage lending accounted for 11 percent of the bank's overall lending in 2014. Further, Sterling stated that, to the extent that it engages in the home mortgage lending business, loan penetration in the New York City and Long Island, New York areas is challenging due to competition in the markets. Sterling further represented that it offers several lending products that may benefit low- and moderate-income individuals and minority individuals, including Federal Housing Agency, Veterans Administration, and Fannie Mae loan products. Moreover, Sterling represented that it participates in the Federal Home Loan Bank of New York's First Time Homebuyers Program,

²² Sterling did not indicate the location of its lending outside of its AA.

²³ Sterling represented that some of the charitable organization supported by its activities include, Neighborhood Housing of NYC, the Leviticus Group, Democracy Prep Charter School in New York City, Summer Search, Family Service Society of Yonkers, ARC's Work Readiness Program, and Home Funders Program.

which benefits low- and moderate-income individuals by providing counseling, down payment, and closing assistance.²⁴ To increase awareness of its home mortgage products, Sterling represented that it conducted a direct mail campaign in 2014 targeted to the bank's low- and moderate-income census tracts, and is considering conducting additional direct mail campaigns going forward. However, Sterling represented that it conducts very limited direct or print marketing and it focuses its marketing activities on its principal business of business lending.

Information provided by Sterling indicates that its home mortgage lending declined from 2013 to 2014. Sterling represented that it originated 1,405 home mortgage loans totaling \$499 million in 2013, and it originated 762 home mortgage loans totaling approximately \$305 million in 2014. Sterling stated that the majority of its home mortgage lending is typically home refinance lending and is influenced by factors such as increases in interest rates.²⁵ Further, Sterling represented that it made a business decision to focus on mortgages that can be resold in the secondary market. The combined institution will not have a significantly different profile than Sterling's current profile.²⁶

Sterling further represented that it believes that it serves the credit needs of its current AA, and that the proposed transaction will not result in changes to the AA served by the bank. In addition to the loan products discussed above, Sterling represented that it serves the credit needs of its community through a partnership with Neighborhood Housing of NYC, which provides a variety of services related to homeownership to the Bedford-Stuyvesant, East Flatbush, North Bronx, Northern Queens, and South Bronx neighborhoods. In addition, Sterling represented that it has partnered with the Leviticus Group, which provides funding for the development and preservation of affordable housing in areas relevant to the bank, including Westchester, Orange, Dutchess, and Suffolk counties. Sterling further represented that it anticipates incorporating many of Hudson Valley's partnerships with community development organizations and government entities upon consummation of the proposed transaction.

Sterling's development of a CRA Plan subsequent to the most recent CRA PE, and recent increases in community development lending and investments along with its statements that it plans to increase its marketing and outreach activities following consummation of the proposed transaction indicate that it is taking some steps to meet the needs of low- and moderate-income individuals and communities and minority individuals and communities. However, Sterling's efforts are still in the early stages and it has not adequately demonstrated how its efforts will serve the convenience and needs of its community, particularly the home mortgage lending,

²⁴ Although Sterling offers such products and participates in these programs, Sterling did not provide information on the nature of its participation nor did it describe the impact that its participation or these products has had in serving the credit needs of low- and moderate-income individuals and geographies and minorities within its AA.

²⁵ Based on the data provided by Sterling, it originated 692 conventional home purchase loans, 65 government home purchase loans, 533 home refinance loans, and 115 home improvement loans in 2013. In addition, Sterling provided information that indicates that it originated 615 home purchase loans, 21 government home purchase loans, 95 home refinance loans, and 31 home improvement loans in 2014.

²⁶ Sterling represented, and OCC review indicates, that Hudson Valley also does not have a substantial home mortgage program.

small business lending, and community development lending needs of low- and moderate-income individuals and geographies, minority individuals and geographies.

B. Fair Lending

The commenter expressed concerns regarding Sterling's and Hudson Valley's levels of lending to African American borrowers and Hispanic borrowers. The commenter stated that, based on an analysis of 2013 HMDA data, "[t]his would be a combination of banks with disparate and in places highly irregular Home Mortgage Disclosure Act ("HMDA") data." The commenter expressed specific concerns with the level of lending, or lack thereof, to African American and Hispanic borrowers as compared to white borrowers.

Pursuant to 12 CFR 25.28(c), the results of the OCC's evaluation of a bank's CRA performance may be adversely affected by evidence of discriminatory or other illegal credit practices. The OCC may lower the overall rating of an institution based on findings of discriminatory or other illegal credit practices in any geography by the bank, or in any AA by any affiliate whose loans are considered as part of the bank's lending performance. Sterling's CRA PE, dated January 21, 2014, noted that the OCC had not identified evidence of discriminatory or other illegal credit practices during the evaluation period. Similarly, Hudson Valley's CRA PE, dated May 6, 2013, also stated that the OCC found no evidence of discriminatory or other illegal credit practices inconsistent with helping to meet community credit needs.

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 Sterling's and Hudson Valley's 2013 HMDA data for the two geographic regions referenced by the commenter, the Nassau-Suffolk MD and NY-NJ MD.²⁷ The OCC's review of Sterling's 2013 HMDA data generally revealed lending data similar to that cited by the commenter. The OCC's review took into account HMDA data reported by other lenders in the specified MDs and other relevant factors, such as the 2013 merger between Provident Bank and Legacy Sterling National Bank (Legacy Sterling), which changed the CRA evaluation standards because prior to the merger Legacy Sterling had been designated as a wholesale bank.²⁸ Legacy Sterling was not in the business of extending

²⁷ With regard to Hudson Valley, the overall low level of lending and the small sample sizes for each racial and ethnic group of borrowers substantially limited the ability of the OCC to perform reliable statistical analysis of potential lending disparities.

²⁸ The OCC's CRA regulations state, "[w]holesale bank means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with §25.25(b)." 12 CFR 25.12(x). In addition, the regulations specify that, "[i]n order to receive a designation as a wholesale or limited purpose bank, a bank shall file a request, in writing, with the OCC, at least three months prior to the proposed effective date of the designation. If the OCC

home mortgage loans or small business loans to retail customers and, as such, was not evaluated for CRA purposes based on retail lending. In contrast, Provident Bank, the acquiring institution, was in the business of extending home mortgage loans and small business loans to retail customers. Provident Bank's last CRA PE indicates that the NY-NJ MD was part of the bank's AA; however, the Nassau-Suffolk MD was not part of the bank's AA. Accounting for this information, the OCC's review indicates that Sterling was statistically more likely to produce lower volumes of home mortgage loan applications and originations from all groups of borrowers as compared to peers. With regard to Hudson Valley, OCC's review generally revealed lending data similar to that cited by the commenter; however, any statistical analysis was limited by the low number of mortgage applications Hudson Valley received. After accounting for the additional information noted above, and other information available to the OCC as part of its regulatory responsibilities, the OCC's review has not resulted in findings that would be inconsistent with conditional approval of this application.

Sterling responded to the commenter's concerns by representing that it believes it serves the credit needs of its current AA. Sterling stated that each application denied by the bank undergoes a second review prior to denial. Sterling represented that common reasons for denials are lack of sufficient collateral, high debt-to-income ratios, and poor credit history. Sterling further represented that the bank's fair lending review did not identify material disparities in the reasons for the bank's denials. Moreover, Sterling provided nondiscriminatory reasons for each of the bank's denials.

Sterling represented that the bank's commitment to the fair treatment of all of its customers and potential customers is an integral part of the bank's overall compliance risk management program. In explaining its compliance risk management program, Sterling represented that the Board of Directors Enterprise Risk Management Committee annually approves its Fair Lending Program, which Internal Audit reviews annually. Sterling also stated that its Fair Lending Program is reported annually to the Audit Committee. Sterling further represented that its Compliance Risk Management Department assesses fair lending compliance quarterly through an established monitoring and testing regime, and oversees resulting remediation activity to ensure all findings are effectively mitigated.²⁹ Specifically, Sterling represented that the Compliance Risk Management Department conducts a statistical analysis to detect practices that could result in disparate treatment or pricing discrimination involving loan applicants. Sterling further represented that the Compliance Risk Management Department's reviews include comparative file reviews, denial rate monitoring, and pricing exception analysis. Sterling stated that it reports any findings from these reviews on a quarterly basis to the business unit, the Management Enterprise Risk Committee, as well as the Board of Directors Enterprise Risk and Audit Committees.

approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the OCC notifies the bank that the OCC has revoked the designation on its own initiative." 12 CFR 25.25(b).

²⁹ Sterling represented that possible remediation may include employee counseling or additional training by management, warnings, and restrictions imposed by management.

With regard to fair lending training, Sterling represented that it currently employs five full-time employees responsible for facilitating the bank's fair lending training programs. Sterling also represented that all of its employees involved in the origination, processing, underwriting, and credit decision process for mortgage loans are required to undergo fair lending compliance training. Further, Sterling represented that its training program addresses compliance with fair lending and other consumer compliance laws, as well as how to spot and prevent abusive or predatory lending. Sterling stated that it requires employees to complete fair lending training within 60 days of starting a position in the areas noted above. Thereafter, Sterling stated that employees complete fair lending training annually. When there is reason to believe that an employee does not understand its fair lending policies, Sterling represented that the employee's supervisor will provide additional training and counseling to the employee. In addition, Sterling represented that following consummation of the proposed transaction Hudson Valley's employees will be provided training relevant to their position on a rolling basis, and that Sterling's formal annual training program will commence in July 2015.

In addition to Sterling's Fair Lending Program and fair lending training, Sterling represented that it has implemented a second review process for denied applications or counter-offers in order to minimize any fair lending risk associated with the application. Sterling represented that the second application review is conducted by the Residential Mortgage Division. Specifically, Sterling represented that all mortgage applications are reviewed by a senior underwriter reviewing the application to determine if the borrowers are qualified for the loan requested, if, after the review, they are declined or presented with a counter-offer, then two senior managers also must review the application independently.

C. Request for an Extension of the Comment Period

The commenter requested that the OCC extend the comment period and deny the application. The standard that the OCC applies to determine whether to extend a public comment period is set forth in 12 CFR 5.10(b)(2), which provides:

The OCC may extend the comment period if: (i) The applicant fails to file all required publically available information on a timely basis to permit review by interested persons or makes a request for confidential treatment not granted by the OCC that delays the public availability of that information; (ii) Any person requesting an extension of time satisfactorily demonstrates to the OCC that additional time is necessary to develop factual information that the OCC determines is necessary to consider the application; or (iii) The OCC determines that other extenuating circumstances exist.

After careful consideration, the OCC determined not to extend the public comment period.³⁰ None of the reasons set forth in 12 CFR 5.10(b)(2) as justification for extending the comment period were evident in connection with this application.

D. Request for Public Hearings

³⁰ It is the OCC's practice to accept public comments after the close of the comment period.

The commenter requested that the OCC hold a public hearing on the application. The standard that the OCC applies to determine whether to grant or deny a hearing request is set forth in 12 CFR 5.11(b), which provides:

The OCC generally grants a hearing request only if the OCC determines that written submissions would be insufficient or that a hearing would otherwise benefit the decision making process. The OCC also may order a hearing if it concludes that a hearing would be in the public interest.

After careful consideration, the OCC has determined not to hold a public hearing. The OCC has thoroughly reviewed all of the written comments submitted. The OCC is not aware of any reason why the written comments submitted would be insufficient or why a public hearing would be in the public interest.

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. The OCC applies the convenience and needs standard, discussed above, when considering the banks' performance in helping to meet the credit needs of their communities. As mentioned above, the convenience and needs standard is distinguished from the CRA requirements in that the convenience and needs analysis is prospective.

Sterling's CRA PE identified areas of strength for the bank, such as its community development lending and service test performance. However, the CRA PE and the public comments on the pending application also identified areas of concern, particularly with regard to Sterling's provision of products and services to low- and moderate-income individuals and geographies and minority-individuals in the NY-NJ MD, Nassau-Suffolk MD, and the PNM MSA. Sterling represented that it has undertaken efforts to improve its CRA program, with the goal of enhancing its CRA performance going forward. Further, Sterling represented that it has increased its community development activities following issuance of the CRA PE. Nonetheless, the record indicates that Sterling's efforts are still in the early stages of implementation and no combined CRA plan exists regarding how the resulting institution would serve the credit needs of its community, in particular the credit needs of low- and moderate-income individuals and geographies and minority individuals and geographies.

Accordingly, based upon our review of the application, the public comments and Sterling's response to those comments, the bank's response to the OCC's additional information requests 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:

Sterling shall submit a CRA Plan³¹ for the combined entity to the OCC for review and written determination of no supervisory objection within 90 days from the consummation of this transaction. Sterling's CRA Plan must comply with the following:

- The CRA Plan must contain a complete description of the actions that are necessary and appropriate to ensure that on a prospective basis the bank is meeting the needs of its AA, in particular the needs of the NY-NJ MD, the Nassau-Suffolk MD, and the PNM MSA, including but not limited to:
 - Small business lending in low- and moderate-income geographies.
 - Small business lending to businesses with revenues of \$1 million or less.
 - Community development investment and community development lending.
- The CRA Plan must include a description of how Sterling plans to offer, market and originate its home mortgage products to individuals in its AA to ensure that any such products that Sterling offers are reasonably available to low- and moderate-income individuals, in low- and moderate-income geographies, and in a fair and nondiscriminatory manner.
- In developing the CRA Plan, Sterling shall informally seek input from members of the public in its AA impacted by the CRA Plan.
- The CRA Plan must contain measurable annual goals and timetables for the achievement of those goals, for helping to meet the credit needs of Sterling's AA, including the credit needs of low- and moderate-income individuals and geographies within the AA.
- Sterling's CRA Plan shall specify which Board committees are responsible for overseeing the bank's actions toward fully meeting the goals and timetables outlined in the CRA Plan. In addition, the CRA Plan shall specify the frequency of Sterling's written progress reports to those Board committees.
- The CRA Plan will specify the frequency of progress reports to the OCC indicating the results of the bank's efforts to implement the CRA Plan, which shall occur no less than annually.

³¹ The OCC is not requiring Sterling to develop a CRA Strategic Plan, as described in 12 CFR 25.27. Sterling may, however, choose to create such a plan. Unless Sterling chooses to create such a CRA Strategic Plan, the bank will continue to be evaluated under the lending, investment, and service tests.

- Sterling’s CRA Plan shall be effective upon written determination of no supervisory objection by the OCC. Sterling shall make the CRA Plan available to the public within 30 days of the OCC’s non-objection, such as by posting the CRA Plan on its public Web site.
- Sterling shall submit to the OCC, and make available to the public, such as by posting on its public website, a CRA Plan summary report that demonstrates the measurable results of the CRA Plan at least one month prior to the commencement of the CRA performance evaluation.

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

The OCC will factor Sterling's measurable progress implementing the strategies and meeting the goals set forth in the CRA Plan into future CRA performance evaluations and ratings as determined by the SO.

V. Consummation Requirements

The OCC will issue a letter certifying consummation of the transaction when it receives:

- A Secretary’s Certificate for each institution, certifying that the required board approvals have been obtained.
- Documentation that all other conditions that the OCC imposed have been met.
- Confirmation that all other required regulatory approvals, non-objections, or waivers have been received.

The Northeastern District Office must be advised in writing in advance of the desired effective date for the merger, so it may issue the necessary certification letter. If the merger is not consummated within one year from the date of this letter, the approval shall automatically terminate, unless the OCC grants a written extension of the time period.

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.

Sterling National Bank, Montebello, NY
OCC Control No.: 2014-NE-Combination-140788

A separate letter is enclosed requesting the Bank's feedback on how the OCC handled the Application. If you have any questions, please contact Sandya Reddy, Senior Licensing Analyst, at (212) 790-4049 or by email at sandya.reddy@occ.treas.gov. Please include the OCC Control Number on any correspondence related to this filing.

Sincerely,

Beverly Evans

for

Stephen Lybarger
Deputy Comptroller for Licensing

Enclosure: Survey Letter