Reinvestment
PARTNERS
PEOPLE • PLACES • POLICY

October 17th, 2016

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Nadine Wallman
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RE: Application Filed by F.N.B. Corporation, Pittsburgh, Pennsylvania, to acquire Yadkin Financial Corporation and thereby acquire Yadkin Bank, Statesville, North Carolina.

Dear Director Cummings and Vice President Wallman:

Reinvestment Partners is a non-profit group with a mission to seek economic justice. We achieve this goal using an interdisciplinary approach working with "people, places, and policy". We provide direct service to consumers, either to protect them from financial harm or to advance their standing. We are improving our neighborhood through community economic development. In our policy work, we support the needs of lower-income consumers and communities of color through systematic reforms to the financial system. We understand that FNB Corporation intends to buy Yadkin Bank. We are familiar with Yadkin. They have been a strong partner to the community. Yadkin demonstrates a willingness to make impactful community development loans and grants. They are active in providing mortgages across the entire community.

Without our prompting, FNB has reached out to our agency. Their initial entreaties seem to reflect good intentions. Accordingly, we are cautiously optimistic that they will match the impactful practices of Yadkin Bank. Nonetheless, we see some evidence of past practices that give us reason to be concerned.

We feel that it is important that approval of this acquisition be contingent upon the development of a plan that will insure it leads to meaningful benefit to North Carolina.

We want a CRA action plan that is meaningful, measurable and transparent. Those metrics should be defined by community benefit. The goals for community benefit should be expressed both quantitatively and qualitatively. A part of that plan includes regular dialogue with the community. The plan must be re-evaluated on an ongoing basis.

Concerns: FNB

**Overdraft:**

In our opinion, FNB has been aggressive about the use of overdraft as a means of revenue generation. In 2013, FNB settled a class action lawsuit for $3 million. The judge found that FNB reordered debit and credit card transactions from highest to lowest amount to increase the likelihood that customers would overdraw their accounts and trigger overdraft fees. According to the judge, FNB's practices violated state unfair trade practices laws and resulted in unjust enrichment[1].

In 2015, 62 percent of transaction account revenues were derived from overdraft. FNB's customers paid $27.1 million in fees[2]. This sum does not include extended overdraft fees. Those numbers are excluded from the FFIEC's data because they are considered to be interest income. The pace of overdraft revenues has accelerated in 2016. Of the 594 institutions that reported data on overdraft to the FFIEC, FNB ranked in the top quarter in terms of the share of transaction account revenue derived from overdraft fees. In our opinion, this practice is unfair because it forces lower wealth customers to bear the cost of checking account services.

Indeed, the overdraft practices at both of these institutions merit more investigation. The share of transaction account revenues from overdraft at Yadkin is also very high – 64.7 percent in 2015[3].

Notably, FNB has not changed how it processes checks. Although we cannot verify it, our understanding is that FNB still records debits that are not time-stamped in order of their face amount. We sought to verify this information, but FNB does not publish the terms and conditions of its checking accounts on its checking account page. One proviso – it may be the case that a consumer can receive the terms and conditions after applying for an account. We did not take that step. We think that this is itself of concern.

FNB does have a stand-alone overdraft page[4] where it gives the terms for its standard overdraft plan. But even on that page, there is no discussion of how debits and credits are sequenced. We do know that FNB charges $37 for each overdraft and an additional $12 when an account remains overdraft from three consecutive days. Additionally, the bank will apply up to 10 overdraft item fees per day. This policy is the highest number we have ever found. We have reviewed the policies of over fifty banks – FNB's daily overdraft maximum is the highest we have encountered.

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[1] Ord et al. v. FNB Corp. et al., Case No. 12-cv-00766, U.S. District Court for the Western District of Pennsylvania.

[2] FFIEC, Overdraft Data.

[3] Ibid.

[4] https://www.fnb-online.com/stand-alone-pages/overdraft/overdraftoptions

We ask the bank to develop an overdraft-free account and an overdraft-free second chance checking account. We would like OCC and the Federal Reserve to inquire on the rate that new account applicants choose to sign up for overdraft. Given the high share of transaction account revenue coming from overdraft, we there it warrants more review. If the rate of sign-up is significantly higher as a percentage of new account applicants than is common at other banks, we think the issue should be addressed as a condition for approval of the merger. FNB continues to use high-to-low sequencing and makes it difficult for consumers to discover that information on its web site.

**Lending to LMI and Minority Borrowers**
When home improvement loans are removed from the analysis, we see large discrepancies in denial rates for underserved borrowers.

It is also the case the bank does a poor job of making loans to minority borrows. Only 1.25 and 1.04 percent of loans made by FNB in 2015 were originated to African-American and Latino borrowers, respectively. Of that sum, only 40 of FNB's 3,233 home purchase and 38 of its 3,303 refinance loans made to an African-American applicant.

Approximately 1/4$^{th}$ of FNB loan originations were made to low-or-moderate income (<80 percent of area median income) applicants. Over half of FNB's home purchase loans were made to borrowers with incomes of more than 120 percent of area median income.

We suspect that part of this record may stem from FNB's relatively rare use of an FHA product. FHA loans can be an effective tool to help low-wealth households who have good credit to buy a home. FHA is only one way to accomplish this, but given its lower down-payment requirements, it is a good solution. Alternatively, FNB could develop a portfolio product.

While FNB received a high satisfactory for lending in its most recent CRA exam (2015), we see some reasons for concern. For one, only 2.7 percent of loans (absent home improvement) were made in areas where the median household income was less than 61 percent of area median income. Only 34 percent were made in less than median income census tracts.

Over 18 percent of FNB's loan originations in 2015 were for home improvement projects. By contrast, only about 1.1 percent of loans originated by Yadkin were for home improvement. Generally it is good when institutions provide capital that would otherwise not be available to consumers. We would like to understand how FNB plans to merge these divergent business practices.

**Regency Finance:**
FNB owns Regency Finance, a non-bank lender that offers personal loans as well as secured loans. Typically, the rates are approximately 24 percent and are paid back in installments over a period of one to five years. Regency serves consumers with subprime credit. Our only concern is that the company will offer high-cost credit insurance products that ultimately elevate the cost of borrowing above our state's usury cap.

Yadkin Bank

We are concerned that the acquisition of one of our home-grown community banks by a large financial institution from outside of North Carolina, that our state will lose a valuable resource for its ongoing economic development.

As discussed in its 2015 CRA performance evaluation, "Yadkin Bank partners with corporations, non-profit organizations, and local governmental agencies to promote economic development, stabilization and revitalization of low-, moderate-, and middle-income distressed and underserved geographies, and community development services to low- and moderate-income individuals within its assessment areas.[5]"

An important detail to draw from this statement is that Yadkin engages directly with these groups, not through an intermediary syndicator. Yadkin's work has been a net positive. Some lenders are content to contribute to an overall pool of loans and to buy mortgage-backed securities. Yadkin puts more effort to this work, in our opinion.

**Community Development**

Yadkin's community development activities illustrate why CRA is important. Tonight, some homeless families are sleeping in shelters, more low-income people have affordable housing, and some poor households are getting health care in Yadkin's assessment areas. This underscores how a committed bank can make a real difference in the quality of the lives of the people in the areas where that institution holds deposits. It can make a concrete difference.

Consider this list of loans that appeared in Yadkin Bank's 2012 performance evaluation[3]:

- Refinanced $1.5 million in debt held by a local housing authority. The loan was used for two apartment complexes which together house 40 low-income households.
- Originated a loan for $559,500 to finance the purchase and rehabilitation of a 14-unit apartment complex. Most of the occupants are considered low-or-moderate income and many were subsidized through the HUD Section 8 Housing Choice Voucher Program.
- A small loan to finance the construction of a new affordable housing unit.
- Renewed a $300,000 loan to a non-profit affordable housing developer which was used to finance construction of a new 15-unit affordable housing community in a moderate-income neighborhood.
- Originated a $100,000 line of credit to a non-profit medical center that provides free or low cost health care of LMI individuals.
- Originated an unsecured $70,000 loan to a non-profit affordable housing developer.
- Originated three other loans worth a combined sum of $294,000 to finance the construction of scattered-site affordable home ownership opportunities.
- Renewed a $1 million loan to a non-profit emergency housing shelter.
- Originated a $600,000 loan to a non-profit for the purpose of buying a distressed property and then rehabilitating it into a health care clinic for LMI households.
- Originated four loans worth approximately $400,000 to a housing authority. With this financing, the housing authority purchased and renovated six homes which then became affordable rental housing.

[5] FDIC, 2015 CRA PE for Yadkin Bank.

- Originated $100,000 to a local non-profit that provides after-school services to children from LMI households.

This bank also made a variety of loans to SBICs. It originated an additional nine loans with a combined value of $2.27 million that had "community development characteristics." To be clear, these were not the characteristic of a mortgage- backed security, but instead were uniquely underwritten loans for local projects that might not have otherwise occurred were it not for the bank's efforts to meet the needs of the community. These included loans to a housing authority, to a privately-owned health center, for a "safe sanctuary" for at-risk households, and to non-profit that provides after-school programs. All of those activities were within only the category of community development lending.

For these efforts, the bank received a "high satisfactory" on lending and services and an overall rating of "satisfactory."

**Requests to FNB:-**
*The bank should not purchase mortgage-backed securities for the purpose of meeting its CRA obligations.* Instead, we ask the bank to focus on direct lending investment through long-term relationships with North Carolina's CDFIs, community development non-profit agencies, and small businesses.

*The bank should provide community development grants for housing counseling.* This is an ongoing problem in North Carolina. The supply of funds for counseling is shrinking. Our General Assembly has pulled back from its long-standing commitment to fund smaller housing counseling agencies. As well, there are fewer sources of income to support loan modification counseling. Many housing counseling agencies have had to let go of staff. Some are down to one employee and one support staffer. Going forward, lower-income households will still need pre-purchase counseling.

*Increase mortgage lending to low-income and minority borrowers and to borrowers from underserved communities.* The 2015 HMDA data shows that FNB has been unable to make many mortgages to African-American and Latino borrowers, even though they operate in places where there fairly large minority populations.

*Increase Small business lending*: In its CRA exam, examiners described their lending in low-and-moderate income areas as checkered, with a mix of market-average and lower-than-market average lending records. The bank should strive to improve its lending to small businesses. Historically, Yadkin has been successful in this endeavor. We believe that right product or products can make a difference. Lines of credit can be a good solution, but they must be designed to be flexible and affordable.

*Provide capital to increase the capacity of community development institutions.* CDFIs and CDCs can make a difference in their communities but they need capital to do so. FNB should allocate funding to North Carolina's community development corporations and to CDFIs like the Support Center. In its 2015 exam, Yadkin made community development loans and investments equivalent to 0.6 percent of its assets. This sum is three times greater than the rate of FNB.

*Develop overdraft-free checking accounts and overdraft-free second-chance checking accounts.*

*Create community advisory boards. Although Reinvestment Partners is a leader in North Carolina's community development field, we are not familiar with any example of a case where a group was invited by Yadkin Bank to participate in an advisory role. We believe that FNB should create a community advisory board.*

**Request for a Plan**

We ask the Federal Reserve and the Office of the Comptroller of the Currency to encourage First National Bank to develop a community benefits plan. This plan would be developed from engagement with local community development and advocacy groups in the states where a combined FNB and Yadkin would operate.

The form of the plan would be built upon quantitative measurement, where possible, and would span several years after the completion of the acquisition. Additionally, the plan should include discussion of the needs for the development of products that suit the needs of households from all parts of the branch footprint.

The community advisory board should take a role in discussing the future implementation of this plan. Recently, an executive in FNB's retail banking department took the imitative to reach out to Reinvestment Partners. We came away from the meeting with the sense that while FNB was not familiar with the mechanics of a community benefits agreement, they were very open to developing and implementing such a plan.

Reinvestment Partners stands ready to discuss this topic further.

Sincerely,

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| FNB | all | o-o, SFR | o, o, SFR, HP | o-o, SFR, refi | # Loans | Yadkin | all | o, o, SFR | o, o, SFR, HP | o, o, SFR, refi | #Loans |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Asian | 23.1% | 22.1% | 10.7% | 26.5% | 138 | Asian | 33% | 36% | 32% | 50% | 32 |
| Black | 48.6% | 48.4% | 23.4% | 54.8% | 105 | Black | 26% | 26% | 24% | 31% | 70 |
| Latino | 41.2% | 39.3% | 22.5% | 43.1% | 87 | Latino | 29% | 28% | 24% | 36% | 56 |
| other | 20.5% | 15.4% | 0.0% | 12.5% | 204 | other | 1% | 0% | 16% | 0% | 153 |
| White | 24.0% | 24.4% | 12.8% | 27.0% | 7,617 | White | 20% | 20% | 18% | 26% | 1,603 |
| Total | 24.9% | 25.3% | 13.2% | 27.9% | 8,375 | Total | 20% | 21% | 0% | 27% | 1,935 |

| FNB | all | 0-o, SFR | o, o, SFR, HP | o-o, SFR, refi | #Loans | Yadkin | all | o, o, SFR | o, o, SFR, HP | o, o, SFR, refi | #Loans |
|---|---|---|---|---|---|---|---|---|---|---|---|
| blank | 21.2% | 21.1% | 18.3% | 17.6% | 291 | blank | 6.0% | 23.3% | 14.3% | 25.0% | 184 |
| 1-50 | 37.0% | 36.7% | 19.8% | 41.9% | 2,210 | 1-50 | 23.7% | 23.1% | 19.0% | 33.9% | 573 |
| 51-101 | 22.7% | 22.3% | 10.2% | 27.9% | 3,167 | 51-100 | 20.5% | 19.9% | 17.1% | 24.8% | 633 |
| 101-150 | 15.4% | 15.1% | 10.0% | 17.2% | 1,391 | 101- 150 | 14.8% | 16.4% | 14.5% | 19.3% | 309 |
| 151-200 | 13.5% | 13.5% | 6.8% | 18.3% | 497 | 151-200 | 23.2% | 23.2% | 18.4% | 28.3% | 109 |
| 201-250 | 15.3% | 15.3% | 11.9% | 17.4% | 245 | 201- 250 | 17.6% | 22.6% | 17.6% | 28.6% | 42 |
| >251 | 12.8% | 12.8% | 6.8% | 13.2% | 574 | >251 | 20.4% | 19.3% | 14.8% | 23.3% | 85 |
| Total | 24.9% | 24.5% | 12.7% | 27.9% | 8,375 | Total | 19.5% | 20.8% | 17.5% | 26.6% | 1,935 |

**Denial rates: all loans, owner-occupied site built, owner-occupied site built home purchase, and owner-occupied site built refinance loans.**
**Source, Home Mortgage Disclosure Act database, 2015 FFIEC**