

Banking and Finance Law Daily Wrap Up, FINANCIAL TECHNOLOGY— First all-mobile national bank gets OCC's conditional approval, (Sept. 21, 2018)

Banking and Finance Law Daily Wrap Up

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By [Colleen M. Svelnis, J.D.](#)

The Office of the Comptroller of the Currency has conditionally approved the application of a new charter for Varo Bank for a full service bank with a nationwide footprint. The OCC announced in July that it will begin accepting applications for national bank charters from non-depository financial technology (fintech) companies engaged in the business of banking. Approval by the OCC to form a *de novo* national bank would make Varo the first all-mobile national bank in the history of the United States. The OCC [granted](#) preliminary conditional approval of the charter application after a thorough evaluation of all information available to the OCC, including the representations and commitments made in the application and by the bank's representatives.

Varo Bank proposes to combine a traditional retail banking approach with modern technology. The bank plans to offer banking products through mobile, online, and phone-based banking channels, and to include traditional loan and deposit products. The OCC determined that the proposal met regulatory and policy requirements, but the agency may modify, suspend, or rescind the preliminary conditional 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 approval letter noted that Varo Bank needs to apply for Federal Reserve membership and must obtain deposit insurance from the Federal Deposit Insurance Corporation. Final approval and authorization for the bank to open will not be granted until all preopening requirements are met. Until this final approval is granted, the OCC "has the right to modify, suspend, or rescind this preliminary conditional approval should the OCC deem any interim development to warrant such action."

The OCC stated that if Varo Bank receives final approval, it must enter into, and implement and adhere to, a written Operating Agreement with the OCC, in a form acceptable to the OCC, within three business days after the bank's opening.

The OCC noted that the bank's initial paid-in-capital must be at least \$104 million. Additionally, the approval will expire if the capital is not raised within 12 months or if the bank is not opened for business within 18 months from the preliminary conditional approval date.

Comments received. The OCC received three comments on the application. The first supported approval of the charter application. The second comment recommended that the OCC conditionally approve the charter application on, among other things, the bank being subject to a detailed Community Reinvestment Act (CRA) plan. The third comment opposed the approval of the charter application and asserted that the bank has not demonstrated a significant commitment to meeting the convenience and needs of the community to be served (i.e., a nationwide customer base), due to the limited geographic reach of its proposed assessment area.

The CRA requires the OCC to take into account a proposed insured bank's description of how it will meet the credit needs of its community in considering a charter application (12 CFR 25.29(b)). With regard to the commenters' concerns about the sufficiency of the bank's CRA plan and commitment to meeting the convenience and needs of the community to be served, the OCC expects that organizers of a bank will begin to develop a CRA plan during the charter application phase; however, the OCC does not expect a bank to have a fully developed plan at this stage. The CRA plan should be finalized after a bank has received preliminary conditional approval from the OCC but prior to final approval of the charter application. The bank

has demonstrated in its charter application and through discussions with OCC staff that it understands the requirements of the CRA and has begun to develop a CRA plan.

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Companies: Varo Bank, N.A.

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