



**Conditional Approval #1205
September 2018**

August 31, 2018

Mr. Mitchell S. Eitel
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 1004-2498

Re: Preliminary Conditional Approval of the De Novo Charter Application for the Proposed Varo Bank, National Association, Salt Lake City, UT (Charter Number 25147)
OCC Control No. 2017-WE-Charter-298856 and
Director Residency Waiver OCC Control No. 2017-WE-Waiver-302531

Dear Mr. Eitel:

The Office of the Comptroller of the Currency (OCC) has reviewed your application to establish a new national bank, Varo Bank, National Association, Salt Lake City, Utah (Bank). The OCC hereby grants preliminary conditional approval of your charter application having determined that your proposal meets certain regulatory and policy requirements.

I. Proposal and Preliminary Conditional Approval

The proposed Bank will be a full service bank with a nationwide footprint. The Bank's proposed business model combines a traditional retail banking approach with modern technology. The Bank proposes to offer banking products through mobile, online, and phone-based banking channels and intends to include traditional loan and deposit products.

Preliminary conditional approval is granted based on 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, subject to the condition in Section IV. We also made our decision to grant preliminary conditional approval with the understanding that the proposed Bank will apply for Federal Reserve membership and will obtain deposit insurance from the Federal Deposit Insurance Corporation (FDIC).

The OCC has granted preliminary conditional approval only. Final approval and authorization for the Bank to open will not be granted until all preopening requirements, including Federal Reserve membership and FDIC deposit insurance, are met. Until 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.

II. Public Comments and Analysis

The OCC received three comments related to the proposed Bank's plans for complying with the Community Reinvestment Act (CRA, 12 USC 2901 *et seq.*): (1) a comment supporting approval of the charter application; (2) a comment recommending the OCC condition approval of the charter application on, among other things, Bank being subject to a detailed CRA plan; and (3) a comment opposing approving the charter application, asserting 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), particularly due to the limited geographic reach of its proposed assessment area (AA).

The CRA requires that the OCC take a national bank's or federal savings association's (bank) CRA record into account when evaluating an application for a deposit facility. 12 USC 2903(a)(2). An application for a deposit facility is defined to mean, among other things, "a charter for a national bank or federal savings and loan association." 12 USC 2902(3)(A). The CRA regulations require that "[a]n applicant...for a national bank charter shall submit with its application a description of how it will meet its CRA objectives." 12 CFR 25.29(b).

The Bank's charter application included a CRA plan that provided an initial description of how it plans to help meet the credit needs of its community. In its CRA plan, the Bank identified the Salt Lake City-Provo-Orem (Salt Lake City) Combined Statistical Area (CSA) as its AA for purposes of evaluation under the CRA regulations. 12 CFR 25. The CRA regulations provide that a bank's AA(s) must include the geographies where the bank has its main office, branches, and deposit-taking automated teller machines (ATM). 12 CFR 25.41(b)(2). The Bank does not plan to have any branches or deposit-taking ATMs. The only location around which the Bank could delineate an AA under the regulations is its proposed main office, which will be located in Salt Lake City, Utah. The Interagency Questions and Answers Regarding Community Reinvestment (Q&As) provide that an AA may not extend substantially beyond the boundaries of a metropolitan statistical area (MSA) unless that MSA is in a CSA. Q&A § __.41(e)(4) – 1. Therefore, the Salt Lake City CSA, which is where the Bank's main office will be located, is the only and most expansive AA that the Bank could delineate under the regulations.

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 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). 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. The Bank is considering a strategic plan pursuant to 12 CFR 25.27, and the OCC will work with the Bank in the development of a strategic plan if this alternative is chosen.

III. Organizational Phase Requirements

The Bank's initial paid-in-capital, net of all organizational and pre-opening expenses, shall be no less than \$104 million. The manner in which capital is raised must not deviate from that described in your application without prior written OCC notification. If the capital for the Bank is not raised within 12 months or if the Bank is not opened for business within 18 months from the preliminary conditional approval date, this approval expires. The OCC does not grant extensions, except under the most extenuating circumstances and when the OCC determines that the delay is beyond the applicant's control. The organizers are expected to proceed diligently, consistent with their application, for the Bank to open for business as soon as possible.

The OCC poses no objection to the following persons serving as executive officers, directors, and/or organizers as proposed in the application:

<u>Name</u>	<u>Title</u>
Colin Walsh	President, Chief Executive Officer, Director & Organizer
Wesley Wright	Chief Operating Officer & Organizer
Marina Gracias	General Counsel, Corporate Secretary & Organizer
Mykola Klymenko	Chief Technology Officer & Organizer
Caryl Athanasiu	Director & Organizer
Jaime Jerusalem	Organizer
David Coulter	Director
Cary Davis	Director
Karen White	Director
John Vars	Chief Product Officer
Marc Lowenthal	Chief Compliance and Operational Risk Officer

Prior to the Bank's opening, the Bank must obtain the OCC's prior written determination of no objection for any additional organizers or executive officers, or directors appointed or elected before the person assumes the position.

The OCC also grants your request to waive the residency requirements of 12 USC 72 for members of the board of directors of the Bank. This waiver is granted based upon a review of all available information and the Bank's representation that this waiver will not affect the board's ability to direct the Bank's operations in a safe, sound, and legal manner. The OCC reserves the right to withdraw or modify this waiver and, at its discretion, to request additional information at any time in the future.

The “Charters” booklet in the *Comptroller’s Licensing Manual* provides guidance for organizing your bank. The booklet is located at the OCC’s web site:

<http://www.occ.treas.gov/corpbook/group4/public/pdf/charters.pdf>. The booklet contains all of the steps you must take to receive final approval. As detailed in the booklet, you may establish the corporate existence of and begin organizing the Bank as soon as you adopt and forward Articles of Association and the Organization Certificate to Director for District Licensing Louis Gittleman for review and acceptance. As a “body corporate” or legal entity, you may begin taking those steps necessary for obtaining final approval. The Bank may not begin the business of banking until it fulfills all requirements for a bank in organization and the OCC grants final approval.

In addition, the Bank must meet satisfy the preopening requirements outlined in a separate letter of today’s date (the “Supplementary Letter”). The requirements outlined in the Supplementary Letter must be satisfied prior to the Bank obtaining final approval to commence business.

IV. Condition

This preliminary conditional approval is subject to the following condition:

If the Bank receives final approval, the Bank shall enter into, and thereafter implement and adhere to, a written Operating Agreement with the OCC, in a form acceptable to the OCC, within three (3) business days after the Bank’s opening.

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

V. Conclusion

This preliminary 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 preliminary conditional 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 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 foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

Varo Bank, National Association (proposed), Salt Lake City, UT
OCC Control No. 2017-WE-Charter-298856

A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may improve our service. If you have any questions, please contact Director for District Licensing Louis Gittleman at (720) 475-7652 or by e-mail at Louis.Gittleman@occ.treas.gov. Please include the OCC Control No. listed above in all written correspondence.

Sincerely,

/s/

Stephen A. Lybarger
Deputy Comptroller for Licensing

Enclosure: Survey Letter