



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, DC 20551

LEGAL DIVISION

November 4, 2022

Mark J. Menting, Esq.  
Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004

Dear Mr. Menting:

This responds to your correspondence, dated May 19, 2022, and September 29, 2022, requesting determinations that (1) no filing under section 3 of the Bank Holding Company Act of 1956 (“BHC Act”),<sup>1</sup> would be required for New York Community Bancorp, Inc. (“NYCB”), Hicksville, New York, a bank holding company, to acquire the bank resulting from the conversion of Flagstar Bank, FSB (“Flagstar Bank”), Troy, Michigan, into a national bank and (2) no filing under section 4 of the BHC Act<sup>2</sup> would be required for NYCB to indirectly acquire certain subsidiaries of Flagstar Bank (“Flagstar Bank Subsidiaries”).<sup>3</sup>

NYCB has submitted a notice pursuant to section 4 of the BHC Act to acquire Flagstar Bancorp, Inc. (“Flagstar”), Troy, Michigan, and thereby indirectly acquire Flagstar Bank (“Notice”). The proposed transaction would proceed as follows: (1) 615 Corp. (“Merger Sub”), a wholly owned subsidiary of NYCB, would merge with and into Flagstar, with Flagstar as the surviving entity, (2) Flagstar would merge with and into NYCB, with NYCB as the surviving

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<sup>1</sup> 12 U.S.C. § 1842.

<sup>2</sup> 12 U.S.C. § 1843.

<sup>3</sup> In particular, the relevant subsidiaries of Flagstar Bank are: Flagstar Investment, LLC; Flagstar Mortgage Securities, LLC; Flagstar REO, LLC; Flagstar Real Estate Holdings, Inc.; Grass Lake Insurance Agency, Inc; Lenderful LLC; Long Lake REIT; and Long Lake MSR, Inc.

entity, (3) Flagstar Bank would convert to a national bank (“Bank Conversion”),<sup>4</sup> and (4) New York Community Bank, Hicksville, New York, a wholly owned state nonmember bank subsidiary of NYCB, would merge with and into Flagstar Bank, with Flagstar Bank as the surviving entity (“Bank Merger”). You have represented that the mergers of Merger Sub and Flagstar and Flagstar and NYCB would occur shortly before midnight on one calendar day and the Bank Conversion and Bank Merger would occur shortly after midnight on the immediately following calendar day. Furthermore, you have represented that NYCB would not operate both New York Community Bank and Flagstar Bank as separate entities during business hours and that NYCB would operate Flagstar Bank only as the survivor of the Bank Merger.

Section 3 of the BHC Act and the Board’s Regulation Y require the approval of the Board before a bank holding company may acquire direct or indirect ownership or control of more than 5 percent of the voting shares of a bank.<sup>5</sup> In addition, section 4 of the BHC Act and the Board’s Regulation Y generally require a bank holding company to give prior notice to the Board before acquiring more than five percent of the voting shares of any nonbanking company, including nonbanking subsidiaries of a savings association.<sup>6</sup> Through the transaction described above, NYCB would acquire control of a national bank and certain nonbanking subsidiaries of Flagstar Bank. Accordingly, NYCB would be required to (1) obtain the Board’s prior approval under section 3 of the BHC Act and Regulation Y before the Bank Conversion and (2) provide the Board with prior notice under section 4 of the BHC Act and Regulation Y before acquiring the Flagstar Bank Subsidiaries. However, the Board’s review of an application in connection with the Bank Conversion would be duplicative of the Board’s review of the Notice.<sup>7</sup> Additionally, you have represented that NYCB would hold the Flagstar Bank Subsidiaries for only a short period of time before the Bank Conversion occurs.

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<sup>4</sup> Following the Bank Conversion, Flagstar Bank would change its name to Flagstar Bank, National Association.

<sup>5</sup> 12 U.S.C. § 1842(a); 12 CFR 225.11.

<sup>6</sup> 12 U.S.C. § 1843(c)(8) & (j); 12 CFR 225.21(a) & 225.24(a)(2).

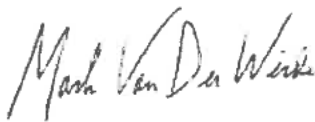
<sup>7</sup> In addition, the Bank Merger is subject to the approval of the Office of the Comptroller of the Currency (“OCC”) under section 18(c) of the Federal Deposit Insurance Act (“Bank Merger Act”) and the Bank Conversion is also subject to OCC approval. The OCC approved the Bank Merger Act and Bank Conversion applications on October 27, 2022.

Based on a review of these and other facts presented, the Legal Division believes that no regulatory purpose would be served by requiring NYCB to file an application under section 3 of the BHC Act with respect to the Bank Conversion or file a prior notice under section 4 of the BHC Act with respect to the acquisition of the Flagstar Bank Subsidiaries for the short period of time prior to the Bank Conversion. The Legal Division, therefore, would not recommend that the Board take action to require the filing of (1) an application by NYCB in connection with the Bank Conversion or (2) a prior notice by NYCB in connection with the acquisition of the Flagstar Bank Subsidiaries while they remain subsidiaries of Flagstar Bank prior to the Bank Conversion. This opinion is subject to the receipt by NYCB, Merger Sub, New York Community Bank, Flagstar, and Flagstar Bank of all other necessary regulatory approvals and compliance with any terms and conditions that may be imposed in connection with those approvals.

This opinion is based on all the facts and representations presented to Federal Reserve staff. Any material change in those facts or representations should be communicated immediately to Federal Reserve staff and may cause this opinion to be reconsidered. This opinion is limited to this proposal and does not apply to any other transaction.

If you have any questions regarding this matter, please contact Brian Phillips (202-452-3321) or Evan Hechtman (202-263-4810), of the Legal Division staff.

Sincerely,

A handwritten signature in cursive script that reads "Mark Van Der Weide".

Mark Van Der Weide  
General Counsel

cc: Office of the Comptroller of the Currency