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Transmitted *via* email only
Martin D. Werner
Shumaker, Loop & Kendrick, LLP
1000 Jackson Street
Toledo, Ohio 43604
mwerner@shumaker.com
Counsel for The Hicksville Bank

RE: Proposed transaction

Dear Mr. Werner:

The letter is in partial response to the materials you submitted on May 28, 2026 to the Division of Financial Institutions (the "Division") on behalf of your client, The Hicksville Bank ("Hicksville" or the "Bank"). Per your May 28 letter:

> As required by Ohio Revised Code § 1109.02(C) we are providing this notification on behalf of the Bank to the Ohio Division of Financial Institutions (the "ODFI") that the Bank has entered into a Purchase and Assumption Agreement dated April 28, 2026 with Interra Credit Union, an Indiana state-chartered credit union, for the sale of substantially all of the Bank's assets and the assumption of substantially all of the Bank's liabilities. Following the closing, the Bank will wind up its affairs and dissolve pursuant to Ohio Revised Code § 1115.14(F) and § 1701.86, and its parent holding company will thereafter dissolve pursuant to Ohio Revised Code § 1701.86.

Included in the materials submitted to Division were: (1) a document entitled "Notification to the Ohio Division of Financial Institutions by The Hicksville Bank of Intent to Transfer Assets and Liabilities and Dissolve"; and (2) a copy of the FR 2070 Interagency Bank Merger Act application, as filed with the FDIC.

Currently before the Division is the threshold question of whether Hicksville has the underlying authority to engage in the proposed transaction with Interra Credit Union ("Interra" or the "Credit Union") and/or whether the Division has a basis for prohibiting or objecting to the proposed transaction. In part for the reasons that follow, the Division has concluded that Hicksville has the authority to engage in the proposed transaction and there is no basis for prohibiting or objecting to the proposed transaction.

1. Preliminary Comments

The proposed transaction has been the subject of some public discourse. Since May 28, the Division has received written comments from several interested stakeholders. On June 10, 2026, the Ohio Banking Commission also adopted a nonbinding resolution regarding the proposed transaction. The Division has carefully considered the arguments and points raised not only in your May 28 submission but also by these various third parties. The following discussion is being provided in the interest of public transparency. This nonobjection letter, however, is not intended to be an exhaustive discussion of all potential issues, and the Division reserves all rights.

Additionally, R.C. 1121.02 provides that the "superintendent of financial institutions shall see that the laws and rules relating to institutions and businesses governed by Chapters 1101. to 1127. of the Revised Code are executed and enforced." In reaching its conclusion, the Division is guided by this ultimate mandate, and neither the Division nor the Department of Commerce expresses any opinion regarding the policy implications of the proposed transaction.

2. Authority of state banks under R.C. 1115.14 and R.C. 1109.02

As your letter indicates, the proposed transaction would involve a transfer of assets and liabilities from Hicksville to Interra. R.C. 1115.14 governs generally the transfer of assets and liabilities by a state bank and provides in relevant part:

> A state bank may transfer assets and liabilities to, and acquire assets and liabilities from, another state bank, a bank doing business under authority granted by the bank regulatory authority of another state, or a national bank, savings bank, or savings association, regardless of where it maintains its principal place of business[.]

R.C. 1115.14(A).[1] By its plain terms, R.C. 1115.14(A) does not expressly authorize state banks to transfer assets and liabilities to credit unions. Contrary to the suggestion of some third parties, however, neither R.C. 1115.14 nor any other provision of the Revised Code expressly prohibits such a transaction.

[1] R.C. 1115.14(A)(1)-(4) also contain procedural requirements for a transfer of assets and liabilities transaction. Per these requirements, the Division's approval is required only if (1) the acquiring institution is a state bank and (2) the assets to be transferred equal more than fifty per cent of the assets of that state bank. Accordingly, Hicksville is not required to seek or obtain the Division's approval under R.C. 1115.14.

The second statute relevant to the proposed transaction is R.C. 1109.02, entitled "Additional and incidental powers." Before discussing the language of this statute, however, a brief review on the history of state bank parity authority is instructive.

Based on the Division's research, Ohio first enacted a parity statute in 1975. Codified at R.C. 1125.23, the parity statute provided at the time, in relevant part:

> Notwithstanding any provisions in Chapters 1101. to 1129. of the Revised Code, if any national bank … possesses a right, power, privilege, or benefit by virtue of statute, rule, or judicial decision …, which right, power, privilege or benefit is not possessed by a bank organized under the laws of this state, the superintendent of banks may by rule authorize banks organized under the laws of this state to exercise such right, power, privilege, or benefit.

(Emphasis added.) In sum, Ohio's parity statute gave the Superintendent discretionary authority to grant additional powers and privileges to state banks through the affirmative act of adopting an administrative rule.

In 1996, the General Assembly revised and reorganized Ohio's banking statutes. Pursuant to HB 538 (121st General Assembly), former R.C. 1125.23 was revised and recodified at R.C. 1121.06. R.C. 1125.23 still provided, however, that the granting of parity authority was a discretionary decision of the Superintendent's to be effectuated through administrative rulemaking. *See former* R.C. 1121.06(A) (noting that "the superintendent may adopt a rule that reduces or eliminates the disadvantage to a bank or trust company doing business under authority granted by the superintendent").

HB 538 also enacted a new R.C. 1109.02. As initially enacted, R.C. 1109.02 had only two subsections, (A) and (B). The language of R.C. 1109.02(A) and (B) have remained unchanged since 1995 and provide, respectively, that a state bank "has and may exercise all powers and perform all acts attendant to the business of banking" and "has and may exercise all powers, perform all acts, and provide all services that are otherwise a part of or incidental to the business of banking."

Effective January 1, 2018, however, the General Assembly added a subsection (C) to R.C. 1109.02, which provides:

> In addition to what is otherwise authorized under Chapters 1101. to 1127. of the Revised Code, a state bank has and may exercise all powers, perform all acts, and provide all services that are permitted for national

> banks and federal savings associations, other than those dealing with interest rates, regardless of the date the corresponding parity rule adopted by the superintendent of financial institutions under section 1121.05 of the Revised Code takes effect. If a state bank intends to take any such action before the adoption of the corresponding parity rule, the bank shall provide the superintendent with prior written notice of the action and the basis for the action. The superintendent, within ninety days after receipt of that notice, may prohibit the bank from taking such action if the superintendent determines it would be unsafe or unsound for the bank.

The language in subsection (C) has remained unchanged since its enactment.

In conjunction with reviewing the proposed transaction between Hicksville and Interra, the Division has conducted an exhaustive review of the parity statutes enacted in other states. Based on that review, R.C. 1109.02(C) has several characteristics that, in combination, make it seemingly unique. *First*, subsection (C) states that a state bank has "all powers" and may perform "all acts" that are permitted for its federal counterparts. *Second*, this authority is "[i]n addition to what is otherwise authorized under [R.C. Chapters 1101 to 1127]." *Third*, subsection (C) extends a state bank's parity authority to that possessed not only by "national banks" but also by "federal savings associations."[2] *Fourth*, the only powers or acts placed out of bounds for a state bank are those "dealing with interest rates." *Fifth*, subsection (C) does not require the superintendent to issue a rule or any type of order or approval; rather, the state bank already "has" the authority possessed by its federal counterparts and can simply invoke this authority by providing "prior written notice." *Sixth*, the only potential basis for blocking or prohibiting the proposed action is if "the superintendent determines it would be unsafe or unsound for the bank."

3. Application of R.C. 1109.02(C) to the proposed transaction

In applying R.C. 1109.02(C) to the proposed transaction, the first inquiry is whether a bank's potential transfer of substantially all of its assets and liabilities to a credit union is a "power" or "act" for purposes of the statute.[3] Giving terms their ordinary meaning, "power" can be defined as "legal or official authority, capacity, or right," and "act" can be defined as either "the doing of a thing : deed" or "something done

[2] Under federal law, a federal savings association "means a Federal savings association or a Federal savings bank chartered under section 5 of this Act [12 USCS § 1464]." 12 U.S.C. § 1462(3).

[3] Clearly, a transfer of assets and liabilities is not a "service" for purposes of R.C. 1109.02(C).

voluntarily." *See, e.g.*, https://www.merriam-webster.com/dictionary. In this context, it cannot really be disputed that the ultimate ability, authority, or right of a state bank to transfer substantially all of its assets and liabilities to a credit union would constitute a "power," or that the consummation of such a transaction would constitute an "act," for purposes of R.C. 1109.02(C).

The second inquiry is whether national banks or federal savings associations either have the power or are permitted to transfer substantially all of their assets and liabilities to a credit union. It is the Division's conclusion that this is a power possessed by and/or an act permitted of national banks and federal savings associations.

The primary regulator of national banks and federal savings associations is the Office of the Comptroller of the Currency ("OCC"). Ultimately, therefore, the relevant inquiry is whether the OCC, acting under the authority of federal law, has either permitted (or denied) national banks or federal savings associations to engage in similar transactions. On this point, the Division's review indicates that, beginning no later than 2013 and with increasing frequency in recent years, national banks or federal savings associations have consummated transactions involving the transfer of substantially all assets and liabilities to a credit union. *See, e.g.*, OCC Conditional Approval #1343 (July 21, 2025); OCC Conditional Approval #1336 (Mar. 31, 2025). By their very nature, these transactions demonstrate these federal institutions have this power and are permitted to perform this act; otherwise, the transactions would not have occurred.

Review further indicates that such transactions are contemplated and generally authorized under federal law. In discussing the regulation of national banks and federal savings associations, as well as the authority of the OCC, 12 C.F.R. § 5.33(d)(10)(iii) defines the term "other combination" as including "[t]he transfer by a national bank or a Federal savings association of any deposit liabilities to another insured depository institution, a credit union or any other institution." This reference to credit unions makes sense only if the transfer of deposit liabilities ultimately is authorized under federal law. Further, 12 C.F.R. § 5.33(n)(2) specifically provides that a "Federal savings association … may engage in any other combination listed in paragraph (d)(10)." As noted above, the parity authority of state banks under R.C. 1109.02(C) extends to that possessed not only by national banks but also by federal savings associations.

Also relevant to this discussion is the federal Bank Merger Act. The specific provision at issue, 12 U.S.C. § 1828(c)(1)(C), provides in part:

> Except with the prior written approval of the responsible agency, which shall in every case referred to in this paragraph be the [FDIC], no insured depository institution shall … transfer assets to any noninsured bank or institution in consideration of the assumption of liabilities for any portion of the deposits made in such insured depository institution.

Because subsection (C) prohibits the transfer of assets and liabilities from an insured depository institution to a noninsured institution without prior approval, third parties have suggested that this is not a "power" possessed by national banks or federal savings associations for purposes of R.C. 1109.02(C). The Division, however, rejects this position. If anything, subsection (C) further supports the conclusion that federal law contemplates and ultimately authorizes these transactions. The requirement of prior approval is simply a recognition of the FDIC's inherent interest in protecting insured deposits.[4]

Finally, R.C. 1109.02(C) provides that the "superintendent … may prohibit the bank from taking [the proposed] action if the superintendent determines it would be unsafe or unsound for the bank." Although being somewhat ubiquitous, the phrase "unsafe and unsound" is not defined under Ohio law. In seeking guidance on this issue, the Division finds persuasive not only case law but also the recent and ongoing rulemaking efforts by the FDIC and the OCC. Based on this review, the Division's view is that "unsafe and unsound" for purposes of R.C. 1109.02(C) would require a finding that the proposed act or power be contrary to standards of prudent operation and could reasonably be expected to result in material financial harm, or present an abnormal or material risk of loss, to either the bank or its shareholders. *See, e.g. and generally* OCC Bulletin 2025-29 (Oct. 7, 2025); Unsafe or Unsound Practices, Matters Requiring Attention, 90 Fed. Reg. 48,835 (Oct. 30, 2025); *Johnson v. OTS*, 81 F.3d 195 (D.C. Cir. 1996); *In re Seidman*, 37 F.3d 911 (3d Cir. 1994).

In this context—and based on the Division's review of all materials submitted, as well as additional review of both publicly available and confidential supervisory information—there is no basis for concluding the proposed transaction between Hicksville and Interra would be unsafe or unsound. As to the specific issue of Interra being privately insured, American Share Insurance ("ASI") is an Ohio-based company that is organized under the express authority of R.C. Chapter 1761 and is regulated by

[4] Given the preceding discussion, the Division need not definitively determine whether the sale of assets to a credit union constitutes an incidental federal power to "carry on the business of banking" under 12 U.S.C. § 24(7), or a power or act "otherwise a part of or incidental to the business of banking" under R.C. 1109.02(B).

both the Division and the Ohio Department of Insurance. Accordingly, any argument that private share insurance is inherently "unsafe or unsound" is, in the Division's view, contrary to Ohio's long-standing public policy as established by the General Assembly.[5]

* * * * *

In conclusion, the Division does not object to Hicksville's invocation of parity authority pursuant to R.C. 1109.02(C), and the Division is not prohibiting the proposed transaction on the basis of it being unsafe or unsound. Please be advised, however, that the Division reserves all rights as to all other aspects of the proposed transaction moving forward.

Respectfully,

Ingrid E. White
Interim Superintendent
Ohio Division of Financial Institutions

Cc: Michelle Ogren, Acting Regional Director, FDIC
Christopher Dietz, Deputy Director, Indiana Department of Financial Institutions

[5] Third parties also have identified other objections to the proposed transaction, including—credit unions are exempt from various state and federal taxes, credit unions are not subject to the federal Community Reinvestment Act, and credit unions are not included as eligible public depositories under R.C. 135.03. Ultimately, these are policy considerations that are outside the scope of the unsafe or unsound inquiry.