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# First Midwest buyer accused of home-lending discrimination as Fed mulls approval

Evansville, Ind.-based Old National prepares to enter the Chicago market after news surfaces that just 1.6% of its mortgages over the past two years in Indianapolis went to Black homebuyers.

STEVE DANIELS

Old National Bank

Evansville, Ind.-based Old National prepares to enter the Chicago market after news surfaces that just 1.6% of its mortgages over the past two years in Indianapolis went to Black homebuyers.

The Evansville, Ind.-based acquirer of First Midwest Bank is battling new allegations of discrimination against Black mortgage borrowers in Indianapolis as the deal awaits final regulatory approval.

A lawsuit filed against Old National Bank earlier this month by an Indiana fair-housing group casts a spotlight on the bank's lending practices at a time when the issue of credit availability to minorities has drawn far greater attention from policymakers in Chicago and elsewhere. Old National currently has no presence here; its $2.2 billion buyout of First Midwest will make Chicago its biggest market by far among numerous Midwestern cities in a single stroke.

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Old National CEO Jim Ryan categorically denies any wrongdoing by the bank. At the same time, however, Old National has refused to negotiate an agreement with fair housing and other advocacy groups to improve access to credit in disadvantaged communities it serves—a customary aspect of bank mergers this size.

First Midwest CEO Michael Scudder describes his bank's low-premium deal with Old National as a "merger of equals." The reason he didn't seek higher bids from any of a likely large number of banks that would have been interested, he has said, was because First Midwest and Old National are so unusually well-aligned culturally.

Chicago-based First Midwest is primarily a business lender, but its mortgage lending is substantial as well. It originated $200 million of home loans in the third quarter and $813 million in all of 2020, according to Securities & Exchange Commission filings.

The lawsuit filed Oct. 6 in federal court in Indianapolis by the Fair Housing Center of Central Indiana comes at a tricky time for the banks. They've obtained approval for the deal from the U.S. Office of the Comptroller of the Currency but still are waiting on the Federal Reserve. Advocacy groups have petitioned the Fed to block the deal in light of Old National's unwillingness to negotiate. Well over a dozen groups now are preparing to sign a new letter in opposition based on the lawsuit's assertions, says Jesse Van Tol, CEO of the National Community Reinvestment Coalition in Washington, D.C.

Principal among those is that just 37, or 1.6%, of 2,250 mortgages Old National made in the Indianapolis metropolitan statistical area in 2019 and 2020 were to Black homebuyers. Blacks make up 15% of the population. Other banks in the market reflect that. Nearly 15% of the home loans made by Old National's four closest peer banks in Marion County, which includes Indianapolis, were to Black borrowers, according to the lawsuit.

# Fair lender?

An Oct. 6 lawsuit against Evansville, Ind.-based Old National Bank alleges discrimination against Black borrowers in home lending. Here are some principal allegations.

Source: Fair Housing Center of Central Indiana complaint in U.S. District Court in Indianapolis • Created with Datawrapper

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“Wow, to make that few loans, you almost have to be trying,” Van Tol says.

Angst over Old National’s Chicago entry has reached City Hall. “It’s very concerning that Old National would be buying out First Midwest, especially given the current case,” says 48th Ward Ald. Harry Osterman, who chairs the Chicago City Council’s Housing Committee. He says the city is monitoring the transaction.

Van Tol, who has led numerous negotiations over community lending commitments with bank acquirers over the years, says he twice was effectively told when trying to get the bank to engage that Old National wasn’t interested. The first, he says, was a polite rejection by Old National’s executive in charge of community reinvestment, who doubles as its marketing director. The second was with Ryan, who responded that he’d think about it and get back to Van Tol but never did.

Ryan doesn’t dispute that account.

When asked why the bank wouldn’t negotiate a customary community deal, Ryan says in an emailed statement, "Community benefits agreements may make sense in some circumstances and are typically implemented at the discretion of each bank. Here, however, we did not feel it was necessary to enter into a community benefits agreement."

He points to solid Community Reinvestment Act ratings for both banks and says, “We always embrace the opportunity to engage, serve and support community groups and nonprofit organizations, and we will continue to do so.”

For Old National, entry into Chicago is the reason for the First Midwest deal. For decades, Old National’s leaders were asked about their interest in Chicago given the bank’s presence in many other Midwestern cities. Former CEO Bob Jones repeatedly said he had no desire.

“Somebody recently asked us, 'How do you guys plan to be a Midwest powerhouse with no Chicago presence?' I thought it was a pretty interesting question, right?” Ryan, Jones’ successor, told analysts on June 1 when the First Midwest deal was announced.

Ryan will be CEO of the combined banks, which will retain the Old National name, if and when the deal is completed. Scudder will be executive chairman for three years. Combined the two banks currently have $46 billion in assets, nearly the size of Rosemont-based Wintrust Financial.

The news on Old National’s lending record in Indianapolis raises questions for First Midwest about the thoroughness of its due diligence before the deal was struck. Old National hasn’t disputed the numbers, and they’re from public sources. Indianapolis is Old National’s third-largest market among nine significant Midwestern areas it serves.

“Each bank conducted extensive due diligence prior to entering into an agreement,” Ryan says in an emailed statement. “We strongly and categorically deny the claims brought up in the lawsuit and strongly believe they do not accurately reflect the values, character and practices of Old National.”

In comments to analysts on Oct. 19, Ryan dismissed Fair Housing Center of Central Indiana as a group “with a history of filing lawsuits alleging lending discrimination.”

Mark Sander, First Midwest president, will be president of Old National following the deal. In an emailed statement, he says, “Other than the name on the door, nothing is changing in Chicago. . . .First Midwest has a strong and active community development program, as evidenced by our 25-plus year consecutive outstanding CRA rating by the Federal Reserve. We have a successful lending track record in Chicago, providing more than $377 million of CRA-qualified community development loans and more than $800,000 in CRA grants to underserved communities in 2020. This commitment will expand after the merger.”

Asked why the Fed hadn’t yet acted on the deal, Ryan told analysts that he expects eventual approval. “Like many other bank holding companies, we’re in the queue,” he said. “We think we've answered any questions they have for us. . . .They're not waiting on any new information from us."

Another significant local bank deal in the works—Aurora-based Old Second's $322 million pending buyout of Lombard-based West Suburban Bank—was announced nearly two months after First Midwest's but already has both OCC and Fed approval. It awaits a shareholder vote on Nov. 30. Shareholders have approved the Old National-First Midwest tie-up.

"This (lawsuit) is painting the Federal Reserve into a corner," says Horacio Mendez, CEO of Chicago-based Woodstock Institute, a 48-year-old fair-lending organization. "I don't believe this is a delay. I think they have to deny this application."

The two recent Chicago banking deals of a similar scale to First Midwest's both featured community lending deals. Toronto-based CIBC reached agreement with Woodstock and others on $3 billion in additional CRA-related lending and investment and also committed to opening two branches in low- to moderate-income areas when it bought Chicago-based PrivateBancorp in 2017.

Van Tol led the negotiation with Cincinnati-based Fifth Third on a similar $2 billion agreement when it purchased Chicago's MB Financial in 2019.



Inline Play

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