

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of)	
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INNOVATIVE BANK)	ORDER TO
OAKLAND, CALIFORNIA)	CEASE AND DESIST
)	
(INSURED STATE NONMEMBER BANK))	Docket No. FDIC-07-096b
)	
_____)	

Innovative Bank, Oakland, California ("Bank"), having been advised of its right to a Notice of Charges and of Hearing detailing the unsafe or unsound banking practices and violations of law and/or regulations alleged to have been committed by the Bank and of its right to a hearing on the alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with counsel for the Federal Deposit Insurance Corporation ("FDIC"), dated April 25, 2007, whereby solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices and violations of law and/or regulations, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that based upon its examination of the Bank beginning October 10, 2006 the Bank had engaged in unsafe or unsound banking practices and had committed violations of law and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED, that the Bank, its institution-affiliated parties, as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and its successors and assigns cease and desist from the following unsafe and unsound banking practices and violations of law and/or regulation.

- (a) operating with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;
- (b) operating with a board of directors which has failed to provide adequate supervision over and direction to the active management of the Bank;
- (c) engaging in unsatisfactory lending and collection practices;
- (d) operating in violation of Parts 364, 323, 326 and 350 of the FDIC's Rules and Regulations, 12 C.F.R. Parts 364, 323, 326 and 350, as more fully set forth in the Report of Examination as of October 10, 2006;
- (e) operating in violation of section 23B of the Federal Reserve Act, 12 U.S.C. § 371c-1, made applicable to state nonmember insured institutions by section 18(j)(1) of the Act, 12 U.S.C. § 1828(j)(1), as more fully set forth in the Report of Examination as of October 10, 2006;
- (f) operating in contravention of Interagency Statements of Policy and Joint Policy Agency Statements, as more fully set forth in the Report of Examination as of October 10, 2006.
- (g) operating with inadequate internal routine and controls policies;
- (h) operating with an inadequate internal audit program;

(i) operating in violation of section 326.8 of the FDIC Rules and Regulations, 12 C.F.R. § 326.8, as more fully set forth in the FDIC's Bank Secrecy Act ("BSA") Report of Visitation dated August 21, 2006; and

(j) operating in violation of section 353.3 of the FDIC Rules and Regulations, 12 C.F.R. § 353.3, as more fully set forth in the FDIC's BSA Report of Visitation dated August 21, 2006.

IT IS FURTHER ORDERED, that the Bank, its institution-affiliated parties, and its successors and assigns, take affirmative action as follows:

1. The Bank shall have and retain qualified management.

(a) Each member of management shall have qualifications and experience commensurate with his or her duties and responsibilities at the Bank. Each member of management shall be provided appropriate written authority from the Bank's board of directors to implement the provisions of this ORDER.

(b) The qualifications of management shall be assessed on its ability to:

(i) comply with the requirements of this ORDER;

(ii) operate the Bank in a safe and sound manner;

(iii) comply with applicable laws and regulations; and

(iv) restore all aspects of the Bank to a safe and sound condition,

including asset quality, capital adequacy, earnings, management effectiveness, liquidity, and sensitivity to market risk.

(c) During the life of this ORDER, the Bank shall notify the Regional Director of the FDIC's San Francisco Regional Office ("Regional Director") in writing when it proposes to add any individual to the Bank's board of directors or employ any individual as a

senior executive officer. The notification must be received at least 30 days before such addition or employment is intended to become effective and should include a description of the background and experience of the individual or individuals to be added or employed.

2. Within 30 days from the effective date of this ORDER, the board of directors shall increase its participation in the affairs of the Bank, assuming full responsibility for the approval of sound policies and objectives and for the supervision of all of the Bank's activities, consistent with the role and expertise commonly expected for directors of Banks of comparable size. This participation shall include meetings to be held no less frequently than monthly at which, at a minimum, the following areas shall be reviewed and approved: reports of income and expenses; new, overdue, renewal, insider, charged-off, and recovered loans; investment activity; operating policies; and individual committee actions. Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

3. Within 60 days of the effective date of this ORDER, the Bank shall correct all credit administration weaknesses and deficiencies in the Bank's Allowance for Loan and Lease Losses methodology as more fully set forth in the FDIC's Report of Examination dated October 10, 2006. In addition, the Bank shall re-amortize its Small Office Home Office loans in compliance with the terms of the loan agreements and ensure that such loans continue to amortize in compliance with Small Business Administration ("SBA") guidelines.

4. Within 60 days of the effective date of this ORDER, the Bank shall develop and approve appropriate incentive compensation plans for its SBA managers that comply with Part 364 Appendix A restrictions on excessive compensation and satisfactorily address the following:

(a) Establish criteria for credit quality including past due, nonperforming, and adversely classified loans generated under the supervision of the SBA manager;

(b) Establish criteria for credit administration and underwriting deficiencies identified by regulators, auditors, loan reviewers, or SBA;

(c) Establish criteria for satisfactory performance for each responsibility listed in each SBA manager's list of job duties;

(d) Establish dollar caps on total incentive compensation for each manager;

(e) Establish caps on incentive compensation tied to the Bank's net income.

5. Within 90 days of the effective date of this ORDER, the Bank shall develop and submit to the Regional Director a written three-year strategic plan covering the period 2007-2009 that reflects changes in the Bank's balance sheet and ongoing operations necessitated by the requirements of this document. In addition, such plan shall focus on restricting future growth to a level consistent with prudent banking standards and fully consistent with paragraph 9 of this ORDER. The plan and its implementation shall be in a form and manner acceptable to the Regional Director.

6. Within 90 days from the effective date of this ORDER, the Bank, to the fullest extent possible, shall eliminate and/or correct all violations of Parts 364, 323, 326, 350 of the FDIC's Rules and Regulations, section 23B of the Federal Reserve Act, and contraventions of the Interagency Policy Statement on the Internal Audit Function and Its Outsourcing and the Joint Agency Policy Statement on Interest Rate Risk which are more fully set forth in the FDIC's Report of Examination dated October 10, 2006. In addition, the Bank shall take all necessary steps to ensure future compliance with all applicable laws and regulations, including Interagency Statements of Policy and Joint Agency Policy Statements.

7. (a) Within 90 days from the effective date of this ORDER, the Bank shall adopt and implement a policy for the operation of the Bank in such a manner as to provide

adequate internal routine and control policies consistent with safe and sound banking practices. Such policy shall, at a minimum, eliminate and/or correct all internal routine and control deficiencies as more fully set forth in the Report of Examination of the Bank as of October 10, 2006, and shall ensure that the Bank will take all necessary steps to ensure future compliance with all applicable laws and regulations. Such policy and its implementation shall be satisfactory to the Regional Director as determined at subsequent examinations and/or visitations.

(b) Within 90 days from the effective date of this ORDER, the Bank shall develop an internal audit program that establishes procedures to protect the integrity of the Bank's operational and accounting systems. The program shall be in a form and manner acceptable to the Regional Director as determined at subsequent examinations and/or visitations.

8. During the life of this ORDER, the Bank shall file with the FDIC Consolidated Reports of Condition and Income, and maintain proper workpaper documentation of same, which accurately reflect the financial condition of the Bank as of the end of the period for which the Reports are filed, including any adjustment in the Bank's books made necessary or appropriate as a consequence of any California Department of Financial Institutions or FDIC examination of the Bank during that reporting period

9. During the life of this ORDER, the Bank shall limit asset growth to 20 percent per annum, measured as of the end of the month of the effective date of this ORDER.

10. The Board of Directors will develop and approve operating standards for each Board Committee (i.e., Audit, Asset Liability and Compensation Committees) that delineates the responsibilities and duties of each committee, membership qualifications, and meeting frequency. Specifically, the Audit Committee and Asset Liability Committee ("ALCO") shall meet at least monthly, the Compensation Committee shall meet at least quarterly, or more

frequently as needed. In addition, the Board of Directors will ensure that each committee complies with the committee standards.

11. Within 60 days of the effective date of this ORDER, the Bank shall comply with the BSA and its rules and regulations including, but not limited to, Part 326.8 and Part 353 of the FDIC's Rules and Regulations, and all applicable requirements as stated in 31 C.F.R. 103 of the U.S. Treasury Recordkeeping Regulations.

12. Within 60 days of the effective date of this ORDER, the Bank, to the fullest extent possible, shall correct all violations of Section 326.8 and Section 353.3 as more fully set forth in the FDIC's BSA Report of Visitation dated August 21, 2006. In addition, the Bank shall take all necessary steps to ensure future compliance with all applicable laws and regulations.

13. Within 90 days of the effective date of this ORDER, the Bank shall develop, adopt and implement a written compliance program with clearly defined action steps, as required by the applicable provisions of section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. § 326.8, designed to, among other things, ensure and maintain compliance by the Bank with the BSA and the rules and regulations issued pursuant thereto. The program shall ensure that clear and comprehensive BSA compliance reports are provided to the Bank's Board of Directors on a monthly basis. Such program and its implementation shall be in a manner acceptable to the Regional Director of the FDIC's San Francisco Regional Office ("Regional Director") as determined at subsequent examinations and/or visitations of the Bank. At a minimum, the program shall:

(a) Establish a system of internal controls to ensure compliance with the BSA and the rules and regulations issued pursuant thereto, including policies, procedures, and processes to detect and monitor all transactions to identify suspicious or unusual activity, ensure

adequate reporting of all recordkeeping requirements, particularly Suspicious Activity Reports (“SARs”), and ensure full compliance with all BSA and related laws and regulations.

(i) Provide for independent testing of compliance with the BSA, all applicable rules and regulations related to the BSA, and the reporting of suspicious transactions required to be reported pursuant to Part 353 of the FDIC’s Rules and Regulations, 12 C.F.R. Part 353. The independent testing shall be performed at least annually and in accordance with the procedures described in the Federal Financial Institutions Examination Council (“FFIEC”) Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) Examination Manual 2006. The independent testing shall also be fully documented with regard to scope and testing procedures performed, and conducted with appropriate segregation of duties. Plans should also include processes for ensuring corrective action of deficiencies and violations and full implementation of recommendations and concerns identified during independent testing (audit).

(b) Written reports shall be prepared which document the testing results and provide recommendations for improvement. Such reports shall be presented to the Bank’s Board of Directors;

(c) Ensure that the Bank’s BSA compliance program is managed by a qualified officer who shall have responsibility for all BSA compliance and related matters, and further ensure that this officer has sufficient staff to fulfill his/her duties including, without limitation:

(i) identification and timely, accurate, and complete reporting to law enforcement and supervisory authorities of unusual or suspicious activity or known or suspected criminal activity perpetrated against or involving the Bank;

(ii) recommendations of account closure or restriction due to continuing suspicious or unusual activity;

(iii) actions to ensure full branch compliance with BSA laws and regulations and Board approved policies, procedures, and processes; and

(iv) monitoring the Bank's compliance and ensuring that full and complete corrective action is taken with respect to previously identified violations and deficiencies.

(d) Provide and document training by competent staff and/or independent contractors of all board members and all appropriate personnel, including, without limitation, tellers, customer service representatives, lending officers, private and personal banking officers and all other customer contact personnel, in all aspects of regulatory and internal policies and procedures related to the BSA, with a specific concentration on accurate recordkeeping, form completion, applicable BSA and anti-money laundering regulations, and the detection and reporting of known and/or suspected criminal activity. Training specifically needs to be designed for each job function and should provide specific red flags and case study examples so that front-line personnel can identify unusual, inappropriate, or suspicious account activity. Furthermore, training will provide specific guidance commensurate with the Bank's higher-risk customer base, including sufficient customer due diligence, high-risk identification, relationship identification, and focus on unusual transactions beyond the structuring of cash transactions. Training will be conducted a minimum of annually and shall be updated on a regular basis to ensure that all personnel are provided with the most current and up-to-date information. Employees will also be held responsible for their failure to follow BSA training, or appropriate Bank BSA policies, procedures, and processes.

14. Within 60 days of the effective date of this ORDER, the Bank shall develop, adopt and implement a written customer due diligence program, including guidelines for identification and monitoring of related customer accounts. Such program and its implementation shall be in a manner acceptable to the Regional Director as determined at subsequent examinations and/or visitations of the Bank. At a minimum, the customer due diligence program shall provide for the following:

(a) A risk focused assessment of the customer base of the Bank to evaluate the risk associated with various customer relationships, including both deposits and loans, and to determine the appropriate level of enhanced due diligence necessary for those categories of customers that the Bank has reason to believe pose a heightened risk of illicit activities at or through the Bank. After completion of the initial assessment, the Bank will monitor all high-risk accounts at least quarterly, develop documentation of conclusions regarding customer transactions, and subsequently submit the internal High Risk Account watch list to the Audit Committee which shall, in turn, fully advise and inform the Board of same. Policies describing this new procedure will also be written and approved by the Board and included in the Bank's overall BSA policies and procedures.

(b) For those customers whose transactions require enhanced due diligence, procedures to:

(i) determine and obtain the appropriate documentation necessary to confirm the identity and business activities of the customer sufficient to ensure that all critical information is obtained, and remains readily retrievable;

(ii) understand the normal and expected transactions of the customer;
and

(iii) reasonably ensure the identification and timely, accurate and complete reporting of known or suspected criminal activity against or facilitated by the Bank to law enforcement and supervisory authorities, as required by the suspicious activity reporting provisions of Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353. Such suspicious activity reports shall include appropriate information on related deposit accounts, and any history of suspicious or unusual activity on the deposit account(s) which is the subject of the suspicious activity report.

(iv) Maintain an effective audit trail for all executed transactions.

15. Within 30 days from the effective date of this ORDER, the BSA Officer shall develop a plan to review all high-risk accounts and high-risk transactions in the Bank's Los Angeles branch including, but not limited to, the Bank's large currency transaction reports, cash purchases of monetary instruments, wire transfer activity, and foreign exchange services maintained from the date the Los Angeles Branch opened to the date the Bank's automated Suspicious Activity Monitoring System became operational and determine whether SARs should be filed. This forensic review shall be completed within 120 days of the effective date of this ORDER. The BSA Officer shall prepare and file any additional Currency Transaction Report ("CTR") and SAR necessary based upon the review. Upon completion of the reviews, the Bank shall submit a written report of the reviews and copies of any additional SARs and CTRs filed to the Regional Director.

16. Within 60 days of the effective date of this ORDER, the Bank shall establish and implement policies and procedures to advise the Bank's Board of Directors of significant SARs and advise the Audit Committee of all SARs. The Bank shall develop an effective system for tracking the SARs it has filed, including, as appropriate, the date the SAR was filed, dates of

activity, amounts of current and prior reported suspicious activity, information on all named suspects, suspects' account numbers, and a brief synopsis of the suspicious activity identified for all SARs that are considered significant. At a minimum, the Board of Directors shall be advised in detail of all SARs involving employees, contractors, officers and directors; however, under no circumstances should the Bank provide this information to the insider. The policies and procedures shall also include guidelines to determine what SARs are significant.

17. Within 30 days of the effective date of this ORDER, the Board's audit committee shall oversee the Bank's compliance with the BSA and Parts 326 and 353 of the FDIC's Rules and Regulations. The committee shall receive reports from the qualified officer appointed in paragraph 13 regarding compliance with the BSA and Parts 326 and 353, at least monthly, and shall report to the Bank's Board of Directors at every meeting.

18. Within 30 days of the effective date of this ORDER, the Bank shall identify and/or develop internal data processing reports that facilitate BSA monitoring and SAR and CTR reporting. Such reports will be tested for accuracy and completeness at least annually through independent testing. In addition, such report will capture appropriate activity at all branches and departments of the Bank. Documentation of the testing of these internal data processing reports will be provided to the Board and documented in the Board meeting minutes. Such documentation will also be available for examiners upon request. Given the Bank's planned transition to Banker's Toolbox and the implementation of a new information technology system, all reports and internal data processing systems must be reviewed and tested to ensure data accuracy and completeness in all reporting processes.

19. Within 60 days of the effective date of this ORDER, the Bank shall, with the input of all branches, executive management, and departments, develop a BSA risk profile for all

business areas and for the Bank as a whole. The format of the risk assessment should be developed by the Bank, but shall be in a manner acceptable to the Regional Director as determined at subsequent examinations and/or visitations of the Bank.

20. Within 60 days from the effective date of this ORDER, the Bank shall consolidate all existing BSA Policies and Procedures into one set of comprehensive Policies and Procedures and ensure that policies, procedures, and processes are appropriate for the risk profile of the Bank. All data recording, capture, reports, and monitoring procedures that are important from a CTR/SAR-tracking, relationship monitoring, transaction monitoring standpoint will be standardized through-out the institution. Adequate review methodologies will be put in place for determining and reporting suspicious activities.

21. Within 90 days from the effective date of this ORDER, the Bank shall provide for comprehensive independent testing of compliance with the Bank Secrecy Act, Part 353 of the FDIC's Rules and Regulations, and 31 C.F.R. Part 103. The scope and depth of testing must be commensurate for the size and complexity of the Bank's operations. The independent testing (audit) policy and scope must designate the high-risk areas of the bank that will be scrutinized more closely. The independent testing will be conducted at least annually and in compliance with the procedures described in the FFIEC BSA/AML Examination Manual. The Bank shall make independent testing workpapers available during regular examinations and/or visitations. The testing, at a minimum, should include the following:

- (a) A test of the bank's internal procedures for monitoring BSA;
- (b) A sampling of customer accounts and transactions, particularly high-risk accounts and transactions, including cash transactions, wire transactions, and monetary instrument transactions, to determine whether SARs and CTRs are appropriately filed. A review

of customer activities should include a reasonable review of checks issued by the customer, deposits, wire transfers, monetary instruments, loan transactions, and any other banking activity;

(c) A test of the validity and reasonableness of the customer exemptions granted by the Bank and the support of the Bank's risk-assessments on its customer base. Such risk-assessment and exemption review should also include the appropriateness of the documentation obtained and retained;

(d) A test of the bank's recordkeeping system for compliance with the BSA;

(e) Documentation of the scope of the testing procedures performed and the findings of the testing. The scope should be thoroughly documented and discuss specific testing procedures performed. The scope must also indicate the number of customers and accounts reviewed, the types of functions and items researched, and the time frame chosen for sampling;

(f) Additional guidelines as established in the FFIEC BSA/AML Examination Manual, including specific recommendation for independent testing scope;

(g) Written reports will be prepared which document the testing result and provide recommendations for improvement, and such reports shall be presented to the Bank's Board of Directors or Audit Committee; and

(h) Management will ensure proper corrective action for deficiencies and submit reports on such corrective actions and implementation to the Bank's Board of Directors or Audit Committee.

22. The Bank shall establish and implement policies and procedures to ensure that Suspicious Activity Reports are filed within 30 days of identifying a suspect or unusual and suspicious activity (or a total of 60 days if a suspect is unknown or once per quarter for ongoing transactions). Procedures should ensure that all reports are confidentially mailed or transported

electronically to the Financial Crimes Enforcement Network and cannot be diverted. Such a program must also ensure that timely identification of suspicious activity occurs, that timely investigation into unusual activity is undertaken, that related accounts are considered and discussed in the SAR filing, and that a detailed, accurate, comprehensive, and readable narrative description of the activity is included in the SAR filing.

23. The Bank's Board of Directors shall appoint the Audit Committee with the responsibility of ensuring that the Bank complies with the provisions of this ORDER. The committee shall report monthly to the full Board of Directors of the Bank and a copy of the report and any discussion relating to the report or the ORDER shall be noted in the minutes of the Bank's Board of Directors' meetings. This delegation to the Audit Committee shall not diminish the responsibility or liability of the entire Board of Directors of the Bank to ensure compliance with the provisions of this ORDER.

24. Within 30 days of the end of the quarter following the effective date of this ORDER, and within thirty (30) days of the end of each quarter thereafter, the Bank shall furnish written progress reports to the Regional Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has released the Bank in writing from making further reports.

25. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER in conjunction with the Bank's next shareholder communication and also in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe the ORDER in all material respects. The description and any accompanying communication, statement, or

notice shall be sent to the FDIC, Accounting and Securities Section, Washington, D.C. 20429, at least fifteen (15) days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

This ORDER will become effective upon its issuance by the FDIC. The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated at San Francisco, California, this 26th day of April, 2007.

Stan Ivie
Acting Regional Director
Division of Supervision and Consumer Protection
San Francisco Region
Federal Deposit Insurance Corporation