



The FDIC considered the matter and determined that it had reason to believe that the Bank had violated laws or regulations. The FDIC, therefore, accepts the CONSENT AGREEMENT and issues 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 violations of law or regulations:

- A. Operating with a board of directors which has failed to provide adequate supervision over, and direction to, the active management of the Bank in the area of Consumer Compliance.
- B. Operating with management whose policies and practices in the area of Consumer Compliance are detrimental to the Bank.
- C. Failing to develop and administer an effective compliance management system that ensures compliance with federal consumer protection laws, regulations, and policies ("Consumer Laws").

- D. Violating Consumer Laws as set forth in the FDIC's Compliance Report of Examination of the Bank as of June 19, 2008 ("Compliance Report").
- E. Failing to establish an effective process to monitor compliance with Consumer Laws.
- F. Failing to adequately implement policies and procedures.
- G. Operating with an inadequate audit program.

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

BOARD OF DIRECTORS

1. From the effective date of this ORDER, the Board 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.

(a) Within 30 days of this ORDER, the Board shall designate a committee ("Compliance Committee") comprised of:

- (i) a minimum of two (2) directors who are not active officers of the Bank;

- (ii) a minimum of one (1) member of senior management of the Bank; and
- (iii) the Compliance Officer retained pursuant to this ORDER.

Establishment of the Compliance Committee in no way diminishes the responsibility of the entire Board for ensuring compliance with the provisions of this ORDER.

(b) The Board, in conjunction with the Compliance Committee, shall allocate resources to the compliance area that are:

- (i) Commensurate with the level of complexity of the Bank's operations to ensure the establishment and implementation of an adequate Compliance Management System, as described in Financial Institution Letter 10-2007, "Compliance Examination Handbook, Heading II Compliance Examinations - Compliance Management System," ("CMS Guidance"), including procedures ensuring the Bank's compliance with Consumer Laws; and
- (ii) Sufficient to ensure the Bank's timely compliance with the provisions of this ORDER.

(c) The Board shall ensure that the Compliance Officer:

(i) has and retains sufficient authority and independence to implement policies related to Consumer Laws and to institute corrective action as needed. This authority shall include the ability to cross departmental lines, have access to all areas of the Bank's operations, and effectuate corrective action upon discovering deficiencies.

(ii) receives ongoing training, sufficient time, and adequate resources to effectively oversee, coordinate, and implement the Bank's Compliance Management System.

(d) The Board, in conjunction with the Compliance Committee, shall:

(i) Ensure that the duties and responsibilities of the Compliance Officer are clearly defined and provide for accessibility to both the board and senior management;

- (ii) Require the Compliance Officer to provide monthly reports to the board or Compliance Committee;
- (iii) Require the Compliance Officer to review and respond promptly in writing to audit reports relating to all areas of the Bank's Compliance Management System; and
- (iv) Require the Compliance Officer to prepare a schedule of requirements for Consumer Laws (such as the type and timing of disclosures), so that Bank employees will be informed of the requirements relating to their duties.

(e) Within 30 days from the effective date of this ORDER, the Board shall have in place a procedure that will provide for monitoring of the Bank's compliance with this ORDER.

- (i) The procedure shall include, but not be limited to, monthly meetings to be held by the Compliance Committee at which the following areas, at a minimum, shall be reviewed and approved: minutes of the Compliance Committee, the Compliance Program (as defined in the CMS Guidance), Compliance Officer reports, monitoring

reports, audit reports, compliance program policies, and compliance with this ORDER. The Compliance Committee shall maintain minutes of its meetings.

(ii) The Compliance Committee shall report to the Board at each Board meeting held while the ORDER is in effect. The minutes of the Compliance Committee shall be reviewed by the Board at its monthly meeting and the minutes of the Board shall document these reviews and approvals, including the names of any dissenting directors.

(iii) All progress reports and other written responses to this ORDER shall be reviewed and signed by each member of the board, and such reviews shall be recorded in the minutes of the applicable meeting of the Board. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has released, in writing, the Bank from making additional reports.

(f) The Bank's board of directors shall ensure proper follow-up and resolution to audit findings.

COMPLIANCE MANAGEMENT

2. 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; and
- (iii) comply with applicable laws and regulations; and
- (iv) develop, implement and administer a satisfactory Compliance Management System.

(c) Within 90 days from the effective date of this ORDER, the Bank shall have and retain a full-time qualified Compliance Officer who possesses the requisite knowledge and



experience to administer an effective Compliance Management System.

- (i) The responsibilities of the Compliance Officer shall at a minimum include:
  - (A) Developing compliance policies and procedures and conducting regular monitoring reviews of policies and procedures to ensure that updates are accomplished as necessary;
  - (B) Administering a compliance training program and providing training in Consumer Laws on a continuing basis to Bank management, the Bank's board of directors (the "Board"), and employees;
  - (C) Reporting to the Board on the effectiveness of the Compliance Management System; and
  - (D) Coordinating responses to consumer complaints.
- (ii) The ongoing determination of whether the Bank is retaining a qualified Compliance Officer within in the meaning of this ORDER shall be based upon the continued effectiveness of the Bank in achieving

compliance with the requirements of this ORDER and with Consumer Laws.

COMPLIANCE MONITORING PROCEDURES

3. Within 90 days from the effective date of this ORDER, the Bank shall ensure that effective compliance monitoring procedures are developed and incorporated into the normal activities of every department. At a minimum, monitoring procedures should include ongoing reviews of:

- (i) Applicable departments;
- (ii) Disclosures and calculations for various loan and deposit products;
- (iii) Document filing and retention procedures;
- (iv) Marketing literature and advertising; and
- (v) Internal compliance communication system that provides to Bank personnel appropriate updates resulting from revisions to Consumer Laws.

The procedures required by this paragraph (3), shall be acceptable to the Regional Director as determined at subsequent examinations of the Bank.

COMPLIANCE TRAINING PROGRAM

4. Within 90 days from the effective date of this ORDER, the Bank shall develop a formal training program, acceptable to the Regional Director as determined at subsequent examinations or visitations, related to Consumer Laws for all Bank personnel, including senior management and the directorate, commensurate with their individual job functions and duties. The program shall include the following:

- (i) training on all applicable laws and regulations;
- (ii) training on procedural details required to perform transactions specific to the Bank;
- (iii) adequate in-person training to the lending staff to ensure that transactions specific to the Bank are conducted in compliance with applicable regulations and;
- (iv) documentation of training provided, a list of personnel who attended the training, and copies of training materials used.

The program shall be reviewed and updated at least annually.

COMPLIANCE POLICY

5. Within 90 days from the effective date of this ORDER, the Bank shall effectively implement its Compliance Policy.

(a) The ongoing determination of whether the Bank's implementation of the Compliance Policy is effective will be based upon whether:

- (i) The Bank's actual practices reflect the Compliance Policy;
- (ii) All Consumer Laws are being followed; and
- (iii) Reviews are being conducted on a regular basis, but no less than monthly, at the transactional level during the normal daily activities of employees in all operating units of the Bank.

(b) The Bank's Compliancy Policy shall require the adoption of a comprehensive Compliance Program as set forth in the CMS Guidance, which will be reviewed and approved annually by the Board.

(c) The Bank's Compliancy Policy shall require the development of internal monitoring procedures to ensure that:

- (i) The Bank's actual practices reflect the Compliance Policy;
- (ii) All Consumer Laws are being followed; and
- (iii) Reviews are conducted on a regular basis, but no less than monthly, at the transactional level during the normal

daily activities of employees in all operating units of the Bank.

EXTERNAL COMPLIANCE AUDIT

6. (a) Within 90 days from the effective date of this ORDER, the Bank shall have an external audit to ensure compliance with Consumer Laws. The Bank shall submit a copy of the proposed engagement letter with the external auditor to the Regional Director for review and written non-objection before it is executed. The external audit will assess the Bank's Compliance Program in conjunction with the CMS Guidance, and at a minimum, shall:

- (i) Define a comprehensive scope;
- (ii) Identify the number of transactions sampled by category or product type;
- (iii) Identify deficiencies;
- (iv) Provide descriptions of or suggestions for corrective actions and time frames for correction; and
- (v) Establish follow-up procedures to verify that corrective actions were implemented and effective.

(b) Audit findings, deficiencies, and recommendations must be documented in a written report and provided to the Board within 10 days after completion of the external audit.

(c) Within 30 days of receipt of the external auditors written report the Board shall take action to address the audits' findings, correct any deficiencies noted, and implement any recommendations or explain in a writing signed by all Board members why a particular recommendation has not been implemented.

(d) The contract or engagement letter with the external auditor, at a minimum, should include:

- (i) A description of the work to be performed under the contract or engagement letter;
- (ii) The responsibilities of the external auditor;
- (iii) An identification of the professional standards covering the work to be performed;
- (iv) Identification of the specific procedures to be used when carrying out the work to be performed;
- (v) The time frame for completion of the work;
- (vi) A provision for unrestricted examiner access to workpapers; and

(vii) A provision stating that the external auditor will present the findings of the audit directly to the Board.

(e) After receipt of the external audit the Bank shall, on a quarterly basis, conduct subsequent external audits. The subsequent audits shall comply with all of the provisions of this paragraph (6).

#### BANK RESPONSES TO EXTERNAL AUDIT FINDINGS

7. Within 90 days from the effective date of this ORDER, the Bank shall formulate, adopt, and implement procedures, acceptable to the Regional Director as determined at subsequent examinations or visitations, to ensure that Bank responses to audit findings, as well as Bank corrective actions in response to audit findings, are documented and reported to the board of directors.

#### FLOOD INSURANCE

8. (a) Within 60 days from the effective date of this ORDER, the Bank shall adopt and implement systems to ensure compliance with the Flood Disaster Protection Act of 1973, 42 U.S.C. §§ 4002-4128, and Part 339 of the FDIC Rules and Regulations, 12 C.F.R. Part 339.

(b) From the effective date of this ORDER, the Bank shall retain all documentation for loans with properties located in special flood hazard areas including, but not limited to, flood insurance policies to show continuation of insurance and amount of insurance, documented property values for those properties subject to flood insurance requirements, standard flood hazard determination forms, notes and renewal or extension documentation, hazard insurance policies, special notices, and any correspondence to customers regarding flood insurance.

#### CORRECTION OF VIOLATIONS OF LAWS

9. Within 30 days from the effective date of this ORDER, the Bank shall eliminate or correct all violations of Consumer Laws identified in the Compliance Report and more specifically addressed in this ORDER. In addition, the Bank shall establish and implement procedures, acceptable to the Regional Director as determined at subsequent examinations or visitations, as part of its Compliance Policy to ensure future compliance with all Consumer Laws.

#### DISCLOSURE TO SHAREHOLDERS

10. Following the effective date of this ORDER, the Bank shall send to its shareholder a copy of this ORDER: (1) in conjunction with the Bank's next shareholder communication; or



(2) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting.

WRITTEN PROGRESS REPORTS

11. Within 30 days from the end of the first calendar quarter following the effective date of this ORDER, and within 30 days after the end of each successive calendar quarter thereafter, the Bank shall furnish written progress reports to the Regional Director detailing the form and manner of any action taken to secure compliance with this ORDER and the results thereof.

CLOSING PARAGRAPHS

The effective date of this ORDER shall be ten calendar days after the date of its issuance by the FDIC.

The provisions of this ORDER shall be binding upon the Bank, its institution-affiliated parties, successors, and assigns.

The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC. Pursuant to delegated authority.

