

FEDERAL DEPOSIT INSURANCE CORPORATION  
 WASHINGTON, D.C.  
 and  
 TEXAS DEPARTMENT OF BANKING  
 AUSTIN, TEXAS

	)	
In the Matter of	)	CONSENT ORDER
MAIN STREET BANK	)	FDIC-10-321b
KINGWOOD, TEXAS	)	COMMISSIONER ORDER No. 2010-027
(Insured State Nonmember Bank)	)	
	)	

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency for Main Street Bank, Kingwood, Texas (“Bank”), under 12 U.S.C. § 1813(q).

The Texas Department of Banking ("Department") is the appropriate state banking agency for the Bank, under Texas Finance Code, Title 3, Subtitle A, §§ 31.001 et seq.

The Bank, by and through its duly elected and acting Board of Directors, has executed a “STIPULATION TO THE ISSUANCE OF A CONSENT ORDER” (“STIPULATION”), dated July 28, 2010, that is accepted by the FDIC and the Banking Commissioner of Texas ("Commissioner"). With the STIPULATION, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law or regulation, relating to management effectiveness, loan and lease review and rating, Allowance for Loan and Lease Losses adequacy, excessive classified assets, and concentration management, to the issuance of this CONSENT ORDER (“ORDER”) by the FDIC and the Commissioner.

Having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and Texas Finance Code §§ 35.002, have been satisfied, the FDIC and the Commissioner hereby order that:

## **STRATEGIC PLAN**

1. (a) Within 60 days after the effective date of this ORDER, the Bank shall prepare and adopt a comprehensive strategic plan. The strategic plan required by this paragraph shall contain an assessment of the Bank's current financial condition and market area, and a description of the operating assumptions that form the basis for major projected income and expense components.

(b) The written strategic plan shall address, at a minimum:

- (1) The types of assets and funding sources to be pursued;
- (2) Strategies for pricing policies and asset/liability management;
- (3) Plans for sustaining adequate liquidity, including back-up lines of credit to meet any unanticipated deposit withdrawals;
- (4) Goals for reducing problem loans;
- (5) Plans for attracting and retaining qualified individuals to fill vacancies in the lending and accounting functions;
- (6) Financial goals, including pro forma statements for asset growth, capital adequacy, and earnings;
- (7) Formulation of a mission statement and the development of a strategy to carry out that mission.

(c) The Bank shall submit the strategic plan to the Regional Director and the Commissioner for review and comment. After consideration of all such comments, the Bank shall approve the plan, which approval shall be recorded in the minutes of the Bank's board of

directors' meeting. Thereafter, the Bank shall implement and follow the strategic plan.

(d) Within 30 days after the end of each calendar quarter following the effective date of this ORDER, the Bank's board of directors shall evaluate the Bank's performance in relation to the strategic plan required by this paragraph and record the results of the evaluation, and any actions taken by the Bank, in the minutes of the Bank's board of directors' meeting at which such evaluation is undertaken.

(e) The strategic plan required by this ORDER shall be revised and submitted to the Regional Director and the Commissioner for review and comment 30 days after the end of each calendar year for which this ORDER is in effect. Within 30 days after receipt of all such comments from the Regional Director and the Commissioner and after consideration of all such comments, the Bank shall approve the revised plan, which approval shall be recorded in the minutes of the Bank's board of directors' meeting. Thereafter, the Bank shall implement the revised plan.

### **GROWTH PLAN**

2. While this ORDER is in effect, the Bank shall not increase any balance sheet category by more than five percent (5%) during any consecutive three-month period without providing, at least 30 days prior to its implementation, a growth plan to the Regional Director and the Commissioner. Such growth plan, at a minimum, shall include the funding source to support the projected growth, as well as the anticipated use of funds. This growth plan shall not be implemented without the prior written consent of the Regional Director and the Commissioner. In no event shall the Bank increase its Total Assets by more than ten percent (10%) annually.

## CAPITAL INCREASE AND MAINTENANCE

3. By December 31, 2010, the Bank will achieve a Tier 1 Leverage Capital ratio equal to or greater than twelve (12) percent of the Bank's Average Total Assets, after establishing an adequate Allowance for Loan and Lease Losses.

## CAPITAL PLAN

4. (a) Within 60 days after the effective date of this ORDER, the Bank shall submit a written capital plan to the Regional Director and Commissioner to achieve and maintain its Tier 1 Capital at a level commensurate with the risk profile of the institution. The plan will clearly and accurately project the risk profile of the Bank and the steps necessary to achieve and maintain a level of capital commensurate with the projected risk. The plan will:

- (1) Identify actions that will be taken to achieve a Tier 1 Leverage Capital ratio equal to or greater than twelve percent (12%) by December 31, 2010, after establishing an adequate Allowance for Loan and Lease Losses; and
- (2) Identify actions that will be taken to further achieve a Tier 1 Leverage Capital ratio equal to or greater than fourteen percent (14%) by March 31, 2011, after establishing an adequate Allowance for Loan and Lease Losses, or identify actions that will be taken to reduce the risk profile of the Bank by March 31, 2011 to a lower level commensurate with its proposed Tier 1 Capital.

(b) After the Regional Director and the Commissioner respond to the capital plan, the Bank's board of directors shall adopt the capital plan, including any modifications or amendments requested by the Regional Director and the Commissioner. Thereafter, the Bank

shall immediately initiate measures detailed in the capital plan, to the extent such measures have not previously been initiated, to effect compliance with the plan within 60 days after the Regional Director and the Commissioner respond to the capital plan.

(c) Such increase in Tier 1 Capital, and any increase in Tier 1 Capital necessary to meet the capital ratios required by this ORDER, may be accomplished by:

- (1) The sale of securities in the form of common stock; or
- (2) The direct contribution of cash by the directors and/or shareholders of the Bank or by the Bank's holding company; or
- (3) Receipt of an income tax refund or the capitalization, subsequent to the date of this Order, of a bona fide tax refund certified as being accurate by a certified public accounting firm; or
- (4) Any other method approved by the Regional Director and the Commissioner.

(d) If any such capital ratios are less than required by the ORDER, as determined as of the date of any Report of Condition and Income or at an examination by the FDIC or the Department, the Bank shall, within 30 days after receipt of a written notice of the capital deficiency from the Regional Director or the Commissioner, present to the Regional Director and the Commissioner a new capital plan to increase the Bank's Tier 1 Capital or to take such other measures to bring all the capital ratios to the percentages required by this ORDER. After the Regional Director and the Commissioner respond to the new capital plan, the Bank's board of directors shall adopt the new capital plan, including any modifications or amendments requested by the Regional Director and the Commissioner.

(e) Thereafter, the Bank shall immediately initiate measures detailed in the plan, to the extent such measures have not previously been initiated, to increase its Tier 1 Capital

by an amount sufficient to bring all the Bank's capital ratios to the percentages required by this ORDER within 120 days after the Regional Director and the Commissioner respond to the new capital plan.

(f) The capital plan must include a capital contingency plan in the event that the Bank (i) fails to maintain the minimum capital ratios required by the ORDER; (ii) fails to submit an acceptable capital plan; or (iii) fails to implement or adhere to a capital plan to which no written objection was provided by the Regional Director and the Commissioner. The capital contingency plan shall include a plan to sell or merge the Bank. The Bank shall implement the capital contingency plan upon written notice from the Regional Director and the Commissioner.

(g) If all or part of the increase in Tier 1 Capital required by this ORDER is to be accomplished by the sale of new securities, the Bank's board of directors shall adopt and implement a plan for the sale of such additional securities, including soliciting proxies and the voting of any shares or proxies owned or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and any other material disclosures necessary to comply with Federal securities laws and any applicable State law. Prior to the implementation of the plan, and in any event, not less than 20 days prior to the dissemination of such materials, the plan and any materials used in the sale of the securities shall be submitted to the FDIC, Accounting and Securities Disclosure Section, Washington, D.C. 20429, for review. Any changes requested to be made in the plan or the materials by the FDIC shall be made prior to their dissemination. If the increase in Tier 1 Capital is to be provided by

the sale of non-cumulative perpetual preferred stock, then all terms and conditions of the issue shall be presented to the Regional Director and the Commissioner for prior approval.

(h) In complying with the provisions of this ORDER and until such time as any such public offering is terminated, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities written notice of any planned or existing development or other change which is materially different from the information reflected in any offering materials used in connection with the sale of the Bank securities. The written notice required by this paragraph shall be furnished within 10 days after the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber who received or was tendered the information contained in the Bank's original offering materials.

(i) In addition, the Bank shall comply with the FDIC's Statement of Policy on Risk-Based Capital found in Appendix A to Part 325 of the FDIC Rules and Regulations, 12 C.F.R. Part 325, App. A.

(j) For purposes of this ORDER, all terms relating to capital shall be calculated according to the methodology set forth in Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. Part 325.

### **PROFIT PLAN**

5. (a) Within 60 days after the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors shall develop a written profit plan consisting of goals and strategies for improving the earnings of the Bank for each calendar year.

The written profit plan shall include, at a minimum:

(1) Identification of the major areas in, and means by, which the board

of directors will seek to improve the Bank's operating performance;

- (2) Realistic and comprehensive budgets;
- (3) A budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections on not less than a quarterly basis; and
- (4) A description of the operating assumptions that form the basis for and support major projected income and expense components.

(b) Such written profit plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days after the receipt of any comment from the Regional Director and the Commissioner, the Bank's board of directors shall approve the written profit plan which approval shall be recorded in the minutes of the Bank's board of directors. Thereafter, the Bank, its directors, officers, and employees shall follow the written profit plan and/or any subsequent modification.

### **MANAGEMENT – BOARD SUPERVISION**

6. Within 30 days after the effective date of this ORDER, the Bank's board of directors shall increase its participation in the affairs of the Bank by assuming full responsibility for the approval of the Bank's policies and objectives and for the supervision of the Bank's management, including all of the Bank's activities. The board's participation in the Bank's affairs shall include, at a minimum, monthly meetings in which the following areas shall be reviewed and approved by the board: reports of income and expenses; new, overdue, renewed, insider, charged-off, delinquent, nonaccrued, and recovered loans and leases; investment



activities; operating policies; and individual committee actions. The Bank's board of directors' minutes shall document the board's reviews and approvals, including the names of any dissenting directors.

### **MANAGEMENT – SPECIFIC POSITIONS**

7. (a) Within 90 days after the effective date of this ORDER, the Bank shall have and retain qualified management. At a minimum, such management shall include:

- (1) A Chief Executive Officer with a demonstrated ability in managing a bank of comparable size and with experience in upgrading a low quality loan and lease portfolio. Such person shall be provided the necessary written authority to:
  - a. Implement the provisions of this ORDER;
  - b. Act to restore the Bank to a safe and sound condition; and
  - c. Act as the “principal executive officer” of the Bank under Texas Finance Code §§ 33.103 and 33.106.

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

- (1) Comply with the requirements of this ORDER;
- (2) Operate the Bank in a safe and sound manner;
- (3) Comply with applicable laws and regulations; and
- (4) Restore all aspects of the Bank to a safe and sound condition, including asset quality, capital adequacy, earnings, management effectiveness, and liquidity.

(b) While this ORDER is in effect, the Bank shall notify the Regional

Director and the Commissioner in writing of any changes in any of the Bank's directors or Senior Executive Officers. For purposes of this ORDER, "Senior Executive Officer" is defined as in Section 303.101(b) of the FDIC's Rules and Regulations, 12 C.F.R. § 303.101(b). Prior to the addition of any individual to the board of directors or the employment of any individual as a Senior Executive Officer, the Bank shall comply with the requirements of Section 32 of the Act, 12 U.S.C. § 1831i, and Subpart F of Part 303 of the FDIC's Rules and Regulations, 12 C.F.R. §§ 303.100 - 303.103.

### **CORRECTION OF VIOLATIONS**

8. (a) Within 60 days after the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and regulation noted in the February 1, 2010 Report of Examination.

(b) Within 60 days after the effective date of this ORDER, the Bank shall implement procedures to ensure future compliance with all applicable laws and regulations.

(c) Within 60 days after the effective date of this ORDER, the Bank shall address any contraventions of policy noted in the Report of Examination.

### **CLASSIFIED ASSETS - CHARGE-OFF AND PLAN FOR REDUCTION**

9. (a) Within 30 days after the effective date of this ORDER, the Bank shall, to the extent that it has not previously done so, eliminate from its books, by charge-off or collection, all assets or portions of assets classified Loss by the FDIC or the Department as a result of its examination of the Bank dated February 1, 2010. Elimination or reduction of these assets through proceeds of loans made by the Bank shall not be considered "collection" for the

purpose of this paragraph.

(b) Within 60 days after the effective date of this ORDER, the Bank shall submit a written plan to the Regional Director and the Commissioner to reduce the remaining assets classified Doubtful and Substandard as a result of the examination dated February 1, 2010. The plan shall address each asset or asset category so classified with a book value of \$250,000 or higher, and provide the following:

- (1) The name under which the asset is carried on the Bank's books;
- (2) Type of asset;
- (3) Actions to be taken in order to reduce the classified asset; and
- (4) Timeframes for accomplishing the proposed actions.

The plan shall also include, at a minimum:

- (5) A review of the financial position of each such borrower whose total relationship has a book value of \$250,000 or higher, including the source of repayment, repayment ability, and alternate repayment sources;
- (6) An evaluation of the available collateral for each such credit, including possible actions to improve the Bank's collateral position;
- (7) A schedule detailing the projected reduction of total classified assets on a quarterly basis; and
- (8) A provision requiring the submission of monthly progress reports to the Bank's board of directors and a provision mandating a review by the Bank's board of directors.

(c) For purposes of the plan, the reduction of adversely classified assets as of

February 1, 2010, shall be detailed using quarterly targets expressed as a percentage of the Bank's Tier 1 Capital plus the Bank's Allowance for Loan and Lease Losses and may be accomplished by:

- (1) Charge-off;
- (2) Collection;
- (3) Sufficient improvement in the quality of adversely classified assets so as to warrant removing any adverse classification, as determined by the FDIC or the Department; or
- (4) Increase in the Bank's Tier 1 Capital.

(d) The Bank shall present the plan to the Regional Director and the Commissioner for review. Within 30 days after the Regional Director's and the Commissioner's response, the plan, including any requested modifications or amendments, shall be adopted by the Bank's board of directors which approval shall be recorded in the minutes of the meeting of the Bank's board of directors. The Bank shall then immediately initiate measures detailed in the plan to the extent such measures have not been initiated.

(e) While this ORDER is in effect, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified Loss as determined at any future examination conducted by the FDIC or the Department.

#### **CONCENTRATION MANAGEMENT PLAN**

10. (a) Within 60 days after the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director and the Commissioner for review and comment a written Concentration Management Plan for each loan and lease concentration of credit identified in the Report of Examination dated February 1, 2010. Such plan shall include, at a

minimum:

- (1) An acceptable portfolio mix and appropriate limits for all concentrations as a percentage of the Bank's Total Capital;
- (2) A plan for the reduction of each high risk loan or lease concentration. For the purposes of this plan, "reduce" means to:
  - (a) Charge-off;
  - (b) Collect; or
  - (c) Increase Tier 1 Capital.
- (3) A risk management system to identify loan and lease concentrations, monitor financial and economic factors which could affect each concentration, and stress testing of all concentrations;
- (4) A provision for the submission of a monthly written concentration assessment report to the Bank's board of directors for review and notation in the minutes of the Bank's board of directors meeting.

(b) After the Regional Director and the Commissioner have responded to the plan, the Bank's board of directors shall adopt the plan as amended or modified by the Regional Director and the Commissioner. The plan shall be implemented immediately to the extent that the provisions of the plan are not already in effect at the Bank.

### **SPECIAL MENTION AND TECHNICAL EXCEPTIONS**

11. (a) Within 90 days after the effective date of this ORDER, the Bank shall correct all deficiencies in the loans listed for Special Mention in the Report of Examination dated

February 1, 2010.

(b) Within 90 days after the effective date of this ORDER, the Bank shall correct the technical exceptions listed in the Report of Examination dated February 1, 2010.

(c) Within 90 days after the effective date of this ORDER, the Bank shall implement a system of monitoring loan documentation exceptions on an ongoing basis and implement procedures designed to reduce the occurrence of such exceptions in the future.

### **RESTRICTION ON ADVANCES TO CLASSIFIED BORROWERS**

12. (a) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to or for the benefit of any borrower whose existing credit has been classified Loss by the FDIC or the Department as the result of its examination of the Bank, either in whole or in part, and is uncollected, or to any borrower who is already obligated in any manner to the Bank on any extension of credit, including any portion thereof, that has been charged off the books of the Bank and remains uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing credit already extended to a borrower after full collection, in cash, of interest due from the borrower.

(b) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to or for the benefit of any borrower whose extension of credit is classified Doubtful and/or Substandard by the FDIC or the Department as the result of its examination of the Bank, either in whole or in part, and is uncollected, unless the Bank's board of directors has signed a detailed written statement giving reasons why failure to extend such credit would be detrimental to the best interests of the Bank. The statement shall be placed in the appropriate loan or lease file and included in the minutes of the applicable board of directors'

meeting.

### **LOAN AND LEASE POLICY**

13. (a) Within 60 days after the effective date of this ORDER, and annually thereafter, the board of directors of the Bank shall review the Bank's loan and lease policy and procedures for effectiveness and, based upon this review, shall make all necessary revisions to the policy in order to strengthen the Bank's lending and leasing procedures and abate additional loan and lease deterioration. The revised written loan and lease policy shall be submitted to the Regional Director and the Commissioner for review and comment upon its completion.

(b) The initial revisions to the Bank's loan and lease policy required by this paragraph, at a minimum, shall include provisions:

- (1) Designating the Bank's normal trade area;
- (2) Establishing review and monitoring procedures to ensure that all lending and leasing personnel are adhering to established lending and leasing procedures and that the Bank's board of directors is receiving timely and fully documented reports on loan and lease activity, including any deviations from established policy;
- (3) Requiring that all extensions of credit originated, purchased, or renewed by the Bank be supported by current credit information and collateral documentation, including lien searches and the perfection of security interests; have a defined and stated purpose; and have a predetermined and realistic repayment source and schedule. Credit information and collateral documentation shall include current financial information, profit and loss statements or

copies of tax returns, and cash flow projections, and shall be maintained throughout the term of the loan;

- (4) Requiring loan committee review and monitoring of the status of repayment and collection of overdue and maturing loans and leases, as well as all loans and leases classified “Substandard” in the Report of Examination;
- (5) Requiring the establishment and maintenance of a loan and lease grading system and internal loan and lease watch list;
- (6) Requiring a written plan to lessen the risk position in each line of credit identified as a problem credit on the Bank’s internal loan and lease watch list;
- (7) Prohibiting the capitalization of interest or loan and lease-related expenses unless the Bank’s board of directors formally approves such extensions of credit as being in the best interest of the Bank and provides detailed written support of its position in the Bank’s board minutes;
- (8) Requiring that extensions of credit to any of the Bank’s executive officers, directors, or principal shareholders, or to any related interest of such person, be thoroughly reviewed for compliance with all provisions of Regulation O, 12 C.F.R. Part 215 and Section 337.3 of the FDIC’s Rules and Regulations, 12 C.F.R. § 337.3.
- (9) Requiring prior written approval by the Bank’s board of directors for any extension of credit, renewal, or disbursement in an amount



which, when aggregated with all other extensions of credit to that person and related interests of that person, exceeds \$300,000. For the purpose of this paragraph “Related Interest” is defined as in Section 215.2(n) of Regulation O, 12 C.F.R. § 215.2(n);

- (10) Requiring a non-accrual policy in accordance with the Federal Financial Institutions Examination Council’s Instructions for the Consolidated Reports of Condition and Income;
- (11) Requiring accurate reporting of past due loans and leases to the Bank’s board of directors on at least a monthly basis;
- (12) Addressing concentrations of credit and diversification of risk, including goals for portfolio mix, establishment of limits within loan and other asset categories, and development of a tracking and monitoring system for the economic and financial condition of specific geographic locations, industries, and groups of borrowers;
- (13) Requiring guidelines and review of out-of-territory loans and leases which, at a minimum, shall include complete credit documentation, approval by a majority of the board of directors prior to disbursement of funds, and a detailed written explanation of why such a loan or lease is in the Bank’s best interest;
- (14) Establishing standards for extending unsecured credit;
- (15) Incorporating collateral valuation requirements, including:
  - a. Maximum loan-to-collateral-value limitations;
  - b. A requirement that the valuation be completed prior to a commitment to lend funds;

- c. A requirement for periodic updating of valuations; and
  - d. A requirement that the source of valuations be documented in Bank records;
- (16) Establishing standards for initiating collection efforts;
  - (17) Establishing guidelines for timely recognition of loss through charge-off;
  - (18) Prohibiting the extension of a maturity date, advancement of additional credit or renewal of a loan or lease to a borrower whose obligations to the Bank were classified “Substandard,” “Doubtful,” or “Loss,” whether in whole or in part, as a result of an examination by the FDIC or Department in a Report of Examination, without the full collection in cash of accrued and unpaid interest, unless the loans or leases are well secured and/or are supported by current and complete financial information, and the renewal or extension has first been approved in writing by a majority of the Bank’s board of directors;
  - (19) Establishing officer lending limits and limitations on the aggregate level of credit to any one borrower which can be granted without the prior approval of the Bank’s board of directors;
  - (20) Requiring that collateral appraisals be completed prior to the making of secured extensions of credit, and that periodic collateral valuations be performed for all secured loans listed on the Bank’s internal watch list, criticized in any internal or outside audit report

of the Bank, or criticized in any Report of Examination of the Bank by the FDIC or the Department;

- (21) Prohibiting the issuance of standby letters of credit unless the letters of credit are well secured and/or are supported by current and complete financial information;
- (22) Prohibiting the payment of any overdraft in excess of \$5,000 without the prior written approval of the Bank's board of directors, and imposing limitations on the use of Cash Items account;
- (23) Establishing limitations on the maximum volume of loans and leases in relation to total assets; and
- (24) Establishing review and monitoring procedures to ensure compliance with FDIC's regulation on appraisals pursuant to Part 323 of the FDIC's Rules and Regulations, 12 C.F.R. Part 323.

(c) The Bank shall submit the foregoing policies to the Regional Director and the Commissioner for comment. After the Regional Director and the Commissioner has/have responded to the policies, the Bank's board of directors shall adopt the policies as amended or modified by the Regional Director and the Commissioner. The policies will be implemented immediately to the extent that they are not already in effect at the Bank.

**ALLOWANCE FOR LOAN AND LEASE LOSSES  
AND  
AMENDED CALL REPORTS**

14. (a) The Bank shall maintain an adequate allowance for loan and lease losses ("ALLL"). Prior to the end of each calendar quarter, the Bank's board of directors shall review the adequacy of the Bank's ALLL. Such reviews shall include, at a minimum, the Bank's loan

and lease loss experience, an estimate of potential loss exposure in the portfolio, trends of delinquent and non-accrual loans and leases, and prevailing and prospective economic conditions. The minutes of the Bank's board of directors' meetings at which such reviews are undertaken shall include complete details of the reviews and the resulting recommended increases in the ALLL.

(b) The Bank shall file Consolidated Reports of Condition and Income with the FDIC that contain an adequate ALLL. Reports filed after the effective date of this ORDER shall also accurately reflect the financial condition of the Bank as of the reporting date.

(c) The Bank must use Financial Accounting Standards Board Statements Numbers 5 and 114 for determining the Bank's allowance for loan and lease losses reserve adequacy. Provisions for loan and lease losses must be based on the inherent risk in the Bank's loan and lease portfolio. The Bank's board of directors must document with written reasons any decision not to require provisions for loan and lease losses in the board minutes.

### **LIQUIDITY/ASSET/LIABILITY MANAGEMENT**

15. (a) Within 60 days after the effective date of this ORDER, the Bank shall develop and submit to the Regional Director and the Commissioner for review and comment a written plan addressing liquidity and the Bank's reliance on volatile liabilities. Annually thereafter, while this ORDER is in effect, the Bank shall review this plan for adequacy and, based upon such review, shall make necessary revisions to the plan to strengthen funds management procedures and maintain adequate provisions to meet the Bank's liquidity needs. The initial plan shall include, at a minimum, provisions:

- (1) Limiting the Bank's ratio of total loans and leases to total deposits to not more than ninety percent (90%);

- (2) The requirements of this paragraph shall not be construed as standards for future operations, and the Bank's total loans and leases to total deposits ratio shall be monitored on a monthly basis and maintained at a level consistent with safe and sound banking practices;
- (3) Establishing a reasonable range for its net non-core funding ratio as computed in the Uniform Bank Performance Report;
- (4) Identifying the source and use of borrowed and/or volatile funds;
- (5) Establishing lines of credit at correspondent banks, including the Federal Reserve Bank or the Federal Home Loan Bank, that would allow the Bank to borrow funds to meet depositor demands if the Bank's other provisions for liquidity proved to be inadequate;
- (6) Requiring the retention of securities and/or other identified categories of investments that can be liquidated within one day in amounts sufficient (as a percentage of the Bank's total assets) to ensure the maintenance of the Bank's liquidity posture at a level consistent with short- and long-term liquidity objectives;
- (7) Establishing a minimum liquidity ratio and defining how the ratio is to be calculated;
- (8) Establishing contingency plans by identifying alternative courses of action designed to meet the Bank's liquidity needs;
- (9) Limiting the use of brokered and internet deposits, and addressing all concentrations of funding sources; and addressing pricing and collateral requirements with specific allowable funding channels

(i.e., internet deposits, Fed funds purchased and other correspondent borrowings); and

- (10) Establishing procedures for managing the Bank's sensitivity to interest rate risk which comply with the Joint Agency Statement of Policy on Interest Rate Risk (June 26, 1996), and the Supervisory Policy Statement on Investment Securities and End-user Derivative Activities (April 23, 1998).

(b) Within 90 days after the receipt of all such comments from the Regional Director and the Commissioner, and after revising the plan as necessary, the Bank shall adopt the plan and record in the minutes of a board of directors' meeting. Thereafter, the Bank shall implement the plan.

#### **ANALYSIS OF INITIAL DIRECT COSTS**

16. (a) Within 90 days after the effective date of this ORDER, the Bank shall cause an independent third party analysis of the adequacy of the documented support and underlying base assumptions used to determine the balance of the Initial Direct Costs account. This analysis should be performed by a qualified and independent third party and forwarded to the Regional Director and the Commissioner for review.

(b) Within 30 days after the third party analysis has been completed, the Bank shall adjust the balance of this account accordingly and record the change in the minutes of the board of directors' meeting.

### **DIVIDEND RESTRICTION**

17. As of the effective date of this ORDER, the Bank shall not declare or pay any cash dividend without the prior written consent of the Regional Director and the Commissioner.

### **COMPLIANCE COMMITTEE**

18. Within 30 days after the effective date of this ORDER, the Bank's board of directors shall establish a subcommittee of the board of directors charged with the responsibility of ensuring that the Bank complies with the provisions of this ORDER. The subcommittee shall report monthly to the entire board of directors of the Bank, and a copy of the report and any discussion related to the report or the ORDER shall be included in the minutes of the Bank's board of directors' meeting. Nothing contained herein shall diminish the responsibility of the entire board of directors of the Bank to ensure compliance with the provisions of this ORDER.

### **SHAREHOLDER NOTIFICATION**

19. After the effective date of this ORDER, the Bank shall send a copy of this ORDER, or otherwise furnish a description of this ORDER, to its shareholders (1) in conjunction with the Bank's next shareholder communication, and also (2) 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 Disclosure Section, Washington, D.C. 20429, for review at least 20 days prior to dissemination

to shareholders. Any changes requested by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

### **PROGRESS REPORTS**

20. Within 30 days after 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, the Bank shall furnish written progress reports to the Regional Director and the Commissioner 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 the ORDER have been accomplished and the Regional Director and Commissioner have released the Bank in writing from making additional reports.

The provisions of this ORDER shall not bar, stop, or otherwise prevent the FDIC, the Department, or any other federal or state agency or department from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties.

This ORDER shall be effective on the date of issuance.

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

The provisions of this ORDER shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside



by the FDIC and the Commissioner.

This Order is signed by the FDIC Regional Director pursuant to delegated authority.

Issued and made effective this 28<sup>th</sup> day of July, 2010.

/s/

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Kristie K. Elmquist  
Acting Regional Director  
Dallas Region  
Division of Supervision and Consumer Protection  
Federal Deposit Insurance Corporation

/s/

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Charles G. Cooper  
Banking Commissioner  
Texas Department of Banking