

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of:)
) EC-2000-46
net 1st National Bank)
Boca Raton, Florida)

STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER

The Comptroller of the Currency of the United States of America ("Comptroller") intends to initiate cease and desist proceedings against net First National Bank, Boca Raton, Florida ("Bank") pursuant to 12 U.S.C. § 1818(b).

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated September 25, 2000 ("Order");

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

Article I

Jurisdiction

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) The Comptroller is "the appropriate Federal banking agency" regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(3) The Bank is an "insured depository institution" within the meaning of 12 U.S.C. § 1818(b)(1).

Article II

Agreement

(4) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller. The Bank further agrees that said Order shall be deemed an “order issued with the consent of the depository institution” as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i).

Article III

Waivers

- (5) The Bank, by signing this Stipulation and Consent, hereby waives:
- (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (b) any and all procedural rights available in connection with the issuance of the Order;
 - (c) all rights to seek any type of administrative or judicial review of the Order; and
 - (d) any and all rights to challenge or contest the validity of the Order.

Article IV

Other Action

(6) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank, including the commencement of any administrative or judicial proceeding on matters

arising from the ongoing examination of the Bank and not expressly addressed in the Order, if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him/her by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

/s/ Ronald G. Schneck for Leann G. Britton
Leann G. Britton
Senior Deputy Comptroller
for Bank Supervision Operations
Office of the Comptroller of the Currency

9/25/00
Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

/s/
Keith Duffy, Chairman of the Board

9/14/00
Date

/s/
Andrew Bowes, President and Director

9/14/00
Date

/s/
Randall Rosselli, Director

9/15/00
Date

/s/
Bradley Groves, Director

9/14/00
Date

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of:)	
net 1 st National Bank)	EC-2000-46
Boca Raton, Florida)	

CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has examined net 1st National Bank, Boca Raton, Florida (“Bank”), and his findings are contained in the Report of Examination, dated January 24, 2000 (“ROE”).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated September 25, 2000, that is accepted by the Comptroller. By this Stipulation and Consent that is incorporated by reference, the Bank has consented to the issuance of this Consent Order (“Order”) by the Comptroller.

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Article V

PROGRESS REPORTING - MONTHLY

(1) Within thirty (30) days and every month thereafter, the Board shall submit progress reports to the Director for Special Supervision/Fraud, Mail Stop 6-4, 250 E. Street, SW, Washington, DC 20219. These reports shall set forth in detail:

- (a) actions taken since the prior progress report to comply with each Article of the Order;
- (b) results of those actions; and
- (c) a description of the actions needed to achieve full compliance with each Article of this Order.

(2) The progress reports should also include any actions initiated by the Board and the Bank pursuant to the criticisms and comments in the Report of Examination or in any future Report of Examination.

Article VI

CREDIT CARD ACTIVITIES

(1) Effective immediately, the Bank shall cease further marketing, oral, written or web advertisement or solicitation of the graduation aspect of the “Pay as You Go” credit card program and the commencement of any new credit card program, until such time as the Bank submits to and obtains approval by the Director of Special Supervision/Fraud of an action plan to address the deficiencies outlined in the ROE and supplemented in the “Required Actions” section of the August 1, 2000 letter from the OCC to the Board.

(2) Within fifteen (15) days of the effective date of this Order, the Bank shall comply with the following requirements with regard to the “Pay as You Go” credit card program:

- (a) the Bank shall retain independent counsel and provide a written legal opinion to the Bank, with a copy provided to the OCC, addressing the following issues:
 - (i) whether the “Pay as You Go” credit card program is in compliance with all applicable federal and state consumer laws and regulations; and
 - (ii) whether the terms of the disclosures, including disclosures contained in any oral, written or web advertisement or solicitation, initial disclosure and periodic statements comply with all applicable federal and state consumer laws and regulations;
- (b) the Bank shall identify or employ a compliance officer responsible for (i) reviewing and approving all marketing material; (ii) changes in web application sites; (iii) conducting an ongoing review of affiliate or web advertising and banners; and (iv) reviewing compliance with all applicable consumer law and regulations.

(3) In the event that the Bank fails to comply with paragraph (2), Article II of this Order, or independent counsel opines that the credit card program is in noncompliance with any applicable federal or state law or regulation as required by paragraph (2), Article II of this Order, the Bank shall immediately cease further marketing, oral or written advertisement or solicitation and issuance of any “Pay as You Go” credit cards until such time as the Bank is in compliance with paragraph (2), Article II of this Order.

(4) Upon the effective date of this Order and thereafter on a monthly basis, the Bank shall review the marketing of the “Pay as You Go” credit card program, including oral or written

representations made by any third party on behalf of the Bank, to ensure that any such representations are not deceptive or misleading. “Misleading” and “Deceptive” shall mean any act or omission that is misleading or deceptive within the meaning of the Federal Trade Commission Act or Florida Deceptive and Unfair Trade Practices Act.

(5) The Bank shall comply with the Fair Credit Reporting Act, as amended, 15 U.S.C. 1681-1681u, as construed in published interpretations of, regulations promulgated thereunder and pronouncements concerning, the Fair Credit Reporting Act by the Comptroller, the Federal Trade Commission and the Federal Financial Institutions Examinations Council.

Article VII

SBA LENDING

(1) Effective immediately, the Bank shall not grant, extend, purchase, acquire or fund any SBA loan, either directly or through a third party loan packager or broker, until:

- (a) The Board has adopted and approved a comprehensive written SBA lending policy and program which, at a minimum, requires that:
 - (i) all loans are underwritten or re-underwritten by Bank personnel. The credit underwriting complies with and conforms to processing and underwriting standards and minimums established by the Bank and the SBA, and all required documents to evidence and support the loan is obtained and reviewed prior to loan approval and thereafter maintained by the Bank;
 - (ii) the Bank conduct an independent verification and written analysis of credit, financial and other information provided by the borrower in order to ensure that the borrower possesses adequate capital,

- financial support, repayment ability, and collateral to support the loan;
- (iii) all appraisals are prepared by appraisers approved by the Bank;
 - (iv) the Bank has an independent appraisal review system to document and value collateral and ensure that prior liens are cleared;
 - (v) only the Board, or bank personnel authorized by the Board, may make lending commitments or approve loans; and
 - (vi) all loan closing agents and attorneys are approved by the Board, and loan closing counsel agrees to provide a written opinion letter that the closed loan complies with SBA authorizations and requirements;
- (b) The Bank has in place management information systems which, at a minimum, accurately track loan payments, past due status, compliance with loan covenants and requirements, receipt of financial statements and other information required by the SBA;
- (c) The Bank has in place a competent, experienced senior lending officer and sufficient lending staff with knowledge of SBA lending policies, procedures and requirements to ensure compliance with the Bank's SBA lending program;
- (d) Loans acquired through or with third party loan packagers or brokers are done pursuant to a written contract which:
- (i) contains fees, terms, conditions, rights, duties and responsibilities that are reasonable and reflect an arms-length transaction;

- (ii) prohibits the payment of fees in advance of loan closing;
- (iii) prohibits the third party's employees from representing themselves as employees of the Bank; and
- (iv) provides that Bank premises and equipment may only be used by such third parties upon the payment of compensation to the Bank;
- (e) The programs, policies and procedures prepared pursuant to this Article have been submitted to and approved by the Director for Special Supervision/Fraud.

(2) The Board shall ensure that the Bank implements and adheres to the approved program, policies and procedures developed pursuant to this Article, and has the processes, personnel, and control systems necessary for the implementation of and adherence to the approved program, policies and procedures.

Article VIII

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall maintain capital levels (as defined in 12 C.F.R. Part 3) sufficient to operate the Bank in a safe and sound manner, but in no event shall the Bank's capital levels fall below the following:

- (a) Total capital at least equal to fourteen percent (14%) of risk-weighted assets;
- (b) Tier 1 capital at least equal to eight percent (8%) of adjusted total assets.

(2) The requirement in this Order to meet and maintain a specific capital level means that the Bank may not be deemed to be “well capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 pursuant to 12 C.F.R. § 6.4(b)(1)(iv).

(3) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a three year capital program. The program shall include:

- (a) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1);
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and
- (f) a dividend policy that permits the declaration of a dividend only:
 - (i) when the Bank is in compliance with its approved capital program;
 - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
 - (iii) with the prior written approval of the Director for Special Supervision/Fraud.

(4) Upon completion, the Bank's capital program shall be submitted to the Director for Special Supervision/Fraud for approval. Upon approval by the Director for Special

Supervision/Fraud, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Director for Special Supervision/Fraud.

(5) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(6) The Bank shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless:

- (a) the Bank's capital program pursuant to Article IV has been accepted and approved by the Director for Special Supervision and Fraud; and
- (b) any increase in total assets is consistent with the strategic and capital plans submitted pursuant to this Order.

Article IX

STRATEGIC PLAN

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written strategic plan for the Bank covering at least a three-year period. The strategic plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital adequacy, reduction in the volume of nonperforming assets, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives and, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;

- (b) an assessment of the Bank's present and future operating environment;
- (c) the development of strategic goals and objectives to be accomplished over the short and long term;
- (d) an identification of the Bank's present and future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in (1)(c) of this Article;
- (e) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed under (1)(c) of this Article;
- (f) a management employment and succession program to promote the retention and continuity of capable management;
- (g) product line development and market segments that the Bank intends to promote or develop;
- (h) an action plan to improve bank earnings and accomplish identified strategic goals and objectives, including individual responsibilities, accountability and specific time frames;
- (i) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the strategic plan;
- (j) control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment;

- (k) specific plans to establish responsibilities and accountability for the strategic planning process, new products, growth goals, or proposed changes in the Bank's operating environment; and
- (l) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(2) Upon adoption, a copy of the plan shall be forwarded to the Director for Special Supervision/Fraud for review.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plan developed pursuant to this Article.

Article X

BOARD TO ENSURE COMPETENT MANAGEMENT

(1) The Board shall, within sixty (60) days, ensure that the Bank has competent management in place in the CEO/President, Senior Loan Officer, Chief Operating Officer and Chief Financial Officer positions to carry out the Board's policies, comply with this Order, applicable laws, rules and regulations, and manage the day-to-day operations of the Bank in a safe and sound manner.

(2) For incumbent officers in the positions mentioned in Paragraph (1) of this Article and other senior executive officers, the Board shall within thirty (30) days assess each of these officers' experience, other qualifications and performance compared to the person's position description, duties and responsibilities.

(3) If the Board determines that an officer will continue in his/her position but the officer's depth of skills needs improvement, then the Board will within fifteen (15) days thereafter develop and implement a written program, with specific time frames, to improve each such officer's supervision and management of the Bank. At a minimum the written program shall include:

- (a) an education program designed to ensure that the officer has the requisite knowledge, skills and abilities necessary to supervise effectively;
- (b) a program to improve the supervisory effectiveness of the officer;
- (c) objectives by which the officer's supervisory effectiveness will be measured; and
- (d) a performance appraisal program for evaluating performance according to the position's description and responsibilities and for measuring performance against the Bank's goals and objectives.

Upon completion, a copy of the written program pursuant to this Paragraph and Paragraph (1) of this Article shall be submitted to the Director for Special Supervision/Fraud.

(4) If a position mentioned in Paragraph (1) of this Article is vacant on or after the effective date of this Order, including if the Board realigns an existing officer's responsibilities and a position mentioned in Paragraph (1) of this Article becomes vacant, the Board shall within sixty (60) days of such vacancy select a capable person for appointment to the vacant position. Such person shall be vested with sufficient executive authority to ensure the Bank's compliance with this Order and the safe and sound operation of functions within the scope of that position's responsibility.

(5) Prior to the appointment of any individual to a senior executive officer position as defined in 12 C.F.R. § 5.51(c)(3), the Board shall submit to the Director for Special Supervision/Fraud the following information:

- (a) the information sought in the “Changes in Directors and Senior Executive Officers” booklet of the Comptroller’s Corporate Manual, together with a legible fingerprint card and IRS tax check waiver for the proposed individual;
- (b) a written statement of the Board's reasons for selecting the proposed officer; and
- (c) a written description of the proposed officer's duties and responsibilities.

(6) The Director for Special Supervision/Fraud shall have the power of veto over the employment of each proposed senior executive officer. However, the failure to exercise such veto power shall not constitute an approval or endorsement of any proposed officer.

(7) The requirement to submit information and the prior veto provisions of this Article are based on the authority of 12 U.S.C. § 1818(b)(6)(E) and do not require the Comptroller to complete his review and act on any such information or authority within ninety (90) days.

Article XI

NEW PRODUCTS AND SERVICES

(1) Prior to the Bank's involvement in any new products or services or the significant expansion of any existing product or service, the Board shall prepare a written analysis of said product or service. The analysis shall, at a minimum, include the following:

- (a) an assessment of the risks and benefits of the product or service to the Bank;

- (b) an explanation of how the product or service is consistent with the Bank's strategic plan;
- (c) an evaluation of the adequacy of the Bank's organizational structure, staffing, MIS, internal controls and written policies and procedures to identify, measure, monitor, and control the risks associated with the product or service; and
- (d) a profitability analysis, including growth projections and interest rate risk.

(2) Prior to the Bank's involvement in the new product or service or the significant expansion of any existing product or service, a copy of the analysis shall be submitted to the Director for Special Supervision/Fraud.

(3) For purposes of this Article, "significant expansion" shall be defined as growth greater than twenty percent (20%) on an annual basis where that product or service accounts for greater than either two percent (2%) of total assets or five percent (5%) of annual income.

Article XII

NEW CONTRACTS

(1) Effective immediately, the Bank shall not enter into new written or oral contracts or commitments with third parties to perform services or provide products that directly or indirectly obligate the Bank to pay on an annualized basis an amount equal to or exceeding \$10,000 unless first:

- (a) specifying the rights, duties, and liabilities of the parties to the contract or commitment, including a written provision specifying the terms and conditions of any termination of the contract or commitment;

- (b) performing a comprehensive written analysis and documentation that the contract or commitment is being conducted at arm's length on terms and conditions fair and reasonable to the Bank, including the ability of the parties to perform under the contract or commitment. This comprehensive written analysis shall be included in the Board minutes;
- (c) disclosing in the Board minutes any affiliation with any present or past bank officer, director, principal shareholder, or related interest of such person; and
- (d) obtaining Board approval documented in the Board minutes.

Article XIII

CONFLICTS OF INTEREST

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written, comprehensive conflict of interest policy applicable to the Bank's and the Bank's holding company's directors, principal shareholders, executive officers, affiliates, and employees (collectively "Insiders") and related interests of such Insiders. In formulating this policy, the Board shall refer to the Insiders Activity booklet, M-IA, of the Comptroller's Handbook. The policy, in addition to defining a conflict of interest, shall address:

- (a) avoidance of conflicts of interest and breaches of fiduciary duty, and the appearance of conflicts of interest;
- (b) involvement in the loan approval process of Insiders who may benefit directly or indirectly from the decision to grant credit;

- (c) disclosure of actual and potential conflicts of interest to the Board, and periodic disclosure of "related interests" as defined by 12 C.F.R. Part 215;
- (d) requirements for arms-length dealing in any transactions by Insiders, or their related organizations, involving the Bank's sale, purchase, or rental of property and services;
- (e) disclosure to the Board of any Insider's material ownership or other beneficial interest in the business of a borrower, an applicant, or other customer of the Bank; and
- (f) restrictions on and disclosure to the Board of receipt of anything of value by Insiders, directly or indirectly, from borrowers, loan applicants, other customers, or suppliers of the Bank.

(2) Upon adoption, a copy of this conflict of interest policy shall be forwarded to the Director for Special Supervision/Fraud for approval.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

(4) Within seventy-five (75) days, the Compliance Committee shall conduct a review of the Bank's existing relationships with the Bank's and its holding company's directors, executive officers, affiliates, principal shareholders, employees and their related interests for the purpose of identifying relationships not in conformity with the policy. The Board shall ensure that:

- (a) within ninety (90) days, any nonconforming relationships are brought into conformance with the policy adopted pursuant to this Article; and
- (b) within ninety (90) days the Bank is properly reimbursed for:

- (i) any excessive or improper payments to Insiders and their related interests; and
- (ii) any excessive or improper payments for services provided by Insiders and their related interests.

Thereafter, the Board shall review all proposed transactions, or modifications of existing relationships, between the Bank and any of the Bank's or its holding company's directors, executive officers, affiliates, principal shareholders, employees and their related interests. All potential conflicts of interest shall be clearly disclosed in contemplated transactions.

Documentation supporting these reviews shall be in writing and preserved in the Bank's books and records.

Article XIV

TRANSACTIONS WITH AFFILIATED PARTIES

(1) Effective immediately, the Bank shall not, directly or indirectly, engage, undertake, or in any manner participate in any Financial Transaction with any Related Party, Affiliate, or Institution-affiliated Party, or with any customer of the Bank when the direct or indirect beneficiary of the Financial Transaction is a Related Party, Affiliate, or Institution-affiliated Party, unless the transaction is consistent with the Bank's conflict of interest policy approved pursuant to Article IX.

(2) For purposes of this Article:

- (a) Financial Transaction shall include (i) the payment of any service or management fee, other than salaries paid in the ordinary course of

business; (ii) the transfer, contribution, purchase or sale of any asset, including cash; (iii) the extension of credit (as defined in 12 C.F.R. § 215.3), including any overdrafts on a daylight as well as on an overnight basis; and (iv) the direct or indirect payment of any obligation; but shall not include payments, collections, and other transfers of funds that are transacted on a fully-collected basis, whether or not such a transaction involves the bank or any of its related parties, affiliates, or institution-affiliated parties;

- (b) Related party shall include (i) any person holding an ownership interest in the bank; and (ii) any person or group of persons, that controls, is controlled by, or is under common control with the bank;
- (c) Person shall include a corporation, unincorporated association, partnership, trust, or any other entity or individual;
- (d) Affiliate shall be defined as set forth in 12 U.S.C. § 371c(b)(1);
- (e) Institution-affiliated party shall be defined as set forth in 12 U.S.C. § 1813(u); and
- (f) Control shall be defined as set forth in 12 U.S.C. § 371c.

Article XV

INTERNAL AUDIT

(1) Within thirty (30) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, internal audit program sufficient to:

- (a) detect irregularities in the Bank's operations;

- (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;
- (c) evaluate the Bank's adherence to established policies and procedures, with particular emphasis directed to the Bank's adherence to its loan policies concerning underwriting standards and problem loan identification and classification;
- (d) ensure adequate audit coverage in all areas; and
- (e) establish an annual audit plan using a risk based approach sufficient to achieve these objectives.

(2) As part of this audit program, the Board shall evaluate the audit reports of any party providing auditing services to the Bank, and shall assess the impact on the Bank of any audit deficiencies cited in such reports.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(4) The Board shall ensure that the audit function is supported by an adequately staffed department or outside firm.

(5) The Board shall ensure that the audit program is independent. The persons responsible for implementing the internal audit program described above shall report directly to the Board, which shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board and not through any intervening party.

(6) All audit reports shall be in writing. The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, and that auditors maintain a written record describing those actions.

(7) The audit staff shall have access to any records necessary for the proper conduct of its activities. National bank examiners shall have access to all reports and work papers of the audit staff and any other parties working on its behalf.

(8) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Director for Special Supervision/Fraud.

Article XVI

LENDING POLICY

(1) Within sixty (60) days, the Board shall review and revise the Bank's written loan policy. In revising this policy, the Board shall refer to the Loan Portfolio Management booklet, A-LPM, of the Comptroller's Handbook. This policy shall incorporate, but not necessarily be limited to, the following:

- (a) a description of acceptable types of loans;
- (b) a provision that current and satisfactory credit information will be obtained on each borrower;
- (c) maturity scheduling related to the anticipated source of repayment, the purpose of the loan, and the useful life of the collateral;
- (d) maximum ratio of loan value to appraised value or acquisition costs of collateral securing the loan;
- (e) collection procedures, to include follow-up efforts, that are systematically and progressively stronger;
- (f) a pricing policy that takes into consideration costs, general overhead, and probable loan losses, while providing for a reasonable margin of profit;
- (g) a definition of the Bank's trade area;

- (h) guidelines and limitations for loans originating outside of the Bank's trade area;
- (i) a limitation on aggregate outstanding loans in relation to other balance sheet accounts;
- (j) distribution of loans by category;
- (k) a limitation on the type and size of loans that may be made by loan officers without prior approval by the Board or a committee established by the Board for this purpose;
- (l) guidelines consistent with Banking Circular 255, setting forth the criteria under which renewals of extensions of credit may be approved; and
- (m) charge-off guidelines, by type of loan or other asset, including Other Real Estate Owned, addressing the circumstances under which a charge-off would be appropriate and ensuring the recognition of losses within the quarter of discovery.

(2) Upon adoption, the policy shall be implemented, the Board shall thereafter ensure Bank adherence to the policy, and a copy of the policy shall be forwarded to the Director for Special Supervision/Fraud for review.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

Article XVII

CONCENTRATIONS OF CREDIT

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written asset diversification program. The program shall include, but not necessarily be limited to, the following:

- (a) a review of the balance sheet to identify any concentrations of credit;
- (b) a written analysis of any concentration of credit identified above in order to identify and assess the inherent credit, liquidity, and interest rate risk;
- (c) policies and procedures to control and monitor concentrations of credit;
and
- (d) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis.

(2) For purposes of this Article, a concentration of credit is as defined in Section 216 of the Comptroller's Handbook for National Bank Examiners.

(3) The Board shall ensure that future concentrations of credit are subjected to the analysis required by subparagraph (b) and that the analysis demonstrate that the concentration will not subject the Bank to undue credit or interest rate risk.

(4) The Board shall forward a copy of any analysis performed on existing or potential concentrations of credit to the Director for Special Supervision/Fraud immediately following the review.

(5) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

Article XVIII

NONACCRUAL LOANS

(1) Within sixty (60) days, the Board shall adopt and implement written policies and procedures governing the supervision and control of nonaccrual loans. Such policies and procedures shall:

- (a) be consistent with the accounting requirements contained in the Call Report Instructions;
- (b) address the circumstances under which accrued interest due on a loan may be added to the outstanding principal amount when the loan is renewed or restructured; and
- (c) require the monthly presentation to the Board of all loans meeting any of the nonaccrual criteria.

(2) Upon adoption, a copy of the written policies and procedures shall be forwarded to the Director for Special Supervision/Fraud and the Board shall thereafter ensure Bank adherence to all policies and procedures developed pursuant to this Article.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies developed pursuant to this Article.

Article XIX

INTERNAL LOAN REVIEW

(1) Within sixty (60) days, the Board shall establish an effective, independent and on-going loan review system to review, at least quarterly, the Bank's loan and lease portfolios to assure the timely identification and categorization of problem credits. The system shall provide for a written report to be filed with the Board after each review and shall use a loan and lease grading system consistent with the guidelines set forth in Section 215 of the Comptroller's

Handbook for National Bank Examiners. Such reports shall, at a minimum, include conclusions regarding:

- (a) the overall quality of the loan and lease portfolios;
- (b) the identification, type, rating, and amount of problem loans and leases;
- (c) the identification and amount of delinquent loans and leases;
- (d) credit and collateral documentation exceptions;
- (e) the identification and status of credit related violations of law, rule or regulation;
- (f) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (b) through (e) of the Article;
- (g) concentrations of credit;
- (h) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (i) loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

(2) A written description of the program called for in this Article shall be forwarded to the Director for Special Supervision/Fraud upon implementation.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(4) The Board shall evaluate the internal loan and lease review report(s) and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the report(s).

(5) A copy of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be preserved in the Bank.

Article XX

CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets criticized in the ROE, in any subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination as "doubtful," "substandard," or "special mention." This program shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and
- (d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

(3) Upon adoption, a copy of the program for all criticized assets equal to or exceeding one hundred and fifty thousand dollars (\$150,000) shall be forwarded to the Director for Special Supervision/Fraud.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(5) The Board, or a designated committee, shall conduct a review, on at least a monthly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds \$150,000;
- (b) management's adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the written program; and
- (d) the need to revise the program or take alternative action.

(6) A copy of each review shall be forwarded to the Director for Special Supervision/Fraud on a monthly basis (in a format similar to Appendix A, attached hereto).

(7) The Bank may extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed one hundred and fifty thousand dollars (\$150,000) only if each of the following conditions is met:

- (a) the Board or designated committee finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior to renewing, extending or capitalizing any additional credit, a majority of

the full Board (or designated committee) approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank; and

- (b) a comparison to the written program adopted pursuant to this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

(8) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

Article XXI

CREDIT AND COLLATERAL EXCEPTIONS

(1) Within sixty (60) days the Board shall obtain current and satisfactory credit information on all loans lacking such information, including those listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(2) Within sixty (60) days the Board shall ensure proper collateral documentation is maintained on all loans and correct each collateral exception listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(3) Effective immediately, the Bank may grant, extend, renew, alter or restructure any loan or other extension of credit only after:

- (a) documenting the specific reason or purpose for the extension of credit;

- (b) identifying the expected source of repayment in writing;
- (c) structuring the repayment terms to coincide with the expected source of repayment;
- (d) obtaining and analyzing current and satisfactory credit information, including cash flow analysis, where loans are to be repaid from operations;
 - (i) Failure to obtain the information in (3)(d) shall require a majority of the full Board (or a delegated committee thereof) to certify in writing the specific reasons why obtaining and analyzing the information in (3)(d) would be detrimental to the best interests of the Bank.
 - (ii) A copy of the Board certification shall be maintained in the credit file of the affected borrower(s). The certification will be reviewed by this Office in subsequent examinations of the Bank; and
- (e) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable.

Article XXII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Commencing with the end of the third calendar quarter of 2000, the Board shall review the adequacy of the Bank's Allowance for Loan and Lease Losses (Allowance) and shall establish a program for the maintenance of an adequate Allowance. This review and program shall be designed in light of the comments on maintaining a proper Allowance found in the Allowance for Loan and Lease Losses booklet, A-ALLL, of the Comptroller's Handbook, and shall focus particular attention on the following factors:

- (a) results of the Bank's internal loan review;
- (b) an estimate of inherent loss exposure on each significant credit;
- (c) loan loss experience;
- (d) trends of delinquent and nonaccrual loans;
- (e) concentrations of credit in the Bank;
- (f) present and prospective economic conditions; and

(2) The program shall provide for a review of the Allowance by the Board at least once each calendar quarter thereafter. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

(3) A copy of the Board's program shall be submitted to the Director for Special Supervision/Fraud for review and approval.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

Article XXIII

INTEREST RATE RISK POLICY

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written interest rate risk policy. In formulating this policy, the Board shall refer to the Interest Rate Risk booklet, L-IRR, of the Comptroller's Handbook. The policy shall provide for a coordinated interest rate risk strategy and, at a minimum, address:

- (a) the establishment of adequate management reports on which to base sound interest rate risk management decisions;
- (b) implementation of effective tools to measure and monitor the Bank's performance and overall interest rate risk profile;
- (c) prudent limits on the nature and amount of interest rate risk that can be taken; and
- (d) periodic review of the Bank's adherence to the policy.

(2) Upon adoption, a copy of the written policy shall be forwarded to the Director for Special Supervision/Fraud for review.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

Article XXIV

VIOLATIONS OF LAW

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each violation of law, rule or regulation cited in the ROE and in any subsequent Report of Examination. The monthly progress reports required by this Order shall

include the date and manner in which each correction has been effected during that reporting period.

(2) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(3) Within forty-five (45) days of receipt of any subsequent Report of Examination which cites violations of law, rule, or regulation, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(4) The Board shall ensure that the Bank has policies, processes, personnel, and control systems to ensure implementation of and adherence to the procedures developed pursuant to this Article.

Article XXV

CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the Director for Special Supervision/Fraud, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him/her by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time limitations may be extended in writing by the Director for Special Supervision/Fraud for good cause upon written application by the Board.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his/her authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(5) In each instance in this Order in which the Board is required to ensure the Bank's adherence to, or undertake to perform certain obligations of the Bank, it is intended to mean that the Board will consistent with its duties and responsibilities: (i) authorize and direct the commencement of such actions as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Order; (ii) require the timely implementation by Bank management of such actions directed by the Board to be taken under the terms of this Order; (iii) require the timely reporting by Bank management on the level and manner of the Bank's compliance with such actions; and (iv) devise and direct in a timely and appropriate manner any follow-up or corrective action to be taken in response to any non-compliance with such actions.

IT IS SO ORDERED, this 25th day of September, 2000.

/s/

Ronald G. Schneck

Director for Special Supervision/Fraud

Schedule A

CRITICIZED ASSET REPORT AS OF:

BORROWER(S):

ASSET BALANCE(S) AND OCC RATING (SM, SUBSTANDARD, DOUBTFUL OR LOSS):
\$ _____ CRITICISM

AMOUNT CHARGED OFF TO DATE

FUTURE POTENTIAL CHARGE-OFF

PRESENT STATUS (Fully explain any increase in outstanding balance; include past due status, nonperforming, significant progress or deterioration, etc.):

FINANCIAL AND/OR COLLATERAL SUPPORT (include brief summary of most current financial information, appraised value of collateral and/or estimated value and date thereof, Bank's lien position and amount of available equity, if any, guarantor(s) info, etc.):

PROPOSED PLAN OF ACTION TO ELIMINATE ASSET CRITICISM(S) AND TIME FRAME FOR ITS ACCOMPLISHMENT:

IDENTIFIED SOURCE OF REPAYMENT AND DEFINED REPAYMENT PROGRAM (repayment program should coincide with source of repayment):

Use this form to report each criticized asset exceeding \$150M; retain the original in the credit file for review by the examiners. Submit reports monthly until notified otherwise, in writing, by the Deputy Comptroller.