

#2001-38

AGREEMENT BY AND BETWEEN
First Charter Bank, N. A.
Beverly Hills, California
and
The Office of the Comptroller of the Currency

First Charter Bank, N.A., Beverly Hills, California (Bank) and the Comptroller of the Currency of the United States of America (Comptroller) wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller, through his National Bank Examiner, has examined the Bank, and his findings are contained in the Report of Examination, dated January 22, 2001 (ROE).

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (Board), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a "written agreement entered into with the agency" within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a "written agreement between such depository institution and such agency" within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a "formal written agreement" within the

meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a "final order" within the meaning of 12 U.S.C. § 1818(u).

(5) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to:

P. L. Shriner
Assistant Deputy Comptroller
Southern California - North Field Office
550 North Brand Boulevard, Suite 500
Glendale, California 91203

ARTICLE II

COMPLIANCE COMMITTEE

(1) Within thirty (30) days, the Board shall appoint a Compliance Committee of at least three (3) directors, of which no more than one shall be an employee of the Bank or any of its affiliates (as the term "affiliate" is defined in 12 U.S.C. §371c(b)(1)), or a family member of any such person. Upon appointment, the names of the members of the Compliance Committee shall be submitted in writing to the Assistant Deputy Comptroller. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement.

(2) The Compliance Committee shall meet at least monthly.

(3) Within sixty (60) days of the appointment of the Committee and quarterly thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) actions taken to comply with each Article of this Agreement; and

(b) the results of those actions.

(4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller.

ARTICLE III

MERCHANT ACCOUNT PROGRAM

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence (for as long as the Bank remains in the merchant processing business) to a written program governing the supervision and control of the credit card merchant account program. The program shall address, but not be limited to:

- (a) establishment of criteria, procedures, systems, and controls to improve management supervision and board oversight of the merchant processing division;
- (b) development and implementation of a plan to improve and achieve profitability for the merchant processing division;
- (c) establishment of criteria for underwriting and acceptance of merchant accounts;
- (d) establishment of limits on merchant account concentrations in relation to the Bank's capital levels;
- (e) establishment of limits on the number of merchant accounts, including "high risk" merchant accounts, the Bank will maintain. For purposes of this Agreement, "high risk" is defined as the standard industry codes (SIC) or merchant category codes (MCC) considered high risk according to VISA and

MasterCard;

- (f) establishment of a program to determine the risk profile of merchant accounts allowing management the ability to rate, rank or identify varying levels of risk in its merchant accounts;
- (g) establishment of limits on total merchant processing sales volume, including a specific limit for high risk merchant sales volume, in relation to the Bank's capital level;
- (h) development of risk management criteria which identifies merchants of high priority due to performance activity relating to merchant categories, merchant activity volumes, fraud investigations, settlement, retrieval and chargeback processing;
- (i) establishment of criteria to evaluate the profitability of the Bank's merchant processing activities;
- (j) development of procedures to monitor the credit card processing activity of each merchant through computer generated reports;
- (k) development of an audit program to address merchant processing operations at the Bank and any Independent Sales Organization, Member Service Provider, or Third-Party Service Provider;
- (l) establishment of guidelines for merchant reserve accounts;
- (m) establishment of guidelines for the periodic review of each merchant for continued merchant processing. The guidelines shall include provisions for assessing financial strength, processing activity performance, and account profitability; and

- (n) establishment of guidelines and procedures that address and correct the weaknesses in merchant processing activities that are listed in the ROE.
- (2) Upon completion, the Bank shall forward a copy of the written program to the Assistant Deputy Comptroller for review.
- (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.

ARTICLE IV

MANAGEMENT INFORMATION SYSTEMS FOR THE MERCHANT ACCOUNT PROGRAM

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence (for as long as the Bank remains in the merchant processing business) to a written program establishing an effective management information system (MIS) that facilitates risk identification, establishes controls, and delivers accurate information for timely review. In so doing, the Board shall identify the Bank's specific information requirements regarding the Merchant Account Program and establish effective reporting mechanisms to guide decisions.

The program shall include procedures for:

- (a) expediting the timely delivery of current information;
- (b) establishing controls to ensure the accuracy and confidentiality of information;
- (c) ensuring that data are processed and compiled uniformly to facilitate meaningful trend analysis, and provide for future systems changes;

- (d) providing complete and relevant information in a summarized form, for Board and management reports, to permit effective decision making;
- (e) producing the information, which is listed in the ROE, that is necessary to effectively supervise the Merchant Account Program;
- (f) following the bank's charge-off policies for stale dated accounting entries, uncollected chargebacks, uncollected fees and service charges, and overdrawn merchant accounts; and
- (g) establishing a certification program that includes clear, effective, and documented reporting which brings any stale dated or unreconciled accounting entries to senior management's attention. The Board shall be notified in a timely manner of stale dated or unreconciled items that represent loss exposure to the Bank.

(2) 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.

(3) As a part of the Board's ongoing responsibility to ensure that the Bank has an effective MIS, the Board shall designate a senior officer to coordinate the execution of this program.

(4) The Board shall submit a copy of the program to the Assistant Deputy Comptroller.

ARTICLE V

SERVICE AGREEMENTS

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence (for as long as the Bank remains in the merchant processing business) to a written policy governing the Bank's credit card and merchant processing activities and agreements with any Independent Sales Organization, Member Service Provider, or Third-Party Service Provider (ISO/MSP/TPSP). The policy shall address, but not be limited to:

- (a) establishment of acceptance criteria for eligibility for contracting with an ISO/MSP/TPSP;
- (b) development of procedures for the approval process for approving any contract with an ISO/MSP/TPSP;
- (c) establishment of criteria for the termination of contracts with an ISO/MSP/TPSP;
- (d) development of procedures to monitor the activity of each ISO/MSP/TPSP under contract to the Bank;
- (e) development of settlement procedures with each ISO/MSP/TPSP;
- (f) establishment of guidelines for reserve accounts for each ISO/MSP/TPSP;
- (g) establishment of guidelines for the review and Board approval of the pricing guidelines used by each ISO/MSP/TPSP;
- (h) establishment of guidelines for the maintenance of operating accounts of each ISO/MSP/TPSP; and
- (i) establishment of guidelines for the review of each ISO which is contractually liable for operational, chargeback or fraud losses for credit worthiness on at least a quarterly basis and any other MSP or TPSP on at least an annual basis.

(2) Upon completion, the Bank shall submit a copy to the Assistant Deputy Comptroller for review.

(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 VI

STRATEGIC PLAN

(1) Within sixty (60) 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, 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 Assistant Deputy Comptroller for review and approval.

(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 VII

PROFIT PLAN

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written profit plan to improve and sustain the earnings of the Bank. This plan shall include, at a minimum, the following elements:

- (a) identification of the major areas in and means by which the Board will seek to improve the Bank's operating performance;
- (b) realistic and comprehensive budgets, including projected balance sheets and year-end income statements;
- (c) a budget review process to monitor both the Bank's income and expenses, and to compare actual figures with budgetary projections; and
- (d) a description of the operating assumptions that form the basis for major projected income and expense components.

(2) The budgets and related documents required in paragraph (1) above for 2001 shall be submitted to the Assistant Deputy Comptroller upon completion. The Board shall submit to the Assistant Deputy Comptroller annual budgets as described in paragraph (1) above for each year this Agreement remains in effect. The budget for each year shall be submitted on or before November 30, of the preceding year.

(3) The Board shall forward comparisons of its balance sheet and profit and loss statement to the profit plan projections to the Assistant Deputy Comptroller on a quarterly basis.

(4) 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 VIII

PROGRAM TO REDUCE INTEREST RATE RISK EXPOSURE

(1) Within sixty (60) days, the Board shall adopt and implement a written program to reduce the bank's interest rate risk exposure. In formulating this program, the Board shall refer to the Interest Rate Risk booklet, L-IRR, of the Comptroller's Handbook. The program shall provide for a coordinated interest rate risk strategy and, at a minimum, address:

- (a) establishment and guidance of the Bank's strategic direction and tolerance for interest rate risk;
- (b) prudent limits on the nature and amount of interest rate risk that can be taken;
- (c) the establishment of adequate management reports on which to base sound interest rate risk management decisions;
- (d) implementation of effective tools to measure and monitor the Bank's performance and overall interest rate risk profile;
- (e) employment of competent personnel to manage interest rate risk; and
- (f) periodic review of the Bank's adherence to the program.

(2) Upon adoption, a copy of the written program shall be forwarded to the Assistant Deputy Comptroller for review.

(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.

ARTICLE IX

CAPITAL PLAN

(1) The Bank shall meet and maintain the following capital levels (as defined in 12 C.F.R. Part 3):

(a) Tier 1 capital at least equal to ten percent (10%) of risk-weighted assets;
and

(b) Tier 1 capital at least equal to seven percent (7%) of adjusted total assets;

(2) Within forty-five (45) 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;

(b) analyzing risks to capital and considering this analysis in assessing how much capital is needed;

(c) 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;

(d) projections of the sources and timing of additional capital to meet the Bank's current and future needs;

(e) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;

(f) contingency plans that identify alternative methods should the primary source(s) under (e) above not be available; and

(g) 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, 59, and 60;
and

(iii) with the prior written approval of the Assistant Deputy Comptroller.

(3) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for approval. Upon approval by the Assistant Deputy Comptroller, 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 Assistant Deputy Comptroller.

(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 X

VIOLATIONS OF LAW

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each continuing violation of law, rule or regulation cited in the ROE and in any subsequent Report of Examination. The quarterly progress reports required by Article II of this Agreement shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within sixty (60) 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 that 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) Upon adoption, a copy of these procedures shall be promptly forwarded to the Assistant Deputy Comptroller.

(5) 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 XI

CONFLICT OF INTEREST POLICY

(1) Within forty-five (45) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written, comprehensive conflict of interest policy applicable to the Bank's directors, principal shareholders, executive officers, affiliates, and employees (Insiders) and related interests of such Insiders. 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 of any Insider's material interest in the business of a borrower, an applicant, or other customer of the Bank; and
- (f) restrictions on and disclosure 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 Assistant Deputy Comptroller 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.

(4) Within forty-five (45) days, the Compliance Committee shall conduct a review of the Bank's existing relationships with its 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) any nonconforming relationships are brought into conformity with the policy within forty-five (45) days; and
- (b) within forty-five (45) days the Bank is properly reimbursed for:

- (i) any excess or improper payments to Insiders and their related interests; and
- (ii) any excess 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 its directors, executive officers, affiliates, principal shareholders, employees and their related interests. Documentation supporting these reviews shall be in writing and preserved in the Bank.

ARTICLE XII

CREDIT RISK MANAGEMENT

- (1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program to strengthen credit risk management systems. 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;
 - (d) re-evaluating the bank's commercial real estate concentration risk limits;
 - (e) better defining sub categories of commercial real estate;
 - (f) establishing concentration risk limits for these sub categories;
 - (g) developing a reporting system that shows actual concentration levels against Board approved risk limits;

- (h) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis;
- (i) policies, procedures and risk limits for the three new credit programs (Mezzanine, Capital Markets and Franchise Lending) identified in the 2001 strategic plan;
- (j) policies, procedures and risk limits for any new loan product or program prior to entering into the new product or program;
- (k) systems and controls to reduce the level of financial and documentation exceptions; and
- (l) systems and controls to strengthen the tracking, aggregating, analyzing, and reporting of credit policy and underwriting exceptions.

(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 Assistant Deputy Comptroller 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 XIII

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or approval, 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 by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) It is expressly and clearly understood that upon either the sale of the entire business and assets of the Merchant Processing Division in one or more transactions or the complete and final discontinuance of operations of the Merchant Processing Division, the provisions and obligations of Articles III, IV and V shall thereafter and without any further action by the Bank or Comptroller terminate. For purposes of this paragraph, in the event that the Merchant Processing Division is sold or its operations cease in part, the provisions of Articles

III, IV, and V shall continue until such time as the entire business and assets are sold or operations cease in their entirety.

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

-signed-

P. L. Shriner
Assistant Deputy Comptroller
Western District

06/06/01

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.

-signed- _____ Joan D. Berlin	06-06-01 _____ Date
-signed- _____ John Graham	06-06-01 _____ Date
-signed- _____ Stuart Holden, M.D.	06-06-01 _____ Date
-signed- _____ Irv White	06-06-01 _____ Date
-signed- _____ James R. Brewer	06-06-01 _____ Date
_____	_____