

**#2002-18**

**AGREEMENT BY AND BETWEEN  
FIRST NATIONAL BANK OF DUBLIN  
DUBLIN, TEXAS  
AND  
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY**

First National Bank of Dublin, Dublin, Texas (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 November 26, 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 “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(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:

Mr. Donald S. Smith  
Assistant Deputy Comptroller  
Dallas South Field Office  
500 North Akard Street  
Dallas, Texas 75201

## ARTICLE II -- COMPLIANCE COMMITTEE

(1) Within thirty (30) days, the Board shall appoint a Compliance Committee of at least five (5) directors, of which no more than two (2) shall be employees 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 thirty (30) 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-- INTERNAL LOAN REVIEW

(1) The Board shall within thirty (30) days employ or designate a sufficiently experienced and qualified person(s) or firm to ensure the timely and independent identification of problem loans and leases.

(2) 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 the Loan Portfolio Management booklet, A-LPM, of the *Comptroller's Handbook*. 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) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (h) loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

(3) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program providing for independent review of problem loans and leases in the Bank's loan and lease portfolios for the purpose of monitoring portfolio trends, on at least a quarterly basis. The program shall require a quarterly report to the Board. At a minimum the program shall provide for an independent reviewer's assessment of the Bank's:

- (a) monitoring systems for early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
- (b) system for monitoring previously charged-off assets and their recovery potential;
- (c) system for monitoring compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and
- (d) system for monitoring the adequacy of credit and collateral documentation.

(4) A written description of the program called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon implementation.

(5) 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).

(6) 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 IV-- LOAN PORTFOLIO MANAGEMENT

(1) The Board shall, within sixty (60) days, develop, implement, and thereafter ensure Bank adherence to a written program to improve the Bank's loan portfolio management. The program shall include, but not be limited to:

- (a) procedures to ensure satisfactory and perfected collateral documentation;
- (b) procedures to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information;
- (c) procedures to ensure conformance with loan approval requirements;
- (d) a system to track and analyze exceptions;
- (e) procedures to ensure conformance with Call Report instructions;
- (f) procedures to ensure the accuracy of internal management information systems; and,
- (g) procedures to track and analyze concentrations of credit, significant economic factors, and general conditions and their impact on the credit quality of the Bank's loan and lease portfolios.

(2) Upon completion, a copy of the program shall be forwarded to the Assistant Deputy Comptroller.

(3) Beginning March 31, 2002, on a quarterly, basis management will provide the Board with written reports including, at a minimum, the following information:

- (a) the identification, type, rating, and amount of problem loans and leases;
- (b) the identification and amount of delinquent loans and leases;
- (c) credit and collateral documentation exceptions;

- (d) the identification and status of credit related violations of law, rule or regulation;
- (e) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (a) through (d) of this Article and Paragraph;
- (f) an analysis of concentrations of credit, significant economic factors, and general conditions and their impact on the credit quality of the Bank's loan and lease portfolios;
- (g) the identification and amount of loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (h) the identification of loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

#### **ARTICLE V -- 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) guidelines for loans to insiders, including a statement that such loans will not be granted on terms more favorable than those offered to similar outside borrowers;
- (j) guidelines and limitations on concentrations of credit;
- (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 designed to improve Board oversight of the loan approval process, specifically with regard to credits exhibiting significant risk. At a minimum, the policy shall:

- (i) establish dollar limits on extensions of credit to any one borrower, above which the prior approval of the Board, or a committee thereof, would be required;
  - (ii) establish dollar limits on aggregate extensions of credit to any one borrower, above which any new extensions of credit to that borrower, regardless of amount, would require the prior approval of the Board, or a committee thereof; and
  - (iii) require that all credits which deviate from the Bank's normal course of business, receive the prior approval of the Board, or a committee thereof.
- (m) guidelines consistent with Banking Circular 255, setting forth the criteria under which renewals of extensions of credit may be approved. At a minimum the policy shall:
- (i) ensure that renewals are not made for the sole purpose of reducing the volume of loan delinquencies; and
  - (ii) provide guidelines and limitations on the capitalization of interest;
- (n) 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; and
- (o) guidelines for periodic review of the Bank's adherence to the revised lending policy.



(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 Assistant Deputy Comptroller for review.

#### ARTICLE VI -- ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) 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) results of the Bank's external loan review;
- (c) an estimate of inherent loss exposure on each significant credit;
- (d) an estimate of inherent loss exposure on each credit in excess of fifty thousand dollars (\$50,000);
- (e) loan loss experience;
- (f) trends of delinquent and nonaccrual loans;
- (g) concentrations of credit in the Bank; and,
- (h)** present and prospective economic conditions;

(2) The program shall provide for a review of the Allowance by the Board at least once each calendar quarter. 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.

#### **ARTICLE VII -- BANK SECRECY ACT - INTERNAL CONTROLS**

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence to, an appropriate audit program setting out a system of internal controls and independent testing to ensure ongoing compliance with the Bank Secrecy Act, as amended, 31 U.S.C. §§ 5311 - 5330, the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C (collectively referred to as the Bank Secrecy Act).

(2) Within thirty (30) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program to establish a system of internal controls and processes to ensure compliance with the requirements to file Suspicious Activity Reports set forth in 12 C.F.R. § 21.11, as amended. At a minimum, this written program shall establish procedures for identifying and reporting known or suspected violations of Federal law, violations of the Bank Secrecy Act, or suspicious transactions related to money laundering activity, including suspicious activity relating to the opening of new accounts, the monitoring of current accounts, and the transfer of funds through the Bank. Upon completion, a copy of this program shall be submitted to the Assistant Deputy Comptroller for review. In the event the Assistant Deputy Comptroller recommends changes to the program, the Board shall immediately incorporate those changes into the program.

## ARTICLE VIII -- BUDGET/BUSINESS PLAN

(1) Within ninety (90) days, the Board shall prepare, implement, and thereafter ensure Bank adherence to a written three-year business plan that shall include a projection of major balance sheet and income statement components, and shall provide for injections of equity capital, as necessary. The business plan shall also include a written profit plan and a detailed budget. Specifically, the plan shall describe the Bank's objectives for improving Bank earnings, contemplated strategies and major capital expenditures required to achieve those objectives. Such strategies shall include specific market segments that the Bank intends to promote or develop. Procedures shall also be established to monitor the Bank's actual results against these projections and to provide for appropriate adjustments to the budget and profit plan. The plan shall set forth specific time frames for the accomplishment of these objectives.

(2) A copy of the plan shall be submitted to the Assistant Deputy Comptroller for review and prior determination of no supervisory objection.

## ARTICLE IX -- INTEREST RATE RISK POLICY

(1) Within sixty (60) 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) establishment and guidance of the Bank's strategic direction and tolerance for interest rate risk;

- (c) implementation of effective tools to measure and monitor the Bank's performance and overall interest rate risk profile;
  - (d) prudent limits on the nature and amount of interest rate risk that can be taken; and
  - (e) periodic review of the Bank's adherence to the policy.
- (2) Upon adoption, a copy of the written policy shall be forwarded to the Assistant Deputy Comptroller for review.

#### **ARTICLE X -- INTERNAL AUDIT**

- (1) Within ninety (90) 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 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 audit function is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of the individuals employed.

(4) 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, that 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.

(5) 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.

(6) 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.

(7) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Assistant Deputy Comptroller.

#### **ARTICLE XI -- ASSET/LIABILITY MANAGEMENT POLICY**

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written liquidity, asset and liability management policy. In formulating this policy, the Board shall refer to the *Comptroller's Handbook for National Bank Examiners*, Section 405. The policy shall provide for a coordinated asset/liability management strategy and, at a minimum, address:

- (a) adequate management reports that enable the Board and management to monitor the Bank's liquidity position and maintain liquidity at an adequate level;
  - (b) the liquidity, maturity and pledging requirements of the investment portfolio;
  - (c) development of a liquidity contingency plan;
  - (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 Assistant Deputy Comptroller for review.

**ARTICLE XII -- BUSINESS RESUMPTION AND CONTINGENCY PLAN**

(1) Within sixty (60) days, the Bank shall develop and test a formal Business Resumption and Corporate Contingency Plan which, at a minimum, complies with the requirements set forth in Banking Circular 177 (Rev.) dated July 12, 1989.

(2) Within ninety (90) days, and at least annually thereafter, the Board shall review its business resumption and contingency planning, and perform a test of all necessary programs and systems applications using its backup location, or recovery operation center, to ensure the continuation of operations in the event of a disaster. The Board shall document the results of this review and test in its meeting minutes.

(3) A copy of the plan and test results shall be forwarded to the Assistant Deputy Comptroller for review.

### 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) 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 Agreement.

(3) 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.

(4) 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.

(5) 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.

(6) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations

herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

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

/s/ Donald S. Smith

March 19, 2002

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Donald S. Smith  
Assistant Deputy Comptroller  
Dallas South Field Office

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Date



**AND IN FURTHER 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	3-19-02
Robert Dale Burnett	Date
Signed	3-19-02
Jack Demetruk	Date
Glen Duncan	Date
Signed	3-19-02
Johnny Johnson	Date
Mark Kostler	Date
David Leatherwood	Date
Eddie Leatherwood	Date
Signed	3-19-02
Edward Leatherwood	Date
Signed	3-19-02
James Leatherwood	Date
Signed	3-19-02
Patrick Leatherwood	Date
Signed	3-19-02
Terry Miller	Date

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Signed

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John Moore

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Signed

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T. A. Nowlin

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Signed

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Harlan Raley

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3-19-02

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Date

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3-19-02

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Date

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3-19-02

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Date