

AGREEMENT BY AND BETWEEN  
HENDERSON NATIONAL BANK  
HENDERSON, KENTUCKY  
AND  
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

Henderson National Bank, Henderson, Kentucky (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 14, 2002 (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**

(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 the:

Carolyn G. DuChene  
Assistant Deputy Comptroller  
Evansville Field Office  
P.O. Box 20130  
Evansville, Indiana

## **ARTICLE II**

### **COMPLIANCE COMMITTEE**

(1) Within fifteen (15) days, the Board shall appoint a Compliance Committee of at least five (5) directors, of which no more than one (1) 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 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; and
- (c) a description of the future actions still needed to achieve full compliance with each Article of the Agreement.

(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 AUDIT**

(1) Within sixty (60) 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 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, with respect to both the experience level and number of the individuals employed.

(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 Assistant Deputy Comptroller.

**ARTICLE IV**  
**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) responsibilities and duties of loan officers and loan administration staff with respect to ongoing monitoring of the financial condition and repayment capacity of borrowers;
- (b) collection process, to include:
  - (i) specific follow-up efforts, that are systematically and progressively stronger;
  - (ii) loan officer and loan administration staff duties and responsibilities; and
  - (iii) Board, committee, and management reporting requirements;
- (c) credit classification and nonaccrual criteria that are consistent with those set forth in the Comptroller's Handbooks for Rating Credit Risk (A-RCR) and Loan Portfolio Management (A-LPM), OCC Bulletin, 2000-20, Uniform Retail Credit Classification and Account Management Policy, and Instructions for Preparation of Consolidated Reports of Condition and Income (Call Report Instructions);

- (d) limitations 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;
- (e) pricing, maturity, and approval authority for unsecured lending;
- (f) construction lending to include procedures for ensuring that:
  - (i) market feasibility analyses are performed on construction projects;
  - (ii) cash flow analyses are performed on construction loan borrowers;
  - (iii) current rental and sales information is maintained in all construction projects; and
  - (iv) periodic inspections are performed on all construction projects.

(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.

(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 V**

### **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 and systems to identify, track, analyze, resolve, and report exceptions to the lending policy, including:
    - (i) credit monitoring information exceptions,
    - (ii) collateral documentation exceptions, and
    - (iii) loan-to-value ratio exceptions;
  - (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 as required by policy guidelines;
  - (c) procedures to ensure credit and collateral files are organized and maintained in an orderly manner;
  - (d) 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;
  - (e) procedures that require loan officers to document in the credit files significant conversations and events involving borrowers;

- (f) procedures to ensure real estate appraisal reviews and the bank's list of approved real estate appraisers conform to regulatory guidelines;
- (g) procedures to administer floor plan credits including inventory inspections, follow-up on missing vehicles, vehicle condition and mileage checks, curtailment requirements, and Board and management reporting requirements;
- (h) procedures that outline loan officer responsibilities to identify and document problem credits in timely manner and to provide monthly updated status reports on such credits;
- (i) procedures to ensure the accuracy of internal management information systems; and
- (j) a performance appraisal process, including performance appraisals, job descriptions, and incentive programs for loan officers, that considers performance relative to compliance with policy, credit monitoring, accuracy in credit grading, and other loan administration matters.

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

(3) Beginning August 2002, on a monthly 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;
- (b) the identification and amount of delinquent loans;



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

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

## **ARTICLE VI**

### **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 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 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 portfolio;
- (b) the identification, type, rating, and amount of problem loans;
- (c) the identification and amount of delinquent loans;
- (d) credit and collateral documentation exceptions;
- (e) the identification and status of credit related violations of law, rule or regulation;
- (f) loans not in conformance with the Bank's lending policies, and exceptions to the Bank's lending policies;
- (g) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (b) through (f) of this Paragraph;
- (h) concentrations of credit and significant economic facts and their impact on the credit quality of the Bank's loan portfolio; and
- (i) loans and leases to executive officers, directors, principal shareholders (and their related interests) 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 loan review system developed pursuant to this Article.

(3) The Board shall evaluate the internal loan 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).

(4) 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 forwarded to the assistant Deputy Comptroller.

## **ARTICLE VII**

### **MANAGEMENT INFORMATION SYSTEMS**

(1) Within thirty (30) days, the Board shall establish a management information system (MIS) program designed to provide the Board with adequate, accurate, and timely information about the Bank's operations and activities. The Board's MIS program shall be consistent with the guidance set forth in the OCC booklet Red Flags in Board Reports: A Guide for Directors, dated September 2000, and shall require that the Board receive and evaluate timely and accurate information sufficient to:

- (a) ensure that the bank operates in a safe and sound manner;
- (b) ensure that risks to the Bank are properly controlled;
- (c) determine management's compliance with Board-established policies, procedures, and risk; and
- (d) identify ratios or trends that may signal existing or potential problems.

(2) The MIS shall include a requirement that the Board receive regular reports on the following areas:

- (a) Financial performance;
- (b) Loan portfolio management;
- (c) Liquidity risk management;

- (d) Interest rate risk management;
- (e) Investment portfolio management;
- (f) Off-balance-sheet activities;
- (g) Audits and internal control; and
- (h) Consumer compliance.

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

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

## **ARTICLE VIII**

### **INFORMATION SECURITY PROGRAM**

(1) Within ninety (90) days, the Board shall develop, adopt, and ensure adherence to an Information Security Program that meets the requirements of 12 C.F.R. Part 30, Appendix B, and is commensurate with the size, complexity, and risk environment of the Bank.

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

(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**  
**INFORMATION TECHNOLOGY**

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an Information Technology (IT) risk management program sufficient to identifying, measuring, monitoring, and controlling technology risk. The program shall include, but not be limited to:

- (a) completing an initial risk assessment plan;
- (b) developing a risk management plan for the supervision of third-party services/vendors;
- (c) testing of disaster recovery plans for “critical applications” at least annually; and
- (d) establishing a technology/steering committee.

(2) Upon adoption, a copy of the IT risk assessment program shall be submitted to the Assistant Deputy Comptroller.

(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.

**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) In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall: (i) authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Agreement; (ii) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement; (iii) follow-up on any non-compliance with such actions in a timely and appropriate manner; and (iv) require corrective action be taken in a timely manner of any non-compliance with such actions.

(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/ Carolyn G. DuChene

June 10, 2002

---

Carolyn G. DuChene  
Assistant Deputy Comptroller  
Evansville Field Office

---

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

June 10, 2002

\_\_\_\_\_  
Bennett R. Alexander

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
Dr. Fred Barnett

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ronald L. Bugg

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
Charles Ronald Chapman

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
Carl C. Dempewolf

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
James B. Gill

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
Dr. Thomas B. Logan

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
Rahmi Soyugenc

\_\_\_\_\_  
Date

signed

June 10, 2002

\_\_\_\_\_  
Keith A. Utley

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date