

#2002-59

AGREEMENT BY AND BETWEEN

Community National Bank

Metropolis, Illinois

and

The Office of the Comptroller of the Currency

Community National Bank, Metropolis, Illinois (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/her National Bank Examiner, has examined the Bank, and his/her findings are contained in the Report of Examination, dated January 8, 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/her 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:

Carolyn DuChene
Assistant Deputy Comptroller
Evansville Field Office
101 NW First Street, Room 207
Evansville, Indiana 47708

ARTICLE II

COMPLIANCE

(1) The Board shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement. Not later than August 31, 2002, and every thirty (30) days thereafter, the Board shall prepare a written progress report setting forth in detail:

- (a) actions taken (up to the date of the report) to comply with each Article of this Agreement;
- (b) the results of those actions; and
- (c) a description of the actions still needed to achieve full compliance with each Article of this Agreement.

(2) The Board shall forward copies of the reports, to the Assistant Deputy Comptroller. The reports should also detail any action initiated by the Board pursuant to criticisms or comments in any future Report of Examination.

ARTICLE III

LOAN PORTFOLIO MANAGEMENT

(1) The Board shall, not later than August 31, 2002, develop, implement, and thereafter ensure Bank adherence to a written program to improve the Bank's loan portfolio management which shall include, at a minimum:

- (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; and
- (e) a performance appraisal process, including performance appraisals and job descriptions, which adequately considers loan officers' performance relative to policy compliance, documentation standards, 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) Not later than August 31, 2002, the Board shall develop, implement, and thereafter ensure Bank adherence to systems which provide for effective monitoring of:

- (a) early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
 - (b) compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and
 - (c) adequacy of credit and collateral documentation.
- (4) Beginning September 1, 2002, on a monthly basis management will provide the Board with written reports including, at a minimum, the following information:
- (a) credit and collateral documentation exceptions;
 - (b) the identification and status of credit related violations of law, rule or regulation;
 - (c) 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; and
 - (d) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (a) through (c) of this Article and Paragraph.
- (5) 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 IV

CRITICIZED ASSETS

(1) Not later than August 31, 2002, the Board shall adopt and implement a written workout program for the assets criticized by the OCC or classified by the Bank as "doubtful," substandard," or " special mention" that exceed \$50M (fifty thousand dollars). The program should include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the value of supporting collateral and the bank's lien position;
- (c) an analysis of current and satisfactory credit information, including cash flow and debt service coverage;
- (d) the proposed action, timeframe and individual responsible for implementing the workout program.

(2) Upon adoption, please provide a copy of the program for all criticized assets equal to or exceeding \$200M to the Assistant Deputy Comptroller beginning September 1, 2002 and every 90 days thereafter.

(3) The Board shall conduct at least monthly a review of:

- (a) the status of each criticized asset equal to or exceeding \$50M;
- (b) management's adherence to the workout program; and
- (c) the status, effectiveness, and the need to revise the workout program.

(4) A copy of each review (in a format similar to Appendix A, attached hereto) shall be maintained in the file of the affected borrower.

(5) 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 \$200M only if each of the following conditions are 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.
- (6) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

ARTICLE V

STRATEGIC PLAN

(1) Not later than September 30, 2002, 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, and shall periodically reassess the strategic plan as it deems necessary. 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, which shall include, at a minimum:
 - (i) the identification of present and future management and staffing requirements of each area of the Bank;
 - (ii) detailed written job descriptions for all executive officers;
 - (iii) objectives by which executive officers' effectiveness will be measured, including a formalized performance appraisal system

- providing for regular performance reviews of all executive officers;
- (iv) an evaluation of current lines of authority, reporting responsibilities and delegation of duties for all executive officers, including identification of any overlapping duties or responsibilities; and
 - (v) an organization chart that clearly reflects areas of responsibility and lines of authority for all officers;
- (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.

(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 VI

CAPITAL PLAN

(1) The Bank shall achieve by December 31, 2002, and thereafter 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;
- (b) Tier 1 capital at least equal to seven percent (7%) of adjusted total assets.¹

(2) The requirement in this Agreement 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) Not later than August 31, 2002, 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);

¹ Adjusted total assets is defined in 12 C.F.R. § 3.2(a) as the average total asset figure used for Call Report purposes minus end-of-quarter intangible assets. As further noted in 12 C.F.R. § 3.2(a), a bank may be required to compute and maintain its leverage ratio on the basis of actual, rather than average total assets. This language would have to be modified to reflect that change.

- (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;
- (f) a reporting process under which you monitor compliance with the capital plan on at least a quarterly basis; and
- (g) a dividend policy that permits the declaration of a dividend only:
 - (i) to allow for the payment of the S corporation income taxes on taxable income attributed to the Bank and its holding company (Bank Holding Company) that is passed through to the shareholders of the Bank Holding Company;
 - (ii) to allow for the payment of principal and interest on the currently outstanding indebtedness of the Bank Holding Company as of the date of this agreement;
 - (iii) to allow for the payment each calendar year of up to \$150,000 of legal, accounting, tax return and other business expenses of the Bank Holding Company; and

(iv) except as provided in (i), (ii) and (iii) above, with the prior determination of no supervisory objection by the Assistant Deputy Comptroller.

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

ARTICLE VII

VIOLATIONS OF LAW

(1) Not later than August 31, 2002, 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 thirty (30) 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) 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 VIII

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/her 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/her hand on behalf of the Comptroller.

/s/ Carolyn G. DuChene

June 27, 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

6-27-2002

James R. Clark

Date

Signed

6-27-2002

Bob D. Dallas

Date

Signed

6-27-02

Roger D. Herrin

Date

Signed

6/27/02

James R. Humphrey

Date

Signed

6-27-02

Larry R. Jones

Date

Signed

6-27-02

Glendal W. Poshard

Date
