

**#2002-71**

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

First National Bank of Mayfield, Mayfield, 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 September 30, 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 the:

Assistant Deputy Comptroller  
Memphis Field Office  
57 Germantown Court Suite 309  
Cordova, Tennessee 38018

With a copy to:

Deputy Comptroller  
Comptroller of the Currency  
Southeastern District  
Marquis One Tower, Suite 600  
245 Peachtree Center Avenue, NE  
Atlanta, Georgia 30303

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) Within ten (10) days, the Board shall appoint a Compliance Committee of at least three (3) directors. 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 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

#### CREDIT RISK

(1) Within one hundred eighty (180) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program to reduce the high level of credit risk in the Bank. The program shall include, but not be limited to:

- (a) procedures to strengthen credit underwriting;
- (b) procedures to strengthen management of floor plan operations;
- (c) a revision of the Loan Policy to ensure the definition of classified assets conforms to guidance found in the Comptroller's Handbook, Rating Credit Risk, and training of loan officers in the application of these definitions;
- (d) documentation of improvement in repayment capacity before loans are extended and a system to track the volume and performance of extended loans;
- (e) documentation of improvement in repayment capacity and sustained performance before loans are upgraded;

(f) a written description of the duties and responsibilities of the Credit Administrator.

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

(3) At least quarterly, the Board shall prepare a written assessment of the bank's credit risk, which shall evaluate the Bank's progress under the aforementioned program. The Board shall submit a copy of this assessment 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 IV

##### 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 one hundred eighty (180) 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 thousand dollars (\$100,000) shall be forwarded 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.

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

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds one hundred thousand dollars (\$100,000);
- (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 Assistant Deputy Comptroller on a quarterly 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 thousand dollars (\$100,000), only if each of the following conditions is met:

- (a) the Board 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 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 shall be maintained in the file of the affected borrower.

## ARTICLE V

### NONACCRUAL LOANS

(1) The Bank shall immediately reverse or charge off all interest that has been accrued contrary to the requirements contained in the Instructions for Preparation of Consolidated Reports of Condition and Income (Call Report Instructions) governing nonaccrual loans. Further, the Bank shall immediately reverse or charge off that portion of the remaining accrued interest on such loans that, when combined with principal, is not protected by sound collateral values.

(2) Within one hundred eighty (180) 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.

(3) Upon adoption, a copy of the written policies and procedures shall be forwarded to the Assistant Deputy Comptroller and the Board shall thereafter ensure Bank adherence to all policies and procedures developed pursuant to this Article.

(4) 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

### 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 credit in excess of one hundred thousand dollars (\$100,000);
- (d) loan loss experience;
- (e) trends of delinquent and nonaccrual loans;
- (f) concentrations of credit in the Bank; and
- (g) 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.

(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 VII

### 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. If a bank employee is designated to perform loan review duties, the Board shall prepare a job description and document an assessment of that employee's duties and responsibilities to ensure adequate time is available for this responsibility.

(2) Within ninety (90) 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 Rating Credit Risk booklet 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) 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.

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

(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 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 VIII

### STRATEGIC PLAN

(1) Within one hundred eighty (180) 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 non-performing 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) product line development and market segments that the Bank intends to promote or develop;
- (g) an action plan to accomplish identified strategic goals and objectives, including individual responsibilities, accountability and specific time frames;
- (h) 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;
- (i) control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment; and
- (j) 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 prior determination of no supervisory objection.

(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 IX

### STAFFING PLAN

(1) Within sixty (60) days of the completion of the Bank's strategic plan, the Board shall develop a staffing plan that is consistent with the goals and objectives established in the Bank's strategic plan and that accomplishes the overall risk profile established for the Bank. At a minimum, the plan will consist of the following:

- (a) identification of present and future staffing requirements of each area of the Bank, including the skills and expertise needed to develop, market and administer the products and services identified in the strategic plan;
- (b) identification of the skills and expertise of the Bank's current staff;
- (c) comparison of the current staff's skills and expertise to the skills and expertise identified in this Article as necessary to accomplish the Bank's goals and objectives;
- (d) a training program to address identified weaknesses in the skills and abilities of the Bank's staff;
- (e) detailed written job descriptions for all executive officers;
- (f) an evaluation of current lines of authority, reporting responsibilities and delegation of duties for all officers, including identification of any overlapping duties or responsibilities; and
- (g) a recommended organization chart that clearly reflects areas of responsibility and lines of authority for all officers.

(2) Upon completion, the Board will provide a copy of its staffing plans to the Assistant Deputy Comptroller for review and prior determination of no supervisory objection.

(3) Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Board will implement the plan and direct any changes necessary to provide the Bank with a staff that possesses the skills and expertise identified pursuant to this Article. Thereafter the Board will ensure that the Bank adheres to the staffing plan.

## ARTICLE X

### BOARD SUPERVISION

(1) Within sixty (60) days, the Board shall prepare an assessment of whether Board members are receiving adequate information on the operation of the Bank to enable them to fulfill their fiduciary responsibilities and other responsibilities under law.

(2) Within sixty (60) days, the Bank shall make recommendations to expand the scope, frequency and sufficiency of information provided to the Board by management.

## ARTICLE XI

### CAPITAL PLAN AND HIGHER MINIMUMS

(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 eleven percent (11%) of risk-weighted assets; and

(b) Tier 1 capital at least equal to eight percent (8%) of adjusted total assets.<sup>1</sup>

(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) Within one hundred eighty (180) 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; and
- (d) a dividend policy that permits the declaration of a dividend only if:
  - (i) the Bank is in compliance with its approved capital program; and
  - (ii) the Bank is in compliance with 12 U.S.C. §§ 56 and 60.

(4) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's

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<sup>1</sup> 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.

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.

(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 XII

### INTERNAL CONTROLS

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure adequate systems, policies, procedures and processes are in place, designed to:

- (a) safeguard the Bank's resources;
- (b) produce reliable financial and management reports; and
- (c) comply with laws and regulations, internal policies and procedures.

(2) Within ninety (90) days, the Board shall prepare a comprehensive assessment of internal controls. This review shall include some level of testing and verification. Based on the results of this review, the Board shall revise internal policies and procedures as appropriate.

Upon completion, a copy of the internal control review and Board assessment shall be promptly submitted to the Assistant Deputy Comptroller.



## ARTICLE XIII

### 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. The Board shall prepare a written description of the duties and responsibilities of the internal auditor, including any nonaudit duties.

(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 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.

(6) All audit procedures, and reports shall be in writing. Work papers should be sufficiently detailed to provide a clear audit trail of work performed. 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) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Assistant Deputy Comptroller.

#### ARTICLE XIV

##### ASSET AND LIABILITY MANAGEMENT POLICY

(1) Within one hundred eighty (180) 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 Liquidity and Interest Rate Risk booklets of the Comptroller's Handbook. The policy shall provide for a coordinated asset and liability management strategy and, at a minimum, address:

- (a) adequate management reports that enable the Board and management to monitor the Bank's liquidity and interest rate risk and maintain liquidity at an adequate level;
- (b) the liquidity, maturity, and pledging requirements of the investment portfolio;
- (c) documentation of assumptions used with vendor or Bank-prepared models;
- (d) training of Bank officers to ensure a sufficient number of employees possess expertise to prepare and understand management reports; 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.

(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 XV

### CONSUMER COMPLIANCE PROGRAM

(1) Within sixty (60) days, the Bank shall adopt, implement, and thereafter ensure adherence to a written consumer compliance program designed to ensure that the Bank is operating in compliance with all applicable consumer protection laws, rules and regulations.

This program shall include, but not be limited to:

- (a) written description of the duties and responsibilities of the compliance officer, including any duties in addition to consumer compliance;
- (b) adequate internal controls to ensure compliance with consumer protection laws, rules, and regulations;
- (c) an audit program to test for compliance with consumer protection laws, rules and regulations;
- (d) procedures to ensure that exceptions noted in the audit reports are corrected and responded to by the appropriate Bank personnel;
- (e) the education and training of all appropriate Bank personnel in the requirements of all federal and state consumer protection laws, rules and regulations; and
- (f) periodic reporting of the results of the consumer compliance audit to the Board or a committee thereof.

(2) Upon adoption, a copy of the 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 XVI

### 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) 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/ Paul E. Robertson

8-21-02

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Paul E. Robertson  
Assistant Deputy Comptroller  
Memphis, Tennessee Field Office

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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 \_\_\_\_\_  
Frederick D. Blume

8/21/02 \_\_\_\_\_  
Date

Signed \_\_\_\_\_  
George Covington

8/21/02 \_\_\_\_\_  
Date

\_\_\_\_\_  
J.A. "Tony" Jones

\_\_\_\_\_  
Date

Signed \_\_\_\_\_  
Charles Shields

8/21/02 \_\_\_\_\_  
Date

Signed \_\_\_\_\_  
Timothy Stark

8/21/02 \_\_\_\_\_  
Date