

**#2003-28 also Terminates
#2001-115**

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of:)
The Park Avenue Bank, N.A.)
New York, New York)

CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller), through his National Bank Examiner, has examined the Park Avenue Bank, N.A., New York, New York (Bank), and his findings are contained in the Report of Examination, dated February 19, 2002 (ROE).

The Bank, by and through its duly elected and acting Board of Directors (Board), has executed a "Stipulation and Consent to the Issuance of a Consent Order," dated January 31, 2003, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order (Order) by the Comptroller.

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

ARTICLE I

REPLACEMENT OF THE OCTOBER 26, 2001 FORMAL AGREEMENT

(1) The articles of the October 26, 2001 Formal Agreement are replaced in their entirety by this Order.

ARTICLE II

BOARD TO ENSURE COMPETENT MANAGEMENT

(1) Within forty-five (45) days, the Board shall ensure that the Bank has management with the requisite competence and experience in place on a full-time basis in the Chief Investment Officer position and in any other position responsible for the management or oversight of the Bank's investment portfolio activities to carry out the Board's policies, ensure compliance with this Order, applicable laws, rules and regulations, and manage the day-to-day operations of the Bank's investment portfolio activities in a safe and sound manner.

(2) Within thirty (30) days, the Board shall review the capabilities of the Bank's current management to perform present and anticipated duties with respect to investment portfolio activities, including compliance with the terms of this Order, and the Board will determine whether management changes should be made, including the need for additions to or deletions from current management. In reviewing the capabilities of the Bank's current management, the Board shall assess each individual's experience, other qualifications and performance compared to the position's description, duties, and responsibilities.

(3) If the Board determines that an officer will continue in his/her position, the Board shall, within forty-five (45) days, document in writing the basis for its decision to retain the officer and develop and implement a written program, with specific time frames, to improve his/her skills with respect to supervision and management of the Bank's investment portfolio activities. At a minimum the written program shall include:

- (a) an education program designed to ensure that the officer has the necessary skills and abilities to supervise the Bank's investment portfolio activities effectively;
- (b) a program to improve the officer's effectiveness, including a written job description that clearly delineates his\her duties and responsibilities with respect to the Bank's investment portfolio activities;
- (c) objectives by which the officer's effectiveness will be measured;
- (d) a performance appraisal process for evaluating the officer's performance according to the position's written description and duties and responsibilities and for measuring performance against the Bank's goals and objectives.

Upon completion, a copy of the written program shall be submitted to the Assistant Deputy Comptroller for a written determination of no supervisory objection.

(4) If a position mentioned in Paragraph (1) of this Article is vacant now or in the future, including if the Board realigns an existing officer's responsibilities and a position mentioned in Paragraph (1) becomes vacant, the Board shall within forty-five (45) days of such vacancy appoint to the position a capable person with the requisite skills and experience to effectively supervise the Bank's investment portfolio activities who shall be vested with sufficient executive authority to ensure the Bank's compliance with this Order and the safe and sound operation of functions within the scope of that position. Prior to such appointment, the Board shall ensure it has developed and implemented a written program, which includes at a minimum:

- (a) a written job description, which clearly delineates the position's duties and responsibilities;
- (b) objectives by which the individual's effectiveness will be measured; and

- (c) a performance appraisal process for evaluating the individual's performance according to the position's written description, and duties and responsibilities and for measuring performance against the Bank's goals and objectives.

Upon completion, a copy of the written program shall be submitted to the Assistant Deputy Comptroller for a written determination of no supervisory objection.

(5) Prior to the appointment of any individual to an executive officer position, the Board shall submit to the Assistant Deputy Comptroller the following information:

- (a) the information sought in the "Changes in Directors and Senior Executive Officers" booklet of the Comptroller's Licensing Manual, together with a legible fingerprint card for the proposed individual;
- (b) a written statement of the Board's reasons for selecting the proposed officer; and
- (c) a written description of the proposed officer's duties and responsibilities.

(6) The Assistant Deputy Comptroller shall have the power to disapprove the appointment of the proposed executive officer. However, the lack of disapproval of such individual shall not constitute an approval or endorsement of the proposed officer.

(7) The requirement to submit information and the prior disapproval provisions of this Article are based on the authority of 12 U.S.C. §1818(b) and do not require the Assistant Deputy Comptroller to complete her review and act on any such information or authority within ninety (90) days.

ARTICLE III

CAPITAL PLAN AND HIGHER MINIMUMS

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

- (a) Tier 1 capital at least equal to 11 percent (11%) of risk-weighted assets;
- (b) Tier 1 capital at least equal to 10 percent (10%) of adjusted total assets.¹

(2) The requirement in this Order to meet and maintain a specific capital level means that the Bank is not 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 sixty (60) 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) detailed actions the Board shall take to raise external capital, the specific amount, and the time frames within which such capital shall be injected into the Bank;
- (c) realistic projections for capital growth through retained earnings based upon a detailed analysis of the Bank’s assets, liabilities, earnings, fixed assets, and off-balance sheet activities and any contemplated revisions to the Bank’s strategic plan and the specific time frames within which such capital growth shall be achieved;

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.

- (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; and
- (f) a dividend policy that permits the declaration of a dividend only:
 - (i) when the Bank is in compliance with its approved capital program;
 - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
 - (iii) with the prior written non-objection of the Assistant Deputy Comptroller, until the Assistant Deputy Comptroller notifies the Board in writing that such prior non-objection is no longer required.

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

(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.

(6) If the OCC determines, in its sole discretion, that the Bank has failed to submit an acceptable capital program as required by Paragraph (3) of this Article, or has failed to implement or adhere to a capital program for which the OCC has taken no supervisory objection pursuant to Paragraph (4) of this Article, then within thirty (30) days of receiving written notice from the OCC of such fact, the Bank shall develop and shall submit to the

OCC for its review and prior written determination of no supervisory objection a Contingency Plan, which shall detail the Board's proposal to either: (i) sell or merge the Bank, or (ii) to liquidate the Bank, in conformance with 12 U.S.C. §181, and in a manner that will result in no loss or cost to the Federal Deposit Insurance Corporation. The Bank agrees that it will not schedule a vote of its shareholders so as to seek their approval to liquidate the Bank prior to securing the OCC's written determination of no supervisory objection to the Contingency Plan. After the OCC has advised the Bank in writing that it does not take supervisory objection to the Contingency Plan, the Board shall immediately implement, and shall thereafter ensure adherence to, the terms of the Contingency Plan. Failure to submit a timely, acceptable Contingency Plan may be deemed by the OCC, in the exercise of its discretion, to constitute a violation of this Order.

(7) In lieu of developing a three-year capital program as required by Paragraph (3) of this Article, the Bank, within thirty (30) days of the effective date of this Order, may submit the written Contingency Plan required by Paragraph (6) of this Article to the OCC for its review and prior written determination of no supervisory objection.

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

ARTICLE IV

STRATEGIC PLAN

(1) If the Bank elects to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, and if the OCC thereafter determines that it has supervisory objections to the Contingency Plan, then within thirty (30) days from the date that

the OCC issues its written determination of supervisory objection to the Contingency Plan, the Board shall adopt, implement, and shall thereafter ensure Bank adherence to a written strategic plan for the Bank covering at least a three-year period. Alternatively, should the Board not elect to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, then within sixty (60) days from the effective date of this Order, the Board shall adopt, implement, and shall thereafter ensure Bank adherence to a written strategic plan covering at least a three-year period. The strategic plan shall establish objectives for the Bank's overall risk profile and prudent risk diversification, 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, shall 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 used, and market segments that will be developed, to accomplish the strategic goals and objectives established in (1)(c) of this Article;
- (e) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems and policies and procedures

for their adequacy and contribution to the accomplishment of the goals and objectives developed under (1)(c) of this Article;

- (f) a management employment and succession program to promote the retention and continuity of capable management;
- (g) product line development and market segments that the Bank intends to promote or develop;
- (h) an action plan to improve bank earnings and accomplish identified strategic goals and objectives, which addresses individual responsibilities, accountability and specific time frames for achievement of goals and objectives;
- (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) the establishment of quarterly earnings targets beginning with the quarter period ending March 31, 2003, specifying the major areas in and means by which (e.g., specific products and market segments) such targets shall be achieved, and the capital expenditures required to achieve the established targets;
- (k) control systems to mitigate risks associated with current and planned new products, growth, or any proposed changes in the Bank's operating environment;

- (l) 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
- (m) systems to monitor the Bank's progress in meeting the plan's goals and objectives and targets.

(2) Upon adoption, a copy of the plan shall be forwarded to the Assistant Deputy Comptroller for prior written determination of no supervisory objection. If the Board subsequently adopts any significant changes to the plan, such changes shall be forwarded to the Assistant Deputy Comptroller for prior written determination of no supervisory objection. For purposes of this paragraph, "significant changes" shall include changes involving the Bank's strategy or philosophy, projected growth, scope of activities, lines of business, funding sources, markets or delivery systems.

(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.

(4) If the OCC determines, in its sole discretion, that the Bank has failed to submit an acceptable strategic plan as required by Paragraph (1) of this Article, or has failed to implement or adhere to a strategic plan for which the OCC has taken no supervisory objection pursuant to Paragraph (2) of this Article, then within thirty (30) days of receiving written notice from the OCC of such fact, the Bank shall develop and shall submit to the OCC for its review and prior determination of no supervisory objection the written Contingency Plan required by paragraph (6) of Article III. The Bank agrees that it will not schedule a vote of its shareholders so as to seek their approval to liquidate the Bank prior to securing the OCC's written

determination of no supervisory objection to the Contingency Plan. After the OCC has advised the Bank in writing that it does not take supervisory objection to the Contingency Plan, the Board shall immediately implement, and shall thereafter ensure adherence to, the terms of the Contingency Plan. Failure to submit a timely, acceptable Contingency Plan may be deemed by the OCC, in the exercise of its discretion, to constitute a violation of this Order.

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

ARTICLE V

INVESTMENT PORTFOLIO ACTIVITY

(1) Effective immediately, the Bank shall not purchase or otherwise acquire pursuant to its investment authority, or sell or otherwise dispose of, any security until it submits to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection a documented, written analysis detailing: the security's characteristics; expected performance; and how the acquisition or disposal of the security is consistent with the Bank's investment portfolio strategy and the Bank's overall strategic plan, financial condition, capital levels and liquidity and other risk positions. The analysis required by this article shall be submitted to the Assistant Deputy Comptroller in the same form as Appendix I attached hereto, with the form completed in full, including the narrative analysis summary portion and the signatures of not less than two bank officers, with supporting documentation attached.

(2) Within thirty (30) days, a committee of the Board shall conduct a review of all of the Bank's securities purchase and sale transactions during the period October 1, 2001 to the

effective date of this Order and provide to the Board a written report which shall include at a minimum:

- (a) an evaluation of the consistency of each transaction with previously established and approved investment policies and strategies;
 - (b) the appropriateness and materiality of the recording and reporting of the securities transactions as investment portfolio items;
 - (c) the appropriateness of mark to market valuations and whether such valuations accurately reflect the security's appreciation or depreciation;
 - (d) management's portfolio strategy and intention for purchases and sales;
 - (e) the receipt and disbursement of all funds associated with the purchase and sale of securities;
 - (f) the accuracy of accounting and record keeping entries for receipt and disbursement of funds, accounting for interest accruals and interest received or paid;
 - (g) the validity of prices paid and received for each security transaction; and
 - (h) a current securities inventory listing which reflects the following information for each security: settlement and sale dates; par, book and current market values; current depreciation or appreciation; pricing source; and the security's current rating from at least one nationally recognized statistical rating organization.
- (3) For every monthly period after the effective date of this Order, the committee shall review all of the Bank's securities purchase and sale transactions, and any other securities acquisition or disposal transactions, during that period and shall provide to the

Board within fifteen (15) days of each month end, a report which includes at a minimum the items in paragraph (1)(a) through (h) above.

(4) The Board shall document its review of the reports required in paragraphs (1) and (2) above in the Board minutes on at least a monthly basis and forward a copy of the reports to the Assistant Deputy Comptroller for review.

(5) The committee may retain an independent accounting firm or a qualified outside investment advisor to assist the committee in meeting the requirements in paragraphs (1) and (2) above, except the committee shall not retain any insider (as that term is defined at 12 C.F.R. §215.2) for such purpose.

ARTICLE VI

INVESTMENT PORTFOLIO MANAGEMENT

(1) If the Bank elects to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, and if the OCC thereafter determines that it has supervisory objections to the Contingency Plan, then within thirty (30) days from the date that the OCC issues its written determination of supervisory objection to the Contingency Plan, the Board shall review, revise, implement and shall thereafter ensure Bank adherence to an investment policy consistent with the requirements of this Article. Alternatively, should the Board not elect to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, then within sixty (60) days from the effective date of this Order, the Board shall review, revise, implement, and shall thereafter ensure Bank adherence to an investment policy consistent with the requirements of this Article. The revised policy shall be consistent with OCC Bulletin 98-20, Investment Securities – Policy Statement, April 27, 1998 (OCC 98-20) and its supplemental guidance, OCC Bulletin 2002-19, Unsafe and Unsound

Investment Portfolio Practices, May 22, 2002 (OCC 2002-19); An Examiner's Guide to Investment Products and Practices, December 1992; 12 C.F.R. Part 1; and any subsequent guidance issued by the OCC. At a minimum the revised policy shall include:

- (a) an investment portfolio strategy that is consistent with Board approved Bank asset and liability management policies and interest rate risk tolerances; and the bank's overall strategic plan, financial condition, capital levels and management skills;
- (b) established risk limits and corresponding approval procedures for specified types of securities, including, at a minimum, dollar size limits, capital exposure limits, quality limitations, maturity limitations, and concentration and diversification guidelines that are consistent with the Bank's financial condition, liquidity and other risk positions, capital levels and management skills;
- (c) specific guidelines on the types of risk analysis (e.g., market, credit, liquidity, etc.) that management is required to conduct for various types or classes of securities, both prior to acquisition and on an on-going basis, consistent with OCC 98-20, OCC 2002-19, and the "Interest Rate Risk" booklet, L-IRR, of the Comptroller's Handbook;
- (d) the required documentation necessary to verify the analyses required in (c) above and appropriate documentation retention requirements;
- (e) specific guidelines regarding the reporting treatment for all securities holdings which are consistent with regulatory reporting standards and generally accepted accounting principles (GAAP); applicable Statements

of Financial Accounting Standards and related issuances, including FASB Issuance EITF 99-20 Recognition of Interest Income and Impairment on Purchase and Retained Beneficial Interest in Securitized Financial Assets; and Banking Circular 127 (REV.) – Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks, April 26, 1991;

- (f) individual and committee investment portfolio purchase and sale authority, and the requirement that the Board review and approve all purchases and sales on a monthly basis;
- (g) required reviews and use of securities dealers;
- (h) a requirement that management provide to the Board, on a monthly basis, a report which: details all investment portfolio purchases, sales and strategy changes; summarizes the risks related to the Bank's investment portfolio activities; and notes any exceptions to the Bank's revised investment policy;
- (i) a requirement that the Board's monthly review of the report required in (h) above be documented in the Board's minutes; and
- (j) accountability measures and corrective action the Board will institute to address instances of non-compliance with the Bank's revised policy.

(2) A copy of the revised investment policy shall be forwarded to the Assistant Deputy Comptroller for a written 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 policy developed pursuant to this Article.

ARTICLE VII

CREDIT DERIVATIVES

(1) Effective immediately, the Bank shall not engage in any credit derivative transaction until it submits to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection a documented, written analysis detailing: the transaction's characteristics; expected performance; and how the transaction is consistent with the Bank's strategic plan, financial condition, capital levels and liquidity and other risk positions.

(2) If the Bank elects to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, and if the OCC thereafter determines that it has supervisory objections to the Contingency Plan, then within thirty (30) days from the date that the OCC issues its written determination of supervisory objection to the Contingency Plan, the Board shall develop, implement and thereafter ensure Bank adherence to comprehensive written credit derivative policies, procedures and controls that are consistent with the requirements of this Article. Alternatively, should the Board not elect to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, then within thirty (30) days from the effective date of this Order, the Board shall adopt, implement, and shall thereafter ensure Bank adherence to comprehensive written credit derivative policies, procedures and controls that are consistent with the requirements of this Article. The required credit derivative policies, procedures and controls shall be consistent with OCC Bulletin 96-43, Credit Derivatives –

Guidelines for National Banks, August 12, 1996; OCC 98-20; Banking Circular 277 – Risk Management of Financial Derivatives, October 27, 1993 (BC-277); OCC Bulletin 94-31, Questions and Answers for BC-277; the “Risk Management of Financial Derivatives” booklet of the Comptroller’s Handbook; and any subsequent guidance issued by the OCC. At a minimum these policies, procedures and controls shall include:

- (a) identification of the types of credit derivative products which the Bank is permitted to use and the purpose to be served by such use, consistent with the Bank’s overall strategy, financial condition, capital levels, risk positions and management skills;
- (b) established risk limits and corresponding approval procedures for specified types of credit derivative products, on a product, counter-party, credit or reference entity, and cumulative basis, including, at a minimum, dollar size limits, capital exposure limits, quality limits, volatility limits, maturity limits, and concentration and diversification guidelines that are consistent with the Bank’s financial condition, liquidity and other risk positions, capital levels and management skills;
- (c) specific guidelines on the types of risk analysis (e.g., market, credit, liquidity, etc.) that management is required to conduct for credit derivative products, both prior to acquisition and on an on-going basis, consistent with the OCC guidance referenced above;
- (d) the required documentation necessary to verify the analyses required in (c) above and appropriate documentation retention requirements;

- (e) specific guidelines regarding the reporting treatment for all credit derivative holdings that are consistent with regulatory reporting standards and generally accepted accounting principles (GAAP), applicable Statements of Financial Accounting Standards and related issuances;
- (f) a requirement that the Board review and approve all credit derivative transactions on a monthly basis;
- (g) risk monitoring, measuring and reporting systems to ensure that the Bank is adhering to established policies, guidelines and limits.
- (h) accountability measures and corrective action the Board will institute to address instances of non-compliance with established policies, guidelines and limits.

(3) A copy of the credit derivative policy shall be forwarded to the Assistant Deputy Comptroller for a written determination of no supervisory objection.

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

ARTICLE VIII

BROKERED DEPOSITS

(1) Each time that the Bank is required, in accordance with 12 C.F.R. Part 337, to obtain a waiver from the Federal Deposit Insurance Corporation before accepting, renewing or rolling over any Brokered Deposits (as defined by 12 C.F.R. § 337.6(a)(2)) at the Bank, the Bank shall submit an application to the Assistant Deputy Comptroller and the Bank may accept, renew or rollover such Brokered Deposits only after obtaining a prior written determination of no

supervisory objection from the Assistant Deputy Comptroller. Such application shall contain, at a minimum, the following:

- (a) the dollar volume, maturities, and cost of the Brokered Deposits to be acquired;
- (b) the proposed use of the Brokered Deposits, i.e., short-term liquidity or restructuring of liabilities to reduce cost;
- (c) alternative funding sources available to the Bank; and
- (d) the reasons why the Bank believes that the acceptance of the Brokered Deposits does not constitute an unsafe and unsound practice in its particular circumstances.

(2) The Assistant Deputy Comptroller may require the submission of such additional information as necessary to make an informed decision. Upon consideration of the Bank's application, the Assistant Deputy Comptroller will determine whether the proposed acquisition of Brokered Deposits may be accomplished in a safe and sound manner and may condition the Bank's acquisition as the OCC in its sole discretion deems appropriate.

(3) Nothing in this article shall relieve the Bank of its obligation under 12 U.S.C. § 1831f to seek necessary approvals from the Federal Deposit Insurance Corporation before accepting Brokered Deposits and to comply with all the requirements of 12 U.S.C. § 1831f.

ARTICLE IX

LIQUIDITY

(1) The Board shall take appropriate action to ensure adequate sources of liquidity in relation to the Bank's needs, including:

- (a) developing, within sixty (60) days, an action plan to reduce the Bank's level of wholesale, credit or interest rate sensitive liabilities, including brokered deposits and national market certificates of deposit; and
- (b) reviewing and revising, within sixty (60) days, the Bank's liquidity contingency plan to ensure the plan enables the Bank to maintain a liquidity level sufficient to sustain the Bank's current operations and to withstand any anticipated or extraordinary demand against its funding base. The plan shall set forth actions the Bank will take to maintain adequate liquidity in relation to the Bank's needs and identify the triggers at which management will be required to take such actions. Actions identified in the Bank's liquidity contingency plan may include:
 - (i) further reduction of wholesale or credit sensitive liabilities;
 - (ii) increase of liquid assets; selling assets;
 - (iii) obtaining lines of credit from the Federal Reserve Bank;
 - (iv) obtaining lines of credit from correspondent banks;
 - (v) recovering charged-off assets; and
 - (vi) injecting additional equity capital.

(2) Upon completion, the Board shall forward the action plan and liquidity contingency plan required in paragraph (1) to the Assistant Deputy Comptroller for a written determination of no supervisory objection. Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and shall adhere to the plans.

(3) The Bank shall prepare and the Board shall review on a monthly basis, liquidity reports which set forth liquidity requirements and sources, and which include:

- (a) a maturity schedule of certificates of deposit, including large uninsured deposits;
- (b) geographic disbursement of and risk from brokered deposits;
- (c) geographic disbursement of and risk from national market certificates of deposit;
- (d) the level of liquid investment securities in the bank's investment portfolio and the amount of such securities available for collateral pledges;
- (e) the amount and type of loan commitments and standby letters of credit;
- (f) an analysis of the continuing availability and volatility of present funding sources;
- (g) an analysis of the impact of decreased cash flow from the Bank's loan portfolio resulting from delinquent and non-performing loans; and
- (h) a schedule of asset maturities (loans, investments, placements) that have maturity parameters similar to the brokered deposits and national market certificate of deposits.

(4) Copies of the Bank's monthly liquidity reports and the Board's reviews shall be forwarded to the Assistant Deputy Comptroller in the Board's monthly report to the Assistant Deputy Comptroller required in Article XIV.

ARTICLE X

SENSITIVITY TO MARKET RISK

- (1) If the Bank elects to submit a Contingency Plan to the OCC as provided for under

Paragraph (7) of Article III of this Order, and if the OCC thereafter determines that it has supervisory objections to the Contingency Plan, then within sixty (60) days from the date that the OCC issues its written determination of supervisory objection to the Contingency Plan, the Board shall review, revise, implement, and thereafter ensure Bank adherence to interest rate risk policies and practices consistent with the requirements of this Article. Alternatively, should the Board not elect to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, then within ninety (90) days from the effective date of this Order, the Board shall review, revise, implement, and thereafter ensure Bank adherence to interest rate risk policies and practices consistent with the requirements of this Article. The revised interest rate risk policies and practices shall at a minimum include:

- (a) the establishment of prudent limits on the nature and amount of interest rate risk to which the Bank may be exposed. In developing these limits, the Board shall specifically consider balance sheet items that are subject to high interest rate volatility, including foreign bank placements;
- (b) the establishment of prudent parameters for interest rate risk simulation models, to enable the Bank to rate shock products sensitive to extreme rate changes, so the Bank can effectively determine potential earnings at risk;
- (c) the enhancement of interest rate risk measurement reports, including gap and simulation reports, to ensure effective measuring and monitoring of the Bank's performance and overall interest rate risk position; and
- (d) the Board's monthly review of the Bank's adherence to the revised policies and practices.

(2) Upon adoption, a copy of the revised policies 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 policies and practices developed pursuant to this Article.

ARTICLE XI

RISK EXPOSURE LIMITS

(1) The Board has determined it is in the Bank's best interest to, and the Bank shall, limit its sovereign risk and foreign exchange risk exposure by not engaging in any transaction:

(a) that results in the bank holding a direct or indirect government obligation of any emerging market country; or

(b) which is denominated in the currency of an emerging market country.

(2) The Bank's total Turkish exposure shall at all times be limited to no more than 250% of Tier 1 capital plus the Allowance for Loan and Lease Losses.

(3) The Bank's total emerging market exposure, including the Bank's Turkish exposure, shall at all times be limited to no more than 500% of Tier 1 capital plus the Allowance for Loan and Lease Losses.

(4) The Bank shall not exceed its Turkish Insurance coverage maximum of \$100 million.

(5) The Bank shall limit the total deductible related to any Turkish Insurance coverage to a maximum of 75% of Tier 1 capital plus the Allowance for Loan and Lease Losses. If the deductible at any time exceeds 75% of Tier 1 capital plus the Allowance for Loan and Lease Losses, then the Bank shall immediately establish a reserve in the amount by which the

deductible exceeds 75% of Tier 1 capital plus the Allowance for Loan and Lease Losses. The required reserve shall not be included in the calculation of the Bank's Tier 1 capital in determining the Bank's compliance with the capital ratios required by this Order.

- (6) For purposes of this Order, the following definitions shall apply:
 - (a) "Emerging market country" shall include Turkey, Mexico, and any non-OECD country.
 - (b) "Turkish exposure" shall include all direct and indirect obligations of any obligor located in Turkey.
 - (c) "Emerging market exposure" shall include all direct and indirect obligations of any obligor located in an emerging market country, including, but not limited to, the following obligors:
 - (d) "Turkish Insurance coverage" shall mean insurance the Bank maintains to cover potential losses on its Turkish exposure.
 - (e) "Indirect Government Obligation" shall not include obligations issued by

(7) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure adherence to the limits established in this Article.

ARTICLE XII

BUSINESS EXPANSION

(1) Prior to the Bank's direct or indirect offering of any new products or services, or the significant expansion of any existing product or service, Bank management shall prepare and present to the Board a written analysis of that product or service. The analysis shall, at a minimum, include the following:

- (a) an assessment of the risks and benefits of the product or service to the Bank;
- (b) an explanation of how the product or service is consistent with the Bank's strategic plan;
- (c) an evaluation of the adequacy of the Bank's organizational structure, management and other staffing, management information systems, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the product or service; and
- (d) a profitability analysis, including growth projections and interest rate risk.

(2) Prior to the Bank's direct or indirect offering of a new product or service, or the significant expansion of an existing product or service, the Board shall review management's written analysis and, thirty (30) days prior to the Bank's direct or indirect offering of a new product or service, or the significant expansion of an existing product or service, the Board shall submit a copy of management's written analysis, with any comments by the Board, to the Assistant Deputy Comptroller for review and prior determination of no supervisory objection.

(3) Within thirty (30) days, the Bank shall submit to the Assistant Deputy Comptroller a detailed statement of the Bank's current business lines, products, and services and to whom those products and services are offered.

(4) For purposes of this Article, “significant expansion” shall be defined as an annualized growth rate of an existing product or service greater than fifteen percent (15%), on a balance sheet, total exposure or net income basis, as calculated on the last date of each calendar quarter.

ARTICLE XIII

CONFLICT OF INTEREST POLICY

(1) If the Bank elects to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, and if the OCC thereafter determines that it has supervisory objections to the Contingency Plan, then within thirty (30) days from the date that the OCC issues its written determination of supervisory objection to the Contingency Plan, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written, comprehensive conflict of interest policy applicable to the Bank’s directors, principal shareholders, executive officers, affiliates, and employees (Insiders) and related interests of such Insiders. Alternatively, should the Board not elect to submit a Contingency Plan to the OCC as provided for under Paragraph (7) of Article III of this Order, then within sixty (60) days from the effective date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written, comprehensive conflict of interest policy applicable to the Bank’s directors, principal shareholders, executive officers, affiliates, and employees (Insiders) and related interests of such Insiders. The policy, in addition to defining a conflict of interest, shall address:

- (a) avoidance of conflicts of interest and breaches of fiduciary duty, and the appearance of conflicts of interest;

- (b) involvement in the loan approval process of Insiders or their related interests who may benefit directly or indirectly from the decision to grant credit;
- (c) involvement in securities purchases or sales of Insiders or their related interests who may benefit directly or indirectly from the decision to engage in such transactions;
- (d) disclosure of actual and potential conflicts of interest to the Board, and periodic disclosure of "related interests" as defined by 12 C.F.R. Part 215;
- (e) requirements for arms-length dealing in any transactions by Insiders, or their related organizations, involving the Bank's sale, purchase, or rental of property and services;
- (f) disclosure of any Insider's material interest in the business of a borrower, an applicant, or other customer of the Bank; and
- (g) restrictions on and disclosure of receipt of anything of value by Insiders, directly or indirectly, from borrowers, loan applicants, other customers, or suppliers of the Bank.

(2) Upon adoption, a copy of this conflict of interest policy shall be forwarded to the Assistant Deputy Comptroller for review.

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

(4) Within thirty days of the Board's adoption of the policy required to be developed in (1), the Board shall conduct a review of the Bank's existing relationships with its directors, executive officers, affiliates, principal shareholders, employees and their related interests for the

purpose of identifying relationships not in conformity with the policy. The Board shall ensure that:

- (a) any nonconforming relationships are brought into conformity with the policy within thirty (30) days of the Board's review; and
- (b) that within fifteen (15) days of the Board's review the Bank is properly reimbursed for:
 - (i) any excessive or improper payments to Insiders and their related interests; and
 - (ii) any excessive or improper payments for services provided by Insiders and their related interests.

Thereafter, the Board shall review all proposed transactions, or modifications of existing relationships, between the Bank and any of its or directors, executive officers, affiliates, principal shareholders, employees and their related interests. Documentation supporting these reviews shall be in writing and preserved in the Bank.

ARTICLE XIV

MONTHLY PROGRESS REPORTING

(1) The Board shall submit monthly progress reports to the Assistant Deputy Comptroller, New York Metro Field Office, 830 Morris Turnpike, Second Floor, Short Hills, New Jersey 07078. The Board may designate a committee to submit such monthly progress reports, provided such committee consists of at least three (3) members, no more than one of whom 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 such person. The monthly reports shall set forth in detail:

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

(2) The progress reports should also include any actions initiated by the Board and the Bank pursuant to the criticisms and comments in the Report of Examination or in any future Report of Examination.

(3) The first progress report shall be submitted for the period ending February 28, 2003 and will be due within fifteen (15) days of that date. Thereafter, progress reports will be due within ten (10) days after the month end.

(4) Any other reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Order shall also be forwarded to the above address.

ARTICLE XV

CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the Assistant Deputy Comptroller, 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 Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(3) Except as set forth herein, any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time limitations may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(5) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), 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(i), 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 Order, 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.

IT IS SO ORDERED, this 31st day of, January, 2003

/s/ Kristin A. Kiefer

January 31, 2003

Kristin A. Kiefer
Assistant Deputy Comptroller
Office of the Comptroller of the Currency

Date

Appendix I

Investment Pre-Trade Analysis Form

Supporting Documentation attached

Trade Details

Purchase/Sale	
Trade Date	
Settlement Date	
Par Amount	
Price (ex. 100.000)	

Amount Paid/Received	
Accrued Interest	
Total Cash	
Broker/Dealer	
Account Representative	

Instrument Description

Cusip	
Issuer	
Description	
Report Sector	
OCC Type	

Coupon Rate	
Coupon Formula	
Maturity	
Call Structure	
Next Call Date	

Risk Profile

Credit Rating	
Yield to Maturity	
Yield to Worst	

Total Return (6-month horizon)	
Bloomberg GRAD	
Pledge Requirement at FHLB NY	

Stress Tests

% Price Change Up 200bp	
% Price Change Up 100bp	
% Price Change Down 100bp	
% Price Change Down 200bp	

Expected Life Up 200bp	
Expected Life Up 100bp	
Expected Life Down 100bp	
Expected Life Down 200bp	

Risk Limit Compliance (Pass/Fail)

Interest Rate Risk Limits	
Liquidity Risk Limits	
Credit Risk Limits	

Concentration Risk Limits	
Regulatory Limits	

Narrative Analysis Summary

Approvals

Trade Initiated By (sign & date)

Trade Approved By (sign with date AND time)

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of:)
The Park Avenue Bank, N.A.)
New York, New York)

STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller) has initiated cease and desist proceedings against The Park Avenue Bank, N.A., New York, New York (Bank) pursuant to 12 U.S.C. § 1818(b).

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated January 31, 2003 (Order);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I

Jurisdiction

- (1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*
- (2) The Comptroller is "the appropriate Federal banking agency" regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).
- (3) The Bank is an "insured depository institution" within the meaning of 12 U.S.C. § 1818(b)(1).

ARTICLE II

Agreement

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller. The Bank further agrees that said Order shall be deemed an "order issued with the consent of the depository institution" as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Office of the Comptroller of the Currency (OCC) may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(i), 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.

(2) 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.

ARTICLE III

Waivers

- (1) The Bank, by signing this Stipulation and Consent, hereby waives:
- (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (b) any and all procedural rights available in connection with the issuance of the Order;

- (c) all rights to seek any type of administrative or judicial review of the Order; and
- (d) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

Other Action

(1) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

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

/s/ Kristin A. Kiefer

January 31, 2003

Kristin A. Kiefer
Assistant Deputy Comptroller
Office of the Comptroller of the Currency

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

Erol Aksoy

2/5/03

Date

Signed

Melih Dogan

1/31/03

Date

Signed

Vincent J. Love

Signed

Barrie Lattman

Signed

David M. Mace

Signed

James Peale

Signed

Omer Tigrak

Signed

Emad A. Zikry

1-31-03

Date

1-31-03

Date

2/18/03

Date

1-31-03

Date

1-31-03

Date

1/31/03

Date