

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

In the Matter of:)
)
The International Bank of Miami, N.A.)
Coral Gables, Florida)
_____)

CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has examined The International Bank of Miami, N.A., Coral Gables, Florida (“Bank”). The findings of that examination are contained in the Report of Examination dated as of March 31, 2004 (“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 October 18, 2004, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference herein, 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

TERMINATION OF THE CAPITAL MARKETS GROUP

(1) With respect to any individuals or entities who were at any time clients or customers of the Capital Markets Group (“CMG”) and who are customers of the Bank as of the date of this Order (“Current CMG Customers”), except as provided in this Article, the Bank shall immediately cease and desist from:

- (a) making any new loan, loan renewal, loan extension, placement of funds on deposit, deposit, letter of credit, or any other extension of credit; or
- (b) renewing or extending, any existing loan, loan renewal, loan extension, placement of funds on deposit, deposit, letter of credit, or any other extension of credit.

(2) As set forth below, the Bank shall develop and implement a plan to promptly and prudently wind down the activities of CMG and to conduct a review of all associated deposit accounts, loan transactions, wire activity, certified check activity, Currency Transaction Report activity (including structuring), traveler's check activity, payment of fees and sale of participations ("Business Relationships"). Within ten (10) days from the date of this Order, the Bank shall retain the services of legal counsel ("Legal Counsel") acceptable to the Director for Special Supervision ("Director") to assist with the preparation of this review and to provide legal opinions as set forth in this Article.

(3) Within fifteen (15) days from the date of this Order, the Bank shall submit to the Director for review and prior supervisory non-objection a plan ("Termination Plan") providing for the orderly disposition of all on and off-balance sheet Business Relationships relating to Current CMG Customers. The Termination Plan shall specify all steps necessary to ensure an orderly and expeditious disposition, and shall:

- (a) provide for an accurate accounting with respect to the history and status of the Business Relationship;
- (b) provide for the review of the Bank's compliance with applicable law and regulation with respect to each Business Relationship, including but not limited to compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 - 5330), the regulations promulgated thereunder at 31 C.F.R. Part

103, as amended, and 12 C.F.R. Part 21, Subparts B and C (including, but not limited to, Currency Transaction Reports (“CTRs”) and Suspicious Activity Reports (“SARs”)) (collectively referred to herein as the “Bank Secrecy Act”), the rules and regulations of the Office of Foreign Assets Control, and the USA Patriot Act ; and

- (c) provide for the disposition of each Business Relationship. This shall include a description of the proposed disposition.
 - (i) If the Business Relationship is to be transferred to or assumed by parties outside of the Bank, the Termination Plan shall identify each transferee and the terms of such transfer or assumption.
 - (ii) If the Business Relationship is to be closed or terminated by the Bank, the Termination Plan shall identify the authority for and the terms of the closure or termination.
 - (iii) With respect to (i) and (ii) above, the Bank shall obtain an unqualified opinion of Legal Counsel that the proposed disposition is permissible under applicable United States federal or state law and is consistent with the Bank’s legal rights. Legal Counsel shall also assess any potential legal liability (including but not limited to potential litigation risk) to the Bank arising from the proposed disposition.
 - (iv) The Bank may retain a Business Relationship through transfer to another division of the Bank only if the Bank’s Board of Directors or designated committee finds that the Bank’s retention of the Business Relationship is necessary to promote the best interests of

the Bank and that, prior to such transfer, a majority of the full Board or designated committee approves the transfer and records, in writing, and sets forth why the Bank's retention of the relationship is necessary to promote the best interests of the Bank. A copy of the approval of the Board or of the designated committee shall be maintained in the affected customer's file.

(4) With respect to any Current CMG Customers whose Business Relationships are retained by the Bank pursuant to paragraph (3)(c)(iv) above, the Bank may not make a new loan, loan renewal, loan extension, placement of funds on deposit, deposit, letter of credit, or any other extension of credit, renew or extend, any existing loan, loan renewal, loan extension, placement of funds on deposit, deposit, letter of credit, or any other extension of credit; or make any wire transfer to or receiving any wire transfer, unless:

- (a) the books and records of the Bank accurately and correctly reflect the details and business purpose of the transactions or activities;
- (b) the transactions or activities comply with applicable United States federal or state law, regulation, or administrative order; and
- (c) the Bank's Board approves in advance the transactions or activities in writing.

(5) In the case of any Business Relationship, involving individuals or entities who were clients or customers of CMG ("Former CMG Customers"), that was closed, transferred, or otherwise terminated during the period between March 31, 2004 and the date of this Order, the Termination Plan shall provide for an accurate and complete accounting of the history, status, and disposition of the Business Relationship. Legal Counsel shall review each such dispositions falling under this paragraph in order to verify that the disposition was permissible under

applicable United States federal and state law and consistent with the Bank's legal rights. Counsel shall also assess any potential legal liability (including but not limited to potential litigation risk) to the Bank arising from the activities of CMG with respect to the particular Business Relationship.

(6) Within sixty (60) days from the date of this Order, the Bank shall retain an independent outside consultant or firm ("Consultant"), acceptable to the Director, with expertise in Bank Secrecy Act compliance to conduct a review of all Former CMG Customer Business Relationships at the Bank for the period January 1, 2002 through the date of this Order. This review shall ascertain any unusual or suspicious transactions that may have occurred at the Bank during this period. The review shall specifically identify such Business Relationships that are not in compliance with the Bank Secrecy Act, and shall set forth the steps that the Bank shall take to comply with the law. This shall include (but shall not be limited to) the filing of SARs, in accordance with 12 C.F.R. § 21.11, for any previously unreported suspicious activity identified during this review. A copy of the Bank's proposed engagement letter with the Consultant, and any amendments thereto, shall be submitted to the Director for review and determination of no supervisory objection prior to execution. Upon completion of this review, the findings of the Consultant shall be reported to the Board, with a copy to the Director. Within thirty (30) days of receiving the written report of the Consultant, the Bank shall file Suspicious Activity Reports, in accordance with 12 C.F.R. § 21.11, for any previously unreported suspicious activity identified during this review.

(7) This Article does not supercede the Bank's obligation to otherwise comply with the requirement to file SARs set forth at 12 C.F.R. § 21.11.

Article II

BOOKS AND RECORDS

(1) Effective immediately, the Bank shall cease and desist from destroying, altering or removing from the Bank's premises any Bank documents or books and records whatsoever until further written notice by the Director. For purposes of this paragraph, "documents or books and records" shall have the broadest meaning and shall include, without limitation, paper and electronic records of all kinds, notes, calendars, phone logs, financial instruments, e-mails, and tapes.

(2) Within twenty (20) days, the Bank shall submit to the Director an action plan detailing how the Board will address the conditions cited in the Report of Examination and restore the Bank's books, records and MIS to a complete and accurate condition, setting forth a timetable for implementing the plan. In the event the Director recommends changes to the action plan, the Board shall immediately incorporate those changes into the plan. The Bank's plan shall be subject to a written determination of supervisory non-objection by the Director. Upon receipt of such non-objection, the Board of the Bank shall immediately implement and thereafter ensure adherence to the action plan.

(3) The Board shall ensure that, once restored to complete and accurate condition, the Bank's books, records and MIS are maintained in a complete and accurate condition and shall ensure that the Bank's files contain all records and information necessary to allow the Comptroller to determine the details or purposes of each of the Bank's transactions. In addition, within thirty (30) days from the effective date of this Order, the Bank shall develop policies, procedures, systems and controls to ensure that, on an on-going basis, the books and records of the Bank:

- (a) accurately reflect the transactions and activities in every account;

- (b) accurately reflect all of the Bank's transactions, activities, assets, liabilities, capital, income and expenses of the Bank in accordance with Generally Accepted Accounting Principles ("GAAP");
- (c) provide references from the general ledger to the journal entries and, in turn, reference to the supporting source documents for all transactions and activities;
- (d) reflect readily available documentation to adequately support all transactions and activities and general ledger entries;
- (e) reflect approval of all transactions and activities and general ledger entries by an appropriate supervisor before being recorded in the books and records;
- (f) include account analyses and/or reconciliations where appropriate or useful to evaluate or understand amounts recorded in the account;
- (g) readily reflect that the Bank has complied with all affiliate transaction laws; and
- (h) accurately reflect the nature of each account and relationship in the Bank and specifically indicate whether the account or relationship is custodial, fiduciary or purely administrative, and that there are sufficient and accurate records to support that determination.

(4) Prior to implementation of these policies and procedures, the Bank shall submit them to the Director. In the event the Director recommends changes to the action plan, the Board shall immediately incorporate those changes into the plan.

(5) The Bank shall provide the Comptroller with prompt and unrestricted access to the books, records and staff of the Bank and its affiliates, and the Bank shall provide full and

complete details or purposes of the transactions by and between the Bank and its affiliates, including CMG, to the Comptroller upon inquiry.

Article III

STRATEGIC PLAN

(1) Within sixty (60) days, the Board shall revise the existing strategic plan for the Bank to cover 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, 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, including a determination of the Bank's overall risk profile;
- (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 to accomplish the strategic goals and objectives established in subparagraph (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 subparagraph (1)(c) of this Article;

- (f) a management employment and succession program to promote the retention and continuity of capable management;
- (g) product line and market segments that the Bank intends to promote or develop;
- (h) an action plan to compensate for the loss of Bank earnings resulting from the termination of the operation of CMG;
- (i) an action plan to accomplish identified strategic goals and objectives, including individual responsibilities, accountability and specific time frames;
- (j) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the three-year period covered by the strategic plan;
- (k) control systems to mitigate risks associated with 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.

(2) Prior to adoption by the Board, a copy of the strategic plan, and any subsequent amendments or revisions, shall be forwarded to the Director for review and prior determination of no supervisory objection.

(3) Immediately upon receipt of a written determination of no supervisory objection, the Board shall adopt, implement and thereafter ensure compliance with the terms of the strategic plan developed pursuant to this Article.

(4) The Bank may not deviate significantly from the Board-approved strategic plan without a written determination of supervisory non-objection from the Director. The Board must give the Director at least sixty (60) days advance, written notice of its intent to deviate significantly from the strategic plan, along with an assessment of the impact of such change on the Bank's condition, including a profitability analysis and an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the change in the strategic plan.

(5) For the purposes of this Article, changes that may constitute a significant deviation from the strategic plan include, but are not limited to, any significant deviations from marketing strategies, marketing partners, or acquisition channels; underwriting practices and standards; credit administration; account management strategies and test programs; collection strategies, partners, or operations; fee structure, pricing, or fee application methods; accounting processes and practices; funding strategy; or any other changes in personnel, operations, or external factors that may have a material impact on the Bank's operations or financial performance.

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

Article IV

CAPITAL PLAN AND HIGHER MINIMUMS

- (1) The Bank shall maintain the following capital levels¹ (as defined in 12 C.F.R. Part 3):
 - (a) Total capital at least equal to fifteen percent (15 %) of risk-weighted assets;
 - (b) Tier 1 capital at least equal to eight percent (8 %) of adjusted total assets.
- (2) Within fifteen (15) days from the effective date of this Order, the Bank shall develop a Capital Assurance Agreement (“CAA”) with International Bancorp of Miami, Inc. (“IBM”), in a form acceptable to the Director, that ensures the maintenance of capital in accordance with paragraph (1) of this Article. The CAA shall provide for a general pledge of assets to the Bank, shall restrict the ability of IBM to dispose of its assets, and shall provide a guarantee of IBM’s performance under the CAA in an amount and type acceptable to the Bank and to which the Director does not have a supervisory objection. The CAA shall terminate no earlier than December 31, 2006. The Bank cannot agree to a modification of the terms of the CAA without the prior supervisory non-objection of the Director.
- (3) Within five (5) days of receipt of supervisory non-objection to the CAA by the Director, the Bank shall provide the Director with: (i) the fully executed CAA entered into by and between the Bank and IBM; (ii) the resolutions adopted by the Boards of the Bank and IBM evidencing the respective Boards’ approvals and authorizations to enter into and to be bound by the CAA; and (iii) a certification from IBM that the pledge requirement in the CAA has been satisfied.
- (4) The Bank shall take all actions to exercise its rights and enforce the terms of the CAA, if and when necessary. The Bank shall not modify, amend or terminate, or agree or consent to a modification, amendment or termination of the CAA without the prior written

¹ The requirement in this Order 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).

supervisory non-objection of the Director. Within one (1) calendar day following the Bank's demand or request to IBM for compliance with the CAA, the Bank shall provide the Director with a copy of the Bank's written demand or request.

(5) Effective immediately, the Bank shall not, without the prior written determination of supervisory non-objection of the Director, declare or pay any dividends, or make any redemption or repurchase of common or preferred shares, if any, or make any other capital distributions.

(6) Within sixty (60) days, the Board shall develop a three-year capital plan. The plan 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;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs; and
- (e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available.

(7) Within sixty (60) days, the Bank's capital plan shall be submitted to the Director for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Director, the Bank shall implement and adhere to the capital plan. The Board shall review and update the Bank's capital plan on an annual basis, or more frequently

if necessary. Copies of the reviews and updates shall be submitted to the Director for a determination of supervisory non-objection.

(8) 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 V

SALARY, FEES, AND BONUSES

(1) Within fifteen (15) days the Board shall adopt, and require the Bank to adhere to, policies regarding the payment of any salary and/or bonus, consulting fee, or other type of compensation to a Bank employee, principal shareholder, director, or related interest of such as defined in 12 C.F.R. Part 215, referred to hereinafter as, "Individual". Such policy shall require that such remuneration:

- (a) is reasonable;
- (b) has a direct relationship to, and is based solely upon, the fair value of goods and services received by the Bank; and
- (c) compensates the Individual only for providing goods and services that meet the legitimate needs of the Bank.

(2) Within sixty (60) days, and annually thereafter, the Board shall review current employment and compensation arrangements for Individuals, and shall ensure and document in writing that such arrangements comply with the policies adopted pursuant to paragraph (1) above.

(3) All documentation supporting the payment of any salary, consulting fee, expense reimbursement or other type of compensation to an Individual shall be preserved in the Bank.

Article VI

BANK SECRECY ACT – AUDIT FUNCTION

(1) Within thirty (30) days from the date of this Order, the Board shall expand the Bank's existing audit procedures to include:

- (a) development of a program to test the adequacy of internal controls designed to ensure compliance with the provisions of the Bank Secrecy Act;
- (b) prompt management response and follow-up to all audit exceptions or other recommendations of the Bank's auditor; and
- (c) a risk based approach to Bank Secrecy Act compliance that includes transactional testing and verification of data for higher risk accounts or geographic areas of specific concern.

(2) Within thirty (30) days, and annually thereafter, the Board shall retain the services of a qualified independent Consultant acceptable to the Director to develop findings, observations and recommendations on the Bank's internal controls covering compliance with the Bank Secrecy Act, 12 C.F.R. Part 21, Subpart B (including the Suspicious Activity Report requirements) and the rules and regulations of the Office of Foreign Assets Control, including related regulatory reporting on those subjects. These findings, observations and recommendations, along with the Bank's response to any such concerns, shall be reviewed by the independent Consultant on an annual basis for the term of this Order. The findings shall include:

- (a) a review of the adequacy of the BSA oversight infrastructure (including management and staffing), the market structure, information on products and services offered, types of transactions, transactions linked to geographies of concern, and characteristics of customers' business activities;

- (b) a review of the BSA Officer's reporting structure and independence from line management;
- (c) a review of the BSA Officer's capability to monitor and ensure the bank's compliance with BSA, including (1) risk-based internal controls; (2) ability to effect corrective action for identified deficiencies; and (3) ability to ensure that management implements systems and controls to identify and surface potentially suspicious transactions;
- (d) a review of its existing BSA/AML and USA Patriot Act Audit program and an evaluation of whether the current process and staff are adequate for the level of risk at the Bank;
- (e) an assessment of current risk levels and means by which to identify and control unwarranted risk; and
- (f) a method for fully documenting the legitimate business purpose of transactions in order to prevent the Bank from being used to facilitate illegal or inappropriate activities.

Article VII

BANK SECRECY ACT – INTERNAL CONTROLS

- (1) The Board shall revise the Bank's written policies and procedures to enhance its compliance with the Bank Secrecy Act. At a minimum, this written program shall establish:
 - (a) a system of internal controls and independent testing and auditing to ensure ongoing compliance with the Bank Secrecy Act;
 - (b) operating procedures for both the opening of new accounts and the monitoring of high risk accounts;

- (c) adequate controls and procedures, comprehensive as to all points of cash entry and exit, to ensure that all suspicious and large currency transactions are identified and reported;
- (d) procedures to ensure that records are maintained on monetary instrument transactions and funds transfers, as required by the Bank Secrecy Act;
- (e) comprehensive procedures to identify and report to appropriate management personnel:
 - (i) frequent or large volume cash deposits or wire transfers or book entry transfers to or from offshore or domestic entities, internet casinos, or individuals;
 - (ii) wire transfers or book entry transfers that are deposited into several accounts;
 - (iii) receipt and disbursement of wire transfers or book entry transfers without an apparent bona fide business reason;
 - (iv) receipt and disbursement of wire transfers or book entry transfers when they are inconsistent with the customer's business;
 - (v) receipt and disbursement of currency or monetary instruments when they are suspicious or inconsistent with the customer's business; and
 - (vi) bank accounts opened in the name of or for the benefit of a financial institution as defined in 31 C.F.R. § 103.11(n), or a foreign bank as defined in 31 C.F.R. § 103.11(o);
- (f) a comprehensive training program for all appropriate operational and supervisory personnel to ensure their awareness of and compliance with the requirements of the Bank Secrecy Act, USA Patriot Act, and the

Office of Foreign Assets Control (OFAC), including the currency reporting and monetary instrument and funds transfer recordkeeping requirements, and the reporting requirements associated with Suspicious Activity Reports (SARs) pursuant to 12 C.F.R. Part 21, Subpart B;

- (g) an officer who will be responsible for filing Currency Transaction Reports (CTRs), Reports of International Transportation of Currency or Monetary Instruments (CMIRs), and Reports of Foreign Bank and Financial Accounts (FBARs);
- (h) comprehensive guidelines and procedures to identify and report both the shipment and receipt of currency or monetary instruments via common carriers, which guidelines should specifically detail procedures that will cover and address improperly labeled courier pouches containing monetary instruments, as well as related procedures for reporting and filing Suspicious Activity Reports for such pouches; and
- (i) comprehensive guidelines, procedures, and systems for compliance with the rules and regulations of the Office of Foreign Assets Control (OFAC).

(2) A copy of this program shall be submitted to the Director for review. In the event the Director recommends changes to the program, the Board shall immediately incorporate those changes into the program. 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.

(3) Within thirty (30) days, the Board shall revise its customer due diligence and USA Patriot Act compliance processes to ensure that account files contain complete and accurate due diligence information and accurately identify Politically Exposed Persons (“PEPs”). Within

thirty (30) days, the Board shall submit a plan acceptable to the Director setting forth the Bank's plan to review accounts to determine whether they contain complete and accurate due diligence information, and accurately identify PEPs.

(4) The Bank shall designate individuals who have been accused, indicted, arrested, or convicted of illegal activities as "high-risk." The Bank shall also consult with legal counsel to determine whether it should exit from existing relationships with "high-risk" customers or investors.

Article VIII

SUSPICIOUS ACTIVITY REPORTS

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

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

Article IX

VIOLATIONS OF LAW

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each violation of law, rule or regulation cited in the ROE and in any subsequent Report of Examination.

(2) Within thirty (30) days, 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 training 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 training of employees regarding laws, rules and regulations applicable to their areas of responsibility. Upon adoption, a copy of these procedures shall be promptly forwarded to the Director. 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 X

ENGAGEMENT OF THIRD PARTIES

(1) The Bank shall not renew or enter into new contracts or engagements with a third party company, entity, or person (third party) to perform professional services for, or on behalf of, the Bank unless:

- (a) the Board reviews and approves a written analysis performed by the Bank that includes:
 - (i) a cost/benefit analysis for using a third party;
 - (ii) a description of the Bank's due diligence process for selecting the third party and the results of the due diligence review;
 - (iii) a determination that the contract or commitment is being conducted at arm's length on terms and conditions fair and reasonable to the Bank, including the ability of the parties to perform under the contract or commitment;
 - (iv) a disclosure of any affiliation with any present or past bank Insider or Related Interest of such Insider as those terms are defined at 12 C.F.R § 215.2; and
 - (v) a determination that the contract is in the best interests of the Bank.
- (b) the written analysis required by paragraph (1)(a) of this Article is included in the Board minutes, along with details of the deliberations and approval; and
- (c) the contract or engagement is in writing.

(2) The Board shall immediately forward any Board-approved, written contract, along with the written analysis and Board approval pursuant to paragraph (1)(b) of this Article, to the Director. Unless otherwise advised in writing by the Director, at a minimum, the contract must:

- (a) be made a part of the Bank's books and records, identify the third party, and specify all services to be provided;
- (b) define the rights, obligations, and responsibilities of all parties to the contract;
- (c) specify the beginning and ending dates of the contract, including any renewal options;

- (d) specify and itemize the price to be paid by the Bank for the services;
- (e) set standards for quality of services provided by the third party, as applicable, given the nature of the services to be provided;
- (f) provide the Bank appropriate remedies in the event of a default, failure of the third party to meet the quality standards, or failure of the third party to comply with any other material provision of the contract;
- (g) require the third party to provide the Bank with annual financial statements and audit reports if the viability of the third party is integral to the Bank's safe and sound operation;
- (h) require the third party to carry appropriate insurance, if applicable, given the nature of the contract;
- (i) require the third party to maintain reliable and accurate books, records, and management information systems as they relate to the services performed on behalf of the Bank; and
- (j) require the third party to grant the Bank, Bank auditors, and the Comptroller immediate access to the third party's books and records as they relate to services performed on behalf of the bank; however, this requirement does not negate the right of the Bank to assert legally recognized privileges where applicable.

(3) The Board must ensure all existing third party relationships for the performance of professional services conform with paragraphs (1) and (2) of this Article, including the execution of a written contract if the existing agreement or engagement is not in writing. The Bank shall not use the services of, or in any way compensate, any third party if the Board has determined that the relationship is not in the best interests of the Bank.

(4) The Bank must routinely monitor the performance of the third party to ensure that committed goods and services are received, and that the third party is in compliance with the written contract.

(5) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems sufficient to ensure implementation of and adherence to this Article.

Article XI

LENDING TRANSACTIONS OUTSIDE THE UNITED STATES

(1) The Bank may not make or close a loan outside the United States, unless:

- (a) the Bank obtains an unqualified written opinion of outside legal counsel that the Bank may legally make or close the loan without jeopardizing the Bank's right to enforce, collect and obtain repayment;
- (b) the location for making or closing the loan is specifically identified in the legal opinion as being a location where the Bank's right to enforce, collect and obtain repayment is not jeopardized; and
- (c) a copy of the opinion of counsel is provided to the Bank's Board of Directors and to the Director.

(2) The Bank shall ensure that an officer, authorized employee or authorized agent of the Bank or its outside counsel is present at all loan closings outside the United States to witness and certify the loan signing.

(3) The restrictions set forth in paragraph (2) above, shall not apply to a standard trade finance facility with a foreign bank that is evidenced and authorized by the foreign bank's tested telefax, telex, or SWIFT message.

Article XII

VERIFICATION OF WIRE TRANSFERS

(1) Customer callback verifications shall be performed on outgoing wire transfers by personnel independent of the initiating request prior to executing the wire. Customer callback verifications shall be documented in the books and records of the Bank, and shall be in a form so as to identify the Bank personnel making the call and the results of the callback.

Article XIII

EXTENSIONS OF TIME

(1) If the Board determines that an exception to any provision of this Order is in the best interests of the Bank, or requires an extension of any timeframe within this Order, the Board shall submit a written request to the Director asking for relief. Any written requests submitted pursuant to this Article shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with any provision, that require the Director to exempt the Bank from any provision, or that require an extension of any timeframe within this Order. All such requests shall be accompanied by relevant supporting documentation. The Director's decision in granting the request is final and not subject to further review.

Article XIV

CLOSING

(1) Although the Bank is required to submit certain proposed actions and programs for the review or prior determination of no supervisory objection of the OCC, 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 Modification of Consent Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Consent Order shall begin to run from the effective date of this Order.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his/her 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) In each instance in this Order in which the Bank or 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:

- (a) 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 Order;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Order;
- (c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner of any non-compliance with such actions.

(6) 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 Comptroller or the United States.

(7) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 18th day of October, 2004.

/s/Ronald G. Schneck

Ronald G. Schneck
Director for Special Supervision
Office of the Comptroller of the Currency

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

In the Matter of:)
)
The International Bank of Miami, N.A.)
Coral Gables, Florida)
)

**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 International Bank of Miami, N.A., Coral Gables, Florida (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 October 18, 2004 (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.

(2) 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 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.

(3) 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/she 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 his hand on behalf of the Comptroller.

Ronald G. Schneck /s/
Ronald G. Schneck
Director for Special Supervision
Office of the Comptroller of the Currency

October 18, 2004
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
William D. Atwell

October 18, 2004
Date

signed
Barry G. Craig

October 18, 2004
Date

signed
Stephen L. Herbert

October 18, 2004
Date

signed
Rodolfo E. Pita

October 18, 2004
Date

signed
Alba M. Prestamo

October 18, 2004
Date

signed
Alberto Valdes

October 18, 2004
Date