

**#2005-173**

FORMAL AGREEMENT BY AND BETWEEN  
The National Bank of Stamford  
Stamford, NY  
and  
The Comptroller of the Currency

The National Bank of Stamford, Stamford, NY (“Bank”) and the Comptroller of the Currency of the United States of America (“Comptroller”) wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller has found unsafe and unsound banking practices relating to Interest Rate Risk, Management/Administration and Information Technology practices as well as Information Technology-related violations of 12 CFR 30 at the Bank.

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (“Board”), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

Article I

**JURISDICTION**

This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to:

Assistant Deputy Comptroller  
343 Thornall Street, Suite 610  
Edison, NJ 08837

## Article II

### **MANAGEMENT AND BOARD SUPERVISION ASSESSMENT**

(1) Within ninety (90) days, the Board shall complete an assessment of current management and Board supervision presently being provided to the Bank, the Bank’s management structure, and its staffing requirements in light of the Bank’s present condition. The findings and recommendations of the Board shall be set forth in a written report. At a minimum, the report shall contain:

- (a) the identification of present and future management and staffing requirements of each area of the Bank, with particular emphasis given to the interest rate risk and information technology areas;
- (b) an evaluation of each officer’s qualifications and abilities and a determination of whether each of these individuals possesses the experience and other

qualifications required to perform present and anticipated duties of his/her officer position;

- (c) recommendations as to whether management or staffing changes should be made, including the need for additions to or deletions from the current management team;
- (d) objectives by which management's effectiveness will be measured;
- (e) a training program to address identified weaknesses in the skills and abilities of the Bank's staff and management team;
- (f) an assessment of the Board's strengths and weaknesses along with a director education program designed to strengthen identified weaknesses;
- (g) an assessment of whether Board members are receiving adequate information on the operation of the Bank to enable them to fulfill their fiduciary responsibilities and other responsibilities under law;
- (h) recommendations to expand the scope, frequency and sufficiency of information provided to the Board by management;
- (i) an evaluation of the extent of responsibility of current management and/or the Board for present weaknesses in the Bank's condition; and
- (j) recommendations to correct or eliminate any other deficiencies in the supervision or organizational structure of the Bank.

(2) Within sixty (60) days of completion of this self-assessment, the Board shall develop, implement, and thereafter ensure Bank adherence to a written plan, with specific time frames, that will correct any deficiencies which are noted in the self-assessment.

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

(4) Copies of the Board's analysis and written plan shall be forwarded to the Assistant Deputy Comptroller. The Assistant Deputy Comptroller shall retain the right to determine the adequacy of the report and its compliance with the terms of this Agreement. In the event the written plan, or any portion thereof, is not implemented, the Board shall immediately advise the Assistant Deputy Comptroller, in writing, of specific reasons for deviating from the plan.

### Article III

#### **INTEREST RATE RISK**

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written interest rate risk policy; and to a plan to reduce the bank's level of interest rate risk. In formulating its plan and policy, the Board shall refer to the "Interest Rate Risk" booklet of the Comptroller's Handbook. The plan and policy shall provide for a coordinated interest rate risk strategy and, at a minimum, address:

- (a) establishment of adequate management reports on which to base sound interest rate risk management decisions;
- (b) the establishment and guidance of the Bank's strategic direction and tolerance for interest rate risk. This should include a well-defined and measurable interest rate reduction plan. The interest rate reduction plan should:
  - (i) address strategies for reducing interest rate risk on both sides of your balance sheet; and
  - (ii) ensure that strategies are tied to specific dates and/or events.

- (c) contain effective tools to measure and monitor the Bank's performance and overall interest rate risk profile;
  - (d) ensure employment of competent personnel to manage interest rate risk;
  - (e) establish prudent limits on the nature and amount of interest rate risk that can be taken; and
  - (f) ensure periodic review of the Bank's adherence to the policy.
- (2) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plan and policy developed pursuant to this Article.
- (3) Upon adoption, a copy of the written plan and policy shall be forwarded to the Assistant Deputy Comptroller for review.

#### Article IV

#### **AUDIT**

- (1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, audit program sufficient to:
- (a) detect irregularities and weak practices in the Bank's operations;
  - (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;
  - (c) assess and report the effectiveness of policies, procedures, controls, and management oversight relating to accounting and financial reporting;
  - (d) adequately cover all areas of the bank with a priority on higher risk areas;
  - (e) establish an annual audit plan using a risk based approach sufficient to achieve these objectives and;

- (f) as part of this audit program, the Board shall evaluate the audit reports of any party providing services to the Bank, and shall assess the impact on the Bank of any audit deficiencies cited in such reports.
- (2) The Board shall ensure that the Bank has processes, personnel, and control systems to assure implementation of and adherence to the program developed pursuant to this Article.
- (3) The Board shall ensure that the audit function is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of individuals employed.
- (4) The Board shall ensure that the audit program is independent. The persons responsible for implementing the internal audit program described above shall report directly to the Board, which shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board and not through any intervening party.
- (5) All audit reports shall be in writing. The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, and that auditors maintain a written record describing those actions.
- (6) The audit staff shall have access to any records necessary for the proper conduct of its activities. National bank examiners shall have access to all reports and work papers of the audit staff and any other parties working on its behalf.
- (7) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Assistant Deputy Comptroller.

## Article V

### **INFORMATION TECHNOLOGY**

(1) The Board shall immediately take all steps necessary to improve the management of the Bank's Information Technology ("IT") activities and to correct each deficiency cited in the Report of Examination ("ROE") or any supervisory communication.

(2) Within ninety (90) days, the Board shall ensure that the information technology manager has the necessary skills and experience to supervise effectively the IT area.

(3) Within sixty (60) days, the Board shall develop, implement, and thereafter adhere to a written, well-documented, risk-based, internal information technology audit program. At a minimum, the IT audit program shall be performed by an independent and qualified party, and shall include fundamental elements of a sound audit program as described in the "Audit" booklet of the FFIEC Information Technology Examination Handbook.

(4) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure adherence to a comprehensive, written information security program to ensure the safety and soundness of its operations and to support the Bank's efforts to comply with 12 C.F.R. Part 30, Appendix B, Safeguarding Customer Information. The information security program shall include administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information. The information security program shall be consistent with the security process described in the "Information Security" booklet of the FFIEC Information Technology Examination Handbook.

(5) Within thirty (30) days after completion of the IT audit, the Board shall develop, implement, and thereafter adhere to, a written program to oversee and manage risks associated with outsourcing technology services to third party servicers, including technology service providers

and vendors. This third party management program shall be consistent with OCC Bulletin 2001-47, "Third Party Relationships," dated November 1, 2001, and OCC Advisory Letter 2000-12, "Risk Management of Outsourcing Technology Services" dated November 28, 2000.

(6) The Board shall provide a quarterly written progress report on each of the requirements of this Article to the Assistant Deputy Comptroller.

## Article VI

### **LIQUIDITY**

Within ninety (90) days, The Board shall develop a liquidity management strategy to ensure that liquidity is sufficient to sustain the Bank's current operations and to withstand any anticipated or extraordinary demand against its funding base. Such actions may include, but are not necessarily limited to:

- (a) selling assets;
- (b) obtaining lines of credit from the Federal Reserve Bank;
- (c) obtaining lines of credit from correspondent banks;
- (d) raising core deposits; and
- (e) injecting additional equity capital.

The Board shall review the Bank's liquidity on a monthly basis. Such reviews shall consider:

- (a) a maturity schedule of certificates of deposit, including large uninsured deposits;
- (b) the volatility of demand deposits;
- (c) the success of bank programs to increase deposits;
- (d) an analysis of the continuing availability and volatility of present funding sources;



- (e) an analysis of Federal Home Loan Bank borrowings, considering not only their final maturities but also possible early calls, together with specific plans for ways to replace such borrowings if they are called before their final maturities;
- (f) the actual and anticipated usage of Home Equity Lines of credit;
- (g) the amount and type of loan commitments and standby letters of credit and;
- (h) an analysis of the impact of decreased cash flow from the sale of loans or loan participations.

The Board shall take appropriate action to ensure adequate sources of liquidity in relation to the Bank's needs. Monthly reports shall set forth liquidity requirements and sources and establish a contingency plan. Copies of these reports shall be forwarded to the Assistant Deputy Comptroller for each of the first six months they commence, followed by quarterly reports thereafter.

## Article VII

### **CLOSING**

Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (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 Agreement;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (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.

This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of

consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities. The terms of this Agreement, 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.

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

*/s/ Kristin A. Kiefer*

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Kristin A. Kiefer  
Assistant Deputy Comptroller

*November 15, 2005*

\_\_\_\_\_  
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.

/S/

11-17-05

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David E. Hartwell

\_\_\_\_\_  
Date

/S/

11-15-05

\_\_\_\_\_  
Lee B. Ingraham

\_\_\_\_\_  
Date

/S/

11/15/05

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Charles K. McKenzie

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Date

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11/15/05

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Richard J. Swantak

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Date

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11/15/05

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Carol M. Wilson

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Date

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11/15/05

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David Barber

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Date

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