

#2005-81

AGREEMENT BY AND BETWEEN
First National Bank of Catlin
Catlin, Illinois
and
The Office of the Comptroller of the Currency

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

The Comptroller, through his/her National Bank Examiner, has examined the Bank, and his/her findings are contained in the Report of Examinations for the examinations that commenced on September 27, 2004 and December 6, 2004 (ROEs).

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

Article I

JURISDICTION

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

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

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

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

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

Richard A. McElmurry
Assistant Deputy Comptroller
East Central Illinois and Central Indiana
Harris Center
3001 Research Road, Suite E-2
Champaign, Illinois 61822-1081

Article II

Retail Lending Administration

(1) Within sixty (60) days, the Bank shall adopt, implement, and thereafter ensure adherence to a written policy governing retail loans, including direct and indirect modular and manufactured home construction lending. This policy shall include, but not be limited to:

- (a) a description of acceptable types of loans;
- (b) description of minimum underwriting and documentation requirements for borrowers, which at a minimum include:

- (i) a maximum ratio of loan value (including any add-ons such as credit life, credit disability, force placed insurance and service contracts) to collateral value requirements;
 - (ii) appraisal or real estate evaluation requirements
 - (iii) inspection procedures and requirements
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- (c) procedures to identify and ensure take-out lender requirements are achieved;
 - (d) collection procedures;
 - (e) guidelines and limitations for loans originating outside of the Bank's trade area;
 - (f) a requirement that all credits, which deviate from the Bank's policy, receive the prior approval of the Board, or a committee thereof;
 - (g) guidelines to insure that retail loans, including indirect modular and manufactured home construction loans, are written in compliance with all applicable laws, rules and regulations;
 - (h) guidelines consistent with Banking Bulletin 2000-20, *Uniform Retail Credit Classification and Account Management Policy*, setting forth the criteria to classify retail credit and under which renewals of extensions of credit may be approved;
 - (i) guidelines for periodic review of the Bank's adherence to the revised lending policy.

(2) Within thirty (30) days, the Board must establish limitations on aggregate commitments on direct and indirect modular and manufactured home construction loans in relation to the bank's capital (Tier 1 capital + Allowance for loan and lease loss) per loan type, dealer/contractor, broker, and permanent financing lender.

(3) Within thirty (30) days, the Board must:

- (a) establish and define criteria to assess and approve dealer/contractors, brokers, and permanent financing lenders, including review the financial capacity and trade history of approved dealer/contractors and permanent financing lenders;
- (b) establish procedures to ensure at least annual review and approval of dealer/contractors, brokers, and permanent financing lenders;
- (c) establish a board approved list of dealer/contractors, permanent financing lenders, and loan brokers;
- (d) define criteria for obtaining written agreements with approved dealer/contractors, brokers, and permanent financing lenders;
- (e) obtain written agreements in conformance with subpart (d) of this paragraph.

(4) The policies called for in this Article shall be forwarded to the Assistant Deputy Comptroller for prior determination of no supervisory objection.

(5) The bank shall not originate direct and indirect modular and/or manufactured home construction loans with aggregate commitment in excess of 250% of capital (defined as the bank's Tier 1 capital plus the bank's Allowance for Loan and

Lease Loss) until the Office of the Comptroller of the Currency determines the bank has achieved compliance with the requirements of paragraphs (1), (2), and (3).

(6) 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 III

PRODUCTS AND SERVICES

(1) Prior to the Bank's involvement in any new products or services, the Board shall prepare a written analysis of said 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 established strategies;
- (c) an evaluation of the adequacy of the Bank's organizational structure, staffing, MIS, 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 involvement in the new product or service, a copy of the analysis shall be submitted to the Assistant Deputy Comptroller.

Article IV

CONSUMER COMPLIANCE PROGRAM

(1) Within ninety (90) days, the Bank shall adopt, implement, and thereafter ensure adherence to a written consumer compliance program designed to ensure that the Bank is operating in compliance with consumer protection laws, rules and regulations.

This program shall include, but not be limited to:

- (a) a written description of the duties and responsibilities of the compliance officer;
- (b) adequate internal controls to ensure compliance with consumer protection laws, rules, and regulations;
- (c) the preparation of a policies and procedures manual covering all consumer protection laws, rules and regulations for use by appropriate Bank personnel in the performance of their duties and responsibilities;
- (d) semiannual updates of the written policies and procedures manual to ensure it remains current;
- (e) an audit program to test for compliance with consumer protection laws, rules and regulations;
- (f) procedures to ensure that exceptions noted in the audit reports are corrected and responded to by the appropriate Bank personnel;
- (g) the education and training of all appropriate Bank personnel in the requirements of all federal and state consumer protection laws, rules and regulations; and

(h) periodic reporting of the results of the consumer compliance audit to the Board or a committee thereof.

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

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

Article V

BANK SECRECY ACT

(1) Within sixty (60) days, the Board shall retain the services of a qualified independent auditor to develop findings, observations and recommendations on the Bank's internal controls addressing compliance with the Bank Secrecy Act, 12 C.F.R. Part 21, Subpart B (including the Suspicious Activity Report and Customer Identification Program requirements) and the rules and regulations of the Office of Foreign Assets Control, including related regulatory reporting on those subjects.

(2) A copy of the Bank's proposed "Engagement Letter" with this independent auditor, and any amendments thereto, shall be submitted to the Assistant Deputy Comptroller for review and determination of no supervisory objection prior to execution.

(3) Within one hundred and twenty (120) days, the independent auditor shall conduct a risk-based review of account activity at the Bank since December 31, 2004. This review shall include assessment of the Bank's Customer Identification Program, deposit accounts, loan transactions, wire activity, certified check activity, Currency Transaction Report activity (including structuring) and traveler's check activity, in order

to ascertain any unusual or suspicious transactions that may have occurred at the Bank during this period. Upon completion of this review, the findings of the independent auditor shall be reported to the Board, with a copy to the Assistant Deputy Comptroller.

(4) In order to establish an ongoing program to ensure adequate audit of the Bank Secrecy Act, within ninety (90) days the Board shall expand the Bank's existing audit procedures to thereafter 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.
- (d) assessment of the bank's Customer Identification Program.

(5) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of policies and procedures to ensure compliance with the Bank Secrecy Act requirements governing the Bank's Customer Identification Program.

(6) 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 VI

INFORMATION TECHNOLOGY

(1) 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 FFIEC Information Technology Examination Handbook, *Audit Booklet*.

(2) Within ninety (90) days, the Bank shall obtain an independent IT audit in compliance with paragraph (1) of this Article.

(3) Within ninety (90) 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 FFIEC Information Technology Examination Handbook, *Information Security Booklet*. At a minimum, the information security program shall include:

- (a) an assessment of the risk to its customer information or customer information systems and a written report evidencing such assessment. The assessment shall include:
 - (i) the identification of reasonably foreseeable internal and external threats that could result in unauthorized disclosure,

misuse, alteration, or destruction of customer information or customer information systems;

- (ii) an assessment of the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and
 - (iii) an assessment of the sufficiency of policies, procedures, customer information systems, and other arrangements in place to control risks.
- (b) a process to monitor and control the identified risks, commensurate with the sensitivity of the information as well as the complexity and scope of bank activities;
- (c) a test plan that provides for regular testing of key controls, systems and procedures of its information security program. The frequency and nature of such tests shall be determined by the risk assessment. Such tests shall be conducted or reviewed by independent third parties or staff independent of those that develop or maintain the information security program.

(4) Within sixty (60) days, the Board shall develop and implement a formal business continuity process that complies with the requirements set forth in the FFIEC Information Technology Examination Handbook, Business Continuity Planning Booklet.

At a minimum, the business continuity process should include:

- (a) a risk management process that includes the development of a written, enterprise-wide business continuity plan (BCP); and

- (b) a risk monitoring process that includes:
 - (i) testing of the BCP on at least an annual basis;
 - (ii) independent audit and review of the BCP; and
 - (iii) updating the BCP based upon changes to personnel and the internal and external environments.

(5) Within ninety (90) days and at least annual thereafter, the Board shall review its IT resumption and contingency planning and perform a test of all necessary programs and applications using its backup location, or recovery operation center, to ensure the continuation of operations in the event of a disaster. The Board shall document the results of this review and test in its meeting minutes.

(6) The Board shall provide a copy of the BCP and test results to the Assistant Deputy Comptroller for review.

Article VII

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank maintains Tier 1 capital (as defined in 12 C.F.R. Part 3) at least equal to seven percent (7%) of total adjusted total assets.¹

(2) The requirement in this Agreement to 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).

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

(3) Within one hundred twenty (120) 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) contingency plans that identify alternative methods should primary capital source(s) not be available.

(4) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller.

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

Article VIII

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 September 27, 2004 and December 2, 2004 ROEs and in any subsequent Report of Examination or correspondence. The quarterly progress reports required by Article VIII of this

Agreement shall include the date and manner in which each correction has been effected during that reporting period.

(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 education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(3) Within sixty (60) days of receipt of any subsequent Report of Examination which cites violations of law, rule, or regulation, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(4) Upon adoption, a copy of these procedures shall be promptly forwarded to the Assistant Deputy Comptroller.

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

IX

PROGRESS REPORTING - QUARTERLY

(1) The Board shall submit quarterly progress reports to the Assistant Deputy Comptroller, Champaign Field Office, Harris Center 3001 Research Road, Suite E-2, Champaign, Illinois 61822. These reports shall set forth in detail:

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

(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.

The first progress report shall be submitted for the period ending June 30, 2005 and will be due within fifteen (15) days of that date. Thereafter, progress reports will be due within fifteen (15) days after the quarter end.

Article X

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or approval, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him/her by the several

laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

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

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

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

- (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.

(6) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC’s exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

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

/s/
Richard A. McElmurry
Assistant Deputy Comptroller
Champaign Field Office

June 27, 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/

Edmund G. Andracki

/s/

John T. Douglas

/s/

Clifford M. Huddleson

/s/

Judith A. Jolley

/s/

Robert E. Walblay

27 June 05

Date

June 27, 2005

Date

June 27, 2005

Date

June 27, 2005

Date

June 27, 2005

Date