#2009-127

AGREEMENT BY AND BETWEEN
Metropolitan National Bank
New York, New York
and
The Comptroller of the Currency

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

The Comptroller, through his National Bank Examiner, has examined the Bank and his findings are contained in the Report of Examination ("ROE") for the examination that commenced on February 2, 2009. The Comptroller has found unsafe and unsound banking practices relating to management and board supervision, asset quality, liquidity, capital adequacy and earnings performance.

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

<u>JURISDICTION</u>

(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:

Rita Kuehn, Assistant Deputy Comptroller
New York Metro Field Office
340 Madison Avenue, 4th Floor
New York, New York 10173-0002

Article II

COMPLIANCE COMMITTEE

(1) Within thirty (30) days of the date of this Agreement, the Board shall appoint a Compliance Committee of at least three (3) directors, of which no more than (1) shall be an employee or controlling shareholder 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 any such person. Upon appointment, the names of the members of the Compliance Committee and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement.

(2) The Compliance Committee shall meet at least monthly.

(3) Within sixty (60) days of the date of the formation of the Compliance Committee, and quarterly thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) a description of the action needed to achieve full compliance with each Article of this Agreement;

(b) actions taken to comply with each Article of this Agreement; and

(c) the results and status of those actions.

(4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller within ten (10) days of receiving such report.

Article III

STRATEGIC AND PROFIT PLANNING

(1) Within ninety (90) days, the Board shall review and revise the Bank’s Strategic Plan to ensure that it will improve the Bank’s earnings. The Plan shall include, at a minimum, the following elements:

(a) an evaluation of all major strategic goals and initiatives to determine if they address the bank’s financial condition and performance trends, and that they reflect current real estate market conditions;

(b) the development of special goals and initiatives that will improve the bank’s financial performance, improve earnings, and reduce or mitigate risk exposures. Once developed, each initiative will be assigned to a responsible party and it will be monitored and evaluated by the Board on a periodic basis;

(c) comprehensive annual budgets, including projected balance sheets and year-end income statements;

(d) a description of the operating assumptions that form the basis for major projected income and expense components;

(e) a budget review process to monitor both the Bank's income and expenses, and to compare actual figures with budgetary projections;

(f) variance criteria for when interim re-forecasting of the budget would be required;

(g) action plans to address earnings performance in the event projections do not materialize; and

(h) the assignment of management responsibility to carry out the Bank's strategic plan, with specific time frames for performance and specific accountability measures.

(2) The documents required in this Article shall be submitted to the Assistant Deputy Comptroller for review and prior determination of no supervisory objection. The strategic plan shall be implemented immediately upon receiving a determination of supervisory non-objection. The Board shall submit annual budgets, as described in paragraph (c) above, to the Assistant Deputy Comptroller for each year this Agreement remains in effect. Any new or revised budgets shall be submitted to the Assistant Deputy Comptroller within thirty (30) days of Board approval.

(3) The Board shall forward comparisons of its balance sheet and profit and loss statement to the profit plan projections to the Assistant Deputy Comptroller on a quarterly basis.

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

Article IV

BANK SUPERVISION

(1) Within ninety (90) days, the Board and management shall assess the effectiveness and quality of the Bank's supervision. At a minimum, the Board and management shall consider:

For the Board:

(a) An assessment of the individual Board members' qualifications and skills to serve as effective directors and properly supervise the bank's affairs, including the need for additional training, if necessary;

(b) An assessment of the Board committees to ensure members are knowledgeable of areas delegated to the respective committees;

(c) 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;

(d) Recommendations to correct or eliminate any other deficiencies in the supervision or organizational structure of the Bank.

For management:

(a) The identification of present and future management and staffing requirements of each area of the Bank, with particular emphasis on the commercial lending, credit administration, loan workout, compliance, audit, risk management, and financial areas;

(b) An evaluation of current lines of authority, reporting responsibilities and delegation of duties for all officers, including identification of any overlapping duties or responsibilities;

(c) An evaluation of each senior 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;

(d) Objectives by which management's effectiveness will be measured;

(e) Recommendations as to whether management or staffing changes should be made, including the need for additions to or deletions from the current management team; and

(f) A training program to address identified weaknesses in the skills and abilities of the Bank's staff and management team.

(2) Within ninety (90) days the Board shall develop, implement, and thereafter ensure Bank adherence to a written plan, with specific time frames, that will correct any deficiencies identified above.

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

(4) Copies of the Board's 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 V

CREDIT RISK MANAGEMENT

(1) Within ninety (90) days, the Board shall review and revise, and thereafter ensure adherence to, the Bank's credit risk management process to ensure satisfactory control systems and address any findings noted in the ROE. The program shall include, but not be limited to:

(a) revision of the Bank's procedures to ensure accuracy of risk ratings and proper and timely problem loan identification, including non-accrual loans;

(b) revision of the Bank's procedures to ensure quality financial analysis and documentation for existing and renewed credits;

(c) an underwriting analysis for new loans, along with the periodic review of existing credits, that includes an appropriate stress testing of the credit's key variables;

(d) revision of the Bank's procedures to ensure ongoing guarantor analysis, to include a review of the borrower's or guarantor's global cash flow analysis and analysis of contingent liabilities;

(e) revision of the Bank's procedures to ensure that all development projects have plans and that management is effectively monitoring actual progress with respect to the plan.

(2) At least quarterly, management shall prepare a written assessment of the Bank's credit risk for review by the Board, which shall evaluate the Bank's progress under the program required in this Article. The Board shall submit a copy of this assessment to the Assistant Deputy Comptroller.

(3) The Bank shall submit a copy of the program to the Assistant Deputy Comptroller. 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

LIQUIDITY AND CONTINGENCY FUNDING PLAN

(1) Within ninety (90) days, the Board shall review and revise the Bank's Liquidity Risk Management program to identify and reduce the bank's liquidity risk exposures. In addition, the Board shall develop the bank's Contingency Funding Plan (CFP) to address matters noted in the ROE. The liquidity program shall address, at a minimum:

(a) the establishment of rollover risk limits whereas the volume of deposits and borrowings maturing within the next twelve months is limited to prudent levels;

(b) evaluation of the bank’s funding strategy to identify ways to reduce the bank’s dependency on wholesale and highly-price sensitive funding and to diversify funding sources, in general.;

(c) the maintenance of brokered deposits, as measured by the bank’s ratio of total brokered deposits to total assets, at a level not to exceed thirty (30) percent, without obtaining the prior written determination of no supervisory objection from the Assistant Deputy Comptroller. “Brokered deposit” shall have the meaning set forth in 12 C.F.R. § 337.6(a)(2). The limitation of this paragraph shall include the acquisition of Brokered Deposits through any transfer, purchase, or sale of assets, including Federal funds transactions;

(d) the establishment of minimum asset liquidity guidelines commensurate with the level of credit risk associated with the loan portfolio as well as significant funds providers;

(e) the enhancements of Board and management reports that show compliance with established policy guidelines, as well as providing meaningful aggregation and trend analysis.

(2) The following items should be included when developing CFP assumptions and stress scenarios:

(a) measuring the impact of a potential or actual rise in a bank's costs of funds during the assessment of liquidity, earnings, and capital;

(b) developing and monitoring deposit retention reports to track the trends in depositor behavior and address funding needs in a timely manner. As conditions deteriorate, the frequency of reporting will be accelerated.

(c) expanding the assumptions section to appropriately reflect the bank's balance sheet structure, funds provider and depositor behaviors based on the severity of stressed scenario. Documented support for each assumption shall be maintained and adjusted accordingly;

(d) ensuring changes to loan portfolio cash flow assumptions and projections are reflective of credit quality deterioration, and make plans for alternative funding sources, if needed. These assumption changes should be commensurate with anticipated non-performance in the portfolios experiencing credit quality deterioration.

(e) developing guidelines governing the frequency of assumption and scenario revisions as market conditions change.

(3) Upon adoption, a copy of the enhanced CFP and ALCO policy shall be forwarded to the Assistant Deputy Comptroller for review.

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

Article VII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within sixty (60) days, the Board shall review the adequacy of the Bank's Allowance for Loan and Lease Losses ("Allowance") and shall revise the program for the maintenance of an adequate Allowance. This review and program shall be designed in light of the comments on maintaining a proper Allowance found in the "Allowance for Loan and Lease Losses" booklet of the Comptroller's Handbook, and shall focus particular attention on the following corrective measures:

(a) charge-off any excess of the loan over an updated appraisal, when the collection of a loan is "collateral-dependent", and within the quarter of discovery. When determining the FAS 114 component for individually impaired loans, management needs to consider estimated costs to sell the collateral (if any) on a discounted basis in measuring impairment if those costs are expected to reduce the cash flows available to repay or otherwise satisfy the loan.;

(b) re-evaluate the qualitative factor adjustments, particularly those for classified and criticized asset trends, the economic environment and geographic, industry, property type, and large borrower concentrations. The economic environment factor adjustment should encompass local real estate market conditions, including levels and trends of home prices, inventories, and days on market, etc.;

(c) compare the trends of non-performing, criticized assets, and total loans to the level of the ALLL on a quarterly basis. If the relative growth of the ALLL falls short of the other factors, evaluate the need for higher provisioning; and

(d) enhance all trend analysis to consider both short-term and longer-term trends.

(2) The program shall provide for a review of the Allowance by the Board at least once each calendar quarter. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

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

Article VIII

CONCENTRATIONS OF RISK

(1) Within ninety (90) days, the Board shall adopt a written plan detailing how it will improve the Bank’s process to identify, monitor, measure, and control concentrations of risk, including specific controls for exposures to large borrowers, loans outside of the bank’s marketplace, types of deposits, and borrowings. The written plan

shall comply with *OCC Bulletin 2006-46, Concentrations in Commercial Real Estate, Sound Risk Management Practices* (December 6, 2006).

(2) The Board shall forward a copy of this plan to the Assistant Deputy Comptroller immediately following completion.

(3) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to, a written asset and liability diversification program. The program shall include, but not necessarily be limited to, the following:

(a) a review of the bank's assets to identify significant borrower, or borrowing group, loans, geographical, industry, and property-type concentrations, and loans outside of the bank's marketing area;

(b) a review of the bank's liabilities to identify large funding concentrations or large funds providers, including large single or groups of depositors, brokered deposits and FHLB borrowings;

(c) a written analysis of any concentration of risk identified above in order to identify and assess the inherent credit, liquidity, and interest rate risk;

(d) policies, internal limits, and procedures to control and monitor concentration of risk;

(e) a process for periodic review and adjustments of internal limits, policies, and procedures;

(f) a policy on Board and management reports that show compliance with established policy guidelines and limits and provide meaningful trend analysis; and

(g) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis.

(4) For purposes of this Article, a concentration of credit is as defined in the "Loan Portfolio Management" booklet of the Comptroller's Handbook. In addition, a funding concentration is as defined in the "Liquidity" booklet of the Comptrollers Handbook.

(5) The Board shall ensure the formulation of Board-approved commercial real estate exposure limits and sub-limits covering non-owner occupied and owner occupied properties and addressing property type, related borrower groups, and geographic location.

(6) The Board shall ensure that future concentrations of risk are subject to the analysis required by sub-paragraph (c) of paragraph (3) in this Article and that the analysis demonstrates that the concentration will not subject the Bank to undue credit, liquidity, or interest rate risk.

(7) The Board shall forward a copy of any analysis performed on existing or potential concentrations of risk to the Assistant Deputy Comptroller immediately following the review.

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

Article IX

CAPITAL PLANNING

(1) By September 30, 2009, the Board shall review and revise, and thereafter ensure Bank adherence to, a three-year capital program. The program shall include:

(a) specific plans for the maintenance of adequate capital pursuant to the requirements under Part 3 and to remain well-capitalized pursuant to Part 6;

(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 it 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 determination of no supervisory objection by the Assistant Deputy Comptroller. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the dividend policy.

(2) 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.

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

Article X

CLOSING

(1) 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.

(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) 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.

(4) 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.

(5) 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.

(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 Comptroller of 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.

Signed 7-23-09

Rita Kuehn
Assistant Deputy Comptroller
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	7/23/09
Mark R. DeFazio	Date
Signed	7-23-09
Benjamin C. Fishoff	Date
Signed	7-23-09
David M. Gavrin	Date
Signed	7-23-09
Mark H. Goldberg	Date
Signed	7-23-09
Harvey M. Gutman	Date
Signed	7-23-09
Walter Harris	Date
Signed	7/23/09
Robert C. Patent	Date
Signed	7/23/09
James M. Trucksess, Jr.	Date
Signed	7/23/09
George J. Wolf, Jr.	Date