

**#2012-156**

**Terminates OTS Order #CN 09-42**

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

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**In the Matter of:** ) AA-EC-12-75  
GreenChoice Bank, FSB )  
Chicago, Illinois )

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**CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”), through his authorized representative, has supervisory authority over GreenChoice Bank, FSB, Chicago, Illinois (“Bank”).

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 (“Stipulation and Consent”), dated June 27, 2012, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order (“Order”) by the Comptroller. This Order supersedes and terminates the Order to Cease and Desist issued to the Bank on November 20, 2009 by the Office of Thrift Supervision (Order No. CN 09-42).

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

**ARTICLE I**

**PROGRESS REPORT**

(1) By June 30, 2012 and every ninety (90) days thereafter, the Board shall submit to the Assistant Deputy Comptroller a written progress report setting forth in detail:

(a) a description of the actions needed to achieve full compliance with each

Article of this Order;

- (b) actions taken to comply with each Article of this Order; and
- (c) the results and status of those actions.

(2) All reports or plans that the Bank or Board has agreed to submit to the Assistant

Deputy Comptroller pursuant to this Order shall be forwarded to:

Thomas C. Munz  
Assistant Deputy Comptroller  
Chicago North Field Office  
Two Century Centre, Suite 800  
1700 E. Golf Road  
Schaumburg, Illinois 60173-5804

## ARTICLE II

### CAPITAL PLAN AND MINIMUM CAPITAL LEVELS

(1) By no later than June 30, 2012, the Bank shall achieve and thereafter maintain the following minimum capital levels:

- (a) Tier 1 leverage ratio at least equal to eight percent (8%); and
- (b) Total risk-based capital ratio at least equal to twelve percent (12%).<sup>1</sup>

(2) Within ninety (90) days, the Board shall submit to the Assistant Deputy Comptroller for his review and prior written determination of no supervisory objection, a written Capital Plan for the Bank covering at least a three-year period. The Capital Plan shall include:

- (a) specific plans for the achievement and maintenance of adequate capital that may in no event be less than the requirements of Paragraph (1) of this Article;
- (b) projections for growth and capital requirements based upon an analysis of

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<sup>1</sup> All terms used in these two bullet points are as reported on Schedule RC-R of the Bank's Consolidated Reports of Condition and Income ("Call Report") in accordance with applicable instructions.

the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities, including mortgage banking activities;

- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) identification of the primary sources from which the Bank will strengthen its capital structure to meet the Bank's needs; and
- (e) contingency plans that identify alternative capital sources should the primary sources identified under paragraph (2)(d) of this Article be unavailable.

(3) Within fifteen (15) days following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection to the Bank's Capital Plan, the Board shall adopt, implement, and thereafter ensure Bank adherence to the Capital Plan. The Board shall review and update, as needed, the Bank's Capital Plan at least annually, and more frequently if necessary or if required by the Assistant Deputy Comptroller in writing. Prior to adopting any subsequent amendments or revisions to the Capital Plan, the Board shall submit the proposed amendment or revision to the Assistant Deputy Comptroller and receive a prior written determination of no supervisory objection.

(4) The Bank may pay a dividend or make a capital distribution only when all of the following conditions are met:

- (a) the Bank will be in compliance with the minimum capital ratios required by Paragraph (1) of this Article immediately after making the dividend or capital distribution;
- (b) the Bank is in compliance with its approved Capital Plan and would

remain in compliance with its approved Capital Plan immediately after making the dividend or capital distribution;

- (c) the dividend or capital distribution would not cause the Bank to violate 12 C.F.R. Part 163, Subpart E or 1831o(d)(1); and
- (d) the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

### ARTICLE III

#### STRATEGIC PLAN

(1) Within ninety (90) days, the Board shall revise its strategic plan for the Bank to update or include the information addressed in this Article for a period covering at least the next three-years. The revised Strategic Plan shall establish objectives and projections for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, reduction in the volume of nonperforming assets, product line development and market segments that the Bank intends to promote or develop, together with specific strategies to achieve those objectives and, at a minimum, include:

- (a) a statement of strategic goals and objectives for the Bank;
- (b) detailed strategies designed to improve and sustain earnings based upon an assessment of the Bank's present and future operating environment, with express consideration for the Bank's non-interest expenses;
- (c) an assessment of the Bank's present and future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and

objectives established in Paragraph (1)(a) of this Article;

- (d) an evaluation of the Bank's staffing requirements and the development of policies and procedures ensuring adequate personnel to accomplish strategic objectives without compromising safety and soundness;
- (e) establishment of formal concentration limits for mortgage banking activities and other significant credit and liability concentrations; and
- (f) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over a three-year period.

(2) Upon adoption, a copy of the plan shall be forwarded to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall promptly implement and thereafter adhere to the Strategic Plan.

(3) The Board shall ensure that the Bank does not initiate any action that deviates significantly from the Board-approved Strategic Plan without first receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller. The Board shall give the Assistant Deputy Comptroller at least 30 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.

(4) Until the Strategic Plan required under this Article has been submitted by the

Bank for the Assistant Deputy Comptroller's review, has received a written determination of no supervisory objection from the Assistant Deputy Comptroller, and is being implemented by the Bank, the Bank shall not significantly deviate from the products, services, asset composition and size, funding sources, structure, operations, policies, procedures, and markets of the Bank that existed before this Consent Order without first obtaining the Assistant Deputy Comptroller's prior written determination of no supervisory objection to such significant deviation. Any request to the Assistant Deputy Comptroller for prior written determination of no supervisory objection to a significant deviation must be submitted to the Assistant Deputy Comptroller at least 30 days in advance of the significant deviation and must contain the information and analysis required under Paragraph (3) of this Article.

(5) For purposes of this Article, changes that may constitute a significant deviation from the Strategic Plan include, but are not limited to, a change in the Bank's marketing strategies, marketing partners, volume of activity, underwriting practices and standards, credit administration, account management, collection strategies or operations, fee structure or pricing, accounting processes and practices, or funding strategy, any of which, alone or in aggregate, may have a material impact on the Bank's operations or financial performance; 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 Strategic Plan is updated annually, no later than January 31 each year, or more frequently if directed by the Assistant Deputy Comptroller, to cover the next three (3) year period. The Bank shall submit the updated annual financial projections included in the Strategic Plan to the Assistant Deputy Comptroller within ten (10) days of completion. If there is no significant deviation to the Strategic Plan in the annual update

other than the updated financial projections, the Bank shall so certify to the OCC within ten (10) days of the Board's review and update. If the Bank proposes a significant deviation to the Strategic Plan in the annual update, or upon direction of the Assistant Deputy Comptroller, the Bank shall submit an Amended Strategic Plan to the Assistant Deputy Comptroller for review and supervisory no objection and shall not implement any proposed significant deviation until it has received written supervisory no objection from the OCC.

#### ARTICLE IV

##### CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized<sup>2</sup> in the Report of Examination dated as of June 30, 2011 ("ROE"), in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the OCC during any examination.

(2) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to individual workout plans designed to protect the Bank's interest in or eliminate the basis of criticism of assets criticized in the ROE or internally identified by the Bank as criticized as of the effective date of this Order. On an ongoing basis, when any asset is criticized in a subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the OCC during any examination, the Board shall adopt, implement, and thereafter ensure Bank adherence to individual workout plans for the criticized asset within thirty (30) days. Each workout plan shall include, at a minimum:

- (a) an identification of the expected sources of repayment;

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<sup>2</sup> The term "criticized" as used in this Article refers to assets rated the equivalent of "doubtful," "substandard," or "special mention" as defined in the "Rating Credit Risk" booklet of the Comptroller's Handbook.

- (b) an analysis of the borrower's ability to repay the loan based on current and satisfactory credit information, including an appropriate analysis of the guarantor's repayment ability where repayment is dependent in whole or in part on such guarantor;
- (c) the current value of supporting collateral and the position of the Bank's lien on such collateral where applicable; and
- (d) actions designed to protect the Bank's interest in, or eliminate the basis of criticism of, the asset, including timeframes for implementing and evaluating the effectiveness of those actions.

(3) Upon adoption, a copy of the workout plans for all criticized assets equal to or exceeding \$400,000 dollars shall be forwarded to the Assistant Deputy Comptroller.

(4) The Board, or a designated committee, shall conduct a review, on at least a quarterly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds \$250,000;
- (b) management's adherence to the workout plans adopted pursuant to this Article;
- (c) the status and effectiveness of the plans; and
- (d) the need to revise the plans or take alternative action.

(5) A copy of each review conducted pursuant to Paragraph (4) of this Article shall be retained at the Bank and be available for OCC inspection upon request.

(6) Effective immediately, the Bank may extend credit, directly or indirectly, including renewals and extensions, to a borrower whose loans or other extensions of credit are

criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the OCC during any examination and whose aggregate loans or other extensions exceed \$250,000 only if each of the following conditions is met:

- (a) the Board or designated committee finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior to renewing or extending any additional credit, a majority of the full Board (or designated committee) approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank; and
- (b) a comparison to the plans adopted pursuant to this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

(7) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

## ARTICLE V

### LOAN REVIEW

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure adherence to an independent and on-going loan review system to review the Bank's loan and lease portfolios to ensure the timely identification and categorization of problem credits. At a minimum, the review shall include past due, non-accrual, and insider credits, and all borrowing relationships where the aggregate commercial or commercial real estate debt is in excess of \$400,000. The review shall also include any assets criticized in the Report of Examination dated

“as of” June 30, 2011 (“ROE”), in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the OCC during any examination.

(2) The system adopted pursuant to Paragraph (1) of this Article shall provide for a written report to be filed with the Board within a reasonable period of time following the completion of each review and shall use a loan and lease grading system consistent with the criteria set forth in applicable regulations and regulatory guidance. Such reports shall include, at a minimum, conclusions regarding:

- (a) the identification, type, rating, and amount of problem loans and leases;
- (b) the identification and amount of delinquent loans and leases;
- (c) credit and collateral documentation exceptions;
- (d) loans and leases not in conformance with the Bank’s lending and leasing policies, and exceptions to the Bank’s lending and leasing policies;
- (e) the identification and status of credit related violations of law, rule or regulation;
- (f) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (g) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (a) through (g) of this Article.

(3) Within thirty (30) days of receipt, the Board shall evaluate the loan and lease review report(s) obtained pursuant to Paragraph (2) of this Article and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the report(s).

(4) After evaluation, a copy of the report and the Board’s response shall be

maintained at the Bank and available for review by OCC examiners upon request.

## ARTICLE VI

### LIQUIDITY MANAGEMENT

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a comprehensive formal liquidity risk management program that is consistent with the guidelines set forth in the *Interagency Policy Statement on Funding and Liquidity Risk Management*, OCC Bulletin 2010-13, March 22, 2010. The Bank's program shall be written and shall address, at a minimum, the following requirements:

- (a) establish target amounts of unencumbered liquidity reserves and operational liquidity consistent with the operations and risk profile of the Bank. In setting these guidelines, the Board must consider the composition and maturity structure of deposits, including QuickRate deposits, uninsured deposits, and the results of stress testing, and stress scenarios must be sufficient to identify potential deposit runoff;
- (b) develop cash flow projections that include cumulative cash flow mismatches or gaps over a one year time horizon under both expected and adverse business conditions, as well as a statement of the critical assumptions used in the projections;
- (c) identify specific funding sources and establish limits on funding concentrations and the use of short-term or volatile funding sources to fund operations (including QuickRate and uninsured deposits);
- (d) the Bank's investment policy shall identify permissible investments and establish concentration limits by issue type, credit quality, and maturity;

- (e) the Bank's ALCO shall meet on at least a quarterly basis or more regularly as the need arises;
- (f) establish time frames and monitoring tools for reporting on liquidity and funds management to the ALCO and Board; and
- (g) the Board shall revise, implement, and ensure adherence to a comprehensive Contingency Funding Plan that, among other things, addresses ways to improve the Bank's liquidity position and maintain adequate sources of stable funding given the Bank's anticipated liquidity and funding needs under various crisis scenarios. At a minimum the Plan shall address:
  - (i) actions to be taken by management based on stressed scenarios which identify sources of liquidity to meet projected shortfalls commensurate with the condition of the Bank;
  - (ii) stress scenarios shall consider the impact if mortgage banking counterparties fail to purchase originated loans as agreed or exposure that could occur if the Bank were required to repurchase a significant balance of loans because of early payment default or failure to meet the sales contracts representations and warranties;
  - (iii) sufficiently detailed descriptions of the assumptions that underlie the Plan, including a discussion of changes in secured and unsecured borrowing lines and collateral requirements; and
  - (iv) a process of regular testing, no less than annually or more

frequently if the circumstances warrant, to ensure that the Plan is operationally sound.

## ARTICLE VII

### INTEREST RATE RISK MANAGEMENT

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a comprehensive formal interest rate risk (“IRR”) management program consistent with the guidelines set forth in the *Interagency Advisory on Interest Rate Risk Management*, OCC Bulletin 2010-1, and the related *Frequently Asked Questions*, issued by the OCC on January 12, 2012 (OCC Bulletin 2012-5). The Bank’s program shall be written and shall address, at a minimum, the following requirements:

- (a) objectives and strategies with respect to managing IRR;
- (b) policies and procedures to ensure that strategies, products, and business activities are integrated into the Bank’s IRR management process; and
- (c) clear lines of authority and responsibility for conducting investment and derivatives activities.

(2) Upon adoption, a copy of the written program adopted pursuant to this Article shall be promptly forwarded to the Assistant Deputy Comptroller for review and determination of no supervisory objection.

## ARTICLE VIII

### ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within sixty (60) days, the Board shall adopt written policies and procedures for maintaining an adequate Allowance for Loan and Lease Losses (“ALLL”) in accordance with

U.S. generally accepted accounting principles (“GAAP”). The ALLL policies and procedures shall be consistent with the guidance set forth in the Federal Financial Institutions Examination Council’s “*Interagency Policy Statement on the Allowance for Loan and Lease Losses*” dated December 13, 2006 (OCC Bulletin 2006-47) (“Interagency Statement”) and shall at a minimum include:

- (a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with GAAP (including FASB ASC 310-10, *Receivables - Overall - Subsequent Measurement – Impairment*);
- (b) procedures for segmenting the loan portfolio and estimating loss on groups of loans that are consistent with GAAP (including FASB ASC 450-20, *Loss Contingencies*);
- (c) procedures for validating the ALLL methodology;
- (d) a process for summarizing and documenting, for the Board’s prior review and approval, the amount to be reported in the Consolidated Reports of Condition and Income (“Call Reports”) for the ALLL.

(2) Within sixty (60) days the Board shall adopt written policies and procedures to ensure that all official and regulatory reports filed by the Bank accurately reflect an adequate ALLL balance as of the date that such reports are submitted.

## ARTICLE IX

### CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or prior written determination of no supervisory objection of the

Assistant Deputy Comptroller, the Board has the ultimate responsibility for proper and sound management of the Bank.

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

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

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

(5) In each instance in this Order in which the Board or a Board Committee 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, including ensuring that the Bank has necessary processes, personnel, and control systems;
- (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 27<sup>th</sup> day of June, 2012.

/s/

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Thomas C. Munz  
Assistant Deputy Comptroller  
Chicago Field Office

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

<b>In the Matter of:</b>	)	AA-EC-12-75
GreenChoice Bank, FSB	)	
Chicago, Illinois	)	

**STIPULATION AND CONSENT TO THE ISSUANCE  
OF A CONSENT ORDER**

**WHEREAS**, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate cease and desist proceedings against GreenChoice Bank, FSB, Chicago, Illinois (“Bank”) pursuant to 12 U.S.C. § 1818(b) through the issuance of a Notice of Charges, for unsafe or unsound banking practices relating to capital adequacy, credit risk management, interest rate risk and liquidity planning.

**WHEREAS**, the Bank, in the interest of compliance and cooperation, and without admitting or denying any wrongdoing, consents to the issuance of a Consent Order, dated June 27, 2012 (“Order”);

**NOW THEREFORE**, 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 federal savings association examined by the Comptroller pursuant to the Home Owners’ Loan Act of 1933, as amended, 12 U.S.C. § 1461 *et. seq.*

(2) The Bank is a “savings association” within the meaning of 12 U.S.C. §§ 1813(b) and 1462(4). Accordingly, the Bank is an “insured depository institution” within the meaning of

12 U.S.C. §§ 1813(c) and 1818(b)(1).

(3) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

## ARTICLE II

### Agreement

(1) The Bank acknowledges 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 acknowledges 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 Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his 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 Comptroller has any intention to enter into a contract.

(2) The Bank also expressly acknowledges that no officer or employee of the Comptroller 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.



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.

_____ Robert Beavers, Jr.  /s/	_____ Date  6/27/12
_____ Robert Gremley  /s/	_____ Date  6/27/12
_____ Marc Kahan  /s/	_____ Date  6/27/12
_____ Lewis Kaplan  /s/	_____ Date  6/27/12
_____ Donald Larson  /s/	_____ Date  6/27/12
_____ Jonathan Levey  /s/	_____ Date  6/27/12
_____ Frank Reid  /s/	_____ Date  6/27/12
_____ Samuel Sallerson	_____ Date
_____ Dennis Schueler  /s/	_____ Date  6/27/12
_____ Harold Sherman  /s/	_____ Date  6/27/12
_____ Steven Sherman	_____ Date