

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of

**SAVINGS BANK OF MAINE**  
Gardiner, ME  
OTS Docket No. 06947

OTS Order No. NE-10-07

Dated: March 12, 2010

**PROMPT CORRECTIVE ACTION DIRECTIVE**

WHEREAS, Savings Bank of Maine, Gardiner, Maine, OTS Docket No. 06947 (Association) is a federally chartered savings association that is regulated by the Office of Thrift Supervision (OTS); and

WHEREAS, Section 38 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1831o, and Part 565 of the OTS Regulations thereunder, 12 C.F.R. Part 565, require institutions that are undercapitalized to file a capital restoration plan specifying the steps the institution will take to become at least adequately capitalized; and

WHEREAS, Section 38 of the FDIA, 12 U.S.C. § 1831o, requires the OTS to take prompt corrective action (PCA) to resolve the problems of insured savings associations at the least possible long-term loss to the deposit insurance fund; and

WHEREAS, Section 565.7 of the OTS Regulations, 12 C.F.R. § 565.7, provides for the issuance by the OTS of directives to take prompt corrective action to resolve the problems of insured depository institutions and to restore their capital; and

WHEREAS, on November 5, 2009 the OTS notified the Association: (i) that it was undercapitalized for purposes of the prompt corrective action provisions of Section 38 of the FDIA, 12 U.S.C. § 1831o, (ii) of the requirement to file a capital restoration plan, and (iii) of the restrictions and requirements imposed upon the Association as a result of its undercapitalized status; and

WHEREAS, the Association also is not in compliance with the capital standards required by Section 5(t) of the Home Owners' Loan Act (HOLA), 12 U.S.C. § 1464(t); and

WHEREAS, Section 5(t)(6)(B)(ii) of the HOLA, 12 U.S.C. § 1464(t)(6)(B)(ii), requires any savings association not in compliance with capital standards to comply with a capital directive issued by the OTS; and

WHEREAS, on December 7, 2009 the Association submitted to OTS a capital restoration plan (Capital Plan); and

WHEREAS, OTS has considered the Association's capital deficiency, the Capital Plan, in accordance with Section 567.10 of the OTS Regulations, 12 C.F.R. § 567.10, and Section 38(e)(2) of FDIA, 12 U.S.C. § 1831o(e)(2) and conditionally approved the Capital Plan as set forth in a letter to the Association dated February 4, 2010; and

WHEREAS, the Association and its Board of Directors (Board), by execution of the attached Stipulation and Consent (Stipulation) to the issuance of this Prompt Corrective Action Directive (Directive), the terms of which are incorporated herein by this reference, have stipulated and consented to the issuance of the Directive; and

WHEREAS, the OTS finds it necessary in order to carry out the purposes of Section 38 of the FDIA, 12 U.S.C. § 1831o, to issue this Directive requiring the Association immediately to take certain actions and to follow certain proscriptions.

**NOW THEREFORE**, pursuant to Section 38 of FDIA, 12 U.S.C. § 1831o, including but not limited to subsection (f) thereof, Section 5(t)(6)(B)(ii) of HOLA, 12 U.S.C. § 1464(t)(6)(B)(ii), and Section 565.7 of the OTS Regulations, 12 C.F.R. § 565.7, OTS directs the Association and its Board of Directors to do the following:

## **PART I - IMPROVING AND MAINTAINING CAPITAL**

### Section 1.1 Capital Plan.

(a) The Association shall comply with the terms of its Capital Plan, including any amendments thereto approved by the Regional Director, and shall become adequately capitalized (as defined in 12 C.F.R. § 565.4) by June 30, 2010.

(b) By September 30, 2010, the Association shall achieve and thereafter maintain:

(i) a tier 1 (core) capital ratio of at least equal to 10.76%; and

(ii) a total risk based capital ratio of at least equal to 13.78%.

(c) In the event the Association does not achieve and maintain adequately capitalized status in accordance with Section 1.1(a), or the capital levels required by Section 1.1(b), the Association shall immediately take one or more of the following actions necessary to achieve compliance through: (i) issuance of shares or obligations of the Association, which could include a Voluntary Supervisory Conversion pursuant to 12 C.F.R. Part 563b, Subpart B; (ii) acquisition by another depository institution holding company, or (iii) merger with another depository institution, or such other action as may be required pursuant to the Amended Order to Cease and Desist dated March 12, 2010, OTS Order No. NE-10-06 (Amended Order).

(d) The Association shall not issue any securities or enter into any agreement or understanding to merge, consolidate, or otherwise be acquired, or enter into any agreement or understanding to reorganize unless (i) the Association has provided the OTS with prior written notice of its intention to take such action (of issuing securities or entering into such an

agreement), and (ii) following such notice the OTS has provided the Association with prior written notice of its non-objection to the proposed action by the Association.

The OTS directs the actions required by this Section 1.1 pursuant to 12 U.S.C. §§ 1831o(e)(2), 1831o(e)(5), 1831o(f)(2)(A) and 1831o(f)(2)(J), and based upon a determination by the OTS that such action will better carry out the purpose of Section 38 of the FDIA.

#### Section 1.2. Reports of Compliance.

(a) No later than ten (10) days following the end of each month, management of the Association shall prepare, and the Board of Directors of the Association shall review, a written report concerning the Association's compliance with each of the requirements of this Directive during the preceding month. The report and review shall include verification of the Association's prompt corrective action capital category and confirmation that the Association is in compliance with: (i) all restrictions that apply automatically to an institution in that category, and (ii) with the other restrictions and requirements contained in this Directive. The report and review shall be documented in the minutes of the meeting of the Board. All documentation considered by the Board in performing its review shall be explicitly referenced in the minutes of the meeting at which the review was undertaken.

(b) By the fifteenth (15<sup>th</sup>) day of each month, the Association shall submit the following documents to the OTS in a format acceptable to the OTS:

- (i) a variance report, in Thrift Financial Report format, comparing capital levels/targets projected in the Capital Plan with actual results;
- (ii) a summary of actions taken, during the immediately preceding month, by the Association and its Board of Directors and executive officers in furtherance of the Association's efforts to increase its capital ratios and engage in a securities issuance, merger/acquisition, or other transaction as required by subparagraphs (a) and (b) of Section 1.1, including descriptions of any material discussions with potential investor(s), acquiror(s) or merger partner(s), any letters of intent entered into with potential investor(s), acquiror(s) or merger partner(s) and any due diligence performed by potential investor(s), acquiror(s) or merger partner(s);
- (iii) confirmation of the Association's compliance with this Directive or a description of any instance of noncompliance with any of the Association's obligations under this Directive and the specific measures undertaken to cure such noncompliance; and
- (iv) if requested, copies of the minutes of the Association's Board of Directors supporting actions taken to comply with this Directive.

The OTS directs the actions required by this Section 1.2 pursuant to 12 U.S.C. §§ 1831(o)(e)(5) and 1831o(f)(2)(J) and based upon a determination by the OTS that such action are necessary to carry out the purpose of Section 38 of the FDIA, 12 U.S.C. § 1831o.

## **PART II - OPERATING RESTRICTIONS & REQUIREMENTS**

### **Section 2.1. Compliance with Mandatory Restrictions.**

The Association shall comply with all of the mandatory prompt corrective action provisions contained in Section 38 of FDIA, 12 U.S.C. § 1831o, that automatically apply to the Association based upon the Association's prompt corrective action capital category. These provisions are set forth at 12 U.S.C. §§ 1831o(d)(1) (capital distributions restriction), (d)(2) (management fees restriction), (e)(3) (asset growth restriction), (e)(4) (restrictions on acquisitions, branching, and new lines of business), (f)(4) (senior executive officers' compensation restriction), (h)(2) (prohibition on payment of subordinated debt), and (i) (restrictions on activities). However, if the Association should improve from a lower to a higher PCA capital category, it must continue to comply with the previously applicable mandatory sanctions of the lower category, until such time as approval to cease compliance with the lower category sanctions is requested of and received from the OTS.

### **Section 2.2. Restrictions on Brokered Deposits.**

(a) The Association shall comply fully with the restrictions set forth in the FDIC's brokered deposit regulation, 12 C.F.R. § 337.6. The Association shall provide a copy of any waiver request submitted to the FDIC to the Regional Director.

(b) The OTS is imposing the restriction in this section pursuant to the authority at 12 U.S.C. §§1831o(e)(5) and 1831o(f)(2)(J) and based upon a determination by the OTS that such restriction is necessary to carry out the purpose of Section 38 of the FDIA, 12 U.S.C. § 1831o .

### **Section 2.3. Restriction on Transactions with Affiliates**

(a) The Association shall not engage in any "covered transactions" as defined in 12 U.S.C. § 371c(b).

(b) The OTS is imposing the restrictions of Section 2.3, pursuant to 12 U.S.C. §§ 1831o(e)(5), 1831o(f)(2)(B) & (J) and 1831o(f)(5) based upon a determination by the OTS that this restriction is necessary to carry out the purpose of Section 38 of the FDIA, 12 U.S.C. § 1831o .

### PART III - GENERAL PROVISIONS

#### Section 3.1. Definitions.

All technical words or terms used in this Directive for which meanings are not specified or otherwise provided by the provisions of this Directive shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act (HOLA), the Federal Deposit Insurance Act (FDIA), OTS Memoranda or other published OTS guidance. Any such technical words or terms used in this Directive and undefined in said Code of Federal Regulations, the HOLA, the FDIA, or OTS Memoranda/guidance shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

#### Section 3.2. Successor Statutes, Regulations, Guidance Amendments.

Reference in this Directive to provisions of statutes and regulations shall be deemed to include references to all amendments to such provisions as have been made as of the effective date hereof and references to successor provisions as they become applicable.

#### Section 3.3. Notices.

Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by the Directive to be made upon, given or furnished to, delivered to, or filed with the OTS or the Association shall be in writing and sent by first class U.S. mail (or by reputable overnight courier, electronic facsimile transmission, or hand delivery via messenger) addressed as follows:

To the OTS:	To the Association:
<u>Original to:</u> Michael E. Finn Regional Director Office of Thrift Supervision Harborside Financial Center Plaza Five Suite 1600 Jersey City, NJ 07311	Board of Directors c/o Arthur C. Markos Savings Bank of Maine 190 Water St. Gardiner, ME 04345-2109
<u>Copy to:</u> John F. Burke Assistant Director Office of Thrift Supervision 35 Braintree Hill Office Park, Suite 201 Braintree, MA 02184	

Section 3.4. Duration, Termination or Suspension of the Directive.

(a) The terms and provisions of this Directive shall be binding upon the Association and its successors in interest.

(b) The Directive shall remain in effect until terminated, modified or suspended in writing by the OTS.

(c) The OTS, in its discretion, may, by written notice, suspend any or all provisions of the Directive, except for Section 2.1.

Section 3.5. Effect of Headings.

The Part and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 3.6. Separability Clause.

In case any provision in this Directive is ruled to be invalid, illegal or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby unless the OTS, in its sole discretion, determines otherwise.

Section 3.7. No Violations Authorized; Consequences of Directive

Nothing in this Directive, including, without limitation, any of the time-frames for actions set forth in Part I, shall be construed as: (i) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject or (ii) restricting the OTS from taking such actions as are appropriate in fulfilling the responsibilities placed upon it by law, including, without limitation, actions pursuant to Section 38 of the FDIA, 12 U.S.C. § 1831o, or taking any other type of supervisory, enforcement, or resolution action that the OTS determines to be appropriate.

Section 3.8. Other Enforcement Documents.

The Order to Cease and Desist (OTS Order NE-09-23, dated August 20, 2009) and the Amended Order (collectively, Orders) remain in effect and fully enforceable. Nothing in this Directive shall affect or limit OTS's ability to take enforcement action in connection with any violation of the Orders.

Section 3.9. Effective Date of this Directive

This Directive (including all the requirements and limitations herein) is effective immediately on the date of issuance of the Directive (Effective Date), which date is indicated below.

IT IS SO ORDERED.

OFFICE OF THRIFT SUPERVISION

By:

Date: March 12, 2010

\_\_\_\_\_/s/\_\_\_\_\_  
Michael E. Finn  
Regional Director

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of

**SAVINGS BANK OF MAINE**  
Gardiner, ME  
OTS Docket No. 06947

OTS Order No. NE-10-07

Dated: March 12, 2010

**STIPULATION AND CONSENT TO**  
**PROMPT CORRECTIVE ACTION DIRECTIVE**

1. The Office of Thrift Supervision (OTS) has informed Savings Bank of Maine, Gardiner, Maine (the Association), based upon information reported to OTS, that grounds exist to issue a Prompt Corrective Action Directive (PCA Directive) pursuant to Section 38 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1831o, and Section 565.7 of the OTS Regulations, 12 C.F.R. § 565.7, against the Association. The Association, in the interest of cooperation and to avoid the time and expense of pursuing further OTS administrative procedures for the issuance of a PCA Directive, stipulates and consents to the terms set forth in this Stipulation and Consent.
2. The Association stipulates it is a federal savings association subject to the supervision and regulation by OTS. The Association is a “savings association” as that term is used in the Home Owners’ Loan Act (HOLA), 12 U.S.C. §§ 1461 *et seq.*, and an “insured depository Association” as defined in 12 U.S.C. §§ 1813(b) and 1813(c)(2). The Association stipulates, as such, it is subject to OTS’s authority to issue a directive to take prompt corrective action pursuant to Section 38 of FDIA, 12 U.S.C. § 1831o, and Section 565.7 of the OTS Regulations, 12 C.F.R. § 565.7.
3. The Association consents, by execution of the Stipulation and Consent, to OTS’s issuance by of the accompanying PCA Directive. The Association further agrees to comply with the terms of the PCA Directive.
4. The attached PCA Directive is effective upon issuance. The Association acknowledges that the PCA Directive is enforceable pursuant to Section 5(d) of HOLA, 12 U.S.C. § 1464(d), and Section 8 of FDIA, 12 U.S.C. § 1818.
5. The Association hereby waives the following:
  - (a) its rights to pursue OTS’s administrative process for issuance of the accompanying PCA Directive pursuant to 12 C.F.R. § 565.7;

- (b) any and all rights it might otherwise have pursuant to federal law or regulations (including, but not limited to, 12 U.S.C. § 1831o and 12 C.F.R. § 565.7) in connection with issuance of the PCA Directive;
  - (c) its right to seek judicial review of the PCA Directive, including, but not limited to, any such right provided by Section 8(h) of FDIA, 12 U.S.C. § 1818(h); and
  - (d) its right to challenge or contest in any manner the basis, issuance, validity or enforceability of the PCA Directive or any provision thereof.
9. (a) The laws of the United States of America shall govern the construction and validity of this Stipulation and Consent and the Directive.
- (b) All references to OTS in this Stipulation and Consent and the Directive also shall mean any of the OTS's predecessors, successors, and assigns.
- (c) To the extent this Stipulation and Consent and Directive may be deemed an agreement, the written terms herein and in the accompanying Directive represent the final and sole binding written terms of such agreement with respect to the subject matters addressed therein.
10. The Board of Directors of the Association duly adopted a resolution authorizing the Association to consent to issuance of the PCA Directive and further authorizing and directing the Association's Chairman of the Board and/or Chief Executive Officer, to execute this Stipulation and Consent on behalf of the Association. The directors of the Association who have set their signatures at Appendix A (attached hereto) represent that they voted in favor of the above-mentioned board resolution.

WHEREFORE, the Association, by and through its duly authorized representative, hereby executes this Stipulation and Consent intending to be legally bound hereby.

<p>Savings Bank of Maine</p> <p>By: _____ /s/</p> <p>Richard L. Goodwin Chairman of the Board</p>	<p>Accepted By: Office of Thrift Supervision</p> <p>_____ /s/</p> <p>Michael E. Finn Regional Director</p> <p>Date: See Effective Date on Page 1</p>
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**APPENDIX A TO STIPULATION AND CONSENT**

Re: Savings Bank of Maine

The undersigned members of the Board of Directors of Savings Bank of Maine represent that, on *March 10*, 2010, they voted in favor of a duly adopted resolution of the Board of Directors of the Association that (i) authorizes the Association to stipulate to OTS's issuance of the accompanying Prompt Corrective Action Directive, and (ii) authorizes and directs Richard L. Goodwin having the title of Chairman of the Board of the Association to execute on behalf of the Association the Stipulation and Consent to Prompt Corrective Action Directive.

<p style="text-align: center;">_____ <i>/s/</i></p> <p>Al C. Graceffa, Director</p> <p style="text-align: center;">_____ <i>/s/</i></p> <p>Richard L. Goodwin Chairman of the Board</p> <p style="text-align: center;">_____ <i>/s/</i></p> <p>Daniel F. Hollingdale, Director</p>	<p style="text-align: center;">_____ <i>/s/</i></p> <p>Arthur C. Markos, Director</p> <p style="text-align: center;">_____ <i>/s/</i></p> <p>John Rizzo, Director</p>
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