

{{5-31-02 p.C-5379}}

[¶11,906] **In the Matter of Western State Bank, Waterloo, Nebraska**, Docket No. 02-014b (3-29-02).

A cease and desist order was issued, based on findings by the FDIC that it had reason to believe that respondent had engaged in unsafe and unsound practices.

[.1] **Management—Management Plan Required**

[.2] **Capital—Increase Required**

[.3] **Dividends—Dividends Restricted**

[.4] **Loan Loss Reserve—Establishment of or Increase Required**

[.5] **Assets—Charge-off or Collection**

[.6] **Assets—Risk Position—Written Plan Required**

[.7] **Loans—Extensions of Credit—To Borrowers with Existing Adversely Classified Credits**

[.8] **Loans—Collections, Written Policy Required**

[.9] **Loans—Special Mention**

[.10] **Loan Committee—Membership, Duties**

[.11] **Loan Policy—Preparation or Revision of Policy Required**

[.12] **Technical Exceptions—Correction of Technical Exceptions Required**

[.13] **Funds Management and Liquidity—Preparation or Revision of Funds Management Policy Required**

[.14] **Growth Plan—Minimum Requirements**

[.15] **Profit Plan—Preparation of Plan Required**

[.16] **Budget and Earnings Forecast—Preparation Required**

[.17] **Interest Rates—Deposits—Limitations on Rates Paid**

[.18] **Reports of Condition and Income—Amendment Required**

[.19] **Violations of Law—Correction of Violations Required**

[.20] **Shareholders—Disclosure of Cease and Desist Order Required**

[.21] **Board of Directors—Program to Review Compliance with Cease and Desist Order Required**

**In the Matter of
WESTERN STATE BANK
WATERLOO, NEBRASKA
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST**

FDIC-02-014b

Western State Bank, Waterloo, Nebraska ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law

and regulation alleged to have been committed by the Bank, as well as its rights to a hearing on the charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §1818(b), and having waived that right, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") dated March 21, 2002, with counsel for the Federal Deposit Insurance Corporation ("FDIC"), whereby, solely for the purpose of this proceeding and without admitting or denying the charges of unsafe or unsound banking practices and violations of law and regulation, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Bank had engaged in unsafe and unsound banking practices and violations of law and regulation. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:
[{{5-31-02 p.C-5380}}](#)

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED, that the Bank, its institution-affiliated parties, as that term is defined in section 3(u) of the Act, 12 U.S.C. §1813(u), and its successors and assigns, cease and desist from the following unsafe or unsound banking practices and violations of law and regulation:

1. Operating with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits.
2. Operating with a board of directors that has failed to provide adequate supervision over and direction to the management of the Bank.
3. Operating with an inadequate level of capital protection for the kind and quality of assets held.
4. Operating with an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans and leases held, and/or failing to make provisions for an adequate allowance for possible loan and lease losses.
5. Engaging in hazardous lending and lax collection practices, including, but not limited to:
 - a. the failure to obtain proper loan documentation;
 - b. the failure to obtain adequate collateral;
 - c. the failure to establish and monitor collateral margins of secured borrowers;
 - d. the failure to establish and enforce adequate loan repayment programs;
 - e. the failure to obtain current and complete financial information; and
 - f. other poor credit administration practices.
6. Operating with an excessive level of adversely classified loans, delinquent loans and non-accrual loans.
7. Operating with an inadequate loan policy.
8. Operating with inadequate liquidity in light of the Bank's asset and liability mix.
9. Engaging in practices that produce inadequate operating income and excessive loan losses.
10. Operating with an inadequate funds management and/or liquidity policy.
11. Operating with inadequate policies to monitor and control asset growth.
12. Violating laws and/or regulations, including:
 - a. the legal lending limit restrictions of the State of Nebraska as set forth in section 8-141 of the Revised Statutes of Nebraska ("RSN");
 - b. the collateral evaluation requirements of section 323.3(b) of the FDIC Rules and

Regulations, 12 C.F.R. §323.3(b);

c. the minimum leverage capital requirements of section 325.3 of the FDIC Rules and Regulations, 12 C.F.R. §325.3; and

d. the requirements of section 206.3(d) of the Federal Reserve Board regulations, 12 C.F.R. §206.3(d), requiring annual approval by a bank's board of directors of its policies and procedures regarding interbank liabilities.

IT IS FURTHER ORDERED, that the Bank, its institution-affiliated parties, and its successors and assigns, take affirmative action as follows:

[.1]1. *MANAGEMENT*

For purposes of this Order, the qualifications of management shall be assessed on its ability to comply with the requirements of this ORDER, operate the Bank in a safe and sound manner, comply with applicable laws and regulations, and restore all aspects of the Bank to a safe and sound condition, including asset quality, capital adequacy, earnings, management effectiveness, liquidity, and sensitivity to market risk. Furthermore, "senior executive officer" shall be defined as in section 32 of the Act, 12 U.S.C. §1831(i), and section 303.101(b) of the FDIC Rules and Regulations, 12 C.F.R. §303.101(b). Each member of Bank management shall have qualifications and experience commensurate with his or her duties and responsibilities at the Bank.

(a) Within 60 days from the effective date of this ORDER, the Bank shall have and retain qualified management, who shall be provided the necessary written authority to implement the provisions of this ORDER. At a minimum, such management shall include a new Senior Lending Officer with an appropriate level of lending, collection, and loan supervision experience for the type and quality of the Bank's loan portfolio.

(b) Within 60 days from the effective date of this ORDER, the Bank shall develop and complete a plan ("Management Plan")

[{{5-31-02 p.C-5381}}](#)

for the purpose of providing qualified management for the Bank.

(c) The Management Plan shall include, at a minimum:

(i) identification of both the type and number of officer positions needed to properly manage and supervise the affairs of the Bank;

(ii) identification and establishment of such Bank committees as are needed to provide guidance and oversight to active management;

(iii) evaluation of all Bank officers and staff members to determine whether these individuals possess the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to the Bank's established policies and practices, and restoration and maintenance of the Bank in a safe and sound condition; and

(iv) a plan to recruit and hire any additional or replacement personnel with the requisite ability, experience and other qualifications to fill those officer or staff member positions identified previously in this ORDER.

(d) Upon completion of the Management Plan, it shall be submitted to the Regional Director and the Nebraska Director of Banking and Finance ("State Director") for review and comment. Within 30 days of the receipt of any comments from the Regional Director and after due consideration of any recommended changes, the board of directors of the Bank shall meet, approve the Management Plan and record the approval in its minutes for the meeting. Thereafter, the Bank, its directors, officers and employees shall implement and follow the approved Management Plan. Any subsequent modification of the Management Plan shall require submission to the Regional Director and the State Director for review and comment prior to approval by the Bank.

(e) During the life of this ORDER, the Bank shall notify the Regional Director and the State Director, in writing, of any resignations or terminations of any of the Bank's directors or senior

executive officers.

(f) Prior to the addition of any individual to the board of directors or the employment of any individual as a senior executive officer, the Bank shall comply with the requirements of section 32, supra, and Subpart F of Part 303 of the FDIC Rules and Regulations, 12 C.F.R. §§ 303.100-303.104.

[.2]2. CAPITAL ADEQUACY

For purposes of this ORDER, "capital ratio" means the level of Tier 1 capital as a percentage of total assets. Tier 1 capital and total assets shall be calculated in accordance with Part 325 of the FDIC Rules and Regulations ("Part 325"), 12 C.F.R. Part 325.

(a) Within 60 days from the effective date of this ORDER, the Bank shall increase its Tier 1 Capital by no less than \$350,000.

(b) In addition to the increase in Tier 1 capital required by paragraph 2(a), the Bank shall, within 30 days from the effective date of this ORDER, develop a written plan describing the means and timing by which the Bank shall increase its capital ratio up to or in excess of 6 percent after appropriate entries for an adequate allowance for loan and lease losses ("ALLL") are made in accordance with the requirements of this ORDER. The Bank shall submit its written plan to the Regional Director and the State Director for review and comment. Upon receiving written notification of the approval of the plan from the Regional Director, the Bank shall increase its capital ratio to equal or exceed 6 percent in accordance with the approved plan and shall thereafter maintain its capital ratio at or in excess of 6 percent while this ORDER is in effect.

(c) While this ORDER is in effect, if the capital ratio declines below 6 percent, the Bank shall, within 60 days after the date on which the said ratio so declined, submit a written plan to the Regional Director and the State Director, describing the means and timing by which the Bank shall increase such ratio up to or in excess of 6 percent. Upon receiving written notification of the approval of the plan from the Regional Director, the Bank shall increase its capital ratio to equal or exceed 6 percent in accordance with the approved plan and shall thereafter maintain its capital ratio at or in excess of such level while this ORDER is in effect.

(d) The Bank's board of directors shall maintain in its minutes a written record of all actions taken by the Bank to comply
[{{5-31-02 p.C-5382}}](#)

with the capital requirements of paragraph 2 of this ORDER.

(e) Any increases in Tier 1 capital may be accomplished by the following:

(i) the sale of common stock and non-cumulative perpetual preferred stock;

(ii) the elimination of all or part of the assets classified "Loss" as of October 15, 2001, without incurring loss or liability to the Bank, provided any such collection on a partially charged-off asset shall first be applied to that portion of the asset which was not charged off pursuant to this ORDER;

(iii) the collection in cash of assets previously charged off;

(iv) the direct contribution of cash by the directors and/or the shareholders of the Bank;

(v) any other means acceptable to the Regional Director;

(vi) any combination of the above.

(f) If all or part of the increase in capital required by this paragraph is to be accomplished by the sale of new securities, the board of directors of the Bank shall adopt and implement a plan for the sale of such additional securities, including the voting of any shares owned, or proxies held by or controlled by them in favor of said plan. Should the implementation of the plan involve public distribution of Bank securities, including a distribution limited only to the Bank's existing shareholders, the Bank shall prepare detailed offering materials fully describing the securities

being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and other material disclosures necessary to comply with Federal securities laws. Prior to the implementation of the plan and, in any event, not less than 20 days prior to the dissemination of such materials, the materials used in the sale of the securities shall be submitted to the FDIC Registration and Disclosure Section, 550 17th Street, Room F-6043, N.W., Washington, D.C. 20429, for its review. Any changes to be made in the materials requested by the FDIC shall be made prior to their dissemination. If the Regional Director allows any part of the increase in Tier 1 capital to be provided by the sale of non-cumulative perpetual preferred stock, then all terms and conditions of the issue, including but not limited to, those terms and conditions relative to the interest rate any convertibility factor, shall be presented to the Regional Director for prior approval.

(i) In complying with the provisions of this paragraph, the Bank shall provide to any subscriber and/or purchaser of Bank securities written notice of any planned or existing development or of other changes which are materially different from the information reflected in any offering materials used in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within ten calendar days of the date any material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber of the Bank's original offering materials.

(ii) The capital ratio analysis required by this paragraph shall not negate the responsibility of the Bank and its board of directors for maintaining throughout the year an adequate level of capital protection for the kind, quality and degree of market depreciation of assets held by the Bank.

[.3]3. RESTRICTION ON DIVIDENDS

As of the effective date of this ORDER, the Bank shall not declare or pay any cash dividend, capital distribution or earnings distribution, without the prior written consent of the Regional Director and the State Director.

[.4]4. ALLOWANCE FOR LOAN AND LEASE LOSSES

For purposes of this ORDER and in making the determinations mandated by this paragraph, the board of directors of the Bank shall consider the Federal Financial Institutions Examination Council's Instructions for the Reports of Condition and Income and any analysis of the Bank's ALLL provided by the FDIC.

(a) Within 30 days from the effective date of this ORDER, the Bank shall replenish its ALLL in the amount of at least \$215,000.

(b) Within 60 days from the effective date of this ORDER, Reports of Condition and Income required by the FDIC and filed by the Bank subsequent to October 15, 2001, shall be amended and re-filed if they do

[{{5-31-02 p.C-5383}}](#)

not reflect a provision for loan and lease losses which is adequate in view of the condition of the Bank's loan portfolio, and which, at a minimum, incorporate the adjustments required by this paragraph.

(c) Prior to the submission off all Reports of Condition and Income required by the FDIC after the effective date of this ORDER, the board of directors of the Bank shall review the adequacy of the Bank's ALLL, provide for an adequate ALLL, and accurately report the same. The minutes of the board meeting at which such review is undertaken shall indicate the findings of the review, the amount of increase in the ALLL recommended, if any, and the basis for determination of the amount of ALLL provided.

(d) While this ORDER is in effect, the Bank shall submit to the Regional Director and State Director the analysis supporting the determination of the adequacy of its ALLL. These submissions may be made at such times as the Bank files the progress reports otherwise required by this ORDER.

(e) ALLL entries required by this paragraph shall be made prior to any Tier 1 capital determinations required by this ORDER.

[.5]5. LOAN CHARGE-OFF

As of the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all loans or portions of loans classified "Loss" as of October 15, 2001, that have not been previously collected or charged off. Elimination or reduction of these loans with the proceeds of other Bank extensions of credit is not considered collection for the purpose of this paragraph.

[.6]6. REDUCTION OF SUBSTANDARD ASSETS

For purposes of this ORDER and as used in this paragraph, "reduce" means to collect, charge off, or improve the quality of substandard assets so as to warrant removal of any adverse classification by the FDIC. Furthermore, in developing the plan mandated by this paragraph, the Bank shall, at a minimum, review the financial position of each such borrower, including source of repayment, repayment ability, and alternative repayment sources, and evaluate the available collateral for each such credit, including possible actions to improve the Bank's collateral position.

(a) Within 30 days from the effective date of this ORDER, the Bank shall submit to the Regional Director and the State Director, for review and comment, a written plan to reduce the Bank's risk position in each asset in excess of \$25,000 which is classified "Substandard" in the FDIC's Report of Examination as of October 15, 2001. Within 30 days from the receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of a board of directors' meeting. Thereafter, the bank shall implement and follow this plan.

(b) The plan mandated by this paragraph shall include, but not be limited to, the following:

(i) dollar levels to which the Bank shall reduce each asset within three, six, and 12 months from the effective date of this ORDER, with the Bank's methodology for reduction detailed; and

(ii) provisions for the submission of monthly written progress reports to the Bank's board of directors for review and notation in minutes of the meetings of the board of directors.

[.7]7. PROHIBITION OF ADDITIONAL LOANS TO CLASSIFIED BORROWERS

As of the effective date of this ORDER, the Bank shall not, directly or indirectly, extend any additional credit to, or for the benefit of, any borrower who is already obligated in any manner to the Bank on any extensions of credit (or portion thereof) that has been charged-off the books of the Bank or classified "Loss", so long as such credit remains uncollected. Additionally, the Bank shall not, directly or indirectly, extend any additional credit to, or for the benefit of, any borrower whose loan or other credit has been classified "Substandard" or is listed for Special Mention, and remains uncollected, unless its board of directors adopts a detailed written statement giving the reasons why such potential action is in the best interest of the Bank. A copy of such statement shall be placed in the appropriate loan file and shall be incorporated in the minutes of the applicable board of directors' meeting.

[{{5-31-02 p.C-5384}}](#)

[.8]8. REDUCTION OF DELINQUENCIES

Within 30 days from the effective date of this ORDER, the Bank shall submit to the Regional Director and the State Director, for review and comment, a written plan for the reduction and collection of delinquent loans. Within 30 days from receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of a board of directors' meeting. Thereafter, the Bank shall implement and follow the plan.

(a) The plan shall include, but not be limited to, provisions which:

(i) prohibit the extension of credit for the payment of interest;

(ii) delineate areas of responsibility;

- (iii) establish acceptable guidelines for the collection of delinquent credits;
- (iv) establish dollar levels to which the Bank shall reduce delinquencies within three and six months from the effective date of this ORDER; and
- (v) provide for the submission of monthly written progress reports to the Bank's board of directors for review and notation in minutes of the meetings of the board of directors.

[.9]9. SPECIAL MENTION

Within 60 days from the effective date of this ORDER, the Bank shall collect all deficiencies in the assets listed for "Special Mention" in the FDIC Report of Examination as of October 15, 2001.

[.10]10. LOAN COMMITTEE

As of the effective date of this ORDER, the Bank's loan committee shall meet at least monthly. The loan committee shall include at least two directors who are "independent." An independent director shall be any individual who:

- is not an officer of the Bank, any subsidiary, or any of its affiliated organizations;
- does not own more than 10 percent of the outstanding shares of the Bank;
- is not related by blood or marriage to an officer or director of the Bank or to any shareholder owning more than 10 percent of the Bank's outstanding shares, and who does not otherwise share a common financial interest with such officer, director or shareholder;
- is not indebted to the Bank directly or indirectly, including the indebtedness of any entity in which the individual has a substantial financial interest, in an amount exceeding 10 percent of the Bank's total Tier 1 capital and allowance for loan and lease losses; or
- is deemed to be an independent director for purposes of this ORDER by the Regional Director or the State Director.

(a) The loan committee shall, at a minimum, perform the following functions:

- (i) evaluate, grant and/or approve loans in accordance with the Bank's loan policy as amended to comply with this ORDER;
- (ii) provide a thorough written explanation of any deviations from the loan policy which shall:
 - (A) address how such exceptions are in the Bank's best interest;
 - (B) be included in the minutes of the corresponding committee meeting; and
 - (C) be maintained in the borrower's credit file.

(iii) review and monitor the status of repayment and collection of overdue and maturing loans, of all loans classified "Substandard" or "Doubtful" in the FDIC's Report of Examination as of October 15, 2001, or subsequent regulatory examination, and of all loans included on the Bank's internal watch list;

(iv) review and give prior written approval for all advances, renewals, or extensions of credit to any borrower or the borrower's related interests when the aggregate volume of credit extended to the borrower and its "related interests", as such term is defined in section 215.2(n) of Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. §215.2(n), exceeds \$50,000; and

(v) maintain written minutes of the committee meetings, including a record of the review and status of the loans considered.

(b) All loan committee minutes shall be made available to the Bank's board of directors at their next scheduled meeting.

[.11]11. LOAN POLICY

Within 60 days from the effective date of this ORDER, and annually thereafter, the board of directors of the Bank shall review
[{{5-31-02 p.C-5385}}](#)

the Bank's loan policy and procedures for adequacy and, based upon this review, shall make all appropriate revisions to the policy necessary to strengthen lending procedures and abate additional loan deterioration.

(a) The initial revisions to the Bank's loan policy required by this paragraph, at a minimum, shall include provisions:

(i) establishing officer lending limits and limitations on the aggregate level of credit to any one borrower which can be granted without the prior approval of the Bank's loan committee;

(ii) establishing review and monitoring procedures to ensure that all lending personnel are adhering to established lending procedures and that the directorate is receiving timely and fully documented reports on loan activity, including any deviations from established policy;

(iii) requiring that all extensions of credit originated or renewed by the Bank:

(A) be supported by current credit information and collateral documentation, including lien searches and the perfection of security interests;

(B) have current financial information, profit and loss statements or copies of tax returns, and cash flow projections, which information shall be maintained throughout the term of the loan;

(C) have a clearly defined and stated purpose and a predetermined and realistic repayment source and schedule;

(iv) requiring prior written approval by the Bank's loan committee for any extension of credit, renewal, or disbursement in an amount which, when aggregated with all other extensions of credit to that person and its "related interests", as such term is defined in section 215.2(n) of Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. §215.2(n), exceeds \$50,000;

(v) incorporating limitations on the amount that can be loaned in relation to established collateral values, including the requirement that the source of the valuations be identified and that such collateral valuations be completed prior to the disbursement of loan proceeds and be performed on a periodic basis over the term of the loan;

(vi) establishing limitations on the maximum volume of loans in relation to total assets;

(vii) requiring the establishment and maintenance of a loan grading system and internal loan watch list;

(viii) requiring accurate reporting of past due loans to the loan committee on at least a monthly basis;

(ix) establishing standards for collection efforts for past due loans;

(x) establishing guidelines for timely recognition of loss through charge-off;

(xi) requiring loan committee review and monitoring of the status of repayment and collection of overdue and maturing loans, as well as all loans classified "Substandard" and "Doubtful" in regulatory examination reports;

(xii) requiring a written plan to lessen the risk position in each line of credit identified as a problem credit on the Bank's internal loan watch list;

(xiii) prohibiting the extension of a maturity date, advancement of additional credit or renewal of a loan to a borrower whose obligations to the Bank were classified "Substandard," "Doubtful," or

"Loss," whether in whole or in part, in regulatory reports of examination, without the full collection in cash of accrued and unpaid interest, unless the loans are well secured and/or are adequately supported by current and complete financial information, and the renewal or extension has first been approved in writing by a majority of the Bank's board of directors;

(xiv) requiring a nonaccrual policy in accordance with the Federal financial Institutions Examination Council's Instructions for the Consolidated Reports of Condition and Income;

(xv) prohibiting the capitalization of interest or loan-related expenses unless the board of directors provides, in writing, a detailed explanation of why said deviation is in the best interest of the Bank;

(xvi) establishing limitations on the maximum amount of an overdraft to be paid without the prior written approval of the Bank's loan committee;

(xvii) requiring that collateral appraisals be completed prior to the making of secured extensions of credit, and that no

[{{5-31-02 p.C-5386}}](#)

less than annual collateral valuations be performed for all secured loans;

(xviii) establishing review and monitoring procedures for compliance with the FDIC's regulation on appraisals, 12 C.F.R. Part 323; and

(xix) developing methodology to consistently determine the ALLL in accordance with generally accepted accounting principles, the FDIC's December 21, 1993, Policy statement on the Allowance for Loan and Lease Losses and FDIC's July 2, 2001, Policy Statement on Allowance for Loan and Lease Loss Methodologies and Documentation for Banks and Savings Institutions.

(b) The revised written loan policy shall be submitted to the Regional Director and the State Director, for review and comment, before its adoption. Within 30 days from the receipt of any comments from the Regional Director, and after due consideration of any recommended changes, the board of directors shall approve the written loan policy and any subsequent modification thereto, which approval shall be recorded in the minutes of a board of directors' meeting. Thereafter, the Bank shall implement and follow the amended written loan policy.

[.12]12. *TECHNICAL EXCEPTIONS*

Within 60 days from the effective date of this ORDER, the Bank shall correct the technical exceptions listed in the FDIC Report of Examination as of October 15, 2001. "Correct" shall include documented attempts to collect missing information. The Bank shall initiate and implement a program to ensure its credit files contain complete, adequate and current documentation.

[.13]13. *LIQUIDITY PLAN*

Within 60 days from the effective date of this ORDER, the Bank shall submit to the Regional Director and the State Director, for review and comment, a written plan addressing liquidity and asset/liability management. Within 30 days from the receipt of all such comments from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of a board of directors' meeting. Thereafter, the Bank shall implement and follow the plan. Annually during the life of this ORDER, the Bank shall review this plan for adequacy and, based upon such review, shall make appropriate revisions to the plan that are necessary to maintain adequate provisions to meet the Bank's liquidity needs.

(a) The initial plan shall include, at a minimum, provisions:

(i) conforming with the Federal Financial Institutions Enforcement Council's Joint Policy Statement on Interest Rate Risk;

(ii) establishing prudent limitations on the total loan to total deposit ratio;

(iii) establishing a desirable range for dependence on potentially volatile core liabilities;

(iv) identifying the source and use of borrowed and/or non-core funds;

- (v) establishing a method to measure/monitor rate sensitivity;
- (vi) establishing an acceptable range for the relationship between rate sensitive assets and rate sensitive liabilities;
- (vii) requiring the retention of securities and/or other identified categories of investments that can be liquidated within one day in amounts sufficient (as a percentage of the Bank's total assets) to ensure the maintenance of the Bank's liquidity posture at a level consistent with short- and long-term liquidity objectives;
- (viii) establishing contingency plans to improve liquidity to the level established in the Bank's liquidity policy; and
- (ix) establishing parameters for borrowing federal funds, including limits concerning dollar amounts and duration and specifying authorized sources/lenders.

[.14]14. GROWTH PLAN

For the purpose of this paragraph, "total assets" shall be defined as in the Federal Financial Institutions Examination Council's Instructions for the Consolidated Reports of Condition and Income.

(a) During the life of this ORDER, the Bank shall not initiate a plan to grow its total assets over the total amount reported in the Bank's Report of Condition and Income as of December 31, 2001, without providing a growth plan to the Regional Director and the State Director at least 30 days prior to its implementation.

(b) The growth plan shall include the funding source to support the projected growth, as well as the anticipated use of funds,
[{{6-30-02 p.C-5387}}](#)

and shall not be implemented without prior written notice to the Regional Director and the State Director.

[.15][.16]15. PROFIT PLAN AND BUDGET

The plan and budget required by this paragraph shall contain formal goals and strategies, consistent with sound banking practices, to reduce discretionary expenses and to improve the Bank's overall earnings, as well as a description of the operating assumptions that form the basis for major projected income and expense components.

(a) Within 60 days from the effective date of this ORDER, the Bank shall submit to the Regional Director and the State Director, for review and comment, a written profit plan and a realistic/comprehensive budget for all categories of income and expense for calendar year 2002. Within 30 days from the receipt of any comments from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the plan and budget, which approval shall be recorded in the minutes of the board of directors' meeting. Thereafter, the Bank shall implement and follow the plan and budget.

(b) Within 30 days from the end of each calendar quarter following completion of the profit plan and budget required by this paragraph, the Bank's board of directors shall evaluate the Bank's actual performance against them, record the results of the evaluation, and note any actions taken by the Bank in the minutes of the board of directors' meeting at which such evaluation is undertaken. A written profit plan and budget shall be prepared for each calendar year for which this ORDER is in effect. A copy of the profit plan and budget shall be submitted to the Regional Director and the State Director for review and comment within 30 days of the end of each year.

[.17]16. RESTRICTION ON INTEREST

For purposes of this ORDER, the terms "effective yield" and "market area" have the same meaning as in section 337.6(b)(4) of the FDIC Rules and Regulations, 12 C.F.R. §337.6(b)(4).

(a) While this ORDER is in effect, the Bank shall not, without the prior written consent of the Regional Director, accept, renew, or roll over deposits bearing an interest rate that exceeds the

prevailing effective yields on insured deposits of comparable maturity in the Bank's normal market area.

(b) The requirement in paragraph 16(a) of this ORDER shall not apply to interest rates on deposits accepted before, and not renewed or renegotiated after, the effective date of this ORDER.

(c) While this ORDER is in effect, the Bank shall maintain complete and accurate records sufficient to demonstrate compliance with the requirements of this paragraph 16 and shall promptly provide copies of such records for review by the Regional Director upon request. Such records shall include, but not be limited to, the written analysis by which the Bank determined its normal market area and the methodology and analysis by which it surveyed and determined the prevailing effective yields on insured deposits in that market area.

[.18]17. CALL REPORTS

Within 30 days from the effective date of this ORDER, the Bank shall review all Consolidated Reports of Condition and Income filed with the FDIC on and after October 15, 2001, and shall file with the FDIC amended Consolidated Reports of Condition and Income which accurately reflect the financial condition of the Bank as of the date of each such Report. In addition to the above and during the life of this ORDER, the Bank shall file with the FDIC Consolidated Reports of Condition and Income that accurately reflect the financial condition of the Bank as of the reporting period. In particular such Reports shall include any adjustment in the Bank's books made necessary or appropriate as a consequence of any State or FDIC Examination of the Bank during that reporting period.

[.19]18. VIOLATIONS OF LAW AND REGULATION

Within 60 days from the effective date of this ORDER, the Bank shall:

(a) eliminate and/or correct all violations of law and regulation listed in the FDIC's Report of Examination as of October 15, 2001; and

(b) implement procedures to ensure future
[{{6-30-02 p.C-5388}}](#)

compliance with all applicable laws and regulations.

[.20]19. DISCLOSURE TO SHAREHOLDERS

Following the effective date of this ORDER, the Bank shall send to its shareholders, or otherwise furnish a description of this ORDER, in conjunction with the Bank's next shareholder communication, and in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe the ORDER in all material respects. The description and any accompanying communication, notice or statement shall be sent to the FDIC Registration and Disclosure Section, 550 17th Street, N.W., Room F-6043, Washington, D.C. 20429 for review at least 20 days prior to dissemination to shareholders. Any requests for changes made by the FDIC shall be made prior to dissemination of the description, communication, notice or statement.

[.21]20. COMPLIANCE WITH ORDER

Within 30 days from the effective date of this ORDER, the Bank's board of directors shall have in place a program that will provide for monitoring of the Bank's compliance with this ORDER. Following the adoption of said program, the Bank's board of directors shall review the Bank's compliance with this ORDER and record its review in the minutes of each regularly scheduled board of directors' meeting.

21. PROGRESS REPORTS

Within 30 days from the end of each calendar quarter following the effective date of this ORDER the Bank shall furnish written progress reports to the Regional Director and the State Director, signed by each member of the Bank's board of directors, detailing the form and manner of any actions taken to secure compliance with this ORDER. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has, in writing, released the Bank from making further reports.

The effective date of this ORDER shall be ten days after its issuance by the FDIC.

The provisions of this ORDER shall be binding upon the Bank, its institution-affiliated parties, and any successors and assigns thereof.

The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision has been modified, terminated, suspended, or set aside by the FDIC.

Issued Pursuant to Delegated Authority

Dated: March 29, 2002.

Last Updated 6/6/2003

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