

[{{2-28-93 p.C-1685}}](#)

[¶10,385] **In the Matter of Exchange Bank and Trust Company, Natchitoches, Louisiana, Docket No. FDIC-91-214b (11-25-91).**

Bank to cease and desist from such unsafe or unsound practices as operating with inadequate capital; operating with an excessive level of poor quality assets; operating with an inadequate loan valuation reserve; following hazardous lending and lax collection practices; operating in such a manner as to produce low earnings; operating in violation of applicable laws or regulations; operating with a board of directors which has failed to provide adequate supervision over the Bank. *(This order was terminated by order of the FDIC dated 12-22-92; see ¶15,577.)*

- [\[.1\] Management—Qualifications—Review](#)
- [\[.2\] Management—Management Plan—Minimum Requirements](#)
- [\[.3\] Capital—Tier 1 Capital—Increase/Maintain—Methods](#)
- [\[.4\] Allowance for Loan and Lease Losses—Establish/Maintain](#)
- [\[.5\] Assets—Adversely Classified—Eliminate/Reduce](#)
- [\[.6\] Loans—Extensions of Credit—Existing Borrowers—Curtail](#)
- [\[.7\] Loan Policy—Written Revision—Minimum Requirements](#)
- [\[.8\] Loans—Internal Review System](#)
- [\[.9\] Violations of Law—Eliminate/Correct](#)
- [\[.10\] Reports of Condition and Income—Amendment Required](#)
- [\[.11\] Dividends—Restricted](#)
- [\[.12\] Shareholders—Disclosure—Cease and Desist Order](#)
- [\[.13\] Compliance Reports—Frequency](#)

In the Matter of

**EXCHANGE BANK AND TRUST
COMPANY,
NATCHITOCHES, LOUISIANA
NATCHITOCHES, LOUISIANA
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST**

The Federal Deposit Insurance Corporation ("FDIC"), on July 23, 1991, issued to Exchange Bank and Trust Company, Natchitoches, Louisiana, Natchitoches, Louisiana ("Bank"), a NOTICE OF CHARGES AND OF HEARING ("NOTICE"), pursuant to section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. 1818(b)(1). The NOTICE charges the Bank with having engaged in unsafe or unsound banking practices and violations of law and/or regulations.

The Bank and counsel for the FDIC thereafter executed a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT"), dated November 4, 1991, whereby, solely for the purpose of this proceeding and without admitting or denying the allegations in the NOTICE, 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 or unsound banking practices and had committed violations of law and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED that the Bank, its directors, officers, employees, agents, successors, assigns, and other institution-affiliated parties of the Bank, cease and desist from the following unsafe or unsound banking practices and violations:

- (a) operating with inadequate capital;
- (b) operating with a large volume of poor quality assets;
- (c) operating with an inadequate loan valuation reserve;

- (d) engaging in hazardous lending and collection practices;
- (e) operating in such a manner as to produce low earnings;
- (f) operating in violation of Part 323 of the FDIC's Rules and Regulations, 12 C.F.R. Part 323;
- (g) operating with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits; and
- (h) operating with a board of directors which has failed to provide adequate supervision over and direction to the active management of the Bank.

IT IS FURTHER ORDERED that the Bank take affirmative action as follows:

[.1] 1. (a) During the life of this ORDER, the Bank shall have management qualified to restore the Bank to a sound condition. Such management shall include a chief executive officer and an experienced senior lending officer responsible for supervising the Bank's overall lending function. The chief executive officer and the senior lending official may be the same individual.

(b) Present management shall be assessed on its ability to:

- (i) Comply with the requirements of this ORDER;
- (ii) Improve and thereafter maintain the Bank in a safe and sound condition, including asset quality, capital adequacy, liquidity adequacy, and earnings adequacy; and
- (iii) Comply with all applicable State and Federal laws and regulations.

(c) (i) During the life of this ORDER, the Bank shall notify the Regional Director of the Memphis Regional Office, Bill C. Houston ("Regional Director"), and the Commissioner of Financial Institutions for the State of Louisiana ("Commissioner") in writing of any resignations and/or terminations of any members of its board of directors and/or any of its officers.

(ii) The Bank shall comply with section 32 of the Act, 12 U.S.C. 1831i, which includes a requirement that the Bank shall notify the Regional Director and the Commissioner in writing at least 30 days prior to the individual assuming the new position or of any additions to its board of directors and senior executive officers.

(d) Within 30 days from the effective date of this ORDER, the board of directors shall establish a committee of the board of directors with the responsibility to ensure that the Bank complies with the provisions of this ORDER ("Compliance Committee"). The Compliance Committee shall submit a written report monthly to the entire board of directors setting forth in detail the actions taken to comply with each provision of this ORDER and the results of those actions. A copy of the report and any discussion relating to the report or the ORDER shall be included in the minutes of the board of directors. Noting contained herein shall diminish the responsibility of the entire board of directors to ensure compliance with the provisions of this ORDER.

[.2] 2. (a) Within 90 days from the date of this ORDER, the board of directors shall review and make a written report ("Management Report") on the Bank's management needs in the lending area. The Management Report shall incorporate an analysis of the Bank's management and staffing requirements and shall, at a minimum:

- (i) Identify both the number and type of positions needed to properly supervise the Bank's lending functions, giving appropriate consideration to the Bank's loan volume, customer base and the number of problem credits.
- (ii) Provide a clear and concise description of the general duties and responsibilities for lending officers and their support staff.
- [[1-31-92 p.C-1687]](iii) Identify the skills, experience and pay required for each position.
- (iv) Provide an evaluation of the Bank's senior management and lending officials, indicating whether bank officials possess the necessary lending and collection experience and qualifications required to adequately perform present and anticipated duties.
- (v) Establish a plan to recruit, hire and/or replace personnel based on ability and experience.
- (vi) Establish a plan providing for periodic evaluation of each individual's job performance.
- (vii) Provide for periodic review of Bank's management and updating of lending policies and procedures.

(b) The board of directors shall obtain the services of an outside consultant(s), acceptable to the FDIC, who is knowledgeable in the area of lending, collections and personnel evaluation to assist the board of directors in reviewing the Bank's management needs and preparing the Management Report. The acceptability of the consultant(s) shall be based on the consultant's ability to advise the Bank in each of the areas identified in Paragraph 2(a).

(c) Within 120 days of the effective date of this ORDER, the board of directors, with the assistance of the outside consultant(s), shall prepare a written plan of implementation ("Plan") addressing the findings of the Management Report. The plan shall specify the actions to be taken by the board of directors and the time frames for each action.

(d) A copy of the Management Report and Plan shall be submitted to the Regional Director for review and comment. Within 30 days from receipt of any comment, and after consideration of such comment, the board of directors shall approve the Management Report and Plan which approval shall be recorded in the minutes of the meeting of the board of directors. It shall remain the responsibility of the board to fully implement the Plan within specified time frames. In the event the Plan, or any portion thereof, is not implemented, the board shall immediately advise the Regional Director, in writing, of specific reasons for deviating from the Plan.

[.3] 3. (a) Within 180 days from the effective date of this ORDER, the Bank shall have adjusted Tier 1 capital equal to or greater than six (6.0) percent of the Bank's adjusted Part 325 total assets. Thereafter, during the life of this ORDER, the Bank shall maintain adjusted Tier 1 capital equal to or greater than six (6.0) percent of the Bank's adjusted Part 25 total assets.

(b) Any increase in Tier 1 capital necessary to meet the ratio required by Paragraph 3(a) of this ORDER may be accomplished by the following:

- (i) The sale of new securities in the form of common stock or qualified preferred stock; or
- (ii) The direct contribution of cash by the directors, shareholders, or parent bank holding company of the Bank; or
- (iii) Any other method acceptable to the FDIC.

(c) If all or part of any increase in Tier 1 capital required by Paragraph 3(a) of this ORDER is 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 or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare 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 any other material disclosures necessary to comply with the 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 plan and any materials used in the sale of the securities shall be submitted to the FDIC, Registration and Disclosure Unit, Washington, D.C. 20429. Any changes requested to be made in the plan or materials by the FDIC shall be made prior to their dissemination. If any part of the increase in primary capital is provided by the sale of preferred stock, then all [{{1-31-92 p.C-1688}}](#) terms and conditions of the issue, including but not limited to those terms and conditions relative to interest rate and any convertibility factor, shall be presented to the Regional Director for prior approval.

(d) In complying with the provisions of Paragraph 3 of this ORDER, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities written notice of any planned or existing development or 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 10 days from the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every subscriber and/or purchaser of the Bank's securities who received or was tendered the information contained in the Bank's original offering materials.

(e) For purposes of this ORDER the terms "Tier 1 capital" and "Part 325 total assets" shall have the meanings ascribed to them in Part 325 of the FDIC's Rules and Regulations, respectively subsections 325.2(m) and 325.2(n), 56 Fed. Reg. 10154, 10161 (1991) (to be codified at 12 C.F.R. 325.2(m) and (n)). The "Analysis of Capital" schedule on page 3-a of the FDIC Report of Examination provides the method for determining the ratio of adjusted Tier 1 capital to adjusted part 325 total assets as required by this ORDER.

(f) The Insured Institution shall not lend funds directly or indirectly, whether secured or unsecured, to any purchaser of insured institution stock or to any investor by any other means for any portion of any increase in Tier 1 capital required herein.

[.4] 4. (a) Within 30 days from the effective date of this Order, the Bank shall establish and shall thereafter maintain, through charges to current operating income, an adequate valuation reserve for loan and lease losses. In determining the adequacy of the valuation reserve for loan and lease losses, the

board of directors of the Bank shall at a minimum consider the following:

- (i) Prevailing instructions contained in the Federal Financial Institutions Examination Council booklet entitled "Instructions-Consolidated Reports of Condition and Income";
- (ii) The volume and mix of the existing loan portfolio, including the volume and severity of non-performing loans and adversely classified credits, as well as an analysis of net charge-offs experienced on previously adversely classified loans;
- (iii) The extent to which loan renewals and extensions are used to maintain loans on a current basis and the degree of risk associated with such loans;
- (iv) The trend in loan growth, including any rapid increase in loan volume within a relatively short time period;
- (v) General and local economic conditions affecting the collectability of the bank's loans;
- (vi) Previous loan loss experience by loan type, including the trend of net charge-offs as a percent of average loans over the past several years;
- (vii) Off balance sheet credit risks;
- (viii) The overall risk associated with each concentration of credit together with the degree of risk associated with each related individual borrower; and
- (ix) Any other factor appropriate in determining future valuation reserves.

(b) Prior to the submission of any Report of Condition or Report of Income, the board of directors of the Bank shall review the adequacy of the Bank's valuation reserve for loan and lease losses. The minutes of the board meetings at which each review is undertaken shall indicate the results of the review, the amount of any increase to the reserve, and the basis for the amount of the valuation reserve. The criteria for the review shall be as set forth in Paragraph 4(a).

(c) Notwithstanding the provisions of Paragraph 4(a) and 4(b) above, the Bank shall achieve, within 30 days of the effective date of this ORDER, a valuation reserve for loan and lease losses, after charge off of loans classified "Loss" as required in Paragraph 5(a) below, of not less than \$1,200,000.

(d) In the event that, after subsequent examinations and/or visitations by the Regional Director and/or Commissioner, it is determined that the Bank's valuation reserve for loan and lease losses is inadequate, the Bank shall amend its Consolidated Reports of Condition and Income in accordance with Paragraph 10.

(e) The requirements of Paragraph 4(c) above are not to be construed as a standard for future operations.

[.5] 5. (a) Within 10 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets classified "Loss" as of April 19, 1991, that have not been previously collected or charged off. Reduction of these assets through proceeds of other loans made by the bank is not considered collection for the purpose of this paragraph.

(b) Within 90 days from the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director for review and approval a written plan of action directed at lessening the Bank's risk position in each line of credit or other asset which was classified "Substandard" as of April 19, 1991 and which aggregated \$100,000 or more. Such plan shall include but not be limited to, the following:

- (i) Target dollar levels to which the Bank will reduce each line of credit or other asset within three months, six months, and twelve months from the effective date of this ORDER; and
- (ii) Provisions for the submissions of monthly written progress reports under this Paragraph 5 to the Bank's board of directors for review and recordation in the board minutes.

(c) As used in Paragraph 5 the word "reduce" means (1) to collect, (2) to charge off, or (3) to sufficiently improve the quality of assets adversely classified to warrant removing any adverse classification, as determined by the FDIC.

[.6] 6. (a) Beginning with the effective date of this ORDER, the Bank shall not make any further extension of credit to any borrower whose loans are charged off, in whole or in part, or are adversely classified "Loss" as of April 19, 1991 and remain uncollected.

(b) Beginning with the effective date of this ORDER, the Bank shall not make any further extension of credit to any borrower whose loans in the aggregate exceed \$50,000 and are adversely classified "Substandard" as of April 19, 1991 unless such extension has been approved by a majority of the Bank's board of directors in advance and the Bank's board of directors has detailed in the written minutes of the meeting how it has affirmatively determined all of the following: (i) that the extension of credit is in full compliance with the Bank's loan policy; (ii) that it is necessary to protect the Bank's interest or that the extension of credit is adequately secured; (iii) that based upon credit analysis the customer is deemed to

be creditworthy; and (iv) that all necessary loan documentation is on file, including current financial and cash flow information and satisfactory appraisal, title, and lien documents. The minutes shall also include the following information about the extension of credit: (i) the amount adversely classified as of April 19, 1991; (ii) the current balance; (iii) the amount of credit requested; (iv) a description of the collateral and its value securing the credit; and (v) a full description of the documentation presented to the board of directors including the date of the borrower's most recent financial information and the borrower's current income or cash flow data; provided, however, that insofar as extensions or renewals of existing substandard credits are concerned, such deviations as are necessary to accomplish a "workout," as acknowledged in the board minutes, shall not be deemed a violation of these provisions.

(c) Beginning with the effective date of this ORDER, the Bank shall not renew any loan without the full collection of interest due. The issuance of separate notes to the borrowing customer or a third party, the proceeds of which pay interest due, shall not satisfy the requirements of this paragraph unless these separate notes receive prior board approval in the same manner as outlined in Paragraph 6(b).

[.7] 7. (a) Within 60 days from the effective date of this ORDER, the Bank shall review its written loan policy and make whatever changes may be necessary to provide for the safe and sound administration of all aspects of the lending and collection function. Such policy shall provide for identification of primary and secondary sources of repayment, the establishment of and adherence to realistic amortization programs, and proper and adequate loan documentation or evidence thereof as is [{{1-31-92 p.C-1690}}](#) required by sound banking practices before disbursement of the loan proceeds to borrowers or before renewal or extensions of existing loans. Evidence of the review and establishment of procedures to ensure compliance with the loan policy shall be reduced to writing. The policy and its implementation shall be in a form and manner acceptable to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

(b) Within 60 days from the effective date of this ORDER, the Bank's board of directors shall establish and appoint a loan committee to review and approve in advance all extensions of credit and/or renewals that, when aggregated with all other extensions of credit to that borrower, either directly or indirectly, exceed or would exceed \$100,000. The review should include financial, income, and cash flow information, collateral values and lien information, repayment terms, past performance by the borrower, the purpose of the extension, and whether the extension complies with the Bank's loan policy and applicable laws, rules and regulations. The loan committee shall meet at least twice monthly and shall maintain written minutes which detail the information reviewed by the loan committee, its conclusions, approvals, denials, recommendations, and reasons for the approval of any credit which does not fully comply with the review requirements set forth in this paragraph. At least monthly, the loan committee shall submit its written minutes to the board of directors.

(c) Beginning with the effective date of this ORDER, the Bank shall initiate and implement a program to strengthen its credits files and correct the technical exceptions as detailed on pages 2-d through 2-d-3 of the April 19, 1991 Report of Examination. In all future operations, the Bank shall ascertain that all documents or evidence thereof, properly completed, are obtained before credit is extended.

[.8] 8. (a) Within 30 days of the effective date of this ORDER, the board shall establish an internal loan review and grading system ("System") to periodically review the Bank's loan portfolio and identify and categorize problem credits. At a minimum, the System shall provide for:

- (i) The identification of the overall quality of the loan portfolio;
- (ii) The identification and amount of each delinquent loan;
- (iii) An identification or grouping of loans that warrant the special attention of management;
- (iv) For each loan identified, a statement of the amount and an indication of the degree of risk that the loan will not be fully repaid according to its terms and the reason(s) why the particular loan merits special attention;
- (v) An identification of credit and collateral documentation exceptions;
- (vi) The identification and status of each violation of law, rule or regulation;
- (vii) An identification of loans not in conformance with the Bank's lending policy, and exceptions to the Bank's lending policy;
- (viii) An identification of insider loan transactions; and
- (ix) A mechanism for reporting periodically, no less than quarterly, to the board of directors on the status of each loan identified and the action(s) taken by management.

(b) A copy of the reports submitted to the board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be kept with the minutes of the board of directors.

[.9] 9. Within 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and regulations which are set out on page 6-b of the Report of Examination of the Bank as of April 19, 1991. In addition, the Bank shall institute controls and procedures to assist in compliance with all applicable laws and regulations.

[.10] 10. (a) 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 March 31, 1991 and shall amend the file with the FDIC amended Consolidated Reports of Condition and Income which accurately reflect the financial conditions of the Bank as of the date of each such Report.

(b) In addition to the above and during the life of this ORDER, the Bank shall [{{1-31-92 p.C-1691}}](#) file with the FDIC Consolidated Reports of Condition and Income which 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.

[.11] 11. While this ORDER is in effect, the Bank shall not declare or pay any cash dividends on its capital stock without the prior written approval of the Regional Director and the Commissioner.

[.12] 12. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER, (i) in conjunction with the Bank's next shareholder communication, and also (ii) 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, statement, or notice shall be sent to the FDIC, Registration and Disclosure Unit, Washington, D.C. 20429 for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

[.13] 13. On the fifteenth day of the second month following the effective date of this ORDER, and on the fifteenth day of every third month thereafter, the Bank shall furnish written progress reports to the Regional Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has released the Bank in writing from making further reports.

The provisions of this ORDER shall be binding upon the Bank, its directors, officers, employees, agents, successors, assigns, and other institution-affiliated parties of the Bank.

This ORDER shall become effective 10 days from the date of its issuance.

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

Pursuant to delegated authority.

Dated: November 25, 1991