

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

AND

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

SPRINGFIELD, ILLINOIS

In the Matter of)	
)	
METROPOLITAN CAPITAL BANK & TRUST)	CONSENT ORDER
CHICAGO, ILLINOIS)	
)	FDIC-18-0231b
(STATE CHARTERED INSURED)	2019-DB-01
NONMEMBER BANK))	
)	

Metropolitan Capital Bank & Trust, Chicago, Illinois (“Bank”), having been advised of its rights to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law or regulation alleged to have been committed by the Bank, and of its rights to a hearing on the charges under 12 U.S.C. § 1818(b), and under 38 Ill. Adm. Code Part 392 regarding hearings before the Illinois Department of Financial and Professional Regulation, Division of Banking (“Division”), and having waived those rights, entered into a STIPULATION TO THE ISSUANCE OF A CONSENT ORDER (“STIPULATION”) with representatives of the Federal Deposit Insurance Corporation (“FDIC”) and the Division, dated July 25, 2019, 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 or regulation relating to weaknesses in capital, asset quality, management, and liquidity, the Bank consented to the issuance of a CONSENT ORDER (“ORDER”) by the FDIC and the Division.

The FDIC and the Division have determined to accept the STIPULATION.

Having also determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and Section 48(6) of the Illinois Banking Act, 205 ILCS 5/48(6), have been satisfied, the FDIC and the Division HEREBY ORDER that the Bank; its institution affiliated parties, as that term is defined in Section 3(u) of the Act, 12 U.S.C. § 1818(u), and its successors and assigns, take affirmative action as follows:

MANAGEMENT

1. (a) While this ORDER is in effect, the Bank shall have and retain qualified management. Management shall be provided the necessary written authority to implement the provisions of this ORDER. The qualifications of management shall be assessed on its ability to:
 - (i) Comply with the requirements of this ORDER;
 - (ii) Operate the Bank in a safe and sound manner;
 - (iii) Comply with applicable laws, rules, and regulations; and
 - (iv) Restore all aspects of the Bank to a safe and sound condition, including capital adequacy, asset quality, management effectiveness, earnings, liquidity, and sensitivity to interest rate risk.

(b) During the life of this ORDER, prior to the addition of any individual to the Bank's board of directors ("Board") or the employment of any individual as a senior executive officer, the Bank shall request and obtain the FDIC's and Division's written approval. For purposes of this ORDER, "senior executive officer" is 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).

(c) Within 90 days from the effective date of this ORDER, the Bank shall hire a chief financial officer with the requisite ability, experience, and other qualifications to fill such position. For the purposes of this ORDER, the chief financial officer shall be considered a senior executive officer.

BOARD PARTICIPATION

2. (a) While this ORDER is in effect, the Board shall increase its participation in the affairs of the Bank, be responsible for the approval of sound policies and objectives, and for the supervision of all of the Bank's activities, consistent with the role and expertise commonly expected for directors of banks of comparable size and complexity. This participation shall include meetings held no less frequently than the current monthly schedule, at which, at a minimum, the following areas shall be reviewed and approved: reports of income and expenses; new, overdue, renewal, insider, charged off, and recovered loans; investment activity; adoption or modification of operating policies; individual committee reports; audit reports; internal control reviews including management's responses; reconciliation of general ledger accounts; and compliance with this ORDER. Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

(b) Within thirty (30) days from the effective date of this ORDER, the Board shall develop, adopt, and implement a program that will provide for monitoring of the Bank's compliance with this ORDER.

CAPITAL

3. (a) As of the effective date of this ORDER, the Bank shall have and maintain its level of Tier 1 capital as a percentage of its total assets ("leverage ratio") at a minimum of nine (9%) percent and its level of qualifying total capital as a percentage of risk-weighted assets ("total capital ratio") at a minimum of thirteen (13 %) percent. For purposes of this ORDER, Tier 1 capital, qualifying total capital, total assets, and risk-weighted assets shall be calculated in accordance with Part 324 of the FDIC Rules and Regulations ("Part 324"), 12 C.F.R. Part 324.

(b) If, while this ORDER is in effect, the Bank increases capital by the sale of new securities, the Board 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 twenty (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, N.W., Washington,

D.C. 20429 and to Division at their Chicago Office, located at 100 West Randolph, 9th Floor, Chicago, IL 60601 for their review. Any changes requested to be made in the materials by the FDIC or the Division shall be made prior to their dissemination.

(c) 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 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 (10) 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.

(d) Should the Bank be unable to reach the required capital levels within the time frames specified in subparagraph (a) above, or be unable to maintain those levels, then within ninety (90) days, the Bank shall develop, adopt, and implement a written plan that will cause the to promptly meet the capital requirements of this paragraph. A copy of the plan required by this paragraph shall be submitted to, and determined to be acceptable by, the Regional Director and the Division.

LOSS CHARGE-OFF

4. As of the effective date of this ORDER, the Bank shall charge off from its books and records any loan classified as "Loss" in the Report of Examination dated May 7, 2018 ("ROE").

RESTRICTION ON ADVANCES TO ADVERSELY CLASSIFIED BORROWERS

5. (a) While this ORDER is in effect, the Bank shall not, without prior Board approval, renew or extend existing extensions of credit (directly or indirectly) or advance any additional credit to, or for the benefit of, any borrower who has an obligation with the Bank that has been, in whole or in part, charged off or adversely classified “Substandard” or “Doubtful”, either internally or by either of the FDIC or the Division in the ROE or in any future Reports of Examination or Visitations subsequently issued by the FDIC or the Division.

(b) Prior to the renewal, extension, or advancement of any additional credit pursuant to this provision, such credit shall be approved by a majority of the Board or a designated committee thereof, who shall certify in writing as follows:

- (i) Why the failure of the Bank to renew, extend, or advance such credit would be detrimental to the best interest of the Bank;
- (ii) That the Bank’s position would be improved thereby, including an explanatory statement of how the Bank’s position would be improved; and
- (iii) That an appropriate workout plan has been developed and will be implemented in conjunction with, or furthered by, the additional credit to be extended.

(c) The signed certification shall be made part of the minutes of the Board or its designated committee and a copy of the signed certification shall be retained in the borrower’s credit file.

REDUCTION OF DELINQUENCIES AND CLASSIFIED ASSETS

6. (a) Within sixty (60) days from the effective date of this Order, the Bank shall adopt, implement, and adhere to, a written plan to reduce the Bank's risk position in each asset in excess of \$500,000 which is, delinquent or classified "Substandard" or "Doubtful" in the ROE and in any future Reports of Examination or Visitations subsequently issued by the FDIC or the Division. The plan shall include, but not be limited to, provisions which:

- (i) Prohibit an extension of credit for the payment of interest, unless the Board provides, in writing, a detailed explanation of why the extension is in the best interest of the Bank;
- (ii) Provide for periodic reviews of the current financial conditions of each delinquent or classified borrower, including reviews of borrower cash flows and collateral values;
- (iii) Delineate areas of responsibility for loan officers;
- (iv) Establish target dollar levels to which the Bank shall reduce delinquencies and classified assets within six (6) and twelve (12) months from the effective date of this ORDER; and
- (v) Provide for the submission of monthly written progress reports to the Board for review and notation in minutes of the meetings of the Board.

(b) As used in this paragraph, “reduce” means to: (1) collect; (2) charge off; (3) sell; or (4) improve the quality of such assets so as to warrant removal of any adverse classification by the FDIC and the Division.

(c) The plan required by this paragraph shall be acceptable to the Regional Director and the Division.

(d) While this ORDER remains in effect, the plan shall be revised to include assets in excess of \$500,000 which become delinquent after the effective date of this ORDER or are adversely classified at any subsequent examinations.

CONCENTRATIONS OF CREDIT

7. (a) Within sixty (60) days of the date of this ORDER, the Bank shall implement a written plan to manage each of the concentrations of credit identified in the ROE and in any future Reports of Examination or Visitations subsequently issued by the FDIC or the Division in a safe and sound manner. The plan should provide for the ongoing measurement and monitoring of the concentrations of credit, performance of portfolio stress testing analysis to assess the impact of changing economic conditions, and the setting of limits on concentrations commensurate with the Bank’s capital position, safe and sound banking practices, and the overall risk profile of the Bank.

(b) The plan required by this paragraph shall be acceptable to the Regional Director and the Division.

LOAN POLICY

8. (a) Within thirty (30) days from the effective date of this ORDER, the Bank shall develop, adopt, implement and adhere to a loan policy.

(b) The loan policy required by this paragraph, which shall be commensurate with the type of lending approved by the Board, at a minimum shall include initial revisions to the Bank's loan policy as required by this paragraph and include the following provisions:

- (i) Requiring that all extensions of credit originated or renewed by the Bank be supported by current credit information and collateral documentation, including lien searches and the perfection of security interests; have a clearly defined and stated purpose; and have a predetermined and realistic repayment source and schedule. Credit information and collateral documentation shall include current financial information, profit and loss statements or copies of tax returns, and cash flow projections, and shall be maintained throughout the term of the loan;
- (ii) Requiring the establishment and maintenance of a loan grading system and internal loan watch list, which shall at a minimum: (a) require periodic confirmation of the accuracy and completeness of the watch list and all risk grades

assigned by the Bank's loan offices; (b) identify loans or relationships that warrant special attention of management; (c) identify violations of law, rules, or regulations and credit and collateral documentation exceptions and track corrective measures; (d) review the bank's application of Financial Accounting Standards Codification FASB ASC Subtopic 310-10; and (e) identify loans not in conformance with the Bank's loan policy;

- (iii) 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;
- (iv) Correcting the loan underwriting and credit administration deficiencies noted in the ROE and in any future Reports of Examination or Visitations subsequently issued by the FDIC or the Division;
- (v) Incorporating collateral valuation requirements, including:
 - (A) maximum loan-to-collateral-value limitations; (B) a requirement for periodic updating of valuations; and (C) a requirement that the source of valuations be documented in Bank records;

(vi) Prohibiting the capitalization of interest or loan-related expenses unless the Board provides, in writing, a detailed explanation of why said deviation is in the best interest of the Bank;

(c) Within sixty (60) days from the receipt of any comments from the Regional Director and Division, and after the adoption of any recommended changes, the Board shall approve the written loan policy and any subsequent modification thereto, which approval shall be recorded in the minutes of a Board meeting. Thereafter, the Bank shall implement and follow the amended written loan policy. The Bank shall inform the Regional Director and Division, in writing, of the manner in which it intends to implement this policy and ensure compliance therewith.

ALLOWANCE FOR LOAN AND LEASE LOSSES

9. (a) From the effective date of this ORDER, and prior to the submission of all Reports of Condition and Income required by the FDIC and the Division, the Board shall review the adequacy of the Bank's ALLL, provide for an adequate ALLL, and thereafter maintain 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. In making these determinations, the Board shall consider the FFIEC Instructions for the Reports of Condition and Income and any analysis of the Bank's ALLL provided by the FDIC.

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

LIQUIDITY PLAN AND FUNDS MANAGEMENT PRACTICES

10. Within thirty (30) days from the effective date of this ORDER, the Bank shall develop, adopt, implement, and adhere to a written contingency funding plan (“Liquidity Plan”). The Liquidity Plan, at a minimum, shall include provisions that:

- (i) Identify personnel responsible for the funds management functions within the Bank;
- (ii) Establish procedures for monitoring the sources and uses of funds and identify any timeframes with potential shortfalls;
- (iii) Establish a contingency funding plan that identifies available sources to increase liquid assets to meet the Bank’s short-term and long-term funding needs;
- (iv) Establish a target dependency ratio to limit the extent to which the Bank is funding long-term assets with non-core funding;
- (v) Include provisions to fully address the liquidity issues identified in the ROE and in any future Reports of Examination or Visitations subsequently issued by the FDIC or the Division.

STRATEGIC PLAN

11. (a) Within ninety (90) days from the effective date of this ORDER, the Bank shall formulate and adopt a realistic, comprehensive strategic plan. The plan required by this paragraph shall contain an assessment of the Bank’s current financial condition and market

area, and a description of the operating assumptions that form the basis for major projected income and expense components.

- (b) The written strategic plan shall address, at a minimum:
 - (i) Strategies for pricing policies and asset/liability management;
 - (ii) Forecasts for maintaining a sound funds management position; and
 - (iii) Financial goals, including pro forma statements for asset growth, capital adequacy, and earnings.

(c) The Bank will submit the strategic plan to the Regional Director and Division for review and comment. After consideration all such comments, the Bank shall approve the plan, which approval shall be recorded in the minutes of a Board meeting.

(d) Within sixty (60) days from the end of each calendar quarter following the effective date of this ORDER, the Board shall evaluate the Bank's actual performance in relation to the strategic plan required by this paragraph and record the results of the evaluation, and any actions taken by the Bank, in the minutes of the Board meeting at which such evaluation is undertaken.

(e) The strategic plan required by this ORDER shall be reviewed by the Board annually, revised as necessary, and submitted to the Regional Director and Division for review and comment 30 days prior to the end of each subsequent calendar year for which this ORDER is in effect. Within 30 days of receipt of all such comments from the Regional Director and Division, and after consideration of all such comments, the Bank shall approve the revised

plan, which approval shall be recorded in the minutes of a Board meeting. Thereafter, the Bank shall implement the revised plan.

DIVIDEND RESTRICTION

12. As of the effective date of this ORDER, the Bank shall not declare or pay any dividend without the prior written consent of the Regional Director and the Division.

CORRECTION OF VIOLATIONS

13. Within thirty (30) days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law, rule, and regulation listed in the ROE. Should violations of law, rule, or regulation be listed in any future Reports of Examination or Visitation issued by the FDIC or the Division, the Bank shall eliminate and/or correct those violations within sixty (60) days of receipt of such Report of Examination or Visitation.

INTERNAL ROUTINES AND CONTROLS

14. Within ninety (90) days from the effective date of this ORDER, the Bank shall correct the deficiencies in internal routines and controls which are listed in the ROE. Should deficiencies in internal routines and controls be listed in any future Reports of Examination or Visitation issued by the FDIC or the Division, the Bank shall correct those deficiencies within ninety (90) days of receipt of such Report of Examination or Visitation. Additionally, the Bank shall establish policies to prevent the recurrence of any deficiencies noted.

AUDIT

15. Within sixty (60) days from the effective date of this ORDER, the Bank shall engage an accounting firm to complete the 2017 and 2018 financial statement audits.

NOTIFICATION TO SHAREHOLDERS

16. Following the effective date of this ORDER, the Bank shall send to its shareholders a copy or description of this ORDER: (1) in conjunction with the Bank's next shareholder communication; or (2) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe this ORDER in all material respects. The description and any accompanying communication, notice or statement shall be sent to the FDIC Accounting and Securities Disclosure Section, 550 17th Street, N.W., Washington, D.C. 20429 and to the Division for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC or the Division shall be made prior to dissemination of the description, communication, notice or statement.

PROGRESS REPORTS

17. Within thirty (30) days from the end of each calendar quarter following the effective date of this ORDER, the Bank shall furnish to the Regional Director and the Division written progress reports, signed by each member of the Board, detailing the actions taken to secure compliance with this ORDER and the results thereof.

