

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

AND

NEW MEXICO FINANCIAL INSTITUTIONS DIVISION
SANTA FE, NEW MEXICO

In the Matter of

SOUTHWEST CAPITAL BANK
ALBUQUERQUE, NEW MEXICO

(INSURED STATE NONMEMBER BANK)

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CONSENT ORDER

FDIC-19-0191b

FID-2019-BK-01

The Federal Deposit Insurance Corporation ("FDIC") is the appropriate Federal banking agency for SOUTHWEST CAPITAL BANK, ALBUQUERQUE, NEW MEXICO, ("Bank"), under 12 U.S.C. § 1813(q).

The New Mexico Financial Institutions Division ("FID") is the appropriate state banking agency for the Bank, under Article 1, of Chapter 58 of the New Mexico Statutes, § 58-1-1 NMSA 1978, *et seq.*

The Bank, by and through its duly elected and acting board of directors ("Board"), has executed a "STIPULATION TO THE ISSUANCE OF A CONSENT ORDER" ("STIPULATION"), dated February 5, 2020, that is accepted by the FDIC and FID. With the Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law or regulation, to the issuance of this CONSENT ORDER ("ORDER") by the FDIC and the FID.

Having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and § 58-1-34 NMSA 1978, have been satisfied, the FDIC and the FID hereby order that:

CAPITAL

1. Within 30 days of the date of this ORDER, the Board shall achieve and thereafter maintain the following minimum capital ratios, as defined in Part 324 of the FDIC Rules and Regulations:

Leverage Ratio	10%
Total Capital Ratio	13%

Should the Board elect to opt into the Community Bank Leverage Ratio framework, the minimum leverage ratio will be greater than 9.00% and will replace the minimums described above. Regardless, these ratios shall be achieved and maintained through retention of earnings, collection of charged-off assets, reduction in total assets, sale of new equity, or any combination thereof. Any increase in Tier 1 Capital necessary to meet the capital maintenance requirements of this ORDER may not be accomplished through a deduction from the Bank's ALLL.

DIVIDEND RESTRICTION

2. Following the date of this ORDER, the Bank shall not pay any cash dividends without the prior written consent from the Director of the Financial Institutions Division of New Mexico ("Director") and the Regional Director for the FDIC's Dallas Regional Office ("Regional Director"). Written requests for such approval shall be submitted at least 45 days prior to the anticipated dividend declaration date.

MANAGEMENT – BOARD SUPERVISION

3. Within 30 days after the effective date of this ORDER, the Bank's Board shall increase its participation in the affairs of the Bank by assuming full responsibility for the approval of the Bank's policies and objectives and for the supervision of the Bank's management, including all the Bank's activities. The Board's participation in the Bank's affairs shall include, at a minimum, monthly meetings in which the following areas shall be reviewed and approved by the Board: reports of income and expenses; new, overdue, renewed, restructured, insider, charged-off, delinquent, nonaccrual, and recovered loans; investment activities; operating policies; organizational changes, including staff hiring, promotion, demotion, reassignment, termination and attrition; and, individual committee actions. The Bank's Board minutes shall document the Board's reviews and approvals, including the names of any dissenting directors.

MANAGEMENT

4. (a) The Bank shall have and retain qualified officers within management. Each member of management shall possess qualifications and experience commensurate with his or her duties and responsibilities at the Bank. The qualifications of management personnel shall be evaluated on their ability to:

1. Comply with the requirements of the ORDER;
2. Operate the Bank in a safe and sound manner;
3. Comply with applicable laws and regulations; and
4. Restore all aspects of the Bank to a safe and sound condition, including improving the Bank's asset quality, capital adequacy, earnings, management effectiveness, and its sensitivity to market risk.

(b) While this ORDER is in effect, the Bank shall notify the Regional Director and the Director in writing of any changes of any Senior Executive Officers. The notification must include the name(s) and background(s) of any such Senior Executive Officers and must be provided 30 days prior to the individual(s) assuming the new position(s).

MANAGEMENT PLAN

5. (a) Within 60 days after the effective date of this ORDER, the Bank shall retain a bank consultant or employee acceptable to the Regional Director and the Director. The consultant or employee shall develop a written analysis and assessment of the Bank's management and staffing needs ("Management Plan") for the purpose of providing qualified management for the Bank. The Bank shall provide the Regional Director and the Director with a copy of the proposed engagement letter or contract with the consultant for review before it is executed, or in the case of an employee a Board resolution approving the scope of work of the review. The engagement letter, contract, or scope of work, at a minimum, should include:

1. A description of the work to be performed under the contract, engagement letter, or scope of work;
2. The responsibilities of the consultant/employee and procedures for reporting review results;
3. An identification of the professional standards covering the work to be performed;
4. Identification of the specific procedures to be used when carrying out the work to be performed;
5. The qualifications of the consultant or employee(s) who are to

perform or oversee the work;

6. The time frame for completion of the work;
7. Any restrictions on the use of the reported findings; and
8. A provision for unrestricted examiner access to work papers.

(b) The Management Plan shall be developed within 120 days after the effective date of the approval of the consultant/employee engagement letter, contract, or scope of work. The Management Plan shall include, at a minimum:

1. Identification of both the type and number of officer positions needed to properly manage and supervise the affairs of the Bank;
2. Identification and establishment of such Bank committees as are needed to provide guidance and oversight to active management;
3. 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
4. A plan to recruit and hire any additional or replacement personnel if necessary with the requisite ability; experience and other qualifications to fill those officer [or staff member] positions identified in the Management Plan.

(c) The Management Plan shall be submitted to the Regional Director and the Director for review, comment, and approval upon its completion. Within 30 days from the receipt of

any comments from the Regional Director and the Director, and after the adoption of any recommended changes, the Bank shall approve the Management Plan, and record its approval in the minutes of the Board meeting. Thereafter, the Bank, its directors, officers, and employees shall implement and follow the Management Plan and/or any subsequent modification, subject to approval by the FDIC and the FID.

REDUCTION OF CLASSIFIED ASSETS

6. Within 30 days of the date of this ORDER, the Board shall develop a written plan to reduce the volume of all adversely classified assets and submit the plan to the Regional Director and the Director for approval. The plan shall include a schedule establishing target levels of classified assets, including as a percentage of Tier 1 Capital + Allowance for Loan and Lease Losses (“ALLL”), at the end of each calendar quarter. The plan shall account for all classified assets listed in the Report and be updated as warranted to include any significant assets subsequently classified internally or by regulatory authorities. The plan will also include the rationale used in formulating the reduction schedule. Quarterly, the Board will review and compare actual and targeted levels of classified assets, discuss the reasons for any material deviations from the plan, and document the review in the minutes.

RESTRICTIONS ON ADDITIONAL ADVANCES

7. During the term of this ORDER, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower whose extension of credit is classified “Doubtful” or “Substandard”, unless the Board has signed a detailed written statement giving reasons why failure to extend such credit would be detrimental to the Bank. The statement shall be placed in the appropriate loan file and included in the minutes of the applicable Board meeting.

The requirements of this provision shall not prohibit the Bank from renewing credit already extended to a borrower after full collection, in cash, of all interest due from the borrower.

NONACCRUAL LOANS

8. Within 30 days from the date of this ORDER, the Board shall adopt procedures to ensure that any loans meeting the definition of “nonaccrual,” as contained in the Instructions for Preparation of Reports of Condition and Income, are placed on nonaccrual status.

LOAN REVIEW PROGRAM

9. Within 60 days of the date of this ORDER, the Board shall implement a loan review program to periodically review the Bank's loan portfolio and identify and categorize problem credits. The loan review program should be governed by a written loan review policy that shall be submitted to the Director and the Regional Director for approval. The loan review policy shall address the following components of the loan review program:

- a) The responsibility for conducting the loan reviews (internal or external);
- b) The frequency and scope of loan reviews;
- c) The identification of each problem loan by type and amount;
- d) The identification of loans not in conformance with the Bank's lending policy, loan covenants, or applicable laws and regulations;
- e) The method of reporting findings, including an assessment of the overall quality of the loan portfolio, to the Board; and
- f) The documentation requirements for workpapers to support assigned credit grades.

ALLOWANCE FOR LOAN AND LEASE LOSSES

10. Effective immediately, the Board shall establish an adequate ALLL, and such ALLL shall be established by charges to current operating earnings. In complying with this requirement of the ORDER, the Board shall review the adequacy of the ALLL prior to the end of each calendar quarter and make any necessary provisions to the ALLL. The methodology used shall be in conformance with outstanding accounting and regulatory guidance. The results of the ALLL adequacy review shall be recorded in the minutes of the Board meeting at which the review was undertaken.

INTERNAL CONTROL

11. Within 30 days of the date of this ORDER, the Board shall establish and implement an effective internal control structure. The internal control structure shall ensure the establishment of an appropriate internal audit program that provides procedures for testing the validity and reliability of operating systems, procedural controls, and resulting records. The internal auditor shall report quarterly to the Bank's board of directors. The report and any comments made by the directors regarding the internal auditor's report shall be noted in the minutes of the Bank's board of directors' meeting. The Board shall ensure that necessary action is taken to eliminate or correct all internal routine and control deficiencies described in the report, and a system to prevent recurrence developed and implemented.

BSA - INTERNAL CONTROLS / SUSPICIOUS ACTIVITY MONITORING

12. The system of internal controls shall provide policies, procedures, processes, and systems for identifying, evaluating, monitoring, investigating, and reporting suspicious activity in the Bank's products, accounts, customers, services, and geographic areas, including but not limited to:

- a) Establishment of meaningful rules and thresholds for identifying accounts and customers for further monitoring, review, and analyses and the validation of rules and thresholds;
- b) Periodic testing and monitoring of such rules and thresholds for their appropriateness to the Bank's products, customers, accounts, services, and geographic areas;
- c) Review of existing systems to ensure adequate referral of information about potentially suspicious activity through appropriate levels of management, including a policy for determining action to be taken in the event of multiple filings of SARs on the same customer, or in the event a correspondent or other customer fails to provide due diligence information. Such procedures shall describe the circumstances under which an account should be closed and the processes and procedures to be followed in doing so;
- d) Procedures, processes, and systems for each business area of the Bank to produce periodic reports designed to identify unusual or suspicious activity, to monitor and evaluate unusual or suspicious activity, and to maintain accurate information needed to produce these reports with the following features:
 - 1. The Bank's procedures and/or systems should be able to identify related accounts, countries of origin, location of the customer's businesses and residences to evaluate patterns of activity; and
 - 2. The periodic reports should cover a broad range of time frames, including individual days, a number of days, and a number of

months, as appropriate, and should segregate transactions that pose a greater than normal risk for non-compliance with the BSA;

- e) Documentation of management's decisions to not to file a SAR;
- f) Systems to ensure the timely, accurate, and complete filing of reports required by law. The written procedures must particularly ensure the accuracy of SARs and CTRs. The written procedures will ensure report accuracy, and require a secondary review process to ensure errors are identified and corrected prior to report submission.

CALL REPORT AMENDMENTS

13. Within 30 days of the date of this ORDER, the Board shall ensure that amendments to the June 30, 2019, and December 31, 2018, Reports of Condition and Income are filed. The Board shall also adopt procedures to ensure accurate reporting in the future.

VIOLATIONS

14. Within 30 days of the date of this ORDER, the Board shall, consistent with sound banking practices, ensure that all apparent violations cited in the August 5, 2019 Report of Examination (2019 ROE) are corrected. The Board shall also adopt procedures to prevent recurrence of apparent violations.

PROGRESS REPORTS

15. The Board shall provide written reports to the Director and Regional Director outlining its progress toward complying with each provision of this ORDER. The Board will provide these reports within 30 days after each calendar quarter end. This requirement for progress

reports shall continue during the life of this ORDER unless modified or terminated in writing by the Director and Regional Director.

In addition to the above provisions, the 2019 ROE includes other recommendations. Although not specifically addressed in the ORDER, the Board is expected to ensure that those additional recommendations are satisfactorily addressed.

The provisions of this ORDER shall not bar, stop, or otherwise prevent the FDIC, FID, or any other federal or state agency or department from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties.

This ORDER shall be effective on the date of issuance.

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 and the FID.

Issued this 10th day of February, 2020.

/s/
Serena L. Owens
Deputy Regional Director
Federal Deposit Insurance Corporation

/s/
Christopher Moya
Director
New Mexico Financial Institutions Division