

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)	
)	
NEW CITY BANK)	CONSENT ORDER
CHICAGO, ILLINOIS)	
)	
(Illinois Chartered)	FDIC-11-34b
Insured Nonmember Bank))	2011-DB-12
_____)	

New City Bank, Chicago, Illinois ("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 or regulation alleged to have been committed by the Bank, and of its right to a hearing on the charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b), and under 38 Ill. Adm. Code Section 392 *et seq.*, regarding hearings before the Illinois Department of Financial and Professional Regulation, Division of Banking, ("Division"),

and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER ("STIPULATION") with counsel for the Federal Deposit Insurance Corporation ("FDIC") and the Division dated May 3, 2011, 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 Capital, Asset Quality, Management, Earnings, Liquidity and Sensitivity to Market Risk, the Bank consented to the issuance of a CONSENT ORDER ("**ORDER**") by the FDIC and the Division.

The FDIC and the Division considered the matter and decided to accept this STIPULATION.

Having also determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and Section 48(6), 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. § 1813(u), and its successors and assigns, take affirmative action as follows:

BOARD PARTICIPATION

1. (a) As of the effective date of this ORDER, the board of directors shall increase its participation in the affairs of the Bank, assuming full responsibility 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. This participation shall include meetings to be held no less frequently than monthly 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 managements 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 sixty (60) 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.

(c) Following the required date of compliance with subparagraph (b) above, 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 monthly board of directors' meeting.

MANAGEMENT STUDY

2. (a) Within sixty (60) days from the effective date of this ORDER, the Bank shall retain an independent third party acceptable to the Regional Director of the Chicago Region of the FDIC ("**Regional Director**") and the Division who will develop a written analysis and assessment of the Bank's management needs ("**Management Study**") for the purpose of providing qualified management for the Bank.

(b) The Bank shall provide the Regional Director and the Division with a copy of the proposed engagement letter or contract with the independent third party for review.

(c) The Management Study shall be developed within one hundred twenty (120) days from the effective date of this ORDER. The Management Study shall include, at a minimum:

- (i) Identification of both the type and number of officer positions, if any, needed to properly manage and supervise the affairs of the Bank;
- (ii) Identification and establishment of such additional Bank committees, if any, as are needed to provide additional guidance and oversight to active management;
- (iii) Evaluation of all Bank executive officers, as that term is defined by the Federal

Reserve Board's Regulation O section 215.2(e)(1), 12 C.F.R. ¶ 215.2(e)(1), 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;

(iv) Evaluation of all Bank executive officers' compensation, including salaries, director fees, and other benefits;

(v) A plan to recruit and hire any additional or replacement personnel with the requisite ability, experience and other qualifications to fill those executive officer positions, if any, identified by this paragraph of this ORDER.

(d) Within thirty (30) days after receipt of the Management Study the Bank shall formulate a plan ("**Management Plan**") to implement the recommendations of the Management Study.

(e) The Management Plan required by this paragraph shall be submitted to the Regional Director and the Division, and thereafter the Bank shall adopt, implement, and adhere to

the plan.

MANAGEMENT

3. (a) During the life of this ORDER, and consistent with the findings of the Management Plan, the Bank shall have and thereafter retain qualified management. Each member of management shall have the qualifications and experience commensurate with his or her duties and responsibilities at the Bank. 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 asset quality, capital adequacy, earnings, management effectiveness, and liquidity.

(b) During the life of this ORDER, the Bank shall notify the Division and Regional Director in writing of any changes in any of the Bank's directors or senior executive officers. For purposes of this ORDER, "senior executive officer" is defined as in section 32 of the Act ("**section 32**"), 12 U.S.C. § 1831(i), and section 303.101(b) of the FDIC Rules

and Regulations, 12 C.F.R. § 303.101(b), and includes any person identified by the Division and FDIC, whether or not hired as an employee, with significant influence over, or who participates in, major policymaking decisions of the Bank.

(c) 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 and Subpart F of Part 303 of the FDIC Rules and Regulations, 12 C.F.R. §§ 303.100-303.104. Further, the Bank shall request and obtain the Division's written approval prior to the addition of any individual to the board of directors and the employment of any individual as a senior executive officer.

CAPITAL

4. (a) Within 90 days from 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 ("capital ratio") at a minimum of 9 percent and its level of qualifying total capital as a percentage of risk-weighted assets ("total risk based capital ratio") at a minimum of 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 325 of the FDIC Rules and Regulations ("Part 325"), 12 C.F.R. Part 325.

(b) If, while this ORDER is in effect, the Bank increases capital 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, N.W., Washington, D.C. 20429 for their review. Any changes requested to be made in the materials by the FDIC 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 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.

PROHIBITION OF ADDITIONAL LOANS TO CLASSIFIED BORROWERS

5. (a) As of the effective date of this ORDER, the Bank shall not extend, directly or indirectly, 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 (including any portion thereof) that has been charged off the books of the Bank or classified "Loss" in the ROE, so long as such credit remains uncollected, unless the Bank's board of directors, or a Board Committee comprised of a majority of outside directors, has adopted, prior to such extension of credit, a detailed written statement giving the reasons why such extension of credit is in the best interests of the Bank. A copy of said statement shall be signed by each director and incorporated in the minutes of the applicable board of directors meeting and a copy placed in the appropriate loan file.

(b) As of the effective date of this ORDER, the Bank shall not extend, directly or indirectly, any additional credit

to, or for the benefit of, any borrower whose loan or other credit has been classified "Substandard", "Doubtful", or is listed for Special Mention in the ROE, and is uncollected unless the Bank's board of directors has adopted, prior to such extension of credit, a detailed written statement giving the reasons why such extension of credit is in the best interest of the Bank. A copy of the statement shall be signed by each Director, and incorporated in the minutes of the applicable board of directors' meeting. A copy of the statement shall be placed in the appropriate loan file.

REDUCTION OF DELINQUENCIES AND CLASSIFIED ASSETS

6. (a) Within 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 \$250,000 which is more than 60 days delinquent or classified "Substandard" or "Doubtful" in the ROE. 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 review of the current financial condition of each delinquent or classified

- borrower, including a review of borrower cash flow and collateral value;
- (iii) Delineate areas of responsibility for loan officers;
 - (iv) Establish dollar levels to which the Bank shall reduce delinquencies and classified assets within 6 and 12 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.

(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) A copy of the plan required by this paragraph shall be submitted to the Regional Director and the Division.

(d) While this ORDER remains in effect, the plan shall be revised to include assets which become more than 60 days delinquent after the effective date of this ORDER or are adversely classified at any subsequent examinations.

LIQUIDITY PLAN

7. (a) Within 60 days of the effective date of this ORDER, the Bank shall adopt a written contingency funding plan ("Liquidity Plan"). The Liquidity Plan shall identify sources of liquid assets to meet the Bank's contingency funding needs over time horizons of one month, two months, and three months. At a minimum, the Liquidity Plan shall be prepared in conformance with the Liquidity Risk Management Guidance found at FIL-84-2008 and include provisions to address the issues identified on Risk Management Assessment pages of the ROE.

(b) During the life of this Order, on each Friday the Bank is open for business, or on a schedule determined by the FDIC and the Division, the Bank shall submit to the Regional Director and the Department a liquidity analysis report, in a format that is acceptable to the Regional Director and the Division. Within three (3) days of receipt of any comments from the Regional Director or the Division the Bank shall incorporate any changes required by the Regional Director or the Division and thereafter adopt, implement, and adhere to the plan.

(c) A copy of the plan required by this paragraph shall be submitted to the Regional Director and the Division.

DIVIDEND RESTRICTION

8. 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.

ALLOWANCE FOR LOANS AND LEASE LOSSES

9. (a) After the effective date of this ORDER, and prior to the submission of all Reports of Condition and Income required by the FDIC, 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. In making these determinations, the board of directors shall consider the FFIEC Instructions for the Reports of Condition and Income and any analysis of the Bank's ALLL provided by the FDIC or Division.

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

PROFIT PLAN AND BUDGET

10. (a) Within 60 days from the effective date of this ORDER, the Bank shall adopt, implement, and adhere to a written profit plan and a realistic, comprehensive budget for all categories of income and expense for calendar years 2011 and 2012. The plans 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, and shall contain a description of the operating assumptions that form the basis for major projected income and expense components.

(b) The written profit plan shall address, at a minimum:

- (i) Realistic and comprehensive budgets;
- (ii) A budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections;
- (iii) Identification of major areas in, and means by which, earnings will be improved; and
- (iv) A description of the operating assumptions that form the basis for and adequately support major projected income and expense components.

(c) Within 30 days from the end of each calendar quarter following completion of the profit plans and budgets required by this paragraph, the Bank's board of directors shall evaluate the Bank's actual performance in relation to the plan and budget, 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.

(d) A written profit plan and budget shall be prepared for each calendar year for which this ORDER is in

effect.

(e) Copies of the plans and budgets required by this paragraph shall be submitted to the Regional Director and the Division.

CONCENTRATIONS OF CREDIT

11. (a) Within 60 days from the effective date of this ORDER, the Bank shall formulate adopt and implement a written plan to manage each of the concentrations of credit identified in the ROE in a safe and sound manner. At a minimum the plan must provide for written procedures for the ongoing measurement and monitoring of the concentrations of credit, and a limit on concentrations commensurate with the Bank's capital position, safe and sound banking practices, and the overall risk profile of the Bank.

(b) A copy of the plan required by this paragraph shall be submitted to the Regional Director and the Division.

INTEREST RATE RISK

12. (a) Within 60 days from the effective date of this ORDER, and annually thereafter, the Board shall review the Bank's investment policy for adequacy and shall make the necessary revisions that, at a minimum, address the exceptions noted on the Risk Management Assessment of the ROE and are consistent with the Federal Financial Institutions Examination Council's Instructions for Consolidated Reports of Condition and

Income, generally accepted accounting principles, and the Bank's loan, liquidity and asset/liability management policies.

(b) Within 60 days of the effective date of this Order the Bank shall have procedures for managing the Bank's sensitivity to interest rate risk. The procedures shall comply with the Joint Agency Statement of Policy on Interest Rate Risk (June 26, 1996), and the Joint Supervisory Statement on Investment Securities and End-user Derivative Activities (April 23, 1998).

(c) A copy of the policy revisions and procedures required by this paragraph shall be submitted to the Regional Director and the Division.

NOTIFICATION TO SHAREHOLDER

13. Following the effective date of this ORDER, the Bank shall send to its shareholders a copy 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.

PROGRESS REPORTS

14. Within 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 Bank's board of directors, detailing the actions taken to secure compliance with

