

UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
OFFICE OF THE COMPTROLLER OF THE CURRENCY

IN THE MATTER OF:	)	AA-EC-12-44
	)	
ALABAMA TRUST BANK, N.A.	)	
SYLACAUGA, AL	)	Effective Date:
	)	April 12, 2012

**PROMPT CORRECTIVE ACTION DIRECTIVE**

WHEREAS, Alabama Trust Bank, N.A., Sylacauga, Alabama (“Bank”) is a “critically undercapitalized” insured depository institution pursuant to 12 U.S.C. § 1831o and 12 C.F.R. Part 6; and

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) is authorized, pursuant to 12 U.S.C. § 1831o, to take certain supervisory actions against critically undercapitalized banks; and

WHEREAS, on March 13, 2012, the OCC issued a Notice of Intent to Issue a Prompt Corrective Action Directive (“Notice”) to the Bank to pursuant to 12 C.F.R. § 6.21(a)(1);

WHEREAS, on March 27, 2012, the Bank submitted a written response to the Notice pursuant to 12 C.F.R. § 6.22; and

WHEREAS, the OCC has carefully considered the Bank’s response to the Notice; and

WHEREAS, the Comptroller of the Currency (“Comptroller”) finds it necessary in order to carry out the purpose of 12 U.S.C. § 1831o to issue this Prompt Corrective Action Directive (“Directive”), requiring the Bank to immediately follow proscriptions and take actions; and

NOW THEREFORE, pursuant to the authority in 12 U.S.C. § 1831o, the Comptroller hereby issues this Directive.

## **ARTICLE I**

### **JURISDICTION**

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1, *et seq.*

(2) The OCC is “the appropriate Federal banking agency” regarding the Bank, pursuant to 12 U.S.C. §§ 1813(q) and 1831o.

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1831o.

(4) This Directive constitutes a final order under 12 U.S.C. § 1831o and is enforceable under 12 U.S.C. § 1818(i).

(5) A violation of this Directive constitutes a violation of a final order under 12 U.S.C. § 1831o and is subject to the assessment of civil money penalties under 12 U.S.C. § 1818(i)(2)(A).

## **ARTICLE II**

### **COMPLIANCE COMMITTEE**

(1) Within five (5) days of the date of this Directive, the Bank’s Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Directive and the Consent Order issued pursuant to 12 U.S.C. § 1818 on December 17, 2010.

(2) Within ten (10) days, the Compliance Committee shall submit a written progress report to the Board setting forth in detail its actions taken to ensure compliance with this Directive, this report shall be included in the Board minutes, and a copy of the report shall be sent to the Director.

(3) Thereafter, the Bank's Compliance Committee shall submit monthly compliance reports to the Board, with a copy to the Director. These compliance reports shall be submitted as part of the monthly Compliance Committee reporting required by the Consent Order dated December 17, 2010.

(4) Nothing in this Directive shall diminish the responsibility of the entire Board to comply with this Directive.

### **ARTICLE III**

#### **PRESERVATION OF BOOKS AND RECORDS**

(1) The Board shall ensure that all of the Bank's documents, books, and records are accurately maintained and preserved on the premises of the Bank and shall ensure that no Bank documents, books, or records are destroyed, altered or removed from the Bank's premises. The Board and Bank management shall provide OCC personnel with prompt and unrestricted access to the documents, books, records, officers and staff of the Bank. The Board shall ensure all agents and representatives of the Bank provide OCC personnel with prompt and complete access to the documents, books, and records of the Bank. For purposes of this paragraph, "documents, books, and records" shall have the broadest possible meaning reasonably imaginable and shall include, without limitation, paper and electronic records of all kinds, reports, notes, calendars, phone logs, e-mails, voice-mails, financial instruments, and tapes.

### **ARTICLE IV**

#### **CONTINUING OBLIGATION TO SUBMIT AN ACCEPTABLE CAPITAL RESTORATION PLAN**

(1) The Bank first became undercapitalized as of October 30, 2011, and the OCC confirmed this status to the Bank by letter dated November 2, 2011. The Bank is under a

continuing obligation to submit an acceptable Capital Restoration Plan (“CRP”), pursuant to 12 U.S.C. § 1831o(e)(2) and 12 C.F.R. § 6.6(a)(2)(iii), and the OCC’s letter dated November 2, 2011.

(2) Any increase in capital necessary to meet the requirements of this Article and satisfy the CRP may be accomplished solely by the following:

- (a) the sale of common stock; or
- (b) the sale of noncumulative perpetual preferred stock; or
- (c) the direct contribution of cash by the Board and/or shareholders of the Bank; or
- (d) any other means acceptable to the Director.

## ARTICLE V

### **THIRD PARTY CONTRACTS INVOLVING SALE, MERGER, OR RECAPITALIZATION**

(1) The Bank shall not enter into any contract with a third party to assist in the sale merger, or recapitalization of the Bank that requires the payment of anything other than expenses prior to such sale, merger or recapitalization, or that requires the Bank to pay, directly or indirectly, the cost of performing due diligence, or other services related to the transaction, unless the Bank first receives the Director’s written determination of no supervisory objection.

(2) Any request for the Director’s written determination of no supervisory objection shall include:

- (a) the Board’s written analysis of why the proposed contract is in the best interests of the Bank;

- (b) a description of the due diligence credit review, fairness opinion or any other services to be performed by the third party, including a copy of the proposed contract or engagement;
- (c) a description of the Bank's due diligence process for agreeing to the services to be performed by a potential purchaser or merger partner; and
- (d) a determination by the Board that:
  - (i) the activities to be performed by the third party as part of the sale or merger requirements are fair and reasonable to the Bank;
  - (ii) the parties are able to perform under the contract or commitment;
  - (iii) the fees the Bank is required to pay to the third party are reasonable for the services provided; and
  - (iv) the contract is in the best interests of the Bank.

(3) Following any written determination of no supervisory objection by the Director, the Board shall regularly monitor the contractor or service provider's performance to ensure that the contractor or service provider is complying with the written contract or engagement. The Board shall immediately take appropriate action if the contractor or service provider is not complying with the written contract or engagement and shall maintain documentation of any such actions.

## **ARTICLE VI**

### **INDEMNIFICATION**

(1) The Bank shall make no indemnification payments to, or on behalf of, any institution-affiliated party unless such payments fully comply with 12 U.S.C. § 1828(k)(5) and 12 C.F.R. Part 359. Pursuant to 12 U.S.C. § 1831o(f)(2)(J), the Bank shall not cause any

indemnification payments to be made to, or on behalf of, any institution-affiliated party without first obtaining a written determination of no supervisory objection from the Director. Any request for the Director's written determination of no supervisory objection shall include a legal opinion from independent counsel setting forth the basis under which such indemnification payments fully satisfy the requirements of 12 U.S.C. § 1828(k)(5) and 12 C.F.R. Part 359.

## **ARTICLE VII**

### **OTHER PROVISIONS**

(1) The provisions of this Directive supplement, and do not replace, the requirements of the Consent Order issued pursuant to 12 U.S.C. § 1818 on December 17, 2010.

(2) Immediately upon issuance of this Directive, the Bank shall not do any of the following without the prior, written approval of the Bank's Board and the prior, written determination of no supervisory objection from the Director<sup>1</sup>:

- (a) enter into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, or other similar action;
- (b) transfer any asset to its holding company or other affiliated party or person; or
- (c) engage in any transaction for the transfer of funds, the extension of credit, the acceptance or transference of risk, and/or the conferring of another type of benefit, directly or indirectly, involving any Bank affiliates, as defined in 12 U.S.C. § 371c(b)(1), or current or former Bank directors, shareholders, senior executive officers, or their respective family members.

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<sup>1</sup> This is in addition to any approval required by the Federal Deposit Insurance Corporation ("FDIC").

## CLOSING

(1) This Directive is enforceable under 12 U.S.C. § 1818(i). Each provision of this Directive shall be binding upon the Bank, its subsidiaries, its directors, officers, employees, agents, successors, assigns, and other persons participating in the affairs of the Bank or its subsidiaries.

(2) Any time limitations imposed by this Directive shall begin to run from the Effective Date of this Directive as shown on the first page. Calculation of time limitations for compliance with the terms of this Directive shall be based on calendar days, unless otherwise noted. Such time limitations may be extended in writing by the Director for good cause upon written application by the Board.

(3) The provisions of this Directive are effective upon issuance of this Directive by the Comptroller, through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Directive shall have been amended, suspended, waived, or terminated in writing by the Director.

(4) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, or any institution-affiliated party of the Bank, nothing in this Directive shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(5) Unless notified otherwise, all submissions required to be submitted pursuant to this Directive shall be forwarded via email and overnight mail to:

James R. Moore, Director  
Special Supervision Division  
Office of the Comptroller of the Currency  
250 E Street S.W.  
Washington, DC 20219

IT IS SO ORDERED, this 12 day of April, 2012.

/s \_\_\_\_\_  
James R. Moore  
Director  
Special Supervision Division  
Office of the Comptroller of the Currency