

**#2014-084**

**Also Terminates #2010-132**

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

<hr/>	)	
<b>In the Matter of:</b>	)	
Merchants Bank of California, N.A.	)	AA-WE-14-07
Carson, California	)	
<hr/>		

**CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has supervisory authority over Merchants Bank of California, N.A., Carson, California (“Bank”).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated June 23, 2014, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order (“Order”) by the Comptroller.

Pursuant to the authority vested in it by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

**Article I**

**Compliance Committee**

(1) Effective as of the date of this Order, the Board shall appoint a Compliance Committee consisting of all the Board members of the Bank. The Board shall remain responsible for the Bank’s adherence to the provisions of this Order and the appointment of the Compliance Committee shall not relieve the Board’s compliance responsibilities. Upon appointment, the names of the members of the Compliance Committee and, in the event of a change of the membership, the name of any new member, shall immediately be submitted in writing to the Assistant Deputy Comptroller.

(2) The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Order and shall meet at least monthly.

(3) By no later than July 31, 2014, and by the end of every calendar month thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) a description of the actions needed to achieve full compliance with each Article of this Order, time frames for completing those actions, and the names of individuals accountable for those actions, and incorporating the BSA Action Plan referenced in Article III;
- (b) actions taken to comply with each Article of this Order and a description of the specific written or other products evidencing actions taken; and
- (c) the status of those actions referenced in Subparagraph (a) above.

The Compliance Committee's reports shall also include copies of any reports prepared by or for the Bank or Board relating to any Bank Secrecy Act ("BSA") or Anti-Money Laundering ("AML") compliance review or audit at the Bank.

(4) The Board shall provide a summary report of the progress reached in attaining compliance with each Article of this Order to the Assistant Deputy Comptroller within thirty (30) days of the end of each calendar quarter beginning with the quarter ending September 30, 2014.

(5) Within ten (10) days of this Order, the Bank shall designate an officer to be responsible for coordinating and submitting to the OCC the written plans, reports, and other documents required to be submitted under the terms and conditions of this Order. All such plans, reports, and other documents the Bank or Board has agreed to submit pursuant to this Order shall be forwarded to the:

Assistant Deputy Comptroller  
Santa Ana Field Office  
1551 North Tustin Ave., Suite 1050  
Santa Ana, California 92705

(6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies, procedures and programs required by this Order.

## **Article II**

### **Replacement of June 22, 2010 Order**

(1) The articles of the June 22, 2010 Consent Order are replaced and superseded in their entirety by this Order, and upon execution of the “Stipulation and Consent to the Issuance of a Consent Order,” dated June 23, 2014, the June 22, 2010 Order is hereby terminated.

(2) To the extent the programs, policies and procedures adopted and implemented pursuant to the June 22, 2010 Consent Order are not in conflict with the provisions of this Order, the Board shall ensure continuing compliance, including those relating to: insider and affiliate transactions, conflicts of interest, credit risk management, liquidity, consumer compliance, information technology, and internal audit. Further, to the extent there are any provisions in this Order that are inconsistent with prior communications from the OCC, the prior communications shall be superseded by this Order.

## **Article III**

### **BSA Action Plan**

(1) Within forty-five (45) days of this Order, the Bank shall submit to the Assistant Deputy Comptroller a plan containing a complete description of the actions that are necessary and appropriate to achieve full compliance with Articles IV through XIX of this Order (“BSA Action Plan”), as well as any other actions that might be necessary to develop and maintain a comprehensive BSA program that ensures compliance with 12 C.F.R. § 21.21. Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall immediately implement the BSA Action Plan. In the event the Assistant Deputy Comptroller asks the Bank to revise the BSA Action

Plan or the Bank receives a prior written determination of no supervisory objection to modify the BSA Action Plan, the Bank shall immediately make the requested revisions and resubmit the plan to the Assistant Deputy Comptroller. Following implementation, the Bank shall not take any action that will cause a significant deviation from, or material change to, the BSA Action Plan unless and until the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(2) The Board shall ensure that the Bank achieves and thereafter maintains compliance with this Order, including, without limitation, successful implementation of the BSA Action Plan. The Board shall further ensure that, through implementation of the BSA Action Plan and by no later than December 31, 2014, the Bank achieves and maintains an effective BSA/AML compliance program, in accordance with the BSA and its implementing regulations. In order to comply with these requirements, the Board shall:

- (a) require the timely reporting by Bank management of the status of all such actions directed by the Board to be taken under this Order;
- (b) follow up on any noncompliance with such actions in a timely and appropriate manner; and
- (c) require corrective action be taken in a timely manner for any noncompliance with such actions.

(3) The BSA Action Plan must specify timelines for completion of each of the requirements of Articles IV through XIX of this Order. The timelines in the BSA Action Plan shall be consistent with any deadlines set forth in Articles IV through XIX of this Order.

(4) The BSA Action Plan must specify in detail budget outlays and staffing, including estimated staff compensation, that are necessary to achieve and maintain full compliance with Articles IV through XIX of this Order.

(5) Upon request by the Assistant Deputy Comptroller, the Bank shall modify the Action Plan to comply with any Matters Requiring Attention concerning BSA/AML matters, or citations of violations of law concerning these matters, which the OCC may issue to the Bank following the effective date of this Order.

(6) Any independent consultant or auditor engaged by the Bank or the Board to assist in the development and/or assessment of the BSA Action Plan or other compliance with this Order must have demonstrated and specialized experience with the BSA/AML matters that are the subject of the engagement, and must not be subject to any conflict of interest affecting the consultant's or auditor's independence.

#### **Article IV**

##### **Monitoring of Money Service Business ("MSB") Transactions**

(1) Within forty-five (45) days of this Order, the Board shall ensure that the Bank requires all MSBs to maintain sufficient transparency to reasonably ensure the legitimacy of the sources and uses of customer funds. For all MSBs having annual aggregate transaction activity of \$1 million or more during the year prior to or any time after the execution of this Order, compliance with this Paragraph shall include, at a minimum, separate accounts for each MSB's check cashing, money transmission, prepaid access, and any other line of business that represents twenty percent (20%) or more of that MSB's total activity. For any MSBs for which the Bank cannot restructure the account(s) or otherwise maintain sufficient transparency to reasonably ensure the legitimacy of the sources and uses of customer funds, to

include the separation of accounts as required by this Paragraph, the Bank shall immediately close the account and provide a list in accordance with Paragraph (2) of this Article.

(2) Within sixty (60) days of this Order, the Board shall provide a report to the Assistant Deputy Comptroller that demonstrates the Bank's compliance with the requirements of Paragraph (1) of this Article, to include, at a minimum, detailed lists of:

- (i) MSB accounts for which the account structure was revised and the manner in which each account structure was revised;
- (ii) MSB accounts that have been closed because they cannot be reasonably monitored to ensure compliance with the BSA; and
- (iii) MSB accounts for which suspicious activity reports ("SARs") are to be filed or have been filed.

## **Article V**

### **Offshore Operations**

(1) Effective immediately, the Bank shall not operate, or engage in any joint venture relating to, any check processing, cash processing, or cash management-related facility, outside the fifty United States, without the prior written determination of no supervisory objection by the Assistant Deputy Comptroller. In addition, the Bank shall not engage or allow any third party to perform any cash-management related services on behalf of the Bank outside the fifty United States without the prior written determination of no supervisory objection by the Assistant Deputy Comptroller.

## **Article VI**

### **Limitations on Activities**

(1) Until the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller, which cannot occur until the OCC determines that the Bank has

effectively implemented the Revised BSA Program, the Bank shall not allow any MSB, payment processor, foreign or domestic correspondent bank, or cash-intensive businesses such as liquor stores, pawn shops, jewelry dealers, car washes, marijuana dispensaries, or any account with a Bank inherent risk-rating (before any rating reduction for mitigating factors) of medium or higher to open a new account at the Bank except as required by Article IV to segregate accounts by activity. Further, the Bank must limit its aggregate quarterly transaction activity level for the customers referenced above to the Bank's average quarterly transaction activity level for the four quarters prior to the execution of this Order.

(2) By September 30, 2014, and every calendar quarter thereafter, the Board shall prepare and submit to the Assistant Deputy Comptroller, a report that lists each customer referenced in Paragraph (1) of this Article and each customer's aggregate quarterly transaction activity level for the existing calendar quarter and each previous calendar quarter beginning with the quarter ending June 30, 2014.

(3) As part of the Bank's compliance with Paragraph (1) of this Article, the Bank shall also cease and desist from allowing any customer described in Paragraph (1) of this Article from:

- (a) adding any new Bank products or services;
- (b) processing any transaction for which the Bank's automated system cannot include the individual transactions in its monitoring or for which the Bank cannot otherwise reasonably ensure the legitimacy of the sources and uses of funds, to include at a minimum:
  - (i) activities conducted directly or indirectly through foreign or domestic correspondents; and

- (ii) activities involving the batching of transactions, such as remote deposit capture (“RDC”) activities and vault and armored car services; and
- (c) directly or indirectly processing any funds transfer without being able to identify and appropriately monitor when the transfer involves a high-risk jurisdiction.

## **Article VII**

### **Independent Review of BSA Compliance Program**

(1) Within thirty (30) days of this Order, the Bank shall submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, the name, qualifications, and terms of engagement for an independent consultant to conduct an independent review of the Bank’s BSA compliance program (“BSA Program Review”), in accordance with the requirements of OCC Bulletin 2013-33. The purpose of the BSA Program Review shall be to assess, through a comprehensive review of the Bank’s BSA Program (governance structure, policies, procedures, processes, and internal controls) the following:

- (a) the appropriateness of the Bank’s risk tolerance;
- (b) the adequacy and completeness of the Bank’s customer identification program (“CIP”), customer due diligence (“CDD”), and enhanced due diligence (“EDD”) requirements for opening new accounts or renewing, modifying, or performing periodic monitoring and updating existing information on existing accounts;
- (c) the adequacy and accuracy of the Bank’s BSA/AML and OFAC risk assessments;
- (d) the reasonableness of the Bank’s customer risk rating process;
- (e) the adequacy of the Bank’s BSA/AML program relative to higher-risk customer activities that include at a minimum:



- (i) batching of transactions such that the Bank cannot easily identify and analyze the sources and uses of funds (e.g., RDC activities, automated clearing house (“ACH”) activities, check processing activities (including the use of third parties), cash vault services, and armored car services);
  - (ii) domestic and international funds transfer activities (including the ability of the Bank to adequately and accurately monitor wire activity by source and destination country);
  - (iii) domestic and foreign correspondent relationships; and
  - (iv) customer accounts (including processor relationships) that involve the commingling of check cashing, money remittance, funds transfers and/or other activities in a single account;
- (f) the adequacy of policies, procedures, and processes for identifying, investigating and dispositioning customer transaction activity that is identified as unusual or suspicious, including the adequacy of documentation of investigative analyses and conclusions;
- (g) the completeness, accuracy, and timeliness for completing and filing SARs;
- (h) the adequacy of the Bank’s computer-based monitoring system to ensure that all customers, accounts, and transactions are monitored and potentially suspicious activity is appropriately identified;
- (i) the BSA Officer’s level of authority and independence;
- (j) the numbers and the qualifications of staff that support the BSA Officer in performing their assigned responsibilities in maintaining effective compliance with the BSA and its implementing regulations;

- (k) the level of knowledge of the Bank's operational and supervisory personnel of the Bank's policies and procedures for identifying transactions that pose greater than normal risk for compliance with the BSA in order to determine the additional or enhanced training that should be conducted;
- (l) the adequacy of the budget for maintaining effective compliance with the BSA and its implementing regulations;
- (m) the adequacy and effectiveness of the governance structure of the BSA program including channels for informing senior management and the Board, or a committee thereof, of identified compliance deficiencies and corrective actions taken to address deficiencies; and
- (n) contingency and succession plans for ensuring the program's continuity despite changes in management, staffing, or structure.

(2) The BSA Program Review shall also specifically review the effectiveness of the Bank's current BSA/AML controls over the activities flowing through any foreign MSB customers or through any domestic MSBs that are operating on behalf of, or as agents for, any foreign MSB(s), to include any domestic MSB with "dba" in its name that is conducting transactions on behalf of a foreign MSB or a domestic MSB that is owned by a foreign MSB, any domestic MSB that is processing foreign originated transactions, and any domestic MSB that is owned or controlled by a foreign MSB. The review shall identify any gaps in Bank monitoring of these accounts and provide recommended actions to address those gaps, including recommendations to discontinue a product or service or to terminate a customer relationship if appropriate. The assessment of the Bank's controls should consider the risks posed by these customers, as reflected in the Bank products and services being offered, locations and markets served, anticipated and actual account activity, and the purpose of the accounts. The review shall also

consider the volume of activity, source of monetary instruments, and cash deposits and evaluate the MSB's ability to assess, monitor, and mitigate risks and ensure that the same level of quality and controls exist throughout the MSB operations, and include an assessment of the MSB's:

- (a) anti-money laundering program;
- (b) independent testing of its anti-money laundering compliance program and the results of the most recent independent testing;
- (c) written procedures for the operation of the MSB that relate in any manner to BSA/AML compliance;
- (d) written management and termination practices relating to such agent-MSBs;
- (e) written employee screening practices;
- (f) facilities, staffing, and other relevant observations through an on-site visit; and
- (g) list of agents, including locations, within or outside the United States, that will be receiving services directly or indirectly through the MSB account.

(3) A written report of the findings and recommendations from the BSA Program Review shall be submitted to the Board and the Assistant Deputy Comptroller within one hundred twenty (120) days of receipt of the no supervisory objection to the proposed firm and engagement scope submitted pursuant to Paragraph (1) of this Article. The supporting materials associated with the BSA Program Review shall be made available to the OCC upon request.

(4) Upon receipt of the BSA Program Review report, the Board shall ensure that the Bank modifies the BSA Action Plan described in Article III of this Order, as appropriate to address the findings from the BSA Program Review within thirty (30) days of its receipt. The Bank shall submit the modified BSA Action Plan to the Assistant Deputy Comptroller for a prior written determination of no

supervisory objection. Upon receipt of the no supervisory objection to the modified BSA Action Plan, the Bank shall adhere to it in accordance with the terms of this Order.

### **Article VIII**

#### **Suspicious Activity Review**

(1) Within thirty (30) days of this Order, the Board shall submit to the Assistant Deputy Comptroller for a prior determination of no supervisory objection, a qualified, independent, third-party consultant to review and provide a written report on the Bank's suspicious activity monitoring ("SAR Look-Back") in accordance with the requirements of OCC Bulletin 2013-33. The Board shall also submit, for a prior written determination of no supervisory objection, the proposed scope of the engagement that addresses the requirements of Paragraphs (2) and (3) of this Article and includes a list of the customers, accounts, and alerts selected, and the methodologies, factors, and other considerations used to select the customers, accounts, and alerts in accordance with the requirements of OCC Bulletin 2013-33. The purpose of the SAR Look-Back is to determine whether additional SARs should be filed for any previously unreported suspicious activity, including cases in which the BSA Officer or staff identified suspicious activity but failed to adequately support a decision not to file a SAR, to review the quality and accuracy of previous SAR filings to determine whether corrections or amendments are necessary to ensure that the suspicious activity identified was accurately reported in accordance with 12 C.F.R. § 21.11, and to identify any accounts that represent excessive BSA/AML risk. After the OCC has advised the Bank that it does not take supervisory objection to the proposed consultant or scope of the review, the Board shall engage the consultant to perform the SAR Look-Back.

(2) The scope of the SAR Look-Back shall include significant coverage of the Bank's MSB and other customer and account activity for the initial period covering July 1, 2012 through June 30, 2014 and shall be risk-based, as determined by annual volume, geography and product risk, and other

factors, in accordance with the risk indicators detailed in OCC Bulletin 2005-19, *Interagency Interpretive Guidance on Providing Banking Services to Money Service Businesses Operating in the United States*, April 26, 2005 (the “2005 MSB Guidance”). The scope of the SAR Look-Back shall also include account activity, for the same two-year period, for accounts:

- (a) owned by officers, employees, or directors of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person;
- (b) for which the Bank received a law enforcement *subpoena*; or
- (c) that generated internal alerts for which the Bank determined it would not file a SAR.

(3) Within ninety (90) days of receiving no supervisory objection to the consultant and scope, the consultant shall provide the Board with a written report that contains a list of any SARs that should be filed or existing SARs that should be modified to meet the requirements of 12 C.F.R. § 21.11, a list of accounts that represent excessive risk for BSA/AML compliance, and a conclusion about the effectiveness of the Bank’s suspicious activity monitoring. The SAR Look-Back report should also, among other things, describe the methodologies and tools used in conducting the review, describe the process followed for investigating customers and customer activities, and provide a summary of the number and types of customers and accounts reviewed, number of customers and accounts requiring additional investigation, number of customers warranting SAR filings or modifications to existing SAR filings, and the number of customers where it was determined not to file SARs. The Board shall immediately provide a copy of the written report of the findings and recommendations from the SAR Look-Back to the Assistant Deputy Comptroller. The supporting materials and work papers associated with the SAR Look-Back shall be made available to the OCC upon request.

(4) The Board shall also ensure that the Bank files, or modifies, as appropriate, any SARs in accordance with the requirements of 12 C.F.R. § 21.11, and closes any accounts which represent excessive risk for BSA/AML compliance.

(5) Based upon the results of the SAR Look-Back, the OCC may require an expanded review of the Bank's accounts and/or alerts. If the OCC requires such an expanded review, the Board shall complete the review in accordance with the terms of this Article.

## **Article IX**

### **Revised BSA Program**

(1) Within forty-five (45) days of the completion of the BSA Program Review report required by Article VII, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a revised, comprehensive, written program designed to ensure that the Bank complies with the Bank Secrecy Act, as amended (31 U.S.C. § 5311, *et seq.*), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C, and the rules and regulations of the Office of Foreign Assets Control ("OFAC") (collectively referred to as the "Bank Secrecy Act" or "BSA") for the Bank, and that addresses any concerns and incorporates any recommendations in the BSA Program Review report, and the substantive requirements of Articles X through XIX of this Order ("Revised BSA Program").

(2) Upon receipt of a written determination of no supervisory objection to the Bank's Revised BSA Program, the Board shall immediately implement and thereafter ensure adherence to the Revised BSA Program. Prior to making any changes that will cause, result, or bring about a significant deviation or material change to the Revised BSA Program, the Board shall submit the changes to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

## **Article X**

### **BSA Risk Assessment**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall review and revise and thereafter ensure Bank adherence to a written, institution-wide ongoing BSA risk assessment program that accurately identifies the BSA risks posed to the Bank after consideration of all pertinent information (“Risk Assessment”), and includes the maintenance of a comprehensive list of customers with accurate risk ratings, and expected controls to mitigate the risk in each customer account and the aggregate risk in the Bank. The Risk Assessment shall reflect a comprehensive analysis of the Bank’s vulnerabilities to money laundering and financial crimes activity and reflect strategies to mitigate risk and limit any identified vulnerabilities. The Risk Assessment methodology shall follow the risk assessment expectations and logic set forth in the *2010 FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual* and shall include at a minimum:

- (a) the identification of all activities and other elements that pose BSA risk to the Bank, including but not limited to, the volumes and types of the Bank’s:
  - (i) products and services;
  - (ii) customers and entities;
  - (iii) geographic locations;
  - (iv) marketing channels and strategies for soliciting new customers; and
  - (v) methods that the Bank uses to interact with its customers such as face-to-face contact or through electronic means (collectively, (i) through (v) are the “specific risk categories”);
- (b) a detailed analysis of all relevant data obtained regarding the information in Subparagraph (a), including but not necessarily limited to volumes and types of

transactions and services by country or geographic locations and numbers of customers that typically pose higher BSA risk, both by type of risk and by geographic location, so as to permit the Bank to revise and implement appropriate policies, procedures, and processes to monitor and mitigate the Bank's BSA risks within those risk categories;

- (c) an assessment of BSA risk both individually within the Bank's business lines and on a consolidated basis across all Bank activities and product lines; and
- (d) a provision requiring maintenance of appropriate documentation, including CDD information, to support the Risk Assessment conclusions.

(2) The Board shall ensure the Risk Assessment is updated annually, at a minimum, to identify and respond to changes in the Bank's risk profile (new products or services, changes to existing products or services, changes in activity mix and volume, etc.).

(3) The Board shall require, as part of its periodic external BSA audit, an assessment of the reasonableness, completeness, and accuracy of the Risk Assessment conclusions. The Board shall perform a documented review of the results of the external BSA audit assessment for appropriateness and determine whether changes are needed to the Risk Assessment or the Bank's Revised BSA program.

## **Article XI**

### **Management Information Systems**

(1) Within forty-five (45) days of the receipt of the no supervisory objection to the BSA Program Review report, the Board shall update and revise as appropriate, the Bank's management information systems ("MIS") to ensure the Bank effectively identifies, monitors, and manages the Bank's BSA/AML risks on a timely basis. The Bank's updated systems should address the findings and recommendations in the BSA Program Review report, correct any system limitations and provide for



appropriate reporting in consideration of the Bank's services, customer base, customer activities, product lines, departments, and the risk indicators detailed in the 2005 MSB Guidance, and consider the following:

- (a) any trends in unusual or suspicious activity that have been identified and reported by the Bank, as well as the product lines and departments in which suspicious activity has occurred;
- (b) higher-risk customers and accounts by:
  - (i) line of business and type of business;
  - (ii) countries of origin;
  - (iii) location of the customers' businesses and residences; and
  - (iv) average total activity and number of transactions;
- (c) information regarding any type of grand jury or law enforcement *subpoena* received by the Bank, any other law enforcement inquiry directed to the Bank, and any action taken by the Bank on the affected account;
- (d) information regarding pouch activity, politically exposed persons ("PEPs"), foreign correspondent accounts, and international wire activities;
- (e) information regarding compliance with this Order; and
- (f) any additional information deemed necessary or appropriate by the BSA Officer or the Bank.

(2) The Board shall periodically (no less than annually) review and assess the adequacy of the Bank's MIS in managing the Bank's BSA/AML risk in accordance with the risk factors and other considerations in Paragraph (1) of this Article. The Board shall document its considerations and conclusions about the adequacy of the Bank's MIS.

## **Article XII**

### **BSA Corporate Governance**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall review and revise, as appropriate, the BSA corporate governance structure, including the authority, responsibilities, and accountability of the BSA Officer, BSA staff, and all line personnel involved in the monitoring and acceptance of customers or accounts, and the roles and responsibilities of management and the Board. In reviewing and revising the BSA corporate governance structure, the Board shall consider the findings and recommendations contained in the BSA Program Review report. The revised BSA Corporate Governance shall also include, at a minimum, the following revisions:

- (a) the development of an appropriate Board oversight structure, management lines of authority, reporting responsibilities, and delegation of duties for all officers and staff involved in BSA compliance;
- (b) a detailed written description, and graphic depiction of:
  - (i) the Bank's BSA corporate governance and decision-making processes;
  - (ii) the Bank's BSA committees and the structure and purpose of each committee; and
  - (iii) clear descriptions of the roles of all directors, officers and other personnel involved in BSA compliance;
- (c) a policy statement that clearly defines the Bank's BSA/AML risk tolerance and establishes risk limits that consider product types, customer types, complexity of customer operations, levels of higher-risk customers, customer transaction activity levels, and geographies, at a minimum, and that includes a list of customer types the Bank is willing to accept and not accept;

- (d) procedures to ensure Bank management, President Roberts, Cash Management Services personnel, and BSA personnel are held accountable for the Bank's compliance with BSA, including but not limited to, the consideration of any BSA compliance failures in periodic performance reviews and compensation;
- (e) revisions to ensure the BSA Officer and staff exhibit the appropriate degree of authority and independence to appropriately monitor and ensure compliance with the BSA;
- (f) procedures to ensure the Board receives and reviews sufficient Bank information from management (including scope, frequency and content) on BSA compliance to enable it to provide proper oversight and fulfill their fiduciary duties and other responsibilities under law;
- (g) policies and procedures to ensure all officers, directors and other personnel involved with BSA compliance avoid conflicts of interest, breaches of fiduciary duty, and the appearance of conflicts of interest; and
- (h) requirements for the development of written action plans to address material criticisms of the Bank's BSA compliance that include:
  - (i) corrective actions to be taken;
  - (ii) deadlines for taking the corrective action;
  - (iii) the individual(s) responsible for taking the corrective action; and
  - (iv) Board review, approval and monitoring of the written action plans.

## **Article XIII**

### **BSA Officer and Staffing**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall ensure that the Bank has a permanent, qualified, and experienced BSA Officer who shall be vested with sufficient authority to fulfill the duties and responsibilities of the position. In the event that the position is vacated, the Board shall appoint a new BSA Officer within ninety (90) days of the vacancy.

(2) By December 31, 2014, and as part of the Revised BSA Program, the Board shall ensure that the Bank has sufficient BSA staff with appropriate skills that are needed to support the BSA Officer and the Bank's BSA compliance function and that they are vested with sufficient authority to fulfill their respective duties and responsibilities.

(3) In fulfilling the requirements of Paragraphs (1) and (2) of this Article, the Board shall address any concerns or recommendations in the BSA Program Review report and shall thereafter require, as part of its periodic external BSA audit, an assessment of the adequacy of the Bank's BSA Officer and staff. In the event that the external BSA audit determines that the staff levels or knowledge, skills or training of the BSA Officer or staff are not adequate, the Board shall take the necessary steps to correct the weakness within forty-five (45) days of this determination.

## **Article XIV**

### **BSA Training**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall develop, implement, and thereafter ensure Bank adherence to a comprehensive, written, training program for all Bank employees and Board members to ensure their awareness of their responsibility for compliance with the requirements of the BSA. This comprehensive training program shall address any concerns or recommendations in the BSA Program Review report and shall:

- (a) provide for extensive BSA training for all Board members and operational and supervisory personnel assigned to the Bank's BSA compliance function;
- (b) provide for targeted training for other personnel focusing on the individual's specific duties and responsibilities; and
- (c) include strategies for mandatory attendance, the frequency of training, procedures and timing for updating the training program and materials, and the method for delivering training.

## **Article XV**

### **BSA Audit**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall revise, adopt, implement, and thereafter ensure Bank adherence to an effective, independent, externally-based, BSA audit program.

(2) In attaining compliance with Paragraph (1) of this Article, the revised externally-based BSA audit shall address any findings or recommendations in the BSA Program Review report, or the results of any other BSA compliance review, and its scope, testing, documentation, and follow-up testing shall be sufficient to:

- (a) detect irregularities in the Bank's operations;
- (b) determine the Bank's level of compliance with all applicable laws, rules, regulations, regulatory guidance, and this Order;
- (c) evaluate the Bank's adherence to established policies, procedures and risk tolerance;
- (d) validate the Bank's automated system filters and thresholds for appropriateness and accuracy;

- (e) perform an appropriate level of testing to support the audit findings; and
- (f) ensure adequate audit coverage in all areas.

(3) The Board shall ensure that the external firm responsible for conducting the BSA audit program described in Paragraph (1) of this Article reports directly to the Board, or a designated committee thereof, which shall have the sole power to direct the audit activities. All reports prepared by the external audit firm shall be filed directly with the Board, or a designated committee thereof, and not through any intervening party.

(4) All audit reports shall be provided in writing to the Board, and supported by adequate work papers that are available to the Bank upon request. The Board, or a designated committee thereof, shall ensure the Bank takes immediate actions to remedy deficiencies cited in audit reports, and that the Board maintains a written record describing those actions.

(5) The audit staff shall have access to any records necessary for the proper conduct of its activities. The OCC shall have access to all reports and work papers of the audit staff and any other parties working on its behalf.

## **Article XVI**

### **BSA Program of Internal Controls**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall revise, adopt, implement and thereafter ensure adherence to a comprehensive written program of internal control policies and procedures to provide for compliance with the BSA and that appropriately addresses account opening procedures, customer risk assessments, CIP/CDD/EDD, ongoing account monitoring, and updating of customer profiles and risk assessments. At a minimum, the Bank's internal controls must include, as may be necessary, revisions to:

- (a) account opening and site-visit forms, as appropriate and consistent with the limitations set forth in Article VI, to ensure the Bank obtains, documents, and verifies complete initial information at account opening;
- (b) assigned accountability and oversight for account opening and review, including provisions for independent BSA Officer involvement in the higher-risk account opening decision;
- (c) guidelines for assessing and distinguishing levels of customer and account risk;
- (d) procedures to ensure accounts are appropriately risk-rated and EDD is performed as appropriate;
- (e) guidelines for when an account may not be opened that address circumstances where information is insufficient or incomplete, and where risk is excessive in relation to customer activities, geographies, transactions, and products and services;
- (f) guidelines for terminating a customer relationship by specific activity, risk triggers and processes;
- (g) procedures for ensuring appropriate account transparency, to include, at a minimum, requirements that MSBs cannot commingle remittance activities with check-cashing activities in a single account and that any other form of aggregated or batched transactions are supported with underlying transaction detail such that the Bank can thoroughly understand the ultimate sources and uses of funds (e.g., RDC activities, vault and armored car services);
- (h) procedures for ensuring appropriate account transparency for transaction activity through domestic or foreign correspondents, including procedures for ensuring

underlying transaction details are available in a form making it possible for the Bank to thoroughly understand the ultimate sources and uses of funds;

- (i) procedures for ensuring the Bank can easily distinguish foreign from domestic wire transactions and can appropriately monitor all wire activity;
- (j) procedures for subsequent review and periodic re-rating of all accounts to ensure customer-provided information accurately depicts actual account activity; and
- (k) training for those involved in account opening to ensure they are knowledgeable about Bank risk tolerance, required account opening information and verification thereof, and investigating and assessing customer BSA risk.

(2) By December 31, 2014, and as part of the Revised BSA Program, the Bank shall review and obtain complete information in compliance with the requirements of Paragraph (1) of this Article for all existing higher-risk accounts. For all other accounts, the Bank shall obtain such information using a risk-based approach, in a timely manner. For those accounts for which the Bank cannot obtain complete information or the updated information indicates the account risk exceeds the Bank's defined risk tolerance, the Bank shall close the account and, if appropriate, file SAR(s).

## **Article XVII**

### **BSA Enhanced Due Diligence at Account Opening**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall develop, implement, and thereafter ensure Bank adherence to expanded account opening policies and procedures for all higher-risk customers and accounts. The policies and procedures shall address any concerns or recommendations in the BSA Program Review report and, at a minimum, shall require:

- (a) identification of all account owners and beneficial owners in compliance with applicable rules, regulations, and regulatory guidance;



- (b) identification of the officers, directors, and major shareholders of any corporate customer, and the partners of any partnership customer; and
- (c) documentation of the following minimum information, as relevant, for all higher-risk accounts:
  - (i) purpose of the account;
  - (ii) source of the customer's funds and wealth;
  - (iii) occupation or type of business conducted by the customer;
  - (iv) domicile of the business;
  - (v) any relevant financial information concerning the customer;
  - (vi) proximity of the customer's residence, place of employment, or place of business to the Bank;
  - (vii) description of the customer's primary trade area and whether international transactions are expected to be routine;
  - (viii) description of the business operations, the anticipated activity volume and total sales, and a list of major customers and suppliers;
  - (ix) Bank products and services to be used and expected activity by product or service;
  - (x) on-site review, complete with photographs of the business;
  - (xi) the results of the use of non-documentary verification tools and screening technology and internet searches for BSA/AML/OFAC commensurate with industry standard on the business, authorized signers, principal owners, and any ten percent or more beneficial owners;

- (xii) copies of any business license, corporate resolution, or other relevant operating information;
  - (xiii) evidence of FinCEN registration if applicable;
  - (xiv) MSB customer's BSA/AML program and copy of its most recent independent audit report demonstrating that the audit performed transactional testing;
  - (xv) how the customer's operating accounts will be segregated to avoid commingling of lines of business and high-risk activities and allow transparency to properly monitor account activities; and
  - (xvi) any other due diligence required by this Order, the Bank, the BSA Officer, any Reports of Examination, or the BSA Program Review; and
- (d) the proper administration and monitoring of accounts utilizing ACH and RDC, to include:
- (i) the establishment of appropriate individual ACH and RDC transaction limits;
  - (ii) determination of anticipated ACH and RDC transaction and dollar volumes, and type (e.g., payroll checks, third-party checks, or traveler's checks);
  - (iii) comparison of projected activity to actual activity, and ensuring results are reasonable and consistent; and
  - (iv) ensuring the transparency of underlying individual transactions.

(2) The Board's compliance with Paragraph (1) of this Article shall include the development of policies and procedures to ensure that all accounts have the information required by Paragraph (1) of this Article by at a minimum:

- (a) preventing the opening of an account or the use of an account while verifying a customer's identity or other information; and
- (b) closing accounts, and filing SARs, if appropriate, when the Bank does not receive the information required by Paragraph (1) of this Article by the date the information is due.

(3) By December 31, 2014, and as part of the Revised BSA Program, the Bank shall not open any account for a customer, and shall close any existing account of a customer, if the information available to the Bank indicates that the customer's relationship with the Bank would be detrimental to the reputation of the Bank. For existing higher-risk accounts that are not closed, the Bank shall ensure that it obtains the information required by this Article by no later than December 31, 2014.

## **Article XVIII**

### **BSA Ongoing Monitoring**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of policies and procedures to provide for the appropriate identification, analysis, and monitoring of all accounts in consideration of the risks identified in the Risk Assessment performed pursuant to Article X of this Order. This program shall address any findings or recommendations in the BSA Program Review report and shall include, at a minimum, policies and procedures and the use of management information systems for monitoring accounts, including:

- (a) timely identification and monitoring of account activity, including:

- (i) employee identification and referral of potentially suspicious activity;
  - (ii) handling of law enforcement inquiries and requests;
  - (iii) use of automated systems; and
  - (iv) the use of alternative monitoring systems for account activity that cannot be adequately monitored using the existing automated system, to include, at a minimum, foreign exchange transactions, internal account transfers, and international wire activity;
- (b) application of appropriate thresholds and filters for automated systems in monitoring all types of transactions, accounts, customers, products, services, and geographic areas that include, at a minimum:
- (i) meaningful thresholds and alert scenarios for filtering transaction activity and customers for further monitoring, review, and analysis;
  - (ii) validation of the thresholds and filters established by the Bank;
  - (iii) maintenance of documentation supporting the Bank's methodology for establishing thresholds and filters; and
  - (iv) a periodic independent assessment of the appropriateness of thresholds and filters relative to the Bank's customer base, products, services, and geographies served;
- (c) timely investigation and resolution of transactions;
- (d) procedures for conducting the review of alerts and other customer or account follow-up research and investigation, and the standards for documenting the conclusions of such review and follow-up;
- (e) recording, maintaining, and recalling information;

- (f) maintenance of an accurate and complete list of higher-risk customers using:
  - (i) CDD/EDD information, including normal and expected account activity;
  - (ii) the Bank's customer risk rating system; and
  - (iii) automated systems;
- (g) a requirement for a detailed periodic review (no less than annually) of each higher-risk account that includes updating all relevant customer information to ensure customer profiles remain accurate and current, to include:
  - (i) the name of the customer;
  - (ii) the officers, directors, and major shareholders of any corporate customer, and the partners of any partnership customer;
  - (iii) any other accounts maintained by the customer and, as applicable, its officers, directors, major shareholders, or partners;
  - (iv) any related accounts of the customer at the Bank;
  - (v) any action the Bank has taken on the account;
  - (vi) the purpose and balance of the account;
  - (vii) any changes in business activity to include, at a minimum, expansion into new geographies, new products and services, and growth; and
  - (viii) any unusual activity for each account or any significant deviations from expected activity as set forth in the Bank's CDD and EDD file; and
- (h) ongoing updates to customer profiles to include updating of current information and, if appropriate, the filing of SARs when observed activity is inconsistent with the customer's profile and is not satisfactorily explained after investigation.

(2) The term “related accounts,” as referenced in this Article, shall be broadly construed and shall include the following accounts:

- (a) all accounts for which there are common signatories, officers, directors, addresses, taxpayer identification numbers, or phone numbers that can be reasonably identified;
- (b) all accounts of a customer’s immediate relatives by blood, marriage, or adoption (for example, spouses, children, parents, siblings, uncles, and aunts) that can be reasonably identified;
- (c) all accounts of any corporation, joint enterprise, partnership, or any enterprise whatsoever that can be reasonably identified as controlled by or operated substantially in the interest of any Bank customer (where “controlled” includes direct or indirect ownership of ten percent or more of the stock, capital, or equity of any such enterprise and “substantially in the interest” shall mean derivation in any manner of income of ten thousand dollars (\$10,000) or more per annum from it);
- (d) all accounts where the Bank’s customer can be reasonably identified as exercising control or authority over the account holder; and
- (e) any account(s) so designated in the SAR Look-Back report.

## **Article XIX**

### **BSA Suspicious Activity Reporting**

(1) By December 31, 2014, and as part of the Revised BSA Program, the Board shall develop, implement, and thereafter ensure Bank adherence to a written system of internal controls and processes to ensure compliance with the requirements to file SARs as set forth in 12 C.F.R. § 21.11. At

a minimum, this written program shall address the findings and recommendations in the BSA Program Review report and include appropriate policies and procedures to ensure that the Bank:

- (a) identifies and reports known or suspected violations of Federal law, violations of the BSA, or suspicious transactions related to money laundering activity;
- (b) files SARs within the time frames specified in the applicable rules, regulations, and regulatory guidance, and files follow-up SARs every ninety (90) days in cases where suspicious activity is ongoing;
- (c) files accurate and complete SARs with narratives that provide a sufficient description of the activity reported and the basis for filing;
- (d) track and thoroughly document investigation processes, including key dates until disposition;
- (e) provides sufficient information on its SAR filings to the Board or an appropriate committee thereof, except that a SAR filing on a Board member or executive officer shall not be disclosed to that person in accordance with 12 C.F.R. § 21.11(h)(2); and
- (f) retains copies of SARs and supporting documentation for five (5) years from the date of filing the SAR.

## **Article XX**

### **Violations of Law**

(1) The Board shall immediately take the necessary steps to ensure that Bank management corrects each violation of law, rule, or regulation, unsafe or unsound practice, or breach of fiduciary duty, cited in the Report of Examination conducted as of June 30, 2013 (the “ROE”) and in any subsequent Report of Examination or OCC correspondence. The monthly progress reports required by

Article I of this Order shall include the date and manner in which each correction has been implemented during that reporting period.

(2) Effective as of the date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations, practices, and breaches as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules, regulations and duties applicable to their areas of responsibility.

(3) Within sixty (60) days of receipt of any subsequent Report of Examination or other OCC correspondence which cites violations of law, rule, or regulation, unsafe or unsound practice, or breach of fiduciary duty, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future citations in any Report of Examination and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules, regulations, and duties applicable to their areas of responsibility.

## **Article XXI**

### **Capital and Strategic Plan**

(1) The Bank shall maintain at all times the following minimum capital ratios:

- (a) Tier 1 capital at least equal to fifteen percent (15%) of adjusted total assets; and
- (b) total risk-based capital at least equal to twenty percent (20%) of risk-weighted assets.

(2) For purposes of this Article, “Tier 1 capital,” “total risk-based capital,” “adjusted total assets,” and “risk-weighted assets” are as defined in 12 C.F.R. Part 3.



(3) The requirement in this Order to meet and maintain a specific capital level means that the Bank is not to be deemed to be “well capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 pursuant to 12 C.F.R. § 6.4(b)(1)(iv).

(4) Effective immediately, the Bank shall only declare dividends when the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(5) Within ninety (90) days of this Order, the Board shall develop a written strategic plan for the Bank covering at least the next three years (hereafter the “Bank’s Three-Year Plan”), complete with specific time frames that incorporate the strategic and other requirements of this Article and considers the other requirements and time frames of this Order. A copy of the Bank’s Three-Year Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(6) The Bank’s Three-Year Plan shall establish objectives and projections for the Bank’s overall risk profile, earnings performance, growth expectations, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, product line development and market segments that the Bank intends to promote or develop, together with specific strategies to achieve those objectives, that are specific, measurable, verifiable, and, at a minimum, address or include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives that considers the Board’s BSA/AML risk tolerance;
- (b) an assessment of the Bank’s present and future operating environment;
- (c) the development of strategic goals and quantifiable measures with specific implementation dates, individual responsibilities, and accountability to ensure the

- Bank attains compliance with this Order while maintaining sufficient earnings to support capital and liquidity;
- (d) the present and future product line development and market segments that the Bank intends to develop or promote;
  - (e) an evaluation of the Bank's internal operations, staffing requirements, Board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed pursuant to this Article;
  - (f) specific plans to establish responsibilities and accountability for the strategic planning process, new products, proposed changes in the Bank's operating environment and reduction of BSA risk;
  - (g) recognition that the Bank cannot offer or introduce new products, enter new market segments, or significantly expand any existing product unless it first develops appropriate systems, controls, and expertise to manage and control the associated risks;
  - (h) concentration and other limits that reflect the Board's objectives and limitations for the Bank's risk profile and Board's risk tolerance;
  - (i) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of Paragraph (1) of this Article;
  - (j) a dividend policy that only permits the declaration of a dividend in accordance with Paragraph (4) of this Article;

- (k) projections for capital and liquidity requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (l) a forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the next three years that shall address or include consideration of the requirements of this Article; and
- (m) methods to monitor the Bank's progress in meeting the plan's goals and objectives.

(7) Excluding changes relating to the Bank's fulfillment of the requirements of this Order, the Bank shall not significantly deviate from the products, services, asset composition and size, funding sources, structure, operations, policies, procedures, and markets of the Bank that existed before this Order without first obtaining the Assistant Deputy Comptroller's prior written determination of no supervisory objection to such significant deviation or to the Bank's Three-Year Plan. Any request to the Assistant Deputy Comptroller for prior written determination of no supervisory objection to a significant deviation must include an assessment of the impact of such change on the Bank's condition.

(8) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan. The Board shall review and update the Bank's Three-Year Plan at least annually or more frequently if necessary or if requested by the Assistant Deputy Comptroller.

(9) The Bank may not initiate any action that deviates significantly from the Bank's Three-Year Plan without a written determination of no supervisory objection from the Assistant Deputy Comptroller. The Board must give the Assistant Deputy Comptroller advance, written notice of its intent to deviate significantly from the Bank's Three-Year Plan, along with an assessment of the impact of

such change on the Bank's condition, including a profitability analysis and an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the change in the Bank's Three-Year Plan.

(10) For the purposes of this Article, changes that may constitute a significant deviation from the Bank's Three-Year Plan include, but are not limited to a change in the Bank's:

- (a) marketing strategies or marketing partners;
- (b) product or service offerings, including fee structure or pricing;
- (c) underwriting practices and standards, credit administration, account management, collection strategies or operations;
- (d) accounting processes and practices; or
- (e) funding strategy;

any of which, alone or in aggregate, may have a material impact on the Bank's operations or financial performance; or any other changes in personnel, operations, or external factors that may have a material impact on the Bank's operations, financial performance, or compliance with the BSA. For purposes of this Paragraph, "personnel" shall include the President, Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Chief Credit Officer, Chief Money Service Business Officer, BSA Officer, member of the Bank's Board of Directors, or any other position subsequently identified in writing by the Assistant Deputy Comptroller.

(11) If the Bank fails to maintain the level of capital required by Paragraph (1) of this Article or fails to implement or adhere to the Revised BSA Program in accordance with the requirements of this Order, then the Bank shall be deemed undercapitalized for purposes of this Order, and the Bank shall take such corrective measures as the OCC may direct from among the provisions applicable to

undercapitalized depository institutions under 12 U.S.C. § 1831o(e) and 12 C.F.R. Part 6. For purposes of this requirement, an action “necessary to carry out the purpose of this section” under 12 U.S.C. § 1831o(e)(5) shall include restoration of the Bank’s Tier 1 capital to the minimum levels required by this Order, and any other action deemed advisable by the OCC to address the Bank’s capital deficiency or the safety and soundness of its operations.

## **Article XXII**

### **Closing**

(1) Although the Bank is required to submit certain proposed actions and programs for the review or prior written determination of no supervisory objection of the Assistant Deputy Comptroller, the Board has the ultimate responsibility for proper and sound management of the Bank and the completeness and accuracy of the Bank’s books and records.

(2) If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(3) 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 amended, suspended, waived, or terminated in writing by the Comptroller.

(4) In each instance in this Order in which the Bank or the Board is required to ensure implementation of or adherence to, or to undertake to perform, an obligation of the Bank, the Board shall:

- (a) authorize and adopt such actions on behalf of the Bank as may be necessary or appropriate for the Bank to perform its obligations

under this Order;

- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Order;
- (c) follow up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner for any non-compliance with such actions.

(5) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding the Comptroller or the United States.

(6) The terms of this Order, including this Paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

**IN TESTIMONY WHEREOF**, the undersigned has hereunto set her hand.

/s/

\_\_\_\_\_  
Karen M. Boehler  
Associate Deputy Comptroller  
Western District Office

June 26, 2014

\_\_\_\_\_  
Date

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

<b>In the Matter of:</b>	)	
Merchants Bank of California, N.A.	)	AA-WE-14-07
Carson, California	)	

**STIPULATION AND CONSENT TO THE  
ISSUANCE OF A CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist proceedings against Merchants Bank of California, N.A., Carson, California (“Bank”), pursuant to 12 U.S.C. §§ 1818(b) and 1818(s)(3) through the issuance of a Notice of Charges for an Order to Cease and Desist for violations of the Bank Secrecy Act, 12 C.F.R. Part 21, Subpart C.

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated June 23, 2014 (the “Order”).

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

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 Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).
- (3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

(4) This Order shall not be construed to be a cease and desist order or consent order within the meaning of 12 C.F.R. § 5.51(c)(6)(ii), unless the OCC informs the Bank otherwise.

## Article II

### Agreement

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller.

(2) The Bank further agrees that said Order shall be deemed an “order issued with the consent of the depository institution” as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities.

## Article III

### Waivers

(1) The Bank, by signing this Stipulation and Consent, hereby waives:



- (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
- (b) any and all procedural rights available in connection with the issuance of this Order;
- (c) all rights to a hearing and a final agency decision with regard to the issuance of this Order pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19;
- (d) all rights to seek any type of administrative or judicial review with regard to the issuance of this Order; and
- (e) any and all rights to challenge or contest the validity of the Order.

Article IV

Other Action

(1) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, it deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

**IN TESTIMONY WHEREOF**, the undersigned, authorized by the Comptroller, has hereunto set her hand on behalf of the Comptroller.

/s/

June 26, 2014

---

Karen M. Boehler  
Associate Deputy Comptroller  
Western District Office

---

Date

**IN TESTIMONY WHEREOF**, the undersigned, as the duly elected and acting Board of Directors of the Bank, has hereunto set their hands on behalf of the Bank.

/s/

June 23, 2014

\_\_\_\_\_  
Rod Garza

\_\_\_\_\_  
Date

/s/

July 1, 2014

\_\_\_\_\_  
Janice Hall

\_\_\_\_\_  
Date

/s/

June 23, 2014

\_\_\_\_\_  
Daniel Roberts

\_\_\_\_\_  
Date

/s/

June 23, 2014

\_\_\_\_\_  
Theodore K. Roberts

\_\_\_\_\_  
Date

/s/

June 23, 2014

\_\_\_\_\_  
Philip Scott

\_\_\_\_\_  
Date

/s/

June 23, 2014

\_\_\_\_\_  
Arnold Coggeshall

\_\_\_\_\_  
Date