

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

In the Matter of:

M.Y. Safra Bank, FSB
New York, New York

AA-NE-2020-5

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) has supervisory authority over M.Y. Safra Bank, FSB, New York, New York (“Bank”);

WHEREAS, pursuant to the OCC’s November 5, 2013 Conditional Approval #1083 concerning the Bank’s Change in Bank Control (“Conditional Approval”), the OCC required the Bank to enter into an Operating Agreement dated December 5, 2013 (“Operating Agreement”);

WHEREAS, the OCC intends to initiate cease and desist proceedings against the Bank pursuant to 12 U.S.C. § 1818(b), through the issuance of a Notice of Charges, for engaging in violation(s) of law, rule, or regulation, including those relating to Bank Secrecy Act/Anti-money laundering (“BSA/AML”) compliance program requirements, 12 U.S.C. § 1818(s), 12 C.F.R. § 21.21 and those related to the failure to monitor and investigate suspicious transactions and timely file suspicious activity reports (“SAR”), 12 C.F.R. § 163.180 and for noncompliance with the Operating Agreement;

WHEREAS, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, by and through its duly elected and acting Board of Directors (“Board”), consents to the issuance of this Consent Order (“Order”), by the OCC through the duly authorized representative of the Comptroller of the Currency (“Comptroller”); and

NOW, THEREFORE, pursuant to the authority vested in the OCC by Section 8(b) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(b), the OCC hereby orders that:

ARTICLE I

JURISDICTION

(1) The Bank is a Federal savings association within the meaning of 12 U.S.C. § 1813(q)(1)(C), and is chartered and examined by the OCC. *See* 12 U.S.C. §§ 1461 *et seq.* & 5412(b)(2)(B).

(2) The OCC is the “appropriate Federal banking agency” as that term is defined in 12 U.S.C. § 1813(q) and is therefore authorized to initiate and maintain this cease and desist action against the Bank pursuant to 12 U.S.C. § 1818(b).

ARTICLE II

COMPTROLLER’S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies, the following:

(1) In July 2019, the OCC commenced an examination and found that the Bank failed to appropriately assess and monitor the risks associated with high risk customer activity flowing to or from high risk jurisdictions. The OCC also found that the Bank’s BSA/AML policies, procedures, systems, and controls as designed and implemented were deficient and impeded the Bank’s ability to effectively identify, investigate suspicious activity, and report SARs to the Financial Crimes Enforcement Network (“FinCEN”).

(2) The OCC found deficiencies in the Bank’s Customer Due Diligence (“CDD”) processes related to ongoing monitoring and independent testing and the Bank failed to designate a qualified BSA Officer with adequate staffing and resources.

(3) From November 2016 to February 2019, the Bank opened accounts for digital asset customers (“DACs”) which consisted of cryptocurrency-related money service businesses customers (“MSBs”), without sufficient consideration of the BSA/AML risks and failed to implement commensurate controls to address the increased risk. The DACs included digital currency exchangers, digital currency ATM operators, crypto arbitrage trading accounts, blockchain developers and incubators, and fiat currency MSBs.

(4) The Bank’s DACs and MSBs significantly increased the volume of the Bank’s domestic wires, international wires, Automated Clearinghouse (“ACH”), and cross-border ACH transactions without sufficient monitoring or controls in place.

(5) The OCC found that the Bank violated 12 C.F.R. §§ 21.21 and 163.180 and the Bank failed to comply with its Operating Agreement when it failed to provide the OCC notice of its intent to significantly deviate from its previous business plan.

(6) The Bank has begun addressing the identified corrective actions and has committed appropriate resources to remedy the deficiencies.

ARTICLE III

COMPLIANCE COMMITTEE

(1) Within thirty (30) days of the date of this Order, the Board shall appoint a Compliance Committee of at least three (3) members of which a majority shall be directors who are not employees or officers of the Bank or any of its subsidiaries or affiliates. The Board shall submit in writing to the Assistant Deputy Comptroller the names of the members of the Compliance Committee within ten (10) days of their appointment. In the event of a change of the membership, the Board shall submit in writing to the Assistant Deputy Comptroller within ten (10) days the name of any new or resigning committee member. The Compliance Committee

shall monitor and oversee the Bank's compliance with the provisions of this Order. The Compliance Committee shall meet at least monthly and maintain minutes of its meetings.

(2) Within forty-five (45) days after the end of each calendar quarter, or within such time period as required by the OCC in writing, the Compliance Committee shall submit to the Board a written progress report setting forth in detail:

- (a) a description of the corrective actions needed to achieve compliance with each Article of this Order;
- (b) a description of recommendations for corrective action provided by any existing or future third parties related to the Bank's BSA/AML compliance program or the Articles of this Order;
- (c) the specific corrective actions undertaken to comply with each Article of this Order; and
- (d) the results and status of the corrective actions.

The Compliance Committee's reports shall also include copies of any reports prepared by or for the Bank or Board relating to any BSA/AML compliance review or audit at the Bank.

(3) Upon receiving each written progress report, the Board shall forward a copy of the progress report and any accompanying documentation with any additional comments by the Board, to the Assistant Deputy Comptroller within ten (10) days of the first Board meeting following the Board's receipt of such report.

ARTICLE IV

STRATEGIC PLAN

(1) Within one hundred and twenty (120) days of the date of this Order, the Board shall forward to the Assistant Deputy Comptroller pursuant to paragraph (3) of this Article, a

revised written Strategic Plan for the Bank, covering at least a three (3) year period. The Strategic Plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, and capital and liquidity adequacy, together with strategies to achieve those objectives, and shall, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) the strategic goals and objectives to be accomplished, including key financial indicators and risk tolerances;
- (c) an assessment of the Bank's strengths, weaknesses, opportunities and threats that impact its strategic goals and objectives;
- (d) development of realistic short- and long-term goals and objectives that are commensurate with the Board's risk appetite, the Bank's existing infrastructure, and business environment in line with the Strategic Plan established pursuant to this Article;
- (e) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems, policies, and procedures for their adequacy and contribution to the accomplishment of the strategic goals and objectives developed under paragraph (1)(b) of this Article;
- (f) a management employment and succession plan designed to promote adequate staffing and continuity of capable management;
- (g) a realistic and comprehensive budget that corresponds to the Strategic Plan's goals and objectives;

- (h) an action plan to improve and sustain the Bank's earnings and accomplish identified strategic goals and objectives;
- (i) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the Strategic Plan;
- (j) an identification and assessment of the present and planned product lines (assets and liabilities and off-balance sheet products and services) and the identification of appropriate risk management systems to identify, measure, monitor, and control risks within the product lines;
- (k) assigned roles, responsibilities, and accountability for the strategic planning; and
- (l) a description of systems and metrics designed to monitor the Bank's progress in meeting the Strategic Plan's goals and objectives.

(2) If the Strategic Plan under paragraph (1) of this Article includes a proposed sale or merger of the Bank, the Strategic Plan shall, at a minimum, address the steps that shall be taken and the associated timeline to effect the implementation of that alternative.

(3) The Bank shall develop a process to periodically monitor and evaluate each strategic goal and objective. The Bank shall develop comprehensive and realistic narratives on how the Bank will achieve strategic goals and objectives. This shall include quantitative and qualitative metrics to measure progress of both on- and off-balance sheet goals and objectives.

(4) Prior to adoption by the Board, a copy of the revised Strategic Plan, and any subsequent amendments, revisions, or updates, shall be submitted to the Assistant Deputy Comptroller for prior written determination of no supervisory objection. At the next Board

meeting following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and ensure adherence to the Strategic Plan and any amendments or revisions thereto.

(5) Until the Strategic Plan required under this Article has been submitted by the Bank for the Assistant Deputy Comptroller's review, has received a written determination of no supervisory objection from the Assistant Deputy Comptroller, and has been adopted by the Board, 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 immediately before the effective date of this Order without first obtaining the Assistant Deputy Comptroller's prior written determination of no supervisory objection to such significant deviation.

(6) The Bank may not initiate any action that significantly deviates from a Strategic Plan (that has received written determination of no supervisory objection from the Assistant Deputy Comptroller and has been adopted by the Board) without a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(7) Any request by the Bank for prior written determination of no supervisory objection to a significant deviation described in paragraphs (5) or (6) of this Article shall be submitted in writing to the Assistant Deputy Comptroller at least forty-five (45) days in advance of the proposed significant deviation. Such written request by the Bank shall include an assessment of the effects of such proposed change on the Bank's condition and risk profile, including a profitability analysis and an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls, compliance systems, and

written policies and procedures to identify, measure, monitor, and control the risks associated with the proposed change.

(8) For the purposes of this Article, changes that may constitute a significant deviation include, but are not limited to, a change in the Bank's marketing strategies, products and services, marketing partners, underwriting practices and standards, credit administration, account management, collection strategies or operations, fee structure or pricing, accounting processes and practices, or funding strategy, any of which, alone or in aggregate, may have a material effect on the Bank's operations or financial performance; or any other changes in personnel, operations, or external factors that may have a material effect on the Bank's operations or financial performance.

(9) At least semiannually or more frequently as determined by the Assistant Deputy Comptroller in writing, a written evaluation of the Bank's performance against the Strategic Plan shall be prepared by Bank management and submitted to the Board. Within forty-five (45) days after submission of the evaluation, the Board shall review the evaluation and determine the corrective actions the Board will require Bank management to take to address any identified shortcomings. The Board's review of the evaluation and discussion of any required corrective actions to address any identified shortcomings shall be documented in the Board's meeting minutes. Upon completion of the Board's review, the Board shall submit to the Assistant Deputy Comptroller a copy of the evaluation as well as a detailed description of the corrective actions the Board will require the Bank to take to address any identified shortcomings.

(10) The Board shall review and update the Strategic Plan, including after expiration of the three (3) year period referenced in paragraph (1) of this Article, at least annually and more frequently if necessary or if required by the Assistant Deputy Comptroller in writing. Each

Strategic Plan updated annually under this paragraph shall include an assessment of each strategic goal and objective and an analysis of all changes of subparagraphs included under paragraph (1). Any changes to the Strategic Plan should adhere to the provisions of paragraph (2).

ARTICLE V

BSA OFFICER AND STAFFING

(1) 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 according to the requirements of this Article.

(2) The Board shall analyze the current BSA/AML and OFAC risk profile and strategic direction and determine the skills, experience, and expertise required of the Bank's BSA Officer. Based on this analysis, the Board shall develop a comprehensive job description detailing all requirements and responsibilities of the BSA Officer role.

(3) The Board shall ensure that the Bank has sufficient BSA staff with appropriate skills to support the BSA Officer and the Bank's BSA/AML/OFAC compliance function and that the BSA staff is vested with sufficient authority and expertise to fulfill their respective duties and responsibilities.

(4) Within one hundred eighty (180) days of this Order, and no less than annually thereafter, the Board shall review the adequacy of the Bank's BSA Officer and supporting staff and shall document its determination(s) in writing. The review shall evaluate and consider, as appropriate, the effectiveness of the Bank's BSA program, as well as the leadership, knowledge, training, and skills of the BSA Officer and staff, and appropriate staffing levels for the

BSA/AML and OFAC compliance function considering the size, complexity, and BSA/AML risk profile of the Bank, including anticipated risks from new or expanded lines of business, products and services. The Bank shall promptly take action to correct any deficiencies identified following each review.

ARTICLE VI

BSA/AML COMPLIANCE PROGRAM INTERNAL CONTROLS

(1) Within ninety (90) days of this Order, the Board shall revise and adopt and thereafter ensure the Bank immediately implements and adheres to a comprehensive written program of internal control policies and procedures to provide for compliance with the BSA that appropriately monitors for and reports suspicious activity. At a minimum, the Bank's internal controls must include:

- (a) procedures for periodically updating the Bank's BSA and OFAC risk assessments to cover the risks associated with current, or subsequently proposed, Bank products, services, customers, entities, and geographies served, and including the dollar volume, number, and countries associated with Bank products, services, customers and transactions;
- (b) procedures to ensure the application of appropriate thresholds in the Bank's automated monitoring systems to filter accounts and customers for further monitoring, review, and analysis, including:
 - i. an analysis of the filtering thresholds established by the Bank;
 - ii. periodic testing and monitoring of thresholds for their appropriateness to the Bank's customer base, products, services, and geographic areas;

- iii. requirements that any changes to thresholds are approved at the senior management level and periodically reported to the Board;
 - iv. requirements that documentation of any changes to the filtering thresholds is maintained and available to auditors and OCC examiners;
- (c) requirements for periodic independent validation of the models and filtering thresholds used for the BSA monitoring systems in order to ensure that all accounts and transactions are captured, and the systems are adequate to detect potentially suspicious or sanctioned activity;
- (d) well-defined policies and procedures for investigating and responding to transactions that have been identified as posing greater than normal risk for compliance with the BSA, including timely, well-documented dispositions of alerts generated by the automated monitoring systems; and
- (e) procedures to ensure accurate and timely filing of SARs which comply with FinCEN's filing instructions in accordance with 12 C.F.R. § 163.180.

ARTICLE VII

BSA AUDIT

(1) Within ninety (90) days, the Board shall revise and adopt and thereafter ensure the Bank immediately implements and adheres to an effective, independent, BSA audit program.

(2) The Board shall ensure that BSA audit procedures sufficiently test the alert generation, analysis, investigation, and disposition process and opine on the strength of management's audit/documentation trail. The Board shall ensure that the SAR investigation process includes appropriate documentation.

(3) BSA audits shall address any findings or recommendations from any prior internal or external BSA compliance reviews and the scope shall be risk-based by connecting the audit risk assessment to the audit work performed.

(4) BSA audit testing, documentation, and follow-up testing shall be sufficient to:

- (a) connect the audit risk assessment to audit work performed;
- (b) clearly communicate the audit scope and controls to be tested;
- (c) detect irregularities in the Bank's operations;
- (d) determine the Bank's level of compliance with all applicable laws, rules, regulations, regulatory guidance, and this Order;
- (e) evaluate the Bank's adherence to established policies, procedures and risk tolerance;
- (f) validate the Bank's automated system filters and thresholds for appropriateness and accuracy;
- (g) perform an appropriate level of transaction testing to support audit findings. Transaction testing methodology must be documented in work papers by including identification of the control population, sample size, sampling methodology, how the control will be tested, and what constitutes a successful test;
- (h) ensure adequate audit coverage in all areas; and
- (i) clearly identify audit findings, risk rating findings, identify the root cause of findings and require substantive management action that addresses the identified root cause.

(5) The Board shall ensure that the Bank's internal audit or the third party 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 audit shall be filed directly with the Board, or a designated committee thereof, and not through any intervening party.

(6) 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 Bank must document its quality control review of audit work papers and maintain a record of its review including a clear statement on the adequacy of the audit work performed. The audit work papers must include a planning document that clearly communicates the audit scope. The audit conclusions must be clearly documented and supported and must include supporting audit procedures.

(7) The Board shall ensure that management documents its quality control review of audit work papers and maintains a record of its review including a clear conclusion statement on the adequacy of audit work performed. The results of this review shall be reported to the Audit Committee and Compliance Committee of the Board.

(8) The Board, or a designated committee thereof, shall ensure the Bank takes immediate action to remedy deficiencies cited in audit reports, and that the Board maintains a written record describing those actions.

(9) The Bank's internal audit or the third-party responsible for conducting the Bank's audit program 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 VIII

SUSPICIOUS ACTIVITY MONITORING, INVESTIGATION AND REPORTING

PROCESSES

(1) Within ninety (90) days, the Board shall develop and adopt and thereafter ensure the Bank immediately implements and adheres 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. § 163.180. At a minimum, this written program shall address any findings and recommendations from the Bank's third party consultants 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) tracks and thoroughly documents investigation processes, including key dates, until disposition;
- (e) implements a quality assurance process for alert disposition, investigation, and SAR/No-SAR decision-making processes comprised of a party independent of daily bank operations;
- (f) properly escalates suspicious activity for additional investigation;

- (g) develops applicable BSA/AML key risk indicators (“KRI”) including but not limited to the number of SARs filed, number of No-SAR decisions, number of overdue suspicious activity monitoring system (“SAMS”) alerts and the Board’s monitoring of these KRIs on a quarterly basis;
- (h) provides sufficient information on its SAR filings and other KRIs to the Board or an appropriate committee thereof, except that a SAR filing on a Board member or executive officer shall not be disclosed in accordance with 12 C.F.R. § 163.180(d)(9)(ii); and
- (i) establishes criteria that would require a SAMS model validation.

(2) The Board shall ensure the Bank improves the suspicious activity model risk management process to ensure suspicious activity monitoring controls are effective. At a minimum, the Board shall ensure the Bank:

- (a) performs a rule tuning of the Bank’s SAMS rules to assess the appropriateness and effectiveness of rules and rule parameters for generating productive suspicious activity alerts;
- (b) updates policies and procedures to reflect this revised process; and
- (c) performs a model validation consistent with safe and sound standards for SAMS which shall include at a minimum:
 - i. testing of alert generation completeness;
 - ii. gap analysis of identified risks to SAMS capability/production;
 - iii. evaluation of system assumptions and limitations; and
 - iv. user access control testing.

(3) The Board shall ensure that the BSA Officer and any supporting staff receive

training on how to clear alerts, perform investigations, support No-SAR decisions, and write SAR narratives consistent with FinCEN SAR filing guidance.

ARTICLE IX

SUSPICIOUS ACTIVITY REVIEW “LOOKBACK”

(1) Within ninety (90) days of the date of this Order, the Board shall submit to the Assistant Deputy Comptroller, for a prior written determination of no supervisory objection, the name and qualifications of a proposed independent, third-party consultant to review and provide a written report on the Bank’s suspicious activity monitoring (SAR Look-Back).

(2) Within sixty (60) days following receipt of the Assistant Deputy Comptroller’s written determination of no supervisory objection to the qualified independent third-party consultant to conduct the SAR Look-Back (Look-Back Consultant), the Board shall submit, for a prior written determination of no supervisory objection, a proposed scope and timeline for completion of the engagement that addresses the requirements of paragraphs (3) and (4) 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, account, and alerts.

(3) 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 BSA staff identified suspicious activity but failed to 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. § 163.180, and to identify any accounts that represent excessive BSA/AML risk.

(4) The scope of the SAR Look-Back shall include the Bank’s medium risk or higher

risk activity for January 1, 2019 to November 15, 2019, and shall be risk-based, as determined by annual volume, geography and product risk, and other factors. The scope of the SAR Look-Back shall also include account activity, for the same period for accounts:

- (a) owned by high-risk customers; or
- (b) that generated internal alerts for which the Bank determined it would not file a SAR.

(5) Within ten (10) days following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection to the proposed consultant and proposed timeframe for completion of the review, the Board shall engage the Look-Back Consultant to perform the SAR Look-Back pursuant to the proposed terms.

(6) Within thirty (30) days of completion of the SAR Look-Back, the SAR Look-Back Consultant shall provide the Board with a written report that contains a list of any SARs that the Look-Back Consultant recommends that the Bank should file, existing SARs that the Bank should modify to comply with the requirements of 12 C.F.R. § 163.180, a list of accounts that represent higher BSA/AML risk, and a conclusion about the effectiveness of the Bank's suspicious activity monitoring. This SAR Look-Back report should also, among other things, describe:

- (a) the methodologies and tools used in conducting the review;
- (b) the process for investigating customers and customer activities;
- (c) the number and types of customers and accounts reviewed;
- (d) the number of customers and accounts requiring additional investigation;

- (e) the number of customers the Look-Back Consultant recommended to the Bank that warranted SAR filings or modifications to existing SAR filings; and
- (f) the number of customers where the Bank determined not to file a SAR.

When providing the written report to the Board, the Look-Back Consultant shall, at the same time, directly 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.

(8) Based upon the results of the SAR Look-Back, the OCC, at its sole discretion, may expand the scope of the SAR Look-Back period.

(9) If the Assistant Deputy Comptroller determines in writing that an additional SAR Look-Back period is deemed appropriate, the SAR Look-Back will be completed in accordance with the requirements of this Article unless the Bank submits an alternative SAR Look-Back plan and this alternative plan receives prior determination of no supervisory objection from the Assistant Deputy Comptroller.

ARTICLE X

BANK SECRECY ACT AND OFAC RISK ASSESSMENTS

(1) Within ninety (90) days of the date of this Order, Bank management shall develop a written institution-wide, ongoing BSA/AML Risk Assessment that accurately identifies the BSA/AML risks posed to the Bank after consideration of all pertinent information (“Risk Assessment”). The Board shall ensure the Bank implements and adheres to the Risk Assessment. The Risk Assessment shall reflect a comprehensive analysis of the Bank’s vulnerabilities to money laundering and financial criminal activity and provide strategies to control risk and limit

any identified vulnerabilities. The Risk Assessment methodology should include:

- (a) the identification of specific risk categories, including at a minimum:
 - i. products and services offered;
 - ii. customer type and entities served;
 - iii. transaction types;
 - iv. countries or geographic locations of customers and transactions;
 - and
 - v. methods that the Bank uses to interact with its customers.
- (b) a detailed analysis of all pertinent data obtained regarding the specific risk categories, including but not limited to:
 - i. volumes and types of transactions and services by country or geographic location; and
 - ii. numbers of customers that typically pose higher BSA/AML risk, both by type of risk and by geographic location, to permit the Bank to revise or develop, and implement appropriate policies, processes and procedures to monitor and mitigate the Bank's BSA/AML risks within those risk categories. The analysis to be conducted shall include an evaluation of all relevant information obtained through the Bank's Customer Identification Program (CIP) and CDD.
- (c) an assessment of BSA/AML risk both individually within the Bank's business lines and on a consolidated basis across all Bank activities, to permit the Bank to identify BSA/AML risks and risk categories accurately

within and across specific lines of business and product categories;

- (d) a provision requiring the Risk Assessment be updated at least every twelve (12) months to identify and respond to changes in the Bank's risk profile (such as when existing products or services change, high-risk customers open or close accounts, or the Bank expands through mergers or acquisitions);
- (e) a provision requiring that the Risk Assessment be updated concurrently with the introduction of any new products or services;
- (f) a provision requiring maintenance of appropriate documentation, including CDD, to assess customer risk and support the Risk Assessment's conclusions; and
- (g) a provision requiring testing to confirm the reasonableness of the Risk Assessment that shall be undertaken within one hundred and twenty (120) days after the date of this Order. The written results of the testing shall be completed not more than one hundred and eighty (180) days after the date of this Order.

(2) The Board shall document in the Board minutes any discussion of the BSA/AML risk assessment process, identified gaps or weaknesses in controls, and actions management will take.

(3) Within ninety (90) days of this Order, and at least annually thereafter, the Board shall ensure that the management performs a timely and effective written OFAC Risk Assessment which includes but is not limited to:

- (a) an analysis of the nature and complexity of OFAC risks inherent in the

Bank's operations;

- (b) controls implemented by the Bank to address the identified risks;
- (c) identification of the Bank's residual risk profile; and
- (d) an analysis of the products, services, customers, entities, transactions, and geographic locations in which the Bank is engaged, including those that are processed by, through, or to the Bank, and quantify the OFAC risk to identify potential OFAC exposure.

(4) The Board shall ensure that management updates the OFAC Risk Assessment annually and to reflect any changes in the Bank's risk profile such as when the Bank considers introducing new or expanded products or services.

(5) The Board shall review and approve the OFAC Risk Assessment, document this review in the Board minutes and review annually, at a minimum, thereafter.

ARTICLE XI

CUSTOMER DUE DILIGENCE

(1) Within ninety (90) days of this Order, the Board shall ensure the Bank revises and adopts and thereafter ensures the Bank immediately implements and adheres to appropriate policies and procedures for collecting CDD information when opening new accounts, renewing or modifying existing accounts, and when events indicate information is missing, profiles need to be updated or activity does not match the customer profile. Such policies shall be in accordance with applicable law and regulations and be commensurate with the Risk Assessments conducted pursuant to Article X. At a minimum, these policies and procedures must be adequate to ensure that the Bank understands the nature and purpose of its customer relationships and develops an accurate customer risk profile, and shall include:

- (a) revised CDD policies and procedures to outline ongoing high-risk account review expectations to provide for meaningful analysis and documentation of information, which among other information should include:
 - i. evidence of transactional analysis and trend analysis of significant and unexplained variances in account activity;
 - ii. development of triggering criteria to maintain and update customer information; and
 - iii. when customer audit report findings are tracked, monitored, and sufficiently analyzed as part of the CDD review;
- (b) assigned accountability and oversight for account opening and review, including provisions for BSA Officer involvement in decisions to open higher-risk accounts;
- (c) procedures to ensure accounts are accurately risk-rated and CDD performed is appropriate; and
- (d) explanations for changes in account activity.

(2) The BSA Officer or his/her designee(s) shall monitor accounts for high-risk customers/transactions, and any related accounts, to determine whether activity is consistent with the customer's business and the stated purpose of the account. The BSA Officer or his/her designee(s) shall keep the customer profiles updated annually or more frequently as defined in the Bank's BSA/AML policy.

(3) The Board shall ensure that relevant BSA staff receive CDD review training in accordance with the revised policies and procedures outlined in this Article.

Article XII

BSA TRAINING

(1) Within forty-five (45) days of this Order, the Board shall ensure the Bank develops, implements and adheres to a written comprehensive training program for all appropriate 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:

- (a) provide for BSA training for all Board members and operational and supervisory personnel assigned to the Bank's BSA compliance function. Training shall specifically address higher risk customers, any new expanded products, services, or customers outlined in the Board's strategic plan and development of appropriate controls to address higher risk activities;
- (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, the method for delivering training and procedures to ensure employee training completion is tracked and documented.

ARTICLE XIII

GENERAL BOARD RESPONSIBILITIES

(1) The Board shall ensure that the Bank has timely adopted and implemented all corrective actions required by this Order, and shall verify that the Bank adheres to the corrective actions and they are effective in addressing the Bank's deficiencies that resulted in this Order.

(2) In each instance in which this Order imposes responsibilities upon the Board, it is intended to mean that the Board shall:

- (a) authorize, direct, and adopt corrective actions on behalf of the Bank as may be necessary to perform the obligations and undertakings imposed on the Board by this Order;
- (b) ensure the Bank has sufficient processes, management, personnel, control systems, and corporate and risk governance to implement and adhere to all provisions of this Order;
- (c) require that Bank management and personnel have sufficient training and authority to execute their duties and responsibilities pertaining to or resulting from this Order;
- (d) hold Bank management and personnel accountable for executing their duties and responsibilities pertaining to or resulting from this Order;
- (e) require appropriate, adequate, and timely reporting to the Board by Bank management of corrective actions directed by the Board to be taken under the terms of this Order; and
- (f) address any noncompliance with corrective actions in a timely and appropriate manner.

ARTICLE XIV

WAIVERS

- (1) The Bank, by executing and consenting to this Order, waives:
 - (a) any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818;

- (b) any and all procedural rights available in connection with the issuance of this Order;
- (c) any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818 and 12 C.F.R. Part 109;
- (d) any and all rights to seek any type of administrative or judicial review of this Order;
- (e) any and all claims for fees, costs, or expenses against the OCC, or any of its officers, employees, or agents related in any way to this enforcement matter or this Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;
- (f) any and all rights to assert this proceeding, the consent to and/or the issuance of this Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) any and all rights to challenge or contest the validity of this Order.

ARTICLE XV

OTHER PROVISIONS

- (1) Regarding the effect of this Order, and unless the OCC informs the Bank otherwise in writing with respect to any or all of the subparts below:
 - (a) pursuant to 12 C.F.R. § 5.3(g)(5), the Bank may be treated as an “eligible savings association” for the purposes of 12 C.F.R. Part 5, subject to the requirements contained in 12 C.F.R. § 5.3(g)(1)-(4);

(b) pursuant to 12 C.F.R. § 5.51(c)(7)(ii), the Bank is not subject to the restrictions in 12 C.F.R. § 5.51 requiring prior notice to the OCC of changes in directors and senior executive officers or the limitations on golden parachute payments set forth in 12 C.F.R. Part 359, subject to the requirements contained in 12 C.F.R. § 5.51(c)(7)(i), (iii); and

(2) This Order supersedes all prior OCC communications issued pursuant to 12 C.F.R. §§ 5.3(g)(5), and 5.51(c)(7)(ii).

ARTICLE XVI

CLOSING

(1) This Order is a settlement of the cease and desist proceeding against the Bank contemplated by the OCC, based on the violations of law and regulation and noncompliance with the Bank's Operating Agreement described in the Comptroller's Findings set forth in Article II of this Order. The OCC releases and discharges the Bank from all potential liability for a cease and desist order that has been or might have been asserted by the OCC based on the violations and noncompliance with the Operating Agreement described in Article II of this Order, to the extent known to the OCC as of the effective date of this Order. Nothing in this Order, however, shall prevent the OCC from:

- (a) instituting enforcement actions other than a cease and desist order against the Bank based on the Comptroller's Findings set forth in Article II of this Order;
- (b) instituting enforcement actions against the Bank based on any other findings;

- (c) instituting enforcement actions against institution-affiliated parties (as defined by 12 U.S.C. § 1813(u)) based on the Comptroller’s Findings set forth in Article II of this Order, or any other findings; or
- (d) utilizing the Comptroller’s Findings set forth in Article II of this Order in future enforcement actions against the Bank or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

(2) Nothing in this Order is a release, discharge, compromise, settlement, dismissal, or resolution of any actions, or in any way affects any actions that may be or have been brought by any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice.

(3) This Order is:

- (a) a “cease-and-desist order issued upon consent” within the meaning of 12 U.S.C. § 1818(b);
- (b) a “cease-and-desist order which has become final” within the meaning of 12 U.S.C. § 1818(e);
- (c) an “order issued with the consent of the depository institution” within the meaning of 12 U.S.C. § 1818(h)(2);
- (d) an “effective and outstanding . . . order” within the meaning of 12 U.S.C. § 1818(i)(1); and
- (e) a “final order” within the meaning of 12 U.S.C. § 1818(i)(2) and (u).

(4) This Order is effective upon its issuance by the OCC, through the Comptroller’s duly authorized representative. Except as otherwise expressly provided herein, all references to “days” in this Order shall mean calendar days and the computation of any period of time

imposed by this Order shall not include the date of the act or event that commences the period of time. The provisions of this Order shall remain effective except to the extent that, and until such time as, such provisions are amended, suspended, waived, or terminated in writing by the OCC, through the Comptroller's duly authorized representative. If the Bank seeks an extension, amendment, suspension, waiver, or termination of any provision of this Order, or within any plan or program submitted pursuant to this Order, the Board or a Board-designee shall submit a written request to the Assistant Deputy Comptroller asking for relief. Any request submitted pursuant to this paragraph shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with the relevant provision(s) of the Order or plan or program submitted pursuant to this Order, and shall be accompanied by relevant supporting documentation. The OCC's decision concerning a request submitted pursuant to this paragraph, which will be communicated to the Board in writing, is final and not subject to further review.

(5) The Bank will not be deemed to be in compliance with this Order until it has adopted, implemented, and adhered to all of the corrective actions set forth in each Article of this Order; the corrective actions are effective in addressing the Bank's deficiencies; and the OCC has verified and validated the corrective actions. An assessment of the effectiveness of the corrective actions requires sufficient passage of time for the Bank to demonstrate the sustained effectiveness of the corrective actions.

(6) This Order is not a contract binding on the United States, the United States Treasury Department, the OCC, or any officer, employee, or agent of the OCC and neither the Bank nor the OCC intends this Order to be a contract.

(7) Each citation, guidance, or issuance referenced in this Order includes any subsequent citation, guidance, or issuance that replaces, supersedes, amends, or revises the referenced cited citation, guidance, or issuance.

(8) No separate promise or inducement of any kind has been made by the OCC, or by its officers, employees, or agents, to cause or induce the Bank to consent to the issuance of this Order.

(9) All reports, plans, or programs submitted to the OCC pursuant to this Order shall be forwarded, by overnight mail or via email, to the following:

Assistant Deputy Comptroller
Office of the Comptroller of the Currency
New York Field Office, 4th Floor
New York, New York 10173

(10) 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, authorized by the Comptroller as his duly authorized representative, has hereunto set his signature on behalf of the Comptroller.

/s/

1/30/2020

Edward Dowling
Assistant Deputy Comptroller
New York Field Office

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of M.Y. Safra Bank, FSB have hereunto set their signatures on behalf of the Bank.

<u>/s/</u> Allan Schott	<u>01/30/2020</u> Date
<u>/s/</u> Ephraim Feuer	<u>Jan 30, 2020</u> Date
<u>/s/</u> Jacob M. Safra	<u>Jan 30, 2020</u> Date
<u>/s/</u> Jimmy Hallac	<u>1/30/2020</u> Date
<u>/s/</u> Julia Fernald	<u>1/30/2020</u> Date
<u>/s/</u> Kevin McCabe	<u>January 30, 2020</u> Date
<u>/s/</u> Nathan Hasson	<u>1/30/2020</u> Date