

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

In the Matter of:	)	
	)	
Eastern National Bank	)	AA-EC-2020-46
Miami, Florida	)	
	)	

**CONSENT ORDER**

**WHEREAS**, the Office of the Comptroller of the Currency (“OCC”) has supervisory authority over Eastern National Bank, Miami, Florida (“Bank”);

**WHEREAS**, the Bank consented to the issuance of a Consent Order on October 25, 2018, AA-SO-2018-59 (“2018 Order”), for violations of 12 C.F.R. § 21.21 and 31 C.F.R. § 1010.610 and unsafe or unsound banking practices relating to credit administration and board and management supervision;

**WHEREAS**, the OCC has determined that the Bank has not attained compliance with the 2018 Order, that the Bank remains in violation of 12 C.F.R. § 21.21, and that new unsafe or unsound practices exist;

**WHEREAS**, the OCC intends to initiate new 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 unsafe or unsound banking practices, including certain practices relating to the Bank’s board and management supervision, executive officer and board compensation, enterprise governance, and for continuing violations of 12 C.F.R. § 21.21;

**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”), which is intended to replace and supersede the 2018 Order and has been tailored to address the Bank’s new, remaining, and continuing violations and unsafe or unsound practices, 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 an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) The Bank is a national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A), and is chartered and examined by the OCC. *See* 12 U.S.C. § 1 *et seq.*

(3) 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) The Bank has not achieved compliance with the 2018 Order and has not corrected the deficiencies that led to the 2018 Order. The Bank has engaged in numerous unsafe or unsound practices and violations of laws and regulations.

(2) The Board and management have not provided effective strategic direction and oversight to preserve capital, strengthen credit administration and risk management practices, manage problem assets, maintain profitability, control expenses, and operate the Bank safely and soundly and in compliance with applicable laws and regulations.

(3) The Board has not adopted and implemented comprehensive corporate governance including Board oversight, which has resulted in unsafe and unsound compensation, benefits, and travel-related expenses, ineffective audit committee oversight, and insufficient documentation of decision-making at Board and other committee meetings.

(4) The Board has not ensured that its Bank Secrecy Act/Anti-Money Laundering and Office of Foreign Assets Control compliance program is safe and sound and achieves and maintains compliance with 12 C.F.R. § 21.21, including internal controls for collecting due diligence information and identifying and reporting suspicious activity.

### **ARTICLE III**

#### **COMPLIANCE COMMITTEE**

(1) The Board shall maintain 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 affiliates or subsidiaries. In the event of a change of the membership, the Board shall submit in writing to the Director for Special Supervision (“Director”) within ten (10) days the name of any new or resigning committee member. The Compliance Committee shall be responsible for monitoring and coordinating the Bank’s adherence to the provisions of this Order.

(2) The Compliance Committee shall meet at least monthly.

(3) Within thirty (30) days of the date of this Order and monthly thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) a description of the action needed to achieve compliance with each Article of this Order, Bank personnel responsible for implementing the corrective actions, and timeframes for completion;
- (b) actions taken to comply with each Article of this Order; and
- (c) the results and status of those actions.

(4) The Board shall forward a copy of the Compliance Committee’s report, with any additional comments by the Board, on a monthly basis, to the Director within ten (10) days of receiving such report or within such other time period as the Director may require in writing.

#### **ARTICLE IV**

##### **CAPITAL AND STRATEGIC PLANNING**

(1) Within ninety (90) days of the date of this Order, the Bank shall achieve and thereafter maintain the following capital ratios as defined in and as calculated in accordance with 12 C.F.R. Part 3:

- (a) tier 1 capital to adjusted total assets at least equal to eight (8%); and
- (b) total risk-based capital to risk-weighted assets at least equal to eleven percent (11%).

(2) Notwithstanding any existing or future election to use the community bank leverage ratio (“CBLR”) framework under 12 C.F.R § 3.12, the Bank is subject to the minimum capital levels prescribed in paragraph (1) of this Article pursuant to the OCC’s authority to impose affirmative corrective actions pursuant to 12 U.S.C. § 1818(b)(6) and must demonstrate compliance with these requirements by completing Schedule RC-R to the Consolidated Reports of Condition and Income in accordance with the instructions for Banks that have not made the CBLR election in addition to Schedule RC-R, CBLR.

(3) The requirement in this Order to meet and maintain a specific capital level for any capital measure means that the Bank may not 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(c)(1)(v).<sup>1</sup>

(4) The Bank may declare or pay a dividend or make a capital distribution only:

- (a) when the Bank is in compliance with the minimum capital ratios required by paragraph (1) of this Article, and would remain in compliance immediately following the declaration or payment of any dividend or capital distribution;
- (b) when the dividend or capital distribution would comply with 12 U.S.C. §§ 56, 60 and 1831o(d)(1) and 12 C.F.R. § 3.11(a)(4) and all other applicable laws, regulations, and executive orders; and
- (c) following the Director’s prior written determination of no supervisory objection to the dividend or capital distribution.

(5) Within thirty (30) days of the date of this Order, the Board shall forward to the Director, pursuant to paragraph (9) of this Article, an acceptable written Capital and Strategic Plan for the Bank, covering at least a two-year period.

(6) The Bank’s capital planning process shall be consistent with safe and sound practices and ensure the integrity, objectivity, and consistency of the process through adequate governance. Refer to the “Capital and Dividends” booklet of the *Comptroller’s Handbook*. The Board shall document the initial capital planning process and thereafter review and document the capital planning process at least annually or more frequently, if appropriate, or if required by the Director in writing.

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<sup>1</sup> The Bank may not solicit, accept, renew, or roll over any brokered deposit (as defined in 12 C.F.R. § 337.6(a)(2)) except in compliance with the applicable restrictions of 12 U.S.C. § 1831f and 12 C.F.R. § 337.6.

(7) The Capital and 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) 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 (7)(b) of this Article;
- (e) a management employment and succession plan designed to promote adequate staffing and continuity of capable management;
- (f) a realistic and comprehensive budget that corresponds to the Capital and Strategic Plan's goals and objectives;
- (g) an action plan to improve and sustain the Bank's earnings and accomplish identified strategic goals and objectives;
- (h) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the Capital and Strategic Plan;

- (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 detailed description and assessment of major capital expenditures required to achieve the goals and objectives of the Capital and Strategic Plan;
- (k) an identification and prioritization of initiatives and opportunities, including timeframes that comply with the requirements of this Order;
- (l) a description of the Bank's target market(s) and competitive factors in its identified target market(s), and a description of controls systems to mitigate risks in the Bank's target market(s);
- (m) an identification and assessment of the present and planned product lines (assets and liabilities) and the identification of appropriate risk management systems to identify, measure, monitor, and control risks within the product lines;
- (n) concentration limits commensurate with the Bank's strategic goals and objectives and risk profile;
- (o) specific plans detailing how the Board will recapitalize the Bank, sell a majority of the outstanding shares of the Bank, or otherwise cause a change in the control of the Bank;
- (p) assigned roles, responsibilities, and accountability for the capital and strategic planning; and
- (q) a description of systems and metrics designed to monitor the Bank's progress in meeting the Capital and Strategic Plan's goals and objectives.

(8) The Bank's written Capital and Strategic Plan shall, at a minimum, address the steps and the associated timeline to ensure that within one-hundred and eighty (180) days after the receipt of the Director's written determination of no supervisory objection to the Capital and Strategic Plan, the Bank executes a definitive agreement to sell or recapitalize the Bank, through the sale of a majority of the Bank's outstanding shares and change in the control of the Bank.

(9) Prior to adoption by the Board, a copy of the Capital and Strategic Plan, and any subsequent amendments, revisions, or updates shall be submitted to the Director for prior written determination of no supervisory objection. At the next Board meeting following receipt of the Director'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 Capital and Strategic Plan and any amendments or revisions thereto.

(10) Until the Capital and Strategic Plan required under this Article has been submitted by the Bank for the Director's review, has received a written determination of no supervisory objection from the Director 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 Director's prior written determination of no supervisory objection to such significant deviation.

(11) The Board shall review the effectiveness of the Capital and Strategic Plan at least monthly, including its progress toward a sale of the bank or a majority of its outstanding shares, and amend the Capital and Strategic Plan as needed or directed by the OCC. The Board shall provide an assessment of the effectiveness of the Capital and Strategic Plan to the OCC, along with any proposed amendments within (10) days of each month end. Any amendment to the

Capital and Strategic Plan, and any significant deviation from the Capital and Strategic Plan, must be submitted to the Director for review and prior written determination of no supervisory objection.

(12) If the Bank fails to achieve and maintain the minimum capital requirements in paragraph (1) of this Article, fails to submit an acceptable written Capital and Strategic Plan as required by paragraph (5) of this Article, or fails to implement or adhere to a Capital and Strategic Plan to which the Director has provided a written determination of no supervisory objection pursuant to paragraph (9) of this Article (including but not limited to, the failure to take the necessary actions to ensure compliance with paragraph (8) of this Article), then the Bank may, at the Director's sole discretion, be deemed to be undercapitalized for purposes of this Order and the Bank shall take such corrective measures as the OCC may direct in writing 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.

(13) For any plans or actions taken by the Bank that relate to this Article or otherwise involve the restoration of capital, Bank management, subject to Board review and monitoring, shall ensure such plans or actions comply with all laws, regulations, and executive orders, and that any necessary authorizations are obtained from any relevant Federal government agencies.

## ARTICLE V

### COMPENSATION PROGRAM

(1) Within thirty (30) days of the date of this Order, the Board shall develop and submit for a prior written determination of no supervisory objection, an acceptable written program that includes policies, procedures, systems, and controls designed to ensure the Bank's Board and executive officer salaries, fees, benefits, other compensation, and travel-related costs are market-based, reasonable, and proportionate to the services rendered; take into account the Bank's earnings and capital levels; and are supported by adequate documentation in the books and records of the Bank (the "Compensation Program"). At a minimum, the Compensation Program shall include:

- (a) policies and procedures that require the Board's documented review and establishment of all compensation, travel-related costs, and benefits provided to each director;
- (b) policies and procedures that require a demonstration that all compensation, travel-related costs, and benefits provided to each director are reasonable and consistent with the Bank's local peer group by total assets and that consider the impact of such payments on the financial condition of the Bank;
- (c) specific plans, where necessary, to reduce director fees and compensation to amounts that are reasonable and consistent with the Bank's local peer group by total assets and that considers the Bank's financial condition, with respect to both specific fees paid per Board or committee meeting

and by aggregate amount total compensation, including benefits, paid by the Bank or provided to each director;

- (d) the mandatory reduction of director fees implemented through the Compensation Program by at least fifty percent (50%) during any timeframe when the Bank fails to maintain the minimum capital ratios in Article IV of this Order, and the elimination of director fees during any timeframe when the Bank falls into a Prompt Corrective Action category of “undercapitalized” or below, as defined in 12 C.F.R. § 6.4;
- (e) revised travel cost and reimbursement policies that limit reimbursement for, or payment of meals, taxis, and hotels, to either: (i) the actual cost of the expense, subject to a full documented review and determination by the Board or a designated officer or director that each expense is necessary and reasonable; or (ii) an allowance that limits each travel cost (excluding common carrier and local transportation costs) to established nontaxable thresholds of the Internal Revenue Service;
- (f) specific plans to ensure the Bank’s aggregate compensation is commensurate with peer banks (which may consider appropriate adjustments for the Bank’s financial condition, business model, locale, and any other appropriate criterion);
- (g) policies and procedures to ensure compliance with 12 C.F.R. § 359 and require specific review and documented approval by the Board of any golden parachute payment; and

(h) periodic review, on at least an annual basis, of the Compensation Program, of whether compensation and benefits for each executive officer and director are reasonable in light of the amounts paid by the Bank's local peer group by total assets and the financial condition of the Bank, including documentation of the review and specific plans and timeframes for making appropriate adjustments.

(2) Upon receipt of a written determination of no supervisory objection from the Director, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the Compensation Program. The Board shall review the effectiveness of the Compensation Program at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the Program as needed or directed by the Director. Any amendment to the Compensation Program must be submitted to the Director for review and prior written determination of no supervisory objection.

(3) Until the Bank receives a prior written determination of no supervisory objection to the Compensation Program, the Board shall reduce director compensation to a level that is no higher than the median level for the Bank's local peer group by total assets as determined by the independent compensation assessment report the Bank obtained; and shall limit each director's travel related expenses or reimbursements (excluding common carrier and local transportation costs) to the nontaxable threshold amounts established by the Internal Revenue Service.

(4) The Bank shall immediately cease and desist from the payment of any severance benefits, golden parachutes, or similar remuneration, except in compliance with all applicable laws and regulations, including, without limitation, 12 U.S.C. § 1828(k) and 12 C.F.R. Part 359.

In advance of the Board, or any committee thereof, taking any proposed action that would cause acceleration of vesting or early reward in any existing benefit plan, excluding any proposed action that requires permission pursuant to 12 C.F.R. § 359.4(a) or any nondiscretionary action related to a change in control of the Bank, the Board shall submit to the Director for review and a prior written determination of no supervisory objection, a written request that describes the proposed action, as well as a legal determination that demonstrates that such proposed action does not constitute a “golden parachute payment,” as that term is defined in 12 C.F.R. § 359.1(f).

## **ARTICLE VI**

### **ENTERPRISE GOVERNANCE**

(1) Within sixty (60) days of the date of this Order, the Board shall provide written notice to the OCC of the proposed addition of at least two independent, outside directors pursuant to the written notice provisions of 12 U.S.C. § 1831i and 12 C.F.R. § 5.51, along with appropriate documentation (refer to the “Changes in Directors and Senior Executive Officers” and “Background Investigations” booklets of the *Comptroller’s Licensing Manual*). The proposed directors may not be insiders of the Bank, employees or officers of the Bank or affiliates of the Bank, insiders of a subsidiary or affiliate of the Bank, or work for or otherwise have any relationship or affiliation to the controlling shareholder of the Bank or any of its affiliates. For purposes of this Order, “affiliate” shall have the meaning set forth in 12 C.F.R. § 223.2(a), as if the Bank were a member bank; “insider” shall have the meaning set forth in 12 C.F.R. § 215.2(h).

(2) Effective as of the date of this Order, the Board shall adopt, implement and thereafter adhere to written policies and procedures that require detailed minutes of all Board and committee meetings to include at a minimum:

- (a) all topics and matters discussed;
- (b) deliberations, including indications by member of support or dissention of all topics and matters; and
- (c) records of all votes taken, including a record of directors dissenting or abstaining from specific actions.

## **ARTICLE VII**

### **AUDIT RESPONSE PROGRAM**

(1) Within thirty (30) days of the date of this Order, the Board shall adopt a written Audit Response Program, including policies and procedures, to ensure that the Board and management appropriately respond to any audit concern or criticisms, to include the following minimum requirements:

- (a) documentation of the status of all corrective actions that include detailed corrective actions to be taken, status of each corrective action (e.g., current or past due, with duration of past due status), actions needed to complete the corrective action, original and revised completion dates, and validation status as appropriate;
- (b) complete documentation of all audit committee discussions as required by paragraph (2) of Article VI;
- (c) identification by functional area and proposed resolution of any corrective action that requires validation before the next audit;
- (d) attendance by all relevant stakeholders, including functional area managers, at audit committee meetings;

- (e) engagement with a qualified, independent third party to perform verification and validation of corrective actions for high risk findings and specialty areas; and
- (f) management accountability for failure to timely address corrective actions.

(2) Upon adoption of the Audit Response Program, Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the program and any amendments thereto. The Board shall review the effectiveness of the program at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the program as needed or as or directed by the OCC. Within five (5) days of the Board's adoption of the Audit Response Program or any amendment, the Bank shall provide a copy to the Director.

## **ARTICLE VIII**

### **INFORMATION TECHNOLOGY ACCOUNTABILITY AND STAFFING**

(1) Within thirty (30) days of the date of this Order, the Board shall adopt a written Information Technology ("IT") program, including policies and procedures, to ensure that the Board and management establish appropriate controls, staffing, and oversight of the Bank's IT function to timely identify IT risks and address control gaps, to include the following minimum requirements:

- (a) an effective IT risk governance program that establishes the roles, responsibilities, and accountability of the Board and management, which shall at a minimum include reviewing and revising the IT Steering Committee structure and membership to provide adequate oversight of the IT function and management responsible for IT; refer to the

“Management” booklet of the FFIEC Information Technology Examination Handbook;

- (b) hiring and training practices governed by appropriate policies to maintain competent and trained staff to fulfill respective roles in the Bank’s IT program, which shall at a minimum include assessing IT staffing and resources on at least an annual basis and mandating necessary improvements; refer to the “Management” booklet of the FFIEC Information Technology Examination Handbook;
- (c) processes to hold management and the IT department responsible for any failures to identify and address IT risks and control gaps; and
- (d) processes to monitor, assign accountability, and ensure timely corrective action is taken for IT deficiencies identified by internal audit and third-parties; refer to the “Audit” booklet of the FFIEC Information Technology Examination Handbook.

(2) Upon adoption of the written IT program, Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the program and any amendments thereto. The Board shall review the effectiveness of the program at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the program as needed or directed by the OCC. Within five (5) days of the Board’s adoption of the written IT program or any amendment, the Bank shall provide a copy to the Director.

## ARTICLE IX

### **BSA PROGRAM AND GOVERNANCE**

(1) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a 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 1020, as amended, and 12 C.F.R. Part 21, Subparts B and C, the rules and regulations of the Office of Foreign Assets Control (“OFAC”) and relevant Executive Orders (collectively referred to as “BSA/OFAC”) for the Bank, and that incorporates the substantive requirements of Articles X and XI of this Order.

(2) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a comprehensive program that ensures the Bank performs effective due diligence and maintains BSA/OFAC risk management processes prior to entering into, or significantly expanding, any new products, services, significant relationships, or lines of business.

(3) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a comprehensive program to ensure that, prior to entering into any new foreign correspondent account relationships, management performs appropriate due diligence in accordance with paragraph (2) of Article XI of this Order.

(4) The Board shall review the effectiveness of the programs at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the programs as needed or directed by the OCC. Within five (5) days of the Board’s adoption of any amendment to any of the programs required by this Article, the Bank shall provide a copy to the Director.

## ARTICLE X

### **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) Prior to the appointment of any individual to the BSA Officer position, the Board shall submit to the Director the following information:

- (a) the information sought in the “Changes in Directors and Senior Executive Officers” and “Background Investigations” booklets of the Comptroller's Licensing Manual, together with a legible fingerprint card for the proposed individual;
- (b) a written statement of the Board’s reasons for selecting the proposed officer; and
- (c) a written description of the proposed officer’s duties and responsibilities.

(3) The Director shall have the power to disapprove the appointment of any proposed new BSA Officer. The requirement to submit information and the prior disapproval provisions of this paragraph are based on the authority of 12 U.S.C. § 1818(b)(6)(E) and do not require the Director to complete her review and act on any such information within ninety (90) days. The lack of disapproval of such individual shall not constitute an approval or endorsement of the proposed BSA Officer.

(4) 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/OFAC compliance

function and that they are vested with sufficient authority to fulfill their respective duties and responsibilities.

(5) Within ninety (90) days of the date of this Order, and annually thereafter, the Board shall review the adequacy of the Bank's BSA Officer and supporting staff and shall document its determinations in writing and promptly provide a copy to the Director. 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/OFAC compliance function considering the size, complexity, and BSA risk profile of the Bank, including anticipated risks from new or expanded lines of business, products and services. The Board shall act promptly to correct any deficiencies identified following each review. The Board shall forward a description of any changes made to the Bank's BSA Officer or supporting staff within five (5) days of the change.

## **ARTICLE XI**

### **BSA INTERNAL CONTROLS, DUE DILIGENCE, AND MONITORING**

(1) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a comprehensive written program of internal control policies and procedures to provide for compliance with BSA/OFAC that appropriately monitors for and reports suspicious activity and ensures transactions are processed in accordance with all executive orders and OFAC sanctions. At a minimum, the Bank's internal controls must include:

- (a) guidelines for assessing and distinguishing levels of customer and account risk and for the identification of current customers and accounts exhibiting high risk characteristics;

- (b) designated responsibility for ensuring the Bank updates monitoring systems to ensure ongoing compliance with all new executive orders and OFAC sanctions;
- (c) requirements for periodic independent third-party validation of the models and filtering thresholds used for the BSA/OFAC 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, which shall include requirements that recommendations from validations are promptly reviewed, assessed, and implemented as appropriate (including thorough documentation of any reasons for not adopting recommendations);
- (d) procedures to ensure that data relevant to BSA/OFAC assessments, thresholds and monitoring is accurate and that interfaces between Bank systems that contain such data are functioning properly; and
- (e) procedures to ensure compliance with information sharing requests received pursuant to 31 C.F.R. § 1010.520(b)(3)(i).

(2) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a written program that includes appropriate policies and procedures for collecting due diligence information when opening new accounts, renewing or modifying existing accounts, and when events indicate information is missing or activity does not match customer profile. 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) procedures to ensure that account opening representatives and relationship managers obtain, document, and verify complete initial information at account opening or modification to understand the nature and purpose of the customer relationship, develop an accurate customer risk profile, and comply with 31 C.F.R. § 1020.220;
- (b) procedures and policies for correspondent banking accounts to ensure that the Bank has sufficient documented information to comply with 31 C.F.R. § 1010.610(a), appropriately risk rate the account, ensure that required due diligence is recorded in the Bank's automated monitoring system, and monitor the account to ensure activity conforms to expectations, including but not limited to information on anticipated and actual transaction volume and services involved;
- (c) an appropriate methodology for assigning accurate risk levels to the Bank's customer base that assesses relevant factors including products, services, customers, entities, transactions, volumes, and geographic locations;
- (d) procedures to ensure accounts are accurately risk-rated and due diligence performed is appropriate;
- (e) policies and procedures to ensure due diligence information gathering includes ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information as defined in 31 C.F.R. § 1020.210(b)(5), which shall include procedures for updating customer information and reassessing the customer risk rating

when monitoring or other personnel identify gaps or customer-provided information is inconsistent with actual account activity; and

- (f) a quarterly review and report to the Board on all foreign correspondent banking account relationships, including the adequacy of due diligence performed, an analysis of account activity and volume, the types of accounts and services involved, and the impact on the Bank.

(3) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a written program of policies and procedures to provide for the appropriate identification, analysis, monitoring of all accounts and transactions and filing timely and appropriate Suspicious Activity Reports (“SARs”). This program shall include, at a minimum, policies and procedures and the use of management information systems for monitoring accounts and transactions and reporting of suspicious activity, including maintenance of an accurate and complete list of higher-risk customers using:

- (a) due diligence information, including normal and expected account activity;
- (b) the Bank’s customer risk rating system; and
- (c) automated systems.

(4) The Board shall review the effectiveness of the programs required by this Article at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the programs as needed or directed by the OCC. The Board shall forward a copy of any amendment to any of the programs required by this Article within five (5) days of adoption.

## ARTICLE XII

### CREDIT UNDERWRITING AND ADMINISTRATION

(1) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a written loan credit administration program that requires annual credit reviews, including but not limited to, a review and determination of the credit risk rating, for all commercial loan relationships totaling \$250,000 or more. The credit administration program shall provide for adequate staffing to complete the reviews in a timely manner and a process for tracking and ensuring completion of reviews, including but not limited to, quarterly reporting on the status and timeliness of annual reviews to the Board or a designated Board committee.

(2) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall establish and adhere to individual workout plans designed to protect the Bank's interest in or eliminate the basis of criticism of assets rated as Special Mention, Substandard, Doubtful, or Loss on any internally prepared list, in a Report of Examination or any internal or external loan review, or in any list provided to management by the OCC during any examination.

(3) Effective as of the date of this Order, Bank management, subject to Board review and ongoing monitoring, shall ensure adherence to a written credit underwriting program which shall, at a minimum, require the following before the Bank may grant, extend, renew, alter or restructure any loan or other extension of credit above \$50,000:

- (a) documenting the specific reason or purpose for the extension of credit;
- (b) identifying the expected source of repayment in writing;
- (c) structuring the repayment terms to coincide with the expected source of

repayment;

- (d) establishing criteria for when the Bank will exercise “on demand” clauses;
- (e) obtaining current and satisfactory credit information, including performing and documenting analysis of credit information and a detailed cash flow analysis of all expected repayment sources;
- (f) requirements for who will obtain credit information and perform credit analysis at both origination and renewal;
- (g) determining and documenting whether the loan complies with the Bank’s loan policies and if it does not comply, providing identification of the exception and ample justification to support waiving the policy exception;
- (h) making and documenting the determinations regarding the customer’s ability to repay the credit on the proposed repayment terms; and
- (i) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank’s lien on it where applicable.

(3) The Board shall review the effectiveness of the programs required by this Article at least annually, and more frequently if necessary or if required by the OCC in writing, and amend each program as needed or directed by the OCC. The Board shall forward a copy of any amendment to the credit administration program or credit underwriting program within five (5) days of adoption.

## **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 impose 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 that 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 19;
  - (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) As a result of this Order, the Bank is in “troubled condition,” as set forth in 12 C.F.R. § 5.51(c)(7)(ii), unless otherwise informed in writing by the OCC. In addition, as a result of this Order, the Bank is not an “eligible bank” for purposes of 12 C.F.R. § 5.3(g) and 12 C.F.R. § 24.2(e), unless otherwise informed in writing by the OCC.

(2) This Order supersedes all prior OCC communications issued pursuant to 12 C.F.R. §§ 5.3(g)(5), 5.51(c)(7)(ii), and 24.2(e)(4).

## **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 unsafe or unsound practices and violations of law 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 practices 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, including but not limited to a civil money penalty based on noncompliance with the 2018 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 including but not limited to a civil money penalty based on noncompliance with the 2018 Order; 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.

(5) 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, the Board or a Board-designee shall submit a written request to the Director 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.

(6) 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.

(7) 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.

(8) 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.

(9) This Order applies to the Bank and all its subsidiaries.

(10) 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.

(11) All reports, plans, or programs submitted to the OCC pursuant to this Order shall be forwarded, by email, to the Director, with a copy to the OCC Examiner in Charge.

(12) 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 her signature on behalf of the Comptroller.

//s// Digitally Signed, Dated: 2020.11.19

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Julie A. Thieman  
Director for Special Supervision

**IN TESTIMONY WHEREOF**, the undersigned, as the duly elected and acting Board of Directors of Eastern National Bank, Miami, Florida have hereunto set their signatures on behalf of the Bank.

/s/	11/18/2020
_____ Louis Ferreira	_____ Date
/s/	11/18/2020
_____ Cesar A. Gomez Valero	_____ Date
/s/	11/18/2020
_____ Keith Parker	_____ Date
/s/	11/18/2020
_____ Carlos Rodriguez	_____ Date
/s/	11/18/2020
_____ Gabina Rodriguez	_____ Date
/s/	11-18-20
_____ Gustavo Macias	_____ Date