

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

In the Matter of:)
) AA-EC-2020-82
The First National Bank and Trust Company of Vinita)
Vinita, Oklahoma)

PROMPT CORRECTIVE ACTION DIRECTIVE

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) has supervisory authority over The First National Bank and Trust Company of Vinita, Vinita, Oklahoma (“Bank”);

WHEREAS, the Bank is adequately capitalized pursuant to 12 U.S.C. § 1831*o* and 12 C.F.R. Part 6; and

WHEREAS, the OCC is authorized pursuant to 12 U.S.C. § 1831*o* and 12 C.F.R. §§ 6.4(d) and 19.221, to subject the Bank to the supervisory actions applicable to the next lower capital category, undercapitalized;

WHEREAS, on November 23, 2020, the OCC notified the Bank (i) that it deems the Bank to be engaging in unsafe or unsound practices pursuant to 12 U.S.C. § 1818(b)(8), and (ii) of its intention to subject the Bank to the supervisory actions applicable to the next lower capital category, undercapitalized;

WHEREAS, on December 2, 2020, the Bank submitted a written response to the notice of intent to reclassify pursuant to 12 U.S.C. § 1831*o* and 12 C.F.R. §§ 6.4 and 19.221;

WHEREAS, on December 21, 2020, the OCC issued a notice of reclassification;

WHEREAS, on December 22, 2020, the OCC issued a Notice of Intent to Issue a Prompt Corrective Action Decision (“Notice”) to the Bank pursuant to 12 C.F.R. § 6.21;

WHEREAS, on January 4, 2021, the Bank submitted a written response to the Notice pursuant to 12 C.F.R. § 6.22;

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

WHEREAS, the OCC finds it necessary in order to carry out the purpose of 12 U.S.C. § 1831*o* and 12 C.F.R. Part 6 to issue this Prompt Corrective Action Directive (“Directive”), requiring the Bank to immediately follow proscriptions and take actions;

NOW THEREFORE, pursuant to the authority vested in the OCC by 12 U.S.C. § 1831*o* and 12 C.F.R. Part 6, the OCC, through the duly authorized representative of the Comptroller of the Currency (“Comptroller”), hereby issues this Directive.

ARTICLE I

JURISDICTION

(1) The Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2) and within the meaning of 12 U.S.C. § 1831*o*.

(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 action against the Bank pursuant to 12 U.S.C. § 1831*o*.

ARTICLE II

COMPLIANCE COMMITTEE

(1) The Bank’s Compliance Committee appointed and maintained pursuant to Article III of the Consent Order issued by the OCC on July 16, 2020 (“2020 Order”), shall be responsible for monitoring and overseeing the Bank’s compliance with the provisions of this

Directive. The Compliance Committee shall meet at least monthly and maintain minutes of its meetings.

(2) Within thirty (30) days of the issuance of this Directive and thereafter along with any written progress report submitted to the Bank's Board of Directors ("Board") pursuant to Article III, Paragraph (2) of the 2020 Order, or within such other time period as the Director for Special Supervision ("Director") requires in writing, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) a description of the actions to be taken to comply with each Article of this Directive;
- (b) Bank personnel responsible for implementing the corrective actions and the time frames for completion;
- (c) the actions taken to comply with each Article of this Directive; and
- (d) the results and status of those actions.

(3) The Board shall forward a copy of the reports required by Paragraph (2) of this Article, with any additional comments by the Board, to the Director within fifteen (15) days of receiving such reports.

ARTICLE III

FORENSIC AUDIT

(1) Within thirty (30) days of the date of this Directive, the Bank shall engage the services of a forensic auditor to:

- (a) verify, from January 1, 2015 to the present, the accuracy and completeness of the Bank's documents, books, and records;

- (b) identify every entity in which any person who served as a Bank director or officer from January 1, 2015 to the present held a direct or indirect interest at any time during that period. The list shall also include entities in which such entities, in turn, held a controlling interest at any time between January 1, 2015 and the present. For purposes of this Directive, such interests shall be called “Related Interests”; and
- (c) for the period January 1, 2015 to the present, identify every instance in which a Related Interest received a loan from the Bank, engaged in a business transaction with the Bank, received a benefit from the Bank, or provided a benefit to the Bank, and opine on whether each transaction took place on market terms.
- (d) for the period January 1, 2015 to the present, identify all contracts to provide services to or on behalf of the Bank with a Related Third Party. For purposes of this Directive, “Related Third Party” shall mean any party that, at any time between January 1, 2015 and the present, was one or more of the following, regardless of whether or not they met the definition of Related Third Party at the time the contract was in force:
 - (i) a Bank director, officer, employee, shareholder (controlling or otherwise), agent, consultant, or joint venture partner;
 - (ii) a business or other entity in which a party listed in Paragraph (1)(d)(i) of this Article holds or held an interest at any time between January 1, 2015 and the present;

- (iii) a family member of a party listed in Paragraph (1)(d)(i) of this Article; or
- (iv) a Bank affiliate within the meaning of 12 U.S.C. § 371c(b)(1), but without reference to the exceptions contained in 12 U.S.C. § 371c(b)(2).

(2) The Bank shall ensure that the forensic auditor retained pursuant to Paragraph (1) of this Article agrees in the engagement letter to provide the OCC with access to and copies of any work papers, policies, and procedures relating to the services performed by the forensic auditor for the Bank.

(3) Prior to engaging the forensic auditor, the Bank shall submit the name and qualifications of the forensic auditor and the proposed engagement contract to the Director for prior written determination of no supervisory objection. The audit must be completed within one hundred twenty (120) days of receipt of the Director's written determination of no supervisory objection. Immediately following completion, the Bank shall submit the results of the forensic audit to the Director.

(4) Within thirty (30) days of the date of receipt of the forensic audit, the Board shall develop a plan to address the results of the forensic audit ("Audit Plan"). The Audit Plan shall include, at a minimum, specific plans for:

- (a) making appropriate adjustments to the Bank's books and records;
- (b) exercising the Bank's rights or claims for damages, restitution, indemnification, or other monetary claims identified as a result of the forensic audit; and
- (c) filing any Suspicious Activity Reports, as required by 12 C.F.R. § 21.11.

(5) The Bank shall submit the Audit Plan to the Director for prior written determination of no supervisory objection. Upon receipt of a written determination of no supervisory objection to the Audit Plan, the Board shall adopt, and thereafter ensure that the Bank implements, subject to Board review and ongoing monitoring, the Audit Plan. Any proposed changes to or deviations from the approved Audit Plan shall be submitted in writing to the Director for prior written determination of no supervisory objection.

(6) Within twenty (20) days of the effective date of this Directive, the Board shall provide to the Director a preliminary list of all instances in which a Related Interest received a loan from the Bank, engaged in a business transaction with the Bank, received a benefit from the Bank, or provided a benefit to the Bank for the period January 1, 2015 to the present. This preliminary list need not be prepared by the forensic auditor.

(7) Within twenty (20) days of the effective date of this Directive, the Board shall provide a preliminary list of all contracts in force at any time between January 1, 2015 and the present to which both the Bank and a Related Third Party were parties. This preliminary list need not be prepared by the forensic auditor. The Board may, if it chooses, combine this list with the list required by Paragraph (6) of this Article.

(8) Within thirty (30) days of the effective date of this Directive, the Board shall provide to the Director copies of all contracts, including all amendments or modifications thereto, identified pursuant to Paragraph (7) of this Article. Within twenty-one (21) days of the completion of the forensic audit, the Board shall provide copies of any additional contracts with Related Third Parties, including all amendments or modifications thereto, identified by the forensic audit.

ARTICLE IV

ACCURATE MAINTENANCE AND PRESERVATION OF DOCUMENTS, BOOKS, AND RECORDS

(1) The Bank, subject to Board oversight, shall ensure that all of the Bank's documents, books, and records are accurately maintained and preserved within the Bank's control and shall ensure that no Bank documents, books, or records are destroyed, altered, or removed from the Bank's control until further written notice from the Director. However, such documents, books, and records may be altered and amended in the course of ordinary Bank business to accurately and timely record routine banking transactions.

(2) For purposes of this Article, "documents, books, and records" shall have the broadest possible meaning and shall include, without limitation, paper and electronic records of all kinds, reports, notes, calendars, phone logs, electronic mail, voice mail, financial instruments, and tapes.

(3) The Bank shall provide OCC personnel with prompt and unrestricted access to the documents, books, records, Board members, officers, and staff of the Bank. The Board and Bank management, subject to Board review and ongoing monitoring, shall ensure all agents and representatives of the Bank provide OCC personnel with prompt and complete access to the documents, books, and records of the Bank.

(4) Upon inquiry from the OCC, the Bank shall provide full and complete details, including but not limited to any relevant documentation, of the structure and purpose of the transactions by and between the Bank and any of its customers, transactions by and between the Bank and any of its actual or potential investors, and transactions by and between the Bank and any of its Board members, officers, and staff, to OCC personnel. For all such transactions, the Bank shall also disclose any current or former affiliations as well as any potential or actual

conflicts of interest between the Bank’s Board members, officers, and staff and the entity or person with which the Bank engaged in the transaction.

(5) The Bank, subject to Board oversight, shall take the necessary steps to ensure that the Bank timely files complete and accurate Consolidated Reports of Condition and Income (“Call Reports”) in accordance with the Federal Financial Institutions Examination Council’s “Instructions for Preparation of Consolidated Reports of Condition and Income.” These steps shall include:

- (a) the designation of an officer with the knowledge, skills, and abilities necessary to ensure the Bank timely and accurately files its Call Reports;
- (b) training of appropriate Bank personnel in Call Report preparation;
- (c) procedures to ensure the Bank retains documentation providing an appropriate audit trail for all Call Report schedules; and
- (d) the performance of an independent review and verification of the accuracy of all Call Report schedules in advance of each Call Report filing.

(6) The Bank shall submit a copy of all adjustments to Call Reports to the Director upon filing or re-filing the Call Report.

ARTICLE V

COMPLIANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

(1) Bank management, subject to Board review and ongoing monitoring, shall maintain the Bank’s books and records in compliance with Generally Accepted Accounting Principles (“GAAP”) and consistent with safe and sound banking practices, including but not limited to accounting for all assets and liabilities in accordance with GAAP.

(2) The Bank shall submit a copy of all accounting policies and procedures currently in effect to the Director.

(3) The Bank shall not make any change in accounting methods, policies, or procedures without the Board's prior written approval and the Director's prior written determination of no supervisory objection. Any new accounting method, policy, or procedure or any change or other revision to an existing method, policy, or procedure shall be submitted to the Director for a prior written determination of no supervisory objection at least thirty (30) days prior to the effective date of such new, changed, or revised method, policy, or procedure.

(4) Notwithstanding Paragraph (3) above, upon written request by the Director, the Bank shall make appropriate modifications to its accounting methods, policies, and procedures to address any Matters Requiring Attention or citations of violation of law or regulation concerning accounting matters that the OCC may issue to the Bank.

ARTICLE VI

THIRD-PARTY CONTRACTS; TRANSACTIONS WITH RELATED THIRD PARTIES

(1) The Bank shall not enter into any new contracts with or engage any vendor, contractor, or other third party (collectively, "third party") for any services equal to or in excess of \$50,000 throughout the entire term of the contract, excepting renewals, without the Director's prior written determination of no supervisory objection. This includes, but is not limited to, any new contract with a third party to assist in the sale, merger, or recapitalization of the Bank. Any modifications to contracts, new or existing, that result in a total amount equal to or exceeding \$50,000 also require the Director's prior written determination of no supervisory objection. Unless otherwise required, downward revisions in the value of a contract do not require the

Director's prior written determination of no supervisory objection whether or not the revised value equals or exceeds \$50,000.

(2) The Bank shall not enter into any contracts with a Related Third Party or engage with any Related Third Party in any transaction for the transfer of funds, the transfer of any asset, the extension of credit, the acceptance or transference of risk, the provision of services, and/or the conferring of another type of benefit, directly or indirectly, without the Director's prior written determination of no supervisory objection.

(3) Any request for the Director's written determination of no supervisory objection pursuant to Paragraphs 1 or 2 of this Article shall be in writing and shall include:

- (a) a statement as to whether the contract is with a Related Third Party;
- (b) a description of the services to be performed by the third party, including a copy of the proposed contract or engagement;
- (c) a description of the Bank's due diligence; and
- (d) a determination by the Board that:
 - (i) the activities to be performed by the third party are fair and reasonable to the Bank;
 - (ii) the parties are able to perform under the contract or commitment;
 - (iii) the fees the Bank is required to pay to the third party are reasonable for the services provided; and
 - (iv) the contract is in the best interests of the Bank and consistent with sound governance and risk management principles. Refer to OCC Bulletin 2013-29, "Third-Party Relationships" for guidance.

(4) Following receipt of the Director's written determination of no supervisory objection pursuant to Paragraphs 1 or 2 of this Article, Bank management, subject to Board review and ongoing monitoring, shall regularly monitor the third party's performance to ensure that the third party is complying with the written contract or engagement. The Board shall immediately take appropriate action if the third party is not complying with the written contract or engagement and shall maintain documentation of any such actions.

ARTICLE VII

OTHER ACTIONS REQUIRED

(1) The Bank shall not take any of the following actions without the prior written approval of the Board and the Director's prior written determination of no supervisory objection:

- (a) enter into any material transaction, including but not limited to any investment, expansion, acquisition, or other similar action;
- (b) amend the Bank's charter or bylaws, except to the extent necessary to carry out any other requirement of law, regulation, or order;

(2) The Bank shall require all directors and officers to identify any new Related Interest in writing within five (5) days of the acquisition of such interest. The Bank shall require all new directors and officers to identify their Related Interests prior to becoming a director or commencing employment. The Board shall immediately amend the list required by this paragraph with newly identified interests and provide the amended list to the Director.

ARTICLE VIII

GENERAL BOARD RESPONSIBILITIES

(1) The Board shall ensure that the Bank has timely adopted and implemented all corrective actions required by this Directive, 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 Directive.

(2) In each instance in which this Directive imposes responsibilities upon the Board, including but not limited to oversight, 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 Directive;
- (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 Directive;
- (c) require that Bank management and personnel have sufficient training and authority to execute their duties and responsibilities pertaining to or resulting from this Directive;
- (d) hold Bank management and personnel accountable for executing their duties and responsibilities pertaining to or resulting from this Directive;
- (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 Directive; and
- (f) address any noncompliance with corrective actions in a timely and appropriate manner.

ARTICLE IX

CLOSING

- (1) This Directive is:
 - (a) issued pursuant to 12 U.S.C. § 1831*o* and 12 C.F.R. Part 6; and
 - (b) enforceable under 12 U.S.C. § 1818(i) and 12 C.F.R. § 6.25.
- (2) The provisions of this Directive supplement, and do not replace or supersede, the requirements of the 2020 Order. Notwithstanding this Directive, the Bank remains under a continuing obligation to comply with the 2020 Order, comply with applicable laws and regulations, and operate safely and soundly.
- (3) If, at any time, the OCC deems it appropriate to undertake any action affecting the Bank or any institution-affiliated party, nothing in this Directive shall in any way inhibit, estop, bar, or otherwise prevent the OCC from so doing.
- (4) Nothing in this Directive 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.
- (5) This Directive 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 Directive shall mean calendar days and the computation of any period of time imposed by this Directive shall not include the date of the act or event that commences the period of time. The Bank may, upon a change in circumstances, submit a request for modification or rescission of this Directive, including a request for an extension, amendment, suspension, waiver, or termination of any provision of this Directive or within any plan or

program submitted pursuant to this Directive, to the OCC pursuant to 12 C.F.R. § 6.24. Any such request shall be submitted in writing to the Director, shall include a statement setting forth in detail the change in circumstances, 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. During the review of any such request, this Directive shall remain in effect.

(6) The Bank will not be deemed to be in compliance with this Directive until it has adopted, implemented, and adhered to all of the corrective actions set forth in each Article of this Directive; 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 Directive 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 Directive to be a contract.

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

(9) The terms of this Directive, 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.

(10) All submissions to the Director pursuant to this Directive shall be forwarded by email to the Director.

IT IS SO ORDERED this 15th day of January, 2021.

//s// Digitally Signed, Dated: 2021.01.15

Julie A. Thieman
Director for Special Supervision