

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

In the Matter of:

Flagstar Bank, FSB
Troy, Michigan

)
)
) AA-CE-2021-48
)
)

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) has supervisory authority over Flagstar Bank, FSB, Troy, Michigan (“Bank”);

WHEREAS, the OCC intends to initiate a civil monetary penalty proceeding against the Bank pursuant to section 102(f) of the Flood Disaster Protection Act, as amended, (“Flood Act”) (42 U.S.C. § 4012a(f)) for a pattern or practice of violations of the Flood Act and its implementing regulations, specifically 12 C.F.R. §§ 22.3, 22.5, 22.7, 22.9, and 22.10;

WHEREAS, in the interest of cooperation and to avoid the 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, in consideration of the above premises and pursuant to the authority vested in the OCC by the Flood Act, 42 U.S.C. § 14012a(f), 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). Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2) and is a “regulated lending institution” as that term is defined in 42 U.S.C. § 4003(a)(10).

(2) Pursuant to 42 U.S.C. §§ 4003(a)(5) and 4012a(f), the Comptroller is the appropriate “Federal entity for lending regulation” to maintain an enforcement proceeding against the Bank for Flood Act violations.

ARTICLE II
COMPTROLLER’S FINDINGS

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

(1) At the 2020 examination of the Bank’s Flood Act compliance program, the OCC identified violations of Flood Act requirements to make, increase, extend, or renew loans secured by properties in special flood hazard areas only after obtaining proof of adequate insurance; timely pay flood insurance premiums collected in escrow; provide timely and adequate notices to customers for loans secured by properties in special flood hazard areas, including if a change in servicer occurs; and provide borrowers with notice of inadequate Flood Act insurance and force place adequate insurance if not obtained by the borrower in 45 days. The OCC determined that the Bank’s Flood Act risk assessment, internal controls, and training, along with its inadequate third-party risk management program over its loan servicing, led to the various violations.

(2) During the period of February 2017 through February 2020, the Bank engaged in a pattern or practice of violations of the Flood Act and its implementing regulations, including 12 C.F.R. §§ 22.3, 22.5, 22.7, 22.9, and 22.10.

ARTICLE III

ORDER FOR A CIVIL MONEY PENALTY

(1) The Bank shall make payment of a civil money penalty in the amount of three million six hundred twenty thousand dollars (\$3,620,000), which shall be paid upon the execution of this Order.

(2) Such payment shall be made by a wire transfer sent in accordance with instructions provided by the OCC and the docket number of this case (AA-CE-2021-48) shall be entered on the wire confirmation. A copy of the wire confirmation shall be sent immediately, by secure email to the address provided by the OCC or via overnight delivery to Ian Campbell, Counsel, Office of the Comptroller of the Currency, 425 S. Financial Street, Suite 1700, Chicago, IL 60605.

(3) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. §§ 1818(h) and (i) and 42 U.S.C. § 4012a.

ARTICLE IV

WAIVERS

The Bank, by executing and consenting to this Order, waives:

(1) any and all rights to the issuance of a Notice pursuant to 12 U.S.C. § 1818 and 42 U.S.C. § 4012a(f)(4), and recognizes that the OCC letter dated November 1, 2021, from Matthew White, Assistant Deputy Comptroller, constitutes a valid substitute

- notice (“Notice Letter”);
- (2) any and all procedural rights available in connection with the issuance of this Order;
 - (3) any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818, 12 C.F.R. Part 109, and 42 U.S.C. § 4012a(f)(4);
 - (4) any and all rights to seek any type of administrative or judicial review of this Order;
 - (5) any and all rights in any way to contest the validity of this Order;
 - (6) 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 the 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; and
 - (7) any and all rights to assert these proceedings, the consent to and/or the issuance of this Order, as the basis for a claim of double jeopardy in any pending or future proceedings brought by the United States Department of Justice or any other governmental entity.

ARTICLE V

CLOSING

(1) This Order is a settlement of the civil money penalty proceedings against the Bank contemplated by the OCC, based on the Flood Act violations described in the Comptroller’s Findings set forth in Article II of this Order and the Notice Letter. The OCC releases and discharges the Bank from all potential liability for a civil money penalty order that

has been or might have been asserted by the OCC based on the violations described in Article II of this Order and the Notice Letter, 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 civil money penalty 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 or the Notice Letter 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) an "order issued with the consent of the depository institution" within the meaning of 12 U.S.C. § 1818(h)(2);
- (b) an "effective and outstanding . . . order" within the meaning of 12 U.S.C. § 1818(i)(1); and

(c) 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.

(5) 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.

(6) 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.

(7) 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// Digitally Signed, Dated: 2021.12.28

Joel Denkert
Deputy Comptroller for Midsize Bank Supervision

Date

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

/s/
John D. Lewis

Date

//s// Digitally Signed, Dated: 2021.12.20
Alessandro P. DiNello

Date

/s/
Jay J. Hansen

Date

/s/
Toan C. Huynh

12/17/21
Date

Lori Jordan

Date

/s/
Bruce E. Nyberg

12/21/2021
Date

/s/
James A. Ovenden

12/17/2021
Date

/s/
Peter Schoels

12-20-2021
Date

/s/
David L. Treadwell

12-17-21
Date

/s/
Jennifer R. Whip

12/19/2021
Date