

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

and

STATE OF MARYLAND
OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION
BALTIMORE, MARYLAND

In the Matter of)

FORBRIGHT BANK)
Potomac, Maryland)

(INSURED STATE NONMEMBER BANK))
)
)

CONSENT ORDER

FDIC-23-0125b

The Federal Deposit Insurance Corporation (**FDIC**) is the appropriate Federal banking agency for Forbright Bank, Potomac, Maryland (**Bank**), under 12 U.S.C. § 1813(q) and the Office of Financial Regulation (**OFR**) is the appropriate State banking agency for the Bank under Titles 2, 3, and 5 of the Maryland Code Annotated, Financial Institutions Article.

The FDIC and the OFR have considered the matter and determined, and the Bank neither admits or denies, that the Bank has engaged in (i) unsafe and unsound banking practices relating to, among other things, deficiencies and weaknesses in the supervision and direction of management by the Bank's board of directors (**Board**); management performance; risk management; capital planning; liquidity and funds management; and interest rate risk; (ii) violations of law or regulations, including section 22(h) of the Federal Reserve Act as implemented by 12 C.F.R. § 215, and Maryland Annotated Code, Financial Institutions Article

§ 3-403(b); and (iii) nonconformance with the *Interagency Guidelines Establishing Standards for Safety and Soundness*, Appendix A to 12 C.F.R. Part 364 (**Part 364**) with respect to the Bank's internal controls and information systems, and interest rate exposure.

The Bank, by and through its duly appointed and acting Board, has executed a Stipulation and Consent to the Issuance of a Consent Order (**Consent Agreement**), dated May 3, 2024, that is accepted by the FDIC and the Commissioner of Financial Regulation (**Commissioner**). With the Consent Agreement, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices, violations of law or regulation, or nonconformance with Part 364, to the issuance of this Consent Order (**Order**) by the FDIC and the Commissioner.

Having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and Subtitle 2 of the Maryland Administrative Procedure Act, Maryland Code Annotated, State Government Article § 10-201 et seq., and Maryland Code Annotated, Financial Institutions Article § 5-808, have been satisfied, the FDIC and the Commissioner hereby order that:

I. Board Requirements

A. Supervision, Direction, and Oversight. The Board must immediately increase, commensurate with the size of the Bank and the nature, scope, complexity, and risk of Bank activities, its supervision and direction of Bank management, and its oversight and monitoring of the Bank's financial condition, risk profile, operations, including adherence to the Bank's written policies, procedures, and/or internal controls (collectively, **Policies & Procedures**). The Board must also satisfactorily address the oversight and supervision-related deficiencies and weaknesses identified in the June 20, 2023 Report of Examination issued jointly by the FDIC and the OFR (**2023 ROE**), and, at a minimum, ensure that:

1. *Directors and Officers.* The Bank has appropriate planning, including succession planning, in place to maintain an adequate number of directors and officers with the experience and expertise, sufficient authority, independence, and resources necessary to enable them to satisfactorily oversee and manage Bank activities and operations and associated risks, assure compliance with this Order and applicable laws and regulations, and implement and adhere to Policies & Procedures, including those related to enterprise risk management, the Board's risk appetite, issues management, and new products and services, (collectively, **Risk Management Framework**), on an on-going basis;

2. *Policies & Procedures.* Specific limits, thresholds, and triggers with measurable metrics are in place for Policies & Procedures related to capital, funds management and liquidity, interest rate risk exposure, growth, and concentrations, including concentrations in funding sources and assets, commensurate with the size, financial condition, operations, nature, scope, complexity, risk of Bank activities, and strategic objectives of the Bank, and enable the Bank to operate in a safe and sound manner;

3. *Information.* Policies & Procedures require, and the Board receives, timely and accurate information and documentation to enable it to fulfill its duties and responsibilities under this Order, monitor and regularly evaluate the adherence to and the effectiveness of Policies & Procedures, and assure on-going and proactive compliance with applicable laws and regulations;

4. *Risk Management Framework.* The Risk Management Framework includes (i) quantitative risk limits consistent with the Board's risk appetite, (ii) processes for identifying, measuring, and monitoring risks, and (iii) actual practices that conform with Policies & Procedures. The Board must also ensure that the Risk Management Framework is fully

implemented in a timely manner;

5. *Audit.* Internal audits of the Bank are completed in a timely manner and findings are promptly provided to the Board and Bank management. The Board must also ensure that internal and external audit findings are communicated and addressed in a timely manner; and

6. *Meetings.* Minutes of Board meetings and Board and management committee meetings are prepared in a timely manner, are sufficiently detailed, and reflect the discussion of and rationale for material decisions and any specific actions taken or to be taken by the Board and any requirements of or directions to Bank management as a result of the discussions;

7. *Compensation.* The Board's Nominating, Compensation, and Governance Committee reviews the strategies and Policies & Procedures related to compensation, bonuses, and incentives for directors and senior executive officers, as defined by 12 C.F.R. § 303.101(b), and makes a written recommendation to the Board for the action necessary to satisfactorily address compensation-related deficiencies and weaknesses identified in the 2023 ROE.

B. Corrective Action. The Board must also ensure that all steps necessary are taken to, consistent with other provisions of this Order and safe and sound banking practices:

1. *Banking Practices, Violations and Nonconformance.* Eliminate or correct and prevent unsafe or unsound banking practices, violations of law or regulation, and nonconformance with Part 364 identified in the 2023 ROE;

2. *Deficiencies and Weaknesses.* Adequately address the deficiencies and weaknesses identified in the 2023 ROE; and

3. *Order Compliance.* Fully comply with the provisions of this Order in a timely manner.

II. Funds Management Program

A. Funds Management Program. Within 60 days from the effective date of this Order, the Board must ensure that the Bank's funds management program, related Policies & Procedures, and the Liquidity Analysis, as defined below, (collectively, **Funds Management Program**), is revised to adequately address the deficiencies and weaknesses identified in the 2023 ROE and meet the Bank's liquidity needs. The revised Funds Management Program must be submitted to the Deputy Regional Director of the FDIC's New York Regional Office (**DRD**) and the Commissioner for review and comment or non-objection in accordance with Paragraph VIII of this Order.

B. Minimum Requirements. The Funds Management Program must, consistent with safe and sound banking practices and taking into account the other requirements of this Order, at a minimum:

1. *Liquidity Risk Identification*. Identify and document the liquidity risks arising from the Bank's key exposures and business model, reliance on noncore funding and any related concentrations, and consistency with the Board's established liquidity risk tolerances;
2. *Liquidity Needs and Plans*. Include a detailed and well-supported analysis of (i) the Bank's short- and long-term liquidity needs, including liquidity risks, reliance on noncore funding sources and funding concentrations, the Bank's strategic objectives, and the Board's established liquidity risk tolerances; and (ii) the Bank's plans to ensure such liquidity needs are met, including the retention of sufficient amounts of highly liquid assets and other available funding sources;
3. *Periodic Deposit Structure Reviews*. Require periodic risk-based reviews of the Bank's deposit structure identifying any reliance on noncore funding sources and any related

concentrations, and provide a detailed description of the Bank's strategy for reducing any identified risks related to such reliance or concentration;

4. *Periodic Cash Flow and Liquidity Analysis.* Require periodic risk-based formal cash flow analysis and scenario-based liquidity analysis relating to bank-specific vulnerabilities, market-wide factors, and a combination of both (**Liquidity Analysis**);

5. *Liquidity Risk Limits.* Establish clearly defined risk limits that are consistent with the Board's established liquidity risk tolerances and Policies & Procedures. At a minimum, risk limits must establish the lowest acceptable level of on-balance sheet highly liquid assets and off-balance sheet funding availability as well as the maximum acceptable levels for potentially unstable deposits, noncore funding sources, and funding concentrations. Compliance with these limits must be adequately monitored, tracked, and reported to the Board in a timely manner;

6. *Contingency Funding Plan.* Ensure the Bank's contingency funding plan (**Contingency Funding Plan**) considers an appropriate range of stress scenarios and includes satisfactory alternative plans to meet the contingent liquidity needs and the Board's established liquidity risk tolerances with supportable remediation steps. The Contingency Funding Plan must also clearly identify contingent funding sources and include the amount, ability, and speed of access for each;

7. *Periodic Reporting.* Require periodic and accurate reporting of cash flow and liquidity analysis, early warning indicators, adherence to risk limits and any other funds management related Policies & Procedures to the Board's Risk Committee; and

8. *Updates.* Require periodic risk-based reviews and updates to the Funds Management Program.

III. Capital

A. Capital Framework. Within 90 days from the effective date of this Order, the Board must revise its capital planning and monitoring framework (**Capital Framework**) and submit it to the DRD and the Commissioner for review and comment or non-objection in accordance with Paragraph VIII of this Order. The revised Capital Framework must consider the findings of the 2023 ROE; satisfactorily analyze the capital needs of the Bank and assure that the Bank has capital protection commensurate with its financial condition, exposure to asset and/or funding concentrations, operations, activities, growth plans, and Distributions, as defined in Paragraph V below; establish the minimum levels of capital necessary to assure the Bank's safe and sound operation; and detail the Bank's strategy for obtaining, monitoring, and maintaining minimum capital levels once established, and, at a minimum, include:

1. a review and appropriate adjustment of established concentration risk limits for loans, by loan type, that is well supported, takes into account stress scenario analysis by loan type and across the loan portfolio;
2. a detailed and well-supported written analysis of the capital levels necessary to operate the Bank and conduct its activities in a safe and sound manner that adequately considers asset, funding, operational, and concentration risks;
3. minimum capital levels for each of the applicable standardized capital ratio calculations established in 12 C.F.R. Part 324, Subpart B;
4. a list of the potential sources of the capital necessary to meet the minimum capital levels established under the Capital Framework and the amount of capital and timeframes for obtaining capital from each source; and
5. strategies for maintaining the capital levels established in the Capital Framework with detailed analysis.

B. Supplemental Capital. If at any time the Bank does not meet one or more minimum capital levels established in the Capital Framework, the Board must immediately provide written notification to the DRD and the Commissioner of each established capital level not met by the Bank (**Capital Notification**). Within 30 days of such notification or within the timeframe provided by the DRD and the Commissioner after receipt of a Capital Notification, the Board must submit a plan (**Supplemental Capital Plan**) to the DRD and the Commissioner for review and comment or non-objection in accordance with Paragraph VIII of this Order satisfactorily identifying the sources and actions the Bank will take to secure sufficient capital to meet each of the minimum capital levels established in the Capital Framework with timeframes for obtaining such capital.

IV. Interest Rate Risk Management

Within 90 days from the effective date of this Order, the Board must ensure the Bank, consistent with safe and sound banking practices and taking into account the other requirements of this Order, addresses the deficiencies and weaknesses related to interest rate risk (**IRR**) management identified in the 2023 ROE and is able to appropriately manage IRR. The Board must also ensure the Bank's IRR Measurement and Modeling System (**IRR Management System**) appropriately and accurately incorporates the terms of the Bank's deposits, including interest rates and maturities; IRR Management System assumptions, including market value and yield curve assumptions, that are well supported, sufficient for the Bank's size and the nature, scope, complexity and risk of Bank activities, and consistent with the account type betas related to each modeled scenario; and that applicable Policies & Procedures require periodic, risk-based IRR modeling and sensitivity and back-testing, model validation with updates and revisions, monitoring, and timely and accurate reporting of IRR exposures to the Board.

V. Dividends and Other Payments

The Board must ensure that the Bank does not declare or pay any cash dividends or other capital distributions (collectively, **Distributions**) without the prior non-objection of the DRD and the Commissioner. Any request to make a Distribution must be submitted to the DRD and the Commissioner for review and comment or non-objection in accordance with Paragraph VIII.

VI. Growth

The Board must ensure that the Bank's total assets, as defined in the FDIC's Instructions for Preparation of Consolidated Reports of Condition and Income, do not increase by more than 5% during any calendar quarter and do not increase by more than 10% annually. The Board must ensure that it receives timely and accurate information regarding the status of the Bank's total assets and immediately notifies the DRD and the Commissioner if it appears that either limit could be exceeded and must, within 14 days of such notification, submit a plan detailing the means by which the Bank will return to compliance with these limits (**Growth Compliance Plan**) to the DRD and the Commissioner for review and comment or non-objection in accordance with Paragraph VIII. The Board must also ensure that it receives timely and accurate information regarding material loan, investment, or funding sources and reports any change of more than 5% during any fiscal quarter to the DRD and the Commissioner.

VII. Directors' Compliance Committee

A. Directors' Compliance Committee. The Directors' Compliance Committee must continue to be comprised of a majority of Directors who are independent of management and who are not now, and have not previously been, involved in the daily operations of the Bank and are acceptable to the DRD and the Commissioner. Nothing herein diminishes the responsibility of the entire Board to ensure full compliance with the provisions of this Order in a timely

manner.

B. Compliance Committee Plan. Within 30 days from the effective date of this Order, the Directors' Compliance Committee must submit a written plan detailing how the Board will ensure the requirements of this Order are met in a timely manner (**Directors' Compliance Committee Plan**) to the DRD and the Commissioner for review and comment or non-objection in accordance with Paragraph VIII. The Directors' Compliance Committee Plan must, at a minimum:

1. *Corrective Action Description*. Describe the specific corrective actions to be taken to meet the requirements of each provision of this Order (**Corrective Actions**);
2. *Completion Date*. Establish the date by which each Corrective Action will be taken;
3. *Responsible Parties*. Identify the person(s) responsible for the completion of each Corrective Action; and
4. *Monitoring*. Establish the means by which the Directors' Compliance Committee will monitor the status of each Corrective Action and ensure timely compliance with this Order.

C. Directors' Compliance Committee Report. The Directors' Compliance Committee must submit a written report (**Directors' Compliance Committee Report**) detailing the status of all actions required in connection with this Order to the Board for consideration at each regularly scheduled Board meeting occurring after the effective date of this Order. The Directors' Compliance Committee Report and any discussion related to it or this Order must be included in the minutes of the corresponding Board meeting. The Directors' Compliance Committee Report must be submitted to the DRD and the Commissioner as part of the progress

reports required by Paragraph IX of this Order, noting any action taken by the Board and/or Bank based on them.

VIII. Non-objection, Implementation, and Adherence

A. Review and Comment or Non-objection. When a provision of this Order requires the submission of a matter to the DRD and the Commissioner for review and comment or non-objection (**Submission**), the Bank will make the Submission to the DRD as a PDF document through the FDIC's Secure Email portal (securemail.fdic.gov) using e-mail address:

NYMailRoom@fdic.gov and to the OFR via encrypted email to Teresa.Louro@maryland.gov.

Within 30 days from receipt of comments from the DRD and the Commissioner, the Board or Bank will make such modifications as may be necessary to respond to the comments and resubmit the Submission for review and additional comments or non-objection.

B. Adoption, Implementation, and Adherence. The Board will adopt any Submission at its next regularly scheduled meeting following receipt of written non-objection to such Submission from the DRD and the Commissioner. For any matter required by this Order but not requiring the written non-objection of the DRD and the Commissioner, the Board must act on such matter within the timeframe required for such action in this Order. All actions by the Board or a Board committee must be satisfactorily reflected in the respective Board or Board committee minutes. Thereafter, the Board must ensure that the Bank fully implements and adheres to the action plan, Policy & Procedure, or other matter as adopted. In the event a Submission required by this Order and adopted by the Board, or any portion thereof, is not fully implemented or adhered to, the Board must promptly, in no instance more than 30 days from the event, advise the DRD and the Commissioner in writing of the specific reasons for the deviation or delay and the steps it will take to address the deviation or delay. The DRD and the

Commissioner may either provide a written non-objection to any such deviation or delay or require compliance with the Submission as adopted by the Board.

IX. Progress Reports

Within 45 days of the end of each calendar quarter following the effective date of this Order, the Board must furnish written progress reports detailing the form, manner, and results of any actions taken to secure compliance with this Order to the DRD and the Commissioner. All progress reports and other written responses to this Order must be reviewed and approved by the Board and be made a part of the Board minutes.

X. Notice to Parent Holding Company

Within 30 days from the effective date of this Order, the Board must provide either a copy of this Order or an accurate and complete description of all material aspects of the Order to the Board of Directors of its parent holding company.

XI. Miscellaneous

The provisions of this Order do not bar, estop, or otherwise prevent the FDIC, the Commissioner, or any other federal or state agency or department from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties.

This Order is effective on the date of issuance and its provisions will remain effective and enforceable until a provision is modified, terminated, suspended, or set aside in writing by the FDIC and the Commissioner. The provisions of this Order are binding upon the Bank, its

institution-affiliated parties, and any successors and assigns thereof.

Issued Under Delegated Authority.

Dated: May 3, 2024

By: /s/
Marianne Hatheway
Deputy Regional Director
New York Region
Federal Deposit Insurance Corporation

The Commissioner, having duly approved the foregoing Order, and the Bank, through its Board, agree that the issuance of said Order by the FDIC will be binding as between the Bank and the Commissioner to the same degree and to the same legal effect that such Order would be binding on the Bank if the Commissioner had issued a separate Order that included and incorporated all of the provisions of the foregoing Order in accordance with Subtitle 2 of the Maryland Administrative Procedure Act, Maryland Code Annotated, State Government Article §10-201 et seq. and Maryland Code Annotated, Financial Institutions Article § 5-808.

Dated: May 3, 2024

By: /s/
Antonio P. Salazar
Commissioner
Office of Financial Regulation
State of Maryland