

UNITED STATES OF AMERICA  
BEFORE THE  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D.C.

STATE OF GEORGIA  
DEPARTMENT OF BANKING AND FINANCE  
ATLANTA, GEORGIA

Written Agreement by and among

FMB BANCSHARES, INC.  
Lakeland, Georgia

FEDERAL RESERVE BANK OF  
ATLANTA  
Atlanta, Georgia

and

BANKING COMMISSIONER OF  
THE STATE OF GEORGIA  
Atlanta, Georgia

Docket No. 09-161-WA/RB-HC

WHEREAS, FMB Bancshares, Inc., Lakeland, Georgia (“FMB”), a registered bank holding company, owns and controls Farmers & Merchants Bank, Lakeland, Georgia (the “Bank”), a state chartered nonmember bank, and various nonbank subsidiaries;

WHEREAS, it is the common goal of FMB, the Federal Reserve Bank of Atlanta (the “Reserve Bank”), and the Banking Commissioner of the State of Georgia (the “Commissioner”) to maintain the financial soundness of FMB so that FMB may serve as a source of strength to the Bank;

WHEREAS, FMB, the Reserve Bank, and the Commissioner have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on September 28, 2009, the board of directors of FMB, at a duly constituted meeting, adopted a resolution authorizing and directing Larry Lee, Chairman, to enter into this Agreement on behalf of FMB, and consenting to compliance with each and every provision of this Agreement by FMB and its institution-affiliated parties, as defined in sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. §§ 1813(u) and 1818(b)(3)).

NOW, THEREFORE, FMB, the Reserve Bank, and the Commissioner agree as follows:

**Source of Strength**

1. FMB shall take appropriate steps to fully utilize its financial and managerial resources, pursuant to Regulation Y of the Board of Governors (12 C.F.R. § 225.4), to ensure that the Bank complies with the Order to Cease and Desist entered into with the Federal Deposit Insurance Corporation and the Commissioner on May 19, 2009, and any other supervisory action taken by the Bank’s federal or state regulators.

**Compensation Review**

2. (a) Within 45 days of this Agreement, the board of directors shall conduct a review of all personnel costs to ensure that all salaries, bonuses, and fees paid to FMB’s officers and directors are: (i) consistent with safe and sound banking practices and applicable law, regulations, and guidelines; (ii) justified based on FMB’s and the Bank’s performance, financial condition, and future prospects; (iii) related to the services actually rendered to FMB; (iv) paid in accordance with the duties, responsibilities, and obligations of FMB’s officers and directors; and (v) preapproved by the board of directors on a regular basis.

(b) Within 60 days of this Agreement, the board of directors shall submit to the Reserve Bank and the Commissioner the findings and conclusions of the review required by this paragraph, along with any proposed written compensation policies and procedures that may be recommended as a result of the review.

### **Dividends and Distributions**

3. (a) FMB shall not declare or pay any dividends without the prior written approval of the Reserve Bank, the Director of the Division of Banking Supervision and Regulation of the Board of Governors (the “Director”), and the Commissioner.

(b) FMB shall not directly or indirectly take dividends or any other form of payment representing a reduction in capital from the Bank without the prior written approval of the Reserve Bank and the Commissioner.

(c) FMB and its nonbank subsidiaries shall not make any distributions of interest, principal, or other sums on subordinated debentures or trust preferred securities without the prior written approval of the Reserve Bank, the Director, and the Commissioner.

(d) All requests for prior approval shall be received by the Reserve Bank and the Commissioner at least 30 days prior to the proposed dividend declaration date, proposed distribution on subordinated debentures, and required notice of deferral on trust preferred securities. All requests shall contain, at a minimum, current and projected information on FMB’s capital, earnings, and cash flow; the Bank’s capital, asset quality, earnings, and ALLL; and identification of the sources of funds for the proposed payment or distribution. For requests to declare or pay dividends, FMB must also demonstrate that the requested declaration or payment of dividends is consistent with the Board of Governors’ Policy Statement on the Payment of Cash Dividends by State Member Bank and Bank Holding Companies, dated

November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323), and the Georgia Department of Banking and Finance Statement of Policies.

### **Debt and Stock Redemption**

4. (a) FMB and any nonbank subsidiary shall not, directly or indirectly, incur, increase, or guarantee any debt without the prior written approval of the Reserve Bank and the Commissioner. All requests for prior written approval shall contain, but not be limited to, a statement regarding the purpose of the debt, the terms of the debt, and the planned source(s) for debt repayment, and an analysis of the cash flow resources available to meet such debt repayment.

(b) FMB shall not, directly or indirectly, purchase or redeem any shares of its stock without the prior written approval of the Reserve Bank and the Commissioner.

### **Capital Plan**

5. Within 60 days of this Agreement, FMB shall submit to the Reserve Bank and the Commissioner an acceptable written plan to maintain sufficient capital at FMB, on a consolidated basis, and at the Bank, as a separate legal entity, on a stand-alone basis. The plan shall, at a minimum, address, consider, and include:

(a) The consolidated organization's and the Bank's current and future capital requirements, including compliance with the Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure and Tier 1 Leverage Measure, Appendices A and D of Regulation Y of the Board of Governors (12 C.F.R. Part 225, App. A and D), and the applicable capital adequacy guidelines for the Bank issued by the Bank's federal regulator;

(b) the adequacy of the Bank's capital, taking into account the volume of classified credits, concentrations of credit, allowance for loan and lease losses ("ALLL"), current and projected asset growth, and projected retained earnings;

(c) the source and timing of additional funds to fulfill the consolidated organization's and the Bank's future capital requirements;

(d) supervisory requests for additional capital at the Bank or the requirements of any supervisory action imposed on the Bank by its federal or state regulator; and

(e) the requirements of section 225.4(a) of Regulation Y of the Board of Governors (12 C.F.R. § 225.4(a)) that FMB serve as a source of strength to the Bank.

6. FMB shall notify the Reserve Bank and the Commissioner, in writing, no more than 30 days after the end of any quarter in which the consolidated organization's or the Bank's capital ratio (total risk-based, Tier 1, or leverage) falls below the approved plan's minimum ratios. Together with the notification, FMB shall submit an acceptable capital plan that details the steps FMB will take to increase the consolidated organization's or the Bank's capital ratios to or above the approved plan's minimums.

### **Compliance with Laws and Regulations**

7. (a) In appointing any new director or senior executive officer, or changing the responsibilities of any senior executive officer so that the officer would assume a different senior executive officer position, FMB shall comply with the notice provisions of section 32 of the FDI Act (12 U.S.C. § 1831i) and Subpart H of Regulation Y of the Board of Governors (12 C.F.R. §§ 225.71 *et seq.*), and also provide written notice to the Commissioner.

(b) FMB shall comply with the restrictions on indemnification and severance payments of section 18(k) of the FDI Act (12 U.S.C. § 1828(k)) and Part 359 of the Federal Deposit Insurance Corporation's regulations (12 C.F.R. Part 359).

### **Progress Reports**

8. Within 30 days after the end of each calendar quarter following the date of this Agreement, the boards of directors of FMB shall submit to the Reserve Bank and the Commissioner written progress reports detailing the form and manner of all actions taken to secure compliance with the provisions of this Agreement and the results thereof, and a parent company only balance sheet, income statement, and, as applicable, a report of changes in stockholders' equity.

### **Approval and Implementation of Plan**

9. (a) FMB shall submit a written plan that is acceptable to the Reserve Bank and the Commissioner within the applicable time period set forth in paragraph 5 of this Agreement.

(b) Within 10 days of approval by the Reserve Bank and the Commissioner, FMB shall adopt the approved plan. Upon adoption, FMB shall promptly implement the approved plan, and thereafter fully comply with it.

(c) During the term of this Agreement, the approved plan shall not be amended or rescinded without the prior written approval of the Reserve Bank and the Commissioner.

## **Communications**

10. All communications regarding this Agreement shall be sent to:
  - (a) Mr. Robert D. Hawkins  
Assistant Vice President  
Federal Reserve Bank of Atlanta  
1000 Peachtree Street, N.E.  
Atlanta, Georgia 30309-4470
  - (b) Mr. Robert M. Braswell  
Commissioner  
Georgia Department of Banking and Finance  
2990 Brandywine Road, Suite 200  
Atlanta, GA 30341
  - (c) Mr. W. Larry Lee  
Chairman of the Board  
FMB Bancshares, Inc.  
109 East Main Street  
Lakeland, Georgia 31635

## **Miscellaneous**

11. Notwithstanding any provision of this Agreement, the Reserve Bank and the Commissioner may, in their sole discretion, grant written extensions of time to FMB to comply with any provision of this Agreement.
12. The provisions of this Agreement shall be binding upon FMB and its institution-affiliated parties, in their capacities as such, and their successors and assigns.
13. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank and the Commissioner.
14. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, the Commissioner, or any other federal or state agency

from taking any other action affecting FMB, the Bank, any nonbank subsidiary of FMB, or any of its current or former institution-affiliated parties and their successors and assigns.

15. Pursuant to section 50 of the FDI Act (12 U.S.C. § 1831aa), this Agreement is enforceable by the Board of Governors under section 8 of the FDI Act (12 U.S.C. § 1818) and by the Commissioner pursuant to the Official Code of Georgia Annotated § 7-1-91.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 11th day of November, 2009.

FMB BANCSHARES, INC.

FEDERAL RESERVE BANK OF ATLANTA

By: /s/ Larry Lee  
Chairman

By: /s/ Robert D. Hawkins  
Robert D. Hawkins  
Assistant Vice President

BANKING COMMISSIONER OF THE  
STATE OF GEORGIA

By: /s/ Robert M. Braswell  
Robert M. Braswell  
Commissioner