

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

STATE OF SOUTH DAKOTA
DEPARTMENT OF REVENUE AND REGULATION
DIVISION OF BANKING
PIERRE, SOUTH DAKOTA

Written Agreement by and among)	
)	
MARSHALL BANKFIRST CORP.)	Docket Nos. 07-015-WA/RB-HC
Minneapolis, Minnesota)	07-015-WA/RB-SM
)	
BANKFIRST)	
Sioux Falls, South Dakota)	
)	
THE FEDERAL RESERVE BANK)	
OF MINNEAPOLIS)	
Minneapolis, Minnesota)	
)	
and)	
)	
SOUTH DAKOTA DEPARTMENT OF)	
REVENUE AND REGULATION)	
Division of Banking)	
Pierre, South Dakota)	
)	

WHEREAS, Marshall BankFirst Corp., Minneapolis, Minnesota (“Marshall”), a registered bank holding company, and its subsidiary bank, BANKFIRST, Sioux Falls, South Dakota (the “Bank”), a state chartered bank that is a member of the Federal Reserve System, are taking steps to address weaknesses in asset quality, credit administration, management, and risk management identified by the Federal Reserve Bank of Minneapolis (the “Reserve Bank”);

WHEREAS, Marshall and the Bank have agreed to cooperate fully with the Reserve Bank and with the South Dakota Department of Revenue and Regulation, Division of Banking (the "Division"); and

WHEREAS, on July 31, 2007, the boards of directors of Marshall and the Bank, at duly constituted meetings, adopted resolutions authorizing and directing Dennis M. Mathisen to enter into this Written Agreement (the "Agreement") on behalf of Marshall and the Bank, and consenting to compliance by Marshall, the Bank, and their respective institution-affiliated parties, as defined in sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. §§ 1813(u) and 1818(b)(3)) (the "FDI Act"), with each and every applicable provision of this Agreement.

NOW, THEREFORE, Marshall, the Bank, the Reserve Bank, and the Division hereby agree as follows:

Portfolio Growth

1. (a) As of the date of this Agreement, the Bank shall not, without the prior written approval of the Reserve Bank and the Division, take any action that would result in an increase in the aggregate dollar value of the Bank's loan portfolio above the aggregate dollar value balance as of the close of business on March 12, 2007, plus legally binding commitments as of March 12, 2007.

(b) As of the date of this Agreement, the Bank shall not, without the prior written approval of the Reserve Bank and the Division, underwrite or originate any loan to be sold, syndicated, or participated in whole or in part to third parties.

(c) The restrictions of paragraphs 1(a) and (b) of this Agreement shall continue in force and effect until Marshall and the Bank, as applicable:

(i) submit to the Reserve Bank and the Division the written policies, procedures, program, and plan relating to credit administration and capital, described in paragraphs 2, 3, 4(a), 4(b), 6, and 11 of this Agreement, and a written plan to manage the growth in the Bank's loan portfolio;

(ii) are notified in writing by the Reserve Bank and the Division that the aforesaid policies, procedures, program, and plans are acceptable;

(iii) adopt and take acceptable steps to implement the aforesaid policies, procedures, program, and plans;

(iv) engage an independent firm to provide backup loan servicing as described in paragraph 4(c) of this Agreement; and

(v) are notified in writing by the Reserve Bank and the Division that the above described conditions have been met.

Lending and Credit Administration

Loan Policies and Procedures

2. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the Division acceptable written loan policies and procedures that shall, at a minimum, address, consider, and include:

(a) Underwriting standards that are appropriate for each type of loan product offered by the Bank, comply with the Real Estate Lending and Appraisal Standards set forth in Subpart E and Appendix C of Regulation H of the Board of Governors of the Federal Reserve System (the "Board of Governors") (12 C.F.R. § 208 Subpart E and Appendix C), and include and provide for, at a minimum:

- (i) analysis of the financial capacity of the borrower and, as applicable, any guarantor;
- (ii) documented sources of repayment;
- (iii) cash flow analysis;
- (iv) cash equity requirements;
- (v) loan to value ratio parameters; and
- (vi) current valuation of underlying collateral;

(b) a complete description of loan documentation and collateral required for each specific type of loan;

- (c) maintenance of all necessary documentation in the loan files;
- (d) appropriate use of interest reserves;
- (e) procedures for controlling and monitoring concentrations of credit,

including:

(i) establishment of concentration of credit limits for industries, types of loans, and geographic locations;

(ii) managing the risk associated with asset concentrations; and

(iii) consistency with the interagency guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices, published December 6, 2006;

(f) procedures for renewing, extending, or modifying existing loans, including procedures for documenting the bases for each renewal, extension or modification;

(g) limitations on the capitalization of interest in loan renewals;

- (h) requirements for levels of “pre-sales” on construction projects and establishment of appropriate criteria for determining the reliability of pre-sale estimates;
 - (i) compensation standards for loan origination officers that include an assessment of loan performance;
 - (j) controls to ensure uniform adherence to all loan policies and procedures;
- and
- (k) measures to address the deficiencies in loan policies and procedures noted in the report of the examination of the Bank conducted by the Reserve Bank, which was conveyed to Marshall and the Bank by letter dated March 7, 2007 (the “Report of Examination”).

3. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the Division acceptable written procedures for loan administration that shall, at a minimum, address, consider, and include:

- (a) Separation of duties among the lending, credit administration, and loan operations functions;
- (b) loan closing and disbursement of loan proceeds;
- (c) monitoring the status and condition of underlying collateral;
- (d) monitoring the financial condition of the borrower and any guarantor;
- (e) workouts and collections; and
- (f) measures to address the deficiencies in loan administration noted in the

Report of Examination.

Loan Syndication

4. (a) Within 30 days of this Agreement, Marshall and the Bank shall jointly submit to the Reserve Bank and the Division acceptable written policies and procedures for the syndication of loans, including, but not limited to, policies and procedures for funding the loans.

(b) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the Division acceptable written procedures for the servicing and payment processing of loans originated by the Bank that are syndicated or participated in whole or in part or any other loans that are serviced by the Bank.

(c) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the Division an acceptable contingency plan for servicing and payment processing of the loans described in paragraph 4(b) of this Agreement. The plan, at a minimum, shall include a contract with an independent firm to provide back-up servicing and payment processing of such loans in the event that the Bank is unable to service such loans.

(d) In the event that the Bank outsources, transfers, or sells, in whole or in part, the servicing or payment processing of loans described in paragraph 4(b) of this Agreement, at least 30 days prior to such a transaction, the Bank shall submit to the Reserve Bank and the Division, an acceptable plan for the proposed outsourcing, transfer, or sale that shall, at a minimum, provide for the continued servicing and payment processing of such loans and describe the actions the Bank will take to manage any legal liability that may be retained by the Bank regarding the servicing or payment processing of such loans.

5. (a) Within 15 days of this Agreement, Marshall and the Bank shall jointly submit to the Reserve Bank and the Division an acceptable written policy and procedures regarding the temporary placement with third-parties of loans or portions of loans that have not

been fully syndicated or participated. The policy shall, at a minimum, address: (i) controls to ensure that all such temporary placements comply with Regulation W of the Board of Governors (12 C.F.R. Part 223), including, but not limited to, the allocation of placement costs as between the Bank and any affiliate; and (ii) the appropriate accounting for such temporary placements, including any recourse liability retained by Marshall or the Bank.

(b) For the purposes of this Agreement, “affiliate” shall be defined as set forth in section 23A(b)(1) of the Federal Reserve Act (12 U.S.C. § 371c(b)(1)) and section 223.2 of Regulation W of the Board of Governors (12 C.F.R. § 223.2).

Loan Review

6. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the Division an acceptable written program for the on-going review and grading of the Bank’s loan portfolio by a qualified independent third party or by qualified staff that is independent of the Bank’s credit granting function. The program shall, at a minimum, address, consider, and include:

- (a) The scope and frequency of the loan review;
- (b) loan grading standards and criteria for assessing the credit quality of the loans;
- (c) loan grading descriptions and a scale that adequately differentiate the degrees of risks among loans;
- (d) application of loan grading standards and criteria to the loan portfolio;
- (e) identification of any loan that is not in conformance with the Bank’s loan policy;

(f) quarterly written reports to the Bank's board of directors that identify the status of those loans that are adversely graded and the prospects for full collection or strengthening of the quality of any such loans; and

(g) measures to address the deficiencies in the loan review program noted in the Report of Examination.

Staffing

7. (a) Within 60 days of this Agreement, the Bank shall take all possible steps, and shall document such steps, necessary to employ and thereafter continue to employ:

(i) a permanent, full-time officer with the requisite ability, experience, and other qualifications to competently manage the loan administration function and (ii) a permanent, full-time officer with the requisite ability, experience, and other qualifications to competently manage the collection and problem loan workout functions.

(b) Within 90 days of this Agreement, the Bank shall take all possible steps, and shall document such steps, necessary to employ and thereafter continue to employ qualified individuals to sufficiently staff the collection and problem loan workout functions.

Allowance for Loan and Lease Losses

8. (a) Within 10 days of this Agreement, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "loss" in the Report of Examination that have not been previously collected in full or charged off. Thereafter, the Bank shall, within 30 days from the receipt of any federal or state report of examination, charge off all assets classified "loss" and 50 percent of loans classified as "doubtful", unless otherwise approved in writing by the Reserve Bank and the Division.

(b) Within 10 days of completion of any loan review described in paragraph 6 of this Agreement, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified “loss” that have not been previously collected in full or charged off.

(c) The Bank shall maintain, in accordance with generally accepted accounting principles (“GAAP”), an adequate valuation reserve for loan and lease losses (the “ALLL”). The adequacy of the ALLL shall be determined in accordance with relevant supervisory guidance, including the Interagency Policy Statements on the Allowance for Loan and Lease Losses, dated July 2, 2001 and December 13, 2006. The elements of supervisory guidance to be considered shall include, but are not limited to, the reliability of the Bank’s loan grading system, the volume of criticized loans, the current level of past due and nonperforming loans, past loan loss experience, evaluation of the probable losses in the Bank’s loan portfolio, including the potential for the existence of unidentified losses in loans adversely classified, the imprecision of loss estimates, and examiners’ criticisms noted in the Report of Examination.

(d) Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank and the Division a description of the methodology used to determine the Bank’s ALLL. Thereafter, the Bank shall conduct, at least on a quarterly calendar basis, an assessment of its ALLL and, within 30 days of the end of each calendar quarter, shall submit to the Reserve Bank and the Division the quarterly assessment, including the methodology used in determining the amount of ALLL for that quarter. The Bank shall maintain for subsequent supervisory review documentation to support the methodology used for each quarterly assessment.

Audit

9. The Bank shall retain on an annual basis an independent public accounting firm acceptable to the Reserve Bank and the Division to conduct an annual full scope external audit of the Bank's financial statements in accordance with generally accepted auditing standards.

Regulatory Reports

10. Marshall and the Bank shall continue to file regulatory reports and shall promptly file amended regulatory reports to correct any previously filed reports that do not comply with GAAP and regulatory reporting requirements. Marshall and the Bank shall maintain sufficient records to indicate how each report was prepared and shall retain such records for subsequent supervisory review.

Capital Adequacy

11. (a) Within 60 days of this Agreement, Marshall and the Bank shall submit to the Reserve Bank and the Division an acceptable joint written capital plan (the "Capital Plan") that will, at a minimum, ensure that Marshall, on a consolidated basis, and the Bank, as a separate legal entity on a stand-alone basis, each maintain acceptable leverage, tier one, and total risk-based capital ratios. The plan shall, at a minimum, address, consider, and include:

(i) the Bank's current and future capital requirements, including compliance with the Capital Adequacy Guidelines for State Member Banks: Risk-Based Measures and Tier 1 Leverage Measures, Appendices A and B of Regulation H of the Board of Governors (12 C.F.R. Part 208, App. A and B);

(ii) the volume of Marshall's and the Bank's adversely classified assets;

(iii) anticipated growth in Marshall's and the Bank's assets;

- (iv) the risk profile of Marshall's and the Bank's asset and liability structure;
- (v) the risk in the Bank's servicing and payment processing operations;
- (vi) the risk in the Bank's residential real estate mortgage operations;
- (vii) the risk in the Bank's stored value card and sponsored automatic teller machine ("ATM") business activities;
- (viii) the risk associated with retaining legal ownership of credit card accounts sold to third-parties;
- (ix) the source and timing of additional funds to fulfill the future capital and ALLL needs of the consolidated organization and the Bank; and
- (x) the requirements of section 225.4(a) of Regulation Y of the Board of Governors that Marshall serve as a source of strength to the Bank (12 C.F.R. § 225.4(a)).

(b) During the term of this Agreement, Marshall and the Bank shall jointly submit to the Reserve Bank and the Division an acceptable Capital Plan for each calendar year subsequent to 2007 at least one month prior to the beginning of the calendar year.

12. Notwithstanding any other provision of this Agreement, Marshall shall achieve and maintain a Tier 1 leverage ratio of at least 5 percent on a consolidated basis by December 31, 2007, and the Bank shall achieve and maintain a Tier 1 leverage ratio of at least 8 percent by December 31, 2007.

Affiliate Transactions

13. (a) The Bank shall not agree to any increase in base charges or allocation formulas for services provided by affiliates, without the prior written approval of the Reserve Bank and the Division.

(b) Within 20 days following the end of each month, the Bank shall submit a report to the Reserve Bank and the Division summarizing all fees or other payments to affiliates made by the Bank and all services provided by the Bank to each affiliate for which the Bank has received or is entitled to receive reimbursement. The report shall include a description of the service for which the fee or payment is made, the basis for determining the amount to be paid by or to the Bank, and the timing of any payment made by, due to, or received by the Bank.

(c) Marshall and the Bank shall jointly engage an independent counsel acceptable to the Reserve Bank and the Division to review current contracts for services provided to, for, or by the Bank in relation to its affiliates to determine if the contracts comply with sections 23A and 23B of the Federal Reserve Act (12 U.S.C. §§ 371c and 371c-1), Regulation W of the Board of Governors (12 C.F.R. Part 223), and SR 79-533, Diversion of Bank Income by Parent BHC, dated March 19, 1979. A copy of the independent counsel's written determination, which shall be completed within 60 days of this Agreement, shall be provided to the Reserve Bank and the Division within 5 days of receipt by Marshall and the Bank.

(d) The Bank shall not enter into any new contracts with any of its affiliates unless the contracts comply with sections 23A and 23B of the Federal Reserve Act, Regulation W, and SR 79-533, Diversion of Bank Income by Parent BHC.

14. (a) Marshall and the Bank shall take all necessary actions to ensure that the Bank complies fully with the provisions of sections 23A and 23B of the Federal Reserve Act and Regulation W in all transactions between the Bank and any of its affiliates.

(b) Marshall shall not cause the Bank or any other insured depository institution subsidiary of Marshall to violate any provision of sections 23A and 23B of the Federal Reserve Act or Regulation W of the Board of Governors.

(c) The Bank shall maintain records and documentation adequate to demonstrate that all contracts, agreements, and other transactions between the Bank and its affiliates comply with the requirements of sections 23A and 23B of the Federal Reserve Act or Regulation W of the Board of Governors.

(d) For the purposes of this Agreement: (i) “transaction” shall include, but not be limited to, the transfer or payment of cash, the transfer, contribution, sale or purchase of any other asset, the direct or indirect payment of any expense or obligation, the direct or indirect assumption of any liability, the provision of any service, the payment of a management or service fee of any nature, any extension of credit, any overdraft, or any advance; and (ii) “extension of credit” shall be defined as set forth in section 215.3 of Regulation O of the Board of Governors (12 C.F.R. § 215.3).

Board Oversight

15. Within 60 days of this Agreement, the boards of directors of Marshall and the Bank, respectively, shall submit to the Reserve Bank and the Division written plans describing the actions the respective boards of directors have taken and will continue to take to strengthen board oversight of the management and operations of Marshall and the Bank and improve the

overall condition of Marshall and the Bank. The plans shall, at a minimum, address, consider, and include:

- (a) The actions that the respective boards of directors have taken and will continue to take to improve the Bank's condition;
- (b) the actions that the Bank's board of directors have taken and will continue to take to maintain effective control over and supervision of the Bank's operations and activities;
- (c) the respective responsibilities of the boards of directors to monitor Marshall and Bank managements' adherence to approved policies and procedures, and applicable laws and regulations;
- (d) establishment of clear lines of authority and reporting lines within the Bank and between the Bank and Marshall; and
- (e) identification and management of the legal and reputational risks associated with each of Marshall's and the Bank's business lines and affiliate relationships.

Regulatory Relationship

16. Marshall and the Bank shall ensure that all personnel and agents of Marshall and the Bank fully cooperate with the Reserve Bank and the Division in all regulatory matters, including, but not limited to, providing complete and prompt access to all documentation requested by examiners as needed to fulfill regulatory and supervisory responsibilities.

Compliance with Laws and Regulations

17. The boards of directors shall take steps designed to ensure that Marshall and the Bank comply with all applicable laws and regulations in the future.

Appointment of New Officers and Directors, and Severance and Indemnification Payments

18. Marshall and the Bank 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 in the appointment of directors and senior executive officers and with the restrictions on severance payments and indemnification of section 18(k) of the FDI Act (12 U.S.C. § 1828) and Part 359 of the Federal Deposit Insurance Corporation's (the "FDIC") regulations (12 C.F.R. Part 359).

Brokered Deposits

19. The Bank shall not accept brokered deposits except in compliance with the provisions of section 29 of the FDI Act (12 U. S. C. § 1831f). The Bank shall notify the Reserve Bank and the Division if the Bank requests any waiver of the restrictions imposed by section 29 of the FDI Act from the FDIC, and shall notify the Reserve Bank and the Division of the FDIC's disposition of any request for such a waiver.

Dividends

20. (a) The Bank shall not declare or pay any dividends without the prior written approval of the Reserve Bank, the Division, and the Director of the Division of Banking Supervision and Regulation of the Board of Governors (the "Director"). All requests for prior approval shall be received by the Reserve Bank and the Division at least 30 days prior to the proposed dividend declaration date and shall contain, but not be limited to, current and projected information on consolidated earnings, and cash flow, capital, asset quality, and ALLL needs of the Bank.

(b) Marshall shall not 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.

(c) Marshall shall not declare or pay any dividends without the prior written approval of the Reserve Bank and the Director.

(d) Marshall 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 and the Director.

(e) All requests by Marshall for prior approval shall be received by the Reserve Bank at least 30 days prior to the earlier of the proposed date of the declaration of dividends or the date that notice of default on trust preferred securities must be provided to trustees, and shall contain, but not be limited to, current and projected information on consolidated earnings, and cash flow, capital, asset quality, and ALLL needs of the Bank.

Debt and Stock Redemption

21. (a) Marshall shall not, directly or indirectly, incur any debt without the prior written approval of the Reserve Bank. 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) Notwithstanding any other provision of this Agreement, Marshall may continue to draw on the lines of credit that were in place as of March 8, 2007 or comparable substitute lines, provided that the total amount drawn does not exceed the maximum credit available as of March 8, 2007.

(c) Marshall and the Bank shall not redeem any stock without the prior written approval of the Reserve Bank.

Approval, Implementation, and Progress Reports

22. (a) The Bank and Marshall, where applicable, shall submit written policies, procedures, plans, and a program that are acceptable to the Reserve Bank and the Division within the applicable time period set forth in paragraphs 2, 3, 4, 5(a), 6, and 11 of this Agreement.

(b) Within 30 days of approval by the Reserve Bank and the Division, the Bank and Marshall, where applicable, shall adopt the policies, procedures, plans, and program. Upon adoption, the Bank and Marshall, where applicable, shall implement the approved policies, procedures, plans, and program, and thereafter fully comply with them.

(c) During the term of this Agreement, the approved policies, procedures, plans, and program shall not be amended or rescinded without the prior written approval of the Reserve Bank and the Division.

23. (a) Within 10 days of this Agreement, the boards of directors of Marshall and the Bank shall appoint a joint compliance committee (the "Compliance Committee") to monitor and coordinate Marshall's and the Bank's compliance, as applicable, with the provisions of this Agreement. The Compliance Committee shall be comprised of at least two outside directors who are not executive officers or principal shareholders of Marshall and the Bank. At a minimum, the Compliance Committee shall meet at least monthly, keep detailed minutes of each meeting, and report its findings to the boards of directors monthly. Copies of the Compliance Committee's minutes shall be provided monthly to the Reserve Bank and the Division.

(b) Within 30 days after the end of each calendar quarter following the date of this Agreement, Marshall and the Bank shall jointly submit to the Reserve Bank and the Division 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. The Reserve Bank and the

Division may, in writing, discontinue the requirement for progress reports or modify the reporting schedule.

Communications

24. All communications regarding this Agreement shall be sent to:

- (a) Ms. Jacquelyn Brunmeier
Assistant Vice President
Supervision, Regulation, and Credit
Federal Reserve Bank of Minneapolis
90 Hennepin Avenue
Minneapolis, Minnesota 55401
- (b) Mr. Roger Novotny
Director
Division of Banking
217½ W. Missouri Avenue
Pierre, South Dakota 57501-4590
- (c) Mr. Dennis M. Mathisen
Chairman of the Board and
Chief Executive Officer
Marshall BankFirst Corp.
225 South Sixth Street, Suite 2900
Minneapolis, Minnesota 55402-4233
- (d) Mr. Dennis M. Mathisen
Chairman of the Board and
Chief Executive Officer
BANKFIRST
225 South Sixth Street, Suite 2900
Minneapolis, Minnesota 55402-4233

Miscellaneous

25. The Written Agreement between the Bank and the Reserve Bank, dated April 22, 2003, is hereby superseded by this Agreement and, therefore, terminated.

26. Notwithstanding any provision of this Agreement to the contrary, the Reserve Bank and the Division may, in their sole discretion, grant written extensions of time to Marshall and the Bank to comply with any provision of this Agreement.

