

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

Written Agreement by and between

MIDSOUTH BANK  
Murfreesboro, Tennessee

and

FEDERAL RESERVE BANK  
OF ATLANTA  
Atlanta, Georgia

Docket No. 10-143-WA/RB-SM

WHEREAS, in recognition of their common goal to maintain the financial soundness of MidSouth Bank, Murfreesboro, Tennessee (the “Bank”), a state-chartered bank that is a member of the Federal Reserve System, the Bank and the Federal Reserve Bank of Atlanta (the “Reserve Bank”) have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on July 28, 2010, the board of directors of the Bank, at a duly constituted meeting, adopted a resolution authorizing and directing Lee M. Moss, to enter into this Agreement on behalf of the Bank, and consenting to compliance with each and every applicable provision of this Agreement by the Bank, and its institution-affiliated parties, as defined in section 3(u) of the Federal Deposit Insurance Act, as amended (the “FDI Act”)(12 U.S.C. §§ 1813(u)).

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

## **Board Oversight**

1. Within 60 days of this Agreement, the board of directors of the Bank shall submit to the Reserve Bank a written plan to strengthen board oversight of the management and operations of the Bank. The plan shall, at a minimum, address, consider, and include:

(a) The actions that the board of directors will take to improve the Bank's condition and maintain effective control over, and supervision of, the Bank's senior management and major operations and activities, including but not limited to, credit risk management, lending and credit administration, capital, liquidity, earnings, and the Bank's information technology ("IT") function;

(b) the responsibility of the board of directors to monitor management's adherence to approved Bank policies and procedures, and to require management to document exceptions thereto; and

(c) a description of the information and reports that will be regularly reviewed by the board of directors in its oversight of the operations and management of the Bank, including information on the Bank's adversely classified assets, allowance for loan and lease losses ("ALLL"), capital, earnings, liquidity, and IT;

(d) the maintenance of adequate and complete minutes of the Bank's Asset/Liability Committee minutes; and

(e) steps to improve oversight of interest rate risk management practices.

## **Credit Risk Management**

2. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable written plan to strengthen credit risk management practices. The plan shall, at a minimum, address, consider, and include:

- (a) The responsibility of the board of directors to establish appropriate risk tolerance guidelines and risk limits;
  - (b) procedures to periodically review and revise risk exposure limits to address changes in market conditions;
  - (c) timely and accurate identification and quantification of credit risk within the loan portfolio;
  - (d) procedures to identify, limit, and manage commercial real estate (“CRE”) concentrations that are consistent with the Interagency Guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices, December 12, 2006 (SR 07-1);
  - (e) strategies to minimize credit losses and reduce the level of problem assets;
- and
- (f) enhanced monitoring and reporting of problem assets to management and the board of directors.

### **Lending and Credit Administration**

3. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable written lending and credit administration program that shall, at a minimum, address, consider, and include:

- (a) Underwriting standards that require documented analyses of: (i) the borrower’s repayment sources, global cash flow, and overall debt service ability; and (ii) the value of any collateral;
- (b) policies and procedures for originating and renewing interest-only loans;
- (c) standards for the timely movement of loans to non-accrual status; and

(d) procedures for documentation of on-site inspection(s) by a qualified third party prior to funds disbursement.

### **Asset Improvement**

4. The Bank shall not, directly or indirectly, extend, renew, or restructure any credit to or for the benefit of any borrower, including any related interest of the borrower, whose loans or other extensions of credit are criticized in the Report of Examination or in any subsequent report of examination, without the prior approval of a majority of the full board of directors or a designated committee thereof. The board of directors or its committee shall document in writing the reasons for the extension of credit, renewal, or restructuring, specifically certifying that:

- (i) the Bank's risk management policies and practices for loan workout activity are acceptable;
- (ii) the extension of credit is necessary to improve and protect the Bank's interest in the ultimate collection of the credit already granted and maximize its potential for collection;
- (iii) the extension of credit reflects prudent underwriting based on reasonable repayment terms and is adequately secured; and all necessary loan documentation has been properly and accurately prepared and filed;
- (iv) the Bank has performed a comprehensive credit analysis indicating that the borrower has the willingness and ability to repay the debt as supported by an adequate workout plan, as necessary; and
- (v) the board of directors or its designated committee reasonably believes that the extension of credit will not impair the Bank's interest in obtaining repayment of the already outstanding credit and that the extension of credit or renewal will be repaid according to its terms.

The written certification shall be made a part of the minutes of the meetings of the board of directors or its committee, as appropriate, and a copy of the signed certification, together with the credit analysis and related information that was used in the determination, shall be retained by the Bank in the borrower's credit file for subsequent supervisory review. For

purposes of this Agreement, the term “related interest” is defined as set forth in section 215.2(n) of Regulation O of the Board of Governors of the Federal Reserve System (the “Board of Governors”) (12 C.F.R. § 215.2(n)).

5. (a) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable written plan designed to improve the Bank’s position through repayment, amortization, liquidation, additional collateral, or other means on each loan or other asset in excess of \$300,000, including other real estate owned (“OREO”), that: (i) is past due as to principal or interest more than 90 days as of the date of this Agreement; (ii) is on the Bank’s problem loan list; or (iii) was adversely classified in the Report of Examination. In developing the plan for each loan, the Bank shall, at a minimum, review, analyze, and document the financial position of the borrower, including source of repayment, repayment ability, and alternative repayment sources, as well as the value and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank’s collateral position.

(b) Within 30 days of the date that the Bank acquires OREO or that any additional loan, relationship, or other asset in excess of \$300,000 becomes past due as to principal or interest for more than 90 days, is on the Bank’s problem loan list, or is adversely classified in any subsequent report of examination of the Bank, the Bank shall submit to the Reserve Bank an acceptable written plan to improve the Bank’s position on such loan, relationship, or asset.

(c) Within 30 days after the end of each calendar quarter thereafter, the Bank shall submit a written progress report to the Reserve Bank to update each asset improvement plan, which shall include, at a minimum, the carrying value of the loan or other asset and changes in the nature and value of supporting collateral, along with a copy of the Bank’s current

problem loan list, a list of all loan renewals and extensions without full collection of interest in the last quarter, and past due/non-accrual report.

### **Allowance for Loan and Lease Losses**

6. (a) The Bank shall, within 30 days from the receipt of any federal or state report of examination, charge off all assets classified “loss” unless otherwise approved in writing by the Reserve Bank.

(b) Within 60 days of this Agreement, the Bank shall review and revise its ALLL methodology consistent with relevant supervisory guidance, including the Interagency Policy Statements on the Allowance for Loan and Lease Losses, dated July 2, 2001 (SR 01-17 (Sup)) and December 13, 2006 (SR 06-17), and the findings and recommendations regarding the ALLL set forth in the Report of Examination, and submit a description of the revised methodology to the Reserve Bank. The revised ALLL methodology shall be designed to maintain an adequate ALLL and shall address, consider, and include, at a minimum, the reliability of the Bank’s loan grading system, the volume of criticized loans, concentrations of credit, the current level of past due and nonperforming loans, past loan loss experience, evaluation of probable losses in the Bank’s loan portfolio, including adversely classified loans, and the impact of market conditions on loan and collateral valuations and collectability.

(c) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable written program for the maintenance of an adequate ALLL. The program shall include policies and procedures to ensure adherence to the revised ALLL methodology and provide for periodic reviews and updates to the ALLL methodology, as appropriate. The program shall also provide for a review of the ALLL by the board of directors on at least a quarterly calendar basis. Any deficiency found in the ALLL shall be remedied in the quarter it is

discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions. The board of directors shall maintain written documentation of its review, including the factors considered and conclusions reached by the Bank in determining the adequacy of the ALLL. During the term of this Agreement, the Bank shall submit to the Reserve Bank, within 30 days after the end of each calendar quarter, a written report regarding the board of directors' quarterly review of the ALLL and a description of any changes to the methodology used in determining the amount of ALLL for that quarter.

### **Capital Plan**

7. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable written plan to maintain sufficient capital at the Bank. This plan shall, at a minimum, address, consider, and include:

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

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

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

8. The Bank shall notify the Reserve Bank, in writing, no more than 30 days after the end of any quarter in which any of the Bank's capital ratios (total risk-based, Tier 1, or leverage) fall below the approved capital plan's minimum ratios. Together with the notification,

the Bank shall submit an acceptable written plan that details the steps the Bank will take to increase its capital ratios to or above the approved capital plan's minimums.

### **Liquidity and Funds Management**

9. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable written plan designed to improve management of the Bank's liquidity position and funds management practices. The plan shall, at a minimum, address, consider, and include:

(a) Measures to enhance the monitoring, measurement, and reporting of the Bank's liquidity to the board of directors;

(b) a timetable to reduce reliance on non-core funding and brokered deposits;  
and

(c) specific liquidity targets and parameters and the maintenance of sufficient liquidity to meet contractual obligations and unanticipated demands.

10. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable revised written contingency funding plan that, at a minimum, identifies available sources of liquidity and includes adverse scenario planning.

### **Information Technology and Security**

11. Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank an acceptable plan, including timetables, to correct the IT deficiencies noted in the Report of Examination including, but not limited to, compliance with Appendix D-2 to Regulation H (12 C.F.R. Part 208, App. D-2).

## **Earnings Plan and Budget**

12. (a) Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank a written business plan for the remainder of 2010 to improve the Bank's earnings and overall condition. The plan, at a minimum, shall provide for or describe:

(i) a realistic and comprehensive budget for the remainder of 2010, including income statement and balance sheet projections; and

(ii) a description of the operating assumptions that form the basis for, and adequately support, major projected income, expense, and balance sheet components.

(b) During the term of this Agreement, a business plan and budget for each calendar year subsequent to 2010 shall be submitted to the Reserve Bank at least 60 days prior to the beginning of that calendar year.

## **Dividends**

13. (a) The Bank shall not declare or pay any dividends without the prior written approval of the Reserve Bank and the Director of the Division of Banking Supervision and Regulation of the Board of Governors.

(b) Any request to declare or pay dividends must be consistent with the Board of Governors' Policy Statement on the Payment of Cash Dividends by State Member Banks and Bank Holding Companies, dated November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323). All requests for prior approval shall be received by the Reserve Bank at least 30 days prior to the proposed dividend declaration date and shall contain, at a minimum, current and projected information on earnings, capital, asset quality, and loan loss reserve needs of the Bank.

## **Compliance with Laws and Regulations**

14. The Bank shall immediately take all necessary steps to correct all violations of law and regulation cited in the Report of Examination. In addition, the board of directors of the Bank shall take the necessary steps to ensure the Bank's future compliance with all applicable laws and regulations.

15. 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, 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 (12 C.F.R. §§ 225.71 *et seq.*).

16. The Bank 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).

## **Compliance with the Agreement**

17. (a) Within 10 days of this Agreement, the board of directors of the Bank shall appoint a committee (the "Compliance Committee") to monitor and coordinate the Bank's compliance with the provisions of this Agreement. The Compliance Committee shall include a majority of outside directors who are not executive officers or principal shareholders of the Bank, as defined in Sections 215.2(e)(1) and 215.2 (m)(1) of Regulation O of the Board of Governors (12 C.F.R. §§ 215.2(e)(1) and 215.2(m)(1)). At a minimum, the Compliance Committee shall meet at least monthly, keep detailed minutes of each meeting, and report its findings to the board of directors of the Bank.

(b) Within 30 days after the end of each calendar quarter following the date of this Agreement, the Bank shall submit to the Reserve Bank written progress reports detailing the form and manner of all actions taken to secure compliance with this Agreement and the results thereof.

### **Approval and Implementation of Plans and Programs**

18. (a) The Bank shall submit written plans and programs, that are acceptable to the Reserve Bank within the applicable time periods set forth in paragraphs 2, 3, 5(a), 5(b), 6(c), 7, 8, 9, 10, and 11 of this Agreement.

(b) Within 10 days of approval by the Reserve Bank, the Bank shall adopt the approved plans and programs. Upon adoption, the Bank shall promptly implement the approved plans and programs, and thereafter fully comply with them.

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

### **Communications**

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

(a) Mr. Robert Hawkins  
Assistant Vice President  
Federal Reserve Bank of Atlanta  
1000 Peachtree Street, N.E.  
Atlanta, Georgia 30309-4470

(b) Mr. Lee M. Moss  
Chief Executive Officer  
MidSouth Bank  
One East College Street  
Murfreesboro, Tennessee 37133-7100

**Miscellaneous**

20. Notwithstanding any provision of this Agreement, the Reserve Bank may, in its sole discretion, grant written extensions of time to the Bank to comply with any provision of this Agreement.

21. The provisions of this Agreement shall be binding upon the Bank and its institution-affiliated parties, in their capacities as such, and their successors and assigns.

22. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank.

23. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, or any other federal or state agency from taking any other action affecting the Bank or any of its current or former institution-affiliated parties and their successors and assigns.

24. 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).

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 5<sup>th</sup> day of August, 2010.

MIDSOUTH BANK

FEDERAL RESERVE BANK OF  
ATLANTA

By: /s/ Lee M. Moss  
Lee M. Moss  
Chairman and CEO

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