

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

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
TALLAHASSEE, FLORIDA

Written Agreement by and among

METRO BANK FINANCIAL SERVICES, INC.  
Miami, Florida

METRO BANK OF DADE COUNTY  
Miami, Florida

FEDERAL RESERVE BANK  
OF ATLANTA  
Atlanta, Georgia

and

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
Tallahassee, Florida

Docket Nos. 09-102-WA/RB-HC  
09-102-WA/RB-SM

OFR Administrative File No.  
0658-FI-08/09

WHEREAS, in recognition of their common goal to maintain the financial soundness of Metro Bank Financial Services, Inc., Miami, Florida (“Metro”), a registered bank holding company, and its subsidiary, Metro Bank of Dade County, Miami, Florida (the “Bank”), a state chartered bank that is a member of the Federal Reserve System, Metro, the Bank, the Federal Reserve Bank of Atlanta (the “Reserve Bank”), and the State of Florida, Office of Financial Regulation, Tallahassee, Florida (the “OFR”) have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on August 20, 2009, the boards of directors of Metro and the Bank, at a duly constituted meeting, adopted resolutions authorizing and directing Charles E. Brier, President and Chief Executive Officer, to enter into this Agreement on behalf of Metro and the Bank, and consenting to compliance with each and every applicable provision of this Agreement by Metro and the Bank, and its institution-affiliated parties, as defined in Section 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)), and Section 655.005(1)(i), Florida Statutes.

NOW, THEREFORE, Metro, the Bank, the Reserve Bank, and the OFR 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 and the OFR 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 major operations and activities, including but not limited to, credit risk management, loan review, processes to mitigate risks associated with credit concentrations, asset liability management, and earnings; and

(b) 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, concentrations of credits, allowance for loan and lease losses (“ALLL”), capital, liquidity, and earnings.

## **Concentrations of Credit**

2. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to strengthen the Bank's management of commercial real estate ("CRE") concentrations, including steps to reduce or mitigate the risk of concentrations in light of current market conditions. The plan shall be consistent with the Interagency Guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices, dated December 12, 2006 (SR 07-1), and, at a minimum, address, consider, and include:

- (a) Establishment of concentration of credit risk tolerances or limits by types of loan products, geographic locations, and other common risk characteristics or sensitivities;
- (b) ongoing risk assessments;
- (c) enhanced underwriting procedures for CRE loans;
- (d) strategic planning regarding risks associated with CRE concentrations, including steps to control and mitigate such risks; and
- (e) enhanced periodic reporting to management and the board of directors.

## **Credit Risk Management**

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

- (a) Periodic review and revision of risk exposure limits to address changes in market conditions and strategies to minimize credit losses;
- (b) timely and accurate identification and quantification of credit risk within the loan portfolio;

(c) maintenance of credit files that adequately document the borrower's and guarantor's aggregate cash flow and overall ability to repay the loan according to its terms, including the identification and analysis of credit weaknesses, and the periodic submission of current financial statements;

(d) enhanced stress testing of loan and portfolio segments;

(e) establishment of policies and procedures, risk levels, and monitoring systems for out of territory loans; and

(f) management's monitoring and controlling of problem assets.

### **Loan Review Program**

4. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written program for the ongoing review and grading of the Bank's loan portfolio by a qualified independent party or by qualified staff that is independent of the Bank's lending function. The program shall, at a minimum, address, consider, and include:

(a) The scope and frequency of loan review;

(b) standards and criteria for assessing the credit quality of loans;

(c) application of loan grading standards and criteria to the loan portfolio;

(d) controls to ensure adherence to the revised loan review and grading standards; and

(e) written reports to the board of directors, at least quarterly, that identify the status of those loans that are nonperforming or adversely graded and the prospects for full collection or strengthening of the quality of any such loans.

## **Asset Improvement**

5. (a) The Bank shall not, directly or indirectly, extend or renew any credit to or for the benefit of any borrower, including any related interest of the borrower, who is obligated to the Bank in any manner on any extension of credit or portion thereof that has been charged off by the Bank or classified, in whole or in part, “loss” in the report of the examination of the Bank that was commenced on February 17, 2009 by the Reserve Bank (the “Report of Examination”) or in any subsequent report of examination, as long as such credit remains uncollected.

(b) The Bank shall not, directly or indirectly, extend or renew any credit to or for the benefit of any borrower, including any related interest of the borrower, whose extension of credit has been classified “doubtful” or “substandard” in the Report of Examination or in any subsequent report of examination, without the prior approval of the board of directors. The board of directors shall document in writing the reasons for the extension of credit or renewal, specifically certifying that: (i) the extension of credit is necessary to protect the Bank’s interest in the ultimate collection of the credit already granted or (ii) the extension of credit is in full compliance with the Bank’s written loan policy, is adequately secured, and a thorough credit analysis has been performed indicating that the extension or renewal is reasonable and justified, all necessary loan documentation has been properly and accurately prepared and filed, the extension of credit will not impair the Bank’s interest in obtaining repayment of the already outstanding credit, and the board of directors reasonably believes 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 board of directors meetings, 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 (12 C.F.R. § 215.2(n)) and Section 658.48(4), Florida Statutes.

6. (a) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan designed to improve the Bank's position through repayment, amortization, liquidation, additional collateral, or other means on each loan, relationship, or other asset in excess of \$500,000, including other real estate owned ("OREO") and pools of loans, that are past due as to principal or interest more than 90 days as of the date of this Agreement, are on the Bank's problem loan list, or were adversely classified in the Report of Examination.

(b) Within 30 days of the date that any additional loan, relationship, or other asset in excess of \$500,000, including OREO, 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 and the OFR 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 and the OFR 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, extension report, and past due/non-accrual report.

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

7. (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” unless otherwise approved in writing by the Reserve Bank and the OFR.

(b) Within 60 days of this Agreement, the Bank shall review and revise its allowance for loan and lease losses (“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 and the OFR. 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 and the OFR an acceptable written program for the maintenance of an adequate ALLL. The program shall include policies and procedures to ensure adherence to the Bank’s 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 and the OFR, 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 the ALLL for that quarter.

### **Capital Plan**

8. Within 60 days of this Agreement, Metro shall submit to the Reserve Bank an acceptable written plan to maintain sufficient capital at Metro, on a consolidated basis, and Metro and the Bank shall jointly submit to the Reserve Bank and the OFR an acceptable written plan to maintain sufficient capital at the Bank, as a separate legal entity on a stand-alone basis. These plans shall, at a minimum, address, consider, and include:

(a) Metro's current and future capital needs, 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);

(b) 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);

(c) 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;

(d) the source and timing of additional funds to fulfill the consolidated organization's and the Bank's future capital requirements; 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 Metro serve as a source of strength to the Bank.

9. Metro and the Bank shall notify the Reserve Bank and the OFR, in writing, no more than 30 days after the end of any quarter in which any of Metro's consolidated capital ratios or 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, Metro and the Bank shall submit an acceptable written plan that details the steps Metro or the Bank, as appropriate, will take to increase Metro's or the Bank's capital ratios to or above the approved capital plan's minimums.

### **Liquidity Management**

10. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan 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) measures to diversify funding sources and reduce reliance on noncore funding;

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

(d) formal identification of the liquidity risk management oversight structure including committee members and functions.

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

### **Brokered Deposits**

12. (a) At all times during the term of this Agreement that the Bank is well capitalized, the Bank shall not accept any new brokered deposits. For purposes of this subparagraph, the term “brokered deposits” is defined as set forth in Section 337.6(a) of the regulations of the FDIC (12 C.F.R. § 337.6(a)) and includes deposits funded by third party agents or nominees for depositors; and the term “new brokered deposits” is defined not to include renewals or rollovers of brokered deposits.

(b) Within 30 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan for reducing its reliance on brokered deposits. The plan shall detail the current composition of the Bank’s brokered deposits by maturity and explain the means by which such deposits will be paid at maturity.

13. The Bank shall comply with the provisions of Section 29 of the FDI Act (12 U.S.C. § 1831f) and the FDIC’s accompanying regulations at 12 C.F.R. § 337 that are applicable to the Bank. The Bank shall notify the Reserve Bank and the OFR, in writing, if the Bank requests any waiver of the restrictions imposed by Section 29 from the FDIC and shall notify the Reserve Bank and the OFR of the FDIC’s disposition of any request for such a waiver.

## **BSA/AML Compliance**

14. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to address the criticisms detailed in the Report of Examination regarding the Bank's BSA/AML audit function and its compliance with all applicable federal laws, rules, and regulations relating to anti-money laundering ("AML"), including the Bank Secrecy Act ("BSA") (31 U.S.C. § 5311 *et seq.*); the rules and regulations issued thereunder by the U.S. Department of the Treasury (31 C.F.R. Part 103); and the AML requirements of Regulation H of the Board of Governors (12 C.F.R. § 208.63).

## **Earnings Plan and Budget**

15. (a) Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR a written business plan for the remainder of 2009 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 calendar year 2009, including income statement and balance sheet projections;

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

(iii) an analysis of the Bank's market area.

(b) The business plan shall be synchronized with the details of the budget and earnings forecasts.

(c) Upon adoption, the Bank shall implement the business plan. Bank management shall report monthly to the Bank's board of directors on progress made in implementing the business plan. The written monthly reports shall compare actual financial

results to those projected in the business plan. In the event that revisions to the plan are necessary, such revisions shall be forwarded to the Reserve Bank and the OFR within 15 days of adoption.

(d) During the term of this Agreement, a business plan and budget for each calendar year subsequent to 2009 shall be submitted to the Reserve Bank and the OFR with the progress reports required to be submitted following each December 31<sup>st</sup>.

### **Dividends and Distributions**

16. (a) Metro and 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 (the “Director”), and, as to the Bank, the OFR.

(b) Metro shall not take any other form of payment representing a reduction in capital from the Bank without the prior written approval of the Reserve Bank.

(c) Metro 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 and the Director.

(d) All requests for prior approval shall be received 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, as appropriate, on Metro’s capital, earnings, and cash flow; the Bank’s capital, asset quality, earnings and ALLL needs; and identification of the sources of funds for the proposed payment or distribution. Metro and the Bank, as appropriate, 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 Banks and Bank Holding Companies, dated November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323) and Section 658.37, Florida Statutes.

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

17. 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 of the Federal Reserve System (the "Board of Governors") (12 C.F.R. §§ 225.71 *et seq.*) and the notice provisions of Section 655.0385, Florida Statutes, for directors and executive officers as defined in Section 655.005(1)(f), Florida Statutes, and Rule 69U-100.03582, Florida Administrative Code.

18. 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**

19. (a) Within 10 days of this Agreement, the boards of directors of Metro and the Bank shall appoint a joint 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 of the Bank or executive officers or principal shareholders of Metro, 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)) and Section 655.005(1)(f), Florida Statutes. 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, Metro and the Bank shall submit to the Reserve Bank and the OFR 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**

20. (a) The written plans, policy, and programs required by paragraphs 2, 3, 4, 6(a), 6(b), 7(c), 8, 10, 11, and 14 of this Agreement shall be submitted to the Reserve Bank and the OFR for review and approval. Acceptable plans and programs shall be submitted within the time periods set forth in the Agreement.

(b) Within 10 days of approval by the Reserve Bank and the OFR, the Bank, and as applicable, Metro shall adopt the approved plans and programs. Upon adoption, the Bank, and as applicable, Metro shall promptly implement the approved plans and programs.

(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 and the OFR.

### **Communications**

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

- (a) Mr. Steve Wise  
Assistant Vice President  
Federal Reserve Bank of Atlanta  
1000 Peachtree Street, N.E.  
Atlanta, Georgia 30309-4470
  
- (b) Linda R. Townsend  
Chief, Bureau of Bank Regulation  
State of Florida  
Office of Financial Regulation  
200 E. Gaines Street  
Tallahassee, Florida 32399-0371

- (c) Charles E. Brier  
President and Chief Executive Officer  
9350 South Dixie Highway  
Miami, Florida 33156

**Miscellaneous**

22. Notwithstanding any provision of this Agreement, the Reserve Bank and the OFR may, in their sole discretion, grant written extensions of time to Metro and the Bank to comply with any provision of this Agreement.

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

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

25. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, the OFR 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.

26. 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 OFR pursuant to Sections 655.033 and 655.041, Florida Statutes, and Chapters 120.655 and 658, Florida Statutes.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 20<sup>th</sup> of August, 2009.

METRO BANK FINANCIAL  
SERVICES, INC.  
METRO BANK OF DADE  
COUNTY

By: /s/ Charles E. Brier  
Charles E. Brier  
President and CEO

FEDERAL RESERVE BANK  
OF ATLANTA

By: /s/ Steve Wise  
Steve Wise  
Assistant Vice President

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION

By: /s/ Linda B. Charity  
Linda B. Charity  
Director  
Division of Financial Institutions