

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEW YORK STATE BANKING DEPARTMENT
AND
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

November 30, 2006

**MEMORANDUM OF UNDERSTANDING
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The New York State Banking Department (“Banking Department”) and the Office of the Comptroller of the Currency (OCC) (each, the “Agency;” collectively, the “Agencies”) are entering into this Memorandum of Understanding (“MOU”) to enhance their communication and exchanges of information to achieve prompt and effective resolution and redress of consumer complaints relating to the financial institutions and their financial affiliates that the Agencies respectively supervise, examine or regulate (“Regulated Institutions”).

The Agencies recognize that issues may exist concerning the scope of the respective jurisdiction of each of the Agencies to supervise, examine or regulate certain Regulated Institutions. Nothing in this MOU is intended to or shall be construed to affect, modify, or imply any conclusion regarding the jurisdiction or authority of either of the Agencies or affect the rights, powers or obligations of the Agencies under existing law concerning the scope of the respective jurisdiction of each of the Agencies to supervise, examine, or regulate or bring administrative or judicial enforcement proceedings against the Regulated Institutions covered by this MOU. Nothing in this MOU shall be construed to prevent either Agency from taking any supervisory, examination, regulatory or enforcement action that the Agency may deem necessary or appropriate to carry out its responsibilities as permitted by applicable law.

Pursuant to the foregoing, this MOU is made and entered into as of November 30, 2006, between the OCC and the Banking Department.

1. Complaint Referrals and Information Sharing

To the extent permitted by applicable law, including but not limited to the Right to Financial Privacy Act¹ and the Privacy Act,² the OCC agrees to refer to the Banking Department consumer complaints and allegations of violations of consumer protection laws concerning Regulated Institutions it concludes are subject to the jurisdiction of the Banking Department, and the Banking Department agrees to refer to the OCC consumer complaints and allegations of violations of consumer protection laws concerning Regulated Institutions it concludes are subject to the jurisdiction of the OCC. The Agencies agree to explore means to enhance processes and procedures for such sharing and to facilitate the sharing of information concerning the status and resolution of complaints and actions taken based on complaints or evidence of alleged violations of consumer protection laws referred by an Agency to the other Agency.

In order to accomplish substantive information sharing, the OCC agrees to submit to the Banking Department a written quarterly report of referrals received from the Banking Department that either are not in closed status or that have been closed since the last written report setting forth the following based upon the OCC's Consumer Assistance Group (CAG) database:

- the name of the consumer,
- the identifying number assigned to the complaint by the CAG,

¹ 12 U.S.C. §§ 3401 – 3422.

² 5 U.S.C. § 552a.

- bank name,
- date opened,
- date closed,
- category of case (such as loan, credit card, or deposit account) and specific laws or regulations involved,
- case status, and
- resolution (including any compensation amount).

The current status of the referral will contain the following types of information, using CAG data elements, as appropriate:

- Complaint is under review by the OCC;
- Complaint is pending, including pending response from the bank or additional information from the consumer;
- Complaint has been referred to another federal or state agency;
- Complaint has been withdrawn; and
- Complaint has been closed, including information on the date closed and final disposition of the complaint.

The OCC will provide the Banking Department with information explaining the terminology used in the data elements provided under this agreement.

Likewise, if requested by the OCC, the Banking Department agrees to submit to the OCC a written quarterly report of referrals received from the OCC that contains similar data as that described above to the extent that such a report can be generated with reasonable effort based on databases maintained by or on behalf of the Banking Department.

2. Confidentiality

(a) For purposes of this MOU, any of the following information obtained by a Requesting Agency shall be treated as Confidential Information:

- (i) the name, address, or other personally identifiable information relating to any consumer; and
- (ii) any supervisory determinations by the Responding Agency, including the findings, resolution, and compensation amount relating to any complaint.

(b) The Requesting Agency agrees to use any Confidential Information it receives pursuant to this Memorandum only for purposes directly related to the exercise of its regulatory authority. The Requesting Agency may not make any additional use, or disclosure, of Confidential Information without the prior approval of the Responding Agency which shall not be unreasonably denied.

(c) All Confidential Information provided pursuant to this Memorandum belongs to, and shall remain the property of, the Responding Agency. The Requesting Agency shall also take all actions reasonably necessary to preserve and protect any privilege or claim of confidentiality relating to Confidential Information, including:

- (i) restricting access to Confidential Information obtained pursuant to this Memorandum to only those of its officers, employees, or agents (including outside counsel, accountants, and consultants) who have a *bona fide* need for such information in carrying out the supervisory responsibilities of the Requesting Agency;
- (ii) informing those of its officers, employees, or agents who are provided access to such Confidential Information of the Requesting Agency's responsibilities under this Memorandum; and

(iii) establishing appropriate physical safeguards for maintaining such Confidential Information.

(d) If the Requesting Agency receives a request from a third party for Responding Agency Confidential Information, or is served with a subpoena, order, or other process requiring production of such information, the Requesting Agency shall:

(i) immediately notify the Responding Agency and provide to it copies of such request, subpoena, order, or other process as well as attachments thereto;

(ii) provide the Responding Agency the opportunity to take whatever action it deems appropriate to preserve, protect, and maintain the confidentiality of such information or any related privileges;

(iii) cooperate fully with the Responding Agency to preserve, protect, and maintain the confidentiality of such information or any related privileges;

(iv) except with respect to requests under the New York State Freedom of Information Law (codified as the New York Public Officers Law, Sections 84-90 (Consolidated Laws of New York (McKinney's 2001 and 2006)), notify the party seeking the information that it was obtained from and is considered the property of the Responding Agency and that requests for such information must be made directly to the Responding Agency in accordance with applicable federal or state law;

(v) resist, to the extent practicable, production of such information, pending receipt of written consent from the Responding Agency to the production of that information; and

(vi) consent to any application by the Responding Agency to intervene in any action to preserve, protect, and maintain the confidentiality of such information or any related privileges.

(e) Nothing in this Memorandum shall prevent the Requesting Agency from complying with a legally valid and enforceable order by a court, adjudicatory body, or legislative body of competent jurisdiction compelling production of Confidential Information, providing that the Requesting Agency:

(i) reasonably determines that efforts to quash, appeal, or resist compliance with the order would be unsuccessful;

(ii) attempts, to the extent practicable, to secure a protective order to preserve, protect, and maintain the confidentiality of such information or any related privileges; and

(iii) immediately notifies the Responding Agency of its intent to comply with the order and of any actions taken in compliance with the order.

In complying with the request, the Requesting Agency will use its best efforts to obtain from the requestor a commitment to maintain the confidentiality of the information and advise the legislative body that the information to be produced belongs to the other Agency. The Requesting Agency agrees to advise the Responding Agency as promptly as is reasonably possible of such a request prior to complying with any such request.

3. Miscellaneous

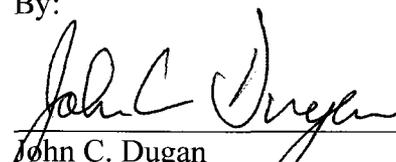
(a) Authority. Each party to this MOU has requisite legal authority to enter into this MOU. In the event of any material change to its authority, a party will provide written notification to the other party within ten (10) calendar days of any such change.

(b) Termination. Either party may terminate this MOU with respect to prospective sharing of information by providing thirty (30) calendar days advance written notice to the other party. In the event of termination, information obtained by a Requesting Agency under this MOU, if not returned, will remain the property of the Responding Agency and the Requesting Agency will continue to observe all terms and conditions of this MOU that relate to such information.

(c) Agency Contacts. As soon as practicable after execution of this MOU, each Agency will advise the other of the name, title, and contact information, including addresses and telephone and fax numbers, for the appropriate official(s) to contact for purposes of notices and exchanges of information hereunder. This contact information will be updated as appropriate.

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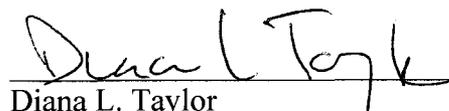
By:



John C. Dugan
Comptroller of the Currency

THE NEW YORK STATE BANKING
DEPARTMENT

By:



Diana L. Taylor
Superintendent of Banks