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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

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### **Fact Sheet: Eagle National Bank Consent Order**

The Office of the Comptroller of the Currency (OCC) has entered into a consent order with Eagle National Bank, Upper Darby, Pennsylvania, (the Bank) in which the Bank will develop and implement an “exit strategy” to cease originating “Cash ‘til Payday” (payday) loans, reduce all outstanding payday loans to zero, and completely discontinue its payday lending program not later than June 15, 2002. The Bank further agreed to implement a number of other operational changes and enhancements to ensure the future operation of the Bank in a safe and sound manner.

This action follows a recent examination of the Bank in which the OCC determined that:

- The Bank had risked its financial viability by concentrating in one line of business -- payday lending;
- The Bank relinquished supervision of the program to a single third party originator of payday loans; and
- The payday lending program was conducted on an unsafe and unsound basis, in violation of a multitude of standards of safe and sound banking, compliance requirements, and OCC guidance.

#### **Standards Applicable to Payday Lending by National Banks**

On November 27, 2000, the OCC issued Advisory Letter 2000-10 “Payday Lending,” which detailed the risks inherent in originating payday loans, including credit risk, transaction risk, concentration risk, reputation risk, and compliance and legal risks. Advisory Letter 2000-10 emphasized that these risks are significantly increased when a national bank engages a third party payday lending company to provide origination and servicing functions on behalf of the bank. The Advisory Letter provided detailed guidance on these various risks, as well as on how banks can effectively address these risks if they offer payday loans.

In Advisory Letter 2000-10, the OCC stated that, because of the significant safety and soundness and other risks associated with payday lending, it would “closely review the activities of national banks engaged or proposing to engage in payday lending, through the direct examination of the bank [and the] examination of any third party participating in the transaction....” The OCC further stated that “[w]hen the bank is not following prudent lending practices or when examiners consider the bank’s lending practices to be abusive, the OCC will initiate corrective measures, including enforcement actions where appropriate.”

## **Eagle National Bank's Payday Loan Program**

Eagle National Bank is a \$70 million community bank located in Upper Darby, Pennsylvania. The Bank's most significant lending product, in terms of revenues, is its "Cash 'til Payday" loan product. In offering this product, the Bank relies wholly on the services of Dollar Financial Group (Dollar) for the origination, servicing, and collection of payday loans. Dollar provides comprehensive services to the Bank in connection with the payday loan product in exchange for a fee. Each payday loan borrower is charged \$15 to \$20 per \$100 borrowed. Even though these loans are carried on the Bank's books as assets, the Bank retains only \$4 from each \$100 borrowed. Comparable fees are imposed when the loan is renewed or rolled over. Eagle National Bank's annual payday loan volume has increased from \$3 million in 1995, when it entered into this line of business, to approximately \$400 million in 2001.

In response to supervisory concerns noted by the OCC in its examination of the Bank in May, 2000, the Bank entered into a Memorandum of Understanding (MOU) with the OCC that contains ten articles to address safety and soundness-related concerns cited by examiners.

### **OCC Findings and Basis for Consent Order**

In July, 2001, the OCC commenced a comprehensive examination of the Bank, including its compliance with the March, 2000, MOU, and of the payday lending operation involving Dollar. The OCC found that the Bank continued to engage in a myriad of unsafe and unsound practices, including the following:

- Bank management engaged in unsafe and unsound banking practices by relinquishing control and oversight over the Bank's payday loan program to Dollar, resulting in high and unwarranted risk exposures to the Bank. The Bank failed to oversee, monitor and control the payday lending activities conducted on its behalf by Dollar, or to verify that Dollar was operating in accordance with the Bank's procedures and applicable law. For example, the OCC found that Dollar had begun to offer the Bank's payday loans in additional states without the approval of Bank management, despite the fact that the Bank bears a significant majority of the associated risk of loss from such loans. The OCC also found that Dollar actively promoted rollovers of the Bank's payday loans -- without the Bank's knowledge -- by providing an incentive to Dollar's employees, which resulted in a higher volume of rollovers than new loan originations and a misuse of the loan product for long-term credit.
- The Bank failed to verify that Dollar operated in a safe and sound manner, or had adequate internal controls and information systems relating to the Bank's payday loan program, even though the Bank relied totally on Dollar to originate, service, and collect the Bank's payday loans. In addition, the OCC found that Bank management had failed to develop a contingency plan to provide for the recovery of the Bank's outstanding loans in the event of a failure by Dollar to fulfill its contractual obligations to the Bank. The OCC determined that the lack of such oversight and contingency planning is an unsafe and unsound practice.

- In offering the Bank's payday loans, Dollar failed to consistently follow the Bank's underwriting criteria, and violated federal law relating to privacy notices and Truth in Lending disclosures.
- The Bank's payday loan concentration levels have increased as the Bank has relied on the loans as its primary source of income. These concentrations increased the risk to the Bank's earnings and capital (and potentially the FDIC insurance fund). The OCC determined that the Bank violated its own internal guidelines on loan concentrations, which is an unsafe and unsound practice that placed the Bank at greater risk of loss.
- The Bank's risk management was inadequate with respect to the high levels of credit, transaction, compliance and reputation risks associated with the payday loan program. This failure was particularly severe in light of the rapid growth in payday loan volumes and balances in the five years since the Bank began to offer this product, and constitutes an unsafe and unsound practice.
- Contrary to safe and sound banking practices, the Bank failed to maintain capital adequate to support the high levels of concentration, credit, transaction, compliance and legal risk of the Bank's payday lending program. In the event of a market downturn affecting Dollar's financial condition, the Bank could face exceptionally high losses, with the likely result of a weakening of the Bank's own capital and financial condition. In addition, the OCC found that the Bank's failure in this regard could prejudice the interests of the FDIC insurance fund and the Bank's depositors. Dollar currently originates the Bank's Payday loans in over forty States and the funding for the loans comes from FDIC-insured deposits gathered in eastern Pennsylvania.
- The Bank has failed to comply with eight of the ten articles of the 2000 MOU.

### **Consent Order Provisions**

The OCC and the Bank entered into a Consent Order, dated December 18, 2001. The order includes a number of provisions concerning: management structure; strategic planning, including what products and services will be offered in the future; budgetary, profit and income planning; credit risk; increasing and adhering to adequate capital levels; anti-money laundering procedures; and internal audits to ensure the future safe and sound operation of the Bank.

With regard to the Bank's payday loan program, the order provides that the Bank will adopt a written "exit strategy" plan within 30 days of the date of the order in which the Bank will, among other things:

- Completely cease all payday loan origination, loan renewal, loan rollover and loan refinancing by June 15, 2002;
- Reduce all outstanding payday loans, and participations in payday loans, to zero by June 15, 2002;
- Maintain adequate capital levels, reduce risk exposure levels, and institute appropriate monitoring and controls over the payday lending program during the phase-out period;
- Institute controls over Dollar's activities in connection with the payday lending program to ensure that no additional lending locations are added during the phase-out period; and

- Execute a written agreement with Dollar in which Dollar will provide funds to reduce the Bank's outstanding payday loans.

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The OCC charters, regulates and examines approximately 2,200 national banks and 52 federal branches of foreign banks in the United States, accounting for more than 54% of the nation's banking assets. Its mission is to ensure a safe and sound and competitive national banking system that supports the citizens, communities and economy of the United States.