FRB Enforcement Action is a Reminder to Provide Advance Notice Before Deviating from Approved Business Plans*

On July 18, 2023, the Federal Reserve Board (FRB) issued a cease and desist order against Farmington State Bank (FSB), a Washington state chartered member bank, for failing to notify the FRB of a change to its business plan (the "Order").

Prior to the Order, FSB was a state-chartered bank serving rural areas in Washington since 1887. On September 4, 2020, FRB approved FBH Corporation's (FBH) application to become a bank holding company in connection with their purchase of FSB's stock. However, the FRB imposed a number of enforceable conditions on FBH in connection with the application including that FBH would not do any of the following without first providing thirty days' advance notice to the FRB: (i) change its business plan; (ii) engage in servicing activities on behalf of the Bank; or (iii) move the performance of any operational or risk management activities from the Bank to FBH or its nonbank subsidiaries.

Additionally, on June 17, 2021, the FRB approved FSB's application to become a member of the Federal Reserve System. In connection with this approval, the FRB imposed additional enforceable limitations on FSB and FBH including that neither FSB or FBH would change its business plan in any manner or pursue a strategy to focus on digital banking services or digital assets without first obtaining approval from the FRB.

According to the Order, during FSB's most recent examination, the FRB learned that FSB had violated these commitments by changing its business plan and pursuing certain digital banking strategies involving digital assets without obtaining approval from the FRB. Subsequently, on January 25, 2023, FSB ceased its activities related to digital assets and submitted an amended business and action plan to the FRB. However, on May 12, 2023, FSB had decided to cease its operations and voluntarily liquidate. The Order indicates that a third party bank had agreed to purchase all loans and assume all deposits of FSB. FSB is obligated to cease all operations after the agreement. There have been reports that the reason FSB made the decision to self-liquidate because it was involved in the FTX scandal.

Note that under Regulation H, a member bank may not change the general character of its business without the permission of the FRB (see 12 CFR Section 208.3(d)(1) and (2)). The other banking regulators have similar requirements, such as provided in 12 CFR Section 333.2 with regard

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to the FDIC, and the OCC's letter dated August 21, 2003 entitled "OCC Significant Deviation Policy" (available at **https://www.occ.gov/static /licensing/form-deviation-policy-v2.pdf**).