



THE BANCORP, INC.  
CORPORATE GOVERNANCE GUIDELINES

AS AMENDED AUGUST 15, 2018

The Board of Directors (the “Board”) of The Bancorp, Inc. (the “Company”), acting on the recommendation of its Nominating and Governance Committee, (the “Committee”) has formally adopted these guidelines to promote a high level of performance from the Board and management, to promote the interests of stockholders and to further the Company’s commitment to best practices in corporate governance.

**1. BOARD COMPOSITION**

- a. **Number of Directors.*** The Company’s Bylaws (the “Bylaws”) do not specify the number of directors to constitute the Board, and the Board determines the number of directors and may modify such number. The Committee will periodically review the size of the Board and balance necessary experience, expertise and independence with a membership that is not too large to function efficiently.
- b. **Director Independence.*** A majority of the Board shall consist of directors who are “independent” under the criteria for independence contained in the listing rules of The Nasdaq Stock Market (the “Nasdaq Rules”) and any additional “independence” standards established by the Board from time to time. Members of the Audit, Compensation and Nominating and Governance committees of the Board shall be “independent” under the criteria for independence for each such Committee contained in the Nasdaq Rules and any additional “independence” standards established by the Board from time to time.

**2. BOARD LEADERSHIP**

- a. **Chairman of the Board.*** The Board may elect from among its members a director designated as the Chairman who will organize Board activities to enable the Board to effectively provide guidance to, and oversight of, Company management. The Chairman is responsible for, among other things: creating and maintaining an effective working relationship with the members of management and the Board; providing management with ongoing direction as to Board needs, interests and opinions; and assuring that the Board agenda is appropriately directed to the matters of greatest importance to the Company.
- b. **Vice Chairman of the Board.*** The Board may elect from among its members a director designated as the Vice-Chairman who will assist the Chairman in organizing Board activities to enable the Board to effectively provide guidance to, and oversight of, Company management and perform such other duties of the Chairman as may be required under the circumstances.

- c. Lead Independent Director.* The Board may elect from among its members a Lead Independent Director to, among other things, chair any non-management director executive sessions, and such other activities as the Board may determine.

### 3. DIRECTOR QUALIFICATIONS AND SELECTION

- a. Director Assessment and Nomination.* As set forth in the Committee’s charter, the Committee in consultation with the Chairman, will identify and evaluate individual candidates for their qualifications to become directors. The Committee will recommend qualified candidates to the Board as the need arises to fill vacancies or to stand for election at the annual meeting of stockholders, unless the Company has contractually granted the right to nominate directors to third parties.
- b. Standards for Evaluating Candidates as Director-Nominees.* To discharge their duties in identifying and evaluating individual nominees for directors, the Committee and the Board shall consider the overall experience and expertise represented by the Board as well as the qualifications of each candidate. During the evaluation process, the Committee and the Board shall take the following into account:
- At least a majority of the Board must be comprised of “independent” directors determined in accordance with the requirements of the Nasdaq Rules and any additional “independence” standards established by the Board from time to time.
  - Candidates should be capable of working in a collegial manner with persons of different educational, business and cultural backgrounds and should possess skills and expertise that complement the attributes of the existing directors.
  - Candidates should represent a diversity of viewpoints, backgrounds, experiences and other demographics, and ties to the Company’s markets.
  - Candidates should demonstrate notable or significant achievement and possess senior-level business, management, legal or regulatory experience that would benefit the Company.
  - Candidates shall be individuals of the highest character and integrity.
  - Candidates shall be free from any conflict of interest that would interfere with their ability to properly discharge their duties as a director or would violate any applicable law or regulation.
  - Candidates shall be capable of devoting the necessary time to discharge their duties, taking into account memberships on other Boards and other responsibilities.
  - Candidates shall have the desire to represent the interests of all stockholders.
- c. Submission of Director - Nominee Candidates to the Committee.* As set forth in the Committee’s charter, the Committee will, in consultation with the Chairman, consider candidates proposed by directors, management and stockholders. A stockholder (or a group of stockholders) who wishes to nominate a candidate for consideration by the Committee and the Chairman during a specific calendar year must have submitted a written proposal making the nomination not later than the one hundred twentieth (120th) day prior to the first anniversary of the date of mailing of the notice for the preceding year’s annual meeting. The proposal must contain the following information and meet any other criteria as set forth in the Bylaws:
- The name and address of the stockholder;
  - A representation that the stockholder is a holder of the Company’s voting stock (including the number and class of shares held);
  - A disclosure of any hedging or other arrangement with respect to any share of the Company’s stock (including any short position on or any borrowing or lending of shares stock) made by

- or on behalf of the stockholder (a) to mitigate risk of stock price changes for the stockholder, or (b) to increase or decrease the voting power of the stockholder;
- A description of all arrangements or understandings among the stockholder and the candidate and any other person or persons (naming such person or persons) pursuant to which the proposal is made by the stockholder;
- A statement signed by the candidate confirming that the candidate will serve if elected by the stockholders and will comply with the Company's Code of Ethics, Insider Trading Policy, Corporate Governance Guidelines and any other applicable rule, regulation, policy or standard of conduct applicable to the directors; and
- A description of the candidate's background and experience and the reasons why he or she meets the criteria set forth above under "Standards for Evaluating Candidates as Director-Nominees."

- d. *Majority Voting for Directors.*** In an uncontested election, an election in which a director fails to receive the required number of votes for election or re-election in accordance with the Bylaws shall be referred to the full Board. The Board will make a final determination as to whether that director should serve or not. The Board, in making its decision, may consider any factor or other information that it deems relevant. The Board shall act on the tendered resignation, taking into account the Committee's recommendation, and shall publicly disclose its decision regarding the resignation within ninety (90) days after the results of the election are certified. If the resignation is not accepted, the director will continue to serve until the next annual meeting of the stockholders and until the director's successor is elected and qualified.

The Board shall nominate for election or re-election as directors only candidates who agree to tender, following the annual meeting of the stockholders at which they are elected or re-elected as directors, irrevocable resignations that will be effective upon (a) the failure to receive the required vote at the next annual meeting at which they are nominated for re-election, and (b) Board acceptance of such resignation. In addition, the Board shall fill director vacancies and new directorships only with candidates who agree to tender, promptly following their appointment to the Board, the same form of resignation tendered by other directors in accordance with this guideline.

#### 4. CONTINUATION AS A DIRECTOR

- a. *Director Tenure.*** The Board does not believe it is appropriate to establish term limits for its members because such limits may deprive the Company and the Board of the contribution of directors who have been able to develop, over time, valuable experience and insights into the Company.
- b. *Change of Principal Occupation.*** A director who changes his or her principal occupation shall report such change to the Committee. The Committee will consider the implications of such change, and make a recommendation to the Board as to whether such director should remain on the Board which will require the approval of a majority of all directors. If approval of a majority of all directors is not obtained, the director will submit his resignation, which the Board will then either accept or reject. Management directors shall resign from the Board when they leave their officer positions.
- c. *Limits on Board and Audit Committee Memberships.*** To ensure that directors have sufficient time to properly discharge their duties, directors are expected to seek Committee approval prior to

joining the board of any other public company. No director shall serve on the boards more than four (4) public companies, including the Company's Board. If a member of the Audit Committee wishes to serve on the audit committees of more than a total of four (4) public companies, including the Company's Audit Committee, the director must seek Board approval prior to accepting the additional service.

## 5. COMMITTEE MATTERS

- a. *Board Committees.*** The Board has the authority to discharge its responsibilities through committees and subcommittees under its supervision. Standing committees of the Board are: Audit Committee; Compensation Committee; Nominating and Governance Committee; Risk Committee, as well as a board level Executive Committee. The Board has allocated a majority of its risk oversight responsibilities to the Audit Committee and the Risk Committee, respectively. The Board may establish additional committees or eliminate existing committees as it deems appropriate, consistent with the Company's Bylaws, and applicable laws or regulations. Each committee of the Board shall have the authority and responsibilities set forth in the Company's Bylaws, the resolutions creating them and any applicable charter.
- b. *Assignment and Rotation of Committee Membership.*** The Board, upon recommendation of the Committee, shall appoint committee members. Consistent with the criteria set forth in their charters and/or as required by the Nasdaq Rules and applicable laws or regulations, all members of the Audit, Compensation and Nominating and Governance Committees shall be independent directors. A director may serve on more than one committee. Board committee assignments and Board committee chair positions are reviewed each year by the Committee and approved by the Board. The Board does not have a strict committee rotation policy, but may, upon recommendation of the Committee, change committee assignments and chair positions periodically, with a view towards balancing director experience and interest, committee continuity and needs, and evolving legal and regulatory considerations.

## 6. BOARD OPERATIONS

- a. *Meeting Attendance.*** All directors are expected to attend the annual meeting of stockholders, Board meetings and meetings of the Board committees on which they serve. They are expected to prepare for each meeting in advance and to dedicate sufficient time at each meeting as necessary to properly discharge their responsibilities to the Company and its stockholders. Informational materials useful in preparing for meetings will be distributed to the Board in advance of each meeting.
- b. *Executive Sessions of Non-Management Directors.*** The non-management directors will meet in executive session at each regularly scheduled Board meeting.
- c. *Director Access to Officers, Associates to Officers, Associates and Independent Advisors.*** Directors have complete and open access to officers and associates of the Company. Any meeting or contact a director wishes to initiate may be arranged through the Chairman or the Corporate Secretary, or directly by the director. The Board and its committees may retain independent advisors at the Company's expense.

- d. Director Orientation and Continuing Education.* Within six (6) months of appointment or election, new directors are expected to become oriented to the Company and its activities by proactively reviewing applicable Board materials and the Company’s business plan and strategic agenda. This orientation includes presentations by senior management to familiarize new directors with the Company’s strategic plans, its significant financial, accounting and risk management issues, compliance programs, conflict policies, Code of Ethics, Insider Trading Policy and other policies. The Board encourages directors to participate in continuing education programs and reimburses directors for the expense of such participation.
- e. Confidentiality.* In order to facilitate open discussion, the proceedings and deliberations of the Board and its committees shall be confidential. Each director shall maintain the confidentiality of information received in connection with his or her service as a director, except as otherwise required by law.
- f. Speaking on Behalf of the Company.* It is important for the Company to speak to associates and outside constituencies with a unified voice. As a general matter, the Board believes that senior management should serve as the primary spokesperson for the Company. If comments from the directors are appropriate or necessary, they should, in most circumstances, come from the Chairman of the Board, and be made at the request of the Board or senior management.

## 7. BOARD RESPONSIBILITIES

- a. Oversight.* The basic responsibility of the Board is to oversee the Company’s business and affairs, and to exercise reasonable business judgment on behalf of the Company. In discharging this obligation, the Board relies on the honesty, integrity, business acumen and experience of the Company’s management, its outside advisors and the Company’s independent registered public accounting firm.
- b. Management Succession Planning.* The Board, in coordination with the Nominating and Governance Committee, shall annually review the succession plan for key executives to ensure continuity in senior management.
- c. Director Compensation.* The Compensation Committee shall periodically review and make recommendations as to the form and amount of director compensation. Director compensation should provide reasonable compensation for non-management directors commensurate with their duties and responsibilities as directors, and provide a sufficient level of compensation necessary to attract and retain the highest quality individuals.

A portion of compensation should be in the form of Company common stock options or other equity-based compensation in order to further align the interests of non-management directors with those of stockholders.

- d. Strategic Planning.* The Board shall direct management to develop strategic plans for the Company’s business and periodically review these plans with the Board.
- e. Ethical Business Environment.* The Board shall promote, through the Company’s management, high ethical standards and effective policies and practices designed to protect the Company’s reputation, assets and businesses. The Company has adopted a *Code of Ethics and Business Conduct* that establishes the Company’s core values and addresses potential conflicts of interest,

confidentiality and information security, protection and proper use of corporate assets, personal financial responsibility, compliance with law and transactions in the securities of the Company. All directors annually certify to their review of the *Code of Ethics and Business Conduct* and are expected to follow it to the extent applicable to them.

- f. Charitable Giving and Contributions.* The Board shall annually review the Company's report on its CRA and charitable giving.

## 8. OTHER MATTERS

- a. Minimum Stock Ownership by Executive Officers and Directors.* In order to align the interests of the Company's executive officers and directors with those of those of the Company's stockholders, the Board has adopted minimum stock ownership requirements for the Chief Executive Officer, directors and executive officers. The Chief Executive Officer will be required to own three times (3x) his or her annual salary in Company stock. Directors will be required to own two times (2x) their fees in Company stock. Executive officers will be required to own Company stock in amounts as determined by Compensation Committee policy. If such ownership would create a violation of other laws, the requirement will be waived. Vested, restricted stock may be used to satisfy the minimum. Minimum vesting periods for stock options will be three years except for director options. Director options will vest over the one year terms of their service. Newly appointed or elected officers and directors will have up to five years to achieve compliance.
- b. Incentive Compensation Recoupment Policy.* If the Board or an appropriate Board committee has determined that any fraud or internal misconduct by one or more executive officers caused, directly or indirectly, the Company to restate its financial statements, the Board or applicable Board committee shall take, in its sole discretion, such action as it deems necessary to remedy the misconduct and prevent its recurrence in accordance with the Company's Compensation Recoupment Policy as administered by the Compensation Committee. The Board or applicable Board committee may require reimbursement of any bonus or incentive compensation awarded to such officers and/or effect the cancellation of unvested restricted stock or outstanding stock option awards previously granted to such officers in the amount by which such compensation exceeded any lower payment that would have been made based on the stated financial results.
- c. Prohibition Against Cash Buyouts of Underwater Options.* Cash buyouts in underwater options in all equity plans will be prohibited.
- d. Prohibition Against Hedging Company Stock by Employees.* Employees are prohibited from hedging Company stock.
- e. Related Person Transactions.* The Audit Committee shall review and approve or ratify any transaction or series of transactions where the aggregate amount involved will or may be expected to exceed \$100,000 in any fiscal year, the Company is a participant and a related person (as defined below) has or will have a direct or indirect material interest. Any committee member who is a related person with respect to a transaction under review may not participate in the deliberations or vote respecting such approval; provided, however, that such director may be counted in determining the presence of a quorum at a meeting of the committee which considers the transaction.

When considering a request for approval or ratification of a transaction, the Committee may consider, among other things:

- the nature of the related person's interest in the transaction;
- whether the transaction involves arms-length bids or market prices and terms;
- the materiality of the transaction to each party;
- the availability of the product or service through other sources;
- whether the Company's Code of Ethics could be implicated or the Company's reputation put at risk;
- whether the transaction would impair the judgment of a director or executive officer to act in the best interest of the Company;
- the acceptability of the transaction to the Company's regulators; and
- in the case of non-employee director, whether the transaction would impair his or her independence or status as an "outside" or "nonemployee" director.

For purposes of this guideline, (i) "related person" means any director, nominee for election as a director or executive officer of the Company, or any of their immediate family members, and (ii) "immediate family member" means any child, stepchild, parent, stepparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or any person (other than a tenant or employee) sharing the household. The Committee will also examine 5% owners for potential conflicts of interest and related party transactions.

The Board has determined that each of the following types of transactions does not create or involve a direct or indirect material interest on the part of the related person and therefore do not require review or approval under these guidelines: (i) any financial services, including brokerage services, banking services, loans, insurance services and other financial services provided by the Company to any related person, provided that the services are (a) provided in the ordinary course of business, (b) on substantially the same terms as those prevailing at the time for comparable services provided to non-affiliates, and (c) in compliance with applicable law, including the Sarbanes-Oxley Act of 2002 and Regulation O and Board of Governors of the Federal Reserve Board; (ii) transactions involving the purchase or sale of products or services not described in clause (i) above in which the related person's interest derives solely from his or her service as an executive officer or employee of another corporation or organization that is a party to the transaction, provided that payments from or to the Company for such products or services in any fiscal year do not exceed 2% of the other entity's consolidated gross revenues for the most recently ended fiscal year for which total revenue information is available; (iii) transactions in which the related person's interest derives solely from his or her service as a director of, or his or her ownership of less than 10% of the equity interest (other than a general partnership interest) in another corporation or organization that is a party to the transaction; (iv) transactions in which the related person's interest derives solely from his or her ownership of a class of equity securities of the Company and all holders of that class of equity securities received the same benefit on a pro rata basis; (v) transactions in which the related person's interest derives solely from his or her service as a director, trustee or officer (or similar position) of a not-for-profit organization, foundation or university that receives donations from the Company (excluding for this purpose matching funds paid by the Company as a result of donations by the Company's directors or associates), provided that such donations in any fiscal year do not exceed 5% of the other entity's consolidated gross revenues for the most recently ended fiscal year for which total revenue information is available; (vi) transactions where the rates or charges involved are determined by competitive bids, or involve the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority; and (vi) employment and compensation arrangements for any executive officer and compensation

arrangements for any director, provided that such arrangements have been approved by the Compensation Committee or the Board.

## **9. COMMUNICATIONS WITH THE BOARD**

Stockholders and other parties may communicate directly with the Board, its Chairman, any other director, non-management members of the Board as a group or any committee of the Board by sending a letter indicating the intended addressee, to:

c/o Corporate Secretary, Paul Frenkiel  
The Bancorp, Inc.  
409 Silverside Rd, Suite 105  
Wilmington, DE 19809

The Corporate Secretary or the secretary of the designated Board committee may sort or summarize the communications as appropriate. Communications that are commercial solicitations, customer complaints, incoherent or obscene will not be forwarded to the Board, its Chairman, or any other director or committee of the Board.