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By Howard Headlee, President, Utah Bankers Association

Lessons Learned From the Banking Crisis

As we celebrate the rare event these days of Congress enacting bipartisan legislation to fix some of their actions during the financial crisis (Dodd-Frank), perhaps the time has come to also have an honest discussion about how the regulatory agencies reacted during the crisis.

When you think about the depth and breadth of the crisis, it is amazing there wasn't far more carnage in the banking system. I believe we can attribute that to the resolution lessons we learned from previous crises and the policies we implemented as a result.

That's why I believe an independent, scholarly look back on the policies and performance of the bank regulatory agencies during the crisis could be incredibly beneficial during the next downturn and this is the perfect time to be identifying mistakes and formulating a better plan.

There are many things that happened during the crisis that I think deserve a closer look, but perhaps most important was the massive transfer of capital out of our banking system and into the pockets of well positioned investors who gladly bought assets for pennies on the dollar knowing that the main risk they faced was the passage of time.

As a result, most of that capital is no longer driving CRA investments, it is no longer being leveraged by deposits and lent into our communities and local economies. Is anyone monitoring the performance of these assets, or how these investors faired? Are there steps we could be taking now to structure that process to retain those gains in the industry, or at a minimum, in the fund to the benefit of the surviving banks? Recognizing that some of the big winners were other banks, this seems like a relevant question.

A thorough, independent study might give us confidence that the FDIC is getting the most it can from the sale of these temporarily distressed assets. It wasn't rocket science what private investors were doing, surely a group of the smartest risk managers in the world could figure out a way to respond to future asset volatility in a way that preserves bank capital to the benefit of all the communities and local economies we serve.

These issues cannot be addressed in the heat of the moment, but are best addressed after the storm settles and we have regained our balance and perspective. If Democrats and Republicans in Congress can agree that now is the time to correct some of the errors they made during the crisis, perhaps the time has come for our regulators to do the same? ■

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New Tools to Tell the Story of America's Banks

By Rob Nichols, President and CEO, American Bankers Association

One of the reasons the banking industry is seeing an improved policy environment in Washington is because bankers have spent the last few years telling their stories.

They didn't ask for regulatory relief because they were tired of red tape (even though they undoubtedly are). They asked for regulatory reform because rules were making it hard for their banks to make good loans to creditworthy customers and were diverting resources that could be better spent helping their communities thrive. Those stories – of how a perhaps well intentioned but poorly executed provision in law was harming the people it was supposed to help – have made a difference.

ABA, too, has been telling bankers' story. We started our reputational campaign a couple years ago with a special website – aba.com/AmericasBanks – that offered data illustrating the role banks play in their communities and the economy. In April, we took our efforts up several notches with a reimagined site that really brings that data to life.

Visit aba.com/AmericasBanks and you'll find not only national statistics on how much banks have lent to small businesses, farms, homeowners and state and local governments, but also – for the first time – an interactive map that allows you to see banks' economic impact by state. Data points include jobs, branch/office locations, mortgage, small business and small farm loans; customers and volunteer hours donated.

You'll also find anecdotes, photos and videos – most submitted by banks – that show what their retail and business customers value most in them. Such customer testimonials include praise for a bank's mobile app, the support provided following a hurricane and the guidance that helped one couple buy their first home. As one customer put it when describing his raspberry farm's decades-long relationship with a local bank, "it's super important to have a bank that understands the business, understands community, understands what we're doing, our challenges and that Mother Nature plays a big role."

Still more stories demonstrate banks' commitment to local nonprofits and revitalizing a local neighborhood, and spotlight ways bank employees have gone above-and-beyond for their customers, including one who checked up on an elderly customer daily – including weekends and holidays – for more than 10 years.

One must-see video on the site (under "Helping Communities") is a special eight-minute documentary ABA produced that demonstrates how three banks of very different sizes, all on one city block, collectively drive growth and renewal in downtown Denver. The focus is Denver – but it's a story playing out in countless communities across America, providing a visual illustration of how bankers support the activities and growth of manufacturers, property developers, service businesses, nonprofits and others as those companies and organizations drive employment and opportunity in the city.

What you find on the America's Banks site is just the beginning. We have more material we'll be rotating in later, and we hope you'll help us keep the content fresh by sending similar videos, photos, customer testimonials or employee stories to AmericasBanks@aba.com.

We also ask that you help us amplify the good news by sharing the site far and wide. For help in doing this, please download our social media guide at aba.com/AmericasBanksGuide.

By amplifying the story of America's banks, you can help policymakers and the public better understand how banks deliver jobs, growth, safety and convenience. ■

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12th Annual Women in Banking Conference

On April 12, more than 225 bankers gathered at Gardner Village for the 12th Annual Women in Banking Conference, a Development Conference for Banking Professionals. This year's theme, "Bank on Women" celebrated achievement and underscored the important role women play in the banking industry today.

The packed agenda kicked off with a panel of successful Utah women bank leaders and included discussions on leading with passion, demographics in Utah, entrepreneurship, cybersecurity, technology and wrapped up with a lively presentation on never giving up. Plus, back by popular demand, attendees were motivated and entertained by four of their peers during some brilliant, fast-paced "Utah Bankers Ignite" sessions.

The rich history of this conference continues to provide a unique opportunity for those in the early stages of their career to the seasoned banker, to be inspired and invigorated with new ideas and strategies to achieve and succeed in this great industry of banking. ■

Industrial Banks: What Are They and How Do They Impact the Economy?

By Charlie Knadler, President & CEO, EnerBank USA

"The fintech ecosystem that sprung up in the wake of the 2008 financial crisis has grown and matured. The early companies developing and marketing fintech applications (fintechs) set out to disrupt or displace traditional banks. But fintechs have largely come to see banks as partners in providing innovative products and services, helping even to modernize banks' internal systems. Now, partly due to the challenges of operating under a patchwork of state and federal laws and regulations, fintechs are considering becoming banks themselves," according to Kevin Petrasic, a banking partner in the Washington, DC office of White & Case LLP.

In a recent article, Petrasic also stated that an industrial loan company (ILC) charter is an attractive option for fintechs to consider. His analysis is absolutely correct. An ILC is the perfect route for the appropriate fintech operations with a sound business plan. This charter requires the same consumer protections and compliance regulations as any other bank, while allowing access to a national customer base. This results in the infusion of credit for families and businesses across the country. ILCs are a win-win for Americans.

So what's an ILC?

Let's take a step back and define what ILCs are, why new charters for them have been frowned upon by the FDIC over the last decade, and the new potential for them.

ILCs began in the early 1900s, with small niche lenders providing credit to their own customers, many low-to-moderate income workers who generally struggled to obtain consumer loans from commercial banks. Over the years, these industrial banks got larger (much larger) and began offering more products and services.

Thirty-years ago, there were more than 120 industrial banks, according to the Federal Financial Institutions Examination Council. Today, however, there are less than 30 in operation, with a few transitioning to other banking structures.

So what makes ILCs stand out today? According to the National Association of Industrial Banks, industrial banks:

- Are state-chartered banks regulated to the same extent, and under the same standards, as all other banks by the FDIC and state regulators.
- Are among the safest and soundest banks in the nation—even when parent companies have financial problems.
- Have the highest capital ratios and profit margins.
- Are an important source of credit and banking services to diverse customer groups across the nation—often highly specialized and often serving severely under-served groups.
- Are subject to the Community Reinvestment Act, created to ensure that financial institutions provide for the credit needs of and provide service in their local communities.
- Are recognized for providing credit during the Great Recession, when other financial institutions were unable or unwilling to do so (due to a lack of liquidity or capital).
- Are full-service banks owned by commercial and non-commercial entities, making loans and investments but do not offer demand deposit (checking) accounts.

If you've financed a home improvement project with EnerBank, or have a retail credit card for stores such as Bed Bath & Beyond, Children's Place or GameStop; or leased commercial equipment, you've used an ILC—and likely never even knew it.

You might be wondering, why would anyone be opposed to these types of companies? For years, ILC critics have been concerned about the mixing of banking and commerce. These critics fail to acknowledge that ILCs are subject to Sections 23A and 23B of the Federal Reserve Act, which severely limits the transactions between banks and their affiliates. In other words, an ILC cannot extend credit to consumers for the purchase of products of the parent company.

The FDIC has approved deposit insurance for only four institutions in the last ten years. This agency has sent definite signals that new state-chartered financial service organizations, including ILCs, are not welcome. This unfortunate stance is based on misinformation regarding state-regulated entities. Despite the outstanding performance of ILC's, this charter has been caught in this net of unfair disparagement.

ILCs allow financial and non-financial companies to provide specialized lending products that traditional banks don't typically provide. Industrial banks rely on the economics of specialization and cost-efficient delivery and offer products that typically would be unprofitable for traditional banks, because traditional banks rely on relationship banking and on providing a variety of profitable services to a single consumer. Pitney Bowes Bank helps small business in the purchase of postage services. Optum Bank, owned by UnitedHealth Group, Inc., provides health saving accounts (HSA) and other healthcare financial services. And our own EnerBank USA, owned by CMS Energy Corp., provides attractive payment options for authorized contractors to offer to their customers as a way to pay for their home improvement projects.

These banks fulfill a vital role in providing employment and economic growth in their local communities and throughout the United States. At EnerBank, for example, we have grown our assets from $14 million in 2002 to more than $1 billion today, all by offering only one financial product—unsecured consumer installment loans for home improvements. All of our customers are obtained through home improvement contractors who have an existing relationship with us—thousands of small, family-owned businesses serving their customers with excellent home improvement solutions for their customers. We initially employed less than 30 people and now have approximately 300 employees. We invest millions of dollars each year to fund initiatives that provide affordable housing and our employees generously donate time to engage in charitable efforts that improve our community.

What does the future hold for ILCs?
Yes, the FDIC has approved few state-chartered applications, and no ILC charter in more than a decade, but we're hopeful that with a new administration that will change. Frank Pignanelli, the executive director of the National Association of Industrial Bankers, told me recently, "These actions by the FDIC have created the situation wherein a majority of the financial transactions in this country are now outside the regulated banking sector. Fintech companies are responding to the demand for credit. Therefore, their push to be engaged in the regulated banking sector is an opportunity to bring back some of those financial transactions into the regulated banking sector with its added consumer protections."

Pignanelli also stated, "There are large companies—very respected names across the county—who have been interested in the ILC charter for years but haven't applied because of the inappropriate barriers created by the FDIC. But now we are definitely seeing a renewed interest. The momentum behind Fintech organizations seeking a charter, along with anticipated changes with the FDIC, will open doors for new ILCs." ■

Charlie Knadler, President & CEO, EnerBank USA

The CAMELS Rating - How to Get Over the Hump

You Can Make A Material Difference In A Regulatory Examination

By Roger Shumway Executive Vice President, Chief Credit Officer, Bank of Utah

Everyone thinks their own management team is great. After all, they are a part of it, so it's very hard to be objective. But if a bank's management are working toward the pinnacle of a "1" CAMELS rating and never receive it, they must look deep into their souls and realize that maybe they aren't so great after all.

In addition to quantifying a bank's existing and potential credit risk, examiners also look into the ability of bank management to identify, measure, monitor, and control that credit risk. How well examiners believe a bank is performing in those areas has a material impact on each bank's CAMELS rating—made up of capital adequacy (C), quality of assets (A), quality of management (M), earnings (E), liquidity (L), and sensitivity to market risks (S).

It's inevitable that some banks will hear negative feedback from examiners. But if those banks counter that feedback by demonstrating effective, responsive management, they can score better CAMELS ratings than banks experiencing similar issues but failing to demonstrate proactive management.

This article offers suggestions for how management can make a material difference in CAMELS evaluations, simply by asking the right questions and then discussing them openly and honestly.

Currently, regulators and bankers alike are noting rapid asset growth, rising cybersecurity risk, funding of loans with brokered deposits, concentrations of all types, pressure on the return on assets, and capital needs in all areas of each bank. Regulators and management want us to remember that, as noted by the FDIC, during the Great Recession "the majority of community banks failed as a result of aggressive growth, asset concentrations, poor underwriting, and deficient credit administration coupled with declining real estate values."[1]

With that in mind, any bank with an eye toward improving its CAMELS number should be asking the following questions.

How would others rate your underwriting and credit administration?

Is your bank's pattern of recognition and implementation merely a response to regulatory criticism or does it anticipate changes in the economy?

Does your bank follow its written risk appetite statement? Is your board aware of the pattern of loan policy, loan documen-

If your bank has an unseasoned loan portfolio (that is, one less than three years old), management's expertise and experience are key and risk selection is critical. It will take two to three years to fully season the portfolio.

tation, and post-closing documentation exceptions? Is your board aware of trends in loan covenant violations, waivers, and forbearances?

Do most of the changes in your loan grade come from loan officers, loan review, or credit administration? What has been your bank's trend of examination recommended downgrades over the last five exams?

If your bank has an unseasoned loan portfolio (that is, one less than three years old), management's expertise and experience are key and risk selection is critical. It will take two to three years to fully season the portfolio.

If your bank's loan portfolio is growing faster than the market is expanding, are your results aligned with your strategy? Are you resisting competitive pressures? Are you over-risking or underpricing?

Does the bank have any new, modified, or expanded products and services? If so, have the strategic, reputation, credit, operational, compliance, and liquidity risks been quantified? Was proper due diligence performed and were approvals obtained? Were effective change-management processes to manage and control new or modified operational risks followed? How robust are the performance and monitoring? Were new third-party relationships entered into?

What are the level and trends of problem assets?

What are the trends and the level of your bank's due loans and its nonaccruals? What has been your bank's experience in write-offs? What trends have been noted between your most recent examination and now?

Is your allowance for loan and lease losses adequate?

Examiners view ALLL as the first buffer against losses; thus, they will opine as to both its adequacy and the appropriateness of its methodology. Is the board involved in its approval? If you have an unseasoned loan portfolio, how do you demonstrate to the examiners that your ALLL is directionally consistent? If the ALLL/total loans and leases has been 1.49%, 1.52%, and 1.48% over the last three years, the overall methodology is probably acceptable.

What are your asset concentrations?

There are no hard limits and no safe harbors when it comes to loans subject to the 100% and 300% of total capital guidance. Management must have expertise in its market and have in place the proper elements before reaching one of these two thresholds.

A bank would be wise to establish its own definition of a concentration in much the same way that it does a house lending limit versus the legal lending limit, thus establishing a warning path. The higher the concentration, the more robust the management and reporting required.

Meanwhile, the board would be well advised to understand the gap analysis between regulations and the bank. Keep your board apprised as to the effect high-volatility acquisition, development, or construction exposure will have on risk-weighted capital.

Does management or the board employ third-party reviews?

To hold management accountable, does either the board or management employ third-party reviews? Is the scope of the reviews dictated by the board? Who reviews the findings?

What is your management's level of expertise?

Please be cold fact honest in answering the following questions:

- Do the examiners absolutely trust management and can management present itself as a student of regulations and refer easily to them?
- Is management seasoned not only in their positions, but through economic cycles?
- How well does management exhibit knowledge of the markets the bank serves?
- Is management combative with the examiners?
- How many regulators meet with just one member of your management team when they have significant issues to discuss?
- Does management disregard what the examiners bring to its attention?
- How quickly and thoroughly does management respond to regulator findings? Are findings cleared easily by the examiners?

Also remember that management is evaluated on how well it can recognize asset quality (this will make or break the bank), enforce risk appetite, avoid over-risking and underpricing, manage concentrations, leverage independent reviews, and stay true to proven standards.

A BANK WOULD BE WISE to establish its own definition of a concentration in much the same way that it does a house lending limit versus the legal lending limit, thus establishing a warning path.

ACI Coverage Ratio

Adversely classified items (ACI) are comprised of classified loans and investments, OREO, etc., divided by equity capital plus ALLL.

As stated, the examiners' options or ranges are broad and overlapping, giving them discretion—and, again, giving management the option to shine (or not).

■ The CAMELS Rating— *continued on page 12*

Examiners are watching for the following key red flags:

- Willingness to approve policy exceptions or forgive loan covenants.
- Elevated asset and funding concentrations.
- High levels of historical or planned growth.
- Entering new lines of business.

Based on the above, there truly is a range between CAMELS ratings of 2 in each category. Let's review some examples and see where a bank may be rated. Each bank is unique and the examiner in charge is granted leeway depending on the specifics of each case.

Are brokered funds bad? Yes and no. What is the difference for your bank? How does your strategic plan address brokered funds? How does it relate to your asset tenure?

Is a decrease in your efficiency ratio good? Yes and no. Is your loan growth outpacing your ability to properly manage your assets?

Is a 40% ACI ratio bad? Yes and no. An example may best illustrate this point:

Bank A

- ACI ratio = 40%.
- Lending markets are deteriorating quickly.
- Examiners have identified several downgrades.
- Weaknesses have been identified in credit administration and underwriting: Its likely rating is a 3.

Bank B

- ACI ratio = 40%.
- Lending markets have stabilized.
- Management has appropriately identified all classifications.
- Credit administration and underwriting are satisfactory: Its likely rating is a 2.

Unofficial examiner target ranges are a starting point for rating asset quality. Ranges are intentionally broad and overlapping, which gives the examiner discretion:

- 0% to 15% (strong).
- 10% to 40% (satisfactory).
- 35% to 70% (less than satisfactory, or weak).
- 60% to 100+% (deficient or critically deficient).

Is having a business plan beneficial? Yes and no. How does it align with your strategic plan and actual operations? Is it short-term or long-term in nature? What does it emphasize? Are incentives properly aligned?

Always remember the three themes that drive examiners: 1) core earnings, 2) ALLL sufficiency, and 3) adequacy of capital. Overall, does your bank's strategic plan tie to its risk appetite statement, tactical plan, loan policies and procedures, credit underwriting, credit risk management, policy exceptions, waivers, and expertise? All must be in alignment. If any are not, the bank is open to criticism.

A Case Study

Consider the following key factors for ABC Bank:

- Policy exceptions are increasing.
- During the examination there were no downgrades.
- Underwriting in CRE is loosening to meet growth targets.
- CRE concentrations are increasing, to 471% of total capital.
- The loan portfolio is unseasoned.
- Loan growth is significant, averaging 17% over the last three years.
- The level of problem assets is moderate: a 23% ACI ratio versus 18% last year.
- Credit administration is satisfactory.
- ALLL level and methodology are acceptable.

Let's understand the difference between the CAMELS asset quality ratings.
A rating of "1" indicates that asset quality and credit administration practices are strong. Identified weaknesses are minor in nature and risk exposure is modest in relation to capital protection and management's abilities. Asset quality in such institutions is of minimal supervisory concern.

A rating of "2" indicates that asset quality and credit administration practices are satisfactory. The level and severity of classifications and other weaknesses warrant a limited level of supervisory attention. Risk exposure is commensurate with capital protection and management's abilities.

A rating of "3" is assigned when asset quality or credit administration practices are less than satisfactory. Trends may be static or indicate deterioration in asset quality or an increase in risk exposure. The level and severity of classified assets, other weaknesses, and risk require an elevated level of supervisory concern. There is generally a need to improve credit administration and risk management practices.

So, what should the asset quality rating be: 1, 2, or 3? Why? Here is what the examiner could say:

Asset quality is satisfactory.
"The level of adversely classified assets is modest, but significant loan growth and increasing CRE concentrations have increased the credit risk profile. As of December 31, 19xx, the adversely classified items coverage ratio is 22.47%, compared to 18.53% at the prior examination. Classified items primarily consist of $5.238 million in loans in addition to $526,000 in OREO. Past due and nonaccrual loans are manageable at 1.20% of total loans.

Despite reasonable credit quality metrics, a large portion of the loan portfolio is unseasoned, with annual loan growth averaging approximately 18% over the past three years. Although management has slightly relaxed credit underwriting standards for CRE and construction credits as a strategy to meet loan growth targets, examiners did not downgrade any loans during the review.

The board should be aware of potential migration risk resulting from permissive standards and an increased level of policy exceptions. The methodology and level of the ALLL are appropriate at 1.47% of total loans. Credit administration practices are generally satisfactory."

Concentration risk is rising.
"Concentration risk is elevated and increasing, but management has generally appropriate risk management practices in place. As of December 31, 19xx, non-owner-occupied CRE loans represent 471% of total capital (TC), compared to 352% at the prior examination. The concentration increases to 589% of TC when owner-occupied CRE loans are included. Construction and land loans represent 78% of TC, or 137% when including unfunded commitments. Management appropriately performs portfolio stress testing and reports concentrations to the board quarterly. However, quarterly reports can be improved by including detailed portfolio metrics such as LTV, DSCR, geographic location, and policy exceptions."

Do you agree with that analysis?

Conclusion
To summarize, management must do the following:
1. Recognize asset quality will make or break the bank.
2. Enforce the bank's risk appetite.
3. Avoid over-risking and underpricing.
4. Manage concentrations.
5. Leverage independent reviews.
6. Stay true to proven standards.

Recognize that everything affects capital. Understand the importance of board oversight. Be aware that capital planning must reflect the bank's risk profile. And heed the lessons from the financial crisis. ■

[1]From testimony by Jon T. Rymer, inspector general of the FDIC, before the Subcommittee on Financial Institutions and Consumer Credit, U.S. House Committee on Financial Services, March 20, 2013.

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Preparing Loans for the End of LIBOR

By Braden Parker, Holland & Hart

LIBOR's days are numbered and lenders will need to respond. In July 2017, the UK's Financial Conduct Authority (FCA), which regulates LIBOR, announced that it will stop requiring reference banks to quote LIBOR by the end of 2021. The reference banks may choose to continue to quote LIBOR after 2021, but many observers believe they are unlikely to do so and central banks and industry groups are working to develop alternative benchmark rates.

LIBOR (London Interbank Offered Rate) is based on the quoted rates of a panel of reference banks. The quotes represent the rates at which these banks are able to borrow in short-term money markets. Apart from overnight transactions, banks no longer borrow much in these markets. While discussing the future of LIBOR, Andrew Bailey, the chief executive of the FCA, explained that "the underlying market that LIBOR seeks to measure—the market for unsecured wholesale term lending to banks—is no longer sufficiently active." Due to this lack of liquidity and a series of well-publicized scandals involving rate manipulation, the FCA called for the phase-out of LIBOR and a transition to alternative rates based on a more robust set of market transactions. The impact of the phase-out of LIBOR is substantial. LIBOR is used as a benchmark rate to calculate floating and adjustable rates on trillions of dollars of loans, bonds, derivatives and other financial contracts. Many of these agreements have maturity dates extending past 2021, when LIBOR may no longer be quoted.

It is common for loan documents to contain fallback language to account for a time when LIBOR is not available. In the event LIBOR is not quoted, these loan documents will use some other rate or the parties will have rights to select a new rate. Loan Documents that do not account for the end of LIBOR will be subject to considerable uncertainty. It is conceivable that parties to some of these loans will end up in court to argue over the fate of these loans. When LIBOR is no longer quoted, these contracts will lack an essential term of the contract: the interest rate agreed upon by the parties. It is unclear whether courts will hold that these contracts are no longer enforceable or if they will rule that some other method of calculating interest should be used. Any ruling generates risk. Bailey warns that uncertainty "depends on the preparations that the users of LIBOR make in either switching contracts from the current basis of LIBOR or ensuring that their contracts have robust fallbacks in place that allow for a smooth transition."

Lenders should review their loans to identify any that reference LIBOR and mature or may mature after 2021, and they should understand what will happen to these loans when LIBOR is not quoted. Loans with no fallback language may need to be amended to either use a different rate or add fallback language. Lenders should review fallback language in existing loan documents to ensure it is still practical and will function smoothly after 2021. Some loan documents have fallback language that is inadequate. A common provision states that, if LIBOR is not quoted, the benchmark rate will default to the LIBOR rate last quoted. This mechanism may work well if LIBOR is disrupted and the parties anticipate that LIBOR will be quoted again in the future. If LIBOR is discontinued, however, these loans may convert to a fixed interest rate at the last quoted LIBOR rate and stay that way until maturity.

Lenders have options when considering fallback language. Fallback provisions can state that the loan will transition to another benchmark rate such as the prime rate or the federal funds rate. Alternative benchmark rates to LIBOR are being developed but it is unclear which rate will supplant LIBOR as the industry standard.

Popular with lenders is fallback language giving the lender discretion to select an alternative rate. In exercising this discretion, lenders will be subject, under the laws of most states, to the implied covenant of good faith and fair dealing, meaning that a lender cannot act arbitrarily or unreasonably in choosing a rate that is more expensive for the borrower. Less popular is fallback language that requires the parties to mutually agree on an alternative rate. Provisions allowing the lender to select the alternative rate and provisions requiring the parties to come to a consensus are useful if the parties want to wait and see what alternative rates the market adopts. The parties will choose a rate at a later day when they have more time to watch market trends.

If the fallback language contemplates that an alternative rate will be selected at a later date, either by the lender or by mutual agreement, the language should be flexible enough to consider multiple possible rates but specific enough to apply the terms of the provision without dispute. This language will clearly state who selects the new rate and what rights, if any, the other party has to dispute the selection. These provisions may prescribe certain methodologies that the deciding party will use in selecting a new rate. The parties may have the option to select between certain specified rates, such as the prime rate, or choose the rate that is identified as the market's widely accepted replacement for LIBOR.

The fallback language should have a clear trigger. Will the new rate come into effect when LIBOR ceases to be published or at some other event or date? The trigger may give the parties discretion to choose when the rate will change, such as when the lender or parties agree that LIBOR no longer adequately reflects the cost to lenders to make and maintain loans or when LIBOR is no longer widely recognized as a benchmark rate for newly originated loans.

The fallback language should account for other contingencies such as what happens if the new rate is not available for a time or if the new rate ever dips below zero. The fallback language will need to be flexible enough to account for the difference in magnitude between LIBOR and the new rate. The parties should be allowed to make adjustments in case the new rate is higher or lower than LIBOR. Parties could be permitted to adjust margin levels or how they are calculated.

It is important for lenders to be aware that the phase-out of LIBOR is approaching when entering into new loans or modifying existing ones. If lenders continue to use LIBOR in new loans, the agreements should clearly state what will happen to the interest rate when LIBOR is no longer available. Lenders should seek opportunities to add fallback language or adjust the fallback language in existing loans when needed. Bailey makes clear that "the transition away from LIBOR will take time, but will be less risky and less expensive if it is planned and orderly rather than unexpected and rushed." Lenders have time before the end of LIBOR, but Bailey counsels that "the planning and the transition must now begin." ■

Braden Parker is an attorney at Holland & Hart with significant experience in banking, commercial finance, and secured transactions. Through his expertise in the field, Braden has represented both lenders and borrowers in cases related to acquisition loans, working capital lines of credit, asset-based loans, commercial real estate loans, public finance transactions, mezzanine loans, and preferred equity transactions.

Braden earned his Juris Doctor degree (J.D.) from University of Chicago Law School in 2016. Prior to his legal career at Holland & Hart, Braden worked in investment banking at Goldman Sachs.

NSF AND OD INCOME CONTINUES TO RISE ARE YOU GETTING YOUR PIECE OF IT?

By Richard Miller, Executive Vice President, John M. Floyd & Associates

Every so often, service companies, industry associations, consumer advocacy groups, regulatory agencies and research organizations release a study on some aspect of consumer financial services. The purpose of the study could be to enhance the consumer experience, affect public policy or assist financial institutions in their efforts to adapt to economic, regulatory, legal or competitive conditions. Whatever the case, findings can serve as a reality check on how different strategies are playing out in real-time.

One area in particular that has been studied extensively during the last 10 years is overdraft revenue. According to recent results, financial institutions saw overdraft revenue reach $34.3B in 2017—the highest level since hitting $37.1B in 2009. Looking ahead, some projections suggest overdraft revenue could eclipse the 2009 total industry-wide by 2020.

For their part, credit unions which have historically maintained lower overdraft fees than banks, have consistently increased overdraft revenue over the past 25 years—in spite of economic downturns during that timeframe.

Industry Call Report data regularly reinforces the fact that overdraft programs provide a healthy revenue source. However, banks and credit unions should be diligent when it comes to setting fee levels. While increased fees may initially lead to increased revenue, this type of return can be difficult to sustain. In fact, some industry data suggests that institutions having a higher fee structure actually lose overdraft revenue, while those that consistently maintain a lower overdraft fee earn a higher percentage of non-interest income.

For example, a $30 per overdraft fee would result in $4,500 on 150 overdraft transactions. However, if the fee was reduced to $25 and the program was opened to all eligible account holders—resulting in an increase to, say, 203 transactions—a financial institution could make an extra $575. This is a compelling example of why maintaining reasonable overdraft fees—and benefitting a greater number of account holders—can actually raise revenue.

Keep the end user in mind for long-term success

There is a valuable lesson to be learned from consumer reaction to price increases on services over the years—from cable television to cell phone and internet, newspapers, airlines and checking accounts. Typically, the increase results in reduced consumption or leads to a search for lower-cost providers.

Likewise, over time overdraft revenue can decline as account holders—who may already be facing a financial hardship—limit their usage or look for less expensive options to meet their emergency and short-term funding needs.

Historically, one of the most common reasons consumers cite for leaving their existing financial institution is fees. A 2016 FICO® survey found this to be especially true for Millennials. Repetitive fee increases can lead to price elasticity that can greatly diminish the demand account holders have for any service. Unfortunately, many institutions may not know that they're losing revenue because they don't have the tools or the time to analyze their existing account holder activity.

Recover lost revenue with reasonable fees and user-friendly procedures

We know that consumers are willing to pay a reasonable charge for a reliable service that is convenient and meets their everyday needs—think Amazon, Starbucks and Netflix. When was the last time you did a competitive analysis of the overdraft fees in your market?
Two of the most common types of advice consumers want from their financial institution are help with improving their financial situation (41%) and advice to help them keep track of their spending and household budget (33%), according to a J.D. Power 2018 Retail Banking Advice Study. From a service perspective, a fully disclosed, overdraft program provides your account holders with a dependable, worry-free solution many are looking for when and if they are faced with an unexpected financial challenge.

From a performance and regulatory standpoint, a 100% compliance-guaranteed program with updated strategies, analytics, and account tracking and reporting capabilities can provide between 50-300% sustainable increases in non-interest income from a broad base of eligible accounts—along with complete compliance peace of mind. As you continue to monitor your growth strategy throughout the remainder of 2018, don't miss out on increased earning potential. Think of the improvements and account holders service upgrades you could implement with your share of a proven reliable revenue source. ■

Richard joined JMFA after a 23-year career in banking, providing JMFA and our clients a broad base of management experience in community banking, from chief lending officer to president of small and medium-sized financial institutions. Richard supervises JMFA's sales activities across the nation, establishing valued relationships and helping JMFA and the financial institutions we serve achieve their goals.

He began his banking career in 1972 with American Bank of Tulsa, advancing to chief lending officer by 1980. During that time, the bank engaged JMFA, resulting in substantial earnings gains that made American Bank of Tulsa the highest earning bank in the region, posting ROA's near 3% and ROE's close to 25%. In 1982, Richard and his management team left American and chartered Southern National Bank in Tulsa, which was sold in 1992 to Boatman's Bancshares of St. Louis, Missouri. After a restructuring consulting assignment with a New Orleans financial institution, Richard joined JMFA as sales director for the Southeastern region and began rising through the ranks. He is a graduate from the University of Tulsa and the Southwestern Graduate School of Banking at Southern Methodist University in Dallas, Texas.

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FinCEN Announces Update to the Suspicious Activity Report (SAR)

By Chance Williams, CRCM Compliance Specialist

In late January of 2018, FinCEN announced the update to the Suspicious Activity Report (SAR) that will be available on June 22, 2018. The updated SAR form has been revised and includes half a dozen changes. These changes include: a new field that will alert FinCEN to the SAR being filed in response to specific geographic targeting orders (GTO), advisories, or other activity, a new field for type of suspicious activity "Cyber Event", a new field in the "Cyber Event" indicator field that allows the filer to report various events such as Command and control IP addresses, Ports, suspicious files names, and more. In conjunction with the new field, there were updates to existing fields such as: subtype selections associated with various suspicious activity types, revisions to date and time stamp fields relating to activities being conducted on a schedule or random in nature, selections associated with suspicious activity product types, and subtypes associated with Securities and Futures. In addition to the above noted revisions, batch filers will be required to submit SAR information in a XML file format rather than in fixed-length file delimitation, such as the current ASCII. First, let's discuss the new field, located in Filing Institution note to FinCEN, which will alert FinCEN to the SAR being filed in response to specific GTO, advisories, or other activity. FinCEN announced in 2016 they were concerned that all-cash purchases may be conducted by individuals attempting to hide assets and their identity, by making those pur-

"By expanding the GTOs to other major cities, we will learn even more about the money laundering risks in the national real estate markets, helping us determine our future regulatory course."

chases through shell companies. To better understand the role GTOs play, FinCEN began doing the needed research. FinCEN Acting Director Jamal El-Hindi stated: "The information we have obtained from our initial GTOs suggests that we are on the right track," "By expanding the GTOs to other major cities, we will learn even more about the money laundering risks in the national real estate markets, helping us determine our future regulatory course." This new field will further assist FinCEN in protecting against the abuses of illicit actors on a larger scale.

The second new field to discuss is located in Part II. This new field is designed to capture "Cyber events" as they pertain to suspicious activity. FinCEN has defined these types of events as:

> Cyber-Event: An attempt to compromise or gain unauthorized electronic access to electronic systems, services, resources, or information.
> Cyber-Enabled Crime: Illegal activities (e.g., fraud, money laundering, identity theft) carried out or facilitated by electronic systems and devices, such as networks and computers.
> Cyber-Related Information: Information that describes technical details of electronic activity and behavior, such as IP addresses, timestamps, and Indicators of Compromise (IOCs). Cyber-related information also includes, but is not limited to, data regarding the digital footprint of individuals and their behavior.

Many times a cyber-event that targets a financial institution constitutes some type of illicit activity and can serve as a conduit to commit numerous types of wide-ranging crimes. This has resulted in the additional subtype selections being added to Part II. The new subtypes are: new or modified options for Structuring, Fraud, Gaming, Money Laundering, Identification/Documentation, activities around Securities, Futures, Options, and Mortgage Fraud. Due to these events becoming more prevalent, FinCEN has issued situations in which a SAR filing is required.

Third, in Part II the new field, for "Cyber-Event" indicator field that allows the filer to report various events such as Command and control IP addresses, Ports, suspicious files names, and more, was added. This addition was due to the continued and increasing use of electronic systems and resources that are often utilized to perpetrate illicit activities. This increased use of electronic means requires institutions to capture information associated with Cyber-related activities. It is becoming ever more important for BSA and IT departments to work closely together to implement tracking and reporting of potential cyber-related incidents to ensure the institution is aware of all possible suspicious activities occurring. The cooperation between BSA and IT can help to better understand the possible cyber-related occurrences and know if there is a pattern or practice being utilized when illicit actors are perpetrating these activities.

Next, let's discuss the revisions made to the SAR form that are not due to additional fields. The first revision is located in Part II and allows for subtype selections associated with various suspicious activity types to be made. Selecting these will help the institution better capture the true activity being conducted. FinCEN can also better determine any course of action in regard to the suspicious activity. Looking next at the revised date and time stamp fields, located in Part II, help determine if the activities are being conducted on a schedule or are random in nature. Information of this nature can assist in being prepared for future activities. The third revision, located in Part II, expands on the suspicious activity relating to specific product types. The information gathered here helps both the institution and FinCEN determine if specific products are being exploited, and are resulting in illicit activities being perpetrated. The fourth revision, located in Part III/IV, deals with Securities and Futures. This revision was made to ensure that the institutions are capturing information in relation to where the activity occurred and filing instructions in case of illicit activity.

The final addition to the above noted additions and revisions are directed at batch filers. Batch filers will be required to submit SAR information in a XML file format rather than in fixed-length, file delimitation such as the current ASCII. The BSA E-filing system will continue to accept ASCII batch submissions until January 1, 2019 in order to give batch filers a six-month go-live date window from June 2018 until January 2019. This window allows financial institutions the opportunity to ensure they are ready to file batches using the new required XML file format prior to the required date. ■

Chance Williams brings a wealth of knowledge and practical experience to our banks. Chance developed an expertise in compliance while working as a BSA and Compliance Officer in banks of all sizes during his career. He contributed as a member of Business Development Teams, Loan Committees, Audit Committees, Product Steering Committees, IT Committees and as a direct liaison with the regulatory agencies.

Chance also holds 10 years of experience as a compliance officer/auditor and 4 years as a senior compliance/audit consultant. As a Compliance Officer and Auditor, Chance has spent his career working with banks under enforcement action to strengthen bank compliance management systems. Chance holds the ICB CRCM certification; as well as ICBA certifications in BSA (CBAP), Compliance (CCBCO), and IT (CCBTO). He has worked in the banking industry for 20 years in all departments of the bank. He possesses a strong working knowledge of bank operations and compliance.

Effective Modification Agreements: Teaching an Old Loan New Tricks

By Braden Johnson, Snell & Wilmer

Although a loan closing can feel like the end, it is also a new beginning. Once the ink dries on the loan documents, lenders enter a world of post-closing diligence, covenant reporting, restricted accounts, changes in loan parties, and much more. This is particularly true for real estate-secured construction loans, where reviewing advance requests, set-aside letters, releases of collateral, and lease reviews (among other things) can require significant attention. And even beyond these loan-specific forces, macro changes in the market or regulatory environment can send lenders into a scramble.

Some of these issues can be resolved under the existing loan documents. But, for more complicated issues, the old loan must learn some "new tricks." Typically, these new tricks are "taught" by way of a modification to the loan documents. When the need for a modification arises, lenders may want to consider the following factors to improve the quality of the modification:

1. Watch the Calendar

Lenders may want to take a long look at the calendar when they first become aware of a modification need. When is the next payment due? When is the next extension option, reporting period, or maturity date? With respect to the collateral, are there any expected changes or milestones in the near future (i.e. will there be a significant debit to the accounts receivable, will a plat be recorded, will a distribution be paid, etc.)? Calendaring questions like these can drive more than just the timing, but also the content of the modification. For example, a lender may want to postpone partial release of collateral until after a financial reporting deadline to get a better understanding of the borrower's financial health. Or a lender may refuse to increase the loan amount until after a major covenant is satisfied (i.e. working capital threshold, preleasing requirement, etc.). If these important milestones are not considered during the modification process, a lender may miss out on valuable opportunities to mitigate risks and protect its interests.

If the borrower is inflexible as to the timing, lenders can use conditions precedent in a similar way. Rather than delaying the modification until certain milestones are reached, lenders can move-up future requirements like principal pay-downs, financial reporting, and more. Lenders can also require date-down endorsements, new financial covenants, or additional guarantors in exchange for entering into the modification. These can strengthen the lender's position while accommodating the borrower's business needs.

2. Re-Evaluate Financial Metrics

During underwriting, the loan amount was carefully manicured and the collateral was evaluated to ensure that the lender was not overexposed. Financial covenants were also crafted to compare borrower's level of achievement against the lender's risk tolerance. And, although the lender's pre-closing predictions may not have been accurate, the modification process gives lenders some new, post-closing data points to consider. Lenders may want to review these data points, together with changes in the market or economy, in determining whether the original loan covenants are still appropriate.

Lenders may examine whether borrower has signed any significant new contracts/leases, raised additional capital, etc. Based on this new information, lenders may need to adjust the financial covenants (whether upward or downward) to ensure that they are still realistic. For struggling loans, lenders may ask for more frequent financial reporting to help determine whether the borrower is moving in the right direction.

However, lenders can do more than simply refine existing financial and reporting covenants. For example, lenders can consider collapsing the remaining commitment for construction projects which are completed "under budget." This is an easy way to increase the loan-to-value ratio and decrease the likelihood of default. For securitized loans with dramatic post-closing changes, lenders might require an updated appraisal of the collateral. This can give the lender a better understanding of its risk exposure, along with the estimated profitability of the project.

If the borrower is missing expectations, lenders can bargain for more protections. For example, lenders can request additional collateral in the form of a blocked account, a security interest in new inventory, or other property of the borrower or guarantor. Lenders can also negotiate for a "pay-down" of the principal amount to re-margin the loan, a capital call to infuse some additional capital into the project, and much more.

3. Obtain Guarantor Consent

This point is simple, but it can prevent serious problems. At closing, loan guarantors agreed to certain terms and conditions. Changing these terms after the loan is consummated can render the guaranty unenforceable. Moreover, guarantors may argue that a modification was, instead, a novation which releases the guarantors from their former obligations (see e.g. First Am. Commerce Co. v. Washington Mut. Sav. Bank, 743 P.2d 1193 (Utah 1987). But these risks can be effectively mitigated by requiring guarantor consent as a condition precedent to the modification.

The guarantor consent may include representations and warranties relating to the modification. For example, guarantors can re-affirm all obligations arising under all guarantor documents (i.e. the original guaranty, environmental indemnity agreement, and other guarantor documents). Guarantors may represent and warrant that they have received and reviewed a copy of the modification agreement, and manifest their consent to the terms thereof. Finally, guarantors may be required to waive all legal claims that may have arisen since their original execution of the guaranty.

4. Don't Forget the Security Documents

Modifying secured loans can invite additional risks to the lender. Thus, it is important for lenders to have a clear understanding of the security documents, and be willing to modify them as needed to preserve their lien.

When the collateral includes real property, lenders may review the terms of the original recorded security instrument to make sure such terms are consistent with the modification. And, where changes are required (i.e. loan parties, maturity date, loan amount, legal description), the recorded document should typically be modified. These modifications do not need to be complicated, and most title companies can quickly review the form of the modification document for free.

The process for other types of security documents is very similar. The lender may review financing statements, collateral assignments, deposit account control agreements, and more in search of inconsistencies with the modification documents. Most of these documents can be modified within the loan modification agreement; however, financing statements can be modified via UCC Amendment (sometimes known as a Form UCC3). And lenders should be aware that changes in the debtor's name may prevent after-acquired property from being subject to the lender's lien (see UCC 9-507). Although it takes extra effort, preserving the lender's interest in the collateral may be the most important piece of a modification.

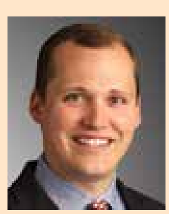
5. Consider Changes in Law and Lender Policy

In many cases, the lender's standard form loan documents have been updated since the original loan documents were prepared. Lenders may want to consider whether these subsequent changes to the form loan documents should be incorporated into the modification. Interest rates are a current example of this, as we have recently seen lenders add an interest rate floor to account for the historically low rates of the past few years. And, with the future of the London Interbank Offered Rate (LIBOR) in jeopardy, loans that rely on LIBOR may be modified to include the lender's alternate rate calculation language.

Beyond interest rate issues, lenders may want to examine whether their approved compliance language has changed since loan closing. For example, provisions in the original loan documents covering "know your customer" laws, capital adequacy, flood insurance, anti-money laundering, and more can be reviewed to make sure they are up-to-date. The High Volatility Commercial Real Estate (HVCRE) provisions in the loan documents may also be suspect, since Congress has recently made changes to this regulatory regime. Further, with many states allowing industry in the cannabinoid market, lenders may want to consider adding representations and warranties regarding compliance with state and federal controlled substances laws.

6. Conclusion

Unlike the proverbial "old dog," old loans can easily learn new tricks. Through effective modification agreements, existing loans can be updated to meet the needs of the loan parties and to account for unforeseen market changes. Although future needs are difficult to predict at loan closing, modifying the loan as these issues arise is a good way to strengthen and modernize the loan. By being thoughtful and deliberate with these modifications, lenders can strengthen the lender's position while accommodating borrower needs. And the tips described above may help lenders do just that. ■



Braden Johnson is an attorney in the Salt Lake City office of Snell & Wilmer where he focuses his practice in commercial finance, real estate acquisitions and securitized lending. He also has experience with public finance, international lending and tribal lending. Contact Braden at 801.257.1826 or bwajohnson@swlaw.com.

CECL and Long Term Loans

By Jeff Goldstein, PCBB

Many bankers say they sometimes wish for more moderation from regulators and accountants. It doesn't look like that is going to happen with the new current expected credit loss (CECL), but there are some interesting things to think about here. To add some insight, we tackle the subject of loan duration and how it affects loan loss reserves under the new CECL guidance.

Credit exposure models incorporate historical data, current conditions and forward looking macroeconomic forecasts (including interest rates) to measure expected credit losses.

Historically, delinquency rates have been shown to increase following rate tightening from a low rate environment. This is because borrowers' revenues generally do not keep pace with increased debt service.

In a rising rate yield curve environment, fixing loan rates stabilizes debt service. That reduces the stress on credit associated with deteriorating debt service coverage. Credit models that incorporate interest rate sensitivity will typically calculate lower expected losses for fixed vs. floating rate loans.

So, what can community bankers do with this situation? Interest rate hedges are widely used by banks to safely offer longer term

fixed rate loans without increasing asset durations. As interest rates increase, these hedges allow banks to benefit from rising interest income without the deterioration in debt service that typically accompanies rising rates (assuming all other credit factors remain unchanged).

10 Year Variable Loans

Consider a $1 million variable rate loan at Prime + 0.75% (currently 5.50%) that is issued for a 10 year term with a 20 year amortization. Without a hedge, a +100bp increase in Prime will increase the borrower's monthly interest payments by about 20% on average, reducing debt service coverage. With a hedge in place, interest income received on the hedged loan increases by about 20%, however the borrower's payments remain the same (fixed rate). This stabilizes debt service for the life of the loan. It is also an important way to meet both your bank's needs related to funding and rate risk as well as those of your customer.

In addition to fixing the rate, extending maturity on amortizing loans reduces credit exposure associated with repayment risk at maturity (i.e. 'ballooning' risk). In a credit stressed environment, short term loans with large balloons are prone to repayment default and external refinancing at that point in time might not be available. That is because the stressed credit has declined below underwriting guidelines.

5 Year Balloon Loans

Consider a bank that did nothing but 5 year balloons. In any given year, 20% of the portfolio would be subject to 'ballooning' risk. However, if the bank were doing 10 year balloons, that risk would decline. Better yet, if the bank were doing fully amortizing loans, there would be no 'ballooning' risk. A net result of this 'ballooning' risk is potentially higher reserves.

CECL's Impact on Long Term Loans

There is some concern about CECL's impact on reserves for longer term loans, but nothing is that simple. Some banks are considering shortening loan terms (foregoing more certain long term revenue) to avoid incremental reserve expenses. One economically beneficial alternative is to offset the reserve expense with non-interest income generated via a hedged loan.

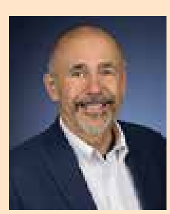
Let's revisit the $1 million, 10 year term loan at Prime + 0.75% discussed prior. Assume the CECL impact is $2,250 in additional reserves and the present value of 1bp on a hedge for this loan is $750. The bank can convert about 3bps (0.03%) of value from the hedge into $2,250 of immediately recognizable non-interest income to offset the reserve expense.

As seen here, this is an important – and not wholly obvious consideration as you prepare for CECL and continue underwriting longer term loans.

To summarize, banks can utilize interest rate hedges to benefit from rising variable rates while fixing the loan rates for borrowers. Interest rate hedges also provide a vehicle for banks to generate non-interest income. Depending on the specific details of each loan, the additional income can be used to offset some or all of reserve calculations for the loan.

Although not all together evident, there are ways to manage your bank's loan loss reserves under CECL, without shortening the term of your loans.

For more information on CECL or hedging, contact Jeff Goldstein.



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Dedicated to serving the needs of community banks, PCBB's comprehensive and robust set of solutions includes: cash management, international services, lending solutions and risk management consulting services, including CECL.

Bank Kudos

ALLY BANK

Ally Bank, The Other Side Academy Use CRA Loan to Fuel Expansion in Salt Lake City

A Community Reinvestment Act (CRA) loan from Ally Bank is helping a Salt Lake City nonprofit double its capacity to assist people dealing with homelessness, drug addiction or those facing long-term incarceration.

In April, Diane Morais, president of Consumer and Commercial Banking Products for Ally Bank, attended the ribbon cutting celebration for The Other Side Academy's (TOSA) building expansion, which will add more than 100 beds along with office space, computer labs and a training center for students. Joining Morais were Tim Stay, CEO of The Other Side Academy, and Joseph Grenny, The Other Side Academy chairman.

TOSA's two-year, live-in program teaches students the skills they need to help turn their life around through vocational training schools – including The Other Side Movers and The Other Side Thrift Boutique – which also generates income that allows the academy to be self-sustainable and privately run. Ally Bank also made $40,000 of contributions to support the opening of the Thrift Boutique and to develop a new business venture.

Forty percent of the funding for the new building came from donors, and Ally's CRA loan financed the rest. Revenue generated by the student-run companies will help pay back the loan. Stay estimates that the facility will save taxpayers approximately $300 million in potential incarceration costs over the next 40 years.

Ribbon Cutting – (L to R) - Lt Governor Spencer Cox, Joseph Grenny, Chairman of the Board of The Other Side Academy, Di Morais, President of Consumer and Commercial Products at Ally Bank, David Litvack, Deputy Chief of Staff of the Salt Lake City Mayor's Office, and Gregory Hughes, Speaker of the Utah House.

BANK OF UTAH

Bank of Utah Donated Two Tons of Food to 10 Food Pantries Across Utah

Valley View Elementary collected nearly a ton of food for the drive

Bank of Utah saw great success with its first annual "Kick Childhood Hunger" food drive, held March through April, 2018. Customers, bank associates and friends donated cash and non-perishable food at bank branches and loan offices throughout Utah. The bank then donated two tons of food to 10 community pantries. "We're very pleased with our inaugural food drive," said Roger Christensen, Bank of Utah senior vice president of marketing and communications. "Hunger among children is a very troubling issue in our state, so we tried to make donating easy for local communities by collecting food at our banks."

Valley View Elementary in Roy, Utah, also partnered with the bank on a school-wide food drive, collecting 3,000 food items in four days. Bank of Utah awarded cash prizes of $400 and $200 to the top two classrooms that collected the most.

Bank of Utah plans to expand the food drive next year to include more schools and business partners. The ten food pantries included Bountiful Food Pantry, Box Elder Food Pantry, Cache Food Pantry, Carbon Cares for Kids, CCS of Northern Utah – Joyce Hansen Hall Food Bank, Crossroads Urban Center, Switchpoint,

Valley View Elementary peer leaders box and load the school's 3,000 food items they collected for Bank of Utah's "Kick Childhood Hunger" food drive.

Ogden-Weber Community Food Pantry, Tabitha's Way and Tremonton Food Pantry.

CCIM
CCIM Selects Bank of Utah's Kelly Hale for Community Banker of the Year Award

CCIM EXCELLENCE AWARDS
2018

The Utah CCIM Chapter recently announced the recipients of the 2018 CCIM Excellence Awards honoring the best professionals in Utah's commercial investment industry. Bank of Utah's Kelly Hale was presented the Commercial Banker of the Year Award in the "under $75 million" category, at the organization's annual gala at the Grand America Hotel in Salt Lake City.

Hale is a senior vice president relationship manager at Bank of Utah's Orem, Utah branch. She has worked for Bank of Utah since 2001 and is a graduate of the Pacific Coast Banking School. Hale is skilled in negotiation, SBA 504 loans, cash flow, construction loans and commercial lending.

Kelly enjoys financing loans and being a part of her client's dreams as they come true. Over the course of her career she is helping build Utah one loan at a time. She always keeps her eye open for financing opportunities and she knows she can provide the absolute best service. Kelly appreciates volunteering and giving back to the community as she currently serves on the Board for the Red Cross and on the Board of Neighborworks, both in Utah County.

The CCIM (Certified Commercial Investment Member) Institute was built on a foundation that has remained solid for more than 40 years: The best teachers of commercial real estate investment principles are experienced and successful commercial real estate practitioners. By combining the best minds to develop and teach the industry's best practices, CCIM has helped thousands of students propel their careers and grow their businesses. Since 1954, CCIM has evolved into a global organization with more than 15,000 members.

For more information about Bank of Utah visit www.bankofutah.com.

BRIGHTON BANK
Have a Heart Campaign
Brighton Bank recently teamed up with the local American Heart Association to sponsor Brighton Bank's 7th Annual "Have a Heart" campaign. The American Heart Association educates the community in the ongoing battle against heart disease.

Brighton Bank employees, customers and venders raised a grand total of $3,134 during the campaign in the month of February, 2018. We would like to warmly thank everyone involved who contributed toward our efforts in raising funds for this very important cause.

Giving back to the communities we serve is part of what defines Brighton Bank, Developing Relationships...Building Communities.

Community Shred Day

Brighton Bank held its annual Community Shred Day on April 19th and April 20th, 2018. Bank customers and community members were invited to bring documents and other items to shred at the Cottonwood and South Salt Lake offices. The Bank's goal for this annual event is to lend a hand to the public by providing a way to keep personal and confidential information and records from falling into the wrong hands and being a convenient means of discarding old documentation.

ENERBANK USA
EnerBank USA's John Harris wins Lifetime Achievement Award in 16th Annual American Business Awards

EnerBank USA executive vice president of sales and marketing, John Harris, was named the winner of a Gold Stevie® Award in the Lifetime Achievement Award - Business Services Industries category in the 16th Annual American Business Awards, the U.S.A.'s premier business awards program. "John has been instrumental in EnerBank's success, generating 12 straight years of double-digit growth through his sales and marketing efforts," said Charlie Knadler, president and CEO of EnerBank. "His experience working for a residential HVAC and plumbing contractor prior to joining EnerBank gave him a strong customer perspective that helps us focus not only our sales and marketing efforts, but also the bank's products, services and customer service."

As EVP of sales and marketing, John is a member of EnerBank's executive management team, playing a pivotal role in shaping strategy and policy for the bank. During Harris' service to the bank, nearly 750,000 homeowners have received financing to achieve their home improvement dreams.

KEY BANK

KeyBank Awards Grants to Support Three Local Education Organizations

KeyBank recently awarded grants totaling nearly $30,000 to three local organizations that are helping provide access to education in Utah. Support for education is one of the key tenets of the KeyBank Foundation's giving strategy. As such, the bank awards grants that provide students with opportunities to prepare for fulfilling careers through access to high quality education and support for their academic success.

A $7,000 grant to Success in Education will support the organization's Code to Success summer coding boot camps. Code to Success helps bridge the gap between education and industry by getting local students interested in programming in high school.

KeyBank also donated $10,000 to both American Indian Services and Envision Utah. Funds given to the American Indian Services Scholarship Program will help provide Native American students with financial support to attend college, maintain enrollment and graduate.

The Envision Utah grant will fund the Helping Utahans Look Beyond High School Program. With the changing economy, more people need to further their education beyond high school. By 2020, 66 percent of jobs in Utah will require education beyond high school. The KeyBank grant will support outreach to communicate these changes and how to stay relevant in a changing economy.

Key Names Amy Tieu Key4Green Business Development Officer

Amy Tieu has been named Business Development Officer for Key Equipment Finance's Key4Green initiative. In this role, she will support Key4Green alliances by partnering with relationship managers in the KeyBank franchise to provide lending and financing solutions to current and new clients in Utah.

Key4Green is designed to help companies finance energy efficient and renewable equipment to optimize cash flow by introducing cost reductions and lower expenses related to repair and maintenance of outdated equipment. The Key4Green team works alongside companies to identify possible tax credits, rebates, grants, or other financial advantages that might be available.

"Amy comes to Key4Green after working with the KeyBank commercial banking group as a credit analyst and relationship manager," said Jeffrey Eades, vice president of Key4Green, Key Equipment Finance. "Amy's financial acumen and relationship building skills are going to be of great value to the Key4Green enterprise. I'm excited to watch Amy grow in her new role and look forward to working alongside her."

KeyBank Partners with Zelle, Gives Clients More Ways to Manage Money

KeyBank announced recently that it is now offering Zelle in the bank's mobile app and online banking experience, providing clients with a secure, convenient person-to-person (P2P) payment solution.

"We're always looking for innovation that makes it easy for clients to manage their money, including making personal payments. Partnering with Zelle is an important step for us. It demonstrates our ongoing commitment to identify digital payment solutions that we know our clients want," said Jason M. Rudman, director of KeyBank Consumer Payments and Digital Banking.
The Zelle Network® includes banks and credit unions of all sizes. Zelle makes digital payments an easy, fast and safe alternative to checks and cash.

KeyBank Ranked #35 of "Top 50 Companies for Diversity" by DiversityInc

In recognition of its diversity and inclusion management, KeyBank has earned the #35 place on the 2018 DiversityInc "Top 50 Companies for Diversity" list. KeyBank was also ranked #13 on the "Top Companies for Diversity Councils" list.

This year marks the ninth time KeyBank placed on the Top 50 list and the fifth consecutive appearance on the DiversityInc "Top Companies for Diversity Councils" list.

"Leading and living our commitment to do business fairly and responsibly, and in ways that benefit us all, is part of our corporate fabric," said Beth Mooney, Chairman and CEO, KeyCorp. "KeyBank's diversity and inclusion efforts are fundamental to how we run our business and to our culture. We are proud to be recognized for the ninth time by DiversityInc for how diversity and inclusion are reflected in our workforce, our workplace, and our marketplace."

Community Invests in Local Communities

KeyBank recently released its 2017 Corporate Responsibility Report, highlighting progress in the areas of responsible banking, responsible citizenship and responsible operations. Included in the report are the first year results of the five-year National Community Benefits Plan, under which KeyBank invested $2.8 billion in communities. KeyBank executives said the investment exceeded the goals for 2017 by 21% and represents a strong start for the five-year plan.

In the first year, KeyBank across its 15-state footprint invested more than $1.9 billion in community development projects; originated $390 million in small business loans to low-to-moderate borrowers and/or in low-to-moderate income neighborhoods; provided $443 million in mortgage lending to low-to-moderate income communities; and made $38 million in philanthropic investments.

In Utah, KeyBank invested more than $19 million in community development projects; originated more than $45 million in small business loans to low-to-moderate borrowers and/or in low-to-moderate income communities; and provided $61 million in mortgage lending to low-to-moderate income communities; and made nearly $300,000 in philanthropic investments. ■

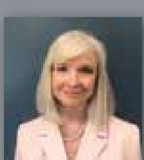
BANKERS ON THE MOVE

Melissa Bernson has been named branch manager by Bank of Utah and will lead operations in Brigham City. Bernson has worked in the financial industry for the past eight years, including Key Bank, US Bank and Wells Fargo.

Niki Christensen has been appointed to Chief Compliance Officer at Central Bank. Christensen is a Certified Regulatory Compliance Manager and has more than 6 years of experience working as an Internal Auditor specializing in compliance.

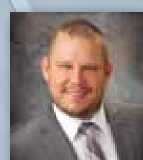
Brian Gurney has been promoted to Senior Vice President of Operations at Central Bank. Gurney is a Certified Public Accountant and has worked in the banking industry for more than a decade. He previously served as the Chief Compliance Officer and Senior Internal Auditor at Central Bank. With such expertise, Gurney will contribute greatly in his new role as Senior Vice President of Operations.

Eric Heaton has been with State Bank of Southern Utah since February of 2009 as a loyal, dedicated Commercial Lender and Area Manager. For his outstanding contributions to the Bank's goals every year, Eric was named Commercial Lending Senior VP in December 2017. We look forward to many more years of Eric's leadership at the Bank.



Kathleen Johnson retired from Central Bank after 43 years of service. Johnson served in various operational banking capacities in her time at Central Bank, including the role of Senior Vice President of Operations. Over the last four decades, Johnson has amassed a wealth of knowledge and experience in the banking industry and her presence will be missed at Central Bank.

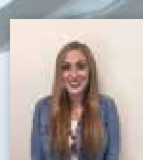
Jordan Porter joined State Bank of Southern Utah in February 2018 as Branch Operations Manager in our Richfield branch. Jordan's previous experience as a Personal Banker will greatly benefit State Bank's efforts to build strong relationships with the community in Richfield.



Rob Smith has been named branch manager by Bank of Utah and will manage the Roy, Utah branch. Smith has served as a vice president and branch manager at both Chase Bank and U.S. Bank and as branch manager and district manager for CitiFinancial, where he served for 10 years.

Aaron Walker has joined Bank of Utah as a financial advisor. Walker attended BYU and Boise State and is a 15-year veteran in the financial industry. He has received numerous awards including reaching in the top ten percent in productivity and for providing exemplary service. Community service includes Junior Achievement school programs, volunteering for the Jordan School District for their career day and teaching financial literacy to children.

Jillian Weadock, an experienced personal banker, has been appointed by Bank of Utah to serve on the treasury management team in the locally-owned bank's Orem branch. Weadock has worked for more than five years in the banking industry including serving as a personal banker at Wells Fargo Bank, and as an assistant manager and personal banker at Chase Bank in Tucson, AZ. Weadock attended Westchester Community College in New York.



Meagan Wiens joined State Bank of Southern Utah in January as Branch Operations Manager in our Santa Clara branch. Meagan has been in banking since 2011 and has worked in a variety of branch roles, from Teller to Branch Manager. Her knowledge and experience in banking will be vital in serving the Santa Clara and Ivins communities.

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UPCOMING DEVELOPMENT PROGRAMS

Professional development plays a vital role in banking today. When bankers are well-trained for their jobs, everyone wins -- the bankers, their banks, shareholders and, of course, customers. Statistics show that a well-trained and educated staff results in higher productivity and a happier and more content workplace.

The Utah Bankers Association strives to meet members' growing needs through a variety of educational offerings. We bring ease of use with our many webinars and online courses while still providing valuable networking opportunities with our conferences, seminars and development programs.

Commercial Lending Development Program (CLDP)

Registration is open for the 2018 Commercial Lending Development Program (CLDP). This 4-month course emphasizes the entire commercial loan life cycle and provides participants with current lending approaches, an updated focus on key analytics and regulatory issues. Students will improve their credit and marketing skills as a result of this training, learning best practices by participating in case studies and learn from first-hand from industry executive speakers.

The program includes eight classes, meets twice month and runs from September to December.
Classes start September 4, 2018.

For complete details and to register, go to www.uba.org or call Becky Wilkes 801-214-7724

2018 UPCOMING EVENTS

2018 FDIC Directors' College Program

The Utah Bankers Association is pleased to once again partner with the FDIC to present the 2018 Directors' College program, an interactive one-day seminar to provide ongoing education to bank directors and officers on current topics and various elements of bank supervision.

This year's Directors' College will focus on risk in your business model and how to manage and innovate during times of change. This will include balance sheet and capital issues, banking technology changes, consumer compliance and BSA requirements, regulatory and legislative updates, and local economic conditions. The program will be led by seasoned risk management and compliance field examiners, case managers, and supervisors with experience throughout the San Francisco Region in all types of economic environments.

Date: August 2, 2018
Time: 8:30 AM – 4:30 PM
Location: Wasatch Retreat Center, Salt Lake City

PERSPECTIVE.

The COMMERCIAL LENDING AND BANKING GROUP at Jones Waldo recently closed the following types of transactions:

- Construction loans for office, retail, medical, hotel, apartments and mixed-use condominium developments
- Real estate acquisition loans
- Corporate credit facilities
- Affordable housing tax-credit construction loans
- New market tax-credit construction loans
- Ski resort financings
- Asset based acquisition loans
- Credit provider representation for credit enhanced bond financings
- Syndicated real estate and corporate financing transactions
- Real estate and corporate credit restructuring transactions
- Financial institution owned real estate sale transactions
- Judicial and non-judicial foreclosures
- Ongoing advice regarding bank regulatory compliance issues

Jones Waldo's commercial lending group provides the level of specialization and skill that comes only with seasoned professionals who represent both local and national clients.
To learn more call us at 801-521-3200 or visit our website at www.joneswaldo.com.

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