WEST VIRGINIA

BANKER

SPRING 2021

14
Fair Trade Banking Presents Opportunities for Small and Regional Banks

16
COVID-19: Impact on Controls, Customer Service, Delivery and Hiring

30
Making a Case for Your Bank's Fintech Strategy

High-Performing Financial Institutions Have High-Performing Partners

Our Experience Will Guide Your Institution to the Next Level

- Investment Portfolio Services
- Balance Sheet Management
- Education
- Public Finance
- Strategic Planning
- Funding
- Bond Accounting and Analytics

Successful financial institution managers know the importance of achieving a *high-performance* plan. Establishing such a plan requires not only sound data and accurate information, but also an insightful partner; The Baker Group is that partner.

Leaders in innovation. The Baker Group remains the industry leader when it comes to innovation. We are truly a one-stop shop that never outsources our customizable reporting services. To find out how The Baker Group can assist your institution in defining and meeting its financial objectives, call your Baker representative or Ryan Hayhurst at 800.937.2257.

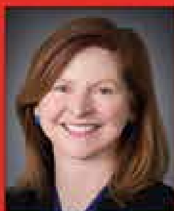
The Baker Group

Member: FINRA and SIPC

www.GoBaker.com | 800.937.2257

Oklahoma City, OK | Atlanta, GA | Austin, TX | Indianapolis, IN | Long Island, NY | Salt Lake City, UT | Springfield, IL

The Baker Group LP is the sole authorized distributor for the products and services developed and provided by The Baker Group Software Solutions, Inc.



For more information, contact:

Sandra Murphy
Banking Team Leader
smurphy@bowlesrice.com
304-347-1131

Julia Chincheck

Amy Tawney

Benjamin Thomas

Michael Proctor

Elizabeth Frame

Floyd Boone

Government Relations Team

Tom Heywood
Managing Partner

Mark Adkins

We Find Solutions

The Bowles Rice Banking Team is dedicated to helping West Virginia banks unscramble the legal issues that are important to them.

Our banking clients know they can count on us to anticipate and understand their business concerns and legal needs. In addition to our Banking Team, nearly 50 other experienced Bowles Rice lawyers regularly assist banks across our region with matters including mergers and acquisitions, fintech, litigation, real estate, trusts, employment issues and executive compensation.

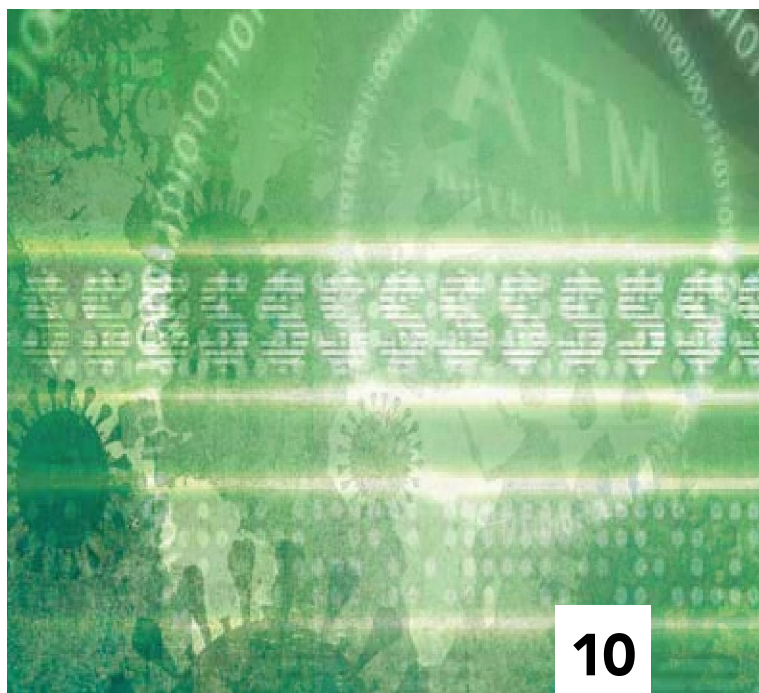
Bowles Rice

bowlesrice.com | 1-855-977-8727

Follow us on Twitter:
@BowlesRice | @bowlesbanklaw | @creditors_law

Responsible Attorney: Tom Heywood
600 Quarrier Street • Charleston, WV 25301

CONTENTS



The West Virginia Banker magazine was recognized with an Award of Distinction in the Overall Design Category.
The Communicator Awards are the leading international creative awards program honoring creative excellence for communication professionals. Founded over two decades ago, The Communicator Awards are an annual competition honoring the best in advertising, corporate communications, public relations and identity work for print, video, interactive and audio. The 24th Annual Communicator Awards received over 6,000 entries from top ad agencies, interactive agencies, production firms, in-house creative professionals, graphic designers, design firms, and public relations firms around the world.

5 **A Message From the Chief Executive: How's Your Association Doing?**
By Sally Cline

6 **community CORNER**

8 **Alan Brill: The CEO of Capon Valley Bank Retires**

10 **COVID-19 Turns One: Lessons Learned From a Global Health Crisis**
By Rob Nichols, President and CEO, American Bankers Association

12 **Protecting Your Most Valuable Assets: How Employee Noncompetition, Nonsolicitation, and Nondisclosure Agreements Can Be Applied in the Banking Industry**
By Pamela J. Ferrell, Bowles Rice

14 **Fair Trade Banking Presents Opportunities for Small and Regional Banks**
By Alexander L. Turner, Spilman Thomas & Battle, PLLC

16 **COVID-19: Impact on Controls, Customer Service, Delivery and Hiring**
By Andrew Shear, Arnett Carbis Toothman LLP

18 **Core Processing: Tips for Selecting Your Next Vendor**
By Greg Schratwieser, ICI Consulting

22 **PPP Round Two and Beyond**
By Matthew Kingery, Lewis Glasser, PLLC

26 **Forbearance Expiry Expectations**
By Andrea F. Pringle, The Baker Group

30 **Making a Case for Your Bank's Fintech Strategy**
By Adam Thomas, Dixon Hughes Goodman LLP

34 **Calendar of Events**

©2021 The West Virginia Bankers Association | The newsLINK Group, LLC. All rights reserved. West Virginia Banker is published four times each year by The newsLINK Group, LLC for the West Virginia Bankers Association and is the official publication for this association. The information contained in this publication is intended to provide general information for review, consideration and education. The contents do not constitute legal advice and should not be relied on as such. If you need legal advice or assistance, it is strongly recommended that you contact an attorney as to your circumstances. The statements and opinions expressed in this publication are those of the individual authors and do not necessarily represent the views of the West Virginia Bankers Association, its board of directors, or the publisher. Likewise, the appearance of advertisements within this publication does not constitute an endorsement or recommendation of any product or service advertised. West Virginia Banker is a collective work, and as such, some articles are submitted by authors who are independent of the West Virginia Bankers Association. While West Virginia Banker encourages a first-print policy, in cases where this is not possible, every effort has been made to comply with any known reprint guidelines or restrictions. Content may not be reproduced or reprinted without prior written permission. For further information, please contact the publisher at 855.747.4003.

By Sally Cline

How's Your Association Doing?

Pretty good, actually. Although COVID-19 significantly impacted our professional development and other event programs, the association turned to a virtual delivery system where possible and made the best of a very challenging situation.

The West Virginia Bankers Association boards and its for-profit subsidiary receive regular updates on the association's operational and financial well-being. Because we are a member-based association, it is important to occasionally share the "state of the association" with all the members.

Your association continues to perform well, is financially strong, and managed to make a small profit last year despite having to cancel Banking School in May 2020, the Annual Convention in July 2020, and several professional development conferences due to the global pandemic. We continue to be successful by focusing on improved operational efficiencies, reduced and controlled overhead expenses, and a renewed attention on the for-profit subsidiary. Successes in each of these areas resulted in board approval to decrease the 2021 dues assessment rate by 10% and a $5,000 reduction in the dues cap, or the maximum amount of dues paid by any member bank. The last decrease in the dues assessment rate was in 2018, when we realized a significant reduction in occupancy expense by relocating our headquarters from downtown Charleston to Kanawha City.

Operational efficiencies have been realized by moving from an in-house IT system to an outsourced managed service solution, allowing staff to focus attention on our core objectives of professional development, advocacy and communication. The IT vendor selected through an RFP process has the experience and depth to deliver what we need to keep our operating systems protected and performing well and allow us to operate more efficiently, both in terms of work processes and costs.

A renewed emphasis has also been placed on our for-profit subsidiary. The company was formed in 1999 to develop, maintain and provide access to high-quality products and services that benefit our member banks and support day-to-day bank operations. The corporation is governed by a board of directors responsible for screening and approving vendors that best meet association members' needs. All endorsed partners must demonstrate the benefits of aggregated buying power, direct member discounts, expense reduction and revenue enhancement to receive our seal of approval. Since 2016, the board has approved four companies' endorsements and the for-profit's gross revenues have increased 163%. I encourage all bank members to reach out to any staff member to learn how our endorsed solutions can benefit your bank.

Another initiative is the Jan. 1, 2021, launch of the Multiple Employers 401(k) Plan. Including your association, four member banks elected to join at startup. With the assistance of our third-party service providers, the association has been able to design a first-class retirement solution that provides benefits to participating banks and their participating employees. Benefits to participating banks include fiduciary risk mitigation, leveraged buying power, and reduced administrative burden while participating employees enjoy attractive benefits and a higher level of service to achieve their retirement goals.

Advocacy on behalf of the industry is, and always will be, a top priority of your association. Since 2016, the association has sponsored 17 bills favorable to the banking industry, only one of which did not pass. Our success is largely due to increased participation by West Virginia bankers in grassroots activities such as our annual Legislative Day event and Calls to Action. Legislative successes are also attributed to increased participation in WVBankPAC, the association's political action committee. Contributions to WVBankPAC continue to grow, 45% since 2016, and we could not be more thankful. WVBankPAC allows us to directly contribute campaign dollars to those legislative candidates who are pro-business, pro-growth, and understand the importance of a strong banking industry.

Looking back over my four-year tenure as your association's CEO, I am proud of our accomplishments. I am also aware that to stay on a path of success, the association must be nimble and willing to change with membership change amid an industry that continues to consolidate and grow geographically. Our future success will depend on our ability to recognize and create a value proposition that changes with member needs. With the support and direction of the board of directors, I believe we are up to the challenge.

It is an honor to serve this great industry, and I look forward to visiting with each of you soon. ■

CALHOUN BANKS

VP Bruce Fitzwater presents the Calhoun County EMS with Tudor's and Gino's gift cards for each employee as a thank you for their hard work!

Christy Hacker, assistant retail manager, is presenting the Gilmer County EMS with their Tudor's and Gino's gift cards!

Where would we be without the people who fill our prescriptions? Thank you for all you do! (Walgreens in Glenville, West Virginia)

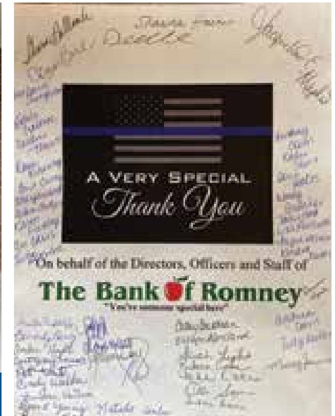
Regina Jones, retail manager, presents the Wirt County EMS with their "lunch on us" envelopes!

Regina Jones presents the Wirt County Health Department with gift cards from Calhoun Banks!

Calhoun Banks donated over 350 $10 Tudor's and Gino's gift cards to various essential businesses in our communities. The cards read, "Thank you for all your hard work. Please enjoy lunch on us!"

THE BANK OF ROMNEY

Sharon Hallmark, Shawna Haines and Jacqueline Maphis thank a local law enforcement officer



Thank you card

Jacqueline Maphis, Shawna Haines and Cindy Walker with Hampshire County sheriff's officers

Tracy Orndorff, branch manager, with a local law enforcement officer

Natale Crabtree, branch manager, with a local law enforcement officer

The Bank of Romney and its employees observed National Law Enforcement Appreciation Day by thanking local officers. By combining employee donations with that of the bank, employees donated gift cards and a small gift to all area law enforcement officers.

Bank employees enjoyed delivering the gifts. Bookkeeping Manager Sharon Hallmark, who led the effort, said, "the biggest shoutout goes to my colleagues, who stepped up to show our appreciation to the brave men and women protecting us."

PEOPLES BANK

Since the start of the pandemic in Vienna, West Virginia, Peoples Bank associates who donate to local foodbanks have been allowed to wear jeans to work. In 2020, Peoples Bank associates donated $116,055 to food banks across West Virginia, Ohio and Kentucky. In West Virginia, donations went to Facing Hunger Foodbank and Mountaineer Foodbank.

The sunset photo is at the Parkersburg Memorial Toll Bridge. Peoples Bank covered the daily toll cost for all travelers one day in November to thank the Mid-Ohio Valley for their support.

JEFFERSON SECURITY BANK

Betsy Gambino, Director of Strategic Partnerships for WVU Medicine East, accepting the cookies from JSB.

Jefferson Security Bank showed their appreciation for local healthcare heroes by surprising the staff at WVU Medicine Berkeley Medical Center with sweet treats from The Best Cookie.

CLEAR MOUNTAIN BANK

A group of employees from Clear Mountain Bank volunteered for their Clear Mountain Cares Day to help Food for Preston during their monthly food distribution event.

Joe Sadlek helps pack food bags for the Scott's Run Settlement House backpack feeding program, which provides food for children in Monongalia County each week so that they are not hungry over the weekend.

Kaleb Athey volunteers with Monongalia County Literacy Volunteers by installing, maintaining and restocking book boxes that are placed around Preston County. The boxes hold books for people to take or leave for others to read.

Clear Mountain Cares is a program at Clear Mountain Bank that gives each employee one paid day off to volunteer for a cause of their choice. ■

Alan Brill

The CEO of Capon Valley Bank Retires

In the 45 years that Alan worked here, he has been the CEO for 20 of those years. He has guided us through some difficult years in a very steadfast way. There were some economically challenging years for community banks, but Alan kept his head down and went to work. There's a lot to be said for that. Many others may have reconsidered their choice of careers — in fact, many did. But Alan never wavered, and as a leader, that was key. He was steady, so we were steady.

Alan Brill, longtime CEO of Capon Valley Bank, retired in December 2020. Recently, WVBA had the opportunity to visit with Michael McDonald, colleague, heir-apparent, and friend of Alan's to talk about Alan and his contributions to Capon Bank and the local banking industry.

Where is Alan from?

He grew up in Hampshire County, and has lived on the same farm where he grew up all of his life.

When did Alan begin his banking career?

He started here at Capon Valley Bank 47 years ago — in 1973 — working part-time as a teller, and eventually moved up to CEO. It's an astounding career trajectory really if you think about it. I believe that it says a lot about his character and philosophy about doing what needs to be done and looking for the opportunity to learn and grow. Wherever there was a need, he stepped in and filled it.

Tell us about Capon Valley Bank?

The bank started in 1918 as a community bank. We joined a holding company with another bank back in 1987. We've grown over the years from our one main office to five branches; three in West Virginia and two in Virginia.

If you could describe Alan in three words?

Well, that's tough. There's a lot of wonderful words that come to mind when you think about Alan. But for a start, I would describe him as loyal, steadfast and intelligent. He's a sharp guy. And determined.

He was always the constant activist for community banking. He wants community banks to be successful, and he always worked in that direction. He had a strong belief that community banks keep their communities healthy and thriving.

Alan was always willing to be a part of what was happening; he was never a spectator. His engagement was remarkable.

After 45 years at Capon Valley Bank, what are a few things that stand out in Alan's career?

Since he partially retired, he'd often comment about how much he enjoyed his career. He enjoyed the camaraderie of the bank, from coworkers to customers.

It wasn't just a job — it was his life, which is remarkable. We have a really fun group; there's a lot of good humor in the bank. You know, over the years, people leave for other career choices, people retire, and of course, their contributions linger, but in Alan's case, his heart and soul have been here for so long that I believe that he will leave a culture behind that we will work hard to keep.

Alan has served on the boards of the Community Bankers of WV and the WV Bankers Association, as chairman of both organizations. He also served a three-year term as board member of the Federal Reserve Bank of Richmond from 2011 to 2013. He has been active in the Chamber of Commerce for Hampshire County, Hardy County Community Foundation, Region 8 Planning & Development Council, and as a board member of Cacapon & Lost Rivers Land Trust.

What are some of the things that stand out about Alan's career?

In the 45 years that Alan worked here, he has been the CEO for 20 of those years. He has guided us through some difficult years in a very steadfast way. There were some economically challenging years for community banks, but Alan kept his head down and went to work. There's a lot to be said for that. Many others may have reconsidered their choice of careers — in fact, many did. But Alan never wavered, and as a leader, that was key. He was steady, so we were steady.

Alan has served on the boards of the Community Bankers of WV and the WV Bankers Association, as chairman of both organizations. He also served a three-year term as board member of the Federal Reserve Bank of Richmond from 2011 to 2013. He has been active in the Chamber of Commerce for Hampshire County, Hardy County Community Foundation, Region 8 Planning & Development Council, and as a board member of Cacapon & Lost Rivers Land Trust.

We were in Washington, D.C. a few years back for a meeting. I was driving and Alan was the navigator. What struck me was that as he was navigating, it wasn't just about the next turn or the next traffic light; it was about the next two. I was struck by how easy it was to drive through unfamiliar territory when you have someone who is good at navigating to guide you through. Alan can guide me through anything, and I suspect that I am not the only one who feels that way about him.

What have you learned from Alan?

When times get tough, I will emulate Alan. He's a great example of a leader for me. There's strength in just showing up and doing the job. I think one of the things that stands out about Alan for me is that he is present. Wherever he is, there he is. When he engages with anyone or any situation, he is focused and present, which is a gift, and people know it.

Tell us about Alan's family?

He is very much a family man: two sons, a daughter, four grandchildren. A big highlight of his life is those grandkids. He loves to be with them. He also loves Sunday family dinners.

He likes to be active outdoors. No matter how busy things were at the bank, he always had time for his family. I need to emulate that. I don't want to miss anything, and Alan was a great mentor when it came to the ability to know what was important and when. I think that is probably the biggest testament to Alan Brill — he has the ability to recognize what is important and the strength of character to go all in. Those of us that worked with him knew it, and so did his customers. ■

COVID-19 Turns One: Lessons Learned From a Global Health Crisis

By Rob Nichols, President and CEO, American Bankers Association

As impossible as it is to believe, we have been living in a global pandemic for an entire year. What began as a headline from a distant corner of the world quickly became a worldwide health crisis that continues to wreak havoc on our way of life and has, unfortunately, claimed the lives of too many of our fellow citizens.

As I reflect on the last 12 months and the incredible changes that occurred virtually overnight to keep our society moving in the face of perilous uncertainty, I am filled with a deep sense of pride in how the banking industry stepped up to help make that happen. It speaks to the "can-do" spirit of America's two million bank employees that as the world was shutting down and daily routines were being upended, bankers embraced their role as economic first responders and got to work extending aid that helped keep individuals and businesses afloat.

With vaccines now being rolled out to certain groups, we are anxiously awaiting the day when we can finally return to some semblance of a normal life. But achieving herd immunity from the virus will take time, and as we prepare to mark one full year of quarantines, social distancing and face coverings, I'd like to offer a few observations.

Our financial system is resilient. After the last financial crisis, banks worked diligently to increase safety and soundness and manage risk more effectively. The post-2008 reforms were intended to help banks better absorb financial shocks — and the success of those reforms was borne out in the crisis response. It was widely acknowledged, by everyone from the Financial Services Committee Chairwoman, Maxine Waters (D-Calif.), to the Federal Reserve Chairman, Jerome Powell, that banks performed well and were part of the solution to the coronavirus crisis.

Thanks to the strength of our financial system, there is reason to be hopeful for the economic recovery. In fact, the top economists at some of the nation's largest banks who serve on ABA's Economic Advisory Committee agree that we could see growth topping 4% in 2021. We must, of course, temper that expectation with the knowledge that the recovery will likely be uneven, and that labor markets could lag behind overall growth, given the massive job losses that occurred. That's why, going forward, our advocacy for pro-growth policies will be more important than ever.

The digital revolution has been rapidly accelerated. Banks were already well on their way toward digital transformation before COVID-19. But the pandemic provided a push to bank customers who may not have fully embraced digital banking to do so in earnest. That will accelerate the digital transition even further, and will surely lead to efficiencies for banks down the road. The robust digital banking landscape also bodes well for financial inclusion — the ability to remotely access banking services will enable a broader set of customers to take advantage of the full panoply of financial tools and resources at their fingertips.

The relationships with our state associations are critical. From the earliest days of the pandemic, state associations played an instrumental role in analyzing and disseminating information that bankers needed to make PPP loans, facilitate economic impact payments and continue operating amid constantly changing health and safety guidelines.

With the help of our State Association Alliance partners, we delivered free resources to ABA members and nonmembers alike — including 33 free webinars, operational aids, crisis communications toolkits, scientific analyses and more — recognizing the importance of helping all banks weather the crisis.

Through weekly calls — and sometimes daily calls — there was a continuous flow of information and feedback between ABA in Washington and all 50 states. This collaboration was vital as policymakers worked to calibrate and re-calibrate rules and regulations implementing the first CARES Act. I have no doubt that this engagement will continue now that a second stimulus has been passed and a third package could soon follow.

These are just a few takeaways from this historic period. In the years ahead, I'm sure there will be even more robust lookbacks and more lessons that can be extrapolated from the coronavirus crisis. And the result of all of that learning, I hope, will only serve to make us stronger, safer and even more prepared for the future. ■

Rob Nichols is the president and CEO of the American Bankers Association, which represents banks of all sizes and charters and is the voice for the nation's $20 trillion banking industry. Rob joined ABA in August 2015 following 10 years at the helm of the Financial Services Forum, a non-partisan financial and economic policy organization. Before joining the forum, Rob served in the George W. Bush administration as the assistant secretary for public affairs at the Treasury Department, a position requiring confirmation by the United States Senate. Contact American Bankers Association at 1-800-226-5377 or support@aba.com.

Deep Banking Expertise + Relationships

Beth Bumgarner
bbumgarner@suttlecpas.com

Erica Fuller
efuller@suttlecpas.com

Kelly Shafer
kshafer@suttlecpas.com

Chris Deweese
cdeweese@suttlecpas.com

Natalie Luppold
nluppold@suttlecpas.com

Banking Expertise

Not all accounting firms are created equal. Our personal approach + deep banking expertise helps your bank meet its challenges. Visit us online to learn more about our internal and external audit services and bank consulting services.

Suttle & Stalnaker PLLC
Certified Public Accountants

www.suttlecpas.com

Morgantown
304-554-3371

Charleston
304-343-4126

Parkersburg
304-485-6584

Protecting Your Most Valuable Assets:

How Employee Noncompetition, Nonsolicitation, and Nondisclosure Agreements Can Be Applied in the Banking Industry

By Pamela J. Ferrell, Bowles Rice

A bank's employees, clients, and trade secrets are among the most crucial assets that help keep it profitable. Financial institutions must know the best ways to protect those assets.

Some of the most popular tools for protecting these important resources are employee noncompetition, nonsolicitation, and nondisclosure agreements. Depending on each employee's role within the company, a financial institution may benefit from having some or all of these agreements in place.

But how do these agreements differ from one another, and how likely are they to be enforced?

Noncompetition agreements are intended to protect an employer's investment in training and to develop an employee. Of the three types of agreements discussed herein, noncompetition agreements tend to be the most difficult to enforce. In West Virginia, an "anticompetitive covenant" will only be upheld if it is "supported by consideration, ancillary to a lawful contract, and both reasonable and consistent with the public interest." Although some states consider continued employment sufficient to enforce a noncompetition agreement, West Virginia requires additional consideration, such as some alteration in salary, benefits, or conditions or terms of employment. Notably, however, new employment will typically meet West Virginia's test for adequate consideration.

In West Virginia, an employee covenant not to compete must be reasonable in time and area limitations. It must be to protect an employer's business — not to intimidate employees from leaving. Typically, these types of agreements are

The key test for whether a noncompetition agreement is enforceable is reasonableness. In particular, courts will consider the employee's role, the reasonableness of time, geography, and scope limitations and whether the employer can show a legitimate business interest in enforcing the agreement.

more effective for officer and executive-level positions but less applicable to roles that do not require highly specialized knowledge or skills.

The key test for whether a noncompetition agreement is enforceable is reasonableness. In particular, courts will consider the employee's role, the reasonableness of time, geography, and scope limitations and whether the employer can show a legitimate business interest in enforcing the agreement.

The next type of agreement that employers may use is a nonsolicitation agreement. Whereas a noncompetition agreement restricts the employee from engaging in business similar to that of the employer within a designated time and territory after the employment ceases, a nonsolicitation agreement restricts the employee from soliciting the employer's customers or making use of the employer's confidential information. These agreements are generally intended to protect client lists and customer relationships. Because nonsolicitation agreements ordinarily do not include territorial limits, West Virginia courts view these agreements as less restrictive on the employee and less restrictive on the economic marketplace. Accordingly, these agreements tend to be a little easier to enforce. For a nonsolicitation agreement, the agreement to be enforced must protect a legitimate business interest, be reasonable, and not unjustly restrict the employee from engaging in business activity that the employee seeks to pursue.

The final type of agreement that employers commonly use to protect their business interests are nondisclosure agreements. These agreements are intended to protect a business's confidential information, such as trade secrets, methods of operation, names of customers, price lists, financial information and projections, personnel data and similar information. Notably, to be enforceable, these agreements must prohibit the sharing of only nonpublic information. Information that is publicly available or can be independently developed will not usually meet the threshold.

While noncompetition agreements should typically be reserved for specialized employees, nondisclosure agreements should be strongly considered for all levels of employees. As long as an employer can prove that an employee or former employee received confidential information, and as long as the employer makes an effort to keep the information confidential, these agreements are generally enforceable. Where an employer itself publicly releases once-confidential information, it would not be entitled to enforce an employee to keep the same information confidential.

Because nondisclosure agreements are easier to enforce, an employer seeking to use a noncompetition or nonsolicitation agreement should always also use a nondisclosure agreement for the subject employee. That way, even if certain provisions of the agreements cannot be enforced, it is likely that the employer would still be able to protect its confidential information. Furthermore, nondisclosure agreements may be used in conjunction with services offered by a contractor, vendor, or other third parties when confidential or sensitive information is being shared within the contractual relationship's scope.

In deciding which of these agreements to use with an employee, a financial institution should consider several factors. The financial institution should consider the employee's role; specifically, the employee's access to customers and confidential information. A financial institution should also consider the competitive footprint of its region. For some employees, a nondisclosure agreement may be sufficient. However, for other employees, a financial institution may consider utilizing all three forms of restrictive covenants to protect its personnel investments, customer relationships and confidential information. ■

Pamela J. Ferrell is a partner with the regional law firm Bowles Rice. Practicing from the firm's Parkersburg office, she focuses on labor and employment law, litigation and regulatory matters. Contact Mrs. Ferrell at (304) 420-5590 or pferrell@bowlesrice.com.

Fair Trade Banking Presents Opportunities for Small and Regional Banks

By Alexander L. Turner, Spilman Thomas & Battle, PLLC

Recently, we have seen a flurry of congressional and executive activity on the issue of nondiscrimination in banking. In October 2020, Senators Warren and Booker, along with other Democratic senators, introduced the Fair Access to Financial Services Act of 2020. This bill seeks to prevent discrimination in banking based on "race, color, religion, national origin, and sex (including sexual orientation and gender identity)." In November 2020, the Office of the Comptroller of the Currency ("OCC") issued a proposed rule to promote fair trade banking by prohibiting discrimination against customers who are members of legal but disfavored groups. The Fair Access to Bank Services Rule codifies more than a decade of OCC guidance advising that banks should conduct an individualized risk assessment of customers rather than making broad-based decisions affecting whole categories or classes of customers when provisioning access to services, capital and credit. The OCC finalized the Rule on Jan. 14, 2021, and it was scheduled to take effect on April 1, 2021.

One would anticipate that any guidance on nondiscrimination in banking and broadening access to financial services would be applauded and encouraged. Not so with the OCC's Fair Access to Bank Services Rule. On Dec. 4, 2020, Rep. Maxine Waters, on behalf of the U.S. House Committee on Financial Services, sent a letter to the incoming Biden administration requesting the Fair Access to Banking Services rescission rule. In response, the OCC, on Jan. 28, 2021, paused the publication of the Fair Access to Banking Services rule to "allow the next confirmed Comptroller of the Currency to review the final rule and the public comments the OCC received, as part of an orderly transition." It is anticipated that the rule eventually will be rescinded. The result is that most large banks will continue to refuse to work with members of legal but disfavored groups.

With large banks being placed under increasing pressure to abandon customers who are members of legal but disfavored groups, an opportunity presents itself for small and regional banks to begin a fair trade banking policy and enter this abandoned market. Fair trade banking is inherently nondiscriminatory because business decisions are based on individualized risk assessments of the customer's financial strength and not broad generalizations associated with the customers' membership in legal but disfavored groups. By promoting fair trade banking, small and regional banks may fear increased regulatory oversight. However, the outcome of Operation Choke Point would indicate otherwise.

In 2013, the FDIC, OCC, and DOJ launched Operation Choke Point. The operation placed several business categories,

With large banks being placed under increasing pressure to abandon customers who are members of legal but disfavored groups, an opportunity presents itself for small and regional banks to begin a fair trade banking policy and enter this abandoned market. Fairtrade banking is inherently non-discriminatory because business decisions are based on individualized risk assessments of the customer's financial strength and not broad generalizations associated with the customers' membership in legal but disfavored groups.

including firearms retailers and payday lenders, on the FDIC's "high risk" list. These industries were labeled "high risk" because members were allegedly more likely to engage in money laundering and fraud. The mere suggestion that certain customers were "high risk" and the extra audits and investigations that would come with continuing to do business with those customers resulted in many large banks unilaterally closing these customers' accounts. Whether Operation Choke Point was an officially sanctioned operation by regulators or the result of rogue bureaucrats' actions, the result was that most large banks abandoned members of legal but disfavored industries.

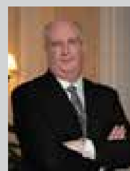
In response to Operation Choke Point, payday lenders and trade groups sued the FDIC and OCC for violating their due process rights. After considerable litigation, both the FDIC and OCC agreed to settle with the plaintiffs. Although the OCC agreed to settle, it disavowed any responsibility in relation to Operation Choke Point. As a requirement of its settlement, the FDIC was required to issue two statements clarifying its position on banks' ability to do business with members of legal but disfavored groups. In its first statement needed, the FDIC stated that:

- The FDIC encourages institutions to take a risk-based approach in assessing individual customer relationships rather than declining to provide banking services to entire categories of customers without regard to the risks presented by an individual customer or the financial institution's ability to manage the risk.

- Institutions that properly manage customer relationships and risks are neither prohibited nor discouraged from providing services to customers operating in compliance with applicable federal and state law.

- If an institution is not properly managing risks associated with deposit accounts, the FDIC may take supervisory action, including recommending or requiring termination of a deposit account. Such recommendations are not made through informal suggestions, and the FDIC will not criticize an institution's management of deposit accounts, or mitigation of risk, through informal suggestions. Any such examiner criticism must be made in writing in a supervisory Report of Examination (ROE). Recommendations or requirements for terminating deposit accounts must be approved in writing by the regional director before being provided to and discussed with an institution. Before including such findings in an ROE or pursuing supervisory action, the recommendations must be thoroughly vetted with the regional office and legal staff. The examiner in charge must include the supervisory basis for an account termination recommendation or requirement, including, if applicable, any specific laws or regulations the examiner believes are being violated.

The FDIC went on to state in its second statement that "certain employees acted in a manner inconsistent with FDIC policies with respect to payday lenders in what has generically been described as 'Operation Choke Point' and that this conduct created misperceptions about the FDIC's policies." The FDIC also made it clear in its second statement that "regulatory threats, undue pressure, coercion, and intimidation designed to restrict access to financial services for lawful businesses have no place at the FDIC." Having clarified its position, the FDIC ensured banks that engage in fair trade banking would not be subject to increased regulatory scrutiny. Therefore, with the suspension and the likely future rescission of the OCC's Fair Access to Bank Services Rule, small and regional banks can capitalize on the fact that many large banks do not want to work with legal but disfavored groups, and they can seize this opportunity without fear that doing so will increase regulatory action. ■



Alexander L. Turner is a member attorney at Spilman Thomas & Battle. He actively practices law in West Virginia, Virginia and North Carolina. He regularly represents financial institutions and loan servicers in a variety of consumer finance litigation. He can be reached at aturner@spilmanlaw.com or 336.955.8352.

COVID-19: Impact on Controls, Customer Service, Delivery and Hiring

By Andrew Shear, Arnett Carbis Toothman LLP

COVID-19 and the Future of Banking

It is apparent that 2021 and the future going forward is not going to be the same. But what does this really mean for banking? I would like to provide some considerations and thoughts (general and technical) on a few topics related to the future of banking and being prepared for crisis situations.

Internal Controls

Internal controls are critical to any organization, especially banks. To jump right into an example, file maintenance changes. When a change is made to a customer's account, an employee independent of the process is usually tasked with reviewing or verifying the change for accuracy to prevent inaccurate data from being inputted or fraudulent transactions from being committed. If an employee who would be tasked with reviewing these changes is out for an extended time, is there a backup properly cross-trained? What if that employee who is authorized to make the file maintenance changes is out as well, and someone not usually tasked with that has to step up? Is that backup properly cross-trained as well? If certain employees are out for an extended period and backups are not properly cross-trained, then the internal controls' front and back end have potential weaknesses. If the borrower calls and says, "my loan payment was applied incorrectly because my interest rate was not updated correctly" or "my loan due date was pushed back, but my loan is still showing as past due," is the control operating effectively?

File maintenance changes are just one example. This applies to every control at your bank; are backups properly cross-trained to effectively handle controls and processes at the drop of a hat or for an extended time? Will these controls and processes still stand up to an audit or an exam without criticism? COVID-19 has made us think about every possible possibility. Are the proper controls in place, including the effective cross-training and the proper hierarchy to handle employee absences without jeopardizing the overall control while still preventing the possibility of errors, fraud, and compliance issues?

Remote Banking

Remote banking and e-banking are certain to expand in the future, and many banks already have a head start. While some of these types of products may have been previously discussed, COVID-19 has certainly accelerated our thinking. I think I am like most people and had never heard of Zoom until about April of last year. So what is e-banking to your bank? Some questions to consider:

- What services are to be offered to a customer who does not want to go inside a bank building or even handle a deposit or withdrawal slip through a drive-thru?
- Is remote deposit capture the future for all businesses and consumers?
- Is your bank ready to offer these products from a financial perspective, from an IT/security perspective, and an internal control and policy perspective?
- What is the impact on the bank's disaster recovery plan and management succession plans? Are these plans updated to account for the times we are living in now and how business interactions and banking will differ going forward? Now is a good time to dive deep during the review of these plans and ensure they are adequate for the future.

What do your customers and borrowers really want? Not every online product or app feature has to be offered, but what are the main products your customers really want? E-signing for loans is another example. And once these products are established, who is to say your bank cannot open up your market and grow?

Hiring

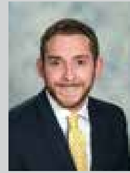
The need to go remote or work from home has not just changed the way we work or think about work, but it has changed hiring, too. This is not a consideration solely for banks but for all businesses. How can banks benefit from this? While not all positions can be done remotely full time, many positions can be done effectively remotely if the proper controls are in place and the technology and security at your financial institution allows it. What does this really mean? Before, hiring outside your market or state was not even a consideration or a remote possibility, but now hiring strong potential employees from outside your market or state may become commonplace for certain positions. Why cannot someone living in Virginia be a credit analysis employee at your bank in West Virginia? Loan files are electronic, right? If not, scanning loan files should be a top priority, now more than ever. They are likely independent and have no relation to the customers and businesses they are analyzing. While they may not live locally, management does still have the final say on approval and terms.

Employee Retention Credit (ERC)

To stay on the topic of employees, consider Employee Retention Credit (ERC). While the ERC does not necessarily apply to banks per se, it is certainly something that you should be aware of, as it can help your borrowers and customers. Providing your borrowers and customers with knowledge, one or more potential tax credits (more cash in their pockets) or any business advice is just a way to add another layer of value to the services you provide, building on that long-term relationship and trust. ERC is available to most businesses and nonprofits if they received PPP/PPP2 funds, had full or partial shutdowns due to a government order during 2020, and reduced gross receipts in 2020 compared to the same quarter in 2019. While there is more to this credit and eligibility, just having the conversation with your customers and borrowers and putting them in touch with the right professionals to help them is further adding to the value of relationship banking.

Where to Start?

These few topics are only the tip of the iceberg. Topics like these should be discussed by bank management and the board of directors on an ongoing basis, now more than ever. Does your bank have weekly meetings (or even a designation committee) that brainstorms these ideas, the future outlook of banking, and puts them into action or develops plans to address them? Now it is more important than before the pandemic to have a proactive approach. ■



Andrew Shear is a supervisor in the Financial Institutions niche of Arnett Carbis Toothman LLP, located in the Charleston, West Virginia, office. A certified public accountant and loan review professional, Mr. Shear has over five years of experience in external audit, internal audit, loan review, and compliance consulting in the financial institutions industry. Mr. Shear can be contacted at 800-642-3601 or through email at: Andrew.Shear@actcpas.com.

GEAR UP
FOR OPTIMAL SUCCESS
Compliance & Audit Services
Commercial Lending Solutions
Investment Services
Deposit Services
THE BANKERS' BANK OF KENTUCKY
Residential Mortgage Solutions
Payments and Settlement Services
Make this year a success with solutions powered by your Correspondent Banking Partner.
For more information contact your BBKY Account Executive or email solutions@bbky.com.
David Fletcher, Vice President
(304) 389-4431

Core Processing

Tips for Selecting Your Next Vendor

By Greg Schratwieser, ICI Consulting

Core processing and the associated fintech ancillary systems remains one of the top three costs within most banks. Core evaluations no longer involve the natural progression of rubber-stamping the incumbent vendor's renewal contract every five to seven years. When implementing "best of breed" ancillary solutions, organizations can become overwhelmed with these software decisions.

The complexity and far-reaching effects of signing a core processing vendor contract often lead to a great deal of internal stress. Many important buying strategies are often neglected or forgotten in the heat of the decision-making process. We have seen these areas overlooked even by multibillion-dollar institutions and the best-educated negotiators.

The following core negotiation strategies will help your bank negotiate the best price and ensure the best service.

Detail your Company's Requirements

As in any evaluation process, you must first start by documenting your requirements and workflow. It is imperative that the core processing vendor clearly understand your expectations, processing windows, volumes, specifications, etc. If the vendor does not precisely understand your requirements, this could lead to higher-than-expected prices and unattainable service levels. This first step of writing down your specifications will also act as the building block for your request for proposal (RFP).

Set a Realistic Decision Time Frame

As the old saying goes, "If you fail to plan, you plan to fail." We have observed multibillion-dollar institutions fail to set up a strict decision time frame. Organizations that randomly start and stop core processing evaluations waste significant resources and can cause other negative outcomes that include:

- The project can drag on for 12 to 18 months with little accomplished.
- Technology will change and thus cause the evaluation to start again from or near the beginning.
- After picking up and putting down the project information, the evaluation team will become either utterly confused about product features and functionality or waste time by continually re-educating themselves.

The best way to plan for a final decision date is to work backward from your desired live date. Daily distractions, "fires," vacation and sick time will arise during the decision period.

The key to success here is to build flexibility into your evaluation cycle but choose a decision date and stick to it.

Realistic time frames for processing decisions will vary amongst different organizations, depending on project dollar value, application, institution urgency level, reliability of existing core processing solution, etc. Ideally, the vendor selection process should allow your staff enough time to become educated on the technology industry's viable market alternatives.

Establish Decision Criteria

In the beginning, project goals and criteria should be established and refined throughout the evaluation cycle. These objectives are the foundation of your vendor selection and give the project direction. Some of the more common criteria are tied to the following:

- Software functionality and capabilities
- Price
- Projected organizational growth
- Cost justification or business case
- Existing and projected customer base
- Future product offerings
- Vendor service reputation, onsite parts or guaranteed response times
- Industry trends and how they match your criteria

RFI

There are over 70 different core processing options. The best advice here is to shop around. You can start the process by sending out an RFI (request for information) to seven or eight core processing vendors. By conducting preliminary core vendor presentations and obtaining some initial pricing, you can begin to narrow the field of core processing alternatives to the best four or five vendors that make sense for your organization.

Furthermore, if the core processing salespeople know that several viable competitors are involved in the selection process, they are more likely to offer additional services at a more competitive rate.

RFPs

In both the RFP and proposal presentation process, the keys to success are questions, questions, questions. “If you don’t ask for it, you won’t get it.” This phrase holds true for the core processing industry. We usually advise our clients to draft an RFP to answer many of these questions because the written word is much more binding than the spoken promise. When drafting an RFP, it is imperative to keep it short and to the point. Many qualified core processing vendors may have neither the time nor the staff to respond to a lengthy RFP.

The list of questions to ask are many and may include anywhere from 300 to 3,000 questions. In the RFP and proposal process, the following general areas should be addressed: experience, financial stability, workflow, turnaround, error rates and price per item.

Site Visit and Reference Call Questions

Once you have selected your final two vendors, we strongly recommend that our clients call and visit bank sites similar in size and customer base. When calling or visiting the sites pay careful attention to the following points:

- Observe day-to-day department operations
- Develop a list of specific deposit, data warehouse and lending questions
- What were the bank’s core decision criteria?
- Why did they select their core or ancillary system vendor?
- Is the system user-friendly?
- Is the vendor open to interfacing to third party products rather than just forcing you into one of their products?
- Did the vendor interface to all your third-party software? If not, which?
- Did the vendor thoroughly test the third-party software interfaces?
- Did any of your third party vendors have any issues with the way the vendor wanted them to interface with their core?
- Has it ever been necessary for the vendor to implement their disaster plan?
- How long did your conversion take? Was this in line with their stated expectations?
- Describe what you liked best about the conversion process.
- Describe any major issues you encountered during the conversion process.
- How did the vendor respond to these major issues that came up?
- Were you satisfied with the vendor’s training before conversion?
- Describe the training methodology and materials provided by the vendor.
- Did you receive post-conversion vendor support?

Continued on page 20

Continued from page 19

Negotiating Price

Price negotiation tends to be the most emotional part of the decision cycle for both buyer and seller. There are several important points to remember in this stage:

- Prices are rarely etched in stone and are usually negotiable. If you position your company from the beginning with an organized plan, you can secure the best price.
- Core processing salespeople are judged, promoted and often paid by the profit level that they can generate on a sale. Motivation is high to "close the deal." You can use this emotion in your favor.
- It is best to follow a logical process and keep your emotions at bay during the negotiation.
- "The large type giveth and the small print taketh away." Third-party interfaces can be very expensive during the negotiation and after implementation if there are workarounds, separate excel spreadsheets, labor-intensive processing and manual reports.

The Final Core Processing Agreement

Once there is an agreement on the final prices, a few last important points are considered. The length of the contract

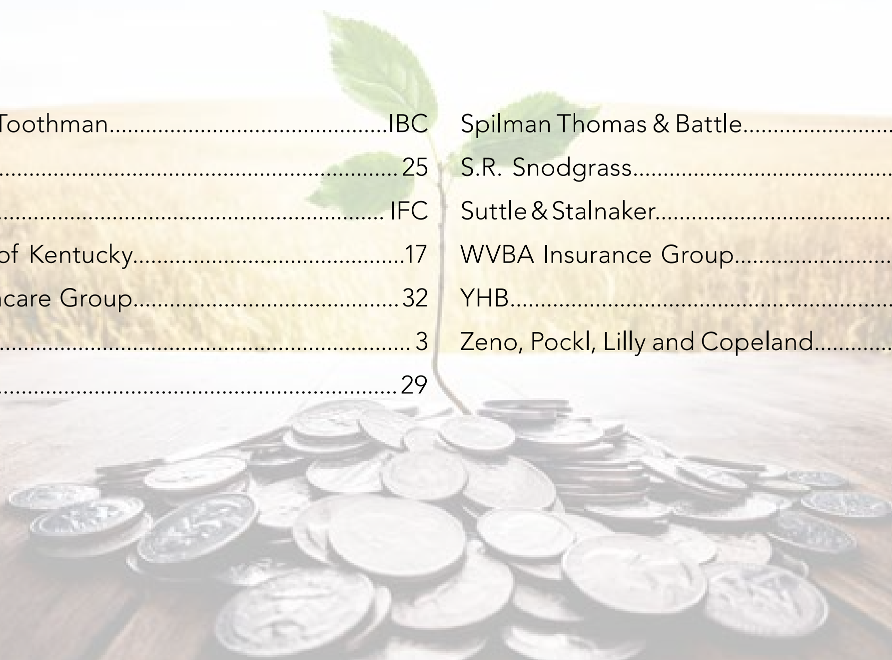
is very important as related to your organizations' long-term goals. For a longer-term contract, vendors will frequently offer lower prices with small annual inflationary caps. To protect your organization, you should attempt to put at least 40 to 50 additional terms and conditions, often with financial penalties, in the final contract. These contractual terms are imperative but often difficult to negotiate. ■

Greg Schratwieser founded ICI in 1994. Greg has over 35 years of experience in building client business cases, overseeing vendor evaluations, negotiating core contracts, and converting financial service applications. Greg's background has a strong emphasis on core processing and online banking and mobile banking deployment. He can be contacted at greg@ici-consulting.comor (800) 729-8237.

WEST VIRGINIA

BANKER

Advertiser Index



Arnett Carbis Toothman ..... IBC
ATM Solutions 25
Baker Group ..... IFC
Bankers Bank of Kentucky 17
Bankers Healthcare Group 32
Bowles Rice 3
Greenbrier 29
Spilman Thomas & Battle ..... OBC
S.R. Snodgrass 33
Suttle & Stalnaker 11
WVBA Insurance Group 24
YHB 28
Zeno, Pockl, Lilly and Copeland 21

CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Zeno, Pockl, Lilly and Copeland, A.C. (ZPLC) is a West Virginia based firm whose principals have spent most of their public accounting careers providing services to financial institutions. ZPLC possesses a great deal of experience, dedication, trust, and even more personality. We believe in providing exceptional service with a high level of personal attention!

Community-based financial institutions throughout West Virginia, Ohio, and Pennsylvania have relied on the principals of ZPLC for solutions to their audit, tax, and regulatory compliance needs for over 40 years. Each of the firm's founders has extensive experience in solving complex issues for community banks, collectively over 80 years of experience at your service. Over 20 such institutions have joined with us as we build upon our reputation as being a valued resource for the industry.

Whether you need assistance in the implementation of a complex financial reporting standard or a practical and efficient approach to internal auditing that can stand up to regulatory scrutiny, you can be secure in knowing that ZPLC professionals have the skills and the savvy on which you can rely. As members of the Private Companies Practice Section of the AICPA, as well as the PCAOB, we have extensive qualifications and experience to meet your audit service needs.

Contact us today if you need services in any of the following:

- Financial statement audits
- Internal audit outsourcing or co-sourcing arrangements
- Income tax planning and preparation
- Trust department examinations
- Regulatory compliance audits, including BSA, NACHA, OFAC
- Merger and acquisition assistance
- New bank formations
- Going public or going private transactions
- SEC reporting assistance
- Interest rate risk analysis

Michael A. Zeno, Principal

Mary C. Pockl, Principal

Timothy M. Copeland, Principal

980 National Road, Wheeling WV 26003 and
511 N. Fourth Street, Steubenville, OH 43952
304-233-5030 / www.zplcaccounting.com

PPP Round Two and Beyond

By Matthew Kingery, Lewis Glasser, PLLC

According to the U.S. Small Business Administration's 2018 Small Business Profile Report, U.S. small business accounts for 99% of the businesses in the U.S., and more than 47% of all U.S. employees. Small business has often been referred to as the backbone of the U.S. economy. It is no secret that COVID-19 has resulted in financial distress for many of these small businesses. The first round of the Paycheck Protection Program ("PPP") was designed to address the financial hardship created by the COVID pandemic and experienced by this hugely significant sector of the economy. Round two of PPP is here with the same goal in mind, but the program has undergone significant changes designed to infuse more deserving small businesses with the cash necessary to continue operations. As the Biden administration takes shape, more changes to COVID relief programs are sure to come. In fact, a new round of stimulus legislation was proposed on his second day in office and started making its way through the legislative process.

The first round of PPP provided short-term financial assistance to small businesses dealing with the impact of the COVID-19 pandemic. The program originated in Congress in March 2020 as part of the Coronavirus Aid, Relief and Economic Security Act ("CARES Act"), and was intended to guarantee eight weeks of payroll and other costs to help those businesses remain viable and allow their workers to pay their bills. The PPP Flexibility Act of 2020 relaxed many PPP loan guidelines. The original deadline to apply for a PPP loan was June 30, 2020, but was extended through Aug. 8, 2020, by legislation signed on July 4, 2020.

As stories came to light of certain companies receiving PPP funding, like Kanye West's Yeezy clothing brand, Treasury implemented a rules change; it became necessary to demonstrate that firms applying for PPP loans did not have access to alternative streams of capital. Potential criminal liability also led to roughly 30% of businesses that had collected PPP funds to return them. This potential criminal liability also had the secondary effect of causing firms otherwise eligible for funds to back away from the program.

This is not to say that there are not numerous success stories associated with the first round. As many readers of this article can attest, even though the initial round was flawed, PPP was critical to many small businesses and kept the doors open in many of these firms. One study of small business professionals

On Dec. 27, 2020, President Trump signed legislation approving a $900 billion COVID-19 relief package, the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act ("Act"). In addition to long-awaited stimulus checks for Americans, the Act assists small businesses mainly by revamping the PPP.

showed that in the spring of 2020, 43.2% of small businesses that received first-round PPP funds felt they would survive over the long haul as a result of receiving those funds. However, this data was gathered before the second surge triggered many business closings.

On Dec. 27, 2020, President Trump signed legislation approving a $900 billion COVID-19 relief package, the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act ("Act"). In addition to long-awaited stimulus checks for Americans, the Act assists small businesses mainly by revamping the PPP. The second round of PPP made an additional $284.5 billion in economic aid available, with $137 billion set aside for "second-draw" loans for firms that need help beyond their initial loan. The legislation that created the second round of federal funds for small businesses seeks to clean up some of the problems experienced in round one by limiting access to businesses that can demonstrate a hardship.

The Act changed PPP in three primary ways. First, the Act changes the PPP rules for existing PPP loans, new PPP loans and PPP second draws. These rule changes affect the areas of eligibility, allowable expenses, forgiveness and more. Second, the Act allows new PPP loan applications to be submitted by eligible applicants that never obtained a PPP loan. Third, the Act provides a "PPP second draw" for some businesses that have already received a PPP loan.

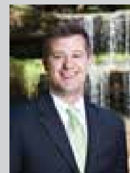
The SBA has issued a flurry of guidance implementing the Act. The increased funding and eligibility guidelines have added complexity to the PPP rather than simplifying the process. The forgiveness process has been made easier for businesses that use the majority of the money for payroll and makes the loans tax-free.

Before passage of the Act, borrowers that received an EIDL Advance (advances between $1,000 and $10,000) had that amount subtracted from their total forgiveness. The Act now provides that EIDL Advances will not reduce PPP loan forgiveness. The SBA has indicated that borrowers who have already received forgiveness may amend their forgiveness applications.

Also, Section 501(c)(6) not for profit organizations became eligible for PPP loans for the first time. These businesses are eligible so long as (1) they do not receive more than 15% of their receipts from lobbying activities, (2) lobbying activities do not comprise more than 15% of the organization's total activities, (3) the cost of lobbying activities did not exceed $1 million during the tax year ending Feb. 15, 2020, and (4) the organization does not employ more than 300 employees.

The Act also provides that borrowers in bankruptcy are eligible to apply for PPP loans. These loans are treated in the borrower's bankruptcy case as administrative claims and, to the extent not forgiven, must be paid in full in any Chapter 11 cases and are not subject to "cram down."

When this article was drafted, second-round PPP applications were well underway, but the new Biden administration was just taking shape. Recent news reports make it appear that further COVID stimulus will soon be approved. Financial professionals will be well served to pay attention to news coming from Washington to be prepared to advise their customers as existing programs continue to be modified and new programs are brought to bear. ■



Matthew Kingery is of counsel with Lewis Glasser, PLLC, in Charleston, West Virginia. Matt devotes his practice to commercial transactions, lender representation, commercial development, distressed assets and real property matters with an emphasis on title, acquisitions, sales and financing issues. Matt has been recognized for his work in the legal industry and community and has received numerous awards including being selected multiple times in Super Lawyers® in the practice area of real property law; named the 2010 West Virginia State Bar Young Lawyer of the Year; honored as a recipient of the 2009 Generation Next 40 Under 40 award by The State Journal; and named a Young Gun by the West Virginia Executive in 2017. He can be reached at mkingery@lewisglasser.com.

INSURANCE TAILORED FOR YOUR BANK

Financial Institution Bond
D & O
Cyber
Property & Casualty
Collateral Protection
Employee Benefits

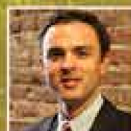
Sunset at Dolly Sods Wilderness, Monongahela National Forest, WV

WVBA INSURANCE GROUP

www.wvbins.com *We Know Banks*

WVBankers OFFICIAL PARTNER

Chuck Maggard
cmaggard@wvbins.com
cell 606.682.1950



Brandon Maggard
bmaggard@wvbins.com
cell 606.682.2769

Lisa Mattingly
lmattingly@wvbins.com
cell 502.377.4048

The Single Source Provider for ATM and Armored Car Needs

We are helping financial institutions drive efficiencies, lower risk and liability burdens, control cost and grow business. We deliver these benefits to you by competently and effectively providing the following end-to-end solutions:

- **Cash Replenishment / Courier Services**
- **First and Second line ATM maintenance**
- **ATM Management and Total Outsourcing** (We own and operate the ATM Fleet for you, including vault cash and transaction processing)
- **ATM Rentals** (Events like county fairs, festivals, etc.)
- **ATM, ITM, TCR Sales/Service**
- **Smart Safe Program** (Remote Deposit Capture for Cash)

Over the years ATM Solutions has evolved into a leading provider of turnkey solutions. These solutions combined with owning and operating our own armored fleet create a uniquely good experience for your customers, and employees alike.

ATM Solutions Inc. One Source, One Solution

Frank Peagler | 724-771-3213 | frank.peagler@atm-solutions.com | www.atm-solutions.com

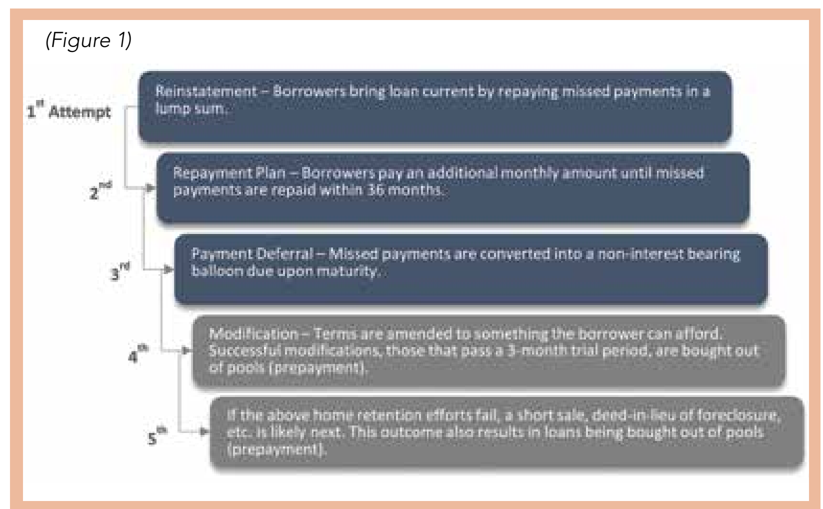
Forbearance Expiry Expectations

By Andrea F. Pringle, The Baker Group

A wave of forbearance expirations expected this spring has investors anxiously awaiting clarity on what it will mean for the mortgage market. COVID-19 forbearance plans introduced by the CARES Act last year make it possible for any borrower with a mortgage backed by Fannie/Freddie/Ginnie to stop paying their loan for a maximum of 12 months due to pandemic-related hardship. The majority of loans in forbearance today entered forbearance in April 2020. With the deadlines on those loans fast approaching, what happens next is front of mind.

There are several paths a loan can take when forbearance expires. These paths prioritize keeping borrowers in their homes and minimizing disruption to the mortgage market. For conventional borrowers, the exit paths follow the waterfall chart. *(Figure 1)*

(Figure 1)



While we do not yet know how the impending expirations will ultimately play out, we can make some inferences. Forbearance plans have been available to borrowers facing natural disaster hardships for years, which gives us some historical precedence to draw from.

It is worth highlighting that options 1-3 all present no actual impact to MBS investors. In those expiry paths, the mortgage remains in the pool and investors continue to receive scheduled principal and interest. Only options 4 and 5 result in prepayments.

While we do not yet know how the impending expirations will ultimately play out, we can make some inferences. Forbearance plans have been available to borrowers facing natural disaster hardships for years, which gives us some historical precedence to draw from. However, there are a number of differences between forbearance today and pre-pandemic forbearance that impact borrower behavior.

One major difference is the root cause of forbearance. Today's global pandemic differs from a geographically isolated natural disaster in that it affects a wider swath of the country and presents a longer path to recovery. Borrowers are staying in forbearance longer today than in the past and evidence shows that the longer a loan is in forbearance, the more likely it is to experience a credit event (short sale, deed-in-lieu, etc.). That tells us we should expect a large number of credit events as forbearance terms expire this spring. However, there are reasons to believe that loans coming out of forbearance now have a better chance of becoming current than ever before.

First, today's housing market is particularly strong. This helps borrowers stave off credit events because they can sell their homes and pay off their mortgages in full, and has already led to substantially fewer credit events than we would otherwise expect to see. Second, the new payment deferral options introduced by the GSEs make it possible for borrowers to transition back to current without coming up with additional cash.

These conflicting factors have added to the uncertainty around what will happen when the 12-month terms start to expire. On one side of the equation, the fact that borrowers are spending a longer time in forbearance increases the likelihood of them experiencing a credit event upon expiry. On the other side, borrowers arguably have a better opportunity to avoid a credit event today because of the strong housing market and payment deferrals availability.

It is estimated that the share of loans in forbearance that will ultimately experience a credit event could be between 0.7%-7.2%. That is a wide range, but taking that percentage of roughly 5% of all mortgages currently in forbearance does not amount to an alarming share of the agency mortgage universe. Further, because these forbearance terms expire on a rolling timeline, the impact should not overwhelm the market. This is not to say there will be no impact; there undoubtedly will be, but it does suggest the disruption is likely insufficient to warrant substantial changes to investors' strategies. ■

Andrea F. Pringle is a financial strategist and MBS analyst at The Baker Group. She began her career in Washington, D.C., where she also earned her MBA from George Washington University. Andrea worked on the capital markets sales and trading desk at Fannie Mae for five years before returning to Oklahoma to work in corporate finance. Andrea joined The Baker Group in 2020, and her work focuses on mortgage products. Contact: 800-937-2257; apringle@GoBaker.com.

We Are All About You.

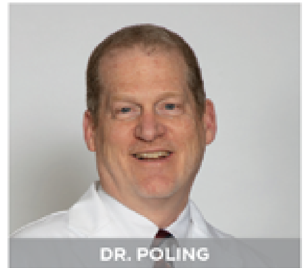
Internal Audit | External Audit | IT Controls & Governance | Tax Services

At YHB we take a holistic approach to assisting community banks with growing, managing, and protecting their hard work. With over 180 professionals across 8 locations, we partner with many of the regions most trailblazing leaders and banks. We are passionate about making sure your bank has the tools and support it needs to thrive.

Never settle for less. Choose the experts at YHB.

YHBcpa.com

Climb. Achieve. Stay Ahead.



Executive Health exams go far beyond an annual physical. We combine the very latest in advanced technology and wellness planning to design a personalized program that an individual simply can't find in a physician's office or hospital setting.

Our mission is to provide busy individuals with an efficient way to receive a confidential, comprehensive, whole body assessment with a focus on preventative medicine in a relaxing, resort atmosphere. The focus on prevention facilitates early detection of disease. Earlier detection leads to a significant improvement in the rate of cure. Staying ahead with preventive health care makes better sense than ever before.

FOR MORE INFORMATION

To book an appointment, call 1-800-362-7798, Ext. 372
or email us at info@greenbrierclinic.com

The Greenbrier
EXECUTIVE HEALTH®

40823 Midland Trail, East, White Sulphur Springs, WV 24986 | GreenbrierClinic.com

Making a Case for Your Bank's Fintech Strategy

By Adam Thomas, Dixon Hughes Goodman LLP

As banks seek innovation and efficiency, now is a prime opportunity to consider a strategy targeting financial technology (fintech). Evaluating the risk appetite for fintech can be beneficial not only for increasing technology and digital transformation but also to bolster customer acquisition efforts. In this article, we will explore business structure options as well as benefits from this alliance.

What Does Fintech Mean to Your Financial Institution?

Fintech can be hard to define, as the term means something different to each institution. While some think of fintech as technology that they can utilize for their own internal processes or efficiency models, it can also mean technology to increase customer acquisition, enhance customer experience or provide new service offerings. An already prevalent trend that may perhaps be accelerated by the COVID-19 pandemic, particularly as many branches remain closed, is the need to target current and new customers attracted to mobile services who are looking for digital banking solutions.

Since customer acquisition and retention are important for continued growth, customer experience strategy is crucial — and fintech can enhance that experience by offering cutting-edge technology, sleek interfacing and future-focused solutions. The correlation between fintech and customer acquisition can also extend to enhancing the social impact through technology that could ultimately help customers develop good financial habits or help underserved communities obtain access to banking products that may not have been accessible previously.

Develop a Strategy

Fintech is based on innovation and often disruption, so begin any fintech strategy discussion by first asking how and where you can move away from more traditional methods to digital ones. This process usually starts with the board of directors discussing strategy development and exploring efficiency opportunities. Consider how you can incorporate thought diversity within the board related to fintech, how the bank can help customers save and invest in new and improved ways and how new customers could see advantages to opening an account.

When considering how fintech fits into the overall customer acquisition strategy and experience, go well beyond the bank's internal processes and efficiency models. If there is no robust customer acquisition plan in place, efforts should be made to understand how the bank obtains customers, particularly behind the backdrop of the COVID-19 pandemic.

The banks that are the most innovative and future-focused often have a fintech representative on the board of directors, who is responsible for challenging the status quo, asking "why," and stretching the institution to continuously seek new products and processes. Additionally, you can also begin conversations with the board of directors to determine how the fintech strategy should align with your institution's risk management process and fit with the preferred risk appetite, such as if the bank wants to be cutting edge, bleeding edge or continue on a more traditional path. Exploring these options to initiate your bank's fintech strategy at the board level will increase any fintech strategy's effectiveness.

When considering how fintech fits into the overall customer acquisition strategy and experience, go well beyond the bank's internal processes and efficiency models. If there is no robust customer acquisition plan in place, efforts should be made to understand how the bank obtains customers, particularly behind the backdrop of the COVID-19 pandemic. An example of a sophisticated fintech customer acquisition strategy would be using data analytics to identify current bank customers that are only utilizing one product, such as a checking or savings account, and then cross-selling other services to customers based on their needs. Another customer acquisition strategy could be built around identifying underserved or underbanked populations and directly targeting those groups with customized banking products. Other strategies could provide unique services to obtain new customers, such as robo-investing using artificial intelligence to help make investing decisions, therefore keeping costs down for both the bank and the user or providing lending products for borrowers trying to establish or improve their credit scores. As such, there are many ways these strategies could manifest as banks explore their options.

Strategy Implementation Considerations

As banks look to implement their fintech strategy, a few tactics can be used to become a thought partner with the fintech industry by participating in the fintech ecosystem rather than reacting to its disruption. Some banks may consider finding a fintech vendor partner, which can be a straightforward approach through your bank's existing vendor management process. Others may seek to create their own internal development team, consisting of engineers on staff who can develop their own technology; however, this instance is typically rare for community banks and may not always make the most financial sense, depending on access to resources and budget.

Perhaps one of the best integration tactics is to participate in the fintech ecosystem in some way that ties directly to the bank's fintech strategy. This participation can manifest in a few different ways:

- Consider investing directly into companies that further the bank's fintech approach;
- Explore potential joint ventures with other companies in some form of partnership;
- Investigate options for buying or acquiring a company that aligns with the fintech plan. ■

Adam has close to 20 years of public accounting experience. He currently serves as managing partner of DHG's Tampa Bay office, as well as an assurance partner with a focus on serving the following industry sectors: financial institutions, investment funds and other asset management companies; technology companies; and private equity-backed portfolio companies across a diverse group of industries. If you are considering the development of a bank fintech strategy, or are evaluating your current strategy and tactics, DHG can help assess your effectiveness and answer questions to help you improve your efforts. For more information, reach out to us at benchstrength@dhg.com.

Would you LEND to this physician?

PHYSICIAN IN WEST VIRGINIA
18 years in industry
Income: $249,756
FICO: 752
Loan: $96,683
Term: 10 years

OSTEOPATH

Our 20 years of relationships and multiple industry-leading partners bring more than 15,000 coveted borrowers to BHG each month. Our borrowers have stunning credentials and the majority are considered essential in this economy. That's why BHG is the number one place for a bank to buy the best professional and medical loans in the U.S.

- Record volume: $1.5B sold in 2020
- 3.25–6% return for your bank
- $0 historical bank loss on BHG Core loan portfolio
- State-of-the-art loan delivery platform

CONTACT BRIAN MULLETT
bmullett@em.bhgbanks.com • 315.400.6192
or visit **bhgloanhub.com/WV**

*Loan characteristics from BHG borrower. Photograph is not actual BHG borrower.

WE'LL NEVER BE THE SAME.

As a strategic partner to more than 140 banks, we never stop working to adapt to change, quickly and efficiently.

www.srsnodgrass.com/banking
(833) 404-0344

As the world experiences unprecedented changes, history shows that change is more often the rule than the exception. The same can be said for the world of banking. And when it comes to changes in banking, you can rely on S.R. Snodgrass. As *The Banking Experts*, we've worked only in banking, every hour of every day, every week of every month, for more than 70 years. **In fact, no other accounting and consulting firm possesses greater knowledge of community banks' needs, challenges, and opportunities than S.R. Snodgrass.** Which is why, in a world that continually changes, we'll never be the same. If you think our unrivaled banking expertise and personalized service could benefit your bank, please allow us to introduce ourselves. We'd be delighted to meet you.

Calendar of Events

Date	Event
March	
24 and 25	Commercial Lending Development Program (CLDP) — Parts 5 and 6 (Virtual)
30 and 31	Branch Management School Series (Virtual)
May	
3 and 4	Credit Management Conference (Stonewall)
5 and 6	Bank Security School (Stonewall)
TBD	Financial and Estate Planning (Virtual)
13 and 14	Commercial Lending Development Program (CLDP) — Parts 7 and 8 (Four Points)
23-28	West Virginia School of Banking (Virtual)
23-28	Lloyd P. Calvert Graduate School of Banking (Virtual)
July	
25-27	WVBankers/Ohio Bankers League 2021 Joint Convention
August	
31 and Sept 1	Branch Management School Series (Stonewall)
September	
16	Human Resource Management for Bankers (Sam Bowling)
24	Disaster Preparedness (Stonewall Resort)
October	
4 and 5	BSA/AML School Fundamentals (TBD)
6 and 7	BSA/AML School Advanced (TBD)
November	
TBD	CEO Conference
15 and 16	Consumer Lending Conference (Beginner) (Four Points)
17	Consumer Lending Conference (Advanced) (Four Points)
TBD	CFO Conference (Charleston Marriott)

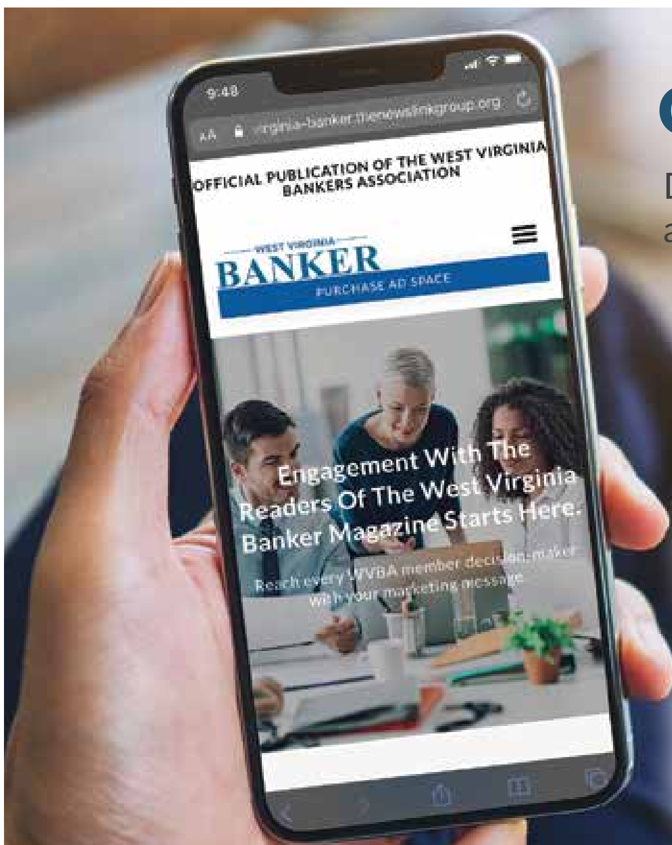
Webinars — Live and Recorded

Visit our website for specific dates and topics.

www.wvbankers.org

Graduate School of Banking Online Senior Management Seminars

Visit **www.gsb.org** or our website as updates are added.



ONE LAST THING …

Did you know that you can enjoy your association news anytime, anywhere?

The new online article build-outs allow you to:

- Stay up to date with the latest association news
- Share your favorite articles to social channels
- Email articles to friends or colleagues

There is still a flipping book for those of you who prefer swiping and a downloadable PDF.

Check it out!

Scan the QR code or visit:
west-virginia-banker.thenewslinkgroup.org

One of America's **TOP** accounting firms

A team to protect your Green

Arnett Carbis Toothman has a dedicated team ready to deliver class-leading consulting services to financial institution clients throughout West Virginia, and the region. As one of America's top CPA firms, we have been serving banks for fifty years, with a team's combined experience of nearly three hundred years. We are positioned to serving banks for decades to come.

We've got the expertise your financial institution needs: Audit & Tax, Asset-Based Lending Field Audits, Loan Reviews, Model Validations, Regulatory Compliance, Information Technology, Strategic Planning, Consulting, and Risk Management.

800.642.3601 | actcpas.com

CHARLESTON, WV • BRIDGEPORT, WV • BUCKHANNON, WV • MORGANTOWN, WV • COLUMBUS, OH
NEW CASTLE, PA • PITTSBURGH, PA • MEADVILLE, PA

WEST VIRGINIA
BANKER

3601 MacCorkle Avenue, SE, Suite 100
Charleston, WV 25304

PRSRT STD
U.S. POSTAGE
PAID
SALT LAKE CITY, UT
PERMIT NO. 508

This magazine is designed and published by The newsLINK Group, LLC | 855.747.4003

spilmanlaw.com

Spilman Thomas & Battle, PLLC is a full-service, super-regional law firm. Understanding that our value is in the experience our clients receive, we believe in a client-first philosophy–selfless, hands-on, relentless and collaborative–and hold our premium delivery of service in the highest esteem.

spilman
thomas & battle

West Virginia | North Carolina | Pennsylvania | Virginia
Responsible Attorney, Michael J. Basile | 1.800.967.8251 | www.spilmanlaw.com
This is an attorney advertisement.