AMERICAN BANKER®

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Fast decline

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Nov. 28: OCC tipped off to “mojor froud” involving $68M in loans

Dec. 3: John Gembara, the bank’s president, commits suicide

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CONSUMER BANKING

Are public-private partnerships the future of postal banking?

By Neil Haggerty
August 28, 2020

WASHINGTON — For years, bankers have opposed attempts by Democratic lawmakers to enable the U.S. Postal Service to provide financial services, arguing that the struggling government agency is not equipped to handle such an undertaking.

But the industry's position appears to soften on the topic of banking services being offered at USPS sites through partnerships with financial institutions.

Some industry observers said bankers may be more open to the partnership idea following a report that JPMorgan Chase had been in discussions with the agency before the coronavirus pandemic to offer ATMs and other banking services at post office locations.

"We are not fans at all of the postal service getting into core banking functions," said Rick Clayburgh, president and CEO of the North Dakota Bankers Association. "I think their focus should be on what their core delivery is and their core business model. The concept of having the post office serve as a potential spot for an ATM machine or even leasing out space isn't necessarily a bad idea."

It is still unclear if any talks between JPMorgan Chase and the USPS will advance. A bank spokesperson said the pre-pandemic "conversations never materialized, and there are no imminent plans to continue the conversation or move forward."

But Peter Gwaltney, president and CEO of the North Carolina Bankers Association, said the USPS should even allow other banks to make bids to lease space at post office locations if the agency is interested in partnering with financial institutions.

"If the postal service were to come up with a fair and equitable and transparent process, competitive bid, whatever we typically expect our government agencies to do to procure services, if they were to go through a process like that in that manner, then I think it would make sense," Gwaltney said. "Particularly for communities where there is not a bank branch and there needs to be access to services, the post office makes sense."

The comments from industry representatives follow the report last week by Capitol Forum, citing anonymous sources, that said JPMorgan Chase and the USPS may have even discussed some type of exclusivity arrangment for the bank to provide banking services to postal employees.

But the JPMorgan Chase spokesperson denied that the parties discussed exclusivity and said the talks had focused on leasing space for ATMs.

"Our Real Estate group regularly explores a variety of locations for ATMs for the convenience of our customers," the spokesperson said. "We had very early conversations with the Postal Service about what it might look like to lease unused exterior space for a small handful of ATMs."

But the revelation of those talks ruffled some feathers among community bankers concerned about the idea of a large bank potentially negotiating a deal with such a large national organization as the USPS.

The news prompted the Independent Community Bankers of America to write a letter to Postal Regulatory Commission Chair Robert Taub on Aug. 24, calling for an investigation into the discussions.

"Any exclusive arrangement, negotiated behind closed doors, to allow a profit-driven entity to leverage the USPS branch network is a formula for corruption and should be a serious concern to all Americans who care about the integrity of our public institutions," ICBA President and CEO Rebeca Romero Rainey wrote to Taub.

The spokesperson for JPMorgan said that "there was never any discussion about an 'exclusive partnership' for banking services" between the USPS and the bank.

But industry representatives are not opposed to the idea of public-private deals between the USPS and smaller financial institutions.

Ryan Donovan, chief advocacy officer at the Credit Union National Association, said that the post office should consider partnering with local community banks or credit unions, rather than a Wall Street megabank like JPMorgan Chase.

"It certainly begs the question of how did the Wall Street giant get in the room with the postal service on this and why wouldn't the postal service want to partner with local providers to provide the services?" Donovan said. "In most communities, I think the postal service would find a willing provider in a local financial services provider."

Still, some in the banking industry think the USPS should stay out of the financial services sphere entirely, including partnering with private banks.

McCall Wilson, president and chief executive of the $660 million-asset Bank of Fayette County in Tennessee, said he would

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still be concerned with the USPS partnering with local banks.

"It would be a logistical nightmare to try and make that work, to manage that model, I think would almost be impossible," Wilson said. "I think you have to be very careful when you take the government and start partnering with the government."

Meanwhile, Democratic lawmakers continue to push for a direct public banking option through the USPS.

Sen. Sherrod Brown, D-Ohio, the top Democrat on the Senate Banking Committee, has pushed for consumers to be able to access free digital bank accounts, known as FedAccounts, backed by the Federal Reserve.

"Millions of Americans don't have access to the financial services they need because big banks like JPMorgan Chase make it too expensive for working families to get a bank account," Brown said in a statement to American Banker. "That's why I introduced the Banking for All Act, which would protect the financial wellbeing of hardworking Americans and allow anyone to access a free bank account at the Post Office or a community bank."

Sen. Kirsten Gillibrand, D-N.Y., introduced a bill in April to establish a nonprofit bank offering low-cost checking and savings accounts, ATMs, mobile banking and low-interest loans through the USPS. That legislation is also aimed at boosting revenue for the ailing agency.

Mehrsa Baradaran, a professor at the University of California, Irvine School of Law, and author of "How the Other Half Banks," said that the push for a public banking option is a result of traditional banks' failure to offer basic financial services for certain low-income Americans.

"These are going to be very simple accounts that banks have decided not to offer," Baradaran said. "We are talking about providing bank accounts for unbanked and underbanked people. It would seem to me that banks should be happy that someone would be filling this role, because the cost-benefit [analysis] just doesn't work out for them."

Baradaran added that the USPS is an attractive option for expanding access to financial services because it has a large geographic footprint.

"There's over 30,000 branches," Baradaran said. "The thing about the footprint of the post office is that it doesn't discriminate based on profitability of a community. And over the last 10 years, most bank closures have been in lower- and middle-income communities."

But financial institutions say a better approach would be reform the regulatory framework that they say inhibits their ability to serve underbanked consumers.

"There's changes that can be made in law and regulation that could make it easier to access credit unions and that can allow credit unions to do more for consumers," said Donovan. "Those are the changes that we would encourage policymakers to look at as opposed to taking a struggling public service and asking it to get into a highly regulated line of business."

Consumer advocates have largely endorsed public financial services options through the USPS, such as Brown's FedAccounts proposal. But Porter McConnell, campaign director at Take on Wall Street, said she would potentially support partnerships between private community development financial institutions and the USPS as an alternative.

"If someone in the private sector could come in and offer a non-predatory option in this space, then I think it would be less urgent, but we have not seen that happen yet," McConnell said. "If there was a community development financial institution that went to work with the post office on something, I could see that making sense."

COMMUNITY BANKING

The community banker at the center of the mail-in voting fracas

By John Reosti
August 28, 2020

Mike Duncan is a veteran community banker with a long history of political activism — and he has become a key figure in one of the biggest controversies of the 2020 presidential election.

Duncan, chairman and CEO of the $149 million-asset Inez Deposit Bank in Inez, Ky., had kept a relatively low profile despite close ties to Sen. Mitch McConnell and a two-year tenure as chairman of the Republican National Committee.

That is no longer the case.

Duncan, chairman of the U.S. Postal Service board of governors, is facing scrutiny on multiple fronts because of changes Postmaster General Louis DeJoy has made to the organization. The moves have stoked fears that the Postal Service could struggle to handle a surge of mail-in ballots tied to coronavirus fears.

Duncan spent Monday fielding hostile inquiries from Democratic lawmakers about the board's decision in May to hire DeJoy. The next day, a group that included members of the Kentucky Postal Workers Union staged a drive-by protest of Duncan's home and the bank's headquarters.

Numerous attempts to reach Duncan were unsuccessful.

Duncan's recent notoriety highlights the balancing act for those who try to pursue careers in both banking and politics, industry experts said.

"There's nothing wrong with political participation," Tony Plath, a finance professor at the University of North Carolina at Charlotte, said Wednesday in an interview, noting that many bankers are involved in politics.

"But where do you draw the line between business and politics when you have to represent the community, shareholders and employees?" Plath added. "It is very hard to do. And remember that the banking industry itself is already highly politicized."

Mr. Politics

Duncan was born in Oneida, Tenn. His father, Bobby Duncan, owned a general store in nearby Strunk, Ky., from 1946 until his death in 2016.

Described by friends as soft-spoken and civic-minded, Duncan got his first taste of politics as an 8-year-old helping an uncle run for superintendent of schools, McConnell said during a speech on the Senate floor honoring his friend's 65th birthday.

After graduating from the University of Kentucky's College of Law in 1974, Duncan seemed set to pursue a career in politics

until his father-in-law, who owned Inez Deposit Bank, became ill.

Duncan joined the bank in January 1977 in what was intended to be a yearlong assignment. One year stretched into two. Eventually, Duncan and wife Joanne, Inez Deposit Bank's vice chairman, bought the company.

Inez Deposit Bank is based in a town in coal-rich Eastern Kentucky just 10 miles from the West Virginia line. It serves Martin and Lawrence counties, where it controls 51% of the $241 million deposit market, according to June 2019 data from the Federal Deposit Insurance Corp.

Duncan "has been a force in the industry in Kentucky for as long as I can remember," Ballard Cassady, president and CEO of the Kentucky Bankers Association, said Wednesday in an interview. "He's done a great job."

Inez "is about as rural as it gets," Cassaday added.

Political activism has been Duncan's passion for nearly five decades. He has been so heavily engaged for so long he was once known as "Mr. Politics" by other Kentucky Republicans.

Duncan made a big political leap in 1972 when he volunteered for Richard Nixon's reelection campaign and was tapped to drive the president during a stop in the Bluegrass State. He has been a delegate to Republican presidential conventions on at least six occasions since then.

Though he never ran for office, Duncan built a reputation as political manager, serving in the George W. Bush White House and chairing the RNC from 2007 to 2009. (He lost a bid for a second term to Michael Steele shortly after Barack Obama was sworn in as president.)

Duncan, for his part, views himself as a dedicated Republican and a team player.

"I won't apologize for having been involved in Republican politics since I was old enough to vote," Duncan told the Lexington Herald Leader in early 2009.

"In the beginning people were looking for superman," Duncan said of his RNC role. "Some people who were looking for one person to come in and be the face of the party were disappointed. We need many faces and many voices."

Over the past decade, Duncan has held several lower-profile roles. He helped found American Crossroads, a political action committee that backs Republican candidates, and he has chaired the President's Commission on White House Fellowships since April 2017.

In the spotlight

Duncan's role as chairman of the USPS board of governors, which began in late 2017, had been relatively quiet. Bankers, for instance, would be hard-pressed to determine his position on postal banking even though Inez Deposit Bank is a member of the Independent Community Bankers of America, which opposes the proposal.

But the board's decision to hire DeJoy, a former CEO of a North Carolina logistics company, to replace retiring Postmaster General Megan Brennan immediately drew the ire of Democrats who claimed the move bypassed an established search process. Changes DeJoy says are aimed at efficiency have raised concerns that they are delaying mail delivery and could imperil mail-in voting.

At Monday's hearing of the House Committee on Oversight and Reform, Duncan said the decision to hire DeJoy — one he said would likely be the biggest choice he will make as part of the Postal Service — came after an "organized, deliberate and thorough" search process.

"The board has confidence in the Postal Service's ability to perform for the American people in this election season," Duncan added.

Still, the hearing was unusual for Duncan, who tends to shy away from attention. Those who know him say he prefers to have an incremental influence on the future.

At Inez Deposit Bank, he has developed an internship program that mentors high school and college students. For more than two decades, interns have worked in various departments of the bank while participating in a program that features meetings with social, economic, academic and political figures.

Participants are also required to develop and implement community service projects with the goal of encouraging them to pursue professional careers in Appalachia after college.

Duncan "is a tremendous mentor," said Joseph Stepp, president of Alice Lloyd College in Pippa Passes, Ky., where the banker has served on the board of trustees since 1990.

Along with banking and politics, Stepp and Cassady said Duncan has devoted considerable time to community service projects throughout his career.

"He's been a part of" many local initiatives, Cassaday said. "Bringing business back to Kentucky. Building up his community. The bank's apprentice program for young people. ... It's quite a bucket list."

Duncan "has the highest integrity and character of anyone I know," Stepp said.

"He was on the board when I came here 38 years ago and he's been chairman all 21 years I've been president," Stepp said, adding Alice Lloyd College doesn't pay its trustees. "He's given a lifetime of service and never accepted one dime."

COMMUNITY BANKING

Four bankers of failed thrift charged with helping client embezzle funds

By Paul Davis
August 29, 2020

Four former employees of Washington Federal Bank for Savings have been charged with taking actions that led to the Chicago bank's failure in December 2017.

The Justice Department said in a press release Friday that Rosallie Corvitte, who was the bank's chief financial officer, and Jane Iriondo, its corporate secretary, were indicted on charges of falsifying bank records and helping a customer commit embezzlement. Alicia Mandujano, a loan servicer, and Cathy Torres, a loan officer, were also charged.

The indictments claim that the bankers worked with the client and "higher-ranking bank officials" to embezzle at least $29 million in the years before the bank's closure. The customer, Robert Kowalski,

and his sister, Jan Kowalski, were indicted last year on charges of defrauding his creditors and the trustee in his bankruptcy case.

The criminal investigation is continuing, the Justice Department said.

Washington Federal Bank for Savings was closed when the Office of the Comptroller of the Currency determined that it was insolvent and had at least $66 million in nonperforming loans.

The Federal Deposit Insurance Corp. sold the bank to Royal Savings Bank in Chicago.

Regulators intervened less than two weeks after John Gembara, the thrift's chairman, president and CEO, was found dead at another customer's home. The Cook County Medical Examiner's office ruled the death a suicide.

A subsequent review by an internal government watchdog agency determined that supervisory lapses at the OCC made the failure's costlier to the Deposit Insurance Fund than it should have been.

The Treasury Department's Office of Inspector General determined in a material-loss review released in November 2018 that if had examiners acted in a timelier manner the fraud "may have been uncovered sooner and the loss to the DIF and individual account holders may have been reduced."

M&A

Heartland discloses delayed closing for AimBank acquisition

By John Reosti

August 28, 2020

Heartland Financial USA in Dubuque, Iowa, disclosed that it will take longer than planned to complete its pending purchase of AIM Bancshares in Levelland, Texas.

The $15 billion-asset Heartland said in a regulatory filing Friday that the $280 million deal will likely close late this year or in the first quarter of 2021. When Heartland agreed in February to buy the $1.9 billion-asset parent of AimBank it said the transaction would close in July or August.

Heartland said the delay reflects complications tied to the coronavirus pandemic and "pending litigation against AimBank" tied to the bankruptcy of a former AimBank customer. "The parties continue to proceed with their efforts to complete the acquisition as promptly as practicable," the filing said.

The trustee for a failed Lubbock, Texas, auto dealer filed a lawsuit on July 31 in U.S. Bankruptcy Court for the Northern District of Texas seeking to recover $9.4 million from AimBank. The trustee claimed that AimBank managers ignored evidence of check kiting and other fraudulent activities tied to the dealership's former chief financial officer, who pleaded guilty to conspiracy to commit wire fraud in June 2019.

AimBank, in its reponse to the lawsuit, denied that bank officials had any knowledge of fraudulent activity.

AIM would be Heartland's 17th bank acquisition since 2012. Heartland said it plans to merge AimBank with the FirstBank & Trust unit in Lubbock to create a bank with 34 branches and $3 billion of assets.

COMMUNITY BANKS

WesBanco in West Virginia closing 20 branches

By Laura Alix

August 28, 2020

WesBanco in Wheeling, W.Va., is planning to close 20 branches.

The $16.7 billion-asset company said in a press release Friday that it will shutter branches in Indiana, Kentucky, Ohio, Pennsylvania and West Virginia. Two other branches will be converted to drive-through locations.

WesBanco, which announced plans earlier this year to close five branches, said migration to digital banking was a big reason for the decision.

"Reflecting the reality of the current environment, we have experienced increased utilization across all of our digital channels as we have effectively met the financial service needs of our customers," President and CEO Todd Clossin said in the release. "Therefore, we are accelerating our branch optimization strategy to better align our operations with the needs and preferences of our customers."

WesBanco joins a growing list of community banks to permanently close branches, citing declining foot traffic in the branches and increased consumer use of self-service digital channels.

Other banks to recently announce branch closures include CB Financial Services in Carmichaels, Pa.; Mercantile Bank in Grand Rapids, Mich.; Nicolet Bankshares in Green Bay, Wis.; and National Bank Holdings in Greenwood Village, Colo.

Simmons First National in Pine Bluff, Ark., plans to close 23 branches and a loan production office by the end of this year, and Great Southern Bancorp in Springfield, Mo., is considering closuresy. Five Star Bank in Warsaw, N.Y., is shrinking its branch network by 10%.

While some of these plans were in the works before COVID-19, the pandemic has accelerated the shift from branch banking to digital channels.

WesBanco said it expects to record $3.5 million to $4 million in charges tied to lease terminations, severance and other costs. The company said the closures should reduce annual expenses by $6 million to $6.5 million starting in the first half of 2021.

DIGITAL BANKING

Stepping up: How pandemic response boosted banks' reputations

By Matthew de Paula
August 30, 2020

When BOK Financial conducted a leadership audit as part of its succession planning process two years ago, some worrisome gaps emerged.

"It was skewed pretty significantly by age — 55 and older," said Steven Bradshaw, president and chief executive of the $40 billion-asset BOK. "It doesn't take much of a jump to realize that you're going to have a pretty significant change in leadership over the next 10 years as you're seeing people retire."

The upper ranks also lacked diversity, in contrast to other levels of the organization, he said.

This exercise prompted BOK to create a diversity and inclusion council, which since its inception in 2019 has spearheaded changes in corporate policy and recruiting, including experimenting with artificial intelligence to reduce unconscious bias.

Such changes within the Tulsa, Okla., company also appear to have made a positive impression outside of it, based on the annual American Banker/RepTrak Survey of Bank Reputations. (The RepTrak Co. was formerly called the Reputation Institute.)

Of the 40 banks evaluated in the survey, BOK earned the highest rating in the workplace category among noncustomers familiar with it. BOK also ranked second with noncustomers in each of the six other categories the survey looks at: products and services, innovation, leadership, performance, citizenship and governance.

In a year when the banking industry's reputation surged, BOK registered the biggest improvement of all the banks among noncustomers, vaulting to first place in that ranking, ahead of even USAA Bank, which had been at the top for two years running.

Bradshaw said one of the likely reasons BOK made such a favorable impression on noncustomers is that its employees have been especially visible during the pandemic in helping local nonprofits.

"I'm proud of that and proud of the industry, because I see a lot of banks stepping up to do that as well," he said.

From villain to hero

After dropping for the past two years, bank reputations are once again on the rise, thanks in large part to the goodwill banks have generated by helping customers and employees weather the pandemic.

In the survey conducted this spring, the banking industry as a whole scored a 68.6 out of a possible 100 — a 5.4-point improvement from last year.

"Not only is that statistically significant by a long shot, that's a big move overall for an industry," said Bradley Hecht, an executive vice president at RepTrak.

Though the score is still considered "average," the industry regained nearly all of the ground it had lost since 2017, coming close to the 70-point mark that signifies a "strong" reputation.

With the pandemic battering the economy, and consumers and businesses suffering, banks have been thrust into the news more often than usual in recent months, mostly in positive ways.

Many consumers were allowed to temporarily skip payments on home and auto loans without it impacting their credit score. Many struggling small businesses received a lifeline in the form of Paycheck Protection Program loans. And many banks are increasing their philanthropic efforts to help community organizations like food banks keep up with demand.

The positivity that is being generated by such efforts stands in stark contrast to how people have reacted to the banking industry during previous crises, Hecht said.

Because banks have much more of a capital buffer to sustain them these days, the industry cast as the villain of the financial crisis has managed to play more of a hero this time — at least so far.

"It really is a fascinating intersection between a select few industries that historically were poorly perceived pivoting during the COVID crisis to not only do good things, but for once get credit for it without a lot of skepticism," Hecht said.

Besides banking, Hecht cited the oft-maligned pharmaceutical industry — which is tasked with creating a vaccine for the novel coronavirus — as another benefactor of current consumer goodwill.

The upshot is that both banking and pharma have been able to "rewrite their reputations" as a result of the pandemic, Hecht said.

One of the benefits of that is people are more willing to give a bank the benefit of the doubt when something goes wrong.

A stronger reputation also translates into a greater willingness to do business with a bank and recommend it to others.

All three of those metrics have increased from last year, but the steepest improvement is with the benefit of the doubt, which means banks are regaining trust, Hecht said.

Gaining momentum

Banks are also benefiting from some momentum they started to create before the pandemic hit.

Many banks have taken note of how the public's expectations on corporate citizenship and social activism are changing. Some executives are becoming more visible and vocal advocates for tackling issues like racial injustice, climate change and gender discrimination.

The survey offers some insight into how such factors influence perceptions of a bank, which in turn can help inform the strategy for improving a bank's reputation.

"The bank that is perceived to have a higher purpose is much more reputable — that's why it's so important," said Sven Klingemann, research director at RepTrak.

RepTrak has a new Purpose Power Index that helps companies track how well they are doing on that front, and it found a strong correlation between the purpose and reputation scores. The new index gauges consumer perceptions of companies on four criteria — having a purpose beyond

just making a profit, being committed to changing the world for the better, doing things to benefit all stakeholders, not just shareholders, and helping people and communities.

BOK took the top spot with noncustomers in that new index and second place with customers.

Bradshaw said that, while having values and talking about them is important, the key to success is in what a company does to live those values, whether that entails actively pursuing greater diversity in the senior ranks or manning food banks.

"It's more about actions than words," he said.

He gives a lot of credit to employee-led community initiatives for generating positive sentiment for his company, saying more than 1,350 people from BOK logged nearly 34,000 volunteer hours last year.

"I think that shapes how people view us," Bradshaw said. "That's where they see us, that's where they get a sense for what the values and the purpose of the company are, and frankly, it leads to more business for us."

BOK's community relations team helps organize the volunteer manpower around needs employees themselves identify in their communities, often with the backing of the BOK Foundation, which handles the company's charitable giving. The corporate communications team helps get the message out, internally and externally.

One area of recent focus has been food insecurity. "We've done incremental giving and volunteering in that space because obviously there is a need that's come out of the pandemic," Bradshaw said.

Banking on purpose

Hecht noted several data points that reflect how consumer perceptions of whether a bank has a higher purpose is having greater influence on reputation scores.

Questions about "having a positive societal influence," "equal workplace opportunities" and "environmental protection" were among those that increased the most in relative importance.

Having a positive societal impact alone saw "almost a 50% increase in relative importance from the prior year as a reputation driver" among customers, Hecht said. "That's a big deal."

As for how banks are living up to expectations with regard to citizenship, both customers and noncustomers rate them higher this year than last. But regional banks as a group got the most credit for being good corporate citizens, with a 6.7-point increase in their citizenship score among noncustomers putting them at 66.8.

"That is a huge, huge change," Hecht said. "That is gigantic, relatively speaking."

The citizenship score improved by 5.1 points, to 68, for nontraditional banks, a group that includes online players like Ally and Discover, and by just 1.3 points, to 51.8, for large banks.

Citizenship is among the top three drivers of reputation for both customers and noncustomers this year, as is governance, which, in this case, is a gauge of whether people perceive the bank as fair, ethical and transparent. Products and services rounds out the top three in importance.

"It might be the first time in a while that the top three were the same for customers and noncustomers," Hecht said.

Innovation counts

Perhaps because the pandemic is forcing more people to interact with their banks through digital channels, innovation is another reputation driver that has become more important.

Questions about whether a bank "adapts quickly to change" and whether consumers consider it an "innovative company" jumped in relative importance.

At BOK, which had the second-highest innovation score among noncustomers, the biggest jump in digital adoption this year hasn't been in retail banking — that segment has been going digital for years now, Bradshaw said — but rather on the commercial and wealth management sides of the business.

"We're a very large organization in terms of wealth management — it's more than a third of the total revenue of the bank — and that's a group that has largely been very focused on face-to-face business in order to manage it," Bradshaw said. "That's also true for a lot of our larger corporate relationships."

Capabilities BOK has built up over the past five years that might've been overlooked by high-net-worth and commercial banking clients before the pandemic are getting a lot more use now, he said. Some areas of the private wealth management and retail brokerage business experienced "upwards of a 65% increase" in logins from February to March.

"The other thing is we were quick to adopt virtual meetings and virtual forums for our clients," Bradshaw said. "We did an awful lot of investment briefings, economic briefings and other things facilitated by our corporate communications group."

He expects an increase in virtual interactions across all business lines to be a lasting outcome of the pandemic.

The way to win hearts

Besides fostering close ties to their communities, banks would do well to focus on developing a more positive and inclusive workplace environment.

The reputation survey shows that consumers increasingly care about how banks treat their employees.

Workplace gained importance as a driver of reputation across the board for every bank type, with customers and noncustomers alike.

Webster Bank scored high enough in the workplace category to rank second of all 40 banks among customers, after USAA. It was also one of only two banks to earn an "excellent" score from customers in the governance category, USAA being the other one. And it got the highest score among customers on the Purpose Power Index.

Chris Motl, the head of commercial banking for the $30 billion-asset Webster, said its strong culture of caring is the basis for how the bank treats both customers and employees.

"I narrow it down to, literally, we do the right thing," he said.

The five core values it wants employees to embody are codified in "The Webster Way," which have been printed on the back of everyone's business cards for as long as he's worked at the company, which is 16 years, Motl said. One of these mantras is, "We respect the dignity of every individual," while others speak to a higher purpose, such as earning trust through ethical behavior and giving back to the communities the bank serves.

No matter how it's defined, there's something about the culture that resonates with people who stay, Motl said. Those who aren't on board with it "eventually self-select out," he said. "I'm glad I fit in

the culture, because I think it sort of says something about me too."

Like BOK, Webster also has made diversity and inclusion a focus.

This is an area that carries more weight with consumers lately. Such topics are top of mind since they have gotten broad media attention via social movements — starting a few years ago with #MeToo sexual harassment scandals in many industries and more recently amid the widespread protests over racial injustice after a Minneapolis police officer killed George Floyd by kneeling on his neck for more than eight minutes while he was handcuffed on the ground.

Based on the survey data, three of the biggest reputation risks for banks involve social justice: unequal pay by gender, unequal opportunities by race, gender or other factors, and discriminatory business practices.

"If you don't pay people well, if you don't give them equal opportunity, and you discriminate against them in your business, then that's the trifecta of badness when it comes to risk for banks," Hecht said.

BOK's diversity and inclusion council, formed in April 2019, is led by Bradshaw himself, and one of the goals is to diversify its largely white, middle-aged, male leadership.

"I think over the next decade or so, as we see the accelerated retirement of the baby boomers, there's going to be an even greater war for talent," which will make the ability to attract top-notch people a major differentiator for banks, Bradshaw said. "One of the ways you win that war is to make sure that you're building an organization that appeals as broadly as it can across every type of measurable demographic so that you have a chance at the best of the best."

As part of that effort, BOK just rolled out unconscious-bias training for its leadership and those with hiring oversight. It also revamped the training for recruiters to make sure they get diversity and inclusion accreditation. And job descriptions are being updated to remove gender bias and "extreme modifiers," while university recruitment and internship programs have an increased focus on women and minorities.

"We're not the kind of company that says, 'I'm sure it will happen naturally,' " Bradshaw said.

"Our message to ourselves was, 'What can we do to accelerate that and make sure that we see a more diverse transition as we see leadership turnover in the company?' "

CEOs, listen up

That sort of leadership is crucial, the reputation survey indicates.

"CEOs are taking on a more important role," said Klingemann, the RepTrak research director. "They're testifying in front of Congress. There's a political void and they're sort of jumping in when it comes to talking about socioeconomic issues or inequality. There is this demand now to know what the bank stands for and I think CEOs have been forced to step up."

RepTrak has started measuring consumer perceptions of CEOs, and it has found that for every point a CEO's rating improves, a company's overall reputation score has a corresponding increase of half a point, according to Klingemann.

This illustrates the importance of the CEO's own reputation in either damaging or elevating the bank's reputation overall, he said.

To help lift a bank's reputation, CEOs should exercise their influence for the greater good, especially during a crisis like the pandemic, where all constituents, inside and outside of banks, are experiencing such a profound impact, he said.

Of the four drivers measured to evaluate CEO reputations — influence, leadership, management and responsibility — the importance of influence increased the most this year.

What that means is, "he or she needs to be able to make a difference," Klingemann said.

CONSUMER LENDING

Student borrower protection bill on verge of passage in California

By Kevin Wack
August 28, 2020

The California Legislature has passed a bill that would impose tough new standards on banks and certain other companies that service education loans.

Supporters expect the legislation, which is known as the Student Borrower Bill of Rights, to be signed into law by Gov. Gavin Newsom, a Democrat.

If that happens, California will become the first U.S. state where borrowers have the right to sue for damages when student loan servicers fail to process payments in a timely manner or fail to meet other obligations.

"The Student Borrower Bill of Rights will protect Californians from predatory loan servicing practices and help ensure they stand a fair shot at putting these debts behind them," Suzanne Martindale, senior policy counsel at Consumer Reports, which pushed for the legislation's passage, said in a press release.

The legislation, introduced by Democratic Assemblyman Mark Stone, would apply to servicers in both the federal student loan market and the smaller private student loan market. It easily passed the California Assembly last year but did not get a vote in the Senate until Friday, when it passed by a 29-9 margin.

On Sunday, the Senate-passed version passed the Assembly by a 57-15 vote. No Democrats voted against the measure this week in either chamber of the Legislature.

The current version of the bill includes a few concessions to student loan servicers, Martindale said in an interview. For example, the legislation now gives servicers

45 days to cure problems before borrowers' lawsuits can proceed.

In addition, the bill provides an exemption for federally chartered credit unions, though not for banks, according to Martindale. She said language was also added to clarify that while the bill is meant to operate consistently with federal law, it can be preempted to the extent that there is inconsistency.

Beth Mills, a spokeswoman for the California Bankers Association, which opposes the bill, said Friday that the legislation still fails to include exemptions that would be necessary to properly address federal preemption conflicts.

By requiring state officials to investigate, examine and mandate the production of information held by banks, the legislation runs afoul of the exclusive visitorial authority of federal regulators, Mills argued in an email.

Consumer advocates, meanwhile, argue that legislation is necessary to provide a check on an industry where abuses are rampant.

Examples include servicers allocating partial payments toward multiple loans in ways that were deemed unfair, and servicers sending loans into automatic default if either the borrower or the co-signer filed for bankruptcy.

The California legislation is part of an effort by Democrats and advocacy groups to write stronger state-level rules for the student loan industry, in light of what they see as lax treatment by the Trump administration.

The bill would require servicers to post, process and credit student loan payments within certain time frames. It would require servicers to apply overpayments in a way that is consistent with borrowers' best interests. And it would mandate that servicers apply partial payments in a way that minimizes late fees and negative credit reporting.

The bill would also create a borrower advocate within California's government to receive consumer complaints.

M&A

Hanover Bancorp making bigger push into New York with Savoy acquisition

By Paul Davis
August 28, 2020

Hanover Bancorp in Mineola, N.Y., has agreed to buy Savoy Bank in New York.

The $838 million-asset Hanover said in a press release Thursday that it will pay $63 million in cash and stock for the $597 million-asset Savoy. The deal, which values Savoy at 125% of its tangible book value, is expected to close in the first half of 2021.

Savoy's board owns about 49% of the bank's outstanding stock.

Hanover will have eight branches and $1.1 billion in deposits when the deal closes. The company plans to use Savoy's branch in midtown Manhattan to coordinate business development efforts in New York.

"We are very pleased to announce this transformational partnership … which accelerates each company's expansion efforts and strategic initiatives while truly creating a best-in-class community bank in the New York City market," Michael Puorro, Hanover's chairman and CEO, said in the release.

"We have been focused on a high-growth and high-profitability strategy that has created significant shareholder value since the company was recapitalized in 2012," Puorro added. "As a combined company we will better be able to compete in this fast-evolving marketplace."

Mac Wilcox, Savoy's president and CEO, will join Hanover as chief revenue officer and head of commercial lending. Two Savoy directors will join Hanover's board.

Savoy has a focus on Small Business Administration lending and owner-occupied commercial real estate. Hanover, which expanded in New York with last year's purchase of Chinatown Federal Savings Bank, has focused on mortgages and commercial lending.

The deal is expected to be more than 20% accretive to Hanover's earnings per share. It should take two years for Hanover to earn back any dilution to its tangible book value.

Stephens and Windels Marx Lane & Mittendorf advised Hanover. Janney Montgomery Scott and Gallet Dreyer & Berkey advised Savoy.

CREDIT CARDS

Chase launches its first Mastercard-branded consumer credit card in 5 years

By Kate Fitzgerald
August 31, 2020

Visa and JPMorgan Chase & Co. are in the middle of a 10-year merchant services agreement that gives Chase merchants certain advantages with the expected goal of favoring Visa card volume. But it's not an exclusive arrangement.

After months of negotiations, Chase is rolling out its first new Mastercard-branded consumer credit card in five years with a loyalty program that reflects pandemic-influenced habits and suggests travel will soon resume, the companies announced Monday.

The Freedom Flex World Elite Mastercard falls under Chase's longstanding Freedom loyalty brand for credit and debit cards

and mirrors some elements of Chase's existing Freedom Visa credit card programs, including cash-back deals with DoorDash and Lyft, but there are certain differences in the two networks' versions.

The move underscores Mastercard's ongoing rivalry with Visa to score deals with banks, and it also points to Chase's need to negotiate with both card networks in an increasingly competitive arena.

"Card issuers really need to be able to play one network against another in negotiations and you don't ever want to unplug that ability," said Brian Riley, director of Mercator Advisory Group's credit advisory service.

Visa and Mastercard seemingly offer commoditized services — merchant acceptance — but since the two largest card networks became independent companies after their respective IPOs within the last decade, their services have diverged in key areas, Riley said.

"Visa and Mastercard have different ways of handling disputes, and there are also significant departures in the way merchant category codes play out, so there are some real nuances separating the networks," he said.

The newest Chase Mastercard launches Sept. 15 with no annual fee and gives users 3% back on drugstore purchases, 3% back when dining out and 5% on travel purchased through the Chase Ultimate Rewards platform.

Freedom Flex Mastercard users will also get 5% cash back on rotating bonus categories like grocery stores and streaming, for up to $1,500 in combined purchases. World Elite benefits include $10 off for every five Lyft rides taken per month plus digital-shopping benefits from online shipment service ShopRunner.

Chase currently is giving all consumers who sign up for Visa or Mastercard-branded Freedom credit cards $200 cash back after spending $500 in the first three months, plus 5% cash back on supermarket purchases for the first year.

Mastercard has long sought a broad-appeal consumer rewards card with Chase, said Linda Kirkpatrick, president of U.S. issuers at Mastercard.

"We worked on this a long time, because putting Chase's customer-service focus together with Mastercard benefits like Priceless Experiences will be powerful," Kirkpatrick said.

All Chase Freedom Flex card customers have free access to Priceless Experiences that were updated this year in light of the coronavirus pandemic, she said.

"Instead of doing wine-tastings live, we did a video event to learn about wine with an award-winning sommelier and millions of people tuned in," Kirkpatrick said. Mastercard also hosted exclusive live music events on video within its Priceless Experiences program.

Freedom Flex is Chase's first new Mastercard program for consumers in years, but Chase continues to support two co-branded Mastercard credit cards with travel companies IHG and United.

Kirkpatrick said that despite the overall slowdown in air travel, many consumers continue to lean toward earning and redeeming credit card travel rewards.

"People may not be flying as much, but they're renting cars and Airbnb locations, keeping travel cards relevant," she said.

But flexibility was Mastercard's top goal with its new Chase card because consumer needs are hard to predict in the current environment.

"Right now consumers' needs are changing; they want their loyalty to be rewarded in different ways," Kirkpatrick said.

BANKTHINK

Colo. 'true lender' settlement is path forward for bank-fintech partnerships

By Peter Weinstock, Marysia Laskowski and Eric W. Flynn
August 31, 2020

A landmark settlement that Colorado authorities recently reached with two marketplace lenders and their bank partners has created a much clearer framework in determining who is a true lender for the life of a loan in fintech-bank partnerships.

The settlement involving the Colorado attorney general and the administrator of the Colorado Uniform Consumer Credit Code might only apply to the lenders involved but the framework addresses years of legal battles over who is a true lender when the loan is transferred through multiple parties — a question that has intensified as more banks partner with online lenders.

The framework created through this settlement also establishes a responsible bank-partnership model for fintech digital lending programs that will ultimately help offer access to affordable credit nationwide. And the timing has never been more critical as more consumers struggle financially in the economic downturn triggered by the coronavirus pandemic.

Furthermore, the settlement's responsible bank-partnership model is good timing because federal and state financial regulators have openly confronted each other regarding jurisdiction over fintech relationships in a flurry of rules and litigation.

For example, the Office of the Comptroller of the Currency in May adopted a long-awaited final rule allowing banks to workaround a 2015 court decision (known as the Madden v. Midland case) that limited banks' ability to sell loans. That ruling unwound the so-called "valid when made" doctrine, which allowed the interest rate originally written on the loan to carry for the life of the loan even if it's sold.

The OCC's new rule seeks to clarify that a loan's interest rate can remain legally intact even after the loan is acquired by a purchaser in a state with a lower rate cap. Shortly after the OCC's rule, the Federal Deposit Insurance Corp. followed suit and issued a nearly identical rule in June, both of which drew immediate attack from state regulators.

The OCC again sought to bring clarity to the fintech industry, proposing a rule in July that would determine the identity of the "true lender" in a fintech-bank relationship based on the entity listed as the lender on the loan agreement or the entity funding the loan at the time of origination.

Just two months after the OCC finalized its valid-when-made rule, the attorneys general of California, Illinois and New York brought suit against the OCC claiming the rule as "arbitrary and capricious," attacking it from multiple angles and decrying the lack of consumer protection.

The sudden salvos of rules and litigation clearly delineate the battlelines, pitting industry participants, and state and federal regulators.

Against this backdrop is the recent settlement by Colorado regulators with two of the largest fintechs, banks acting as trustees and two prominent platform banks in the fintech industry. The detailed agreement can be distilled down to one formula: Banks and fintechs that structure their relationship in compliance with five criteria will find a regulatory safe harbor.

Those five criteria are: bank oversight of the fintech; certain consumer loan terms; fintech licensing requirements (including annual compliance reports); disclosure of the bank's role to consumers; and perhaps most significantly, four permissible structures with respect to the sale of loans originated by the bank in connection with fintech relationships. This structure will likely be closely monitored throughout the industry and become a model in other states as well.

The settlement appears to be a grand compromise following three years of litigation, perhaps providing a middle ground for the aforementioned warring parties between federal and state regulators.

The settlement provides clarity on key issues, including an interest rate cap at 36% and funding limits on loans originated as part of the fintech-bank relationship. It also enumerates top oversight mechanisms that banks must undertake over fintechs and mandating licensing for fintechs taking assignment of certain types of loans.

The provisions also continue to allow any Colorado efforts designed to protect borrowers from what regulators consider high-interest, predatory lending products that perpetuate cycles of debt. The settlement also breaks new ground in the regulation of private contracts to sell loans originated by banks in the fintech relationship to fintechs, securitizations and/or third parties.

No other case, regulation or rule has addressed the loan purchase process and, in doing so, the settlement represents a pioneering effort to regulate the economic engine that drives the bank-fintech lending industry.

To be clear, the settlement agreement does not, nor could it, address every facet of the complicated loan purchasing process. However, the agreement sets forth certain transactional pillars related to the types of loans that can be sold, how it can be sold and the percentages of loans that can be transferred (within the safe harbor).

There will likely be many questions on just how loan purchase agreements can be molded to fit within the prescribed constructs, and whether the agreements even need to do so. But what's clear from the settlement is that the sophisticated parties that negotiated the agreement put careful thought into its terms so as not to be overly disruptive to the vital loan-purchase process.

Overall, the settlement agreement offers a checklist approach to when a financial institution's involvement is sufficient so that a subsequent loan buyer does not need to worry about state-usury defenses. It also provides helpful guidance to industry participants seeking to navigate the current vacuum created when the Dodd-Frank Act changed the preemption rules.

Rather than fight out the issue in further court and state enforcement initiatives with federal regulators weighing in, at least the parties in Colorado have chosen to find areas for compromise.

Editor's Note: Hunton Andrews Kurth LLP represents Cross River Bank, but not as counsel in the Colorado litigation.

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M&A

Midland States in Illinois to sell FHA origination platform

By Paul Davis
August 28, 2020

Midland States Bancorp in Effingham, Ill., has agreed to sell its commercial Federal Housing Administration origination platform to New York mortgage lender Dwight Capital.

The $6.6 billion-asset Midland States said it will continue to service a $3.9 billion portfolio tied to the business, which operates as Love Funding. The portfolio includes about $284 million in deposits.

Midland said that the sale will be neutral to its earnings and that the purchase price is roughly equal to the goodwill remaining on its books since it bought Love Funding in 2014.

The sale "reflects our ongoing efforts to evaluate all aspects of our operations for opportunities to enhance efficiencies, increase our focus on the more profitable areas of our business, and improve our overall financial performance," Jeffrey Ludwig, Midland State's president and CEO, said in a press release.

Selling the origination platform "will reduce volatility in our earnings stream and provide capital that can be more profitably deployed into other areas of our business," Ludwig added. "Retaining the servicing portion … will allow us to maintain the low-cost funding generated by this business and continue earning servicing income."

CREDIT CARDS

Capital One cuts card spending limits amid impasse in jobless aid

By Bloomberg News
August 28, 2020

Capital One Financial is cutting borrowing limits on credit cards, reining in its exposure as the U.S. reduces support for millions of unemployed Americans.

The adjustments, which the company said it makes from time to time, set off a swift outcry on social media. Some customers have complained in recent days their limits have been slashed by a third to two-thirds, eroding their ability to borrow in an emergency during a pandemic or potentially hurting their credit scores.

"Capital One periodically reviews accounts based on a variety of factors and may make changes to existing credit lines," the company said in an emailed statement. A spokesman declined to specify how many people are affected.

Capital One, the third-largest U.S. credit card lender, pioneered the business of offering cards to people with riskier profiles, putting it at the vanguard of the industry's response to downturns. Its management of credit is watched closely as a harbinger of what's to come at other major banks.

Suspense has been mounting in the credit card industry in recent weeks, as Congress and President Donald Trump's administration deadlocked on extending $600 in additional weekly unemployment benefits. That assistance has helped millions of households keep up with debts as the pandemic sent unemployment soaring above 10%.

Democrats have sought to continue the payments into 2021 as well as other measures that go significantly beyond what Republicans favor. Trump signed an order Aug. 8 creating a temporary $300 weekly benefit using limited disaster relief funds.

Applications for state U.S. unemployment benefits decreased last week, indicating the jobs market continues to gradually recover amid a pullback in new COVID-19 cases. Next week's monthly report is projected to show an additional 1.5 million net payroll gains in August.

That drop in benefits raises the risk for banks that some cardholders won't be able to make ends meet through the pandemic, maxing out credit limits as they spiral into bankruptcy. The largest U.S. card issuers are JPMorgan Chase and Citigroup.

Card lenders have been warning for months that rapidly shifting outbreaks and shutdowns have left them in the dark on which customers have lost work or their jobs, making it difficult for executives to assess risks. Some 14.5 million people are claiming ongoing unemployment assistance from regular state programs.

"I don't think we have a rigorous measure of how many of our current borrowers are unemployed," Capital One Chairman and Chief Executive Officer Richard Fairbank said last month. "There are a lot of people that are in different degrees of unemployment right now."

In recent days, Capital One's customers have flocked to platforms such as Twitter to complain after receiving emails with an "important update" on their account that turned out to slash their ability to borrow. Some were told their limits are being aligned with past spending patterns. Messages from Capital One explained users could still borrow "significantly above your highest balance over the last two years," essentially allowing them to continue using cards as they have.

Card issuers, drawing on the lessons of past downturns, often trim or close inactive credit lines to avoid becoming a borrower's lender of last resort. This year, they have also been offering lower limits on new accounts.

"We have been tightening credit at the margin as we have felt for some time that we are in late credit cycle," Discover Financial Services Chief Executive Officer Roger Hochschild said in April. "But given the present environment, we are adopting a significantly more cautious view." ❑

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