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New Mexico Bankers Digest

NMBA

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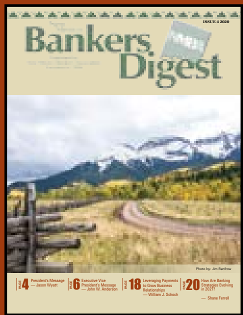

Our Mission

The mission of the New Mexico Bankers Association (NMBA) is to serve member bank needs by acting as New Mexico banking's representative to government, the public, and the industry; providing resources, education and information to enhance the opportunities for success in banking; promoting unity within the industry on common issues; and seeking to improve the regulatory climate to the end that banks can profitably compete in the providing of financial and related products and services.

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PRESIDENT'S MESSAGE

JASON WYATT
NMBA PRESIDENT

2021:
NEW YEAR, NEW CHALLENGES

New Mexico banks are again at the forefront in providing our customers access to the second round of PPP loans. As of Feb. 1, New Mexico has a loan count approval of 3,557, totaling $343,539,227.00. Not bad!

I want to wish everyone a belated Happy New Year. I think most of the nation was looking forward to putting 2020 behind us more than any other year in my lifetime. In my personal opinion, 2020 was one the most absurd, dangerous and eye-opening years in our nation's history-a real train-wreck. I think we have all learned valuable lessons during this most difficult time and can only look forward to better times in the future.

This being my first President's article of 2021, it is a perfect time to reflect on where we have been and where we are heading. Most of us had never heard of or even thought about the term "Essential Business" until the COVID pandemic of 2020. Most bankers have always been aware that banking and access to currency is a vital part of the American economy. After health, an individual's finances and access to those finances are crucial in obtaining other basic necessities such as food, shelter and transportation. Although we get little credit, banks played a major role in our economy surviving 2020. I believe banks and bank employees should be counted amongst the real hero's of 2020. Without the banking industry and our aid delivery systems used to provide financial safety nets, our entire economy might have potentially collapsed. Even faced with the challenges of constantly closing and re-opening of our lobbies, installation of Plexiglas and other PPE, establishing new health policies and procedures, mandatory quarantines, etc., we were able to go above and beyond in meeting the needs of our customers and providing much needed financial aid to our communities. We accomplished all of this in addition to our normal daily duties as bankers.

Our industry's biggest success story of the past year has been the execution of the Paycheck Protection Program (PPP). Despite the haphazard way this program was implemented by the Federal Government, New Mexico bankers worked tirelessly to ensure our customers received the assistance they desperately deserved and needed at the time they needed it the most. New Mexico banks are again at the forefront in providing our customers access to a second round of PPP loans. As of February 1, New Mexico had a loan count approval of 3,557, totaling $343,539,227.00. Not bad! Once again, outside of the health sector, New Mexico banks are arguably doing more for the people of our state than any other entity or government organization.

Another major turning point in our nation since our last article was the election of a new President, Joe Biden. The 2020 campaign and election can only be described as one of the most negative, frustrating and damaging in the history of our country. We experienced the largest voter turnout in history resulting in Democratic control of the U.S. House, Senate and Presidency. Democrats last controlled the House, Senate and White House from 2009-2011, when the American Health Care Act (AHCA) and Dodd-Frank were passed into law. What can we expect as an industry from a Biden presidency? I can only speculate that this administration will be very similar to the Obama-Biden administration of 2009-17. The Obama administration featured historical increases in oversight and regulation combined with historically low interest rates. All we can do at this point is stay involved and wish for the best.

As far as New Mexico is concerned, our state Legislature has been in session since

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January 19th. Due to the pandemic, the capitol is closed to the public and lobbyists. Only legislators, staff and some media are allowed in the capitol for the most part-committee hearings and floor sessions are conducted on a virtual basis. In normal circumstances, our lobbyists would be roaming the hallways of the capitol protecting our interests. But with the capitol closed, that is not happening. My fear is that without all parties and stakeholders in conversation that major legislation will not be properly developed or vetted and many new laws will be passed to the detriment of our State and our industry. The session ends on Saturday, March 20.

Although there are many controversial issues being debated, those that are most pertinent to the banking industry include changes to our liquor laws, new laws to limit or all out ban the extraction of fossil fuels, and the proposed creation of a public or state bank. I will focus on only the public bank issue in this article given limited space.

Legislation pertaining to the creation of a public bank are SB 313 (Steinborn-Las Cruces) and HB 236 (Roybal Caballero-Albuquerque), which call for the charter of the Public Bank of New Mexico. The NMBA is adamantly opposed to a public bank as we believe it is unnecessary and would provide no benefit to New Mexico residents or businesses. The implications of creating a public bank pose enormous risks to New Mexico's taxpayers and would saddle the State with significant risks, and unwarranted costs to replicate a highly competitive, regulated and federally-insured banking system that already exists in our communities. In addition, it will eradicate hundreds of millions of dollars out of our local communities that are currently being utilized for urgent needs such as health and safety, infrastructure, community development and job creation and instead centralizing those funds in Santa Fe.

Other reasons for the NMBA's opposition of this legislation are as follows:

- There is currently only one public bank operating in the U.S., The Bank of North Dakota. The Bank of North Dakota was chartered in 1919 to address circumstances that no longer exist in that state or anywhere else. Because it was created nearly 100 years ago, the Bank of North Dakota existed before most banks in that state were created. It provides banking services to businesses and consumers directly and serves as a bankers' bank for other banks in the state.

- Banks are either regulated by the State of New Mexico and the Federal Deposit Insurance Corporation (FDIC), or they are regulated at the federal level by the Office of the Comptroller of the Currency (OCC). Deposits in these institutions are all insured by the FDIC up to $250,000 per depositor per account. There would be no FDIC insurance for deposits in the State Bank, nor would the State Bank be subject to extensive federal regulations and examination oversight, which are necessary for protecting depositors and preserving the safety and soundness of the bank.

- New Mexico banks currently pay interest for these public funds and pledge collateral in the form of securities. This may not be true for a public bank.

- There is a significant potential of lending and other banking decisions being affected by political influence, agendas and pet projects rather than adhering strictly economic feasibility and sound lending practices.

- Political appointees only will provide oversight of the public bank, including the hiring of employees, creating an even greater political influence on any decisions made on behalf of the public bank.

- A state bank most likely violates the New Mexico Constitution "Anti-Donation Clause" and would potentially require an amendment to the constitution.

- A public bank could potentially impact the State's credit risk rating causing public borrowing to become much more expensive.

The NMBA will continue to follow these bills closely and voice our concerns. After the session ends and the Governor has had time to sort through those bills that reach her desk, we will provide you a list of victories and, hopefully, no defeats. As our EVP John Anderson told me, "Success come to those who make things happen, not to those who let things happen."

EXECUTIVE VICE PRESIDENT'S MESSAGE

JOHN W. ANDERSON, EXECUTIVE VICE PRESIDENT
New Mexico Bankers Association

2021 SESSION OFF TO UNUSUAL BUT FAST START

The 2021 sixty-day legislative session opened Tuesday, Jan. 19, under the most unusual circumstances. Due to the ongoing COVID-19 pandemic, the state capitol is off-limits to the public and lobbyists for the entirety of the session. Only legislators, certain media members and legislative staffers are admitted to the capitol.

The Governor's annual State of the State speech, which historically marks each legislative session's commencement, was not scheduled. The Governor indicated that the speech would be delivered remotely in the near future. However, one week into the session, the Governor recorded remarks from her office in the state capitol. She opened with an announcement that schools will be able to open effective in February. In the 25-minute speech, she called on the 2021 Legislature to do the following:

The Governor's annual State of the State speech, which historically marks each legislative session's commencement, was not scheduled. The Governor indicated that the speech would be delivered remotely in the near future.

- Dedicating at least $200 million in the capital outlay package-half of lawmakers' allocation-to broadband investment. The coronavirus pandemic has highlighted the lack of technological infrastructure in parts of the State. Nearly one-quarter of New Mexico's students lack access to the internet at home;
- Increase spending on suicide prevention by 800% as part of a plan to improve mental health care;
- Establish an ombudsman's office to focus on the special education needs of students and families;
- Send voters a proposed constitutional amendment that would withdraw an extra 1% from New Mexico's largest permanent fund to pay for early childhood education programs.

The Governor also said New Mexico "will enact the country's toughest methane and air pollutant rules in the oil and gas industry, finally cracking down on waste and pollution in a way that is not punitive but innovative" and creates more revenue for schools.

Lujan Grisham also renewed her request for the legalization of marijuana for adults. She described it as a way to bolster an economy now heavily dependent on oil and gas production, a volatile government revenue source. "I have no interest in another year of thousands of New Mexicans eager to get to work and make their future in this industry being told 'no,' just because that's easier than doing the hard work to get to 'yes'" Lujan Grisham said. "When we emerge from this pandemic, we can have the same old economy with the same old boom-and-bust future, or we can roar back to life, breaking new ground and fearlessly investing in ourselves, in the limitless potential of New Mexicans."

The Governor's priorities for the 2021 Legislature include:

Helping the New Mexico Economy

Pandemic relief for small businesses:

- Modifying the Small Business Recovery Act of 2020 to ensure the state funding is accessible to more New Mexico small businesses. The act, approved by the Legislature in the summer 2020 special session, Lujan Grisham also renewed her request for the legalization of marijuana for adults. She described it as a way to bolster an economy now heavily dependent on oil and gas production, a volatile government revenue source.

originally allocated $400 million in funds from the New Mexico State Severance Tax Fund to provide loans to New Mexico businesses and nonprofits that experienced financial hardship due to the COVID-19 pandemic. The legislation would supplement the $100 million in small business grants already allocated.

- Providing flexibility and opportunity to restaurants and other licensees by allowing alcohol delivery and reforming the State's liquor licensure program.

Expand opportunity for more New Mexico business-owners and keeping local dollars local:
- Reforming the state procurement code to include a preference for Native-owned businesses, minority-owned businesses, women-owned businesses and promote spending within New Mexico through set-asides for the required percentage of business contracts.

Establish an essential new revenue source for the state and employment source for tens of thousands of New Mexicans:
- Legalizing adult-use recreational cannabis through legislation that protects the State's medical cannabis program, provides workplace safety and roadway protections, and enforcement and clear labeling of products.

Ensure every New Mexican has the opportunity to create a fulfilling career with the required education and skills and without burdensome debt:
- Funding the Opportunity Scholarship at $22 million would benefit up to 30,000 students.

- Budgeting $4 million for a pilot project to target four-year degree-seeking students who previously received the Lottery Scholarship and lost eligibility but have one or two semesters left to complete their degree.

Support the Education, Health and Opportunity of New Mexico Children and Families

Protect New Mexico consumers:
- Reforming predatory lending practices by limiting annual interest rates and increasing maximum loan size.

Invest in generational improvements in education and well-being:
- Providing for a 1% distribution of the State's multi-billion dollar Land Grant Permanent Fund for early childhood education, which requires voter approval.

Reduce the cost of health insurance and medical expenses for working families:
- Creating a Health Care Affordability Fund that will replace a recently phased-out federal fee, expanding coverage to up to 23,000 uninsured New Mexicans in its first year and driving down premiums for tens of thousands of residents who receive coverage through the state exchange.

Boost economically disadvantaged school districts and communities:
- Establishing a Family Support Index that improves the economically disadvantaged metric in the at-risk index and calculates an at-risk index for each school to provide more precise information for local funding decisions and budget oversight; sets an annual disparity calculation that ensures final State Equalization Guarantee payments are equalized with a per-pupil floor; consolidates funding, support and accountability for programs associated with addressing Yazzie-Martinez litigation; and ensures reversions for public school support revert to the state support reserve fund rather than the general fund, which will keep funds intended for public education available for educational programs.

Address needs of differently-abled New Mexico students:
- Creating an ombudsman's office dedicated to special education to investigate and advocate for reforms on behalf of families in the state special education system.

Protecting health care providers:
- Eliminate a provision within state law that criminalizes health care providers who perform abortion services.

Rooting Out Racial Injustice in New Mexico:

Acknowledge and reduce institutional racism within government:
- With the Governor's Council for Racial Justice's support, enact Senator Linda Lopez's previous legislation that addressed equity and antiracism in hiring, retention, pay equity, accountability in government and more.

- The Council for Racial Justice, which has met regularly since August, has also endorsed the proposal to pull a percentage of funding from the Land Grant Permanent Fund for early childhood education, among other proposals, including the establishment of a race equity director in the Governor's Office.

Promoting and Maintaining the Clean Environment New Mexicans Deserve:

Creating a Clean Fuel Standard:
- Reducing emissions from the transportation sector. In 2018, 15% of New Mexico's greenhouse emissions were

EXECUTIVE VICE PRESIDENT'S MESSAGE *continued on page 8*

EXECUTIVE VICE PRESIDENT'S MESSAGE *continued from page 7*

The Governor's budget raises annual state spending to $7.3 billion, an increase of about 3.3%. It includes a $128 million increase in ongoing spending on public education but does not include across-the-board salary increases for teachers or state employees. The Governor proposes $600 million in one-time spending, including $475 million for COVID relief efforts, bringing reserves at the end of the year down to $1.8 billion or 25% of annual spending.

attributed to transportation, second only to the oil and gas industry's emissions. A Clean Fuel Standard reduces the emission profile that includes its production, shipping and use. A Clean Fuel Standard would apply to those who refine, blend, make shipping and use. A Clean Fuel Standard would apply to those who refine, blend, make or import fuel-not fuel retailers. With a Clean Fuel Standard, transportation emissions will be reduced by 230,000 metric tons of CO_2 equivalents annually, as the clean fuel standard requires a reduction of 10% by 2030 and 20% by 2040.

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Budget

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Legislative Make-Up:

The 112-member Legislature has 70 members in the House of Representatives and 42 members in the Senate. Democrats outnumber Republicans 45-25 in the House, and the Democrats hold a 27-15 advantage in the Senate.

We anticipate that there will be less than 800 bills introduced during the 2021 Legislature-as compared to 1,500 plus during the 2019 regular 60-day session. House leadership has requested that legislators limit their bill introduction to 5 bills. Some of the bills that the NMBA are following due to their potential direct or indirect impact on the banking industry include:

SB 2: Small Business Recovery Act (Candelaria). The bill revises the Small Business Recovery Act of 2020, which the 2020 Legislature approved during its June 2020 Special Session. The bill broadens the definitions of qualifying small business and nonprofit corporations. It extends the deadline for a small business to apply for a loan. The bill delays the reversion of the small business recovery loan fund to Dec. 31, 2024. It also changes the small business recovery loan terms and increases the maximum loan amount from $75,000 to $150,000. The bill increases the severance tax permanent fund invested in the Small Business Loan Recovery Act from $400 million to $500 million.

SB 6: Liquor Licenses (Wirth) and HB 8 (Hockman-Vigil). The bill amends the Liquor Control Act. It provides an alcoholic beverage delivery permit to a restaurant licensee or those holding a retailer's, dispenser's or craft distiller's, winegrowers or small brewer's license. A delivery permit issued to a valid restaurant licensee may convey only beer or wine with a minimum of $25 worth of food. Payment for the alcoholic beverages must be received only at the licensed premises of the selling licensee. Other licenses will not have food restrictions or on the type of alcoholic beverage sold.

A local option district that has approved the issuance of restaurant licenses for the sale of beer and wine may approve the issuance of restaurant licenses to sell beer, wine, and alcoholic beverages in restaurants by adopting an ordinance. A restaurant license issued on or after July 1, 2021, that permits the sale and service of beer, wine and alcoholic beverages is designated a type B restaurant license. A type B restaurant licensee must demonstrate that the primary source of revenue from the restaurant's operation will be derived from the sale of food. A type B restaurant license may not be transferable from person to person but may be transferable from one location to another within the same local option district. The annual fee for a restaurant license type B is $3,000.

The bill also provides that a dispenser's licensee that, under previous law, lost the privilege to sell alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises as a result of transferring out of its original local option district may have the privilege reinstated if the licensee pays 50 thousand dollars ($50,000) to the alcoholic beverage control division of the regulation and licensing department.

SB 6 and HB 8 (same bills) are touted by the Governor as a way to support the hospitality industry by providing a new source of revenue for businesses and restaurants adversely affected by the pandemic. These bills are listed on the Governor's legislative priority wish list. Opponents are concerned that the new restaurant license type B will devalue dispensers licenses purchased by restaurants, for example, and full-service package licenses will have package privileges for $50,000. This could potentially flood that market with new full-service package licenses. Financial institutions have a concern over any decrease in the value of collateral with a loan dependent on the value of liquor licenses.

SB 66: Finance (Soules), HB 110 (Roybal Caballero) and HB 149 (Herrera). The bill revises the maximum percentage rates for loans made pursuant to the New Mexico Bank Installment Loan Act of 1959 and the New Mexico Small Loan Act of 1955 from 175% to 35%.

SB 78: Social Security (Padilla) and HB 49 (G. Armstrong). The bill exempts Social Security income from the state income tax. There are more than 10 other bills introduced that are the same as SB 78.

HB 36: Property (Ely). The bill substantially increases the dollar amount and items exempt from receivers or trustees in bankruptcy or other insolvency proceedings, attachment, execution or foreclosure by a judgment creditor. The homestead exemption is increased to $90,000 from $60,000. The exemption in lieu of homestead is increased from $5,000 to $15,000. All exemptions provided in HB 36 are subject to a cost-of-living adjustment on July 1, 2023, and at each two-year interval.

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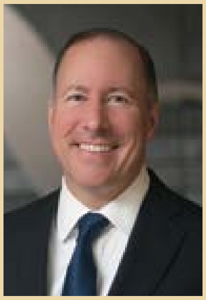
HB 50: Environment (Lewis). The bill provides for a private right of action for persons injured resulting from a violation of the Oil and Gas Act, Solid Waste Act, the Air Quality Control Act, the Water Quality Act and Hazardous Waste Act.

HB 110: Minimum Wage (Caballero). The bill phases in an increase for minimum wage for employees. Beginning on Jan. 1, 2024, the minimum wage shall be $15.00 per hour. The bill also provides that effective Jan. 1, 2025, the minimum wage rate shall be increased with a cost-of-living index. The minimum wage shall not be decreased as a result of a decrease in the cost-of-living index.

HB 236 (Roybal Caballero) and SB 313 (Steinborn): Public Bank. The bills would create the Public Banking Act and the Public Bank of New Mexico as a governmental instrumentality to be chartered pursuant to United States law. The bill establishes an 11-member board of directors to govern the bank and vests a host of power with the public bank. The public bank is initially funded by a $50 million deposit by the State Treasurer and the state investment officer's commitment to invest $50 million from the Severance Tax Permanent Fund. The NMBA opposes HB 236 and SB 313.

The 2021 Legislature ends at noon on Saturday, March 20. April 9, 2021, is the last day for the Governor to sign legislation. Legislation not acted upon by the Governor is pocket vetoed. June 18, 2021, is the effective date of legislation that is not a general appropriations bill or a bill carrying an emergency clause or other specific date. Bills carrying an emergency clause go into effect on the date the Governor signs that bill.

WASHINGTON UPDATE



ROB NICHOLS,
PRESIDENT AND CEO
American Bankers Association

COVID-19 TURNS ONE:
LESSONS LEARNED FROM A GLOBAL HEALTH CRISIS

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.

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 2 million bank employees that as the world was shutting down, as 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 Financial Services Committee Chairwoman Maxine Waters (D-Calif.) to 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 all of that learning, I hope, will only serve to make us stronger, safer and even more prepared for the future. ■

THREE KEY LIQUIDITY RISK MANAGEMENT REMINDERS

By Jay Kenney, SVP & Southwest Regional Manager for PCBB

Liquidity management is always important for bankers, but especially during times like these. In addition to that, the government stimulus has created a situation where financial institutions are suddenly flush with liquidity. Yet, this is likely only for the short term, as circumstances start to change. As such, it is imperative to stress test your liquidity risk. You may be comfortable with liquidity risk, but it could still help to review these reminders as you move forward.

Guidance. Liquidity risk refers to an institution's inability to meet its obligations, which ultimately threatens its overall safety and soundness. Regulators have provided specific guidance and resources to enable bankers to properly manage their liquidity risk. First and foremost, bankers should review the Office of the Comptroller of the Currency's Handbook — Safety and Soundness series and review the liquidity section of that source. An excerpt from that source notes: "For all banks, the immediate and dire repercussions of insufficient liquidity makes liquidity risk management a key element in a bank's overall risk management structure."

Test various scenarios. Once you have reviewed the guidelines, it is time to stress test your liquidity. There are several possible scenarios to consider as you do this, which will provide you with a better understanding of your bank's safety and soundness. A few you may want to include:

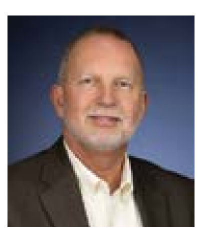
- Stimulus dollars will eventually shrink or dry up
- Economic times could get tougher, potentially resulting in deposit losses
- Higher use of credit lines may diminish current excess cash
- Loans defaulting and non-accrual loans could increase, resulting in decreased cash flows and risking impairment to capital (i.e., potential defaults in balloon loans maturing in 12-24 months)
- Brokered deposits and wholesale funding may become more difficult to obtain
- Uninsured deposits may decline or start leaving the institution
- Secured and unsecured credit lines may diminish

Assess your liquidity risk. Your bank should take the time now to assess your liquidity risks. Assessing and stressing liquidity risk can be a more lengthy process as you must evaluate your internal data compared to credit stressing, where readily available industry data is used. As you prepare for liquidity stress testing, remember to:

1. Understand and forecast your short-term and long-term liquidity needs
2. Closely analyze your secondary liquidity sources and stress those as well
3. Evaluate potential new or previously unused sources of liquidity
4. Use your stress analysis to develop a contingency funding plan

Now is the time to stress test not only your loan portfolios but also your liquidity. Once you have done that, you will feel more confident about the future and your next exam.

To continue this discussion or for more information, please contact Jay Kenney. ■



Jay Kenney, SVP & Southwest Regional Manager for PCBB | pcbb.com | jkenney@pcbb.com

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

DAY TRADERS TAKE OVER THE MARKET

By Mark Anderson, NMBA Legal and Legislative Assistant

At the beginning of February, an incredibly fascinating, enlightening economic story became national headlines. The story involves not only the material economic conditions in our country but how information is presented to the public and what really motivates the most powerful factions in our society. Given the speed of our current news cycle, there is always a temptation to quickly forget about events no matter how significant, but this story is worth noting, storing away in our memory banks, and understanding the fundamental lessons that it has taught us.

The story involves a group of online day traders deciding to do a coordinated mass-purchase of individual low-cost stocks as a way to turn a profit. The first stock seized upon by the traders was Gamestop, a retail chain where customers can buy and rent video games. As with most retail businesses in general, Gamestop has fallen on exceedingly difficult times since the beginning of the pandemic. At the beginning of 2021, Gamestop was valued at $17 per share. And hedge funds, generally known as “smart money” because of their inherent advantages, placed their money on Gamestop to continue to go down, putting billions of dollars on the bet that Gamestop’s stock would continue to fall. This is what is known as a “short” bet. In some ways, it’s the financial equivalent of a self-fulfilling prophecy. Hedge funds, which drive a great deal of financial consensus in this country, essentially set an expectation for a company to fail and will do everything in their power to accelerate the failure, leading to financial windfalls for a select group of incredibly wealthy investors.

These day traders, who congregate on the Wall Street subforum of the message board Reddit, had other ideas. Using the trading app Robinhood, the buying spree began in earnest on January 12 and, by January 27, day traders had driven the Gamestop to a previously-unthinkable $347 per share. Because a stock like Gamestop isn’t purchased much, it’s subject to extreme volatility. If someone can drive a lot of purchases into an infrequently purchased stock, then the stock can rise rapidly. The hedge funds who placed a short bet on Gamestop did not count on day traders sweeping in to disrupt the process, but these hedge funds left themselves wildly vulnerable. A hedge fund called Melvin Capital, run by a man named Gabe Plotkin, lost $3 billion of its assets under its control in a week and pulled off its short bet position. As a result, two other hedge funds rushed in and invested billions in saving Melvin Capital. One of the hedge funds that bailed out Melvin, Point72, is owned by well-known hedge fund manager Steve Cohen. Plotkin is a protégé of Cohen’s and former employee of Point72.

David Dayen provided an excellent writeup of the situation in The American Prospect and summed up the dynamic thusly: “They weren’t using some amazing or novel strategy: The run-up in GameStop is just the “pump” of a pump-and-dump scheme, where hype pulls people into a stock before the rug gets pulled out. That’s what hedge fund managers do all the time, making bets and using research to puff up a stock and then take the profits off moving a stock through force of will — theirs — rather than the company’s inherent value. The only real difference here is that ordinary investors drive the train, and the hedge fund guys are getting run over. The hedge funders are mad because distorting corporate stock prices beyond the fundamentals are supposed to be their thing, not the work of the hoi polloi.”

The story’s reaction was nearly as fascinating as the story itself, as feelings about the story were deeply divided along class lines. Elite hedge fund managers, financiers, and those in the media surrounding

The Gamestop story also proved to be an instance where most people, no matter where they fall on the political spectrum, managed to agree that hedge funds and private equity firms have essentially gutted the American economy and left it a hollow shell of its former self.

those industries immediately condemned the day traders' actions. Hedge fund manager Leon Cooperman called the beleaguered stock buying spree "An attack on the wealthy by people using the money from their stimulus checks." This was the overarching sentiment if you turned on any financial news report in the days following the initial story. Cooperman's opinion is wildly ridiculous because the day traders were playing by the same rules that hedge funds play by all the time, but he and others like him don't like average people playing in their sandbox.

In the days following the initial buying spree, Robinhood made the controversial decision to prevent users from purchasing Gamestop stock and the stock of other downtrodden companies like Nokia, AMC Theaters, etc. Not only did Robinhood take this step, they also froze users out of being able to access the restricted stocks they had previously purchased. It wouldn't take a ton of detective work to conclude that some influential, powerful hedge funds had a talk with the higher-ups at Robinhood and had them shut it all down. Now, Robinhood is facing tremendous backlash and possible legal ramifications. In short, once the little guy started figuring out the system and beating the big guys at their own game, the big guys immediately changed the rules of the game. In the weeks since the initial purchasing spree, the stocks have, of course, plunged back to earth, but many day traders were able to make quite a bit of money, which can be considered a victory.

The Gamestop story also proved to be an instance where most people, no matter where they fall on the political spectrum, managed to agree that hedge funds and private equity firms have essentially gutted the American economy and left it a hollow shell of its former self. This country's real dividing line is between people with vast, dynastic sums of wealth and everyone else. The Gamestop story showed this in the clearest terms in recent memory, as did a recent CNBC story highlighting the American worker's plight. According to a recent study by the human resources firm Zenefits, the U.S. is dead last in the developed world in worker benefits (29 of 29). This means the U.S. places last among its counterparts relative to health care, unemployment, retirement, parental leave, paid vacation and sick days.

So, on the one hand, you have the U.S. placing dead last in how it treats average workers, but, at the same time, you have the financial markets revealing themselves to be manipulated by the mega-wealthy with total impunity. Given that, it's becoming clearer every day that the U.S. is a brutal place for average workers. As Dayen notes in his writeup, "We've created a massively over-financialized economy where secondary market trading is a more reasonable ticket to wealth in America than finding a high-paying job. You can see it as the inevitable byproduct of a system built on massive inequality. The little guys figured out how to band together and stick it to the big guys. In so doing, they protected retail companies with lots of workers who now get a reprieve, however brief. They revealed the rot in our system, essentially took over Wall Street, and made a lot of rich and amoral people cry."

It's undeniable that many people now consider a lottery ticket, whether literal or figurative, a more realistic possibility than attaining genuine upward mobility in the American economy. There are just too many obstacles placed in front of the vast majority of people. The Gamestop story shows that, in the 21st century, the American economy has turned into something far beyond laissez-faire capitalism. In a laissez-faire capitalist system, the hedge fund that left itself vulnerable due to sloppy decisions would face the consequences of being beaten by amateur day traders. However, we have a system where the hedge fund is bailed out by other hedge funds, thus effectively creating an unlimited safety net for massive wealth, functioning as corporate socialism. On the other hand, we provide a paltry safety net for our most vulnerable citizens, as the study cited above illustrates. When a country leaves its most vulnerable citizens without a sufficient safety net, it leads to various externalities (homelessness, poverty, disease, crime, etc.). If we don't completely reevaluate our priorities as a country, then these factors will continue to rise. ■

THE NATIONAL DEFENSE AUTHORIZATION ACT: BSA/AML INITIATIVES

By Elizabeth K. Madlem Vice President of Compliance Operations and Deputy General Counsel

On January 1, 2021, the Senate voted to override President Trump's veto on the National Defense Authorization Act (NDAA or Act). It was previously overridden by the House back on December 28, 2020. The NDAA included over 200 pages of significant reforms to the Bank Secrecy Act (BSA) and other anti-money laundering (AML) laws putting forth the most comprehensive set of BSA/AML reforms since the USA PATRIOT Act of 2001. The continuing question is, what are the implications of this Act? How will this impact not only financial institutions but also U.S. companies and companies doing business in the United States at large?

For starters, certain U.S. companies and companies doing business in the U.S. ("reporting companies") will be required to provide FinCEN with information regarding their beneficial owners. This includes names, addresses, dates of birth, and unique identifying numbers. Newly incorporated companies will be required to do so at the time of incorporation. Exempt companies include public companies, as well as companies that: (i) have more than 20 full-time employees, (ii) report more than $5 million in yearly revenue to the Internal Revenue Service, and (iii) have an active presence at a physical office within the United States. Changes in beneficial ownership will require reporting companies to provide FinCEN with updated information within a year. FinCEN has stated it will maintain a registry of this beneficial ownership information, but it will not be public. However, this does not prevent FinCEN from sharing this information with federal, state, local and tribal law enforcement agencies if there is appropriate court approval. FinCEN can also share the beneficial ownership information with financial institutions for customer due diligence purposes, but only with the reporting company's consent.

Second, this NDAA creates a new whistleblower program and establishes a private right of action for whistleblowers who have experienced retaliation. Aiming to incentivize reporting of BSA/AML violations, this program will award whistleblowers who give tips with as much as 30% of the monetary penalties assessed against the company if it leads to monetary penalties in excess of $1 million. This will depend on the significance of the information, the degree of assistance provided, and the government's interest in deterring BSA violations through these awards. Additionally, a private right of action for whistleblowers who suffer retaliation will be available — whistleblowers can file complaints with the Occupational Safety and Health Administration (OSHA) where, if OSHA fails to issue a decision within 180-days, the whistleblower will be free to file a claim in federal district court.

Third, the Act considerably increases the penalties for BSA/AML violations for both companies and individuals. For repeat violations, additional civil penalties of either (i) three times the profit gained or loss avoided (if practicable to calculate) or (ii) two times the otherwise applicable maximum penalty for the violation are now in play. A new BSA provision will allow for fines "equal to the profit gained by such person by reason" of the violation. It will also include bonuses paid out the year in which the violation occurred or the following year for financial institution directors and employees. Those who have been determined to have engaged in "egregious" violations of BSA/AML provisions may even be barred from serving on the board of directors of a U.S. financial institution for 10 years from the date of the conviction or judgment. Lastly, the Justice Department will, for the next five years, submit reports to Congress on the use of non-prosecution and deferred prosecution agreements during BSA/AML concerns.

The NDAA will also require the Treasury, in conjunction with the Justice Department and other agencies, to evaluate how it plans to streamline SAR and CTR requirements, thresholds and processes. Within one year of the NDAA's enactment, the Treasury must propose regulations to Congress to reduce burdensome requirements and adjustment thresholds accordingly, with the expectation of these threshold adjustments taking place once every five years, for the next 10 years.

Fifth, the Act highlights the importance of law enforcement's involvement with international AML issues. FinCEN's mission requires working with foreign law enforcement authorities to safeguard the U. S.'s financial system. To assist, the Treasury will be required to establish a Treasury Attachés program at U.S. embassies abroad and work with international organizations including the Financial Action Task Force, International Monetary Fund, and Organization for Economic Cooperation and Development to promote global AML frameworks. Additionally, FinCEN will appoint a Foreign Financial Intelligence Unit Liaisons at U.S. embassies to engage with their foreign counterparts. Over $60 million per year has been allocated between 2020 and 2024 to the Treasury to provide technical assistance to foreign countries promoting compliance with international standards and best practices for establishing effective AML and counter-terrorist financing (CTF) programs.

Additionally, the NDAA expands financial institutions' ability to share SARs with foreign branches, subsidiaries, and affiliates and requires the Treasury and FinCEN Secretary to create a pilot program to achieve this objective. Currently, financial institutions are only permitted to disclose SARs to foreign affiliates that are a "head office" or "controlling company." This has posed a roadblock for enterprise-wide compliance within global banks. It is important to note that the Act does prohibit participants in this pilot program from sharing SARs with branches, subsidiaries and affiliates in China, Russia, and other specific jurisdictions.

Lastly, the NDAA significantly modifies the U.S. BSA/AML program in the following areas:

- Introduces several studies relating to (i) artificial intelligence, blockchain and other emerging technologies; (ii) beneficial ownership reporting requirements; (iii) trade-based money laundering; and (iv) money laundering by the People's Republic of China.
- Modifies various definitions relative to virtual currencies and other non-traditional cash substitutes;
- Introduces antiquities dealers (but not art dealers) to BSA's applicable scope;
- Expands ability to subpoena foreign banks' records that maintain correspondent accounts in the U.S.;
- Creates a "FinCEN Exchange" to oversee voluntary public-private information sharing between law enforcement, national security agencies, and financial institutions; and
- Envisions a no-action letter process for FinCEN.

Apart from these topics, the NDAA reincorporates an emphasis on risk-based approaches to AML program requirements and discusses prior proposed rulemaking from FinCEN. It even includes discussions on the Treasury being required to periodically publish on national AML and CTF initiatives.

There is no doubt that the NDAA's initiatives will be extended over several years and require continued efforts by public and private sectors. The cost of these initiatives to the financial industry and small businesses has yet to be determined and remains a cry of protest from those against the reform. But this does appear to be the start of a more globally centric effort to combat financial terrorism and money laundering crimes. ■

Elizabeth K. Madlem Vice President of Compliance Operations and Deputy General Counsel.

"Elizabeth is the Vice President of Compliance Operations and Deputy General Counsel at Compliance Alliance. She served as both the Operations Compliance Manager and Enterprise Risk Manager for Washington Federal Bank, a $16 billion organization headquartered in Seattle, WA. She has industry expertise and real-world solutions surrounding bank-enterprise initiatives and knowledge of contract law and bank regulatory compliance. An attorney since 2010, Elizabeth was a Summa Cum Laude, Phi Beta Kappa, Delta Epsilon Sigma graduate of Saint Michael's College in Burlington, VT, and a Juris Doctor from Valparaiso University School of Law in Indiana.

As the Vice President of Compliance Operations, Elizabeth will be overseeing C/A's day-to-day operations of the Hotline and leading our Education initiatives. Elizabeth plays an important part in all operational areas of C/A."

LEVERAGING PAYMENTS TO GROW BUSINESS RELATIONSHIPS

By William J. Schoch, President & CEO, WesPay

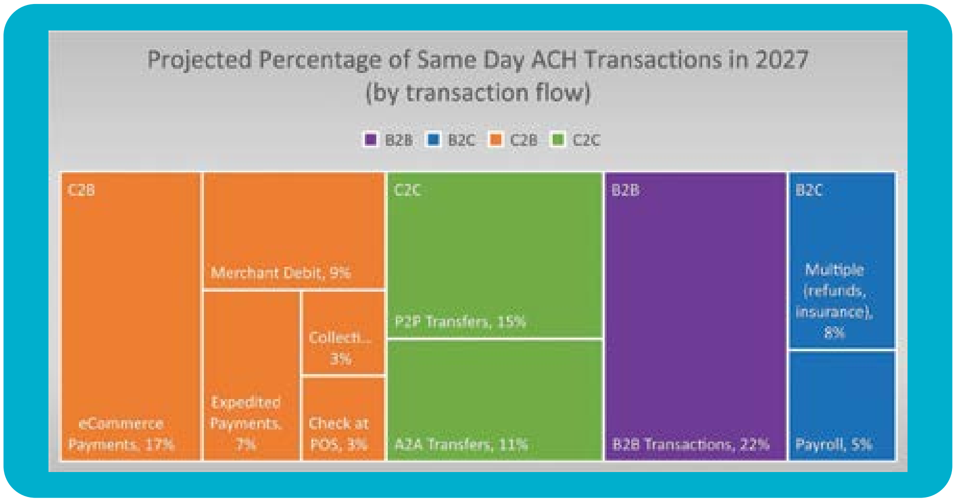
For most of my professional career, pundits have predicted the end of cash and checks. We entered this new decade with both forms of payment alive but in gradual decline. It appeared that we would see only the slow, very gradual death of both paper payment options. And then COVID happened.

More than eight months following the onset of COVID-19 in the United States, we see trends in consumer and business payment behaviors that help inform the current state of affairs and the future direction. Visa has reported debit card volumes in July and August 2020, 26% and 24% higher than the comparable 2019 periods. Nacha announced a 9% year over year increase in payment volume during 3Q 2020. While these electronic channels demonstrate growth, WesPay members tell me that check volumes are decreasing by double-digits. The Fed reported a 10.7% decline in commercial checks during the second quarter of this year. This is the largest percentage drop since 1994.

So how do you plan for the future of your bank's customers? Electronic payment services and digital delivery channels are not going away and will likely increase in importance to end-users. Expanding these capabilities will enable banks to meet customers where they are today and prepare for future demands. One near-term opportunity holds significant potential for bankers and their customers located in the Western U.S.

Faster Direct Deposit and Direct Payment

The ACH network was first deployed more than 40 years ago and has been a workhorse for recurring disbursements, payroll, and bill payments by providing next-day transaction settlement. A significant change in 2016 facilitated money movement the same day. However, the early processing schedules favored



financial institutions in the Eastern U.S. A number of us petitioned Nacha to approve processing schedules more favorable for financial institutions and their customers in the Mountain, Pacific, Alaska and Hawaii time zones.

Beginning March 2021, a new processing window will allow financial institutions to send ACH transactions to the Fed as late as 1:45 p.m. Pacific time (PT) for settlement at 3 p.m. PT. This empowers the ACH network for a new set of customer use cases:

- Direct Deposit for hourly, off-cycle, emergency payroll and termination pay
- Expedited bill payment for past-due or near-due obligations
- Business-to-business payments, such as tax payments and merchant funding for settlement
- Account-to-account transfers for moving funds between accounts at different banks
- Person-to-person payments for gifting and personal commitments

These enhancements to the ACH network enable banks to provide their customers with a range of new services. Businesses appreciate ACH payments because of the wide range of use cases that are supported, the lower cost of these payments, and the inherent security of the ACH network. Most businesses send and receive ACH payments today and have developed a high level of trust. Additionally, every financial institution in the U.S. participates, so there are no duplicate processes for in-network and out of network participants. Simplification of the process should not be underestimated for businesses of all sizes.

A 2019 survey conducted by the Center for Payments discovered that 75% of financial institutions in the U.S. offer Same-Day ACH services to business customers. An earlier survey of WesPay members showed that only half of the Western U.S. financial institutions were offering these services. We believe the initial early deadlines for submitting payments to the Federal Reserve and businesses' inability to comply with these early cutoffs were the key reasons for lower participation rates in the Western U.S.

We expect the ACH changes in 2021 and participation from banks across the West will result in service innovation. Same-day ACH supports both debit and credit entries up to a maximum value of $100K per payment. The dollar threshold can accommodate 97% of all ACH business-to-business payments and a higher percentage of payments in other use cases. Nationwide, Nacha recognized 41% growth between 3Q 2020 and 3Q 2019 and nearly 94 million Same-Day ACH transactions were processed in the quarter.

This is a solution with outstanding potential for growth and customer engagement.

Follow the Trends

So why are faster payments important? Increasingly, consumers and small businesses are turning to non-bank service providers for fast and innovative payment services. A streamlined user experience, trust in the service provider, and surety in funds flow are critical components to a successful solution.

The emergence of non-bank payment solutions also provides a number of risks. It jeopardizes a bank's relationship with its business customers and impacts its bottom line through lower balances and reduced fee income. Revenue diversification, especially non-interest income from business accounts, is critical in an extended low-interest-rate economy.

Bankers have no shortage of options when it comes to emerging payment solutions. Expansion of ACH origination services by using new same-day features provides upside potential and aligns with businesses' and consumers' trends. ■

WesPay

William Schoch is President and CEO of WesPay, the nation's oldest and one of the largest associations dedicated to helping members grow and improve their use of electronic payments. He is responsible for developing and implementing strategic initiatives to grow the association and provide maximum value to its 1000 members through information, education, and advisory services. He was appointed to his position at WesPay in 2008.

In 2016, Bill was the incorporator of WesPay Advisors, a wholly owned subsidiary of WesPay, which provides payments consulting in the areas of payments strategy, process improvement and payments regulation. He serves as a director and the secretary of the WesPay Advisors Board.

Bill currently serves on the boards of WesPay, WesPay Advisors as board Secretary, and Nacha. He also serves on the operations committee of the U.S. Faster Payments Council. He recently served on the board of USA Technologies, the Federal Reserve's Faster Payments Task Force and the steering committee for Nacha's Payments Innovation Alliance. Bill is a member of the American Society of Association Executives (ASAE) and the California Society of Association Executives (CalSAE). He is a frequent speaker on payments-related topics.

HOW ARE BANKING STRATEGIES EVOLVING IN 2021?

By Shane Ferrell, CSI

To understand how bankers will prioritize their digital strategies in light of the tumultuous year that was 2020, CSI — a leading provider of fintech and regtech solutions — polled banking executives from around the country, representing 272 financial institutions from across the asset-size spectrum. This survey data was then collected and used to create an executive report to help bankers gain insight into the industry's hottest topics and strategies.

What Did Bankers Have to Say?

It's hardly surprising that, when asked about the future of the industry in CSI's 2021 Banking Priorities Executive Report, digital transformation thematically unified every priority. While taking stock of their 2020 performance and assessing the year ahead, banking executives almost unanimously agreed: Digital use will likely not return to pre-COVID levels.

Bankers began the survey by reflecting upon the past year with this question: please rate your bank's response to the COVID-19 pandemic in the following areas on a scale of 1 to 5, with five being the highest.

- In CSI's survey, 97% of bankers acknowledged an irrevocable change in consumer behavior when asked whether they expected digital channel use to increase at their institution even after the virus stabilizes.
- Bankers gave themselves good scores in two areas related to their pandemic response: maintaining in-branch safety (4.3/5) and Paycheck Protection Program (PPP) Loan Disbursement (4.3/5).
- However, bankers identified key areas for improvement, including transitioning to digital channels (3.8/5) and managing a remote workforce (3.7/5).

The takeaways? To facilitate seamless transitions to digital, institutions must better understand digital channels and how customers want to use them. And as bankers navigate the challenges of the pandemic and manage remote workforces, a cybersecurity debriefing should be conducted to identify all the challenge areas. Reviewing internal controls to ensure all networks, devices, accounts and systems are adequately patched will also enhance cybersecurity for remote workforces.

Addressing the Top Challenges for 2021

The CSI survey also explored the challenges facing bankers this year, asking respondents to identify which one issue will most affect the financial industry in 2021.

- Over one-third of bankers (34%) identified cybersecurity as the top industry issue in 2021. As institutions face this evolving threat, cybersecurity frameworks, such as the CIS Controls, help identify strengths and weaknesses to ensure budget dollars are effectively allocated. Beyond basic cyber hygiene, a robust framework should include due diligence on third-party service providers' cybersecurity controls and appropriate safety mechanisms like biometrics to protect customers.

- As more consumers use digital channels, nearly 20% of bankers rank meeting customer expectations as the top issue this year. Customers increasingly demand seamless experiences, but prioritizing new technologies and striving to balance digital with the human element creates a dilemma for institutions. While embracing the appropriate technologies is essential, effective digital transformation requires a strategic view of immediate customer demand. The right data leveraged from a robust CRM tool can better inform you of products and services matched to consumer needs.

- With regulatory agencies struggling to keep pace with changing technologies, 17% of bankers name regulatory change as the top issue. Data privacy and BSA/AML modernization are among the highest priorities in the realm of regulatory compliance. Institutions must continue to foster a culture of compliance and a robust change management framework to keep their finger on the pulse of regulatory change.

Evolving Strategies for Growth in 2021

Consumers — many of whom were reluctant to try digital channels — now demand digital offerings that are seamless, secure and convenient. Financial institutions need to leverage new and existing technology to meet these expectations if they want to retain customers and attract new ones.

To grow market share, bankers will continue reframing their strategies to examine new customer segments, geographic markets and product types. But without employing customer data to inform digital transformation strategies, an institution's customer acquisition and retention could suffer. The established data must drive these strategies as they continue to evolve. According to CSI's report, bankers prioritized the following technologies to meet the challenges above:

- Digital Account Opening topped the list of technological advances for nearly 59% of executive respondents. Naturally, the pandemic drove many customers to fulfill financial needs digitally. Even when the need for digital channels has stabilized, customers' desire to seamlessly open an account will remain.

- Mobile Banking Apps followed closely behind digital account opening, with 44% of executives planning to prioritize this technology. Utilizing digital banking apps should incorporate an integrated design across all channels to deliver consistent functionality. Some customers are new to digital, so creating user-friendly processes for those late adopters is essential.

- Digital Lending has exploded during the pandemic, with 43% of executives reporting this feature as one of the highest technological priorities. As the economic slowdown met high borrower expectations, digital lending became an essential component of a digital banking strategy.

To grow market share, bankers will continue reframing their strategies to examine new customer segments, geographic markets and product types.

- Customer Relationship Management (CRM) tied with digital lending among bankers' priorities for 2021. Better utilization of CRM to capture existing customer data empowers banks to meet customers' needs through existing channels, such as digital account opening and mobile banking apps.

Download the Full Executive Report

Get a comprehensive breakdown of the survey data — including insight on digital transformation, cybersecurity, compliance and more — by downloading the 2021 Banking Priorities Executive Report. ■

Shane Ferrell is Vice President of Product Strategy at CSI.

AML/BSA REFORM IS ON THE HORIZON

By Steve Manderscheid, Compliance Alliance

When Congress pushed through the National Defense Authorization Act for the fiscal year 2021, the banking industry breathed a sigh of relief with the glimmer of hope for the potential elimination of excessive regulatory burdens under the Bank Secrecy Act.

The reason for hope is the section within the legislation dedicated solely to improvements to anti-money laundering rules, including to:

- Improve coordination and information sharing among the agencies tasked with administering anti-money laundering and countering the financing of terrorism requirements, the agencies that examine financial institutions for compliance with those requirements, Federal law enforcement agencies, national security agencies, the intelligence community and financial institutions;
- Modernize anti-money laundering and countering the financing of terrorism laws to adapt the government and private sector response to new and emerging threats;
- Encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and the financing of terrorism;
- Reinforce that the anti-money laundering and countering the financing of terrorism policies, procedures, and controls of financial institutions shall be risk-based;
- Establish uniform beneficial ownership information reporting requirements to:
    - Improve transparency for national security, intelligence, and law enforcement agencies and financial institutions concerning corporate structures and insight into the flow of illicit funds through those structures;
    - Discourage the use of shell corporations as a tool to disguise and move illicit funds;
    - Assist national security, intelligence, and law enforcement agencies with the pursuit of crimes; and
    - Protect the national security of the United States; and
- Establish a secure, nonpublic database at FinCEN for beneficial ownership information.

The main purpose of this immense undertaking will continue to focus on safeguarding the United States financial system and those financial institutions that make up that system from the abuse of money laundering, terrorist financing and other illicit financial crimes.

Today, banks must develop and implement an effective risk-based AML program consistent with rules that transcend roughly 50 years of banking. Over that time, many things have changed, especially the recent digital innovations relating to how consumers interact and conduct their banking and transactions. Unfortunately, the same cannot be said for the regulatory burden to file reports under archaic and arbitrary thresholds.

Under the current BSA Currency Transaction Reports (CTRs) requirements (not considering exemptions as they are a burden unto themselves), financial institutions must report currency transactions over $10,000 conducted by or on behalf of, one person, as well as multiple currency transactions that aggregate to be over $10,000 in a single day.

In addition to filing CTRs, the industry must report suspicious activity under the following thresholds:

- Criminal violations involving insider abuse in any amount.
- Criminal violations aggregating $5,000 or more when a suspect can be identified.
- Criminal violations aggregating $25,000 or more regardless of a potential suspect.
  - Transactions conducted or attempted by, at or through the bank (or an affiliate) and aggregating $5,000 or more, if the bank or affiliate knows, suspects, or has reason to suspect that the transaction involves money laundering or other illegal activity, evades the BSA or has no business or apparent lawful purpose.

The main purpose of this immense undertaking will continue to focus on safeguarding the United States financial system and those financial institutions that make up that system from the abuse of money laundering, terrorist financing and other illicit financial crimes.

Under the current legislation, the Treasury Department is to undergo a formal review of these current arbitrary thresholds established for filing CTRs and Suspicious Activity Reports (SARs), including:

- Review of Thresholds for Certain Currency Transaction Reports and Suspicious Activity Reports.
  - The Secretary, in consultation with the Attorney General, the Director of National Intelligence, the Secretary of Homeland Security, the Federal functional regulators, State bank supervisors, State credit union supervisors and other relevant stakeholders, shall review and determine whether the dollar thresholds, including aggregate thresholds, under sections 5313, 5318(g), and 5331 of title 31, United States Code, including regulations issued under those sections, should be adjusted.
- Considerations. In making the determinations required under subsection (a), the Secretary, in consultation with the Attorney General, the Director of National Intelligence, the Secretary of Homeland Security, the Federal functional regulators, State bank supervisors, State credit union supervisors and other relevant stakeholders, shall:
  - Rely substantially on information obtained through the BSA Data Value Analysis Project conducted by FinCEN and on information obtained through the Currency Transaction Report analyses conducted by the Comptroller General of the United States; and
  - Consider:
    - The effects that adjusting the thresholds would have on law enforcement, intelligence, national security and homeland security agencies;
    - The costs likely to be incurred or saved by financial institutions from any adjustment to the thresholds;
    - Whether adjusting the thresholds would better conform the United States with international norms and standards to counter money laundering and the financing of terrorism;
    - Whether currency transaction report thresholds should be tied to inflation or otherwise, be adjusted based on other factors consistent with the purposes of the Bank Secrecy Act;
    - Any other matter that the Secretary determines is appropriate.
- Report and Rulemakings. Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Attorney General, the Director of National Intelligence, the Secretary of Homeland Security, the Federal functional regulators, State bank supervisors, State credit union supervisors and other relevant stakeholders, shall:
  - Publish a report of the findings from the review required under subsection (a); and
  - Propose rulemakings, as appropriate, to implement the findings and determinations described in paragraph (1).
- Updates. Not less frequently than once every five years during the 10-year period beginning on the date of enactment of this Act, the Secretary shall:
  - Evaluate findings and rulemakings described in subsection (c); and
  - Transmit a written summary of the evaluation to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate; and
  - Propose rulemakings, as appropriate, in response to the evaluation required under paragraph (1).

How will all this play out? Well, we'll have to wait and see. Hopefully, an increase in the reporting thresholds will bring some semblance of tangible benefits to financial institutions being burdened under the current BSA regulatory reporting structure. ■

PIONEER BANK

FOR IMMEDIATE RELEASE

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RE: Pioneer Bank Celebrates 120 Years

ROSWELL, New Mexico, February 15, 2021 — February marks 120 years in business for Pioneer Bank. Pioneer Bank opened its doors on February 19, 1901 as the Roswell Building & Loan Association in Roswell, New Mexico, to meet the need for capital to finance home construction. Over the past century, Pioneer Bank has grown into one of southern New Mexico's most prominent community-based institutions for business and personal banking.

"Team Pioneer celebrates 120 years in business by reflecting on our past, but more importantly focusing on our future", stated Christopher Palmer, President/CEO. "The most inspiring aspect of Pioneer Bank's continued growth and success are our Team members and our partnership with the communities we serve. We owe our longevity to our Team, customers, and communities. We will continue to live up to our mission to make a positive difference in the lives of those who work, bank, and invest at Pioneer."

The original meeting of the stockholders was held on December 27, 1900. A committee of nine was chosen to prepare the charter and by-laws, which were filed with the Secretary of the Territory of New Mexico and approved by the stockholders on April 5, 1901.

The first President of the Board of Directors was D.S. Rosenwald. The first Directors were W.T. Jones (Vice-President), J.M. Hervey (Secretary), L.K. McGaffey (Treasurer), Nathan Jaffa, George Bixby, L.W. Martin, E.A. Cahoon, E.P. Rasmussen, Charles W. Haynes and W.T. Jones. Our Presidents throughout the early years also included Nathan Jaffa, 1902-1903 and 1906-1907; C.C. Tannehill, 1903-1906; E.A. Cahoon, 1907-1935; and Gov. J.F. Hinkle, 1935-1951.

Through joint efforts of many, the Association weathered the depression years and established the Association as a sound financial institution serving Roswell and the Pecos Valley. The Association became a member of the Federal Home Loan Bank system on February 1, 1933, and its accounts were insured by the FLSIC on September 15, 1936.

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BANK NEWS

Pioneer Bank Earns 2021 Top Workplaces USA Award

Pioneer Bank has announced it has earned the 2021 Top Workplaces USA award, issued by Energage, a purpose-driven organization that develops solutions to build and brand Top Workplaces. This is the inaugural year for Top Workplaces USA, built on the program's 14-year history surveying more than 20 million employees across 54 markets for the regional Top Workplaces awards.

"I am proud to be part of a team that works to better each other and provide the best possible service to our customers," states Christopher G. Palmer, President & CEO. "It is our Team that makes Pioneer Bank who we are. We strive to build community amongst our Team which spreads to all aspects of our company and the communities we live and work in."

Top Workplaces USA offers national recognition for large organizations, those with more than 150 employees, and those that may have operations in multiple markets. Several thousand organizations from across the country were invited, and more than 1,100 participated in the Top Workplaces USA survey. Winners of the Top Workplaces USA list are chosen based solely on employee feedback gathered through an employee engagement survey issued by Energage.

Results are calculated by comparing the survey's research-based statements, including 15 Culture Drivers that are proven to predict high performance against industry benchmarks.

"During this very challenging time, Top Workplaces has proven to be a beacon of light for organizations, as well as a sign of resiliency and strong business performance," said Eric Rubino, Energage CEO. "When you give your employees a voice, you come together to navigate challenges and shape your path forward. Top Workplaces draw on real-time insights into what works best for their organization, so they can make informed decisions that have a positive impact on their people and their business." ■

IN MEMORIAM:

Frank Macaluso

Frank Macaluso, 89, passed away on Oct. 31, 2020, at his home in Farmington, surrounded by his family. He was preceded in death by his wife of 59 years, Peggy. Frank was born in Cheyenne, Wyoming, to Frank and Thelma Macaluso. He earned a bachelor's degree in business administration from Regis University in Denver.

Frank began and ended his career as a banker. He moved to Farmington in 1952 and worked for Citizens Bank in Aztec. He organized Valley Bank of Farmington in 1974, which later became part of Bank of America. Frank served as director and chairman of Sunwest Bank, a $78 million operation in Farmington for 23 years. He was director of Sunwest Financial Services for five years. In 2000, he organized Four Corners Community Bank, which he watched grow with pride. He served as chairman of the Board for FCCB until his death.

In 1959, Frank founded Macluso Oil Company, a petroleum product distributor. In 2000, the company expanded to Albuquerque and Santa Fe and became Amigo Petroleum Company. The company was sold to Gian Industries in 2006.

Frank served on the Governor's Business Advisory Council, the New Mexico Board of Finance, and the University of New Mexico Foundation throughout the years. He was President of the New Mexico Petroleum Association and was also a New Mexico Amigo.

Frank was a man of great conviction and integrity who will be greatly missed but always loved by his family. Frank is survived by his four daughters, one son, 16 grandchildren and 33 great-grandchildren.

Chris Bird

Chris Bird, longtime EVP at CNB Bank in Carlsbad, passed away on Jan. 1, 2021. Chris was born Aug. 8, 1960, in Fort Scott, Kansas, to David and Norma Bird. He graduated high school in Ottawa, Kansas. He attended Wichita State University, University of St. Thomas Houston and earned his MBA from ENMU. He married Joyce Stuever on Jun. 25, 1983, in Wichita, Kansas. He and Joyce moved to Carlsbad in 1984, where they raised their four daughters together.

Chris worked for Ross Hyden Motors, Western Ag Minerals and worked for the last 22 years at CNB Bank, where he was Executive vice president of Operations. He was involved in Kiwanis, NM Senior Olympics, St. Edward Catholic Church and led Thursday Night Bible Study for many years.

Chris is survived by his parents and brother Scott Bird of Ottawa, Kansas, wife Joyce, four daughters and eight grandchildren. The family has asked that any donations be made to Jonah's House Food Pantry. ■


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The New Mexico Bankers Association, through its membership, plays a vital role in creating a favorable atmosphere under which all banks in the state can thrive, prosper and continue to serve their communities. Never have the challenges facing our industry been so great and the issues so complex.
At no time has the NMBA's responsibility to fulfill its mission statement been so important. In years past, the New Mexico Bankers Association has been able to meet its stated goals through the strong support of member banks and the willingness of bankers to serve with diligence as NMBA volunteers. A skilled dedicated staff, committee members, committee chairpersons and directors make up the heart and soul of this viable and strong trade association. Whether it is through legislative efforts, federal and state, or through the current educational programs, the Association continues to serve its members.
I am honored by the opportunity to serve as the President of the New Mexico Bankers Association. The NMBA exists solely to serve our members needs. If we ever fall short in doing so, I invite you to call me personally to let me hear about your concerns. We, as bankers, should work to make sure our association is the best that we can make it.
Jason Wyatt, Western Commerce Bank
2019-2020 NMBA President
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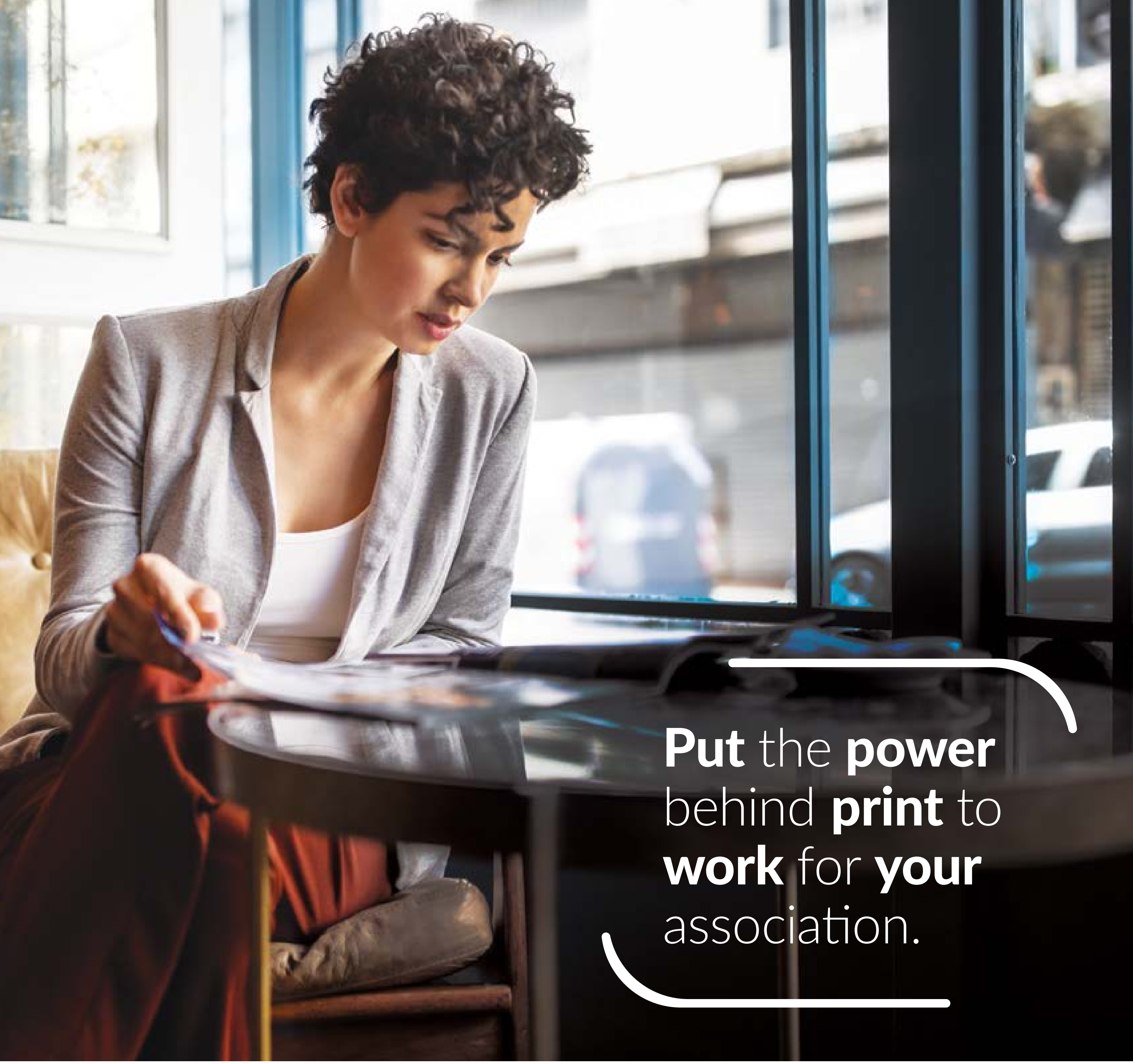
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