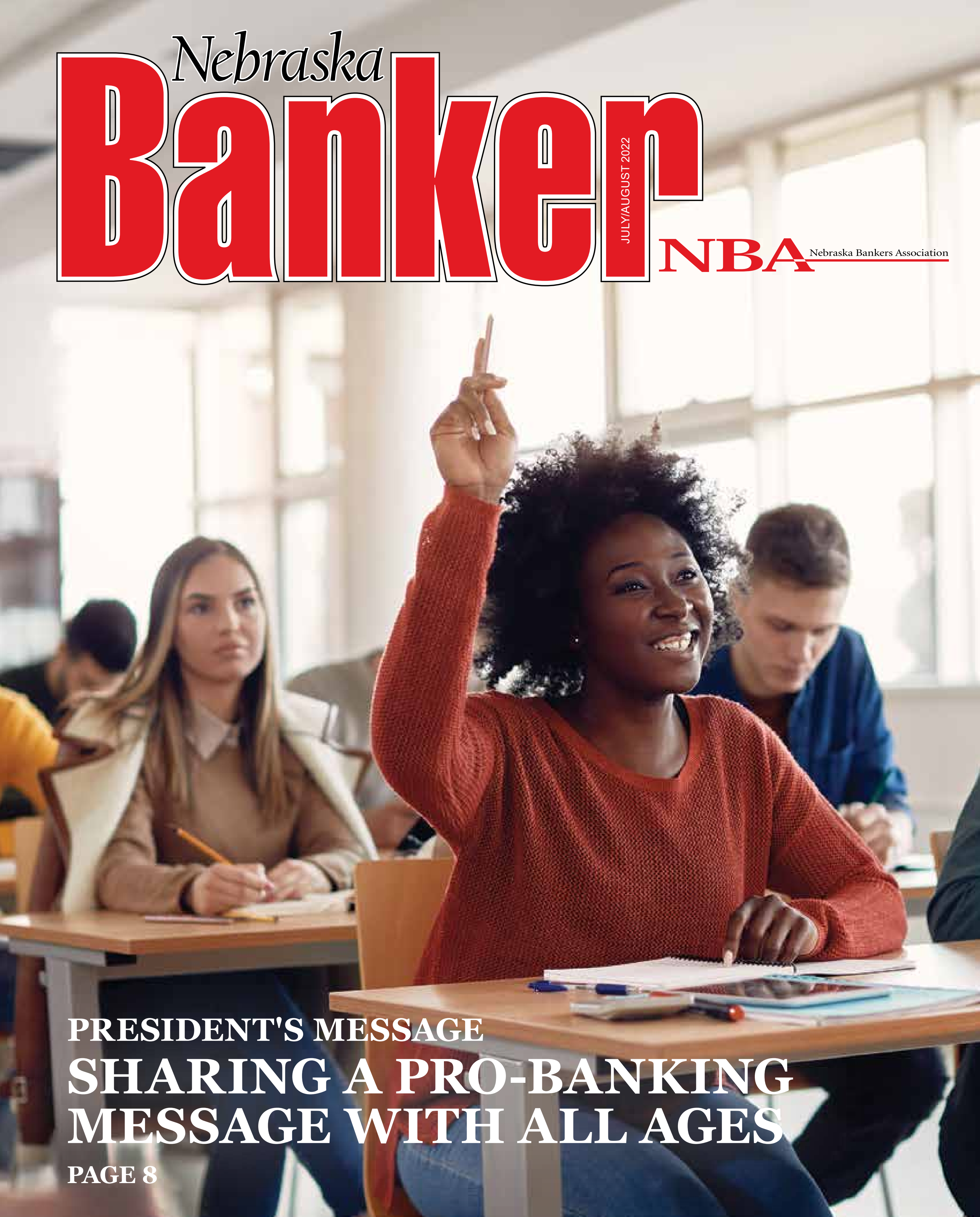
Nebraska Banker

JULY/AUGUST 2022

NBA Nebraska Bankers Association



PRESIDENT'S MESSAGE

SHARING A PRO-BANKING MESSAGE WITH ALL AGES

PAGE 8

OFFICIAL PUBLICATION OF THE NEBRASKA BANKERS ASSOCIATION

CONTENTS

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Sharing a Pro-Banking Message With All Ages

Richard J. Baier, President and CEO, Nebraska Bankers Association

One of the most rewarding activities that is part of my role at the NBA is visiting with K-12 and college students and educators. These interactions often include a presentation highlighting the size and scope of the Nebraska banking industry, an overview of NBA priorities and industry advocacy and, finally, touching on issues that keep bankers awake at night. Discussions about the current issues confronting the industry always seem to garner the most student and educator attention, specifically, the issue of non-bank competition.

Bankers recognize that non-bank competition comes in many forms, ranging from the tax-subsidized Farm Credit System (FCS) and credit unions (CUs) to online and private-equity lenders. New digital asset or cryptocurrency companies could also be included in this mix. During our discussions, it is clear that students and educators have little or no understanding of the capital and regulatory disadvantages between Nebraska banks and non-bank competitors. "That's not fair," is the typical reaction to these conversations. We clearly agree!

The reoccurring pro-banking message I try to communicate to students and educators is that Nebraska banks operate in almost every community in the state, unlike many non-bank competitors, FCS in particular. Many are increasingly moving to large, regional lending offices and a virtual presence and abandoning a local footprint or representation. Nebraska banks are community and customer-driven and partners in local communities. This was exemplified by the banking industry's efforts during the Paycheck Protection Program.

Conversations about the tax-subsidized FCS and CUs are often the favorite part of my interactions with students and educators. Outside of the occasional college student, very few in the audience understand that FCS and CUs do not pay their fair share of the tax burden. This conversation is even more fun to have with educators who are discussing the lack of tax support for their local districts yet conduct their financial services through an educator/educational credit union. At the college level, I frequently discuss how the state of Nebraska uses state tax dollars to offset approximately 50% of the tuition costs for students enrolled in a public college or university. Nebraska banks contribute to higher education support via payment of the financial institution tax. FCS and federally chartered CUs obviously do not do their fair share to support important public services like education and safety. These arguments seem to really resonate with both students and educators.

Unfortunately, students and educators often reference and believe the misguided marketing suggesting that online lenders deliver financial products faster and at a lower cost. Nebraska banks routinely demonstrate that those marketing campaigns by online lenders are simply that, marketing, not actual performance. Educators who have experienced a hail claim during this summer's storms, for example, know firsthand the importance of having a Nebraska bank at the center of getting their insurance claim finalized! Or, how about those recent college graduates trying to buy their first home without a strong credit score or a consistent income stream? Nebraska banks will work diligently with these young people to make their dreams a reality!

Discussions with students about the role of cryptocurrency and digital assets in the financial system are also very enlightening. A show of hands by students during a recent University of Nebraska Omaha College of Business presentation showed that every student in the class owned some level of cryptocurrency. I always work to bring our discussions back to the importance of how Nebraska bank deposits provide safety and security not offered in the crypto space. After the recent cryptocurrency price decline, I suspect future conversations about this topic will change drastically.

A show of hands by students during a recent University of Nebraska Omaha College of Business presentation showed that every student in the class owned some level of cryptocurrency.

We know COVID impacts and new technologies will continue to foster the emergence and evolution of our non-bank competitors. Therefore, it is paramount that each bank and banker take every opportunity to educate and inform customers of all ages and elected officials about the strength, stability and commitment of Nebraska's banks to the future success of our customers, communities and state. We need to keep beating the drum!

No Deal:

States Slam on Brakes for CU Acquisitions of Community Banks

Rob Nichols, American Bankers Association

It would have been the largest acquisition of a community bank by a credit union — but word came in mid-June that the deal was off between VyStar Credit Union and Heritage Southeast Bancorporation after a failure to receive regulatory approvals. If completed, the deal would have made Jacksonville, Florida-based VyStar the 13th largest credit union in the nation.

The deal was just one of a growing list of mergers announced between tax-exempt credit unions and taxpaying banks in recent months — but states are starting to sour on the idea.

Earlier this year, the Minnesota Department of Commerce blocked the acquisition of state-chartered Lake Area Bank by Royal Credit Union, officially clarifying that state law does not permit the acquisitions of state-chartered banks by credit unions. Similar actions have taken place in Colorado, Iowa, Tennessee, and Nebraska.

Meanwhile, the Mississippi state legislature succeeded in passing a law stipulating that only FDIC-insured banks can acquire or merge with Mississippi-chartered state banks. The law, which goes into effect this July, puts a halt to any deals in progress that don't comply with the new requirement.

These are encouraging developments.

The decision to merge is, of course, a business decision that must be made at the individual level. But states are increasingly acknowledging that allowing tax-exempt credit unions to gobble up taxpaying banks — taking them off the tax rolls for good — is poor public policy that imposes costs on consumers and taxpayers, and they're taking sensible steps to prevent it from happening in the future.

The fact that states are beginning to take action is due in no small part to banker advocacy — and it's a good reminder of the importance of speaking up whenever we see the credit union industry pushing the boundaries of the statutory limits imposed on it by Congress.

Unfortunately, those attempts are only becoming more brazen.

Recently, the industry lobbied to create a new loophole designed to enable credit unions to greatly expand their fields of membership and business lending capacity. The House bill, which we don't expect to advance in the Senate, was included as part of a broader package of financial inclusion measures, despite the fact that the bill contained no language to ensure that these expanded powers would be used by credit unions to serve underserved communities.

If credit unions were serious about promoting financial inclusion, they should welcome the opportunity to demonstrate their commitment to serving low- to moderate-income communities by meeting the same Community Reinvestment Act requirements banks must meet. But it's become clear that credit unions aren't interested in that mission — in fact, recent data has shown a general pattern of credit unions opening more branches on net in upper- and middle-income census tracts and closing more branches on net in low- to moderate-income census tracts.

It's wrong for credit unions to try and shoehorn self-serving pieces of legislation through Congress under the guise of promoting financial inclusion — just as it's wrong for them to exploit their tax-advantaged status to subsidize acquisitions of taxpaying banks, pay for stadium naming rights or private jets, or open multi-million dollar headquarters.

It's encouraging that states are starting to scrutinize the credit union industry more closely. Now Congress must do the same. ◗

Email Rob at nichols@aba.com.

The deal was just one of a growing list of mergers announced between tax-exempt credit unions and taxpaying banks in recent months — but states are starting to sour on the idea.

EDUCATION CALENDAR

For more information about these live and online education events and training tools, contact the NBA Education Center at (402) 474-1555 or nbaeducation@nebankers.org. You also may visit the NBA website at https://www.nebankers.org/education.html.

AUGUST 2022

Real Estate Compliance Lending Conference
August 16-17
Lincoln, NE

Bank Compliance School
August 22-26
Kearney, NE

SEPTEMBER 2022

Fall Agri-business Conference
September 1-2
Lincoln, NE

IRA Essentials Workshop
September 19-20
Virtual

Advanced IRA Workshop
September 21-22
Virtual

Advanced School of Banking, Year 1
September 26-30
Kearney, NE

OCTOBER 2022

Essential Teller Issues Seminar
October 4
Virtual

Women in Banking Conference
October 19-20
Omaha, NE

Commercial Lending School
October 24-28
Manhattan, KS

Summit on Regulatory Issues
October 28
Lincoln, NE

NBA Nebraska Bankers Association

6 Low-Cost Ways
to Improve Your Cybersecurity

Your business is exposed to a variety of risks every day. Improving your cybersecurity can feel like a daunting task, but there are a few ways you can get started quickly. If you are unsure where to start, our security experts offer six low-cost, easy solutions that you and your team can implement to boost your security right now.

1. Data Backup and Recovery
Backing up your data is crucial but not all backups are the same. It is critical that you have an offsite data backup solution, keeping your data protected and stored outside your network.

2. Endpoint Detection Response (EDR)
Traditional antivirus software is not sufficient protection for your financial institution. Antivirus requires regular database updates of the current virus signatures to be effective. The protection afforded by AV software is only as good as the vendor's updates. Often, threats are discovered only after the damage is done. EDR uses artificial intelligence to detect threats without having to rely on virus signatures.

3. Multi-Factor Authentication (MFA)
Two of the best methods for establishing extra lines of defense for your online accounts are using strong passwords and setting up 2-factor or multi-factor authentication (also known as 2FA or MFA). Using different passwords for each of your accounts is another best practice to hinder an attacker and keep your data, accounts and network safe.

4. Third Party Patching
Keeping your devices, browsers and other tech up to date is one of the best, first lines of defense against cyberattacks. Security patches and updates fix any technical bugs and essentially "lock" your software and devices before bad actors can make a copy of the "key."

5. Avoid Suspicious Emails
With phishing, hackers attempt to gain access to your information or credentials through your email inbox. Phishing scams may seem like a relic of the past but have become one of the main culprits behind countless cyberattacks. Here are a few quick tips.

If the email address, link or contents look suspicious:

- Do not engage with the message or sender.
- Do not open the email, click on links or provide information.
- Contact your IT support immediately.

6. Book a Free Consultation
Hamilton is here to help mitigate and eliminate cybersecurity threats to your financial institution. We offer services from training, to network penetration tests and vulnerability assessments. **Contact us today to book a free consultation and learn how our cybersecurity solutions can help minimize vulnerabilities and protect your business data.**

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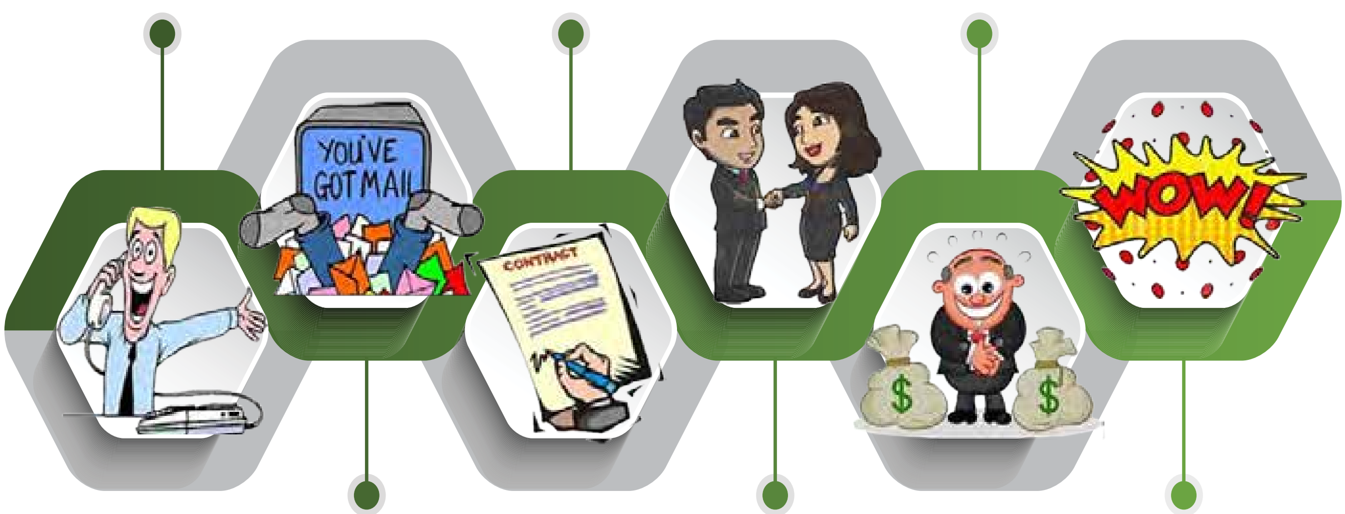

2. You email us the appropriate documents of information.

4. Meeting the customer. We will come to you to sign loan documents.

6. Wow that was easy.

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FDIC

EQUAL HOUSING LENDER

Does Your Financial Institution Have Affirmative Action Obligations? Likely Yes! Are You Compliant? Likely No!

Kelli P. Lieurance, Baird Holm, LLP

The Office of Federal Contract Compliance Programs ("OFCCP"), a division of the U.S. Department of Labor ("DOL"), has long been tasked with enforcing laws promoting equal employment opportunity and affirmative action, specifically as they affect federal contractors and subcontractors, and very likely financial institutions.

While the Trump Administration's OFCCP tempered the more aggressive stance of prior administrations, the Biden Administration's OFCCP has signaled a return to more targeted compliance enforcement, particularly by introducing a new requirement for covered contractors to certify their compliance (or non-compliance) with affirmative action obligations on an annual basis.

Before we go further, you may find yourself thinking, "Affirmative action? Federal contractors? I've never heard of this, so surely this doesn't apply to my financial institution." Unfortunately, that conclusion is likely incorrect. Even though financial institutions are accustomed to government regulations, many are simply unaware of their affirmative action obligations. On the other hand, even financial institutions aware of their obligations have grown complacent because it was unlikely that the OFCCP would select them for a compliance review (i.e., audit). Instead, those financial institutions focused on other "higher priority" regulatory obligations and hoped the OFCCP would not notice their non-compliance. That strategy is now obsolete.

Jurisdiction

The OFCCP administers and enforces three legal authorities that require equal employment opportunity and affirmative action — Executive Order 11246 ("EO 11246") (covering gender/race), as amended; Section 503 of the Rehabilitation Act of 1973 ("Section 503") (covering individuals with disabilities), as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 ("VEVRAA") (covering protected veterans), as amended, 38 U.S.C. § 4212. These laws prohibit federal contractors and subcontractors from discriminating based on race, color, religion, sex, national origin, disability, sexual orientation, gender identity, and protected veteran status, and require affirmative action if certain jurisdictional thresholds are met.

Even though financial institutions are accustomed to government regulations, many are simply unaware of their affirmative action obligations.

Notably, the affirmative action obligations apply only to federal contractors and subcontractors with 50 or more employees and meet one of the criteria below. Assuming the employee threshold is met, a financial institution is covered if it:

1. Has a federal contract or subcontract in excess of $50,000 (EO 11246/Section 503) and $150,000 (VEVRAA); OR
2. Serves as a depository of government funds:
   a. In any amount (EO 11246),
   b. For $50,000 or more (Section 503), or
   c. For $150,000 or more (VEVRAA).

OR

3. Serves as an issuing and paying agent for U.S. savings bonds and saving notes:
   a. In any amount (EO 11246),
   b. For $50,000 or more (Section 503), or
   c. For $150,000 or more (VEVRAA).

Additionally, the OFCCP takes the position that financial institutions with ***federal share and deposit insurance*** (i.e., that participate in FDIC or NCUA programs) are also federal contractors and therefore subject to its jurisdiction. Consequently, ***most financial institutions have affirmative action obligations*** because they either serve as a depository of government funds, participate in FDIC or NCUA programs, or hold other federal contracts in excess of $50,000.

If the above criteria applies, the financial institution must prepare and implement Affirmative Action Programs (AAPs) under the three affirmative action laws. As part of these AAPs, covered contractors must track the gender, race, disability, and veteran status of each individual who applies for a particular job, as well as analyzes other employment practices, such as transfers, promotions, and terminations, to ensure their practices reflect race- and gender-neutral employment processes. Covered contractors must also aim to meet certain disability utilization goals, and veteran hiring benchmarks. In other words, this is not just a written policy, but workforce-specific statistical analyses which must be prepared every year. The OFCCP has focused intently on these analyses, and held that ignorance of the requirement to maintain and/or analyze the data is not an excuse for non-compliance.

The OFCCP has also recently focused on employer compensation practices that have a disparate impact on women and minorities. Covered contractors, therefore, must annually evaluate their compensation practices to determine the existence of any current or potential disparate compensation concerns. Indeed, the OFCCP now conducts detailed evaluations of employer compensation practices during all compliance reviews.

Annual Certification via the OFCCP Contractor Portal

Unfortunately, a financial institution can no longer hope to avoid OFCCP scrutiny. Beginning in 2022, the OFCCP now requires covered contractors to annually certify, on an annual basis, that they have compliant AAPs in place.

Specifically, contractors must attest to one of the following options:

1. It has developed and maintained affirmative action programs at each establishment, as applicable, and/or for each functional or business unit. See 41 CFR Chapter 60.
2. It has been party to a qualifying federal contract or subcontract for 120 days or more and has not developed and maintained affirmative action programs at each establishment, as applicable. See 41 CFR Chapter 60.
3. It became a covered federal contractor or subcontractor within the past 120 days and has not yet developed applicable affirmative action programs. See 41 CFR Chapter 60.

Contractors must also sign the following declaration:

> I attest that this Affirmative Action Program (AAP) certification is true and correct to the best of my knowledge. I understand that the penalty for making false

Counselor's Corner — continued on page 18

statements with respect to this certification is prescribed in 18 U.S.C. 1001.

☐ I affirm this declaration.

The annual certification deadline was June 30. While this 2022 deadline has expired before the publication date of this article, financial institutions should take steps now to ensure compliance with their affirmative action obligations moving forward. This means gathering the employment data necessary to prepare AAPs and setting up processes to comply with any other required affirmative action obligations.

Risks of Noncompliance

The OFCCP will use contractors' responses in the certification (or their failure to certify) to prioritize contractor establishments for audit. With that in mind, an entity that selects Option 2 (see previous page), or fails to certify at all, is more likely to be selected for audit. The flip side, however, is not true, as the OFCCP makes clear that selecting Option 1 will not exempt a contractor from an audit. In any case, "flying under the radar" regarding affirmative action compliance will be more difficult moving forward.

Indeed, even before this certification requirement was enacted, several banks have been subject to OFCCP scrutiny with negative outcomes. It can happen to you! In 2010, an Administrative Law Judge ("ALJ") ruled that Bank of America discriminated against African-American job applicants for entry-level positions in Charlotte, North Carolina, in 1993 and from 2002 to 2005. In 2013 (after decades of legal battle), the ALJ ordered the bank to pay 1,147 African-American job applicants $2,181,593 in back wages and interest. The ruling further ordered the bank to extend job offers, with appropriate seniority, to 10 class members as positions become available.

In another case, the OFCCP alleged that Simmons First National Bank discriminated against Black applicants for entry-level positions from 2004 to 2005, and against Black applicants for skilled clerical positions in 2005. The bank entered into a Consent Decree to settle the claims. In doing so, the bank agreed to pay $360,187 plus interest to all Black class members who responded to certain notices. Any remaining uncashed funds, if less than $20 per person, were to be used to train current employees about their rights and responsibilities under nondiscrimination statutes. Additionally, if any of the entry-level or skilled clerical positions at issue in the review became available, the bank was required to offer those positions to interested class members until it hired 30 class members or the interested list was exhausted. Finally, the bank had to provide the OFCCP with semi-annual progress reports for two years.

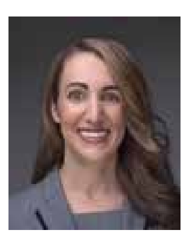
Unfortunately, preparing AAPs and compensation analyses are only part of a covered contractor's compliance obligations.

Finally, a 2012 OFCCP compliance evaluation of JPMorgan Chase (JPMorgan) resulted in a civil enforcement action alleging gender-based pay discrimination. In 2020, JPMorgan's motion of summary judgment was denied, and JPMorgan eventually entered into an Early Resolution Conciliation Agreement to pay at least $9.8 million ($800,000 in back pay and interest; $9 million in pay equity adjustments) across its workforce.

As you can see, organizations who fail to maintain adequate AAPs, and/or those who fail to remedy possible indicators of discrimination face stringent penalties from the OFCCP, including monetary penalties, back pay awards, mandated hiring, and even debarment.

Next Steps

Unfortunately, preparing AAPs and compensation analyses are only part of a covered contractor's compliance obligations. Other responsibilities, such as posting open jobs with the local workforce development office, including specific non-discrimination clauses in subcontracts, and making outreach to underrepresented groups, are also required. Financial institutions should take these obligations seriously, and consult with legal counsel promptly to discuss their path toward compliance.



Kelli P. Lieurance is a partner at Baird Holm LLP. She focuses on labor and employment law compliance, assisting employers with proactive, rather than just defensive, compliance efforts. Her practical approach not only offers clients a realistic view of their legal obligations, but also assists clients in implementing such obligations in a way that best suits their business needs.

Changing Your View of Cybersecurity

Jon Waldman, CISA, CRISC Executive Vice President, Information Security — SBS CyberSecurity

We often hear that technology, and especially information security, is regarded solely as an expense to your institution's bottom line, but it's high time we change that perspective. The reality of today's business world is that nearly all organizations of any scale in every industry rely so heavily on technology that without it, they'd largely be unable to do business long-term. If you rely on technology and the internet to perform your day-to-day operations and serve your customers, consider yourself a technology company.

Here are three ways that tech companies think differently about their organization and security:

1. They understand the risk.
2. They test their people, processes, and technology.
3. Their cybersecurity program starts at the top.

Understand the Risk

Being able to truly mitigate your risk starts with how well you can understand and quantify risk. If you perform a risk assessment and your results only state that you have "low" risk, how do you know that's right? How do you know what you need to do next?

The primary job of a risk assessment is to help you make decisions. When it comes to IT or cybersecurity risk assessment, the output should provide you with a clear understanding of what you have and how important that stuff is, how risky your stuff is, and where you should spend your next information security dollar to mitigate additional risk. Don't just perform a risk assessment to check the box; really know and understand your risk so you can secure your organization more effectively.

Test People, Process, and Technology

There are three ways to protect your information: people, processes, and technology. Your organization must implement risk-mitigating controls to protect your networks and customer information from those three categories. In turn, you must test the effectiveness of those controls so that you are confident they are in place and working correctly.

Testing your people involves social engineering assessments (phishing emails, physical impersonation, phone impersonation, dumpster diving, etc.). Testing your processes involves an external IT audit. And testing your technology typically involves technical scans around the inside (vulnerability assessment) and outside (penetration test) of your network.

When it comes to IT or cybersecurity risk assessment, the output should provide you with a clear understanding of what you have and how important that stuff is, how risky your stuff is, and where you should spend your next information security dollar to mitigate additional risk.

Finally, out of those three processes, people are the weakest link. It's much easier to convince a human being to provide the information they've been trained (or asked) not to share than it is to convince a firewall, whose only job is to follow a programmed set of instructions, to break the rules it has been built to follow.

Knowing that your people are your greatest weakness means you should test this area of your organization MOST frequently, not least frequently.

Start at the Top

To truly ensure your organization is on-board in changing your view of cybersecurity to align more with a technology company, the message must be consistently portrayed from the top down. Cybersecurity conversations between employees, the steering committee, and the Board of Directors need to happen regularly, not just once yearly. The integrity and availability of technology and data pose a much greater risk to your organization than nearly anything else, including a bad loan. A data breach, loss of customer data, or significant electronic banking downtime could cause irreparable damage to a community bank whose reputation is its most important asset.

Starting at the top means sharing the technology-focused message and vision with the whole organization, then backing up the message with appropriate investment into the technology and resources needed, including the roles and responsibilities of the staff. A shift from treating technology as an expense to a critical business function means aligning your actions with your message.

Training and education of not only your employees but also your customers is another critical component to building a cybersecurity culture. It shows everyone that you mean what you say and that you're committed to doing what's best for your employees and customers.

On top of training, holding your people accountable for their actions is also essential. If you are testing your people's cybersecurity awareness with regular phishing email tests, accountability must be built into the process for it to be effective. Phishing is the #1 attack vector used to compromise your network and steal customer information. Allowing employees to fail phishing assessments by clicking on links repeatedly sends a very loud message to the organization that cybersecurity doesn't matter. The same goes for testing your employees but not your senior management or Directors. Everyone should be on an even playing field when it comes to testing. Attackers don't discriminate between employees and Directors.

Changing Your View

By thinking of your organization as a technology company and acting accordingly, you will change your perspective on how you protect your networks and customer information and set yourself up for success in the future. Realizing that your organization's very existence depends on the technology you deploy via the internet to serve your customers, your focus will shift from "it's a necessary evil and an expense" to "we need to do our best to protect our networks and customer information because our very existence depends on it." Once you make that shift and invest in cybersecurity, you dramatically reduce the likelihood of a cybersecurity attack that could close your business. Change your mentality today! ◗

For more information, contact Robb Nielsen at 605-251-7375 or robb.nielsen@sbscyber.com. SBS helps business leaders identify and understand cybersecurity risks to make more informed and proactive business decisions. Learn more at sbscyber.com.

The Importance of Asset Pricing and ALM Strategy

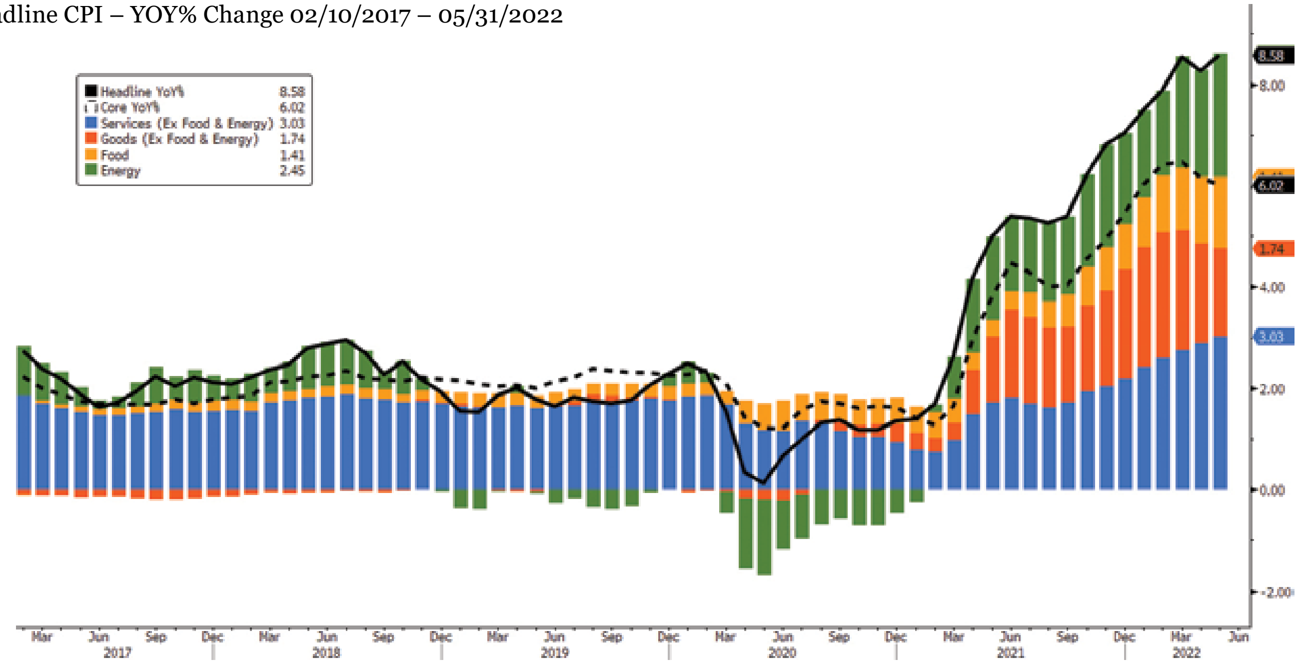
Andrew Okolski, The Baker Group

As if navigating the 2008 Housing Crisis and the 2020 Global Pandemic weren't enough, banks now face the most feared economic monster of all — inflation. CPI YOY jumped by 8.6% in May 2022, backed by broad price increases across many sectors. Obviously, this is well above the Fed's average target of 2% and increases the chances of more severe economic headwinds. If the Fed aggressively fights inflation through higher rates and balance sheet reduction, it will add significant downward pressure on consumers and the overall economy. If they are not aggressive enough, inflation can remain elevated for a longer period, also adding significant downward pressure.

I think everyone was hoping for a bit of a breather coming into 2022; however, we instead find ourselves in an equally challenging situation where asset pricing and ALM strategy are of the utmost importance. For most of the past two-plus years, income and capital pressures kept many up at night. The good news is that today's higher yields offer quick relief in those categories. Unfortunately, we now have some new pressures coming from falling asset market values. While every institution is unique, managing interest rate risk (specifically market risk) can almost always be improved by including EVE and Income Simulation results. Doing so is key when discussing overall asset pricing and the difference between ALM results and executed strategy.

It's important to note that the rate of change is just as important as the overall amount of change when it comes to asset/liability management. This is why asset pricing becomes so important in this volatile interest rate environment. The faster interest rates rise, the greater the negative impact on our EVE in particular. The main reason is that quick rate movements give depository institutions little time to react and adjust their asset yields. We can only add higher-yielding investments and write higher-yielding loans so fast. Often this means that the first few quarters during a rising rate trend can magnify and even potentially overstate our IRR risk as measured through EVE. So, what can we do to combat this?

Headline CPI – YOY% Change 02/10/2017 – 05/31/2022



*CPI Data & Chart from Bloomberg

Well, at least part of the answer is that we need to quicken the pace of asset repricing on our balance sheets. By no means am I implying that this is an easy task. However, it is extremely necessary and should be top management and ALCOs priority. Increased loan demand is a very welcome sight, especially after what we have experienced over the past two years. The tricky part is that those new loans must be at or above current market levels to begin softening our EVE risk. It doesn't help our IRR position to be adding loans at 2021 levels. The market currently expects Fed Funds to reach 2.50% to 3.00% by the end of this year, and short investments (without credit risk) can easily earn us a 3% yield or more. All these factors must be taken into account when discussing and adjusting asset pricing strategies right now.

This is one of the reasons that including ALM results in every strategic decision is so critical. It greatly shortens our reaction time and reduces how far off the path we can find ourselves in volatile environments. 2022, and likely 2023, will require more frequent/active ALCO and strategic planning sessions. At the same time, we need to ensure that our decisions in those meetings align with the assumptions we use in our ALM documents. Otherwise, we are basing our strategic movements on outdated directions.

For example, what if our ALM assumes that new loan volume will keep up with market rates (in a rising rate environment) to increase yield and limit EVE risk? However, during our next ALCO/board meeting, the temptation to continue generating additional loan volume by not raising loan rates is too strong for the board to pass up. We could end up with a significantly higher level of IRR than our ALM results originally showed. The same can certainly be said on the deposit side of things. So, our ALCO decisions and ALM assumptions must be kept in line to ensure consistent accuracy of future strategic planning.

> The faster interest rates rise, the greater the negative impact on our EVE in particular.

This is why we must always be looking to define, measure, and manage our risks. Hopefully, many of you will already have this management process and find yourselves well prepared to handle this environment's new challenges. For those who do not, there is still time to align your internal systems and improve your institution's ability to react quickly and correctly. However, that window of opportunity is closing and now is the time to start having those conversations.

Andrew Okolski is a Senior Financial Strategist at The Baker Group. He works directly with clients in a broad range of areas, including ALM, education, portfolio management, interest rate risk management, strategic planning, regulatory issues, and wholesale market strategies for financial institutions. Contact: 800-937-2257, andyo@GoBaker.com.

FORVIS Begins Serving Clients as Newest Top 10 Professional Services Firm

Merger of equals BKD and DHG is effective today

FORVIS formally takes its place among the nation's top 10 professional services firms today, offering comprehensive assurance, tax, advisory and wealth management services.

"Today is a monumental day as BKD and DHG officially join forces and become FORVIS," said Tom Watson, FORVIS CEO and former CEO of BKD. "This firm will be truly committed to the meaningful growth of our employees' careers and ultimate success of our clients. Together, our combined teams will be significantly stronger, empowered by an enhanced focus on the future."

The FORVIS name represents the forward vision of the more than 5,400 partners and team members who have come together, forming a firm with a combined $1.4 billion in revenue with offices across the United States and internationally. The firm will be ranked among the top 10 nationally by fiscal year 2021 revenue and will be poised for further growth as it focuses on offering expanded advisory services and highly specialized industry intelligence that supplements the firm's tax and assurance services.

"We've always believed there's a real opportunity for a different kind of professional services firm on the national stage – one that is defined by a high-touch approach to the client experience but is backed by robust resources that fuel a commitment to innovation and problem solving," said Matt Snow, FORVIS chair and former CEO of DHG.

Snow said the FORVIS team will be laser-focused on maintaining the high Net Promoter® Scores that characterized both legacy firms' client-centered cultures. One key to doing so will be ensuring FORVIS teams remain nimble as they respond to client needs and market changes.

"At every step of our integration process, we're asking ourselves two questions: 'Will this drive client service?' and 'Will this enable us to maintain our nimbleness?'," Watson said. "We believe if we can do those two things, then we will be able to truly succeed and differentiate ourselves from the rest of the top 10."

Expansion into new geographic markets, finding even more ways to serve clients' global needs, launching new service offerings and innovative solutions for clients, and creating a highly attractive employee value proposition are also high priorities. The results in each area will be driven by a commitment to being bold and embracing change. Snow points to the decision to create an entirely new name for the new firm as just the first example.

"No other firm in the top 20 has done that," said Snow. "With each step we take, we will strive to stand out in this profession."

Local Leadership Changes Announced

As integrated operations begin, the firm has announced key leadership changes at the market level, demonstrating its commitment to unmatched client experiences by ensuring real-time resources are delivered quickly and effectively. These markets include Atlanta, Nashville, Tenn., Jacksonville, Fla., Winston-Salem, N.C., Fort Worth, Texas, and more.

For a complete list, visit https://www.forvis.com/news-releases/forvis-begins-serving-clients-newest-top-10-professional-services-firm

For more on the FORVIS brand story, visit https://www.forvis.com.

FORVIS, LLP ranks among the nation's top-10 professional services firms. Created by the merger of equals of BKD, LLP and Dixon Hughes Goodman, LLP (DHG), FORVIS is driven by the commitment to use our forward vision to deliver unmatched client experiences. FORVIS is built upon the strong legacies of BKD and DHG, which is reflected in a name comprised of partner initials that represent our unique focus on preparing our clients for what is next. With more than 5,400 dedicated professionals who serve clients in all 50 states, as well as across the globe, FORVIS offers comprehensive assurance, tax, advisory and wealth management services. Visit FORVIS.com for additional information.

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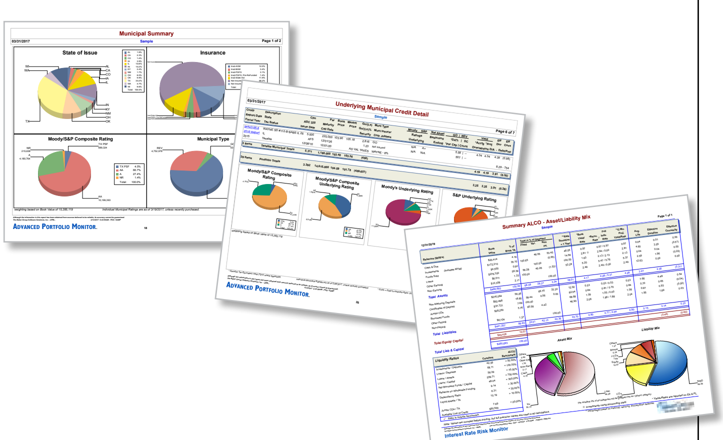

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SWOT-ing at The Crisscrossing Crypto Crackdown

Theo Kelly, Associate General Counsel, Compliance Alliance

INTRODUCTION

In the 14 years since blockchain technology's invention, banks have been left to compete with emerging business models and new stores of value, while operating in an uncertain vacuum of regulatory guidance. The resulting whiplash of lightning-fast innovation seemingly incapacitated the U.S. regulators of currencies, commodities, and securities.

With only crisscrossing guidance offered thus far, it may seem impossible to make a risk-based decision on whether, and to what extent, a bank should adopt blockchain technology, including cryptocurrency and web3. However, using the tried-and-true SWOT analysis, banks can establish a baseline with which to evaluate the impact the crisscrossing crypto crackdown will have on their internal and external environment.

First, a refresher on the more recent commentary and actions by banking regulators. We know that Basel will be releasing a second consultation later this year with an eye on a "global minimum prudential framework" to address risks associated with crypto assets. Their first consultation offered a risk-weighting methodology.

The U.S. Office of the Comptroller of the Currency (OCC) confirmed in July 2020 that national banks could offer crypto custodial services. However, Acting Comptroller Chu recently publicly remarked that it is time to 'reset and recalibrate.' The Federal Reserve Board (FRB) hasn't released much guidance other than to say they will be releasing guidance. The FRB did examine the pros and cons of a Central Bank Digital Currency (CBDC) but "does not favor any policy outcome." And, the U.S. Treasury has offered a risk assessment of money laundering risks in the crypto asset space. The FDIC joined the OCC and FRB in their "Crypto-Asset Policy Sprint" statement but has offered little else outside of requiring banks to notify the FDIC prior to engaging in crypto-related activities. The CFPB broadened its own enforcement authority in this space last year, formalized in March by Executive Order. FinCEN And finally, legislation introduced in early June appears ready to assign rulemaking and enforcement authority to the Commodity Futures Trading Commission (CFTC), leaving the Securities Exchange Commission (SEC) any leftover crypto assets that are classified as securities.

THE BASICS

It can be difficult to understand and analyze the risks associated with crypto assets if you don't have a grasp of some foundational terminology. Unfortunately, there's a lot of so-called 'gatekeeping' in the 'crypto community' – e.g., folks who use overly-complicated lingo to seem more tech-savvy than others. So, here are a few layperson examples to help understand the basic terms and concepts.

What is blockchain?

Have you ever worked on a document at the same time as another person or team? You can see others' initials moving about on the page followed by their edits to the collaborative document. And the revision history is saved so everyone can see who made what changes. Well, this is a great analogy for 'distributed ledger technology' (DLT). But the key difference between DLT and blockchain is that there is no single authority that maintains the data (e.g. OneDrive, Google, AWS). With blockchain, there is no centralized authority holding the data, and the data is not valid unless 'approved' by a program that runs on many different devices around the world.

What is a crypto asset?

Crypto assets are much like your everyday tangible assets: cash, contracts, artwork, investments, information, etc. However, crypto assets are entirely digital. Here, everyone knows that your unique address (known as a wallet address) owns those assets because of the transaction information stored on the blockchain. A dollar bill may be compared to a Bitcoin. A contract may be compared to a 'Smart Contract'. A non-fungible token may be compared to your house Deed. Nearly every transaction made in your everyday life can be hosted on a blockchain.

What makes a crypto asset a security versus a commodity versus fiat currency?

A 'security' represents an investment in a common enterprise with the expectation of profit solely on the efforts of others ("solely" is removed in actual practice). A crypto asset that is offered to raise capital for a startup would likely be classified as a 'security'.

Crypto assets generally fall into the classification of a commodity. A commodity is a resource that is nearly identical in all its instances and has a commonly known value, such as wheat. Financial commodities include identical (or nearly identical) futures and options contracts that have commonly known values.

For the purposes of classifying crypto assets, 'fiat' is defined as the 'lawful money' of the United States. In other words, a currency that represents the debts of the government. You can't pay your taxes in wheat, for example, but you can use U.S. dollars. A Central Bank Digital Currency (CBDC) would be classified as fiat currency.

THE SWOT

A SWOT analysis considers your internal strengths and weaknesses and external opportunities and threats. This template offers baseline considerations to review the risks and opportunities associated with the emerging crypto regulatory scheme.

Strengths & Weaknesses

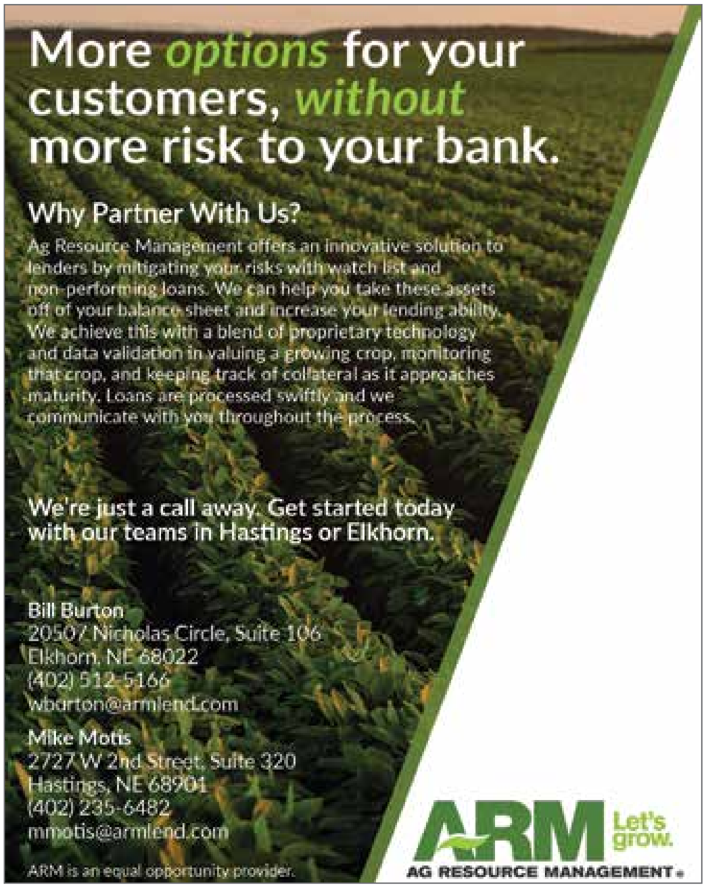
- **Management:** The Board and senior managers of the bank have a clear understanding of the existing regulatory parameters surrounding crypto assets, are knowledgeable about the application of those rules to bank offerings, maintain an awareness of emerging changes, and have a system in place to update the bank's operations quickly and efficiently to comply.
- **Internal Controls:** The bank's internal controls are built-out and appropriately monitored and tested to manage the increased credit, liquidity, and transaction risks associated with crypto asset custody, transactions, loans, issuance, and holdings. The bank stress tests contagion risks and enhances areas of identified deficiencies. The bank has consistent margin call triggers, procedures, and communication channels, where applicable. Evaluations of crypto assets as collateral are reviewed for fair lending purposes.
- **Personnel:** Bank personnel are properly trained to understand and communicate the products and services offered to customers, are aware of and can appropriately mitigate the related risks, the number of assigned personnel is appropriate for the associated risks, and enough redundancy is built into roles to prevent any system failures that may result from the termination of key personnel. Vendors undergo a risk-based due diligence review before business begins, and periodically thereafter.
- **Technology:** The hardware and software used to transact, secure, and maintain crypto assets are well-maintained and secure. External auditors are used to test and verify. The bank has a consistent and safe procedure for securing crypto collateral.
- **Insurance:** The bank maintains appropriate levels of insurance related to all facets of crypto asset products and services.
- **Products:** The bank can market and advertise crypto asset products and services in a manner consistent with existing laws and regulations, and an eye for fair lending and UDAAP risks. It has reviewed existing non-crypto products and services, identified the potential impacts, and updated those growth strategies to account for the internally driven competition.

Opportunities & Threats

- **Management:** The Board and senior managers of the bank can readily identify risks and opportunities presented by the lack of crypto asset laws and regulations.
- **Personnel:** Personnel are excited to join a bank that offers roles in the crypto asset space; however, this area may also come with increased competition for bank personnel who maintain desirable skills in a new field.
- **Technology:** Rapid advances in technology offer opportunities to quickly adopt and roll out new product offerings and services; however, the maintenance and security of aging software and hardware suffer, and investments in new technology depreciate quickly.
- **Competition:** The bank is an early adopter of crypto products and services but may now lack the resources to act upon new trends, technology, and opportunities.
- **Reputation:** The bank is well-posed to trigger crisis management plans, maintains open channels of communication with relevant stakeholders, and has identified and mitigated risks associated with crypto asset environmental risk factors.
- **Legal & Compliance:** The bank's compliance management system and risk management program appropriately identify and control crypto-asset risks, including the emerging regulatory scheme, and the potential for increased litigation.

CONCLUSION

Given what little we know about the future legal and regulatory landscape of cryptocurrency, a comprehensive and bank-specific SWOT analysis may offer some comfort in the uncertainty. Take some time to discuss your bank's crypto posture with your internal and external stakeholders and analyze the relevant strengths, weaknesses, opportunities, and threats for your bank. Continue getting involved in the discussions surrounding the proposed laws and regulations. And take this opportunity to enhance your risk management program and Compliance Management System to monitor and respond to the crypto regulatory crackdown we all know is coming.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