

THE



Board Chair Forum

Opening the door to new ideas

NEWSLETTER

Gerrish Smith Tuck, Consultants and Attorneys

May 2020

Could we be seeing the first signs of life returning to normal, both in banking and elsewhere? In many parts of the country, we are starting to see multiple steps of a phased-in approach to reopening local economies be put in place with some success. So, here's to hoping and praying that all of us will begin to see a shift away from crisis management and more toward daily operations.

In that vein, in this month's edition of the *Newsletter*, we begin looking not at ways to survive the pandemic, or even the ever evolving rules and regulations around PPP, but begin to take a look at ramifications from what we have been through, the outlook for the future and some typical operational issues the Board Chair should consider.

We are also happy, as we referenced in last month's *Newsletter*, to provide you information on our new video series and hope you will provide us your thoughts, comments and feedback as we look to find even more ways to stay in touch with you. Let's all keep doing our part to return things to normal and remember Community Banking Matters!

Happy Reading!

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Gerrish Smith Tuck, Consultants and Attorneys
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Board Chair's Summary

- ◆ Community Banking Matters: a commentary.
- ◆ Defining and supporting stock values in an odd environment.
- ◆ Regulatory enforcement actions: speed matters.
- ◆ What's ahead for your bank?

Community Banking Matters: A Commentary

As you may recall in last month's *Newsletter*, we revealed that we were going to begin launching a video series in the nature of a community bank commentary. We are pleased to announce that our first informal video has been launched and is available for viewing.

For many of you, it may not be much comfort knowing that you now have to see our faces as well as read our words, but for some of you who may be familiar with us but have never had a chance to meet us or work with us personally, this will at least begin to give you the opportunity to know us a bit better. These videos are intended to be highly informative, yet casual in their approach. So, please forgive the verbal mistakes, pauses and other aspects of recording a video. We will continue to improve these as we go forward (including likely shortening them as we are able to eliminate most of the introductory and explanatory information). So, please bear with us during these first efforts. We also welcome your thoughts, comments and feedback as well. We will also be utilizing the general title for these videos of *Community Banking Matters* because

certainly, community banking does matter and there are plenty of matters to be discussed. We hope you enjoy this new offering from our firms. You may view the video at:

<https://youtu.be/q8SGZUxStAY>

What is a Community Bank or Bank Holding Company Stock Really Worth?

Perhaps there has been no greater financial impact from COVID-19 than the removal of price stability from bank and holding company stocks. Many organizations were looking to make acquisitions using their stock as currency. Prior to COVID-19, some of those values were at all-time highs. Now, is there really any support for those previous values? Likely not. Many deals are having to be renegotiated or repriced. Consider also, the impact on employee stock ownership plans. Most of those stock valuations were performed using December 31, 2019 numbers. Is that still truly the value of the shares employees should have at this point?

There is a valid argument that many of the underlying reasons for the previous stock values still exist, but are only being masked by the medical issues around COVID-19. However, the concern will be that once the medical issues are resolved will stock prices rebound or remain depressed based on lingering employment issues and other factors. So, the Board Chair should be aware of the way in which their community bank holding company stock value, and perhaps the lack of clearly defined elements to support the value, may impact numerous decisions going forward including deploying capital to repurchase shares, employee stock ownership plan performance, mergers and acquisitions and similar concerns.

One way to provide some additional assurance of stock value, at least in an acquisition scenario, is to contract a third party to render an independent fairness opinion on an overall deal value. In the current climate, those types of fairness

opinions are not guaranteed. A professional might very well refuse to issue a fairness opinion if a deal value is too high given market conditions or perhaps even if a value is too low given the likely future performance of a target. As Board Chair, if you want to protect yourself on one side of that equation, consider contracting with a third party to perform a fairness opinion. Our firm provides those opinions for deals with which we are not otherwise serving as legal and financial advisor, and we have seen a growing number of organizations looking to utilize a fairness opinion to provide their Board at least some element of comfort in analyzing overall value.

Doing What the Regulators Tell You, Quickly

In a past *Newsletter* from last year, we commented on a situation involving a client of our firms who was facing regulatory pressure to sign a Consent Order with which the client did not agree. Not only were there elements of the proposed Consent Order where the client felt the federal regulator was directly incorrect in their assessment of the condition of the bank, but there were also elements of the Consent Order, as proposed, that were not consistent with previous statements by the regulator. As a result, you may recall that the client stood their ground, refused to sign the Consent Order as proposed, and we ultimately were able to work with the regulatory agencies to modify their positions to a structure in the proposed Order where the client felt comfortable signing and confident in their ability to comply with the Order.

As a result of those efforts, we are pleased to report that this particular client consented to the terms of an Order, immediately began implementing the steps necessary to comply with the terms of the Order, worked at a breakneck speed to ensure full compliance as soon as possible, received a follow-up examination, and in the past few days has had the Order fully terminated. All of that happened in less than a year's time. The moral of the story is to ensure that

you can comply with any proposed Order, to push back where necessary to ensure accuracy and, once an Order is in place, work like crazy to absolutely comply with the mandates of your regulators to ensure compliance as quickly as possible. It saves you time, headache and money in the long-run.

What's Next for Your Bank?

This worldwide pandemic has changed the way many of us do business on a day in and day out basis. One of the biggest questions, though, is to what extent those changes will continue to manifest themselves in the days, week, months and years to come. As Board Chair, continue to think creatively about the ways in which business had been modified in the current environment and how we might promote some of those changes well into the future to provide more effectiveness and efficiency.

Consider, for example, that community banks are primarily focused on personal interactions and high-touch business. However, are there ways to continue to deliver high-touch services without actually being “in touch”? For example, we would suppose that many of you recently have been in touch with family members, grandkids, your local place of worship or others through some type of video conferencing tool. It certainly does not take the place of in-person contact, but consider whether it is perhaps better than email or a phone message. In the future, rather than your loan officers calling and leaving messages for clients or emailing them, would you be providing more personalized service by allowing your loan officers to reach out to customers through videoconferencing tools on their phone, laptop or desktop computer? Rather than simply picking up the phone and making a call, why not allow customers to video chat with your loan officers for a bit more “personal” contact. Those types of opportunities may present themselves well after COVID-19 ends (which hopefully will be soon). As Board Chair keep thinking about ways to make tomorrow better.

Meeting Adjourned

Congratulations to all of you who have been working so diligently for your communities in this unusual time. We hope these publications from our firm and the new video provide you a brief pause from your otherwise hectic day. Please keep us posted on ways we can help and always remember community banking matters!

Until next time,



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