



Opening the door to new ideas

THE

Board Chair Forum

NEWSLETTER

Gerrish Smith Tuck, Consultants and Attorneys

December 2025

Christmas, Holiday and New Year's Greetings!

As we reflect back on 2025, it has, once again, been anything other than a dull year. Last year, we noted in our year-end edition that there were interest rate concerns, continuing merger and acquisition activity, regulators being regulators, and we had even just completed a presidential election. So, a year later, has anything changed? Or maybe the better question is, has everything changed?!

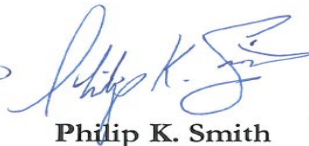
Generally speaking, it seems most of the changes that were brought about as a result of the past presidential election have been positives for most financial institutions - perhaps the biggest point being a further sense of "right-sizing" regulation, deregulation in many areas, and a most common sense approach to regulation among others. We will see what 2026 holds.

However, as we begin to think about regulation and regulators, that turns our attention to our annual end of the year edition where, as we have done for the past three years, we again look at the holiday classic, *It's a Wonderful Life* and see what lessons we can learn from it. After all, if we are talking about more deregulation or a commonsense approach to regulation, let's not forget that an underlying concern in the plot of the movie is the regulators conducting an exam of the Bailey Building & Loan! So, as always, grab some popcorn, turn on the college football playoffs, build a fire (for many of you), and let's see what George Bailey (Jimmy Stewart) and Old Man Potter (Lionel Barrymore) have for us this year!

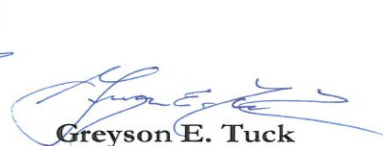
Happy Reading!



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Board Chair's Summary

As a reminder for those who are frequent readers of the Board Chair Forum Newsletter, for those of you who are familiar with the movie *It's a Wonderful Life*, or for those who may be seeing the newsletter for the first time or are not intimately familiar with the movie and its plot, here is the common background we always share regarding the movie to set the scene.

***It's a Wonderful Life* is a 1946 American Christmas film produced and directed by Frank Capra and starring Jimmy Stewart as George Bailey, a man who has given up his personal dreams in order to help others in his community. However, George's thoughts of jumping off a bridge on Christmas Eve bring about the intervention of his guardian angel, Clarence, who shows George all of the lives he has touched and what the world would be like if George did not exist. But, with that overview and summary of the movie plot, don't assume this is just some touchy/feely holiday classic you can put on in the background. This movie has a wealth of information applicable to community banks, directors and the Board Chair! So, set forth below are a few key takeaways (some old and some new) for financial institutions from *It's a Wonderful Life*. We hope you enjoy this somewhat lighthearted look at the movie, but consider the practical implications that directly impact your organization.**

Regulators Are Regulators

The first time we addressed *It's a Wonderful Life*, we pointed out a bit of the underlying regulatory issues in the movie and we wanted to remind you of those. If you know the tale from *It's a Wonderful Life* very well, you of course know that George Bailey was upset with Uncle Billy for misplacing most of the bank's cash (obviously having a significant impact on their upcoming December 31st Call Report). In fact, the error was so big that they expected a liquidity run on the bank and potential insolvency. But, the point in the movie that is often overlooked is the bigger reason why it was such a problem. The bank was currently in the midst of a bank examination! The regulator was in the bank demanding documents, wanting to know what happened, questioning the board of directors about their oversight, and other factors.

It's hard to say whether in this fictional drama the banking industry was in a time of increased regulation or decreased regulation, but does it really matter? The regulator and the bank examiner had a job to do and a change in actual regulations does not always translate into a different type of examination, as some of you have experienced.

In the movie, you come to realize that the regulator wanted to get home to his family as well, and did not want to be at the bank examining it on Christmas Eve, but the problems the bank had produced were causing the regulator to potentially take more action. The same is true for your bank. The regulator does not really want to be there beating up on the board of directors (even though sometimes it may seem they enjoy it). Boards of directors that have a well-run institution rarely complain about the regulatory issues because they are daily doing the things necessary to keep the bank safe and sound, and thereby keep the regulators at bay. So, if you watch the movie this year, think about the role the regulator played in the entire sequence of events that unfolds, and let it be a watch word for you as you enter 2026 to continue focusing your board on the things the regulators need and want the Board and your organization to do, rather than assuming that with the rollback of some of the regulations through the Trump administration, that your examination will automatically be easier as well. Those two things do not necessarily go hand in hand, and if you have an Uncle Billy that loses

all your capital, or if you have increased asset quality problems, dealing with your friendly regulator will be a lot worse than dealing with Old Man Potter.

Insiders Have a Special Duty

In 2022 we raised an interesting question and then sought to answer that question in 2023 (see how we keep you reading for a whole year!). We brought up the fact that, technically speaking, there is a potential argument that Old Man Potter breached his fiduciary duty by trying to swoop in and buy up shares from everyone at a discount when the bank was facing a potential problem. We asked the question whether he was simply being a good businessman and trying to help everyone by saving the organization, or whether there is some potential breach of fiduciary duty by playing on the fears of everyone? What do you think? We revisit this issue this year because it has become a reality for some of our clients during 2025 (we hope they didn't get the idea from the newsletter). Here is what we said back then, with some update.

If we set aside Old Man Potter's personality for a moment (as we sometimes have to do with our primary stockholders or maybe even directors!) let's just focus on his actions. As a technical matter, it is clear in the movie that Mr. Potter is a member of the board of directors of the Bailey Building & Loan as well as a large stockholder of the organization. So he is clearly an insider. Technically and legally speaking, there is nothing really wrong with one shareholder (even a director) offering to buy shares from another shareholder even at a discounted price. Parties are free to contract for whatever they can negotiate, generally speaking. However, keep in mind in this situation that Old Man Potter is clearly an "insider" for the organization and is in possession of material information that the other shareholders may not have, and seems to be using that to his benefit. That is a breach of his fiduciary duties. Note, for example, that if Mr. Potter is buying shares at 50 cents on the dollar from stockholders, (as he appears to be doing both at the Bailey Building & Loan and the bank down the street) that really is not going to improve the bank's liquidity position, so, can we assume that Mr. Potter is also going to recapitalize the bank once he acquires control of it? Has he intentionally led other stockholders and the public in general to believe the bank is going to

fail so he can leverage his position and acquire shares at a discount, and then is he going to turn around and recapitalize or save the bank? If the stockholders knew Mr. Potter was going to acquire control of the bank for his own benefit, would they be better off continuing to hold their shares even in a minority position? Again, it seems like he is manipulating others based on his inside knowledge.

The point to keep in mind is that when our directors, large shareholders and other insiders are engaged in the purchase and sale of shares, additional disclosures are typically needed and everything needs to be above board. We are certain that several of our stock valuation friends would argue that the board should have gone out and gotten a third party valuation of the stock which would then likely have to be disclosed to stockholders by insiders desiring to purchase. Who knows, that could have benefitted Mr. Potter or it could have benefitted the board.

Should Potter Be a Board Member?

If you listen to the dialogue in the movie closely, you will realize that although Mr. Potter is described as the richest man in the county, he originally was not a member of the board of directors of the Bailey Building & Loan. In fact, George Bailey's father alludes to the fact that he thought when he put Mr. Potter on the board, he would leave him alone or things would get better. But, it appears as the Bank President, he has been in a "tussle" with Potter, who is now on the board.

Was putting Mr. Potter on the board a good idea? If someone is on the outside throwing stones at the board, the argument is whether you would want them on the inside so they could really see what was going on, under the belief that once they understand how hard the board is working, they will come to appreciate the board's efforts more, and will, as an insider, now be part of the solution rather than continuing to cause problems. Well, at least that seems to be what they thought in *It's a Wonderful Life*, and that is the exact same school of thought we have seen a number of our clients take over the years, including in 2025. More specifically, for those of you that are public or quasi-public and have institutional investors (which pretty closely resemble Mr. Potter in terms of their bottom line focus on EPS growth, return on equity,

liquidity for the stock, etc. without regard for the community), you will quickly find that these “passive” institutional investors will politely suggest that since they are not really getting the performance out of the bank that they want from their investment, that the best thing is to allow them to put a representative on the board who can simply help the board better manage the situation and improve the value of the organization for all shareholders. Frankly, we rarely recommend you take that action, and Mr. Potter is a good example of why. Mr. Potter leverages his inside information to create chaos, take advantage of other shareholders, attempts to buy other shares at a discount, or force a sale of the organization, etc. In fact, Mr. Potter has seemed to convince the board itself that they are really not doing the right thing, they need to listen to him, etc. In essence, he is trying to bully himself into a better position, not for all the stockholders and the community, but for himself. Does that sound familiar to some of you?

While that set of circumstances may not play out in every situation, and we suppose there are some times when an institutional investor (or perhaps a large shareholder or prominent family that are somewhat antagonistic) having a representative on the board could possibly serve to benefit the organization, we think the likelihood is rare. Seek good outside counsel if you are giving that some consideration, consider putting some type of agreement in place with the new representative or the institutional investor, avoid going public in the first place and taking on institutional investors if you can avoid it, or simply generate fabulous performance and earnings, which will certainly keep everyone quiet (until they are not).

Potter is Right and Potter is Wrong

In the movie, there are, arguably, a number of potential crimes that have occurred and George is correct when he says that the whole situation reeks of bankruptcy, scandal and prison. This is where George says the famous line that “Someone is going to jail and it’s not going to be me!” This is when he is confronting Uncle Billy about where the missing \$8,000 went. Of course, George is right to confront him because, while he assumes Uncle Billy is being honest, that he merely lost the money, that rarely is the case in a financial institution, and more likely than not, fraud is involved. Now we all know that Uncle Billy actually did

merely misplace the money and we do know that Potter is the one who found it and apparently kept it (insert criminal penalty for theft of funds!), but Potter is right in making the types of allegations that often are true in financial institutions when there is some type of financial mismanagement. Potter seems to question George Bailey on whether he lost it gambling (in today's current banks we are certainly seeing an increase in bank employees losing money through online gambling and resorting to fraud in an attempt to recoup losses or cover their betting schemes), and Mr. Potter also suggests that George may have lost the money by "playing the market." In today's language, Potter is suggesting that maybe all the bank's capital was lost by George diverting money into some type of crypto investment, overseas futures contracts, pyramid scheme, or something similar. We are certainly seeing more of that these days as well. The final point Potter directly makes is that maybe George spent all the money on a certain "female acquaintance," since it is known all over town he has been giving money to Violet Bick, and he exits from his office with her with lipstick on his cheek! Let's just say we have seen our fair share of similar circumstances over the years.

The point of all of this is that Mr. Potter is well aware that those types of vices, like gambling, investing in the latest scheme of the day, or having other moral lapses, can themselves cause problems at the financial institution. In *It's a Wonderful Life*, none of those were true, but the Board Chair and the board members should hold themselves to higher standards of conduct and be mindful of those problems that can arise in their bank if they don't.

Meeting Adjourned

It's a Wonderful Life brings many interesting topics to the forefront for discussion, so feel free to bring some of these up at your next board meeting, or maybe we should start forcing boards to watch the movie in advance of our facilitation of your next strategic planning session! The underlying principles hold true now as they did then. Some of those key points are that regulators by necessity will continue to be regulators, notwithstanding the regulatory environment, because they have a job to do. Succession planning is always needed (if the board had required George's father to put together a formal management succession plan, a lot of the problems could have been avoided). Troublesome shareholders will not become less

troublesome just by putting them on the board. Fraud, or even the appearance of fraud, can sink an otherwise healthy financial institution, as can the resulting reputational damage. Your obnoxious directors or obnoxious shareholders are not necessarily wrong just because their approach toward things may be difficult. Give consideration to alternative points of view. We also hate to pile on the problems of poor old George Bailey, but the move may also point out that family members are not always the best employees! George needs to fire Uncle Billy.

Let us end as we always do, with this reminder: The life of a smalltown bank board, the life of a community-based financial organization, and even owning stock in a community bank, can truly present a wonderful life for the individuals, the organization, its employees, customers, and the communities that it serves. It is truly a wonderful life to be a community banker and it is truly our blessing to have the opportunity to continue to represent community banks and to have so many of you as our clients and friends. Merry (post) Christmas, Happy Holidays, and wishing you a wonderful, prosperous and blessed New Year! We will see you on the road or in our newsletters in 2026!

Until next time,

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