



*Opening the door to new ideas*

THE

# Board Chair Forum

NEWSLETTER

*Gerrish Smith Tuck, Consultants and Attorneys*  
March 2026

In this month's edition of The Board Chair Forum Newsletter we update you on two recent national events where we had the opportunity to participate, including the annual Community Banking Board Chair Forum sponsored by Barret School of Banking and held in Marco Island, Florida and the Independent Community Bankers of America Annual Convention (ICBA LIVE!) held in San Diego. As part of both of those events, one of the key opportunities for our firm was to field live questions from directors, bank executives, and other bank employees on key matters impacting financial institutions across the country. One of the things we always find is that many of the issues, particularly for community banks, are the same whether in California, Florida, or any other place where community banks exist.

In this month's edition we take a slightly different approach by running through a litany of some of these questions and providing you some of our thoughts and comments that we provided in response, along with other comments. We hope you find many of these helpful and you may always shoot us a quick note anytime you have a question yourself.

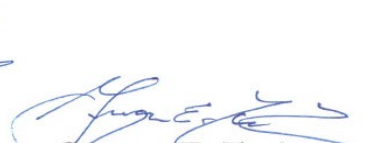
Happy Reading!



Jeffrey C. Gerrish



Philip K. Smith



Greyson E. Tuck

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## ***Board Chair's Summary***

For this month's Board Chair Summary, we wanted to provide a bit of a disclaimer. In addressing the questions below, we have provided a short, and hopefully to-the-point answer, but many of these typically would require further explanation. It is impossible to cover all the nuances in a sentence or two; therefore, none of this information is specifically intended to be legal advice that should be relied on in and of itself, but if you have questions about any of these particular questions and responses, we would be happy to address them more fully with you.

- ◆ ***I have a board member who is smart and dedicated but tends to dominate meetings and wants to micromanage. How should we handle that?***

Assuming the party in question is not also the Board Chair, it should be the Board Chair's job to run a meeting that seeks input from all parties and avoids having one person dominate the discussion. That may even include being direct in the nature of saying something like, "Bill, we've heard from you a number of times. I'd really like to hear the input of some other people." If you require each director to provide some comment on each topic, it generally limits the other director's input.

◆ ***Our stock is “traded” on an exchange, but it trades at less than book value. What can we do about that?***

For most community banks, trading on an exchange generally means one version of the OTC (OTCQX, OTC Pink Limited, etc.). Historically speaking, we rarely see any community banks that are listed on the exchange have any significant amount of market liquidity. The reality is that the organization is simply not large enough and does not have enough shareholders to create any meaningful buy and sell activity, therefore there is no premium associated with the acquisition of the shares, and therefore there is really no benefit at all to being listed on the exchange. It does not make your stock more liquid. The solution is to “go dark” by simply dropping down to the lowest level of the OTC and no longer submitting information. Rather, begin serving as your own market maker by using your holding company to buy shares from stockholders who need or desire liquidity.

◆ ***What should we be doing about AI and rapidly changing technology?***

Educating the Board and Management. Technology issues have now elevated themselves to being Board-level concerns as part of the strategic decisions, not merely tactical and operational decisions. The question is not whether an organization will begin to adopt some of the new technology – it’s a question of timing and depth of involvement. We see employee and customer use of artificial intelligence (AI) and the need to develop appropriate policies and procedures around that, as perhaps the first steps for many banks. A close follow-up we think will be further use of tokenized deposits by many customers. So educate yourself.

- ◆ ***Is it true that a seller can negotiate change-in-control costs to have the buyer pay them, or is the amount ultimately baked into the overall deal cost?***

In buy and sell transactions among financial institutions, just about anything can be negotiated, including who pays change-in-control costs. Sometimes this is handled where the buyer absorbs much of that cost by requiring a minimum equity at closing but allowing the seller not to deduct change-in-control payments in calculating the minimum equity. However, overall, we believe most buyers, regardless of how the deal is actually structured, do factor in the various deal costs in arriving at an ultimate acquisition price.

- ◆ ***Will the growing use of AI ultimately reduce my personnel costs?***

Not necessarily, but it certainly should create efficiencies of processes, which may free up more of your Management's time to do other things.

- ◆ ***Is there a minimum asset size to maintain viability and relevance?***

No, we will still have plenty of small community banks years from now. However, we recognize the challenge of increasing costs, and therefore the threat to profitability and ultimately viability and relevance associated with a smaller asset size. Pursuing growth merely for growth's sake is rarely the right strategy, but if your organization focuses on improving profitability, you may find that your smaller bank will need to pursue growth prospects, including increase in asset size, in order to create the greater profitability.

◆ ***Is Subchapter S better than C corp status?***

If you can qualify for Subchapter S status, then in most cases, yes, it is a preferred structure because it reduces overall taxation to the organization. In addition, in an S corp, earnings that are retained serve to increase a stockholder's basis in their stock so that if there is ever a sale of stock somewhere in the future, there is a higher basis and therefore a smaller amount subject to capital gains. The key is whether your organization can qualify for Subchapter S status. The rules are somewhat complex, but we have helped many organizations convert from C to S.

◆ ***What is the number one way an organization can avoid being bought by another bank?***

The simplest answer is, "Just say no." Keep in mind that we rarely see any type of hostile acquisitions in the financial services industry. Often, if an organization receives an unsolicited offer and turns it down, the proposed buyer does not further pursue the target. But, perhaps the better answer is to make yourself so profitable that no one can afford you. If average pricing multiples are 15 to 20 times earnings and you generate strong earnings such that 15 to 20 times your earnings is a value equal to 2 1/2 to 3 times your book value or more, then very few banks could afford to buy you and it may serve as an anti-takeover mechanism.

◆ ***We have taken steps to improve and plan for board succession, management succession, and even ownership succession. What else should we be planning for?***

Customer succession. How do you retain the customers you have, who are more traditional, yet appeal to the next generation of customers who are demanding

efficiency and technology? Do you offer an appropriate customer experience to both your current customers and to the future customers that you want? Have you ever discussed what your future customer base will look like and determined if your organization will be relevant to their needs? Those are scary questions, but ones that need to be addressed.

◆ ***If we receive an actual unsolicited offer, what are the first steps to take?***

Call a trusted advisor. Secondly, realize that whether the organization ultimately accepts the unsolicited offer, negotiates it, or declines it, the Board will be scrutinized in their fiduciary duties (utilizing 20/20 hindsight). Therefore, it is important to have a process in place for analyzing the offer and documenting it in a way that demonstrates the Board appropriately exercised its fiduciary duties for the benefit of stockholders, regardless of the decision that is made. So, don't panic, get help, develop a process, follow it, and document your actions.

◆ ***As we prepare for our annual meeting, are there any key pieces of advice you would offer?***

Know what your documents say and know the law. We see far too many organizations whose corporate documents have not been updated in some time, and we then find that their actions, even in the most basic things like calling the annual meeting, are not consistent with their corporate documents, and their corporate documents may not even be consistent with state law. For example, how many days' notice do you have to provide for your meeting? Are there limitations on who can serve as a proxy and vote shares? If you are electing directors, is that done by a majority vote or a simple plurality vote? Can a stockholder nominate someone to serve in a director position at the meeting, and if so, do you have to vote on them?

Sometimes our routine activities like the annual meeting become so routine that they actually fall out of compliance with state law or corporate documents. Be aware of these nuances and make sure you have someone review your corporate documents and state law periodically.

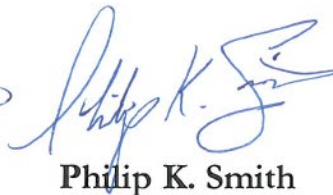
### **Meeting Adjourned**

Lots of questions and hopefully lots of clear answers! But as mentioned in our cover letter, we welcome your additional thoughts, comments, and questions. In addition, we find it necessary, once again, to dispel an “urban legend” or perhaps a banker concern that comes up occasionally related to our firm. No, it is not true that we have a microphone hidden in your boardroom! Over the years, we have received calls from numerous bankers claiming that we must have planted a microphone in their boardroom because a lot of the things we were talking about sounded exactly like what they were just discussing! We actually take that as a compliment that we are in tune with the issues your organization faces as a result of being in and out of so many boardrooms across the country every week. We recently were accused again of this heinous crime! Ha ha! We want you to know that we would never do that . . . but just don’t look under the chairs in the conference room!

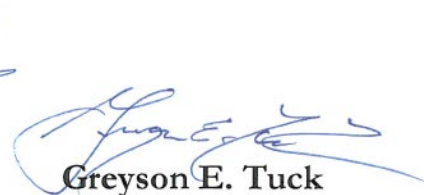
Until next time,



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**HOW TO CONTACT US:**

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