ABA BANKING JOURNAL

MAY | JUNE 2016

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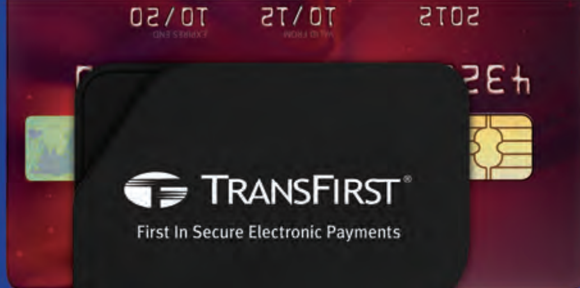

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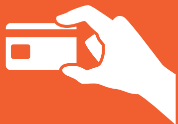

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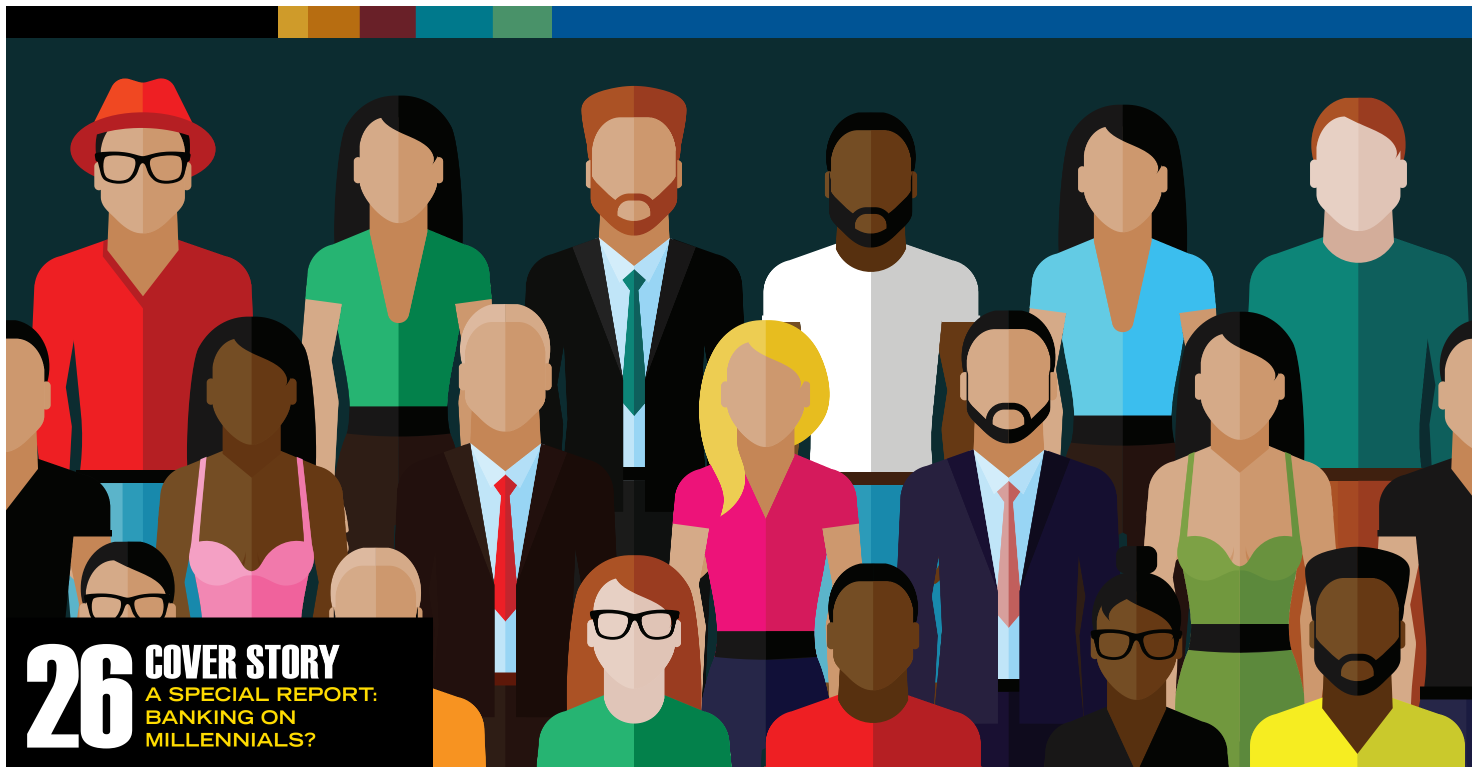

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Preparing for Seismic Demographic Shifts

BY ROB NICHOLS

ONCE UPON A TIME, baby boomers were the topic of countless surveys and reports, as those wishing to woo or sell their wares to the largest generation craved data on boomers' wants, needs and behaviors. Not surprisingly, those cravings have given way to a new but similarly insatiable desire for information on boomers' offspring—the millennials—who last year overtook boomers in numbers to become the largest American generation ever.

With immigration, the ranks of millennials will continue to expand for the next two decades and their dominance will continue to coincide with rapid technological changes that are reshaping the way banks and other industries do business. Add in the expected transfer of some $30 trillion in wealth from boomers to millennials over the next few decades, and it's clear that concerns about understanding and appealing to this influential generation are very well placed. Millennials are—literally—our industry's future.

ABA is keenly aware of this and is organizing around it. It is as much a part of our strategic planning and advocacy strategy as it is a part of our professional development offerings, the ABA Foundation's financial literacy programs and the pages of this magazine. We want to ensure not only that today's CEOs have the information they need to satisfy the expectations of future banking customers, but also that banking is viewed by tomorrow's talent as a promising and satisfying place to build a career.

While some surveys dish up depressing findings—like the one that said millennials would rather visit the dentist than listen to what banks have to say—the reality is that banks have tremendous opportunity to appeal to millennials and showcase their expertise.

A recent study by PwC and the Global Financial Literacy Excellence Center on young adults' financial capability found that U.S. millennials are lacking in their understanding of financial concepts, with only 24 percent demonstrating basic financial knowledge. Thirty-four percent reported that they were "very unsatisfied" with their current financial situation, and 50 percent said they lacked the ability to cope with even a moderate financial shock.

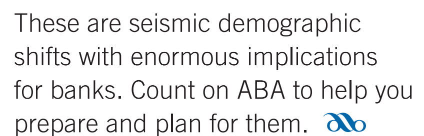
The study also found that debt obligations, particularly from student loans, are a main point of concern. Two-thirds said they carry at least one source of outstanding long-term debt, and 54 percent are concerned about their ability to repay. More than half reported carrying over a credit card balance in the last 12 months, and many reported turning to alternative financial services, such as payday lenders or pawnshops.

> "Millennials are—literally—**OUR INDUSTRY'S FUTURE**. ABA is keenly aware of this and is organizing around it.

They should be turning to banks. That's where they can find help with managing debt and building savings. That's where they can find both "fintech" innovations and the commitment to security that comes with doing business with an FDIC-insured and regulated institution.

And it is where they can find help as they exercise fiduciary care of their aging boomer parents. In fact, ABA's new Safe Banking for Seniors program is aimed at just that. It provides presentations and materials bank employees can use to spread the word about spotting and preventing fraud against older Americans. It is a problem that will only grow as the share of the U.S. population 60 years and over—currently projected to reach 30 percent by 2025—grows.

These are seismic demographic shifts with enormous implications for banks. Count on ABA to help you prepare and plan for them.



ROB NICHOLS *is president and CEO of ABA.*

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ABA Launches New Publication for Bank Directors

To better serve the needs of bank board members, ABA in May launched the *ABA Banking Journal's Directors Briefing*, a new director publication that will be delivered in place of *Directors & Trustees Digest.* Published six times a year, the six-page briefing will explore key corporate governance issues for banks and summarize key regulatory requirements.

ABA has hired Debra Cope, a D.C.-based financial writer with more than 20 years of experience in financial services media, to spearhead the publication. Cope has previously served as a writer and editor for several prominent financial publications including *American Banker*, *Bloomberg News*, *National Mortgage News* and BNA's *Banking Report*. She is also a contributor to the *ABA Banking Journal*.

"The demands and challenges facing bank directors have never been greater," says ABA SVP Charlotte Birch. "We felt that the best way to serve bank boards was to put an industry veteran with a strong background in corporate governance issues behind the wheel of this publication."

"Effective boards thrive on information, and I'm honored to be chosen by ABA to deliver practical news tailored to directors," Cope adds. "Regulators and investors alike are constantly raising and changing their expectations of directors, and I will be working with the ABA team to help boards keep pace."

Cope says that the content featured in the new publication will take a more "how-to" focus, and will include a spotlight of a different board committee in each issue. To subscribe to the *Directors Briefing*, visit aba.com/DirectorsBriefing.

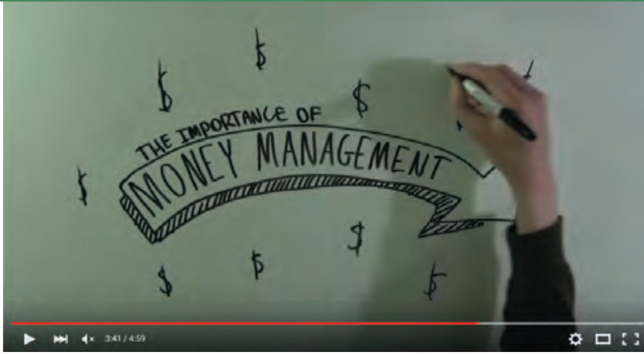
TO COMMEMORATE **THE 50TH ANNIVERSARY OF THE ATM**, THE ATM INDUSTRY ASSOCIATION RELEASED A LIST OF "EXTREME" ATMS AROUND THE WORLD. PICTURED HERE IS A WELLS FARGO ATM NORTH OF THE ARCTIC CIRCLE IN BARROW, ALASKA—THE NORTHERNMOST ATM IN THE UNITED STATES—WHERE FEBRUARY TEMPERATURES AVERAGE -14.2 DEGREES FAHRENHEIT.

FTN Financial's Municipal Credit Review Platform Earns ABA Endorsement

ABA—through its Corporation for American Banking subsidiary—recently endorsed FTN Financial Capital Markets' municipal credit review and monitoring platform. The proprietary solution is designed to help bankers monitor the overall credit exposure in their municipal portfolios and meet regulatory expectations.

"As the banking industry addresses the new regulatory requirements regarding the pre-purchase analysis and ongoing credit monitoring of municipal bonds held in their portfolios, our council identified a need to support banks with specific municipal credit expertise," says Bryan Luke, chairman of the ABA Endorsed Solutions Banker Advisory Council and president and COO of Hawaii National Bank in Honolulu.

"Municipals are a critical part of the investment portfolio for thousands of banks," adds FTN Financial president Michael Kisber. "And most banks have dozens if not hundreds of line items to monitor for credit developments. Those volumes require a comprehensive, systematic approach that applies the specialized analysis needed by each type of municipal security."



‘Lights, Camera, Save!’ Winners Announced

As part of America Saves Week in February, the ABA Foundation announced the top three winners in its national Lights, Camera, Save! video contest.

This year’s grand prize winner was Texas student Nathan Mitchell, who produced a whiteboard video that stresses the importance of putting money toward long-term savings goals rather than short-term splurge items. The video was submitted by Extraco Banks’ Waco, Texas branch. Mitchell will receive $5,000 to put toward his personals savings goal.

“In only 57 seconds, Nathan’s video takes you through one’s life journey, exploring the endless possibilities once you start saving,” says Corey Carlisle, ABA Foundation executive director. “Nathan’s video will inspire other kids and teens to make saving a priority.”

Second place was awarded to Jackson Harvey from Alexandria, Va., for his video “A Squirrel’s Guide to Saving,” submitted by Burke & Herbert Bank. Third place went to Jared Christensen’s video “Savings Sounds Great,” submitted by Zions Bank, Salt Lake City, Utah.

Lights, Camera, Save! was first launched in 2010 as an offshoot of ABA’s Teach Children to Save program. The contest encourages students to produce educational and entertaining videos to communicate the value of saving and using money wisely. Videos are submitted to local participating banks who then send one winner on for judging at the national level.

This year’s panel of judges featured communications and finance experts from several national publications, a local television network and the banking industry. For more information or to watch this year’s winning videos, visit aba.com/lightscamerasave.

Bankers Respond to the ‘Texas Challenge’

State banker associations from across the country pledged to donate more than $400,000 in support of the Fund for Economic Growth—formerly known as FEAI. The pledges came after the Texas Bankers Association challenged state associations to collectively match a $250,000 commitment that TBA made to the Fund in December. At the time this article went to press, 38 states had pledged more than $200,000 toward the match goal.

The Fund for Economic Growth is a 501(c)(4) nonprofit created by ABA leaders devoted to demonstrating the impact of U.S. banks and pro-growth policies on the economy. The Fund educates policymakers and the public, engages in grassroots and advocacy to promote legislation and bolsters the efforts of political candidates who support the industry’s policy efforts.

“A strong economy starts with a pro-growth policy environment,” says Elizabeth Coit, the Fund’s executive director. “There are far too many policies that affect our ability to promote economic growth and serve our customers and communities. We must be more aggressive in advancing this mission, and we must unite to make our message heard.”

The Fund works closely with state bankers associations nationwide to effectively represent common interests at the local level. The majority of the Fund’s expenditures are spent on public education or advocacy, and the remaining funds may support election activity. Unlike political action committees, the Fund can accept unlimited personal and corporate contributions—supporting everything from grassroots “get out the vote” efforts to educational and lobbying initiatives.

A contribution to the Fund is a commitment to helping communities everywhere thrive. To learn more or make a contribution, visit aba.com/Fund.

Bankers Talk TRID in Recent ABA Survey

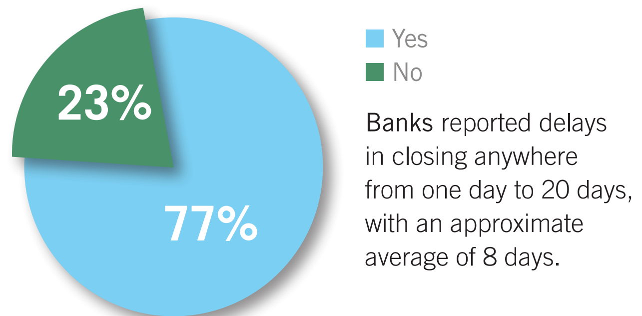
More than six months after taking effect, the TILA-RESPA integrated disclosure rule continues to present bankers with compliance challenges and contribute to customer frustration as a result of delayed closing times and additional fees. In a recent survey conducted by ABA, more than 500 bankers from institutions of all sizes and geographic locations shared their experiences with TRID implementation.

The survey found that many banks have been forced to eliminate certain products as a result of TRID, and that closing times have increased anywhere from one day to 20 days. The survey also pointed out that many banks have had to make system upgrades or use manual workarounds in order to comply with the regulation.

"It's clear from this survey and our discussions with bankers that TRID compliance remains a significant concern," says ABA EVP Bob Davis. "Consumers are seeing the greatest impact due to increased loan costs, fewer choices and delayed closings—and that's not what this rule was intended to do."

"[Our bank has experienced] customer dissatisfaction with delays that are caused by **TIMING REQUIREMENTS.**"

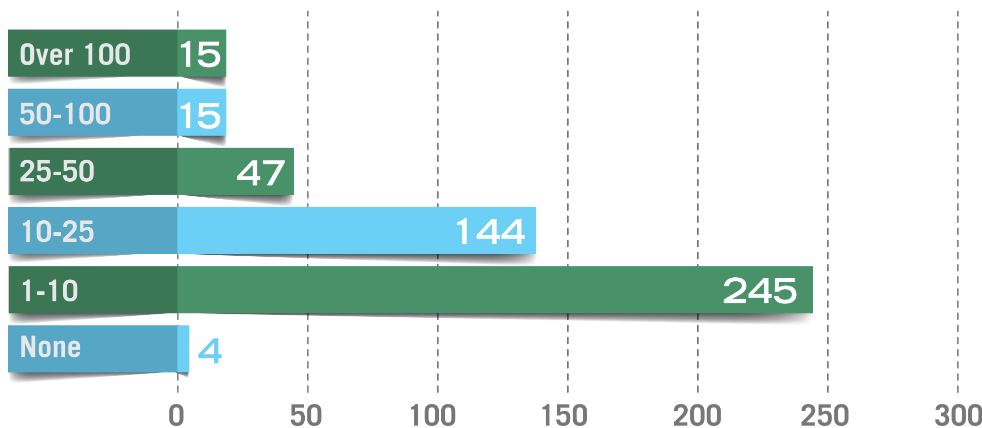
Are you seeing delays in loan closings because of TRID?



Banks reported delays in closing anywhere from one day to 20 days, with an approximate average of 8 days.

"We decided not to **ISSUE LOANS** [that must be TRID compliant]."

How many updates/upgrades have you made to your LOS system since October 3, 2015?



"We restructured our loan staff and created **DEDICATED/SPECIALIZED LOAN ORIGINATORS AND PROCESSORS** who only handle TRID. For a small community bank, this isn't the best use of our staffing."

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A Q&A with BAFT

As the leading global financial services association for international transaction banking, ABA subsidiary BAFT helps forge solutions across financial institutions, services providers and the regulatory community to promote sound financial practices enabling innovation, efficiency and commercial growth. We recently caught up with president and CEO Tod Burwell.

Q: December saw the successful renewal of the Export-Import Bank charter. To what extent was BAFT involved in the advocacy efforts in support of renewal?

A: Extensively. As with previous renewals, BAFT was part of an industry coalition that included hundreds of organizations supporting the need for the U.S. to maintain competitiveness in international trade and grow jobs through exports. BAFT and the Financial Services Roundtable were typically the organizations most out front in representing the role and interests of the financial services community in export financing. Our efforts included meetings with members of the House and Senate, testimony for congressional committees, articles, op-eds, press interviews and participation in round table discussions between members of Congress and the private sector on the practical realities of how trade is conducted, the role and limits of private sector banks and the gaps that the Ex-Im Bank fills.

Q: New payment technologies are evolving rapidly. What are some things BAFT is doing to stay on top of innovation?

A: The disruption of fintech has set off a wave of innovation within the banking community and a sense of urgency to understand new technologies—not just for payments, but for improving profitability, capability and service across multiple areas.

BAFT recently created an Innovation Council which brings together banks and fintech companies to provide market education and awareness of relevant new technology, examine how new technology is impacting payments and trade finance and drive ongoing dialogue with regulators to ensure that regulation evolves to fit the new digital world. We have also hired a new staff leader to drive our payments efforts, looking at interoperability of cross-border faster payment systems, and to oversee our emerging technology initiatives.

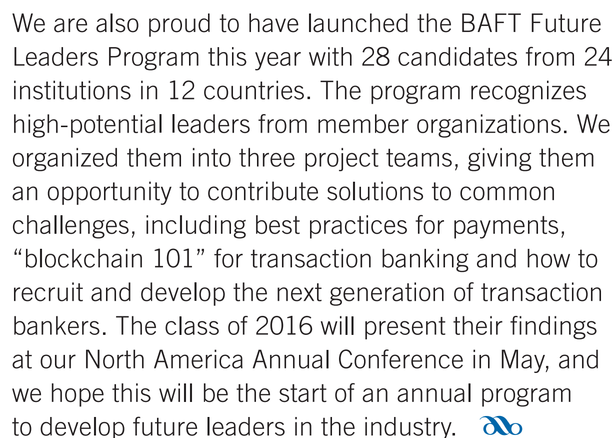
Banks and fintech companies are part of the same ecosystem. Several technology companies have become members of BAFT and some are actively participating in the Innovation Council, as they realize the value of collaboration between banks and fintech companies.

Q: BAFT recently launched a new council for the Middle East and North Africa. Can you describe the role of the council and what they'll be working on?

A: The MENA Council was launched in October 2015 to provide a voice for banks in that region. Compliance and derisking issues were areas of common interest and concern, and organizations wanted a vehicle to participate in global discussions on compliance to exchange ideas surrounding best practices for addressing financial crime risks. Banks in MENA countries have a unique view of what is happening on the ground, and can contribute greatly to the overall solutions.

Q: What are BAFT's main priorities for the rest of 2016?

Addressing harmonization of Basel III regulations—capital, leverage and liquidity implementation—across jurisdictions remains a priority for us. The financial crime agenda is another priority—specifically, best practices for customer and non-customer due diligence, the approach to trade-based money-laundering, the evolution of sanctions and the impact of derisking.



We are also proud to have launched the BAFT Future Leaders Program this year with 28 candidates from 24 institutions in 12 countries. The program recognizes high-potential leaders from member organizations. We organized them into three project teams, giving them an opportunity to contribute solutions to common challenges, including best practices for payments, "blockchain 101" for transaction banking and how to recruit and develop the next generation of transaction bankers. The class of 2016 will present their findings at our North America Annual Conference in May, and we hope this will be the start of an annual program to develop future leaders in the industry.

picturethis

NCCB 16
ABA National Conference for Community Bankers

1 ABA Community Bankers Council Chairman Jim Edwards, president and CEO of United Bank in Griffin, Ga., welcomes attendees to the National Conference for Community Bankers, Feb. 14-17 in Palm Desert, Calif.

2 Sue Brignac, chairman, president and CEO of Washington State Bank in Washington, La., shares a personal family story during NCCB's Spark! session.

3 Best-selling author Josh Linkner discusses principles of "gravity-defying leadership" during a keynote presentation at NCCB.

4 ABA Board Member Deborah Cole, president and CEO of Citizens Bank in Nashville, Tenn., speaks about mentorship during NCCB's popular Spark! session.

5 From left, ABA Chairman Dan Blanton and President and CEO Rob Nichols accept a sponsorship of the ABA Foundation's Lights, Camera Save! contest from Discover Financial Services' Dave Schneider and Steve Sievert.

6 NCCB attendees enjoy lunch under the palms and sun in California.

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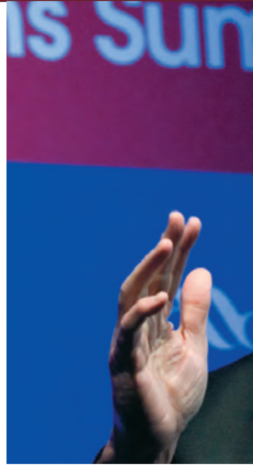

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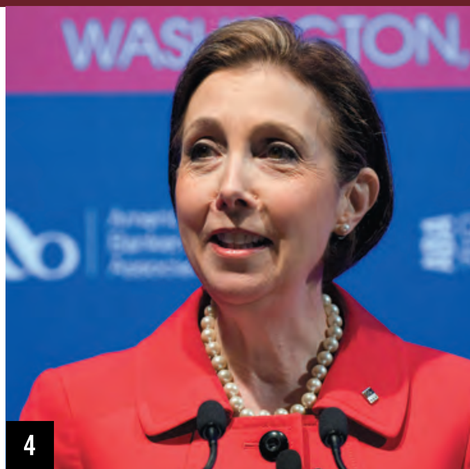


ABA Government Relations Summit 2016

1 Former White House Press Secretary Dana Perino shares stories about government service with attendees at the ABA Government Relations Summit, March 14-16 in Washington, D.C.

2 Rep. Keith Rothfus (R-Pa.) addresses ABA's Mutual Community Bank Conference on March 14 in Washington, D.C.

3 Senate Banking Committee Chairman Richard Shelby (R-Ala.) addresses the Summit.

4 ABA Chairman-Elect Dorothy Savarese emcees the second full day of the Summit.

5-7 Reps. Earl Perlmutter (D-Colo., left) and Blaine Luetkemeyer (R-Mo.) and Sen. Heidi Heitkamp (D-N.D.) discuss strategies for communicating with Congress about banking.

8 Sen. Tim Scott (R-S.C.) discusses the importance of relationship banking at the Summit.

9 House Financial Services Committee Chairman Jeb Hensarling (R-Texas) lays out his regulatory reform agenda at the Summit.

10 ABA Chairman Dan Blanton and ABA President and CEO Rob Nichols discuss how to power up banker advocacy during the Summit.

11 House Financial Services Committee member Michael Fitzpatrick (R-Pa., second from right) meets with Pennsylvania bankers during the Summit.

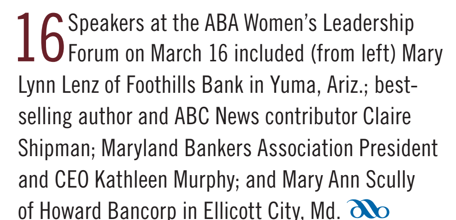
12 Rep. Will Hurd (R-Texas) shares secrets with the ABA Emerging Leaders Forum on March 14.

13 House Financial Services Committee member Al Green (D-Texas) listens to community banker concerns during a Hill visit on March 15.

14 Sen. Kelly Ayotte (R-N.H.) speaks with New Hampshire bankers on March 15.

15 Attendees network at the Emerging Leaders Forum reception.

16 Speakers at the ABA Women's Leadership Forum on March 16 included (from left) Mary Lynn Lenz of Foothills Bank in Yuma, Ariz.; best-selling author and ABC News contributor Claire Shipman; Maryland Bankers Association President and CEO Kathleen Murphy; and Mary Ann Scully of Howard Bancorp in Ellicott City, Md.



High Inventories, Low Demand Will Continue to Keep Oil Prices Down

BY BRITTANY KLEINPASTE

CONTINUED INCREASES IN global inventories have put significant downward pressure on oil prices since mid-2004. With global inventory build-up likely to continue in 2016, and against slow global growth this year, upward pressures on crude oil prices will be weak at best.

The U.S. Energy Information Administration estimates that global oil inventories increased by 1.9 million barrels per day in 2015, marking the second consecutive year of inventory builds. High levels of global production have exceeded growth in global oil consumption, pushing oil prices to the lowest monthly average levels since mid-2004. The EIA expects inventories to continue to rise in 2016 by an additional 700,000 barrels per day and does not expect the first draw on global inventories to be until the third quarter of 2017. As long as the oversupply exists, oil prices will remain depressed.

Much of the 2015 growth in oil supply has occurred in North America. According to the EIA, U.S. production of crude oil averaged an estimated 9.4 million barrels a day in 2015. However, low oil prices have already lowered drilling rig counts and will continue to do so, thereby dropping production levels. The expectation is that production levels will decline to an average 8.7 million barrels per day in 2016 and 8.5 million barrels per day in 2017.

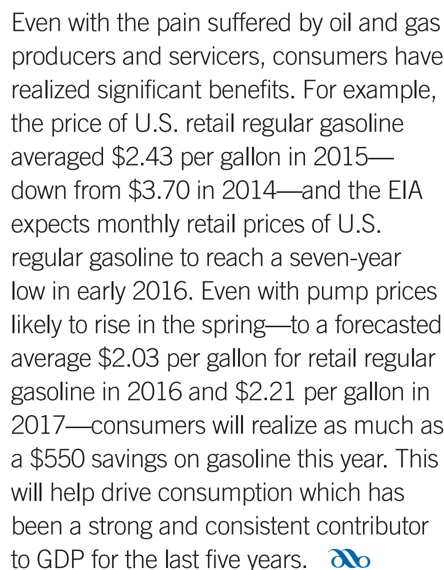
These domestic declines largely reflect a slowdown in onshore production. However, productivity improvements, lower breakeven costs and anticipated oil price increases in the second half of 2017 are expected to reverse the falling onshore production trend.

Oil imports dropped dramatically as domestic oil production gained steam. In fact, the share of total U.S. liquid fuels consumption met by net imports fell from 60 percent in 2005 to an estimated 24 percent in 2015. The net import share is likely to remain flat in 2016 but increase slightly in 2017 in response to the decline in domestic production, reversing the trend that began in 2005.

The U.S. Energy Information Administration estimates that **GLOBAL OIL INVENTORIES INCREASED** by 1.9 million barrels per day in 2015, marking the second consecutive year of inventory builds.

The price of West Texas intermediate crude will rest within the $30 to $40 range through most of 2016, according to ABA's Economic Advisory Council, a committee of 15 chief economists from among the largest banks in North America. As inventory levels adjust and global growth improves, the EAC expects prices to begin to climb later in the year, reaching $45 per barrel by the fourth quarter, with a gradual increase into 2017.

The values of futures and options contracts support this prediction, but also suggest high uncertainty in the price outlook of oil. For example, West Texas Intermediate futures contracts for April 2016 delivery, traded during the five-day period ending Jan. 7, suggest crude oil prices will range from $25 to $56 per barrel. Periods of heightened volatility this year will reflect the pace and volume at which Iranian oil reenters the market, the strength of oil consumption growth and the responsiveness of non-OPEC production to low oil prices.



Even with the pain suffered by oil and gas producers and servicers, consumers have realized significant benefits. For example, the price of U.S. retail regular gasoline averaged $2.43 per gallon in 2015—down from $3.70 in 2014—and the EIA expects monthly retail prices of U.S. regular gasoline to reach a seven-year low in early 2016. Even with pump prices likely to rise in the spring—to a forecasted average $2.03 per gallon for retail regular gasoline in 2016 and $2.21 per gallon in 2017—consumers will realize as much as a $550 savings on gasoline this year. This will help drive consumption which has been a strong and consistent contributor to GDP for the last five years.

BRITTANY KLEINPASTE *is director of economic research at ABA.*

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You Sure? Courts Unsettle Usury Case Law

BY DAWN CAUSEY

AT SOME POINT in the last few years, pattern mixing—combining striped ties with patterned shirts—has become an integral part of men's fashion. While the art of pattern mixing may be fun for the *GQ* millennials, it makes me dizzy. When it comes to understanding usury, and which interest rate caps apply, the issue is equally eye-watering.

At issue is the *Madden v. Midland Funding* case dealing with the buying and selling of bank loans. The interest rate and contract were valid when originated by the national bank, but invalid when bought by a consumer debt consolidator trying to collect. The Second Circuit Court of Appeals held that the buyer of the paper could not export the originated interest rate because it violated the state law where the borrower lived. Bankers and others are closely watching as the case is appealed to the U.S. Supreme Court to find out if the usury battles thought long won and settled are re-opening.

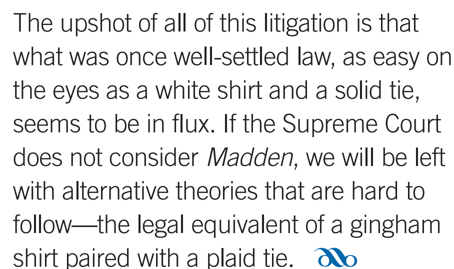
And re-opening they are. Not content to wait for Supreme Court action, there are suits percolating around the county on exportation of interest rates, valid-when-made doctrine and national bank preemption. National banks and their affiliates (most often credit card companies) may charge the lawful interest rate of their headquarters state without regard to the usury laws of a consumer's home state. This is because the National Bank Act preempts the application of the usury laws. In the *Madden* case, the appellate court held that because the loan buyer was neither a national bank nor acting on behalf of the bank, NBA preemption was not available.

Cases in *Madden's* wake include a California case involving student loans. In *Blyden v. Navient Corp.*, a student loan validly originated by a bank was sold to a nonbank entity. Upon learning of the sale, the student filed a class action seeking to recover interest rate charges that violated California's usury rules. The defendants in the case are the investment trusts that purchased the loans. The case is still pending.

Another theory of cases include one brought by the Pennsylvania attorney general that charged defendant payday lenders with violation of usury laws notwithstanding the involvement of a state chartered bank. The AG labelled it a "rent-a-bank" scheme because the nonbank lenders marketed, funded and serviced the loans and received most of the economic benefit notwithstanding the bank owning the loans. The district court ruled for the AG despite the bank's involvement because it found that the nonbank lenders were the real parties in interest and not the bank. This "true" or "real" lender approach is one that the Third Circuit Court of Appeals has taken with only claims against banks directly qualifying for NBA preemption.

So what does this mean for the loan sale market? There are other theories not addressed by the *Madden* decision that may help. One possibility is the valid-when-made doctrine. Under that legal concept, the assignee/buyer of a loan may charge the same interest rate as the lawful rate charged by the assignor. Rooted in contract law, it means that a loan contract that complies with the usury rates when it is originated does not become usurious in the hands of the subsequent holder. Also not addressed is whether the choice of law provision in the loan agreement should have governed which state usury laws applied. In *Madden*, the chosen state law was Delaware, with a more generous usury limit, while the consumer lived in New York.

The upshot of all of this litigation is that what was once well-settled law, as easy on the eyes as a white shirt and a solid tie, seems to be in flux. If the Supreme Court does not consider *Madden*, we will be left with alternative theories that are hard to follow—the legal equivalent of a gingham shirt paired with a plaid tie.



DAWN CAUSEY *is general counsel at ABA.*

Banks&USDA:

Partners in Reviving Rural Economies

BY TOM VILSACK

One of my top priorities as secretary of agriculture over the past eight years has been to rebuild, reinvigorate and modernize the American rural economy. The robust communities that form the fabric of rural America are too often overlooked and undervalued, particularly by institutional investors. While production agriculture remains vital to the rural economy, there has been an explosion of innovation in fields such as renewable energy, biofuels, technology, conservation and rural infrastructure. This activity presents a tremendous opportunity to invest in creative solutions to combat climate change, increase sustainable food production and protect our nation's natural resources—all while continuing to bolster the U.S. economy.

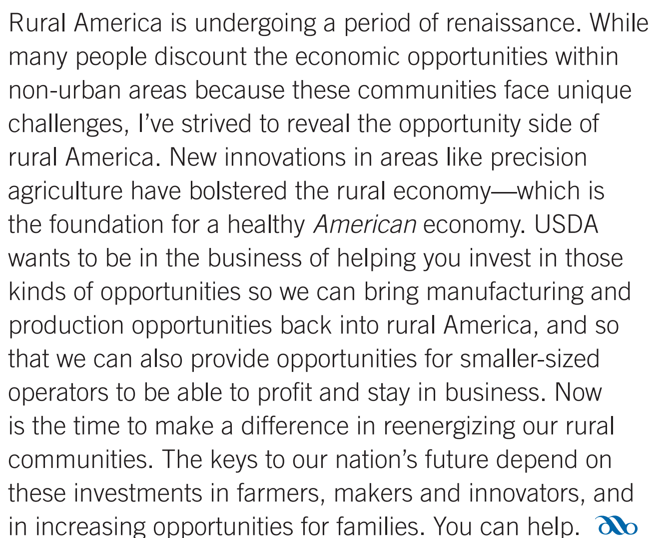
Despite this era of both revitalization and ingenuity, our rural communities—while facing disproportionate challenges in infrastructure, utilities and community facilities—also face needed access to traditional sources of financial investment. USDA itself is a significant source of these investment dollars, but the demand for rural investment is greater than we can supply. That is why we are striving to identify creative ways that we can work with the private sector to be more involved and aware of development opportunities in non-urban centers. We need the expertise in debt and equity investments that ABA member banks provide to be focused on rural areas. We can learn from your ability to manage returns and maximize impact.

Nearly 60 million Americans reside in America's rural communities—one-fifth of the total U.S. population. The 2010 census also indicates that roughly 3.25 million square miles of U.S. land lies within rural areas, representing approximately 97 percent of America's entire acreage. While this data demonstrates the significant breadth of rural America, it cannot capture the value system ingrained within these communities, which serves as a foundation for our society as a whole. The morals and work ethic of rural Americans ensure that our vibrant economy is maintained. It is time for us to work together toward exposing the bold future that rural America has in store for young people—and their children and grandchildren.

USDA has been a champion for rural economic development for decades through its multi-billion dollar portfolio of grants and loans. Taken with investments made since FY 2009, USDA Rural Development has now invested more than $224 billion in more than 1.2 million projects in rural communities nationwide, supporting areas including housing, community facilities, rural water and wastewater services, broadband and rural electric services and rural businesses and entrepreneurship. In FY 2015 alone, USDA Rural Development invested $29.75 billion in nearly 171,000 projects across the nation.

Since 2012, when President Obama signed an executive order establishing the White House Rural Council, USDA has worked alongside our federal partners to focus specifically on efforts to strengthen the rural economy by taking farming, ranching, ag-tech and bio-based businesses to the next level. As the executive order notes, "strong, sustainable rural communities are essential to winning the future and ensuring American competitiveness in the years ahead. These communities supply our food, fiber, and energy, safeguard our natural resources, and are essential in the development of science and innovation."

Over the past four years, USDA has continued to develop a bevy of partnerships and programs that will drive new interest and investment into rural America. Many of our lending programs permit partnering with other parties, and we believe that financial institutions can complement the government's work by serving as a co-lender when our resources or authorities limit our



TOM VILSACK ANNOUNCES THE CREATION OF THE NEW U.S. RURAL INFRASTRUCTURE OPPORTUNITY FUND.

ability to invest. We are anxious to expand the number of opportunities for banks to co-lend and participate directly with USDA in loans for rural projects.

In 2014, USDA announced the creation of a new $154 million Rural Business Investment Company. The RBICs are managed through the Rural Business Investment Program and allow funds to be licensed to invest in enterprises that will create growth and job opportunities in rural areas, with an emphasis on smaller enterprises. The RBIC vehicle allows USDA to facilitate private equity investments in agriculture-related businesses, above and beyond what our direct and guaranteed loan programs are able to provide. Small, regional and large banks are permitted investors in an RBIC—and such investments can be a source of coverage under the Community Reinvestment Act.

To provide a flavor for the types of companies in which these funds are infusing private capital, consider the recent investment of $5 million in Hortau Corp., deployed through USDA's first fully licensed RBIC. Hortau is based in California's characteristically rural Central Coast, and since 2002 has been on the forefront of creating soil monitoring and irrigation management technology for agricultural systems. Given the ongoing drought plaguing the West Coast, particularly California's agricultural regions, Hortau's technology is transforming how producers maximize their use of water. Their simple, yet powerful, mobile software is providing farmers with real-time reporting on the health of their crops so that they can detect stresses in time to mitigate negative impacts. With a few more RBICs currently in the pipeline, we are on a good path forward in matching these types of pioneering companies with private sector investments that will facilitate lasting economic growth in our rural communities.

Rural America is undergoing a period of renaissance. While many people discount the economic opportunities within non-urban areas because these communities face unique challenges, I've strived to reveal the opportunity side of rural America. New innovations in areas like precision agriculture have bolstered the rural economy—which is the foundation for a healthy *American* economy. USDA wants to be in the business of helping you invest in those kinds of opportunities so we can bring manufacturing and production opportunities back into rural America, and so that we can also provide opportunities for smaller-sized operators to be able to profit and stay in business. Now is the time to make a difference in reenergizing our rural communities. The keys to our nation's future depend on these investments in farmers, makers and innovators, and in increasing opportunities for families. You can help.

TOM VILSACK *has served as U.S. Secretary of Agriculture since 2009 and is a former governor of Iowa.*

Bringing Millennials into Banking

Millennials are not disenchanted with banks, they just are not ready for the products that brought previous generations into the banking system.

Millennials have had a rough financial start. More millennials are going to college than any previous generation. Although this is good, many are taking on debt to do so. In fact, 75 percent of graduates today have student loan debt, averaging $29,000.

At the same as they are taking on this debt, their earnings prospects are diminished. Millennials have entered the workforce in a period that has seen two historic recessions. With higher debt and lower earnings, it is no surprise millennials' finances are a bit shaky.

Because of their finances, millennials are delaying major life events. Just 23 percent of adults aged 18-31 are married and own a home. Major life decisions like starting a family and buying a home are exactly what brought previous generations into banks.

Despite this slow start, millennials want the same things as previous generations, just on a slower timeline. Studies show that 93 percent of millennial renters plan to own a home someday and 74 percent want to have children.

In order to accomplish this, millennials need first to rebuild their finances. This is exactly where they need banks' help.

Banks can leverage technology to deliver innovative products that help rebuild millennials' finances. If they are able to do this, when millennials are ready for mortgages they will turn to the banks that helped them get there.

ROB MORGAN *is VP for emerging technologies at ABA.*

What Makes Millennials Different?

To help understand some key trends about what millennials believe and why it matters for banks, we asked Kristen Soltis Anderson, a pollster and expert in millennial public opinion and behavior, to highlight some top trends.

On skepticism of received wisdom about the good things in life

It's a generation that's a little more commitment-phobic than previous generations. The idea of making a commitment to anything that will last more than the next week is an anxiety-inducing proposition for many. A lot of the things millennials were told were the responsible commitments to make—whether that's to commit to getting married, starting a family and settling down; to commit to going to college and getting a degree; to buy a home; to invest in the stock market—have turned out in the minds of many millennials to be less of a good deal than they were sold. So they're a little bit skeptical when they're told "You should do this because it's the smart, responsible thing to do."

On valuing family and striving for success

On the other hand, they're pretty optimistic and creative, and they want to be able to blur the lines between their personal lives and their work lives. The lines between work and play have blurred a lot for millennials, and that's something for people who work in the financial sector to know. At the margins, you're seeing a slightly different set of values when millennials ask, "What does fulfillment in life mean to me, and how can I make my career support that?" Family is hugely important. It's defined a little more flexibly than previous generations, but this is a very pro-family generation. This is a generation that puts a lot of pressure on themselves—you've got to thrive at home, you've got to thrive at work and you've got to put it all together.

KRISTEN SOLTIS ANDERSON *is a co-founder of Echelon Insights, a columnist for the* Washington Examiner *and the author of* The Selfie Vote: Where Millennials Are Leading America.

When It Comes to Finances, Millennials Want to Save

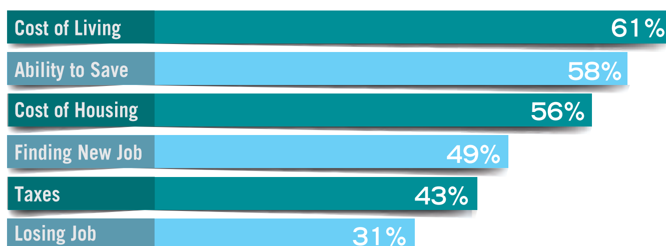
Learn more at **aba.com/Millennials**

Many have made the claims that millennials don't save enough—or even at all. But data suggests that savings is actually a high priority for this generation. In fact, millennials are proving to be far more financially conservative than the Gen Xers or Baby Boomers and a large percentage rank saving money highest on their list of financial priorities. Yet for many millennials, student loan debt is stymieing their ability to save and causing them to delay major life decisions, like buying a house or starting a family.

Many millennials are starting their financial lives already encumbered by staggering amounts of student debt. Two-thirds of all millennials—and 80 percent of college-educated millennials—have at least one source of outstanding long-term debt:

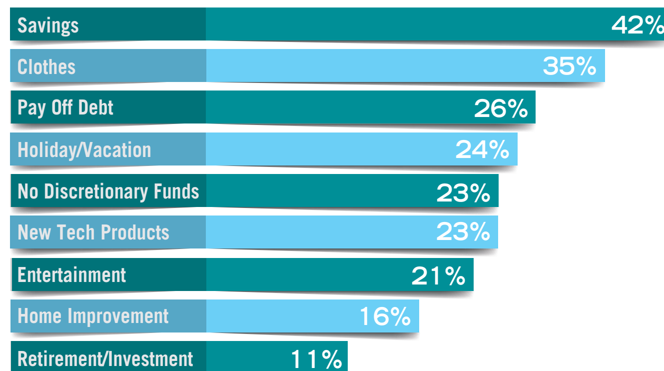
$29,400
The average student loan balance

According to a Bank of America/*USA Today* survey, ability to save was millennials' second-biggest financial concern:



Millennials are commonly defined as the generation of Americans born between 1980 and 2000. There are more millennials than Baby Boomers, and millennials now account for 44 percent of the workforce—the largest generational cohort.

But those that can save, are. According to Nielsen, savings is where most millennials choose to allocate their discretionary spending dollars:



Millennials are budget-conscious and want tools to help them save and plan:

66% of millennials say they have a monthly budget.

67% of millennials say they want their bank to provide budgeting tools.

46% want their bank to analyze their spending habits and provide feedback.

As "digital natives," 88 percent of millennials currently use online or mobile banking. Cultivating a digital relationship with millennial customers will be critical to banks' success in the coming years. By leveraging mobile to offer innovative budgeting, payments and savings tools, banks can attract and retain millennial customers.

(Not) Going to the Chapel

How millennials' changing marriage patterns are shaping their engagement with banks.

BY EVAN SPARKS

We've only just begun to live
White lace and promises
A kiss for luck and we're on our way

While you may be familiar with the Carpenters' number-one 1970 hit "We've Only Just Begun," you probably didn't know that the song got its start as the soundtrack to a bank commercial.

Over wordless, soft-focus, close-up scenes of a young couple getting married in a California country church, the singer croons about the adventures the newlyweds have in store. The ad concludes with the couple driving off into the evening, followed by the words: "You've got a long way to go. We'd like to get you there. The Crocker Bank."

The popular ad showed how important young married customers were to banks. Today, for bankers wondering when (and if) millennials will come into banks in droves, the place to start is the data on marriage. Millennials—roughly, the generation born between 1980 and 2000—are not getting married at the same pace as prior generations. In 2014, the marriage rate was 35 percent lower than in 1970. Then, nearly 80 percent of those aged 25-34 were married. Today, just about half of Americans aged 25-34—that is, the older half of the millennial generation—have married.

This sea change in marriage could dramatically change when and whether Americans engage with banks as deeply as previous generations.

Marriage on the move

One central shift is a view among millennials of marriage as a "capstone" experience. In 1970, the average age of first marriage was 21 for women and 23 for men. People married on the cusp of adulthood and grew together. Young married couples shared the experiences of going to college or grad school together, of working low-paying jobs to build a career, of living cheaply in ratty apartments to save money.

Today, the average man marries for the first time at 29 and the average woman at 27. "Culturally, young adults have increasingly come to see marriage as a 'capstone' rather than a 'cornerstone'—that is, something they do after they have all their other ducks in a row, rather than a foundation for launching into adulthood and parenthood," says a report from the National Marriage Project at the University of Virginia. This increasingly common idea posits that young people should finish their (often lengthy) higher educations, reach a high level of career achievement, experience travel and other exotic pursuits, cohabit with potential mates and become financially well-off before thinking about marriage and children.

A young adult in this mode isn't the same kind of bank customer as his parents were. "The educated class of millennials are marrying well into their late 20s and often into their 30s and they don't have children until their 30s or later," says Manhattan Institute Senior Fellow Kay Hymowitz. "Banks are dealing with 30-somethings where they might previously have been dealing with 20-somethings."

However, the affluent millennial pursuing a capstone approach to marriage will eventually make it into the bank, says Hymowitz. Millennials from working-class and less-affluent backgrounds may not—ever. While the capstone marriage is a goal for young people at all levels of the socioeconomic ladder, the less affluent are more likely to have children before getting married—and that can set them up for a lifetime of catching up. And since marriage

Culturally, young adults have increasingly come to see marriage as a **"CAPSTONE" RATHER THAN A "CORNERSTONE"**—that is, something they do after they have all their other ducks in a row, rather than a foundation for launching into adulthood and parenthood.

itself provides demonstrable financial benefits, remaining unmarried deprives them of further opportunities.

"Young, less educated adults are going to be in a much more precarious economic condition as a result of not marrying," Hymowitz says, pointing out the benefits of two pooled incomes for hitting the financial milestones that banks offer. And while less educated millennials do often move in together, "cohabitors don't tend to be as stable or committed to future planning," she explains. "That affects their approach to buying homes—assuming they could even manage the expense."

"This capstone model is not working well for Middle Americans," conclude researchers at the National Marriage Project. One must ask if it's working well at bringing these young adults into the mainstream financial services marketplace.

Why marriage matters

Millennials want to get married just as much as previous generations did. But for young people shaped by divorce and a shaky job market, marriage can seem risky. The truth is the opposite. While individual anecdotes may vary, the evidence broadly shows that marriage is a stabilizing, risk-mitigating force in people's lives. Unfortunately, according to the Pew Research Center, only one-third of millennials believe that marriage contributes to financial stability.

Married men earn nearly one and a half times what unmarried men make, even when controlling for external factors. "The institution of marriage continues to boost men's commitment to work and the individual economic success they enjoy," write Brad Wilcox of the University of Virginia and Robert Lerman of the Urban Institute. Women in intact families likewise enjoy greater levels of income. "Both men and especially women enjoy higher family incomes when they get and stay married."

Married customers tend to be better bank customers as well, being several times more likely to own a home and 30 percent more likely to apply for a mortgage than unmarried individuals. They also tend to have monthly deposit values more than 40 percent higher than those of the unmarried. Figures from Gallup show that married people spend slightly more each month than cohabiting couples—and nearly twice as much as singles. Raising children amplifies these effects. According to Jeffrey Dew, a sociologist at Utah State University, married fathers have much higher levels of personal net worth over their lifetimes than non-fathers or unmarried fathers.

If millennial bank customers are simply delaying marriage, bankers can target them with mortgage and wealth management products later than they otherwise might. At present, given the large student debt overhang and the cohort's lower marriage rates, "they don't have very many incentives to engage with financial institutions," Dew says.

But "a substantial number of young people are not just putting off the landmarks of adulthood but are just not following that script at all," says Hymowitz. If marriage is no longer part of the "life script" in your community, what does that mean for your bank?

If marriage is no longer part of the picture for millennials in your market, you may see increases in the unbanked and underbanked. According to the FDIC, only one in five married couples are unbanked or underbanked, but nearly half of female-headed unmarried households are. If marriage rates continue to decline among millennials, then reaching the unbanked will become a more important strategy for many banks.

Many observers focus on millennials' comfort with technology, desires for authenticity and appreciation of customization when they look at the future of banking. Just as important for understanding millennials and the future of banking is understanding the role of marriage trends. And in that endeavor, we've only just begun.

EVAN SPARKS *is editor-in-chief of the* ABA Banking Journal.

Falling Behind to Get Ahead: The Millennial Student Debt Trap?

BY SHAUN KERN

Surveys show that millennials visit bank branches less, value online banking more and carry higher levels of debt than prior generations—but not bank debt. Millennials carry more debt because they have seen education costs rise sharply and have overwhelmingly turned to student loans issued by the federal government to cover these costs.

Research by Harvard's Joint Center for Housing Studies confirms this, showing that for households aged 20-39, the incidence of student loan debt rose from 16 percent in 1989 to 39 percent in 2013. Measured in constant dollars, there has been a drastic increase in student loan debt burdens of $50,000 or more, quadrupling from 4 percent in 1989 to 17 percent in 2013. With student loan debt having swelled to over $1.2 trillion in the United States, it has become the largest form of consumer debt held by American households.

The connection between housing and student loan debt is straightforward: millennials struggling with student loan debt are less able to afford a home. Student loan debt makes it more difficult to save for a down payment and also weighs unfavorably in "debt-to-income" calculations, making it harder to qualify for a mortgage in the first place. Rising rents in many American cities have also taken a larger share of millennial income, which further complicates the path to future home ownership.

For millennials seeking advanced degrees and opportunities in larger cities, these challenges are magnified. Nowhere is this more obvious than in Washington, D.C. From 2006 to 2009, census data shows that millennials were leaving the nation's capital. However, immediately following the financial crisis, the D.C. metro area saw a migration of millennials larger than anywhere else in the country. This has made D.C. and its surrounding Virginia and Maryland suburbs the most millennial-dense metro area in the United States. However, millennials in cities like Washington face obvious challenges to homeownership and wealth building. To start, the median rent for a one-bedroom apartment in Washington is a staggering $2,000 per month. When this rent burden is combined with student loan obligations, the results are alarming.

> Even high-earning millennials with the potential to be good bank customers can face **FINANCIAL HURDLES** that will take them years to overcome.

Student loan obligations for millennials vary widely by the degree they earn, but a particularly vivid picture is painted with data on recent law school graduates. The American Bar Association estimated in 2012 that average student loan debt for law graduates of public and private law schools stood at $84,600 and $122,158, respectively. The student loan market is dominated by the federal government, which currently charges slightly above 6 percent for graduate student loans. After fees, the standard 10-year repayment schedule with a 6 percent rate and principal balance of $84,600 leads to payments of approximately $963 per month. If you change the principal balance to $122,158, the average debt for a recent private law school graduate, this leads to payments of approximately $1,390 per month.

Taken together, typical millennial lawyers in D.C. are paying nearly $2,000 per

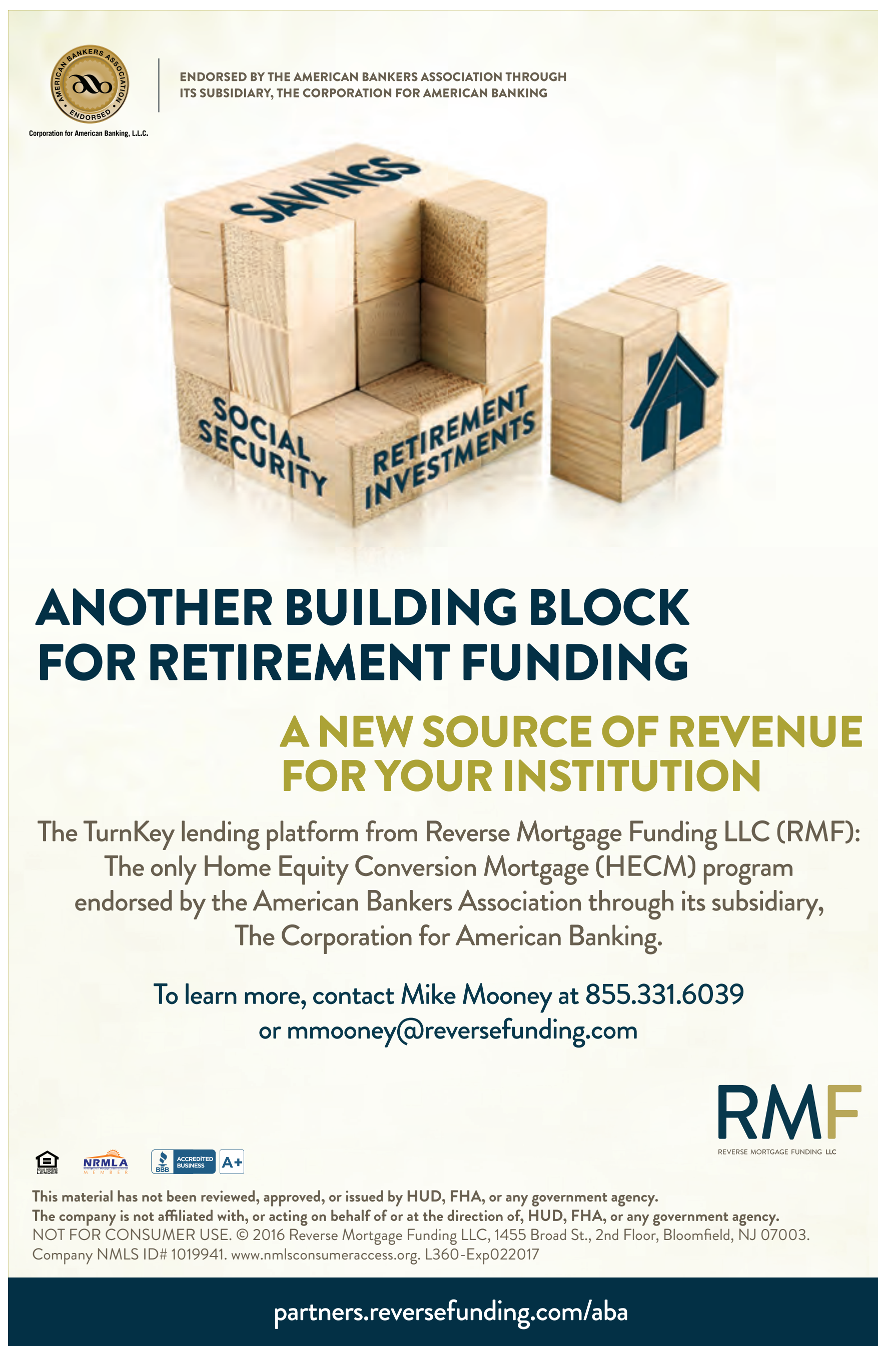
month in rent and roughly $1,000 or $1,400 per month in student loans. Great salaries like $100,000 per year turn out to be about $5,000 per month after necessary withholdings and taxes. Even with such a high a salary, 60-68 percent of this six-figure-earning millennial's after-tax income would be dedicated to rent and student loans. This would leave $1,600-$2,000 per month to cover all of life's expenses and save toward the future. If this millennial saves $500 a month—a sizeable fraction of his or her remaining income—this will lead to savings of $6,000 per year. However, the median sales price for a home in the D.C. metro area is currently $415,000. Saving $500 a month, it will take almost *14 years* for this millennial to save enough for a traditional 20 percent down payment on a home that is priced at the median. While both home prices and this millennial's income are likely to change over the years, this rough timetable speaks volumes about why millennials are not buying homes as early as their parents.

This illustration may bring you as close as you ever come to feeling bad for a young, highly paid lawyer in the nation's capital. Still, it's hard to garner too much sympathy for a millennial whose income places them near the top quintile of household income in America. Feelings aside, this shows how even high-earning millennials with the potential to be good bank customers can face financial hurdles that will take them years to overcome. Further, if this is the story of millennial *success*, then the tale of millennials that are struggling economically must be truly disquieting.

It's not just Washington, it's not just mortgages, and it's not just lawyers, either. In slightly different variations, this type of financial landscape exists across America and affects a range of millennials who find themselves struggling to save for emergencies, get married, form a family or start a new business while also servicing their student loans.

Eventually these millennials will be well positioned to borrow again, but data and research suggests that this could take time. Millennials are justifiably shy about taking on new debt when they often find themselves with student loan balances equal to the mortgages on the homes they grew up in. These millennials have already mortgaged their future with student loans once. It should be no surprise to hear that they are not ready to do that twice.

SHAUN KERN *is counsel in ABA's Office of Regulatory Policy.*



Are Millennials Worth the Hype

Millennials are important for banks' futures—but not because they are millennials.

BY ETHAN EPSTEIN

Molly Otto, a 25-year-old project manager living in San Francisco, may appear to be a typical "millennial" bank customer. She uses online banking weekly, but only visits a physical bank branch every three to four months. She wants mobile check deposit and convenient online banking, and low fees as well.

While millennials now constitute the largest age cohort in America at 80 million strong, and the most ethnically and racially diverse one, quite a lot of them have banking habits like Otto's. Sixty-eight percent of millennials manage their banking wholly online, reports the management consulting firm CCG Catalyst. Fewer than half ever write a check. Some 27 percent would even consider switching to a bank with *zero* branches if they were to leave their current bank.

And yet, for all the media hype over millennials, they're not quite the digital native, online-only tech-obsessives that some make them out to be. Consider: Despite their professed interest in branchless banks, a mere 4 percent of millennials actually use an online-only bank. And while a mere 48 percent of millennials are fuddy-duddy enough to write checks, only a slightly smaller percentage—46 percent—use online banking to pay bills.

Using a broad brush

There's evidence, furthermore, that attitudes and habits that are widely thought to be millennial-specific may actually be quite widespread among the general population. Eighty-one percent of *all* Americans looked at their bank account online at least once over the past year, according to the Pew Research Center, and 39 percent of Americans of any age now use mobile banking. And it's not only millennials, it appears, who are intolerant of account fees; one survey found 23 percent of larger bank customers considering bolting, largely because of the disappearance of perks like free checking.

In other words, focusing on millennials as a discrete category may obscure other, more relevant ways of segmenting the market. Millennials may be simply too diffuse a category for banks to target specifically. How similar can 80 million distinct individuals really be?

Take the question of millennial incomes. By some accounts, millennials are underemployed and drowning in student debt, eking out meager existences in their parents' basements. There's some truth to the stereotype: More than a quarter of them earn less than $25,000 a year, and 40 percent say that their debt obligations are seriously crimping their finances. Fifty-seven percent of millennials, meanwhile, say one of their financial goals is "to have enough money for daily living expenses," and 43 percent say they want to "*become* financially independent" versus 31 percent who say their goal is to "*remain* financially independent." And millennials save only about 4 percent of their income, lower than other cohorts—Generation X, the slightly older group, saves roughly 6 percent. All of this hardly suggests a generation living high on the hog.

And yet, despite the grim data, 26.5 percent of millennials earn at least $75,000 a year. That's more than 20 million people. And even the low-income statistics can obscure more than they reveal. Is that millennial making under $25,000 a high school dropout, with

For all the media hype over millennials, they're not quite the **DIGITAL NATIVE, ONLINE-ONLY TECH-OBSESSIVES** that some make them out to be. Consider … a mere 4 percent of millennials actually use an online-only bank.

very poor long-term prospects? Or is she a student at a top tier law school, who currently has a low salary, but who can likely look forward to many years of high earnings? And how much of millennials' poor finances are just a result of them being, well, younger? Those just starting out in their careers have long earned less than their more senior colleagues, after all.

Age isn't everything

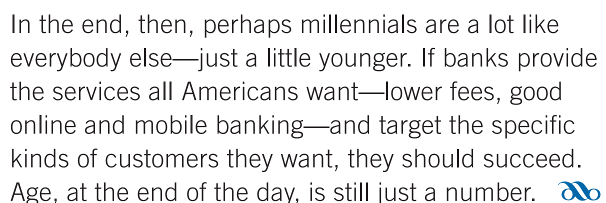
That's why Kevin Tynan, SVP for marketing at Liberty Bank for Savings in Chicago says that it makes much more sense to use lifestyle segmentation, rather than age, to target customers. "People's attitudes don't start at 18 and end at 34," he tells me, arguing that age is overrated as a determining characteristic. Banks need to look for customers on the "basis of lifestyle rather than age," he argues.

Tynan specifically recommends using services like Nielsen's P$YCLE's lifestyle segmentations, which break people down into 47 different categories based on their financial habits—categories like "bargain lovers," "corporate climbers," "loan rangers" and "young urban renters." ("Loan rangers," for example, are, as Nielsen puts it, "top-ranked markets for student loans and new car insurance" but they don't save much for retirement.) Once a bank determines which categories it wants to target—for example, do you want big savers, or big borrowers?—it can adjust its marketing approach accordingly. That's a much more effective approach, Tynan contends, than simply going after a huge swath of people who just happen to have been born around the same time.

It's certainly true that, as Tynan puts it, banks "must replace older customers they lose through attrition." But banks need to be strategic about which young people they're targeting. That's where lifestyle or behavioral segmentation comes in.

Tynan is not alone in questioning the wisdom of strictly demographic-based marketing. A 2011 article in the *Journal of Financial Services Marketing* reports that "demographic-based segmentation as a means of targeting customers of financial services is … ill-founded." As financial marketing commentator Jim Marous summarized, "customers of the banks analyzed importance scales on 28 service-related comments that related to nine key financial service factors such as website appeal, trust [and] customer service … The responses were analyzed against five demographic measures: age, gender, income, occupation and education. Overwhelmingly, significant differences between demographic groups were not found." The researchers found that it's better to target potential clients based on the kind of behavioral factors that lifestyle segmentation takes into account: How does the customer save? How does the customer spend? Age, it appeared, was too broad a category to target meaningfully.

In the end, then, perhaps millennials are a lot like everybody else—just a little younger. If banks provide the services all Americans want—lower fees, good online and mobile banking—and target the specific kinds of customers they want, they should succeed. Age, at the end of the day, is still just a number.



ETHAN EPSTEIN *is associate editor at the* Weekly Standard *and a frequent contributor to* National Journal.

Banker on the Range

A sixth-generation rancher and passionate ag lender, Montana's Heather Malcolm is committed to cultivating the next generation of agriculture.

BY KARI BARBIC

Ranching isn't just another line of business to Heather Malcolm: it's in her blood. "Agriculture is what makes the world go 'round in my opinion," says Malcolm. It's also the number one industry in her home state, Montana. Malcolm is vice president of ag lending and a commercial loan officer at Bank of the Rockies in Livingston, Mont., and a sixth-generation cattle rancher. Having grown up on a ranch just outside of Livingston, Malcolm knows first-hand the unique challenges her rural customers face.

"It was very important to me to return to my community and serve the people here," says Malcolm. She says her ranching background has been helpful in connecting to her farmer and rancher customers and building trust. "If I can talk to them about the details of their farms and ranches and understand the decisions they're making each day, they're more accepting of the relationship we're trying to build," she says. "Farmers and ranchers know their businesses and they can see right through someone who doesn't."

As the oldest bank in the state, Bank of the Rockies has worked long and hard to build that kind of trust throughout its branches. Locally owned and operated, Bank of the Rockies has been helping Montana's farmers and ranchers start up and keep their businesses running strong for more than a century. Malcolm works with a variety of farmer and rancher customers—from traditional operations to specialty farm-to-table businesses—helping them choose lending programs that best fit their business models. Farmers and ranchers depend on loan offerings that give them flexibility to address their long- and short-term needs, such as lines of credit, livestock and equipment term loans and ag real estate loans. "Farm and ranch lending is not cookie-cutter," says Malcolm. "Each operation is different and I need to tailor the loan to fit the borrower's needs and operation to give them the best chance at success."

Rancher customers like Casey Coulter depend on this delicate balance of flexibility and reliability. "Farmers and ranchers rely on even-keeled lenders with a consistent credit philosophy. We need to know what to expect and what our financial partner is thinking," says Coulter, a cattle producer who's been working with Malcolm as a customer at Bank of the Rockies for seven years.

Malcolm and her team understand the ins and outs of life and work on the farm. "Heather has a great understanding of agriculture—in all its facets," says Coulter. "As a loan officer, you have to be available to contact almost any time, and give an honest and educated opinion about business deals—and that's just what she does."

Field work

Malcolm understands agriculture so well because she is out in the field most days herself—in addition to her full time work at the bank. She can be found most evenings and weekends at her family's ranch, feeding cows and doing chores alongside her nieces and nephews. "I love seeing my nieces and nephews get out there and learn how important agriculture is," she says. "They can get their hands dirty and see all that goes into raising a quality product." Malcolm has a real passion not just for the agriculture industry but also for helping the next generation of farmers and ranchers get their start.

Bank of the Rockies begins investing with tomorrow's farmers and ranchers through Ag Youth Savings

LAUREN CHASE

Accounts and special loans tailored to fit 4-H and FFA projects. These future farmers can get partial financing for animals and expenses needed to complete their breeding and market projects. “It’s all a part of teaching kids how businesses come together and what’s involved from start to finish,” says Malcolm. “We expect the kids to contribute their own money so they are personally invested as well. We want them to get a taste of the business side of agriculture, so they get to know the bank as their ally and partner in the success of their business.”

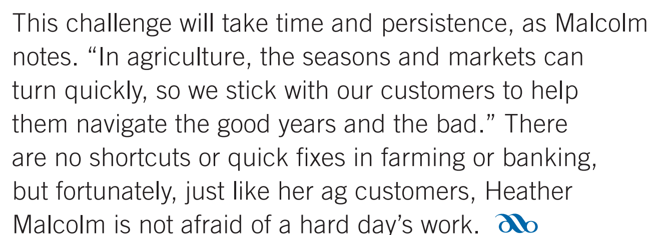
With the average farmer today 57 years old, Malcolm notes that it is imperative to get younger people involved in order “to protect the business of agriculture and keep up with feeding the world.” This is where Bank of the Rockies is ready and willing to step in with helping beginning farmers and ranchers, even though they may have additional risk and tighter cash flow. The bank offers tailored programs to help them get right to the business of farming. Through no-cash-down financing, the bank gives young ranchers the means to start, and helps them make solid plans to ensure the business will make most, if not all, the payments directly off the land.

Likewise, through joint government programs like the Beginning Farmer Down Payment Program, the bank can help customers use special USDA programs to get their businesses up and running. Malcolm spends extra time with these beginning farmers and ranchers, walking them through their budgeting and business plans. “It is truly a joy and a passion for me to help these customers grow their new farms and ranches into successful businesses.”

Heather Malcolm also represents the needs of her bank and others just like it through her work with ABA’s Agricultural and Rural Bankers Committee. Malcolm was appointed to the committee last fall after her service on the planning committee for the ABA National Agricultural Bankers Conference. “It’s such a great opportunity to meet with other lenders from across the country who serve rural and agricultural communities,” says Malcolm. “And we then have a direct link to D.C. as we work with the ABA staff and other lenders to solve the challenges we’re facing at the local level.”

Foremost on the committee’s agenda is tackling the Farm Credit System, Malcolm says. The system of government-sponsored entities often are placed in a lower tax bracket than small banks in the same rural areas. “The government has created an unfair tax advantage in the system, with Farm Credit able to offer lower interest rates and making it difficult for privately owned, local banks to compete,” notes Malcolm. “It’s time we even out the playing field here.” The FCS’ lack of commitment to young, beginning and small producers—only about one in 10 FCS loan commitments are to young farmers—contrasts with Malcolm’s focus on building up the next generation of agriculture.

This challenge will take time and persistence, as Malcolm notes. “In agriculture, the seasons and markets can turn quickly, so we stick with our customers to help them navigate the good years and the bad.” There are no shortcuts or quick fixes in farming or banking, but fortunately, just like her ag customers, Heather Malcolm is not afraid of a hard day’s work.



KARI BARBIC *is a writer in Washington, D.C.*

Goodbye, Silos

Seven ways banks create a culture of compliance

BY TINA OREM

Throw a large pebble onto the main entrance of an ant hill, and you'll probably witness something amazing: dozens of ants will appear and magically coordinate to remove the pebble, which is undoubtedly hundreds of times heavier than they are. Best of all, they'll do it without needing exploratory meetings, draft memos or PowerPoint presentations.

It may seem like a trivial situation, but when that pebble is "compliance" and the ants are "bank employees," their exertion suddenly becomes more meaningful. After all, it's not the pebble's weight that's most fascinating—it's the sheer complexity of the coordination to deal with it.

How ants pull this off is a mystery banks can relate to. For a long time, compliance in the average bank was a sequestered activity handled by a relatively tiny group. But today, carrying the regulation pebble requires a much more orchestrated, strategic effort from the entire organization. And for most banks, that requires a big shift toward creating a culture of compliance—that is, coordinating more ants to lift the pebble.

It's a heavy one, too. A full 73 percent of bank executives in the Accenture 2015 Global Risk Management Study said infusing risk culture in their organizations was critical or important, yet only 11 percent said they had a consistent risk culture. And 37 percent said they believed human nature is stopping it from happening.

We asked compliance experts how banks can reshape their cultures so compliance goes from a back-office task silo to a pervasive set of behaviors and beliefs. Here are seven things they said make a difference.

1. Put compliance experts on the IT and HR teams, and other important places.

One of the first steps to creating a culture of compliance is to ensure that compliance people are embedded in the bank's organizational machinery. Cara James, SVP and director of compliance at Arvest Bank in Tulsa, Okla., sits on her bank's IT steering committee, for example.

"I am a voting member of a group that makes decisions around IT projects and prioritization in our organization, because the need is there for a compliance perspective as we make decisions on where our IT dollars and resources are going to be applied," she says. Bank teams and committees focused on government relations, strategic planning and special initiatives should also include compliance subject-matter experts, she added.

"Really the best way to make this happen is to become very business focused, to understand how the bank makes money, and to really align compliance efforts with business efforts so it becomes more seamless," says James, who has worked in compliance for 24 years.

"It's about developing relationships with management at all levels of the bank, and then using those relationships to take advantage of opportunities to ideally, in person, communicate and educate your business. That's really where it starts," she adds.

Compliance leaders often don't have hiring and firing authority, says Greg Hahn, the national practice leader for regulatory compliance services at consultancy firm Crowe Horwath in Grand Rapids, Mich. (ABA endorses Crowe Horwath for compliance management solutions.) But part of building a culture of compliance is working with HR to establish guidelines for recommending dismissal or discipline on compliance-related matters and having the confidence that senior management will back it up when needed, he said.

2. Send the message from the top (and from the right address).

To create a culture of compliance, bank leaders also must explicitly tell teams that compliance is everybody's responsibility and that it should be taken seriously. Email is often the most efficient way to send that message, says Lyn Farrell, managing director at Treliant Risk Advisors. But that email shouldn't be from the head of compliance, she says.

Learn more about a culture of compliance by attending the **ABA Regulatory Compliance Conference**, June 12-15 in San Diego. aba.com/RCC

"The top has to send that email. It can't come from compliance," she says. "Senior management has to send the email themselves."

Why? "If anybody below senior management sends a communication that's not popular, people will feel free to ignore it," she explains.

3. Look for red flags.

Telling people to care about compliance is much easier than getting them to actually do it, especially when revenue targets are a priority. So the next step in creating a culture of compliance is to identify and respond to members of the team who are skeptical about or resistant to the change.

One of the first things Hahn's company does to spot those employees is to look at the testing process that comes after compliance training.

"You end up with a small population of folks that may delay taking the test, or may actually not take the test at all, or can't do the training," he says. "That's an indicator of some concern that someone may not be taking them as seriously as they should."

The actual test results are also important, he adds, because they can highlight or validate issues with training or that internal auditors are detecting in parts of the organization.

Employees resistant to compliance culture often try not to share information, Farrell explains, and they are resistant to suggestions or warnings about activities that might be high risk. "They do tend to get really upset about that."

The old way of thinking is that compliance is "just government regulations" that don't mean anything, Farrell adds. Nine dangerous words signal that thinking: "Show me where it says I can't do that."

Statements of cooperation that don't result in execution are another red flag, James notes. "Sometimes that's because maybe they're ineffective at execution; sometimes that's because they are a naysayer," she says. And when the pushback goes on for an extended period of time, even after you have provided information that should have satisfied someone, that's a red flag, too.

4. Know what you're up against.

There are two root causes for compliance not taking hold culturally, James says: resistance and ignorance. Resistance is the harder situation to deal with, she said, but a culture of compliance has to be inclusive to be strong, and that means acknowledging and listening to adversaries.

"Sometimes pushback is very beneficial to the conversation, and they're justified—they have good arguments," James explains. "What that usually means is that you haven't explained it well enough or you haven't done your homework that you need to do on an issue."

It starts with the board and senior management pushing the message, then backing it up with training and discipline when needed, Hahn adds. But resist the urge to lay out a welcome mat for a regulatory enforcement process so that you can teach resisters a lesson, he said. "Failure to comply in the financial services industry can lead to enforcement action, which affects the entire institution," he explains.

5. Let technology help.

That may sound counterintuitive, given the interpersonal, emotional aspect of culture-building. But the truth is that manual compliance-related processes become weak points that get worse as a bank expands. Plus, they erode morale, Hahn says.

Regulators in internal audit tend to focus in on those manual controls, he explains, and those manual controls often can't withstand the pressure that comes with growth. By automating certain controls and collecting information electronically rather than writing it down, banks can create analytical scorecards that take the pressure off some employees charged with managing that data, he adds.

continued on p.45

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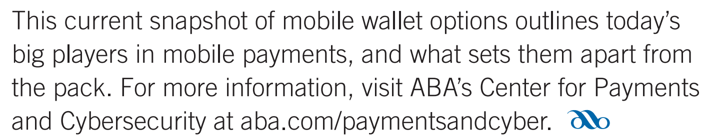
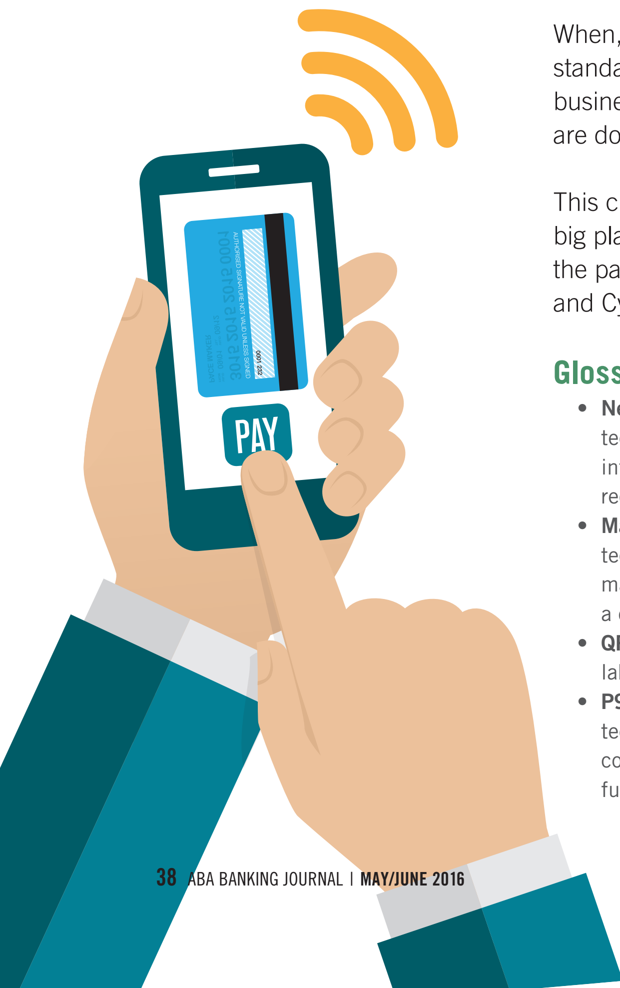
Contact-Free and Easy: A Closer Look at In-Store Mobile Payments

With a growing number of consumers opting to tap their smart phone in lieu of swiping a card (three times more in 2015 from the year prior), digital wallets are emerging as an attractive, and safer, alternative to the magnetic stripe. Perks like loyalty points and discounts encourage customers to join the mobile payments movement—and touting the security that comes with it is keeping them there.

When, if ever, will digital wallets become the norm? Now a standard features on most new smartphones—and a likely upgrade for businesses during the transition to chip terminals—ease and availability are doing their part to slowly, but surely, shift consumer behavior.

This current snapshot of mobile wallet options outlines today's big players in mobile payments, and what sets them apart from the pack. For more information, visit ABA's Center for Payments and Cybersecurity at aba.com/paymentsandcyber.





Glossary

- **Near Field Communication:** technology that transfers information from phone to receiver via proximity
- **Magnetic Secure Transmission**: technology that emits a magnetic signal mimicking a card's magnetic strip
- **QR Code:** a machine-readable label that stores payment data
- **P97 networks:** a payments technology company for the convenience retail and fuel industry
- **MCX:** Merchant Customer Exchange, a group of retailers that together launched CurrentC in 2012.
- **Biometrics:** authorization via fingerprint
- **Tokenization:** authorization via one-time code that replaces sensitive data

Company

How It Works

Supported Devices

Issuer(s)

Security

Where Is It Accepted?

Apple Pay	Android Pay	Samsung Pay	Chase Pay	CurrentC	CapitalOne Wallet
Apple	Google	Samsung	JPMorgan Chase	MCX	CapitalOne
Near field communication	Near field communication	Near field communication, EMV, magnetic secure transmission	QR code	QR code	Near field communication
iPhone, Apple Watch	Android with NFC chip	Galaxy S6 or above, Galaxy Note5, Gear S2 smartwatches	"Will work on virtually all smart phones" after its mid-2016 launch	Android 4.0, iOS 7 or above	Android, iPhone
900+ U.S. banks and credit unions	32 banks and credit unions, including Bank of America, American Express, Citi, Discover, US Bank, Wells Fargo, USAA, PNC and Navy Federal	30 banks and credit unions including Bank of America, American Express, Citi, Chase, PNC and US Bank	JPMorgan Chase	Most ACH checking accounts & qualified merchant cards	CapitalOne
Biometrics and tokenization	PIN and tokenization	Biometrics, PIN and tokenization	Tokenization	PIN and tokenization	Password or unique pattern and tokenization
1 million + stores	1 million + stores	90 percent of MST-compatible retailers	MCX merchants and P97 networks	Launched in Columbus, Ohio, to start	Expected to work at NFC-enabled retailers

(SOURCE: EMARKETER)

What to Expect

3x
as many NFC users by 2019 (69.8 million projected in 2019 vs. 23.2 million in 2015)

31%
of smartphone users will use NFC to make an in-store purchase by 2019

The Time is NOW to Begin Preparing for the FINAL OVERTIME RULE

BY STEVEN GREENE

The U.S. Department of Labor is expected to publish final regulations early this summer that will significantly increase the number of employees in the banking industry that must be paid overtime. The final rule is expected to more than double the salary level required for an employee to be eligible for an exemption from overtime—from the current $23,660 per year to approximately $50,440. As a result, many banks will face difficult operational challenges assessing the need to reclassify employees as well as potentially negative employee reactions. Moreover, DOL is likely to provide only 60 to 90 days for compliance with the final rule, a woefully inadequate timeframe. Therefore, banks may want to begin now to prepare for the final rule.

An immodest proposal

These dramatic changes to the overtime rules, made at the direction of President Obama, are expected to more than double the salary level required to be considered for the executive, administrative, professional and computer overtime exemptions. Each of those exemption tests include a compensation component and a duties component, both of which must be satisfied for an employee to be exempt from overtime. By substantially increasing the salary level required for exempt status, the proposal could trigger a broad reclassification of employees from exempt to nonexempt status.

ABA provided detailed comments on the serious and adverse impact of the proposal on the banking industry and its employees—and for community banks in particular. For example, ABA strongly challenged the proposed nationwide salary standard as being fundamentally unfair and inaccurate, given the widely divergent costs of living across the country and the attendant differences in compensation levels. ABA highlighted the negative impact on employee morale from the loss of status that many exempt workers enjoy, as well as the loss of flexibility and the impact on family life. ABA also highlighted the banking industry's historical practice of offering far more generous incentives and employee benefits than other industries. Because the proposal would consider only base salary, the banking industry would be punished for that generous benefit philosophy.

While the proposal has been widely criticized by the business community, statements from the Obama administration clearly suggest that they reject those concerns and arguments. Thus, it appears likely that the final rule will closely mirror the proposed rule with a $50,440 annual salary level and a 60-to-90-day implementation period.

Actions to consider now

As an initial step, a bank should review existing exempt employee compensation and determine which individuals are paid less than the new targeted figure. The bank can then consider whether an increase in salary to the new level would be feasible and appropriate. In making this determination, the bank may consider the amount of overtime work performed by various employees or in job categories. It may be advisable to provide salary increases in lieu of incurring anticipated overtime costs.

However, many banks may find that increasing salaries to the $50,440 target for large populations of employees is simply not a practical option. Providing salary increases to meet the new standard can be itself problematic. From a compensation and management perspective, a dramatic increase in compensation may not be consistent with local costs of living, and may run the risk of creating salary compression issues with other roles within the organization.

Converting individuals to nonexempt status will frequently create employee relations challenges. In many cases, the affected employees have been classified as exempt for many years and will view the change in exempt status as exactly that—a change in status. For

Dramatic changes to the overtime rules are expected to more than double the salary level required to be considered for the executive, administrative, professional and computer overtime exemptions. …The proposal could trigger a broad reclassification of employees from exempt to nonexempt status.

these reasons, banks must carefully consider how to communicate these changes and how to implement them.

Additionally, the salary level change may create situations in which some employees with a given title will be exempt, while others with the same title will be nonexempt. Banks are finding that they have branch managers paid between $40,000 and $60,000 per year, depending upon the employee's experience, the location of the branch and the size of the branch. The new salary threshold will result in some of those employees retaining exempt status, while those paid under the minimum will not. In many cases, increasing the salary level to the standard is simply not appropriate. However, many banks find that the concept of having exempt and nonexempt employees in the same job title troubling.

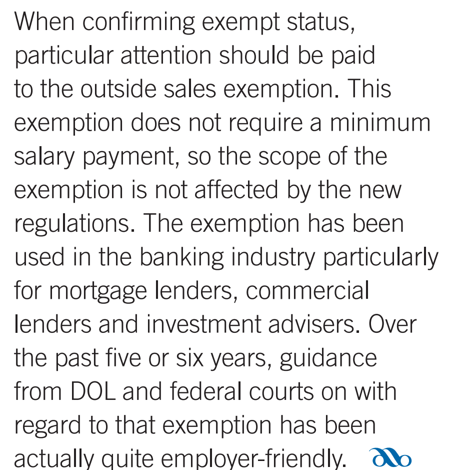
The change will also affect roles like commercial lenders and investment advisers where the employees receive a modest base salary but participate in attractive incentive or bonus plans. Currently, these roles need to receive a base salary of at least $455 per week to be eligible for exempt status. Once the final rule is effective, that base salary will need to be dramatically increased to the new threshold (approximately $970 per week). For those roles where the bank is relying upon the administrative or executive exemptions, banks are reviewing their incentive plans to move more compensation to the guaranteed salary to satisfy the new standard. That adjustment is necessary to retain the exemption from paying overtime.

Community banks are also examining whether exempt classified employees paid more than $50,440 do indeed satisfy the duties test for the executive, administrative, professional, or computer professional exemptions. This evaluation may be prudent for a variety of reasons.

First, the duties tests have very stringent requirements, and banks are finding that some exempt employees do not perform the responsibilities required to satisfy the duties test element for the overtime exemption. This can be caused by a variety of factors such as new incumbent employees, business reorganizations or simply modified job content.

Minimizing disruption by planning ahead

Converting an employee from exempt to nonexempt status is never easy. However, when these new overtime exemption regulations are implemented, some reclassifications will be necessitated in almost every organization. By addressing individuals or positions that no longer satisfy the duties test when implementing the final rule and making all adjustments necessary to maintain strict Fair Labor Standards Act compliance at the same time, community banks may minimize disruption and provocation. Banks will be able to explain the timing for the reclassification as consistent with other reclassifications called for by the new federal regulations.



When confirming exempt status, particular attention should be paid to the outside sales exemption. This exemption does not require a minimum salary payment, so the scope of the exemption is not affected by the new regulations. The exemption has been used in the banking industry particularly for mortgage lenders, commercial lenders and investment advisers. Over the past five or six years, guidance from DOL and federal courts on with regard to that exemption has been actually quite employer-friendly.

STEVEN GREENE, *an expert in wage and hour law who focuses his practice on community banks, is managing partner at Mathews and Greene.*

Small Business: A Competitive Edge for Community Banks

Community banks have historically been leaders in providing credit to small businesses. Several bank CEOs offer ideas for staying competitive and navigating challenges in changing times.

BY EVAN SPARKS

ACCORDING TO HARVARD'S Kennedy School, community banks account for more than half of small business loan volume and nearly half of commercial real estate lending. It's not an exaggeration to say that the health of hometown economies depends on having healthy community banks engaged in robust, properly underwritten small business loans.

Those community banks face many challenges, from growing nonbank competition to a difficult economic environment that drives looser underwriting standards. But their CEOs are building strategies for success that leverage community banks' unique strengths to maintain their leadership in the small business lending franchise.

Growing competition

While community banks have historically been a dominant player in small business, CEOs report rising and aggressive competition from larger banks and a variety of other lenders.

"There's a new phenomenon that we're seeing in our market, and that is that the very largest banks have moved their threshold down," says Charie Zanck, CEO of the $478 million American Community Bank & Trust in Woodstock, Ill. "They're starting to enter the community banking space in small business lending and looking at much smaller companies."

The Farm Credit System is also aggressive. Due to its tax-advantaged status, "there's no way we can compete on price," says Susan Black, whose bank—Pinnacle Bank, a $230 million institution in California's Santa Clara Valley—does robust business with wineries. "If Farm Credit is in the mix, we're not going to get the deal."

For Shaun Burke, president and CEO of the $628 million Guaranty Bank in Springfield, Mo., credit unions are the big competitor despite statutory limits on the business lending most CUs can engage it. "They'll do up to a million dollars," he says, "and it's at margins that there's no way we can accommodate, so we lose some transactions to those guys. But if it's a big enough relationship, we end up getting them back because they can't service it the way we do as a community bank."

Service is key to winning small business, adds Curtis Davidson, CEO of First National Bank & Trust Co., a $514 million bank in Ardmore, Okla. While the FCS dominates land deals in his rural Oklahoma market, "we can beat them on service there, so that's one niche that we've been able to get for ourselves." Burke and Davidson's point is echoed by the recent Small Business Credit Survey released by several Federal Reserve Banks, which revealed that 75 percent of community banks' small business borrowers are satisfied, versus only 56 percent for credit union business borrowers.

Small Business Administration programs also help community banks serve their customers. Black's bank uses SBA to make loans to entrepreneurs. "That's the only way we can look at *pro forma* income," she says. "We love SBA. We use it as a complement for our clients, for the services that we offer. All of our relationship managers are trained on SBA."

Burke agrees. "Once we get the SBA guarantees, it allows us to take a risk that we wouldn't otherwise take in this environment," he says. "But also, you could price those loans up if you got the expertise. So as the economy improves, we see that there's a tremendous opportunity to pick up."

Community banks' edge in attracting, retaining qualified lenders

Attracting and retaining talented commercial lenders can be a challenge, CEOs say, but community banks offer some key benefits. Burke has doubled the size of his business lending team

over the past 12 years, mostly by drawing from larger banks. "Those banks are pulling most of the decisions away from those local offices, and most of our lenders are competitive," he explains. "They like to win. They like to have some say in the game. So when you give them the ability to manage a relationship, they really like it and they're incredibly loyal." David Morrow also capitalizes on that desire to win, noting that CresCom Bank—a $1.2 billion institution in Charleston, S.C., where he is president and CEO—has picked up commercial lenders from struggling banks along the way.

Davidson's general approach is to hire from within. "We like to raise our own," he says. His exception is when the bank expands into new markets. "I don't think I could go into a new market cold without knowing the lenders," he says, reflecting on First National's expansion into Norman, Okla., and Dallas. "So hire somebody that's familiar to you." Hiring outside, experienced talent for new markets helps jumpstart relationships.

Community banks can also leverage a collaborative culture to keep lenders engaged. "I always tell our bankers, 'I don't have a lot of vertical opportunity, so I will add value to your job horizontally,'" says Zanck. "That's through exposure, involvement and opportunity to make a difference and be involved in decision-making."

At Zanck's bank, with 65 employees, team members work across the three business lines: relationship banking, wealth management and commercial banking. "I think that collaboration serves our clients better because we're all working together on behalf of that single client."

Burke echoes the point. "We never have a loan get turned down in committee," he explains. "I mean—it's all collaborative long before it gets there. They just know what we'll do and what we won't do. There are no surprises."

Black also uses the flexibility afforded to community bank loan officers to attract employees. "When we recruit, we say we're one of the few places where bankers can still be bankers," she says. "They know when they are out talking with their prospective client or a client what they're offering and what they're negotiating we'll back up, and so they have a fair amount of latitude."

Loyalty is a two-way street, Burke adds. Because loans are made in a collaborative way at Guaranty Bank, during the crisis there wasn't a lot of finger-pointing when loans went bad. "Not overreacting to some of those lenders' decisions created a tremendous loyalty on their part," he says. "It was most likely a group decision when it was made."

The limits of discretion

While loan officers are attracted to the flexibility they have in a community bank, some CEOs warn that their window for flexibility is narrowing—and with it, the ability to maintain an effective small business lending program.

"Discretion is now a dirty word," says David Lacy, noting that even for highly rated banks regulators frown on discretionary pricing. "We know our customers and we have a relationship with them that is very special. We from time to time use our discretion to loan money outside of a box, and that is the fiber, the fabric of community banking." Lacy is president and CEO of the $400 million Community Bank & Trust in Waco, Texas.

And if the replacement for discretion in commercial lending is "algorithmic lending," Zanck adds. "I think it's the communities and it's small businesses that lose out. We realize the consumer side has been commoditized. The question is whether or not that will spread into the small business consumer lending."

"To the extent that regulators in faraway places start creating models and guidelines to take that discretion away from us, they're doing more to hurt us than anything else they could do," Lacy adds. "We cannot not have discretion in our business model."

Robust supply, limited demand drive looser standards

In some markets, bankers are seeing very little demand for small business loans. "It's not that we don't want to lend," says Zanck. "We have bankers on the street every day looking for good-quality loans or loans that qualify, number one, but also looking for borrowers that are willing to borrow."

The tax burden and regulatory environment have inhibited not just de novo banks but all kinds of small business formation and expansion activities, CEOs say, rattling off burdens like the pending overtime rule (see page 40) and the Affordable Care Act. Their views are echoed by the National Federation for Independent Business' Small Business Optimism Index, which most recently found that nearly four in 10 business owners cited taxes or regulation as their single greatest challenge—while just two percent said finding financing was the biggest hurdle.

Because there's so little small business loan demand, CEOs are seeing looser underwriting standards chasing the borrowers they can find. "Rates and terms both have been eased with the level of competition that's out there seeking the small business loans out there," says Morrow.

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Davidson notes that in Oklahoma, he has seen amortization periods extended. "For years we thought commercial debts should be 15 years," he chuckles. "Well, maybe it's 20 years. Now we're saying 25 years. I saw a deal that was 30 years and I said 'Good Lord!'"

In the broader Springfield, Mo., market, Burke is worried that just a few financial institutions driving down standards can affect the entire market. "We're seeing pricing that makes absolutely no sense for a small community bank," he reflects. "We want just a return on our capital, just a return on liquidity. But when the guy down the street gives your best customer 50, 75 basis points below you, you've got to make a relationship decision occasionally."

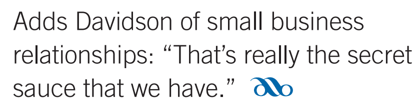
"There's too much liquidity chasing too few good clients," Zanck adds.

Relationships are key

The ability to build and forge productive, close working relationships remains the bedrock of community banks' small business loan franchise. "If it's a small business loan, it's a relationship in most cases," Morrow says. "They are relying upon us as bankers to help them meet their financial challenges and to guide them through, quite frankly."

Likewise, Black is optimistic about leveraging relationships. "What we're doing is we're constantly looking for ways to add value to those relationships and deepen them," she said. "We're migrating toward a business model that provides additional advice and value-add to those relationships as well because I think that that is a huge challenge as far as going forward."

Adds Davidson of small business relationships: "That's really the secret sauce that we have."



FEATURE > COMPLIANCE *continued from page 37*

At Arvest Bank, Cara James is hoping to do just that. Arvest is installing new compliance software, but it can be resource-intensive and will take a year to implement. "There are times I think when we got caught up in finding the next great solution and it's easy to get distracted by that and not be as focused on the actual execution results of the work," she says. "You have to find a balance."

"You just have to be sure you do your due diligence to ensure that the payoff is worth it to you," she adds.

6. Evaluate managers on their appetites for risk.

Hahn, who has worked in the compliance field for 15 years, says his firm has seen a lot of banks and financial services companies move to include compliance as a component of managers' performance-based bonuses. Internal audit results are often also part of that assessment, he says, as well as testing results.

Only about half the 71 respondents in the 2015 Deloitte Global Risk Management Survey said their institutions' risk management programs were responsible for reviewing compensation plans to assess their impact on risk appetites and culture. A full 72 percent of management compensation practices tied pay to overall corporate results, but only 28 percent used individual metrics tied to implementation of effective risk-mitigation strategies.

But "[i]t is likely that many of these practices will become more widespread over time as regulators focus on compensation as part of their increased attention to risk culture," the study said.

One of the most innovative methods Farrell says she has seen in a few larger banks involves peer evaluations of the kinds of risks managers take. "I believe that it makes them stop and think."

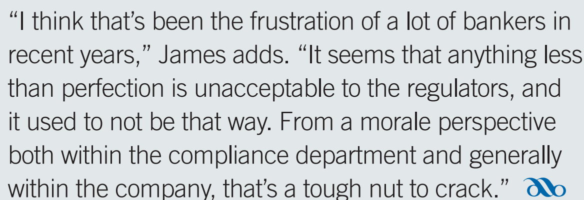
7. Perfection may be the standard, but accept that you will fall short.

"No institution is going to catch everything, find everything—there is human involvement, which in and of itself is going to cause an error, a mistake, a miss," Hahn warns. An effective risk assessment is the key to honing in on the most likely trouble spots for an institution.

Nonetheless, most bank leaders probably won't admit there's room for error.

"One of the things compliance officers complain about is if there's ever any error at all, the examiners will always cite training," Farrell says. "They always complain to me that the examiners seem to think that if they just trained all the time or trained well enough, then there would never be a mistake made. But you know, you're talking about people. So there are going to be mistakes made. We can't be perfect."

"I think that's been the frustration of a lot of bankers in recent years," James adds. "It seems that anything less than perfection is unacceptable to the regulators, and it used to not be that way. From a morale perspective both within the compliance department and generally within the company, that's a tough nut to crack."



TINA OREM *is a freelance writer in New Mexico.*

Can I Require a Safe Deposit Box Renter to Have a Deposit or Loan Account?

Q: Under the Anti-Tying Rule, would a bank be prohibited from requiring a person to have a deposit or loan account at the bank in order to get a safe deposit box?

No. Requiring a customer to have an account relationship with the bank does not violate anti-tying rules. The anti-tying rule specifically allows a bank to condition both the availability and price of any bank product (the desired product) on the requirement that the customer obtain a "traditional bank product" (the tied product) from the bank. One of the purposes of this exception is to allow banks and their customers to continue to negotiate their fee arrangements on the basis of the customer's entire banking relationship with the bank.

Several facts are important in determining whether the traditional bank product exceptions apply in a given situation. Among those is that the exceptions are available only if the tied product is a traditional bank product. The statute defines a traditional bank product to be a "loan, discount, deposit, or trust service." The statute also defines a "trust service" to mean any service customarily performed by a bank trust department. Products that fall within the scope of these terms include, among other things, safe deposit box services. (*Response provided Feb. 2016*)

Q: We have a loan to a director's wife that is unsecured and the proceeds are for home improvements. Since her husband, our director, did not sign the note, would we report it as a Regulation O loan since he receives "benefit" from the funds of this loan?

It depends, but it may be prudent to do so. The issue, as you have indicated, is that it may be viewed as made with the intent to bypass the provisions of the regulation, especially as the insider will arguably receive some benefit from the proceeds (i.e., improvement of the dwelling which they both share). However, depending on the specific facts and circumstances of the transaction it may be possible to argue

that the loan is indeed *not* covered, such as the proceeds used to build a home office for the spouse and which will be repaid from the income of the spouse or the spouse's business. The key will be to document the facts and circumstances, and should likely be reviewed by legal counsel and/or your primary regulator to ensure they agree with the interpretation.

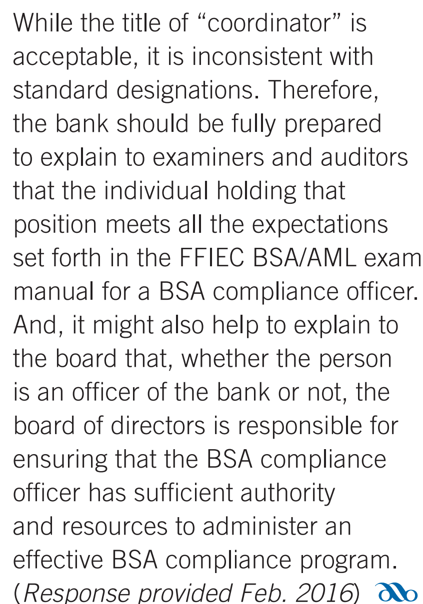
Q: Can the bank, in its discretion, eliminate a debt reported to a credit reporting agency as part of a debt settlement agreement or would this violate the bank's duty to furnish accurate information? In other words, if the account was accurately reported as late, can the bank eliminate these late or missed payments from the credit history as part of this agreement or would that go against the bank's accurate reporting responsibilities?

No. As you note, FCRA requires banks to provide accurate information to credit bureaus. It doesn't matter whether the information is negative or positive. If the report reflects that someone paid on time when he or she paid late, it is inaccurate—even if the borrower eventually paid in full or became current. If possible, you can report that a debt settlement agreement exists, but the report should still reflect that the borrower caught up or paid the debt off. In addition to the clear mandate of the law, the reason not to eliminate negative but accurate information is that it harms people who do not pay late or pay in full, because it appears they are the same credit risk as someone who pays late. (*Response provided Feb. 2016*)

Q: My CEO is wondering if the bank can appoint a Bank Secrecy Act compliance "coordinator" instead of "officer". The person that our bank wants to give BSA responsibility to is not an official officer of the bank by title and our board is reluctant to make her an officer.

One of the four pillars of any bank's BSA compliance program is the appointment of a BSA compliance officer. This individual is responsible for coordinating and monitoring day-to-day BSA compliance, although it is the board of directors that is ultimately responsible. The BSA Exam Manual states that while the title of the individual responsible for overall BSA/AML compliance is not important, his or her *level of authority and responsibility within the bank is critical*. The BSA compliance "officer" is responsible for carrying out the direction of the board and ensuring that employees adhere to the bank's BSA/AML policies, procedures and processes. The board of directors is responsible for ensuring that the BSA compliance officer has sufficient authority and resources (monetary, physical and personnel) to administer an effective BSA/AML compliance program based on the bank's risk profile.

Within that context, the individual designated to serve this function should be fully knowledgeable of the BSA and all related regulations. That person should also understand the bank's products, services, customers, entities and geographic locations and the potential risk for money laundering or terrorist financing associated with the bank's activities. The appointment of an individual who is responsible for bank compliance with the BSA is not sufficient to meet the regulatory requirement if that person does not have the expertise, authority or time to satisfactorily complete the job. The questions you need to ask are: Does your BSA "coordinator" have direct access to the board of directors in order to carry out his/her responsibilities sufficiently? Can this person tell a higher level person to close an account or not make a loan based on relevant BSA factors? Can this person—and will this person—have enough knowledge of insider activities to file a Suspicious Activity Report on a bank officer if necessary?



While the title of "coordinator" is acceptable, it is inconsistent with standard designations. Therefore, the bank should be fully prepared to explain to examiners and auditors that the individual holding that position meets all the expectations set forth in the FFIEC BSA/AML exam manual for a BSA compliance officer. And, it might also help to explain to the board that, whether the person is an officer of the bank or not, the board of directors is responsible for ensuring that the BSA compliance officer has sufficient authority and resources to administer an effective BSA compliance program. (*Response provided Feb. 2016*)

Answers are provided by **LESLIE CALLAWAY, CRCM, CAFP**, *director of compliance outreach and development;* **MARK KRUHM, CRCM, CAFP**, *senior compliance analyst; and* **RHONDA CASTANEDA**, *compliance analyst, ABA Center for Regulatory Compliance. Answers do not provide, nor are they intended to substitute for, professional legal advice. Answers were current as of the response date shown at the end of each item.*

.bank: One Year Later

A year after the sunrise period began for .bank registrations, banks that have made the migration are seeing the benefits.

BY CRAIG SCHWARTZ

One year ago, the .bank domain was launched by fTLD Registry Services and since then, more than 2,550 domestic banks and 250 international banks have together registered nearly 6,000 domain names for their institutions. The .bank domain provides banks not only with a higher level of customer security, but with greater brand power that can enhance the effectiveness of their marketing efforts.

Navigating the transition

Small and midsize banks are finding a sweet spot with this transition—many have turned on their new .bank sites within six months of initiating the process. By partnering with approved registrars and applying basic project management principles, they are already reaping the benefits of the .bank name.

For Citizens National Bank, a $617 million institution in Paintsville, Ky., the transition was a straightforward process. A small team of marketing and IT staff spearheaded the project with the help of the bank's CEO. Working with their core processor—who took on the bulk of the technical configuration responsibilities—the team rolled out their new domain name in September 2015, just four months after the project began.

For larger banks, the process may be more time consuming, as it typically involves more coordination with third-party service providers and higher costs associated with collateral updates and customer notifications, but fTLD continues to share lessons learned and other resources to help banks of all sizes as they undergo the technical aspects of the domain migration.

Enhancing customer security

Perhaps the biggest selling point of the .bank domain is the added security it provides. To protect the verified members of the global banking community, fTLD employs enhanced consumer protection safeguards designed to mitigate malicious activities including cybersquatting, spoofing and phishing. Additionally, the .bank name lets customers know—with certainty—that they are doing business with a verified member of the banking community, which elevates the overall trust of the bank brand.

"The security related to .bank is paramount," says Ramona Laney, AVP and marketing officer for Citizens National Bank. "In the future, it will set us up to stand out from other competitors in branding and marketing."

Leveraging the brand power of .bank

The .bank name has also helped institutions like Lead Bank, a community bank in Missouri, to boost the power of their corporate brand. When the bank changed its name in 2010, they struggled to find a suitable .com name. (Leadbank.com was already registered to a non-financial company.) The .bank migration provided them an opportunity to secure the shorter, more memorable lead.bank domain name. A cost-benefit analysis conducted by bank leadership showed that the benefits the institution would reap from enhanced security and consumer confidence far outweighed the nominal costs of the domain name registration and migration.

"When you're talking about small banks with seriously limited tech budgets—when you can make an improvement at the core of your operations with your clients—that is the easiest budgetary decision you can make," says Joshua Rowland, Lead Bank's vice chairman.

For Citizens National Bank, the migration to .bank has reinvigorated the institution's branding efforts, giving rise to a new campaign to enhance its social media presence. Laney adds that the customer response to the change has been all positive.

As threats to the financial sector continue to evolve and consumers seek a higher level of security from their institutions, .bank provides a strong, more secure and trusted home for banks in the digital space.

CRAIG SCHWARTZ *is managing director of fTLD Registry Services, which manages the .bank and .insurance domains.*

SOCIAL ENGINEERING: The Art of Human Hacking

BY MONICA C. MEINERT

Each year, millions of dollars are lost to a type of fraud that's particularly difficult to detect and stop, and it's all based on a criminal's ability to exploit a basic human characteristic: the tendency to trust.

It's a practice called "social engineering," in which a fraudster successfully manipulates a victim into taking specific actions like sending wire transfers or giving over confidential information while posing as a trustworthy source.

"Social engineering is fraud by deception," says Mark Lowers, CEO of Lowers Risk Group, a firm based in Purcellville, Va. "It's about playing on the average individual's sense of decency."

Social engineers use a variety of tactics to gain information that can help them win over the trust of their victims. Strategies can include sophisticated approaches like phishing or the tried-and-true methods of dumpster diving, pretext calling or impersonating a company employee or business associate. Once a social engineer has the information they need to appear legitimate, they can make contact with their victim and set the scheme into motion.

Virtually anyone can fall victim to a social engineering scam, but businesses in particular have seen an increase in this type of fraud over the past several years.

"[My] firm has handled dozens of cases this past year where very well-run organizations transferred big, six-figure numbers as a result of [social engineering scams]," Lowers says. "And they didn't get it back—by the time they realized, the funds had been transferred on to multiple other banks."

Email provides a particularly lucrative opportunity for social engineers—according to a 2014 study by McAfee, 97 percent of people globally were unable to correctly identify phishing emails. And the FBI reports that in the U.S. alone, there have been more than 7,000 victims and $747 million in losses as a result of business email compromise—a specific type of social engineering fraud—since 2013.

In business email scams, "fraudsters typically target businesses working with foreign suppliers or business that perform wire transfers or ACH transactions as payments," often sending phony invoices or requests for payment, explains Kim Syrop, SVP and director of fraud and loss management for Webster Bank, a $22 billion institution based in Waterbury, Conn. To the person on the receiving end, these requests seem to come from a trusted vendor, which is how so many unsuspecting employees have been duped into facilitating fraudulent transactions.

In other cases, crooks will impersonate corporate CEOs, creating fake email addresses or hacking existing email accounts. From there, Syrop says, they typically reach out to a lower-level employee with wire origination authority and request a transfer of funds, often stressing confidentially. The employee naturally wants to comply with their boss' wishes as quickly and efficiently as possible—which is exactly what fraudsters are counting on.

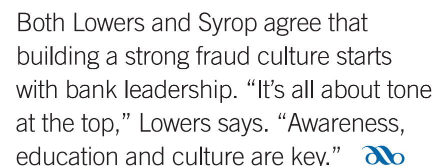
Building the human firewall

With the threat of social engineering becoming so ubiquitous, it's more important than ever for banks to have systems and policies in place to help detect and deter this type of fraud.

Since humans are often described as the weakest link in the security chain, Lowers stresses that enterprise-wide education is critical for building a strong defense. "It's not enough for a workforce to simply have policy guidelines—they really need to be educated on how to recognize this type of fraud," he says. "They need to become a human firewall." And like any IT firewall, the human firewall must be continually tested and updated with information as new trends emerge.

At Webster Bank, Syrop makes sure that everyone—not just the fraud department—stays up to date on current trends and understands how to spot red flags. The bank makes a point to train all business line managers on fraud prevention, with the expectation that they will in turn educate both their employees and their customers.

Both Lowers and Syrop agree that building a strong fraud culture starts with bank leadership. "It's all about tone at the top," Lowers says. "Awareness, education and culture are key."



MONICA C. MEINERT *is assistant editor of the* ABA Banking Journal.

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Merging Together and Moving Forward

BY ROSE OSWALD POELS

MERGERS DO NOT happen overnight, and that certainly was true for the merger between the Wisconsin Bankers Association and the Community Bankers of Wisconsin. Leadership on both sides began setting the stage years prior to the start of meaningful discussions. This helped us bring about a smooth transition that strengthened our mission, increased the effectiveness of our advocacy and ultimately benefitted our collective membership.

Our merger has piqued national interest for a variety of reasons. Wisconsin has always been a significant community bank state, with bankers receiving benefits and value from two strong state bankers associations. Both WBA and CBW were financially healthy, led by younger executives and enjoyed strong member support. Both associations had forward-thinking boards of directors over the years that always focused on doing what was in the best interest of the membership. While both associations were affiliated with their respective national trade associations, the WBA and CBW boards and senior staff operated very independently, making their own decisions. These characteristics are likely similar to what you see in your state bankers associations.

What made WBA and CBW unique is that we routinely communicated over the years and collaborated on various projects. Not only did the senior staff leadership talk and meet throughout the year, but the bank officer leadership also met at least once each year. In addition, we jointly sponsored a handful of education programs and, over the last several years, held an annual Capitol Day in Madison. We shared our advocacy policy agendas with each other, and often worked in concert at the state level to achieve policy victories on behalf of our collective membership.

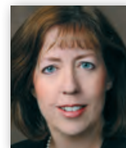
When it came time to begin merger talks in earnest, the discussions flowed easily and quickly, given our history of open communication and collaboration. Ultimately, the merger decision was up to each respective association's membership, and when votes were cast in December 2014, the CBW members and WBA members voted 96 percent and 97 percent, respectively, in favor. This overwhelming number of positive votes really was a mandate to merge, affirming the thinking of both associations' boards.

With a little more than a year behind us as one new association, our members are beginning to witness the value of their decision. Not only did our members collectively save over $430,000 in dues, but we were able to pool resources to expand current programs, invest in new initiatives and unify our advocacy efforts, allowing us to be more focused and effective.

Combining the best of what both associations were offering, we expanded and improved education offerings, streamlined and strengthened leadership programs and expanded eligibility for the popular ATM Access program. We spearheaded new initiatives, including the Wisconsin Bankers Foundation, a 501(c)(3) supporting consumer empowerment through financial education and nVest Wisconsin, LLC, a crowdfunding platform bringing Wisconsin banks into one segment of the fintech world for the benefit of Wisconsin consumers and businesses.

One of the most important ways the new WBA serves the industry is through focused advocacy. Our united voice and message has an increased influence in Madison that led to several pro-banking pieces of legislation becoming law and saw the defeat of even more legislation that was detrimental to our industry. Our voice is unified and our message is louder with more bankers participating in grassroots and political efforts.

The executive management team, comprised of senior staff leaders from both organizations, shares responsibilities and works well together, focused on the goal of this merger: to always do what is in the best interest of Wisconsin banks. As the industry continues to evolve and merge, with more change on the horizon, our new single, stronger association is well-poised to tackle future challenges head on.



ROSE OSWALD POELS
is president and CEO of the Wisconsin Bankers Association.

The Community Bank Incubator: Unbanked Customers

A CreditPlus seminar offered by BankPlus

Armed with insight and tailored educational outreach, these banks are catering to nontraditional customers that, in turn, boost their bottom lines.

BY COREY CARLISLE

FOR HARBORONE BANK in Brockton, Mass., building trust within the community's immigrant population saw many positive results. In 2007, against the backdrop of a foreclosure crisis, the bank converted 11,000 square feet of its former headquarters into a multicultural banking center called HarborOne U-Brockton, offering financial literacy classes in multiple languages, as well as U.S. citizenship classes.

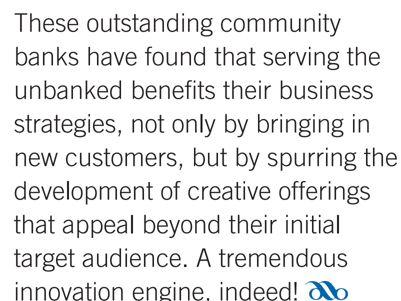
Thousands of volunteer hours have been logged by HarborOne staff teaching the approximately 7,000 attendees that have taken advantage of the various class offerings. In turn, those attendees have made $10 million in deposits and borrowed $35 million in business and personal loans.

Recently, the bank's small business team also began teaching financial management curriculum to microbusiness owners. A second HarborOne U location has opened in nearby Mansfield, focusing on female business owners and entrepreneurs. Graduates of the classes are eligible for a business loan of up to $5,000 that can be expanded to a $10,000 line of credit.

BankPlus, a $2.5 billion community bank in Mississippi that won a 2015 ABA Foundation Community Commitment Award, provides small-dollar loans to consumers who use payday lenders or other high-interest, alternative lenders. The bank's "CreditPlus" program gives borrowers with a credit score of 550 or above the opportunity to get loans of up to $1,000, while those with a score of 549 or below can borrow up to $500. The loans have a repayment term of one or two years and a low 5 percent APR. The bank requires six months of continuous, verifiable income, attendance at a bank-sponsored financial literacy seminar and two forms of identification. When the first loan is repaid, customers have the option of applying for a second loan. Since the program's inception, the bank has made nearly 23,000 loans totaling more than $17 million. BankPlus has conducted 674 financial literacy seminars as part of the CreditPlus program, with more than 23,000 individuals in attendance.

The CreditPlus program also establishes checking and savings accounts for each customer. Half of the loan is deposited into a savings account and held as collateral. This encourages these customers, many of whom are struggling to break the payday lending cycle, to use the checking account as their primary account and add funds to the newly created savings account on a regular basis. Free online banking, bill pay and ATM usage complement these accounts. BankPlus heavily marketed the program when it first launched, but it now attracts most CreditPlus customers through word of mouth or via churches, nonprofits, schools or businesses where the bank has held financial literacy courses. Given the program's success and strong demand, BankPlus also created CreditPlus Auto and BusinessPlus for customers that have completed CreditPlus and are looking to purchase a car or realize a business plan.

"CreditPlus has steered many people away from payday lenders, while helping them pay off previous payday lender debt, medical bills and even establish savings plans for the first time," says Bill Ray, BankPlus president and CEO. "It's rewarding to see the impact the program is having on families right here in Mississippi."



These outstanding community banks have found that serving the unbanked benefits their business strategies, not only by bringing in new customers, but by spurring the development of creative offerings that appeal beyond their initial target audience. A tremendous innovation engine, indeed!

COREY CARLISLE *is SVP for bank community engagement at ABA and executive director of the ABA Foundation.*

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EDITOR'S NOTE > Please note that the article "Pumping It Up" in our March/April issue has been revised. The updated version is available at aba.com/BankingJournal.

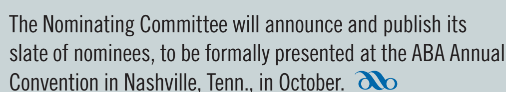
2016 ABA NOMINATING COMMITTEE

In accordance with ABA's Bylaws, a Nominating Committee has been appointed by ABA Chairman R. Daniel Blanton to recommend a slate of candidates for the 2016-2017 association year for each of ABA's elective offices and for members to serve on the Board of Directors. Blanton is also CEO of Georgia Bank & Trust in Augusta, Ga. John A. Ikard, ABA's immediate past chairman, chairs the Nominating Committee.

Nominations for ABA Officers and the Board of Directors will be accepted June 1-30. Any eligible banker interested in being considered as a candidate for an ABA office or to serve on the Board may request to be considered or may have his or her name submitted by a third party.

Written notices should be sent to John A. Ikard, Chairman of the ABA Nominating Committee, American Bankers Association, 1120 Connecticut Ave, N.W., Washington, D.C. 20036. The notice should include a biographical sketch and a summary of background experience and qualifications. In reviewing candidates for an ABA office or to serve on the Board, the Committee considers an institution's charter, organizational structure and geographic location as well as the banker's prior ABA service, State Bankers Association service and senior management experience.

The Nominating Committee will announce and publish its slate of nominees, to be formally presented at the ABA Annual Convention in Nashville, Tenn., in October.



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