

In Touch

March 2011

www.cbak.com

Community Bankers Association of Kansas

2011 CHAIRMAN'S GOLF CLASSIC

• PLUS •

- ▶ Director Profile • *page 6*
- ▶ Keeping Your Business Safe from Cybercrime • *page 8*
- ▶ Update: The Small-Business Lending Program • *page 12*



Official Publication of the Community Bankers Association of Kansas

PRECISELY ENGINEERED

TO **EMPOWER**
YOUR BANK



Bruce Schriever, BBOK CEO,
with Officer Team



Our depth of expertise gives us the ability to achieve what others don't. We produce trustworthy solutions to assist more than 300 Kansas community banks. We create opportunities based on innovative products and technology. We team with the industry's best providers to give your bank the power to lead with confidence.

Our tool chest is with us always, holding the principles we employ—**vision**, **flexibility**, **resourcefulness** and **collaboration**—to improve your bottom line. Our commitment to you is steadfast.

WE'RE WORKING HARD FOR KANSAS BANKS.



Member FDIC

Bankers' Bank of Kansas, N.A. | 800.999.5725 | www.BBOK.com



contents

March 2011 • www.cbak.com

► Features

6 **Director Profile: Tamera Marris**
By Alex Peak

8 **Keeping Your Business Safe from Cybercrime: Proactive Tips to Consider**
By Don Jackson

10 **Think the Durbin Amendment Exempts You? Think Again**
By James Ghiglieri, Jr.

12 **Update: The Small-Business Lending Program**
By Peter G. Weinstock and Robert N. Flowers

16 **Inside-Out Is OK?**

► Columns/Departments

4 **Anniversaries**

4 **Announcement**

5 **Welcome New Associate Members**

18 **Upcoming Education**

2010-2011 CBA

OFFICERS & DIRECTORS

Gary L. Kay

Immediate Past Chairman

Nekoma State Bank, La Crosse

Barry J. Linnens, *Chairman*

Cottonwood Valley Bank, Cedar Point

Roger F. Brown, *Chairman-Elect*

Citizens State Bank, Cheney

Brad E. Yaeger, *Vice-Chairman*

Legacy Bank, Wichita

Jay P. Kennedy, *Secretary/Treasurer*

First National Bank, Frankfort

EAST DISTRICT DIRECTORS

Thad G. Geiger

Troy State Bank, Troy

Timothy A. Hills

First National Bank, Sedan

NORTH CENTRAL DISTRICT DIRECTORS

John H. Fowler

First State Bank, Burlingame

Jaret L. Moyer

Citizens Bank & Trust, Co., Woodbine

SOUTH CENTRAL DISTRICT DIRECTORS

Gerald E. Meng

Home State Bank, McPherson

Jon Ott

Bank of Kansas, Anthony

NORTH WEST DISTRICT DIRECTORS

Michael E. Johnson

Swedish-American State Bank, Courtland

Tamera S. Marris

Citizens State Bank, Miltonvale

SOUTH WEST DISTRICT DIRECTORS

Walter Fry

First State Bank, Kiowa

Greg R. Wartman

Johnson State Bank, Ulysses

STATE ICBA DIRECTORS

Patrick A. Kerschen

Freeport State Bank, Harper

Paul R. Boeding

Baileyville State Bank, Seneca



Community Bankers
Association of Kansas

3003 SW Van Buren, Suite A
Topeka, KS 66611

Ph: 785-271-1404 • www.cbak.com

The Community Bankers Association of Kansas is proud to present *In Touch Community Bankers* magazine as a benefit of membership in the Association. No member dues were used in the publishing of this magazine. All publishing costs were borne by advertising sales. Purchase of any products or services from paid advertisements within this magazine are the sole responsibility of the consumer.

Statements of fact and opinion are made on the responsibility of the authors alone and do not imply an opinion or endorsement on the part of the officers or members of CBA. © Copyright 2011.

CBA STAFF

Shawn Mitchell
President and CEO
shawn@cbak.com

Nikki Dohrman
Executive Director
nikki@cbak.com

Yvonna Hansen
Director of Member Services
yvonna@cbak.com

Juanita Parker
Administrative Assistant
juanita@cbak.com

Erin Oplinger
Administrative Assistant
erin@cbak.com

Tammy Mitchell
Communications Coordinator
tammy@cbak.com

BankNews media

— ADVERTISING & PRODUCTION OFFICES —

5125 Roe Blvd., Ste. 200
Shawnee Mission, KS 66205
Ph: 913-261-7000 • Fax: 913-261-7010
www.banknews.com

Robb Bertels, *National Sales Director*
rbertels@banknews.com

Scott Englert, *Senior Account Executive*
senglert@banknews.com

• Anniversaries •

Congratulations to the banks celebrating February anniversaries as chartered institutions!

13 years

The Farmers & Merchants Bank of Colby — Colby

90 years

First National Bank — Frankfort

92 years

Downs National Bank — Downs

98 years

Kaw Valley State Bank & Trust Co.— Wamego

98 years

Swedish-American State Bank — Courtland

104 years

Farmers State Bank — Oakley

104 years

First State Bank — Oakley

118 years

Midland National Bank — Newton

119 years

State Bank of Downs — Downs

129 years

Farmers & Drovers Bank — Council Grove

137 years

First National Bank — Sedan

• Announcement •

Mike Fahrback with First National of Hutchinson (Hutchinson, Kan.) has joined the correspondent bank services.

Visit us online





Welcome New Associate Members

Spencer Fane Britt & Browne LLP

Spencer Fane offers the full spectrum of services for financial institutions, including regulatory, compliance, loan documentation, workouts and bankruptcy, mergers and acquisitions, trust, fiduciary consultation, corporate governance, and employment issues. Spencer Fane makes it a point to know the legal and practical aspects of the banking business, providing the expertise necessary to help your organization in an efficient and timely manner.

For more information, contact Elizabeth Fast at 800-526-6529 or visit www.spencerfane.com.



10-D Security

10-D Security is an independent information security firm specializing in the community banking arena. 10-D Security offers services and products created to help secure your customer information and comply with GLBA and FFIEC regulations. 10-D understands the industry-specific needs of financial institutions and offers programs and deliverables to meet those requirements. Whether providing risk-management solutions and risk assessments, or securing information, 10-D works with all levels of a bank's staff and its board helping each client demonstrate sound security practices. For more information, contact Melissa Miles at 913-529-1031 or visit www.10DSecurity.com.



CBA Chairman's Golf Classic

May 16, 2011

CBA Immediate Past Chairman Gary Kay invites you to join him at the 2011 Annual Chairman's Golf Classic. For the past 20 years, CBA has played host to the Chairman's Golf Classic to raise funds for CBA's Political Action Committee (PAC) Fund.

This year's tournament is Monday, May 16th at the Manhattan Country Club in Manhattan, Kan. Proceeds raised from the golf tournament help assist CBA in the effort to keep those who are friendly to community banking as our elected leaders. This event is full of camaraderie, entertainment, networking and lots of fun, as well as supporting your association's PAC fund.



For more information, call the CBA office at (800)258-4589

Director Profile

• Tammera Marrs •



HOMETOWN Miltonvale • **FAVORITE SPORTS TEAM** UNO wrestling and KSU sports • **FAVORITE MOVIE** *The Butterfly Effect*, only because it shows how one choice you make can change your whole life, and it is a little like playing the “what if” game. • **BOOK YOU'RE CURRENTLY READING OR JUST FINISHED** A Joyce Meyer book • **HOBBIES** Snow skiing, attending events for my kids, water skiing, hanging out at Lake Wabaunsee, grandkids could easily become my hobby ... • **FAVORITE QUOTE** “Do all the good you can, by all the means you can, in all the ways you can, in all the places you can, at all the times you can, to all the people you can, as long as ever you can.” — John Wesley

association work at the state and national levels.

As you can see, I have grown up in the banking atmosphere and started working at the bank as a teenager. I also taught part-time after I received my elementary education degree from Kansas State University, but I still worked at the bank and insurance agency.

I started as a teller and am now president, but I still empty the trash when needed. I did graduate from the Fundamental and Intermediate Schools of Banking in Nebraska and then Colorado School of Banking in Boulder. I have a passion for banking and servicing a small community.

Q Does the bank have a family atmosphere?

Yes, we have a terrific staff that is very caring. We refer to our staff as “the team,” and they are always willing to help get any job done.

We collect food from the community and deliver it to those in need. This year, I packed 19 boxes and delivered them in the snow.

Each year we send boxes to the military — and they don't have to be a customer of the bank. Sometimes it is a person who is close to a customer. The community is very giving and we send very large boxes overseas.

The local school asks the bank to collect items for the Angel Tree that we set up at the bank. Many children are able to get presents and warm clothes thanks to the community. Since it is our 65th anniversary, we are doing something special to let our customers know they are important. Each

Tammera Marrs is a north west district director for the CBA, and president of Citizens State Bank in Miltonvale, Kan.

Q What is your background in banking and with Citizens State Bank?

My grandparents, J.R. (Dick) and El Dana Ayres, started the bank in 1946, after my grandfather had been a bank examiner.

Dick and Dana were very active in association work, and I

have been told my grandpa even helped write some banking laws that are on the books today. Dick was an attorney and an insurance agent, as well. Dana helped wherever she was needed. My mom worked briefly in the bank as a teenager, but found her passion to be teaching. My dad was also a teacher and was teaching at Topeka High when the Ayres's (my grandparents) offered him a job at the bank in Miltonvale. I was 6 months old at the time. My dad is also very active in

by Alex Peak,
Assistant Editor,
BankNews Media

month, there is a drawing for some local gift certificates. We plan to have a large celebration in October, our anniversary month.

Q Do you think there are benefits to being a community bank in a smaller town?

Absolutely! The fact that we know and care is so important. I have worked in a larger bank and you see some of the same faces, but the interaction is different. The town knows it can count on us, and it was so nice to hear good things about our bank when Wall Street was having problems. I do think our town is somewhat sympathetic to the regulations that we have been dealt.

Q What does your position as north west district director for the CBA entail?

Right now, as the north west district director, I have not had to specifically do anything for this position, except attend the board meetings, conference calls and events. The CBA is a positive force for community bankers; and, each year, I see more good things happening to benefit our Kansas bankers. Our meetings center around the goal of how we can better meet the needs of Kansas bankers. New products are offered, more events and educational opportunities are brought about, and our leader, Shawn, meets with bankers face-to-face

to find out what the Kansas bankers need from CBA.

Q How has your involvement with CBA influenced your role as bank president?

I think with any board you are a part of you become "in the know." I can read all the e-mails and literature that float across my desk, but when you network with others or understand how the legislative issues are really going to affect your bank, you become enlightened. CBA does a great job, as well as ICBA, of getting information out to the members. But everyone approaches the issues differently, and getting a good grasp on what others are doing is invaluable. •

More Experience

Some firms claim they are just like BankOnIT, with experienced staff.

BankOnIT has experienced bankers, trained technical staff and a banking law attorney on staff to provide you complete I.T. support from technical issues to exam preparation and policies.

Ask other vendors who is on their staff and then talk to us.

See How Easy I.T. Can Be With BankOnIT.

(800) 498-8877 • www.bankonitusa.com



BankOnIT^{Easy.}
Oklahoma City • Tulsa • Dallas • Salina

KEEPING YOUR BUSINESS SAFE FROM CYBERCRIME PROACTIVE TIPS TO CONSIDER

BY DON JACKSON



Cybercrime is a rapidly evolving (and very profitable) phenomenon with multiple layers of sophistication. It can be difficult for any financial institution to keep up with present and advanced threats or anticipate cyber criminals' next move.

Cybercrime is a flourishing illegal business in the underground community because attacks on unsuspecting users are so effective. Cyber criminals are gaining access to millions of compromised computers infected with malware (malicious software) cocktails containing everything from credential-stealing software, to spam software and others. Confidential information is always at risk.

In August 2010, a large check-counterfeiting operation was uncovered by information security firm SecureWorks. The Associated Press broke the initial story (<http://abcnews.go.com/Technology/wireStory?id=11263031>). Named "BigBoss" by SecureWorks, the operation was found to have written \$9 million of counterfeit checks in less than a year. Cyber criminals are breaking into lockbox services offered to businesses by banks to archive their checks. Thus, criminals are able to steal tens of thousands of business-account check images, which



include the account numbers, routing numbers, official signature, etc., from bank accounts. The criminals are then making checks that look exactly like the original checks spotted online.

Clearly, check counterfeiting has been brought into the 21st century by the BigBoss group and probably others. Though it would be nice to do away with the archaic system of easily counterfeited paper checks, companies have few payment alternatives that can be widely accepted by all the vendors and contractors they do business with.

But financial institutions and their customers can become more vigilant about using safe, online practices to help minimize the threat of becoming a victim of cyber thieves and check-counterfeiting rings. On the next page are tips to help keep banks and other financial institutions and their customers protected from online hackers.

It is important that organizations understand the risks of doing business online and keep their employees and customers informed of best practices when accessing sensitive information online, or simply surfing the Internet. There is no silver bullet for information security. Simple, everyday activities that seem innocent can give you and potentially your business' network more than you bargained for. Yet if businesses, customers, banks and other financial institutions work together to try and block these kinds of abuses, the criminals would find it much more difficult to carry out an operation of the BigBoss scale. •

TIPS FOR HOW TO STAY PROTECTED FROM ONLINE HACKERS

1. **Look for any unusual spellings on checks.** The counterfeit checks that SecureWorks saw had misspellings of ordinary words, such as "oder" instead of "order," in the heading "Pay to the order of."
2. **Isolate computers used to access and administer banking and investment accounts** on a separate network from computers that are used for other office and productivity tasks like e-mail and accessing the Web. Anyone accessing online banking or other financial portals on behalf of a company should do so from protected computer systems that have been hardened, have very limited Internet access and are isolated from the rest of the corporate network.
3. **Urge individual customers to do their banking** on a separate, dedicated computer that is used solely for online financial activity. The computer should not be used for visiting websites, searching for information, e-mail, chat or social networking.
4. **Urge business customers to enroll in a banking system called Positive Pay**, which allows the account holder to verify that each check transaction presented to a financial institution matches a known payment before the bank processes it.
5. **Warn customers about scams that recruit work-at-home opportunities** to receive checks and forward money overseas. The checks they are receiving are counterfeit, and when the check bounces, the job-seeker who went ahead and wired money out of his own account overseas loses his money.
6. **Urge customers to double-check the URL in their browser's address bar** when they log onto their online bank accounts. Some fraudulent banking sites are set up to look exactly like legitimate banking sites.
7. **Banks and other financial institutions often communicate with their users via e-mail.** These should be limited, however, to non-interactive informational or promotional messages. Never open attachments, click on links or initiate financial activity based solely on the content of the e-mail. Verify any URLs and phone numbers in promotional messages.

• ABOUT THE AUTHOR •



Don Jackson, CISSP, is director of threat intelligence for SecureWorks. He has more than 20 years' professional information security experience in financial services, insurance, health care, military defense, higher education and technology industries.

Community Bank Week

COMMUNITY BANKING... SETTING THE PACE

All CBW Orders are due by March 18th

This year CBA will be celebrating Community Bank Week April 25-30. As a banker, you play a vital role in your community. Participating in Community Bank Week gives you the opportunity to point out all that your bank does to benefit your community.

All Community Bank Week (CBW) materials are available on the CBA website, including a list of ways to celebrate, sample press releases and examples of financial literacy materials. Also included are the items available for purchase.

Help CBA celebrate Community Bank Week by showing your community you appreciate their continued support. If you have any questions, please contact the CBA office (800)258-4589.

THINK THE DURBIN AMENDMENT EXEMPTS YOU?

THINK AGAIN

BY JAMES GHIGLIERI, JR.

The Federal Reserve Board (FRB) published its proposed rules on Dec. 16, 2010, to implement a provision (known as the Durbin Amendment) in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The proposed rules outline various alternatives for regulating debit point-of-sale (POS) interchange, network exclusivity and merchant routing alternatives, and fraud-prevention standards.

According to the proposal, the interchange portion of the rules does not apply to small issuers (less than \$10 billion in assets). Because of this, many community financial institutions have taken a “this-does-not-affect-me” approach to the regulation.

Here is why that is NOT the case
The proposed rules would prohibit all issuers

and networks from restricting the number of networks over which debit-card transactions may be processed by a merchant, either:

- by requiring at least two unaffiliated networks per debit card (Alternative A); or
- by requiring at least two unaffiliated networks per debit card for each type of cardholder authorization method, such as signature or PIN (Alternative B).

The proposed rules also set forth specific provisions regarding routing of debit transactions, including:

- The merchant has control over transaction routing by being able to route the transaction to any network enabled by the issuer.
- Issuers and networks would be prohibited from restricting a merchant’s ability to route the transaction.
- Neither issuers nor networks may prohibit a merchant from encouraging or discouraging a particular method of authorization, such as PIN or signature.

Neither alternative will guarantee exempt issuers are immune from the interchange rate reductions set by the proposed rules. SHAZAM advocates for financial institutions’ support of Alternative A, as it lessens the impact to issuers and provides the highest potential for keeping community financial institutions exempt from interchange impacts. If Alternative A prevails, both



exempt and non-exempt issuers will only need two unaffiliated networks for available routes. Currently, all our SHAZAM participants are already in compliance with Alternative A, so there would not be additional incremental costs.

If Alternative A prevails, two unaffiliated networks will be available to the merchant. This will limit the number of network routing options available to the merchant under the newly created merchant routing requirements for POS. With two unaffiliated networks, we believe interchange would decline at a slower pace than Alternative B. Under Alternative A, it may be possible for current or near-current interchange structures to remain effective for exempt issuers over a longer duration than under Alternative B.

Under Alternative B, more networks (e.g., two unaffiliated signature networks and two unaffiliated PIN networks) must be available for merchant routing decisions. The availability of these additional networks will aid merchants in implementing least-cost routing decisions. As a result, interchange rates may reduce more quickly for exempt issuers given the additional networks available. Also, your institution will incur additional costs in order to become a participant in multiple networks.

The rule does not require any network to establish a dual-interchange system; however, SHAZAM intends to support such a system with either alternative to the fullest operational degree possible. To date, only Visa has publicly stated it intends to support a dual-interchange system, as well.

Due to these market pressures and merchant routing decisions, interchange rates for exempt issuers may eventually equalize with the proposed government-fixed rate of \$0.12 per transaction. Due to the lower costs and economic scales the large institutions have, this may ultimately cause community financial institutions' margins to be disproportionately penalized. Despite being exempt from the interchange portion of the Durbin

Amendment, community financial institutions may see financial consequences.

What can you do?

SHAZAM strongly recommends you contact your congressional representatives and let them know where your organization stands on the Durbin Amendment. Emphasize the necessity for the FRB to adopt additional regulatory measures to protect and guarantee the intent and true meaning of the small-issuer exemption and the continued viability of community financial institutions.

To assist you with this process, SHAZAM is continually adding and providing a variety of useful tools and information to comment to the FRB. Please visit https://public.shazam.net/mr_compliance.html for a link to find your congressional representatives, congressional talking points and letter writing material, and a Durbin Amendment Web seminar. •

• ABOUT THE AUTHOR •



James Ghiglieri, Jr., is vice president of corporate communications at SHAZAM. Visit www.shazam.net for more information.



Diana Poquette



**UNICO
Insurance**

800-755-0048
402-499-1011 - cell
dpoquette@unicogroup.com
www.unicogroup.com

- Directors & Officers Liability Policy
- Financial Institution Bond
- Property & Casualty
- Excess FDIC Bonds
- Workers Compensation
- Employee Benefits

Independent Insurance Review for CBA Members!

Covering all of Nebraska, Kansas & Missouri

UPDATE

THE SMALL-BUSINESS LENDING PROGRAM



*BY PETER G. WEINSTOCK
AND ROBERT N. FLOWERS*

As you know, the president signed the Small Business Jobs and Credit Act of 2010 (the “act”). The act includes a number of tax incentives and other programs designed to jump-start the economy. The provision of the act with the most potential to assist community banks is the creation of a \$30 billion small-business lending fund (the “fund”) to invest capital into community banking organizations.

The fund is designed to stimulate small-business lending by reducing the dividend rate paid by fund participants as small-business lending increases. Unlike the Troubled Asset Relief Program (TARP) and related capital purchase program (CPP), the fund is available only to community banks, carries no compensation restrictions and does not require the issuance of warrants. The fund is not a part of TARP, nor is it related to TARP or CPP. It is a separate funding program authorized by Congress through the act.

On Dec. 21, 2010, the U.S. Treasury (UST) released application forms and other information on its website (www.treasury.gov/resource-center/sb-programs/Pages/Small-Business-Lending-Fund.aspx). The information posted includes the application, fact sheets, summary term sheets, lending plan guidelines and forms, and a comprehensive guide to the fund. What is not yet included on the UST's website are the actual legal documents for the fund. In addition, the information relates only to financial institutions that are not Subchapter S corporations. Information on fund participation for Subchapter S financial institutions should be forthcoming soon.

How to apply?

If your institution is eligible and wants to apply to participate in the fund, it must submit a completed application to UST at SBLFApps@do.treas.gov. In addition to submitting an application to UST, you must submit a small-business lending plan to your primary federal regulator and your state regulator, if applicable. You do not need to submit the lending plan to UST. If your institution's holding company is the applicant under the fund, it must also submit the lending plan to the primary federal regulator (and state regulator, if applicable) of each of its insured depository institution subsidiaries. UST recommends that applications for institutions eligible to apply under the available term sheets be submitted by March 31, 2011.

In addition to the application and the small-business lending plan, you should also prepare an initial supplemental report to be submitted at closing for fund participation. The form of this report is available on UST's website listed above. Although it is not due with the application, we recommend you get started on this report, which essentially calculates your small-business lending baseline under the fund, which, in turn, ultimately affects your initial dividend rate. The baseline is the average amount of small-business lending reported by that institution in its "Call Report" for the four full quarters ending June 30,

2010, adjusted for gains in small-business lending realized during the measurement period due to mergers, acquisitions or purchases of loans after origination. After you close on fund participation, you will submit similar quarterly reports of small-business lending for the duration of your participation in the fund. These reports have a direct impact on your dividend rate under the fund.

How does the approval process work?

UST will coordinate with the federal bank regulatory agencies and, as applicable, state regulatory agencies, to review your institution's application to participate in the fund. UST's response will come in one of the following forms:

- **Preliminary approval.** UST may respond that your institution is eligible for and qualified to participate in the fund; or
- **Preliminary approval contingent on matched funding.** As we indicated may be the case in our previous client alert regarding the announcement of the fund, UST may determine that your institution is eligible and should be considered for participation in the fund, but only as long as it can raise additional matching capital, whether through additional equity or debt issued to private investors. This matching capital must be received either prior to or concurrent with the institution's closing of participation in the Fund. UST indicates that, generally, capital raised after Sept. 27, 2010, may be considered as matching capital. Anything raised before that date would presumably be considered unrelated to fund participation. If your institution is required to raise matching funds as a condition for participation in the fund, the following requirements apply: (i) UST will notify your institution of the amount of private funds it must raise to qualify for participation in the fund, with the required private investment being at least equal to the amount of proposed participation in the fund; (ii) the maximum amount of participation in the fund will be limited to 3 percent of your institution's risk-weighted assets; (iii) the source of the private investment must not be any institution that has received or applied to receive capital from the fund; and (iv) the private investment must be subordinate to the fund proceeds and carry terms satisfactory to UST (although UST may approve a dividend rate for the private investment that is higher than the fund rate); or
- **Considered withdrawn.** Following its review of the

application, UST may determine that your institution is not eligible or otherwise will not qualify for participation in the fund and your institution's application will be considered withdrawn.

If your institution receives approval or approval conditioned on raising matching capital, and if it would like to continue with the process after receiving notice of approval or conditional approval, it should inform UST of this fact. UST will then assign a law firm as its representative to work with your institution and its legal counsel to complete the closing and funding processes related to fund participation. Closing will likely occur on a Friday, and will likely occur within 30 days after your institution receives its approval or conditional approval. Accordingly, if you believe your institution may be eligible for conditional approval, you should begin thinking now about means of raising the required matching capital so it will be in place before, or concurrent with, the closing of the fund participation.

Requirements for refinancing outstanding CPP or CDCI securities

If your institution currently participates in CPP or the CDCI program, you may be eligible to refinance those funds by participating in the fund. To be considered for refinancing of outstanding CPP or CDCI securities with participation in the fund, your institution must meet all of the eligibility requirements that otherwise apply for participation in the fund, plus the following additional requirements:

- The institution must be in material compliance with all the terms, conditions and covenants of any CPP or CDCI agreement and financial instrument;
- The institution must not have missed more than one dividend payment under CPP or CDCI (where a missed payment is defined as a payment submitted more than 60 days after the due date); and
- The institution must pay, in immediately available funds, the amount of any accrued but unpaid dividends for the payment period prior to the fund participation closing date, plus accrued and unpaid dividends as of the date of refinancing for the payment period that includes the closing date of participation in the fund.

The maximum amount available under the fund for CPP or CDCI refinancing is the same as it is for regular fund participants — up to 5 percent of risk-weighted assets for financial institutions with \$1 billion of total assets or fewer as of December 31, 2009, or up to 3 percent of

risk-weighted assets for financial institutions with more than \$1 billion, but fewer than \$10 billion, in total assets on that date.

All outstanding CPP and CDCI securities must be refinanced or repaid in full at the time of the refinancing through the fund. In addition, you must request at least 1 percent of your institution's risk-weighted assets under the fund if you are refinancing CPP and CDCI securities. Any warrants that your institution has issued to UST under CPP will remain outstanding after CPP refinancing through the fund unless you repurchase them. Institutions applying to refinance CPP or CDCI securities will not be considered for approval on a matched funding basis (although these institutions are not prohibited from raising additional capital if they choose).

As with other fund participants, institutions refinancing CPP investments must increase their small-business lending to receive an economic benefit from refinancing. If at the beginning of the 10th full calendar quarter after the date on which a bank commences participation in the fund the bank's Qualified Small-business Lending, as reported in the 9th quarter, has not increased relative to its base-line amount, then the bank will be required to pay, at the beginning of the 5th anniversary of the CPP investment, a repayment incentive fee equal to 2 percent per year on the total amount of outstanding funds received under the fund. This fee will extend through the date ending 4.5 years following the institution's commencement of participation in the fund.

What is the small-business lending plan?

Applicants under the fund are required to submit to their primary federal regulator and, if applicable, their state regulator, a small-business lending plan to increase qualified small-business lending during fund participation. For purposes of the fund, qualified small-business loans are defined as the following types of loans of up to \$10 million to businesses with no more than \$50 million in annual revenue:

- commercial and industrial loans;
- owner-occupied nonfarm, nonresidential real estate loans;
- loans to finance agricultural production and other loans to farmers; and
- loans secured by farm land.

UST recommends that the lending plan, which is not intended to constitute an official comprehensive business

plan and which UST recommends not exceed two or three pages:

- describe how your institution intends to use the fund to address the needs of small businesses in the communities it serves, including a description of the basis for its lending goals and how it intends to achieve these goals. The plan should also explain why the projected increase in small-business lending is reasonable in the context of the size of your institution and the market it serves, including a description of the types of loans anticipated and customers served;
- include the projected range of increase in qualified small-business lending (as defined in the fund’s summary of terms) your institution expects to achieve two years after the investment. While this projection should be based upon your institution’s estimate of qualified small-business lending, you do not need to formally calculate such lending at the time of application. Each bank will be required to calculate such lending only as part of the closing process, after receiving preliminary approval for participation in the fund. Prior to closing, your institution will be asked to revalidate the projection provided in this lending plan on the basis of its formal calculation of qualified small-business lending; and
- provide linguistically appropriate outreach and advertising describing the availability and application process for receiving small-business loans.

What to do now?

We recommend that institutions get a head start on the small-business lending plan and your initial supplemental

report required for closing on fund participation. Our experience under CPP was that the first applicants under CPP received more lenient treatment than did later applicants, and also received funds sooner. We suspect literally thousands of financial institutions may be eligible for investment under the fund. If you have not already done so, we recommend that you quickly develop a small-business lending plan, complete the fund application, and submit it to UST and your applicable banking regulators as soon as possible. Even if half of the eligible institutions apply for participation in the fund, it is possible that a backlog could develop as the applications are reviewed.

For CAMELS 3-rated banks and 4-rated banks, work regarding matching capital planning and a potential reduction in problem assets will also be required. We have assisted numerous financial institutions in raising capital over the past 24 months, whether as a proactive measure or as required by regulatory agencies. Finally, financial institutions should also begin to develop systems to keep track of new originations (presumably the government will grade everyone’s homework), set the financial institutions’ objectives and report progress and variances to the board and UST under the fund. •

• ABOUT THE AUTHORS • • • • •

Peter Weinstock and Robert Flowers are attorneys in the financial institutions corporate and regulatory section of Hunton & Williams LLP. They write and speak frequently on topics of interest to community bankers. You may contact Peter Weinstock at 214-468-3395 or pweinstock@hunton.com and Robert Flowers at 214-468-3324 or rflowers@hunton.com.



39TH ANNUAL GRADUATE SESSION

May 22-27, 2011

At Christian Brothers University, Memphis, Tenn.

www.barret.ws • 901-321-4000

Paul W. Barret, Jr. School of Banking in a non-profit independent school created and governed by a board of regents, whose members are executives from banks and other firms involved with the financial services industry. The mission of the school is to provide an adult learning experience for the career-oriented individual in commercial banking or a related financial services industry business.

- Three-year graduate program • Annual one-week residency session • More than 40 hours of classroom instruction each year, for a total of 128 hours • More than 35 years of providing advanced banking education • Annual tuition subsidy of more than \$1,600 for each student from endowment funds

INSIDE-OUT

IS OK?



Your mother told you not to wear that shirt inside-out; now that you're a banker, though, it may be a good fit. Everyone calls it internal audit, but sometimes it makes sense to leverage time and resources by outsourcing. We've taken the time to outline some things to consider.

The role of the internal audit has skyrocketed in importance, as community banks grapple with strategies to ensure independent review and compliance. The principles of risk management and internal controls remain just as important as ever. Yet with growing complexity, economic stress and burgeoning regulation, community bankers are increasingly turning to their internal audit function to provide expert, independent assurance that operations are functioning as they should.

Our research shows community bankers are looking for a more robust internal audit role for several reasons, including:

- Staff attrition or pressure for better efficiency ratios

has decreased the number of operations staff available for optimal rotation, separation of duties or independent review;

- Regulators are looking for more “independent review” — even for smaller banks;
- The risks and potential costs associated with mistakes or non-compliance may be higher;
- Experience or expertise levels in a certain areas of the bank warrant independent review;
- The bank has grown in size or become more geographically spread out, such that consistency in operations is more challenging;
- The bank has grown in size, or is expected to grow, where regulatory expectations warrant an internal audit program;
- Regulations have grown and become more complex, making it harder to comply or for front-line staff to keep up with requirements;
- Directors, especially outside directors, are increasingly asking for objective assurances;
- Relying more on the internal audit program for risk-management strategies than just performing minimum reviews; and
- Difficult economic times put pressure on banking staff and customers, where the assurance of independent reviews may help deter fraud and misappropriation.

For an examiner's view, we spoke to an FDIC supervisory examiner. Regarding outsourcing, the examiner acknowledged there is sometimes not enough internal audit work to employ a full-time person or — more commonly

— there are issues with lack of independence or expertise for all items reviewed. Also mentioned was how important the risk assessment is in setting the scope and procedures and measuring the results. Whether internal audits are performed by bank staff or outsourced, the examiner emphasized the test was the ability to show sufficient expertise, experience and independence.

In speaking with community bankers, we have found the following 16 non-financial factors being considered when evaluating in-house versus outsourced internal audit services:

- Workload and capacity of existing staff;
- Scope or range of bank activities to be reviewed by internal audit (versus other sources);
- An honest assessment of how highly management values the internal audit role;
- The pool of talent available for hire in the bank's area(s);
- Development or training needs for bank staff;
- Expectations of directors, shareholders or regulators;
- Recent or expected growth for the bank or holding company;
- How quickly the bank wants the internal audit to be fully operational and/or what transitions in staff or program are targeted;
- Any gaps in expertise and experience levels for different internal audit staff positions;
- Degree of need for professionalism, sophistication, audit discipline or objectivity;
- Canned policies and program versus a tailored process that fits the bank;
- Evaluation of the professional standards and degree of accountability needed;
- The need to stay current on audit standards and practices and required CPE;
- Assessment of the different skill-sets needed to effectively perform internal audit activities;
- Management's threshold or outlook toward risk (financial, reputation, compliance, etc.), peace of mind and the various alternate strategies available for mitigating these risks; and
- How much of a resource internal audit staff is for other bank staff (or desired to be).

We suggest the bank evaluate the above items, where applicable, and assess the current or expected situation. Assigning a rating to each item is often helpful and surveying key stakeholders in the organization is vital to

providing a balanced assessment. Only after doing this do we recommend analyzing the cost factors. In this manner, the banker has assessed how important the internal audit role and results are — before assigning dollars.

As with any outsourcing decision, cost factors are an important part of the equation, including efficiency and time management; build versus buy; full-time versus part-time; and absolute dollar costs. Although dollar cost may be one of the most important influencers, comparing salary and benefit costs directly against outsourcing fees should not be used as the only analysis. For example, outsourcing fees may compare favorably to personnel costs; however, supplementing the talent-set of existing bank staff may be a higher priority. Or conversely, the fees may be higher, but a better fit to the bank in the long run.

Fortunately, performing an effective assessment of the bank's resources relative to the risks involved is inherent in what we do as bankers. The current and projected cost of hiring, training and retaining capable bank staff is always a challenge.

So what is the right salary? Depends. Recent surveys indicate an average internal auditor salary in Kansas of approximately \$43,870-\$49,670. The range of salaries shown by asset size: \$38,945-\$60,600. How this fits into your bank will depend, among other things, on the following:

- Experience level of the staff,
- Complexity of the bank's operations,
- Hierarchy level in the bank's organization,
- Other compensation or benefit strategies, and
- Objectives and expectations for the internal audit function.

So, when is inside-out OK? It depends, of course. We don't advocate ignoring your mother's good advice, but when considering outsourcing internal audit, or any other function, we encourage bankers to evaluate the criteria above, weigh the options, and make sure there's a good fit with the bank's overall culture and mission. •



Upcoming Education

Don't forget
to save
the date!

March

15 Director Series: Mandatory Compliance Training for the Board & Senior Management

TELE/WEB SEMINAR

17 RESPA Now: GFE & HUD-1 Compliance

TELE/WEB SEMINAR

22 Auditing W8, W9 & Backup Withholding

TELE/WEB SEMINAR

24 Consumer Lending Series: Trust Documents in Lending

TELE/WEB SEMINAR

28 Call Report Revisions & Updates

TELE/WEB SEMINAR

29 10 Lessons Learned When a Deposit Customer Dies

TELE/WEB SEMINAR

April

5 Business Texting: Risks, Rules, Records & Regulations

TELE/WEB SEMINAR

7 Top 10 Issues for the Family-Owned or Closely-Held Bank

TELE/WEB SEMINAR

12 Impaired Loans & the ALLL

TELE/WEB SEMINAR

14 Understanding & Navigating the New NACHA Rule Book

TELE/WEB SEMINAR

18 Robbery Prevention Seminar

CBA SEMINAR • WICHITA

19 Robbery Prevention Seminar

CBA SEMINAR • CONCORDIA

19 Mandatory Compliance Training Series: Regulation CC & Funds Availability Rules

TELE/WEB SEMINAR

21 HMDA-LAR Basics

TELE/WEB SEMINAR

26 Imaged Documents: What to Keep, What to Shred, What Holds Up in Court?

TELE/WEB SEMINAR

27 Five Secrets to Successful Online Account Opening & Online Lending

TELE/WEB SEMINAR

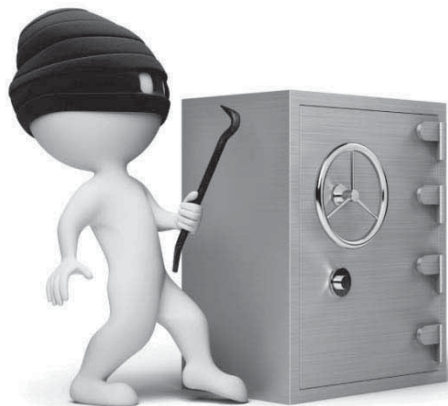
28 Fannie Mae's Loan Quality Initiative

TELE/WEB SEMINAR

For more information about these seminars, contact the CBA office at 800-258-4589 or info@cbak.com. Or visit www.cbak.com, and click on the Education & Training tab to view seminars by category or by calendar date.

Robbery of Financial Institutions & Armed Robbery Prevention

Presented by Scott Teeselink



Locations

- April 18 – Homewood Suites - Wichita
- April 19 – Cloud County Community College - Concordia
- August 22 – Flint Hills Tech College - Emporia
- August 23 - Highland Hotel – Great Bend
- September 12 – Lamplighter Inn - Pittsburg
- September 13 – Topeka Public Library - Topeka
- October 24 – Hampton Inn – Garden City
- October 25 – Huck – Boyd Center - Phillipsburg

To register contact Erin Oplinger at the CBA office (800)258-4589

I TOLD

MY CORE PROCESSOR

I HAD SOME
IDEAS FOR THEIR
BOARD OF
DIRECTORS...

SO THEY ELECTED ME.

Being a DCI client is different than the usual core processing experience. From the user group to the board room, you are at the center of our business and the development of our leading-edge iCore360[®] technologies.

Just ask Tim Kohart from Valley State Bank in Syracuse. Since becoming a DCI client, Tim has contributed his support to some of our most significant developments. So we asked Tim to share his enthusiasm with the other DCI clients on our board of directors.

At DCI, we remember who we work for, and focus on what's best for you. With fellow bankers like Tim as owners and directors, you can be sure we have your best interests at heart.

Join Tim and other successful bankers nationwide who enjoy today's most advanced technology, backed by nearly 50 years of personal attention, dedicated to helping you manage your bank, your way.

Contact us today and discover a more rewarding banking experience, focused on your success.

Make it personal. Make DCI *your* core processor.

— Tim Kohart
President & CEO, Valley State Bank

A MORE REWARDING EXPERIENCE, FOCUSED ON YOUR SUCCESS

FEATURING:  • 620.694.6800 • DATACENTERING.COM

 **DCI**
DATACENTERING.COM

In Touch

Community Bankers Association of Kansas

3003 SW Van Buren, Suite A, Topeka KS 66611
Change Service Requested

Presorted Standard
U.S. postage
PAID
Permit #115
Fulton MO

Want to be
Top Dog in
Your Customer's
Heart?



SHAZAM® myPic Studio™ allows your cardholders to create a personalized debit card featuring any photo they choose — of loved ones, friends, a pet, or a favorite vacation spot. Whatever means the most to your cardholder will be displayed on their debit card, making it the favorite card in their wallet.

Personalized debit cards build loyalty and usage, while increasing acquisition and retention. Now your cardholders can build a debit card that's all about them. Let them make it their own and watch your usage and loyalty grow.

Visit us at www.shazam.net or call (800) 537-5427.

