Kentucky Banker

May/June 2023

COMING UNDONE.

KBA CEO & President Ballard Cassady considers what it will take to bridge the gap of American factionalism.

PLUS:

The Fatal Flaw of CFPB's Small Business Lending Rule

Session in Review | KBA Group Meeting Recap

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Kentucky Bankers Association

WHO WE ARE: The KBA is a nonprofit trade association that has been providing legislative, legal, compliance and educational services to its member institutions since 1891. KBA's directors and staff work together with its members to make the financial services industry a more effective and successful place to work. The strength of the KBA is bankers unifying as an industry to speak as one voice.

WHAT WE DO: The purpose of the Kentucky Bankers Association is to provide effective advocacy for the financial services industry both in Kentucky and on a national level; to serve as a reliable and responsive source of information and education about areas of interest to the industry; and to provide a catalyst and forum for collective industry action. The KBA does this in 4 ways:

1. Government relations & industry advocacy
2. Information interchange
3. Education
4. Products and services

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Spring Conference provides immense value for KY Bankers.

by **Ruth O'Bryan Bale,** *KBA Chairwoman*

In my last newsletter, I spoke of the tremendous value and benefit of KBA membership. I discussed the mission of the KBA and how our organization is the primary provider of educational opportunities within our membership and to Kentucky bankers at large. Then, late last month, I had the pleasure of attending another KBA Spring Conference. The conference was a remarkable example of what I had previously pointed out regarding the immense value of the essential educational and networking functions provided by our association.

Banking has always been a complicated game. As managers, we are required to make estimations regarding the future with only the past as a guide. We are not only expected to predict, with reasonable accuracy, future events, but also the speed at which these events will occur and their duration.

Today's environment is not much different from what I just described. However, there are a couple of exceptions to much of our history. First, the very near future is greatly influenced by the recent past, and our recent past has been one of unprecedented economic events. Therefore, the pace of economic change for our country and the world seems much more rapid than much of our history. Secondly, it seems as if more of our most trusted sources for information do not fully agree on the short-term future of economic change.

The tumultuous economic environment of 2023 has only served to enhance the value of KBA education and the Spring Conference. After all, when so many of our most trusted advisors have varied opinions, it's hard to know where to find the best information. Once again, in such circumstances, the value of our organization is revealed. The KBA provides a vetting process, and the Spring Conference presenters are some of the most trusted sources for current information.

During the conference, we received some very welcome analyses regarding the current state of economic affairs, coupled with the likeliest scenarios for our economic future. As a matter of fact, the greatest concentration of conference information was centered on economic history and predictions that can be translated into tools for asset liability management within our banks. This content was perfectly weighted for present-day challenges and decisions.

The conference content didn't stop with studies in economics. There are certainly other essential topics that are much harder to keep at the forefront in these times. Therefore, those in attendance learned new concerns and preventive measures for Cyber Security and the growing instances of bank fraud. We all know we are destined to gain firsthand knowledge of these issues, but it's also hard to focus until the disaster strikes.

Payment systems within the industry are also a dynamic topic, and the conference planners recognized its relevance. One of our challenges is to keep banks relevant as old payment systems change and new systems for exchange come online.

Finally, the conference presenters brought just the right mix of levity and humor to keep everyone focused and encouraged. This levity also partners with the relaxed atmosphere of French Lick, Indiana, which, in turn, creates the perfect backdrop for perhaps the most important element of the conference: networking. These conferences provide an environment that encourages shared ideas with our contemporaries and with the vendors who support our businesses.

If you haven't attended a Spring Conference, the 2024 Spring Conference will be a great opportunity to invest in yourself and your bank. If you have attended Spring Conferences in the past, I'm sure you will agree with me and share my opinion of the tremendous value. As a final comment, I want to congratulate Nina Gottes, Ballard Cassady, and the KBA team for the rich experience that was the 2023 Spring Conference.

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Are things in America

Coming Undone?

With the nation divided and distrust at a fever pitch, what will it take to transcend factionalism in America?

by **Ballard Cassady** *KBA President*

"What's happening to America?"

It may be a loaded question with assumptions we don't all share, but it's on the mind of every American I know (and plenty of Europeans) who think for a living. I spent much of the 17 hours of drive time for a recent KBA event listening to some of those thinkers. Their objectivity and insights helped me organize thoughts I've had for a long time.

If statistics can be believed, nothing is trending in a positive direction. Every facet of American life – from culture to institutions to politics – has become unrecognizable to most people over 40. Just when you think the headlines couldn't get more shocking, they do. They suggest a blatantly politicized justice system akin to those in the world's so-called hell holes. As bankers, we've seen up close that overt systemic corruption when we're singled out for some of the most witless and extortionate policies an unaccountable federal bureaucracy can devise.

Don't think it's a politically partisan question. No one political party could have done this much damage in so few decades. It took bipartisan "teamwork." And let's not kid ourselves. It took the dereliction of a goodly chunk of the American electorate as well. Elections matter, and we usually get what we deserve – or at least tolerate.
The question I struggle with most is why it happened. Why are we in economy-killing debt? Why is the rule of law under assault at every turn, starting at our borders? Why have our primary sources of news become blatant propaganda controlled by so-called elites? Why is family formation plummeting, with mental illness and addiction exploding? Why do American high schools in world rankings fail to even crack the top 20? Those are just some 30,000 feet questions. Come down to the level of city streets and the signs of societal disintegration get really ugly.

The thing that worries me most? My generation is being succeeded by some that

have been "educated" to think the answer is to destroy everything they've inherited (or at least what our generation is leaving behind, which isn't what it was either). They're oblivious to what it would take to rebuild what they destroy, oblivious to our global "competitors" who intend to make sure they don't get the chance.
Could there be something intentional and ideological behind the policies that produced these disastrous trends? Is it just old-fashioned greed and power-lust that has grown into some kind of critical mass? All of the above?

I don't struggle quite as much with the question of what it will take to pull us out of this spiral. For starters, more of us must exercise what's left of free speech. We're still a democratic republic – even if barely, Mr. Franklin. It's not enough to "speak" at a ballot box. We'll have to find the courage to speak the truth of our lived experience, to speak that truth to power. I'm speaking about the power of the ideological thought world infecting our legislative bodies, corporate board rooms, national media, universities, boards of education, and even our churches.

> *Every facet of American life – from culture to institutions to politics – has become* **unrecognizable...**

The power of that ideology rests on a majority of us failing to drill down on its skewed claims and flimsy reasoning, on our being intimidated into silence and acquiescence. If we can't find the courage to risk being called a hateful name in order to vocally defend our way of life (the life immigrants risk everything to partake of), we deserve to lose it – and lose it we certainly shall.

It won't be enough to vocally defend America's values from those who wave placards and chant phrases they can't even write in cursive, much less explain. We'd do well to consider that at least some of them have had their hunger for identity and meaning and the addictive thrill of revolution fed by real issues that need real solutions.

Can we blame our young for questioning the merits of capitalism when their elders have corrupted it with the 'crony' version that seems bent on destroying our middle class? Can we blame our young for being the pawns of ideologues when we sat quietly while those ideologues hijacked their educations? Can we blame our young for the broken communities and spiritual wasteland they've grown up in, when they're a result of governmental policies that undermined families and faith? I certainly don't.

That's why it's not enough to find our courage and our voices. We'll need to use them with wisdom and humility in working across our generations to tackle the most dangerous of our nation's issues. For my part, I intend to stop complaining about the most radical of our young from a distance and instead to seek out conversations with them, in which I listen as much as I speak.

At the end of the day, our generational divide comes down to factionalism, that ultimate danger to a democratic republic. That's why our factionalism is being strategically stoked by the countries most invested in our downfall. No one understood that better than America's founders, whose efforts to keep factionalism in check are at the heart of our Constitution. The Federalist Papers provide plenty of evidence for that.

But I'm more inspired by President Washington's farewell address. With a clarity of vision worthy of a crystal ball, he gave warnings about factionalism and "the spirit of party" that deserve a fairly long quote:

"This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and the duty of a wise people to discourage and restrain it. It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another."

Prophetic? The man nailed it! If his wisdom about where we're headed doesn't scare some factionalism out of every American, it's because we're ignorant of life in the countries poised to subject us to their "policy and will".

These are the countries where political malcontents don't get cable news airtime; they get gunned down in public squares or made to disappear.

What does it take to transcend the facets of our human nature that feeds factionalism? Maybe it's fear? A real and rational fear of a genuine common foe. We can trace a lot of all this to the absence of such fear. Our superpower status has given us a sense of security from external threats. Our affluence has given us plenty of leisure to "major in minors". Security of every kind has enabled us to ignore the reality that republics are incredibly fragile. They last only as long as their citizens have certain virtues, the kind families and churches have a critical role in sustaining.

> THINGS LIKE HONOR, DUTY, AND REVERENCE MAY SOUND HOPELESSLY OUT OF DATE. BUT WHAT IF THEY'RE **ESSENTIAL?**

At our founding era, Benjamin Franklin lifted up thirteen virtues: temperance, silence, order, resolution, frugality, industry, sincerity, justice, moderation, cleanliness, tranquility, chastity, and humility. Voice even half of those today and you'll get slapped with a particularly hateful label. Even fairly brave pundits seem afraid to go much beyond this one: self-restraint, the willingness to restrain your most selfish interests for the sake of a greater good. And, it seems, we can't even manage that.

As a result, we have plenty to fear. Those with a working knowledge of world history know that – which brings us back to that generational divide and perhaps my generation's single most consequential failure. Too many of us acquiesced in the domination of American education by the faction with the least appreciation for our nation's merits. Can we be shocked how many of our young lack the knowledge of history that could enable them to think critically about the narratives and attitudes they were fed?

This is more than the rant of a new grandpa for whom the future has a face and a name. I want to believe there's a way forward that restores enough of what is necessary for America's survival and flourishing. I stress the word forward because history teaches us there's no turning back the clock. But nor do we have time to waste plotting a course of correction that fails to accurately account for what drove us off-course in the first place.

Even agnostics have begun to acknowledge that religious faith, (specifically, Christian faith) according to some, is essential to notions of human rights at the core of western values. They may deny the reality of a "God-shaped hole" in the human soul, but they admit that lots of us are trying (unsuccessfully) to fill it with 'isms' like humanism, materialism or environmentalism. Those who drafted references to religion in our Constitution understood human nature too well to have intended indifference or hostility to religion. If we can maintain Supreme Courts with that much wisdom, we can remove hurdles to giving religion due respect so as to better sustain those core values.

Our social science has started to measure the consequences of "dad deprivation" caused by the breakdown of our families and communities. They explain our prison population far better than any competing explanation. It's time to admit that a 'nanny state' can never do the work of functioning parents and communities, that a chunk of our national debt represents poorly-spent social welfare dollars that did more harm than good.

But in a democratic republic, none of the course corrections we could identify has a chance in hell until we regain some political health. I actually see a couple of rays of hope for that.

The national media that made a business model out of propaganda aimed at polarizing us to the point of hatred is in big, well-deserved trouble. Many of the truly independent journalists these old media networks tried to destroy went on to find new media audiences that are larger than those of the networks they left behind. As a result, the tight control of media networks over our perceptions and what we're allowed to know is crumbling. Given their track record of recent decades, we could end up with a more fully informed electorate that makes better decisions.

I also think the most abusive and corrupt elements of our governing class may have overplayed their hand with recent desperate attempts to minimize the risk of any more 'swamp draining' in Washington DC. There may be a limit to how many times Americans' sense of fair play can be violated before all of us start to cry foul (how about some credit union justice, for instance?). We might even stop casting votes on the basis of party for people we wouldn't trust to mow our grass.

Things like honor, duty, and reverence may sound hopelessly out of date. But what if they're essential to everything about America that we depend on for our quality of life?

It's enough to make one throw their hands in the air and want to give up. Maybe that's an intentional consequence of everything we're seeing take place. Instead, I say we get real about the dark waters we're all treading. Let's encourage one another to think deeply, to engage in discussion, and to find real world solutions to our most difficult problems.

The thinkers I most respect continue to call America the best country in the world and a critically important force for good. But they're also asking, "For how long?" On the present course, I fear the answer is, "Not long enough."

A very smart woman once told me, "This country was founded on our faith and trust in God. The farther we stray from that, the closer we come to losing all the blessings that faith has bestowed." If she's right, God help us.

Session in *Summary* 2023

by **Debra Stamper,** *KBA EVP & General Counsel*

This year there were more than 1200 bills and resolutions drafted and 191 bills and resolutions passed. There is interesting statistical information after the bill summaries to show how the Session ended, by the numbers.

Bills that impact the banking industry are summarized below. If a bill contains more than one subject, only the portion that impacts banks is summarized. Each bill, unless it contains an emergency clause will go into effect 90 days from the end of session, July 3, 2023.

If you need more information on any of these bills, please contact Debra Stamper at dstamper@kybanks.com

SB47 - Medical Cannabis Legal

Eligible individuals may obtain a "registry identification card" from a qualified physician, which allows that person to use medicinal cannabis in accordance with restrictions established under this statute. Qualifying conditions include cancer, epilepsy, debilitating pain, MS, PTSD, chronic nausea etc.

Eligible individuals may not grow or smoke cannabis. Consuming medicinal cannabis while operating a vehicle will be treated the same as operating under the influence of alcohol. Employers are not required to allow the use of medicinal cannabis in the workplace. Employers may continue drug testing policies. ADA, however is still a concern.

Medical cannabis producers, processors and sellers must be properly licensed and operated in accordance with state law and regulations. If banking a medicinal provider, bank should ensure that the entity is properly licensed and follows all regulations. We will notify you of upcoming regulations. This bill does not apply to hemp or hemp products.

SB48 - Attorney Gen. Powers in Child Support Enforcement

The child support data match system that requires financial institutions to identify accounts of persons owing child support will be administered and enforced by the Office of the Attorney General—previously administered by the Cabinet for Health and Family Services. Nothing of substance should change in the data match program unless the AG decides to draft new regulations. (Sections 9, 18, 30-34, 82)

SB52 - County Clerk Fees Retained for Storage of Necessary Documents

County clerks are currently receiving a $10 fee on certain filed documents, designated specifically to assist with permanent storage of documents. However, before this law, any unused amounts collected were swept into a general fund at the end of the year. This limited the county clerks' ability to plan updated systems for electronic storage of documents. Now, those funds can be retained by the county in a separate fund for the sole purpose of proper retention of necessary documents.

SB75 - Enforcement of Code Violation Fees

Allows a code enforcement lien to be itemized on a property tax bill as a separate item from ad valorum tax liability.

SB120 - Residential Communities with HOAs

Kentucky now has a comprehensive legal system for regulating HOAs. HOAs may take a lien against a lot/real estate in the community for unpaid assessments and other charges. That lien must be properly filed and recorded. It will take the same priority position as a properly filed mortgage/lien and only in front of other, subsequent, properly filed mortgages/property liens.

SB126 - Venue Shopping for Lawsuits Against State Agencies or Raising Constitutional Issues.

A plaintiff, defendant, or the AG (as an intervening Defendant) can request a change of venue, in certain cases, which will be selected by the Ky Supreme Court by random.

SB123 - Out of State Notarial Acts

A Kentucky notary may perform notarial acts in other states for civil and legal proceedings originating in Kentucky.

HB83 - Judgment Liens

Judgment liens shall terminate after the expiration of 10 years, unless 120 days before the expiration of the judgment lien, a notice of renewal has been filed for an additional five years.

HB5 & HB360 - Tax on Pass-through Entities

Both HB5 and HB360 allow for the procedures to follow for taxable years beginning January 1, 2022 and thereafter for an authorized person may elect annually to have tax imposed on the entity to be passed through to partners, member, shareholders etc and a credit to be taken by the entity.

Because each of these bills have impacting language in KRS CHAPTER 141, we must wait until language has been officially adopted into the statutes by the Statute Reviser. Once we receive final information, we will send out a full summary. Regulations will also be necessary for implementing the process.

HB303 - WKY Risk Assistance Fund

Last year Senator Howell introduced and successfully passed the Western Kentucky Risk Assistance Fund, which allowed banks to make commercial loans to businesses willing to open or reopen in areas impacted by the Tornadoes of December 2021, knowing that a portion of any losses would be subsidized by the state.

Although this was a wonderful program, there were some minor amendments that needed to be made. Those were made this year, as follows:

- Clarifies that the covered loans cannot exceed $100M per lender.
- Requests for payments on losses will be paid in the order of submissions for coverage.
- Provides that an administrative fee of 1% will be paid to the Cabinet for Economic Development if there is a loss and it may be deducted from the amount paid by the Cabinet.

HB360 - Property Tax Valuation on Low Income Multi-Unit Housing

Low income multi-unit housing is often valued as if it were market priced rental units. This has become an increasing problem, as the prices (and therefore the value) of market priced rental properties have increased.

In the past owners of low-income properties have challenged the tax valuation and have sometimes succeeded, but this change makes it certain. "Government restricted" multi-unit rental housing will be valued through a specific determination based upon actual income and USPAP, as specified in the law.

It is specified that federal tax credits received "shall not" be included in the valuation. The owner is required to notify the property valuation administrator that the property is subject to this valuation limitation, using a form that will be provided by the PVA. Regulations will be necessary for process.

HB392 - Licensing of Motor Vehicles and Operation

Eliminates the use of circuit court clerks' offices for processing motor vehicle titling and registration and increases some operator's licensing fees.

HB429 - Legal Lending Limits

Limits the amount of collateral needed to lend over the 20% threshold and less than the 30% maximum to only the excess over 20%.

The Final Count

Total of 176 Bills & 13 Resolutions Enacted during the 2023 Regular Session.

- 148 Bills Signed by Governor
- 14 Bills Enacted Over Governor's Veto
- 14 Bills Became Law Without Governor's Signature
- 10 Joint Resolutions Signed by Governor
- 2 Concurrent Resolutions Signed by Governor
- 1 Joint Resolution Enacted Over Governor's Veto

The Crushing Weight of CFPB's Small Business Lending Rule

Eight hundred and eighty-eight pages.
Over 20 highly impersonal, eyebrow-raising questions.
New requirements for applicant "firewalls."
The clock is **ticking.**

Tim Schenk examines the good, the bad, and the ugly of CFPB's Small Business Lending Rule

by **Timothy Schenk,** *Deputy General Counsel*

While I have heard the small business lending rule referred to by different names, small business data collection changes that amend Regulation B made by section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act are here in the form of an eight hundred and eighty-eight-page (888) final rule prior to publication in the Federal Register.

Over the objections of the Kentucky Bankers Association and many others, "the small business lending rule will create our nation's first consistent and comprehensive database regarding lending to small businesses, including farms."

The rule applies to any financial institution that originates at least one hundred (100) covered transactions for small businesses in each of the two preceding calendar years. Covered transactions include: "loans, lines of credit, credit cards, merchant cash advances, and credit products used for agricultural purposes."

The CFPB excluded trade credit, public utilities credit, securities credit, and incidental credit. In addition, the CFPB has added exclusions for transactions that are reportable under the Home Mortgage Disclosure Act of 1975 (HMDA) and insurance premium financing.

Factoring, leases, and consumer-designated credit that are used for business or agricultural purposes are also not covered credit transactions. Additionally, the CFPB has made clear that purchases of originated covered credit transactions are not reportable.

Understanding "covered transactions" is important. As one industry expert said, "If you don't ask for "protected demographic information" for a covered transaction, you will be in trouble. But if you do ask for the protected demographic information and the credit application is not a covered transaction, you also could be in trouble. It's a potential "damned if you do and damned if you don't" situation.

> **I expect every bank in Kentucky to be subject to this rule.**

Small business is defined as a business that had $5 million or less in gross annual revenue for its preceding fiscal year. In short, I expect every bank in Kentucky to be subject to this rule.

All of those covered by the rule (most likely you) must record information for every "covered application" defined as "an oral or written request for a covered credit transaction that is made in accordance with procedures used by a financial institution for the type of credit requested" or, in other words, a credit request. Covered applications do not include (1) reevaluation, extension, or renewal requests on existing business credit accounts unless the request seeks additional credit amounts; or (2) inquiries and prequalification requests.

Most experts agree that there are twenty-three (23) data fields to collect customer information (the number can vary depending on how you count subparts). Without getting into specific data fields that could fill this whole magazine, the long and short is that there is a lot of information to collect and report, all of which is extremely impersonal at best. There are exceptions for every different type of data collection, so make sure you review the rule on how to handle each specific instance.

One of the most discussed features of the new rule is the "firewall" requirement. The rule implements a requirement in section 1071 that certain data collected from applicants be shielded from underwriters and certain other persons (or, if a firewall is not feasible, a notice is given instead).

Generally, an employee or officer of a financial institution or a financial institution's affiliate that is involved in making any determination concerning a covered application is prohibited from accessing the applicant's responses to the inquiries about protected demographic information that the financial institution makes pursuant to the rule.

However, if the financial institution determines that an employee or officer should have access to an applicant's responses to its inquiries regarding protected demographic information, the financial institution must provide notice to the applicant regarding that access. The notice must be provided to each applicant whose information will be accessed or, alternatively, the financial institution could provide the notice to all applicants.

Your time for compliance depends on your "tier" based on your number of "covered transactions." Tier 1 is for those institutions that originated at least 2,500 covered transactions with a compliance date beginning October 1, 2024. Tier 2 is for those institutions that originated at least 500 covered transactions with a compliance date beginning April 1, 2025. Tier 3 is for those institutions that originated at least 100 covered transactions with a compliance date beginning January 1, 2026.

"The rule is fatally flawed."

It is important to note that even the tiers have tiers for components of the final rule. Please read the final rule and compliance guide to make sure you understand your implementation timeframe.

The Good, The Bad, and the Ugly.

The Good. While I should be clear that there are no banking "winners" in this rule, there are some relative adjustments to implementation that are "good" compared to the proposal.

First, the proposed rule did not have a "phase-in" for financial institutions of varying sizes and levels of lending. While not a "win," the final rule did at least grant some time for implementation, particularly for institutions that may not be HMDA reporters now and need additional time to train employees on this rule.

Second, there are some safe harbors. The rule itself is difficult. One of its largest and most often undiscussed pitfalls is the impersonal nature of the rule. Asking a customer more than 20 personal questions feels a lot like being processed and, even worse, can feel discriminatory.
While the rule does not protect against poor customer sentiment created by the rule, it does at least have a safe harbor for data collection. As stated in the compliance guide, "A covered financial institution that initially collects data regarding whether an applicant is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and the ethnicity, race, and sex of the applicant's principal owners pursuant to the final rule, but later concludes that it should not have collected such data, does not violate ECOA or Regulation B if the financial institution, at the time it collected this data, had a reasonable basis for believing that the application was a covered application from a small business (i.e., that the application was a reportable application) pursuant to the final rule."

The Bad. Despite the efforts of the KBA and many others, the rule was adopted. I could write a book on flaws in this rule, but I think it can all be summarized by stating that the rule creates more problems than solutions and likely will never achieve its purpose. In short, pick an adjective, but unwieldy, overbearing, discriminatory, and unfair start my list.

The Ugly. Let's start with the fact that 1071 is a rule based on the Home Mortgage Disclosure Act (HMDA) reporting. However, unlike HMDA, the CFPB did not adopt any "asset-based exemption threshold for depository institutions, or any other general exemptions for particular categories of financial institutions." This means that exemptions for asset size or a rural exemption for HMDA do not apply here.

Which leads me to the larger part of ugly. I keep going back to this portion of the proposed rule where the CFPB states, "Bank closures may have made it more difficult for small businesses, particularly women-owned businesses, to access credit and remain open - particularly in low- and moderate-income areas and rural communities."

While bank closures certainly are not solely caused by compliance costs, studies show it is clearly one of, if not the, largest driving force of closures and consolidation. Kentucky banks have always served all demographics of their communities, and increasing the cost and pressure of compliance on our banks will only further limit opportunities for credit for small businesses. The rule is fatally flawed. Which leads me to the last point: the CFPB has no compass and has not based this rule on any reality. If you read the full rule, page seven hundred and fifty-two address the estimated costs to each financial institution to implement the rule. The total cost estimate is $44,800 to $77,800 for depository institutions. But when you review the breakdown of these statistics, these costs are based nearly solely on non-salary expenses; not the time value money lost for your employees in implementing this rule. While I could spend a full magazine on the estimated alone, suffice it to say, I disagree.

It's important to remember that the fight is not over yet. The Kentucky Bankers Association has asked Congress to invoke disapproval of 1071. The Texas Bankers Association has filed suit and asked for, amongst other things, injunctive relief. However, that does not mean you should sit back and see what happens. You should be taking steps to prepare for 1071 implementation in your institution. The KBA has a number of education programs and vendors ready to assist you with this undertaking!

2023 KBA Group Meetings
When the KBA Comes to You!

May 21 - 26, 2023 | 7 Cities Across Kentucky | Photo Recap

Thank You To Our Hosts!

HOMETOWN BANK *Feels like home.*

REPUBLIC BANK

MADISONVILLE COMMUNITY COLLEGE

DANIEL DAVIS HOUSE

With 6 days and 7 cities across the beautiful bluegrass state, the KBA hit the road in late May to network, fellowship, and educate with some amazing Kentucky bankers. We want to take this time to give a special thanks to our hosts, our guests speakers, and, of course, all of you who came out and made life on the road that much sweeter. We can't wait to see you next year!











Introducing a new way to beat the bad guys.

Register today for the KBA Fraud Academy!

Hilton Lexington/Downtown Hotel
369 West Vine Street, Lexington, KY
8/8/2023 - 8/9/2023

Created & Taught By
Mr. Shane Ensminger

Take the fight against check fraud, cyber crimes, and more!

The KBA Fraud Academy is a "first of its kind" two-day school that will train employees at all levels of your institution on fraud risk and what they can do to fight it.

This program will feature speakers from the United States Secret Service, attorneys from the United States for the Eastern District of Kentucky, Lexington Police Department, and other current and former law enforcement experts.

Learn from the best in the business on how to mitigate fraud risk and ultimately reduce your fraud loss. Every bank in our industry is losing money and time from fraud and this school will educate your employees on how to reduce those losses.

We will be covering over eighteen areas of fraud including check fraud, elder fraud, cybercrimes and fraud prevention tools.

There are only fifty spaces available so register today to ensure that you do not miss out on this great opportunity!

You will receive a KBA Certified Specialist Certificate after completing this program.

For more info and to register online, use the QR code:

Event Calendar

AUG. 23-24

Women in Banking Conference

Nurturing the professional and personal growth of each individual female banker, everyone (including men) involved in the banking industry are invited to attend this epic event. Filled with dynamic speakers and valuable networking opportunities, this is shaping up to be our best conference yet!

The Brown Hotel | Louisville, Kentucky | kybanks.com

SEPT. 23-26

132nd Annual KBA Convention

With its views of the Rocky Mountains, The Broadmoor is a world-renowned resort located in the heart of Colorado Springs. Reunite with old friends, learn from the outstanding line-up of speakers, and take time to explore all that Colorado Springs has to offer. Don't miss this special opportunity to attend the KBA's 2023 Annual Convention. Register today!

The Boardmoor | Colorado Springs, CO | kbaconvention.com

OCT. 20

KBPAC Sporting Shoot Fundraiser

Join us for another exciting KBPAC fundraising event at "The Farm" in beautiful Floyd County. Shoot sporting clays while networking with other Kentucky bankers, all while supporting the ongoing efforts of the KBPAC.

The Farm | New Albany, IN | kybanks.com

OCT. 26

Banking Innovation Conference

From Instant Payments to Cyber Security and more, our Banking Innovation Conference will help your bank stay on top of the latest innovations in financial tech! Check the link below for our current list of speakers.

The Hilton | Lexington, KY | kybanks.com

General Banking School attendees in Lexington, KY

Onward & Upward

Have a promotion or branch news you want to see featured? Email us at mattsimpson@kybanks.com

April Perry, CEO and Chairman of the Board of Kentucky Farmer's Bank, Catlettsburg, KY, has been named to the FDIC Advisory Committee on Community Banking!

Lauren Combs, First Kentucky Bank, has moved into the role of Branch Manager at their Beaver Dam Office.

We commend **FNB Bank** of Mayfield, KY on their $15,000 donation to Murray-Calloway County Hospital's new state of the art Regional Cancer Center. As part of the donation, FNB will be naming the Radiation Clinic Nursing Station. Well done!

We also congratulate **FNB Bank** of Mayfield as being a recipient of the "America Saves" 2023 Designation of Savings Excellence Award (DOSE), the only national award focused on recognizing financial institutions for their work in helping Americans improve financial stability. Keep up the great work!

Paul W. Barret, Jr. Graduate School of Banking in Memphis, Tennessee recently announced that **Eleshia Brandon,** Vice-President at The Murray Bank, has graduated Summa Cum Laude. We celebrate with you!

Mark A. Gooch, Vice Chairman, President and CEO of Community Trust Bancorp, Inc., is pleased to announce the promotion of **Theresa Kendrick Maynard** to the position of Vice President, Employee Services Manager of Community Trust Bank, Inc. in Pikeville, KY. Congrats, Theresa!

First Farmers Bank Holding Company and Town & Country Bank and Trust Co. are pleased to announce that current board member, **Ricky Rapier**, has been elected by the Board of Directors to serve as Chairman of the Board. **Mr. Rapier** will assume the role in place of current Chairman, **Stephen Hamilton**, who is stepping down from the role but remaining on the bank's board.

Mark A. Gooch, Vice Chairman, President and CEO of Community Trust Bancorp, Inc., is pleased to announce the promotion of **Michael Willis** to the position of Market Vice President / Branch Manager of Community Trust Bank, Inc. in Pikeville, KY. Michael, we are all excited to see your success!

Mark A. Gooch, Vice Chairman, President and CEO of Community Trust Bancorp, Inc., would also like to announce that **Natalie Heighton** has been promoted to the position of Market Vice President, Commercial Loan Officer, in Ashland, KY. **Tabitha L. Hopkins** has been promoted to the position of Assistant Vice President / Wire Room Manager of Community Trust Bank, Inc. in Pikeville, KY. **Tonya Lanae Johnson** has been promoted to the position of Market Vice President, Senior Retail Lender. **Brandi Kiser** has been promoted to the position of Market Vice President, Branch Manager of Community Trust Bank, Inc. Well done to all at Community Trust Bancorp!

The Board of Directors of Wilson & Muir Bank & Trust Co., Bardstown, KY, is pleased to announce that **H. Michael "Mike" Sloane** was elected as Chairman of its Board of Directors. Well done, Mike!

CFSB is pleased to announce the following promotions: **Beth Frame** has been promoted to Executive Vice President, Chief Credit Officer. **Grant Orr** has been promoted to Vice President, Senior Residential Lender in Graves County. **Britne Parker** has been promoted to Vice President, Retail Banking Manager. **Matt Scoggins** has been promoted to Vice President, Graves County Market President. **Jennifer Sevilla** has been promoted to Assistant Vice President, Digital Banking Manager. **Matt Turley** has been promoted to Vice President, Senior Commercial Lender for McCracken County.

Jae Evans, Chairperson of United Bankers' Bancorporation, Inc., is pleased to announce the election of **Rich Jones** to the United Bankers' Bancorporation, Inc. and United Bankers' Bank Boards of Directors.

Lauren Combs

FNB Bank, Mayfield

Eleshia Brandon

Theresa Maynard

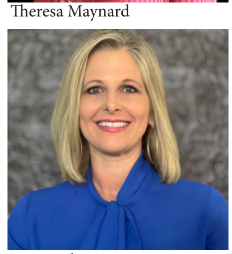
Ricky Napier

Brandi Kiser

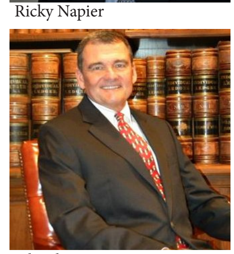
Michael Willis

Natalie Heighton

Tabitha Hopkins



Tonya Johnson



Mike Sloane

2023
Financial Management Conference

Safe Harbors: Time-Tested Strategies for Robust Growth

August 8-9, 2023 | Cincinnati, Ohio

Join FHLB Cincinnati for our 2023 Financial Management Conference, Safe Harbors.

Our annual summer conference provides our members with an opportunity to hear from industry experts on a variety of important topics that are both relevant and timely.

Register or check out the full conference agenda at fhlbcin.com/events.

FHLB CINCINNATI

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Lending a Helping Hand

For small businesses across Kentucky, resources exist to ease their burden.

TEAM KENTUCKY
CABINET FOR ECONOMIC DEVELOPMENT

Kentucky has several programs that may be of interest to members through the Kentucky Bankers Association including the Western Kentucky Risk Assistance Fund (WKRAF), Kentucky Collateral Support Program (KYCSP), Kentucky Loan Participation Program (KYLPP), Kentucky Small Business Tax Credit Program (KSBTC) and the Kentucky Selling Farmer Tax Credit Program (KSFTC).

All these programs are designed to assist Kentucky businesses. Small businesses in particular. For WKRAF, KYCSP and KYLPP, the bank, rather than the business, applies to the Cabinet for Economic Development to utilize the program.

KSBTC and KSFTC may be beneficial to many of the bank's small business customers, but the business/farmers must apply directly to the Cabinet. While banks don't have a direct role in the KSBTC and KSFTC programs, we encourage banks to make their small businesses and farmers aware of the benefits of these two programs.

Western Kentucky Risk Assistance Fund (WKRAF)

The Western Kentucky Risk Assistance Fund (WKRAF or the "program") has been established to provide support and relief efforts imperative to the Commonwealth of Kentucky to recover from the considerable damage caused by the December 2021 storms and tornadoes in Western Kentucky. The program provides an enrolled qualified lender the following inducement (the "Inducement"): the lesser of twenty-five percent (25%) or up to one million dollars ($1,000,000) of the loss incurred by a qualified lender on the unpaid principal balance of a commercial loan made by a qualified lender to an eligible company. Twenty-five million dollars ($25,000,000) is appropriated to the program and will be used to provide Inducements to qualified lenders on the first two hundred million dollars ($200,000,000) of commercial loans enrolled in the program, provided that a qualified lender shall be eligible to enroll no more than ten million dollars ($10,000,000) in commercial loans in the program. For more information on the Western Kentucky Risk Assistance Fund, visit Western Kentucky Risk Assistance Fund Program | Kentucky Cabinet for Economic Development or contact the Cabinet for Economic Development at (800) 626-2930.

Kentucky Collateral Support Program (KYCSP)

The Kentucky Collateral Support Program provides a pledged cash collateral account to an enrolled lender of up to twenty percent (20%) of their loan in order to enhance the collateral coverage of a small business borrower that is otherwise qualified but unable to meet the lender's security requirements. The cash collateral account will then be pledged as collateral on behalf of the borrower on a transaction-by-transaction basis and located at the participating lending institution or at another designated insured depository financial institution in the name of the Kentucky Economic Development Finance Authority (the Authority). Eligible lenders include any federally insured financial institution in good standing with its appropriate regulating authority and that meets the objectives of KYCSP. Only approved lenders can participate in the KSBCI program. For more information on the Kentucky Collateral Support Program or about becoming an eligible lender, visit Kentucky Collateral Support Program | Kentucky Cabinet for Economic Development or contact the Cabinet for Economic Development at (800) 626-2930.

Kentucky Loan Participation Program (KYLPP)

The Kentucky Loan Participation Program allows the Kentucky Economic Development Finance Authority (the Authority) to purchase up to twenty percent (20%) of a small business loan. Eligible lenders include any federally insured commercial lender and federally insured credit union in good standing with its appropriate regulating authority and Community Development Financial Institutions (CDFIs), with sufficient commercial lending experience, financial and managerial capacity, and operational skills to meet the objectives of KYLPP. The Authority may purchase up to twenty percent (20%) of the original principal amount of the loan. The lender's potential risk of loss not covered by KYLPP funds will be twenty percent (20%) or greater. The terms for participation are negotiable, including its position with respect to the collateral. After loan origination, the interest will begin to accrue, and the amortization period will be commensurate with the bank loan. Eligible borrowers include corporations, partnerships, joint ventures, sole proprietorships, state-designated charitable, religious, and other nonprofits, government-owned corporations, and consumer and marketing cooperatives. An eligible borrower, including its affiliates and subsidiaries, must have fewer than five hundred (500) at the time the loan is enrolled in KYLPP. Eligible borrowers must use the funds in this program for investments in Kentucky. For more information on the Kentucky Loan Participation Program, visit Kentucky Loan Participation Program | Kentucky Cabinet for Economic Development or call (800) 626-2930.

Kentucky Small Business Tax Credit Program (KSBTC)
The Kentucky Small Business Tax Credit Program (KSBTC) provides potential state tax incentives for growing Kentucky businesses that have added eligible employees and invested in qualifying equipment or technology in the twenty-four (24) month period prior to submitting an application. The program offers between three thousand five hundred ($3,500) and twenty-five thousand dollars ($25,000) per year for small businesses that have: 1) hired and sustained at least one new eligible full-time job and 2) purchased at least five thousand dollars ($5,000) in qualifying equipment or technology. New employees must have been on the payroll for at least one year and meet other eligibility requirements before applying. Most businesses with fifty (50) or fewer full-time employees are eligible and KSBTC is open to nearly all industry segments, including retail and service. The non-refundable tax credit can be claimed on the state tax return for the year it is approved, with a five year (5) maximum carry-forward of unused tax credits. For more information on the Kentucky Small Business Tax Credit Program, visit Kentucky Small Business Tax Credit Program | Kentucky Cabinet for Economic Development, contact the Office of Entrepreneurship at cedsbsd@ky.gov, or call (800) 626-2930.

Kentucky Selling Farmer Tax Credit Program (KSFTC)
The Kentucky Selling Farmer Tax Credit (KSFTC) program provides credits to farmers who sell agricultural land and assets to beginning farmers. Farmers seeking to sell agricultural land and assets may be eligible for a Kentucky income tax credit up to 5% of the purchase price of qualifying agricultural assets, subject to a $25,000 calendar year cap and a $100,000 lifetime cap. The credits come from an annual pool of $3 million, which is shared with the Kentucky Small Business Tax Credit. A beginning farmer cannot have previously owned any agricultural land for a period exceeding 10 years. Selling farmers cannot have more than 50 full-time employees and must be the legal owner of agricultural land and assets sold to a beginning farmer. Sales involving immediate family members do not qualify for tax credit consideration.

It is important for applicants for the tax credit to read and understand the KSFTC Guidelines before a sale of farmland occurs. This tax credit is for the selling farmer, but the beginning farmer who is purchasing the land must also meet certain requirements for the selling farmer to be eligible for a tax credit.

It is also important to note that, in some cases, beginning farmers may be able to utilize companion programs (such as the Kentucky Agriculture Finance Corporation's Beginning Farmer Loan Program) in the same transaction.

To learn more about the program, to review guidelines and to access the current version of the application, visit https://ced.ky.gov/Entrepreneurship/KSFTC, contact the Kentucky Cabinet for Economic Development at 800-626-2930, or email cedsbsd@ky.gov.

Unmaking the Myths:
Fact Checking Community Banking

haberfeld
Achim Griesel, *President*
Dr. Sean Payant, *Chief Strategy Officer*

Banking, and specifically community banking, is essential to the overall health of our country. By design, it serves as the backbone for our financial system and communities, while playing a crucial role in helping individuals, businesses, and governments thrive.

In this highly competitive environment, community banks must continuously adapt to the changing landscape and competitive pressures. The key to success is to challenge and shatter the traditional banking myths that have been prevalent for years. Let's explore five such myths and why they need to be shattered.

1. The Efficiency Ratio
Myth: Managing expenses is the best way to improve overall efficiency.
Fact: Increasing overall revenue is much more impactful.

The efficiency ratio is an important metric for financial institutions (FIs) to track as it measures how efficiently FIs are using resources to generate revenue. It is often thought the best way to improve the efficiency ratio is to manage expenses by embracing technology, controlling costs, and determining appropriate staffing levels. But, managing expenses is a very finite opportunity. The unlimited opportunity for FIs to improve their efficiency ratio is not on the expense side. It is on the revenue side as illustrated in Figure 1 by comparing high performing banks to others. Institutions should focus on growing revenue, as this will have a much bigger impact on profitability. There are two ways to accomplish this effectively: (1) growing core customers, and (2) growing share of wallet. The bigger, more strategic option is in growing core customers because this also enables your FI to exponentially grow share of wallet.

2. Growing Core Deposits
Myth: A rising rate environment is the time when institutions need to focus on core deposits and relationships.
Fact: Growing core deposits and relationships should be an always-on, strategic initiative.

With the recent rate increases and the decline in deposits since mid-2022, bankers are once again focusing on core deposits and core relationship growth. Large banks are promoting cash rewards that triple prior offers, and they are marketing at a frequency that is 3-4 times that of prior years. Why? In order to acquire new core relationships. FIs see the current environment as a prime time to grow low-cost core funding. However, this is far from the truth. The truth is, it is always a good time to focus on growing core relationships and core deposits regardless of the economic environment. By doing so, FIs position themselves well for any rate and non-interest income environment.

3. Deposit Market Share
Myth: Deposit growth is a function of deposit market share.
Fact: Deposit growth is a function of household and business market share.

FIs often focus on deposit market share as a measure of growth, but this is not always the best indicator. Instead, it's important to focus on household and business market share. Essentially, what percentage of the FIs footprint are they serving? Deposit market share is very much driven by larger deposits that often come at a higher cost. It is also distorted by branch locations, or lack thereof, for digital banks. Household and business market share is a much better indicator of the ability to attract and retain consumers and businesses, and it provides a clearer picture of overall growth and success.

4. Staffing Challenges
Myth: It isn't possible to hire or retain employees in the current environment.
Fact: Retention and recruitment is a function of an FIs investment in and focus on developing better leaders and coaches.

Staffing and human capital challenges have been one of the most prominent issues for FIs since the pandemic. Finding talented employees continues to be difficult, and retaining talented employees is a must. While the combination of these factors results in staffing challenges, the solution lies in an FI's approach to its leadership and coaching strategy. By investing in the development of leaders and creating a strong coaching culture, FIs can ensure their staff is well equipped to deal with the challenges of the industry, while also feeling valued by the institution. The result is a decrease in turnover, improved knowledge, and stronger alignment with the brand; this ultimately creates improvements in customer satisfaction and improved overall performance.

5. Sales Culture
Myth: Having a "sales culture" is the only way to drive results.

Metric	Eagles	Other	% Variance
Return on Assets	3.24%	1.01%	220%
Return on Equity	32.78%	11.09%	196%
Net Interest Margin	3.70%	3.22%	15%
Cost of Funds	0.30%	0.29%	3%
Yield on Loans	5.44%	4.77%	14%
Loan/Deposit Ratio	71.62%	69.95%	2%
Noninterest Income to Assets ($000 per $1M in assets)	$18.07	$4.60	293%
Noninterest Expense to Assets ($000 per $1M in assets)	$26.81	$23.55	14%
Equity Capital to Assets	10.09%	8.83%	14%

Note: Data Through 9/30/22 (annualized)

Fact: Aspiring to have an escalated service culture will result in increased product and service usage.

FIs often aspire to have a "sales culture," but this is generally not the best approach. The key to success is to have an escalated service culture, where the focus is on providing products and services to make people's lives better. By focusing on providing excellent customer service, FIs can build stronger relationships with consumers, increase overall satisfaction, and create a positive image for the institution. A result will be increased sales and improved overall performance.

By challenging and shattering these traditional myths or approaches to banking, FIs can create a more efficient and effective approach to their operations, which will lead to increased profitability, meaningful growth, and measurable success. By focusing on the right metrics, investing in the development of leaders, and creating a strong service culture, FIs can ensure that they are well positioned to succeed in this highly competitive industry.

Achim Griesel is president and Dr. Sean Payant is chief strategy officer at Haberfeld, a data-driven consulting firm specializing in core relationships and profitability growth for community financial institutions. Achim can be reached at 402.323.3793 or achim@haberfeld.com. Sean can be reached at 402.323.3614 or sean@haberfeld.com.

FDIC Insurance
A Foundation in Turbulent Waters

BANKERS ALLIANCE
Holding Company of Compliance Alliance and Review Alliance

Daniel Baker, *Bankers Alliance*

I have a picture of the La Jument lighthouse of Brittany, France, that hangs on the wall of my bedroom. This photograph, taken by Jean Guichard, depicts the lighthouse and a man standing alone amid turbulent seas as waves crash around it. I have seen this photograph multiple times throughout my few years, and usually, it is accompanied by some type of quote that is either religious or secular. Ultimately, though, the feeling is the same. Peace. Peace in the storm. This picture hanging on my wall has reminded me of the important things. While the storm rages, as long as your foundation is solid, then all that is left is for the waves to break around you.

So, let's start first by taking a look at the storm today. At the time that I am writing this article, the Silicon Valley Bank, Signature Bank, and First Republic Bank have all made it onto the FDIC's Failed Bank List. In his address to the US Senate Committee on Banking, Housing, and Urban Affairs, FDIC Chairman Martin J. Gruenberg stated, "Risks to the outlook include the potential for weakening credit quality and profitability that could result in further tightening of loan underwriting, slower loan growth, and higher provision expenses. Commercial real estate (CRE) loan portfolios, particularly loans backed by office properties, face challenges should demand for office space remain weak and property values continue to soften. Higher interest rates and reduced property values may contribute to increased financing costs and make refinancing CRE loans more difficult."

This is where I tell you to breathe. Don't worry, this isn't some type of doom and gloom article about banks failing, market crashes, rampant unemployment, or global depression. We will leave the clickbait topics for another day and instead, we will focus on protecting our customers and what type of insurance has been extended to them.

As things stand now, the standard deposit insurance is $250,000 per depositor, per insured bank, for each account ownership category. That means that if John and Jane Smith each have individual accounts with $200 a Joint checking account with $3,000, and $50,000 in a savings account for an eventual down payment on a house, they are covered. 100% of their assets are covered by FDIC insurance. Historically, FDIC insurance has paid out on claims within a few days after a bank closing. This is usually done by either providing each depositor with a new account at a different bank, with amounts equal to what was in their account at the failed bank, or by issuing each depositor a check.

This is where any good banker would start to question things. 'That sounds too good to be true!' 'Are my taxes paying for another program?'

The way that FDIC provides coverage is through something called the Deposit Insurance Fund ("DIF"). The DIF is backed by the full faith and credit of the United States and is funded from two distinct sources. First, the DIF is funded from premiums paid for by FDIC-insured institutions and, second, interest earned on funds invested in US government obligations. However, between the two of these, the largest contributions to the DIF are through the quarterly assessments of insured institutions.

A bank's assessment is determined by multiplying its assessment rate by its assessment base. As of 2011, as part of the Dodd-Frank Act, the bank's assessment base is determined by its average consolidated total assets less its average tangible equity. Using this equation, the bank will end up paying assessments on its total liabilities vs just insured deposits.

The assessment rate, on the other hand, is based on risk. The FDIC risk-based system has evolved a lot since its early implementation back in 1993. Ultimately, the goal of a risk-based system is to reduce the subsidy that lower-risk banks provide higher-risk banks and provides incentives for banks to control, monitor, and reduce risks that could ultimately lead to a loss to the DIF. Over the years, the process and pricing have changed, and the system has become more complex. However, in so doing, the current system places a greater assessment burden on banks with higher risk profiles.

Bank supervisors use a CAMELS rating to classify the overall condition of a bank. Originally CAMEL, "C" stands for Capital Adequacy, "A" stands for Asset Quality, "M" stands for Management, "E" stands for Earnings, and "L" stands for Liquidity. Later on an "S" was added for Sensitivity to Market Risk was added. CAMELS rating range from 1 being the highest and showing that the bank has the greatest strength performance and risk management and the lowest amount of supervisory concern, to 5 with the weakest performance and risk management and highest amount of supervisory concern. For Small Banks (generally, those that are under $10 billion in assets) are assigned an individual rate based on a formula using the CAMELS rating and financial data. Large banks (generally, those banks over $10 billion) ratings are more complex and are based on one of two different scorecards. This scorecard combines CAMELS ratings, financial measures of the bank's ability to withstand asset-related and funding-related stress, and a measure of loss severity that estimates the potential losses to the FDIC in the event of failure.

These assessment rates are not stagnant, and they are subject to change. These rates decrease for the issuance of long-term unsecured debt, increase for the holding of long-term unsecured debt, and for large banks that are not well-rated, increase for significant holdings of brokered deposits. Don't worry. You don't have to remember or memorize all of that. The FDIC has published some calculators for small banks, large banks, and highly complex banks.

But what is happening today?
On March 12th, 2023, the FDIC, in connection with the Federal Reserve Board and Treasury (collectively "The Regulators"), announced an increase in systemic risk in the banking industry. As part of this process, the FDIC also announced that it would be covering all deposits at Silicon Valley Bank and Signature Bank.

On May 11th, 2023, the FDIC board of directors issued a Proposed Rule on Special Assessment Pursuant to Systemic Risk Determination. In this proposed rule, the FDIC discussed how the Federal Deposit Insurance Act ("FDI ACT") requires the FDIC to recover any losses sustained by the DIF as a result of protecting uninsured depositors.

As part of this, the FDIC can consider "the types of entities that benefit from any action taken or assistance provided". In general, the FDIC determines, large banks with large amounts of uninsured deposits benefit the most from the systemic risk determination, and 113 banking organizations would be subject to the special assessment. Banking organizations with total assets over $50 billion would end up paying more than 95% of the special assessment. However, no bank under $5 billion would be subject to the assessment. From this, the FDIC is proposing to collect the special assessment beginning with the first quarterly assessment of 2024, due payable June 2024.

What this means in layman's terms. The FDIC covered deposits not traditionally insured for Silicon Valley Bank and Signature Bank. However, no meal comes free, so the FDIC is going to up the cost to large banks. Taxpayer's dollars will not pay for this.

The FDIC has contemplated change. Three options have been presented as potential, viable, options.

1. Limited Coverage – basically increasing the current limits on the current system
2. Unlimited Coverage – it is what it sounds like
3. Targeted Coverage – specific increases for specific types of accounts (i.e., businesses getting insured more than personal accounts)

Of these three options, right now the FDIC is leaning towards targeted coverage. However, to invoke this change, Congressional action would be required.

The FDIC acts as a foundation and support for many banks. When all else fails, the purpose of the FDIC is to protect the customer and make them whole, or at least more whole. So even though there may be storm clouds and winds driving the waves, our foundation has not yet failed.

Remember, when everything seems to be crashing down, take a breath, find your peace in the storm, and look at it again.

ATTENTION BANKERS: YOUR UCC AMENDMENTS FLIGHT HAS BEEN DELAYED

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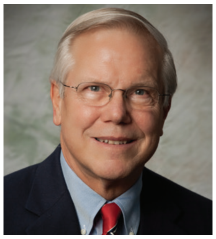

John McGarvey

The 2022 Amendments to the UCC to Accommodate Emerging Technologies should have departed on time and had a smooth flight. In Kentucky, it began that way when Senate Bill 64, sponsored by Senator Whitney Westerfield, flew out of the state senate on time and on a 34-0 vote.

Before the Amendments were heard in the House Judiciary Committee, however, the legislation to bring the nation's most important body of commercial law into the digital age, SB64 became a victim of the digital age instead. A conspiracy theory developed that the Amendments would: i) facilitate a central bank digital currency through which the federal government could track a person's spending; and ii) disadvantage users of cryptocurrencies. Neither is true.

But the truth-police do not patrol the Internet. The seven-member freedom caucus of the South Dakota legislature convinced Governor Kristi Noem to veto that state's bill enacting the Amendments. Her veto earned the Governor five minutes on Tucker Carlson's show where she and the host talked about the Universal (sic) Commercial Code. The Amendments flight delay then spread across the nation.

A few days after the discussion on Carlson's show, SB64 was heard in House Judiciary Committee here in Kentucky. After a representative read Governor Noem's veto message into the record, a ground hold was placed on the Kentucky Amendments.

Never mind that the Uniform Commercial Code is state law with no effect on federal monetary policy. Forget that the Amendments provide lenders a means to, through control, take and perfect a security interest in cryptocurrencies, and that holders of cryptocurrencies could take advantage of a new "take free rule," much like a holder-in-due-course of an instrument.

When Kentucky's legislative session ended, it was too late to assuage the skeptics, even with quickly crafted amendments designed to assure them their fears were unfounded. Two amendments to the Amendments are available and have been enacted in some states, including Indiana, while North Dakota and New Mexico enacted the uniform text in its original form.

A number of cryptocurrency industry players, concerned about alienating their customers, initially stayed out of the fray that developed in legislatures across the nation. They have now offered their support for the Amendments and are helping dispel the misinformation about the Amendments and their product.

The Amendments are sometimes described only as Article 12 but they actually span the full breadth of the UCC. Among the other revisions, there is a uniform definition of "sign" in Article 1 that includes electronic signatures, Article 3-604 is revised to prevent the destruction of an instrument, e.g., a truncated check, from being a discharge of an obligation represented by the instrument, and Article 9 is revised to work with all forms of digital assets, not just crypto currencies.

Article 12, the most significant of the Amendments, creates a new type of collateral, Controllable Electronic Records. CERs can take several forms, including cryptocurrencies, non-fungible tokens, and other types of personal property that exist only as electronic records. Bringing digital property within the scope of the UCC provides lenders with outcome certainty in commercial transactions involving digital assets; a requisite of facilitating commerce.

The Amendments are now getting ahead of the disinformation about what they do and are intended to do, and what caused the delayed takeoff. The flight has not been canceled. As of this writing, six states have enacted the Amendments. To achieve the full benefit of the Amendments, lenders need uniformity amongst the states. Let your state legislators know you want to remain on the Amendments flight for its new scheduled takeoff in the 2024 Kentucky legislative session.

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Morgan Pottinger McGarvey is a leading banking and finance law firm representing financial institutions, businesses and individual clients throughout Kentucky and Indiana.

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OF MR. CLAUDE E. BENTLEY

WITNESSETH, THAT WHEREAS, the Beach Family, the Board of Directors and management of Peoples Exchange Bank wish to express our appreciation and gratitude upon the retirement of our director and former President and CEO, Claude E. Bentley on May 23, 2023.

WHEREAS, Claude Bentley served as President and CEO for 22 years and as Director for 27 years, his many years of dedicated service, guidance and leadership earned him the respect and honor of his peers; and

WHEREAS, Through his years of devoted service, his sound business judgement and leadership Claude Bentley led the Bank from $70 million in total assets and two locations to $400 million in assets and ten locations. The benefit of his knowledge and leadership in the conduct of the affairs of the Bank will be missed;

NOW THEREFORE, Be it resolved that Peoples Exchange Bank does hereby extend its deepest appreciation and gratitude to Claude Bentley for the many years of faithful service and numerous contributions to Peoples Exchange Bank.

BE IT FURTHER RESOLVED, That as recognition of Claude Bentley and as a reminder of the high esteem in which we hold him, this resolution be entailed in the permanent records of the Bank, copies furnished to him and the Kentucky Bankers Association.

Adopted this 23rd Day of May 2023 at the monthly meeting of the Peoples Exchange Bank Board of Directors.

Charles Beach III

Charles Beach, III
Chairman

RESOLUTION IN MEMORY OF LARRY T. GRIFFIN

At the regular Board Meeting of the Board of Directors of THE CASEY COUNTY BANK, held on the 16th day of May 2023, the following Resolution was unanimously adopted:

WHEREAS, **LARRY T. GRIFFIN** was a stockholder, AND former officer, Director, President, and Chief Executive Officer of THE CASEY COUNTY BANK.

AND WHEREAS, he remained at loyal service to the Bank until his retirement and remained a faithful advocate of the bank until his death.

AND WHEREAS, his death has resulted in an immeasurable loss to his family, his friends, his Bank, and his community. His many years of service and leadership have won him the respect, honor, and esteem of all who were privileged to have known him.

AND WHEREAS, because of his integrity, strength of character, and kindness, his vision, wise counsel, and insight, THE CASEY COUNTY BANK has lost a most respected and honorable associate.

NOW THEREFORE, each member of the Board of Directors acknowledges with gratitude and deepest respect their admiration for his many contributions to the growth, development and success of THE CASEY COUNTY BANK.

BE IT RESOLVED, that as a just and lasting tribute to the memory of LARRY T. GRIFFIN and as a reminder of the high esteem in which he will be held by those associated with him, this Resolution shall be entered into the permanent records of THE CASEY COUNTY BANK and published in the Kentucky Banker Magazine as a lasting commemoration of the Board's admiration and respect.

R. Barry Rousey	J. Mark Wolford	Betty J. Bastin
David F. McAnelly	William Bradford Wesley	Johnnie Dando
Mary Lou Carman	L. Tom Griffin, II	D. Craig McAnelly
Sharon W. Johnson	R. Taylor Rousey	

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2023

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SEPTEMBER 23RD – 26TH, 2023 | THE BROADMOOR | COLORADO SPRINGS, CO | REGISTER AT KBACONVENTION.COM