MEETING OF THE BOARD OF BANK ADVISORS

May 18, 2015
11:00 am

Department of Financial Institutions
324 South State Street, Suite 201
Salt Lake City Utah

Minutes

BOARD MEMBERS PRESENT:

Roger Shumway, Craig White, Jason Price, Eric Schmutz, and Matt Packard.

DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:

Tom Bay, Paul Allred, Darryle Rude, Shaun Berrett, Andrea Staheli, Dan Gardiner, Commissioner Leary and Sonja Long.

OTHERS PRESENT:

Bruce Jensen, Town & Country Bank; John Sorensen, Home Savings Bank; Andrew Howard, American Bank of Commerce; Lew Goodwin, Green Dot Bank; Ray Dardano, Marlin Business Bank; Jon Allen, Bank of American Fork; Kevin Stocking, Heber Valley Bank.

1. Call Meeting to Order – Chairman Jason Price

2. Minutes –

Eric Schmutz made the motion to accept the minutes, Craig White seconded. It was unanimous.

3. Legislative Recap – Paul Allred

A lot of what happened during the session was discussed at the last meeting, so he will try not to repeat that. Just a few updates, SB24 was signed by the Governor and it became effective on May 12, 2015. The main part of that bill was that our Money Transmitter rule is now a law, it is now Chapter 25. We needed to repeal our Rule R331-14 and we set that in motion last week.

You may have also noticed in the news that Governor Herbert mentioned medical marijuana. During the session the department got involved in the conversation about Senator Madsen’s bill, SB259. He has had a couple of people ask him why our department was involved in that conversation. We were brought in because a few senators were concerned about banks not touching marijuana businesses. We were invited into a conversation with some of the Legislators to talk about what could be done to get banks involved. We pointed out that federal law is the major impediment; there is no safe harbor even though there is the Department of Justice memorandum and the FINCEN guidelines. We think that the bill will be back next year. So unless the federal law gets resolved, there will still be a problem with this issue.

The reverse mortgage bill passed. There was a question raised by someone in the news industry, the bill says that you have to have a face to face meeting with the potential borrower and a counseling service. There is a little bit more wiggle room in the federal law. We hope that there will not be a lot of questions about reverse mortgages because there aren't any being made in Utah right now.

We had another bill that we were watching, Representative Tanner's HB436, Continuous Care Facility Amendments. The legislature was considering the bill because a company wanted to come into Utah that provides continuous care facilities and they told some legislators that they felt that they needed to be regulated. So our department was identified as the agency that could regulate them. The notion is that you will have a facility that will actually take you from your golden years to I can't remember years. The bill didn't pass and there was a proposal that there would be a study during the interim session. We had a meeting a couple of weeks ago with the sponsor of the bill; we were still the agency identified to regulate the industry. By staying quiet during the meeting it was shifted to the Department of Commerce. Commissioner Leary explained the original discussion was that people would sell their homes and in essence become an investor in this new retirement community. It was during the escrowing of their funds from the sale of their homes that made people think that we were the ones that ought to be able to review, regulate, and supervise those escrow accounts. Ironically, once the people moved in then all of those funds would go into the community as a whole. We saw it as lots of opportunities to abuse people, lots of opportunities that would create risk for the people. We just didn't think that we were the best to review the medical and licensing side of it. Other agencies actually already regulate some pieces of that industry. There is always the possibility that we could be brought into it again.

4. Community Banking Discussion Questions – Tom Bay

An email was sent to everyone with the Community Banking questions from CSBS. Most of you should recall this is the third time we have gone through this. It is in association with the Third Annual Community Banking Research Conference that is hosted by CSBS and the Federal Reserve Bank of St Louis. We were asked to provide feedback from our bankers on these questions. We will provide the feedback in a general format and it will be combined with all of the other feedback. There was also a national survey that was sent out as well. Commissioner Leary said that they would encourage everyone to fill that out.

Jason Price asked each of the attendees to read the question and start the discussion, starting at the top of the table.

#1 – What are you seeing in the market around new business formation? Is activity increasing? Are new types of businesses or industries emerging? In Washington County they are seeing a little bit of tech formation. They see small businesses come and go. There seems to be a lot of residential construction that has a commercial component to it, i.e. apartment complexes in Utah County. One bank has seen a few groups approaching them wanting to get in the retirement home business.

#2 – What are you seeing with borrowing attitudes? Are borrowers willing to take more risk? How is this different than the recession?

They are seeing that sellers want to sell, but they don't know where to put their money to get a return. There is a lot of investor money starving for income producing properties. They are seeing borrowers demanding longer fixed interest rates, weaker structure, non-recourse. Are lenders willing to take on more risk?

Why shouldn't the borrowers take more risk, there is no recourse. There are a lot of non-bank competitors and they have a lot of sources to get funding.

#3 – How are local economic indicators better or worse than what is reported nationally? Locally our trends tend to better than nationally. Unemployment is really strong, housing is strong. Commissioner Leary asked if that is true across the state? Box Elder County isn't really strong. The middle is kind of behind. The Uintah Basin is really struggling, but they don't have any community banks there. Tom asked if the job growth is pretty broad based or just construction? There is a lot of growth overall. In Utah County it is hard to hire. College kids are selling alarm systems part time for a lot of money. Davis County you have to pay college kids 10 – 15% higher than a year ago, and they don't want to work regular hours. Land prices are too high because there aren't vacant lots anymore. There was a discussion on some of the local issues. Commissioner Leary said that reflective of the Governor's concerns is that the economic "good news" gets over into rural Utah. He is really focused on that.

#4 – What financial services needs exist at the local level and are not being met or could be better served? There are something like 51 institutions in Utah with only 12 in Idaho. They think that the needs are being met. There are a lot of other non-banks that are stepping into the marketplace as well as credit unions. Utah has not had the consolidations that other states have seen. What about the financial needs of the millennials, are they being met? Are you finding it difficult to meet their needs? Are they going other places because of technology? They are going to the institutions that have the technology because they don't want to have to go to a bank. They do a lot of things peer-to-peer. It has to be simple and fast. They look at that and wonder if they are going to be left out in 5 years or so if they don't re-brand the bank. The young kids want the technology and all of the new things, but they are giving anything back to institution. They think the demographics are going to change dramatically in the near future.

Tom asked if a 25 year old wanted to open a computer repair shop would he come to a community bank for a commercial loan? The general consensus was no, they usually go peer-to-peer for that. Once a product becomes a commodity, it becomes a threat to a community bank. There is also an expectation gap with the younger borrowers.

#5 – What have you done to attract and develop human capital? What have you done or can do as an industry in the state? The rural areas are facing the challenge of getting people to want to come to that area. It is very challenging, even in the succession plans of banks it is hard to find the people. Longevity is not something that matters to young people. There is a large employment pool here in Utah, but how good are we at tapping those who have moved here for some of the larger financial services companies. How can we access that talent with the needs of banks? One bank has asked their employees to recommend people who would fit the needs.

#6 – While the exam process is time consuming and disruptive, most banks find value from a safety and soundness examination. How do remake the compliance examination so that it is more valuable to bank management? It is very difficult to have an exam team come in when the interest is self-serving, when they are interested in promoting their careers, catching you, and passing their exams. That is less here at the Department of Financial Institutions and more at the FDIC in the compliance area. The banks look at the regulators as a help and a resource and if you can approach your exams in the spirit of trying to help. He doesn't know of a financial institution that is trying to get away with things in this state. The people are trying very hard to follow the rules and if you can go in and instead of playing the game of "I gotcha's". It is a very healthy environment because most banks will respond in a very helpful and encouraging way. He told of two recent instances, the first a safety and soundness exam an examiner came in and thought that because they were off 1/10 of 1% on cash flow the examiner said to the loan officer in front of the bank president, 'you have deceived the loan committee and you have misrepresented the customer.' The bank president thought have we come to that point, he was very frustrated with that, but he thinks that it portrays the image of "I gotcha's" and later that particular examiner went through the bank trying to find all of the "I gotcha's". It is very frustrating to deal with that, the lead examiner would not curtail his behavior. He thinks that is incumbent on the regulators as administration to curtail that type of environment. Later this same bank had a compliance exam team come in from Minnesota; it was such a good exam. They came in and said that they were there to help and advise us on how to understand the rules and best get the bank where you can perform and what needs to be done. They were very good and bright and didn't miss anything. The entire feeling was different than what they have had on other exams. Tom asked if that is an experience level thing, the more experienced examiners can see the bigger picture and aren't trying to make their career, so to speak? The bank president said that those examiners who have been around 20 years or so understand the spirit of the law rather than the letter of the law. He feels that there is a huge gap in experience and wisdom across the board, OCC, FDIC, compliance, etc. No, he doesn't feel that the federal regulators have a fair and healthy channel to express those concerns. A couple of other experiences were shared.

#7 – How has regulatory burden impacted product availability or risk tolerance? Everyone has noted the decrease in mortgage lending. We had heard that that there was a bill in front of congress that would amend Dodd-Frank to keep qualified mortgages in the portfolio. If that happens, it would help relieve a lot of concerns. Compliance costs have gone up and we are concerned about the litigation risks go up. A problem on the regulatory side is that small institutions have lost their competitive edge in regards to offering products that they used to be able to offer. Cash flow is an issue, higher operating costs, higher interest costs. Another problem is that we have regulators that think one size fits all.

#8 – What emerging local, regional, or national issues are of most concern to your bank and/or your community? What additional tools do you need, if any, to help you respond to these issues? If you want to get down to local issues in agriculture, something as simple as a prairie dog or a sage grouse. No one has mentioned the payment system today. That is a real concern, talk about emerging. The banks built the payment system that we have today and that is being taken away. That is a bigger threat. What tools do we need??? Community banks are going to have a hard time as time goes on.

Tom asked if we could postpone vendor management until August.

6. Commissioner's comments – Commissioner Leary

Commissioner Leary introduced Andrea Staheli as the new Holding Company Supervisor, he apologized for not doing that at the beginning of the meeting. He also introduced Emily Stanton as the Administrative Secretary.

Utah Banker's has asked him to speak at their convention this year. Is there anything particular that you would like him to address? Regulatory hot topics are good for the bankers to hear. Commissioner Leary said that he has historically given the analysis of the state; break down of the banks, industrial banks, credit unions. Is that still of interest? Yes.

7. Other business –

Roger Shumway asked is the department doing better? Commissioner Leary said yes. Across the board, yes, we are fully staffed.

Also, the Federal Home Loan Bank of Seattle's merger with Federal Home Loan Bank of Des Moines will be effective June 1, 2015.

Tom handed out the Performance Trends reports. He will discuss more during next meeting.

8. Date of next meeting – August 17, 2015 – 11:00 am