

OPERATING IN THE BANKING INDUSTRY

by [Steve Brown](#)

As we finish off this week's publications, we close our game focused theme as well with Operation. Back in 1965, Hasbro introduced us all to a patient known as "Cavity Sam" who came with a red rubber-coated light bulb for a nose. In addition to that problem, he also had 12 medical ailments, including: Ankle Bone Connected to the Knee Bone, a Wish Bone, a Wrenched Ankle, Adam's Apple and a Broken Heart to name a few. This poor guy was in terrible shape and if the player wasn't careful in operating on the patient, they would be zapped by an electrical charge running through the metal board of the game. We don't know about you, but operating on someone at the risk of getting zapped, just did not seem to go together, so the stress was very high every time it was our turn. Many community banks we talk to are operating in their own electrically-charged environment these days, so we provide some information highlighting regulatory focus items to assist you.

We bank with a quick analysis on new regulatory issues, guidance and rulings that have come out since the beginning of the year. Since community bankers will have to incorporate these into business practices, we thought you might like to know. We started at the FDIC website and reviewed all advisories to bankers regarding the latest changes in policies or procedures. Of the 53 released so far, we then eliminated any related to regulatory relief in regions impacted by severe weather or the Gulf oil spill. That reduced the list down to 33 new advisories, which we have placed into the following major categories:

Proposed Rules Coming Soon (4): Regulatory Capital Standard - defining standards of creditworthiness, other than credit ratings, to apply to risk-based capital rules. Large Bank Contingent Resolution Plan - banks above \$10B have to submit a plan that would show how the institution could be separated from its parent structure as needed to be wound down or resolved in an orderly fashion. Assessments - revises the risk-based assessment system for all large insured depository institutions; and alters the initial and total base assessment rates for all insured depository institutions. Compensation - modifies the deposit insurance assessment for institutions based on risks posed by certain employee compensation programs.

Seeking Comments (1): Overdraft Payment Programs - banks will have to tighten up oversight and management of overdraft programs, to include a broader focus on product over-use that could harm consumers. Increased disclosures, notices, opting in, honoring customer requests promptly to decline coverage, monitoring accounts, limiting customer use of high cost credit, daily limits on fees and processing priority all should be significantly strengthened.

Examination Manual Revisions (2): BSA/AML and the IT examination manuals have been updated. Bankers should look here to find out how the agencies are guiding examiners as to what they should be looking for when examining banks. Community banks should make sure policies, procedures and processes have been updated appropriately in advance. Remote deposit capture, ACH, merchant card, debit cards, stored value cards, account-to-account services, contactless payment devices and remotely created checks have all been updated.

We have run out of space, so we will cover the remaining categories of New Regulations/Guidance (10), Other (11) and Alerts/Warnings (5) next week. In the meantime, enjoy the banking game as you

try not to get zapped.

BANK NEWS

M&A

The holding company of First Niagara Bank (\$20B, NY) will buy New Alliance Bancshares (\$1.5B, CT) for an undisclosed sum. The combined bank will have \$14B in loans, \$18B in deposits and be a top 25 largest bank.

Capital Quality

A Basel proposal was issued yesterday that draws the line at defining what should be included in regulatory Tier 1 capital. To be included in Tier 1, capital must be capable of absorbing losses in a "gone concern," or emergency recapitalization scenario. In other words, should the proposal be approved, subordinated and preferred-type debt must be able to be converted into common equity if any government funds are injected to save a bank.

Cards

On Monday, the last of the Credit Card Accountability, Responsibility and Disclosure Act of 2009 rules take effect. While most of the rules became live last Feb., Monday brings the requirement of "penalty fees" that need to be reasonable and proportional, no inactivity fees, and the requirement that card issuers review accounts, every six months, that have had rate increases to see if the higher rate is still warranted.

Tapping Retirement

Fidelity released statistics that show a record 11% of 401(k) participants took out a loan against their retirement savings. This is up from 9% a year ago

Employee Impact

A new survey from the National Business Group on Health finds companies expect the cost of health care benefits to rise nearly 9% next year and 63% plan to make employees pay a higher percentage as a result.

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