262 PAGES OF READING

by Steve Brown

Yesterday, the House completed a loop started by the Senate and passed HR 5297, better known as the Small Business Jobs Act of 2010. The legislation now goes to President Obama, who has indicated he will sign it on Monday. Community bankers in particular care about this because the Act creates the Small Business Lending Fund, which tasks Treasury with investing $30B into community banks (less than $10B in assets) in an effort to increase small business lending. It also gives another $12B in tax breaks over 10Ys to small businesses. So, if all goes as planned, small businesses will get financially stronger, unemployment will decrease and an estimated $300B in new small business loans will be originated. Also of note, both the ABA and the ICBA supported passage.

At a high level, the Act pumps $30B into community banks with assets below $10B (based on 12/31/2009 Call Report). Banks with assets < $1B can receive up to 5% of risk weighted assets, while those with assets of $1B to $10B can receive up to 3%. The base dividend rate will be 5%, but banks that increase their small business lending can push that rate down to 1% during the first 2Y period. The rate after the first 2Y period will then lock in through the next 2.5Ys (4.5Ys from the original investment date) unless the bankÃ¢Â€Â™s small business lending remained the same or decreased, in which case it will step up to 7%. The rate following the first 4.5Y period will then step up for all banks to 9% and will remain in place until full repayment is made at the end of 10Ys from original investment date. During the first 2Y period, the rate will fluctuate quarterly and be measured against the average amount of small business lending reported in the 4 full quarters preceding enactment of the law.

The Act also increases to 90% the share of loans the SBA will guarantee (through 12/31/2010), reduces fees and increases loan size to $5mm.

Outside of the banks, the Act provides $12B in targeted tax cuts for small businesses, so make your customers aware of this (only helps loan performance). Small businesses can deduct 100% of capital gains, write off up to $10k in start up expenditures; expense up to 50% of new equipment purchases in 2010; doubles to $500k the amount of new investment that can be expensed over the next 2Ys; breaks for restaurants/retailers that remodel stores or build new ones; write off facilities and equipment, such as trucks, machinery and computers; deduct health insurance costs for business owners and their families from self employment taxes; removes employer provided cell phones from taxation as a fringe benefit; extends the carry-back period for general business tax credits from 1Y to 5Ys and claim research and development tax credits (even if under AMT).

All banks are eligible and those that took TARP can refinance into this option, assuming however, that the bank has not missed more than one dividend payment and is not a composite CAMELS 4 or 5 (however, the Treasury can deny any bank for any reason as well). Participants are also not subject to TARP like restrictions on compensation, dividends or use of tax provisions. Funds can be returned without penalty or impediment for any change in law deemed materially adverse or with approval of regulatory agencies. A small business lending plan (describing how the bankÃ¢Â€Â™s strategy and operating goals will allow it to address the needs of small businesses in the areas it serves) must be submitted to receive the funds at time of application.

Finally, small business lending is defined (using Call Report categories) as commercial and industrial; owner-occupied nonfarm, nonresidential real estate; loans to finance agricultural production and other loans to farmers; and loans secured by farmland. Loans > $10mm in size or for businesses with > $50mm in revenues are excluded.

Enjoy the weekend and anyone interested in reading the Act in its entirety can access it here http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h5297eas.txt.pdf

BANK NEWS

M&A

Trustmark Bank ($9.2B, MS) will acquire Cadence Bank ($1.9B, MS) for $23.8mm in stock. Cadence ended 2Q with 5% in nonperforming assets. Trustmark will get 38 branches, $1.5B in deposits, $1.0B in loans and $44mm in TARP funds.

Tax Dollars at Work

FNMA will introduce a new program where foreclosed home buyers (with a deadline of 12/31/10) will receive up to 3.5% of the sales price to help with warranty and closing cost. In addition, the buyers qualifying realtor will receive $1,500.

HMDA Data

The FFIEC released 2009 mortgage data to banks. The aggregate information showed that because of higher underwriting standards by private insurers and the other GSEs, FHA mortgages accounted for 37% of bank originations, up from 26% in 2008.

Overdraft

Moebs Services estimates US banks will take in 4.6% less overdraft fee revenue ($35.4B) this year compared to 2009. However, growth is expected in 2011 of over 7% to $38B. Revenue dropped in the 1Q of this year, picked up in the 2nd and is projected to fall in the 3Q and rise in the 4th.

On the Hook

A group of investors in some 2,300 mortgage securities are looking for banks to repurchase about $133B alleged to have been originated under false pretenses.