INK BLOTS, REGULATION AND DIRECTORS

by Steve Brown

We have all had it happen. Thinking we might need to eventually write something down, we make the mistake of putting a faulty pen in the top pocket. That move only leads to being ridiculed by peers, as we rush to deal with a huge ink blot at the bottom of the shirt pocket. If you know anyone that has had this happen to them, you know it can be traumatizing, so one way to help them is to be better prepared. The next time you see the dreaded ink blot in the pocket, grab a clean towel, put it under the shirt pocket on the inside and blot rubbing alcohol onto the stain. Shift the towel underneath to a clean dry section each time it becomes wet and discolored from the ink. Keep going until no more ink can be removed and then rinse the stained area completely free of alcohol with water. Then, shift to the 2nd level of attack and break out the fingernail polish remover. Blot in the same way as you did with the rubbing alcohol, moving the stained area to a clean dry section of a towel as the ink stain is removed. Rinse thoroughly. The stain should now be gone, but if not, your 3rd option is to simply throw the shirt away. As you ponder whether or not the 3rd option is your best choice, we shift a moment to talk about the board of directors.

There is no doubt in anyone's mind that the Dodd-Frank Act will result in thousands of pages of new regulation that will need to be absorbed by management and the board alike in the coming months. In preparation, we suggest a few things management teams may want to consider for the New Year to assist in this endeavor, as you begin the process of transforming the bank to deal with this new era of regulation.

To start, consider appointing one person to be the guru of this legislative onslaught. They should stay on top of all things regulatory and highlight for different departments issues or rules that might impact each one. Their job should not be to fully understand all of the nuances of each new rule, but rather to alert any and all group managers of the deadlines to implement and/or comment. It is then up to each group manager to read the rule and determine appropriate action for its specific area.

Another area bankers can improve to help free up time to enable the board to discuss key strategic items is to alter or streamline the agenda. Many bankers these days find themselves putting every single loan, deposit and securities investment into the board package to ensure full disclosure. Certainly, disclosure is important, but the board is there to guide management and assist, so bogging it down with too much detail can also work against the goals of the organization. Find the right balance, focus continually on streamlining one or two things within the package and before long the board will be moving from tactical discussion to a more strategic focus.

The next thing we suggest is to ramp up training and enhance reporting. Both of these items are important in this day and age, if for no other reason to handle the increased regulatory information flow. Reports that are more intuitive, spell things out in plain English and focus on areas of the bank that generate risk are good places to begin. As for the training, there are plenty of options, but one easy one is to simply review your outgoing email for the month, hit a few regulatory web sites and incorporate information from major banking periodicals into the package. This will expand the knowledge base, ensure key topics are covered and help focus discussion on key issues.

No matter what your approach to streamlining your board relationship, remember one thing - always check for ink blots before walking into the board meeting and keep a fresh shirt handy in a drawer somewhere, just in case of emergency.

BANK NEWS

Black Friday

Traffic was reported up 8% to 10% over last year & sales are estimated to be up 3%. We will get final same store sales numbers from many major retailers on Thur.

Euro Update

With Ireland completing its bailout over the weekend (and Greece restructured to match terms), the Continent continues to face its Black Swan moment as speculation is rampant over if Germany and others can hold together the Euro. Look for a Spanish bailout next.

IPO

Merrill Lynch/BofA will water down its stake in First Republic Bank ($22B, CA), as the bank files for a $280mm public offering.

Overdraft

The FDIC issued final guidance on overdraft payment programs that will go into effect July 1, 2011. The new guidance is the very close to what has already been proposed and has banks increasing monitoring, consumer education and management. For more information go: http://www.fdic.gov/news/news/press/2010/pr10257.html. In related news, banks are reporting that about 20% of all customers have opted in for debit card overdraft protection, or about 72% of customers that had previous had the service.

Dodd-Frank Act

A survey by the ABA finds bankers expect the impact of the DFA to increase regulation (98%), increase compliance costs (97%), reduce bank revenue (90%) and require the bank to increase capital (54%).

Foreclosures

On average it is now taking 492 days from the time someone defaults on a mortgage until when they are foreclosed out of their home; in some states, like NY and FL, the time can be as long as 20 months