Navigating COVID-19 for Community Banks

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April 3, 2020

Panelists

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Business Continuity Planning and Execution

- Past Emergencies:
  September 11th – Hurricane Katrina – Superstorm Sandy
- Link: Updated *Interagency Statement on Pandemic Planning*
- Differences between pandemic planning and traditional business continuity planning

Business Continuity Planning and Execution

Pandemic Planning Components of Business Continuity Plan:

1. A preventive program
2. A documented strategy with scaling for stages of a pandemic outbreak
3. A comprehensive framework of facilities, systems, or procedures for critical operations
4. A testing program for effectiveness of planning practices and capabilities
5. An oversight program with ongoing review and updates to the pandemic plan to keep it up-to-date, relevant

North Brookfield Savings Bank's Business Resumption Experience

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What Worked

- Prepared, planned and tested for Business Continuity events prior to this event.
- A pandemic team was quickly assembled, critical departments analyzed, remote access tested with additional employees added within 1 week. Staff was divided into two teams that rotate every two weeks working on-site or at home.
- Necessary health protection and cleaning supplies were ordered.
- Many communication pieces were developed for staff. Allowed for clear communication of expectations and support for the staff.
- Management level conference call daily at 8:30 A.M.

North Brookfield Savings Bank's Business Resumption Experience

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What Didn't Work

- Although we responded quickly, still lost time due to the lack of clear communication from government agencies. This stressed the Information Technology Group for the addition of more remote access users.
- Knowing if the employee has the ability to work from home. Do they have an adequate internet connection, desktop, laptop, monitor? North Brookfield is located in Central Massachusetts and several employees did not have broadband at their homes. Alternate work sites had to be utilized.

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

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Regulatory Pronouncements

- Link: *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus*
  - Encourages financial institutions to work constructively with borrowers affected by COVID-19;Will not criticize institutions for prudent loan modifications and will not direct supervised institutions to automatically categorize COVID-19-related loan modifications as troubled debt restructurings (TDRs);
  - Confirmed with staff of the Financial Accounting Standards Board (FASB) that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs;

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

Regulatory Pronouncements

- *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus* (continued)
  - Views that modification efforts described in the interagency statement for borrowers of one-to-four family residential mortgages where loans are prudently underwritten and not past due or carried in nonaccrual status do not result in loans being considered restructured or modified for the purpose of respective risk-based capital rules; and
  - Views prudent loan modification programs to financial institution customers affected by COVID-19 as positive actions that can effectively manage or mitigate adverse impacts on borrowers due to COVID-19, and lead to improved loan performance and reduced credit risk.

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

Regulatory Pronouncements

- Link: *Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19*
- Link: Reduced Supervisory Interactions - *Federal Reserve Changes in Supervision Policy*
- Link: Joint Statement on CRA Consideration for Activities in Response to COVID-19

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

Massachusetts Regulatory Pronouncements

- Link: Division of Banks *Statement on Financial Institutions Working with Customers Affected by the Coronavirus and Regulatory Assistance***:**
- Consider waiving:
  - Automated teller machine (ATM) fees for customers and non-customers,
  - Overdraft fees,
  - Late payment fees on credit cards and other loans, and
  - Early withdrawal penalties on time deposits

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

Massachusetts Regulatory Pronouncements (continued)

- Increasing ATM daily cash withdrawal limits;
- Easing restrictions on cashing out-of-state and non-customer checks;
- Increasing credit card limits for creditworthy borrowers; and
- Offering payment accommodations, such as allowing borrowers to defer or skip some payments or extending the payment due date, which would avoid delinquencies and negative credit bureau reporting caused by COVID-19-related disruptions.

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

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Statutory Changes – CARES Act

- Section 4008: FDIC Debt Guarantee Reauthorization Authority
  Permits a temporary increase in FDIC Insurance for Non-interest bearing transaction deposit insurance (until December 31, 2020).
- Section 4011: Temporary Lending Limit Waiver to the OCC's lending limits (until earlier of December 31, 2020, or the national emergency is terminated). Discretionary for authority to Comptroller to increase limit.
- Section 4012: Temporary Capital Reduction of Community Banks Leverage Ratio (CBLR) . Lowers the CBLR for qualifying community banks from 9 percent to 8 percent (until earlier of December 31, 2020, or the national emergency is terminated).

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Statutory Changes – CARES Act (continued)

- Section 4013: Permits banks to elect to temporarily suspend the Troubled Debt Restructuring (TDR) requirements under U.S. GAAP for loan modifications related to the COVID-19 pandemic for any loan that was not more than 30 days past due as of December 31, 2019 (effective from March 1, 2020 until the earlier of December 31, 2020 or 60 days after the national emergency is terminated).
- Section 4014: Banks and bank holding companies are temporarily exempt from compliance with the Current Expected Credit Losses (CECL) accounting standard (until the earlier of December 31, 2020, or the date or the national emergency is terminated).

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

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Loan Payment Deferral Programs and Other Customer Accommodations

- Regulatory expectations:
  - In a March 25, 2020 statement, the Massachusetts Division of Banks said that it "fully expects" banks "to alleviate the adverse impact of COVID-19 on those mortgage borrowers who demonstrate that they are not able to make timely payments due to financial hardship resulting from the effects of COVID-19."
  - Federal and state banking regulators have issued various statements encouraging banks to work constructively with borrowers affected by COVID-19. Prudent measures that are consistent with safe and sound lending practices should not be subject to examiner criticism.
  - Customer accommodations may also include waiving fees (overdraft, ATM, early withdrawal on CDs, late payment fees on credit cards), increasing ATM daily cash withdrawal limits, easing restrictions on cashing out-of-state and non-customer checks, and increasing credit card limits for creditworthy borrowers, among other things.

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

Establishing a Consumer Loan Payment Deferral Program

- Regulatory Compliance Considerations
  - Truth in Lending: Is redisclosure required?
  - Fair Lending: Is the program structured to avoid even inadvertent disparate treatment or disparate impact on a protected class?
  - Loan modification terms that may implicate additional consumer protection issues: balloon payments or other negative amortization, increased payments, increased finance charge/APR, or capitalization of unpaid interest.

Meeting Customer Needs in a Pandemic – Regulatory and Legal Considerations

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Establishing a Consumer Loan Payment Deferral Program

- Documentation
  - Board approved policy
  - Written loan modification agreement
  - Accurate disclosures of changes in terms
  - Borrower impacted by COVID-19—attestation of financial hardship
  - Consider whether the loan should be reported as TDR or nonaccrual asset (short-term arrangements with borrowers not more than 30 days past due generally should not be)

Paycheck Protection Program

Program Overview

- The Paycheck Protection Program (PPP) is an expanded Small Business Administration (SBA) loan program established by the CARES Act.
- All existing SBA-certified lenders will be given delegated authority to process PPP loans. The loans will be fully guaranteed by the SBA.
- Banks not already certified to process SBA loans may apply to the SBA for approval to be enrolled as a PPP lender.

Paycheck Protection Program

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Program Overview

- Eligible borrowers include any business concern, nonprofit organization, veterans organization, or Tribal business that was operating on February 15, 2020 and that employs not more than the *greater* of:
  - o 500 employees; or
  - o if applicable, the size standard in number of employees established by the SBA for the industry in which the entity operates.
- Eligible borrowers also include sole proprietors, independent contractors, and self-employed individuals, such as “gig economy” workers.

Paycheck Protection Program

Program Overview

- The CARES Act requires eligible borrowers to make a good faith certification:
    - that the loan is necessary due to the uncertainty of current economic conditions caused by the global COVID-19 pandemic to support the borrower's ongoing operations;
    - acknowledging that the funds will be used to retain workers and maintain payroll or make mortgage, lease and utility payments; and
    - that the borrower does not have an application pending for a loan under another SBA program for the same use and has not received such a loan.

Paycheck Protection Program

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Program Overview

- The maximum PPP loan is equivalent to 250% of the employer's average monthly payroll costs during the one-year period before the loan is made or $10 million, whichever is less.
- The typical SBA borrower and lender fees will be waived.
- No collateral or personal guarantees are required.
- The CARES Act sets the maximum interest rate for PPP loans at 4%, though the SBA has initially set the interest rate at 1.0%.
- Borrowers may defer payments (including principal, interest and fees) for at least 6 months (and possibly up to 1 year, depending on SBA regulations to be adopted).

Paycheck Protection Program

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Program Overview

- The CARES Act provides for loan forgiveness for businesses that retain employees or rehire laid-off employees. Subject to certain conditions, businesses will be eligible for forgiveness up to the amount of payroll costs and certain mortgage, rent, and utilities payments that are incurred during an eight-week period starting on the loan origination date.
- Forgiveness will be reduced proportionately by any reduction in employees or by any reduction in pay of any employee beyond 25% of their compensation for the prior year. The amount forgiven may not exceed the loan’s principal.
- The amount of debt forgiven will not be considered gross income for federal tax purposes.

Paycheck Protection Program

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Special Considerations for SBA-certified Lenders

- The CARES Act provides that PPP loans receive a risk weighting of 0% for purposes of the federal banking agencies' regulatory capital rules.
- If a bank modifies a PPP loan due to COVID–19-related difficulties on or after March 13, 2020, and the modified loan would otherwise be classified as a TDR under FASB Accounting Standards Codification Subtopic 310-40, the CARES Act provides that the bank is not required to treat the modified PPP loan as a TDR until the bank's primary federal regulator determines appropriate.

A Community Bankers Perspective

- What actions is North Brookfield Savings Bank taking to address borrowers adversely impacted by COVID-19?
- What has been helpful and what does not work with the banking agencies’ guidance and the CARES Act’s PPP program?

Link: For more information and resources, visit Nutter's COVID-19 Task Force and Resources web page

QUESTIONS?

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