

The Meeting of the Advisory Committee of State Regulators
of the
Federal Deposit Insurance Corporation
Federal Deposit Insurance Corporation Building
Washington, D.C.

Open to Public Observation via Webcast

October 24, 2022 - 2:00 P.M.

The meeting of the Federal Deposit Insurance Corporation (FDIC) Advisory Committee of State Regulators (Committee) was called to order by Martin J. Gruenberg, Acting Chairman, FDIC Board of Directors.

Committee members in attendance: Bret Afdahl, Director, Division of Banking, State of South Dakota; Kevin R. Allard, Superintendent, Division of Financial Institutions, State of Ohio; Charles G. Cooper, Commissioner, Department of Banking, State of Texas; James M. Cooper, President, Conference of State Bank Supervisors; Thomas C. Fite, Director, Department of Financial Institutions, State of Indiana; Kevin B. Hagler, Commissioner, Department of Banking and Finance, State of Georgia; Melanie G. Hall, Commissioner, Division of Banking and Financial Institutions, State of Montana; Dawn E. Holstein, Commissioner of Banking, Division of Financial Institutions, State of West Virginia; I. Lise Kruse, Commissioner, Department of Financial Institutions, State of North Dakota; and Antonio P. Salazar, Commissioner, Office of the Commissioner of Financial Regulation, State of Maryland.

Mary Gallagher, Commissioner of Banks, Commonwealth of Massachusetts; Greg Gonzales, Commissioner, Department of Financial Institutions, State of Tennessee; and Mick Thompson, Commissioner, Banking Department, State of Oklahoma, were absent from the meeting.

Rohit Chopra, FDIC Director (Director, Consumer Financial Protection Bureau), also attended the meeting.

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FDIC and FDIC contractor staff in attendance: James L. Anderson, Lisa D. Arquette, Daniel H. Bendler, Mary Calkins, Timothy J. Davin, Angela Dean, Debra A. Decker, Doreen R. Eberley, Michael P. Farrel, Gregory Gelzinis, Shannon N. Greco, Patricia S. Gurneau, Martin D. Henning, Rosilyn L. King, Ashley M. Mihalik, Jonathan N. Miller, Shayna Olesiuk, Tara Oxley, Mark E. Pearce, Nikita Pearson, Harrel M. Pettway, Ariana L. Rambuyan, Lisa K. Roy, Betty J. Rudolph, Camille C. Schmidt, Michael Shaheen, James P. Sheesley, Michael E. Spencer, Mona L. Thomas, and Katrice L. Yokley.

Acting Chairman Martin J. Gruenberg opened and presided at the meeting. Doreen R. Eberley, Director, Risk Management Supervision (RMS) and the Committee's Designated Federal Officer, moderated the proceedings.

Introductory Remarks

Acting Chairman Gruenberg welcomed members to the first in-person meeting of the FDIC's Advisory Committee of State Regulators. He acknowledged the passing of Committee member and colleague John Ryan, the former President and Chief Executive Officer of the Conference of State Bank Supervisors (CSBS), whose memorial service was scheduled for later that day.

Acting Chairman Gruenberg then welcomed new Committee Member James Cooper, the new President and Chief Executive Officer of the CSBS.

Director Chopra made welcoming remarks of his own.

Acting Chairman Gruenberg then turned the meeting over to Ms. Eberley to moderate the meeting.

Discussion of State Banking Conditions

Ms. Eberley introduced the first panel, which provided an overview of state banking conditions. Shayna Olesiuk, Deputy Director, Division of Insurance and Research (DIR) and Camille Schmidt, Section Chief, RMS, highlighted various aspects from three sections of the FDIC's 2022 Risk Review: economic conditions, market and liquidity risk, and credit risk.

Following their presentation, they invited members to comment on the information that was shared and discuss any additional risks that they have observed in their states.

Commissioner Hagler raised concerns about liquidity in light of higher rates being offered by other entities, as well as declining market values of securities holdings. He also stated that the FDIC has done a good job conveying concerns about banks' exposures to commercial real estate (CRE). Commissioner Hall expressed concerns about draws on home equity lines enabled by increased home prices. She also asked about CRE levels relative to the previous crisis. CSBS President Cooper commented that many central business districts are transitioning away from office space, which could create risk depending on how the use of office space evolves. Director Afdahl commented on the possible impact of inflation on low- to moderate-income individuals and families. Commissioner Salazar observed increasing foreclosure levels.

Director Chopra then offered the Consumer Financial Protection Bureau's view of these risks, particularly as to non-banks.

State-Federal Coordination

Next, Ms. Eberley initiated a discussion of state-federal coordination. She started by sharing the efforts undertaken by RMS in relation to the FDIC's return to banks plan. Then, Tara Oxley, Associate Director, Division of Depositor and Consumer Protection (DCP), discussed DCP's implementation of the plan.

Ms. Eberley then welcomed members to share their observations or suggestions as to what the FDIC should consider in its approach to examinations.

Director Fite emphasized the importance of FDIC and state examiners working together in the hybrid environment. Commissioner Hall discussed returning to banks for examinations; she emphasized that Montana is committed to using a hybrid approach for examinations. She suggested training newer examiners on communicating difficult news to bank management in person. Director Afdahl commented on the importance of loan reviews in light of a potential increase in credit risk.

Next, Ms. Oxley described the supervisory guidance that the FDIC issued last August concerning the practice of charging multiple non-sufficient funds fees for the re-presentation of the same unpaid transaction. She then discussed fees associated with authorize positive/settle negative transactions.

Commissioner Hagler recalled that, years ago, MICR numbers on returned checks were altered with a hole punch so the check could not be re-presented. He then asked if systems are able to identify re-presented items and replicate that type of process. Director Fite asked about how repeat submissions are identified. Commissioner Holstein inquired about examiner training on re-presentation issues. Commissioner Hall stated that banks in her state are aware of the re-presentation issue, and they are evaluating their policies; however, they are uncertain of the expected analysis related to the lookback period.

Michael Farrell, Counsel, Legal Division, then discussed the FDIC's final rule issued in May relating to misrepresentations of insured status and the FDIC portal for submitting complaints about suspected misrepresentations regarding deposit insurance.

Next, Jonathan Miller, Deputy Director, DCP, described the FDIC's request for information relating to advertising and the use of FDIC logos.

Following the presentations, discussion ensued regarding the FDIC's official sign and advertising rules related to FDIC insurance in light of the growing role of digital and mobile banking, third-party involvement, and resulting customer confusion. Members also discussed the final rule regarding misrepresentations of insured status.

Director Afdahl asked if there was a breakdown by type, such as how many complaints for crypto-related products the FDIC received. Commissioner Cooper shared that the State of Texas has had a lot of experience with non-bank entities claiming to be banks. Commissioner Hagler indicated that the State of Georgia has also pursued many fake banks and that it would be helpful if a federal agency focused on this issue. Commissioner Holstein shared concerns relating to third parties partnering with banks to offer crypto products. Commissioner Cooper commented that sometimes banks do not understand who their

partners are and what their partners are doing. Acting Chairman Gruenberg stated that banks have an obligation to conduct due diligence to understand their relationship with third parties and the representations and misrepresentations they might make.

Amended Restoration Plan and Deposit Insurance Assessments

Ms. Eberley then introduced Michael Spencer, Associate Director, DIR. Mr. Spencer described the FDIC's Amended Restoration Plan and the related deposit insurance assessment rate increase recently approved by the FDIC's Board of Directors. He was joined by Ashley Mihalik, Section Chief, DIR.

Following their presentation, members were welcomed to ask questions. Commissioner Hagler asked whether certain deposit insurance fund reserve ratios are based on past economic events and if a lower reserve ratio is now warranted because of regulatory changes, stronger capital positions, or better management of concentration risks. Acting Chairman Gruenberg commented on the rapid depletion of the deposit insurance fund during the financial crisis in 2008, which resulted in a five basis point assessment during the crisis. He indicated that the current assessment is intended to prevent this from happening again.

Minority and Community Development Banking Update

For the final agenda item, Ms. Eberley introduced Betty Rudolph, Director, Office of Minority and Community Development Banking, to provide an update on the Mission-Driven Bank Fund and the minority depository institution listening sessions in which she has been participating.

Following her presentation, Ms. Rudolph welcomed members' questions.

Commissioner Hagler asked whether there is a list of minority depository institutions. Ms. Rudolph noted that there is a list published on the FDIC's website.

Closing Remarks

Ms. Eberley thanked the members and presenters for the conversation. She then turned the meeting over to Acting Chairman Gruenberg for closing remarks.

Acting Chairman Gruenberg acknowledged two former members who had recently stepped down from the Committee: G. Edward Leary, who retired as Commissioner of Utah's Department of Financial Institutions, and Charles Vice, Commissioner, Kentucky Department of Financial Institutions. Acting Chairman Gruenberg also recognized their contributions to the Committee.

Acting Chairman Gruenberg emphasized the value of all members' engagement and partnership, especially in person.

With no further business to discuss, the meeting adjourned at 3:54 p.m.

Debra A. Decker
Federal Deposit Insurance Corporation
Executive Secretary
and Committee Management Officer
FDIC Advisory Committee of State Regulators