

Banks Gird For Regulator Switch Over OCC's Reputation, Lack Of Mutual Experience Spark Concern

By Laura Schreier

Banker & Tradesman Staff Writer

Nineteen Massachusetts banks are bracing for a big change in 2011, when the Dodd-Frank Act will put them in the hands of a new master.

Nationwide, thrift banks will come under the control of the Office of the Comptroller of the Currency (OCC) - an office with a far meaner reputation than their current regulator, the Office of Thrift Supervision (OTS).

"I think there's going to be a culture shock," said Don Musso, president of New Jersey-based consultancy FinPro, which has an office in Newton. "I fully expect that we're going to have a wholesale charter conversion [away from the OCC] to state-chartered savings banks."

The upheaval - if it happens - will come after the planned death of the OTS in July. The OTS, which traditionally regulates savings and loan banks, oversaw some of the biggest bank failures of the crisis, including Washington Mutual Savings Bank (WaMu) and California's IndyMac.

The OTS had been widely panned as too soft by its critics, and so Dodd-Frank mandated savings and loan bank supervision be transferred to the OCC, which traditionally oversees nationally chartered banks.

Now, with the switch looming, some local OTS banks are considering potentially tough questions regarding the charter under which they operate.

All Pain, No Gain

Despite Musso's experiences, some bankers say they have heard good things about the OCC and intend to stick with it. But some mutual banks wonder if the OCC - which has never regulated mutuals - will prove a good fit.

Beyond the OCC itself, Dodd-Frank offers a host of new challenges for banks currently operating under a thrift charter - which may end with those banks changing charters regardless of the OCC's behavior.

But that behavior is a big factor, Musso noted, adding that in his experience, OCC methods are frustratingly draconian and bureaucratic compared to other regulators.

Of FinPro's 400 bank clients, the OCC-regulated ones consistently get the toughest treatment. Often, the OCC is more worried about "covering their backsides" than fixing the institutions' trouble spots, Musso said. That attitude could be a rude awakening for new banks under its charge.

Also, much depends on how the OCC handles the OTS absorption. The OCC doesn't understand mutual banks' structure and needs to respect OTS experience in the matter, Musso insisted. If it doesn't, "they're going to have no idea what to do."

Other banks currently operating under the thrift charter might have still more reasons for eyeing the exits.

Most thrifts are federal savings banks, explained Kenneth Ehrlich, partner at Boston law firm Nutter McClennen & Fish. Those banks have certain restrictions, but also get certain benefits under the charter.

For example, OTS banks are currently restricted as to how many commercial loans they can make, and are subject to a thrift-lender test. But they can also freely build branches across state lines; they can have a "consolidated regulator," where their holding companies fall efficiently under the same regulator as the bank itself; and holding companies don't have specific capital requirements.

But all of those perks are being eliminated under Dodd-Frank, Ehrlich said, while the restrictions aren't going anywhere.

'Just Too Soon'

That isn't currently a problem for United Bank in West Springfield, according to United President and CEO Richard Collins, although he added it may become one in the future. United Bank has increased its commercial lending lately, and in a few years might find itself bumping up against the loan limits imposed under its thrift charter.

That may ultimately cause the bank to shift charters, but Collins said he'd heard nothing untoward regarding the OCC's behavior. In fact, he added, Commonwealth National Bank in Worcester - an OCC bank recently acquired by United - had only positive words about the regulator.

"Our perspective is, [the OCC is] lucky to have us," Collins said.

Boston-based Peoples Federal Savings Bank is also confident about its prospects under the OCC, said President and CEO Thomas Leetch. The bank had a good experience with the OTS, and Leetch thinks it bodes well that OTS personnel will be folded into the OCC. Leetch said Peoples Federal, a \$574.9 million stock bank, doesn't anticipate problems from either the new regulations or their new regulatory overlord.

But Leetch noted that mutual banks were more uneasy about the prospect, a notion confirmed by Sandra McGoldrick, CEO of Somerville-based Winter Hill Bank.

It's unclear at this point whether Winter Hill, a \$264.1 million mutual bank, will stick with the OCC or not. Once again, the OCC's lack of experience with mutual banks is a cause for concern.

"It will be important for us to make sure we go with the regulatory power that understands what mutuality is all about," McGoldrick said. "It may well be that once the OTS is absorbed [into the OCC], it may be best to stay with them. But we don't know yet - it's just too soon."

McGoldrick added that Dodd-Frank's many other regulatory changes will also influence the bank's decision, and that the bank is in the midst of investigating what those changes will mean for Winter Hill. After that picture clears up, the bank will be able to make its choice.

"We have to make sure we don't make this decision in a vacuum," she said.