FDIC New York Region Regulatory Teleconference:

"Risk Management & Compliance Hot Topics"

Thursday, February 9, 2012; 2:00 p.m. (EST)

Introduction

Thank you, Dan. Good afternoon, everyone, and welcome to the call. My name is John Conneely, and I am an Assistant Regional Director in the FDIC's New York Region, with responsibility for the FDIC's supervision of insured banks located in New York State.

As Dan noted, we would like to have this discussion be as interactive as possible, so I'll try and keep my remarks brief so that we can get to your questions and hear what's on your mind.

In line with the theme for today's call, I'd like to discuss some risk management "hot topics" that seem to be at the forefront of the minds of community bankers, such as yourselves. These are in no particular order, and derive mainly from comments that we have received during banker outreach events, examinations, and other supervisory activities, as well as the questions submitted by some of you in anticipation of this call.

I hope that this call will help to further the dialogue with you all, provide some clarification on issues of interest, and, hopefully, engage in some "myth-busting."

Risk Management

Enterprise Risk Management

The first risk management issue – or myth, depending upon your perspective – that I would like to address concerns *Enterprise Risk Management* ("ERM"). Increasingly, we hear from community bankers concerned about the extent to which regulators will require an "ERM" program at their institution. Apparently, they have been told that the regulators are now requiring every institution, regardless of size and complexity, to have a formalized ERM program with a Chief Risk Officer, sophisticated modeling techniques, etc. Many times, these assertions are followed by a pitch for a new software package or consulting service.

Let me address this concern in a way that I hope will clarify some of the misconception in this area: To the extent that ERM is being characterized as a highly-formalized, "cutting edge," expensive new requirement that is being imposed by the regulators upon all banks regardless of size or complexity, it is false.

However, the management of risk across an enterprise ("erm") has been reviewed by examiners and, more importantly, practiced by effective boards and managers of most community banks for many years. Indeed, many of the risk management techniques involved in "erm" have been developed by banks in an effort to better identify risks, operate efficiently, compete effectively, and inform strategic and capital planning.

The extent to which these techniques are used, however, depends upon the needs and risks of the institution. In small community banks, for example, active board committees, formal and informal meetings with and among management, sound employee training, appropriate management information systems, and a reasonable and well-executed strategic plan that is understood and supported at every level of the organization all form the basis of an effective erm program.

That said, there may be times when examiners and bankers differ in their assessment of the "effectiveness" of an institution's risk management environment. And there is always room for improvement: in some cases, banks have been good at managing risk in silos, but have not been effective in managing risks in the aggregate. Also, growth can strain resources and make it difficult to maintain risk management and control systems and processes needed to successfully execute business strategies. It is these deficiencies that have been the underlying factor in many of the financial crises – and bank failures – that we have seen in recent years, and have driven regulatory guidance in managing concentrations and stress testing portfolios.

Really, it all comes down to the effective identification, measurement, monitoring, and control of risks. To implement those basic principles across all areas of an institution, there is much regulatory and other guidance to which one can refer, including the enterprise risk management framework published several years ago by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO, which can be easily located on the Internet. The one common theme among them all is that,

while the principles are applicable to every entity regardless of size and complexity, the components (and formality) of an effective enterprise risk management program will necessarily vary according to a bank's needs.

As a corollary to the topic of enterprise risk management, I'd like to discuss the issue of *risk assessments.* We have received questions from bankers regarding the type and extent of risk assessments required and their relation to enterprise risk management.

Individual risk assessments provide valuable information that can be used to ensure effective enterprise risk management. They serve as a basis for the development of risk-based policies, procedures, and controls, and are integral in the decision-making processes for engaging in new products and services, investing in new technologies, and allocating resources. Risk assessments should be prepared as needed commensurate with an institution's size and complexity.

Some examples of common areas where individual risk assessments are performed include BSA/AML; OFAC; IT; Audit; new products; Internet banking; information security; fair lending; business continuity planning and disaster recovery; and compliance risk management. However, it would not be practical here to offer a definitive list of all risk assessments to be performed, as the products, services, and risks of institutions vary and the types and scope of risk assessments needed would necessarily differ.

More importantly, examiners will seek to understand an organization's risk-assessment process: i.e., to what degree are business lines are involved; how frequently are assessments updated; how well new products, services, and business are incorporated; and how effective it is in identifying and communicating material risks to the Board.

Concentrations of Credit

I'd like to move on to another important facet of risk management where there continues to be some issues and possibly misunderstandings: concentrations of credit, particularly in the commercial real estate sector.

As everyone knows, credit concentrations are an important risk that must be properly managed and controlled. Historical and recent experiences have shown that "putting all your eggs in one basket" can have negative consequences, and it is a risk that we as regulators pay close attention to. Toward that end, regulatory guidance has been issued in recent years to assist bankers in addressing and managing these risks.

There has been voluminous media, industry expert and regulatory commentary regarding the December 2006 interagency guidance on Sound Risk Management Practices for Concentrations in Commercial Real Estate Lending, and the March 2008 follow-up Guidance on Managing Commercial Real Estate Concentrations in a Challenging Environment.

Overall, it is our experience that the guidance has appropriately focused board and management (and examiner) attention on concentration risks. This is particularly important as the extent and depth of the CRE concentrations arising from this cycle was even more pronounced than before, particularly at community banks. Small banks represent the group of banks most affected, primarily due to a lack the flexibility to diversify their revenue stream; and a limited ability to quickly diversify into different geographic areas. (RE Loans/Total Loans: 1946 = 24%; 1974 = 25%; 1990 = 42%; 2006 = 55%.). And a critical issue in the recent crisis is an inability for customers to go anywhere else because values have declined. But there is room for improvement in several areas:

Global Cash Flow Analysis – Basic, but many institutions still neglect to look at borrower's entire obligations. A global cash flow analysis that considers all outside debts is expected, particularly for high-risk relationships. Surprisingly in current environment, we often find banks have not obtained or maintained updated financial information on borrowers (cash flow statements; tax returns; rent rolls; guarantor statements; property performance data).

We (bankers and regulators) went into the recent crisis thinking that banks had high capital levels…but it turned out that they did not have enough as losses ensued. Therefore, we find that there is a need for stress testing that should be part of a board's strategic and capital planning process. It is important to note that this stress testing does not have to be complex; it should just identify key risk factors; define scenarios; compare

outcomes to limits, tolerance, capital, and strategic goals. We find that this exercise enhances board and management insight into the inherent level of risk in a portfolio, and illustrates aggregate risks that may not be as apparent [Example?].

I just want to make a quick comment on the regulatory expectations of stress testing in relation to the requirements of the Dodd-Frank Act. The DFA's stress testing requirements apply almost exclusively to banks over $10 billion, with even more stringent requirements for institutions over $50 billion. While existing regulatory guidance for all banks require some elements of stress testing, in commercial real estate or interest rate risk, for example, there are no similar requirements in the DFA for small community banks. That said, we do note that the Conference of State Bank Supervisors (CSBS) has issued a white paper that discusses basic principles for stress testing for community banks, and we expect some enhanced regulatory guidance to be forthcoming.

Another issue we are finding is understaffed, overwhelmed, or inexperienced loan workout departments and personnel. Partly this is a function of the time that passed since last real estate crisis, as bankers needed time to develop a ready network of legal, appraisal, brokerage, prop mgmt. professionals.

It should be noted, however, that the banks in New York Region have more modest CRE concentrations and have fared in the recent crisis better than their counterparts in other parts of the country. I think that this is for several reasons: First, New York has plenty of individuals in banking that went through the real estate crisis in

the 1980s, in which the Northeast was hit pretty hard. They have long memories and learned some important lessons. Second, whether due to the saturation and already developed nature of the markets or the foresight on the part of bankers, there has been much less speculative construction lending than in other parts of the country. We just did not see as much of that locally. And finally, the New York economy and real estate values have held up more strongly than other states.

Lastly, I'd just like to address an apparent misconception that we continue to hear from bankers: The 100% and 300% thresholds noted in existing guidance are not hard limits imposed on construction and CRE loans. They are primarily concentration thresholds above which examiners will look to management to have enhanced and appropriate risk management practices to monitor and control the potential consequences of such concentrations.

Appraisals

Another area that I would encourage bankers to pay close attention to are appraisal review practices. The December 2010 appraisal guidance places increased emphasis on the independence of the appraisal evaluation function. We understand the difficulties that small banks face in ensuring full independence given their limited staffing, and will work with bankers to ensure that appropriate compensating controls are in place.

It also emphasized the timeliness of appraisals. We are often asked how often appraisal values have to be updated. This is (or should be) largely driven by the market. If cap rates (i.e., investor criteria) have changed substantially, it may be time for a reappraisal on a problem credit.

Examiners will not typically challenge the valuation assumptions on a recent appraisal that is properly reviewed by a bank. If a bank has not obtained an updated appraisal, or if the assumptions are severely deficient, examiners will discuss the issues with bankers to arrive at a more realistic valuation. Also, be consistent in evaluating the overall collateral position of a loan, and if the collateral valuation deviates from the standard, then document management's rationale.

Troubled Debt Restructuring (TDR)

One issue that has received a lot of attention, but is apparently still causing much angst, is that of troubled debt restructurings. We recently held a teleconference with the industry solely devoted to the issue, so I won't go into any depth here other than to reinforce a couple of points: First, we keep hearing that TDRs are "always classified" by examiners; that is not the case. Every situation is different, but if a TDR demonstrates sustained performance and does not pose a distinct possibility of loss, it will not necessarily be classified by examiners. Second, the regulatory criteria for identifying and reporting TDRs has not materially changed in many, many years; and it appears that the continuing confusion derives largely from a lack of experience with the accounting given the length of time since we had a severe recession.

A bank should have policies and procedures in place to ensure a consistent process to identify TDRs. And it is important to document and support your conclusions if the modification does not warrant TDR classification. The TDR process should have accounting personnel verify appropriate accounting treatment and call report reporting.

Let me emphasize that we don't necessarily view a TDR as a bad thing in and of itself. While it is true that once a TDR, always a TDR, we encourage bankers to work with their borrowers that are experiencing difficulties, and view performing TDRs that are performing as a sign that these efforts have been effective.

Capital Planning

Shifting gears a bit, I'd like to touch upon capital planning, address some claims we have heard that community banks are unable to raise capital, and, again, engage in some myth-busting.

It is important that all banks have a capital plan, appropriate to their size and complexity, to ensure the overall capital needs of a bank are met. The capital plan should incorporate strategies laid out in other policies, such as the loan, investment, and liquidity policies; and it should incorporate the needs and uses of the holding company, if applicable. The capital plan should detail specific triggers that require additional capital, as well as the method, sources, and time frame needed to raise capital under the plan. A

strong capital plan includes projections (typically at least 3 years out) and considers asset quality and potential adjustments to the allowance.

As for the ability of community banks to raise capital, I would like to share some recent informal statistics we have gathered regarding the capital raises of banks in our region. In the past two years, approximately 10% of the banks in the region have raised capital, excluding TARP and SBLF, and most of those have been community banks. In 2011, of the banks that raised capital in the NY Region, only 90% were under $2 billion. The banks under $2 billion raised $686 million, while those over $2 billion raised $708 million. Of the banks that were able to raise capital in 2010, 76% were under $2 billion and raised $779 million in capital. Banks over $2 billion raised $3.1 billion in capital.

Another myth I would like to try and dispel is that 8% is the new 5%, when it comes to the leverage ratio required to be considered well-capitalized by regulators. We understand that some of this belief may derive from some public enforcement actions in which banks were required to raise its leverage capital to 8% because of high levels of problem assets, sizable operating losses, or other risks. However, not all actions have this target, some require higher ratios and some require lower ratios. The appropriate level of capital for any bank is a function of its asset composition, levels of problem assets, and overall risk profile. And for Prompt Corrective Action purposes, the capital categories defined in Part 325 of the FDIC Rules and Regulations remain unchanged. And, in any event, the median leverage capital ratio for banks in the New York Region is approximately 10%, so for most banks is no issue in that regard.

Information Technology

Finally, I'd like to just touch upon a few of the emerging issues in the area of information technology. The rapid and ongoing advances in information technology have allowed community banks to operate more efficiently and offer products and services not previously imagined, including mobile banking and "cloud" computing. Along with these benefits, however, have come risks not previously known, such as "cyber attacks" and "phishing" schemes; and these threats have been growing exponentially.

Mobile Banking continues to gain traction with banks throughout the region and the nation. Regulatory concerns, however, are beginning to surface regarding the security surrounding mobile payments. Specific regulatory guidance for this new service delivery mechanism has not yet been issued, but the security and control principles are already in place in existing regulatory guidance (Authentification FILs) and the FFIEC IT Handbooks provide a framework for oversight.

Cyber attacks are well-organized and increasing threats that continue to plague financial institutions via weak network infrastructure or weak authentication procedures. ACH and wire fraud perpetrated on bank customers through social engineering ("phishing") is also increasing. Similarly, using software that can be easily acquired from the Internet, fraudsters are increasingly engaging in "brute-force" attacks on credit card accounts, also known as BIN or bank identification number attacks, wherein they are able

to try a multitude of potentially valid credit card number combinations in a very short period of time.

"Cloud computing" is gaining popularity in all business arenas, including community banks and their third-party service providers, because of potential benefits such as cost reduction, flexibility, scalability, and speed.

Although the economies offered by cloud computing may appear beneficial when compared to more traditional outsourced and in-house hosting methods, management should be aware that the technologies employed to achieve the potential benefits could jeopardize the internal controls necessary to ensure profitability, business continuity, legal and regulatory compliance, and customer information security. Therefore, as is the case with any third party processing arrangement, risk assessments should document and evaluate the risks posed by cloud computing, the required mitigating controls, and the residual risk acceptable to the Board of Directors. FFIEC guidance in this area is being finalized.

Lastly, the increasing use of social media sites, such as Twitter or Facebook, poses additional security risks to community banks, blurring the lines between personal and business lives, exposing systems to viruses and other threats, and elevating reputational risks. The use of social media by community banks is a rising concern that will be addressed through the issuance of regulatory guidance. Please note that we are

not discouraging the use of this delivery method, often driven by the highly competitive environment, but rather we are encouraging appropriate risk management in its use.

Closing

I'd like to close with a brief plea to reach out and communicate with your regulators periodically, and certainly when you have any concerns or questions. Early and ongoing communication will help to avoid misunderstandings and is key to an effective and productive supervisory process. We have a dedicated and skilled staff here at the FDIC, and we are all working together toward the same goal: a safe and sound banking system and vibrant community banking industry.

Thank you for your time. It is now my pleasure to turn the program over to my colleague, Alice Beshara, who will discuss some issues of interest in the area of consumer protection.

Thank you, John. Good Afternoon, today I would like to share some insights into some consumer protection issues that we have been seeing or discussing in the New York Region.

1. MOST COMMON VIOLATIONS IN 2011

The most frequent question we are asked is what are the types of violations are examiner citing. As you know the FDIC notes two types of violations within their reports of examination, Significant Violations and Other Violations, with Other Violations being

less serious and do not represent a significant concern for a bank but nonetheless must be addressed.

The most frequent Significant Violations cited in 2011 include:

[Section 203.4(a)] Regulation C (HMDA) with regard to data collection and what type of data is required to be collected;

[Section 230.8(a)] Regulation DD (Truth in Savings) regarding misleading or inaccurate advertising. An example of this is where an advertisement indicates that payments of overdrafts are guaranteed when in fact they are discretionary; and

[Section 339.3(a)] FDIC Rules and Regulations (Flood Insurance) with regard to the amount of insurance coverage for a loan.

The most frequent Other Violations cited in 2011 that do not include the sections noted previously for Significant Violations include:

[Section 3500.8(b)] Regulation X (RESPA) regarding the completion of the HUD-1 or HUD1-A;

[Section 3500.7(d)] Regulation X (RESPA) regarding the preparation of the Good Faith Form; and

[Section 230.4(b)] Regulation DD (Truth in Savings) regarding the required information for account disclosures.

Some of the other compliance issues that we are seeing include the following:

Regulation E Error Resolution:

Section 205.11 of Regulation E (Electronic Funds Transfer) is very clear on steps to handle error resolutions and what information consumers need to provide to a bank. The FDIC has found in some instances when banks are requiring additional information or actions by the consumer prior to initiating an investigation into the matter such as filing a police report or requiring notarized statements. Also, in some instances banks were not following the procedures outlined in their Regulation E disclosures. These actions can rise to a potential Unfair and Deceptive practice as it could be unfair as consumers were not allowed to exercise their rights as allowed by Regulation E. One case in another region resulted in a civil money penalty and the bank having to go back and contact consumers and initiate investigations as required by the regulation. Banks should look at their error resolution policies and processes to ensure that it complies with Regulation E and information disclosed to consumers. They should also ensure that assigned personnel have the requisite knowledge to handle these matters appropriately and provide consumers with the correct information.

Overdrafts

Regulation E Opt In

During 2011 examiners were looking at the OPT IN programs (marketing materials, websites, training, scripts, etc.) implemented in 2010 and finding violations covering the following:

- Cover letters sent with the opt in form promoted bank overdraft programs without providing the required disclosures from Regulation DD;
- Referring to deposit accounts linked with automated overdraft programs and their fees as “free”;
- Making statements in the promotional material that the overdraft program would be there for emergencies when the programs are discretionary; and
- Misstating Regulation E requirements for opt in by inferring that a consumer’s account or debit card service is changing when in fact the only thing that is changing is whether the bank can assess fees for the one time debit card or ATM transactions.

Banks should ensure that the disclosures and marketing they do presently for Regulation E opt in are in compliance with the requirements of the regulation.

Another issue under opt in programs which has gotten some attention, is the matter of “forced pay” or “required pay” overdrafts. As you are aware these overdrafts occur because the bank is offline or there is a timing difference between authorization and processing. Banks are required to pay these overdrafts but could not impose overdraft/NSF fees unless a consumer opted in. For the Regulation E opt in program banks were given a model form to use and if you had an overdraft program this would not be an issue because all ATM/POS transactions would be covered as dictated by a bank’s program. However, if you did not have an overdraft program and you mailed this model form to a consumer to get them to opt in so you could impose a fee on the forced pay situation there is a problem. The use of this form may be deemed deceptive as (1) it

would mislead a consumer to believe that the bank has an overdraft program that pays all POS and ATM overdrafts when it doesn't and (2) the consumer is not informed that if the consumer does not opt in, the bank will be obligated to pay these transactions without charging a fee. Banks should be aware of potential reputation and litigation risks and should terminate its practice of charging fees based on the consumer opting in and should consider providing restitution to affected consumer to mitigate these risks.

Overdraft Guidance

Examiners are reviewing banks overdraft programs and how these programs are being implemented and monitored. We continue to see news headlines of substantial settlements of class action lawsuits on overdraft programs nationwide. A question was sent in asking about information on this nationwide overdraft litigation. As many of you may or may not know there were numerous class action suits filed on checking account overdrafts and the processing of items. All of the cases were centralized to the United States District Court in Southern District of Florida—Miami Division. The last case to be publicized recently was the proposed JP Morgan Chase settlement for $110 million dollars and covered the processing of debit card transactions and whether the bank reordered the processing to maximize overdraft fees. The largest settlement to date has been Bank of America which settled for $410 million. In 2009 Chase changed several aspects of it policy on overdraft fees for debit cards including reducing the maximum number of fees per day to three from six, no fee for overdrafts of $5.00 or less and recognizing these transactions and ATM transactions as they occur.

It is important for a bank to look to its program and assess whether it poses any legal, reputational or financial risk to the bank. Examiners follow the guidance outlined in FIL-11-2005, Joint Guidance on Overdraft Protection Programs, FIL-44-2008 Guidance for Managing Third-Party Risk and FIL-81-2010, Overdraft Payment Supervisory Guidance to make an assessment of banks overdraft program, and that guidance should serve as the road map for a bank's internal assessment.

We received a couple of questions on overdrafts that I would like to address in this segment of my presentation.

1. Does FDIC's guidance on Automated Overdraft Program's apply solely to consumer accounts?

The Summary included at the beginning of FIL-81-2010, *Overdraft Payment Supervisory Guidance* ("2010 Guidance"), specifically states that "[t]he FDIC expects the institutions it supervises to closely monitor and oversee any overdraft payment programs they offer to consumers…". So the focus of the 2010 Guidance concerns the application of overdraft protections to consumer accounts.

That being said, the 2010 Guidance refers 2005 Joint Guidance and 2008 Third Party Risk Guidance which include guidance, expectations, and requirements that also apply to non-consumer accounts. Additionally, the 2010 Guidance also references laws such as Section 5 of the Federal Trade Commission Act, which apply to businesses as

well as consumers. FDIC expects the institutions that it supervises will continue to comply with all applicable laws, regulations, and guidance that are applicable to overdraft payment programs offered in connection with non-consumer accounts. This may include applying some of the expectations outlined in the 2010 Guidance to accounts not held by consumers.

2. If a bank is in compliance with all aspects of FDIC's guidance on Automated Overdraft Program's, what else should the bank be wary of to avoid examiner scrutiny of the program being potentially unfair, or deceptive?

First, banks should make sure to follow outstanding guidance and regulatory requirements applicable to overdraft payment programs. As mentioned previously that would include the 2005 *Joint Guidance on Overdraft Protection Programs;* 2008 *Guidance for Managing Third-Party Risk; 2010 Guidance* and FIL-26-2004, *Unfair or Deceptive Acts or Practices by State-Chartered Banks*. Ensuring compliance with all aspects of applicable law and regulation that apply to overdraft payment programs from marketing to disclosures will also assist banks in avoiding potentially unfair, deceptive, or practices. Review of the FDIC's *Overdraft Payment Program Compliance Examination Procedures* and *Overdraft Payment Program Supervisory Guidance Frequently Asked Questions can* provide banks with additional guidance to avoid potential pitfalls in overdraft payment activities.

3. Are there any regulatory movements to eventually require a customer opt-IN for all Automated Overdraft Programs?

While there is ongoing discussion regarding various aspects of overdraft payment programs, there is currently no movement to specifically require a customer opt-in for automated programs. If a bank wanted to utilize this practice, however, the FDIC would have no objection as long as it was enacted in compliance with existing guidance, laws, and regulations.

Fair Lending

Within the Fair Lending arena, we have seen an increase in potential redlining cases and some of these concerns have come from:

- Mergers that blend CRA Assessment Areas. Banks should look at the resulting AA and make sure that high minority census tracts are not arbitrarily excluded especially if their branches are next to these neighborhoods that were not included;
- If the trade area is more expansive than the Assessment Area banks should remember that that we would look at both the AA and the broader trade area for fair lending reviews;
- When you establish new offices that circumvent high minority areas within your AA you must be able to explain why those locations were selected; and

- Monitor your bank's loan distribution patterns for obvious gaps, particularly in high minority census tracts or neighborhoods. If there are gaps then you need to be able to explain why those gaps exits and what is being done to address the gaps.

Another area we continue to focus on is where banks have discretionary aspects to their direct and indirect lending. Our expectation would be in that situation, that the bank would have in place strong monitoring and fair lending training for your loan department.

We received a question prior to this call regarding fair lending.
What are the common pitfalls in Fair Lending?

As I noted previously where banks grant discretion to their loan officers or others in setting terms and conditions of credit, that increases fair lending risks for those banks and strong monitoring and fair lending training is a requisite to limit that risk. It is also important to not only monitor the individual's use of that discretion within their credits but also how that individual's actions compare to others to ensure that the overall effect does not indicate some level of disparate treatment or impact for the bank.

Ensure that you look for discretion in all aspects of the credit process, not just loan origination activities. Particular attention should be paid to loan modifications and foreclosures as consumer groups and individual borrowers are increasingly asserting that decisions are based on a prohibited basis and not an objective standard.

Also, don't assume your institution is has low risk for fair lending violations because you have limited numbers of minorities living within your market area. Fair lending covers all aspects of your credit operations and between Fair Housing and Equal Credit Opportunity provides protections for 11 different prohibited basis groups or protected classes.

Service Members Relief Act of 2003

We have seen in recent months various news reports with regards to settlements with banks over their non compliance with elements of SCRA, mostly for not providing the relief granted to servicemen under the law with either foreclosure activity or reducing interest rates appropriately. We have seen a few violations in our region with this and want to remind banks to ensure they have policies and procedures in place to handle these requests appropriately and in a timely manner.

Risk Assessments

As John mentioned previously, banks should be doing risk assessments for compliance and fair lending. We have talked many times about a bank doing a compliance risk assessment periodically to ensure they have the appropriate policies and procedures in place to protect consumers and themselves. This is an important aspect to a strong compliance management system. As regulations change, mergers occur, employees change, or products/services expand these could all serve as "triggering" points for a new risk assessment. For fair lending banks would look at their credit

operations and the policies, controls, and training in place to ensure that all applicants are treated in a fair and equitable manner.

A question that came in on customer complaints I would like to cover while we discuss compliance risk assessment. The question was:

Recently the FDIC has been focusing on customer complaints during examinations. Please discuss the factors that have caused the FDIC to have heightened awareness and increased focus on customer complaints at this particular time. Please discuss the overall expectations as well.

FDIC examiners have a longstanding practice of looking at consumer complaints for a bank as they prepare for an examination. The number and nature of the complaints have a strong impact on the risk scoping of the examination. This is not a recent occurrence but the number of complaints has increased in recent years. We have seen instances where complaints about a bank have led to significant violations and enforcement actions. The FDIC's expectation is that a bank monitor its complaints, the trends of those complaints, the resolution of the complaints and that periodically complaint activity be reported to senior management and/or the Board of Directors. I would also suggest that it could be beneficial to a bank to speak to its customer service representatives and tellers as to what type of inquiries or questions they are getting as that could be a red flag to management that marketing or disclosures are not as clear and conspicuous as they should be.

This concludes my prepared remarks and we will now open our question and answer session.