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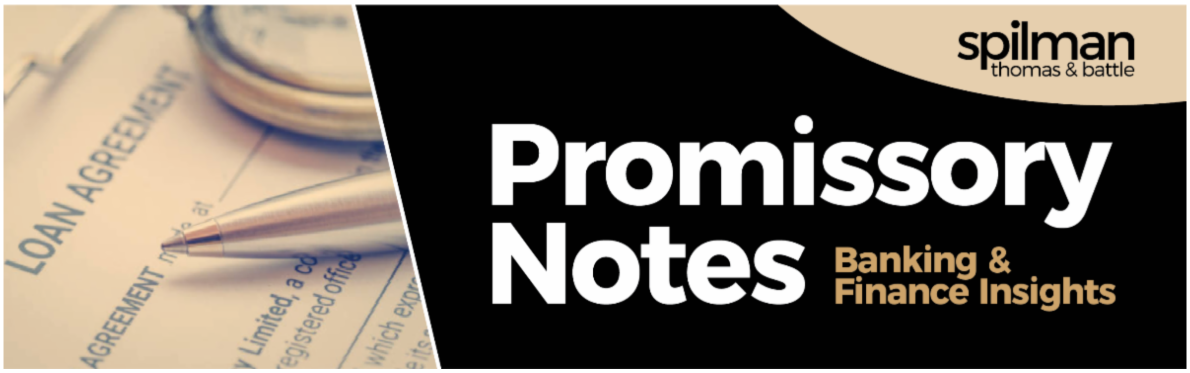

Issue 2, 2021

Welcome!

Welcome to our second issue of *Promissory Notes* -- our e-newsletter focused on banking and finance insights. We hope you are enjoying our monthly publication.

If you have any suggestions or article ideas, please let us know. And, if you have a friend or colleague that you believe could benefit from this e-newsletter, email us with "Promissory Notes" in the subject line.

Thank you for reading.

F. B. Webster Day, Chair, Banking and Finance Practice Group, and Co-Editor, *Promissory Notes*

and

Elizabeth A. Benedetto, Chair, Bond Counsel Practice Group, and Co-Editor, *Promissory Notes*

"Men are often capable of greater things than they perform. They are sent into the world with bills of credit, and seldom draw to their full extent." Horace Walpole, novelist and essayist (1717-1797)

The Fed Plans to Unveil Digital Dollar Prototypes in July

"The Boston Fed and MIT hope to unveil some of their work in the third quarter, including at least two prototype software platforms that could move, store and settle transactions made with digital dollars."

Why this is important: Once these prototypes are released, the public will have access to the source codes and will be able to help improve the prototypes. This will aid greatly in some of the aspects of digital currency that the public should be wary of, including security of transfers. The Fed is pushing Congress to pass a separate law authorizing the use of a digital dollar, instead of interpreting currently enacted laws to allow the currency. Without an early buy-in from Congress, these prototypes are unlikely to get off the ground. --- Joseph C. Unger

Federal Reserve Forms 2nd Climate Change Risk Panel

"Brainard announced the creation of the Financial Stability Climate Committee (FSCC), meant to identify and address climate-related risks on a macroprudential level."

Why this is important: You may remember in a recent issue of *Promissory Notes* that we noted the creation by the Federal Reserve of its Supervision Climate Committee to advise the Fed about climate-related impacts on the financial system and the Fed's banks. We said at the time that this was a big deal, given the resources to be committed to the committee and the senior leadership assigned to it. It now appears that the Fed has doubled down on the commitment to identify and address climate change issues and effects. The Fed now has formed a second climate-related committee, the Financial Stability Climate Committee, this time focusing on macroprudential issues and policies related to the broader questions of stability of the entire financial system. Fed Governor Lael Brainard, who has been out in front of the Fed's climate change efforts, has emphasized that participants in financial markets that fail to address climate change issues "could face significant losses on climate-sensitive assets caused by environmental shifts." She further emphasized the importance of "robust" risk management, scenario analysis, and forward-looking planning to ensure resilience in the financial system to support a "sustainable economy." The consistent message from the Fed seems to be that being reactive to climate issues, rather than proactive, may result in too-little-too-late consequences for the financial system and its participants. --- Rayford K. (Trip) Adams III

Amazon Bank Creates More Problems Than It Solves

"Washington is already concerned about the ways $1.6 trillion Amazon boosts its self-branded products against third-party sellers with the help of information gleaned from its platform."

Why this is important: On December 15, 2020, the FDIC approved a final rule on applications to insure industrial loan companies. The rule took effect on April 1, 2021. An industrial loan company is a state-chartered depository institution insured by the FDIC. Unlike other financial institutions, an industrial loan company may be owned by non-financial, commercial companies that are not subject to consolidated supervision by the FRB. The new rule paves the way for non-financial, commercial companies, such as Amazon, to offer banking services and products to their customers. --- Brienne T. Marco

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The Small Business Administration is Set to Triple Loan Amounts for Businesses Hurt by Covid

"Small businesses and non-profits can apply for up to 24 months of relief, with a maximum loan amount of $500,000."

Why this is important: The United States Small Business Administration ("SBA") recently announced a series of reforms to its COVID-19 Economic Injury Disaster Loan ("EIDL") program, which provides 30-year fixed-rate emergency working capital loans to small businesses and non-profits. Starting this week, the SBA is raising the loan limit for the EIDL program from six months of economic injury with a maximum loan amount of $150,000, to up to 24 months of economic injury with a maximum loan amount of $500,000. The SBA has approved more than 3.7 million EIDL loans worth more than $200 million for COVID-19 disaster relief, but SBA Administrator Isabella Casillas Guzman said the duration of the pandemic made the change necessary. The SBA plans to reach out directly to loan recipients to provide more details about how those businesses that already borrowed funds can request an increase to the new maximum loan amount, and loan applicants whose loans were in process on April 6th automatically will be considered for the new increased maximum loan amount. --- Elizabeth A. Benedetto

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Coronavirus was Supposed to Drive Bankruptcies Higher. The Opposite Happened.

"Stimulus checks and other government measures kept many borrowers from bankruptcy last year despite high unemployment, but economists worry it won't last."

Why this is important: Many of us, lawyers in our firm, as well as financial service clients, have been waiting for the second shoe to fall. We expected the COVID-19 relief, including the PPP loans, to postpone the inevitable bankruptcies of so many small businesses and even a lot of large ones, but only for a while. We have been surprised that so many people and businesses have held on. Bankruptcies actually were down in 2020. Even though they are starting to trickle up, employment is recovering even more rapidly. We wonder if the next shoe ever will drop, as we appear to be coming out of the COVID-19 recession. This article, unfortunately, says the shoe will drop, although maybe not like we expected, and it will be a big shoe. In fact, this article explains how the rise in employment actually may be an impetus for more people, carrying debt from before and during COVID-19, to file for bankruptcy soon. --- Hugh B. Wellons

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Perlmutter Again Introduces SAFE Banking Act to Connect Cannabis Industry with Banking System

"The measure passed the House in Sept. 2019 in 321-103 vote."

Why this is important: A bipartisan group of representatives have re-introduced a bill that would allow the cannabis industry to utilize the federal banking system. Because cannabis is still a Schedule 1 drug on the federal level, federally insured banks cannot accept money derived from state-legal cannabis sales, which has resulted in the businesses operating with cash-only models. Proponents of the bill state that it would help deter the safety issues inherent in cash-only operations, such as increased rates of robbery, and allow these operations to expand. --- Joseph C. Unger

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How U.S. Bank Tripled Its Digital Account Openings

"'It was taking customers 10 minutes to get through this application, and that's just way too long,' said Jonathan Burns, the bank's senior vice president and head of digital sales experience."

Why this is important: In 2019, half of all community banks and credit unions opened less than 5 percent of their new checking account applications in digital channels. Smaller financial institutions are falling behind in the digital age as consumers are moving from branch applications to digital applications for primary accounts. Community banks and credit unions accounted for just 15 percent of all checking account applications in 2019. By continually modifying platforms and streamlining the digital application process, larger financial institutions are funneling new customers through the application process and obtaining higher submit rates. These platforms allow the larger institution representatives to "co-browse" or screen share with customers during the account opening process, and offer a "text to apply" capability that sends a customer a short-code link to apply for a particular product, thus offering a human connection when needed. The transition away from branch activities to digital-only accelerated during the COVID-19 pandemic and shows no signs of reversal. --- Bryce J. Hunter

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SBA Flagged 190,000 PPP Loans with 'Hold' Codes — and is Deploying New Tech to Address Them

"These so-called hold codes can stem from anything from typos in Social Security or taxpayer identification numbers to more serious issues, according to agency officials."

Why this is important: For PPP loan applicants and borrowers, hold codes mean delays in receiving funds and forgiveness of loans until the holds are cleared. The SBA and lenders are crafting new certification language to help clear some of the hold codes. Artificial intelligence also is being deployed to clear holds from legitimate loans. The hold codes arise from typos in the names or tax id numbers of businesses to more serious issues indicating fraud or abuse (e.g., the business is on the Department of Treasury Do Not Pay lists or has filed bankruptcy). Legitimate applicants and borrowers will help themselves by carefully reviewing their applications and other filings for typos and inaccuracies before submitting them. Contrary to what Juliet said, a rose by any other name may NOT smell as sweet. At least, not to the SBA. --- F. B. Webster Day

'What Are We Going To Do?': Towns Reel as Banks Close Branches at Record Pace

"Banks have been permanently shuttering branches for years, but the number of closures hit a record in 2020 as the pandemic accelerated the move by many customers to online banking."

Why this is important: It is a sad tale of small towns losing their banks and even branches. So many people, particularly older people, go to the bank for their business. They may not be comfortable with technology, they may not have good internet or phone service where they are, they may be more comfortable dealing with humans, or they may even be lonely. This trend of small banks selling out and larger banks eliminating rural branches is accelerating. It will result in lack of banking service and lack of lending for many rural communities, potentially also accelerating their loss of opportunity and young adults. --- Hugh B. Wellons