'UNINTENDED CONSEQUENCES'

Financial Leaders Seek Simplicity, Reasonable Regulations

By Charlee Beasor

Thwack.

That's the sound of a packet of home mortgage closing documents landing on a table in front of consumers.

And it is one cause of the regulatory headache going on in the financial industry, according to Horizon Bank President and CEO Craig Dwight. The breadth of paperwork involved in mortgages now compared to 25 years ago, he contends, is staggering.

"We had a household that took a mortgage loan from our bank and they had a doctorate degree and commented, 'How can anyone read all this?' " he recalls.

"We haven't made it any simpler."

"Simple" and "reasonable" are two of the primary qualities banking and investment experts are calling for to describe federal regulations going forward.

BizVoice® spoke to three Hoosier authorities on banking and investments – Horizon Bank's Dwight, Chase Bank President J. Albert Smith, and Lakeside Wealth Management CEO Mark Chamberlain – for their views about the effect of the regulatory environment on their industries.

"We think sensible regulations are essential to have a viable economy and viable financial system, so we are continually reviewing the regulations to be sure they enable us to serve our customers well, don't place an undue burden on our customers and be sure that they have the proper access to credit," Smith offers.

Banking: Seeking a level playing field

Horizon Bank holds $3.2 million in assets and has been operating for 144 years in northwest and central Indiana and southern Michigan. The company recently launched its first branch in Columbus, Ohio, bringing its total number of offices to 61 in three states.

Dwight points to the bank's "people first" mission as a reason for the steady growth and success over the years. And right off the bat he highlights another advantage: Horizon Bank's numerous mergers and acquisitions because of a strict regulatory environment.

Smaller banks just can't keep up.

"We've completed 11 mergers in the last 10 years or so. One of the drivers is the regulatory burden that's been placed on the smaller institutions that do not have the ability to hire the talent and stay abreast of the regulations," he acknowledges.

"I recall a conversation with one CEO of a bank we were looking at buying. He was in his early 50s, it was a good bank, but he was spending 90% of his time on regulatory oversight. Ten years ago, he was spending 90% of his time with his customers. He no longer enjoyed the job," Dwight continues.

"I don't think (regulations) are necessarily bad, but they have added to the cost of doing business and the smaller banks can't afford that. We have 25 to 30 people on (compliance)."

Chase Bank has 5,100 branches and serves close to half of American households. Its parent company, JPMorgan Chase & Co., has $2.6 trillion in assets. Smith highlights the implications of placing the same regulations on large and small banks.

"It's an unfair playing field. There's no logical reason that the First National Bank of whatever small community should be regulated

An "unfair playing field" places similar regulations on big banks, such as Chase, and smaller community operations.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, signed here by former President Barack Obama in 2010, is one of numerous federal banking regulations that industry leaders would like to see simplified.

the same way that JPMorgan Chase is regulated. We have been vocal and outspoken at JPMorgan Chase that we think there needs to be more latitude given to the community banks, less regulation," he offers.

"Everybody doesn't need JPMorgan Chase or Wells Fargo or CitiGroup or Bank of America. And we can't service all the needs of every nook and cranny of the country. We need these smaller community banks that are invested in their community."

Time to swing the pendulum

Both Dwight and Smith use a pendulum as an analogy for the regulatory environment.

"I've said for years … let's try to keep the pendulum swinging in a very narrow range. Don't let it go all the way to the right where credit is available to everybody and easy, and not let it go all the way to the other side, where we shut off credit," Smith relays.

Another impact of increased regulations over the last eight years is making credit more difficult to access, he continues.

"I'm a consumer, even though I'm a banker. From my vantage point, it would be that it takes longer, there's more paperwork and a lack of flexibility," Smith notes.

Dwight offers that letting the free market work could reduce the need for some regulations.

"If you're not treating customers and employees in the markets fairly, you're going to be out of business. There are some free market adjustments to that," he maintains. "You have to watch out for greed in the world. Government oversight is okay. The state setting usury fees is fair. Fairness is good for companies, good for customers and good for the community."

But as regulations are putting small banks out of business and adding increased burden, paperwork and time for all bankers and consumers, Dwight offers a point of action for those concerned.

"Banks complain, Realtors complain, consumers … I tell them, 'Write your congressman or Senator and let them know.' Swing the pendulum one way and let it come back," he concludes.

Investing: Cleaning up the backyard

On its face, the U.S. Department of Labor's (DOL) fiduciary rule seems innocent. The rule demands brokers offering retirement advice must put the customer first, essentially expanding the definition of "fiduciary."

Created under the Obama administration and initially delayed by the Trump administration by executive order early in 2017, parts of the rule began going into effect in June. The full rule will be implemented on Jan. 1, 2018.

Chamberlain, CEO of Lakeside Wealth Management in Chesterton, highlights unintended consequences of the rule.

"It will make an advisor take much more care, and much more paperwork, to act as a full fiduciary for that client. … It's going to make it so hard to do business with people because you're not going to be able to afford to work with smaller clients or middle America, because the account balances aren't big enough to justify the time it takes to do the work," he asserts.

"It's a good idea to protect investors.

Lakeside Wealth Management CEO Mark Chamberlain says uncertainty surrounding the DOL fiduciary rule has been challenging for the industry.

But the Department of Labor is unwittingly going to take the viability of financial advice out of middle class America."

Lakeside Wealth Management started in 2002 and has $1.2 billion in assets with 18 licensed advisors, a 401(k) and qualified plan business, and a private wealth business.

The company's advisors must already act as fiduciaries since the company moved to a fee-based model (instead of commission-based model) several years ago. Chamberlain says that while the rule won't initially change the way his company operates, he'd be "naïve" to say there will be no impact.

"It's a way smaller bump in the road for me than the guy down the street in the commission world," he suggests.

The uncertainty of further potential changes at the federal level is frustrating, Chamberlain says. And he's not sure the rule is even enforceable.

"The DOL is doing a great job of being non-committal. It's guidance you could drive a Mack truck through," he says. "(The DOL) doesn't have the budget or the manpower to enforce the rule."

"It's going to take a number of court cases to come through and some judge is going to rule. Then the regulators will come back based on tort law or judgements and will massage the way the rule looks around court decisions. It's a scary place for us to be as advisors."

Moving forward

How can advisors operate in a state of uncertainty?

"We took the approach awhile back: We know the rule is coming; it's fuzzy about what it means," Chamberlain recalls. "We could spend all the time and effort running away from it, but let's run into it and embrace it as much as we can. If we do get called on the carpet for something, we can sell a body of work and confidence that we tried to do the right thing in good faith."

Another regulation causing heartburn is an IRS rule about fee transparency and disclosure. Chamberlain notes that was the largest industry concern prior to the fiduciary rule.

The rule makes it mandatory for advisors to "clearly explain who is getting paid and how much."

The positive consequences of that rule, however, were that those who were unable or unwilling to disclose that information got out of the business. That self-policing is a spot of hope for Chamberlain, in terms of the fiduciary rule and other regulations.

"It's unpopular in the advisor world, but my opinion is that with all the potential unintended consequences, I think it's going to further clean out our backyard. I hope (the cleaning) comes from the industry and not the regulators. We need to be more proactive about stuff like this," he adds.

As in banking, expect smaller operations to go by the wayside in investments because of the regulatory environment, Chamberlain notes. He also calls for a more practical team approach to regulations.

"If we just were able to sit down more and perhaps with the regulator at the table (instead of), 'Here's a rule and we want you to follow it.' That would be a more adult way to approach the problem than by just adding more rules. It feels like parenting right now and I'd rather it be a brother- or sisterhood," he contends.

RESOURCES: Mark Chamberlain, Lakeside Wealth Management, at www.lakesidewealth.com | Craig Dwight, Horizon Bank, at www.horizonbank.com | J. Albert Smith, Chase Bank, at www.chase.com


BUSINESS BANKING | COMMERCIAL LENDING

Born For Business

Since 1904, our focus has always been to offer sound financial solutions for our customers that can only be given by a trusted partner. Imagine what we can do for your business.

Stock Yards® Bank & Trust

A TRUSTED PARTNER since 1904

Member FDIC

syb.com | (317) 238-2831