"Always forgive your enemies; nothing annoys them so much."

? Irish playwright Oscar Wilde was born on this day in 1854

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State Regulators Issue Ransomware Mitigation Tool

State financial regulators, joined by the Bankers Electronic Crimes Task Force and the
U.S. Secret Service, this week issued a self-assessment tool to banks they supervise in an effort to help mitigate ransomware attacks.

“Ransomware is a major threat to the financial services industry,” said Texas Banking Commissioner Charles G. Cooper, who leads the Bankers’ Electronic Crimes Task Force on this effort. The taskforce, composed of U.S. community financial institution CEOs, law enforcement, state bank regulators and other industry stakeholders, addresses the security needs of community financial institutions.

“State regulators are offering this tool because the rapid advancements in ransomware and potentially devastating consequences require financial institutions to be vigilant. There is no single measure to prevent ransomware attacks. It requires strong adherence to fundamental cybersecurity controls,” Commissioner Cooper said.

Incidents of ransomware across industries have been on the rise and appear to be spreading. One global cyber insurer reported 775 ransomware incidents for its U.S. customers in 2019, representing a 131% increase from the year prior. Eleven percent of those customers were financial institutions.

“This is another example where close cooperation and developing robust partnerships is critical to accomplishing our shared goal of protecting the nation’s financial infrastructure,” said William Smarr, Special Agent in Charge of the U.S. Secret Service Dallas Field Office. “Working with the CSBS, the Secret Service recognizes the value of our trusted partners and the acumen they provide to combat cyber enabled fraud. Together, we are committed to keeping the Homeland safe from cyber threats.”

Using the ransomware tool, a bank can assess its efforts to control and mitigate risks associated with the threat of ransomware and identify gaps that require increased security.

“This newly developed and comprehensive tool gives our bank’s executive managers and board of directors an overview of our preparedness towards identifying, protecting,
detecting, responding and recovering from a ransomware attack,” said Trey Maust, executive chairman of Lewis & Clark bank in Oregon City, Ore., and a Bankers’ Electronic Crimes Task Force member.

**Bank Merger Antitrust Guidelines Should Be Updated**

State regulators support the U.S. Department of Justice Antitrust Division’s efforts to modernize bank merger competitive guidelines and offered recommendations in a [comment letter](#) sent today.

The letter responds to the DOJ’s request for information on the 1995 Bank Merger Competitive Review Guidelines. Antitrust issues are a significant issue for state regulators, who charter and supervise 79% of the nation’s banks, which accounts for approximately 4,008 banks with $7.1 trillion in assets.

Any changes to the guidelines should reflect the changing landscape of the marketplace and needs of community banks to serve their communities, the letter said.

CSBS asked that the DOJ:

- Reevaluate how the Herfindahl-Hirschman Index is calculated due to the evolving banking practices and market competition.
- Consider adopting an appropriately tailored approach to preserve the viability of community banks and creating a de minimis exception for certain transactions.
- Explore ways to create greater alignment and consistency with the federal and state banking agencies.
- Recognize and incorporate the role and interests of states in the bank merger review process.
Community Banker and Consumer Outlooks Align

By CSBS Senior Economist and Director of Research Thomas F. Siems, Ph.D

Community bankers, with their relationship-oriented business model, talk to everyone. They have keen insights about commerce and trade in communities, advance knowledge of how and when area companies plan to expand or contract and are genuinely concerned for consumers and small businesses in the economies they serve. With their ears to the ground and eyes wide open, community bankers are well-suited and qualified to opine on the health and outlook of the economy.

Through the quarterly CSBS Community Bank Sentiment Index (CBSI), we can see community bankers’ economic outlook from a broader level. What are community bankers saying now? And how do their responses align with other surveys of consumers and business leaders?

Current Community Banker Sentiment

As shown in the nearby chart, the headline number from CSBS’s third quarter 2020 Community Bank Sentiment Index was 97, an increase from 90 in the previous quarterly survey. The seven-point increase in the index from last quarter’s historic low level is encouraging and nearer the neutral value of 100; however, several concerns persist.
The CBSI is comprised of seven components that assess community banker’s sentiment of future market conditions and the expected impact on their banks. The chart below shows the response percentages to each of the seven questions used to create the CBSI for each of the last two quarters. The index for each factor is calculated by subtracting the percentage of negative responses (red bars) from the percentage of positive responses (green bars) and adding 100 (to make 100 the neutral value). The grey bars are the “Don’t Know/Not Sure” responses. A recent blog examined these “uncertainty” responses and what drove the CBSI Uncertainty Index to an historic high.
Some of the good news from this quarter’s CBSI is that four of the seven components are above the neutral level of 100: Operations Expansion (OE=133); Franchise Value (FV=116); Capital Spending (CS=113); and Business Conditions (BC=103). Two of these factors, franchise value and business conditions, were below 100 in the previous quarter’s survey. Bankers appear to be more optimistic that the future value of their institutions will improve and that better business conditions are on their way.

However, three factors in the third quarter survey are below 100 and have been in negative territory in all three 2020 quarterly surveys: Monetary Policy (MP=90); Profitability (PR=68); and Regulatory Burden (RB=57). Even with hopes for better future business conditions, bankers are clearly concerned about long-run profitability and these concerns appear to stem from low interest rates and margins from extreme monetary policy actions from the Federal Reserve, as well as an overall expected heavier regulatory burden over the next year, albeit with a raised level of uncertainty surrounding this factor.
In addition to the levels of each factor in the CBSI, we examine the change in the component values over time. The above chart shows that five of the CBSI components rose in the third quarter from the second quarter, one remained the same, and one declined slightly. The factors that increased the most from second quarter 2020 to third quarter 2020 are franchise value (FV; +18 points); Profitability (PR; +13 points); Business Conditions (BC; +10 points); and Operations Expansion (OE; +7 points). The other three factors were essentially unchanged: Capital Spending (CS; +1 point); Regulatory Burden (RB; no change); and Monetary Policy (MP; -2 points).

So overall, community bankers are more optimistic than earlier in the year during the depths of the economic wallop following the pandemic/lockdowns. But many concerns remain, particularly regarding future profitability, regulatory burden and monetary policy.

**CBSI with Respect to Other Confidence Surveys**

Immediately after COVID-19 was declared a global pandemic and the economy was subsequently locked down in mid-March 2020, the CBSI fell 32 points (26%). The CBSI is now up 7 points (8%) from its nadir. As shown in the charts below, the abrupt negative impact to community banker sentiment in the first quarter of 2020 and subsequent rebound has been more consistent with surveys that assess consumer sentiment about the economy (left panel) than those that assess business leader sentiment (right panel).
For instance, the University of Michigan’s April 2020 Consumer Sentiment Index dropped 29 points (29%) from the February reading. Through September, it has rebounded 12%. Similarly, the Conference Board’s Consumer Confidence Index plunged 47 points (35%) from February to April, and has since recovered 19%. The monthly average of Morning Consult’s Daily Consumer Confidence Index fell 32 points (28%) from February to April 2020, and has subsequently regained 10%.

Most business sentiment indices fell after February 2020 but have proven to be more volatile and less stable than consumer sentiment indices. From February to April 2020, Moody’s Analytics Business Confidence Index dropped 38 points (34%) and has recovered by 2%. The New York Fed’s Business Leaders Survey (Future Business Climate) plunged 55 points (49%) and has climbed 54% from its low. And the National Federation of Independent Business’ (NFIB’s) Small Business Optimism Index sank 13 points (13%) and has almost completely rebounded to above its pre-pandemic level, rising 10%.
If you want to know what is going on in your local economy, talk to your nearby community banker. They watch and listen and know the pulse of community marketplaces, perhaps better than anyone else. By sticking to the fundamentals of lending—often referred to as the “four C’s”: credit, character, capacity and collateral—community bankers recognize and understand the health of consumers and businesses in their neighborhoods.

ABA Introduces #BanksNeverAskThat Campaign

The American Bankers Association has launched an anti-phishing consumer education campaign to help protect customers and reduce financial damage to the industry. The #BanksNeverAskThat campaign features humorous, eye-catching and engaging content that is sharable via social media and other bank marketing channels.

Campaign participation is open for all banks, including non-ABA members. Registered banks will receive a toolkit of ready-to-use materials, including videos, GIFs, social posts, printables and more to help educate and protect bank customers. The campaign is entirely free and can be co-branded, bank-branded or ABA-branded.

ABA is celebrating the campaign launch with a cybersecurity-themed sweepstakes in October (National Cybersecurity Awareness Month). Every week during the month, consumers can take the #BanksNeverAskThat quiz and share their results on Twitter for a chance to win one of 15 prepaid cards. All entrants in ABA’s sweepstakes will also be eligible to win a $1,000 grand prize at the end of the month. Participation in ABA’s sweepstakes is not a required element of the campaign.
We encourage you to share this information with your banks. With widespread support from the industry, this campaign could go a long way toward empowering consumers and reducing a persistent source of fraud and loss for banks.

Banks can register by clicking here. If you have any questions, please contact Laura Fisher at lfisher@csbs.org.

Comment Letter: Enhancing Prudential Standards for Nonbank Mortgage Servicers

CSBS sent the following letter – highlighting recent state CARES Act guidance and state efforts to enhance prudential standards for nonbank mortgage servicers – to members of the House and Senate Banking Committees.

October 9, 2020

Dear Senators Crapo and Brown and Representatives Waters and McHenry:

As Congress continues to exercise its important oversight responsibilities over many aspects of the housing finance system, CSBS is writing to update you on recent efforts to protect consumers and enhance oversight of nonbank mortgage servicers. Specifically, we appreciate the opportunity to highlight recent CARES Act guidance issued by states and state efforts to enhance prudential standards for nonbank mortgage servicers.

Background on CSBS
CSBS is the nationwide organization of banking regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. The
mission of CSBS is to support the leadership role of state banking supervisors in advancing the state banking system; ensuring safety and soundness; promoting economic growth and consumer protection; and fostering innovative state regulation of the financial services industry.

The state regulatory agencies that are CSBS’s members are responsible for regulating a wide range of bank and nonbank financial companies, including nonbank mortgage servicers (servicers). Both in conjunction with our federal counterparts and as a state system, state regulators are continually working to enhance oversight of these companies who play a central role in the housing finance system.

**State Role in Servicer Oversight**

State regulators are the primary regulatory authority over nonbank mortgage servicers. This oversight spans credentialing, licensing, and examination authority. Because of this responsibility, state regulators have a significant interest not only in ensuring that these institutions treat their customers fairly, but also in holding these companies to robust financial requirements that enable them to continue to perform responsibilities fundamental to maintaining a sound mortgage market. Very early in the Covid-19 crisis, state regulators identified liquidity as a supervisory priority, seeking real time data and updates from nonbank mortgage servicers in order to actively monitor liquidity and other business operations.

The regulatory oversight of the mortgage market spans state and federal authorities. State regulators coordinate with their federal counterparts on servicer oversight. Principally, through participation on the Federal Stability Oversight Council (FSOC)\(^1\), state regulators share information and discuss market insights with their federal counterparts to ensure better consistency and efficient oversight throughout the regulatory regime.

**Consumer Guidance**

To guide homeowners with federally-backed loans through the process of obtaining mortgage relief, CSBS and the Consumer Financial Protection Bureau (Bureau) released
a Consumer Relief Guide with borrowers’ rights to mortgage payment forbearance and foreclosure protection under the CARES Act\(^2\). The consumer relief guide details what homeowners need to know to get the help they need, including a summary of borrowers’ rights under the CARES Act, steps to access mortgage relief and repayment options. This was an important addition to the CFPB’s comprehensive consumer resource section of its website.

**Servicer Guidance**

In addition to consumer guidance, CSBS and the Bureau issued joint guidance\(^3\) to assist servicers in complying with the CARES Act provisions granting a right to forbearance to consumers impacted by the Covid-19 pandemic. In addition to providing a statutory overview of the CARES Act protections related to forbearance and additional resources on how the CARES Act impacts other rules and regulations, the guidance contains specific FAQs based on observed or anticipated actions of mortgage servicers related to forbearance. The states and the CFPB believe it was important to establish the regulatory expectations early.

**Exam Guidance**

To complete the circle on CARES Act enforcement, state regulators issued exam guidance\(^4\) for state examiners to evaluate the servicer’s policies and procedures with respect to the forbearance requirements of the CARES Act. Examiners are asked to verify the direction provided in the servicer’s policies and procedures comply with the requirements of the CARES Act, and do not steer borrowers away from requesting a forbearance plan or limit the amount of assistance a borrower is eligible to receive.

**Proposed Prudential Standards for Nonbank Mortgage Servicers**

Nonbank entities specializing in loan servicing have grown dramatically in size, complexity, and importance\(^5\) in the post-crisis mortgage market, a dynamic that has been amplified in the intervening years and continues into 2020 with business models evolving significantly. To address these market trends, in 2015 the states began developing\(^6\) baseline prudential standards and enhanced prudential standards for servicers.
The process for developing the standards has been thorough. After five years and significant feedback from industry and other stakeholders, CSBS issued the proposed standards for public comment on October 1, 2020.

The states have multiple goals for developing the prudential standards:

- First and foremost, to provide better protection for borrowers, investors, and other stakeholders in the occurrence of a stress event, in which adverse circumstances affecting one or a series of companies, or alternatively a wider market dislocation, could result in harm.
- Secondly, to enhance effective regulatory oversight and market discipline over nonbank mortgage servicers.
- Moreover, to improve transparency, accountability, risk management, and corporate governance standards no less stringent than standards proposed by federal government agencies.
- Finally, to provide state supervisors with standards to implement, examine, and enforce against.

The full Proposed Baseline Standards and Enhanced Prudential Standards can be found in the Appendix; below is a brief description.

**Proposed Baseline Standards**
The Baseline Prudential Standards (hereinafter, Baseline Standards) cover eight areas, including capital, liquidity, risk management, data standards and integrity, data protection (including cyber risk), corporate governance, servicing transfer requirements and change of control requirements.

For each of these eight areas, state regulators propose to leverage existing standards or generally accepted business practices. This approach is intended to make the transition as easy as possible as the industry should be familiar and compliant with existing standards. In areas lacking standards directly applicable to nonbank mortgage servicers,
state regulators rely on generally accepted business practices to leverage widely available resources for implementation.

Additionally, the Baseline Standards will also serve as a starting point for Enhanced Prudential Standards and Heightened Supervisory Expectations (hereinafter, Enhanced Standards) for entities that require increased regulatory oversight.

**Proposed Enhanced Prudential Standards**
The Enhanced Standards will be applied to the following four areas: capital, liquidity, stress testing and living will/recovery and resolution planning. At a minimum, servicers subject to the Enhanced Standards (known as Complex Servicers) will be those servicers owning whole loans plus mortgage servicing rights (MSRs) totaling the lesser of $100 billion or representing at least a 2.5% total market share based on Mortgage Call Report (MCR) quarterly data of licensed nonbank owned whole loans and MSRs.

**Conclusion**
As the pandemic continues and potentially exacerbates market forces already underway, state regulators will continue to exercise our oversight authority and the full range of our regulatory tools to ensure enhanced servicer oversight that protects consumers and promotes stability in the mortgage market. The states are committed to continued coordination and information exchange with the federal agencies. We look forward to working with you and your colleagues to ensure this industry operates in a safe and sound manner.

Sincerely,

John Ryan
President and CEO