October 2011 • Vol. 3 • No. 1

The Quarter

Newsletter of the Pennsylvania Department of Banking

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DEPARTMENT OF BANKING

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Office of the Secretary of Banking

Seizing Opportunities

By **Glenn E. Moyer,** Secretary of Banking

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Governor Tom Corbett recognizes that the financial marketplace and the economy have changed significantly and that the Department of Banking must adapt to help Pennsylvania businesses and consumers regain their financial footing and expand their prosperity.

Learn more

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Learn more

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By **Wendy Spicher**

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In This Issue

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The Quarter
Newsletter of the Pennsylvania Department of Banking
Protect > Regulate > Inform >
October 2011 • Vol. 3 • No. 1

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Governor Tom Corbett recognizes that the financial marketplace and the economy have changed significantly and that the Department of Banking must adapt to help Pennsylvania businesses and consumers regain their financial footing and expand their prosperity. In rising to meet the governor's challenge to streamline government and create efficiencies, the Department of Banking will refocus on ensuring the "safety and soundness" of financial services institutions and providing consumer protections. These core functions are the building blocks in creating a rich, fertile environment for Pennsylvania businesses and consumers.

The department currently is reorganizing some of its functions and will be announcing a number of strategic initiatives. I want to take this opportunity to provide an update on three of these changes. First, we have finalized a new mission statement for the department that reflects our emphasis on our core functions:

> ***The Pennsylvania Department of Banking fosters a strong economy for the commonwealth by ensuring the safety and soundness of state-chartered financial institutions, the compliance with laws that impact financial service entities and the protection of consumers in financial matters.***

Second, we are creating a new Client Financial Services team that will function, in large part, as "relationship managers" for the Department of Banking. Staff professionals working in this new area will proactively provide services and outreach to depository and non-depository companies and individuals we charter, regulate and license.

Relationship management is a "hands on" strategy for managing and enhancing interactions with both current and potential clients. It is a professional, listening, customized, solutions-oriented approach. It is meant to provide value to our clients, beyond the important and ongoing regulatory and licensing interactions, while retaining – and hopefully growing – our client base.

I understand that "client" is not a word most regulators use. We see the "client" relationship as one that is mutually beneficial and ordered in such a way that both parties in a client relationship meet their goals and objectives, with integrity. The Corbett Administration wants to see financial services clients – banks, credit unions, mortgage lenders and the like – succeed and become the "job creators" that they can and want to be! We also want to see their customers – consumers and business owners – succeed.

As we "roll out" the Client Financial Services team, we will work to keep you – our stakeholders – informed of its progress.

Continued

The Quarter
Newsletter of the Pennsylvania Department of Banking
Protect > Regulate > Inform >
October 2011 • Vol. 3 • No. 1

Third, we have reexamined several functions in the Non-Depository area. Our Non-Depository staff has achieved a lot under pressure in recent years, especially with transitions related to the federal SAFE Act and the Nationwide Mortgage Licensing System (NMLS), as well as new Pennsylvania statutory requirements.

This "half" of the department has grown in recent years, based on mid-decade assumptions and predictions that the residential mortgage marketplace would greatly expand with the boom in the housing market. Instead, we have seen a major reversal in the housing market and contraction in the mortgage marketplace. We need to understand the impact of these assumptions on the department and make staffing and structure adjustments based on market realities.

After careful consideration, we are moving ahead with a redesigned Bureau of Compliance and Licensing under the direction of Tim Siwy, which will handle compliance, licensing and consumer services issues. Under the direction of Don DeBastiani, our Bureau of Non-Depository Examination will absorb our investigative function, though there may be some sharing of these duties with Wendy Spicher's expanding Depository Institutions staff as needed.

We are making these changes in order to respond effectively to changes in the business landscape and the financial sector. I believe that these changes will enable the Department of Banking, nationally recognized for its excellence, to continue to provide Pennsylvania businesses and consumers with high-quality service.

Banking Department Receives Distinguished Service Award

The American Association of Residential Mortgage Regulators (AARMR) presented the Pennsylvania Department of Banking with a 2011 Distinguished Service Award at the association's annual conference.

"The foundation for a successful and thriving business environment is a clear understanding of the rules of the marketplace," said Secretary of Banking Glenn E. Moyer. "This national recognition reflects upon the hard work and dedication of many professionals here in Pennsylvania to maintain the integrity of the marketplace for consumers and businesses."

The department received the award for providing assistance and devoting personnel to the Multi-State Mortgage Committee (MMC), the Mortgage Educational Testing Board and AARMR's Lawyers Committee. The department also helped develop the accreditation program developed jointly by AARMR and the Conference of State Bank Supervisors. Additionally, AARMR cited the department for its participation in accreditation reviews of other state financial regulatory agencies.

"In an increasingly complex financial marketplace, effective regulatory oversight requires cooperation and collaboration by multiple state agencies," said AARMR president Darin Domingue. "Pennsylvania's leadership of several multi-state efforts has set a high standard for other states to follow."

Information about the American Association of Residential Mortgage Regulators can be found at: **www.aarmr.org**.

The Quarter
Newsletter of the Pennsylvania Department of Banking
Protect > Regulate > Inform >
October 2011 • Vol. 3 • No. 1

Department Issues Response to Floods

The remnants of Hurricane Irene and Tropical Storm Lee resulted in floods that made a profound impact upon many communities in Pennsylvania and their residents, local governments and businesses.

Secretary of Banking Glenn Moyer has encouraged financial services institutions with operations in affected areas to work constructively with local governments, individuals and businesses that experienced financial difficulties due to the recent floods. "A willingness to extend loan terms or reduce monthly payments may preserve businesses and contribute to the ability of many individuals to survive this period of financial stress," he wrote in a letter addressed to CEO's of financial services companies.

For the benefit of state-charted entities, Moyer also noted that, "if loan payments are determined to be delinquent as a result of these emergencies, the Department of Banking will not adversely classify such loans during the next examination, as long as the loans are identified as weather impacted loans."

The full text of Secretary's Moyer letter can be viewed online at: **www.banking.state.pa.us**.

2012 Bank Holiday Schedule Announced

Pennsylvania State Chartered Banking and Trust Institutions

To assist your institution in preparation of a schedule of holidays, a list of 2012 legal bank holidays as extracted from Section 113 of the Banking Code of 1965, as amended:

When a fixed holiday falls on a Sunday, it shall be observed on the following Monday; when it falls on a Saturday, it may also be observed on the following Monday.

New Year's Day, January 1, falls on a Sunday in 2012, therefore, institutions must be closed on January 1, and must also be closed on Monday, January 2, 2012.

Lincoln's Birthday, February 12, falls on a Sunday in 2012. As an optional holiday, there is no provision in the Banking Code to observe Lincoln's Birthday on an alternate day.

**Due to all Federal Reserve Bank offices being closed on Monday, Nov. 12, 2012, in observance of the Veterans' Day holiday, all Pennsylvania state-chartered banking and/or trust institutions may be closed on both Sunday and Monday, Nov. 11 and 12, 2012.*

Fixed Holidays

January 2 – New Year's Day
January 16 – Dr. Martin Luther King, Jr. Day
May 28 – Memorial Day
July 4 – Independence Day
September 3 – Labor Day
November 22 – Thanksgiving Day
December 25 – Christmas Day

Optional Holidays

February 12 – Lincoln's Birthday
February 20 – Washington's Birthday
April 6 – Good Friday
June 14 – Flag Day
October 8 – Columbus Day
November 6 – Election Day
November 11* – Veterans' Day

COMPLIANCE CORNER

Mortgage Licensees Requirement for Annual Continuing Education

Mortgage licensees are required to complete eight hours of Nationwide Mortgage Licensing System & Registry (NMLS) approved continuing education, which include: three hours in federal law, two hours of ethics (to include fraud, consumer protection and fair lending issues), two hours of non-traditional mortgage lending and one hour devoted to Pennsylvania law.

Individual mortgage loan originators (MLO) in any approved license status must complete eight hours of NMLS approved continuing education in 2011 in order to renew a mortgage license for 2012 (check the examples below).

Am I required to take Continuing Education this year?

If I completed SAFE Act PE in 2009 or 2010, and I was approved for an initial license in 2010 am I required to complete CE in 2011? - **YES**

If I completed SAFE Act PE in 2009 or 2010, and I was approved for an initial license in 2011, am I required to complete CE in 2011? - **YES**

If I completed SAFE Act PE in 2011, and I was approved for an initial license in 2011 am I required to complete CE in 2011? - **NO**

Additional information about CE and a link to an approved course is available on the **NMLS web site**

Mortgage Licensees Required to Retain Records for Four Years

The Department of Banking has determined that the period for preserving records by licensees under the Mortgage Licensing Act is a minimum of four (4) years. The Department reserves the right to require a licensee to preserve records for a longer period if circumstances should warrant. If you have questions about this policy, please call the Bureau of Licensing and Compliance (717-787-3717) or email **ra-licensing@pa.gov**.

Quarterly Report on Enforcement Actions

The Department of Banking's Bureau of Compliance and Licensing took 229 enforcement actions during the third quarter of 2011.

The department issued 52 orders against companies for statutory violations resulting in fines of $177,450. Among the 52 orders:

- Nine companies were engaged in unlicensed mortgage loan origination activity;
- Two companies were engaged in unlicensed mortgage loan modification activity;
- Twenty-seven companies were engaged in other unauthorized mortgage loan activity;
- Twelve companies were engaged in various other unauthorized, non-mortgage related activity; and
- The department prohibited two individuals from engaging in the mortgage business in Pennsylvania.

In addition, the department suspended 178 mortgage originator licenses.

If you have questions about compliance issues, please contact the Licensing Division at telephone number (717) 787-3717. You may also contact the NMLS call center at (240) 386-4444.

Third-Party Payment Processing Poses Risks

by **Wendy Spicher**, Deputy Secretary for Depository Institutions

Over the past few years, regulators have observed an increasing number of relationships between banking institutions and third-party payment processors (TPPPs) and an increase in risks associated with these relationships. These relationships pose greater credit, compliance, legal, transaction, strategic and reputation risk than typical commercial customer relationships. Merchants are not subject to BSA/AML regulatory requirements – making payment processors vulnerable to money laundering, identity theft, fraud and other illicit or illegal transactions.

Managing these risks can be challenging since the bank does not have a direct relationship with the payment processor's merchant clients. Risks are even greater when the bank and payment processor perform inadequate due diligence by failing to verify the identities and business practices of the merchants for which payments are originated and by failing to establish a robust program to monitor for suspicious activity.

The most problematic activity seems to be occurring in the origination of ACH debits and Remotely Created Checks (RCCs) also referred to as "demand drafts." RCCs are payment instruments that do not bear the signature of the person from whose account the funds are being drawn. In lieu of the customer's signature, the RCC bears the type written name of the account holder or a statement that account holder's signature is not required or they have authorized the transaction. For this reason, the risk of fraud is often greater for RCCs.   Furthermore, the bank where the check is first deposited carries the liability for losses attributed to unauthorized RCCs. This liability should highlight the need for banks to performed enhanced due diligence.

Although most clients of payment processors are reputable merchants, an increasing number are not and are considered high risk. Some categories associated with high-risk activity include:

Online Gambling	*Ponzi Schemes*	*Pornography*
Dating/Escort Services	*Get Rich Products*	*Tobacco Sales*
Firearm Sales	*Pharmaceutical Sales*	*Telemarketing*
Debt Consolidation Scams	*Credit Card Schemes*	*Payday Loans*

Of particular concern, regulators have seen an increase in payment processors initiating payment for online gaming activities that may be illegal.

Banks should be aware of and monitor warning signs that may indicate increased risk in a TPPP relationship. Warning signs may include:

Continued

- A large number of returns or charge backs
- Significant activity which generates a higher than normal level of fee income
- TPPPs who use more than one bank

The most troubling trend recently identified is payment processors targeting business relationships with troubled banks with deficit levels of earnings or capital. This trend is particularly evident in community banks that lack the infrastructure to properly analyze and manage TPPP relationships.

Due diligence and prudent underwriting standards are a banking institution's strongest means of defense. Banking institutions must implement effective policies, procedures and BSA/AML compliance programs commensurate with the type and volume of activity in which they are engaged. At a minimum, banking institutions should assess risk tolerance for this type of activity, verify the legitimacy of the payment processor's business operations, and monitor payment processor relationships for suspicious activity.

Department Closes Public Savings Bank

On August 18, the Department of Banking closed the $46.8 million-asset Public Savings Bank, Huntingdon Valley. According to the FDIC, Capital Bank of Rockville, Md., assumed all the deposits and agreed to purchase essentially all the assets. The cost to the Deposit Insurance Fund was estimated to be $11 million. This failure was the 65th bank failure of 2011 and the only failure this year in Pennsylvania.

Advancement

Angie Smith has assumed the administrative duties for the department's applications office, working with Joe Moretz. Previously, Angie had served as executive secretary for the Deputy Secretary for Depository Institutions.
Pam Saunders has assumed the duties of executive secretary for the Deputy Secretary for Depository Institutions, working with Wendy Spicher, as well as providing assistance to the Trusts Office. She previously served as executive secretary for the Deputy Secretary for Non-Depository Institutions. **Ryan Walsh** has been appointed acting chief of compliance in the Non-Depository Bureau of Licensing and Compliance, succeeding **Brian Crossland**, who has accepted a position with the federal Consumer Financial Protection Bureau.

Banking Department Reaccredited by NASCUS

The National Association of State Credit Union Supervisors has reaccredited the Pennsylvania Department of Banking. NASCUS first accredited the department in 2001. According to NASCUS, more than 85 percent of state chartered credit union assets are supervised by 28 state agencies accredited by NASCUS.

NASCUS
National Association of State Credit Union Supervisors

Protecting Seniors from Financial Abuse

By **Katrina Boyer**,
Consumer Group Relations Coordinator

The first thing that comes to mind for most people confronted with the issue of abuse of senior citizens is likely physical abuse. However, the financial exploitation of seniors is one of the most common forms of fraud, accounting for nearly 15 percent of reported cases of elder abuse. According to a 2009 study by MetLife, while underreported, the annual loss to victims nationwide is estimated to be a minimum of $2.6 billion dollars.

Seniors are more likely to be financially exploited by someone they know. Often the senior is afraid to report the abuse for fear of losing their independence, becoming lonely and abandoned, and even worse, being physically abused. All too often, the abuse is not reported until the senior is left penniless. Since the senior is most likely unable to work and recover from the loss, they may become dependent on public assistance or other programs funded by both private and taxpayer dollars.

Financial institutions are in a unique situation where they often have built relationships with their customers and can train branch staff to recognize some signs of financial exploitation of senior citizens:

- Changes in financial habits like large unexplained cash withdrawals, an increase in the frequency or typical location of debit card use;
- Previously uninvolved family members or friends who appear to be "calling the shots";
- The account holder is confused about account balances or questions transactions;
- A caregiver who suddenly begins to be paid a higher salary, or paid more often; or
- The account holder appears overly stressed, disheveled, confused or coerced.

The Financial Services Roundtable offers a free online resource to combat financial abuse of seniors: *Protecting the Elderly and Vulnerable from Financial Fraud and Exploitation.* This toolkit is available at **www.bitsinfo.org** (search 2010 in the BITS Publications section).

If you have questions or concerns, you can contact the PA Department of Aging toll free elder abuse line (800-490-8505) or your county **Area Agency on Aging**. Reports to any of these agencies may remain anonymous.

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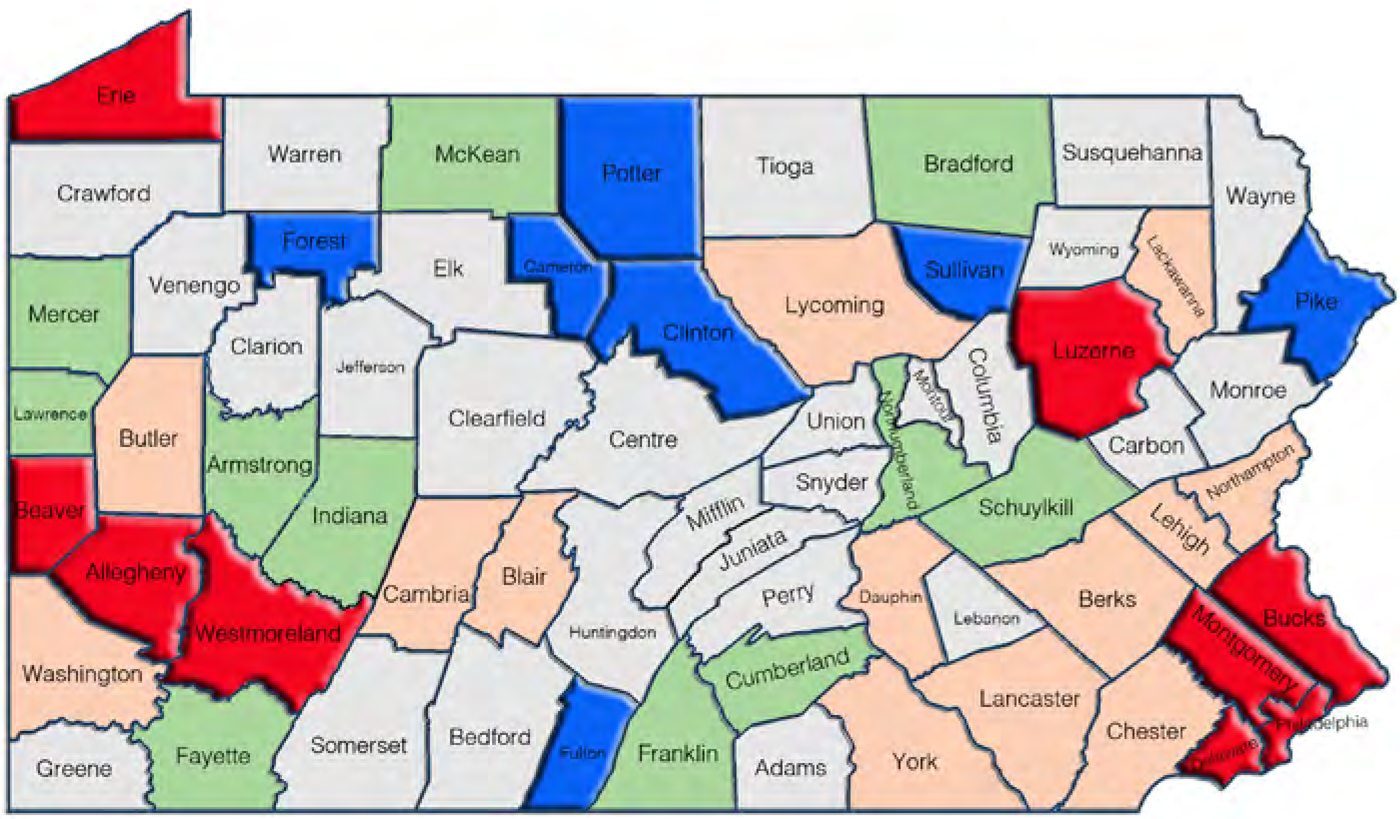
Protect > Regulate > Inform >
October 2011 • Vol. 3 • No. 1

RESEARCH QUARTER

Banks and Credit Unions Headquartered in PA
By County (Federal and State Charters)



= 0 | = 1 - 5 | = 6 - 10 | = 11 - 20 | = 20 or more

Data Source: Pennsylvania State Data Center, FDIC, NCUA

If you have any questions or comments, or would like to view previous editions of "The Quarter" click the icon.