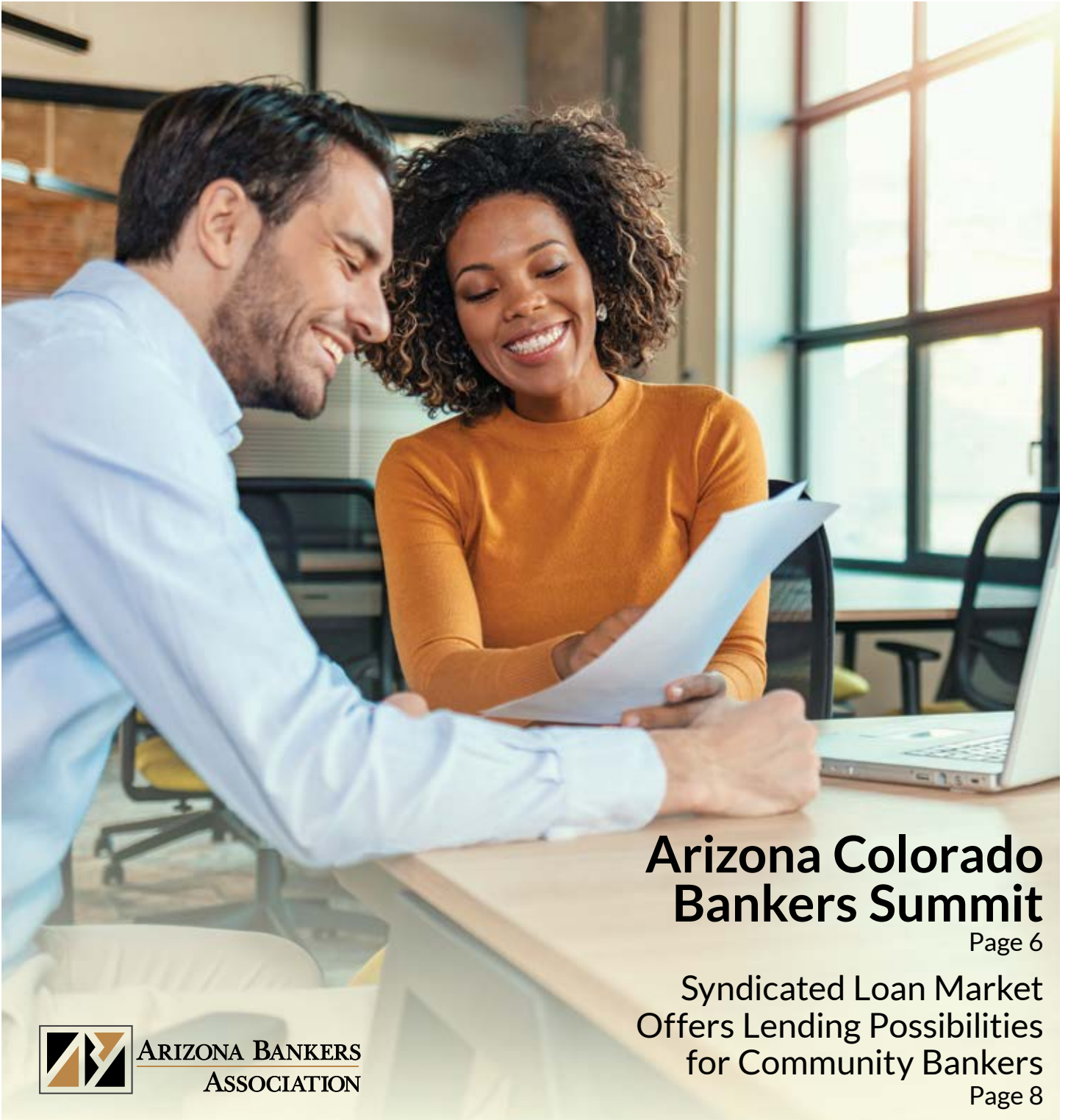


THE ARIZONA

# BANKER

OFFICIAL PUBLICATION OF THE ARIZONA BANKERS ASSOCIATION

PUB. 11, 2021 ISSUE 4



## Arizona Colorado Bankers Summit

Page 6

Syndicated Loan Market Offers Lending Possibilities for Community Bankers

Page 8



ARIZONA BANKERS  
ASSOCIATION



*Together, let's  
make it happen.*

*Tracy  
Peterson*

Call me at 480.259.8280

Based in Phoenix, Ariz., serving Arizona

## Why choose Bell as your bank's lending partner?

Leverage our large lending capacity, up to \$20 million on correspondent loans. Our lending limits are high enough to accommodate what you need, when you need it.

- Commercial & ag participation loans
- Bank stock & ownership loans
- Bank building financing
- Business & personal loans for bankers

**We do not re-participate any loans.**



bell.bank

Member FDIC  29005



**Denise Bunbury**  
608.234.1438

Based in Eau Claire, Wis., serving Wisconsin, Illinois and the Upper Peninsula of Michigan



**Perry Rassler**  
763.242.7518

Based in Minneapolis, Minn. serving Minnesota



**Mary Voss**  
515.577.0070

Based in Des Moines, Iowa, serving Iowa and Illinois



**Callie Schlieman**  
701.433.7430

Based in Fargo, N.D., specializing in bank stock and Regulation O lending



**Todd Holzwarth**  
605.321.9197

Based in Sioux Falls, S.D., serving South and North Dakota, Northwest Iowa and Southwest Minnesota



**Mike Pate**  
402.301.3707

Based in Omaha, Neb., serving Nebraska



**Craig McCandless**  
406.850.3790

Based in Billings, Mont., serving Montana, Wyoming and Idaho

# What will drive your core earnings growth?



## Consider cannabis banking.

Is your financial institution seeking new sources of low-cost deposits and non-interest income? If so, it may be time to consider banking the booming cannabis industry.

As net interest margins compress, cannabis banking provides a low-cost funding engine, delivering service charge revenue with low-cost deposits.

Learn how your financial institution can unlock the benefits of a safe and scalable cannabis banking program and gain a first-mover advantage in this fast-growing industry.

Get started at [ShieldBanking.com](https://ShieldBanking.com)

## Cannabis banking, simplified.

*Shield Compliance transforms how financial institutions manage risk, comply with regulations, and address the operational demands of the legal cannabis industry.*

### shield assure

BSA/AML compliance management to monitor, measure, and control your financial institution's cannabis banking program.

### shield engage

New client application and underwriting to accelerate speed to market.

### shield transact

Payment enablement for compliant cashless transactions.

 Contact us to learn how Shield Compliance is helping financial institutions earn the benefits of a cannabis banking program.

**Brian Storey**  
Business Development Officer  
✉ [brian@shieldbanking.com](mailto:brian@shieldbanking.com)  
☎ (425) 276-8238

**Richard Drennen**  
Business Development Officer  
✉ [richard.drennen@shieldbanking.com](mailto:richard.drennen@shieldbanking.com)  
☎ (425) 249-7168

See a Demo





# ARIZONA BANKERS ASSOCIATION

111 West Monroe, Suite 440  
Phoenix, Arizona 85003  
Phone: (602) 258-1200

## 2022 AZBA BOARD OF DIRECTORS AND STAFF

### EXECUTIVE COMMITTEE

**Jack Barry**  
Immediate Past Chairman  
Enterprise Bank & Trust

**Brian Schwallie**  
Chairman  
U.S. Bank

**Scott Vanderpool**  
Chairman-Elect  
Bank of America

**Don Garner**  
Vice Chairman & Secretary  
Western Alliance Bank

**Bo Hughes**  
Treasurer  
Canyon Community Bank

### DIRECTORS

**Bill Callahan**  
Arizona Bank & Trust

**Neal Crapo**  
Wells Fargo

**Kevin Cutter**  
Pacific Premier Bank

**Wayne Gale**  
1st Bank Yuma

**Joel Johnson**  
FirstBank

**Kyle Kennedy**  
Bell Bank

**Dave Matthews**  
Bank 34

**Brad Parker**  
PNC Bank

**Dave Ralston**  
BOK Financial

**Steve Richins**  
Comerica Bank

**Tyson Rigby**  
JPMorgan Chase

**Brian Riley**  
Foothills Bank

**Brian Ruisinger**  
Republic Bank of Arizona

**Dina Ryan**  
Citigroup

**Patrick Strieck**  
BMO Harris Bank

**Ralph Tapscott**  
Horizon Community Bank

**Chris Webster**  
Commerce Bank of Arizona

**Mark Young**  
National Bank of Arizona

### AZBA STAFF

**Paul Hickman**  
CEO & President

**Steven Killian**  
Director of Government Relations

**Kerensa Williams**  
Chief Operating Officer

**William Ridenour**  
General Counsel



## IN THIS ISSUE

- 6** Arizona Colorado Bankers Conference
- 8** Syndicated Loan Market Offers Lending Possibilities for Community Bankers
- 10** Risk Mitigation: Preventive Measures Against ACH Fraud
- 12** 3 Key Steps To Take Upon Receiving An Inheritance
- 14** What You Should Know About Cryptocurrency
- 16** Are You Ready to Serve Arizona's Fast-Growing Cannabis Market?
- 18** OCC Releases Proposal to Rescind CRA Final Rule After a False Start
- 20** OFAC Issues New Guidance Directed at Virtual Currency Industry: What You Need to Know

@ 2022 Arizona Banker Association (AzBA) | The newsLINK Group, LLC. All rights reserved. The Arizona Banker is published four times each year by The newsLINK Group, LLC for AzBA and is the official publication for the association. The information contained in this publication is intended to provide general information for review and consideration. The contents do not constitute legal advice and should not be relied on as such. If you need legal advice or assistance, it is strongly recommended that you contact an attorney as to your specific circumstances. The statements and opinions expressed in this publication are those of the individual authors and do not necessarily represent the views of the association, its board of directors, or the publisher. Likewise, the appearance of advertisements within this publication does not constitute an endorsement or recommendation of any product or service advertised. The Arizona Banker is a collective work, and as such, some articles are submitted by authors who are independent of AzBA. While AzBA and the newsLINK Group encourages a first-print policy, in cases where this is not possible, every effort has been made to comply with any known reprint guidelines or restrictions. Content may not be reproduced or reprinted without prior written permission. For further information, please contact The newsLINK Group at 855-747-4003.

EQUIPMENT LEASING

SERVICES • L.L.C.



Putting the financial pieces together for your bank's customers.

### Areas where ELS has expertise navigating obstacles

➤ **Structure:**

Your bank might be limited in what it can offer when it comes to unique financing terms. We get that. ELS has over 30 years of experience in providing customized funding options. Whether your customer needs a lease or a finance agreement, ELS has the ability to be flexible and competitive.

➤ **Credit Quality:**

Does your customer lack the sophistication, time in business or struggle to meet your covenants? Because we have our own capital ELS can provide permanent financing putting your customer in the best possible situation for success.

➤ **Collateral:**

As an independent lender/lessor, ELS is flexible enough to deliver our products to virtually any business. ELS can provide solutions for every industry from aircraft to IT.

➤ **Size:**

Have you met your lending limit with one of your better customers? Or perhaps it's a small request from a longtime prospect and it's time to get your foot in the door. As a niche lender we can provide fast solutions for smaller requests or aggressive terms of any size for your creditworthy clients.

[equipls.com](http://equipls.com) | 480-443-8984

# Arizona Colorado Bankers Conference

2022 May 4-6, Colorado & Arizona Bankers Summit, Colorado Springs Broadmoor Resort. Register at [azbankers.org/events](https://azbankers.org/events)







# Syndicated Loan Market Offers Lending Possibilities for Community Bankers

By Jay Kenney, PCBB SVP & Southwest Regional Manager

Many bankers are looking for ways to put their liquidity to good use. Buoyed by government relief, deposits surged at many financial institutions (FIs) at the start of the pandemic. Despite predictions that liquidity would tighten in pace with an economic recovery, FIs still have more cash than opportunities to profitably deploy it.

Net interest margins reached record lows in Q1 2021, according to S&P Global Market Intelligence, and dipped even lower in Q2. For the banking industry as a whole, aggregate taxable equivalent net interest margin dropped 2.47% in Q2, or 6bp less than Q1 and 27bp less than Q2.

With few other places to invest their cash, FIs are buying U.S. government bonds at record levels. According to JPMorgan Chase, banks purchased a record of about \$150 billion in Treasury bonds in Q2 of this year. That has helped put downward pressure on bond yields.

Given the choice, however, community banks would much rather write quality loans. So, the syndicated loan market for commercial and industrial (C&I) loans may offer a place to do just that and provide an attractive option for all that liquidity.

## What are syndicated C&I loans?

The \$1.5 trillion syndicated loan market for secured commercial and industrial loans typically involves sizeable loans and large borrowers financing substantial transactions, such as mergers and acquisitions.

- **Strong cash flows.** Because borrowers are usually national or large regional enterprises, they have some income diversity, translating to strong cash flows.
- **Who is included?** Big banks typically originate the loans and set their terms, then pull together other lenders that complete the deal as a group.
- **Floating rates.** Rates usually float at points over an index; that used to be LIBOR, though the index choice is gradually becoming more diverse.
- **Short terms.** Loan terms are five to seven years, and the debt amortizes wholly or in part.
- **High liquidity.** Lenders typically have a first lien on assets – an important detail, especially considering that borrowers are often heavily leveraged. Running the gamut from low to high risk and corresponding returns, all these loans trade in a secondary market, making them liquid.



“

The \$1.5 trillion syndicated loan market for secured commercial and industrial loans typically involves sizeable loans and large borrowers financing substantial transactions, such as mergers and acquisitions.

”

- **Interest income and diversification.** Syndicated C&I loans generally offer returns that, on a risk-adjusted basis, compare well with a C&I portfolio based in a small, local market. Returns are particularly good given the current low-rate environment. With a variety of borrowers in various industries, these loans allow you to use your liquidity and diversify your loan portfolio at the same time.

Moreover, this kind of lending offers small community banks an opportunity for loan growth that in the past has been the domain of large banks. Given the current challenges for many community banks to expand their lending, they may want to look into the syndicated C&I debt marketplace. ▀

**How community banks can benefit?**

Through years of experience in this market, PCBB has found the following advantages with syndicated C&I loans.

- **Flexibility.** The liquidity is one potential benefit to owning a piece of one of these loans. An FI that buys a loan from another FI in most other situations might be able to exit the position, but only by selling the loan back to the originator. If the first institution doesn't want to repurchase the loan, the second one is stuck. These C&I loans offer quicker liquidity and more flexibility.



PCBB has a C&I program that can increase your loan portfolio. To learn more, please contact Jay Kenney at [pcbb.com](http://pcbb.com) or [jkenney@pcbb.com](mailto:jkenney@pcbb.com).



# Zia Trust, Inc.

*The Advisors' Trust Company<sup>®</sup>*



**Rachel Zaslow, J.D.**  
Trust Officer



**Josh Moore, M.S.**  
Trust Officer



**Dave Long, J.D.**  
Vice President, Manager



**Hannah Malinski, J.D.**  
Trust Officer

INDEPENDENT  
TRUST  
COMPANY

- Not a bank
- Pure fiduciaries
- Regulated by AZDFI
- Focus on the client and beneficiaries
- All types of fiduciary appointments



Serving families in the Valley and all of Arizona

*We work alongside your clients' investment advisor*

602.633.7999  [www.ziitrust.com](http://www.ziitrust.com)

11811 N. Tatum Blvd., Suite 2900, Phoenix, AZ. 85028



# Risk Mitigation: Preventive Measures Against ACH Fraud

By Travelers

Banks and financial institutions rely on technology to operate successfully and provide customers the best products and services. With technology, though, comes the heightened risk of falling victim to wire fraud schemes that can result in significant financial losses.

One example is Automated Clearing House (ACH) debit entry fraud, when a bad actor executes ACH transfers from a victim's bank account into an account controlled by the fraudster. Because of the rising popularity in using ACH transfers and strict National Automated Clearing House Association rules, banks and financial institutions have never been more at risk. According to the most recent Federal Reserve Payments Study, the number of ACH debit transfers (16.6 billion) exceeded the number of check payments (14.8 billion) for the first time in 2018. In 2000, to provide context, there were 42.6 billion check payments and only 2.1 billion ACH transfers.

"More people and businesses are using this type of transaction, but financial institutions should be aware of the risks involving ACH and the potential for fraud," said Jerry Keup, National Underwriting Officer, Banks and Diversified Financial at Travelers. "There are steps these institutions can take to reduce the likelihood of a fraudulent incident taking place, but they should be vigilant and address any vulnerabilities seriously."

Risk mitigation steps include, but are not limited to:

**Develop methods to identify synthetic identity fraud.** The Federal Reserve Bank has identified red flags to aid in recognizing synthetic identity fraud.

“

"More people and businesses are using this type of transaction, but financial institutions should be aware of the risks involving ACH and the potential for fraud," said Jerry Keup, National Underwriting Officer, Banks and Diversified Financial at Travelers.

"There are steps these institutions can take to reduce the likelihood of a fraudulent incident taking place, but they should be vigilant and address any vulnerabilities seriously."

”

These include paying close attention to accounts that show:

- The credit file depth is inconsistent with the customer's age or other profile information
- Multiple identities with the same Social Security number
- Multiple applications from the same phone number, mailing address or IP address
- Use of secured credit lines or piggybacking to build credit
- Social Security numbers issued after 2011
- Multiple authorized users on the same account

**Monitoring and analytics.** Using software and analytic data can often detect financial crime attempts much faster than the human eye. But even the best controls can fall short. Travelers offers a wide range of coverages for financial institutions, including an

endorsement that covers two specific ACH scenarios:

- A fraudster opens a deposit account with a bank or credit union, then feeds that account with stolen funds from victims through ACH pulls
- A fraudster establishes a loan or line of credit with a bank or credit union and causes ACH transfers from victims' accounts to repay the loan or line of credit

Preventive measures taken or reinforced now against ACH fraud attempts can lead to positive results in the future. It's worth the time and investment. ▶

*Travelers is committed to managing and mitigating risks and exposures and does so backed by financial stability and a dedicated team – from underwriters to claim professionals – whose mission is to ensure and protect a company's assets. For more information, visit [travelers.com](http://travelers.com) or talk to your independent insurance agent about ACH coverage.*



# 3 Key Steps To Take Upon Receiving An Inheritance

By Frank Schoen, Bankers Trust

As the largest and wealthiest generation of Americans prepares to retire, as much as \$68 trillion will be passed down to younger generations over the next two decades. This phenomenon, dubbed “The Great Wealth Transfer,” is already beginning today.

Whether expected or unexpected, if you receive an inheritance, do you know what to do on day one? Planning reduces the risk of not using the money efficiently and helps remove emotion from the process. Read on for three critical steps for heirs to take when receiving an inheritance.

## 1. Discretion is key

Remember that receiving an inheritance is no business but your own as an heir. It is usually in your best interest to keep the matter as private as possible. Think about lottery winners whose winnings make the local news. Often, the lucky winners find themselves inundated with cash requests from friends, family, neighbors, co-workers, old classmates and perfect strangers.

Making rational decisions with money is hard enough without a public audience. Keeping the news between you and your spouse or partner can help reduce external influences around financial decisions involving your inheritance.

“

Beyond consulting with your tax advisor, an heir should confirm that the grantor/testator’s final tax obligations have been satisfied. By being proactive, you can avoid the uncomfortable situation of needing to return part of an inheritance to cover the grantor/testator’s final income tax or estate tax obligations. It happens more often than you might think.

”



## 2. Consult with your family tax advisors

Receiving an inheritance has possible income tax, estate tax and inheritance tax implications. Before even thinking about retiring debt, making a major purchase or investing any inherited assets, you should understand the tax landscape and what taxes, if any, you may owe as an heir.

Receiving an inheritance may not be a taxable income event. Still, the earnings that the inherited assets produce – such as interest, dividends, rental income and farm income – are usually treated as ordinary income and need to be reported on the heir's tax return each year. Potential taxes on capital gains should also be considered before inherited assets are sold.

Beyond consulting with your tax advisor, an heir should confirm that the grantor/testator's final tax obligations have been satisfied. By being proactive, you can avoid the uncomfortable situation of needing to return part of an inheritance to cover the grantor/testator's final income tax or estate tax obligations. It happens more often than you might think.

## 3. Consult with your financial advisor

Once the tax landscape is properly addressed, you have many choices ahead regarding how to use your inheritance.

Spend? Retire debt? Save? Invest? Donate? All of the above? It can be difficult to weigh the various options and make informed decisions because emotion tends to creep in, skewing judgment, but this is where consulting with an objective financial advisor can make all the difference. The advisor can help you identify possibilities, analyze them, and make plans based on what is best for you and your family based on your unique goals and situation. ▮

*NOTE: Bankers Trust Company and its affiliates and their representatives do not provide tax or legal advice. This article is intended for informational purposes only and should not be construed as tax or legal advice. You should consult with your tax and legal advisors regarding your unique situation and needs.*



*Frank Schoen is Vice President and Senior Private Client Wealth Advisor at Bankers Trust and is a CERTIFIED FINANCIAL PLANNER™ and Certified Private Wealth Advisor®. He joined the bank in 2021 and has over 15 years experience in the wealth management industry. He can be reached at [FSchoen@bankerstrust.com](mailto:FSchoen@bankerstrust.com).*

# What You Should Know About Cryptocurrency

By Nate Birkholz, Bankers Trust

Cryptocurrency – virtual or electronic currencies – has been in the financial news a lot lately. However, it remains a mystery to most people. Below is an overview of cryptocurrencies: how they work, what drives interest in them, and their associated risks.

## What are cryptocurrencies, how do they work and are they a legitimate form of payment?

It is estimated that there are more than 5,000 cryptocurrencies in existence. Bitcoin is enviable as one of the most widely recognized, but other popular cryptocurrencies include Dogecoin, Ethereum and Litecoin.

Bitcoin was created in 2009 by an anonymous person(s) under the alias Satoshi Nakamoto. Like other cryptocurrencies, Bitcoin uses a peer-to-peer network to generate secure electronic transactions known as blockchain. Cryptocurrencies can be purchased or mined and are stored in a digital wallet.

Bitcoin and other cryptocurrencies are increasingly gaining acceptance worldwide as a form of payment, but they do not currently have legal tender status in the U.S.

## What is driving interest in them?

Supporters with a longer-term view find cryptocurrencies appealing to facilitate efficient and inexpensive domestic and global transactions because there is no exchange rate, among other features. In addition, cryptocurrency supporters consider the decentralized nature of blockchain to be more secure than other payment systems.

Further, the value of cryptocurrencies is not influenced by governments or central banks, which can devalue currencies over time through monetary policy. In contrast to supporters with a longer-term view, speculators are interested in cryptocurrencies because of the high volatility they exhibit and their potential for dramatic appreciation as demand increases.

“

Bitcoin and other cryptocurrencies are increasingly gaining acceptance worldwide as a form of payment, but they do not currently have legal tender status in the U.S.

”

## What are the risks associated with cryptocurrencies?

There are many risks associated with cryptocurrencies. Most notably, they are highly volatile. Their value may fluctuate dramatically in a single day, making their use as a currency challenging. Without government support, cryptocurrencies may find stability difficult to achieve.

Additionally, cryptocurrencies are unregulated, leading to greater potential for fraud or loss of value. Further, using virtual “wallets” for storing cryptocurrency means there is a risk of loss due to hacking. This risk is not unique to cryptocurrency. However, when added to the other risks, it becomes apparent that cryptocurrency will need to evolve significantly before wider adoption becomes a reality. ▶

*NOTE: This article is for informational purposes only and is not intended as an offer or solicitation concerning the purchase or sale of any security. Statements in this report are based on information available at the time this report was prepared. Bankers Trust Company and its affiliates cannot guarantee the accuracy of the information. This commentary contains no investment recommendations, and you should not interpret the statement in this report as investment, tax, legal, and/or financial planning advice. All investments involve risk, including the possible loss of principal. Investments are not FDIC insured and may lose value.*



*Nate Birkholz is Vice President and Managing Director of Private Client Services at Bankers Trust. He joined the bank in 2017 as president of BTC Trust Company of South Dakota and has over 20 years of experience working with trusts, estates, and investment services. He can be reached at [NBirkholz@BankersTrust.com](mailto:NBirkholz@BankersTrust.com).*



# Are You Ready to Serve Arizona's Fast-Growing Cannabis Market?

By Tony Repanich, CEO, Shield Compliance

In November, 2020, Arizona joined a growing number of states legalizing cannabis for adult use. While Arizona has had a medical marijuana program in place since 2010, the move to welcome recreational marijuana represents a significant expansion of the market. With 73 dispensaries already approved to sell recreational marijuana, Arizona is on track to surpass \$1 billion in total annual sales of medical and recreational cannabis. Some analysts predict the state will top \$2 billion in annual sales after recreational sales have been in place for a few years. As a result, cannabis companies from around the country have been exploring expansions and acquisitions in Arizona, and existing companies are planning to grow.

As we've seen in other states, a new legal market for adult-use cannabis brings with it a surge of new businesses and new capital. To ensure they have the processes, procedures, technology, and trained staff to serve this industry, bankers need to have a plan in place. Luckily, there is a playbook to help bankers understand both the opportunities and risks of serving cannabis-related businesses (CRBs) and the tools they need to successfully navigate this new market. Here are a few points from that playbook to keep in mind.

## Understand the Realities of Cannabis Banking

While banking in this industry offers compelling financial benefits, such as new low-cost deposit growth, non-interest income, and the potential for earning assets, banks need to make sure they are grounded in the realities of the cannabis industry and their business reasons for getting involved.

Having a clear understanding of what is required to serve marijuana-related businesses and minimize risk to the financial institution will help bankers determine if this industry is a good fit for their bank. If so, prepare for the associated upfront costs, educate your board and partners, and begin developing the policies and procedures needed to hit the ground running.

## Update Policies and Procedures to Operate Compliantly

Banks will need to update their existing policies and procedures to reflect the compliance and regulatory requirements of this industry or to develop new ones, if necessary. Cannabis banking will touch almost every aspect of your business, from audit requirements and insurance





Your investment in a compliance platform will also allow your cannabis banking program to scale as the industry grows and new competitors enter the market.

### Provide Specialized Resources

While technology will help make your staff more efficient, you'll also need to hire or train employees as specialized cannabis bankers who have a deep understanding of the industry. This knowledge will help them better evaluate customers' cannabis-related business activity to ensure compliance while deepening their customer relationships.

Both bankers and customers should expect high levels of transparency in their operations and interactions, which can pay additional dividends down the line, as strong, open relationships yield positive referrals. As a banker, you'll have a responsibility to ensure your cannabis clients are operating within state guidelines. Having systems and processes to help you reconcile data from multiple sources can help you do that efficiently and accurately.

### Be Prepared to Scale

As an emerging industry, banks should anticipate ongoing market changes and adapt to remain competitive. Specifically, there is significant interest in how changes to federal cannabis policy will impact banking. While we do not believe the passage of national reform, such as the SAFE Banking Act, would change the compliance and due diligence required for this industry, it would be an important step toward removing the regulatory uncertainty in the market. It would open the door for more financial institutions to serve the industry.

With the U.S. cannabis industry projected to reach \$41.4 billion by 2025 and strong growth projected for Arizona, you can be certain more financial institutions will be entering this market in the coming years. Increased competition typically comes with more competitive terms for the customer. For bankers thinking about the economics of a cannabis banking program, it is important to consider the upfront costs associated with serving this industry while making sure you are implementing an operational cost structure that allows you to gain the financial rewards of this industry. Most importantly, you'll want to be ahead of the curve when the business changes and more competition enters the market. ▶

---

*As President and Chief Operating Officer of Shield Compliance, Tony Repanich leads day-to-day operations and is the company's principal product architect. Having served as a senior executive at a Washington State-based community bank for over 25 years, Tony has in-depth knowledge of the banking industry and the regulatory and compliance requirements for high-risk industries. Today he brings that knowledge to financial institutions serving and considering serving the legal cannabis industry.*

“ As we've seen in other states, a new legal market for adult-use cannabis brings with it a surge of new businesses and new capital. ”

coverage to transporting and processing cash payments and the attendant branch security. As new businesses enter the industry, you'll need to have rigorous risk assessment standards and procedures in place to ensure you're banking legal funds and have a clear line of sight into the business and its beneficial owners.

Part of being prepared to meet compliance requirements means developing systems, applications, and onboarding processes that allow you to vet potential customers and access critical customer and transaction data, all while delivering a positive customer service experience.

### Support Compliance Staff with Technology

Investing in specialized compliance technology will help your bank operate more efficiently by automating your processes and engaging your cannabis customers as active participants in their own compliance. Automation also allows your compliance staff to focus their time, energy, and brainpower on judgmental decision making, analysis, and customer service, rather than mundane compliance tasks.



# OCC Releases Proposal to Rescind CRA Final Rule After a False Start

By Chris Bell, Sr. Hotline Advisor and Associate General Counsel

New leadership usually takes us into the future. The Office of the Comptroller of the Currency (OCC) is reversing this trend by first taking us into the past for a bit. Seeing the June 5, 2020, final rule to modernize its Community Reinvestment Act (CRA) framework (June 2020 Rule) as a false start, the OCC has issued a proposed rule to rescind it in favor of working with the other agencies to develop a new rule. The proposed rule would replace the existing 12 CFR part 25 with a revised 12 CFR part 25 based on the 1995 Rules and reinstate 12 CFR part 195 (for savings associations). The proposed 12 CFR part 25 would be substantively identical to the 1995 rule. All definitions, performance tests and standards, and related data collection, recordkeeping, and reporting requirements would revert to those in place before the OCC issued the June 2020 Rule. Also, the rules surrounding the public file and public notice

requirements would revert to those in the 1995 rule. The proposed rule applies to all national banks and all federal and state savings associations. If you would like to comment on any aspect of the proposal, you must submit those before Oct. 29, 2021. The June 2020 Rule would remain in effect until replaced by final rules based on this proposal.

The OCC recognizes that banks have relied on the June 2020 Rule to plan for their ongoing compliance with the CRA. Given the partial implementation of the June 2020 Rule, its replacement would change the regulatory framework that impacts, among other things, how examiners evaluate banks and what qualifying activities they would consider in CRA examinations. The OCC proposes a transition to replace certain aspects of the June 2020 Rule, which it summarizes in a chart on Page 38 of the proposed rule ([https://www.occ.gov/news-issuances/federal-](https://www.occ.gov/news-issuances/federal-register/2021/nr-occ-2021-94a.pdf)

[register/2021/nr-occ-2021-94a.pdf](https://www.occ.gov/news-issuances/federal-register/2021/nr-occ-2021-94a.pdf)). Subsequently, as part of the ongoing interagency CRA rulemaking, the OCC would propose a joint revised CRA rule to replace the rules in this proposal. Following publication of any final rules regarding this proposal, banks would have a minimum of 30 days before they would be required to comply with most of the provisions described in the proposed rule. Therefore, the OCC is considering an effective date of Jan. 1, 2022, for any final rules, provided they are published by Dec. 1, 2021.

Banks that changed type based on the asset threshold adjustments in the June 2020 Rule are subject to different performance standards for activities conducted on or after Oct. 1, 2020. Also, former "large banks" that became "intermediate banks" under the June 2020 Rule were no longer required to collect data for calendar year 2021 onward and report data for calendar

year 2022 onward. Many of these banks will transition back to their prior bank type based on the proposed asset-size thresholds. Consistent with its historical practices, if the proposed rules take effect Jan. 1, 2022, the OCC would require newly-classified large banks to begin collecting data Jan. 1, 2023, and reporting required and optional data the following year. The OCC will not provide banks transitioning from small banks to Intermediate Small Banks (ISB) to transition to the ISB performance standards. However, the OCC would consider the change in bank type as part of the bank's performance context when evaluating the bank's CRA performance.

The OCC proposes that OCC-regulated banks would receive consideration in their CRA examinations for activities that met the qualifying activities criteria or definitions that were in effect when the bank conducted those activities. The OCC will maintain the illustrative list of qualifying activities on its website to help banks determine whether the activities they performed while the June 2020 Rule was in effect

are eligible for CRA consideration. However, activities included on the illustrative list may not receive consideration if conducted after the effective date of the final rules.

The June 2020 Rule changed the public file requirements by reducing the information required in the public file and changing the requirements for how an OCC-regulated bank makes the public file available to the public, including permitting these banks to make the public file available solely on their websites. Under the proposed rules, banks would need to include additional information in their public file and make the file available at their main office. Interstate banks must make their public file available at one branch in each state and more limited information at each branch. Since the proposed rules would impose additional public file content and availability requirements, the OCC expects to provide in the final rule that banks would comply with these requirements no later than three months after the final rule's effective date.

The June 2020 Rule permitted banks to include target market assessment areas when requesting approval for a strategic plan. The OCC proposes maintaining any strategic plans approved by the OCC under the June 2020 Rule and would not require these banks to amend their strategic plans. ▀

---

*Chris W. Bell serves as Associate General Counsel for Compliance Alliance. He holds a bachelor's degree in Political Science from the University of Memphis, a master's degree in Political Management from the George Washington University, and a law degree from the St. Mary's University School of Law.*

*Chris began his career working for a regional bank in Tennessee, where he developed a passion for serving customers through the banking system. In law school, Chris focused his studies on the different financial aspects of the law, including the Internal Revenue Code and Uniform Commercial Code. Chris has worked in the legal department of a federal savings bank and for the Texas Department of Banking. As one of our hotline advisors, Chris helps C/A members with a wide range of regulatory and compliance questions.*



## THE NATION'S — FIRST — BANKERS' BANK

### First For Your Success

United Bankers' Bank is proud to be the nation's first bankers' bank, serving over 1,000 community banks from the West Coast to the Great Lakes. We can't wait to share our passion for community banking with you!

To Request Pricing or Additional Information  
Visit [ubbRequest.com](http://ubbRequest.com)

Contact your Arizona Calling Officer:

**Donna Blake**

VP, Correspondent Banking Officer  
[donna.blake@ubb.com](mailto:donna.blake@ubb.com)




**First for Your Success™**  
[ubb.com](http://ubb.com) • Member FDIC



# OFAC Issues New Guidance Directed at Virtual Currency Industry: What You Need to Know

By Roger Morris, Jr., JD, Hotline Advisor and Associate General Counsel



In October, the Office of Foreign Assets Control (OFAC) published more targeted guidance for digital asset companies related to compliance with sanctions and best practices for mitigating risks. OFAC's virtual currency guidance is directed at the entire industry, "including technology companies, exchangers, administrators, miners, wallet providers, and users." It aims to "help the virtual currency industry prevent exploitation by sanctioned persons and other illicit actors," according to the press release issued with the guidance. Essentially, the guidance emphasizes that anyone subject to U.S. sanctions laws and regulations must continue to abide by them when engaging with virtual currencies.

The guidance provides several best practices that entities involved in virtual currency activities should follow to remain in compliance and to mitigate penalties in instances of compliance failures. These practices will be familiar to anyone with experience in sanctions compliance best practices applicable to other industries. This said, the document notes, compliance solutions should reflect a risk-based approach and should be tailored to the type of product or business involved, its size and level of sophistication, its clients and counterparties, and the locations it serves. OFAC also expects companies to implement these practices sooner rather than later in the company's existence before any products and services are released. While there is no single compliance program to suit all scenarios, implementing OFAC's best practices, as follows, can prevent sanctions violations and serve as a mitigating factor should any violations occur.

## **Management Commitment**

Management should commit to enforcing a culture of compliance throughout the organization from the company's earliest days. OFAC recommends specific actions that management can take to set an appropriate tone from the top, including reviewing and endorsing compliance procedures, allocating adequate resources to compliance, delegating autonomy and authority to the compliance department, and appointing an experienced sanctions compliance officer.

*Continued on page 22*

## Risk Assessment

Regular and ongoing risk assessments should be conducted to identify risks associated with sanctions compliance. Activities and relationships associated with foreign jurisdictions or foreign persons should be assessed for their potential to expose a company to sanctioned persons or places.

A virtual currency company's risk assessment process should be tailored to the types of products and services offered and the locations in which such products and services are offered. Appropriately customized risk assessments should reflect a company's customer or client base, products, services, supply chain, counterparties, transactions, and geographic locations, and may also include evaluating whether counterparties and partners have adequate compliance procedures.

## Internal Controls

Internal controls should be able to "identify, interdict, escalate, report (as appropriate), and maintain records for" prohibited activities. Useful internal controls include sanctions screening, geolocation tools, know your customer ("KYC") procedures, and transaction monitoring and investigation to identify virtual currency addresses and other data associated with sanctioned individuals, entities, or jurisdictions. OFAC includes virtual currency addresses as identifying information for designated persons, so these should be used in screening as well. While OFAC does not require the virtual currency industry to use any particular in-house or third-party software, OFAC states that such software can be a helpful tool for an effective sanctions compliance program.

## Testing and Auditing

Testing and auditing procedures can include ensuring that screening and IP blocking are working effectively. Companies that incorporate a comprehensive, independent, and objective testing or audit function within their sanctions compliance program are equipped to ensure that they are aware of how their programs are performing and what aspects need to be updated, enhanced, or recalibrated to account for a changing risk assessment or sanctions environment.

The size and sophistication of a company may determine whether it conducts internal and external audits of its sanctions compliance program. Some best practices for testing and audit procedures in sanctions compliance programs for the virtual currency industry include: sanctions list screening, keyword screening, IP blocking, and investigation and reporting.

## Training

Companies should conduct training for relevant employees at least annually. The best practices for the virtual currency industry are not new, nor are they unique to the industry. However, the recent guidance from OFAC indicates that

“

Companies should conduct training for relevant employees at least annually. The best practices for the virtual currency industry are not new, nor are they unique to the industry.

”

the industry will be a particular focus for enforcement. Companies in the industry should implement these measures as soon as possible to the extent they have not already done so. The scope of a company's training will be informed by the size, sophistication, and risk profile of the company. OFAC training should be provided to all appropriate employees, including compliance, management, and customer service personnel, and should be conducted periodically and, at a minimum, annually. A well-developed OFAC training program will provide job-specific knowledge based on need, communicate the sanctions compliance responsibilities for each employee, and hold employees accountable for meeting training requirements through the use of assessments.

## Remedial Measures

Where a sanctions violation has occurred, OFAC can consider the remedial measures a company has taken as a mitigating factor in a penalty determination. Remedial measures can include adding and/or strengthening the tools listed above to fill gaps and repair weaknesses in the compliance program.

## Conclusion

OFAC is placing much greater scrutiny on the virtual currency industry. Industry members should be mindful of implementing and maintaining robust compliance measures early and often. ▸



Roger Morris serves C/A as a Associate General Counsel Roger brings a combination of unique experiences to C/A that he uses to provide guidance on a wide variety of regulatory and compliance issues. Prior to C/A, he worked for one of the largest law firms in the south-central United States based in its Lexington, KY office where he was a member of the firm's Real Estate and Lending Team. In that role he concentrated his practice on commercial lending transactions and the sale, acquisition, leasing, and development of commercial property. Roger also counseled clients on banking law, estate planning, estate and trust administration, and general business matters.



## WHERE COMMUNITY BANKS BANK

### CORRESPONDENT SOLUTIONS

- Loan participations and bank stock loans
- ATM/debit & merchant processing programs
- Operations services and settlement
- Cash management and online portal
- Safekeeping



**PATTY PINSON**  
ppinson@bbwest.com



**PAUL HARRISON**  
pharrison@bbwest.com

## WE CHAMPION COMMUNITY BANKING.

800-872-4733 | bbwest.com

Member  
**FDIC**



## ONE LAST THING ...

Did you know that you can enjoy your association news anytime, anywhere?

The new online article build-outs allow you to:

- Stay up to date with the latest association news
- Share your favorite articles to social channels
- Email articles to friends or colleagues

There is still a flipping book for those of you who prefer swiping and a downloadable PDF.

## Check it out!

Scan the QR code or visit:  
[the-arizona-banker.thenewslinkgroup.org](http://the-arizona-banker.thenewslinkgroup.org)

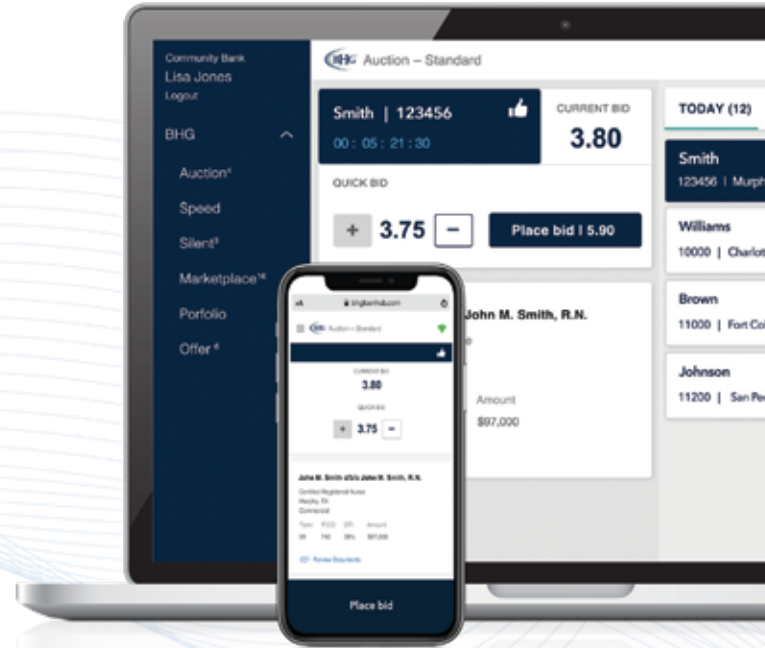


THIS MAGAZINE IS DESIGNED AND PUBLISHED BY THE NEWSLINK GROUP, LLC 1.855.747.4003

# THE BHG LOAN HUB

#1 Source for Time-Tested & Proven Assets

More than 1,300 banks have  
earned nearly \$1B in combined  
interest income.



## BHG PROFESSIONAL CHARACTERISTICS

FICO\*  
**737**

INCOME\*  
**\$293,500**

AVG. LOAN SIZE  
**\$125,800**

YRS IN INDUSTRY\*  
**20**

## WHAT YOUR BANK CAN EXPECT

High interest yield for your bank

\$0 Historical Loss on the BHG Core Loan Program

~\$10MM in loans available for purchase daily



TO LEARN MORE ABOUT BHG, PLEASE CONTACT:

Keith Gruebele, EVP, Institutional Relationships  
KGruebele@em.bhgbanks.com • (954) 737-5318  
BHGLoanHub.com/AZ