

PACB ALERT
RE: FINANCIAL FRAUD/BANK ROBBERY ENFORCEMENT MEETING
WITH BANKING REGULATORS AND CRIMINAL LAW ENFORCEMENT
OFFICIALS

This Alert is to notify you that the Pennsylvania Association of Community Bankers convened a meeting with senior and key representatives from multiple banking regulatory agencies and criminal law enforcement officials to discuss how to improve investigation, enforcement, and recovery of funds from Financial Fraud committed against banks and their customers and Bank Robberies. PACB representatives also discussed the importance of law enforcement officials educating the banks regarding steps that can be taken in the future to assist in such investigation and prosecution of crimes involving financial fraud and bank robberies. The meeting, held on Friday, October 20, 2006 at PACB's Offices in Harrisburg, is viewed by PACB staff as a good first step toward increased education and enforcement against financial fraud and bank robberies. We are in the process of arranging additional separate meetings with criminal law enforcement officials in the Western and Eastern parts of Pennsylvania to solicit their cooperation to increase enforcement against financial fraud and bank robberies in Pennsylvania.

The meeting was convened by the PACB Subcommittee on Bank Security, led by the Subcommittee's Chairman Chuck Leyh, President/CEO of Enterprise Bank. Also in attendance for PACB were Martin Brown, President/CEO of Ambler Savings Bank, PACB's President/CEO Frank Pinto, Government Affairs Consultant Dave Transue, and SVP/COO Dick Arnold, and Reg Evans from Shumaker Williams.

This was an unprecedented meeting in terms of the wide array of attendees from different bank regulatory and criminal law enforcement agencies. More specifically, banking regulatory agency officials from the Federal Reserve Bank of Philadelphia, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, and the Pennsylvania Department of Banking were in attendance, as well as criminal law enforcement officials from the U.S. Department of Justice Attorney's Office for the Middle District of Pennsylvania, Federal Bureau of Investigation, and the Pennsylvania Office of Attorney General. PACB appreciates the responsiveness of the invitees to attend the meeting to discuss the ongoing increase in cases of financial fraud, its costly effect on community banks, and how we can work together to deter, detect, and recover funds from financial fraud.

FINANCIAL FRAUD / BANK ROBBERY ENFORCEMENT ISSUES: Financial fraud issues discussed included identify theft, phishing, Nigerian advance fee type scams, fraudulent and counterfeit checks and Check 21 Act substitute check fraud, debit card and credit card fraud, money laundering, theft and cashing of checks stolen from postal mailings, loan application fraud (including false invoices to support loans), fraudulent transfer of property (i.e., using forged signatures on deeds, loans, and related documents), and bank robbery enforcement. PACB cited the PACB Bank Fraud Survey (discussed immediately below), the results of which are evidence of a significant and growing financial fraud/bank robbery problem that needs to be addressed in terms of enforcement. PACB offered cooperation with the regulatory and law enforcement agencies to assist in enforcement against financial fraud and toward recovery of

absconded funds. Spreading liability for losses from the banks to the merchants regarding debit card fraud and credit card fraud respectively under Federal Reserve Regulation E and Regulation Z were discussed. In that regard, the Federal Reserve representative indicated that such liability reform was not on the horizon at this time but that the Fed will continue to monitor whether regulatory changes need to be made.

BANK FRAUD SURVEY: The survey responses were based on information provided by PACB members. The responses were collated by PACB in terms of aggregate occurrences and dollar volumes of different types of financial fraud occurring over the last twelve months. Based on responses received from PACB members, debit card fraud had the largest number of occurrences, but check fraud was the biggest problem in terms of aggregate dollars involved in such fraud. Bank robbery occurrences were significant. Commercial loan fraud had a significant dollar volume of fraud relative to the number of such occurrences listed in the survey results.

POSSIBLE SOLUTIONS: Several possible solutions were discussed that taken together approach a possible comprehensive method for possible deterrence, early detection, and recovery of lost monies from financial fraud and bank robberies. The identified components of a solution to enhance enforcement against financial fraud are: internal controls, communication with customers, filing suspicious activity reports (“SARs”), direct requests for enforcement by U.S. Department of Justice, enforcement by the FBI against bank robberies, and improving communication and providing education.

Internal Controls: The regulators advised that effective internal controls are the first line of defense against financial fraud. PACB representatives stated that internal controls are important but that the Internet and photocopy capability has made financial fraud easier to commit, high in volume of attempts that can be made in a given period of time, and more difficult to stop. As an example, PACB noted that forged checks even have forged watermarks and are more difficult than ever to discern from real checks. In other words, internal controls are important but do not always work.

Communication with Customers: The regulators advised that there needs to continue to be a coordination of effort for banks, banking regulatory agencies, and criminal law enforcement agencies to provide financial literacy education including guidance that warns and informs people about financial fraud and how to avoid becoming a victim.

Filing Suspicious Activity Reports: The regulators and the criminal law enforcement officials emphasized the importance of filing Suspicious Activity Reports. The regulators indicated that Pennsylvania is among the states with banks filing the highest number of SARs. More specifically, Pennsylvania presently is ranked number 8 out of 50 in the volume of SARs filed each year. The invitees indicated that SARs that involve an insider of a bank take a higher priority and are more likely to be considered for enforcement than other SARs.

The FDIC reviews all SARs, but a monetary damage threshold must be met in order for enforcement to be considered.

Direct Requests for Enforcement by U.S. Department of Justice: Since there are a large number of SARs, the U.S. Attorney's Office for the Middle District of Pennsylvania generously offered that PACB's members with banks located in counties in the Middle District of Pennsylvania may send directly to that office's attention the more significant SARs that the respective banks really want to see enforced. This would involve the banks being selective by not sending small dollar or less significant SARs directly to the U.S. Attorney's Office. In the meantime, all SARs required by law to be filed should continue to be filed by the banks in the normal course through FINCEN.

Enforcement by FBI against Bank Robberies: PACB expressed concern that bank robbery enforcement needs to be enhanced. The FBI representative indicated that anti-terrorism over the past five years has taken precedence over bank robbery enforcement, but that this was about to change. The FBI's representative indicated that the FBI recently has made a policy decision to make bank robbery enforcement a priority to which FBI will be able to focus more resources. PACB expressed appreciation for introduction and potential future passage of Pennsylvania Senate Bill 957 of 2005 to improve the criminal law against bank robbery.

Improving Communication and Providing Education: PACB indicated that it would be helpful for the regulators and criminal law enforcement officials to educate banks regarding how they may assist in enforcement against financial fraud and bank robberies, and to indicate whether a requested prosecution against financial fraud and bank robberies was being pursued. In response, the regulators and criminal law enforcement officials generally indicated that they would attempt to provide education and to be responsive but that there are times when investigative confidentiality is required and the amount of information they will be able to provide will be limited.

Future Discussions: Chuck Leyh and Frank Pinto emphasized that future discussions with the Eastern and Western District Offices of the U.S. Department of Justice would be important to allow PACB members across the state to participate in obtaining enforcement education from law enforcement officials and increased actual enforcement against financial fraud and bank robberies. PACB was advised to directly contact the Eastern and Western District Offices of the U.S. Department of Justice to discuss coordination between community banks and criminal law enforcement agencies to improve enforcement against financial fraud and bank robberies. These contacts are being made by PACB which will attempt to arrange meetings to discuss how community banks can work cooperatively with criminal law enforcement agencies to deter, detect, and recover absconded funds through enhanced financial fraud and bank robbery enforcement.

The PACB membership will be advised after completion of the meetings with the Eastern and Western District Offices of the U.S. Department of Justice regarding resultant education opportunities and enforcement cooperation methods identified that may be implemented to provide the banks and the public with enhanced enforcement against financial fraud and bank robberies.