

REGULATION Bankers wary

No applause for new agency, likely chief

by **Wayne Tompkins**
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The Consumer Financial Protection Bureau and its controversial de facto leader, Elizabeth Warren, have been the subject of a lot of water cooler talk in banking circles as the agency carved from Dodd-Frank reforms comes into bloom.



Warren

"Bankers do not like or trust her," said Ken Thomas, a Miami-based independent banking consultant.

Thomas said that was evident last month when he sat in the front row of a talk the Harvard academic and vocal consumer advocate gave at a community bankers conference in San Diego. After Federal Deposit Insurance Corp. chair Sheila Bair got several standing ovations when she kept attacking Wall Street and too-big-to-

fail banks, Warren's speech was "coldly but politely received," Thomas recalled.

"She kept saying she would be looking at the big players and the unregulated ones to protect families, but the community bankers were quite nervous that her zealous regulatory efforts would ultimately impact them," he said.

While some welcome as long overdue an agency that will keep financial services honest in defense of consumers, others fear it will lead to a regulatory morass that will end up doing banks and their customers more harm than good.

"People are afraid," said Lewis Cohen, a veteran banking attorney and partner at Cohen & Bobotas. "They're afraid of what they don't understand, they're afraid of the unknown. A lot of power is being put



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Lewis Cohen, a veteran banking attorney at Cohen & Bobotas, said people are afraid because "a lot of power is being put in this agency."

in this agency and it's not yet become clear exactly what they're going to implement, how they're going to implement it, and how they are going to enforce it. Banks being saddled with so much regulation already are, of course, skeptical of any additional regulatory agency and rules."

The bureau will work to promote financial education, will supervise banks, credit unions, and financial companies, and it will enforce federal consumer financial laws.

It also will gather and analyze available information to better understand consumers, financial services providers and consumer financial markets.

Many of the pieces of the Dodd-Frank Act relating to the bureau will go into effect on July 21. In September of last year, Warren was named as Assistant to the President and Special Advisor to the Secretary of the Treasury on the CFPB, an appointment that stops short of naming her as director and thus avoids a tough confirmation fight in the Senate.

"We have several serious concerns with CFPB," said Alex Sanchez, president of the Florida Bankers Association. "If this bureau is being set up just to examine FDIC-insured banks, you have not accomplished anything."

Sanchez said many lawmakers and analysts have long agreed that the non-regulated financial sector, or "shadow banking system" was the source of the lion's share of problems that led to the financial crisis.

"What I'm afraid is going to happen is that the bureaucracy and infrastructure is not set up for non-bank examination," he said. "And they're going to have a solid white line to the White House even though they are located in the Fed."

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TIER 1 RISK-BASED CAPITAL RATIO — THE TOP 10

Tier 1 risk-based capital ratio, the percent of a bank's capital to its risk-weighted assets, is key indicator of a well-capitalized bank. A well-capitalized bank has a ratio of at least 6 percent.

Rank		Bank	Headquarters	Tier 1 risk-based capital ratio		
'10	'09			'10	'09	% change
1	NR	Premier American Bank Δ	Miami	61.7	NA	NA
2	1	BankUnited	Miami Lakes	40.85	41	-0.37
3	5	Intercontinental Bank	West Miami	34.36	29.7	15.69
4	NR	Pacific National Bank	Miami	29.2	20.66	41.34
5	3	Palm Beach Community Bank	West Palm Beach	28.5	32.24	-11.60
6	2	Marquis Bank	North Miami Beach	27.74	35.69	-22.28
7	6	Plus International Bank	Miami	27.47	29	-5.28
8	4	Natbank	Hollywood	23.71	30.77	-22.94
9	10	Bank of Belle Glade	Belle Glade	22.97	21.94	4.69
10	NR	Mackinac Savings	Boynton Beach	22.06	14.98	47.26

Δ Opened Jan. 22, 2010

TIER 1 RISK-BASED CAPITAL RATIO — THE BOTTOM 10

Rank		Bank	Headquarters	Tier 1 risk-based capital ratio		
'10	'09			'10	'09	% change
2	NR	Legacy Bank of Florida	Boca Raton	6.98	9.13	-23.55
3	NR	Great Florida Bank	Coral Gables	7.09	9.75	-27.28
4	NR	Anchor Commercial bank	North Palm Beach	7.52	9.12	-17.54
5	NR	Euro Bank	Coral Gables	7.78	11.22	-30.66
6	5	Paradise Bank	Boca Raton	8.26	8.23	0.36
7	NR	Ocean Bank	Miami	8.52	9.90	-13.94
8	NR	Grand Bank & Trust	West Palm Beach	8.7	10.7	-18.69
9	9	U.S. Century Bank	Doral	8.73	9.00	-3.00
10	7	Coconut Grove Bank	Miami	8.92	8.75	1.94

Source: Federal Deposit Insurance Corp.

THE BIGGEST PROFITS IN 2010

Rank		Bank	Headquarters	Income in millions		
'10	'09			'10	'09	% change
2	NR	Premier American Bank Δ	Miami	31.65	NA	NA
3	NR	NAFH National Bank*	Miami	20.51	NA	NA
4	4	Helm Bank	Miami	9.36	2.10	345.06
5	NR	Sabadell United Bank \ddagger	Miami	7.36	-193.39	-103.80
6	2	Stonegate Bank	Fort Lauderdale	3.52	7.12	-50.53
7	3	1st United Bank \dagger	Boca Raton	2.25	5.14	-56.13
8	NR	Palm Beach Community Bank	West Palm Beach	2.08	65.00	3,093.85
9	NR	BBU Bank	Coral Gables	2.04	-1.25	-263.51
10	NR	Espirito Santo Bank	Miami	1.68	-2.99	-156.09

* Opened June 16, 2010, and acquired Metro Bank and Turnberry Bank
 \ddagger Acquired TransAtlantic

\dagger Acquired The Bank of Miami
 Δ Opened Jan. 22, 2010

THE BIGGEST LOSSES IN 2010

Rank		Bank	Headquarters	Income in millions		
'10	'09			'10	'09	% change
2	2	BankAtlantic	Fort Lauderdale	-118.17	-148.71	-20.53
3	3	Ocean Bank	Miami	-116.50	-111.94	4.07
4	6	U.S. Century Bank	Doral	-43.23	-44.14	-2.05
5	5	Great Florida Bank	Coral Gables	-41.11	-46.78	-12.11
6	NR	First Southern Bank	Boca Raton	-37.04	-6.55	465.15
7	NR	Grand Bank & Trust	West Palm Beach	-18.13	-7.37	146.06
8	4	TotalBank	Miami	-12.36	-94.95	-86.99
9	NR	Lydian Bank	Palm Beach	-11.63	-7.18	62.10
10	NR	Security Bank	North Lauderdale	-10.25	-5.63	82.10

Source: Federal Deposit Insurance Corp.

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BBU: Bank expands into familiar Puerto Rico market

you've got to price accordingly."

The bank also monitors key financial metrics on a monthly basis using what is called the Balanced Scorecard, which is based on techniques touted in the book of the same name by Harvard Business School professor Robert S. Kaplan and business strategist David P. Norton.

"You not only put financial goals out there, but you also establish how you get there," Saldana said. "That means what are the income drivers? Then you manage to those income drivers, rather than just managing the final goal. By managing the composition of the income, then you have a better monitoring process to keep your bank safe, healthy and profitable."

In September, BBU completed a merger with Puerto Rico's Banesco International Bancorp — the two had common Venezuelan owners that decided to consolidate the two entities — and the deal allowed BBU to add \$16 million in capital.

"We've spent time in survey-

ing the [Puerto Rico] market doing some studies on what are the business segments and industries where we would want to get some lending done, and we've already started booking some new loans," Saldana said. "We're building our Puerto Rico main branch in Hato Rey, which is the main financial business district in San Juan."

A native of Puerto Rico, Saldana and two of the bank's directors have extensive experience with the Puerto Rican market, Saldana said what is driving his bank's interest in the venture are the relationships the Puerto Rican market has with South Florida — which remains largely untapped in the banking industry.

"We're looking into opening new branches in South Florida, but we are looking more into branch acquisitions rather than building de novo because at this time, we believe it's more efficient to do it that way," Saldana said. "It's a lot of hard work. You've got to be out there."

— Wayne Tompkins

HIGHEST RETURN ON EQUITY

Rank		Bank	Headquarters	Return on equity		
'10	'09			'10	'09	% change
1	7	Helm Bank	Miami	18.49	4.65	297.63
2	1	BankUnited	Miami Lakes	18.28	19.36	-5.58
3	NR	NAFH National Bank*	Miami	13.06	NA	NA
4	NR	Premier American Bank Δ	Miami	11.01	NA	NA
5	NR	Palm Beach Community Bank	West Palm Beach	8.90	0.3	2,866.67
6	NR	BBU Bank	Coral Gables	6.53	-5.17	-2,26.31
7	4	Intercontinental Bank	West Miami	6.00	6.3	-4.76
8	NR	Floridian Community Bank	Davie	5.32	-20.93	-125.42
9	NR	Plus International Bank	Miami	4.33	0.58	646.55
10	3	American National Bank	Oakland Park	4.32	6.32	-31.65

*Opened June 16, 2010, and acquired Metro Bank and Turnberry Bank Δ Opened Jan. 22, 2010

LOWEST RETURN ON EQUITY

Rank		Bank	Headquarters	Return on equity		
'10	'09			'10	'09	% change
2	NR	Security Bank	North Lauderdale	-62.35	-36.61	70.31
3	NR	Home Federal Bank of Hollywood	Hallandale Beach	-56.09	-42.24	32.79
4	NR	Euro Bank	Coral Gables	-53.95	-42.14	28.03
5	NR	Bank of Coral Gables	Coral Gables	-49.88	-38.53	29.46
6	NR	Grand Bank & Trust	West Palm Beach	-46.99	-15.7	199.30
7	NR	First Southern Bank	Boca Raton	-46.08	-14.19	224.74
8	NR	Ocean Bank	Miami	-45.64	-33.61	35.79
9	NR	Great Florida Bank	Coral Gables	-43.54	-34.78	25.19
10	NR	First East Side Savings Bank	Tamarac	-39.58	-38.36	3.18

Source: Federal Deposit Insurance Corp.

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AGENCY: Expert warns that there is much misinformation

Small banks are especially concerned.

"It's adversely impacting the smaller community banking system much more radically than its affecting the larger banking system," said Harold Lewis, a partner at Pathman Lewis who heads the law firm's real estate and banking, corporate and transactional departments. "They're going to bear the larger financial burden to the extent that there is a financial burden that flows into the community banks. It's going to be difficult for those banks to absorb those kinds of additional premiums and the like on the FDIC side."

Thomas said that despite the general view in the media, Warren is not the first one to come up with the idea of a needed consumer voice in banking and financial matters. The concept has been around for some time in different forms such as the previously proposed American Bank Consumer Association as a needed consumer offset to banking lobbies such as the American Bankers Association.

"The key is getting the optimum balance between what has been portrayed as an overzealous financial consumer czar and a very heavily regulated and recovering financial sector," Thomas said. "It has been my experience that the correct balance is rarely reached, because what happens is that we swing from extreme periods of deregulation to re-regulation, where we are now with Dodd Frank, but never quite get the proper middle ground."

He said that even though the bureau's focus is supposed to be on very large banks, it is feared that "best practices" regulations will trickle down to all community banks. "Also, what will she do with the very substantial budget grant-

AT A GLANCE

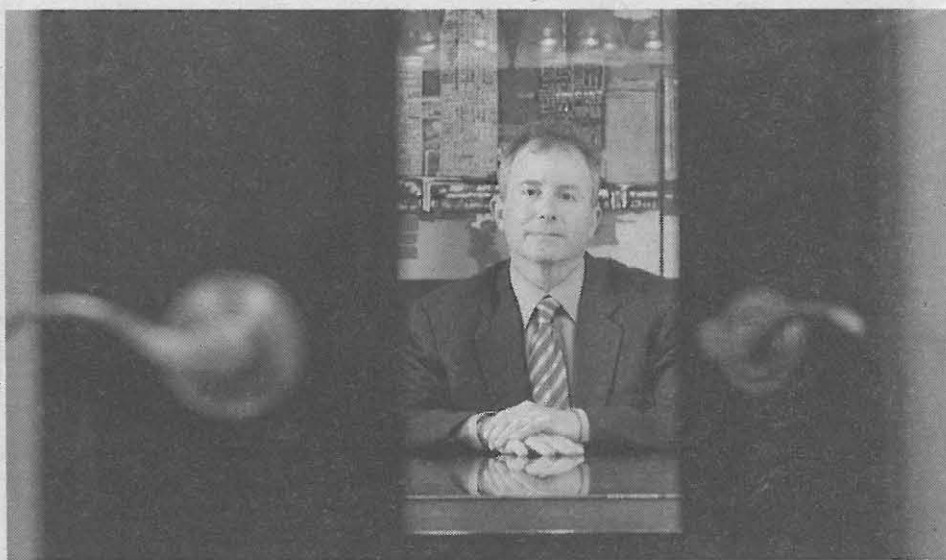
Congress established the Consumer Financial Protection Bureau to protect consumers by carrying out Federal consumer financial laws. Among other things, the consumer bureau will:

- Conduct rule-making, supervision and enforcement for Federal consumer financial protection laws
- Restrict unfair, deceptive or abusive acts or practices
- Create a center to take consumer complaints
- Promote financial education
- Research consumer behavior
- Monitor financial markets for new risks to consumers
- Enforce laws that outlaw discrimination and other unfair treatment in consumer finance

ed to her — 10 percent of the Federal Reserve's budget? Whenever an industry regulator in the beltway has a very large budget, it usually means the belt is going to be placed around an industry's neck; the CFPB has a huge budget and this suggests an equally huge belt," Thomas said. "This is the kind of uncertainty that is striking concern and fear in the minds of bankers."

Cohen said he believes there is a lot of misinformation and disinformation surrounding the bureau.

"I don't think it's going to have a material effect on community banks," Cohen said. "Community banks already are under so much regulation. What Elizabeth



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Harold Lewis, a partner at Pathman Lewis, said the smaller community banking system is being impacted "much more radically" than the larger banking system.

Warren has said is that she is going to consolidate and streamline these regulations which she believes will actually be placing less of a burden on community banks making compliance, in fact, easier and less complex to follow."

Warren has at least one local fan in financial planner Frank Armstrong, president and founder of Miami-based Investor Solutions.

"I have grave concerns that [the bureau] is not going to get done and that they won't be given the powers they need to clean up this sewer," he said. "Of course the bankers don't want to be regulated, they want to go right back to bonuses as usual. All the rest of us are at risk."

Rich Helber, chief executive of Tropical Financial Credit Union in Miramar, is among those at South Florida institu-

tions waiting to see how the new agency plays out.

"I'm not looking forward to a lot of compliance-related things that might be imposed with this, but I believe it's very important to protect consumers," he said. "There is a lot left to be seen."

Thomas' assessment is also measured.

"The experience we have had with professors becoming financial regulators is mixed at best," he said. "We all know Harvard professors are smart, but will she be able to bring about the needed balance between protecting the consumer and considering the impact of new regulations on a heavily regulated and recovering industry?"

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