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Independent Community Bankers of America
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As Prepared for Delivery

I have not spoken to the ICBA before, so I was not immediately familiar with your mission. So I thought it best to do some research on my audience. I googled ICBA and was very impressed. I read that "The 'International Candlepin Bowling Association' is dedicated to keeping the spirit alive in the game of candlepin bowling and helping the sport of bowling be fun and enjoyable for all."

I was not exactly sure what to wear, and I was surprised this morning to see all of you bowlers wearing suits. Some of you are even wearing ties. I was even more surprised that you asked me to speak because I'm not a bowler and have never heard of candlepin bowling. Then as I walked in, someone from our office whispered in my ear that you are the Independent Community Bankers of America, and I thought, "Oh, okay; now that makes more sense."

Today, unfortunately, for you bankers who are in fact bowlers, I will not talk about bowling, but will instead limit my remarks to talk about SIGTARP's work and on long term recovery from the financial crisis.

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Recovery from a crisis comes in two equally important stages. First, there is the immediate triage response. That is followed by long-term planning and rebuilding to reduce vulnerabilities, strengthen infrastructure, and mitigate future harm. I read that recently about recovery from a tsunami.

The town of Hilo, Hawaii was devastated by a tsunami in 1960. After the initial triage, the town engaged in "seismic wave rehabilitation." They installed a buffer zone where no businesses could be built along the dangerous part of the bay. They designed parking structures to block water from inland buildings and rebuilt with cinderblocks. They installed drainage systems, added a concrete foundation to their city pavilion, and built high bridges of metal and concrete. All of that has remained in place.

I suspect that many of you felt that your bank was hit with a tsunami during the financial crisis. Since that time you have been painstakingly cleaning up and rebuilding. You face an uphill battle, rebuilding at a competitive disadvantage to too-big-to-fail institutions. I am a firm believer that our nation must end "too big to fail" and the moral hazard that accompanies it.

You have something that those mega institutions can't offer. You care about small businesses succeeding, new construction to revitalize your community, and a robust real estate market in your town. Many of you still see your communities recovering more slowly than was ever anticipated. You help in whatever way you can. I have never seen a little league jersey sporting a mega bank as the sponsor. Many of you are now starting to see recovery from the crisis and more opportunities for commercial lending. But community banks still face challenges. Lower interest rates. A slow recovery in the mortgage market. New regulatory requirements, much of which came about because of the follies of the largest banks that did not adequately regulate themselves.

While you continue to rebuild from the tsunami of the crisis, we look for ways to support you. SIGTARP has pressed Treasury not to rush the community banks out of TARP through auction or otherwise. We recommended that Treasury work with federal banking regulators to get these community banks in a position where they can stand on their own without TARP capital.

There is one important difference between the financial crisis and tsunamis—tsunamis are beyond human control. The good news is that you have some control. You have control to install buffer zones so you do not lend right up to the line of dangerous risk. You can design structures and internal controls to block dangerous risk from threatening the downfall of the bank. You can rebuild your bank's infrastructure, including corporate governance, to act as cinderblocks, mitigating future harm.

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We have similar goals. SIGTARP works to reduce vulnerabilities in the banking system through law enforcement. An important part of the work of SIGTARP special agents, investigative attorneys, analysts, and forensics agents, is to bring individual accountability by investigating bankers who commit crime, arrest them, and assist in their prosecution before they can break the law and hurt a bank again. We also seek to bring corporate accountability for crime and civil violations of the law.

We understand that full recovery from the crisis requires restoring confidence of the American people in our financial system through justice and accountability. SIGTARP's law enforcement brings accountability and helps end moral hazard. How? Because we bring very real and serious consequences to those who thought they could act with impunity and turn to taxpayers for a bailout.

This year, our investigations have seen meaningful results, including a jury verdict against Bank of America for reckless mortgage practices called the "Hustle."

We saw a $32.5 million settlement of the New York Attorney General civil case against Bank of America and its former CEO and CFO resulting from our investigation that found that they failed to disclose mounting losses at merger partner Merrill Lynch and misled the Government into another TARP bailout. The settlement includes a three-year ban from being an officer or director of a public company for former CEO Kenneth Lewis and an 18-month ban for former CFO Joseph Price.

We saw the conviction of four bank officers and six co-conspirators at community bank Bank of the Commonwealth, with a 23-year prison sentence for that bank's CEO, Edward Woodard, and a 17-year prison sentence for Vice President Stephen Fields for a massive fraud scheme that resulted in false books and records that were used to apply for TARP.

Our investigations have resulted this year in criminal charges against senior officers of two failed community banks in TARP and one failed regional TARP bank, as well as against officers of a community bank in TARP that ended up being acquired.

Our investigations have also resulted in criminal charges against bank borrowers who defrauded TARP banks, causing enormous losses. Some of these borrowers acted in conspiracy with senior bank officers.

This is where I say that criminal charges are not evidence of guilt.

That is only part of SIGTARP's results just this year, but it gives you a sense that, just like you, we see our job as protecting banks and helping communities.

We, at SIGTARP, protect banks against crimes that cause bank losses and threaten the health of banks and their ability to serve their community.

I want to be clear that we are looking for criminal misconduct and civil violations of the law, not any action that causes bank losses. We dispense justice in a fair and rational manner based only on the facts and the law. Public outcry for arrests does not and cannot form the basis for our investigations. The law dictates what actions constitute a crime and requires us to prove criminal intent.

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Today, I will share with you what we are finding at community banks in investigations of bank insiders and their co-conspirators that have led to criminal charges. I am sharing this so that you can arm yourselves with this knowledge to protect your bank.

Knowing these patterns can help you engage in strong corporate governance and direct you to where to install infrastructure and buffer zones that would protect your bank from these crimes. You can take control.

The financial crisis was a crossroads for many bank officers. Thousands faced losses without turning to crime. They told the truth by charging off losses and truthfully reserving for future losses for non-performing loans. Others engaged in crime to hide the bank's declining health.

Criminal charges have followed our investigation of "extend and pretend" fraud schemes that create the illusion that a past-due loan is current. We have found bank officers that made new loans or increased existing loans to the past-due borrower purportedly for a new purpose, but in reality, they knew that the sole purpose of the loan was to use the proceeds to make past-due loans appear current.

In some cases, the use of straw borrowers helped concealed the scheme and avoid hitting the legal lending limit. These fraud schemes typically violate a bank's internal policies because bank officers fail to obtain current financial statements, new collateral, or current appraisals. Sometimes the loan officer had significant authority to make loans, or made several loans right at that line. Sometimes the CEO or president was very involved and made the approvals.

The truth was not reflected in the books or the statements that bank officials made to their board or to bank examiners. Criminal charges flow when bankers falsify or direct others to falsify, the books, and when bank examinations are obstructed.

Criminal charges have resulted from our uncovering "delay-and-pray" fraud schemes where bankers had evidence that loans were not going to be repaid, but delayed recognizing that as required.

Criminal charges have resulted from our uncovering fraudulent construction draws. This crime involves a borrower drawing down funds on a line of credit purportedly for completed construction. The bank officer either turns a blind eye, or worse, knows that the construction work was not completed and is part of a conspiracy between the banker and the borrower to use the proceeds to make past-due loans appear current or for personal expenses.

We have found co-conspirator borrowers, often through a straw borrower, buying foreclosed property with bank funds. We have found conspiracies to make roundtrip transactions where the bank fraudulently lent bank funds out to someone or the straw purportedly for a new loan. In reality it was a conspiracy to have the borrower turn it around and immediately invest it right back in the bank. The fraudulent bank books give the illusion of new capital and a new loan.

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Why would senior bank officers risk the health of the bank and their own liberty by engaging in crime?

Our investigations have revealed that in some cases, lending was so concentrated that the fate of a few borrowers and the bank were tied together. We have investigated bankers who panicked when the loans stopped performing, because they knew that if those customers went down, so would the bank. They tell us that they were trying to save the bank. They are really just trying to save themselves – save themselves from the consequences of decisions they made earlier that likely violated their bank's internal policies and exposed their bank to dangerous risk. That's moral hazard. That needs to stop.

It is not a matter of whether the bank officers are good people or not. It comes down to what they do at that crucial moment: Tell the truth or cross the line and commit a crime.

You can help guard that line.

SIGTARP will work hard to do all that we can to catch the fraud and arrest those responsible. But by that point, the crime may have already caused significant damage to the bank. We continue to ask ourselves at SIGTARP what more we can do to detect these crimes before the damage is done.

However, banks should not wait for the Government to catch fraud. To protect themselves from losses from crime by bank insiders, banks must self-regulate and have strong oversight by an independent board. We have found significant unchecked power in the hands of the CEO with boards that were too deferential. We have even seen bank examination reports containing facts that should have set off alarms with the board and triggered further inquiry.

SIGTARP is seeing more and more regulators with deep-seeded concerns expressed in examination reports or regulators who might go so far as issue a cease and desist order but not refer it to law enforcement. It is unclear whether they did not refer to law enforcement because they rely on the suspicious activity report process.

SIGTARP continues to uncover bank insiders who knew about crimes but did not file a SAR. It's not an either-or-system—no one should rely on someone else to protect a bank.

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The fact that tsunamis are beyond human control did not stop the community of Hilo from working hard to mitigate and prevent future tsunamis. They knew that hard work was necessary to save themselves from future crisis.

We at SIGTARP will work hard to protect banks against crime and restore public confidence in the banking system. And all bank employees can do the same.

We have seen senior bank officers direct loan officers and other subordinates to commit crimes. Those subordinates are part of the more than 40 bankers we investigated that have already faced criminal charges. Sixteen of those 40 bankers have already been convicted and sentenced to prison, and that includes loan officers.

But we have also seen subordinates who refused to commit a crime, by refusing to falsify books or lie to bank examiners. They guarded the line. They guarded their own integrity. They guarded their liberty, and that is why they are not in prison today. Their actions are commendable. They did not engage in the fraud.

But they also did not stop the fraud or expose it before it could do more damage to the bank. Their silence may have enabled the fraud scheme to continue undetected.

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Martin Luther King said, "The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy."

No one can call the last five years comfort and convenience, but we still stand at times of challenge and controversy that require a commitment to protect banks and the financial system.

There is more hard work for us at SIGTARP, and for you. No matter what your position, title, or job description, you can be the failsafe, the firewall that guards your own integrity and the bank's integrity. That single act of bravery can keep you, your bank, and your community safe from harm and create a culture that deters crime.

We at SIGTARP will not be deterred from our mission. Together, with you, we can make our banking system stronger against crime. Just as a tsunami can have a dangerous ripple effect, our combined hard work is sure to have a positive ripple effect to restore fully the American public's confidence in the banking system.