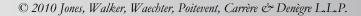


# Weathering the Storm:

# A Guide to Banking in Uncertain Times

# Session 6: Management and Boards—Matters of Focus Moving Forward

A Jones Walker Webinar Series May 18, 2010





# Introduction and Overview

✤ This is the final of six sessions addressing issues for bankers navigating a difficult banking environment.

✤ The first five sessions dealt with the current regulatory environment, the regulatory enforcement process, and the raising of capital and disposition of problem assets.

✤ This session will focus on:

Management and Boards: Matters of Focus Moving Forward



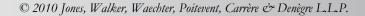
The Board should review the prior examination in detail no less than ninety days prior to the next visitation or examination to ensure all criticisms have been rectified



Consider double-teaming corrective measures to ensure they are undertaken correctly

Team management with a board member

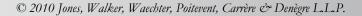
Assign individual board members ongoing responsibility for a specific agenda item so one person has "ownership" and can see trends over time





Board members should participate in the loan discussion during the exam process

The entire Board should attend the exit interview; however, individual board members should be discouraged from one-on-one discussions with regulators





# The Board should cap and monitor concentration risks on a micro scale

# Any concentration (25%) or more should be identified



It is easy to hold on to a record for a specified period of time. It is much more difficult to be disciplined and dispose of documents which feel "important"

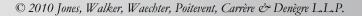
Conversely it is difficult to "hold" documents under a litigation hold when an employee is concerned about incrimination



The failure to administer a uniform and robust document destruction program can leave your bank in a very difficult position



- Improper record retention can result in your bank being vulnerable during litigation or in exams.
- Every employee and board member should receive regular retention and disposal training.
- The bank should be vigilant in forcing disposal and preventing policy avoidance.





- There should be repercussions for a violation of the Bank's policies. A record that is not disposed of properly and timely is a potential smoking gun.
- Bank management must be alert to all the new media which can be used to store records and update the Bank's policies accordingly.

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#### Best Practices For Committee Meetings, Including Minute Taking

• Ensure that committees are actually reporting to the Board. Inclusion in the board package may not be enough.

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#### Best Practices For Committee Meetings, Including Minute Taking

• Review committee charters annually and tweak as appropriate. Do not retain requirements that the committee does not meet.



#### Best Practices For Committee Meetings, Including Minute Taking

 Minutes should be taken in a manner that reflects actions taken in the same degree of detail as the Board. Do not overstate the committee's responsibility so as to avoid suggesting the Board "rubber stamps."



# Hot Topics For Enforcement Actions

BSA/AML is a hot topic once again.
2010 revisions to the FFIEC Manual make this an easy target.

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# Hot Topics For Enforcement Actions

Fair lending is a hot topic for a variety of reasons, including subprime concerns and consumer advocacy

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• Individual directors should seek expanded personal coverage.



• Golden parachute and indemnification provisions are strictly applied.



- The FDIC as receiver claims the blanket bond.
- The best insurance is preventative medicine.



• Business interruption, flood and agreed amount coverages should be reviewed.



# Strategic Planning: Dos and Don'ts

- Do be realistic
- Do support expansion with true capital
- Do establish capital levels commensurate with risk
- Do plan for a future less dependent on real estate lending

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# Strategic Planning: Dos and Don'ts

- Do not materially change your business plan without considering regulatory approval
- Do not overstate results
- Do not rely on borrowed capital
- Do not rely on one-price pricing



# **Question & Answer Session**



### **Contact Information**

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