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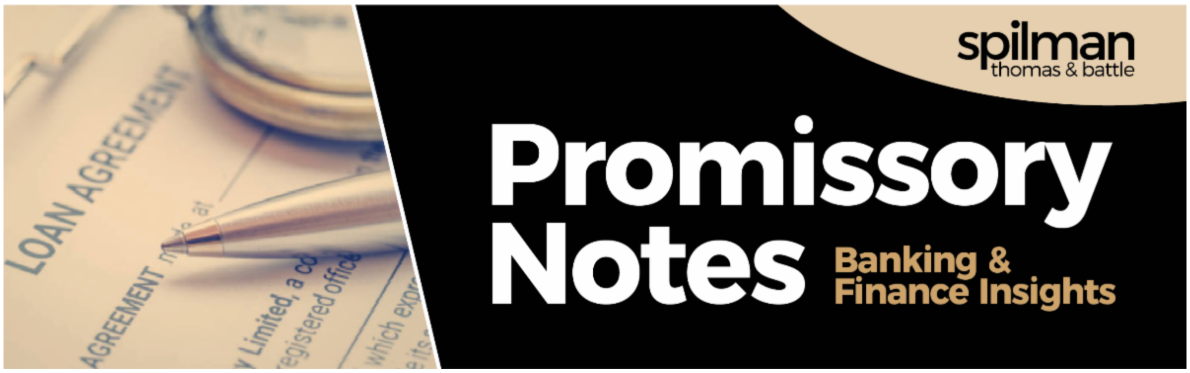

Issue 8, 2021

Welcome!

Welcome to our eighth issue of *Promissory Notes* -- our e-newsletter focused on banking and finance insights.

Are we covering the topics you find interesting? Do you have questions about specific issues? Let us know and we will make sure we pay close attention to those areas of interest.

Thank you for reading.

F. B. Webster Day, Chair, Banking and Finance Practice Group, and Co-Editor, *Promissory Notes*

and

Elizabeth A. Benedetto, Chair, Public & Project Finance Practice Group, and Co-Editor, *Promissory Notes*

"Inflation is when you pay fifteen dollars for the ten-dollar haircut you used to get for five dollars when you had hair." - Sam Ewing

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IRS Chief Tells Elizabeth Warren: More Transparent Bank Data Can Fight Tax Evasion

"Rettig, a Trump administration holdover, touted a provision in the American Families Plan that would require banks to report on their customers' withdrawals and deposits."

Why this is important: The important quote in this is, "for every 1% improvement in tax compliance, federal annual revenues are projected to increase by about $30 billion per year." In other words, increase tax compliance, likely in the mid-80 percents, by 7 percent, and federal revenue goes up by $2 trillion! That's a good thing, right? The aim is to "get" the "rich" tax cheats. But how many laborers do work on the side for cash? How many service people do not report all their tips? How many aliens do work "off the books" to avoid INS detection. I am not defending any of that, but there is an underground economy, and it is more critical to the poor than the rich. The rich can move most of their cash offshore!

Also, look at another set of cumbersome regulations and disclosures placed on banks. How will the banks manage the inevitable exceptions? Doesn't this fly in the face of the Bank Secrecy Act? This is a hot mess found in the American Families Plan and the bipartisan infrastructure deal, so beware. --- Hugh B. Wellons

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66% of Consumers Skip Their Banks' Bill Pay Service

"The study analyzes responses from a census-balanced survey of 2,261 adults, revealing a profound shift toward digital payments and significant consumer interest in online tools that help individuals manage and protect their finances."

Why this is important: A recent study by PYMNTS and BillGO found that consumers are looking for better online tools to help them pay their bills and avoid missing payments. Of the 2,261 individuals surveyed, 48 percent reported that they are "very" or "extremely" concerned about missing bill payments. Additionally, 63 percent of the persons surveyed did not use their banks' online bill-pay services, opting instead to work directly with their billers, and 52 percent of the persons not using their banks' bill-pay services reported that their banks' payment experience was not better in terms of features, such as rewards, alerts, reminders and statement details. Of the persons surveyed, 17 percent were "very" or "extremely" interested in using a low-interest microloan to help them pay their bills. The data shows that financial institutions have an opportunity to better engage this sector of the population by reengineering their consumer bill-pay experiences. --- Brienne T. Marco

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Alt Data Sources Key to Improving Loan Access for the Financially Invisible

"To get there, we'll see advanced technologies emerge, along with a shifting mindset among regulators and lenders as to what data is useful in gauging risk."

Why this is important: It's estimated that as many as 30 million households in the United States are unbanked – meaning they have limited or no access to basic financial products and services, including credit cards and mortgage loans. Recognizing that inequalities exist in this country between those who have access to credit and those who don't, financial institutions, government regulators and members of the private sector are coming together to tackle the problem of how best to improve financial inclusion for those who are currently unbanked. While the traditional and most common way to evaluate the creditworthiness of an individual is his or her credit history, this can be hard for the unbanked who can't get a loan because they don't have a credit history, and can't build a credit history because they can't get a loan. The solution to helping individuals transition from unbanked to banked is thought by many to be alternative credit scoring methods, which use data not traditionally held by the credit bureaus, such as data about the payment of monthly utility bills, rent payments and cell phone payments that can be compiled through the use of traceable data from social media, smart phone data, GPS data and monthly utility bills, to establish creditworthiness and build a credit history. --- Elizabeth A. Benedetto

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Justices Urged to Review Judge-Made Bankruptcy Appeal Roadblock

"Creditors who feel they got a raw deal in corporate bankruptcies are asking the U.S. Supreme Court to scrap a legal doctrine that judges increasingly are using to block appeals from court-approved Chapter 11 plans."

Why this is important: Federal courts often cite the doctrine of "equitable mootness" to deny appeals from creditors, the U.S. Trustee, or other parties to review bankruptcy plans that have been approved. The judge-made doctrine dictates that once a company starts using the approved plan to restructure and make payments, undoing that process would be both difficult and unfair to both the debtor and other creditors.

Critics of the doctrine claim that courts are relying too heavily on it. Corporate debtors are rushing to put their approved reorganization plans into motion to stop dissenters' appeal. The result is that creditors lose any means of overturning a potentially unlawful bankruptcy plan that they believe unfairly treats their claims. Several recent high profiles, including the Purdue Pharma bankruptcy case, have caught the attention of federal lawmakers who have expressed concerns about alleged abuses of the corporate bankruptcy system, including equitable mootness. Their interest, coupled with growing frequency of its use and appellate courts' concern of such expansion of the doctrine, suggests that the time could be ripe for the U.S. Supreme Court to step in and severely curtail, perhaps even abolish, its use. --- Bryce J. Hunter

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SBA Quadruples EIDL Cap to $2M

"The SBA said the federal disaster relief loan program is ready to receive new applications immediately from small businesses looking to take advantage of the new policy changes."

Why this is important: The SBA has raised the cap on individual Economic Injury Disaster Loans from $150,000, to $500,000 and now to $2,000,000. This change should increase the demand for EIDLs, even though the loans, unlike PPP loans, must be repaid. Other tweaks to the program include (a) a two-year deferral period before loan repayment begins and (b) an expansion of the eligible uses of the funds—borrowers may now use EIDLs to pay down commercial debt. The article also covers an important development in the program: the SBA has cleared its backlog of pending applications and has greatly increased its average number of decisions made daily on loan applications. Businesses in need should benefit. --- F. B. Webster Day

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Cognitive Intelligence Underpins the Future of Banking

"As the global banking system continues to increase its exposure to ground-breaking technologies such as artificial intelligence, the entire concept of what constitutes a bank continues to change dramatically."

Why this is important: This article explains how "cognitive banking" -- the emersion of Artificial Intelligence in bank computing -- will anticipate needs and provide superior bank services. All true, I'm sure. And considering the article above, explaining how the IRS wants deeper and deeper insight into your individual banking transactions, doesn't the advent of more AI in that process just make you feel warm all over?! --- Hugh B. Wellons

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