Top U.S. Regulator Said to Lobby Bank CEOs on Overhaul of Low-Income Lending Rules

OCC chief Joseph Otting seeks support from Bank of America, JPMorgan, say people familiar with talks

By Andrew Ackerman, The Wall Street Journal, February 21, 2020

WASHINGTON— Joseph Otting, a top U.S. regulator, is personally lobbying bank chiefs to win support for his signature initiative: an overhaul of rules governing hundreds of billions of dollars in lending to low-income areas.

Mr. Otting, the comptroller of the currency, has reached out to some of the country's most prominent bank chief executives this month. They include JPMorgan Chase & Co.'s James Dimon, Bank of America Corp. 's Brian Moynihan and more than a dozen other bank chiefs, according to people briefed on the conversations.

The responses have been cordial but lukewarm, the people said.

Mr. Otting, a former bank CEO himself, wants to rewrite the rules under the 1977 Community Reinvestment Act, which he says are vague and don't account for the age of digital banking. Banks must heed the rules to win approval for mergers or to open new branches.

Under current rules, banks are graded on the loans and investments they make in communities around their branches—a measure that doesn't account for online deposits. Mr. Otting's proposal would add areas where banks draw large amounts of deposits, even if they have no branches there. And it would provide clarity on the types of loans and investments that count under the rules.

Bankers are concerned about the extra expense of complying with rules that would require them to track deposits and consumer loans by region rather than just by branch. They also say the plan could inadvertently restrict mortgage lending in low-income areas by effectively penalizing banks for selling or securitizing mortgages rather than holding them on their balance sheets.

"The proposal would give banks nearly 30 times more credit for holding a typical home mortgage than for selling it into the secondary market," said Buzz Roberts, president and CEO of the National Association of Affordable Housing Lenders. "For banks that would mean more risk and less liquidity while tying up capital that could be used to make more loans."

Bankers aren't the only ones with doubts. The Federal Reserve, another major regulator, declined to support Mr. Otting's plan, citing a lack of clarity over how it would affect lending to poorer neighborhoods. The third major U.S. regulator, the Federal Deposit Insurance Corp., backs the plan.

While regulators routinely consult with industry, it is rare for the head of an agency to lobby executives on a pending proposal, according to former regulators and bank officials. By doing so, Mr. Otting is putting his personal prestige on the line, they said.

Mr. Otting has spoken with the chief executives of more than 20 national and regional banks in recent weeks, explaining his proposal and offering to answer specific questions they might have, the people said.

“Ensuring that the Community Reinvestment Act works better for everyone is among my and the agency’s highest priorities,” Mr. Otting said in a statement. “Over the last two years, we have spent a tremendous amount of time conducting outreach, hosting and participating in conversations, touring communities, and meeting with thousands of stakeholders of all kinds.”

Some bank officials briefed on the calls characterized them as polite but awkward. While many bank chiefs have misgivings about the overhaul, they are wary of displeasing a key federal overseer. Others said the executives are broadly supportive of modernizing the rules in question, but have specific concerns about the plan’s details.

Mr. Otting, the former CEO of California bank OneWest, has been planning the changes since his 2017 swearing-in. As CEO of OneWest, Mr. Otting clashed with community groups about whether his bank did enough under the law.

As comptroller, he has invited activists and others along on bus tours across the country to drum up support for the new rules. The plan has nevertheless drawn fire from community groups and congressional Democrats, who say it will allow banks to meet their obligations with investments in a few large projects, inadvertently restricting community lending.

“The proposal is so fundamentally flawed it really needs a rethink,” said Jesse Van Tol, chief executive of the National Community Reinvestment Coalition, an advocacy group. Banks have pressed Mr. Otting for more time to submit public comments on his plan. Regulators pushed back to early April an original March deadline for comments after industry groups, community groups and lawmakers said they needed more time to digest his plan.

The Consumer Bankers Association, which represents banks with $14 trillion in assets, agrees the CRA rules need an overhaul to make them more transparent and less subjective, but it is neutral on the plan, said President and CEO Richard Hunt. Still, he gives Mr. Otting and the FDIC credit for tackling a controversial issue.

“CRA has not been modernized since the rotary phone era,” Mr. Hunt said. “If it was easy, someone would have done this by now.”