The JOBS Act:

How Much Will It Benefit Community Banks?

May 22, 2012
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Section I – Background
The JOBS Act Background

- The “Jumpstart Our Business Startups Act,” H.R. 3606, was passed by the House on March 8, 2012. It is the culmination of a year-long bipartisan effort in both the House and Senate to address concerns about the rules governing capital formation and unduly burdensome SEC regulations, especially for smaller companies.

- Many of the burdensome rules and regulations arose as a result of the dot.com implosion and the JOBS Act results in large part from Congressional backlash to the regulatory burden created by Dodd-Frank.

- On March 22, 2012, the Senate passed H.R. 3606 with an amendment adding Title III on “crowdfunding.”

- On March 27, 2012, the House accepted the Senate’s amendment and the legislation went to the President.

- It was signed into law on April 5, 2012.

The purpose of this Presentation is to address whether and how the JOBS Act will benefit Community Banks.
Summary of JOBS Act: A Collection Of Six Separate and Distinct Pieces of Legislation

- **Title I, Reopening American Capital Markets to Emerging Growth Companies.** Most commonly referred to as the “IPO On-Ramp” portion of the legislation; these provisions are meant to encourage smaller companies, including smaller bank and thrift holding companies, to go public through a process where certain ongoing burdensome public company obligations would be phased in over time.

- **Title II, Communication Rules for Capital Offerings.** This Title is intended to make private placements more flexible by directing the SEC to remove the prohibition against general solicitations and general advertising in private offerings under Regulation D in cases where all of the purchasers of securities are “accredited investors.” The Title also addresses certain matters which have proved burdensome for investment bankers acting as intermediaries between investors and companies. Recollect that securities placed privately may not be freely resold or transferred.

- **Title III, Crowdfunding.** This Title will provide a registration exemption for crowdfunding, generally in the context of financing start-up companies, by permitting offerings up to $1 million over a moving 12-month period to investors who purchase not in excess of $2,000, or a percentage of such investor’s annual income or net worth, up to a maximum of $100,000, in accordance with rules to be promulgated by the SEC.
Title IV, Small Company Capital Formation. This Title, commonly referred to as “Regulation A+”, requires the SEC to amend Regulation A, or adopt a new, similar regulation that simplifies **filings for offerings up to $50 million**. Under existing Regulation A, offerings cannot exceed $5 million in any 12-month period, and the securities issued are not “covered securities”.

Title V, Private Company Flexibility and Growth. This Title increases the **Exchange Act Registration** “holder of record” threshold from 500 to 2,000 (only 500 of which can be non-accredited investors) for issuers other than banks and bank holding companies.

Title VI, Capital Expansion. This Title increases the “holder of record” threshold from 500 to 2,000 for banks and bank holding companies, and also provides that a bank or bank holding company may terminate Exchange Act registration if the holders of record drop to less than 1,200 persons.
Securities Act of 1933 – Causes every offer and sale of a security for value by a bank or thrift, or bank or bank or thrift holding company (“Holding Company”), to be subject to the ’33 Act’s registration and prospectus delivery requirements, unless an exemption is available

- Bank and thrift securities are generally exempt from these requirements, but subject to somewhat similar requirements under the FDIC’s offering circular rules
- Certain private placements with a limited number of offerees “who do not need the protection afforded by the ’33 Act” are exempt. This includes placements under Regulation D and under Section 4(2) of the ’33 Act
- Certain “small offerings” (commonly referred to as “Regulation A Offerings”) are exempt
- Certain purely “intrastate offerings” are exempt

These registration and disclosure requirements can be time consuming, costly and burdensome, and deter capital formation by Holding Companies at times when such institutions need capital the most – to meet regulatory requirements, cushion losses, or to support growth by M&A or organically

The prohibition on misstatements or omissions of material facts (i.e., the anti-fraud rules) continues to cover all offers and sales, whether such offers are exempt or not

THCs and BHCs that have more than 500 holders of record are required to register under the Exchange Act of 1934. The SEC provides reporting (including MD&A requirements), proxy rule (including executive compensation disclosure and CD&A requirements), internal control attestation, “Say on Pay”, Section 16 reporting for insider sales and purchases of securities and a myriad of other time consuming and burdensome rules and regulations. A THC or BHC may deregister when holders of record decrease below 300
Sneak Peek At Our Overall View of The Act As It Applies To Community Banks and Thrifts

- The JOBS Act may or may not be a game-changer for community banks with assets under $1 billion
  - The Act arguably does not provide meaningful help to smaller BHCs and THCs as to accessing the public markets or otherwise in their quest for capital
  - The Act will permit many community BHCs and THCs seeking capital to avoid Exchange Act registration requirements, resulting in less transparency and potentially less interest by institutional investors
  - Many existing Exchange Act BHC and THC registrants will be able to deregister if they find it desirable, again resulting in arguably less investor protection, but also less cost and expense

- The JOBS Act provides new and repaved paths for small community banks which are Exchange Act registrants to raise capital, but these new paths will not be practicable for many

- Application of the JOBS Act through SEC rulemaking authority leaves many questions about the practical applications of the Act unclear at this time

We do not view the JOBS Act as very important to many community banks in their quest for capital and liquidity in the mainstream capital markets. We view it as a potential impediment to mainstream capital access.

We view the JOBS Act as potentially important for community banks who may seek capital away from the mainstream capital markets.

We view the Exchange Act deregistration provisions as not overly beneficial, except for certain situations.
Section II – Title VI: ’34 Act Registration Relaxation

*We cover this very hot topic first*
The JOBS Act increases the “holders of record” threshold under Exchange Act Section 12(g) at which banks and BHC’s must register a class of equity securities:

- From 500 to 2,000 persons
- “Holders of record” does not include securities issued under employees’ stock option and other stock-based plans, or via crowdfunding

Increasing the ability of some companies to stay private may lead some companies to forego public offerings and seek institutional placements with those investors who desire private companies — including the few minority private equity and other investors who live in that space:

Although on its face this change seems desirable, many BHCs and THC’s who need capital and depend on the institutional marketplace cannot avail themselves the exemption because its investors will continue to require ’34 Act registration as a condition for investment.

- To invest, many institutional investors need a ’34 Act registered company, listed on an Exchange or NASDAQ, and some liquidity
- Many BHCs and THC’s meet the first three requirements but still do not attract investors because of a small market cap and related volatility which result in more quarter-end negative marks than most institutional investors would like
- A few institutional investors — mainly private equity firms — prefer a private company; no market and no negative marks
- The absence of Exchange Act registration will make a BHC or THC less attractive as an acquiror, and also will exacerbate FAS 141R valuation issues
Bank Executives

Mary Ann Scully
Howard Bancorp, Inc.
Chairwoman, President & CEO
410.750.0020
mascully@howardbank.com

- Chairman, President, CEO and CRO of Howard Bancorp, Inc. since its formation in 2005
- Organizing Director, Chairman, President, CEO and CRO of Howard Bank since 2004
- Formerly employed by Allfirst Bank ($15.2 B) (formerly known as The First National Bank of Maryland and now known as M&T Bank ($68 B)) from 1973 through April 2003
- Chairman of the Maryland Bankers Association

William P. Hayes
Kish Bancorp, Inc
President & CEO
717.667.9200
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- Chairman of the Board, President and CEO of Kishacoquillas Valley National Bank (Kish Bank), and its parent company, Kish Bancorp, Inc., since January 1984.
- He has been with Kish Bank since 1977
- Hayes served four years of active duty with the U.S. Coast Guard
- Past Chairman of the Pennsylvania Bankers Association. Active in various leadership capacities with the American Bankers Association (ABA)

Howard Bancorp, Inc.
Total Assets: $348M
Headquartered: Ellicott City, MD
OTCBB: HBMD
‘34 Act Registrant: No
Status: Filed S-1 on 11/28/11 disclosing a capital offering with the intent of growth via M&A and intention to move to NASDAQ

Kish Bancorp, Inc.
Total Assets: $574M
Headquartered: Reedsville, PA
Pink: KISB
‘34 Act Registrant: No
Status: Strong performer in stable geographic market
Title VI: Deregistration

- The JOBS Act also amends the Exchange Act to permit deregistration under the Exchange Act if a BHC or THC has holders of record of 1,200 or less (up from 300 or less)
- The SEC has suggested that this provision of the JOBS Act is effective immediately even though the JOBS Act calls for SEC rulemaking
- The SEC has 12 months to implement this amendment with respect to presently registered BHCs and THCs
- A few BHCs have announced deregistration. Many others are studying it
- We think that deregistration is ill-advised for many, if not most BHCs and THCs

Some smaller BHCs report that ‘34 Act registration costs between $250,000 – $300,000 per year, plus the management time factor
- At a time when earnings and new capital are scarce, this cost cutting opportunity might not be easy to pass up
- However, ’34 Act registration is key to most institutional investors
- The presence of institutional investors leads to higher market cap, better liquidity, and ultimately a stronger valuation
- The absence of Exchange Act registration will make a BHC or THC less attractive as an acquiror and also will exacerbate FAS 141R valuation issues

Note: If a BHC or THC deregisters, it can re-register at any time – but the time (direct and indirect), cost and expense and level of management attention will be very high
Title VI: Deregistration – A Simple Case Study of Two Banks

Bank A – currently an SEC Registrant
♦ $550 million in assets
♦ Average earner – 80 bps ROA
♦ 50% dividend pay-out ratio
♦ Stronger growth market (6-8%)
♦ 1,100 S/H → top 5 own 30%
♦ Average daily trading volume is OK, driven by institutional ownership
♦ 2-pronged operating strategy of organic growth, plus opportunistic M&A

Bank B – May or may not be an SEC registrant
♦ $300 million in assets
♦ Strong earner – 1.00% ROA
♦ 40% dividend pay-out
♦ Average growth market (4%)
♦ Virtually no institutional ownership – weak average daily trading volume
♦ 800 shareholders – no concentrated positions, and no real pressure for liquidity
♦ Focused on organic growth

Market opportunity currently outstrips the organic growth capability of the Bank
♦ Bank has potential to exceed $1 billion within 9 years
♦ S/H succession issues may dictate greater liquidity requirements in the future
♦ M&A strategy may require greater access to capital

Bank Should Remain a SEC Registrant.

♦ Net retained capital can support 6% asset growth, assuming 10% leverage ratio
♦ At 6% asset growth, Bank would not exceed $1 billion for 21 years
♦ Lack of S/H concentration → no large blocks requiring institutional demand
♦ Business strategy does not require capital access

Consideration Should Be Given to Deregistration, or if Private, Consideration Given to Remaining So
Section III – Title I: Emerging Growth Companies; Definition and Benefits
Title I: Emerging Growth Company Defined

- Title I of the JOBS Act amends Section 2(a) of the Securities Act and Section 3(a) of the Exchange Act by creating a new category of issuer called an "emerging growth company" or "EGC"

- An EGC is an issuer with annual gross revenues of less than $1B (with such threshold indexed to inflation every five years by the SEC)

- The EGC would continue to have this status until:
  - the last day of the fiscal year in which it had $1B or more in annual gross revenues;
  - the last day of the fiscal year following the fifth anniversary of the issuer’s initial registered public offering; or
  - the date when the issuer is deemed to be a “large accelerated filer” (as defined by the SEC)

- An issuer will not be able to qualify as an EGC if it first sold its common equity securities pursuant to an effective registration statement on or prior to 12/8/11

- Generally, Bank and Thrift Holding Company Revenue would include Net Interest Income plus Fee Income

- Thus, Bank and Thrift Holding Companies with assets of around $25 billion or less would usually meet the “revenue” threshold

- A “Large Accelerated Filer” is a company which:
  - Has equity held by non-affiliates > $700m;
  - Has been subject to ’34 Act reporting requirements for 12 calendar months;
  - Has filed at least one Annual Report on Form 10-K; and
  - Is not eligible to use the requirements for “smaller reporting companies”
Title I: Emerging Growth Company Benefits

- Permits filing an IPO registration statement and any amendment with the SEC on a “confidential basis”
  
  **NOTE: Initial confidential submission and related amendments must be publicly filed at least 21 days before any “road show”**

- Expands the range of permissible pre-filing communications made to qualified institutional buyers or institutional accredited investors to “test the waters”. The SEC’s “gun jumping” rules are not otherwise dead. Antifraud rules still apply

- Requires emerging growth companies to provide only **two years** of audited financial statements to the SEC (rather than the current **three years**) in their IPO registration statement, and to avoid the auditor attestation on internal controls requirement

- Exempts emerging growth companies from the mandatory “Say-on-Pay” vote requirement, and the Dodd-Frank Act required CEO pay ratio rules (to be adopted by the SEC), and permits the use of certain smaller reporting company scaled-down disclosures

- An emerging growth company will not be required to comply with new or revised financial accounting standards until such accounting standards become applicable to private companies

- An EGC would not be subject to any rules requiring mandatory audit firm rotation or auditor discussion and analysis (if adopted by the PCAOB), unless the SEC determines otherwise

- The ability to submit a registration statement to the SEC before “official filing” would usually be of limited value to a first time filer except in cases where the filing covers sensitive material (especially accounting related material) that may raise issues with the SEC in terms of both form and content. Note that the filing triggers a FINRA filing for IBs

- The ability to communicate with qualified institutional investors without violating the SEC’s “gun jumping” rules is more important. The JOBS Act permits private companies, and even public companies that have never effected a registered ’33 Act offering (and its underwriter) but who have shares outstanding trading on the bulletin board or OTC market, to gauge interest at different pricing levels before incurring the cost and expense of a filing and risking a failed offering or an offering at a price level the company will not accept

- Will institutional investors buy stock in BHCs or THCs which avail themselves of these disclosure requirements at a discount, if at all?

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Title I: Emerging Growth Company Opt-In and Opt-Out

- An EGC can elect to forego reliance on any exemption available to it, and comply with the requirements that apply to an issuer that is not an EGC on an exemption by exemption basis.

- However, if an EGC chooses to opt into the accounting standard relaxation rules applicable to emerging growth companies, the EGC must comply with all such standards and cannot selectively opt-in or opt-out of such standards.
  - Any election must be made at the time the EGC files its first registration statement with the SEC under the Securities Act or Exchange Act.
  - *No “Cherry Picking”*

This means that if a BHC or THC desires to continue to provide its investors with 3 years of audited financials (rather than the 2 years called for by the JOBS Act) because its institutional investors expect, or need this information, or because the Company finds it otherwise desirable to maintain its EGC status, such BHC or THC can elect to avail itself or elect not to avail itself of each of the other benefits of the Act, except for the Accounting Standards Rules.
Title I: Research Reports and Prohibition on Rules & Regulations

- Title I allows registered broker-dealers, like Griffin, even if they are participating in the underwriting process, to publish certain research reports about emerging growth companies without such reports qualifying as offers to buy or sell securities.

- Title I also prohibits any national securities association (such as the SEC, FINRA or any other SRO) from adopting any rule or regulation that would restrict any broker-dealer research personnel from participating in meetings relating to emerging growth companies attended by the firm’s investment banking professional.

- Also, a national securities association may not adopt any rule or regulation prohibiting a broker-dealer from publishing or distributing a research report or making a public appearance with respect to the securities of an emerging growth company following the offering or in a period prior to the expiration of a lock-up.

*These provisions do not in our judgment materially impact the ability of community banks to raise capital in the public markets, nor broker-dealers in assisting them.*
Inclusion of only two years of audited financials and selected financial data, and no MD&A for IPO registrations; more limited selected financial data in other registration statements and SEC reports

Delayed adoption of new or revised accounting standards for public EGCs. An EGC will be able to comply with new or revised accounting standards under U.S. GAAP on the unusually delayed private company schedule, if the standard is also applicable to private companies

An EGC will be exempt from the auditor attestation requirements under Section 404(b) of SOX relating to internal controls over financial reporting officer attestation is still required

Reduced disclosure of executive compensation to cover fewer executive officers for fewer years, relief from inclusion of CD&A; exemptions from certain Dodd-Frank provisions, such as "say-on pay" and "say-on-frequency"

Some help to reduce compliance burden, but how balanced is tradeoff between cost savings and reduced access to capital?

Will institutional investors buy stock in EGCs? If so, will they discount the price they are willing to pay because of the absence of one or more of the eliminated items?
Section IV – Title II: More on New Rules on Communications
Title II: Communication Rules and Increased Ability to Publish Reports

- Analysts covering a BHC or a THC may publish research reports prior to, during and after the offering
  - Publication of a research report by a participating underwriter of a BHC or THC proposing to conduct a common equity public offering is no longer an “offer” to sell a security
  - Elimination of the black-out on research reports after the IPO, and prior to lock-up expiration for participating underwriters

- JOBS Act also allows investment bankers to arrange communications between research analysts and potential investors (something that is prohibited for non-EGCs)
  - Research analysts will also be able to communicate with management of issuers in the presence of the banking team (something that is prohibited for non-EGCs)

- Uncertainty around the way FINRA’s conflict of interest rules between the research and investment banking sides of broker-dealers will be modified to conform to these new rules for bank EGCs

This permits research analysts and corporate finance professionals of investment banks to “cross the wall” and jointly communicate with management, resulting in better coverage and more consistent message for public companies.

The JOBS Act does not address existing SEC, FINRA, and stock exchange conflict of interest rules, including those with respect to compensation, firewalls, supervision, whistle-blower protection and disclosure.

What about Regulation M?
Section V – Titles III and IV: New Options for Financing Privately
Note that this ability is most probably limited to other than institutional investors – e.g. Board members, management, existing employees, customers and shareholders and maybe the community

Crowdfunding is of almost no utility to BHCs or THC

The new “Regulation A+” rules will take the amount of an exempt offering from $5 million to $50 million

Although the path to becoming public for an EGC Bank will be simpler, the ability of non-public banks to raise funds and remain private is greatly enhanced as a result of the JOBS Act

General solicitations and advertising will be allowed for private placements under Rule 506 of Reg. D and for re-sales under Rule 144A offerings

“CROWDFUNDING” will allow smaller companies to access funding from a large group of investors, generally via the internet

An expanded exemption from registration under new Section 3(b)(2) of the ’33 Act (“Regulation A+”) can facilitate offerings of up to $50 million of securities under certain circumstances and not subject to state (“Blue Sky”) securities laws for transactions with certain qualified purchasers
Public Solicitation and Advertising for Private Offerings

- In general, an “accredited” investor is an individual who has a net worth of at least $1 million, not including, among other things, the value of one’s primary residence, or has made at least $200,000 each year for the last two years (or $300,000 together with his or her spouse if married) and have the expectation to make the same amount in the current year.

- In general, a QIB is an institutional investor who is deemed financially sophisticated and manages at least $100 million in assets (i.e. financial institutions, mutual funds, insurance companies, etc.)

- Rule 506 of Reg. D provides a safe harbor from registration for private placements by an issuer of an unlimited amount of securities to an unlimited number of “accredited” investors and up to 35 “non-accredited” purchasers.

These Regulation D relaxation rules will not materially benefit BHCs and THCs seeking private capital and do not apply to Section 4(2) offerings away from Reg. D

- The JOBS Act will permit general solicitations and advertising in most Reg. D private placements and in re-sales under Rule 144A – already exempt from ’33 Act Registration requirements
  
  - The JOBS Act directs the SEC to:
    
    - revise Rule 506 of Reg. D to allow general solicitations and advertising, if all purchasers are “accredited,” and
    
    - to revise Rule 144A to allow general solicitations and advertising if all purchasers are reasonably believed to be Qualified Institutional Buyers (QIBs)
  
  - Thus, a Rule 506 offering which employs general solicitations and advertising, and otherwise complies with Reg. D, will not be considered a public offering. The antifraud rules still apply
  
  - Applicable to all issuers (public and private)

- The JOBS Act directs the SEC to revise Reg. D and Rule 144A to allow for general solicitation and advertising by July 4, 2012

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Title III: Crowdfunding

- The JOBS Act creates a new ’33 Act exemption for companies, including Bank and Thrift Holding Companies, who raise up to $1M in **small denomination investments** over a 12-month period from a **large pool of investors**. The SEC has been directed to adopt rules to address crowdfunding by the end of December 2012
  - Crowdfunding investors will be excluded from the Section 12(g) shareholder limit for ’34 Act Registration
  - Most crowdfunding will be effected via internet
- Companies raising capital through crowdfunding **will** be required to use a broker or “funding portal” as an intermediary
- Imposes some informational requirements:
  - Information (financial condition, use of proceeds, funding progress reports, final price disclosure, annual reports, and other information) to be determined by the SEC – filed with SEC and provided to investors
  - Must provide annual reports (financial reports and operating reports) to investors
- Limits on the amount individuals can invest via crowdfunding per year
- One year transfer restriction on securities purchased, with limited exceptions

**Crowdfunding is of almost no utility to BHCs or THCs given the $1M limit – primarily for small pre-revenue or pre-EBITDA tech and other companies**

**Amounts sold to an investor cannot exceed:**
- The greater of $2,000 or 5% of the annual income or net worth, if either the investor’s net worth or annual income is less than $100,000; and
- 10% of the annual income or net worth of an investor, not to exceed $100,000, if annual income or net worth is $100,000 or greater

**No public advertising other than to provide a notice directing investors to intermediaries (brokers or “funding portals”)**
Title IV: Small Company Capital Formation: Expanded Registration Exemption for Offerings up to $50 Million – “Regulation A+”

- This exemption is not a “full exemption” because it requires a substantial filing with the SEC
- No restrictions on the use of general solicitation or general advertising material
- Securities sold in the offering may be resold in the secondary market and are not legended
- No Blue Sky filings if BHC or THC is listed or if offered and sold to a “qualified purchaser”
- Audited financials must be filed with SEC annually (Note: not akin to a 10-K)

The benefits to community banks from “Reg. A+” will depend on the SEC’s rules and processing protocols. Reg. A has not been widely used because of the low threshold and state Blue Sky issues.

- New Section 3(b)(2) to the ’33 Act: The JOBS Act requires the SEC to expand and revise an existing exemption from registration for offerings $50 million or less during any 12-month period (up from $5 million)
  
  **NOTE: No deadline imposed on the SEC to implement Regulation A+**

- The new expansion is intended to build on existing Reg. A, but expands investor protections, including:
  - Disclosure of audited financial statements
  - Possibility of requirement for electronically filed offering circular and periodic disclosure
  - Potential liability for issuers under Section 12(a)(2) for material misstatements and omissions

- Securities issued to qualified purchasers under “Reg. A+” are “covered securities,” and will benefit from federal preemption for Blue Sky purposes
Section VI – JOBS Act Effective Dates
When Does the JOBS Act Take Effect? Immediate Changes in Some Cases; Commission Rule-Making in Others

Amendments to financial reporting and auditing standards for EGCs

Immediate

Amendments to compensation disclosure and corporate governance for EGCs

Immediately, exemption from rules requiring "pay-for-performance" and "pay-ratio" disclosure obligations will be effective immediately upon the effectiveness of rules adopted by the SEC

Pre- and post-filing "test the waters" communications for EGCs

Immediately

Securities analyst conflict rules with respect for EGCs

Immediately, but there may be risks to undertaking these activities in the absence of guidance from FINRA and the stock exchanges, and until the effect of the JOBS Act on the 2003 "global settlement agreement" can be more fully determined

Timing of publication of research reports for EGCs and appearances by broker-dealers

Immediately, but there are risks to undertaking these activities in the absence of guidance from FINRA
When Does the JOBS Act Take Effect? Immediate Changes in Some Cases; Commission Rule-Making in Others

Confidential submission of draft registration statements by EGCs

*Immediately,* but the SEC will likely need time to establish a submission protocol.

Elimination of prohibition on general solicitation and advertising under Reg. D and Rule 144A

Requires implementation rules to be issued by the SEC by July 4, 2012 (90 days from the date of enactment of the JOBS Act).

Crowdfunding

Requires implementation rules to be issued by the SEC by December 31, 2012 (270 days from the date of enactment of the JOBS Act).

New Section 3(b) exemption ("Regulation A+")

Requires implementation rules to be issued by the SEC; no deadline established.

Increased shareholder thresholds for public company reporting

*Immediately;* SEC required to adopt rules to revise definition of "held of record" and establish safe harbor for shares issued under employee compensation plans; no deadline for adoption of rules established by JOBS Act.

SEC to adopt rules for "held of record" thresholds for banks and bank holding companies by April 4, 2013.
Section VII – Required Studies
Required Studies

- **Decimalization** – Within 90 days of enactment of the JOBS Act, the SEC must present to Congress the findings of a study that examines the impact of decimalization (the trading and quoting securities in one penny increments) on IPOs, and the impact of this change on liquidity for small- and mid-cap securities. If the SEC determines that securities of emerging growth companies should be quoted or traded using a minimum increment higher than $0.01, the SEC may, by rule not later than 180 days following enactment of the Act, designate a higher minimum increment between $0.01 and $0.10.

- **Regulation S-K** – The SEC, within 180 days of enactment of the JOBS Act, must report to Congress on its review of Regulation S-K and its recommendations concerning changes to registration requirements for emerging growth companies to address burdens.

- **Blue Sky Laws and Regulation A** – The Comptroller General, within 3 months of enactment of the JOBS Act, must report to Congress on its study of the impact of Blue Sky laws on Regulation A offerings.

- **Section 12 SEC Enforcement Authority** – Within 120 days of enactment, the SEC must examine its authority to enforce the anti-evasion provision (subsection (b)(3)) of Rule 12g5-1 and recommend new enforcement tools.
Section VIII – Summary Thoughts
Summary Thoughts

- Ultimately, we do not see any obvious downside of the JOBS Act for community banks, but the extent of the upside is still uncertain.

- Will institutional investors embrace this “intermediate class” of financial disclosure and internal controls? We believe this is unlikely; and if they do embrace it, what discount to ’34 Act companies will be the norm?

- While liquidity is ultimately generated from institutional ownership and listing on a national exchange, an important “table stakes” to get to this phase in a company’s life cycle is to be an SEC registrant – How will the JOBS Act change this dynamic? Time will tell…

Source: SNL Financial
Includes banks with total assets between $250M-$5B
*More than 500 shareholders of record used as a proxy for SEC registrants
**Non-stressed defined as NPA’s/Assets <3%
Based On A Good Deal Of Empirical Data Gathering And Analysis, Generally With Few Exceptions…

♦ The banks with the highest valuation, market cap and level of average daily and weekly trading volume are those which:
  • Are ’34 Act registered;
  • Are listed on a national exchange – NASDAQ;
  • Have a market capitalization of at least $40.0 million; and
  • Have institutional ownership of at least 20%

♦ Index inclusion also boosts ADTV and AWTV and market cap

♦ ’34 Act registration helps in and of itself; NASDAQ listing helps incrementally more OTCBB presence and OTCBB help incrementally more than the Pink Sheets
## The JOBS Act: Comparison

### Situation
- Periodic need for capital to cushion losses, to repay TARP, or meet new, challenging regulatory capital levels
- Bank operates in strong growth market with a growth-minded management team and needs capital to continue that growth
- Episodic need for capital to cushion losses, to repay TARP, or meet challenging regulatory capital levels
- Need for strong currency – liquidity and valuation – to facilitate growth by M&A
- Concentrated and/or aging shareholder base requires liquidity and higher valuation
- Bank operates in slower growth market; primarily organic growth strategy; shareholder base does not require liquidity
- Preparation of bank for sale

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<th><strong>Company Should Remain a Non-Registrant or Consider Deregistration</strong></th>
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Section IX – About Griffin and Stevens & Lee
Griffin and Stevens & Lee

- Our 240 multidisciplinary professionals based in 7 states enable a national presence
  - Largest Investment Bank headquartered in Pennsylvania
  - Largest group of investment bankers focusing on Banks and Thrifs and the financial institutions sector headquartered in Pennsylvania
  - Broad and deep insurance, commercial and industrial, private equity and corporate restructuring professionals in our investment bank
  - Full service AmLaw 200 law firm with 40 years of service to big and community banks
  - Federal and state Government Affairs and Lobbying group
  - Corporate finance, legal and actuarial professionals focused on life settlement, premium finance and creative risk transfer structures
  - D&O and E&O insurance risk consulting business
  - Healthcare best practices consulting business
  - Several other businesses that expand our platform

- We are committed to understanding our clients’ operations and industry, developing proactive solutions for their challenges and opportunities and leveraging our relationships for our clients’ benefit

- Our segment and client-specific knowledge coupled with our occupational and educational diversity and multi-disciplinary approach combine to deliver exceptional value to our clients
Financial Institutions Group – Overview

- We differentiate ourselves from our competitors by looking at our banking clients from their perspective
  - Our team consists of a former CEO of a $17 billion commercial bank (Meridian Bank) and the CFO and corporate development officer of a $90 billion thrift (Sovereign Bank/Santander USA), a former asset liability manager of a $90 billion thrift, bank operations professionals, Big-4 sector focused accountants and tax consultants, sector focused investment bankers, former regulatory and risk managers, economists and analysts
  - Members of our group help management teams better understand the banking landscape and assist them in developing and implementing strategic plans to improve operations, profitability and franchise value
  - Members of our group have completed more than 200 merger, acquisition and financing transactions
  - Our group is fully integrated across our entire platform

- We assist banks and thrifts in identifying acquisition targets and evaluating them for “fit” via research, analysis and customized processes
  - Asset-liability mix
  - Capital
  - Asset Quality
  - Potential for enhanced fee income
  - Geography and demographics
  - Management

- We assist banks and thrifts in approaching targets and completing transactions
  - Structuring
    - Financial; accounting, including purchase accounting analysis; regulatory; tax
  - Due diligence
    - Accounting; regulatory; legal, including pending litigation and insurance; asset quality; HR and EB
Financial Institutions Group – Overview

- We assist banks and thrifts in financing the transaction or otherwise providing growth capital
  - Negotiating the transaction, documentation, making regulatory filings, and obtaining regulatory approval
  - Common and Preferred Equity
  - Senior and Subordinated Debt and Hybrids
  - Structured transactions

- We assist banks and thrifts in integrating the transaction
  - Asset-liability management, including loss models, asset sales
  - Interest rate risk mitigation
  - Staffing
Griffin And Stevens & Lee Contacts

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mrm@griffinfin GROUP.COM

- Senior Managing Director and Head of Griffin’s Financial Institutions Group
- Former CFO at Sovereign Bancorp and Sovereign Bank where at different times had primary responsibility for the capital raising, investor relations, corporate development and M&A, treasury, financial accounting, SEC compliance, risk management, tax and strategic planning functions
- While at Sovereign, instrumental in executing capital markets transactions of over $4 billion in debt and equity offerings and over 20 acquisitions, with over $57 billion in assets and $39 billion in deposits
- Worked in corporate development and accounting policy at the former Meridian Bancorp and was formerly with Price Waterhouse

David W. Swartz  
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dws@stevenslee.com

- Chair of Stevens & Lee’s Financial Institutions Group; Co-Chair, Corporate, Finance and Capital Markets Department
- Represents financial institutions in connection with commercial and corporate matters, capital formation and securities law compliance, and mergers and acquisitions
- Served as counsel to the issuers in public and private capital market transactions totaling more than $2.5 billion
- Regularly counsels banks on securities law reporting, securities trading by directors and executive officers, disclosure issues and corporate governance matters, including compliance with the Sarbanes-Oxley Act and related stock exchange rules
- Has represented publicly traded financial institutions in over 50 acquisitions involving banks, insurance and securities brokerage operations and registered investment advisors
Griffin And Stevens & Lee Contacts

- Senior Managing Director, Griffin Financial Group
- Directs public offering, institutional placement, sales, syndication and market-making activities for Griffin
- Former partner and executive vice president at McKinnon & Co., where he assisted financial institutions in accessing the capital markets
  - While at McKinnon, served as the sole lead underwriter for over 50 capital market transactions
- Holds a B.A. in economics from Harvard University
- Served as an officer in the U.S. Navy
Disclosure Statement

This presentation is not considered complete without the accompanying oral presentation made by Griffin Financial Group (“Griffin”) and Stevens & Lee.

The information contained in this presentation and attached exhibits have been obtained from sources that are believed to be reliable. Neither Griffin nor Stevens & Lee makes any representations or warranties as to the accuracy or completeness of the information herein.

The material set forth in this presentation should not be considered legal advice.
Manager of the Emerald Banking & Finance Fund and a Senior Research Analyst for Emerald Advisers, Inc.

Russell served as Senior Private Equity Analyst for the Pennsylvania Public School Employees' Retirement System (PSERS), where he administered PSERS' $1.2 billion commitment of private investments, including leveraged buyouts, distressed investments, mezzanine and growth equities.

Prior to joining Emerald in 2005, Russell founded Greenwood Advisers, LLC, a registered investment adviser and served as Managing Director of iNetworks, LLC, a private equity firm located in Western Pennsylvania.

Russell serves on the Board of Arbitrators for the National Association of Securities Dealers, and has appeared on CNBC, Bloomberg Television and other investment oriented programs. He has been quoted in various international media, including The Wall Street Journal, Smart Money Magazine, Bloomberg Business News, Dow Jones News Service and Market Watch.

Holds both his JD and MBA degrees from Temple University and a BA degree in Banking and Finance from Morehouse College.

Licensed to practice law in the State of New Jersey and has passed the NASD Series 63 exam.