



## SNL's Banking M&A Conference: a Big Hit!

*What I learned at the Union League Club last week.*

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Last week I attended the SNL Bank M&A Symposium in New York. That may not seem like a big deal to you, but it is to me. I'm something of a banking-conference aficionado, and have been going to them for years. (I've even hosted a few.) And I must say, last week's event ranks up there with the most interesting I've been to.

Which is a bit of a surprise. Other than government-assisted deals, bank M&A activity has been virtually non-existent lately. You'd think, then, that a banking M&A conference in 2009 would be a bit of a snoozer. But this one wasn't. The speakers were (for the most part) a distinguished group who had some interesting things to say.

Anyway, here are my key takeaways from the event:

**1. No deals likely anytime soon.** Sullivan & Cromwell chairman Rodgin Cohen set the tone for the conference in his keynote address, when he described the current state of the bank M&A market as "dismal."

If anyone should know the state of future bank M&A activity, it's Rog Cohen. Along with Wachtell's Ed Herlihy, he has been Bigfoot among banking M&A counsel for the past 25 years. Cohen's view was echoed by investment bankers from four different firms. One of them described the amount of M&A activity that will end up getting done this year as a "rounding error."

As long as government-assisted acquisitions are available to acquirers, the panelists said, riskier go-it-alone deals won't happen. But over the longer term, everyone agreed that a period of massive consolidation for the banking industry lies ahead. (Then again, these are investment bankers. They always think that.)

The lack of activity has made some bankers downright petulant. KBW's Joe Moeller, for example, complained that buyers' focus on assisted deals was "almost unhealthy." It might be unhealthy for your income, Joe, but it sure won't be for the shareholders of institutions that get to participate in well-structured FDIC-assisted acquisitions.

**2. What's needed to get deals going.** Cohen had five suggestions for what should be done to get the deal pipeline moving again. All struck me as thoughtful. First, he says, change the accounting rules so the acquirees' assets and liabilities don't have to be marked to some (currently unrealistic) market levels at the time of closing.

Second, permit more favorable treatment of tax loss carryforwards, as was temporarily done to enable Wells Fargo's acquisition of Wachovia and PNC's acquisition of National City.

Third, allow banks the FDIC rates "3" to make acquisitions. (The FDIC rates banks for financial strength on a five-point scale, with 1 being the strongest.) Right now, the FDIC generally only allows 1- and 2-rated banks to do unassisted deals. Cohen believes that's too restrictive, especially considering the number of banks that have been downgraded from a "2" (many likely just temporarily) over the last year has probably doubled.

Fourth, bank examiners should stop using a "worst case" financial scenario when evaluating banks.

Finally, the Fed should finalize its rules governing private equity investors' ownership of controlling stakes in banks.

**3. The regulators are way too bearish.** One panel of regulators included Joe Giampietro from the FDIC and Tim Long of the OCC. Yes, *that Tim Long*. You won't be surprised to learn that they are extremely negative on banks' near- and medium-term earnings outlook. Long in particular stated flatly that, "we are early in this credit cycle."

Ugh. Here we go again. This is the same Tim Long that, back in the early 1990s, significantly overestimated the magnitude of the credit problems at Zions Bank in Utah. And it's the same Tim Long that forced Wells Fargo to take such massive loan loss provisions in 1991 that the bank was still reversing them years later. And it's the same Tim Long that, back in the early 1990s, forced First Interstate's subsidiary banks to take enormous, redundant reserves. Not only is it the same guy, he's higher up in the OCC now than he was then, and so is in a position to inflict even more needless damage. Thanks to regulators like Tim Long, the entire banking industry is building excessively high reserve levels now, which will inevitably be reversed (starting next year at some banks) and boost bank earnings for years to come.

**4. Even the investment bankers believe bank stock prices have moved to far too fast.** So do the private equity types, for that matter, but that's understandable. They're the *buyers*; of course they're grouching that stock prices are too high. But the bankers? Investment bankers make their money by, among other things, pushing

secondaries. You'd think their natural inclination would be to resist believing the stocks might be overvalued. (I take their caution as a very bullish sign by the way.) I assume that, given what's happened in the financial world over the past 24 months, the panelists were simply trying to be conservative.

**5. Bank of America's motivation on M&A was just as corrupt as we thought.**

One panelist Nick Paumgarten, the founder and chairman of Corsair Capital, recalled a telling conversation he had with Hugh McColl back when Nick was an investment banker in the 1980s:

*McColl:* Nick, do you ever read bank proxy statements?

*Paumgarten:* Sure.

*McColl:* Have you ever noticed that the CEOs of big banks make more money than the CEOs of small?

*Paumgarten:* Yes, I have.

*McColl:* Well then, Nick, I'm going to become a big bank.

I've heard other people recount similar conversations with McColl. The stories would be funny if they hadn't been so costly to shareholders over so many years.

In all, it was a great conference. The tone at next year's will be a lot different, I suspect, once unassisted M&A finally comes back into vogue.

What do you think? [Let me know!](#)