

Banking Group Of The Year: Cleary Gottlieb

By **Evan Weinberger**

Law360, New York (January 11, 2016, 2:53 PM ET) -- Banks have long turned to Cleary Gottlieb Steen & Hamilton LLP for help in guiding them through the regulatory process, and 2015 saw the firm extend its reach into the digital arena in helping a bitcoin firm win the first license to operate in New York state, making it one of Law360's Banking Practice Groups of the Year.



Cleary is one of the handful of firms that banks turn to when regulators get busy because of their extensive history in the field of bank regulation and the quality and depth of the counsel the firm's banking practice has provided, particularly on complicated issues like the Volcker Rule, the 2010 Dodd-Frank Act's ban on proprietary trading, and resolution planning that is aimed to make the largest, most complicated banks safe to take apart.

While many have predicted that now more than seven years after the financial crisis and five years since Dodd-Frank's passage that banks would begin to take that kind of work in-house, banks have continued to see the value that Cleary's lawyers bring, said Derek Bush, a partner in the practice group.

"Sophisticated inside counsel will still look to collaborate with creative outside lawyers who can bring a perspective shaped by working with multiple banks," he said in a telephone interview.

But it's not just banks that are seeing the value of Cleary's counsel.

The firm has also managed to grab a foothold into the burgeoning digital currency space, advising both startups in the field and the Wall Street financial institutions looking to use the blockchain technology that underpins bitcoin and other virtual currencies in their own operations. A high point in that area came in May, when Cleary's attorneys helped guide itBit Trust Co. LLC through the process of getting New York's first-ever charter to operate a virtual currency exchange.

While the trust license itBit won was a trust license that included the ability to operate a virtual currency business and not a BitLicense, New York's novel licensing regime for bitcoin firms, it was a trailblazing effort for itBit and the attorneys who helped guide it through the licensing process.

And that success has shown other financial technology firms and banks that want to get into the field that Cleary is an important resource, said Michael Krimminger, the leader of the firm's team that advised itBit.

"Our firm includes a number of senior lawyers who have extensive experience in the regulatory world, as well as many with long experience in private practice working closely with financial institutions, and I believe this offers important advantages for clients in understanding how to deal with novel regulatory and practical issues," Krimminger, a former top Federal Deposit Insurance Corp. official, said.

Cleary is a valued name when it comes to mergers and acquisitions in the banking space as well, serving as counsel to financial advisers in the \$2 billion New York Community Bancorp and Astoria Financial Corp. deal announced in October.

The firm also served as counsel to the parent company of OneWest Bank NA when CIT Group Inc. purchased it for \$3.4 billion in July 2014. After a rigorous review that included extensive review by regulators of the combined bank's compliance with the Community Reinvestment Act, the deal closed in August.

The need for experienced regulatory counsel has only grown since the financial crisis, Bush said. Cleary's history in the regulatory realm has made it a trusted M&A voice, he said.

"We may be on the seller side or they buyer side of those transactions, but understanding the regulatory variables of those equations is very important," Bush said.

Enforcement is another area where Cleary has managed to maintain a leading position among banking practices. With a host of former government officials in its group, Cleary is able to quickly assess the scope of an enforcement action and help guide a financial institution through the often difficult process, he said.

"It flattens out the learning curve quite a bit when approaching a bank enforcement action," Bush said.

Cleary counseled Germany's Commerzbank AG in a \$1.45 billion deferred prosecution agreement over alleged sanctions and anti-money laundering violations in March.

And the group provided counsel to Citigroup Inc. in a U.S. Department of Justice investigation related to claims of rigging of key benchmark rates at the bank. The Justice Department ultimately elected in May to forgo a case.

Many of the issues that Cleary's industry-leading attorneys tackled in 2015 will remain on the docket for 2016, but Krimminger said that the group's attorneys will help banks deal with regulators' increased focus on cybersecurity in the coming year.

Although much of that work will be technical and out of Cleary's scope, the group will play a key role in getting the tech side and the operations side of a bank to come into compliance with what regulators want, Krimminger said.

"That expertise has to be married to an understanding of the way that regulators look at evolving areas," he said.

--Editing by Patricia K. Cole.
