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BOK eyes new opportunities in banking Native American tribes

BY LAURA ALIX

BOK Financial has quietly carved out a niche lending to Native American casinos within its eight-state footprint, and now the Tulsa, Okla., company says it's ready to take the business into new markets.

The \$33.4 billion-asset company also sees an opportunity to broaden its relationships with tribes by financing development of health facilities, infrastructure and other tribal-owned enterprises being fueled by casino revenue. While lending to tribes has its challenges – they are sovereign nations, all with different laws and structures – BOK has been in the business long enough to understand its quirks and it is counting on this expertise to give it a competitive edge in an increasingly active field.

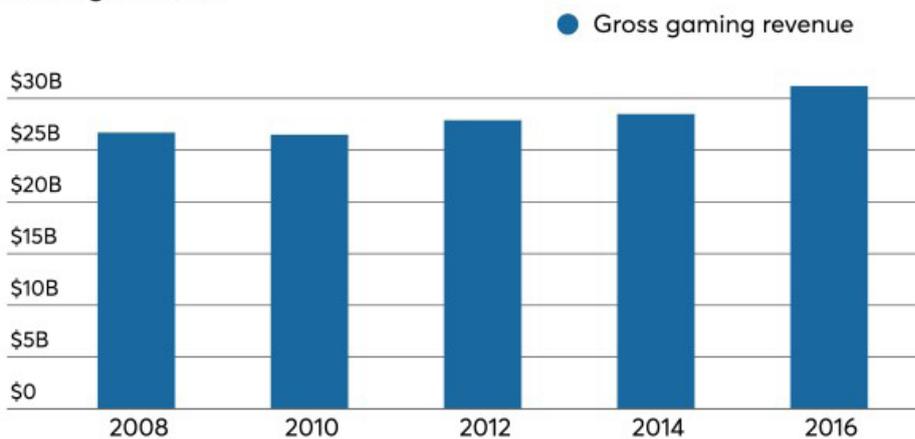
“Native American [banking] has gotten to the point where it's gained critical mass, we've got a reputation throughout the industry, we've seen it perform over a 14-year time period, and we're now ready to start selectively expanding,” said Jarrod Compton, BOK's senior vice president for Native American financial services.

Banks have warmed up to banking Native American tribes ever since the 1988 passage of the Indian Gaming Regulatory Act. That law clarified that tribes can operate gaming enterprises as long as their boundaries fall within a state that also has some type of gaming, like a lottery for example.

Revenue from tribal casinos hit a record \$31 billion in 2016, according to the National Indian Gaming Commission, and it's this steady stream of revenue that has made commercial lending to tribes a viable business for banks, said Michael Pignato, a part-

Good bet

Native American tribes' revenue from gaming hit a record \$31 billion in 2016. This steady source of income is prompting banks to increase lending to tribes



Source: National Indian Gaming Commission

ner with the law firm Dorsey & Whitney LLP.

Commercial lending “was primarily driven by gaming and as that industry has matured and more and more tribes have gaming, that's helped tribal governments' revenue base and it's enabled the tribes to bolster their essential functions like healthcare clinics, educational facilities and other typical government functions,” he said.

BOK does business across eight states under seven local brands, including Bank of Oklahoma, Bank of Arizona and Bank of Texas and Bank of Albuquerque, and tribal casinos are popular in many of the areas in which it operates. Oklahoma is home to roughly 130 tribal-owned casinos, more than any other state, while Arizona and New Mexico each

has more than two-dozen, according to data from the American Gaming Association.

Compton said it is eyeing lending opportunities in other states with Native American-owned casinos, including Florida, Mississippi and Wisconsin.

In building out that business, BOK is competing against a number of regional and larger rivals, such as Bank of America, Wells Fargo, U.S. Bancorp and KeyCorp, which have also cultivated specialties in lending to Native American tribes.

The primary hurdle for any bank establishing or building a Native American finance practice is getting comfortable dealing with sovereign nations. No two tribes have the same laws, and it's critical for bankers to understand those nuances in order

to bank those clients well, said Walter Mix III, a managing director with Berkeley Research Group and former commissioner of the California Department of Financial Institutions.

“One of the threshold issues is the sovereign rights that the tribe may have under treaties with the United States,” he said. “That becomes a threshold issue for any business, including a bank, that’s seeking to offer services or do business with one of these nations.”

Developing proper underwriting standards for loans to those entities falls into the province of specialized lawyers and those with direct risk management expertise, he added.

BOK said that total loan commitments in its Native American banking portfolio stand at around \$650 million, or about 6% of the \$10.9 billion in commercial loans on its books. About 80% of that portfolio is in gaming, Compton said. BOK has grown that book by roughly 14% in new commitments and 9% in outstanding loans every year, a rate it’d like to maintain. BOK also

takes deposits from those clients and offers treasury management and trust and investment management services.

Additionally, lending to gaming facilities can also be an intricate matter. Recourse is usually limited to the gaming assets of the facility.

Gaming properties are typically located on lands held in a trust, so the bank can’t take a lien on the real estate. On top of that, the bank’s loan can’t have any management control as part of its covenants or remedies, and the bank can’t usurp the tribe’s sole proprietary interest in gaming.

What a bank can do is rely on its lien on the borrower’s gaming assets. If the borrower defaults, the lender can still collect revenues produced by the facility, as long as it isn’t dictating how the tribe operates the casino.

And while the cash flow from a gaming facility can be very attractive on paper, Compton said bankers have to keep in mind that that money is also a source of distributions back to the tribe. In other words, if banks are in it for the long haul, they don’t want

clients to be so overleveraged that it affects the distributions back to their members.

“It’s easy to look at the cash flow and be really excited about giving them as much money as you want, but it’s just not the prudent thing to do,” Compton said. “We’ve been real successful in just being honest and transparent with the borrowers.”

Besides gaming, BOK has also financed hospitals, administrative buildings and infrastructure projects within this client base. The company would like to continue to diversify outside of gaming facilities, although casinos are generally still the biggest cash cow for many tribes.

The intricacies of the business mean a bank can’t just dive in, but Pignato said those that have become comfortable banking tribes “have found that these are very strong credits.”

Beyond that, he said, “It’s great to be in a position where you’re helping a government grow and help its members, and I think most of these banks take that approach.”

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