

# Section 1: 10-K (10-K)

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
**FORM 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: December 31, 2019

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-35021

**EVANS BANCORP, INC.**

(Exact name of registrant as specified in its charter)

**New York**

**16-1332767**

\_\_\_\_\_  
(State or other jurisdiction of incorporation or organization)

\_\_\_\_\_  
(I.R.S. Employer Identification No.)

**One Grimsby Drive, Hamburg, New York**

**14075**

\_\_\_\_\_  
(Address of principal executive offices)

\_\_\_\_\_  
(Zip Code)

**(716) 926-2000**

\_\_\_\_\_  
Registrant's telephone number (including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>Common Stock, \$0.50 par value</b>	<b>EVBN</b>	<b>NYSE American</b>

Securities registered pursuant to Section 12(g) of the Act:

**None**

\_\_\_\_\_  
(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes \_\_\_\_\_ No  X

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes \_\_\_\_\_ No  X

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  X  No \_\_\_\_\_

Indicate by checkmark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes  X  No \_\_\_\_\_

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	_____	Accelerated filer	<u> X </u>
Non-accelerated filer	_____	Smaller reporting company	<u> X </u>
		Emerging growth company	_____

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes \_\_\_\_\_ No X

On June 30, 2019, the aggregate market value of the registrant's common stock held by non-affiliates was approximately \$177 million, based upon the closing sale price of a share of the registrant's common stock on NYSE American, LLC.

As of March 5, 2020, 4,942,802 shares of the registrant's common stock were outstanding.

Page 1 of 124  
Exhibit Index on Page 121

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the registrant's Proxy Statement relating to the registrant's 2020 Annual Meeting of Shareholders, to be held on April 23 2020, which will be subsequently filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this Report relates, are incorporated by reference into Part III of this Annual Report on Form 10-K where indicated.

TABLE OF CONTENTS

INDEX

PART I

Item 1.	<u>BUSINESS</u>	5
Item 1A.	<u>RISK FACTORS</u>	14
Item 1B.	<u>UNRESOLVED STAFF COMMENTS</u>	22
Item 2.	<u>PROPERTIES</u>	22
Item 3.	<u>LEGAL PROCEEDINGS</u>	22
Item 4.	<u>MINE SAFETY DISCLOSURES</u>	22

PART II

Item 5.	<u>MARKET FOR REGISTRANT'S COMMON EQUITY RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES</u>	23
Item 6.	<u>SELECTED FINANCIAL DATA</u>	26
Item 7.	<u>MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS</u>	27
Item 7A.	<u>QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK</u>	53
Item 8.	<u>FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA</u>	54
Item 9.	<u>CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE</u>	118
Item 9A.	<u>CONTROLS AND PROCEDURES</u>	118
Item 9B.	<u>OTHER INFORMATION</u>	118

PART III

Item 10.	<u>DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE</u>	119
Item 11.	<u>EXECUTIVE COMPENSATION</u>	119
Item 12.	<u>SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS</u>	119
Item 13.	<u>CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE</u>	119
Item 14.	<u>PRINCIPAL ACCOUNTING FEES AND SERVICES</u>	119

PART IV

Item 15.	<u>EXHIBITS AND FINANCIAL STATEMENT SCHEDULES</u>	120
Item 16.	<u>FORM 10-K SUMMARY</u>	122
	<u>SIGNATURES</u>	123

**PART I**

**FORWARD LOOKING STATEMENTS**

This Annual Report on Form 10-K may contain certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), that involve substantial risks and uncertainties. When used in this report, or in the documents incorporated by reference herein, the words “will,” “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “plan,” “seek,” “look to,” “goal,” “target” and similar expressions identify such forward-looking statements. These forward-looking statements include statements regarding the business plans, prospects, growth and operating strategies of Evans Bancorp, Inc. (the “Company”), statements regarding the asset quality of the Company’s loan and investment portfolios, and estimates of the Company’s risks and future costs and benefits.

These forward-looking statements are based largely on the expectations of the Company’s management and are subject to a number of risks and uncertainties, including but not limited to: general economic conditions, either nationally or in the Company’s market areas, that are worse than expected; increased competition among depository or other financial institutions; inflation and changes in the interest rate environment that reduce the Company’s margins or reduce the fair value of financial instruments; changes in laws or government regulations affecting financial institutions, including changes in regulatory fees and capital requirements; the Company’s ability to enter new markets successfully and capitalize on growth opportunities; the Company’s ability to successfully integrate acquired entities; loan losses in excess of the Company’s allowance for loan losses; changes in accounting pronouncements and practices, as adopted by financial institution regulatory agencies, the Financial Accounting Standards Board (“FASB”) and the Public Company Accounting Oversight Board; the impact of such changes in accounting pronouncements and practices being greater than anticipated; the ability to realize the benefit of deferred tax assets; changes in the financial performance and/or condition of the Company’s borrowers; changes in consumer spending, borrowing and saving habits; changes in the Company’s organization, compensation and benefit plans; and other factors discussed elsewhere in this Annual Report on Form 10-K including the risk factors described in Item 1A, as well as in the Company’s periodic reports filed with the Securities and Exchange Commission. Many of these factors are beyond the Company’s control and are difficult to predict.

Because of these and other uncertainties, the Company’s actual results, performance or achievements could differ materially from those contemplated, expressed or implied by the forward-looking statements contained herein. Forward-looking statements speak only as of the date they are made. The Company undertakes no obligation to publicly update or revise forward-looking information, whether as a result of new, updated information, future events or otherwise, except to the extent required by law.

**Item 1. BUSINESS**

**EVANS BANCORP, INC.**

Evans Bancorp, Inc. (the “Company”) is a New York business corporation which is registered as a financial holding company under the Bank Holding Company Act of 1956, as amended (the “BHCA”). The principal office of the Company is located at One Grimsby Drive, Hamburg, NY 14075 and its telephone number is (716) 926-2000. This facility is occupied by the Office of the President and Chief Executive Officer of the Company, as well as the Administrative and Loan Divisions of Evans Bank. The Company was incorporated on October 28, 1988, but the continuity of its banking business is traced to the organization of the Evans National Bank of Angola on January 20, 1920. Except as the context otherwise requires, the Company and its direct and indirect subsidiaries are collectively referred to in this report as the “Company.” The Company’s common stock is traded on the NYSE American, LLC under the symbol “EVBN.”

At December 31, 2019, the Company had consolidated total assets of \$1.5 billion, deposits of \$1.3 billion and stockholders’ equity of \$148 million.

The Company’s primary business is the operation of its subsidiaries. It does not engage in any other substantial business activities. The Company operates two direct wholly-owned subsidiaries: (1) Evans Bank, N.A. (the “Bank”), which provides a full range of banking services to consumer and commercial customers in Western New York; and (2) Evans National Financial Services, LLC (“ENFS”), which owns 100% of the membership interests in The Evans Agency, LLC (“TEA”), which sells various premium-based insurance policies on a commission basis. At December 31, 2019, the Bank represented 99% and ENFS represented 1% of the consolidated assets of the Company. Further discussion of our segments is included in Note 19 to the Company’s Consolidated Financial Statements included under Item 8 of this Annual Report on Form 10-K.

On December 19, 2019, the Company announced that it had entered into a definitive Agreement and Plan of Reorganization (the “Agreement”) with FSB Bancorp, Inc. (“FSB”), a Maryland corporation and the parent holding company of Fairport Savings Bank (“FSB Bank”), under which FSB would be acquired by the Company (the “Merger”). Subject to the terms and conditions of the Agreement, upon the consummation of the Merger, FSB stockholders will have the right to receive, subject to possible adjustment, for each share of common stock, par value \$0.01 per share, of FSB (“FSB Common Stock”), either (i) 0.4394 shares of common stock, par value \$0.50 per share, of Evans (“Evans Common Stock”), or (ii) \$17.80 in cash, at the election of such holder. All such elections are subject to adjustment on a pro rata basis, so that approximately 50% of the aggregate consideration paid to FSB stockholders will be cash and approximately 50% will be Evans Common Stock. As of December 19, 2019 total consideration to be paid was valued at approximately \$35 million.

As of September 30, 2019, FSB reported \$325 million of assets, including \$277 million of loans (predominantly residential real estate loans) and \$24 million of investment securities, and \$293 million of liabilities, including \$233 million of deposits.

The Merger is subject to customary closing conditions, including, among others, (1) approval of the Agreement and the Merger by the stockholders of FSB, (2) receipt of required regulatory approvals, (3) the absence of any law or order prohibiting the consummation of the transactions contemplated by the Agreement, (4) the effectiveness of the registration statement for the Evans Common Stock to be issued in the Merger, and (5) the approval of the listing on the New York Stock Exchange American of the Evans Common Stock to be issued in the Merger.

**Evans Bank, N.A.**

The Bank is a nationally chartered bank that has its headquarters at One Grimsby Drive, Hamburg, NY, and a total of 15 full-service banking offices in Erie County, Niagara County, and Chautauqua County, NY.

At December 31, 2019, the Bank had total assets of \$1.4 billion, investment securities of \$130 million, net loans of \$1.2 billion, deposits of \$1.3 billion and stockholders’ equity of \$145 million, compared with total assets of \$1.4 billion, investment securities of \$134 million, net loans of \$1.1 billion, deposits of \$1.2 billion and stockholders’ equity of \$127 million at December 31, 2018. The Bank offers deposit products, which include checking and negotiable order of withdrawal (“NOW”) accounts, savings accounts, and certificates of deposit, as its principal source of funding. The Bank’s deposits are insured up to the maximum permitted by the Deposit Insurance Fund of the Federal Deposit Insurance Corporation (“FDIC”). The Bank offers a variety of loan products to its customers, including commercial and consumer loans and commercial and residential mortgage loans.

As is the case with banking institutions generally, the Bank’s operations are significantly influenced by general economic conditions and by related monetary and fiscal policies of banking regulatory agencies, including the Federal Reserve Board (“FRB”) and FDIC. The Bank is also subject to the supervision, regulation and examination of the Office of the Comptroller of the Currency of the United States of America (the “OCC”).

## **The Evans Agency, LLC**

TEA, a property and casualty insurance agency, is a wholly-owned subsidiary of ENFS. TEA is headquartered in Hamburg, NY, with offices located throughout Western New York. TEA is a full-service insurance agency offering personal, commercial and financial services products. For the year ended December 31, 2019, TEA had total revenue of \$10 million.

TEA's primary market area is Erie, Chautauqua, Cattaraugus and Niagara Counties, NY. Most lines of personal insurance are provided, including automobile, homeowners, boat, recreational vehicle, landlord, and umbrella coverage. Commercial insurance products are also provided, consisting of property, liability, automobile, inland marine, workers compensation, bonds, crop and umbrella insurance. TEA also provides the following financial services products: employee benefits, life and disability insurance, Medicare supplements, long term care, annuities, mutual funds, retirement programs and New York State Disability.

TEA purchased the assets of Richardson and Stout, Inc. ("R&S") on July 1, 2018 for \$5 million. R&S was an insurance agency in Wellsville, NY that offered personal and commercial property and casualty insurance agency services.

## **Other Subsidiaries**

In addition to the Bank and TEA, the Company has the following direct and indirect wholly-owned subsidiaries:

**Evans National Holding Corp.** ("ENHC"). ENHC, a wholly-owned subsidiary of the Bank, operates as a real estate investment trust that holds commercial real estate loans and residential mortgages, providing additional flexibility and planning opportunities for the business of the Bank.

**Evans National Financial Services, LLC** ("ENFS"). ENFS is a wholly-owned subsidiary of the Company. ENFS's primary business is to own the business and assets of the Company's non-banking financial services subsidiaries.

**Frontier Claims Services, Inc.** ("FCS"). FCS is a wholly-owned subsidiary of TEA and provides claims adjusting services to various insurance companies.

**MMS Merger Sub, Inc.** ("MMS"). A Maryland corporation and wholly owned subsidiary of Evans Bancorp, Inc., was newly formed for the purposes of effectuating the anticipated merger with FSB Bancorp, Inc. MMS has no assets or operations.

The Company also has two special purpose entities: Evans Capital Trust I, a statutory trust formed in September 2004 under the Delaware Statutory Trust Act, solely for the purpose of issuing and selling certain securities representing undivided beneficial interests in the assets of the trust, investing the proceeds thereof in certain debentures of the Company and engaging in those activities necessary, advisable or incidental thereto; and ENB Employers Insurance Trust, a Delaware trust company formed in February 2003 for the sole purpose of holding life insurance policies under the Bank's bank-owned life insurance ("BOLI") program.

The Company operates in two operating segments – banking activities and insurance agency activities. See Note 19 to the Company's Consolidated Financial Statements included under Item 8 of this Annual Report on Form 10-K for more information on the Company's operating segments.

## **MARKET AREA**

The Company's primary market area is Erie County, Niagara County, northern Chautauqua County and northwestern Cattaraugus County, NY. This primary market area is the area where the Bank principally receives deposits and makes loans and TEA sells insurance.

## **MARKET RISK**

For information about, and a discussion of, the Company's "Market Risk," see Part II, Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations - Market Risk" of this Annual Report on Form 10-K.

## COMPETITION

All phases of the Company's business are highly competitive. The Company competes actively with local, regional and national financial institutions, as well as with bank branches and insurance agency offices in the Company's primary market area of Erie County, Niagara County, northern Chautauqua County, and northwestern Cattaraugus County, NY. These Western New York counties have a high density of financial institutions, many of which are significantly larger and have greater financial resources than the Company. The Company faces competition for loans and deposits from other commercial banks, savings banks, internet banks, savings and loan associations, mortgage banking companies, credit unions, and other financial services companies. The Company faces additional competition from non-depository competitors such as the mutual fund industry, securities and brokerage firms, and insurance companies and brokerages. In the personal insurance area, the majority of TEA's competition comes from direct writers, as well as some small local agencies located in the same towns and villages in which TEA has offices. In the commercial business segment, the majority of the competition comes from larger agencies located in and around Buffalo, NY. By offering the large number of carriers which it has available to its customers, TEA has attempted to remain competitive in all aspects of its business.

As an approximate indication of the Company's competitive position, the Bank had the sixth most deposits in the Buffalo, NY metropolitan statistical area according to the FDIC's annual deposit market share report as of June 30, 2019 with 3% of the total market's deposits of \$46 billion. By comparison, the market leaders, M&T Bank and KeyBank, had 80% of the Buffalo, NY metropolitan statistical area deposits combined. The Company attempts to be generally competitive with all financial institutions in its service area with respect to interest rates paid on time and savings deposits, service charges on deposit accounts, and interest rates charged on loans.

## SUPERVISION AND REGULATION

Bank holding companies and banks are extensively regulated under both federal and state laws and regulations that are intended to protect depositors and customers. Additionally, because the Company is a public company with shares traded on the NYSE American, it is subject to regulation by the Securities and Exchange Commission, as well as the listing standards required by NYSE American. To the extent that the following summary describes statutory and regulatory provisions, it is qualified in its entirety by reference to the particular statutory and regulatory provisions. Any change in the applicable law or regulation, or a change in the way such laws or regulations are interpreted by regulatory agencies or courts, may have a material adverse effect on the Company's business, financial condition and results of operations.

### Bank Holding Company Regulation (BHCA)

As a bank holding company registered under the BHCA, the Company and its non-banking subsidiaries are subject to regulation and supervision under the BHCA by the FRB. The FRB requires periodic reports from the Company, and is authorized by the BHCA to make regular examinations of the Company and its subsidiaries.

The Company is required to obtain the prior approval of the FRB before merging with or acquiring all or substantially all of the assets of, or direct or indirect ownership or control of more than 5% of the voting shares of, a bank or bank holding company. The FRB will not approve any acquisition, merger or consolidation that would have a substantial anti-competitive result, unless the anti-competitive effects of the proposed transaction are outweighed by a greater public interest in meeting the needs and convenience of the public.

Subject to various exceptions, the BHCA and the Change in Bank Control Act of 1978, together with related regulations, require FRB approval before any person or company acquires "control" of a bank holding company. Control is conclusively presumed to exist if an individual or company acquires 25% or more of any class of voting securities of the bank holding company. Rebuttable control is presumed to exist if a person or company acquires 10% or more, but less than 25%, of any class of the bank holding company's voting securities.

The FRB also considers managerial, capital and other financial factors in acting on acquisition or merger applications. A bank holding company may not engage in, or acquire direct or indirect control of more than 5% of the voting shares of any company engaged in any non-banking activity, unless such activity has been determined by the FRB to be closely related to banking or managing banks. The FRB has identified by regulation various non-banking activities in which a bank holding company may engage with notice to, or prior approval by, the FRB. However, a bank holding company that meets specified criteria may elect to be regulated as a financial holding company and thereby engage in a broader range of nonbanking financial activities. The Company has made such an election.

The FRB has enforcement powers over financial holding companies and their subsidiaries, among other things, to enjoin activities that represent unsafe or unsound practices or constitute violations of law, rule, regulation, administrative orders, or written agreements with a federal bank regulator. These powers may be exercised through the issuance of cease and desist orders, civil monetary penalties or other actions.



## [Table of Contents](#)

Under Regulation Y, a bank holding company must serve as a source of financial and managerial strength for its subsidiary banks and must not conduct its operations in an unsafe or unsound manner. Additionally, Regulation Y requires a bank holding company to give the FRB prior notice of any redemption or repurchase of its own equity securities, if the consideration to be paid, together with the consideration paid for any repurchases in the preceding year, is equal to 10% or more of the company's consolidated net worth. The FRB may oppose the transaction if it believes that the transaction would constitute an unsafe or unsound practice or would violate any law or regulation. There is an exception for bank holding companies that are well-managed, well capitalized, and not subject to any unresolved supervisory issues. To date, the Company has qualified for this exception. As another example, a bank holding company may not impair its subsidiary bank's soundness by causing it to make funds available to non-banking subsidiaries or their customers if the FRB believed it would not be prudent to do so.

Bank holding companies and their subsidiary banks are also subject to the provisions of the Community Reinvestment Act ("CRA"). Under the terms of the CRA, the FRB (or other appropriate bank regulatory agency, in the case of the Bank, the OCC) is required, in connection with its examination of a bank, to assess such bank's record in meeting the credit needs of the communities served by that bank, including low and moderate-income neighborhoods. Furthermore, such assessment is taken into account in evaluating any application made by a bank holding company or a bank for, among other things, approval of a branch or other deposit facility, office relocation, a merger or an acquisition of bank shares.

### **Supervision and Regulation of Bank Subsidiaries**

The Bank is a nationally chartered banking corporation, primarily subject to supervision, examination and regulation by the OCC. The FDIC has certain backup regulatory authority as the deposit insurer. These regulators have the power to enjoin "unsafe or unsound practices," require affirmative action to correct any conditions resulting from any violation or practice, issue an administrative order that can be judicially enforced, direct an increase in capital, restrict the growth of a bank, assess civil monetary penalties, and remove a bank's officers and directors.

The operations of the Bank are subject to numerous statutes and regulations. Such statutes and regulations relate to required reserves against deposits, investments, loans, mergers and consolidations, issuance of securities, payment of dividends, establishment of branches, and other aspects of the Bank's operations. Various consumer laws and regulations also affect the operations of the Bank, including state usury laws, laws relating to fiduciaries, consumer credit and equal credit, fair credit reporting, and privacy of non-public financial information.

The Bank is subject to Sections 23A and 23B of the Federal Reserve Act and Regulation W thereunder, which govern certain transactions, such as loans, extensions of credit, investments and purchases of assets between member banks and their affiliates, including their parent holding companies. These restrictions limit the transfer from its subsidiaries, including the Bank, of funds to the Company in the form of loans, extensions of credit, investments or purchases of assets (collectively, "Transfers"), and they require that the Bank's transactions with the Company be on terms no less favorable to the Bank than comparable transactions between the Bank and unrelated third parties. Transfers by the Bank to any affiliate (including the Company) are limited in amount to 10% of the Bank's capital and surplus, and transfers to all affiliates are limited in the aggregate to 20% of the Bank's capital and surplus. Furthermore, such loans and extensions of credit are also subject to various collateral requirements. These regulations and restrictions may limit the Company's ability to obtain funds from the Bank for its cash needs, including funds for acquisitions, and the payment of dividends, interest and operating expenses.

The Bank is prohibited from engaging in certain tying arrangements in connection with any extension of credit, lease or sale of property or furnishing of services. For example, the Bank may not generally require a customer to obtain other services from the Bank or the Company, and may not require the customer to promise not to obtain other services from a competitor as a condition to an extension of credit. The Bank is also subject to certain restrictions imposed by the Federal Reserve Act on extensions of credit to executive officers, directors, principal stockholders or any related interest of such persons. Extensions of credit: (i) must generally be made on substantially the same terms (including interest rates and collateral) as those prevailing at the time for, and following credit underwriting procedures that are not less stringent than those applicable to, comparable transactions with persons not covered above and who are not employees, and (ii) must not involve more than the normal risk of repayment or present other unfavorable features. The Bank is also subject to certain lending limits and restrictions on overdrafts to such persons. A violation of these restrictions may result in the assessment of substantial civil monetary penalties on the Bank or any officer, director, employee, agent or other person participating in the conduct of the affairs of the Bank or the imposition of a cease and desist order.

As insurer, the FDIC imposes deposit insurance premiums and is authorized to conduct examinations of and to require reporting by, insured institutions. It may also prohibit an insured institution from engaging in any activity the FDIC determines by regulation or order to pose a serious threat to the FDIC. The FDIC also has the authority to initiate enforcement actions against insured institutions under certain circumstances. The FDIC may terminate the deposit insurance of any insured depository institution, including the Bank, if it determines after a hearing that the institution has engaged or is engaging in unsafe or unsound practices, is in an unsafe or unsound condition to continue operations, or has violated any applicable law, regulation, order or any condition imposed by an agreement with the FDIC.

## [Table of Contents](#)

Deposit insurance premiums are based on quarterly average total assets minus average tangible equity. The FDIC imposes a risk-based premium system that determines assessment rates based on an insured institution's ranking in one of four risk categories based on their examination ratings and capital ratios. In addition, all FDIC-insured institutions have been required to pay assessments to the FDIC to fund interest payments on bonds issued by the Financing Corporation ("FICO"), a mixed-ownership Federal government corporation established to recapitalize the Federal Savings and Loan Insurance Corporation. These assessments were discontinued when the interest payments were fully funded for the FICO bonds, which matured in 2019.

Under the Financial Institutions Reform, Recovery and Enforcement Act of 1989, a depository institution insured by the FDIC can be held liable for any loss incurred by, or reasonably expected to be incurred by, the FDIC in connection with: (i) the default of a commonly controlled FDIC-insured depository institution, or (ii) any assistance provided by the FDIC to a commonly controlled FDIC-insured institution in danger of default. "Default" is defined generally as the appointment of a conservator or receiver, and "in danger of default" is defined generally as the existence of certain conditions indicating that, in the opinion of the appropriate banking agency, a "default" is likely to occur in the absence of regulatory assistance.

In addition to the foregoing, federal regulators have adopted regulations and examination procedures promoting the safety and soundness of institutions by specifically addressing, among other things: (i) internal controls, information systems and internal audit systems; (ii) loan documentation; (iii) credit underwriting; (iv) interest rate exposure; (v) asset growth; (vi) ratio of classified assets to capital; (vii) minimum earnings; and (viii) compensation and benefits standards for management officials. FRB regulations, for example, subject to an exception for highly rated holding companies, generally require a bank holding company to give the FRB prior notice of any redemption or repurchase of the bank holding company's equity securities, if the consideration to be paid, together with the consideration paid for any repurchases or redemptions in the preceding year, is equal to 10% or more of the company's consolidated net worth. The Federal Reserve Board has broad authority to prohibit activities of bank holding companies and their non-banking subsidiaries which represent unsafe and unsound banking practices or which constitute violations of laws or regulations, and can assess civil money penalties for certain activities conducted on a knowing and reckless basis, if those activities caused a substantial loss to a depository institution.

Dividends paid by the Bank have been the Company's primary source of operating funds and are expected to be for the foreseeable future. Capital adequacy requirements serve to limit the amount of dividends that may be paid by the Bank. Under OCC regulations, the Bank may not pay a dividend, without prior OCC approval, if the total amount of all dividends declared during the calendar year, including the proposed dividend, exceed the sum of its retained net income to date during the calendar year and its retained net income over the preceding two years. As of December 31, 2019, approximately \$32 million was available for the payment of dividends without prior OCC approval. The Bank's ability to pay dividends is also subject to the Bank being in compliance with regulatory capital requirements. At December 31, 2019, the Bank was in compliance with these requirements.

Because the Company is a legal entity separate and distinct from the Bank, the Company's right to participate in the distribution of assets of the Bank in the event of the Bank's liquidation or reorganization would be subject to the prior claims of the Bank's creditors. In the event of a liquidation or other resolution of an insured depository institution, the claims of depositors and other general or subordinated creditors are entitled to a priority of payment over the claims of unsecured, non-deposit creditors, including a parent bank holding company (such as the Company) or any shareholder or creditor thereof.

The OCC and other federal banking agencies have broad enforcement powers, including the power to impose substantial fines and other civil and criminal penalties, and to appoint a conservator or receiver for the assets of a regulated entity. Failure to comply with applicable laws, regulations and supervisory agreements could subject the Company or its subsidiaries, as well as officers, directors and other institution-affiliated parties of these organizations, to administrative sanctions and potential civil monetary penalties.

### **Capital Adequacy**

The Company and its subsidiary bank are required to comply with applicable capital adequacy standards established by the federal banking agencies. In July 2013, the Federal Reserve Board, the OCC, and the FDIC approved final rules (the "Capital Rules") establishing a new comprehensive capital framework for U.S. banking organizations. These rules went into effect as to the Company and the Bank on January 1, 2015, subject to phase-in periods for certain components and other provisions. The capital standards applicable to the Company have been fully phased-in. However, legislation enacted in May 2018 required the FRB to raise the threshold of its "small holding company" exception to the applicability of holding company capital requirements to \$3 billion of consolidated assets. That change became effective in August 2018. Consequently, holding companies with less than \$3 billion of consolidated assets, including the Company, are generally not subject to the Capital Rules unless otherwise directed by the FRB. The Bank remains subject to the Capital Rules.

## Table of Contents

*Basel III and the Capital Rules.* The Capital Rules generally implemented the Basel Committee's December 2010 final capital framework referred to as "Basel III" for strengthening international capital standards. The Capital Rules substantially revised the risk-based capital requirements applicable to bank holding companies and their depository institution subsidiaries. The Capital Rules revised the definitions and the components of regulatory capital, and addressed other issues affecting the numerator in banking institutions' regulatory capital ratios. The Capital Rules also addressed asset risk weights and other matters affecting the denominator in banking institutions' regulatory capital ratios.

Among other matters, the Capital Rules: (i) introduced a new capital measure called "Common Equity Tier 1" ("CET1") and related regulatory capital ratio of CET1 to risk-weighted assets; (ii) specified that Tier 1 capital consists of CET1 and "Additional Tier 1 capital" instruments meeting certain revised requirements; (iii) mandated that most deductions/adjustments to regulatory capital measures be made to CET1 and not to the other components of capital; and (iv) expanded the scope of the deductions from and adjustments to capital as compared to the previous regulations.

Pursuant to the Capital Rules, the minimum capital ratios were as follows:

4.5% CET1 to risk-weighted assets;

6.0% Tier 1 capital (that is, CET1 plus Additional Tier 1 capital) to risk-weighted assets;

8.0% Total capital (that is, Tier 1 capital plus Tier 2 capital) to risk-weighted assets; and

4.0% Tier 1 capital to average consolidated assets as reported on the consolidated financial statements (known as the "leverage ratio").

The Capital Rules also introduced a new "capital conservation buffer," composed entirely of CET1, on top of the minimum risk-weighted asset ratios described above, which was designed to absorb losses during periods of economic stress. Banking institutions with a ratio of CET1 to risk-weighted assets above the minimum but below the capital conservation buffer face constraints on dividends, equity and other capital instrument repurchases and compensation based on the amount of the shortfall. The capital standards applicable to the Bank include an additional capital conservation buffer of 2.5% of CET1 on top of the minimum risk-weighted asset ratios, effectively resulting in minimum ratios inclusive of the capital conservation buffer of (i) CET1 to risk-weighted assets of at least 7%, (ii) Tier 1 capital to risk-weighted assets of at least 8.5% and (iii) Total capital to risk-weighted assets of at least 10.5%.

The Capital Rules provide for a number of deductions from and adjustments to CET1. These include, for example, the requirement that mortgage servicing rights, deferred tax assets arising from temporary differences that could not be realized through net operating loss carrybacks and significant investments in non-consolidated financial entities be deducted from CET1 to the extent that any one such category exceeds 10% of CET1 or all such items, in the aggregate, exceed 15% of CET1.

In addition, the Capital Rules include certain exemptions to address concerns about the regulatory burden on community banks. For example, banking organizations with less than \$15 billion in consolidated assets as of December 31, 2009 are permitted to include in Tier 1 capital trust preferred securities and cumulative perpetual preferred stock issued and included in Tier 1 capital prior to May 19, 2010 on a permanent basis, without any phase out (subject to a limit of 25% of Tier 1 capital). Also, community banks were able to elect on a one time basis in their March 31, 2015 quarterly filings to opt-out of the onerous requirement to include most accumulated other comprehensive income ("AOCI") components in the calculation of common equity Tier 1 capital and, in effect, retain the AOCI treatment under the current capital rules. Under the Capital Rules, the Bank made a one-time, permanent election to continue to exclude AOCI from capital.

## Table of Contents

The Federal Deposit Insurance Act (the “FDIA”) establishes a system of regulatory remedies to resolve the problems of undercapitalized institutions, referred to as the prompt corrective action. The federal banking regulators have established five capital categories (“well-capitalized,” “adequately capitalized,” “undercapitalized,” “significantly undercapitalized” and “critically undercapitalized”) and must take certain mandatory supervisory actions, and are authorized to take other discretionary actions, with respect to institutions which are undercapitalized, significantly undercapitalized or critically undercapitalized. The severity of these mandatory and discretionary supervisory actions depends upon the capital category in which the institution is placed. Generally, subject to a narrow exception, the FDIA requires the banking regulator to appoint a receiver or conservator for an institution that is critically undercapitalized. The federal regulators have specified by regulation the relevant capital levels for each category, which are printed below.

### **“Well-Capitalized”**

CET1 ratio of 6.5%  
Leverage Ratio of 5%,  
Tier 1 Capital ratio of 8%,  
Total Capital ratio of 10%, and  
Not subject to a written agreement, order, capital directive or regulatory remedy directive requiring a specific capital level.

### **“Adequately Capitalized”**

CET1 ratio of 4.5%  
Leverage Ratio of 4%,  
Tier 1 Capital ratio of 6%, and  
Total Capital ratio of 8%.

### **“Undercapitalized”**

CET1 Ratio of less than 4.5%  
Leverage Ratio less than 4%,  
Tier 1 Capital ratio less than 6%, or  
Total Capital ratio less than 8%.

### **“Significantly Undercapitalized”**

CET1 Ratio of less than 3%  
Leverage Ratio less than 3%,  
Tier 1 Capital ratio less than 4%, or  
Total Capital ratio less than 6%.

### **“Critically Undercapitalized”**

Tangible equity to total assets less than 2%.

For purposes of these regulations, the term “tangible equity” includes core capital elements counted as Tier 1 Capital for purposes of the risk-based capital standards plus the amount of outstanding cumulative perpetual preferred stock (including related surplus), minus all intangible assets with certain exceptions.

An institution that is classified as well-capitalized based on its capital levels may be classified as adequately capitalized, and an institution that is adequately capitalized or undercapitalized based upon its capital levels may be treated as though it were undercapitalized or significantly undercapitalized, respectively, if the appropriate federal banking agency, after notice and opportunity for hearing, determines that an unsafe or unsound condition or an unsafe or unsound practice warrants such treatment.

An institution that is categorized as undercapitalized, significantly undercapitalized or critically undercapitalized is required to submit an acceptable capital restoration plan to its appropriate federal banking regulator. Under the FDIA, in order for the capital restoration plan to be accepted by the appropriate federal banking agency, a BHC must guarantee that a subsidiary depository institution will comply with its capital restoration plan, subject to certain limitations. The BHC must also provide appropriate assurances of performance. The obligation of a controlling BHC under the FDIA to fund a capital restoration plan is limited to the lesser of 5.0% of an undercapitalized subsidiary’s assets or the amount required to meet regulatory capital requirements. An undercapitalized institution is also generally prohibited from increasing its average total assets, making acquisitions, establishing any branches or engaging in any new line of business, except in accordance with an accepted capital restoration plan or with the approval of the FDIC. Institutions that are significantly undercapitalized or undercapitalized and either fail to submit an acceptable capital restoration plan or fail to implement an approved capital restoration plan may be subject to a number of requirements and restrictions, including orders to sell sufficient voting stock to become adequately capitalized, requirements to reduce total assets and cessation of receipt of deposits from correspondent banks. Critically undercapitalized depository institutions failing to submit or implement an acceptable capital restoration plan are subject to appointment of a receiver or conservator.

The Company’s regulatory capital ratios under risk-based capital rules in effect through December 31, 2019 are presented in Note 22 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

## [Table of Contents](#)

In an effort to reduce regulatory burden, legislation enacted in May 2018 required the federal banking agencies to establish an optional “community bank leverage ratio” of between 8% to 10% tangible equity to average total consolidated assets for qualifying institutions with assets of less than \$10 billion of assets. Institutions with capital meeting the specified requirement and electing to follow the alternative framework would be deemed to comply with the applicable regulatory capital requirements, including the risk-based requirements and would be considered well-capitalized under the prompt corrective action framework. The federal regulators issued a final rule, effective January 1, 2020, that set the elective community bank leverage ratio at 9% tier 1 capital to average total consolidated assets.

### **Regulation of Insurance Agency Subsidiary**

TEA is regulated by the New York State Department of Financial Services. As of the date of this report, TEA meets and maintains all licensing and continuing education requirements required by the State of New York.

### **Monetary Policy and Economic Control**

The commercial banking business is affected not only by general economic conditions, but also by the monetary policies of the FRB. Changes in the discount rate on member bank borrowing, availability of borrowing at the “discount window,” open market operations, the imposition of changes in reserve requirements against member banks’ deposits and assets of foreign branches and the imposition of, and changes in, reserve requirements against certain borrowings by banks and their affiliates are some of the instruments of monetary policy available to the FRB. These monetary policies are used in varying combinations to influence overall growth and distributions of bank loans, investments and deposits, and this use may affect interest rates charged on loans or paid on deposits. The monetary policies of the FRB have had a significant effect on the operating results of commercial banks and are expected to continue to do so in the future. The monetary policies of these agencies are influenced by various factors, including inflation, unemployment, and short-term and long-term changes in the international trade balance and in the fiscal policies of the United States Government. Future monetary policies and the effect of such policies on the future business and earnings of the Company cannot be predicted.

### **Consumer Laws and Regulations**

In addition to the laws and regulations discussed herein, the Bank is also subject to certain consumer laws and regulations that are designed to protect consumers in transactions with banks. These laws and regulations include, but are not limited to, the USA PATRIOT Act of 2001, the Bank Secrecy Act, the Truth in Lending Act, the Truth in Savings Act, the Electronic Funds Transfer Act, the Expedited Funds Availability Act, the Equal Credit Opportunity Act, the Fair Housing Act, the Home Mortgage Disclosure Act, the Real Estate Settlement Procedures Act, Federal Financial Privacy Laws, Interagency Guidelines Establishing Information Security Standards, the Right to Financial Privacy Act, and the Fair and Accurate Credit Transactions Reporting Act. These laws and regulations regulate the manner in which financial institutions must deal with customers when taking deposits or making loans to such customers.

## **Tax Cuts and Jobs Act**

The Tax Cuts and Jobs Act (“TCJA”), which represents one of the most significant overhauls to the United States federal tax code since 1986, was signed into law on December 22, 2017. The most significant impact of the TCJA has been on the Company’s marginal federal tax rate in 2018 and beyond, which decreased from 35% to 21%. The change in the corporate tax rate resulted in a \$2.1 million expense related to the remeasurement of the Company’s deferred tax asset as of December 31, 2017. Approximately \$0.6 million of the \$2.1 million expense is associated with deferred taxes related to unrealized gains on available-for-sale investment securities and the unamortized actuarial losses on the Pension Plan and the SERPs which were originally created through other comprehensive income (“OCI”). The Company reclassified the \$0.6 million charge related to deferred tax expense for items originally recorded through OCI from OCI to retained earnings per ASU 2018-02, “Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income,” released in February 2018 and early adopted by the Company for the period ended December 31, 2017.

Other significant aspects of the TCJA that have a direct impact on the Company include:

- The Company is active in the historic rehabilitation tax credit (“HTC”) market. Before TCJA, HTCs were allowed for 20% of qualified rehabilitation expenses (“QRE”) in the year the property is placed in service. For properties owned before December 31, 2017 on which construction was started by June 22, 2018 and completed by December 22, 2019, the old rules still apply. The Company has two remaining projects that fit these criteria. For all other projects, the HTC for 20% of QRE will now be taken over a 5 year period rather than all in the first year. This delay in cash flows to investors has negatively impacted the pricing on HTCs. The Company earned less than \$0.1 million and \$1.2 million in net income on HTC investments in 2019 and 2018, respectively, and had historic tax credit investments valued at \$1.2 million as of December 31, 2019 and 2018.
- The TCJA limits the deductibility of executive compensation. The TCJA expands the definition of “covered employees” for purposes of Section 162(m) of the Internal Revenue Code to include the CFO, CEO, and the three most highly compensated officers for the tax year and, once designated as a covered employee, an individual is a covered employee for all future years. Previously, if a covered employee retired, the individual would no longer be considered “covered” in retirement and therefore post-retirement payments to that individual would not be limited by Section 162(m). This change impacts the SERP for one of the Company’s executive officers, who elected to receive his benefit in a lump sum payment. In August 2018, the IRS issued Notice 2018-68, which provided guidance with respect to the amendments made to Section 162(m) and provided a transition rule applicable to certain outstanding arrangements (referred to as the “grandfather rule”). Notice 2018-68 defines the term “written binding contract” for purposes of grandfathering. Remuneration is grandfathered if it is payable under a written binding contract that was in effect on November 2, 2017, and not materially modified after that date, only to the extent the corporation is obligated under applicable law to pay the remuneration under the contract if the employee performs services or satisfies the vesting conditions. Therefore, for the executive in question, the Company is treating the vested portion of the SERP benefit on November 2, 2017, as subject to the grandfather rule of the new Section 162(m) so that vested portion of the SERP benefit is outside the scope of Section 162(m) and therefore deductible. Any increase in the executive’s SERP obligation after November 2, 2017 will be subject to the Section 162(m) limits on deductibility.
- The TCJA allows for 100% deduction of the cost of qualified property acquired and placed in service after September 27, 2017 and before January 1, 2023. This benefit is scheduled to phase out in full by 2027. Management expects that this will allow the Company to deduct capital expenses in full in the year of acquisition rather than over a period of time (3-7 years). This is expected to delay tax payments for the Company but is unlikely to have a material effect on results of operations.
- The TCJA repeals the 50% deduction for entertainment, amusement, or recreation activities and disallows employer deductions for meals provided for the convenience of the employer. The impact of this change has not been material to the Company.

## **AVAILABLE INFORMATION**

The Company's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished by the Company pursuant to Section 13(a) or 15(d) of the Exchange Act are available without charge on the Company's website, [www.evansbancorp.com](http://www.evansbancorp.com) - SEC filings section, as soon as reasonably practicable after they are electronically filed with or furnished to the SEC. The Company is providing the address to its Internet site solely for the information of investors. The Company does not intend its Internet address to be an active link or to otherwise incorporate the contents of the website into this Annual Report on Form 10-K or into any other report filed with or furnished to the SEC. In addition, the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC on its website, [www.sec.gov](http://www.sec.gov).



**Item 1A. RISK FACTORS**

The following factors identified by the Company's management represent significant potential risks that the Company faces in its operations.

**The Company's Business May Be Adversely Affected by Conditions in the Financial Markets and Economic Conditions Generally**

The Company's financial performance generally, and in particular the ability of borrowers to pay interest on and repay principal of outstanding loans and the value of collateral securing those loans, is highly dependent upon the business environment in the markets where the Company operates, in Western New York and in the United States as a whole. A favorable business environment is generally characterized by, among other factors, economic growth, efficient capital markets, low inflation, high business and investor confidence, and strong business earnings. Unfavorable or uncertain economic and market conditions can be caused by: declines in economic growth, declines in housing and real estate valuations, business activity or investor or business confidence; limitations on the availability or increases in the cost of credit and capital; increases in inflation or interest rates; natural disasters; or a combination of these or other factors.

Economic conditions in the United States remained positive in 2019, which included national and local unemployment rates of 3.5% and 4.5%, respectively, as of December 31, 2019. Although conditions in Western New York and the United States are currently good, a slowdown of the economy could occur in the future. The last recession ended in 2009 and has been followed by 126 months of economic expansion. In the post-World War II era, the average period of economic expansion has been 57 months. This could indicate that we are in a longer than normal period of economic expansion and that there is increased risk of recession. Even though the Company is a community institution servicing a local market, in a global economy, any deteriorating conditions in other parts of the world could affect the United States economically. Such conditions could materially adversely affect the credit quality of the Company's loans, and therefore, the Company's results of operations and financial condition.

**Commercial Real Estate and Commercial Business Loans Expose the Company to Increased Credit Risks**

At December 31, 2019, the Company's portfolio of commercial real estate loans totaled \$743 million, or 61% of total loans outstanding, and the Company's portfolio of commercial and industrial ("C&I") loans totaled \$251 million, or 20% of total loans outstanding. The Company plans to continue to emphasize the origination of commercial loans as they generally earn a higher rate of interest than other loan products offered by the Bank. However, commercial loans generally expose a lender to greater risk of non-payment and loss than one-to-four family residential mortgage loans because repayment of commercial real estate and C&I loans often depends on the successful operations and the income stream of the borrowers. Commercial mortgages are collateralized by real property while C&I loans are typically secured by business assets such as equipment and accounts receivable. Commercial loans typically involve larger loan balances to single borrowers or groups of related borrowers compared to one-to-four-family residential mortgage loans. Also, many of the Company's commercial borrowers have more than one commercial real estate or C&I loan outstanding with the Company. Consequently, an adverse development with respect to one loan or one credit relationship can expose the Company to a significantly greater risk of loss compared to an adverse development with respect to a one-to-four-family residential mortgage loan. Commercial real estate loans in non-accrual status at December 31, 2019 were \$7.2 million, compared with \$14.6 million at December 31, 2018. C&I loans in non-accrual status were \$4.8 million and \$1.7 million at December 31, 2019 and December 31, 2018, respectively. Increases in the delinquency levels of commercial real estate and C&I loans could result in an increase in non-performing loans and the provision for loan losses, which could have a material adverse effect on the Company's results of operations and financial condition.

**Continuing Concentration of Loans in the Company's Primary Market Area May Increase the Company's Risk**

Unlike larger banks that are more geographically diversified, the Company provides banking and financial services to customers located primarily in western New York State ("WNY"). Therefore, the Company's success depends primarily on the general economic conditions in WNY. The Company's business lending and marketing strategies focus on loans to small and medium-sized businesses in this geographic region. Moreover, the Company's assets are heavily concentrated in mortgages on properties located in WNY. Accordingly, the Company's business and operations are vulnerable to downturns in the economy of WNY. The concentration of the Company's loans in this geographic region subjects the Company to the risk that a downturn in the economy or recession in this region could result in a decrease in loan originations and increases in delinquencies and foreclosures, which would more greatly affect the Company than if the Company's lending were more geographically diversified. In addition, the Company may suffer losses if there is a decline in the value of properties underlying the Company's mortgage loans which would have a material adverse impact on the Company's operations.

### **In the Event the Company's Allowance for Loan Losses is Not Sufficient to Cover Actual Loan Losses, the Company's Earnings Could Decrease**

The Company maintains an allowance for loan losses in order to capture the probable losses inherent in its loan portfolio. There is a risk that the Company may experience significant loan losses which could exceed the allowance for loan losses. In determining the amount of the Company's recorded allowance, the Company makes various assumptions and judgments about the collectability of its loan portfolio, including the creditworthiness of its borrowers, the effect of changes in the local economy on the value of the real estate and other assets serving as collateral for the repayment of loans, the effects on the Company's loan portfolio of current economic indicators and their probable impact on borrowers, and the Company's loan quality reviews. The emphasis on the origination of commercial real estate and C&I loans is a significant factor in evaluating the allowance for loan losses. As the Company continues to increase the amount of these loans in the portfolio, additional or increased provisions for loan losses may be necessary and would adversely affect the results of operations. In addition, bank regulators periodically review the Company's loan portfolio and credit underwriting procedures, as well as its allowance for loan losses, and may require the Company to increase its provision for loan losses or recognize further loan charge-offs. At December 31, 2019, the Company had a gross loan portfolio of \$1.2 billion and the allowance for loan losses was \$15.2 million, which represented 1.24% of the total amount of gross loans. If the Company's assumptions and judgments prove to be incorrect or bank regulators require the Company to increase its provision for loan losses or recognize further loan charge-offs, the Company may have to increase its allowance for loan losses or loan charge-offs which could have an adverse effect on the Company's operating results and financial condition. Additionally, there can be no assurances that the Company's allowance for loan losses will be adequate to protect the Company against loan losses that it may incur.

### **Changes in Interest Rates Could Adversely Affect the Company's Business, Results of Operations and Financial Condition**

The Company's results of operations and financial condition are significantly affected by changes in interest rates. The Company's results of operations depend substantially on its net interest income, which is the difference between the interest income earned on its interest-earning assets and the interest expense paid on its interest-bearing liabilities. Because the Company's interest-bearing liabilities generally re-price or mature more quickly than its interest-earning assets, an increase in interest rates could result in a decrease in its net interest income.

Changes in interest rates also affect the value of the Company's interest-earning assets, and in particular, the Company's securities portfolio. Generally, the value of securities fluctuates inversely with changes in interest rates. At December 31, 2019, the Company's securities available for sale totaled \$128 million. Net unrealized gains on securities available for sale amounted to \$0.5 million, net of tax. Decreases in the fair value of securities available for sale could have an adverse effect on stockholders' equity or earnings.

The Company also is subject to reinvestment risk associated with changes in interest rates. Changes in interest rates may affect the average life of loans and mortgage-related securities. Decreases in interest rates can result in increased prepayments of loans and mortgage-related securities, as borrowers refinance to reduce borrowing costs. Under these circumstances, the Company is subject to reinvestment risk to the extent that it is unable to reinvest the cash received from such prepayments at rates that are comparable to the rates on existing loans and securities. Additionally, increases in interest rates may decrease loan demand and make it more difficult for borrowers to repay adjustable rate loans.

The FRB reduced the targeted federal funds rate a total of 0.75% during 2019. These actions have begun to put pressure on the Company's net interest margin due to the re-pricing of the variable rate loan portfolio. There is risk that further margin compression could have a material adverse effect on the Company's results of operations and financial condition.

### **The Company May Be Adversely Affected by the Soundness of Other Financial Institutions**

Financial services institutions are interrelated as a result of counterparty relationships. The Company has exposure to many different industries and counterparties, and routinely executes transactions with counterparties in the financial services industry. As a result, defaults by, or even rumors or questions about, one or more financial services institutions, or the financial services industry generally, could lead to losses or defaults by us or by other institutions and impact our business. Many of these transactions expose us to credit risk in the event of default of our counterparty or customer. In addition, our credit risk may be further increased when the collateral held by us cannot be relied upon or is liquidated at prices not sufficient to recover the full amount of the financial instrument exposure due to us. Any such losses could materially and adversely affect our results of operations.



The most important counterparty for the Company, in terms of liquidity, is the Federal Home Loan Bank of New York (“FHLBNY”). The Company uses FHLBNY as its primary source of borrowed overnight funds and also has several long-term advances with FHLBNY. At December 31, 2019, the Company had a total of \$10 million in borrowed funds with FHLBNY. The Company has placed sufficient collateral in the form of commercial and residential real estate loans at FHLBNY. As a member of the Federal Home Loan Bank System, the Bank is required to hold stock in FHLBNY. The Bank held FHLBNY stock with a fair value of \$1.6 million as of December 31, 2019.

There are 11 branches of the FHLB, including New York. If a branch were at risk of breaching risk-based capital requirements, it could suspend dividends, cut dividend payments, and/or not buy back excess FHLB stock that members hold. FHLBNY has stated that they expect to be able to continue to pay dividends, redeem excess capital stock, and provide competitively priced advances in the future. Nonetheless, the 11 FHLB branches are jointly liable for the consolidated obligations of the FHLB system. To the extent that one FHLB branch cannot meet its obligations to pay its share of the system’s debt; other FHLB branches can be called upon to make the payment.

Systemic weakness in the FHLB could result in higher costs of FHLB borrowings, reduced value of FHLB stock, and increased demand for alternative sources of liquidity that are more expensive, such as brokered time deposits, the discount window at the Federal Reserve, or lines of credit with correspondent banks.

**A Decline in the Value of the Company’s Deferred Tax Assets Could Adversely Affect the Company’s Operating Results and Regulatory Capital Ratios.**

The Company’s tax strategies depend on the ability to generate taxable income in future periods. The Company’s tax strategies will be less effective in the event the Company fails to generate anticipated amounts of taxable income. The value of the Company’s deferred tax assets is subject to an evaluation of whether it is more likely than not that they will be realized for financial statement purposes. In making this determination, management considers all positive and negative evidence available, including the Company’s historical levels of taxable income, the opportunity for net operating loss carrybacks, and projections for future taxable income over the statutory tax loss carryover period. If the Company were to conclude that a significant portion of deferred tax assets were not more likely than not to be realized, the required valuation allowance could adversely affect the Company’s financial position, results of operations and regulatory capital ratios. In addition, the value of the Company’s deferred tax assets could be adversely affected by a change in statutory tax rates.

**Strong Competition Within the Company's Market Area May Limit the Company’s Growth and Profitability**

Competition in the banking and financial services industry is intense. The Company competes with commercial banks, savings institutions, mortgage brokerage firms, credit unions, finance companies, mutual funds, insurance companies, brokerage and investment banking firms, and financial technology companies operating locally within the Company's market area and elsewhere. Many of these competitors (whether regional or national institutions) have substantially greater resources and lending limits than the Company does, and may offer certain services that the Company does not or cannot provide. The Company's profitability depends upon its continued ability to successfully compete in this market area.

**Expansion of the Company’s Branch Network May Adversely Affect its Financial Results**

The Company cannot assure that the opening of new branches will be accretive to earnings or that it will be accretive to earnings within a reasonable period of time. Numerous factors contribute to the performance of a new branch, such as suitable location, qualified personnel, and an effective marketing strategy. Additionally, it takes time for a new branch to gather sufficient loans and deposits to generate income sufficient to cover its operating expenses. Difficulties the Company experiences in opening new branches may have a material adverse effect on the Company’s financial condition and results of operations.

**The Company Operates in a Highly Regulated Environment and May Be Adversely Affected By Changes in Laws and Regulations**

The Company and its subsidiaries are subject to regulation, supervision and examination by the OCC, FRB, and by the FDIC, as insurer of its deposits. Such regulation and supervision govern the activities in which a bank and its holding company may engage and are intended primarily for the protection of the deposit insurance funds and depositors. Regulatory requirements affect the Company's lending practices, capital structure, investment practices, dividend policy and growth. These regulatory authorities have extensive discretion in connection with their supervisory and enforcement activities, including the imposition of restrictions on the operation of a bank, the imposition of deposit insurance premiums and other assessments, the classification of assets by a bank and the adequacy of a bank's allowance for loan losses. Any change in such regulation and oversight could have a material adverse impact on the Bank, the Company and its business, financial condition and results of operations.

Additionally, the Consumer Financial Protection Bureau (the “CFPB”) has the authority to issue consumer finance regulations and is authorized, individually or jointly with bank regulatory agencies, to conduct investigations to determine whether any person is, or has,

## [Table of Contents](#)

engaged in conduct that violates new and existing consumer financial laws or regulations. Because we have less than \$10 billion in total consolidated assets, the FRB and NYSDFS, not the CFPB, are responsible for examining and supervising our compliance with these consumer protection laws and regulations. In addition, in accordance with a memorandum of understanding entered into between the CFPB and U.S. Department of Justice, the two agencies have agreed to coordinate efforts related to enforcing the fair lending laws, which includes information sharing and conducting joint investigations, and have done so on a number of occasions.

Noncompliance with applicable regulations may lead to adverse consequences for the Company. A successful regulatory challenge to an institution's performance under the CRA or fair lending laws and regulations could result in a wide variety of sanctions, including the required payment of damages and civil money penalties, injunctive relief, imposition of restrictions on mergers and acquisitions activity and restrictions on expansion. Private parties may also have the ability to challenge an institution's performance under fair lending laws in private class action litigation. Such actions could have a material adverse effect on our business, financial condition and results of operations.

The Company also faces a risk of noncompliance and subsequent enforcement action in connection with federal Bank Secrecy Act (the "BSA") and other anti-money laundering and counter terrorist financing statutes and regulations. The federal banking agencies and the U.S. Treasury Department's Financial Crimes Enforcement Network are authorized to impose significant civil money penalties for violations of those requirements and have recently engaged in coordinated enforcement efforts against banks and other financial services providers with the U.S. Department of Justice, Drug Enforcement Administration and Internal Revenue Service. If the Company violates these laws and regulations, or its policies, procedures and systems are deemed deficient, it would be subject to liability, including fines and regulatory actions, which may include restrictions on its ability to pay dividends and the necessity to obtain regulatory approvals to proceed with certain aspects of its business plan, including its acquisition plans. Any of these results could have a material adverse effect on the Company's business, financial condition, results of operations and growth prospects.

### **Lack of System Integrity or Credit Quality Related to Funds Settlement Could Result in a Financial Loss**

The Bank settles funds on behalf of financial institutions, other businesses and consumers and receives funds from clients, card issuers, payment networks and consumers on a daily basis for a variety of transaction types. Transactions facilitated by the Bank include debit card, credit card and electronic bill payment transactions, supporting consumers, financial institutions and other businesses. These payment activities rely upon the technology infrastructure that facilitates the verification of activity with counterparties and the facilitation of the payment. If the continuity of operations or integrity of processing were compromised this could result in a financial loss to the Bank, and therefore the Company, due to a failure in payment facilitation. In addition, the Bank may issue credit to consumers, financial institutions or other businesses as part of the funds settlement. A default on this credit by a counterparty could result in a financial loss to the Bank, and therefore to the Company.

### **Financial Services Companies Depend on the Accuracy and Completeness of Information about Customers and Counterparties**

In deciding whether to extend credit or enter into other transactions, the Company may rely on information furnished by or on behalf of customers and counterparties, including financial statements, credit reports, and other financial information. The Company may also rely on representations of those customers, counterparties, or other third parties, such as independent auditors, as to the accuracy and completeness of that information. Reliance on inaccurate or misleading financial statements, credit reports, or other financial information could cause the Company to enter into unfavorable transactions, which could have a material adverse effect on the Company's financial condition and results of operations.

### **Loss of Key Employees May Disrupt Relationships with Certain Customers**

The Company's business is primarily relationship-driven in that many of the key employees of the Bank and TEA have extensive customer relationships. Loss of a key employee with such customer relationships may lead to the loss of business if the customers were to follow that employee to a competitor. While management believes that the Company's relationships with its key business producers are good, the Company cannot guarantee that all of its key personnel will remain with the organization. Loss of such key personnel, particularly if they enter into an employment relationship with one of the Company's competitors, could result in the loss of some of the Company's customers. Such losses could have a material adverse effect on the Company's business, financial condition and results of operations.

### **Future FDIC Insurance Premium Increases May Adversely Affect the Company's Earnings**

The Company is generally unable to control the amount of premiums that it is required to pay for FDIC insurance. If there are additional bank or financial institution failures or other similar occurrences, the FDIC may again increase the premiums assessed upon insured institutions. Such increases and any future increases or required prepayments of FDIC insurance premiums may adversely impact the Company's results of operations.

### **The Company is a Financial Holding Company and Depends on Its Subsidiaries for Dividends, Distributions and Other Payments**

The Company is a legal entity separate and distinct from its banking and other subsidiaries. The Company's principal source of cash flow, including cash flow to pay dividends to the Company's stockholders and principal and interest on its outstanding debt, is dividends from the Bank. There are statutory and regulatory limitations on the payment of dividends by the Bank, as well as the payment of dividends by the Company to its stockholders. Regulations of the OCC affect the ability of the Bank to pay dividends and other distributions and to make loans to the Company. If the Bank is unable to make dividend payments and sufficient capital is not otherwise available, the Company may not be able to make dividend payments to its common stockholders or principal and interest payments on its outstanding debt.

### **Because the Nature of the Financial Services Business Involves a High Volume of Transactions, the Company Faces Significant Operational Risks**

The Company relies on the ability of its employees and systems to process a high number of transactions. Operational risk is the risk of loss resulting from the Company's operations, including but not limited to, the risk of fraud by employees or persons outside of the Company, the execution of unauthorized transactions by employees, errors relating to transaction processing and technology, breaches of the internal control system and compliance requirements, and business continuation and disaster recovery. This risk of loss also includes the potential legal actions that could arise as a result of an operational deficiency or as a result of noncompliance with applicable regulatory standards, adverse business decisions or their implementation, and customer attrition due to potential negative publicity. In the event of a breakdown in the internal control system, improper operation of systems or improper employee actions, the Company could suffer financial loss, face regulatory action and suffer damage to its reputation, any of which could have a material adverse effect on the Company's financial condition or results of operation.

### **The Company's Information Systems May Experience an Interruption or Breach in Security**

The Company relies heavily on communications and information systems to conduct its business. As a financial institution, we process a significant number of customer transactions and possess a significant amount of sensitive customer information. As technology advances, the ability to initiate transactions and access data has become more widely distributed among mobile phones, personal computers, automated teller machines, remote deposit capture sites and similar access points. Any failure, interruption, or breach in security or operational integrity of our communications and information systems, or the systems of third parties on which we rely to process transactions, could result in failures or disruptions in the Company's customer relationship management, general ledger, deposit, loan, and other systems. There can be no assurance that failures, interruptions, or security breaches of the Company's information systems will not occur or, if they do occur, that they will be adequately addressed. Unauthorized third parties regularly seek to gain access to nonpublic, private and other information through computer systems. If customers' personal, nonpublic, confidential, or proprietary information in the Company's possession were to be mishandled or misused, we could suffer significant regulatory consequences, reputational damage, and financial loss. Such mishandling or misuse could include, for example, if such information were erroneously provided to parties who are not permitted to have the information, either by fault of the Company's systems, employees or counterparties, or where such information is intercepted or otherwise inappropriately taken by third parties. The occurrence of any failures, interruptions, or security breaches of the Company's information systems could, among other consequences, damage the Company's reputation, result in a loss of customer business, subject the Company to additional regulatory scrutiny, result in increased insurance premiums, or expose the Company to civil litigation and possible financial liability, any of which could have a material adverse effect on the Company's financial condition and results of operations.

In addition, as cybersecurity and data privacy risks for banking organizations and the broader financial system have significantly increased in recent years, cybersecurity and data privacy issues have become the subject of increasing legislative and regulatory focus. The federal bank regulatory agencies have proposed enhanced cyber risk management standards, which would apply to a wide range of large financial institutions and their third-party service providers, and would focus on cyber risk governance and management, management of internal and external dependencies, and incident response, cyber resilience and situational awareness. We may become subject to new legislation or regulation concerning cybersecurity or the privacy of personally identifiable information and personal financial information or of any other information we may store or maintain. We could be adversely affected if new legislation or regulations are adopted or if existing legislation or regulations are modified such that we are required to alter our systems or require changes to our business practices or privacy policies. If cybersecurity, data privacy, data protection, data transfer or data retention laws are implemented, interpreted or applied in a manner inconsistent with our current practices, we may be subject to fines, litigation or regulatory enforcement actions or ordered to change our business practices, policies or systems in a manner that adversely impacts our operating results. In addition, increased cost of compliance with cybersecurity regulations, at the federal and state level, could have a material adverse effect on the Company's financial condition and results of operations.

### **The Potential for Business Interruption Exists Throughout the Company's Organization**

Integral to the Company's performance is the continued efficacy of our technical systems, operational infrastructure, relationships with third parties and the vast array of associates and key executives in the Company's day-to-day and ongoing operations. Failure by any or all of these resources subjects the Company to risks that may vary in size, scale and scope. This includes, but is not limited to, operational or technical failures, pandemics, ineffectiveness or exposure due to interruption in third party support as expected, as well as the loss of key individuals or failure on the part of key individuals to perform properly. Such events could affect the stability of the Company's deposit base, impair the ability of borrowers to repay outstanding loans, impair the value of collateral securing loans, cause significant property damage, result in loss of revenue, cause the Company to incur additional expenses, or disrupt our third party vendors' operations, any of which could result in a material adverse effect on the Company's financial condition and results of operations. In late 2019, the novel coronavirus (COVID-19) was identified as a public health issue and has since spread throughout the United States, which may cause temporary office or branch closures and other business disruptions. Although the Company has established disaster recovery plans and procedures, the occurrence of any such events could have a material adverse effect on the Company.

### **Environmental Factors May Create Liability**

In the course of its business, the Bank has acquired, and may acquire in the future, property securing loans that are in default. There is a risk that the Bank could be required to investigate and clean-up hazardous or toxic substances or chemical releases at such properties after acquisition by the Bank in a foreclosure action, and that the Bank may be held liable to a governmental entity or third parties for property damage, personal injury and investigation and clean-up costs incurred by such parties in connection with such contamination. The Bank may in the future be required to perform an investigation or clean-up activities in connection with environmental claims. Any such occurrence could have a material adverse effect on our business, financial condition, and results of operations.

### **Anti-Takeover Laws and Certain Agreements and Charter Provisions May Adversely Affect Share Value**

Certain provisions of the Company's certificate of incorporation and state and federal banking laws, including regulatory approval requirements, could make it more difficult for a third party to acquire control of the Company without approval of the Company's board of directors. Under federal law, subject to certain exemptions, a person, entity or group must notify the FRB before acquiring control of a bank holding company. Acquisition of 10% or more of any class of voting stock of a bank holding company, including shares of the Company's common stock, creates a rebuttable presumption that the acquiror "controls" the bank holding company. Also, a bank holding company must obtain the prior approval of the FRB before, among other things, acquiring direct or indirect ownership or control of more than 5% of the voting shares of any bank, including the Bank. There also are provisions in the Company's certificate of incorporation that may be used to delay or block a takeover attempt. Taken as a whole, these statutory provisions and provisions in the Company's certificate of incorporation could result in the Company being less attractive to a potential acquiror and thus could adversely affect the market price of the Company's common stock.

### **Damage to the Company's Reputation Could Adversely Impact our Business**

The Company's business reputation is important to its success. The ability to attract and retain customers, investors, employees and advisors may depend upon external perceptions of the Company. Damage to the Company's reputation could cause significant harm to its business and prospects and may arise from numerous sources, including litigation or regulatory actions, failing to deliver minimum standards of service and quality, compliance failures, unethical behavior and the misconduct of employees, advisors and counterparties. Negative perceptions or publicity regarding these matters could damage the Company's reputation among existing and potential customers, investors, employees and advisors. Adverse developments with respect to the financial services industry may also, by association, negatively impact the Company's reputation or result in greater regulatory or legislative scrutiny or litigation against the Company. Preserving and enhancing the Company's reputation also depends on maintaining systems and procedures that address known risks and regulatory requirements, as well as its ability to identify and mitigate additional risks that arise due to changes in businesses and the marketplaces in which the Company operates, the regulatory environment and client expectations. If any of these developments has a material effect on the Company's reputation, its business could suffer.

**Mergers and Acquisitions, Including the Company's Proposed Acquisition of FSB, Involve Numerous Risks and Uncertainties**

Acquisitions involve a number of risks and challenges, including the expenses involved; integration of branches and operations acquired; the outflow of customers from the acquired branches; competing effectively in geographic areas not previously served; managing growth resulting from the transaction; and dilution in the acquirer's book and tangible book value per share.

On December 19, 2019, the Company announced that it had entered into a definitive Agreement and Plan of Reorganization with FSB, pursuant to which FSB would be acquired by the Company. The Company's proposed Merger with FSB involves numerous risks and uncertainties, including:

- Regulatory approvals may not be received, may take longer than expected or may impose conditions that are not presently anticipated or cannot be met. Before the transactions contemplated by the merger agreement, including the mergers, may be completed, various approvals must be obtained from bank regulatory authorities. The regulatory approvals may not be received at all, may not be received in a timely fashion, or may contain conditions on the completion of the mergers that are not anticipated or cannot be met. If the consummation of the Merger is delayed, including by a delay in receipt of necessary regulatory approvals, the business, financial condition and results of operations of the Company may be materially and adversely affected.
- Failure of the Merger to be completed, the termination of the Agreement, or a significant delay in the consummation of the Merger could negatively impact the Company. The Company has incurred and will incur substantial expenses in connection with the negotiation of the Agreement and the completion of the Merger. If the Merger is not completed or is delayed, the Company would have to recognize these expenses without realizing the expected benefits of the Merger. If the consummation of the Merger is delayed, the business, financial condition, results of operations and stock price of the Company may be materially adversely affected.
- The Company will be subject to business uncertainties and contractual restrictions while the Merger is pending. Uncertainty about the effect of the Merger on employees, customers, suppliers and vendors may have an adverse effect on the Company's business, financial condition and results of operations. The pursuit of the Merger and preparation for integration of FSB's business may place a burden on the Company's management and internal resources. Any significant diversion of management's attention away from ongoing business concerns and any difficulties encountered in the transition and integration process could have a material adverse effect on the Company's business, financial condition and results of operations. In addition, the Agreement restricts the Company from taking certain actions without FSB's consent while the Merger is pending. These restrictions could have a material adverse effect on the Company's business, financial condition and results of operations.
- Litigation against FSB, the Company or their boards of directors could prevent or delay the completion of the Merger. While the Company believes that any claims that may be asserted by purported stockholder plaintiffs related to the Merger would be without merit, the results of any such potential legal proceedings are difficult to predict and could delay or prevent the Merger from being completed in a timely manner. Moreover, any litigation could be time consuming and expensive, could divert management's attention away from regular business, and any lawsuit adversely resolved against FSB, the Company or their boards of directors could have a material adverse effect on the Company's business, financial condition and results of operations.
- If the Merger is completed, FSB stockholders will receive Company common stock in exchange for their shares of FSB common stock. If those stockholders sell substantial amounts of Company common stock in the public market following completion of the mergers, the market price of the Company's common stock may decrease. These sales might also make it more difficult for the Company to sell equity or equity-related securities at a time and price that it otherwise would deem appropriate.
- The Company's current stockholders will have a reduced ownership and voting interest after the Merger and will exercise less influence over management.

**If Regulators Impose Limitations on the Company’s Commercial Real Estate Lending Activities, Earnings Could Be Adversely Affected**

In 2006, the federal bank regulatory agencies issued joint guidance entitled “Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices” (the “CRE Guidance”). Although the CRE Guidance did not establish specific lending limits, it provides that a bank’s commercial real estate lending exposure may receive increased supervisory scrutiny where total non-owner occupied commercial real estate loans, including loans secured by apartment buildings, investor commercial real estate and construction and land loans, represent 300% or more of an institution’s total risk-based capital and the outstanding balance of the commercial real estate loan portfolio has increased by 50% or more during the preceding 36 months. The Company’s non-owner occupied commercial real estate level equaled 352% of total risk-based capital at December 31, 2019. Including owner-occupied commercial real estate, the ratio of commercial real estate loans to total risk-based capital ratio would be 460% at December 31, 2019. If the Company’s regulators were to impose restrictions on the amount of commercial real estate loans it can hold in its portfolio, or require higher capital ratios as a result of the level of commercial real estate loans held, the Company’s earnings would be adversely affected.

**The Company Is Required to Transition From the Use of LIBOR**

In 2017, the Chief Executive of the United Kingdom Financial Conduct Authority, which regulates the London Interbank Offered Rate (“LIBOR”), announced that it intends to stop persuading or compelling banks to submit rates for the calibration of LIBOR to the administrator of LIBOR after 2021. LIBOR will be discontinued on December 31, 2021. At this time, no consensus exists as to what rate or rates may become acceptable alternatives to LIBOR and it is impossible to predict the effect of any such alternatives on the value of LIBOR-based securities and variable rate loans, subordinated debentures, or other securities or financial arrangements, given LIBOR's role in determining market interest rates globally. Regulators, industry groups and certain committees (e.g. the Alternative Reference Rates Committee) have published recommended fallback language for LIBOR-linked financial instruments, identified recommended alternatives for the LIBOR (e.g. the Secured Overnight Financing Rate), and proposed implementations of the recommended alternatives in floating-rate financial instruments. At this time, it is not possible to predict whether these specific recommendations and proposals will be broadly accepted. Uncertainty as to the nature of alternative reference rates and as to potential changes or other reforms to LIBOR may adversely affect LIBOR rates and the value of LIBOR-based loans and securities in the Company’s portfolio and may impact the availability and cost of hedging instruments and borrowings. The Company has material contracts that are indexed to LIBOR and is monitoring this activity and evaluating the related risks. If the Company is required to implement substitute indices for the calculation of interest rates, it may incur expenses in effecting the transition, and may be subject to disputes or litigation over the appropriateness or comparability to LIBOR of the substitute indices, which could have an adverse effect on the Company’s results of operations. Additionally, since alternative rates are calculated differently, payments under contracts referencing new rates will differ from those referencing LIBOR. The transition may change the Company’s market risk profile, requiring changes to risk and pricing models.

**EMPLOYEES**

As of December 31, 2019, the Bank had 250 employees, TEA had 61 employees, and FCS had 4 employees. The Company had no direct employees. Management believes that the Company’s subsidiaries have good relationships with their employees.

**Item 1B. UNRESOLVED STAFF COMMENTS**

None.

**Item 2. PROPERTIES**

At December 31, 2019, the Bank conducted its business from its administrative office and 15 branch offices. The Bank's administrative office is located at One Grimsby Drive in Hamburg, NY. The administrative office facility is 26,000 square feet and is owned by the Bank. This facility is occupied by the Office of the President and Chief Executive Officer of the Company, as well as the Administrative and Loan Divisions of the Bank. The Bank also owns a building on Sunset Drive in Hamburg, NY that houses its Operations Center and a 50,000 square foot building on Main Street in Williamsville, NY that was purchased in 2019 and is currently being renovated and will become the Company's new administrative office facility in 2020.

The Bank has 15 branch locations. The Bank owns the building and land for five locations. Of the remaining branch locations, nine are leased by the Bank and one is leased by TEA.

TEA operates from a 10,000 square foot office located at 6834 Erie Road, Derby, NY, which is owned by the Bank. TEA has eight retail locations. The Bank owns three of the locations and leases two of the locations, and TEA owns one location and leases two locations.

**Item 3. LEGAL PROCEEDINGS**

The nature of the Company's business generates a certain amount of litigation involving matters arising in the ordinary course of business.

In the opinion of management, there are no proceedings pending to which the Company is a party or to which its property is subject, which, if determined adversely, would have a material effect on the Company's financial statements.

**Item 4. MINE SAFETY DISCLOSURES**

Not applicable.



**PART II**

**Item 5. MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

**Market Information.** The Company’s common stock is listed on the NYSE American under the symbol “EVBN.”

**Holders.** The approximate number of holders of record of the Company’s common stock as of March 4, 2020 was 1,149.

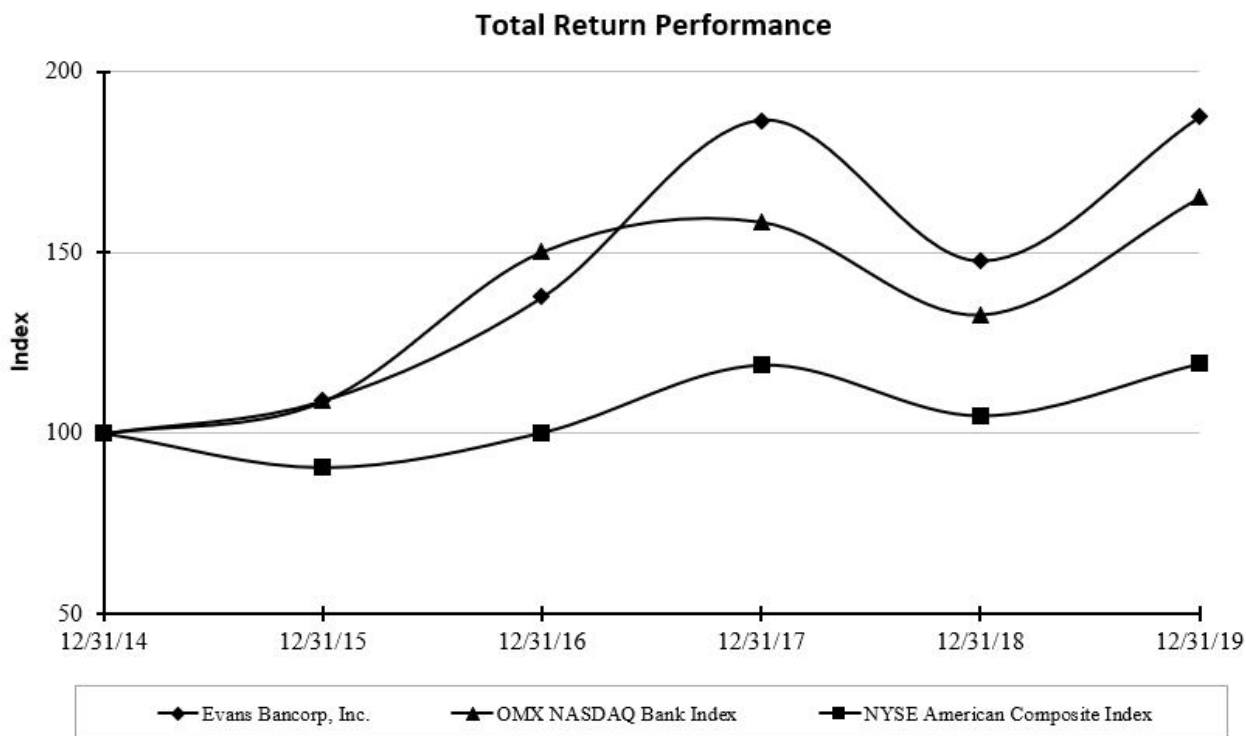
The amount and type (cash or stock), if any, of future dividends will be determined by the Company’s Board of Directors and will depend upon the Company’s earnings, financial conditions and other factors considered by the Board of Directors to be relevant. The Bank pays a dividend to the Company to provide funds for: debt service on the junior subordinated debentures, a portion of the proceeds of which were contributed to the Bank as capital; dividends the Company pays; treasury stock repurchases; and other Company expenses. As discussed above under “Item 1A. Risk Factors,” the Company is dependent upon cash flow from its subsidiaries in order to fund its dividend payments. There are various legal limitations with respect to the Bank’s ability to supply funds to the Company. In particular, under Federal banking law, the approval of the FRB and OCC may be required in certain circumstances, prior to the payment of dividends by the Company or the Bank. As of December 31, 2019, approximately \$32 million was available for the payment of dividends without prior OCC approval. See Note 22 to the Company’s Consolidated Financial Statements included in Part II, Item 8 of this Annual Report on Form 10-K for additional information concerning contractual and regulatory restrictions on the payment of dividends.



**PERFORMANCE GRAPH**

The following Performance Graph compares the Company's cumulative total stockholder return on its common stock for a five-year period (December 31, 2014 to December 31, 2019) with the cumulative total return of the NYSE American Composite Index and NASDAQ Bank Index. The comparison for each of the periods assumes that \$100 was invested on December 31, 2014 in each of the Company's common stock and the stocks included in the NYSE American Composite Index and NASDAQ Bank Index and that all dividends were reinvested without commissions. This table does not forecast future performance of the Company's stock.

**Compare 5-Year Cumulative Total Return Among  
Evans Bancorp, Inc.,  
NYSE American Composite Index, and NASDAQ Bank Index**



<b>Index</b>	<b>12/31/14</b>	<b>12/31/15</b>	<b>12/31/16</b>	<b>12/31/17</b>	<b>12/31/18</b>	<b>12/31/19</b>
Evans Bancorp, Inc.	100.00	109.01	137.64	186.55	147.65	187.47
NASDAQ Bank	100.00	108.84	150.17	158.37	132.75	165.11
NYSE American - Composite Index	100.00	90.59	100.23	118.83	104.85	119.23

In accordance with and to the extent permitted by applicable law or regulation, the information set forth above under the heading "Performance Graph" shall not be deemed to be "soliciting material" or to be "filed" with the SEC under the Securities Act or the Exchange Act, or subject to the liabilities of Section 18 of the Exchange Act, except to the extent that we specifically request that such information be treated as soliciting material or specifically incorporate it by reference into such a filing.

**Purchases of Equity Securities by the Issuer and Affiliated Purchasers.**

**Issuer Purchases of Equity Securities**

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</b>
October 2019:			
October 1, 2019 - October 31, 2019	-	\$ -	-
November 2019:			
November 1, 2019 - November 30, 2019	-	\$ -	-
December 2019:			
December 1, 2019 - December 31, 2019	-	\$ -	-
Total:	-	\$ -	-

**Item 6. SELECTED FINANCIAL DATA**

	<b>As of and for the year ended December 31,</b>				
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
	(in thousands, except for per share data)				
<b>Balance Sheet Data</b>					
Assets	\$ 1,460,230	\$ 1,388,207	\$ 1,295,633	\$ 1,100,709	\$ 939,107
Interest-earning assets	1,373,488	1,304,256	1,214,806	1,030,113	873,450
Investment securities	130,308	133,789	149,152	97,205	98,758
Loans and leases, net	1,211,356	1,141,146	1,051,296	928,596	761,101
Deposits	1,267,440	1,215,058	1,051,229	939,974	802,982
Borrowings	23,755	24,472	108,869	49,689	32,151
Stockholders' equity	148,453	131,646	118,342	96,748	91,256
<b>Income Statement Data</b>					
Net interest income	\$ 52,055	\$ 48,107	\$ 42,017	\$ 35,248	\$ 31,804
Non-interest income	18,082	15,227	13,003	11,252	13,720
Non-interest expense	47,820	43,293	38,594	35,096	32,698
Net income	17,014	16,356	10,479	8,272	7,843
<b>Per Share Data</b>					
Earnings per share - basic	\$ 3.47	\$ 3.40	\$ 2.21	\$ 1.93	\$ 1.85
Earnings per share - diluted	3.42	3.32	2.16	1.90	1.82
Cash dividends	1.04	0.92	0.80	0.76	0.72
Book value	30.12	27.13	24.74	22.50	21.44
<b>Performance Ratios</b>					
Return on average assets	1.17 %	1.20 %	0.89 %	0.80 %	0.87 %
Return on average equity	12.08 %	13.20 %	9.11 %	8.74 %	8.82 %
Net interest margin	3.82 %	3.77 %	3.80 %	3.67 %	3.80 %
Efficiency ratio	68.18 %	68.36 %	70.15 %	75.48 %	71.83 %
Efficiency ratio (Non-GAAP) *	67.21 %	66.87 %	68.50 %	74.03 %	71.83 %
Dividend payout ratio	29.97 %	27.06 %	36.20 %	39.38 %	38.92 %
<b>Capital Ratios</b>					
Tier 1 capital to average assets	10.33 %	9.73 %	10.11 %	9.49 %	10.45 %
Equity to assets	10.17 %	9.48 %	9.13 %	8.79 %	9.72 %
<b>Asset Quality Ratios</b>					
Total non-performing assets to total assets	0.99 %	1.37 %	1.06 %	1.09 %	1.71 %
Total non-performing loans and leases to total loans and leases	1.17 %	1.64 %	1.29 %	1.28 %	2.07 %
Net charge-offs (recoveries) to average loans and leases	(0.03)%	0.06 %	0.07 %	0.02 %	0.12 %
Allowance for loan and lease losses to total loans and leases	1.24 %	1.28 %	1.32 %	1.48 %	1.66 %

\* The calculation of the non-GAAP efficiency ratio excludes amortization of intangibles, gains and losses from investment securities, merger-related expenses and the impact of historic tax credit transactions.

See Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," and Item 8, "Consolidated Financial Statements and Supplementary Data," of this Report on Form 10-K for further information and analysis of changes in the Company's financial condition and results of operations.

**Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

**OVERVIEW**

This discussion is intended to compare the performance of the Company for the years ended December 31, 2019 and 2018. The review of the information presented should be read in conjunction with Part I, Item 1: "Business" and Part II, Item 6: "Selected Financial Data" and Item 8: "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K. Management's Discussion and Analysis comparing the results for the year ended December 31, 2018 to the results for the year ended December 31, 2017 can be found in Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2018, filed with the SEC on February 28, 2019, which is hereby incorporated by reference.

The Company is a financial holding company registered under the BHCA. The Company currently conducts its business through its two direct wholly-owned subsidiaries: the Bank, and the Bank's subsidiaries, ENL and ENHC; and ENFS and its subsidiary, TEA. The Company does not engage in any other substantial business. Unless the context otherwise requires, the term "Company" refers collectively to Evans Bancorp, Inc. and its subsidiaries.

**Summary**

Net income in 2019 was \$17.0 million, a 4% increase from 2018 net income of \$16.4 million. The primary driver of the increase in the Company's net income during 2019 was higher net interest income resulting from strong growth in the Company's commercial loan portfolio and improved net interest margin, partially offset by an increase in deposit interest expense. Net interest income was \$52.1 million in 2019, an 8% increase from 2018, reflecting an increase in average loans in 2019 of 8% compared with 2018, while net interest margin was 3.82% and 3.77% in 2019 and 2018, respectively.

Provision for loan losses was \$0.1 million and \$1.4 million in 2019 and 2018, respectively. The decrease in provision for loan losses during 2019 compared with the prior year primarily reflects improved asset quality of impaired loans, including the successful restructure and payoff of a single commercial construction loan of \$8 million, and a decrease in net loan charge-offs due to a single commercial loan recovery of \$0.7 million, offset by loan growth and an increase in criticized loans. Non-performing loans as a percentage of total loans decreased from 1.64% at December 31, 2018 to 1.17% at December 31, 2019.

Non-interest income was \$18.1 million and \$15.2 million in 2019 and 2018, respectively. The largest component of the Company's non-interest income, insurance service revenue, was \$10.7 million in 2019, an increase of \$1.3 million from 2018. The increase in insurance service revenue compared to 2018 largely reflected the R&S acquisition, which was effective July 1, 2018, and revenue growth in various business lines including employee benefits and commercial and personal insurance commissions. Deposit service charges were \$2.6 million in 2019, an increase of \$0.4 million from 2018. The increase in non-interest income during 2019 also reflects a \$0.9 million loss on an investment in a historic rehabilitation tax credit during 2018. There were no significant historic tax credit transactions during 2019.

Non-interest expense was \$47.8 million, an increase of \$4.5 million from 2018. Salaries and benefits expense, the largest component of non-interest expenses, increased \$2.2 million compared to 2018 due to an investment in talent in the form of salaries and benefits expenses related to an insurance agency acquisition and for new and existing employees that management believes are critical to the Company's growth strategy. The Company has also made a significant investment in technology, including more sophisticated ATM cards, online banking activity and software costs, resulting in an increase in technology expenses of \$0.7 million in 2019 when compared with 2018. Professional services expenses in 2019 were up \$1.3 million compared to 2018, largely due to atypical legal and accounting costs, including those related to merger-related activities.

**Strategy**

The Company's goal is to continue to increase market share and achieve scale while improving profitability and returning value to shareholders. The Company's biggest strength and earnings driver is commercial and small business lending. The Company expects to continue to focus on building on this competitive advantage by adding personnel in this area. Management has also bolstered its biggest driver of non-interest income, TEA, through both agency and talent acquisition as well as building out its employee benefits and financial services businesses. In addition, management intends to continue to develop strategies to deepen existing customer relationships with tailored product sets that reward the Company's most loyal customers.

## [Table of Contents](#)

The Company's strategies are designed to direct tactical investment decisions supporting its financial objectives. While the Company intends to focus its efforts on the pursuit of these strategies, there can be no assurance that the Company will successfully implement these strategies or that the strategies will produce the desired results. The Company's most significant revenue source continues to be net interest income, defined as total interest income less interest expense. Net interest income accounted for 74% of total revenue in 2019. To produce net interest income and consistent earnings growth over the long-term, the Company must generate loan and deposit growth at acceptable margins within its market area. To generate and grow loans and deposits, the Company must focus on a number of areas including, but not limited to, sales practices, customer and employee satisfaction and retention, competition, evolving customer behavior, technology, product innovation, interest rates, credit performance of its customers and vendor relationships.

The Company also considers non-interest income important to its continued financial success. Fee income generation is partly related to the Company's loan and deposit operations, such as deposit service charges, as well as to its financial products, such as commercial and personal insurance sold through TEA. Improved performance in non-interest income can help increase capital ratios because most of the non-interest income is generated without recording assets on the balance sheet. The Company has and will continue to face challenges in increasing its non-interest income as the regulatory environment changes.

The Company has focused its efforts on targeted groups in its community such as (1) smaller businesses with smaller credit needs but rich in deposits and other service needs; (2) middle market commercial businesses; (3) commercial real estate lending; (4) retail customers; and (5) municipal customers. The overarching goal is to cross-sell between our insurance, financial services and banking lines of business to deepen our relationships with all of our customers. These efforts contributed to the strong growth in the commercial loan portfolio, core deposits, and insurance agency revenue during fiscal 2019.

The Company strives to provide a personal touch to customer service and is committed to maintaining a local, community-based philosophy. The Bank has emphasized hiring local branch and lending personnel with strong ties to the specific local communities it serves.

The Bank serves its market through 15 banking offices in Western New York. The Company's principal source of funding is through deposits, which it reinvests in the community in the form of loans and investments. Deposits are insured up to the maximum permitted by the Deposit Insurance Fund of the FDIC. The Bank is regulated by the OCC.

### **APPLICATION OF CRITICAL ACCOUNTING ESTIMATES**

The Company's Consolidated Financial Statements are prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and follow general practices within the industries in which it operates. Application of these principles requires management to make estimates, assumptions and judgments that affect the amounts reported in the Company's Consolidated Financial Statements and Notes. These estimates, assumptions and judgments are based on information available as of the date of the Consolidated Financial Statements. Accordingly, as this information changes, the Consolidated Financial Statements could reflect different estimates, assumptions and judgments. Certain policies inherently have a greater reliance on the use of estimates, assumptions and judgments, and as such, have a greater possibility of producing results that could be materially different than originally reported.

The most significant accounting policies followed by the Company are presented in Note 1 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K. These policies, along with the disclosures presented in the other Notes to the Consolidated Financial Statements contained in this Annual Report on Form 10-K and in this financial review, provide information on how significant assets and liabilities are valued in the Company's Consolidated Financial Statements and how those values are determined.

Estimates, assumptions and judgments are necessary when assets and liabilities are required to be recorded at fair value, when a decline in the value of an asset not carried on the financial statements at fair value warrants an impairment write-down or valuation reserve to be established, or when an asset or liability needs to be recorded contingent upon a future event. Carrying assets and liabilities at fair value inherently results in more financial statement volatility. The fair values and the information used to record valuation adjustments for certain assets and liabilities are based either on quoted market prices or are provided by other third-party sources, when available. When third-party information is not available, valuation adjustments are estimated in good faith by management primarily through the use of internal cash flow modeling techniques.

Based on the valuation techniques used and the sensitivity of financial statement amounts to the methods, assumptions and estimates underlying those amounts, management has identified the determination of the allowance for loan losses and valuation of goodwill to be the accounting areas that require the most subjective or complex judgments, and as such, could be most subject to revision as new information becomes available.

### **Allowance for Loan Losses**

The allowance for loan losses represents management's estimate of probable losses in the Bank's loan portfolio. Determining the amount of the allowance for loan losses is considered a critical accounting estimate because it requires significant judgment on the part of management and the use of estimates related to the amount and timing of expected future cash flows on impaired loans, estimated losses on pools of homogeneous loans based on historical loss experience and consideration of current economic trends and conditions, all of which may be susceptible to significant change. The loan portfolio also represents the largest asset type on the Company's consolidated balance sheets.

Management's methodology and policy in determining the allowance for loan losses can be found in Note 1 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K. The activity in the allowance for loan losses is depicted in supporting tables in Note 3 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

### **Goodwill and Intangible Assets**

The amount of goodwill reflected in the Company's Consolidated Financial Statements is required to be tested by management for impairment on at least an annual basis. The test for impairment of goodwill in an identified reporting unit is considered a critical accounting estimate because it requires judgment on the part of management and the use of estimates related to the growth assumptions and market multiples used in the valuation model. As of December 31, 2019, TEA had \$10.5 million in goodwill. The banking reporting unit does not have any goodwill. All of the goodwill stems from the acquisition of various insurance agencies, not the purchase of diverse companies in which goodwill was subjectively allocated to different reporting units. Therefore, a total market capitalization reconciliation was not performed because not all of the reporting units had goodwill.

Management valued TEA, the reporting unit with goodwill, using cash flow modeling and earnings multiple techniques. The fair value determined in the impairment test was substantially higher than the carrying value for TEA. Management's methodology for testing goodwill for impairment can be found in Note 6 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

The Company amortizes acquired intangible assets with definite useful economic lives over their useful economic lives utilizing the straight-line method. The Company had \$2.0 million in intangible assets, net of accumulated amortization, as of December 31, 2019, primarily related to acquired customer relationships which are amortized over a 7-year period and a trade name which is amortized over a 5-year period. On a periodic basis, management assesses whether events or changes in circumstances indicate that the carrying amounts of the intangible assets may be impaired.

For further discussion of the Company's accounting policy for goodwill and other intangible assets, see Note 1 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

**RESULTS OF OPERATIONS FOR THE YEARS ENDED DECEMBER 31, 2019 AND DECEMBER 31, 2018**

**Net Income**

Net income of \$17.0 million in 2019 consisted of \$16.0 million related to the Company's banking activities and \$1.0 million related to the Company's insurance agency activities. The total net income of \$17.0 million was a 4% increase from \$16.4 million in 2018. Earnings per diluted share for 2019 of \$3.42 were 3% higher than the earnings per diluted share of \$3.32 for 2018

**Net Interest Income**

Net interest income, the difference between interest income and fee income on earning assets, such as loans and securities, and interest expense on deposits and borrowings, provides the primary basis for the Company's results of operations.

Net interest income is dependent on the amounts and yields earned on interest earning assets as compared to the amounts of and rates paid on interest bearing liabilities.

**AVERAGE BALANCE SHEET INFORMATION**

The following table presents the significant categories of the assets and liabilities of the Company, interest income and interest expense, and the corresponding yields earned and rates paid in 2019, 2018, and 2017. The assets and liabilities are presented as daily averages. The average loan balances include both performing and non-performing loans. Interest income on loans does not include interest on loans for which the Bank has ceased to accrue interest. Available-for-sale securities are stated at fair value. Interest and yield are not presented on a tax-equivalent basis.

	2019			2018			2017		
	Average Outstanding Balance	Interest Earned/ Paid	Yield/ Rate	Average Outstanding Balance	Interest Earned/ Paid	Yield/ Rate	Average Outstanding Balance	Interest Earned/ Paid	Yield/ Rate
	(in thousands)			(in thousands)			(in thousands)		
<b>ASSETS</b>									
Interest-earning assets:									
Loans, net	\$ 1,188,436	\$ 60,193	5.06 %	\$ 1,105,426	\$ 53,282	4.82 %	\$ 961,876	\$ 44,379	4.61 %
Taxable securities	130,535	3,537	2.71 %	121,670	3,253	2.67 %	100,836	2,466	2.45 %
Tax-exempt securities	12,157	313	2.57 %	27,784	650	2.34 %	35,128	837	2.38 %
Interest bearing deposits at banks	32,166	697	2.17 %	20,062	427	2.13 %	6,699	66	0.99 %
		-			-			-	
Total interest-earning assets	1,363,294	\$ 64,740	4.75 %	1,274,942	\$ 57,612	4.52 %	1,104,539	\$ 47,748	4.32 %
Non interest-earning assets:									
Cash and due from banks	13,988			13,932			13,545		
Premises and equipment, net	11,960			10,483			10,957		
Other assets	61,823			58,891			49,055		
	-			-			-		
Total Assets	\$ 1,451,065			\$ 1,358,248			\$ 1,178,096		
<b>LIABILITIES &amp; STOCKHOLDERS' EQUITY</b>									
Interest-bearing liabilities:									
NOW	\$ 126,628	\$ 540	0.43 %	\$ 115,193	\$ 317	0.28 %	\$ 93,881	\$ 206	0.22 %
Regular savings	595,605	5,248	0.88 %	572,921	3,707	0.65 %	536,862	2,593	0.48 %
Time deposits	286,181	6,151	2.15 %	246,588	4,392	1.78 %	160,440	2,088	1.30 %
Other borrowed funds	10,000	173	1.73 %	30,981	543	1.75 %	26,491	397	1.50 %
Junior subordinated debentures	11,327	565	4.99 %	11,330	535	4.72 %	11,327	426	3.76 %
Securities sold U/A to repurchase	4,279	8	0.19 %	6,166	11	0.18 %	10,703	21	0.20 %
Total interest-bearing liabilities	1,034,020	\$ 12,685	1.23 %	983,179	\$ 9,505	0.97 %	839,704	\$ 5,731	0.68 %
Noninterest-bearing liabilities:									
Demand deposits	255,125			235,998			208,898		
Other	21,119			15,143			14,512		
Total liabilities	\$ 1,310,264			\$ 1,234,320			\$ 1,063,114		
Stockholders' equity	140,801			123,928			114,982		
Total Liabilities and Equity	\$ 1,451,065			\$ 1,358,248			\$ 1,178,096		
Net interest earnings		\$ 52,055			\$ 48,107			\$ 42,017	
Net interest margin			3.82 %			3.77 %			3.80 %
Interest rate spread			3.52 %			3.55 %			3.64 %



[Table of Contents](#)

The following table segregates changes in interest earned and paid for the past two years into amounts attributable to changes in volume and changes in rates by major categories of assets and liabilities. The change in interest income and expense due to both volume and rate has been allocated in the table to volume and rate changes in proportion to the relationship of the absolute dollar amounts of the change in each.

	2019 Compared to 2018			2018 Compared to 2017		
	Increase (Decrease) Due to			Increase (Decrease) Due to		
	Volume	Rate	Total	Volume	Rate	Total
	(in thousands)					
Interest earned on:						
Loans	\$ 4,122	\$ 2,789	\$ 6,911	\$ 6,851	\$ 2,052	\$ 8,903
Taxable securities	239	45	284	543	244	787
Tax-exempt securities	(396)	59	(337)	(173)	(14)	(187)
Interest-bearing deposits at banks	262	8	270	229	132	361
Total interest-earning assets	<u>\$ 4,227</u>	<u>\$ 2,901</u>	<u>\$ 7,128</u>	<u>\$ 7,450</u>	<u>\$ 2,414</u>	<u>\$ 9,864</u>
Interest paid on:						
NOW accounts	\$ 34	\$ 189	\$ 223	\$ 52	\$ 59	\$ 111
Savings deposits	152	1,388	1,540	184	930	1,114
Time deposits	770	989	1,759	1,366	938	2,304
Other borrowed funds	(607)	265	(342)	-	245	245
Total interest-bearing liabilities	<u>\$ 349</u>	<u>\$ 2,831</u>	<u>\$ 3,180</u>	<u>\$ 1,602</u>	<u>\$ 2,172</u>	<u>\$ 3,774</u>

Net interest income increased by \$3.9 million, or 8%, to \$52.1 million in 2019 from \$48.1 million in 2018. As indicated in the preceding table, this increase primarily resulted from increased loan volume and higher loan yields, partially offset by increased time deposit balances and higher savings and time deposit rates. Overall, the increased volume of interest-earning assets and interest-bearing liabilities positively impacted net interest income by \$3.9 million, while the rates earned and paid on those respective assets and liabilities had a positive impact of less than \$0.1 million.

The total commercial loan portfolio average balance, including commercial real estate and C&I loans, increased \$69 million, or 8%, from a \$901 million average balance in 2018 to a \$970 million average balance in 2019. Consumer loans, including residential mortgages and home equity lines of credit, increased 6% from a \$218 million average balance in 2018 to a \$232 million average balance in 2019.

On the funding side, total average deposits increased \$93 million, or 7%, year over year to \$1.3 billion in 2019. The Company has continued to be successful in attracting new deposit customers, with most of that success coming from growth in commercial demand deposit products, municipal savings deposits, and consumer deposits. Commercial deposits increased as the Company was able to attract new core customers and some current commercial customers maintained higher cash balances. The Company invested in its government banking program in an effort to enhance another opportunity to acquire core deposits. Brokered time deposits are utilized as an additional funding source for loan growth. The Company offered competitive rates for time deposits as a way to raise funds for loan growth and fix interest rates for a portion of its deposit portfolio. Consistent with the industry wide trend, rising interest rates in recent years led to a shift in the Company's deposit mix, as consumer preferences move toward term products with higher rates, resulting in a decrease in consumer savings deposits and an increase in consumer time deposits. Average time deposits grew \$40 million, or 14% in 2019, consisting of a \$20 million increase in retail time deposits and a \$20 million increase in brokered time deposits. Average savings deposits grew \$23 million, or 4%, in 2019, as increases of \$28 million in commercial savings deposits and \$21 million in municipal savings deposits, were partially offset by a \$26 million decrease in consumer savings deposits which largely funded the growth in retail time deposits. Average demand deposits grew \$19 million, or 8%, in 2019, including increases of \$13 million in commercial deposits, and \$8 million in retail deposits. Average NOW deposits increased \$11 million, or 9%, in 2019, predominantly the result of new product offerings and a \$4.5 million increase in municipal deposit balances.

## [Table of Contents](#)

Net interest spread, or the difference between yield on interest-earning assets and rate on interest-bearing liabilities, decreased from 3.55% in 2018 to 3.52% in 2019. The yield on interest-earning assets increased 23 basis points to 4.75% in 2019, while the cost of interest-bearing liabilities increased 26 basis points to 1.23% over the same time periods. The increase in interest-earning asset yields is primarily the result of the impact of a higher average target federal funds rate in 2019 on the Bank's variable rate loan portfolio. Most of the Bank's variable rate loan portfolio is tied to the Bank's prime rate, which increases correspondingly with increases in the targeted overnight federal funds rate. The increase in the cost of interest-bearing liabilities is the result of a competitive deposit market in which the Company increased promotional pricing on certain deposit products, primarily time deposits. The rate paid on average time deposits increased from 1.78% in 2018 to 2.15% in 2019. Average time deposits were 28% of total interest-bearing liabilities in 2019, compared with 25% in the prior year period.

The Company's net interest margin increased from 3.77% in 2018 to 3.82% in 2019, reflecting higher yielding loan balances. Several factors could continue to put pressure on the Company's net interest margin in the future, including reductions of the targeted federal funds rate and increased pricing competition for loans and deposits.

The Bank regularly monitors its exposure to interest rate risk. Management believes that the proper management of interest-sensitive funds will help protect the Bank's earnings against changes in interest rates. The Bank's Asset/Liability Management Committee ("ALCO") meets monthly for the purpose of evaluating the Bank's short-term and long-term liquidity position and the potential impact on capital and earnings of changes in interest rates. The Bank has adopted an asset/liability policy that specifies minimum limits for liquidity and capital ratios. This policy includes setting ranges for the negative impact acceptable on net interest income and on the fair value of equity as a result of a shift in interest rates. The asset/liability policy also includes guidelines for investment activities and funds management. At its monthly meetings, ALCO reviews the Bank's status and formulates its strategies based on current economic conditions, interest rate forecasts, loan demand, deposit volatility and the Bank's earnings objectives.

### **Provision for Loan Losses**

The Company's provision for loan losses of \$0.1 million in 2019 was down from \$1.4 million in 2018 primarily due to improved asset quality of impaired loans including the successful restructure and payoff of a single commercial construction loan of \$8 million, and a decrease in net loan charge-offs due to a single commercial loan recovery of \$0.7 million, offset by loan growth and an increase in criticized loans. The ratio of non-performing loans to total loans was 1.17% at December 31, 2019 compared with 1.64% at the end of 2018. The Company records a specific reserve on impaired loans and a higher reserve percentage on criticized loan balances, or those loans risk-rated special mention or worse, which are collectively evaluated for impairment. At December 31, 2019, criticized loans that were collectively evaluated for impairment totaled \$36.8 million, compared with \$20.1 million at December 31, 2018. Overall, total loans collectively evaluated for impairment increased \$76 million to \$1.2 billion at the end of 2019 from \$1.1 billion as of December 31, 2018 resulting in additional provision due to the loan growth qualitative factor. There was not a material impact on the provision due to any changes in qualitative factors related to economic factors as the economy remained on a steady growth path with relatively low unemployment in the Company's primary market area throughout 2019.

A description of how the allowance for loan losses is determined along with tabular data depicting the key factors in calculating the allowance is set forth in Notes 1 and 3 of the Notes to Consolidated Financial Statements included in Part II, Item 8 of this Annual Report on Form 10-K.

**Non-accrual, Past Due and Restructured Loans**

The following table summarizes the Bank's non-accrual and accruing loans 90 days or more past due as of the dates listed below. See Note 3 of the Notes to Consolidated Financial Statements included in Part II, Item 8 of this Annual Report on Form 10-K for further information about the Company's non-accrual, past due and restructured loans.

	<b>At December 31,</b>				
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
	(in thousands)				
Non-accruing loans and leases:					
Mortgage loans on real estate:					
Residential mortgages	\$ 1,438	\$ 1,463	\$ 1,226	\$ 862	\$ 1,400
Commercial and multi-family	5,659	5,945	8,938	1,874	3,574
Construction-residential	-	-	-	-	-
Construction-commercial	1,575	8,636	-	4,178	4,187
Home equities	890	1,253	1,119	1,261	1,058
Total mortgage loans on real estate	9,562	17,297	11,283	8,175	10,219
Commercial and industrial loans	4,834	1,694	1,749	3,106	5,312
Consumer and other loans	-	-	9	17	14
<b>Total non-accruing loans and leases</b>	<b>\$ 14,396</b>	<b>\$ 18,991</b>	<b>\$ 13,041</b>	<b>\$ 11,298</b>	<b>\$ 15,545</b>
Accruing loans 90+ days past due	-	-	674	722	497
<b>Total non-performing loans and leases</b>	<b>\$ 14,396</b>	<b>\$ 18,991</b>	<b>\$ 13,715</b>	<b>\$ 12,020</b>	<b>\$ 16,042</b>
Total non-performing loans and leases to total assets	0.99 %	1.37 %	1.06 %	1.09 %	1.71 %
Total non-performing loans and leases to total loans and leases	1.17 %	1.64 %	1.29 %	1.28 %	2.07 %

Non-performing loans decreased \$4.6 million from \$19.0 million at December 31, 2018 to \$14.4 million at December 31, 2019. The decrease in 2019 was primarily driven by the restructuring and payoff of one large commercial loan relationship of \$8.6 million that was in nonaccrual status during 2018, offset by loans previously in accruing status that moved to non-accrual status during 2019. Non-performing loans included \$14.4 million of non-accruing loans at December 31, 2019 compared with \$19.0 million at December 31, 2018. There were no accruing loans categorized as 90 days past due at December 31, 2019 and 2018.

The Company had \$8.3 million in loans that were restructured and deemed to be a troubled debt restructuring ("TDR") at December 31, 2019 with \$4.0 million of those balances in non-accrual status, compared with \$17.6 million and \$12.9 million, respectively, at December 31, 2018. The decrease in TDR loans reflects the restructuring and payoff of the non-accruing construction loan discussed above. Any TDR that is placed on non-accrual is not returned to accruing status until the borrower makes timely payments as contracted for at least six months and future collection under the revised terms is probable. All of the restructurings were completed in an effort to maximize the Company's ability to collect on loans where borrowers were experiencing financial difficulty. Modifications made to loans in a troubled debt restructuring did not have a material impact on the Company's net income for the years ended December 31, 2019 and 2018. The reserve for a TDR is based upon the present value of the future expected cash flows discounted at the loan's original effective rate or upon the fair value of the collateral less costs to sell, if the loan is deemed collateral dependent. This reserve methodology is used because all TDR loans are considered impaired.

[Table of Contents](#)

The following table presents the Company's TDR loans as of December 31, 2019 and 2018:

December 31, 2019				
(in thousands)				
	Total	Nonaccruing	Accruing	Related Allowance
Commercial and industrial	\$ 2,052	\$ 328	\$ 1,724	\$ 26
Residential real estate:				
Residential	1,815	449	1,366	-
Construction	-	-	-	-
Commercial real estate:				
Commercial and multi-family	3,632	3,075	557	-
Construction	-	-	-	-
Home equities	738	175	563	-
Consumer and other loans	21	-	21	21
Total TDR loans	<u>\$ 8,258</u>	<u>\$ 4,027</u>	<u>\$ 4,231</u>	<u>\$ 47</u>

December 31, 2018				
(in thousands)				
	Total	Nonaccruing	Accruing	Related Allowance
Commercial and industrial	\$ 2,282	\$ 275	\$ 2,007	\$ 154
Residential real estate:				
Residential	1,617	266	1,351	14
Construction	-	-	-	-
Commercial real estate:				
Commercial and multi-family	4,164	3,571	593	-
Construction	8,753	8,637	116	716
Home equities	756	122	634	-
Consumer and other	23	-	23	23
Total TDR loans	<u>\$ 17,595</u>	<u>\$ 12,871</u>	<u>\$ 4,724</u>	<u>\$ 907</u>

[Table of Contents](#)

**Allowance for Loan and Lease Losses**

The following table summarizes the Bank's allowance for loan and lease losses and changes in the allowance for loan losses by categories:

	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
	(in thousands)				
BALANCE AT THE BEGINNING OF THE YEAR	\$ 14,784	\$ 14,019	\$ 13,916	\$ 12,883	\$ 12,533
CHARGE-OFFS:					
Residential mortgages	(13)	(86)	-	-	(66)
Commercial and multi-family	(33)	(262)	(127)	-	(139)
Home equities	(22)	(27)	(1)	-	-
Commercial and industrial loans	(301)	(203)	(791)	(360)	(799)
Consumer and other loans	(156)	(113)	(66)	(47)	(43)
TOTAL CHARGE-OFFS	(525)	(691)	(985)	(407)	(1,047)
RECOVERIES:					
Residential mortgages	-	-	-	2	2
Commercial and multi-family	2	-	-	59	44
Home equities	-	1	3	3	-
Commercial and industrial loans	797	41	323	151	126
Consumer and other loans	42	12	24	16	9
TOTAL RECOVERIES	841	54	350	231	181
NET CHARGE-OFFS	316	(637)	(635)	(176)	(866)
PROVISION FOR LOAN AND LEASE LOSSES	75	1,402	738	1,209	1,216
BALANCE AT THE END OF YEAR	<u>\$ 15,175</u>	<u>\$ 14,784</u>	<u>\$ 14,019</u>	<u>\$ 13,916</u>	<u>\$ 12,883</u>
RATIO OF NET CHARGE-OFFS (RECOVERIES) TO AVERAGE NET LOANS AND LEASES OUTSTANDING	<u>(0.03)%</u>	<u>0.06 %</u>	<u>0.07 %</u>	<u>0.02 %</u>	<u>0.12 %</u>
RATIO OF ALLOWANCE FOR LOAN AND LEASE LOSSES TO TOTAL LOANS AND LEASES	<u>1.24 %</u>	<u>1.28 %</u>	<u>1.32 %</u>	<u>1.48 %</u>	<u>1.66 %</u>

[Table of Contents](#)

At December 31, 2019 the Company had net loan recoveries of \$0.3 million compared to net loan charge-offs of \$0.6 million in 2018. The ratio of net loan charge-offs to average net loans outstanding was 0.06% in 2018 compared with net loan recoveries of 0.03% in 2019. During 2019 a \$0.7 million recovery was recognized as a previously charged-off commercial loan paid off. The largest charge-off in 2018 was a \$0.3 million partial charge-off of a commercial real estate loan. The loan was charged-off when it was determined that the non-accruing loan was no longer collectible and the value of the collateral supporting the loan was appraised lower than the outstanding loan balance.

An allocation of the allowance for loan losses by portfolio type over the past five years follows:

	Percent of		Percent of		Percent of		Percent of		Percent of	
	Balance at	loans to total	Balance at	loans to total	Balance at	loans to total	Balance at	loans to total	Balance at	loans to total
	12/31/2019:	loans:	12/31/2018:	loans:	12/31/2017:	loans:	12/31/2016:	loans:	12/31/2015:	loans:
(in thousands)										
Residential mortgages*	\$ 1,071	13 %	\$ 1,121	14 %	\$ 950	12 %	\$ 769	13 %	\$ 909	14 %
Commercial mortgages*	9,005	61 %	8,844	60 %	7,409	59 %	7,890	59 %	7,135	59 %
Home equities	397	6 %	345	6 %	347	7 %	348	7 %	371	8 %
Commercial loans	4,547	20 %	4,368	20 %	5,204	22 %	4,813	21 %	4,383	19 %
Consumer loans**	155	- %	106	- %	109	- %	96	- %	85	- %
Unallocated	-	- %	-	- %	-	- %	-	- %	-	- %
	<u>\$ 15,175</u>	<u>100 %</u>	<u>\$ 14,784</u>	<u>100 %</u>	<u>\$ 14,019</u>	<u>100 %</u>	<u>\$ 13,916</u>	<u>100 %</u>	<u>\$ 12,883</u>	<u>100 %</u>

\* includes construction loans

\*\* includes other loans

Commercial mortgages comprised 59% of the allowance for loan losses, and correspondingly, the commercial mortgage portfolio made up the largest proportion, or 61%, of the total loan portfolio as of December 31, 2019, as compared with 60% of the allowance and 60% of the total loan portfolio at December 31, 2018. The decrease in the percentage of the allowance attributed to commercial mortgages reflected the decrease in impaired loans within the commercial real estate portfolio.

C&I loans comprised 30% of the allowance for loan losses despite being only 20% of the loan portfolio as of December 31, 2019. C&I loans have the highest historical loss experience compared to the other portfolio segments and this is reflected in the allowance allocated to the different portfolio segments. Therefore, C&I loans have the highest allowance allocation as a percentage of the portfolio segment when compared with the other portfolio segments.

Overall, the ratio of the allowance for loan losses to total loans decreased from 1.28% at December 31, 2018 to 1.24% on December 31, 2019. The decrease is a reflection of loan growth and a sustained level of low charge-offs. The non-performing loans to total loans ratio decreased from 1.64% at the end of 2018, to 1.17% at the conclusion of 2019.

The Company maintains a robust loan review process to ensure that specific credits are appropriately graded and reserved. Management believes that the allowance for loan losses is reflective of a fair assessment of the current environment and credit quality trends.

**Non-Interest Income**

Total non-interest income increased by \$2.9 million from \$15.2 million in 2018 to \$18.1 million in 2019. The primary factor driving the increase was revenue growth in insurance services fees of 14%, or \$1.3 million to \$10.7 million. Insurance revenue remains the largest component of non-interest income at 59% of total non-interest income. TEA is a source of diversification in the earnings of the Company and helps generate income not directly impacted by difficult credit or interest rate environments. The largest contributors of the increase in insurance income from 2018 were commercial and personal lines revenue of \$0.4 million and \$0.3 million, respectively. TEA's increased insurance service and fee revenue reflected a full year of revenue from the R&S agency which was acquired during

## [Table of Contents](#)

2018. Employee benefit revenue increased \$0.3 million from 2018 as well as profit sharing and insurance claims services revenue each contributing \$0.1 million to the increase in revenue during 2019.

Deposit service charges increased \$0.4 million, or 18% to \$2.6 million from 2018. This increase reflects newer service offerings, including overdraft protection for small business customers.

The Company is actively engaged in the community by financing historic rehabilitation projects in Buffalo and enhances its yield by investing in related tax credits. When a project is completed, the Company recognizes tax benefits with a related reduction in the investment. The impact on non-interest income from historic tax credit investments was a \$0.9 million loss in 2018. There were no significant historic tax credit transactions in 2019. The 2018 loss on historic tax credit investments was more than offset by corresponding income tax benefit. For further discussion of the Company's accounting for historic tax credit transactions, see Note 13 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

### **Non-Interest Expense**

Total non-interest expense increased \$4.5 million, or 10%, from \$43.3 million in 2018 to \$47.8 million in 2019. The largest increases in non-interest expense in 2019 when compared with 2018 were salaries and employee benefits, which increased \$2.2 million, or 8%, professional services which increased \$1.3 million, or 52% and technology and communication expenses, which increased \$0.7 million, or 22%. Offsetting those increases was a reduction in FDIC insurance expense of \$0.6 million, or 58% as a result of lower assessment rates resulting from improved financial ratios and the application of the FDIC's small bank assessment credit.

The increase in salaries and employee benefits stems from the addition of new employees as part of the Company's planned growth strategy, merit increases, higher incentive compensation and severance costs. The increase in professional services expenses was largely due to atypical legal and accounting costs, including merger-related activities and costs associated with a cyber incident and related matters. Technology and communications expenses increased due to higher software costs, volume related ATM card fees and online banking activity.

The efficiency ratio expresses the relationship of operating expenses to revenues. The Company's GAAP efficiency ratio, or non-interest operating expenses divided by the sum of net interest income and non-interest income, was 68.2% in 2019 compared with 68.4% in 2018. The Company's non-GAAP efficiency ratio, which excludes amortization expense, gains and losses from investment securities, merger-related expenses and the impact of historic tax credit transactions was 67.2% in 2019 compared with 66.9% in 2018.

### **Taxes**

Income tax expense for the year was \$5.2 million, representing an effective tax rate of 23.5% compared with an effective tax rate of 12.2% in 2018. Income tax expense in 2018 included a tax benefit relating to historic tax credit transactions in addition to the benefit of a change in estimate of when certain state historic tax credits will be taxable for federal purposes. Excluding these items, the effective tax rate was 22.2% in 2018. For further discussion of the Company's income taxes, including a reconciliation from the statutory rate to the actual rate for 2019 and 2018, see Note 13 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

### **FINANCIAL CONDITION**

The Company had total assets of \$1.5 billion at December 31, 2019, an increase of \$72 million, or 5%, from \$1.4 billion at December 31, 2018. Net loans of \$1.2 billion at the recent year end were \$70 million, or 6%, higher than at December 31, 2018. Total investment securities decreased \$4 million from \$134 million at December 31, 2018 to \$130 million at December 31, 2019, and deposits increased by \$52 million, or 4%, to \$1.3 billion as of the end of 2019. Stockholders' equity was \$148 million at the conclusion of 2019, a \$17 million, or 13% increase from \$132 million at the previous year end.

### **Securities Activities**

The primary objectives of the Bank's securities portfolio are to provide liquidity and maximize income while preserving safety of principal. Secondary objectives include: providing collateral to secure local municipal deposits, the investment of funds during periods of decreased loan demand, interest rate sensitivity considerations, supporting local communities through the purchase of tax-exempt securities and tax planning considerations. The Bank's Board of Directors is responsible for establishing overall policy and reviewing performance of the Bank's investments.

Under the Bank's policy, acceptable portfolio investments include: United States Government obligations, obligations of federal agencies or U.S. Government-sponsored enterprises, mortgage-backed securities, municipal obligations (general obligations, revenue obligations, school districts and non-rated issues from the Bank's general market area), banker's acceptances, certificates of deposit, Industrial Development Authority Bonds, Public Housing Authority Bonds, corporate bonds (each corporation limited to the Bank's

## Table of Contents

legal lending limit), collateralized mortgage obligations, Small Business Investment Companies (SBIC), Federal Reserve stock and Federal Home Loan Bank stock.

In regard to municipal securities, the Company's general investment policy is that in-state securities must be rated at least Moody's Baa (or equivalent) at the time of purchase. The Company reviews the ratings report and municipality financial statements and prepares a pre-purchase analysis report before the purchase of any municipal securities. Out-of-state issues must be rated by Moody's at least Aa (or equivalent) at the time of purchase. The Company did not own any out-of-state municipal bonds at December 31, 2019 or December 31, 2018. Bonds rated below A are reviewed periodically to ensure their continued credit worthiness. While purchase of non-rated municipal securities is permitted, such purchases are limited to bonds issued by municipalities in the Company's general market area. Those municipalities are typically customers of the Bank whose financial situation is familiar to management. The financial statements of the issuers of non-rated securities are reviewed by the Bank and a credit file of the issuers is kept on each non-rated municipal security with relevant financial information.

The Company has not experienced any credit troubles in its municipal bond portfolio and does not believe any credit troubles are imminent. Aside from the non-rated municipal securities to local municipalities discussed above that are considered held-to-maturity, all of the Company's available-for-sale municipal bonds are investment-grade government obligation ("G.O.") bonds. G.O. bonds are generally considered safer than revenue bonds because they are backed by the full faith and credit of the government while revenue bonds rely on the revenue produced by a particular project. All of the Company's municipal bonds are to municipalities in New York State. To the Company's knowledge, there has never been a default on a NY G.O. bond in the history of the state. The Company believes that its risk of loss on default of a G.O. municipal bond for the Company is relatively low. However, historical performance does not guarantee future performance.

All fixed and adjustable rate mortgage pools backing the Company's mortgage-backed securities contain a certain amount of risk related to the uncertainty of prepayments of the underlying mortgages. Interest rate changes have a direct impact on prepayment rates. The Company uses a third-party developed model to monitor the average life and yield volatility of mortgage pools under various interest rate assumptions.

The Company designates all securities at the time of purchase as either "held to maturity" or "available for sale." Securities designated as held to maturity are reported at amortized cost and consist of municipal investments that the Bank has made in its local market area. At December 31, 2019, \$2.4 million in securities were designated as held to maturity. Debt and mortgage backed securities designated as available for sale are reported at fair market value.

Fair values for available for sale securities are determined using independent pricing services and market-participating brokers. The Company utilizes a third-party for these pricing services. The third-party utilizes evaluated pricing models that vary by asset class and incorporate available trade, bid and other market information for structured securities, cash flow and, when available, loan performance data. Because many fixed income securities do not trade on a daily basis, the third-party service provider's evaluated pricing applications apply information as applicable through processes, such as benchmarking of like securities, sector groupings, and matrix pricing, to prepare evaluations. In addition, our third-party pricing service provider uses model processes, such as the Option Adjusted Spread model, to assess interest rate impact and develop prepayment scenarios. The models and the process take into account market convention. For each asset class, a team of evaluators gathers information from market sources and integrates relevant credit information, perceived market movements and sector news into the evaluated pricing applications and models. The third party, at times, may determine that it does not have sufficient verifiable information to value a particular security. In these cases the Company will utilize valuations from another pricing service.

Management believes that it has a sufficient understanding of the third party service's valuation models, assumptions and inputs used in determining the fair value of securities to enable management to maintain an appropriate system of internal control. On a quarterly basis the Company reviews changes, as submitted by our third-party pricing service provider, in the market value of its securities portfolio. Individual changes in valuations are reviewed for consistency with general interest rate movements and any known credit concerns for specific securities. Additionally, on an annual basis the Company has its entire securities portfolio priced by a second pricing service to determine consistency with another market evaluator. If, on the Company's review or in comparing with another servicer, a material difference between pricing evaluations were to exist, the Company may submit an inquiry to our third party pricing service provider regarding the data used to value a particular security. If the Company determines it has market information that would support a different valuation than our third-party pricing service provider's evaluation it can submit a challenge for a change to that security's valuation. There were no material differences in valuations noted in 2019 or 2018.

The available for sale portfolio totaled \$128 million or approximately 98% of the Company's securities portfolio at December 31, 2019. Net unrealized gains and losses on available for sale securities resulted in an unrealized gain of \$0.7 million at December 31, 2019, as compared with an unrealized loss of \$3.2 million at December 31, 2018. The change in the net unrealized position of the portfolio in 2019 was due to the decrease in market interest rates during the year. Unrealized gains and losses on available-for-sale securities are reported, net of taxes, as a separate component of stockholders' equity. For the year ended December 31, 2019, the impact of net unrealized gains, net of taxes, on stockholders' equity was \$2.9 million.



## [Table of Contents](#)

Certain securities available for sale were in an unrealized loss position at December 31, 2019. Management assessed those securities available for sale in an unrealized loss position at December 31, 2019 and determined the decline in fair value below amortized cost to be temporary. In making this determination, management considered the period of time the securities were in a loss position, the percentage decline in comparison to the securities' amortized cost, the financial condition of the issuer (primarily government or government-sponsored enterprises) and the Company's ability and intent to hold these securities until their fair value recovers to their amortized cost. Management believes the decline in fair value is primarily related to market interest rate fluctuations and not to the credit deterioration of the individual issuer.

Securities and interest-bearing deposits at banks made up 13% of the Company's total average interest-earning assets in 2019 and 2018. The Company's securities portfolio outstanding balances decreased from \$134 million at December 31, 2018 to \$130 million at December 31, 2019 and the Company's interest-bearing deposits at banks increased from \$26 million to \$28 million over the same time period. The interest-bearing deposits are liquid interest-bearing cash accounts at correspondent banks. At December 31, 2019, the Company's concentration in U.S. government-sponsored agency bonds was 22% of the total securities balance versus 25% at December 31, 2018. Government-sponsored mortgage-backed securities comprised 74% of the portfolio at December 31, 2019, compared with 57% of the portfolio at December 31, 2018, and tax-advantaged municipal bonds made up 4% of the portfolio at December 31, 2019 versus 18% of the portfolio at December 31, 2018. The decrease in securities was a result of managing excess funds into interest-bearing deposits. With the flattened yield curve, the Company determined that maintaining liquidity was preferred to purchasing longer duration securities, which do not offer the appropriate level of yield during the year.

As a member of both the Federal Reserve System and the FHLB, the Bank is required to hold stock in those entities. The Bank held \$1.6 million and \$1.5 million in FHLB stock as of December 31, 2019 and 2018, respectively, and \$2.0 million and \$1.9 million in FRB stock at December 31, 2019 and 2018, respectively.

Income from securities held in the Bank's investment portfolio represented 6% of total interest income of the Company in 2019 and 7% in 2018 and 2017. Taxable securities yields improved to 2.71% in 2019 from 2.67% in 2018, and 2.45% in 2017, while tax-exempt yields were 2.51% in 2019, 2.34% in 2018 from 2.38% in 2017. Returns improved in 2019 as market interest rates rose. The tax-exempt portfolio has significantly declined since 2017 as the decrease in the Company's federal tax rate has reduced the effectiveness of municipal bonds.

Available for sale securities with a total fair value of \$102 million at December 31, 2019 were pledged as collateral to secure public deposits and for other purposes required or permitted by law.

[Table of Contents](#)

The following table summarizes the Bank's securities with those designated as debt and mortgage backed securities at fair value and securities designated as equity and held to maturity at amortized cost as of December 31, 2019 and 2018:

	<b>At December 31,</b>	
	<b>2019</b>	<b>2018</b>
	(in thousands)	
<b>Available for Sale:</b>		
Debt securities		
U.S. government agencies	\$ 28,155	\$ 33,928
States and local subdivisions	3,351	22,173
Total debt securities	\$ 31,506	\$ 56,101
Mortgage-backed securities		
FNMA	\$ 34,672	\$ 27,039
FHLMC	15,514	14,225
GNMA	3,413	1,630
SBA	13,772	9,133
CMO's	29,045	23,976
Total mortgage-backed securities	\$ 96,416	\$ 76,003
Total available for sale securities	\$ 127,922	\$ 132,104
<b>Held to Maturity:</b>		
Debt securities		
States and local subdivisions	\$ 2,386	\$ 1,685
Total held to maturity securities	\$ 2,386	\$ 1,685

[Table of Contents](#)

The following table sets forth the contractual maturities and weighted average interest yields of the Bank's securities portfolio (yields on tax-exempt obligations are not presented on a tax-equivalent basis) as of December 31, 2019. Expected maturities will differ from contracted maturities since issuers may have the right to call or prepay obligations without penalties.

	<b>Maturing</b>							
	<b>Within One Year</b>		<b>After One But Within Five Years</b>		<b>After Five But Within Ten Years</b>		<b>After Ten Years</b>	
	Amount	Yield	Amount	Yield	Amount	Yield	Amount	Yield
	(\$ in thousands)							
<b>Available for Sale:</b>								
Debt Securities								
U.S. Government agencies	\$ 6,014	1.70 %	\$ 5,320	2.33 %	\$ 16,821	2.43 %	\$ -	- %
States and political subdivisions	-	- %	1,306	3.57 %	2,045	3.30 %	-	- %
Total debt securities	<u>\$ 6,014</u>	<u>1.70 %</u>	<u>\$ 6,626</u>	<u>2.57 %</u>	<u>\$ 18,866</u>	<u>2.52 %</u>	<u>\$ -</u>	<u>- %</u>
Mortgage-backed securities								
FNMA	\$ -	- %	\$ 4,405	2.41 %	\$ 11,302	2.62 %	\$ 18,965	3.12 %
FHLMC	-	- %	117	3.87 %	1,422	2.44 %	13,975	3.00 %
GNMA	-	- %	-	- %	357	3.74 %	3,056	3.39 %
SBA	-	- %	-	- %	-	- %	13,772	2.82 %
CMO	-	- %	-	- %	2,853	3.19 %	26,192	2.44 %
Total mortgage-backed securities	<u>\$ -</u>	<u>- %</u>	<u>\$ 4,522</u>	<u>2.45 %</u>	<u>\$ 15,934</u>	<u>2.73 %</u>	<u>\$ 75,960</u>	<u>2.82 %</u>
Total available for sale	<u><u>\$ 6,014</u></u>	<u><u>1.70 %</u></u>	<u><u>\$ 11,148</u></u>	<u><u>2.52 %</u></u>	<u><u>\$ 34,800</u></u>	<u><u>2.62 %</u></u>	<u><u>\$ 75,960</u></u>	<u><u>2.82 %</u></u>
<b>Held to Maturity:</b>								
Debt Securities								
States and political subdivisions	\$ 1,139	2.53 %	\$ 712	2.95 %	\$ 54	3.50 %	\$ 481	2.97 %
Total held to maturity	<u>\$ 1,139</u>	<u>2.53 %</u>	<u>\$ 712</u>	<u>2.95 %</u>	<u>\$ 54</u>	<u>3.50 %</u>	<u>\$ 481</u>	<u>2.97 %</u>
Total securities	<u><u>\$ 7,153</u></u>	<u><u>1.83 %</u></u>	<u><u>\$ 11,860</u></u>	<u><u>2.55 %</u></u>	<u><u>\$ 34,854</u></u>	<u><u>2.62 %</u></u>	<u><u>\$ 76,441</u></u>	<u><u>2.82 %</u></u>

**LENDING ACTIVITIES**

The Bank has a loan policy which is approved by its Board of Directors on an annual basis. The loan policy governs the conditions under which loans may be made, addresses the lending authority of Bank officers, documentation requirements, appraisal policy, charge-off policies and desired portfolio mix. The Bank's lending limit to any one borrower is subject to regulation by the OCC. The Bank continually monitors its loan portfolio to review compliance with new and existing regulations.

The Bank offers a variety of loan products to its customers, including residential and commercial real estate mortgage loans, commercial loans, and installment loans. The Bank primarily extends loans to customers located within the Western New York area. Interest income on loans represented 93% of the total interest income of the Company in 2019, 92% in 2018 and 93% in 2017. The Bank's loan portfolio, net of the allowances for loan losses, totaled \$1.2 billion and \$1.1 billion at December 31, 2019 and December 31, 2018, respectively. The net loan portfolio represented 87% of the Company's average interest-earning assets during 2019 and 2018.

[Table of Contents](#)

The following table summarizes the major classifications of the Bank's loans as of the dates indicated:

	December 31,				
	2019	2018	2017	2016	2015
	(in thousands)				
Mortgage loans on real estate:					
Residential Mortgages	\$ 158,572	\$ 158,404	\$ 131,208	\$ 118,542	\$ 103,941
Commercial and multi-family	645,036	592,507	519,902	462,385	399,819
Construction-Residential	1,067	113	2,134	2,540	1,546
Construction-Commercial	97,848	105,196	107,274	93,240	60,892
Home equities	69,351	70,546	69,745	66,234	61,042
Total real estate loans	971,874	926,766	830,263	742,941	627,240
Commercial and industrial loans	251,197	226,057	232,211	197,371	144,330
Consumer and other loans	1,926	1,520	1,654	1,417	1,735
Net deferred loan origination costs	1,534	1,587	1,187	783	679
Total gross loans and leases	1,226,531	1,155,930	1,065,315	942,512	773,984
Allowance for loan and lease losses	(15,175)	(14,784)	(14,019)	(13,916)	(12,883)
Loans and leases, net	<u>\$ 1,211,356</u>	<u>\$ 1,141,146</u>	<u>\$ 1,051,296</u>	<u>\$ 928,596</u>	<u>\$ 761,101</u>

**Real Estate Loans**

Approximately 79% of the Bank's total loan portfolio at December 31, 2019 consisted of real estate loans or loans collateralized by mortgages on real estate, including residential mortgages, commercial mortgages and other types of real estate loans. The Bank's real estate loan portfolio was \$972 million at December 31, 2019, compared with \$927 million at December 31, 2018. The real estate loan portfolio increased by 5% in 2019 over 2018 compared with an increase of 12% in 2018 over 2017.

The Bank offers fixed rate residential mortgage loans with terms of 10 to 30 years with, typically, up to an 80% loan-to-value ("LTV") ratio. Fixed rate residential mortgage loans outstanding totaled \$156 million at December 31, 2019 and 2018, which was 13% and 14% of total loans outstanding, respectively. This balance did not include any construction residential mortgage loans, which are discussed below. Residential mortgage originations in 2019 were \$28 million compared with \$45 million in 2018. The decline was primarily the result of a decrease in number of mortgage loan officers at the Bank.

The Bank has a contractual arrangement with FNMA, pursuant to which the Bank sells certain mortgage loans to FNMA and the Bank retains the servicing rights to those loans. The Bank determines with each origination of residential real estate loans which desired maturities, within the context of overall maturities in the loan portfolio, provide the appropriate mix to optimize the Bank's ability to absorb the corresponding interest rate risk within the Company's tolerance ranges. In 2019, the Bank sold \$13 million in mortgages to FNMA under this arrangement, compared with \$4 million in mortgages sold in 2018.

At December 31, 2019, the Bank had retained the servicing rights on \$76 million in mortgages sold to FNMA, compared with a \$73 million servicing portfolio of loans sold to FNMA at December 31, 2018. The Company recorded a net servicing asset for such loans of \$0.6 million at December 31, 2019 and 2018.

The Bank offers adjustable rate residential mortgage loans with terms of up to 30 years. Rates on these mortgage loans remain fixed for a predetermined time and are adjusted annually thereafter. The Bank's outstanding adjustable rate residential mortgage loans were \$2 million at December 31, 2019 and 2018. At each respective time period adjustable rate residential mortgage loans represented less than 1% of total loans outstanding. With rates on fixed rate mortgage products at still near historic lows, there has been little demand for variable-rate products which has resulted in minimal growth in variable rate mortgage loan balances.

## [Table of Contents](#)

Overall, residential real estate loans remained relatively flat, from \$158 million at December 31, 2018 to \$159 million at December 31, 2019.

The Bank also offers commercial mortgage loans with up to an 80% LTV ratio for up to 20 years on a variable and fixed rate basis. Many of these mortgage loans either mature or are subject to a rate call after three to five years. To the extent required, loans exceeding an 80% LTV are reported on an exception report to the Board of Directors. The Bank's outstanding commercial mortgage loans were \$645 million at December 31, 2019, which was 53% of total loans outstanding, and 9% higher than the \$593 million balance at December 31, 2018. The Company's Western New York footprint continued to experience strong demand for commercial real estate in 2019. The balance at December 31, 2019 included \$204 million in fixed rate and \$441 million in variable rate commercial mortgage loans, which include interest rate calls.

The Bank also offers other types of loans collateralized by real estate, such as home equity loans. The Bank offers home equity loans at variable and fixed interest rates with terms of up to 15 years and up to an 85% combined LTV ratio. At December 31, 2019, the real estate loan portfolio included \$69 million of home equity loans, which represented 6% of total loans outstanding, compared with \$71 million and 6% at December 31, 2018, respectively. The total home equity portfolio included \$61 million in variable rate loans and \$8 million in fixed rate loans.

The Bank also offers both residential and commercial real estate construction loans at up to an 80% LTV ratio at fixed interest or adjustable interest rates and multiple maturities. At December 31, 2019, adjustable rate construction loans outstanding totaled \$85 million, or 7% of total loans outstanding, and fixed rate real estate construction loans outstanding totaled \$14 million, or 1% of total loans outstanding. At December 31, 2018, adjustable rate construction loans outstanding totaled \$103 million, or 9% of total loans outstanding, and fixed rate real estate construction loans outstanding totaled \$3 million, or less than 1% of total loans outstanding. Western New York has experienced a strong commercial construction market recently and the Company's commercial real estate lending expertise has allowed the Company to take advantage of this strong market and grow this portfolio significantly over the past three years.

### **Commercial and Industrial Loans**

The Bank offers C&I loans on a secured and unsecured basis, including lines of credit and term loans at fixed and variable interest rates and multiple maturities. The Bank's C&I loan portfolio totaled \$251 million at December 31, 2019, compared with \$226 million at December 31, 2018, a 11% increase. The growth is attributable to the success of the Bank's community-focused and relationship-based lending approach in the local market. C&I loans represented 20% of the Bank's total loans at the end of 2019 and 2018, respectively.

Collateral for C&I loans, where applicable, may consist of inventory, receivables, equipment and other business assets. At December 31, 2019, 53% of the Bank's C&I loans were at variable rates which are tied to the prime rate or LIBOR.

### **Consumer Loans**

The Bank's consumer installment and other loan portfolio totaled \$2 million at December 31, 2019 and 2018, representing less than 1% of the Bank's total loans outstanding at those dates. Traditional installment loans are offered at fixed interest rates with various maturities of up to 60 months, on a secured and unsecured basis. This segment of the portfolio is done on an accommodation basis for customers. The Company does not actively try to grow the portfolio in a significant way. Other loans consisted primarily of cash reserves, overdrafts, and loan clearing accounts.

**Loan Maturities and Sensitivities of Loans to Changes in Interest Rates**

The following table shows the maturities of commercial and industrial loans and commercial real estate construction loans outstanding as of December 31, 2019 and the classification of those loans due after one year according to sensitivity to changes in interest rates.

	<u>Within One Year</u>	<u>After One But Within Five Years</u>	<u>After Five Years</u>	<u>Total</u>
	(in thousands)			
Commercial and industrial	\$ 77,161	\$ 98,332	\$ 75,704	\$ 251,197
Commercial real estate construction	32,429	14,269	51,150	97,848
	<u>\$ 109,590</u>	<u>\$ 112,601</u>	<u>\$ 126,854</u>	<u>\$ 349,045</u>
Loans maturing after one year with:				
Fixed Rates		\$ 52,217	\$ 75,426	
Variable Rates		60,384	51,428	
		<u>\$ 112,601</u>	<u>\$ 126,854</u>	

**SOURCES OF FUNDS**

**General**

Customer deposits represent the primary source of the Bank's funds for lending and other investment purposes. In addition to deposits, other sources of funds include loan repayments, loan sales on the secondary market, interest and dividend income from investments, matured investments, and borrowings from the FHLB and from correspondent banks.

**Deposits**

The Bank offers a variety of deposit products, including checking, savings, NOW accounts, certificates of deposit and jumbo certificates of deposit. Bank deposits are insured up to the limits provided by the FDIC. The following table details the Bank's deposits as of the dates indicated:

	<u>December 31,</u>		
	<u>2019</u>	<u>2018</u>	<u>2017</u>
	(in thousands)		
Demand deposits	\$ 263,717	\$ 231,902	\$ 219,664
NOW accounts	140,654	110,450	109,378
Regular savings	587,142	571,479	535,730
Time deposits, \$250,000 and over	58,002	59,525	40,182
Other time deposits	217,925	241,702	146,275
Total	<u>\$ 1,267,440</u>	<u>\$ 1,215,058</u>	<u>\$ 1,051,229</u>

[Table of Contents](#)

The following schedule sets forth the maturities of the Bank's time deposits as of December 31, 2019:

<b>Time Deposit Maturity Schedule</b>					
	<b>0-3 Mos.</b>	<b>3-6 Mos.</b>	<b>6-12 Mos.</b>	<b>Over 12 Mos.</b>	<b>Total</b>
	(in thousands)				
Time deposits - \$100,000 and over	\$ 31,636	\$ 60,265	\$ 25,023	\$ 25,884	\$ 142,808
Other time deposits	21,561	40,138	30,003	41,417	133,119
<b>Total time deposits</b>	<b>\$ 53,197</b>	<b>\$ 100,403</b>	<b>\$ 55,026</b>	<b>\$ 67,301</b>	<b>\$ 275,927</b>

Total deposits at December 31, 2019 increased \$52 million or 4% from the end of 2018. The increase was comprised of higher commercial and municipal deposits. Commercial deposits increased as the Company was able to attract new core customers and some current commercial customers maintained higher cash balances. The Company invested in its government banking program in an effort to enhance another opportunity to acquire core deposits.

The Company grew core transactional checking accounts, including non-interest bearing demand deposits and NOW accounts, by 18% to \$404 million at December 31, 2019. The \$32 million in growth in non-interest bearing demand deposits during 2019 was largely due to growth in retail demand deposits of \$19 million and commercial demand deposits of \$15 million, partially offset by a decrease in municipal demand deposits of \$2 million. The growth in retail demand deposits was largely the result of new product offerings and was generally funded by decreases in retail time, NOW and savings deposits. NOW accounts increased \$30 million or 27% during 2019, primarily attributable to increases in commercial deposits of \$16 million and municipal deposits of \$16 million, partially offset by a decrease in retail NOW deposits of \$2 million.

As of December 31, 2019, savings deposits increased \$16 million, or 3%, over the previous year end. The growth in savings deposits was attributable to a \$17 million increase in commercial savings deposits, while retail and municipal savings deposits declined slightly.

Time deposits were \$276 million as of December 31, 2019, a \$25 million or 8% decrease from December 31, 2018. The Company offered competitive rates for time deposits as a way to raise funds for loan growth and fix interest rates for a portion of its deposit portfolio, however decreases in interest rates in the second half of 2019, reflecting FRB reductions to the targeted federal funds rate, resulted in a decrease in year-over-year as at balances. Brokered time deposits, included in other time deposits in the tables above, provide an additional funding source for loan growth. Consumer time deposits decreased \$11 million which largely funded the growth in retail demand deposits. Brokered time deposits decreased \$14 million from December 31, 2018 to December 31, 2019.

The following table shows daily average deposits and average rates paid on significant deposit categories by the Bank:

	<b>2019</b>		<b>2018</b>		<b>2017</b>	
	Average Balance	Weighted Average Rate	Average Balance	Weighted Average Rate	Average Balance	Weighted Average Rate
	(in thousands)					
Demand deposits	\$ 255,125	- %	\$ 235,998	- %	\$ 208,898	- %
NOW accounts	126,628	0.43 %	115,193	0.28 %	93,881	0.22 %
Regular savings	595,605	0.88 %	572,921	0.65 %	536,862	0.48 %
Time deposits	286,181	2.15 %	246,588	1.78 %	160,440	1.30 %
<b>Total</b>	<b>\$ 1,263,539</b>	<b>0.94 %</b>	<b>\$ 1,170,700</b>	<b>0.72 %</b>	<b>\$ 1,000,081</b>	<b>0.49 %</b>

**Federal Funds Purchased and Other Borrowed Funds.** Another source of the Bank's funds for lending and investing activities is borrowings from the FHLB. The Bank had no outstanding balance on its overnight line of credit with the FHLB as of December 31, 2019 and 2018. The Company's use of its overnight line of credit with FHLBNY varies depending on its ability to fund investment and loan growth with deposits along with the line usage's impact on interest rate risk. The Bank had an FHLB advance of \$10 million outstanding with a rate of 1.73% maturing in 2020 at each of December 31, 2019 and 2018.

## **Securities Sold Under Agreements to Repurchase**

The Bank enters into agreements with certain customers to sell securities owned by the Bank to those customers and repurchase the identical security within one day. No physical movement of the securities is involved. The customer is informed that the securities are held in safekeeping by the Bank on behalf of the customer. Securities sold under agreements to repurchase totaled \$2.4 million at December 31, 2019 compared with \$3.1 million at December 31, 2018. Balances can vary day to day based on customer needs.

## **Pension**

The Bank maintains a qualified defined benefit pension plan (the “Pension Plan”), which covered substantially all employees of the Bank at the time the Pension Plan was frozen on January 31, 2008. All benefits eligible participants accrued in the Pension Plan through the freeze date have been retained. Employees have not accrued additional benefits in the Pension Plan from that date. Employees will be eligible to receive these benefits at normal retirement age. Additionally, the Company has entered into individual retirement agreements with certain of its executive officers providing for unfunded supplemental pension benefits under the Company’s Supplemental Executive Retirement Plan and Senior Executive Supplemental Executive Retirement Plan (collectively, the “SERP plans”). Information about the Company’s Pension Plan and SERP plans, including contributions, pension expense and actuarial assumptions, including return on plan assets and the discount rate utilized to determine future pension obligations, can be found in Note 11 to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

Management decided to fully fund the Pension Plan in 2017 with a \$1 million contribution. As a result, the primary objective of the investment philosophy for the management of the Pension Plan assets shifted from long term capital appreciation to capital preservation. Management believes that because the Pension Plan is frozen, managing the assets of the Pension Plan with a lower risk investment strategy is the optimal course of action. Furthermore, by making the large contribution in 2017, the Company maximized the tax benefit of the deduction considering the Company’s lower effective tax rate for 2018 and going forward under the TCJA. At December 31, 2019, the projected benefit obligation of the Pension Plan exceeded the value of the plan assets by \$0.4 million.

Management tested the sensitivity of the pension expense to changes in three key assumptions: return on plan assets, the discount rate, and salary rate increases. A 0.25% decrease in the rate of return on plan assets would have resulted in an increase in pension expense of 30% or \$13 thousand. A 0.25% decrease in the discount rate would have resulted in an increase in pension expense of 6% or \$2 thousand. Since the Pension Plan has been frozen, pension expense is not sensitive to compensation scale increases or decreases. The SERP has no plan assets; therefore there is no rate of return on plan assets. A 0.25% decrease in the discount rate would have resulted in an increase in SERP expense of 2% or \$11 thousand. A 0.25% increase in the rate of annual salary increases would have resulted in an increase in SERP expense of less than 1% or \$2 thousand.

## **Liquidity**

The Company utilizes cash flows from its investment portfolio and federal funds sold balances to manage the liquidity requirements it experiences due to loan demand and deposit fluctuations. The Bank also has many borrowing options. As a member of the FHLB, the Bank is able to borrow funds at competitive rates. Given the current collateral available, advances of up to \$198 million can be drawn on the FHLB via the Bank’s Overnight Line of Credit Agreement. The Bank also has the ability to purchase up to \$8 million in federal funds from its correspondent banks. By placing sufficient collateral in safekeeping at the Federal Reserve Bank, the Bank could also borrow at the FRB’s discount window. The Company’s liquidity needs also can be met by more aggressively pursuing time deposits, or accessing the brokered time deposit market, including the Certificate of Deposit Account Registry Service (“CDARS”) network. Additionally, the Company has access to capital markets as a funding source.

The cash flows from the Company’s investment portfolio are laddered, so that securities mature at regular intervals, to provide funds from principal and interest payments at various times as liquidity needs may arise. Contractual maturities are also laddered, with consideration as to the volatility of market prices, so that securities are available for sale from time-to-time without the need to incur significant losses. At December 31, 2019, approximately 5% of the Company’s debt securities had maturity dates of one year or less, and approximately 11% had maturity dates of five years or less. In addition, the Company receives regular cash flows on its mortgage-backed securities.



[Table of Contents](#)

Management, on an ongoing basis, closely monitors the Company's liquidity position for compliance with internal policies, and believes that available sources of liquidity are adequate to meet funding needs in the normal course of business. As part of that monitoring process, management calculates the 90-day liquidity each month by analyzing the cash needs of the Bank. Included in the calculation are liquid assets and potential liabilities. Management stresses the potential liabilities calculation to ensure a strong liquidity position. Included in the calculation are assumptions of some significant deposit run-off as well as funds needed for loan closing and investment purchases. At December 31, 2019, in the stress test, the Bank had net short-term liquidity available of \$209 million as compared with \$249 million at December 31, 2018. Available assets of \$161 million divided by public and purchased funds of \$272 million, resulted in a long-term liquidity ratio of 59% at December 31, 2019, compared with 63% at December 31, 2018.

Management does not anticipate engaging in any activities, either currently or over the long-term, for which adequate funding would not be available and which would therefore result in significant pressure on liquidity. However, an economic recession could negatively impact the Company's liquidity. The Bank relies heavily on FHLB NY as a source of funds, particularly with its overnight line of credit. In past economic recessions, some FHLB branches have suspended dividends, cut dividend payments, and not bought back excess FHLB stock that members hold in an effort to conserve capital. FHLB NY has stated that it expects to be able to continue to pay dividends, redeem excess capital stock, and provide competitively priced advances in the future. The 11 FHLB branches are jointly liable for the consolidated obligations of the FHLB system. To the extent that one FHLB branch cannot meet its obligations to pay its share of the system's debt, other FHLB branches can be called upon to make the payment.

Systemic weakness in the FHLB could result in higher costs of FHLB borrowings and increased demand for alternative sources of liquidity that are more expensive, such as brokered time deposits, the discount window at the Federal Reserve, or lines of credit with correspondent banks.

### Contractual Obligations

The Company is party to contractual financial obligations, including repayment of borrowings, operating lease payments, commitments to extend credit, and purchase agreements. The table below presents certain future financial obligations.

	Payments due within time period at December 31, 2019				
	(in thousands)				
	Total	Less Than 1 Year	1 - 3 Years	3 - 5 Years	More Than 5 Years
<b>Contractual Obligations:</b>					
Securities sold under agreement					
to repurchase	\$ 2,425	\$ 2,425	\$ -	\$ -	\$ -
Operating lease obligations	4,805	748	1,376	1,041	1,640
Other borrowed funds	10,000	10,000	-	-	-
Junior subordinated debentures	11,330	-	-	-	11,330
R&S purchase agreement	1,500	-	1,500	-	-
Total	<u>\$ 30,060</u>	<u>\$ 13,173</u>	<u>\$ 2,876</u>	<u>\$ 1,041</u>	<u>\$ 12,970</u>
Interest expense on fixed rate debt	<u>\$ 51</u>	<u>\$ 51</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

At December 31, 2019, the Company had commitments to extend credit of \$332 million, compared with \$291 million at December 31, 2018. For additional information regarding future financial commitments, this disclosure should be read in conjunction with Note 17 to the Company's Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

## Capital

Total Company stockholders' equity was \$148 million at December 31, 2019, an increase from \$132 million at December 31, 2018. Equity as a percentage of assets was 10.2% at December 31, 2019, compared with 9.5% at December 31, 2018. Book value per share of common stock increased to \$30.12 at December 31, 2019 from \$27.13 at December 31, 2018. The increase in stockholders' equity and book value per share was primarily the result of \$17 million in net income and a \$3 million unrealized gain on available for sale investment securities, offset in part by \$5 million in dividends paid to common stockholders in 2019.

The aggregate dividend payment of \$1.04 per share in 2019 was \$0.12, or 13% higher per share than dividends paid in 2018. The Company typically pays a semi-annual dividend in April and October of each year. Management and the Board of Directors of the Company believe that the dividend level is prudent to maintain available capital to support the continued growth of the Company, as well as to manage the Company's and the Bank's capital ratios, while providing a dividend yield (dividend per share divided by stock price) competitive with peers in the industry at an annualized rate of 2.6% at December 31, 2019.

Included in stockholders' equity is accumulated other comprehensive income/(loss) which includes the net after-tax impact of unrealized gains or losses on investment securities classified as available for sale. Net unrealized gains after tax were \$0.5 million, or \$0.11 per share of common stock, at December 31, 2019, compared with net unrealized losses after tax of \$2.3 million, or \$0.48 per share of common stock, at December 31, 2018. Such unrealized gains and losses are generally due to changes in interest rates and represent the difference, net of applicable income tax effect, between the estimated fair value and amortized cost of investment securities classified as available-for-sale. The Company had no other-than-temporary impairment charges in its investment portfolio in 2019 or 2018.

The Company and the Bank have consistently maintained regulatory capital ratios above well capitalized standards. For further detail on capital and capital ratios, see Note 22 to the Company's Consolidated Financial Statements included under Item 8 of this Annual Report on Form 10-K.

## Market Risk

Market risk is the risk of loss from adverse changes in market prices and/or interest rates of the Bank's financial instruments. The primary market risk the Company is exposed to is interest rate risk. The core banking activities of lending and deposit-taking expose the Bank to interest rate risk, which occurs when assets and liabilities re-price at different times and by different amounts as interest rates change. As a result, net interest income earned by the Bank is subject to the effects of changing interest rates. The Bank measures interest rate risk by calculating the variability of net interest income in the future periods under various interest rate scenarios using projected balances for interest-earning assets and interest-bearing liabilities. Management's philosophy toward interest rate risk management is to limit the variability of net interest income. The balances of financial instruments used in the projections are based on expected growth from forecasted business opportunities, anticipated prepayments of loans and investment securities and expected maturities of investment securities, loans and deposits. Management supplements the modeling technique described above with the analysis of market values of the Bank's financial instruments and changes to such market values given changes in interest rates.

ALCO, which includes members of the Bank's senior management, monitors the Bank's interest rate sensitivity with the aid of a model that considers the impact of ongoing lending and deposit gathering activities, as well as the interrelationships between the magnitude and timing of the re-pricing of financial instruments, including the effect of changing interest rates on expected prepayments and maturities. When deemed prudent, the Bank's management has taken actions and intends to do so in the future, to mitigate the Bank's exposure to interest rate risk through the use of on or off-balance sheet financial instruments. Possible actions include, but are not limited to, changes in the pricing of loan and deposit products, modifying the composition of interest-earning assets and interest-bearing liabilities, and the purchase of other financial instruments used for interest rate risk management purposes. In 2019 and 2018, the Bank did not use off-balance sheet financial instruments to manage interest rate risk.

**SENSITIVITY OF NET INTEREST INCOME TO CHANGES IN INTEREST RATES**

	<b>Calculated increase</b>	
	<b>in projected annual net interest income</b>	
	(in thousands)	
	<b>December 31, 2019</b>	<b>December 31, 2018</b>
Changes in interest rates		
+200 basis points	\$ (32)	\$ 1,598
+100 basis points	2,327	2,825
-100 basis points	(2,455)	(3,026)
-200 basis points	NM	NM

Many assumptions are utilized by the Bank to calculate the impact that changes in interest rates may have on net interest income. The more significant assumptions relate to the rate of prepayments of mortgage-related assets, loan and deposit volumes and pricing, and deposit maturities. The Bank also assumes immediate changes in rates, including 100 and 200 basis point rate changes. In the event that a 100 or 200 basis point rate change cannot be achieved, the applicable rate changes are limited to lesser amounts, such that interest rates cannot be less than zero. These assumptions are inherently uncertain and, as a result, the Bank cannot precisely predict the impact of changes in interest rates on net interest income. Actual results may differ significantly due to the timing, magnitude, and frequency of interest rate changes in market conditions and interest rate differentials (spreads) between maturity/re-pricing categories, as well as any actions, such as those previously described, which management may take to counter such changes. At each of December 31, 2019 and December 31, 2018, the Bank's projected net interest income benefitted more from a 100 basis point increase in market rates compared with a 200 basis point increase in rates. This relationship was due in part to expected increases in deposit rates needed to retain deposit customers if rates moved up 200 basis points but were not required if rates only moved 100 basis points higher. In light of the uncertainties and assumptions associated with the process, the amounts presented in the table, and changes in such amounts, are not considered significant to the Bank's projected net interest income.

Financial instruments with off-balance sheet risk at December 31, 2019 included \$287 million in undisbursed lines of credit at an average interest rate of 4.76%; \$14 million in fixed rate loan origination commitments at 4.15%; and \$13 million in adjustable rate letters of credit, which if drawn upon, would typically earn an interest rate equal to the prime lending rate plus 2%. Unused overdraft protection lines totaled \$18 million.

[Table of Contents](#)

The following table represents expected maturities of interest-bearing assets and liabilities and their corresponding average interest rates.

**Expected maturity year ended December 31,**

	2020	2021	2022	2023	2024	Thereafter	Total	Fair Value
	(in thousands)							
<b>Interest-bearing Assets</b>								
Gross loan and lease								
receivables	\$ 244,880	\$ 68,754	\$ 49,163	\$ 64,562	\$ 61,508	\$ 737,664	\$ 1,226,531	\$ 1,237,561
Average interest	4.96 %	4.74 %	4.64 %	4.87 %	4.89 %	4.78 %	4.82 %	4.82 %
Investment securities								
	\$ 7,153	\$ 103	\$ 1,367	\$ 4,270	\$ 6,119	\$ 111,296	\$ 130,308	\$ 130,314
Average interest	1.83 %	2.78 %	1.91 %	2.30 %	2.86 %	2.76 %	2.69 %	2.69 %
<b>Interest-bearing Liabilities</b>								
Interest-bearing								
deposits	\$ 936,525	\$ 47,226	\$ 10,101	\$ 8,829	\$ 1,042	\$ -	\$ 1,003,723	\$ 1,004,847
Average interest	1.10 %	2.47 %	2.00 %	2.79 %	1.57 %	- %	1.19 %	1.19 %
Other borrowed funds								
	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000	\$ 9,997
Average interest	1.73 %	- %	%	- %	- %	- %	1.73 %	1.73 %
Securities sold under								
agreements to repurchase	\$ 2,425	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,425	\$ 2,425
Average interest	0.18 %	- %	- %	- %	- %	- %	0.18 %	0.18 %
Junior subordinated								
debt	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,330	\$ 11,330	\$ 11,330
Average interest	- %	- %	- %	- %	- %	4.56 %	4.56 %	4.56 %

When rates rise or fall, the market value of the Company's rate-sensitive assets and liabilities increases or decreases. As a part of the Company's asset/liability policy, the Company has set limitations on the acceptable level of the negative impact of such rate fluctuations on the market value of the Company's balance sheet. The Bank's securities portfolio is priced monthly and adjustments are made on the balance sheet to reflect the market value of the available for sale portfolio. At December 31, 2019, the impact on equity, net of tax, as a result of marking available for sale securities to market was an unrealized gain of \$0.5 million. On a monthly basis, the available for sale portfolio is shocked for immediate rate increases of 200 basis points. At December 31, 2019, the Company determined it would take an immediate increase in rates in excess of 200 basis points to eliminate the current capital cushion in excess of regulatory requirements. The Company's and the Bank's capital ratios are also reviewed by management on a quarterly basis.

**Capital Expenditures**

Significant planned expenditures for 2020 primarily consist of building renovations, furniture and equipment related to the Company's planned 2020 relocation to a new corporate headquarters. The Company believes it has a sufficient capital base to support these known and potential capital expenditures, currently expected to total approximately \$5 million, with current assets.

### **Impact of Inflation and Changing Prices**

There will continually be economic events, such as changes in the economic policies of the FRB, which will have an impact on the profitability of the Company. Inflation may result in impaired asset growth, reduced earnings and substandard capital ratios. The net interest margin can be adversely impacted by the volatility of interest rates throughout the year. Since these factors are unknown, management attempts to structure the balance sheet and re-pricing frequency of assets and liabilities to avoid a significant concentration that could result in a negative impact on earnings.

### **Segment Information**

The Company's operating segments have been determined based upon its internal profitability reporting. The Company's operating segments consist of banking activities and insurance agency activities.

The banking activities segment includes all of the activities of the Bank in its function as a full-service commercial bank. Net income from banking activities was \$16.0 million in 2019 compared with \$15.5 million in 2018. The increase in net income from banking activities was driven primarily by net interest income, which increased 8% from \$48.2 million in 2018 to \$52.2 million in 2019, resulting from higher yields on loans reflecting the impact of a higher average target federal funds rate in 2019 on the Bank's variable rate loan portfolio and loan growth. The increase in net interest income was partially offset by an increase in non-interest expenses reflecting investments in talent and technology and atypical legal and accounting costs. Total assets of the banking activities segment were \$1.4 billion at December 31, 2019, an increase of \$72 million or 5% from December 31, 2018.

The insurance activities segment includes activities of TEA, a property and casualty insurance agency with locations in the Western New York area. Net income from insurance activities was \$1.0 million in 2019, an increase from \$0.8 million in 2018, primarily reflecting the full year impact of the 2018 R&S asset acquisition. TEA's total assets were \$16.6 million at December 31, 2019 and December 31, 2018.

### **Fourth Quarter 2019 Results**

Net income was \$3.7 million, or \$0.75 per diluted share, in the fourth quarter of 2019, compared with \$5.2 million, or \$1.04 per diluted share, in the third quarter of 2019 and \$4.5 million, or \$0.90 per diluted share, in last year's fourth quarter. The decrease from the linked quarter resulted from lower net interest income reflecting lower interest rates, seasonally lower insurance fee revenue. Return on average equity was 10.16% for the fourth quarter of 2019, compared with 14.29% in the third quarter of 2019 and 13.86% in the fourth quarter of 2018.

Net interest income decreased \$0.8 million, or 6%, from the third quarter of 2019, but increased \$0.4 million, or 3%, from the prior-year fourth quarter. The decrease from the trailing quarter was driven by a decline in loan yields as a result of the re-pricing of variable rate loans tied to the Company's prime rate. The third quarter of 2019 also included \$0.2 million of interest related to the recovery of a single commercial loan that was previously written-off. The increase from the prior-year fourth quarter reflects growth in average commercial loans, including commercial real estate and commercial and industrial loans, which were \$996 million, up \$83 million.

Fourth quarter net interest margin of 3.67% decreased 27 basis points from the 2019 third quarter and 3 basis points from the fourth quarter of 2018. When excluding the interest related to the trailing third quarter recovery, net interest margin decreased 22 basis points, reflecting the Federal Reserve's decrease of the prime rate. The cost of interest-bearing liabilities was 1.24% in the fourth and third quarter of 2019 compared with 1.14% in the fourth quarter of 2018.

The \$0.1 million release of allowance for loan losses reflects improved asset quality of impaired loans and marginal loan growth in the fourth quarter.

[Table of Contents](#)

Non-interest income was \$4.0 million in the fourth quarter of 2019, compared with \$5.2 million in the third quarter of 2019 and \$3.0 million in the prior-year period. The fourth quarter of 2018 included a \$0.9 million net reduction of non-interest income related to an investment in a historic rehabilitation tax credit. There were no significant historic tax credit transactions in the fourth and third quarter of 2019. Insurance revenue decreased \$1.1 million from the trailing third quarter due to the seasonal decrease in commercial lines insurance commissions and a decrease in profit sharing revenue.

Total non-interest expense was \$12.2 million in the fourth quarter of 2019, a decrease of \$0.1 million or 1% from the third quarter of 2019, and an increase of \$0.7 million, or 6% from the fourth quarter of 2018. Salaries and benefits costs decreased \$0.3 million or 4% from the linked quarter as a result of severance costs recorded during the third quarter of 2019. The \$0.1 million increase from the prior-year period reflects the addition of strategic personnel hires to support the Company's continued growth. Fourth quarter professional service fees of \$1.1 million included \$0.2 million in merger-related costs relating to the previously announced agreement to acquire FSB. FDIC insurance expense of \$0.1 million decreased \$0.2 million when compared to prior year's fourth quarter. The reduced FDIC insurance expense reflects the benefit of the FDIC's small bank assessment credit. Third quarter of 2019 other non-interest expense included a \$0.2 million charitable contribution accrual. The Company contributes to, and invests in, community organizations that provide positive, meaningful impact on the Western New York region.

The Company's GAAP efficiency ratio, or noninterest expenses divided by the sum of net interest income and noninterest income, was 72.5% in the fourth quarter of 2019, 65.4% in the third quarter of 2019, and 74.2% in the fourth quarter of 2018. The Company's non-GAAP efficiency ratio, which excludes amortization expense, gains and losses from investment securities, merger-related expenses and the impact of historic tax credit transactions, was 70.3% in the fourth quarter of 2019, compared with 64.8% in the third quarter of 2019 and 69.5% in last year's fourth quarter. .

During the fourth quarter of 2019 the Company recognized income tax expense of \$1.0 million, representing an effective tax rate of 20.9%, compared with an income tax benefit of \$0.2 million in the prior year's fourth quarter. Excluding the impact of historic tax credit transactions, the fourth quarter 2018 effective tax rate was 23.1%. The third quarter 2019 income tax expense was \$1.8 million, or an effective tax rate of 25.6%.

**Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

The information called for by this Item is incorporated by reference to the discussion of "Liquidity" and "Market Risk", including the discussion under the caption "Sensitivity of Net Interest Income to Changes in Interest Rates" included in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations of this Annual Report on Form 10-K.

**Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

Financial Statements and Supplementary Data consist of the financial statements as indexed and presented below and the Selected Quarterly Financial Data - Unaudited presented in Note 24 to our Consolidated Financial Statements.

<b>INDEX TO CONSOLIDATED FINANCIAL STATEMENTS</b>	<b>Page</b>
<a href="#">Management's Annual Report on Internal Control Over Financial Reporting</a>	55
<a href="#">Report of Independent Registered Public Accounting Firm (consolidated financial statements)</a>	56
<a href="#">Report of Independent Registered Public Accounting Firm (internal control over financial reporting)</a>	57
<a href="#">Consolidated Balance Sheets – December 31, 2019 and 2018</a>	58
<a href="#">Consolidated Statements of Income – Years Ended December 31, 2019, 2018 and 2017</a>	59
<a href="#">Consolidated Statements of Comprehensive Income – Years Ended December 31, 2019, 2018 and 2017</a>	60
<a href="#">Consolidated Statements of Changes in Stockholders' Equity – Years Ended December 31, 2019, 2018 and 2017</a>	61
<a href="#">Consolidated Statements of Cash Flows – Years Ended December 31, 2019, 2018 and 2017</a>	62
<a href="#">Notes to Consolidated Financial Statements</a>	64

## Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting for Evans Bancorp, Inc. and subsidiaries (the "Company"). Management has assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2019 based on criteria established in *Internal Control-Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on that assessment, management concluded that, as of December 31, 2019, the Company's internal control over financial reporting was effective.

The Company's consolidated financial statements for the fiscal year ended December 31, 2019 were audited by KPMG LLP, an independent registered public accounting firm. KPMG LLP also audited the effectiveness of the Company's internal control over financial reporting as of December 31, 2019, as stated in their report, which appears in the "Report of Independent Registered Public Accounting Firm" immediately following this annual report of management.

### EVANS BANCORP, INC. AND SUBSIDIARIES

/s/ David J. Nasca

David J. Nasca  
President and Chief Executive Officer

/s/ John B. Connerton

John B. Connerton  
Treasurer



**Report of Independent Registered Public Accounting Firm**

To the Stockholders and Board of Directors  
Evans Bancorp, Inc.:

**Opinion on the Consolidated Financial Statements**

We have audited the accompanying consolidated balance sheets of Evans Bancorp, Inc. and subsidiaries (the Company) as of December 31, 2019 and 2018, the related consolidated statements of income, comprehensive income, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2019, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated March 12, 2020, expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

**Basis for Opinion**

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ KPMG LLP

We have served as the Company's auditor since 2003.

Buffalo, New York  
March 12, 2020

## Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors  
Evans Bancorp, Inc.:

### Opinion on Internal Control Over Financial Reporting

We have audited Evans Bancorp, Inc. and subsidiaries' (the Company) internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2019 and 2018, the related consolidated statements of income, comprehensive income, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes (collectively, the consolidated financial statements), and our report dated March 12, 2020 expressed an unqualified opinion on those consolidated financial statements.

### Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ KPMG LLP

Buffalo, New York  
March 12, 2020

[Table of Contents](#)

EVANS BANCORP, INC. AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS  
DECEMBER 31, 2019 AND DECEMBER 31, 2018  
(in thousands, except share and per share amounts)

	December 31, 2019	December 31, 2018
<b>ASSETS</b>		
Cash and due from banks	\$ 10,577	\$ 13,997
Interest-bearing deposits at banks	28,280	25,918
Securities:		
Available for sale, at fair value (amortized cost: \$127,217 at December 31, 2019; \$135,274 at December 31, 2018)	127,922	132,104
Held to maturity, at amortized cost (fair value: \$2,392 at December 31, 2019; \$1,674 at December 31, 2018)	2,386	1,685
Federal Home Loan Bank common stock, at cost	1,588	1,474
Federal Reserve Bank common stock, at cost	1,956	1,929
Loans, net of allowance for loan losses of \$15,175 at December 31, 2019 and \$14,784 at December 31, 2018	1,211,356	1,141,146
Properties and equipment, net of accumulated depreciation of \$20,682 at December 31, 2019 and \$19,416 at December 31, 2018	13,754	10,485
Goodwill and intangible assets	12,545	12,992
Bank-owned life insurance	29,418	28,403
Operating lease right-of-use asset (see Note 1)	3,720	-
Other assets	16,728	18,074
<b>TOTAL ASSETS</b>	<b>\$ 1,460,230</b>	<b>\$ 1,388,207</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>LIABILITIES</b>		
Deposits:		
Demand	\$ 263,717	\$ 231,902
NOW	140,654	110,450
Savings	587,142	571,479
Time	275,927	301,227
Total deposits	1,267,440	1,215,058
Securities sold under agreement to repurchase	2,425	3,142
Other borrowings	10,000	10,000
Operating lease liability (see Note 1)	4,154	-
Other liabilities	16,428	17,031
Junior subordinated debentures	11,330	11,330
Total liabilities	1,311,777	1,256,561
<b>CONTINGENT LIABILITIES AND COMMITMENTS</b>		
<b>STOCKHOLDERS' EQUITY:</b>		
Common stock, \$.50 par value, 10,000,000 shares authorized; 4,929,593 and 4,852,868 shares issued at December 31, 2019 and December 31, 2018, respectively, and 4,929,283 and 4,852,868 outstanding at December 31, 2019 and December 31, 2018, respectively	2,467	2,429
Capital surplus	63,302	61,225
Treasury stock, at cost, 310 and 0 shares at December 31, 2019 and December 31, 2018, respectively	-	-
Retained earnings	85,267	73,345
Accumulated other comprehensive loss, net of tax	(2,583)	(5,353)
Total stockholders' equity	148,453	131,646
<b>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>\$ 1,460,230</b>	<b>\$ 1,388,207</b>

See Notes to Consolidated Financial Statements

[Table of Contents](#)

EVANS BANCORP, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF INCOME  
YEARS ENDED DECEMBER 31, 2019, 2018, AND 2017  
(in thousands, except share and per share amounts)

	2019	2018	2017
<b>INTEREST INCOME</b>			
Loans	\$ 60,193	\$ 53,282	\$ 44,379
Interest bearing deposits at banks	697	427	66
Securities:			
Taxable	3,537	3,253	2,466
Non-taxable	313	650	837
Total interest income	64,740	57,612	47,748
<b>INTEREST EXPENSE</b>			
Deposits	11,939	8,416	4,887
Other borrowings	181	554	418
Junior subordinated debentures	565	535	426
Total interest expense	12,685	9,505	5,731
<b>NET INTEREST INCOME</b>	52,055	48,107	42,017
<b>PROVISION FOR LOAN LOSSES</b>	75	1,402	738
<b>NET INTEREST INCOME AFTER PROVISION FOR LOAN LOSSES</b>	51,980	46,705	41,279
<b>NON-INTEREST INCOME</b>			
Deposit service charges	2,569	2,176	1,747
Insurance service and fees	10,688	9,365	7,898
Gain on loans sold	154	38	156
Bank-owned life insurance	656	680	864
Loss on tax credit investments	(158)	(2,870)	(3,997)
Refundable state historic tax credit	115	1,982	2,843
Interchange fee income	1,722	1,750	1,494
Other	2,336	2,106	1,998
Total non-interest income	18,082	15,227	13,003
<b>NON-INTEREST EXPENSE</b>			
Salaries and employee benefits	29,628	27,412	24,125
Occupancy	3,429	3,135	3,199
Advertising and public relations	1,033	1,070	1,095
Professional services	3,742	2,466	2,260
Technology and communications	4,124	3,394	2,881
Amortization of intangibles	448	280	113
FDIC insurance	431	1,024	740
Other	4,985	4,512	4,181
Total non-interest expense	47,820	43,293	38,594
<b>INCOME BEFORE INCOME TAXES</b>	22,242	18,639	15,688
<b>INCOME TAX PROVISION</b>	5,228	2,283	5,209
<b>NET INCOME</b>	\$ 17,014	\$ 16,356	\$ 10,479
Net income per common share-basic	\$ 3.47	\$ 3.40	\$ 2.21
Net income per common share-diluted	\$ 3.42	\$ 3.32	\$ 2.16
Weighted average number of common shares outstanding	4,897,803	4,814,882	4,738,394
Weighted average number of diluted shares outstanding	4,968,172	4,933,743	4,860,828

See Notes to Consolidated Financial Statements

[Table of Contents](#)

EVANS BANCORP, INC. AND SUBSIDIARIES  
STATEMENTS OF CONSOLIDATED COMPREHENSIVE INCOME  
YEARS ENDED DECEMBER 31, 2019, 2018, AND 2017  
(in thousands)

	<u>2019</u>	<u>2018</u>	<u>2017</u>
NET INCOME	\$ 17,014	\$ 16,356	\$ 10,479
OTHER COMPREHENSIVE INCOME (LOSS), NET OF TAX:			
Unrealized gain (loss) on available-for-sale securities	2,870	(1,299)	(507)
Defined benefit pension plans:			
Amortization of prior service cost	23	26	27
Amortization of actuarial loss	246	128	137
Actuarial losses	<u>(369)</u>	<u>(791)</u>	<u>(19)</u>
Total	<u>(100)</u>	<u>(637)</u>	<u>145</u>
OTHER COMPREHENSIVE INCOME (LOSS), NET OF TAX	<u>2,770</u>	<u>(1,936)</u>	<u>(362)</u>
COMPREHENSIVE INCOME	<u>\$ 19,784</u>	<u>\$ 14,420</u>	<u>\$ 10,117</u>

See Notes to Consolidated Financial Statements

[Table of Contents](#)

EVANS BANCORP, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY  
YEARS ENDED DECEMBER 31, 2019, 2018, AND 2017  
(in thousands, except share and per share amounts)

	Common Stock	Capital Surplus	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Treasury Stock	Total
<b>Balance, December 31, 2016</b>	\$ 2,153	\$ 44,389	\$ 52,630	\$ (2,424)	\$ -	\$ 96,748
Net Income			10,479			10,479
Other comprehensive loss				(362)		(362)
Reclassification of certain tax effects from AOCI related to the Tax Cuts and Jobs Act of 2017			631	(631)		-
Cash dividends (\$0.80 per common share)			(3,819)			(3,819)
Stock compensation expense		623				623
Reissued 741 restricted shares						-
Issued 440,000 shares in stock offering	220	13,922				14,142
Issued 13,112 restricted shares, net of forfeitures	9	(9)				-
Issued 6,155 shares under Dividend Reinvestment Plan	3	249				252
Issued 7,610 shares in Employee Stock Purchase Plan	4	261				265
Issued 10,001 shares in stock option exercises	5	140				145
Repurchased 9,218 shares in treasury stock					(342)	(342)
Reissued 13,470 shares in stock option exercises		(131)			342	211
<b>Balance, December 31, 2017</b>	\$ 2,394	\$ 59,444	\$ 59,921	\$ (3,417)	\$ -	\$ 118,342
Cumulative-effect adjustment due to change in accounting principle			1,496			1,496
Net Income			16,356			16,356
Other comprehensive loss				(1,936)		(1,936)
Cash dividends (\$0.92 per common share)			(4,428)			(4,428)
Stock compensation expense		791				791
Reissued 1,057 restricted shares						-
Issued 14,839 restricted shares, net of forfeitures	8	(8)				-
Issued 6,329 shares under Dividend Reinvestment Plan	4	287				291
Issued 10,821 shares in Employee Stock Purchase Plan	6	339				345
Issued 37,317 shares in stock option exercises	17	372				389
<b>Balance, December 31, 2018</b>	\$ 2,429	\$ 61,225	\$ 73,345	\$ (5,353)	\$ -	\$ 131,646
Net Income			17,014			17,014
Other comprehensive income				2,770		2,770
Cash dividends (\$1.04 per common share)			(5,092)			(5,092)
Stock compensation expense		937				937
Reissued 500 restricted shares						-
Issued 20,632 restricted shares, net of forfeitures	12	(12)				-
Issued 7,549 shares under Dividend Reinvestment Plan	4	272				276
Issued 11,712 shares in Employee Stock Purchase Plan	6	381				387
Issued 32,516 shares in stock option exercises	16	499				515
Reissued 3,506 shares in stock option exercises						-
<b>Balance, December 31, 2019</b>	\$ 2,467	\$ 63,302	\$ 85,267	\$ (2,583)	\$ -	\$ 148,453

See Notes to Consolidated Financial Statements

[Table of Contents](#)

EVANS BANCORP, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
YEARS ENDED DECEMBER 31, 2019, 2018, AND 2017  
(in thousands)

	2019	2018	2017
<b>OPERATING ACTIVITIES:</b>			
Interest received	\$ 65,036	\$ 57,605	\$ 47,028
Fees received	17,872	14,960	13,419
Interest paid	(12,771)	(9,140)	(5,631)
Cash paid to employees and vendors	(45,732)	(41,302)	(37,778)
Cash contributed to pension plan	-	-	(1,000)
Income tax refund (paid)	(3,102)	3,314	(3,029)
Proceeds from sale of loans held for resale	13,008	4,301	11,487
Originations of loans held for resale	(13,238)	(4,615)	(11,016)
Net cash provided by operating activities	21,073	25,123	13,480
<b>INVESTING ACTIVITIES:</b>			
Available for sales securities:			
Purchases	(48,916)	(47,863)	(65,889)
Proceeds from sales	15,224	-	-
Proceeds from maturities, calls, and payments	41,332	60,869	13,014
Held to maturity securities:			
Purchases	(1,592)	(630)	(4,345)
Proceeds from maturities, calls, and payments	891	4,278	995
Cash received (paid) for bank owned life insurance	(360)	675	(6,000)
Additions to properties and equipment	(4,640)	(1,106)	(483)
Proceeds from sales of assets	185	-	-
Proceeds from equity securities sales	-	1,960	-
Purchase of tax credit investment	(3,116)	(3,877)	(3,102)
Acquisitions	-	(5,000)	(275)
Net increase in loans	(68,890)	(91,873)	(120,438)
Net cash used in investing activities	(69,882)	(82,567)	(186,523)
<b>FINANCING ACTIVITIES:</b>			
Proceeds (repayments) from short-term borrowings, net	(717)	(84,397)	59,180
Net increase in deposits	52,382	163,829	111,255
Dividends paid	(5,092)	(4,428)	(3,819)
Repurchase of treasury stock	-	-	(342)
Issuance of common stock	1,178	1,025	14,804
Reissuance of treasury stock	-	-	211
Net cash provided by financing activities	47,751	76,029	181,289
Net increase (decrease) in cash and equivalents	(1,058)	18,585	8,246
<b>CASH AND CASH EQUIVALENTS:</b>			
Beginning of year	39,915	21,330	13,084
End of year	\$ 38,857	\$ 39,915	\$ 21,330

[Table of Contents](#)

EVANS BANCORP, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
YEARS ENDED DECEMBER 31, 2019, 2018, AND 2017  
(in thousands)

	2019	2018	2017
RECONCILIATION OF NET INCOME TO NET CASH PROVIDED BY OPERATING ACTIVITIES:			
Net income	\$ 17,014	\$ 16,356	\$ 10,479
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	2,049	1,825	1,762
Deferred tax expense (benefit)	(571)	495	3,150
Provision for loan losses	75	1,402	738
Loss on tax credit investment	158	2,870	3,997
Changes in refundable state historic tax credits	(115)	3,105	(2,843)
Net gain on sales of assets	(3)	-	-
(Gain) loss on sales of securities	(42)	98	-
Gain on loans sold	(154)	(38)	(156)
Change in fair value of equity securities	-	(244)	-
Stock compensation expense	937	791	623
Proceeds from sale of loans held for resale	13,008	4,301	11,487
Originations of loans held for resale	(13,238)	(4,615)	(11,016)
Changes in assets and liabilities affecting cash flow:			
Other assets	(4,948)	(3,406)	(2,975)
Other liabilities	6,903	2,183	(1,766)
NET CASH PROVIDED BY OPERATING ACTIVITIES	<u>\$ 21,073</u>	<u>\$ 25,123</u>	<u>\$ 13,480</u>



**EVANS BANCORP, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**YEARS ENDED DECEMBER 31, 2018, 2017 AND 2016**

---

**1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Organization and General**

Evans Bancorp, Inc. (the “Company”) was organized as a New York business corporation and incorporated under the laws of the State of New York on October 28, 1988 for the purpose of becoming a bank holding company. Through August 2004, the Company was registered with the Federal Reserve Board (“FRB”) as a bank holding company under the Bank Holding Company Act of 1956, as amended. In August 2004, the Company filed for, and was approved as, a Financial Holding Company under the Bank Holding Company Act. The Company currently conducts its business through its two subsidiaries: Evans Bank, N.A. (the “Bank”), a nationally chartered bank, and its subsidiary, Evans National Holding Corp. (“ENHC”); and Evans National Financial Services, LLC (“ENFS”) and its subsidiary, The Evans Agency LLC (“TEA”). Unless the context otherwise requires, the term “Company” refers collectively to Evans Bancorp, Inc. and its subsidiaries. The Company conducts its business through its subsidiaries. It does not engage in any other substantial business.

**Regulatory Requirements**

The Company is subject to the rules, regulations, and reporting requirements of various regulatory bodies, including the FRB, the Federal Deposit Insurance Corporation (“FDIC”), the Office of the Comptroller of the Currency (“OCC”), the New York State Department of Financial Services (“NYSDFS”), and the Securities and Exchange Commission (“SEC”).

**Principles of Consolidation**

The consolidated financial statements include the accounts of the Company, the Bank, ENFS and their subsidiaries. All material inter-company accounts and transactions are eliminated in consolidation.

**Accounting Estimates**

Management has made a number of estimates and assumptions relating to the reporting of assets and liabilities and disclosure of contingent assets and liabilities in order to prepare these consolidated financial statements in conformity with U.S. generally accepted accounting principles. The estimates and assumptions that management deems to be critical involve our accounting policies relating to the determination of our allowance for loan losses and the valuation of goodwill. These estimates and assumptions are based on management’s best estimates and judgment and management evaluates them on an ongoing basis using historical experience and other factors, including the current economic environment, which management believes to be reasonable under the circumstances. We adjust our estimates and assumptions when facts and circumstances dictate. As future events cannot be determined with precision, actual results could differ significantly from our estimates. Changes in those estimates resulting from continuing changes in the economic environment will be reflected in the consolidated financial statements in periods as they occur.

**Cash and Cash Equivalents**

For purposes of reporting cash flows, cash and cash equivalents include cash and due from banks and interest-bearing deposits at banks.

**Securities**

Securities which the Bank has the positive intent and ability to hold to maturity are classified as held to maturity and are stated at cost, adjusted for discounts and premiums that are recognized in interest income over the period to the earlier of the call date or maturity using the level yield method. These securities represent debt issuances of local municipalities in the Bank’s market area for which market prices are not readily available. Management periodically evaluates the financial condition of the municipalities for any indication that the Bank does not expect to recover the entire amortized cost basis of their bonds.

Securities classified as available for sale are stated at fair value with unrealized gains and losses excluded from earnings and reported, net of deferred income taxes, in accumulated other comprehensive income or loss, a component of stockholders’ equity. Gains and losses on sales of securities are computed using the specific identification method.

## [Table of Contents](#)

Declines in the fair value of investment securities (with certain exceptions for debt securities noted below) that are deemed to be other-than-temporary are charged to earnings as a realized loss and a new cost basis for the securities is established. Declines in the fair value of debt securities below amortized cost are deemed to be other-than-temporary in circumstances where: (1) the Bank has the intent to sell a security; (2) it is more likely than not that the Bank will be required to sell the security before recovery of its amortized cost basis; or (3) the Bank does not expect to recover the entire amortized cost basis of the security. If the Bank intends to sell a security or if it is more likely than not that the Bank will be required to sell the security before recovery, an other-than-temporary impairment write-down is recognized in earnings equal to the difference between the security's amortized cost basis and its fair value. If the Bank does not intend to sell the security or it is not more likely than not that it will be required to sell the security before recovery, the other-than-temporary impairment write-down is separated into an amount representing credit loss, which is recognized in earnings, and an amount related to all other factors, which is recognized in other comprehensive income.

The Bank does not engage in securities trading activities.

### **Loans**

Loans that management has the intent and ability to hold for the foreseeable future, or until maturity or pay-off, generally are reported at their outstanding unpaid principal balances adjusted for unamortized deferred fees or costs. Interest income is accrued on the unpaid principal balance and is recognized using the interest method. Loan origination fees, net of certain direct origination costs, are deferred and recognized as an adjustment of the related loan yield using the effective yield method of accounting for amortizing loans and straight line over an estimated life for lines of credit.

Loans become past due when the payment date has been missed. If payment has not been received within 30 days, then the loan is delinquent. Delinquent loans are placed into three categories; 30-59 days past due, 60-89 days past due, or 90+ days past due. Loans 90 or more days past due are considered non-performing.

The accrual of interest on loans is discontinued at the time the loan is 90 days delinquent, unless the credit is well secured and in process of collection. If the credit is not well secured and in the process of collection, the loan is placed on non-accrual status and is subject to charge-off if collection of principal or interest is considered doubtful. A loan can also be placed on nonaccrual before it is 90 days delinquent if management determines that it is probable that the Bank will be unable to collect principal or interest due according to the contractual terms of the loan.

All interest due but not collected for loans that are placed on non-accrual status or charged off is reversed against interest income. The interest on these loans is accounted for on the cost-recovery method, until it again qualifies for an accrual basis. Any cash receipts on non-accrual loans reduce the carrying value of the loans. Loans are returned to accrual status when all principal and interest amounts contractually due are brought current, the adverse circumstances which resulted in the delinquent payment status are resolved, and payments are made in a timely manner for a period of time sufficient to reasonably assure their future dependability.

The Bank considers a loan impaired when, based on current information and events, it is probable that it will be unable to collect principal or interest due according to the contractual terms of the loan. These loans are individually assessed for any impairment. Loan impairment is measured based on the present value of expected cash flows discounted at the loan's effective interest rate or, as a practical expedient, at the loan's observable market price or the fair value of the collateral, less costs to sell, if the loan is collateral dependent. Appraised and reported values may be discounted based on management's historical knowledge, changes in market conditions from the time of valuation, estimated costs to sell, and/or management's expertise and knowledge of the client and the client's business. The Company has an appraisal policy in which appraisals are obtained upon a loan being downgraded on the Company's internal loan rating scale to special mention or substandard depending on the amount of the loan, the type of loan and the type of collateral. All impaired nonaccrual loans are either graded special mention or substandard on the internal loan rating scale. Subsequent to the downgrade, if the loan remains outstanding and impaired for at least one year more, management may require another follow-up appraisal. Between receipts of updated appraisals, if necessary, management may perform an internal valuation based on any known changing conditions in the marketplace such as sales of similar properties, a change in the condition of the collateral, or feedback from local appraisers.

## Table of Contents

The Bank monitors the credit risk in its loan portfolio by reviewing certain credit quality indicators (“CQI”). The primary CQI for its commercial mortgage and commercial and industrial (“C&I”) portfolios is the individual loan’s credit risk rating. The following list provides a description of the credit risk ratings that are used internally by the Bank when assessing the adequacy of its allowance for loan losses:

- *Acceptable or better:* Credits with a slight risk of loss. The loan is secured by collateral of sufficient value to cover the loan by an acceptable margin. The financial statements of the company demonstrate sufficient net worth and repayment ability. The company has established an acceptable credit history with the bank and typically has a proven track record of performance. Management is experienced, and has an at least average ability to manage the company. The industry has an average or less than average susceptibility to wide fluctuations in business cycles.
- *Watch:* Credits are generally acceptable but warrant greater attention than those rated acceptable or better. Temporary performance issues, if left unresolved, may result in above average risk. The borrower’s financial position is not typically strong. Earnings, while still positive, may be inconsistent. Industry issues or external events (such as possible litigation exposure) may cause concern. Although ability to repay is not an immediate concern, more regular monitoring may be necessary as a result of the short-term performance issues or sensitivities to external events that may result in a weakening condition. Any perceived weaknesses are acceptable when viewed against the overall credit and collateral risks assumed. Borrowers are likely fully leveraged when compared to others in a similar industry and their ability to raise capital may be limited.
- *Special Mention:* Credits that have potential weaknesses that warrant management’s close attention. If left uncorrected, these potential weaknesses may result in deterioration of the repayment prospects for the asset or in the institution’s credit position at some future date. Special mention assets are not adversely classified and do not expose an institution to sufficient risk to warrant adverse classification.

Borrowers in this category may be experiencing adverse operating trends (declining revenues or margins) or an ill proportioned balance sheet. Adverse economic or market conditions, such as interest rate increases or the entry of a new competitor, may also support a special mention rating. Nonfinancial reasons for rating a credit exposure as special mention include management problems, pending litigation, stale financial statements, an ineffective loan agreement or other material structural weakness, and any other significant deviation from prudent lending practices.

Potential weaknesses in commercial real estate loans may include, construction delays, changes in concept or project plan, slow leasing, rental concessions, deteriorating market conditions, impending expiry of a major lease, or other adverse events that do not currently jeopardize repayment.

- *Substandard:* Credits that are inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. Assets so classified must have a well-defined weakness, or weaknesses, that jeopardize the liquidation of the debt. They are characterized by the distinct possibility of loss if the deficiencies are not corrected.

Substandard assets have a high probability of payment default, or they have other well-defined weaknesses. They are generally characterized by current or expected unprofitable operations, inadequate debt service coverage, inadequate liquidity, or marginal capitalization. Repayment may depend on collateral or other credit risk mitigates. Although substandard assets in the aggregate will have distinct potential for loss, an individual asset’s loss potential does not have to be distinct for the asset to be rated substandard.

A well-defined weakness may manifest itself via:

- significant deterioration in financial condition of the borrower;
- impairment of primary repayment source;
- material deviation from planned absorption of rental or sales units; or
- material deterioration in market conditions.

## Table of Contents

Commercial real estate credits evidencing one or more of the following characteristics are evaluated for a possible substandard classification:

- slower than projected leasing or sales activity that threatens to result in protracted repayment or default;
- lower than projected lease rates or sales prices that jeopardize repayment capacity;
- changes in concept or plan due to unfavorable market conditions;
- construction or tax liens;
- inability to obtain necessary zoning or permits necessary to develop the project as planned;
- a diversion of needed cash from an otherwise viable property to satisfy the demands of a troubled borrower or guarantor;
- material imbalances in the construction budget;
- significant construction delays;
- expiration of a major lease or default by a major tenant;
- poorly structured or overly liberal repayment terms.

When a project has slowed or stalled and the guarantor is providing some support but the loan has not been restructured, unless the guarantor is providing support of principal payments sufficient to retire the debt under reasonable terms, a substandard classification is typically warranted. If the guarantor is keeping interest payments current and shows a documented willingness and capacity to do so in the future, and collateral values protect against loss, the loan should generally be left on accrual. This level of support; however, does not fully mitigate the well-defined weaknesses in the credit and does not preclude a substandard classification.

- *Doubtful*: Credits that have all the weaknesses inherent in one classified Substandard with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions and values, highly questionable and improbable. A doubtful asset has a high probability of total or substantial loss but because of specific pending events that may strengthen the assets, its classification as loss is deferred. Borrowers in this category are usually in default, lack adequate liquidity or capital and lack the resources necessary to remain an operating entity. Because of high probability of loss, nonaccrual accounting treatment is required for doubtful assets.

Circumstances that might warrant a doubtful classification for commercial real estate loans could include collateral values that are uncertain due to a lack of comparisons in an inactive market, impending changes such as zoning classification, environmental issues, or the pending resolution of legal issues that may affect the realization of value in a sale.

- *Loss*: Credits that are considered uncollectable and of such little value that their continuance as bankable assets is not warranted. This classification does not mean that the loan has absolutely no recovery or salvage value, but rather it is not practical or desirable to defer writing off this basically worthless asset even though partial recovery may be affected in the future. Borrowers in this category are often in bankruptcy, have formally suspended debt repayments, or have otherwise ceased normal business operations. The Company does not maintain an asset on the balance sheet if realizing its value would require long-term litigation or other lengthy recovery efforts.

The Company's consumer loans, including residential mortgages and home equities, are not individually risk rated or reviewed in the Company's loan review process. Consumers are not required to provide the Company with updated financial information as is a commercial customer. Consumer loans also carry smaller balances. Given the lack of updated information since the initial underwriting of the loan and small size of individual loans, the Company does not have credit risk ratings for consumer loans and instead uses delinquency status as the credit quality indicator for consumer loans. However, once a consumer loan is identified as impaired, it is individually evaluated for impairment.

### **Allowance for Loan Losses**

The provision for loan losses represents the amount charged against the Bank's earnings to maintain an allowance for loan losses inherent in the portfolio based on management's evaluation of the loan portfolio at the balance sheet date. Factors considered by the Bank's management in establishing the allowance include: the collectability of individual loans, current loan concentrations, charge-off history, loss emergence period, delinquent loan percentages, the fair value of the collateral, input from regulatory agencies, and general economic conditions.

On a quarterly basis, management of the Bank meets to review and determine the adequacy of the allowance for loan losses. In making this determination, the Bank's management analyzes the ultimate collectability of the loans in its portfolio by incorporating feedback provided by the Bank's internal loan staff, an independent internal loan review function and information provided by examinations performed by regulatory agencies.

## [Table of Contents](#)

The analysis of the allowance for loan losses is composed of two components: specific credit allocation and general portfolio allocation. The specific credit allocation includes a detailed review of each impaired loan and allocation is made based on this analysis. Factors may include the appraisal value of the collateral, the age of the appraisal, the type of collateral, the performance of the loan to date, the performance of the borrower's business based on financial statements, and legal judgments involving the borrower. The general portfolio allocation consists of an assigned reserve percentage based on the historical loss experience, the loss emergence period, and other qualitative factors of the loan category.

The general portfolio allocation is segmented into homogeneous pools of loans with similar characteristics. Separate pools of loans include loans pooled by loan grade and by portfolio segment. An average historical loss rate over the past seven years multiplied by the loss emergence period factor is applied against these loans.

For both the criticized and non-criticized loan pools in the general portfolio allocation, additional qualitative factors are applied. The qualitative factors applied to the general portfolio allocation reflect management's evaluation of various conditions. The conditions evaluated include the following: levels and trends in delinquencies, non-accruals, and criticized loans; trends in volume and terms of loans; effects of any changes in lending policies and credit quality underwriting standards; experience, ability, and depth of management; national and economic trends and conditions; changes in the quality of the loan review system; concentrations of credit risk; changes in collateral value; and large loan risk. The total possible qualitative allocation is determined by comparing peer bank historical charge-off rates to the Bank's historical charge-off rate. The actual qualitative allocation is determined by qualitative factor by loan type based on metrics that management believes are appropriate indicators of whether the Bank is in a low, moderate, or high risk range relative to historical experience for each qualitative factor.

### **Foreclosed Real Estate**

Foreclosed real estate is initially recorded at the lower of carrying or fair value (net of costs of disposal) at the date of foreclosure. Costs relating to development and improvement of property are capitalized, whereas costs relating to the holding of property are expensed. Assessments are periodically performed by management, and an allowance for losses is established through a charge to operations if the carrying value of a property exceeds fair value.

### **Insurance Service and Fees**

Commission revenue from selling commercial and personal property and casualty insurance on behalf of the insurance carriers is recognized at the time of the sale of the policy or when a policy renews. Commission revenue from selling benefit plans to commercial customers on behalf of the insurance carriers is recognized each month when the customer continues with the benefit plan. The Company also receives contingent commissions from insurance companies which are based on the overall profitability of their relationship based primarily on the loss experience of the insurance placed by the Company. Contingent commissions from insurance companies are accrued throughout the year based on recent historical results. As loss events occur and overall performance becomes known, accrual adjustments are recorded until the cash is ultimately received. Financial services commissions and insurance claims services revenue are recognized when the services are rendered. Information on insurance service and fee revenue is included in Note 14 to these Consolidated Financial Statements, "Revenue Recognition of Non-interest Income."

### **Goodwill and Other Intangible Assets**

The Company records the excess of the cost of acquired entities over the fair value of identifiable tangible and intangible assets acquired, less liabilities assumed, as goodwill. The Company amortizes acquired intangible assets with definite useful economic lives over their useful economic lives utilizing the straight-line method. On a periodic basis, management assesses whether events or changes in circumstances indicate that the carrying amounts of the intangible assets may be impaired. The Company does not amortize goodwill and any acquired intangible asset with an indefinite useful economic life, but reviews them for impairment at a reporting unit level on an annual basis, or when events or changes in circumstances indicate that the carrying amounts may be impaired. A reporting unit is defined as any distinct, separately identifiable component of one of our operating segments for which complete, discrete financial information is available and reviewed regularly by the segment's management.

The impairment test compares the fair value of the reporting unit with its carrying amount, including goodwill. The fair value of the reporting units is measured utilizing the average of a discounted cash flow model and a market value based on a multiple to earnings before interest, taxes, depreciation, and amortization ("EBITDA") for similar companies. When modeling future cash flows, management considered historical information, the operating budget, and strategic goals in projecting net income and cash flows for the next five years.

### **Bank-Owned Life Insurance**

The Bank has purchased insurance on the lives of Company directors and certain members of the Company's management. The policies accumulate asset values to meet future liabilities, including the payment of employee benefits, such as retirement benefits. Increases in the cash surrender value are recorded as other income in the Company's Consolidated Statements of Income.

### **Properties and Equipment**

Properties and equipment are stated at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, which range from 3 to 39 years. Impairment losses on properties and equipment are realized if the carrying amount is not recoverable from its undiscounted cash flows and exceeds its fair value.

### **Income Taxes**

Deferred tax assets and liabilities are recognized for the future tax effects attributable to differences between the financial statement value of existing assets and liabilities and their respective tax bases and carryforwards. Deferred tax assets and liabilities are reflected at currently enacted income tax rates applicable to the periods in which the deferred tax assets or liabilities are expected to be realized or settled. As changes in tax laws or rates are enacted, deferred tax assets and liabilities are adjusted through income tax expense.

The Bank has invested in partnerships that incur expenses related to the rehabilitation of a certified historic structure located in New York State. At the time the historic structure is placed in service, the Bank is eligible for a federal and New York State tax credit. At the same time, the Bank evaluates its investment, which is valued at the present value of the expected cash flows from its partnership interest. If the investment is determined to be impaired, the Bank will record that impairment loss on its income statement in non-interest income. The federal tax credit impact is included in the Company's estimated effective tax rate calculation and recorded in income tax expense. For New York State, any new credit earned from rehabilitated historic properties placed in service on or after January 1, 2015 not used in the current tax year will be treated as a refund or overpayment of tax to be credited to the next year's tax. Since the realization of the tax credit does not depend on the Bank's generation of future taxable income or the Bank's ongoing tax status or tax position, the refund is not considered an element of income tax accounting. In such cases, the Bank would not record the credit as a reduction of income tax expense; rather, the Bank includes the refundable New York State tax credit in non-interest income with a corresponding receivable recorded in other assets.

### **Earnings Per Share**

Earnings per common share is determined by dividing net income by the weighted average number of shares outstanding during the period. Diluted earnings per common share is based on increasing the weighted-average number of shares of common stock by the number of shares of common stock that would be issued assuming the exercise of stock options. Such adjustments to weighted-average number of shares of common stock outstanding are made only when such adjustments are expected to dilute earnings per common share. There were 70,369, 118,861, and 122,434 potentially dilutive shares of common stock included in calculating diluted earnings per share for the years ended December 31, 2019, 2018, and 2017, respectively. Potential common shares that would have the effect of increasing diluted earnings per share are considered to be anti-dilutive and are not included in calculating diluted earnings per share. There were 43,385, 27,600 and zero anti-dilutive shares at December 31, 2019, 2018 and 2017, respectively.

### **Treasury Stock**

Repurchases of shares of Evans Bancorp, Inc. stock are recorded at cost as a reduction of shareholders' equity. Reissuances of shares of treasury stock are recorded at market value.

### **Comprehensive Income**

Comprehensive income includes both net income and other comprehensive income, including the change in unrealized gains and losses on securities available for sale, and the change in the liability related to pension costs, net of tax.

### **Employee Benefits**

The Bank maintains a non-contributory, qualified, defined benefit pension plan (the "Pension Plan") that covered substantially all employees before it was frozen on January 31, 2008. All benefits eligible participants had accrued in the Pension Plan until the freeze date have been retained. Employees have not accrued additional benefits in the Pension Plan from that date. The actuarially determined pension benefit in the form of a life annuity is based on the employee's combined years of service, age and compensation. The Bank's policy is to fund the minimum amount required by government regulations. Employees are eligible to receive these benefits at normal retirement age.

## [Table of Contents](#)

The Bank maintains a defined contribution 401(k) plan and accrues contributions due under this plan as earned by employees. In addition, the Bank maintains a non-qualified Supplemental Executive Retirement Plan for certain members of senior management, a non-qualified Deferred Compensation Plan for directors and certain members of management, and a non-qualified Executive Incentive Retirement Plan for certain members of management, as described more fully in Note 11 to these Consolidated Financial Statements, “Employee Benefits and Deferred Compensation Plans.”

### **Stock-based Compensation**

Stock-based compensation expense is recognized over the vesting period of the stock-based grant based on the estimated grant date value of the stock-based compensation that is expected to vest. The Company accounts for forfeitures of stock awards when they occur. When stock awards are granted, the Company assumes that the service condition will be achieved when determining the initial amount of compensation cost recognized. Information on the determination of the estimated value of stock-based awards used to calculate stock-based compensation expense is included in Note 12 to these Consolidated Financial Statements, “Stock-Based Compensation.”

### **Loss Contingencies**

Loss contingencies, including claims and legal actions arising in the ordinary course of business, are recorded as liabilities when the likelihood of loss is probable and an amount or range of loss can be reasonably estimated.

### **Financial Instruments with Off-Balance Sheet Risk**

In the ordinary course of business, the Bank has entered into off-balance sheet financial arrangements consisting of commitments to extend credit and standby letters of credit. The Bank provides guarantees in the form of standby letters of credit, which represent an irrevocable obligation to make payments to a third party if the borrower defaults on its obligation under a borrowing or other contractual arrangement with the third party. The Bank could potentially be required to make payments to the extent of the amount guaranteed by the standby letters of credit based on the terms of the agreement. The maximum potential amount of future payments under standby letters of credit was \$4.3 million and \$3.4 million as of December 31, 2019 and 2018, respectively. There were no liabilities recorded on the Consolidated Balance Sheets related to standby letters of credit as of December 31, 2019 and 2018, respectively, reflecting management’s assessment of the value of the guarantee given the lack of historical activity and the likelihood of current customers to draw on the letters of credit. The Bank has not incurred any losses on its commitments during the past three years and has not recorded a reserve for its commitments.

### **Advertising costs**

Advertising costs are expensed as incurred.



**RECENT ACCOUNTING PRONOUNCEMENTS AND DEVELOPMENTS**

The FASB establishes changes to U.S. GAAP in the form of accounting standards updates (“ASUs”) to the FASB Accounting Standards Codification. The Company considers the applicability and impact of all ASUs when they are issued by FASB. ASUs listed below were adopted by the Company during its current fiscal year. ASUs not listed below did not have a material impact on the Company’s consolidated financial position, results of operations, cash flows or disclosures.

On January 1, 2019, the Company adopted ASU 2016-02 Leases and all subsequent amendments (collectively, “ASU 2016-02”). The objective of this ASU is to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements to meet that objective. The main difference between previous GAAP and this ASU is the recognition of lease assets and lease liabilities by lessees for those leases classified as operating leases under previous GAAP. Under this new guidance, a lessee should recognize in the statement of financial position a liability to make lease payments and a right-of-use (“ROU”) asset representing its right to use the underlying asset for the lease term. The recognition, measurement, and presentation of expenses and cash flows arising from a lease by a lessee have not significantly changed from previous GAAP.

ASU 2016-02 required a modified retrospective transition approach, applying the new standard to all leases existing at the date of initial application. The Company elected to use the effective date, January 1, 2019, as our date of initial application. Consequently, financial information will not be updated and the disclosures required under the new standard will not be provided for dates and periods before January 1, 2019. In addition, the Company elected the package of practical expedients permitted under the transition guidance within the new standard, which among other things, allowed us to carry forward the historical lease classification.

Under ASU 2016-02, leases are classified as finance or operating, with the classification affecting the pattern and classification of expense recognition in the income statement. The Company’s leases, consisting of property leases for certain of our bank branches and insurance agency offices, are classified as operating leases. Operating lease ROU assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. As these leases do not provide an implicit rate, we use our incremental borrowing rate in determining the present value of lease payments. Our lease terms include options to extend or terminate the lease when it is reasonably certain that we will exercise that option. Leases with an initial term of 12 months or less are not recorded on the balance sheet. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

ASU 2016-02 had an impact on the Company’s consolidated balance sheets, but did not have an impact on the consolidated statements of income or the consolidated statements of cash flows. The most significant impacts upon adoption on January 1, 2019 were the recognition of \$4.3 million of ROU assets and \$4.7 million of lease liabilities, including \$0.4 million of liabilities that were reported in other liabilities in the Company’s December 31, 2018 consolidated balance sheet. ROU assets and lease liability were \$3.7 million and \$4.2 million, respectively, at December 31, 2019. Operating lease expenses during 2019 were \$0.7 million, and are included in other non-interest expense on the consolidated statement of income. Cash paid for amounts included in the measurement of lease liabilities during 2019 were \$0.7 million and are included in cash flows from operating activities on the consolidated statement of cash flows. The weighted average discount rate related to the Company’s leases was 3.5% as of December 31, 2019. The weighted average remaining lease term related to the Company’s leases was 8.5 years as of December 31, 2019. Future minimum lease payments under non-cancellable leases as of December 31, 2019 were as follows:

	Year Ending December 31,
2020 \$	748
2021	682
2022	694
2023	589
2024	452
Thereafter	1,640
Total future minimum lease payments	4,805
Less imputed interest	651
Total\$	4,154

The future minimum lease payments under non-cancellable leases prior to the adoption of ASU 2016-02 were \$736 thousand in 2020; \$682 thousand in 2021; \$694 thousand in 2022; \$580 thousand in 2023, and \$2.1 million thereafter.



## [Table of Contents](#)

Accounting standards that have been recently issued but not yet required to be adopted as of December 31, 2019, to the extent management believes their adoption will have a material impact on the Company's financial condition, results of operations, cash flows or disclosures, are discussed below.

**ASU 2016-13, *Financial Instruments – Credit Losses: Measurement of Credit Losses on Financial Instruments*** – Current GAAP requires an “incurred loss” methodology for recognizing credit losses that delays recognition until it is probable a loss has been incurred. Both financial institutions and users of their financial statements expressed concern that current GAAP restricts the ability to record credit losses that are expected, but do not yet meet the “probable” threshold. The main objective of this ASU (commonly known as the Current Expected Credit Loss Impairment Model, or CECL, in the industry) is to provide financial statement users with more decision-useful information about the expected credit losses on financial instruments and other commitments to extend credit held by a reporting entity at each reporting date. To achieve this objective, the amendments in CECL replace the incurred loss impairment methodology in current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The Company is developing its approach for determining expected credit losses under the new guidance, including the licensing of new software and the development of processes to track loan performance. The total impact of CECL to the Company's financial statements is unknown but may be material. On October 16, 2019, the FASB affirmed its decision to amend the effective date for the amendments in CECL for smaller reporting companies to fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. Early adoption is allowed for fiscal years beginning after December 15, 2018. The Company intends to early adopt CECL effective January 1, 2022.

**ASU 2017-4, *Simplifying the Test for Goodwill Impairment*** – The amendments in this ASU eliminate step 2 from the goodwill impairment test. The Company adopted the amended guidance effective January 1, 2020 using a prospective transition method and will incorporate the guidance as necessary when circumstances arise for the guidance to be utilized. The Company does not expect the guidance will have a material impact on its consolidated financial statements, unless at some point in the future one of its reporting units were to fail step 1 of the goodwill impairment test.

**ASU 2018-13, *Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement*** – The amendments in this ASU modify the disclosure requirements on fair value measurements. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. The Company adopted the amended guidance effective January 1, 2020. Adoption of this ASU will impact the Company's disclosures but will not impact the Company's financial condition, results of operations or cash flows.

**ASU 2018-14, *Disclosure Framework – Changes to the Disclosure Requirements for Defined Benefit Plans*** – The amendments in this ASU remove disclosures that no longer are considered cost beneficial, clarify the specific requirements of disclosures, and add disclosure requirements identified as relevant. The amendments in this ASU are effective for fiscal years ending after December 15, 2020. Adoption of this ASU will impact the Company's disclosures but will not impact the Company's financial condition, results of operations or cash flows.

**AU 2019-12, *Simplifying the Accounting for Income Taxes*** – The amendments in this ASU simplify the accounting for income taxes by removing the following exceptions: 1. Exception to the incremental approach for intraperiod tax allocation when there is a loss from continuing operations and income or a gain from other items (for example, discontinued operations or other comprehensive income) 2. Exception to the requirement to recognize a deferred tax liability for equity method investments when a foreign subsidiary becomes an equity method investment 3. Exception to the ability not to recognize a deferred tax liability for a foreign subsidiary when a foreign equity method investment becomes a subsidiary 4. Exception to the general methodology for calculating income taxes in an interim period when a year-to-date loss exceeds the anticipated loss for the year. The amendments also simplify the accounting for income taxes by doing the following: 1. Requiring that an entity recognize a franchise tax (or similar tax) that is partially based on income as an income based tax and account for any incremental amount incurred as a non-income-based tax. 2. Requiring that an entity evaluate when a step up in the tax basis of goodwill should be considered part of the business combination in which the book goodwill was originally recognized and when it should be considered a separate transaction. 3. Specifying that an entity is not required to allocate the consolidated amount of current and deferred tax expense to a legal entity that is not subject to tax in its separate financial statements. However, an entity may elect to do so (on an entity-by-entity basis) for a legal entity that is both not subject to tax and disregarded by the taxing authority. 4. Requiring that an entity reflect the effect of an enacted change in tax laws or rates in the annual effective tax rate computation in the interim period that includes the enactment date. 5. Making minor Codification improvements for income taxes related to employee stock ownership plans and investments in qualified affordable housing projects accounted for using the equity method.

The amendments in this ASU related to separate financial statements of legal entities that are not subject to tax should be applied on a retrospective basis for all periods presented. The amendments related to changes in ownership of foreign equity method investments or foreign subsidiaries should be applied on a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year of adoption. The amendments related to franchise taxes that are partially based on income should be applied on either a retrospective basis for all periods presented or a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year of adoption. All other amendments should be applied on a prospective basis. Early adoption of the amendments in an interim period would require recognition of any adjustments as of the beginning of the annual period that includes that interim period.

The amendments in this ASU are effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020. Early adoption is permitted. The Company is evaluating the impact that the guidance will have on its consolidated financial statements.

**2. SECURITIES**

The amortized cost of securities and their approximate fair value at December 31 were as follows:

	<b>2019</b>			
	(in thousands)			
	<u>Amortized Cost</u>	<u>Unrealized</u>		<u>Fair Value</u>
		<u>Gains</u>	<u>Losses</u>	
<b>Available for Sale:</b>				
Debt securities:				
U.S. government agencies	\$ 27,951	\$ 225	\$ (21)	\$ 28,155
States and political subdivisions	3,289	69	(7)	3,351
Total debt securities	<u>\$ 31,240</u>	<u>\$ 294</u>	<u>\$ (28)</u>	<u>\$ 31,506</u>
Mortgage-backed securities:				
FNMA	\$ 34,395	\$ 330	\$ (53)	\$ 34,672
FHLMC	15,390	137	(13)	15,514
GNMA	3,421	16	(24)	3,413
SBA	13,752	90	(70)	13,772
CMO	29,019	190	(164)	29,045
Total mortgage-backed securities	<u>\$ 95,977</u>	<u>\$ 763</u>	<u>\$ (324)</u>	<u>\$ 96,416</u>
Total securities designated as available for sale	<u>\$ 127,217</u>	<u>\$ 1,057</u>	<u>\$ (352)</u>	<u>\$ 127,922</u>
<b>Held to Maturity:</b>				
Debt securities				
States and political subdivisions	\$ 2,386	\$ 24	\$ (18)	\$ 2,392
Total securities designated as held to maturity	<u>\$ 2,386</u>	<u>\$ 24</u>	<u>\$ (18)</u>	<u>\$ 2,392</u>
<b>2018</b>				
(in thousands)				
	<u>Amortized Cost</u>	<u>Unrealized</u>		<u>Fair Value</u>
		<u>Gains</u>	<u>Losses</u>	
<b>Available for Sale:</b>				
Debt securities:				
U.S. government agencies	\$ 34,597	\$ 2	\$ (671)	\$ 33,928
States and political subdivisions	22,168	69	(64)	22,173
Total debt securities	<u>\$ 56,765</u>	<u>\$ 71</u>	<u>\$ (735)</u>	<u>\$ 56,101</u>
Mortgage-backed securities:				
FNMA	\$ 27,747	\$ 21	\$ (729)	\$ 27,039
FHLMC	14,645	11	(431)	14,225
GNMA	1,660	6	(36)	1,630
SBA	9,432	-	(299)	9,133
CMO	25,025	6	(1,055)	23,976
Total mortgage-backed securities	<u>\$ 78,509</u>	<u>\$ 44</u>	<u>\$ (2,550)</u>	<u>\$ 76,003</u>
Total securities designated as available for sale	<u>\$ 135,274</u>	<u>\$ 115</u>	<u>\$ (3,285)</u>	<u>\$ 132,104</u>
<b>Held to Maturity:</b>				
Debt securities				
States and political subdivisions	\$ 1,685	\$ 11	\$ (22)	\$ 1,674
Total securities designated as held to maturity	<u>\$ 1,685</u>	<u>\$ 11</u>	<u>\$ (22)</u>	<u>\$ 1,674</u>

[Table of Contents](#)

Available for sale securities with a total fair value of \$102 million and \$94 million were pledged as collateral to secure public deposits and for other purposes required or permitted by law at December 31, 2019 and 2018, respectively.

The scheduled maturity of debt and mortgage-backed securities at December 31, 2019 and 2018 is summarized below. All maturity amounts are contractual maturities. Actual maturities may differ from contractual maturities because certain issuers have the right to call or prepay obligations with or without call premiums.

	2019		2018	
	Amortized cost	Estimated fair value	Amortized cost	Estimated fair value
	(in thousands)		(in thousands)	
<b>Debt securities available for sale:</b>				
Due in one year or less	\$ 6,005	\$ 6,014	\$ 5,074	\$ 5,075
Due after one year through five years	6,481	6,626	22,637	22,448
Due after five years through ten years	18,754	18,866	28,870	28,391
Due after ten years	-	-	184	187
	<u>31,240</u>	<u>31,506</u>	<u>56,765</u>	<u>56,101</u>
Mortgage-backed securities				
available for sale	<u>95,977</u>	<u>96,416</u>	<u>78,509</u>	<u>76,003</u>
Total	<u>\$ 127,217</u>	<u>\$ 127,922</u>	<u>\$ 135,274</u>	<u>\$ 132,104</u>

**Debt securities held to maturity:**

Due in one year or less	\$ 1,139	\$ 1,140	\$ 693	\$ 693
Due after one year through five years	712	732	811	811
Due after five years through ten years	54	54	93	89
Due after ten years	481	466	88	81
Total	<u>\$ 2,386</u>	<u>\$ 2,392</u>	<u>\$ 1,685</u>	<u>\$ 1,674</u>

Contractual maturities of the Company's mortgage-backed securities generally exceed ten years; however, the effective lives may be significantly shorter due to prepayments of the underlying loans and due to the nature of these securities.

Gross realized gains and losses on sales of investment securities were both less than \$0.1 million in 2019. Gross realized losses on sales of investment securities were \$0.1 million in 2018. There were no gross realized gains from sales of securities in 2018. There were no gross realized gains or losses from sales of investment securities in 2017.

Information regarding unrealized losses within the Company's available for sale securities at December 31, 2019 and 2018 is summarized below. The securities are primarily U.S. government-guaranteed agency securities or municipal securities. All unrealized losses are considered temporary and related to market interest rate fluctuations.

2019

	Less than 12 months		12 months or longer		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses

(in thousands)

**Available for Sale:**

Debt securities:

U.S. government agencies	\$ 1,976	\$ (18)	\$ 3,997	\$ (3)	\$ 5,973	\$ (21)
States and political subdivisions	-	-	181	(7)	181	(7)
Total debt securities	\$ 1,976	\$ (18)	\$ 4,178	\$ (10)	\$ 6,154	\$ (28)

Mortgage-backed securities:

FNMA	\$ 5,355	\$ (38)	\$ 3,630	\$ (15)	\$ 8,985	\$ (53)
FHLMC	-	-	1,242	(13)	1,242	(13)
GNMA	2,091	(22)	770	(2)	2,861	(24)
SBA	5,171	(70)	-	-	5,171	(70)
CMO	5,706	(36)	8,911	(128)	14,617	(164)
Total mortgage-backed securities	\$ 18,323	\$ (166)	\$ 14,553	\$ (158)	\$ 32,876	\$ (324)

**Held to Maturity:**

Debt securities:

States and political subdivisions	\$ 227	\$ (1)	\$ 2,165	\$ (17)	\$ 2,392	\$ (18)
-----------------------------------	--------	--------	----------	---------	----------	---------

Total temporarily impaired securities

	\$ 20,526	\$ (185)	\$ 20,896	\$ (185)	\$ 41,422	\$ (370)
--	-----------	----------	-----------	----------	-----------	----------

2018

	Less than 12 months		12 months or longer		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses

(in thousands)

**Available for Sale:**

Debt securities:

U.S. government agencies	\$ 9,931	\$ (49)	\$ 21,144	\$ (622)	\$ 31,075	\$ (671)
States and political subdivisions	5,218	(15)	6,893	(49)	12,111	(64)
Total debt securities	\$ 15,149	\$ (64)	\$ 28,037	\$ (671)	\$ 43,186	\$ (735)

Mortgage-backed securities:

FNMA	\$ 2,637	\$ (21)	\$ 23,667	\$ (708)	\$ 26,304	\$ (729)
FHLMC	1,895	(25)	11,899	(406)	13,794	(431)
GNMA	-	-	926	(36)	926	(36)
SBA	-	-	9,133	(299)	9,133	(299)
CMO	-	-	23,127	(1,055)	23,127	(1,055)
Total mortgage-backed securities	\$ 4,532	\$ (46)	\$ 68,752	\$ (2,504)	\$ 73,284	\$ (2,550)

**Held to Maturity:**

Debt securities:

States and political subdivisions	\$ 156	\$ -	\$ 722	\$ (22)	\$ 878	\$ (22)
-----------------------------------	--------	------	--------	---------	--------	---------

Total temporarily impaired securities

	\$ 19,837	\$ (110)	\$ 97,511	\$ (3,197)	\$ 117,348	\$ (3,307)
--	-----------	----------	-----------	------------	------------	------------

## [Table of Contents](#)

Management has assessed the securities available for sale in an unrealized loss position at December 31, 2019 and 2018 and determined the decline in fair value below amortized cost to be temporary. In making this determination, management considered the period of time the securities were in a loss position, the percentage decline in comparison to the securities' amortized cost, and the financial condition of the issuer (primarily government or government-sponsored enterprises). In addition, management does not intend to sell these securities and it is not more likely than not that the Company will be required to sell these securities before recovery of their amortized cost. Management believes the decline in fair value is primarily related to market interest rate fluctuations and not to the credit deterioration of the individual issuers. The Company holds no securities backed by sub-prime or Alt-A residential mortgages or commercial mortgages and also does not hold any trust-preferred securities.

The Company did not record any other-than-temporary impairment charges in 2019, 2018, or 2017. The credit worthiness of the Company's portfolio is largely reliant on the ability of U.S. government agencies such as the Federal Home Loan Bank ("FHLB"), Federal National Mortgage Association ("FNMA"), and the Federal Home Loan Mortgage Corporation ("FHLMC"), and municipalities throughout New York State to meet their obligations. In addition, dysfunctional markets could materially alter the liquidity, interest rate, and pricing risk of the portfolio. The stable past performance is not a guarantee for similar performance going forward.

### 3. LOANS AND THE ALLOWANCE FOR LOAN LOSSES

Major categories of loans at December 31, 2019 and 2018 are summarized as follows:

	December 31, 2019	December 31, 2018
Mortgage loans on real estate:	(in thousands)	
Residential mortgages	\$ 158,572	\$ 158,404
Commercial and multi-family	645,036	592,507
Construction-Residential	1,067	113
Construction-Commercial	97,848	105,196
Home equities	69,351	70,546
Total real estate loans	971,874	926,766
Commercial and industrial loans	251,197	226,057
Consumer and other loans	1,926	1,520
Net deferred loan origination costs	1,534	1,587
Total gross loans	1,226,531	1,155,930
Allowance for loan losses	(15,175)	(14,784)
Loans, net	\$ 1,211,356	\$ 1,141,146

*Residential Mortgages:* The Company originates adjustable-rate and fixed-rate, one-to-four-family residential real estate loans for the construction, purchase, or refinancing of a mortgage. These loans are collateralized by owner-occupied properties located in the Company's market area and are amortized over a period of 10 to 30 years. Loans on one-to-four-family residential real estate are mostly originated in amounts of no more than 80% of the property's appraised value or have private mortgage insurance. Mortgage title insurance and hazard insurance are normally required. Construction loans have a unique risk, because they are secured by an incomplete dwelling.

The Bank, in its normal course of business, sells certain residential mortgages which it originates to FNMA. The Company maintains servicing rights on the loans that it sells to FNMA and earns a fee thereon. The Bank determines with each origination of residential real estate loans which desired maturities, within the context of overall maturities in the loan portfolio, provide the appropriate mix to optimize the Bank's ability to absorb the corresponding interest rate risk within the Company's tolerance ranges. This practice allows the Company to manage interest rate risk, liquidity risk, and credit risk. At December 31, 2019 and 2018, the Company had approximately \$76 million and \$73 million, respectively, in unpaid principal balances of loans that it services for FNMA. For the years ended December 31, 2019 and 2018, the Company sold \$13 million and \$4 million, respectively, in loans to FNMA and realized gains on those sales of \$0.2 million and less than \$0.1 million, respectively. Gains or losses recognized upon the sale of loans are determined on a specific identification basis. The Company had a related asset carried at fair value of approximately \$0.6 million for the servicing portfolio rights at December 31, 2019 and 2018. There were \$0.7 million and \$0.4 million in loans held for sale at December 31, 2019 and 2018, respectively. Loans held for sale are typically in the portfolio for less than a month. As a result, the carrying value approximates fair value. The Company has never been contacted by FNMA to repurchase any loans due to improper documentation or fraud.

## [Table of Contents](#)

Due to the lack of significant foreclosure activity and absence of any ongoing litigation at December 31, 2019 and 2018, the Company had no accrual for loss contingencies or potential costs associated with foreclosure-related activities at those dates.

*Commercial and Multi-Family Mortgages and Commercial Construction Loans:* Commercial real estate loans are made to finance the purchases of real estate with completed structures or in the midst of being constructed. These commercial real estate loans are secured by first liens on the real estate, which may include apartments, hotels, retail stores or plazas, healthcare facilities, and other non-owner-occupied facilities. These loans are generally less risky than commercial and industrial loans since they are secured by real estate and buildings. The Company offers commercial mortgage loans with up to an 80% LTV ratio for up to 20 years on a variable and fixed rate basis. Many of these mortgage loans either mature or are subject to a rate call after three to five years. The Company's underwriting analysis includes credit verification, independent appraisals, a review of the borrower's financial condition, and the underlying cash flows. Construction loans have a unique risk, because they are secured by an incomplete dwelling.

As of December 31, 2019, there were \$407 million in residential and commercial mortgage loans pledged to FHLBNY to serve as collateral for potential borrowings.

*Home Equities:* The Company originates home equity lines of credit and second mortgage loans (loans secured by a second lien position on one-to-four-family residential real estate). These loans carry a higher risk than first mortgage residential loans because they are in a second position with respect to collateral. Risk is reduced through underwriting criteria, which include credit verification, appraisals, a review of the borrower's financial condition, and personal cash flows. A security interest, with title insurance when necessary, is taken in the underlying real estate.

*Commercial and Industrial Loans:* These loans generally include term loans and lines of credit. Such loans are made available to businesses for working capital (including inventory and receivables), business expansion (including acquisition of real estate, expansion, and improvements) and equipment purchases. As a general practice, a collateral lien is placed on equipment or other assets owned by the borrower. These loans generally carry a higher risk than commercial real estate loans based on the nature of the underlying collateral, which can be business assets such as equipment and accounts receivable. To reduce the risk, management also attempts to secure real estate as collateral and obtain personal guarantees of the borrowers. To further reduce risk and enhance liquidity, these loans generally carry variable rates of interest, re-pricing in three- to five-year periods, and have a maturity of five years or less. Lines of credit generally carry floating rates of interest (e.g. prime plus a margin).

*Consumer Loans:* The Company funds a variety of consumer loans, including direct automobile loans, recreational vehicle loans, boat loans, home improvement loans, and personal loans (collateralized and uncollateralized). Most of these loans carry a fixed rate of interest with principal repayment terms typically ranging up to five years, based upon the nature of the collateral and the size of the loan. The majority of consumer loans are underwritten on a secured basis using the underlying collateral being financed. A minimal amount of loans are unsecured, which carry a higher risk of loss. These loans included overdrawn deposit accounts classified as loans of \$0.3 million at December 31, 2019 and less than \$0.1 million at December 31, 2018.

The Company maintains an allowance for loan losses in order to capture the probable losses inherent in its loan portfolio. There is a risk that the Company may experience significant loan losses in 2020 and beyond which could exceed the allowance for loan losses. If the Company's assumptions and judgments prove to be incorrect or bank regulators require the Company to increase its provision for loan losses or recognize further loan charge-offs, the Company may have to increase its allowance for loan losses or loan charge-offs which could have a material adverse effect on the Company's operating results and financial condition. There can be no assurance that the Company's allowance for loan losses will be adequate to protect the Company against loan losses that it may incur.

Changes in the allowance for loan losses for the years ended December 31, 2019, 2018 and 2017 follow:

	<u>2019</u>	<u>2018</u>	<u>2017</u>
	(in thousands)		
Balance, beginning of year	\$ 14,784	\$ 14,019	\$ 13,916
Provisions for loan losses	75	1,402	738
Recoveries	841	54	350
Charge-offs	(525)	(691)	(985)
Balance, end of year	<u>\$ 15,175</u>	<u>\$ 14,784</u>	<u>\$ 14,019</u>

[Table of Contents](#)

The following tables summarize the allowance for loan losses, as of December 31, 2019 and 2018, respectively, by portfolio segment. The segments presented are at the level management uses to assess and monitor the risk and performance of the portfolio.

**2019**

(in thousands)	<b>Commercial and Industrial</b>	<b>Commercial Real Estate Mortgages*</b>	<b>Consumer and Other</b>	<b>Residential Mortgages*</b>	<b>Home Equities</b>	<b>Total</b>
<b>Allowance for loan losses:</b>						
Beginning balance	\$ 4,368	\$ 8,844	\$ 106	\$ 1,121	\$ 345	\$ 14,784
Charge-offs	(301)	(33)	(156)	(13)	(22)	(525)
Recoveries	797	2	42	-	-	841
Provision (Credit)	(317)	192	163	(37)	74	75
Ending balance	<u>\$ 4,547</u>	<u>\$ 9,005</u>	<u>\$ 155</u>	<u>\$ 1,071</u>	<u>\$ 397</u>	<u>\$ 15,175</u>

**Allowance for loan**

**losses:**

Ending balance:

Individually evaluated						
for impairment	\$ 442	\$ 9	\$ 21	\$ 5	\$ -	\$ 477
Collectively evaluated						
for impairment	4,105	8,996	134	1,066	397	14,698
Total	<u>\$ 4,547</u>	<u>\$ 9,005</u>	<u>\$ 155</u>	<u>\$ 1,071</u>	<u>\$ 397</u>	<u>\$ 15,175</u>

**Loans:**

Ending balance:

Individually evaluated						
for impairment	\$ 6,558	\$ 7,791	\$ 21	\$ 2,804	\$ 1,453	\$ 18,627
Collectively evaluated						
for impairment	244,639	735,093	1,905	156,835	67,898	1,206,370
Total	<u>\$ 251,197</u>	<u>\$ 742,884</u>	<u>\$ 1,926</u>	<u>\$ 159,639</u>	<u>\$ 69,351</u>	<u>\$ 1,224,997</u>

**Note:** Loan balances do not include \$1.5 million in net deferred loan origination costs as of December 31, 2019.

\* includes construction loans



2018

(in thousands)	Commercial and Industrial	Commercial Real Estate Mortgages*	Consumer and Other	Residential Mortgages*	Home Equities	Total
<b>Allowance for loan losses:</b>						
Beginning balance	\$ 5,204	\$ 7,409	\$ 109	\$ 950	\$ 347	\$ 14,019
Charge-offs	(203)	(262)	(113)	(86)	(27)	(691)
Recoveries	41	-	12	-	1	54
Provision (Credit)	(674)	1,697	98	257	24	1,402
Ending balance	<u>\$ 4,368</u>	<u>\$ 8,844</u>	<u>\$ 106</u>	<u>\$ 1,121</u>	<u>\$ 345</u>	<u>\$ 14,784</u>

**Allowance for loan**

**losses:**

Ending balance:

Individually evaluated						
for impairment	\$ 249	\$ 716	\$ 23	\$ 85	\$ -	\$ 1,073
Collectively evaluated						
for impairment	4,119	8,128	83	1,036	345	13,711
Total	<u>\$ 4,368</u>	<u>\$ 8,844</u>	<u>\$ 106</u>	<u>\$ 1,121</u>	<u>\$ 345</u>	<u>\$ 14,784</u>

**Loans:**

Ending balance:

Individually evaluated						
for impairment	\$ 3,701	\$ 15,290	\$ 23	\$ 2,814	\$ 1,887	\$ 23,715
Collectively evaluated						
for impairment	222,356	682,413	1,497	155,703	68,659	1,130,628
Total	<u>\$ 226,057</u>	<u>\$ 697,703</u>	<u>\$ 1,520</u>	<u>\$ 158,517</u>	<u>\$ 70,546</u>	<u>\$ 1,154,343</u>

**Note:** Loan balances do not include \$1.6 million in net deferred loan origination costs as of December 31, 2018.

\* includes construction loans

[Table of Contents](#)

A description of the Company's accounting policies and the methodology used to estimate the allowance for loan losses, including a description of the factors considered in determining the allowance for loan losses, such as historical losses and existing economic conditions, is included in Note 1 to these Consolidated Financial Statements.

The following table provides data, at the class level, of credit quality indicators of certain loans, as of December 31, 2019 and 2018, respectively:

<b>2019</b>				
(in thousands)				
<b>Corporate Credit Exposure – By Credit Rating</b>	<b>Commercial Real Estate Construction</b>	<b>Commercial and Multi- Family Mortgages</b>	<b>Total Commercial Real Estate</b>	<b>Commercial and Industrial</b>
Acceptable or better	\$ 73,646	\$ 451,297	\$ 524,943	\$ 165,255
Watch	13,380	171,277	184,657	68,665
Special Mention	8,359	15,725	24,084	7,631
Substandard	2,463	6,737	9,200	9,646
Doubtful/Loss	-	-	-	-
Total	<u>\$ 97,848</u>	<u>\$ 645,036</u>	<u>\$ 742,884</u>	<u>\$ 251,197</u>

<b>2018</b>				
(in thousands)				
<b>Corporate Credit Exposure – By Credit Rating</b>	<b>Commercial Real Estate Construction</b>	<b>Commercial and Multi- Family Mortgages</b>	<b>Total Commercial Real Estate</b>	<b>Commercial and Industrial</b>
Acceptable or better	\$ 65,932	\$ 466,294	\$ 532,226	\$ 155,687
Watch	30,628	109,409	140,037	57,366
Special Mention	-	10,583	10,583	4,105
Substandard	8,636	6,221	14,857	8,870
Doubtful/Loss	-	-	-	29
Total	<u>\$ 105,196</u>	<u>\$ 592,507</u>	<u>\$ 697,703</u>	<u>\$ 226,057</u>

The Company's risk ratings are monitored by the individual relationship managers and changed as deemed appropriate after receiving updated financial information from the borrowers or deterioration or improvement in the performance of a loan is evident in the customer's payment history. Each commercial relationship is individually assigned a risk rating. The Company also maintains a loan review process that monitors the management of the Company's commercial loan portfolio by the relationship managers. The Company's loan review function reviews at least 40% of the commercial loan portfolio annually.

The Company's consumer loans, including residential mortgages and home equity loans and lines of credit, are not individually risk rated or reviewed as part of the Company's loan review process. Unlike commercial customers, consumer loan customers are not required to provide the Company with updated financial information. Consumer loans also carry smaller dollar balances. Given the lack of updated information since the initial underwriting of the loan and the small size of individual loans, the Company uses delinquency status as the primary credit quality indicator for consumer loans. Once a consumer loan reaches 60 days past due, management orders an independent appraisal of the underlying collateral and produces a credit report on the borrower. After discounting for potential selling costs and other factors specific to the property or borrower, the book value of the loan is then compared to the collateral value as determined by the appraisal. In situations where the Company holds a junior lien, management accounts for the amount of the senior liens held by other lenders, and the collateral value is more heavily discounted to account for the increased risk. If the loan is ultimately determined to be impaired, it is placed in non-accrual status. Unless the loan is well secured and in the process of collection, all consumer loans that are more than 90 days past due are placed in non-accrual status.

[Table of Contents](#)

A summary of current, past due, and nonaccrual loans as of December 31, 2019 and 2018 follows:

<b>2019</b>							
(in thousands)							
	<u>Current</u> <u>Balance</u>	<u>30-59 days</u>	<u>60-89 days</u>	<u>90+ days</u>	<u>Non-accruing</u> <u>Loans</u>	<u>Total</u> <u>Balance</u>	
Commercial and industrial	\$ 245,658	\$ 705	\$ -	\$ -	\$ 4,834	\$ 251,197	
Residential real estate:							
Residential	153,630	2,616	888	-	1,438	158,572	
Construction	865	-	202	-	-	1,067	
Commercial real estate:							
Commercial	630,016	3,482	5,879	-	5,659	645,036	
Construction	92,667	2,886	720	-	1,575	97,848	
Home equities	67,868	354	239	-	890	69,351	
Consumer and other	1,907	15	4	-	-	1,926	
Total Loans	<u>\$ 1,192,611</u>	<u>\$ 10,058</u>	<u>\$ 7,932</u>	<u>\$ -</u>	<u>\$ 14,396</u>	<u>\$ 1,224,997</u>	

<b>2018</b>							
(in thousands)							
	<u>Current</u> <u>Balance</u>	<u>30-59 days</u>	<u>60-89 days</u>	<u>90+ days</u>	<u>Non-accruing</u> <u>Loans</u>	<u>Total</u> <u>Balance</u>	
Commercial and industrial	\$ 217,625	\$ 6,173	\$ 565	\$ -	\$ 1,694	\$ 226,057	
Residential real estate:							
Residential	154,063	2,546	332	-	1,463	158,404	
Construction	113	-	-	-	-	113	
Commercial real estate:							
Commercial	582,016	4,546	-	-	5,945	592,507	
Construction	95,204	1,027	329	-	8,636	105,196	
Home equities	69,094	123	76	-	1,253	70,546	
Consumer and other	1,514	5	1	-	-	1,520	
Total Loans	<u>\$ 1,119,629</u>	<u>\$ 14,420</u>	<u>\$ 1,303</u>	<u>\$ -</u>	<u>\$ 18,991</u>	<u>\$ 1,154,343</u>	

[Table of Contents](#)

The following table provides data, at the class level, of impaired loans:

At December 31, 2019						
	<b>Recorded Investment</b>	<b>Unpaid Principal Balance</b>	<b>Related Allowance</b>	<b>Average Recorded Investment</b>	<b>Interest Income Foregone</b>	<b>Interest Income Recognized</b>
<b>With no related allowance recorded:</b>						
(in thousands)						
Commercial and industrial	\$ 3,798	\$ 4,112	\$ -	\$ 4,046	\$ 118	\$ 143
Residential real estate:						
Residential	2,744	3,003	-	2,823	73	63
Construction	-	-	-	-	-	-
Commercial real estate:						
Commercial	6,019	6,521	-	6,293	225	72
Construction	1,335	1,352	-	1,344	23	50
Home equities	1,453	1,687	-	1,525	64	30
Consumer and other	-	-	-	-	-	-
Total impaired loans	<u>\$ 15,349</u>	<u>\$ 16,675</u>	<u>\$ -</u>	<u>\$ 16,031</u>	<u>\$ 503</u>	<u>\$ 358</u>

At December 31, 2019						
	<b>Recorded Investment</b>	<b>Unpaid Principal Balance</b>	<b>Related Allowance</b>	<b>Average Recorded Investment</b>	<b>Interest Income Foregone</b>	<b>Interest Income Recognized</b>
<b>With a related allowance recorded:</b>						
(in thousands)						
Commercial and industrial	\$ 2,760	\$ 2,808	\$ 442	\$ 2,764	\$ 109	\$ 63
Residential real estate:						
Residential	60	62	5	61	3	1
Construction	-	-	-	-	-	-
Commercial real estate:						
Commercial	197	197	4	197	8	4
Construction	240	246	5	242	8	9
Home equities	-	-	-	-	-	-
Consumer and other	21	23	21	22	-	1
Total impaired loans	<u>\$ 3,278</u>	<u>\$ 3,336</u>	<u>\$ 477</u>	<u>\$ 3,286</u>	<u>\$ 128</u>	<u>\$ 78</u>

At December 31, 2019

	<b>Recorded Investment</b>	<b>Unpaid Principal Balance</b>	<b>Related Allowance</b>	<b>Average Recorded Investment</b>	<b>Interest Income Foregone</b>	<b>Interest Income Recognized</b>
<b>Total:</b>	(in thousands)					
Commercial and industrial	\$ 6,558	\$ 6,920	\$ 442	\$ 6,810	\$ 227	\$ 206
Residential real estate:						
Residential	2,804	3,065	5	2,884	76	64
Construction	-	-	-	-	-	-
Commercial real estate:						
Commercial	6,216	6,718	4	6,490	233	76
Construction	1,575	1,598	5	1,586	31	59
Home equities	1,453	1,687	-	1,525	64	30
Consumer and other	21	23	21	22	-	1
Total impaired loans	<u>\$ 18,627</u>	<u>\$ 20,011</u>	<u>\$ 477</u>	<u>\$ 19,317</u>	<u>\$ 631</u>	<u>\$ 436</u>

At December 31, 2018

	<b>Recorded Investment</b>	<b>Unpaid Principal Balance</b>	<b>Related Allowance</b>	<b>Average Recorded Investment</b>	<b>Interest Income Foregone</b>	<b>Interest Income Recognized</b>
<b>With no related allowance recorded:</b>	(in thousands)					
Commercial and industrial	\$ 1,633	\$ 2,611	\$ -	\$ 1,785	\$ 116	\$ 65
Residential real estate:						
Residential	2,289	2,483	-	2,337	45	69
Construction	-	-	-	-	-	-
Commercial real estate:						
Commercial	6,538	6,914	-	6,733	220	115
Construction	116	116	-	143	-	12
Home equities	1,887	2,058	-	1,952	71	43
Consumer and other	-	-	-	-	-	-
Total impaired loans	<u>\$ 12,463</u>	<u>\$ 14,182</u>	<u>\$ -</u>	<u>\$ 12,950</u>	<u>\$ 452</u>	<u>\$ 304</u>

At December 31, 2018

	<b>Recorded Investment</b>	<b>Unpaid Principal Balance</b>	<b>Related Allowance</b>	<b>Average Recorded Investment</b>	<b>Interest Income Foregone</b>	<b>Interest Income Recognized</b>
(in thousands)						
<b>With a related allowance recorded:</b>						
Commercial and industrial	\$ 2,068	\$ 2,095	\$ 249	\$ 2,098	\$ 17	\$ 125
Residential real estate:						
Residential	525	556	85	520	22	3
Construction	-	-	-	-	-	-
Commercial real estate:						
Commercial	-	-	-	-	-	-
Construction	8,636	8,975	716	8,793	379	113
Home equities	-	-	-	-	-	-
Consumer and other	23	27	23	23	-	2
Total impaired loans	<u>\$ 11,252</u>	<u>\$ 11,653</u>	<u>\$ 1,073</u>	<u>\$ 11,434</u>	<u>\$ 418</u>	<u>\$ 243</u>

At December 31, 2018

	<b>Recorded Investment</b>	<b>Unpaid Principal Balance</b>	<b>Related Allowance</b>	<b>Average Recorded Investment</b>	<b>Interest Income Foregone</b>	<b>Interest Income Recognized</b>
(in thousands)						
<b>Total:</b>						
Commercial and industrial	\$ 3,701	\$ 4,706	\$ 249	\$ 3,883	\$ 133	\$ 190
Residential real estate:						
Residential	2,814	3,039	85	2,857	67	72
Construction	-	-	-	-	-	-
Commercial real estate:						
Commercial	6,538	6,914	-	6,733	220	115
Construction	8,752	9,091	716	8,936	379	125
Home equities	1,887	2,058	-	1,952	71	43
Consumer and other	23	27	23	23	-	2
Total impaired loans	<u>\$ 23,715</u>	<u>\$ 25,835</u>	<u>\$ 1,073</u>	<u>\$ 24,384</u>	<u>\$ 870</u>	<u>\$ 547</u>

There were \$15.3 million and \$12.5 million in impaired loans with no related allowance at December 31, 2019 and 2018, respectively. As management identifies impaired loans that are collateral dependent, new appraisals are ordered to determine the fair value of the collateral. It should also be noted that when estimating the fair value of collateral for the purpose of performing an impairment test, management further reduces the appraised value of the collateral to account for estimated selling or carrying costs, age of the appraisal, if applicable, or any other perceived market or borrower-specific risks to the value of the collateral.

The interest income in the preceding table was interest income recognized on accruing TDRs and interest paid prior to loans being identified as non-accrual. The interest income foregone in the preceding table represents interest income that the Company did not recognize on those loans while they were on non-accrual.

The Bank had no loan commitments to borrowers in non-accrual status at December 31, 2019 and 2018.

**Troubled debt restructurings (“TDRs”)**

The following tables summarize the loans that were classified as troubled debt restructurings as of the dates indicated:

	December 31, 2019			
	(in thousands)			
	Total	Nonaccruing	Accruing	Related Allowance
Commercial and industrial	\$ 2,052	\$ 328	\$ 1,724	\$ 26
Residential real estate:				
Residential	1,815	449	1,366	-
Construction	-	-	-	-
Commercial real estate:				
Commercial and multi-family	3,632	3,075	557	-
Construction	-	-	-	-
Home equities	738	175	563	-
Consumer and other	21	-	21	21
Total TDR loans	<u>\$ 8,258</u>	<u>\$ 4,027</u>	<u>\$ 4,231</u>	<u>\$ 47</u>

	December 31, 2018			
	(in thousands)			
	Total	Nonaccruing	Accruing	Related Allowance
Commercial and industrial	\$ 2,282	\$ 275	\$ 2,007	\$ 154
Residential real estate:				
Residential	1,617	266	1,351	14
Construction	-	-	-	-
Commercial real estate:				
Commercial and multi-family	4,164	3,571	593	-
Construction	8,753	8,637	116	716
Home equities	756	122	634	-
Consumer and other	23	-	23	23
Total TDR loans	<u>\$ 17,595</u>	<u>\$ 12,871</u>	<u>\$ 4,724</u>	<u>\$ 907</u>

Any TDR that is placed on non-accrual is not reverted back to accruing status until the borrower makes timely payments as contracted for at least six months and future collection under the revised terms is probable. All of the Company’s restructurings were allowed in an effort to maximize its ability to collect on loans where borrowers were experiencing financial difficulty.

The reserve for a TDR is based upon the present value of the future expected cash flows discounted at the loan’s original effective interest rate or upon the fair value of the collateral less costs to sell, if the loan is deemed collateral dependent. This reserve methodology is used because all TDR loans are considered impaired. As of December 31, 2019, there were no commitments to lend additional funds to debtors owing on loans whose terms have been modified in TDRs.

The Company’s TDRs have various agreements that involve deferral of principal payments, or interest-only payments, for a period (usually 12 months or less) to allow the borrower time to improve cash flow or sell the property. Other common concessions leading to the designation of a TDR are lines of credit that are termed-out and/or extensions of maturities at rates that are less than the prevailing market rates given the risk profile of the borrower.

[Table of Contents](#)

The following tables show the data for TDR activity by type of concession granted to the borrower during 2019 and 2018:

Troubled Debt Restructurings by Type of Concession	Year ended December 31, 2019			Year ended December 31, 2018		
	(Recorded Investment in thousands)			(Recorded Investment in thousands)		
	Number of Contracts	Pre-Modification Outstanding Recorded Investment	Post-Modification Outstanding Recorded Investment	Number of Contracts	Pre-Modification Outstanding Recorded Investment	Post-Modification Outstanding Recorded Investment
<b>Commercial and Industrial:</b>						
Extension of maturity	2	\$ 189	\$ 189	2	\$ 1,651	\$ 1,651
Term-out line of credit	1	42	42	1	29	29
Combination of concessions	-	-	-	1	63	63
<b>Residential Real Estate &amp; Construction:</b>						
Extension of maturity	-	-	-	1	156	156
Extension of maturity and interest rate reduction	3	307	307	-	-	-
<b>Commercial Real Estate &amp; Construction:</b>						
Deferral of principal	-	-	-	1	8,768	8,768
Extension of maturity	-	-	-	1	181	181
Combination of concessions	-	-	-	1	154	154
<b>Home Equities:</b>						
Deferral of principal	-	-	-	1	100	100
Extension of maturity and interest rate reduction	3	390	390	-	-	-
Combination of concessions	1	54	54	-	-	-
Consumer and other loans	-	-	-	-	-	-

Modifications made to loans in a troubled debt restructuring did not have a material impact on the Company's net income for the years ended December 31, 2019 and 2018. All of the C&I and commercial real estate TDRs were already considered impaired and sufficiently reserved for prior to being identified as a TDR.

The general practice of the Bank is to work with borrowers so that they are able to repay their loan in full. If a borrower continues to be delinquent or cannot meet the terms of a TDR and the loan is determined to be uncollectible, the loan will be charged-off to its collateral value. A loan is considered in default when the loan is 90 days past due. Loans which were classified as TDRs during the preceding twelve months and which subsequently defaulted during the twelve-month periods ended December 31, 2019 and 2018 were not material.



**4. PROPERTIES AND EQUIPMENT**

Properties and equipment at December 31 were as follows:

	<u>2019</u>	<u>2018</u>
	(in thousands)	
Land	\$ 268	\$ 268
Buildings and improvements	13,261	13,258
Furniture, fixtures, and equipment	17,219	16,375
Construction in progress	3,688	-
	<u>34,436</u>	<u>29,901</u>
Less accumulated depreciation	(20,682)	(19,416)
Properties and equipment, net	<u>\$ 13,754</u>	<u>\$ 10,485</u>

Construction in progress at December 31, 2019 relates to the Company's planned relocation to a new corporate headquarters in 2020.

Depreciation expense totaled \$1.3 million in 2019 and \$1.2 million in 2018 and 2017.

**5. OTHER ASSETS**

Other assets at December 31 were as follows:

	<u>2019</u>	<u>2018</u>
	(in thousands)	
Net deferred tax asset	\$ 3,957	\$ 4,417
Accrued interest receivable	4,606	4,594
State historic tax credit receivable	1,969	1,854
Prepaid expenses	1,367	1,451
Mortgage servicing rights	555	609
Historic tax credit investments	1,222	1,243
Accounts receivable	2,111	3,002
Other	941	904
Total other assets	<u>\$ 16,728</u>	<u>\$ 18,074</u>

**6. GOODWILL AND INTANGIBLE ASSETS**

The Company had \$10.5 million in goodwill at December 31, 2019 and 2018. The entire amount of goodwill is within the insurance agency activities segment. The Company measures the fair value of the insurance agency reporting unit annually, as of December 31, utilizing market value earnings before interest, taxes, depreciation, and amortization ("EBITDA") multiples based on industry data and cash flow modeling. When using the cash flow models, management considered historical information, the operating budget for 2020, economic and insurance market cycles, and strategic goals in projecting net income and cash flows for the next five years. The value based on EBITDA was higher than the value calculated using cash flow modeling, a result of growth assumptions used by the Company in the cash flow model as well as an implied control premium in the multiple. The multiple used was based on industry data and consistent with the previous year's assumption.

The fair value determined in the impairment test was substantially higher than the carrying value for TEA. Management used growth rates that are achievable over the long run through both soft and hard insurance cycles. Including the impact of the 2018 R&S acquisition, TEA's total revenue increased by 17.5% in 2019. No impairment was recognized as a result of the goodwill impairment tests performed as of December 31, 2019 and 2018.

[Table of Contents](#)

TEA purchased the assets of Richardson and Stout Inc. (“R&S”), an insurance agency in Wellsville, NY, on July 1, 2018, A.M. Smith Group, Inc., an insurance agency in Lockport, NY, on December 31, 2016 and Mietus Agency, an insurance agency in Derby, NY on January 1, 2017. Intangible assets related to those acquisitions are reflected in the table below:

<u>2019</u>	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>	<u>Net</u>	<u>Weighted Avg Amortization Period</u>
		(in thousands)		
Insurance expirations	\$ 2,865	\$ (840)	\$ 2,025	5 years

<u>2018</u>	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>	<u>Net</u>	<u>Weighted Avg Amortization Period</u>
		(in thousands)		
Insurance expirations	\$ 2,865	\$ (393)	\$ 2,472	6 years

Amortization expense related to intangibles for the years ended December 31, 2019, 2018, and 2017 was \$0.4 million, \$0.3 million, and \$0.1 million, respectively. Estimated amortization expense for each of the four succeeding fiscal years is as follows:

<u>Year Ending December 31</u>	<u>Amount</u>
	(in thousands)
2020	\$ 447
2021	447
2022	334
2023	325
2024 - 2025	472
	<u>\$ 2,025</u>

**7. DEPOSITS**

Time deposits of \$250 thousand and over, excluding brokered deposits, totaled \$58.0 million and \$59.5 million at December 31, 2019 and 2018, respectively. Brokered time deposits totaled \$27.2 million and \$41.0 million at December 31, 2019 and 2018, respectively. There were overdrawn deposit accounts classified as loans of \$0.3 million and less than \$0.1 million at December 31, 2019 and 2018, respectively.

At December 31, 2019, the scheduled maturities of all time deposits were as follows:

(in thousands)	
2020	\$ 208,728
2021	47,227
2022	10,101
2023	8,829
2024	1,042
	<u>\$ 275,927</u>

**8. BORROWED FUNDS AND JUNIOR SUBORDINATED DEBENTURES**

Other borrowings at December 31, 2019 consist of a \$10 million advance from the FHLB with a fixed interest rate of 1.73% that matures in 2020.

The Bank has the ability to borrow additional funds from the FHLB based on the securities or real estate loans that can be used as collateral and to purchase additional federal funds through one of the Bank’s correspondent banks. Given the current collateral available, additional advances of up to \$198 million can be drawn on the FHLB via the Bank’s Overnight Line of Credit Agreement. The Bank also has the ability to purchase up to \$8 million in federal funds from its correspondent banks.

As a member of the Federal Home Loan Bank System, the Bank is required to hold stock in FHLB NY. The Bank held FHLB NY stock with a carrying value of \$1.6 million and \$1.5 million as of December 31, 2019 and December 31, 2018, respectively.

The amounts and interest rates of other borrowed funds were as follows:

	<u>FHLB Overnight Line of Credit</u>		<u>FHLB Advances</u>	<u>Total Other Borrowings</u>
			(in thousands)	
At December 31, 2019				
Amount outstanding	\$ -		\$ 10,000	\$ 10,000
Weighted-average interest rate	-		1.73 %	1.73 %
For the year ended December 31, 2019				
Highest amount at a month end	\$ -		\$ 10,000	
Daily average amount outstanding	\$ 11		\$ 10,000	\$ 10,011
Weighted-average interest rate	2.70 %		1.73 %	1.73 %
At December 31, 2018				
Amount outstanding	\$ -		\$ 10,000	\$ 10,000
Weighted-average interest rate	-		1.73 %	1.73 %
For the year ended December 31, 2018				
Highest amount at a month end	\$ 78,900		\$ 10,000	
Daily average amount outstanding	\$ 20,981		\$ 10,000	\$ 30,981
Weighted-average interest rate	1.76 %		1.73 %	1.75 %
At December 31, 2017				
Amount outstanding	\$ 78,250		\$ 10,000	\$ 88,250
Weighted-average interest rate	1.53 %		1.73 %	1.55 %
For the year ended December 31, 2017				
Highest amount at a month end	\$ 78,250		\$ 10,000	
Daily average amount outstanding	\$ 16,491		\$ 10,000	\$ 26,491
Weighted-average interest rate	1.36 %		1.73 %	1.50 %

On October 1, 2004, Evans Capital Trust I, a statutory business trust wholly-owned by the Company (the “Trust”), issued \$11.0 million in aggregate principal amount of floating rate preferred capital securities due November 23, 2034 (the “Capital Securities”) and \$0.3 million of common securities (the “Common Securities”). The Capital Securities represent preferred undivided interests in the assets of the Trust. Under the Federal Reserve Board’s current risk-based capital guidelines, the Capital Securities are includable in the Company’s Tier 1 (Core) capital. The Common Securities are wholly-owned by the Company and are the only class of the Trust’s securities possessing general voting powers.

## [Table of Contents](#)

The Capital Securities have a distribution rate of three-month LIBOR plus 2.65%, and the distribution dates are February 23, May 23, August 23, and November 23. The distribution rate was 4.56% at December 31, 2019.

The proceeds from the issuances of the Capital Securities and Common Securities were used by the Trust to purchase \$11.3 million in aggregate liquidation amount of floating rate junior subordinated deferrable interest debentures (“Junior Subordinated Debentures”) of the Company, due October 1, 2037, which are comprised of \$11.0 million of Capital Securities and \$0.3 million of Common Securities. The \$0.3 million of Common Securities represent the initial capital contribution of the Company to the Trust, which have not been consolidated and are included in “Other Assets” on the consolidated balance sheet.

The Junior Subordinated Debentures represent the sole assets of the Trust, and payments under the Junior Subordinated Debentures are the sole source of cash flow for the Trust. The interest rate payable on the Junior Subordinated Debentures was 4.56% at December 31, 2019.

Holders of the Capital Securities receive preferential cumulative cash distributions on each distribution date at the stated distribution rate, unless the Company exercises its right to extend the payment of interest on the Junior Subordinated Debentures for up to twenty quarterly periods, in which case payment of distributions on the respective Capital Securities will be deferred for comparable periods. During an extended interest period, in accordance with terms as defined in the indenture relating to the Capital Securities, the Company may not pay dividends or distributions on, or repurchase, redeem, or acquire any shares of its capital stock. The agreements governing the Capital Securities, in the aggregate, provide a full, irrevocable, and unconditional guarantee by the Company of the payment of distributions on, the redemption of, and any liquidation distribution with respect to the Capital Securities. The obligations under such guarantee and the Capital Securities are subordinate and junior in right of payment to all senior indebtedness of the Company.

The Capital Securities will remain outstanding until the Junior Subordinated Debentures are repaid at maturity, are redeemed prior to maturity, or are distributed in liquidation to the Trust. The Capital Securities are mandatorily redeemable in whole, but not in part, upon repayment at the stated maturity dates of the Junior Subordinated Debentures or the earlier redemption of the Junior Subordinated Debentures in whole upon the occurrence of one or more events (“Events”) set forth in the indentures relating to the Capital Securities, and in whole or in part at any time contemporaneously with the optional redemption of the related Junior Subordinated Debentures in whole or in part. The Junior Subordinated Debentures are redeemable prior to their stated maturity dates at the Company’s option: (i) on or after the stated optional redemption dates, in whole at any time, or in part from time to time; or (ii) in whole, but not in part, at any time within 90 days following the occurrence and during the continuation of one or more of the Events, in each case subject to possible regulatory approval. The redemption price of the Capital Securities and the related Junior Subordinated Debentures upon early redemption would be at the liquidation amount plus accumulated but unpaid distributions.

## **9. SECURITIES SOLD UNDER AGREEMENTS TO REPURCHASE**

The Bank enters into agreements with customers to sell securities owned by the Bank to the customers and repurchase the identical security, within one business day. No physical movement of the securities is involved. The Bank had \$2.4 million and \$3.1 million in securities sold under agreement to repurchase at December 31, 2019 and 2018, respectively.

**10. COMPREHENSIVE INCOME (LOSS)**

The following tables display the components of other comprehensive income (loss), net of tax:

	<b>Balance at December 31, 2018</b>	<b>Net Change</b>	<b>Balance at December 31, 2019</b>
		(in thousands)	
Net unrealized (loss) gain on investment securities	\$ (2,348)	\$ 2,870	\$ 522
Net defined benefit pension plan adjustments	(3,005)	(100)	(3,105)
<b>Total</b>	<b>\$ (5,353)</b>	<b>\$ 2,770</b>	<b>\$ (2,583)</b>

	<b>Balance at December 31, 2017</b>	<b>Net Change</b>	<b>Balance at December 31, 2018</b>
		(in thousands)	
Net unrealized loss on investment securities	\$ (1,049)	\$ (1,299)	\$ (2,348)
Net defined benefit pension plan adjustments	(2,368)	(637)	(3,005)
<b>Total</b>	<b>\$ (3,417)</b>	<b>\$ (1,936)</b>	<b>\$ (5,353)</b>

	<b>Balance at December 31, 2016</b>	<b>Net Change</b>	<b>Balance at December 31, 2017</b>
		(in thousands)	
Net unrealized loss on investment securities	\$ (365)	\$ (684)	\$ (1,049)
Net defined benefit pension plan adjustments	(2,059)	(309)	(2,368)
<b>Total</b>	<b>\$ (2,424)</b>	<b>\$ (993)</b>	<b>\$ (3,417)</b>

	<b>December 31, 2019</b> (in thousands)		
	<b>Before-Tax Amount</b>	<b>Income Tax (Provision) Benefit</b>	<b>Net-of-Tax Amount</b>
<b>Unrealized loss on investment securities:</b>			
Unrealized gain (loss) on investment securities	\$ 3,875	\$ (1,005)	\$ 2,870
<b>Defined benefit pension plans adjustments:</b>			
Net actuarial (loss) gain	\$ (581)	\$ 212	\$ (369)
Reclassifications from accumulated other comprehensive income for gains (losses)			
Amortization of prior service cost <sup>(a)</sup>	32	(9)	23
Amortization of actuarial loss <sup>(a)</sup>	332	(86)	246
Net change	(217)	117	(100)
<b>Other Comprehensive Income (Loss)</b>	<b>\$ 3,658</b>	<b>\$ (888)</b>	<b>\$ 2,770</b>

(a) Included in net periodic pension cost as described in Note 11 – “Employee Benefits and Deferred Compensation Plans”

**December 31, 2018**  
(in thousands)

	<u>Before-Tax Amount</u>	<u>Income Tax (Provision) Benefit</u>	<u>Net-of-Tax Amount</u>
<b>Unrealized loss on investment securities:</b>			
Unrealized (loss) gain on investment securities	\$ (1,756)	\$ 457	\$ (1,299)
<b>Defined benefit pension plans adjustments:</b>			
Net actuarial gain (loss)	\$ (987)	\$ 196	\$ (791)
Reclassifications from accumulated other comprehensive income for gains (losses)			
Amortization of prior service cost <sup>(a)</sup>	31	(5)	26
Amortization of actuarial loss <sup>(a)</sup>	169	(41)	128
Net change	<u>(787)</u>	<u>150</u>	<u>(637)</u>
Other Comprehensive Income (Loss)	<u>\$ (2,543)</u>	<u>\$ 607</u>	<u>\$ (1,936)</u>

(a) Included in net periodic pension cost as described in Note 11 – “Employee Benefits and Deferred Compensation Plans”

**December 31, 2017**  
(in thousands)

	<u>Before-Tax Amount</u>	<u>Income Tax (Provision) Benefit</u>	<u>Net-of-Tax Amount</u>	<u>Tax effect reclass due to TCJA</u>	<u>Total Net Change</u>
<b>Unrealized loss on investment securities:</b>					
Unrealized (loss) gain on investment securities	\$ (826)	\$ 319	\$ (507)	\$ (177)	\$ (684)
<b>Defined benefit pension plans adjustments:</b>					
Net actuarial gain (loss)	\$ (30)	\$ 11	\$ (19)		
Reclassifications from accumulated other comprehensive income for gains (losses)					
Amortization of prior service cost <sup>(a)</sup>	31	(4)	27		
Amortization of actuarial loss <sup>(a)</sup>	173	(36)	137		
Net change	<u>174</u>	<u>(29)</u>	<u>145</u>	<u>(454)</u>	<u>(309)</u>
Other Comprehensive Income (Loss)	<u>\$ (652)</u>	<u>\$ 290</u>	<u>\$ (362)</u>	<u>\$ (631)</u>	<u>\$ (993)</u>

(a) Included in net periodic pension cost as described in Note 11 – “Employee Benefits and Deferred Compensation Plans”

**11. EMPLOYEE BENEFITS AND DEFERRED COMPENSATION PLANS**

**Employees' Pension Plan**

The Bank has a defined benefit pension plan that covered substantially all employees of the Company and its subsidiaries (the "Pension Plan"). The Pension Plan provides benefits that are based on the employees' compensation and years of service. The Bank uses an actuarial method of amortizing prior service cost and unrecognized net gains or losses which result from actual experience and assumptions being different than those that are projected. The amortization method the Bank uses recognizes the prior service cost and net gains or losses over the average remaining service period of active employees which exceeds the required amortization. The Pension Plan was frozen effective January 31, 2008. Under the freeze, eligible employees will receive the benefits already earned through January 31, 2008 at retirement, but will not be able to accrue any additional benefits. As a result, service cost will no longer be incurred.

Selected Financial Information for the Pension Plan is as follows:

	<u>12/31/2019</u>	<u>12/31/2018</u>
Change in benefit obligation:	(in thousands)	
Benefit obligation at the beginning of the year	\$ 5,390	\$ 5,842
Service cost	-	-
Interest cost	223	205
Assumption change	978	(491)
Actuarial (gain) loss	38	50
Benefits paid	(227)	(216)
Benefit obligation at the end of the year	<u>6,402</u>	<u>5,390</u>
Change in plan assets:		
Fair value of plan assets at the beginning of year	5,180	5,787
Actual return on plan assets	1,091	(391)
Employer contributions	-	-
Benefits paid	(227)	(216)
Fair value of plan assets at the end of year	<u>6,044</u>	<u>5,180</u>
Funded status	\$ (358)	\$ (210)
Amount recognized in the Consolidated Balance Sheets consist of:		
Accrued benefit liabilities	<u>\$ (358)</u>	<u>\$ (210)</u>
Amount recognized in the Accumulated Other Comprehensive Loss consists of:		
Net actuarial loss	\$ 2,477	\$ 2,372
Prior service cost	-	-
Net amount recognized in equity - pre-tax	<u>\$ 2,477</u>	<u>\$ 2,372</u>
Accumulated benefit obligation at year end	<u>\$ 6,402</u>	<u>\$ 5,390</u>

[Table of Contents](#)

Assumptions used by the Bank in the determination of Pension Plan information consisted of the following:

	<u>2019</u>	<u>2018</u>	<u>2017</u>
Discount rate for projected benefit obligation	3.20 %	4.20 %	3.55 %
Discount rate for net periodic pension cost	4.20 %	3.55 %	3.95 %
Rate of increase in compensation levels	- %	- %	- %
Expected long-term rate of return of plan assets	5.50 %	5.50 %	6.50 %

The components of net periodic benefit cost consisted of the following:

	<u>2019</u>	<u>2018</u>	<u>2017</u>
	(in thousands)		
Service cost	\$ -	\$ -	\$ -
Interest cost	223	205	216
Expected return on plan assets	(278)	(312)	(275)
Net amortization and deferral	98	83	92
Net periodic benefit cost	<u>\$ 43</u>	<u>\$ (24)</u>	<u>\$ 33</u>

The components of net periodic benefit cost other than the service cost component are included in the line item “other expense” in the income statement.

The estimated amounts to be amortized from accumulated other comprehensive loss into net periodic cost in 2020 for amortization of actuarial loss will be \$0.1 million.

The Company did not contribute to the Pension Plan in 2019 and expects that it will not contribute to the Pension Plan in 2020.

The expected long-term rate of return on Pension Plan assets assumption was determined based on historical returns earned by equity and fixed income securities, adjusted to reflect future return expectations based on plan targeted asset allocation. Equity and fixed income securities were assumed to earn returns in the ranges of 5% to 10% and 4% to 5%, respectively. When these overall return expectations are applied to the Pension Plan’s targeted allocation, the expected rate of return was determined to be 5.50%, which is within the range of expected return. The Company’s management will continue to evaluate its actuarial assumptions, including the expected rate of return, at least annually, and will adjust as necessary.

The weighted average asset allocation of the Pension Plan at December 31, 2019 and 2018, the Pension Plan measurement date, was as follows:

<b>Asset Category:</b>	<u>2019</u>	<u>2018</u>
Equity mutual funds	27.28 %	26.53 %
Fixed income mutual funds	71.59 %	71.61 %
Cash/Short-term investments	1.13 %	1.86 %
	<u>100.00 %</u>	<u>100.00 %</u>

The portfolio is invested in accordance with sound investment practices. Consistent with this approach, the investment strategy is to diversify the portfolio in order to reduce risk and to maintain sufficient liquidity to meet the obligations of the Plan. The Plan’s long-term asset allocation under normal market conditions is 25% equity investment and 75% fixed income assets and other short term investments and cash equivalents. The investment objective of the allocation in equity investments emphasizes long term capital appreciation. These equity investments are diversified across market capitalization, industries, style and geographical location. The investment objective of the fixed income allocation is to generally provide a diversified source of income with an awareness of capital preservation. The primary objective of the investment philosophy is capital preservation.



## [Table of Contents](#)

The major categories of assets in the Bank's Pension Plan as of year-end are presented in the following table. Assets are segregated according to their investment objective by the level of the valuation inputs within the fair value hierarchy utilized to measure fair value (see Note 21 – Fair Value of Financial Instruments).

	<u>2019</u>	<u>2018</u>
	(in thousands)	
Level 1:		
Cash	13	-
Mutual funds:		
Short-term investments:		
Money market	\$ 55	\$ 96
Fixed Income:	4,327	3,710
Equities:		
Large cap	617	576
International large cap	1,032	789
International small cap	-	9
	<u>\$ 6,044</u>	<u>\$ 5,180</u>

The mutual funds are actively traded with market quotes available on at least a daily basis. Therefore, they are Level 1 assets.

The discount rate utilized by the Company for determining future pension obligations is based on a review of long-term bonds that receive one of the two highest ratings given by a recognized rating agency. The discount rate determined on this basis decreased from 4.20% at December 31, 2018 to 3.20% at December 31, 2019 for the Company's Pension Plan.

Expected benefit payments under the Pension Plan over the next ten years at December 31, 2019 are as follows:

	(in thousands)
2020 \$	219
2021	234
2022	268
2023	291
2024	338
Year 2025 - 2029	1,722

### **Supplemental Executive Retirement Plans**

The Bank also maintains a non-qualified supplemental executive retirement plan (the "SERP") covering certain members of the Company's senior management. The SERP was amended during 2003 to provide a benefit based on a percentage of final average earnings, as opposed to the fixed benefit that was provided for in the superseded plan.

On April 8, 2010, the Compensation Committee of the Board of Directors of the Company approved the adoption of the Evans Bank, N.A. Supplemental Executive Retirement Plan for Senior Executives ("the Senior Executive SERP"). The "old" SERP plan will keep its participants at the time of the creation of the Senior Executive SERP, but any future executives identified by the Board of Directors as eligible for SERP benefits will participate in the Senior Executive SERP. A participant is generally entitled to receive a benefit under the Senior Executive SERP upon a termination of employment, other than for "cause", after the participant has completed 10 full calendar years of service with the Bank. No benefit is payable under the Senior Executive SERP if the participant's employment is terminated for "cause" or if the participant voluntarily terminates before completing 10 full calendar years of service with the Bank. In addition, the payment of benefits under the Senior Executive SERP is conditioned upon certain agreements of the participant related to confidentiality, cooperation, non-competition, and non-solicitation. A participant will be entitled to a retirement benefit under the Senior Executive SERP if his or her employment with the Bank terminates other than for "cause". The "accrued benefit" is based on a percentage of the participant's final average earnings, which is determined based upon the participant's total annual compensation over the highest consecutive five calendar years of the participant's employment with the Bank, accrued over the participant's "required benefit service". The percentages and years of service requirements are set forth in each participant's Participation Agreement, and range from 25% to 35% and from 15 to 20 years.

[Table of Contents](#)

The obligations related to the two SERP plans are indirectly funded by various life insurance contracts naming the Bank as beneficiary. The Bank has also indirectly funded the SERPs, as well as other benefits provided to other employees, through bank-owned life insurance. The Bank uses an actuarial method of amortizing unrecognized net gains or losses which result from actual experience and assumptions being different than those that are projected. The amortization method the Bank is using recognizes the net gains or losses over the average remaining service period of active employees, which exceeds the required amortization.

Selected financial information for the two SERP plans is as follows:

	<u>12/31/2019</u>	<u>12/31/2018</u>
Change in benefit obligation:	(in thousands)	
Benefit obligation at the beginning of the year	\$ 5,398	\$ 4,542
Service cost	146	187
Interest cost	202	137
Actuarial (gain) loss	378	725
Benefits paid	<u>(377)</u>	<u>(193)</u>
Benefit obligation at the end of the year	<u>5,747</u>	<u>5,398</u>
Change in plan assets:		
Fair value of plan assets at the beginning of year	-	-
Actual return on plan assets	-	-
Employer contributions	377	193
Benefits paid	<u>(377)</u>	<u>(193)</u>
Fair value of plan assets at the end of year	<u>-</u>	<u>-</u>
Funded status	\$ (5,747)	\$ (5,398)
Amount recognized in the Consolidated Balance Sheets consist of:		
Accrued benefit liabilities	<u>\$ (5,747)</u>	<u>\$ (5,398)</u>
Amount recognized in the Accumulated Other Comprehensive Loss consists of:		
Net actuarial loss	\$ 1,624	\$ 1,480
Prior service cost	93	125
Net amount recognized in equity - pre-tax	<u>\$ 1,717</u>	<u>\$ 1,605</u>
Accumulated benefit obligation at year end	<u>\$ 5,432</u>	<u>\$ 5,047</u>

Assumptions used by the Bank in the determination of SERP information consisted of the following:

	<u>2018</u>	<u>2018</u>	<u>2017</u>
Discount rate for projected benefit obligation	2.72 %	3.84 %	3.09 %
Discount rate for net periodic pension cost	3.84 %	3.09 %	3.30 %
Salary scale	6.00 %	6.00 %	3.00 %

The discount rate utilized by the Company for determining future pension obligations is based on a review of long-term bonds that receive one of the two highest ratings given by a recognized rating agency. The discount rate determined on this basis decreased from 3.84% at December 31, 2018 to 2.72% at December 31, 2019 (i.e. the measurement date) for the SERP.

The components of net periodic benefit cost consisted of the following:

	<u>2019</u>	<u>2018</u>	<u>2017</u>
	(in thousands)		
Service cost	\$ 146	\$ 187	\$ 168
Interest cost	202	137	137
Net amortization and deferral	266	117	112
Net periodic benefit cost	<u>\$ 614</u>	<u>\$ 441</u>	<u>\$ 417</u>

[Table of Contents](#)

The estimated amounts to be amortized from accumulated other comprehensive loss into net periodic benefit cost in 2020 for prior service costs and actuarial loss will be \$31 thousand and \$350 thousand, respectively.

Expected benefit payments under the SERP over the next ten years at December 31, 2019 are as follows:

(in thousands)	
2020 \$	378
2021	285
2022	3,030
2023	285
2024	285
Year 2025 - 2029	1,026

**Other Compensation Plans**

The Company has a non-qualified deferred compensation plan whereby directors and certain officers may defer a portion of their base pre-tax compensation. Additionally, the Company has a non-qualified executive incentive retirement plan, whereby the Company defers on behalf of certain officers a portion of their base compensation until retirement or termination of service, subject to certain vesting arrangements. Aggregate expense under these plans was approximately \$0.2 million in 2019, \$0.1 million in 2018 and 2017. The benefit obligation, included in other liabilities in the Company's consolidated balance sheets, was \$1.9 million at December 31, 2019, \$2.1 million at December 31, 2018 and \$2.0 million at December 31, 2017.

These benefit plans are indirectly funded by bank-owned life insurance contracts with a total aggregate cash surrender value of approximately \$29.4 million and \$28.4 million at December 31, 2019 and 2018, respectively. Increases in cash surrender value are included in other non-interest income on the Company's Consolidated Statements of Income. Endorsement split-dollar life insurance benefits have also been provided to directors and certain officers of the Bank and its subsidiaries during employment.

The Bank also has a defined contribution retirement and thrift 401(k) Plan (the "401(k) Plan") for its employees who meet certain length of service and age requirements. The provisions of the 401(k) Plan allow eligible employees to contribute a portion of their annual salary, up to the IRS statutory limit. The 401(k) plan includes a Qualified Automatic Contribution Arrangement ("QACA"). This arrangement features automatic deferred contributions with annual escalation, a QACA matching contribution, and an additional matching contribution. Employees vest in employer contributions over six years. The Company's expense under the 401(k) Plan was approximately \$1.0 million in 2019 and 2018 and \$0.8 million in 2017.

## 12. STOCK-BASED COMPENSATION

At December 31, 2019, the Company had two stock-based compensation plans, which are described below. The compensation cost charged against income for those plans was \$0.7 million, \$0.6 million, and \$0.5 million for 2019, 2018, and 2017, respectively, and is included in “Salaries and Employee Benefits” in the Company’s Consolidated Statements of Income. All stock option and restricted stock expense is recorded on a straight-line basis over the expected vesting term. In addition, expenses for director stock-based compensation were recognized to reflect \$0.2 million in 2019 and 2018, and \$0.1 million in 2017, as part of “Other” expense in the Company’s Consolidated Statements of Income.

### 2019 Long-Term Equity Incentive Plan

Under the Company’s 2019 Long-Term Equity Incentive Plan (the “2019 Plan”) and, prior to the adoption of the 2019 Plan by shareholders in April 2019, under the Company’s 2009 Long-Term Incentive Plan (the “2009 Plan”) and together with the 2019 Plan, the “Equity Plans”), the Company has granted options or restricted stock to officers, directors and key employees of the Company and its subsidiaries. Under the Equity Plans, the Company was authorized to issue up to 603,883 shares of common stock. Under the Equity Plans, the exercise price of each option is not to be less than 100% of the market price of the Company’s stock on the date of grant and an option’s maximum term is ten years. If available, the Company normally issues shares out of its treasury for any options exercised or restricted shares issued. The options have vesting schedules from 12 months through 4 years. At December 31, 2019, there were a total of 313,429 shares available for grant under the 2019 Plan. The Company may no longer make grants under the 2009 Plan.

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions:

	2019	2018	2017
Dividend Yield	2.88 %	2.04 %	2.03 %
Expected Life (years)	6.96	6.81	6.95
Expected Volatility	17.36 %	16.57 %	17.34 %
Risk-free Interest Rate	2.47 %	2.82 %	2.24 %
Weighted Average Fair Value	\$ 5.01	\$ 7.63	\$ 6.41

The Company used historical volatility calculated using daily closing prices for its common stock over periods that match the expected term of the option granted to estimate the expected volatility. The risk-free interest rate assumption was based upon U.S. Treasury yields appropriate for the expected term of the Company’s stock options based upon the date of grant. The expected dividend yield was based upon the Company’s recent history of paying dividends. The expected life was based upon the options’ expected vesting schedule and historical exercise patterns.

Stock options activity for 2019 was as follows:

	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value (in thousands)
Balance, December 31, 2018	218,968	\$ 24.18		
Granted	44,820	36.12		
Exercised	(37,490)	15.18		
Expired	(2,140)	39.19		
Forfeited	(8,598)	37.73		
Balance, December 31, 2019	215,560	\$ 27.54	5.68	\$ 2,827
Exercisable, December 31, 2019	140,974	\$ 22.39	4.21	\$ 2,531

[Table of Contents](#)

Future compensation cost expected to be expensed over the weighted average remaining contractual term for remaining outstanding options is \$0.3 million. The unrecognized compensation cost is scheduled to be recognized as follows:

(in thousands)		
2020	\$	132
2021		96
2022		60
2023		15

Restricted stock award activity for 2019 was as follows:

	Shares	Weighted Average Grant Date Fair Value
Balance, December 31, 2018	35,345	\$ 38.01
Granted	25,448	35.98
Vested	(17,166)	36.22
Forfeited	(3,816)	38.37
Balance, December 31, 2019	39,811	\$ 37.45

As of December 31, 2019, there was \$0.9 million in unrecognized compensation cost related to restricted share-based compensation arrangements granted under the Equity Plans. The unrecognized compensation cost is scheduled to be recognized as follows:

(in thousands)		
2020	\$	434
2021		281
2022		165
2023		40

During fiscal years 2019, 2018, and 2017, the following activity occurred under the Company's plans:

	2019	2018	2017
		(in thousands)	
Total intrinsic value of stock options exercised	\$ 770	\$ 1,237	\$ 567
Total fair value of restricted stock awards vested	\$ 610	\$ 736	\$ 645

**Employee Stock Purchase Plan**

The Company also maintains the Evans Bancorp, Inc. Employee Stock Purchase Plan (the “Purchase Plan”). As of December 31, 2019, there were 92,411 shares of common stock available to issue to full-time employees of the Company and its subsidiaries, nearly all of whom are eligible to participate. Under the terms of the Purchase Plan, employees can choose each year to have up to 15% of their annual base earnings withheld to purchase the Company’s common stock. Employees can purchase stock only on June 30 and December 31 each year during the term of the Purchase Plan for 85% of the price on the purchase date. Under the Purchase Plan, the Company issued 11,712, 10,821, and 7,610 shares to employees in 2019, 2018, and 2017, respectively. Compensation cost is calculated by the value of the 15% discount only. The compensation cost that was charged against income for the Purchase Plan was less than \$0.1 million in 2019, 2018, and 2017.

**13. INCOME TAXES**

The components of the provision for income taxes were as follows:

	<u>2019</u>	<u>2018</u>	<u>2017</u>
		(in thousands)	
Current federal tax expense	\$ 4,639	\$ 1,182	\$ 2,041
Current state tax expense	1,160	606	18
Total current tax expense	5,799	1,788	2,059
Deferred federal tax expense (benefit)	\$ (513)	\$ -	\$ 2,441
Deferred state tax expense	(58)	495	709
Total deferred tax expense (benefit)	(571)	495	3,150
Total income tax provision	<u>\$ 5,228</u>	<u>\$ 2,283</u>	<u>\$ 5,209</u>

[Table of Contents](#)

The Company's provision for income taxes differs from the amounts computed by applying the federal income tax statutory rates to income before income taxes. A reconciliation of the differences is as follows:

	<u>2019</u>		<u>2018</u>		<u>2017</u>	
	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
	(in thousands)					
Tax provision at statutory rate	\$ 4,671	21 %	\$ 3,914	21 %	\$ 5,334	34 %
Change in taxes resulting from:						
Tax-exempt income	(213)	(1)	(287)	(2)	(589)	(4)
Historic tax credit	(81)	-	(2,043)	(11)	(1,869)	(12)
State taxes, net of federal benefit	870	4	871	5	455	2
Deferred tax asset remeasurement	-	-	-	-	2,074	13
Other items, net	(19)	-	(172)	(1)	(196)	-
Income tax provision	<u>\$ 5,228</u>	<u>24 %</u>	<u>\$ 2,283</u>	<u>12 %</u>	<u>\$ 5,209</u>	<u>33 %</u>

In 2018 and 2017, the Company recognized significant impact from its investments in partnerships that incurred expenses related to the rehabilitation of certified historic structures located in New York State after the historic structures were placed in service. At the time a historic structure is placed in service, the Bank is eligible for a federal and New York State tax credit. As noted in Note 1 to these Consolidated Financial Statements, for New York State, any new credit earned from rehabilitated historic properties placed in service on or after January 1, 2015 not used in the current tax year will be treated as a refund or overpayment of tax to be credited to the next year's tax. Since the realization of the tax credit does not depend on the Bank's generation of future taxable income or the Bank's ongoing tax status or tax position, the refund is not considered an element of income tax accounting. In such cases, the Bank would not record the credit as a reduction of income tax expense; rather, the Bank includes the refundable New York State tax credit in non-interest income with a corresponding receivable recorded in other assets. There were no significant historic tax credit transactions during 2019.

The following table presents the impact on the results of operations from the Bank's historic tax credit activity for the years ended December 31, 2019, 2018 and 2017.

	<u>2019</u>	<u>2018</u>	<u>2017</u>
Loss on tax credit investment	\$ (158)	\$ (2,870)	\$ (3,997)
Refundable state historic tax credit	115	1,982	2,843
Income tax benefit	81	2,043	1,869
Total HTC income	<u>\$ 38</u>	<u>\$ 1,155</u>	<u>\$ 715</u>

[Table of Contents](#)

At December 31, 2019 and 2018 the components of the net deferred tax asset were as follows:

	<u>2019</u>	<u>2018</u>
	(in thousands)	
Deferred tax assets:		
Pension and SERP plans	\$ 1,584	\$ 1,452
Allowance for loan and lease losses	3,876	3,788
Non accrued interest	-	68
Deferred compensation	558	614
Loss on investment in tax credit	444	490
Stock options granted	192	165
Lease liabilities	1,078	119
Net unrealized losses on securities	-	822
Other	37	-
Gross deferred tax assets	<u>\$ 7,769</u>	<u>\$ 7,518</u>
Deferred tax liabilities:		
Depreciation and amortization	\$ 1,614	\$ 1,637
Right of use assets	965	
Prepaid expenses	617	616
Net unrealized gains on securities	183	-
Deferred dividend income	-	356
Mortgage servicing asset	144	158
Other	71	-
Gross deferred tax liabilities	<u>\$ 3,594</u>	<u>\$ 2,767</u>
Valuation allowance	(218)	(334)
Net deferred tax asset	<u>\$ 3,957</u>	<u>\$ 4,417</u>

The net deferred tax asset at December 31, 2019 and 2018 is included in “other assets” in the Company’s consolidated balance sheets.

In assessing the ability of the Company to realize the benefit of the deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, availability of operating loss carrybacks, projected future taxable income, and tax planning strategies in making this assessment. Based upon the level of historical taxable income, the opportunity for net operating loss carrybacks, and projections for future taxable income over the periods which deferred tax assets are deductible, management believes it is more likely than not that the Company will generate sufficient taxable income to realize the benefits of these deductible differences at December 31, 2019, except for a valuation allowance of \$0.2 million on the net deferred tax asset for the investment in historic tax credits of \$0.4 million. In assessing the need for a valuation allowance for the deferred tax assets for the investments in historic tax credits, the Company considered all positive and negative evidence in assessing whether the weight of available evidence supports the recognition of some or all of the deferred tax assets.

In regard to historic tax credit investments, because of the tax nature of the loss to be recognized when the investment is ultimately sold (which for tax purposes will give rise to a capital loss), the Company has limited capital gains to use in the future to be able to utilize the capital losses from these investments. Therefore, the Company’s assessment of the deferred tax asset warrants the need for a valuation allowance to be recognized on the deferred tax asset that it determined is more-likely-than-not to not be realized. The amount of remaining capital loss includes the projected capital basis after taking the tax credit, expected losses, and cash distributions.

The state historic tax credit carryforward has an indefinite life with no expiration date in which to utilize the credit.

The Company did not have any unrecognized tax benefits for the years ended December 31, 2019, 2018, and 2017.

There were no accrued penalties and interest at December 31, 2019 and 2018.



[Table of Contents](#)

The Company is subject to routine audits of its tax returns by the Internal Revenue Service (“IRS”) and various state taxing authorities.

The tax years 2016-2018 remain subject to examination by the IRS. In 2019, the Company concluded a New York State audit covering the tax years 2015-2016. These audits concluded with no material adverse findings. The tax years 2017-2018 remain subject to examination by the New York State Department of Taxation & Finance.

The TCJA was signed into law on December 22, 2017. The most significant impact of the TCJA has been on the Company’s marginal federal tax rate in 2018 and beyond, which decreased from 35% to 21%. The change in the corporate tax rate resulted in a \$2.1 million expense related to the remeasurement of the Company’s deferred tax asset as of December 31, 2017.

#### 14. REVENUE RECOGNITION OF NON-INTEREST INCOME

A description of the Company's material revenue streams in non-interest income accounted for under ASC 606 follows:

Insurance Service and Fees: Insurance services revenue relates to various revenue streams from services provided by TEA and the Bank:

TEA earns commission revenue from selling commercial and personal property and casualty ("P&C") insurance as well as employee benefits ("EB") solutions to commercial customers.

TEA has agreements with various insurance companies to sell policies to customers on behalf of the carriers. The performance obligation for TEA is to sell annual P&C policies to commercial customers and consumers. This performance obligation is met when a new policy is sold or when an existing policy renews. The policies are generally one year terms. In the agreements with the respective insurance companies, a commission rate is agreed upon. The commission is recognized at the time of the sale of the policy or when a policy renews.

TEA has signed contracts with insurance carriers that enable TEA to sell benefit plans to commercial customers on behalf of the insurance carriers. The performance obligation for TEA is to sell the plans to commercial customers. After the initial sale when the customer signs an agreement to purchase the offered benefit plan, the performance obligation is met each month when a customer continues utilizing benefit plans from the carrier. The customer does not commit to a specific length of time with the carrier. In the agreements with the respective insurance companies, a commission rate is agreed upon. Revenue is recognized each month when the customer continues with the benefit plan sold by TEA.

TEA also earns contingent profit sharing revenue. The insurance companies measure the loss ratio for TEA's customers and pay TEA according to how profitable TEA customers are.

TEA has signed written agreements with insurance carriers that document payouts to TEA based on the loss ratios of its customers. The performance obligation for TEA is to maintain a customer base with loss ratios below the agreed upon thresholds. In the contracts with the insurance companies, payout rates based on loss ratios are documented. The consideration is variable as loss ratios vary based on customer experience. TEA's performance obligation is over the course of the year as its customers' performance with insurance carriers is measured throughout the year as losses occur. Due to the variable nature of contingent profit sharing revenue, TEA will accrue contingent profit sharing revenue throughout the year based on recent historical results. As loss events occur and overall performance becomes known to TEA, accrual adjustments will be made until the cash is ultimately received.

Financial services commission revenue from the Bank related to wealth management such as life insurance, annuities, and mutual funds sales is also included in the "insurance service and fees" line of the income statement.

The Company earns wealth management fees from its contracts with customers for certain financial services. Fees that are transaction-based are recognized at the point in time that the transaction is executed. Other related services provided include financial planning services and the fees the Bank earns are recognized when the services are rendered.

- Insurance claims services revenue is recorded at Frontier Claims Services, Inc. ("FCS").

FCS has signed agreements with insurance companies to perform claims services including investigative and adjustment services related to residential and commercial lines. The performance obligation is for FCS to investigate the insurance claims and inspecting the damage to determine the extent of the insurance company's liability. FCS is paid based on time and materials expended to investigate the claim. The rates paid are determined in the agreement between FCS and the respective insurance companies. Upon completion of its claims inspection work, FCS bills the insurance company for services rendered and recognizes the revenue earned.

[Table of Contents](#)

A disaggregation of the total insurance service and other fees at December 31, 2019, 2018, and 2017:

	<u>2019</u>	<u>2018</u>	<u>2017</u>
	(in thousands)		
Commercial property and casualty insurance commissions	\$ 4,014	\$ 3,541	\$ 2,918
Personal property and casualty insurance commissions	3,416	3,067	2,608
Employee benefits sales commissions	1,136	855	528
Profit sharing and contingent revenue	1,050	905	928
Wealth management and other financial services	517	563	425
Insurance claims services revenue	453	305	390
Other insurance-related revenue	102	129	101
Total insurance service and other fees	<u>\$ 10,688</u>	<u>\$ 9,365</u>	<u>\$ 7,898</u>

## 15. OTHER LIABILITIES

Other liabilities at December 31 were as follows:

	<u>2019</u>	<u>2018</u>
	(in thousands)	
Retirement compensation liabilities	\$ 8,308	\$ 7,976
Accounts payable	5,211	4,989
Taxes Payable	1,657	-
Historic tax credit investment	-	2,996
Interest payable	677	877
Loan participation payable	437	-
Other	138	193
Total other liabilities	<u>\$ 16,428</u>	<u>\$ 17,031</u>

## 16. RELATED PARTY TRANSACTIONS

The Bank has entered into loan transactions with certain directors, executive officers, significant shareholders and their affiliates (related parties) in the ordinary course of its business. The aggregate outstanding principal balance of loans to such related parties on December 31, 2019 and 2018 was \$1.7 million and \$1.3 million, respectively. During 2019, there were \$2.9 million of advances and new loans to such related parties, and repayments amounted to \$2.5 million. Terms of these loans have prevailing market pricing that would be offered to similarly-situated non-affiliated third parties. Deposits from related parties were \$4.1 million and \$3.4 million as of December 31, 2019 and 2018, respectively.

## 17. CONTINGENT LIABILITIES AND COMMITMENTS

The Company's consolidated financial statements do not reflect various commitments and contingent liabilities which arise in the normal course of business and which involve elements of credit risk, interest rate risk, and liquidity risk. These commitments and contingent liabilities are commitments to extend credit and standby letters of credit. A summary of the Bank's commitments and contingent liabilities at December 31, 2019 and 2018 is as follows:

	<u>December 31,</u> <u>2019</u>	<u>December 31,</u> <u>2018</u>
	(in thousands)	
Commitments to extend credit	\$ 331,974	\$ 290,785
Standby letters of credit	4,309	3,379
Total	<u>\$ 336,283</u>	<u>\$ 294,164</u>

Commitments to extend credit and standby letters of credit all include exposure to some credit loss in the event of non-performance of the customer. The Bank's credit policies and procedures for credit commitments and financial guarantees are the same as those for extensions of credit that are recorded on the Consolidated Balance Sheets. Because these instruments have fixed maturity dates, and because they may expire without being drawn upon, they do not necessarily represent cash requirements to the Bank. The Bank has not incurred any losses on its commitments during the past three years and has not recorded a reserve for its commitments.

The Company has entered into contracts with third parties, some of which include indemnification clauses. Examples of such contracts include contracts with third-party service providers, brokers and dealers, correspondent banks, and purchasers of residential mortgages. Additionally, the Company has bylaws, policies, and agreements under which it agrees to indemnify its officers and directors from liability for certain events or occurrences while the directors or officers are, or were, serving at the Company's request in such capacities. The Company indemnifies its officers and directors to the fullest extent allowed by law. The maximum potential amount of future payments that the Company could be required to make under these indemnification provisions is unlimited, but would be affected by all relevant defenses to such claims, as well as directors' and officers' liability insurance maintained by the Company. Due to the nature of these indemnification provisions, it is not possible to quantify the aggregate exposure to the Company resulting from them.

Certain lending commitments for construction residential mortgage loans are considered derivative instruments under the guidelines of GAAP. The changes in the fair value of these commitments, due to interest rate risk, are not recorded on the consolidated balance sheets as the fair value of these derivatives is not considered to be material.

The Company leases certain offices, land and equipment under long-term operating leases. The aggregate minimum annual rental commitments under these leases total approximately \$0.7 million in 2020, 2021 and 2022, \$0.6 million in 2023, \$0.5 million in 2024 and \$1.6 million thereafter. The rental expense under operating leases contained in the Company's Consolidated Statements of Income was \$0.7 million in 2019, 2018, and 2017.

## 18. CONCENTRATIONS OF CREDIT

All of the Bank's loans, commitments, and standby letters of credit have been granted to customers in the Bank's primary market area, which is Western New York. Investments in state and municipal securities also involve governmental entities within the Bank's primary market area. The concentrations of credit by type of loan are set forth in Note 3 to these Consolidated Financial Statements, "Loans and the Allowance for Loan Losses." The distribution of commitments to extend credit approximates the distribution of loans outstanding. Standby letters of credit were granted primarily to commercial borrowers. The Bank, as a matter of policy, does not extend credit to any single borrower or group in excess of 15% of capital.

## 19. SEGMENT INFORMATION

The Company is comprised of two primary business segments: banking activities and insurance agency activities. The operating segments are separately managed and their performance is evaluated based on net income. The banking business segment includes both commercial and consumer banking services, including a wide array of lending and depository services as well as offering non-deposit investment products, such as annuities and mutual funds. The insurance agency segment includes the activities of selling various premium-based insurance policies on a commission basis, including business and personal insurance, employee benefits, surety bonds, risk management, life, disability and long-term care coverage, as well as providing claims adjusting services to various insurance companies. All sources of segment specific revenues and expenses contributed to management's definition of net income. Revenues from transactions between the two segments are not significant.

[Table of Contents](#)

The following tables set forth information regarding these segments for the years ended December 31, 2019, 2018, and 2017.

	<b>2019</b>		
	<b>Banking Activities</b>	<b>Insurance Agency Activities</b>	<b>Total</b>
	(in thousands)		
Net interest income (expense)	\$ 52,152	\$ (97)	\$ 52,055
Provision for loan losses	75	-	75
Net interest income (expense) after provision for loan losses	52,077	(97)	51,980
Insurance service and fees	480	10,208	10,688
Other non-interest income	7,232	162	7,394
Amortization expense	-	448	448
Other non-interest expense	38,961	8,411	47,372
Income before income taxes	20,828	1,414	22,242
Income tax provision	4,860	368	5,228
Net income	<u>\$ 15,968</u>	<u>\$ 1,046</u>	<u>\$ 17,014</u>

	<b>2018</b>		
	<b>Banking Activities</b>	<b>Insurance Agency Activities</b>	<b>Total</b>
	(in thousands)		
Net interest income (expense)	\$ 48,228	\$ (121)	\$ 48,107
Provision for loan losses	1,402	-	1,402
Net interest income (expense) after provision for loan losses	46,826	(121)	46,705
Insurance service and fees	541	8,824	9,365
Other non-interest income	5,862	-	5,862
Amortization expense	-	280	280
Other non-interest expense	35,683	7,330	43,013
Income before income taxes	17,546	1,093	18,639
Income tax provision	1,999	284	2,283
Net income	<u>\$ 15,547</u>	<u>\$ 809</u>	<u>\$ 16,356</u>

	<b>2017</b>		
	<b>Banking Activities</b>	<b>Insurance Agency Activities</b>	<b>Total</b>
	(in thousands)		
Net interest income (expense)	\$ 42,119	\$ (102)	\$ 42,017
Provision for loan losses	738	-	738
Net interest income (expense) after provision for loan losses	41,381	(102)	41,279
Insurance service and fees	416	7,482	7,898
Other non-interest income	5,105	-	5,105
Amortization expense	-	113	113
Other non-interest expense	32,610	5,871	38,481
Income before income taxes	14,292	1,396	15,688
Income tax provision	4,674	535	5,209
Net income	<u>\$ 9,618</u>	<u>\$ 861</u>	<u>\$ 10,479</u>

	December 31, 2019	December 31, 2018
	(in thousands)	
<b>Identifiable Assets, Net</b>		
Banking activities	\$ 1,443,611	\$ 1,371,560
Insurance agency activities	16,619	16,647
Consolidated Total Assets	<u>\$ 1,460,230</u>	<u>\$ 1,388,207</u>

## 20. ACQUISITIONS

On December 19, 2019, the Company announced that it had entered into a definitive Agreement and Plan of Reorganization (the “Agreement”) with FSB Bancorp, Inc. (“FSB”), a Maryland corporation and the parent holding company of Fairport Savings Bank, under which FSB would be acquired by the Company (the “Merger”). Subject to the terms and conditions of the Agreement, upon the consummation of the Merger, FSB stockholders will have the right to receive, subject to possible adjustment, for each share of common stock, par value \$0.01 per share, of FSB, either (i) 0.4394 shares of common stock, par value \$0.50 per share, of Evans (“Evans Common Stock”), or (ii) \$17.80 in cash, at the election of such holder. All such elections are subject to adjustment on a pro rata basis, so that approximately 50% of the aggregate consideration paid to FSB stockholders will be cash and approximately 50% will be Evans Common Stock. As of December 19, 2019 total consideration to be paid was valued at approximately \$35 million.

As of September 30, 2019, FSB reported \$325 million of assets, including \$277 million of loans (predominantly residential real estate loans) and \$24 million of investment securities, and \$293 million of liabilities, including \$233 million of deposits.

The Company incurred \$0.2 million of merger-related expenses in 2019 associated with the pending Merger, consisting largely of professional services of their attorneys, accountants, investment bankers and other advisors. Merger related expenses incurred in 2018 were not material. There were no merger-related expenses during 2017.

**21. FAIR VALUE OF FINANCIAL INSTRUMENTS**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

There are three levels of inputs to fair value measurements:

- Level 1 inputs are quoted prices for identical instruments in active markets;
- Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly; and
- Level 3 inputs are unobservable inputs.

Observable market data should be used when available.

**FINANCIAL INSTRUMENTS MEASURED AT FAIR VALUE ON A RECURRING BASIS**

The following table presents for each of the fair-value hierarchy levels as defined in this footnote, those financial instruments which are measured at fair value on a recurring basis at December 31, 2019 and 2018:

(in thousands)	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Fair Value</u>
<b>December 31, 2019</b>				
Securities available-for-sale:				
US government agencies	\$ -	\$ 28,156	\$ -	\$ 28,156
States and political subdivisions	-	3,351	-	3,351
Mortgage-backed securities	-	96,416	-	96,416
Mortgage servicing rights	-	-	555	555
<b>December 31, 2018</b>				
Securities available-for-sale:				
US government agencies	\$ -	\$ 33,928	\$ -	\$ 33,928
States and political subdivisions	-	22,173	-	22,173
Mortgage-backed securities	-	76,003	-	76,003
Mortgage servicing rights	-	-	609	609

**Securities available for sale**

Fair values for available for sale securities are determined using independent pricing services and market-participating brokers. The Company utilizes a third-party for these pricing services. The third-party utilizes evaluated pricing models that vary by asset class and incorporate available trade, bid and other market information for structured securities, cash flow and, when available, loan performance data. Because many fixed income securities do not trade on a daily basis, the third-party service provider's evaluated pricing applications apply information as applicable through processes, such as benchmarking of like securities, sector groupings, and matrix pricing, to prepare evaluations. In addition, our third-party pricing service provider uses model processes, such as the Option Adjusted Spread model, to assess interest rate impact and develop prepayment scenarios. The models and the process take into account market convention. For each asset class, a team of evaluators gathers information from market sources and integrates relevant credit information, perceived market movements and sector news into the evaluated pricing applications and models. The third-party, at times, may determine that it does not have sufficient verifiable information to value a particular security. In these cases the Company will utilize valuations from another pricing service.

Management believes that it has a sufficient understanding of the third-party service's valuation models, assumptions and inputs used in determining the fair value of securities to enable management to maintain an appropriate system of internal control. On a quarterly basis the Company reviews changes, as submitted by our third-party pricing service provider, in the market value of its securities portfolio. Individual changes in valuations are reviewed for consistency with general interest rate movements and any known credit concerns for specific securities. Additionally, on an annual basis the Company has its entire securities portfolio priced by a second pricing service to determine consistency with another market evaluator. If, on the Company's review or in comparing with another servicer, a material difference between pricing evaluations were to exist, the Company may submit an inquiry to our third-party pricing service provider regarding the data used to value a particular security. If the Company determines it has market information that would support a different valuation than our third-party service provider's evaluation it can submit a challenge for a change to that security's valuation. There were no material differences in valuations noted in 2019 or 2018.

Securities available for sale are classified as Level 2 in the fair value hierarchy as the valuation provided by the third-party provider uses observable market data.

#### **Mortgage servicing rights**

Mortgage servicing rights ("MSRs") do not trade in an active, open market with readily observable prices. Accordingly, the Company obtains the fair value of the MSRs using a third-party pricing provider. The provider determines the fair value by discounting projected net servicing cash flows of the remaining servicing portfolio. The valuation model used by the provider considers market loan prepayment predictions and other economic factors. The fair value of MSRs is mostly affected by changes in mortgage interest rates since rate changes cause the loan prepayment acceleration factors to increase or decrease. All assumptions are market driven. Management has a sufficient understanding of the third-party service's valuation models, assumptions and inputs used in determining the fair value of MSRs to enable management to maintain an appropriate system of internal control. Mortgage servicing rights are classified within Level 3 of the fair value hierarchy as the valuation is model driven and primarily based on unobservable inputs.



[Table of Contents](#)

The following table summarizes the changes in fair value for items measured at fair value (Level 3) on a recurring basis using significant unobservable inputs during the years ended December 31:

(in thousands)	2019	2018	2017
Mortgage servicing rights - January 1	\$ 609	\$ 586	\$ 527
Gains/(Losses) included in earnings	(178)	(22)	(48)
Additions from loan sales	124	45	107
Mortgage servicing rights - December 31	<u>\$ 555</u>	<u>\$ 609</u>	<u>\$ 586</u>

Quantitative information about the significant unobservable inputs used in the fair value measurement of MSRs at the respective dates is as follows:

	December 31, 2019	December 31, 2018
Servicing fees	0.25 %	0.25 %
Discount rate	9.00 %	9.00 %
Prepayment rate (CPR)	8.21 %	6.52 %

**FINANCIAL INSTRUMENTS MEASURED AT FAIR VALUE ON A NONRECURRING BASIS**

The Company is required, on a nonrecurring basis, to adjust the carrying value of certain assets or provide valuation allowances related to certain assets using fair value measurements. The following table presents for each of the fair-value hierarchy levels as defined in this footnote, those financial instruments which are measured at fair value on a nonrecurring basis at December 31, 2019 and 2018:

(in thousands)	Level 1	Level 2	Level 3	Fair Value
December 31, 2019				
Collateral dependent impaired loans	\$ -	\$ -	\$ 15,735	\$ 15,735
December 31, 2018				
Collateral dependent impaired loans	\$ -	\$ -	\$ 20,590	\$ 20,590

**Impaired loans**

The Company evaluates and values impaired loans at the time the loan is identified as impaired, and the fair values of such loans are estimated using Level 3 inputs in the fair value hierarchy. Each loan's collateral value has a unique appraisal and management's discount of the value is based on factors unique to each impaired loan. The significant unobservable input in determining the fair value is management's subjective discount on appraisals of the collateral securing the loan, which ranges from 10%-50%. Fair value is estimated based on the value of the collateral securing these loans. Collateral may consist of real estate and/or business assets including equipment, inventory and/or accounts receivable and the value of these assets is determined based on appraisals by qualified licensed appraisers hired by the Company. Appraised and reported values may be discounted based on management's historical knowledge, changes in market conditions from the time of valuation, estimated costs to sell, and/or management's expertise and knowledge of the client and the client's business.

The Company has an appraisal policy in which appraisals are obtained upon a commercial loan being downgraded on the Company's internal loan rating scale to a special mention or a substandard depending on the amount of the loan, the type of loan and the type of collateral. All impaired commercial loans are graded substandard or worse on the internal loan rating scale. For consumer loans, the Company obtains appraisals when a loan becomes 90 days past due or is determined to be impaired, whichever occurs first. Subsequent to the downgrade or reaching 90 days past due, if the loan remains outstanding and impaired for at least one year more, management may require another follow-up appraisal. Between receipts of updated appraisals, if necessary, management may perform an internal valuation based on any known changing conditions in the marketplace such as sales of similar properties, a change in the condition of the collateral, or feedback from local appraisers. Collateral dependent impaired loans had a gross value of \$16.0 million, with an allowance for loan loss of \$0.3 million, at December 31, 2019 compared with \$21.7 million and \$1.1 million, respectively, at December 31, 2018.

[Table of Contents](#)

At December 31, 2019 and 2018, the estimated fair values of the Company's financial instruments, including those that are not measured and reported at fair value on a recurring basis or nonrecurring basis, were as follows:

	December 31, 2019		December 31, 2018	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(in thousands)		(in thousands)	
<b>Financial assets:</b>				
Level 1:				
Cash and cash equivalents	\$ 38,857	\$ 38,857	\$ 39,915	\$ 39,915
Level 2:				
Available for sale securities	127,922	127,922	132,104	132,104
FHLB and FRB stock	3,544	3,544	3,403	3,403
Level 3:				
Held to maturity securities	2,386	2,392	1,685	1,674
Loans, net	1,211,356	1,222,386	1,141,146	1,131,891
Mortgage servicing rights	555	555	609	609
<b>Financial liabilities:</b>				
Level 1:				
Demand deposits	\$ 263,717	\$ 263,717	\$ 231,902	\$ 231,902
NOW deposits	140,654	140,654	110,450	110,450
Savings deposits	587,142	587,142	571,479	571,479
Level 2:				
Securities sold under agreement to repurchase	2,425	2,425	3,142	3,142
Other borrowed funds	10,000	9,997	10,000	9,854
Junior subordinated debentures	11,330	11,330	11,330	11,330
Level 3:				
Time deposits	275,927	277,051	301,227	298,999

The following methods and assumptions were used to estimate the fair value of each class of financial instruments for which it is practicable to estimate that value.

**Securities Available for Sale**

Fair values for available for sale securities are determined using independent pricing services and market-participating brokers.

**FHLB and FRB stock**

The carrying value of FHLB and FRB stock, which are non-marketable equity investments, approximates fair value.

**Deposits**

The fair value of demand deposits, NOW accounts, muni-vest accounts and regular savings accounts is the amount payable on demand at the reporting date. The fair value of time deposits is estimated using the rates currently offered for deposits of similar remaining maturities.

**Borrowed Funds and Securities Sold Under Agreement to Repurchase**

The fair value of securities sold under agreement to repurchase approximates its carrying value. The fair value of other borrowed funds was estimated using a discounted cash flow analysis based on the Company's current incremental borrowing rates for similar types of borrowing arrangements.

**Junior Subordinated Debentures**

There is no active market for the Company's debentures and there have been no issuances of similar instruments in recent years. The Company looked at a market bond index to estimate a discount margin to value the debentures. The discount margin was very similar

[Table of Contents](#)

to the spread to LIBOR established at the issuance of the debentures. As a result, the Company determined that the fair value of the adjustable-rate debentures approximates their face amount.

**Pension Plan Assets**

Refer to Note 11 to these Consolidated Financial Statements, “Employee Benefits and Deferred Compensation Plans” for the fair value analysis of the Pension Plan assets.

**22. REGULATORY MATTERS**

Quantitative measures established by regulation to ensure capital adequacy require the Company to maintain minimum amounts and ratios (set forth in the table that follows) of Common Equity Tier I, Total Capital, and Tier I Capital (as defined in FRB regulations) to risk-weighted assets (as defined in FRB regulations), and of Tier I capital (as defined in FRB regulations) to average assets (as defined in FRB regulations). Management believes that as of December 31, 2019 and 2018, the Company and the Bank met all capital adequacy requirements to which they are subject.

The most recent notification from their regulators categorized the Company and the Bank as well capitalized under the regulatory framework for prompt corrective action. To be categorized as well capitalized, the Company and the Bank must maintain minimum Common Equity Tier I, total risk-based, Tier I risk-based, and Tier I leverage ratios as set forth in the table. There are no conditions or events since that notification that management believes have changed the Company’s or Bank’s category rating.

The Company’s and the Bank’s actual capital amounts and ratios were as follows:

<b>December 31, 2019</b>									
(in thousands)									
	<u>Company</u>		<u>Bank</u>		<u>Minimum for Capital Adequacy Purposes</u>		<u>Minimum to be Well Capitalized Under Prompt Corrective Action Provisions</u>		
	Amount	Ratio	Amount	Ratio	Amount	Ratio	Amount	Ratio	
<b>Common Equity Tier I</b>									
(to Risk Weighted Assets)	\$ 150,860	12.32 %	\$ 147,618	12.08 %	\$ 55,099	4.5 %	\$ 85,710	7.0 %	
<b>Total Capital</b>									
(to Risk Weighted Assets)	\$ 166,035	13.56 %	\$ 162,793	13.32 %	\$ 97,954	8.0 %	\$ 128,565	10.5 %	
<b>Tier I Capital</b>									
(to Risk Weighted Assets)	\$ 150,860	12.32 %	\$ 147,618	12.08 %	\$ 73,466	6.0 %	\$ 104,076	8.5 %	
<b>Tier I Capital</b>									
(to Average Assets)	\$ 150,860	10.33 %	\$ 147,618	10.15 %	\$ 58,397	4.0 %	\$ 72,996	5.0 %	

The Company is subject to the dividend restrictions imposed by the FRB and the OCC. Dividends are paid as declared by the Board of Directors. The Company may pay dividends only if it is solvent and would not be rendered insolvent by the dividend payment and only from unrestricted and unreserved earned surplus and under some circumstances capital surplus. The Bank’s dividend restrictions apply indirectly to the Company since cash available for dividend distribution will initially come from dividends paid to the Company by the Bank.

Dividends may be paid by the Bank only if it would not impair the Bank’s capital structure, if the Bank’s surplus is at least equal to its common capital and if the dividends declared in any year do not exceed the total of net profits in that year combined with undivided profits of the preceding two years less any required transfers to surplus, and if no losses have been sustained equal to or exceeding its undivided profits.

In addition, federal regulators have the ability to restrict dividend payments. If the Bank or the Company approaches well-capitalized or minimum capital adequacy levels, regulators could restrict or forbid dividend payments.

**23. PARENT COMPANY ONLY FINANCIAL INFORMATION**

Parent company (Evans Bancorp, Inc.) only condensed financial information is as follows:

**CONDENSED BALANCE SHEETS**

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	(in thousands)	
<b>ASSETS</b>		
Cash	\$ 1,027	\$ 1,446
Other assets	407	403
Investment in subsidiaries	159,620	142,268
Total assets	<u>\$ 161,054</u>	<u>\$ 144,117</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
Junior subordinated debentures	\$ 11,330	\$ 11,330
Other liabilities	1,271	1,141
Total liabilities	12,601	12,471
<b>STOCKHOLDERS' EQUITY</b>		
Total Stockholders' Equity	\$ 148,453	\$ 131,646
Total liabilities and stockholders' equity	<u>\$ 161,054</u>	<u>\$ 144,117</u>

**CONDENSED STATEMENTS OF INCOME**

	<b>December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
	(in thousands)		
Dividends from subsidiaries	\$ 4,500	\$ 8,300	\$ 2,100
Income	4	147	-
Expenses	(1,323)	(927)	(771)
Income before equity in undistributed earnings of subsidiaries	3,181	7,520	1,329
Equity in undistributed earnings of subsidiaries	13,833	8,836	9,150
Net income	17,014	16,356	10,479
Other comprehensive income	-	-	-
Comprehensive income	\$ 17,014	\$ 16,356	\$ 10,479

**CONDENSED STATEMENTS OF CASH FLOWS**

	<b>Year Ended</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
	(in thousands)		
<b>Operating Activities:</b>			
Net income	\$ 17,014	\$ 16,356	\$ 10,479
Adjustments to reconcile net income to net cash provided by operating activities:			
Undistributed earnings of subsidiaries	(13,833)	(8,836)	(9,150)
Changes in assets and liabilities affecting cash flow:			
Other assets	130	(470)	(13)
Other liabilities	4	250	(183)
Other	180	153	-
Net cash provided by operating activities	3,495	7,453	1,133
<b>Investing Activities:</b>			
Proceeds from equity securities sales	-	1,960	-
Investment in subsidiaries	-	(5,000)	(11,791)
Net cash used in investing activities	-	(3,040)	(11,791)
<b>Financing Activities:</b>			
Proceeds from issuance of common stock	1,178	1,025	15,015
Cash dividends paid	(5,092)	(4,428)	(3,819)
Purchase of Treasury stock	-	-	(342)
Net cash used in financing activities	(3,914)	(3,403)	10,854
Net increase (decrease) in cash	(419)	1,010	196
Cash beginning of year	1,446	436	240
Cash ending of year	\$ 1,027	\$ 1,446	\$ 436



**24. SELECTED QUARTERLY FINANCIAL DATA - UNAUDITED**

	<u>4th Quarter</u>	<u>3rd Quarter</u>	<u>2nd Quarter</u>	<u>1st Quarter</u>
	(in thousands, except for per share data)			
<b>2019</b>				
Interest Income	\$ 16,028	\$ 16,845	\$ 16,325	\$ 15,542
Interest Expense	3,236	3,224	3,191	3,034
Net Interest Income	12,792	13,621	13,134	12,508
Net Income	3,748	5,164	4,382	3,720
Earnings per share basic	0.76	1.05	0.90	0.77
Earnings per share diluted	0.75	1.04	0.88	0.75
<b>2018</b>				
Interest Income	\$ 15,309	\$ 14,690	\$ 14,247	\$ 13,366
Interest Expense	2,936	2,604	2,051	1,914
Net Interest Income	12,373	12,086	12,196	11,452
Net Income	4,451	4,795	3,791	3,319
Earnings per share basic	0.92	0.99	0.79	0.69
Earnings per share diluted	0.90	0.97	0.77	0.68

**Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES**

Not applicable.

**Item 9A. CONTROLS AND PROCEDURES**

- (a) **Disclosure Controls and Procedures.** The Company's management, with the participation of the Company's principal executive officer and principal financial officer, evaluated the effectiveness of the design and operation of the Company's disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of December 31, 2019 (the end of the period covered by this Annual Report on Form 10-K). Based on that evaluation, the Company's principal executive and principal financial officers concluded that, as of December 31, 2019, the Company's disclosure controls and procedures were effective.
- (b) **Management's Annual Report on Internal Control Over Financial Reporting.** Management's Annual Report on Internal Control Over Financial Reporting appears at "Item 8. Financial Statements and Supplementary Data" of this Annual Report on Form 10-K, and is incorporated herein by reference in response to this Item 9A.
- (c) **Attestation Report of the Independent Registered Public Accounting Firm.** The effectiveness of the Company's internal control over financial reporting as of December 31, 2019 has been audited by KPMG LLP, an independent registered public accounting firm, as stated in their report, which appears in the "Report of Independent Registered Public Accounting Firm" in "Item 8. Financial Statements and Supplementary Data" of this Annual Report on Form 10-K, and is incorporated herein by reference in response to this Item 9A.
- (d) **Changes in Internal Control Over Financial Reporting.** No changes in the Company's internal control over financial reporting were identified in the fiscal quarter ended December 31, 2019 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**Item 9B. OTHER INFORMATION**

None



**PART III**

**Item 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

The information called for by this item is incorporated herein by reference to the material under the captions "Information Regarding Directors, Director Nominees and Executive Officers," "Section 16(a) Beneficial Ownership Reporting Compliance," "Corporate Governance – Code of Ethics for Chief Executive Officer and Principal Financial Officers," and "Board of Director Committees – Audit Committee" in the Company's definitive proxy statement relating to its 2020 annual meeting of shareholders to be held on April 23, 2020 (the "Proxy Statement").

**Item 11. EXECUTIVE COMPENSATION**

The information called for by this item is incorporated herein by reference to the material under the captions "Director Compensation," "Executive Compensation," "Corporate Governance – Compensation Risk," "Board of Director Committees – Human Resource and Compensation Committee," "Human Resource and Compensation Committee Interlocks and Insider Participation" and "Human Resource and Compensation Committee Report" in the Proxy Statement.

The material incorporated herein by reference to the material under the caption, "Human Resource and Compensation Committee Report" in the Proxy Statement is deemed "furnished" in this Annual Report on Form 10-K and shall not be deemed to be "soliciting material" or to be "filed" with the SEC or subject to the liabilities of Section 18 of the Exchange Act, except to the extent that the Company specifically incorporates it by reference into a document filed under the Securities Act or the Exchange Act.

**Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information called for by this item is incorporated herein by reference to the material under the captions "General Information - Security Ownership of Management and Certain Beneficial Owners" and "General Information – Equity Compensation Plans" in the Proxy Statement.

**Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The information called for by this item is incorporated herein by reference to the material under the captions "Corporate Governance – Independence of Directors" and "Transactions with Related Persons" in the Proxy Statement.

**Item 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The information called for by this item is incorporated herein by reference to the material under the caption "Independent Registered Public Accounting Firm" in the Proxy Statement.

**PART IV**

**Item 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

The following documents are filed as a part of this Report on Form 10-K:

1. Financial statements: The following audited consolidated financial statements and notes thereto and the material under the caption "Report of Independent Registered Public Accounting Firm" in Part II, Item 8 of this Annual Report on Form 10-K are incorporated herein by reference:

Report of Independent Registered Public Accounting Firm (internal control over financial reporting)  
Report of Independent Registered Public Accounting Firm (consolidated financial statements)  
Consolidated Balance Sheets - December 31, 2019 and 2018  
Consolidated Statements of Income - Years Ended December 31, 2019, 2018 and 2017  
Consolidated Statements of Changes in Stockholders' Equity - Years Ended December 31, 2019, 2018 and 2017  
Consolidated Statements of Cash Flows - Years Ended December 31, 2019, 2018 and 2017  
Notes to Consolidated Financial Statements

2. All other financial statement schedules are omitted because they are not applicable or the required information is included in the Company's Consolidated Financial Statements or Notes thereto included in Part II, Item 8 of this Annual Report on Form 10-K.
3. Exhibits

The following exhibits are filed as a part of this report:

## EXHIBIT INDEX

Exhibit No.	Exhibit Description
3.1	Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3a to the Company's Registration Statement on Form S-4 (Registration No. 33-25321), as filed on November 7, 1988). (Filed on paper – hyperlink is not required pursuant to Rule 105 of Regulation S-T)
3.1.1	Certificate of Amendment to the Company's Certificate of Incorporation (incorporated by reference to Exhibit 3.3 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 1997, as filed on May 14, 1997). (Filed on paper – hyperlink is not required pursuant to Rule 105 of Regulation S-T)
3.2	<a href="#"><u>Amended and Restated Bylaws of the Company, effective as of September 20, 2016 (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed on September 22, 2016).</u></a>
4.1	<a href="#"><u>Indenture between the Company, as Issuer, and Wilmington Trust Company, as Trustee, dated as of October 1, 2004 (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2004, as filed on November 4, 2004).</u></a>
4.2	<a href="#"><u>Form of Floating Rate Junior Subordinated Debt Security due 2034 (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2004, as filed on November 4, 2004).</u></a>
4.3	<a href="#"><u>Amended and Restated Declaration of Trust of Evans Capital Trust I, dated as of October 1, 2004 (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2004, as filed on November 4, 2004).</u></a>
4.4	<a href="#"><u>Guarantee Agreement of the Company, dated as of October 1, 2004 (incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2004, as filed on November 4, 2004).</u></a>
4.5	<a href="#"><u>Description of Evans Bancorp, Inc. Securities (filed herewith)</u></a>
10.1	<a href="#"><u>Evans Bancorp, Inc. Dividend Reinvestment Plan, as amended (incorporated by reference to the Company's Registration Statement on Form S-3 (Registration No. 333-166264), as filed on April 23, 2010).</u></a>
10.2*	<a href="#"><u>Evans Bancorp, Inc. 2013 Employee Stock Purchase Plan (incorporated by reference to Appendix A to the Company's Definitive Proxy Statement on Schedule 14A, as filed on March 21, 2013).</u></a>
10.3*	<a href="#"><u>Evans Bancorp, Inc. 2009 Long-Term Equity Incentive Plan (incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A, as filed on April 1, 2009).</u></a>
10.4*	<a href="#"><u>Evans National Bank Deferred Compensation Plan for Officers and Directors (incorporated by reference to Exhibit 10.12 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2003, as filed on March 18, 2004).</u></a>
10.5*	<a href="#"><u>Form of Deferred Compensation Participatory Agreement (incorporated by reference to Exhibit 10.16 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2004, as filed on March 28, 2005).</u></a>
10.6*	<a href="#"><u>Evans National Bank Executive Life Insurance Plan (incorporated by reference to Exhibit 10.10 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2003 as filed on March 18, 2004).</u></a>
10.7*	<a href="#"><u>Form of Executive Life Insurance Split-Dollar Endorsement Participatory Agreement (incorporated by reference to Exhibit 10.17 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2004, as filed on March 28, 2005).</u></a>
10.8*	<a href="#"><u>First Amendment to the Evans National Bank Executive Life Insurance Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, as filed on May 2, 2007).</u></a>
10.9*	<a href="#"><u>Evans National Bank Supplemental Executive Retirement Plan (incorporated by reference to Exhibit 10.11 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2003, as filed on March 18, 2004).</u></a>
10.10*	<a href="#"><u>Form of Supplemental Executive Retirement Participatory Agreement (incorporated by reference to Exhibit 10.15 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2004, as filed on March 28, 2005).</u></a>
10.11*	<a href="#"><u>Summary of Evans Excels Plan (incorporated by reference to Exhibit 10.12 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2017, as filed on March 1, 2018).</u></a>
10.12*	<a href="#"><u>Evans Bank, N.A. Supplemental Executive Retirement Plan for Senior Executives (incorporated by reference to Exhibit 10.18 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2013, as filed on March 3, 2014).</u></a>
10.13*	<a href="#"><u>Restricted Stock Award Agreement granted by Evans Bancorp, Inc. to Directors under the Evans Bancorp, Inc. 2009 Long-Term Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2010, as filed on August 4, 2010).</u></a>
10.14*	<a href="#"><u>Stock Option Agreement granted by Evans Bancorp, Inc. to Directors under the Evans Bancorp, Inc. 2009 Long-Term Equity Incentive Plan (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2010, as filed on August 4, 2010).</u></a>

Table of Contents

10.15*	<a href="#"><u>Restricted Stock Award Agreement granted by Evans Bancorp, Inc. to Employees under the Evans Bancorp, Inc. 2009 Long-Term Equity Incentive Plan (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2010, as filed on August 4, 2010).</u></a>
10.16*	<a href="#"><u>Employment Agreement by and among Evans Bank, N.A., the Company and David J. Nasca, executed and delivered by the Company and the Bank on September 14, 2009 and effective as of September 9, 2009 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, as filed on September 17, 2009).</u></a>
10.17*	<a href="#"><u>Stock Option Agreement granted by Evans Bancorp, Inc. to Employees under the Evans Bancorp, Inc. 2009 Long-Term Equity Incentive Plan (incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2010, as filed on August 4, 2010).</u></a>
10.18*	<a href="#"><u>Letter Agreement Regarding Insurance Coverage for James Tilley (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2007, as filed on August 14, 2007).</u></a>
10.19*	<a href="#"><u>Evans Bancorp, Inc. Executive Severance Plan, as revised on July 26, 2016 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, as filed on July 29, 2016).</u></a>
10.20*	<a href="#"><u>Evans Bancorp, Inc. Change in Control Agreement (incorporated by reference to Exhibit 10.30 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015, as filed on March 3, 2016).</u></a>
10.21*	<a href="#"><u>Evans Bank, N.A. 2010 Amended and Restated Executive Incentive Retirement Plan on September 24, 2010 and effective October 1, 2010 (incorporated by reference to Exhibit 10.31 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015, as filed on March 3, 2016).</u></a>
10.22*	<a href="#"><u>Evans Bancorp, Inc. Amended and Restated 2019 Long-Term Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, as filed on April 26, 2019).</u></a>
10.23*	<a href="#"><u>Employment Agreement, dated as of July 1, 2018, by and between The Evans Agency, LLC and Aaron Whitehouse (filed herewith).</u></a>
10.24*	<a href="#"><u>Form of Employee Restricted Stock Award Agreement granted by Evans Bancorp, Inc. under the Evans Bancorp, Inc. Amended and Restated 2019 Long Term Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company's Form S-8 Registration Statement, filed on May 20, 2019).</u></a>
10.25*	<a href="#"><u>Form of Employee Stock Option Award Agreement granted by Evans Bancorp, Inc. under the Evans Bancorp, Inc. Amended and Restated 2019 Long Term Equity Incentive Plan (incorporated by reference to Exhibit 10.3 to the Company's Form S-8 Registration Statement, filed on May 20, 2019).</u></a>
10.26*	<a href="#"><u>Form of Director Restricted Stock Award Agreement granted by Evans Bancorp, Inc. under the Evans Bancorp, Inc. Amended and Restated 2019 Long Term Equity Incentive Plan (incorporated by reference to Exhibit 10.4 to the Company's Form S-8 Registration Statement, filed on May 20, 2019).</u></a>
10.27*	<a href="#"><u>Form of Director Stock Option Award Agreement granted by Evans Bancorp, Inc. under the Evans Bancorp, Inc. Amended and Restated 2019 Long Term Equity Incentive Plan (incorporated by reference to Exhibit 10.5 to the Company's Form S-8 Registration Statement, filed on May 20, 2019).</u></a>
21.1	<a href="#"><u>Subsidiaries of the Company (filed herewith).</u></a>
23.1	<a href="#"><u>Independent Registered Public Accounting Firm's Consent from KPMG LLP (filed herewith).</u></a>
24	Power of Attorney (included on the signature page of this Annual Report on Form 10-K).
31.1	<a href="#"><u>Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and 15d-14(a), as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).</u></a>
31.2	<a href="#"><u>Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and 15d-14(a), as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).</u></a>
32.1	<a href="#"><u>Certification of Principal Executive Officer pursuant to 18 USC Section 1350 Chapter 63 of Title18, United States Code, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).</u></a>
32.2	<a href="#"><u>Certification of Principal Financial Officer pursuant to 18 USC Section 1350 Chapter 63 of Title18, United States Code, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).</u></a>
101	The following materials from Evans Bancorp, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2018, formatted in XBRL (eXtensible Business Reporting Language): (i) Consolidated Balance Sheets – December 31, 2018 and 2017; (ii) Consolidated Statements of Income – years ended December 31, 2018, 2017, and 2016; (iii) Consolidated Statements of Stockholder's Equity – years ended December 31, 2018, 2017, and 2016; (iv) Consolidated Statements of Cash Flows – years ended December 31, 2018 and 2017; and (vi) Notes to Consolidated Financial Statements.

\* Indicates a management contract or compensatory plan or arrangement.

**Item 16. FORM 10-K SUMMARY**

Not applicable





Unless otherwise indicated or unless the context requires otherwise, all references in this prospectus to “Evans Bancorp,” the “Company,” “we,” “us,” “our” or similar references mean Evans Bancorp, Inc.

### **Description of Common Stock**

We are authorized to issue 10,000,000 shares of common stock, par value of \$0.50 per share. Each share of common stock has the same relative rights as, and is identical in all respects to, each other share of common stock. All of our shares of common stock are duly authorized, fully paid and nonassessable.

### **Dividends**

The holders of our common stock are entitled to receive and share equally in such dividends, if any, declared by the board of directors out of funds legally available therefor. Under the New York Business Corporation Law, we may pay dividends on our outstanding shares except when the Company is insolvent or would be made insolvent by the dividend. In addition, we may pay dividends out of surplus only, so that our net assets remaining after such payment shall at least equal the amount of stated capital.

### **Voting Rights**

The holders of our common stock are generally entitled to one vote per share. Our bylaws provide that a majority of the votes cast will be sufficient to take any corporate action, except as otherwise provided by law or regulation. Directors are elected by a plurality of the votes cast by shareholders present at the annual shareholders’ meeting, or if the annual meeting is not held, at a special meeting called for the purpose of the election of directors. Holders of our common stock are not entitled to cumulate their votes in the election of directors.

### **Board of Directors**

Our bylaws provide that the board of directors must consist of not less than five nor more than 25 directors, the exact number to be determined by the vote of the majority of directors or by resolution of the shareholders. Increases in the board of directors between annual meetings of shareholders will be limited to not more than two additional members per year.

The board of directors is divided into three classes – Class 1, consisting of not more than eight directors; Class 2, consisting of not more than eight directors; and Class 3, not consisting of more than nine directors. The members of each class are elected for a term of three years and only one class of directors is elected annually. Thus, it would take at least two annual elections to replace a majority of the Board of Directors.

### **Liquidation**

In the event of our liquidation, dissolution or winding up, the holders of our common stock would be entitled to receive, after payment or provision for payment of all our debts and liabilities, all of our assets available for distribution.

### **No Preemptive or Redemption Rights**

Holders of our common stock are not entitled to preemptive rights with respect to any shares that may be issued. The common stock is not subject to redemption.

---

## **Certain Provisions in Our Certificate of Incorporation, Our Bylaws, and Applicable Laws and Regulations**

Our certificate of incorporation, our bylaws, and applicable federal and New York laws and regulations contain a number of provisions that might discourage future takeover attempts. As a result, shareholders who might desire to participate in such transactions may not have an opportunity to do so. In addition, these provisions would also render the removal of our board of directors or management more difficult. Such provisions include, among others, the requirement of a supermajority vote of shareholders to approve certain business combinations and other corporate actions, a classified board of directors, and a provision in our certificate of incorporation allowing the board of directors to oppose a tender or other offer for our securities, including through the issuance of authorized but unissued securities or treasury stock or granting stock options, based on a wide range of considerations.

### ***Provisions in our Certificate of Incorporation and Bylaws***

***Election of Directors.*** Our board of directors is divided into three classes – Class 1, consisting of not more than eight directors; Class 2, consisting of not more than eight directors; and Class 3, not consisting of more than nine directors. The members of each class are elected for a term of three years and only one class of directors is elected annually. Thus, it would take at least two annual elections to replace a majority of the Board of Directors. Further, our bylaws establish qualifications for board members, including Company stock ownership requirements, and notice and information requirements and procedures in connection with the nomination by stockholders of candidates for election to the board of directors or the proposal by stockholders of business to be acted upon at a meeting of stockholders. Such notice and information requirements are applicable to all stockholder business proposals and nominations, and are in addition to any requirements under federal securities laws.

***Prohibition of Cumulative Voting.*** Our shareholders are not entitled to cumulative voting in the election of directors.

***Restrictions on Call of Special Meetings.*** Our bylaws provide that special meetings of stockholders can be called by the board of directors, the chairperson or vice chairperson of the board of directors, or the president of the Company, and may be called by the secretary at the request of the holders of not less than 25% of all the outstanding shares of Company common stock entitled to vote at the particular meeting.

***Amendments to Certificate of Incorporation.*** Our certificate of incorporation provides that certain provisions may only be amended by the approval of 80% of the shares entitled to vote on such amendment, unless such amendment has been approved by an affirmative vote of 75% of directors then in office.

***Business Combinations Involving Interested Shareholders.*** Our certificate of incorporation provides that an “interested shareholder” (a person who owns or an affiliate or associate of the Company who has owned in the previous two-year period more than 5% of the Company’s common stock) may engage in a business combination with the Company (i) if approved by the affirmative vote of not less than 80% of the votes entitled to be cast by the holders or (ii) (a) if approved by 80% or more of the continuing directors and (b) the value of the transaction is equal to the higher of the highest per share price paid by the interested shareholder in acquiring Company common stock in the preceding two years and the fair market value per share of common stock on the date on which the interested shareholder became an interested shareholder.

***Evaluation of Offers.*** Our certificate of incorporation provides that the board of directors may, in the context of opposing a tender offer, take into account (i) the social and economic effects of the offer or transaction on the employees, depositors, loan and other customers, creditors, shareholders and other elements of the communities in which we operate or are located, and (ii) the business and financial condition and earnings prospects of the offer or, including the possible effect of such conditions on the other elements of the communities in which we operate or are located.

### ***Federal Laws and Regulations***

The Bank Holding Company Act generally would prohibit any company that is not engaged in financial activities and activities that are permissible for a bank holding company or a financial holding company from

---



acquiring control of us. "Control" is generally defined as ownership of 25% or more of the voting stock or other exercise of a controlling influence. In addition, any existing bank holding company would need the prior approval of the Federal Reserve before acquiring 5% or more of our voting stock. The Change in Bank Control Act of 1978, as amended, prohibits a person or group of persons from acquiring control of a bank holding company unless the Federal Reserve has been notified and has not objected to the transaction. Under a rebuttable presumption established by the Federal Reserve, the acquisition of 10% or more of a class of voting stock of a bank holding company with a class of securities registered under Section 12 of the Exchange Act, such as us, could constitute acquisition of control of the bank holding company.

#### ***New York Business Corporation Law***

The business combination provisions of the New York Business Corporation Law could prohibit or delay mergers or other takeovers or change in control attempts with respect to the Company and, accordingly, may discourage attempts to acquire the Company. In general such provisions prohibit an "interested shareholder" (i.e., a person who owns 20% or more of our outstanding voting stock) from engaging in various business combination transactions with our company, unless (a) the business combination transaction, or the transaction in which the interested shareholder became an interested shareholder, was approved by the board of directors prior to the interested shareholder's stock acquisition date, (b) the business combination transaction was approved by the disinterested shareholders at a meeting called no earlier than five years after the interested shareholder's stock acquisition date, or (c) if the business combination transaction takes place no earlier than five years after the interested stockholder's stock acquisition date, the price paid to all the stockholders under such transaction meets statutory criteria.

---

[\(Back To Top\)](#)

## **Section 3: EX-10.23 (EX-10.23)**

### **EMPLOYMENT AGREEMENT**

This Agreement is made as of the 1st day of July 2018, by and between The Evans Agency, LLC (hereinafter referred to as the "Employer" or "TEA") and Aaron Whitehouse (hereinafter referred to as the "Executive"), for the employment of Executive by the Employer.

#### **WITNESSETH:**

**WHEREAS**, pursuant to that certain Agreement of Sale and Purchase of Assets dated as of May 14, 2018 (the "Purchase Agreement"), among The Evans Agency, LLC, Evans Bancorp, Inc. (the "Company"), Richardson & Stout, Inc. ("Seller") and the Executive, Ian Whitehouse, and Richard Ewell, the stockholders of Seller, providing for the sale of substantially all of the assets of Seller to TEA, it is a condition to the Closing (as defined in the Purchase Agreement), that Executive and Employer shall have entered into this Agreement; and

**WHEREAS**, prior to the date hereof, Executive was employed by, and was a principal stockholder of, Seller; and

**WHEREAS**, the Employer desires that Executive be employed to serve as a Vice President of TEA, and Executive desires to be so employed upon the terms and subject to the conditions herein set forth, effective as of the time of the Closing.

**NOW, THEREFORE**, in consideration of the premises and of the mutual promises, representations and covenants herein contained, the parties hereto agree as follows:

**1. EMPLOYMENT:** The Employer hereby employs Executive and Executive hereby accepts such employment, subject to the terms and conditions herein set forth. Executive shall serve as a Vice President of TEA.

**2. TERM OF EMPLOYMENT:** Unless terminated pursuant to the terms of this Agreement, the Employer and Executive agrees that the Initial Term of Executive's employment hereunder shall be for a period commencing on July 1, 2018 and terminating July 1, 2021 (the "Employment Period").

Following the expiration of the Employment Period, Executive's employment with Employer shall be on an at-will basis.

**3. COMPENSATION:** As compensation for the employment services to be rendered by Executive hereunder, the Employer agrees to pay, or cause to be paid, to Executive, and Executive agrees

to accept, payable in equal installments in accordance with the Employer normal payroll practice, an annual base salary of \$150,000.00 ("Base Salary"). Executive's Base Salary may be increased at any time, but shall not be reduced below the rate set forth in the preceding sentence.

**4. DUTIES:**

A. During the Employment Term, Executive agrees to serve as a Vice President of the Employer and be primarily responsible for the servicing of existing and transferred property and casualty insurance accounts, marketing, recruiting and training as requested by the Employer and the solicitation, negotiation, placement and procurement of additional insurance

---

business for which the Employer is licensed and authorized to sell. Further, the Executive has no authority to bind Employer to any contract unless such authority has been given to Executive by Employer. In addition, the Executive shall have such other duties and responsibilities as may be reasonably assigned to him from time to time by the Employer, consistent with duties of a Vice President. Executive also agrees to perform his services and duties consistent with the office or offices in which he is serving and its responsibilities as may from time to time be prescribed by the Employer.

B. During the Employment Period, except for periods of absence occasioned by illness, reasonable vacation periods, and reasonable leaves of absence approved by the Chief Executive Officer of Employer, Executive shall devote substantially all his business time, attention, skill, and efforts to the faithful performance of his duties hereunder including activities and services related to the organization, operation and management of the Employer; provided, however, that, with the approval of the Chief Executive Officer, Executive may serve, or continue to serve, on the boards of directors of, and hold any other offices or positions in, business companies or business organizations, which, in Chief Executive Officer's judgment, will not present any conflict of interest with the Employer, or materially affect the performance of Executive's duties pursuant to this Agreement, it being understood that membership in and service on boards or committees of social, religious, charitable or similar organizations does not require Chief Executive Officer approval pursuant to this Section.

C. All property and casualty insurance business secured by the Executive will be placed through the Employer. The Executive will use his best efforts to place all other insurance business (including, but not limited to, life insurance products, long-term care or medical insurance products and group insurance, annuities and Executive benefit plans) secured by him with the Employer or its affiliates. All insurance business placed by the Executive with the Employer shall be conducted in the name of Employer or its affiliates.

D. The Executive agrees that during the term of this Agreement, he will comply with all regulations and guidelines and will do nothing to jeopardize or impair the Employer's insurance licenses, and will comply with all rules and regulations of the Insurance Department and the statutes of the State of New York or any other state which regulates the business of the Employer, pertaining to the Employer's business.

E. Executive shall maintain any and all licenses and permits required to be owned or possessed by him under applicable law (including NASD License) in order to perform the duties required by him hereunder. Employee shall keep and maintain all of such licenses and permits in full force and effect. The Employer will pay any required license or permit fees.

F. Executive shall, except as otherwise provided herein, be subject to the Employer's rules, practices and policies applicable to the Employer's executives and employees.

**5. BENEFITS:**

A. Executive shall participate in all employee benefit programs, including medical, health and other insurance plans, 401(k) plan, incentive compensation and other similar plans which the Employer may have or may establish from time to time and in which employees

of Employer in general are entitled to participate and, except as otherwise expressly provided in the Agreement, on the same basis as other employees are entitled to participate. The foregoing, however, shall not be construed to require TEA to establish any such plans, or to prevent the Employer from modifying or terminating such plans in its application to all employees, or to establish individual performance targets under any incentive plan, and no such action or failure thereof shall affect this Agreement. Executive shall be eligible to participate in such plans upon the attainment of applicable service periods, provided that as to medical and health insurance plans, participation shall start upon employment, and as to the 401(k) plan, Executive will receive credit for prior service with Seller for purposes of eligibility and vesting.

A. Executive shall be entitled to vacation as determined in accordance with Employer's vacation policy applicable to executives. For purpose of the vacation policy, Executive will receive credit for prior service with Seller.

B. Without limiting the foregoing, Executive shall specifically be entitled to the following benefits:

1. TEA will assume Executive's current auto lease.
2. Fully paid medical and health insurance premiums for Executive and his family, under the Employer's HDHP 2600 plan (or future equivalent plan).
3. Participation in the Excels Performance Incentive Plan (or equivalent program), which is a short-term incentive compensation plan intended to reward performance of officers by providing the opportunity to receive significant cash incentives upon achievement of performance goals. Executive shall participate in the Excels Performance Plan on a pro-rata basis with respect to calendar year 2018.

C. To the extent not specifically provided in this Agreement, any compensation or reimbursements payable to Executive shall be paid or provided no later than March 15 of the year following the calendar year in which such compensation is no longer subject to a substantial risk of forfeiture within the meaning of Treasury Regulation Section 1.409A-1(d).

**6. WORKING AND OTHER FACILITIES:** During the term of this Agreement, Executive shall be furnished with such working facilities, secretarial help and other services, as the Employer determines are reasonably necessary and suitable to his position and adequate for the performance of his duties.

**7. EXPENSES:** The Employer will reimburse Executive for reasonable expenses, including traveling expenses, incurred by him in connection with his employment in the business of the Employer upon the presentation by Executive of appropriate substantiation, as determined by the Employer, for such expenses. All reimbursements shall be paid as soon as practicable by the Employer upon presentation to the Employer of an itemized account of such expenses in such form as the Employer may reasonably require; provided, however, that no payment shall be made later than March 15 of the year immediately following the year in which the expense was incurred.

**8. EVENT OF TERMINATION:**

A. Upon the occurrence of an Event of Termination (as herein defined), the provisions of this section shall apply. As used in this Agreement, an “Event of Termination” shall mean and include any one or more of the following:

1. the involuntary termination by the Employer of Executive’s full-time employment hereunder for any reason other than a Termination for Cause, as defined in Section 11 hereof, or a termination for Death or Disability as set forth in Section 10 hereof;

2. Executive’s resignation from the Employer’s employ upon any of the following events (which shall be treated as termination of employment for “Good Reason”), unless consented to by Executive:

(i) failure to appoint Executive as a Vice President of TEA;

(ii) a material reduction in the compensation, benefits and perquisites, including Base Salary, paid/provided to Executive from those being paid/provided in the Agreement as of the Effective Date (except for any reduction that is part of a reduction in pay or benefits that is generally applicable to executives or employees of TEA);

(iii) a relocation by Employer of Executive’s principal workplace greater than 50 miles from its then current location, without the consent of Executive; or

(iv) a material breach of this Agreement by the Employer.

Notwithstanding the foregoing, Good Reason will be considered to exist only if (1) the Executive provides written notice to the Employer within 90 days after the event giving rise to Good Reason under this Section 8(A)(2); (2) if the event or condition can be remedied, the Employer fails to remedy the event or condition within 30 days of receiving written notice from the Executive of the existence of the event or condition; and (3) the Executive resigns from employment with the Employer within 60 days of the earlier of (a) the expiration of the 30-day cure period under (2), or (b) the Executive’s receipt of written notice from the Employer that it cannot, does not intend to, cure the event or condition under this Section 8(A)(2).

D. Within 60 days following the occurrence of an Event of Termination, the Employer shall pay Executive, as severance pay or liquidated damages, or both, a lump sum cash amount equal to the sum of the (x) Base Salary that would be paid to Executive for the remainder of the Employment Period, and (y) the annual incentive bonus paid to Executive during the calendar year preceding the Event of Termination (or, in the case of an Event of Termination occurring during 2018, (\$11,625), divided by twelve and then multiplied the number of full months remaining in the Employment Period; provided, however, that such payment is conditioned upon the Executive signing a general release acceptable to the Employer, in substantially the form set forth as Appendix A to this Agreement (the “Release”). The Release must be executed and become

irrevocable by the 60<sup>th</sup> day following the Event of Termination, provided that if the 60-day period spans two (2) calendar years, then, to the extent necessary to comply with Code Section 409A, the payments described in this Section 4(b) will be paid, or commence, in the second calendar year. Upon an Event of Termination, the Executive shall have such rights as specified in any other employee benefit plans or programs maintained by the Employer, as may be in effect from time to time.

E. Upon the occurrence of an Event of Termination, the Employer will continue to provide, under the same terms as is in effect upon the Event of Termination, life insurance and non-taxable medical and health insurance coverage substantially comparable, as reasonably or customarily available, to the coverage maintained by the Employer for Executive prior to his termination, except to the extent such coverage may be changed in its application to all Employer employees. Such coverage shall cease upon the expiration of the Employment Period. If either (i) the Employer cannot provide Executive or Executive's dependents any continued health insurance or other welfare benefits as required by this Agreement because Executive is no longer an employee, applicable rules and regulations prohibit such benefits or the payment of such benefits in the manner contemplated, or it would subject the Employer to penalties, or (ii) the value of any reimbursements under medical and health plan would result in a taxable benefit to the Executive under Code Section 105(h) or any successor or similar provision under the Code, then the Employer shall pay Executive or Executive's beneficiary or estate in the event of death a cash lump sum payment equal to (i) the reasonably estimated monthly cost (to Employer) of the life, medical and health insurance coverage maintained by the Employer for Executive immediately prior to Executive's date of termination, times (ii) the number of whole months remaining in the Employment Period, provided such payment is exempt from Code Section 409A or complies with the requirements of Treasury Regulation Section 1.409A-3(j) (4). Such cash payment shall be made in a lump sum within 60 days after the later of Executive's Event of Termination or the effective date of the rules or regulations prohibiting such benefits or subjecting the Employer to penalties. Notwithstanding the foregoing, if such cash payment would violate the requirements of Treasury Regulation Section 1.409A-3(j), the Executive's cash payment in lieu of the continued health insurance or welfare benefits as required by this Agreement shall be payable at the same time the related premium payments would have been paid by the Employer and will be payable for the duration of the applicable coverage period.

F. Notwithstanding the foregoing, in the event the Executive is a Specified Employee (as defined herein), solely to the extent necessary to avoid penalties under Code Section 409A, payment to the Executive's benefit pursuant to Sections 8(b) and 8(c), if applicable, shall be made to the Executive on the first day of the seventh month following the Executive's Event of Termination; provided, however, that the six-month delay for such payment shall not apply in the event that such payments are exempt from the requirements of Code Section 409A, including that the separation pay is due to an involuntary Separation from Service or a Good Reason Separation from Service, the amount of the separation pay does not exceed two times the lesser of (i) the Executive's annualized compensation based upon his annual rate of pay for the taxable year preceding the year in which the Separation from Service occurs; or (ii) the limit set forth in Section 401(a)(17) of the Internal Revenue Code for the year in which the Separation from Service occurs (i.e. for 2018, \$275,000), as provided in Treasury Regulation Section 1.409A-1(b)(9)(iii) (which separation pay, if in excess of the limit, shall be made as provided herein up to the amount of the limit) and such separation pay is paid no later than the last day of the second calendar year

following the calendar year during which the Separation from Service occurs. "Specified Employee" shall be interpreted to comply with Code Section 409A and shall mean a key employee within the meaning of Code Section 416(i) (without regard to paragraph 5 thereof), but an individual shall be a "Specified Employee" only if the Company or the Bank or any affiliate is a publicly traded company.

G. For purposes of this Agreement, Event of Termination shall be construed to require a "Separation from Service" as defined in Code Section 409A and the Treasury Regulations promulgated thereunder, such that the Employer and Executive reasonably anticipate that the level of bona fide services Executive would perform after termination would permanently decrease to a level that is less than 50% of the average level of bona fide services performed (whether as an employee or an independent contractor) over the immediately preceding 36-month period.

**9. CHANGE IN CONTROL:**

A. For purposes of this Agreement, a Change in Control shall mean:

(i) A change in control of the Company that would be required to be reported in response to Item 5.01 of the current report on Form 8-K, as in effect on the date hereof, pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"); or

(ii) Any event that results in a Change in Control of the Company within the meaning of the Bank Holding Company Act, as amended, and applicable rules and regulations promulgated thereunder by the Federal Reserve Board (collectively, the "BHCA"), or under the Change in Bank Control Act and the rules and regulations promulgated thereunder by the Federal Reserve Board, as in effect at the time of the Change in Control; or

(iii) without limitation such a Change in Control shall be deemed to have occurred at such time as (a) any "person" (as the term is used in Sections 13(d) and 14(d) of the Exchange Act) or one or more persons acting as a group, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 50% or more of the combined voting power or Company's outstanding securities; or (b) a plan of reorganization, merger, consolidation, sale of all or substantially all the assets of the Company or Evans Bank, NA (the "Bank") or similar transaction in which the Bank or Company is not the surviving institution occurs or is implemented; or (c) a tender offer is made for 50% or more of the voting securities of the Company or the Bank and the shareholders owning beneficially or of record 50% or more of the outstanding securities of the Company have tendered or offered to sell their shares pursuant to such tender offer and such tendered shares have been accepted by the tender offeror; or (d) the Company disposes of 50% or more of its ownership, or the assets of, TEA to an unaffiliated third party, whether by merger or sale of assets or otherwise.

B. Notwithstanding the preceding paragraphs of this Section, if any payment or benefit under this Agreement, when combined with any other payment or benefit owed by the Employer to the Executive, would (i) constitute a “parachute payment” within the meaning of Code Section 280G, and (ii) but for this sentence, be subject to the excise tax imposed by Code Section 4999 (the “Excise Tax”), then any payment or benefits under this Agreement will be reduced to the Reduced Amount. The “Reduced Amount” will be either (x) the largest portion of the payment or benefits that would result in no portion of the payments or benefits under this Agreement being subject to the Excise Tax, or (y) the total of the payment or benefits under this Agreement, whichever amount, after taking into account all applicable federal, state, and local employment taxes, income taxes (computed at the highest marginal rate), and the Excise Tax, results in the Executive’s receipt, on an after-tax basis, of the greatest amount of the payment or benefits under this Agreement, notwithstanding that all or some portion of the payment or benefits may be subject to the Excise Tax. For purposes of making this determination, any cash severance under Section 8(B) will be reduced before any other payments or benefits under this Agreement that give rise to a parachute payment.

**10. TERMINATION UPON DEATH OR DISABILITY:**

A. Termination of Executive’s employment based on “Disability” shall be construed to comply with Code section 409A and shall be deemed to have occurred if (i) Executive is eligible to receive disability benefits under the Employer’s long-term disability policy, or (ii) Executive is determined to be totally disabled by the Social Security Administration.

B. Employer may terminate Executive’s employment upon Disability in which event Executive shall be entitled to receive the compensation and vested benefits due Executive as of the date of Executive’s termination, but except as provided herein, shall have no right to receive any other compensation or benefits under this Agreement. Upon Termination for Disability, Executive shall participate in the short and long-term disability plans and benefits offered by the Employer to executives.

C. This Agreement shall terminate upon Executive’s death, in which event Executive’s estate or beneficiary shall be entitled to receive the compensation and vested benefits due Executive as of the date of Executive’s death, and neither Executive, nor Executive’s estate or beneficiary, shall have a right to receive any compensation or benefits under this Agreement thereafter. Executive’s beneficiaries may be entitled to receive other benefits under and in accordance with the terms of other employee benefit plans maintained by the Employer for the benefit of the Executive.

**11. TERMINATION FOR CAUSE:** Termination for “Cause” shall mean termination because of the (i) Executive’s personal dishonesty, willful misconduct, or breach of fiduciary duty involving personal profit, (ii) a material breach by Executive of the Code of Conduct of TEA (as it may be amended from time to time), (iii) Executive’s willfully engaging in actions that in the reasonable opinion of the Board will likely cause substantial financial harm or substantial injury to the business reputation of TEA, (iv) Executive’s failure to perform stated duties after receiving written notice of Executive’s failure to perform assigned duties, (v) Executive’s willful violation of any law, rule or regulation (other than routine traffic violations or similar offenses) or final cease-



and-desist order, or (vi) a material breach of any provision of the Agreement by the Executive, provided that if such material breach is curable, Executive shall be given written notice of such breach and 30 days to cure. Employer may place Executive on paid leave for up to 60 days while it is determining whether there is a basis to terminate Executive's employment for Cause. Except as otherwise provided in Section 12 as to Deferred Consideration, Executive shall have no right to receive compensation or other benefits under this Agreement upon Termination for Cause. Any purported Termination for Cause shall be communicated to by Notice of Termination to Executive, specifying the grounds on which the Termination for Cause is based.

**12. DEFERRED CONSIDERATION UNDER PURCHASE AGREEMENT:** In the event that, prior to the expiration of the Employment Period, Executive's employment is terminated by the Employer for any reason whatsoever (except for certain terminations for Cause as set forth below), the Executive resigns or otherwise terminates his employment in each case for Good Reason, the Executive's employment terminates as a result of his death or Disability pursuant to Section 10, or a Change of Control occurs, then Executive (or his estate) shall automatically and immediately be entitled to receive the Deferred Consideration (as defined in the Purchase Agreement) as set forth in Section 2.4(B) of the Purchase Agreement (including accrued cash dividends on the EVBN Shares (as defined in the Purchase Agreement) and interest on the cash portion through the date of payment), with such payment to be made in its entirety as soon as administratively feasible following the Executive's termination of employment or the occurrence of a Change in Control, as applicable, but in all cases during the short-term deferral period as defined under Treasury Regulation Section 1.409A-1(b)(4) such that it is excepted from compliance with Code Section 409A. In the event that the Executive remains employed by Employer through the end of the Employment Period, the Deferred Consideration will be paid to the Executive as soon as administratively feasible following the end of the Employment Period, but in all cases during the short-term deferral period under Treasury Regulation Section 1.409A-1(b)(4). In the event that, prior to the earlier of the expiration of the Employment Period or the occurrence of a Change in Control, Executive voluntarily resigns or otherwise voluntarily terminates his employment with the Employer without Good Reason, or Executive's employment is terminated by the Employer pursuant to clause (ii) or clause (iv) of the definition of Cause set forth in Section 11, then Executive's right to receive the Deferred Consideration shall be forfeited.

**13. CONFIDENTIALITY:** In the course of his employment by the Employer, Executive shall have and has had access to confidential or proprietary data or information of the Employer. Executive shall not at any time, divulge or communicate to any person, nor shall they direct any Executives to divulge or communicate to any person (other than to a person bound by confidentiality obligation similar to those contained herein, and other than is necessary in performing his duties hereunder) or used to the detriment of the Employer or for the benefit of any other person, any of such data or information. The provision of this Section 13 shall survive Executive's employment hereunder, whether by the normal expiration thereof or otherwise. The term "confidential" or "proprietary data or information" as used in this Agreement, shall mean information not generally available to the public including, without limitation, personnel information, financial information, customer lists, computer programs, marketing and advertising data. Executive acknowledges and agrees that any confidential or proprietary data or information heretofore acquired was received in confidence.

The Employer and Executive agrees that the customer lists, files, records and other material relating to the insurance customers of the Employer, the trade secrets, operational processes and techniques (all of which are hereinafter referred to as the "Confidential Information") are valuable and unique assets of the Employer and the Executive has no right or interest in such Confidential Information. The Executive agrees not to disclose the Confidential Information to any person or entity other than the Employer (and its employees and agents) and to use the Confidential Information solely for the business and benefit of the Employer. The Executive also agrees to return all of the Confidential Information and all copies thereof to the Employer upon the termination of employment. The Employer agrees to use its best efforts to prevent disclosure of Confidential Information to any person or entity.

Notwithstanding anything in this Agreement to the contrary, Executive understands that nothing contained in this Agreement limits Executive's ability to file a charge or complaint with the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies") about a possible securities law violation without approval of the Employer (or any affiliate). Executive further understands that this Agreement does not limit Executive's ability to communicate with any Government Agency or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Employer (or any affiliate) related to the possible securities law violation. This Agreement does not limit Executive's right to receive any resulting monetary award for information provided to any Government Agency.

**14. NON-COMPETITION AND NON-SOLICITATION:** Until the later of the (i) expiration of the Employment Period, or (ii) two years following any termination of employment, Executive agrees that he will not, on his own behalf or on behalf of any other person, firm, partnership, association, corporation, or other entity, as an owner, partner, employee, officer, agent, advisor, consultant or otherwise, directly or indirectly, do or cause to be done any of the following acts:

- A. Solicit, attempt to obtain, or in any way transact insurance business from any insurance accounts or customers which, at the time of his/her termination, were held or maintained by or on behalf of the Employer or any affiliated companies.
- B. Aid or assist any other party in the solicitation of any such customer or account.
- C. Serve as an insurance advisor, consultant or risk manager for any of said accounts or customers.
- D. Attempt to hire or entice away any employee of Employer or induce any employee to terminate his or her employment with Employer or to otherwise interfere with the Employer's or any of the affiliated companies' relationships with any of their respective customers or accounts, wherever located, by soliciting such customers or inducing them to discontinue their relationships with the Employer or any of the affiliated companies.
- E. Induce any employee or former employee of the Employer to breach any agreement with the Employer.

**15. ARBITRATION:**

A. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by binding arbitration, as an alternative to civil litigation and without any trial by jury to resolve such claims, conducted by a single arbitrator mutually acceptable to Employer and Executive, sitting in a location selected by the Employer within 50 miles from the main office of the Employer, in accordance with the rules of the American Arbitration Association's National Rules for the Resolution of Employment Disputes then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction. The cost of the arbitrator shall be divided between the parties; all other cost of arbitration shall be borne by the party incurring such cost.

B. If Termination For Cause is disputed by Executive, and if it is determined in arbitration that Executive is entitled to either or both of (i) compensation and benefits under Section 8 of this Agreement, and (ii) the Deferred Consideration under the Purchase Agreement, then (x) the payment of such compensation and benefits by the Employer, and/or the Deferred Consideration shall commence immediately following the date of resolution by arbitration, with interest due Executive on the cash amount that was not paid pending arbitration (at the prime rate as published in *The Wall Street Journal* from time to time), and (y) Employer shall promptly reimburse Executive for all costs and expense (including without limitation reasonable attorneys' fees and disbursements) incurred by Executive in connection with the arbitration.

**16. MODIFICATION:**

A. This Agreement may not be modified or amended except by an instrument in writing signed by the parties hereto.

B. No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel against the enforcement of any provision of this Agreement, except by written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated therein, and each such waiver shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future as to any act other than that specifically waived.

**17. ENTIRE AGREEMENT.** This Agreement constitutes the full and complete understanding of the parties and supersedes all prior agreements and understandings oral or written, between the parties, with respect to the subject matter hereof, except with respect to the Deferred Consideration, as to which the Purchase Agreement applies as well.

**18. SEVERABILITY:** The holding of any provision of this Agreement to be invalid or unenforceable by a court of competent jurisdiction shall not affect any other provision of this Agreement, which shall remain in full force and effect.

**19. WITHHOLDING:** The Employer may deduct and withhold from the payments to be made to Executive hereunder any amounts required to be deducted and withheld by the Employer under the provisions of any applicable statute, law, regulation or ordinance now or hereafter enacted.

**20. WAIVER OF BREACH:** The waiver by either party of a breach of any provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach.

**21. NOTICE:** For the purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered, mailed by certified or registered mail, return receipt requested, postage prepaid, or sent by facsimile or email of a scanned (pdf) document or other electronic means with receipt acknowledged, addressed to the respective addresses set forth below:

**To Employer:** The Evans Agency, LLC  
One Grimsby Drive  
Hamburg, New York 14075

**To Executive:** To the most recent address on file with the Employer.

**22. ASSIGNABILITY / BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, heirs, distributors, successors and assigns; provided, however, Executive shall not be entitled to assign or delegate any of his rights or obligations hereunder without the prior written consent of the Employer. The Employer may assign this Agreement and its rights hereunder to an affiliate of, or successor to the business of, the Employer.

**23. GOVERNING LAW:** All questions pertaining to the validity, construction, execution and performance of this Agreement shall be construed and governed in accordance with the law of the State of New York.

**24. MISCELLANEOUS:** Employer may terminate Executive's employment at any time, but any termination other than termination for Cause shall not prejudice Executive's right to compensation or other benefits under this Agreement. Executive shall have no right to receive compensation or other benefits for any period after Executive's Termination for Cause.

**25. HEADINGS:** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year above written.

**EMPLOYER:**

**THE  
EVANS  
AGENCY,  
LLC**

By: /s/ Robert G. Miller, Jr.  
Robert G. Miller, Jr.  
President

**EXECUTIVE:**

/s/ Aaron Whitehouse  
Aaron Whitehouse

12

---

[\(Back To Top\)](#)

## **Section 4: EX-21.1 (EX-21.1)**

*Exhibit 21.1*

SUBSIDIARIES OF THE REGISTRANT

The following entities comprise the direct and indirect subsidiaries of the Registrant:

Evans Bank, N.A. (United States)  
Evans National Financial Services, LLC  
The Evans Agency, LLC  
Frontier Claims Services, Inc.  
Evans National Holding Corp.  
Evans National Leasing, Inc.  
Evans Capital Trust I (Delaware)  
ENB Employers Insurance Trust  
MMS Merger Sub, Inc. (Maryland)  
The state of or jurisdiction of incorporation or organization (unless otherwise noted) is NY

---

[\(Back To Top\)](#)

## **Section 5: EX-23.1 (EX-23.1)**

*Exhibit 23.1*

## Consent of Independent Registered Public Accounting Firm

The Board of Directors Evans Bancorp, Inc.:

We consent to the incorporation by reference in the registration statements (No. 333-160262, No. 333-181018, No. 333-188164, and No. 333-231605) on Form S-8 and (No. 333-166264 and No. 333-230819) on Form S-3 of Evans Bancorp, Inc. of our reports dated March 12, 2020, with respect to the consolidated balance sheets of Evans Bancorp, Inc. as of December 31, 2019 and 2018, the related consolidated statements of income, comprehensive income, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes, and the effectiveness of internal control over financial reporting as of December 31, 2019, which reports appear in the December 31, 2019 annual report on Form 10-K of Evans Bancorp, Inc.

/s/ KPMG LLP  
Buffalo, New York  
March 12, 2020

---

[\(Back To Top\)](#)

## Section 6: EX-31.1 (EX-31.1)

### *Exhibit 31.1*

#### **Certification**

I, David J. Nasca, certify that:

1. I have reviewed this report on Form 10-K of Evans Bancorp, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 12, 2020

[\(Back To Top\)](#)

## Section 7: EX-31.2 (EX-31.2)

### *Exhibit 31.2*

#### **Certification**

I, John B. Connerton, certify that:

1. I have reviewed this report on Form 10-K of Evans Bancorp, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 12, 2020

/s/ John B. Connerton  
John B. Connerton  
Treasurer  
(Principal Financial Officer and Principal Accounting Officer)

---

[\(Back To Top\)](#)

## Section 8: EX-32.1 (EX-32.1)

### *Exhibit 32.1*

**PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, David J. Nasca, the President and Chief Executive Officer of Evans Bancorp, Inc., certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge: (1) the Annual Report of Evans Bancorp, Inc. on Form 10-K for the fiscal year ended December 31, 2019 fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and (2) the information contained in such Annual Report on Form 10-K fairly presents, in all material respects, the financial condition and results of operations of Evans Bancorp, Inc.

Date: March 12, 2020

By: /s/ David J. Nasca  
Name: David J. Nasca  
Title: President and Chief Executive Officer  
(Principal Executive Officer)

---

[\(Back To Top\)](#)

## **Section 9: EX-32.2 (EX-32.2)**

*Exhibit 32.2*

**CERTIFICATION OF PRINCIPAL EXECUTIVE AND FINANCIAL OFFICERS  
PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, John B. Connerton, the Treasurer of Evans Bancorp, Inc., certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge: (1) the Annual Report of Evans Bancorp, Inc. on Form 10-K for the fiscal year ended December 31, 2019 fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and (2) the information contained in such Annual Report on Form 10-K fairly presents, in all material respects, the financial condition and results of operations of Evans Bancorp, Inc.

Date: March 12, 2020

By: /s/ John B. Connerton  
Name: John B. Connerton  
Title: Treasurer  
(Principal Financial Officer and Principal Accounting Officer)

---

[\(Back To Top\)](#)