

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D. C. 20549**

FORM 8-K

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

Date of Report June 26, 2020
(Date of earliest event reported)

BANK OF HAWAII CORP
(Exact name of registrant as specified in its charter)

Delaware
(State of Incorporation)

1-6887
(Commission File Number)

99-0148992
(IRS Employer Identification No.)

130 Merchant Street
(Address of principal executive offices)

Honolulu
(City)
(888) 643-3888
(Registrant's telephone number, including area code)

Hawaii
(State)

96813
(Zip Code)

N/A
(Former name or former address, if changed since last report)

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock	BOH	New York Stock Exchange

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4 (c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On January 30, 2020, the Company announced the retirement of Mark A. Rossi, Vice Chairman, Chief Administrative Officer, General Counsel and Corporate Secretary from the Company to be effective on July 1, 2020. The Company and Mr. Rossi have agreed to extend his retirement date to December 31, 2020 and his previously announced Separation Agreement has been amended to reflect the extended retirement date as set forth in Amendment No. 1 to the Separation Agreement which was approved by the Human Resources and Compensation Committee of the Company (the “Committee”) on June 26, 2020. To provide for the orderly transition of Mr. Rossi’s duties and responsibilities, the Committee also approved on June 26, 2020 a Transition Consulting Agreement. The Transition Consulting Agreement provides Mr. Rossi will continue to serve as a consultant to the Company on an as-needed basis regarding its business and operations and the transition of his duties for a 24 month period from January 1, 2021 to December 31, 2022 (the “Transition Consulting Period”). For these services, Mr. Rossi will receive a transition consulting fee of \$20,834.00 per month during the Transition Consulting Period. Payments made to Mr. Rossi pursuant to his Transition Consulting Agreement are subject to his compliance with certain covenants including those relating to nondisclosure of Company information, non-competition and non-solicitation.

A copy of Amendment No. 1 to the Separation Agreement and the Transition Consulting Agreement are attached as Exhibit 10.1 and Exhibit 10.2 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

[10.1](#) Amendment No. 1 to the Separation Agreement

[10.2](#) Transition Consulting Agreement

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: June 29, 2020

Bank of Hawaii Corporation

By: /s/ Mark A. Rossi

Mark A. Rossi

Vice Chairman and Corporate Secretary

AMENDMENT NO. 1 TO THE SEPARATION AGREEMENT
Between Bank of Hawaii and Mark A. Rossi dated January 27, 2020

Whereas, Mark A. Rossi (“you” or “your”) of 198 Polihale Place, Honolulu, Hawaii 96825, and Bank of Hawaii Corporation and Bank of Hawaii (collectively, the “Bank”) of 130 Merchant Street, Honolulu, Hawaii 96813, previously entered into a Separation Agreement (“Agreement”) dated January 27, 2020, to describe the terms of your separation from employment with the Bank.

Whereas, the Agreement contemplates that your employment with the Bank will end on July 1, 2020, however, you and the Bank have subsequently agreed that your employment with the Bank will continue until December 31, 2020.

Whereas, both you and the Bank desire to amend the Agreement to reflect your new term of employment, and pursuant to paragraph 13e of the Agreement, the Agreement may be amended in writing signed by both you and the Bank.

Now, therefore, the Agreement shall be amended as follows, effective as of the date this Amendment No. 1 has been executed by both you and the Bank (“Effective Date”):

1. As of the Effective Date, Section 1 of the Agreement shall be revised by replacing “July 1, 2020” with “December 31, 2020, or a later date as mutually agreed by you and the Bank”.
2. As of the Effective Date, the following Section 5A shall be added following Section 5 of the Agreement:

5A. Retention Payment and Club Memberships. In consideration of your acceptance of the terms of this Agreement and your continued employment with the Bank until December 31, 2020, and conditioned upon your waiver and release of claims up to your Separation Date, the Bank will provide you with a Retention Payment of Six Thousand dollars (\$6,000.00), less customary payroll deductions.

Paragraph 5b notwithstanding, reimbursement for Club dues and expenses will continue until your Separation Date, in accordance with regular Bank practices for reimbursement.

Payment of Retention Payment. The Retention Payment will be paid to you in the form of a lump sum payment no later than two and one-half months following December 31, 2020. The payment of the Retention Payment is intended to be in accordance with the “short term deferral” exception under Treasury Regulation Section 1.409A-1(b)(4)(i)(A).

If you are offered reemployment by the Bank within twelve (12) full months following the Separation Date, such reemployment may be contingent upon your repayment of the Retention Payment on a pro rata basis to the Bank.

The Retention Payment is expressly conditioned upon (a) your continued employment with the Bank until December 31, 2020, (b) your agreement to waive and release claims arising out of or related to your employment up to your Separation Date, and (c) your fulfillment of

Mark A. Rossi
Amendment No. 1 to Separation Agreement
June 15, 2020
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all conditions for receipt of the Consideration in paragraph 5a. However, if your Separation Date is prior to December 31, 2020, and you otherwise meet the conditions for receipt of the Retention Payment, you will be provided with a pro-rated portion of the Retention Payment (based upon your employment during the period July 1, 2020, to December 31, 2020), in lieu of the full Retention Payment amount.

BANK OF HAWAII CORPORATION and
BANK OF HAWAII

By: 
Ed Hudson
Senior Executive Vice President
Chief People Officer

June 15, 2020
Dated

MARK A. ROSSI



June 15, 2020
Dated

EXHIBIT B

[To be executed on or after Separation Date]

WAIVER AND RELEASE OF CLAIMS THROUGH SEPARATION DATE

I agree that all applicable terms and conditions in my Waiver and Release of Claims set forth in paragraph 7 of the Agreement dated January 27, 2020, as amended, apply with respect to the period of my employment with the Bank from July 1, 2020 through the date of my separation from employment.

UNDERSTOOD AND AGREED:

Mark A. Rossi

Dated

Pursuant to 29 C.F.R. § 1625.22(e)(6), I hereby knowingly and voluntarily waive the twenty-one (21) day pre-execution consideration period set forth in Older Workers Benefit Protection Act (29 U.S.C. § 626(f)(1)(F)(i)).

Mark A. Rossi

Dated

TRANSITION CONSULTING AGREEMENT
Between Bank of Hawaii and Mark A. Rossi dated June 15, 2020

This Transition Consulting Agreement (“Agreement”) is between Mark A. Rossi (“Consultant”) of 198 Polihale Place, Honolulu, Hawaii 96825, and Bank of Hawaii Corporation and Bank of Hawaii (collectively, the “Bank”) of 130 Merchant Street, Honolulu, Hawaii 96813. The purpose of this Agreement is to describe the terms for the provision of consulting services to the Bank by Consultant following Consultant’s separation from employment with the Bank.

Whereas, Consultant is currently employed as Vice Chairman, Chief Administrative Officer, Corporate Secretary, and General Counsel with the Bank;

Whereas, Consultant’s employment with the Bank is scheduled to end on December 31, 2020, pursuant to the terms of that certain Separation Agreement between the Bank and Consultant dated January 27, 2020, as amended (“Separation Agreement”); and

Whereas, the Bank wishes to arrange for an orderly transition of Consultant’s duties, and Consultant wishes to facilitate and cooperate in such transition on the terms and conditions set forth in this Agreement.

Now, therefore, for and in consideration of the mutual promises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Bank and Consultant agree as follows:

1. **Term of Agreement.** The Term of this Agreement (“Term”) shall commence on January 1, 2021, and shall continue until December 31, 2022 (“Termination Date”). However, in the event that Consultant’s employment with the Bank terminates on a day other than December 31, 2020, the Term shall be the twenty four (24) month period commencing on the day after the Consultant’s separation from employment, and the Termination Date shall be the last day of that twenty four (24) month period.
 2. **Consulting Services.**
 - a. Consultant shall perform and provide such consulting services (“Consulting Services”) as may be reasonably requested by the Bank in its sole discretion. The Consulting Services may include, but shall not be limited to, Consultant’s continuing support of the projects and initiatives with which he was involved prior to his separation from employment with the Bank.
 - b. The Consulting Services shall be rendered on an as-needed, non-exclusive basis. The Bank acknowledges that Consultant may, subject to the restrictive covenants set forth in the Separation Agreement, be engaged in other business activities that require Consultant’s time. Consultant shall not be required to render the Consulting Services hereunder for any fixed or minimum number of hours or days during the Term. Consultant may render the Consulting Services from Consultant’s offices, home or elsewhere, or by telephone or electronic mail, or, at the reasonable request of the Bank in its sole discretion, at the Bank’s Honolulu, Hawaii headquarters or at other locations as reasonably necessary to perform the Consulting Services. Consultant shall receive administrative and technical support services to the extent reasonably necessary to perform the Consulting Services.
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3. **Compensation.** Consultant shall be entitled to the following compensation:
 - a. **Consulting Fee.** As consideration for the Consulting Services provided under this Agreement, the Bank shall pay to Consultant a monthly consulting fee of twenty thousand eight hundred thirty four and no/100 dollars (\$20,834) during the Term of this Agreement, plus the applicable Hawaii general excise tax (or any successor tax thereto) payable in accordance with the Bank's customary practices and policies for independent contractors, as modified from time to time.
 - b. **Expenses.** The Bank shall reimburse Consultant for all reasonable business expenses paid or incurred by Consultant in connection with the performance of the Consulting Services, payable in accordance with the Bank's customary practices and policies, as modified from time to time.
 4. **Independent Contractor Status.** Consultant acknowledges and agrees that, during the Term of this Agreement: (a) Consultant shall be an independent contractor, and not an employee, of the Bank within the meaning of all federal, state and local laws and regulations governing employment, including applicable tax laws; (b) except as expressly authorized by the Bank, Consultant shall not have any right to act for, represent or otherwise bind the Bank in any manner; (c) except as specifically provided under the Separation Agreement, Consultant shall not be entitled to participate in any employee benefit plans or arrangements of the Bank and shall not be provided with health and welfare benefits; (d) Consultant shall be solely responsible for any social security, income tax or other withholdings, deductions or payments (including self-employment taxes) that may be required by federal, state or local law with respect to the consulting fees; and (e) Consultant shall be required to pay and shall timely remit all self-employment taxes to the Internal Revenue Service and any other required governmental agencies.
 5. **Liability and Indemnification.**
 - a. The Bank shall defend and indemnify and hold Consultant harmless from any and all liabilities, claims, demands, costs, fees and expenses (including attorney's fees) arising from the Consulting Services provided by Consultant under this Agreement, but only to the extent that such claims and liabilities are not the result of the unlawful acts, negligent acts, or willful misconduct of Consultant.
 - b. Consultant agrees to indemnify and hold the Bank harmless from and against any and all liabilities, claims, demands, costs, fees and expenses (including attorney's fees) caused by any unlawful acts or willful misconduct of Consultant or any of his employees, agents or servants in the performance of this Agreement.
 6. **Confidentiality.**
 - a. Unless required or otherwise permitted by law or expressly permitted by the Bank for the performance of the Consulting Services under this Agreement, Consultant shall not disclose to others or use the "Bank Information", as such term is defined in paragraph 3a of the Separation Agreement, or any summary or derivative of that information. The Bank Information specifically includes any legally privileged information of the Bank, including, without limitation, any attorney work product, attorney-client communications and legal strategies.
 - b. All parties hereto agree and acknowledge that the Bank intends to fully preserve the attorney-client privilege, work product protection and any other privilege or similar protection belonging to the Bank, and nothing contained in this Agreement shall be construed as a waiver by the Bank of its attorney-client privilege or work product protection or any other privilege or protection belonging to the Bank. Consultant understands and acknowledges Consultant's continuing obligation to maintain such privilege, subject to applicable law.
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- c. All parties hereto acknowledge and recognize that Consultant has and will have access to and shall acquire knowledge of the Bank Information and that in the event of the breach of the terms and conditions of this Agreement with respect to confidentiality, the Bank shall be entitled, if it so elects, to institute proceedings in any court of competent jurisdiction to enjoin Consultant from disclosing such information.
7. **Non-Competition and Non-Solicitation.** The provisions of section 10 of the Separation Agreement, specifically with respect to non-competition and non-solicitation, are hereby incorporated by reference into this Agreement and shall continue in full force and effect as if set forth herein, with the exception that the Non-Compete Period set forth under paragraph 10b is extended through twelve (12) full months following the Termination Date.
8. **Termination of Agreement.** Section 1 notwithstanding, this Agreement shall automatically terminate prior to the Termination Date, and the Term of this Agreement shall end, upon Consultant's death or "Disability", as defined in Section 409A of the Internal Revenue Code of 1986, as amended ("Code"), or upon Consultant's "separation from service", as defined in Code Section 409A. In the event of a termination pursuant to this Section 8, Consultant, or Consultant's beneficiary in the event of Consultant's death, shall be entitled to payment of the following amounts in a lump sum within thirty (30) days following the termination: (i) any amounts which would have been paid to Consultant pursuant to paragraph 3a had the Agreement terminated as of the Termination Date; and (ii) any unreimbursed expenses pursuant to paragraph 3b.

This Agreement is a deferred compensation arrangement intended to comply with the requirements of Code Section 409A and to be interpreted in a manner consistent with such requirements. In this regard, the Agreement specifies the time and form of payment with respect to permissible payment events: (i) twenty-four (24) monthly installment payments pursuant to a fixed schedule commencing January 1, 2021; and (ii) a lump sum payment within thirty (30) days following Consultant's death, Disability, or separation from service. Further, notwithstanding any other provision of this Agreement, no payment shall be made to Consultant which is inconsistent with the requirements of Treasury Regulation Section 1.409A-3(i)(2)(i) (a six (6) month delay for payments to a "specified employee" following separation from service). Any payment that is impermissible under such requirements shall be delayed until the end of the applicable six (6) month period.

9. **Miscellaneous.**
 - a. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether written or oral, relating to the subject matter of this Agreement, except to the extent specifically provided herein.
 - b. **No Assignment by Consultant.** This Agreement is personal to Consultant and may not be assigned by Consultant.
 - c. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application thereof to other persons or circumstances shall not be affected thereby.
 - d. **No Waiver of Breach or Remedies.** The failure of any party to enforce, at any time, any provision of this Agreement shall not constitute a waiver of the right thereafter to enforce the same or any other provision of this Agreement.
 - e. **Amendment or Modification.** This Agreement may be amended only by written instrument upon mutual agreement of both parties.
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- f. Governing Law. The laws of the State of Hawaii shall govern the validity, construction and interpretation of this Agreement and the courts of the State of Hawaii shall have exclusive jurisdiction over any claim with respect to this Agreement.
- g. Headings. The headings in this Agreement have been included solely for convenience of reference and shall not be considered in the interpretation or construction of this Agreement.
- h. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed within the continental United States by first class certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Bank:

Bank of Hawaii
Attn: Ed Hudson, SEVP
130 Merchant Street
Honolulu, Hawaii 96813

If to Consultant:

Mark A. Rossi
198 Polihale Place
Honolulu, Hawaii 96825

Addresses may be changed by written notice sent to the other party at the last recorded address of that party.

IN WITNESS WHEREOF, the parties have signed the Agreement on the day and year first above written.

BANK OF HAWAII CORPORATION and
BANK OF HAWAII

By: 
Ed Hudson
Senior Executive Vice President
Chief People Officer

MARK A. ROSSI



