



A MESSAGE FROM COMMISSIONER KRUSE



Time has flown the 8 months since I took on the commissioner role. It has been such a privilege and honor to serve in this capacity so far, and I have enjoyed the conversations and meetings I have had with so many of you. In the years I have worked for our department, we have had a good relationship with the industries we regulate, and positive and open dialogue, which I hope will continue. The former commissioners I have worked for (Tim Karsky and Bob Entringer) installed in me an appreciation for community banks and showed me that state regulators have an important voice promoting community banking and common sense regulation. Therefore, I am committed to continue the department’s involvement with Conference of State Bank Supervisors (CSBS). CSBS gives North Dakota an opportunity to have influence and to have our interests represented in Washington D.C. CSBS has been instrumental in helping our regulatory relief efforts and keeping us informed on topics affecting our community banks. We appreciate and supported the passing of S.2155, the Economic Growth, Regulatory Relief and Consumer Protection Act, which will provide much needed relief for our institutions. Also, the Department joined the effort in seeking temporary relief from the use of certified appraisals in certain instances (more detail on page 3), hoping to make it easier for you to serve your local customers.

With a new commissioner and staff retirements, the department is undergoing some changes. To keep up with the times, we are making efforts to improve and modernize our processes further, enhancing our website so it is more useful for you, and communicate news and topics of interest more frequently using our website and LinkedIn profile. As part of his “reinventing government” effort, Governor Burgum has asked that every state agency goes through its procedures to eliminate what is no longer needed and seek efficiencies. It is always healthy for an organization to take a step back and re-evaluate processes, and a government agency should be no different in that regard. We are therefore committed to continually seeking better and more efficient ways of doing things, which will hopefully benefit all of us. One of the organizational changes I have made is to our administrative staff structure. With the automation of some processes within our department, we transformed Suzette Richardson’s former position to be part of the examination process itself and to function as an executive assistant. Heidi LaBree has been hired as the Administrative Examiner, and a lot of her time so far has been spent on transforming our in-house processes. Heidi comes with a wealth of experience. She has been with the department for 4 years as Financial Institutions Examiner regulating credit unions. Prior to that she spent 14 years as a banker. Ryan Spah has taken the role of Chief Examiner-Banks, but will also continue as the Supervising Examiner for Bismarck for the time being. Ryan has been with the department for 9 years and will do well in that position.

Please know that I am just a phone call away—and I appreciate opportunities to visit with you about any concerns or questions you may have.

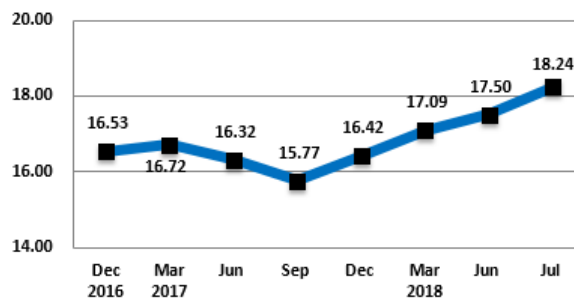
FACTS & FIGURES

As of July 31, 2018:

- ◆ Average Adversely Classified Items Coverage Ratio: 18.24%
- ◆ Average Adversely Classified Assets/Total Assets: 1.94%
- ◆ Average Adversely Classified Loans/Total Loans: 2.78%
- ◆ Average Past Due & Nonaccrual Loans/Total Loans: 1.92%

Averages are of the 68 North Dakota state-chartered banks.

Adv. Class. Items Coverage Ratio (%)



OFFSITE LOAN REVIEW—IS IT RIGHT FOR YOU?

The Department continually seeks opportunities to conduct more effective and efficient examinations. Over the years, our examiners have performed a growing number of tasks offsite, primarily during the pre-examination process. However, technological advancements, such as electronic file imaging and secure data transmission, are also making the offsite review of loan files possible for those banks willing to participate.

Benefits and Concerns

Offsite loan review has benefits for both bankers and examiners. For banks that are imaging loan documentation, offsite loan review can reduce the in-bank presence of examiners and the need to provide onsite computers to access the data. For examiners, offsite loan review can significantly reduce travel time and expenses, while allowing the Department to leverage examiners from other offices to help complete examinations in a timely manner.

Offsite loan review does generate concerns as well. For example, increasing offsite activities can reduce the ability of bankers and examiners to have face-to-face interactions which are valuable to both parties as classifications and asset quality issues are discussed. An effective credit review is also dependent upon all information related to a loan file being available to the examiner. Therefore, management needs to consider how examiners can access not only the loan imaging system, but any other systems that may hold useful documentation (e.g. shared file folders, etc.). The image quality of electronic loan documents must be sufficient for easy reading, and the images must be sorted or indexed in a way that allows for a timely and effective review.

Data Security and Methods of Providing Access

Of course, the security of confidential customer data is paramount. Not only will examiners need to view these loan documents, but there will be situations where the examiner will need to retain a document with his/her workpapers to support the credit review process. Therefore, whatever approach is utilized needs to allow for these requirements while ensuring that appropriate security mechanisms are in place.

Our examiners are using a new examination work program called Examination Tools Suite (ETS), which was collaboratively developed by the FDIC in partnership with the Federal Reserve and the states through the Conference of State Bank Supervisors (CSBS). Amongst other things, this program provides for the electronic completion of loan linesheets and securely stores any documentation retained as part of the examination process. It also allows examiners to work in the system and securely share information real-time through either a local area connection (LAN) or the Internet. This reduces our need to exchange electronic documents through less secure methods such as email or thumb drives.

Over the past several years, our examiners have successfully conducted offsite loan review with a number of banks. The methods have varied depending upon the system's technological capabilities and management's willingness to provide access without compromising security. Examples have included:

- Management places all of the documents (in a .pdf or .tiff format) for requested borrowers onto a portable device such as a thumb drive or external hard drive which is then physically provided to the examination staff. Examination staff then review documents from that device back in their field office(s).
- Management provides a secure method for examiners to remotely access the bank's electronic imaging system, either through remote desktop access or through an encrypted VPN, which often employs multi-factor authentication such as a hard or soft token.

If remote access is provided, keep in mind that our examiners will still need to have their own network access in order to communicate and collaborate with each other. This is often referred as 'split tunneling.' More specifically, split tunneling is a computer networking concept which allows a mobile user to access dissimilar security domains such as a public network (e.g., the Internet) and a local LAN or wide area network (WAN) at the same time, using the same or different network connections. Split tunneling often allows examiners to print imaged documents to his/her local printer(s).

In the event that split tunneling does not meet your security protocols, examiners may still be able to conduct offsite loan review if a method can be developed to transfer images from the bank's imaging system to the examiner. One option could be that the examiner identifies all such documents, which are then periodically packaged and uploaded to a secure file transfer system such as FDICconnect.



OFFSITE LOAN REVIEW—CONTINUED

How to Implement

To summarize, this program is entirely voluntary and will only be conducted if management is completely comfortable that the process meets its own security requirements. Onsite supervisory work remains a critical component of the examination process and in-person interactions with bank management will continue going forward. However, if your bank has transitioned to electronic file imaging/storage and you are willing to participate in the offsite loan review process, please share this interest with the Examiner-in-Charge when you receive that initial phone call informing you of an upcoming examination. If it is the first time for your bank, we will typically like to do some testing with your staff before the examination commences to determine if the process will work. We will also need to establish procedures for the loan review processes that are normally conducted onsite, such as requests for additional information and loan discussions.

Offsite loan review is a practice which is increasingly conducted by examiners across the country, so it is likely that your vendor has solutions or information to help you in this regard. Therefore, you might also want to visit with your vendor to determine what options exist for external access to the loan imaging system.

If you have any questions or would like to discuss this further with Department staff, feel free to contact us for assistance.

BANK SECRECY ACT UPDATE

The new FinCEN customer due diligence and beneficial ownership rules went into effect on May 11, 2018. The rule can be found [here](#) and frequently asked questions for the rule can be found here: [2016](#) and [2018](#). As communicated in [August](#), the extension of limited exception pertaining to CD rollovers and loan renewals have been extended to September 8, 2018. Make sure you review your policy and procedures to ensure compliance with these new requirements. Also, you need to ensure your staff is provided sufficient training.

BSA-related exceptions are the apparent violations cited most often in our examinations.

As you know, North Dakota is moving closer towards medical marijuana availability. The department discussed some of the implications for you during the May 2017 Day with the Commissioner; however we want to again remind you that the presence of this industry in North Dakota creates BSA compliance requirements. Even if you do not intend to do business with people or businesses directly involved in the medical marijuana industry, you need to ensure your customer due diligence program is sufficient to identify your customers' level of involvement or non-involvement with the industry. Your policy should reflect the Board's position on doing business with this industry. Finally, the policy needs to address customers indirectly involved in the medical marijuana industry (e.g. employees of dispensary, suppliers to the dispensary, company renting real estate to the dispensary, etc.), and at what level of indirect involvement you will employ your procedures for BSA compliance, specifically the Suspicious Activity Report (SAR) filing requirements and your customer due diligence procedures to ensure proper identification.

Like any new business line, make sure to do your due diligence before engaging in this type of business to ensure you understand the risks. One major part of this analysis should be the legal risks associated with engaging in these types of activities. Currently, there are clear differences between the federal law and various state laws relating to treatment of marijuana products. Further, there have been recent developments in the federal government's position regarding the enforcement of federal laws by the Department of Justice. Other unique legal issues associated with lending to entities involved in the medical marijuana industry relate to collateral and collections. Since possession and ownership of this type of product or manufacturing devices may be limited by law, there is a question as to the ability of financial institutions to take possession in times of default. Given the evolving nature of these legal issues, please be sure you discuss these matters with legal counsel, and implement appropriate risk-based policies and procedures to limit the risks to your institution.



ENFORCEMENT ACTION NOTICE

On May 8, 2018, the Commissioner issued an Order revoking the collection agency license of Northland Receivables Inc. d/b/a Checkrite of Minot. The company has been ordered to cease and desist any further collection activities in the State of North Dakota. Additionally, the Commissioner has ordered the suspension/removal of Kirk Wullweber from participation in the conduct and affairs of the collection agency, and prohibited him from being employed or otherwise participating in the affairs of any financial corporation, financial institution, credit union, or any other entity licensed by the Department of Financial Institutions. A copy of the Order may be viewed here: [Order](#)

It has been brought to the department's attention that this company/individual continues to do business despite the removal order, and a civil money penalty has been issued in response. Please be vigilant along with your customers and contact us if you or your customers have been harmed by the conduct of Kirk Wullweber or Northland Receivables Inc. d/b/a Checkrite of Minot.

TEMPORARY APPRAISAL WAIVER

A temporary waiver request from appraiser requirements has been filed for North Dakota. The request is to waive the education/credentialing requirement for appraisals up to \$500,000 for residential, and \$1,000,000 on commercial loans. Having the option not to wait for a certified appraisal should help our citizens receive financing in a more timely manner. The application is found [here](#). Information about the granting authority (the ASC Subcommittee) and the process is found [here](#). Since residents of North Dakota communities understand our challenges best, it is important that we voice our concerns and experiences. Our application was filed on August 1, but the formal comment period has not yet started as our application has not yet been entered in the Federal Register.

NEW WEBSITE

The department has revised its website providing more content and information pertaining to the various industries we regulate. A new feature is that you can now subscribe to news and information of interest. When something you subscribe to is posted to the website, you will receive an email instantly informing you of the information, with a link directing you to the page where the document is found. Since we are all leery of email attachments and links from outside sources nowadays, these notifications can serve as a safer mode of delivery to your staff. It reduces personal emails with attachments from the department, and gives individuals across your institution access to information without you having to forward what you receive from us. Hopefully it will be a safer and more efficient method of communication to you.

CECL & CYBERSECURITY

Examiners have started to ask questions from your bank about your preparations for CECL. What to expect can be found on our website [here](#).

Also, to help with assessing and strengthening cybersecurity, the Treasury Department issued a Financial Sector Cybersecurity Tabletop Exercise Template. This voluntary tool will allow institutions to carry out internal cybersecurity exercises. The template is customizable and institutions can tailor the incident scenarios to their individual needs. The template also includes discussion questions that can be used to enhance dialogue and improve participant understanding of incident response plans. CSBS has shared this template, which is available for download: [Tabletop Exercise Template](#).

STATE BANKING BOARD

Todd Heilman, Chief Financial Officer of Western State Bank, Devils Lake, has been appointed to the State Banking Board effective July 1, 2018. Mr. Heilman is replacing Nancy Baerwald (American Bank Center, Cando). The Department appreciates Todd's willingness to serve, and his years of experience will be beneficial and provide valuable insight to his role on the Board.

