



A MESSAGE FROM COMMISSIONER KRUSE



It has been 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. Having spent my regulatory career primarily focusing on banks, it has been interesting to gain more insight into the credit union industry. The former commissioners I have worked for (Tim Karsky and Bob Entringer) installed in me an appreciation for our community institutions. We have had a good relationship with the industries we regulate, and positive and open dialogue, which I hope will continue.

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 communicating 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 in the banking industry. We have also welcomed a new credit union examiner, Tammy Egeland, to our department.

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.

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.



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.

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 to your staff. Hopefully it will be a safer and more efficient method of communication to you.

CECL & CYBERSECURITY

Examiners have started to ask questions from your credit union 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. The template is available for download here: [Tabletop Exercise Template](#).

LOAN WORKOUTS AND LOAN MODIFICATIONS

The department issued guidance in October of 2017 to make institutions aware of regulatory requirements related to loan workouts and loan modifications. We encourage you and your lending staff to review this document, which can be found [here](#). Hopefully this will be helpful as you work through lending issues with your members.



BSA - CUSTOMER DUE DILIGENCE AND MARIJUANA-RELATED BUSINESSES

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 by FinCEN on September 7, 2018, the extension of limited exception pertaining to CD rollovers and loan renewals has been made permanent (link is here: [FinCEN ruling](#)). 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.

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.

FACTS AND FIGURES

As of June 30, 2018:

- Average Adversely Classified Loans to Equity Ratio: 22.88%
- Average Adversely Classified Loans to Loans Ratio: 4.28%
- Average Adversely Classified Loans to Assets Ratio: 3.31%
- Average Allowance for Loan and Lease Loss to Loans Ratio: 1.32%
- Average Delinquency Ratio: 1.67%

These ratios are now published quarterly on the department's web page which can be found [here](#).

Averages are of the 20 North Dakota state-chartered credit unions. Classification averages are rolling averages.

