



**NEWS**  
NOVEMBER/DECEMBER 2017

## **Is Your Printer Environment a Security Risk?**

*MBA Endorsed Product Vendor Spotlight:  
Ncontracts Total Vendor Management Solution*

## **MBA Cuts Life and Disability Rates**

2017 Minnesota Bankers  
Community Impact Week Recap

*Equifax Lessons Learned*



# GSB 2018

**BUDGET NOW FOR GSB —  
WHERE BANKING AND LEADERSHIP  
COME TOGETHER.**



Programs through the Graduate School of Banking at the University of Wisconsin - Madison are the best place to hone both banking and leadership skills. GSB programs explore critical banking topics in the real world—with hands-on learning and the chance to network, collaborate and learn among some of the brightest leaders in the industry. Take advantage of the industry's most powerful banking and leadership development programs and take your career, your team—and your bank—further.

**Graduate School of Banking**  
July 29 - August 10, 2018

**Bank Technology Management School**  
April 8 - 13, 2018

**Human Resource Management School**  
April 15 - 20, 2018

**Financial Managers School**  
September 9 - 14, 2018

**Sales and Marketing School – NEW!**  
October 14 - 19, 2018

**Bank Technology Security School**  
October 21 - 26, 2018

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### MBA News

Published six times a year, *MBA News* is the official publication of the MBA. Articles focus exclusively on the commercial banking community in Minnesota.

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*MBA News* is published six times per year by the Minnesota Bankers Association, 8050 Washington Avenue South, Suite 150, Eden Prairie, MN 55344.  
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### The Strength of Our Association

Mark White  
President  
First National Bank, Coleraine

Thank you once again for the opportunity to serve as the Chair of the MBA. I continue to be honored and humbled by this experience, as I have a tremendous amount of respect for the people who have held this position before me and pride for the many ways our association supports the Minnesota banks.

The MBA is in great shape right now. Our membership is strong; we enjoy the active support of our member banks; our Board of Directors is providing strong leadership and direction; and our staff is effectively executing our programs. It takes a lot of different factors coming together for an association to work. Right now the MBA is hitting on all cylinders, providing products and services that equate to real value for our member banks. Let me give you a few recent examples from the various MBA departments.

First, the fall is a busy time for MBA education programs. One of the strengths of the MBA is that our education programs are locally-developed by Minnesota bankers, for Minnesota bankers. For example, the MBA's Advanced Compliance Workshop is offered annually. Each year, the MBA Compliance Committee plans this two-day event by analyzing the most significant, hot compliance topics. These experts live and breathe compliance matters every

day, and they know the issues that need attention. Once the Committee identifies the topics, the MBA education staff, supported by the MBA legal team, identify good speakers to address the topics. The result is an extremely timely program, with nationally-known compliance instructors, offered right here in Minnesota. This year's Advanced Compliance Workshop was held in early October, and once again this important program was well-attended and received high ratings.

Also consider a new education offering, the MBA's Leadership Academy. The MBA Board members were discussing the challenge of identifying the next generation of leaders within our banks. The Graduate Schools of Banking do a fantastic job of providing technical banking information. The Board thought that a program designed to teach fundamental leadership skills would be a great complement to the training provided by the Graduate Schools. We challenged the staff to design and roll out a leadership program, which they did. In its first year, the MBA Leadership Academy is getting rave reviews from its participants. One of my bank's employees is part of the Academy's first class, and she is very happy with the program and is learning a lot about what it takes to be an effective leader.

Another important part of our association is the MBA's Legal and Compliance Department. Not all state associations across the country offer legal and compliance support to their members. Minnesota is home to many community banks, which are especially impacted by regulatory burden. Therefore, the benefit of having an association that can provide legal and compliance support is significant. The legal manuals covering both state and federal law and the Legal/Compliance bulletins on changing laws and regulations are helpful. And the ability to contact the legal department with questions is a tremendous service.

This year the MBA legal team also provided a rather unique service to help the banking industry. They researched, wrote and filed *amicus curiae* briefs supporting two Minnesota banks in lawsuits brought by the federal government. Both cases had major implications for the banks involved, but they also raised serious concerns for all the rest of us. We owe a debt of gratitude to the banks involved in these over-reaching lawsuits because they chose to fight the lawsuits rather than just settle, and we are fortunate that the MBA has the expertise and the resources to provide this important type of legal service.

A third major association strength is our employee benefits program. The MBA Employee Benefits Trust was established over two decades ago with the simple goal of providing affordable group insurance to Minnesota's community banks. The old saying, "there is strength in numbers," perfectly sums up this situation. Because a majority of Minnesota banks utilize our plans, we have assembled a group of over 5,000 employees. That large employee group, plus the fact that our plans are well-reserved, allows us to negotiate favorable rates from our insurance carriers on a variety of high quality plans. The upcoming 2018 plan year brings more good news for

## 2017/18 BOARD OF DIRECTORS

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Frandsen Financial Corporation

### District 2

Mike Finley, *President*  
Janesville State Bank



our plan participants. At a time when most insurers are increasing their rates, the MBA's Dental, Life, and Disability plan rates will remain flat, except there will be a **rate reduction** for participants in the Basic Life and Long-Term Disability plans.

Finally, in our Government Relations area, consider how our association recently achieved a major victory at the state legislature. A banker brought an issue to our attention, namely that long-time bank customers who were moving their official residency to another state were closing their Minnesota bank accounts. The MBA legal team researched the issue and found that these customers were doing so based on the Minnesota Department of Revenue's

residency rules. The MBA staff brought the issue to the MBA Government Relations Council (GRC), which recommended that the MBA work to fix the problem. Staff presented the issue to the MBA Board of Directors, which agreed with the GRC's recommendation. Our attorneys and lobbyists then went to work drafting a bill, lining up authors and co-authors, scheduling hearings, lobbying committee members, and ultimately lobbying both the full House of Representatives and the full Senate. After much work, the MBA bill was passed and signed into law, fixing the issue raised by our member bank. What a great effort and a great result! There are many groups who lobby in St. Paul who have not passed a bill in years. We are

fortunate to have an association that can get things done.

An association needs solid leadership from its volunteers, strong support from its membership and effective implementation from its staff. I am happy to report that the MBA is showing its strength as an organization by providing excellent products and services to its member banks. Thank you for all you do to support the MBA! ■



Mark White, MBA Chair

## Helping lenders make sound business decisions.



- Loan Documentation
- SBA Compliance
- Collections
- Foreclosures
- Loan Restructures & Workouts
- Litigation

**Contact Nick Vivian for more information.**

Call 651-439-2878 or  
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North Shore Bank of Commerce, Duluth

### District 6

Del Mari Runck, *Chief Operating Officer*  
Neighborhood National Bank, Alexandria

### At-Large

Bill Doran, *Vice President & Relationship Manager*  
U.S. Bank NA, St. Paul

### At-Large

Kelly Gosz, *District Manager*  
Wells Fargo Bank Minnesota, NA, Golden Valley

**NOVEMBER**

- 9**  
Loan Participations for Community Banks: Risks & Rewards (WEBINAR)
- 14**  
Building a Profitable Retail Banking Strategy II • Eden Prairie
- 15**  
Introduction to Global Cash Flow • Eden Prairie
- 28**  
Living Trust Documents (WEBINAR)
- 30**  
A Practical Overview of Common Legal Issues Faced by New Bankers • Eden Prairie

**DECEMBER**


- 4-8**  
FSA Workshops • Various Locations
- 7**  
Attracting & Retaining Staff in a World of Change • Eden Prairie
- 7**  
SAR Decision Making (WEBINAR)
- 21**  
Coaching Tellers to Excellence (WEBINAR)

**JANUARY**


- 3**  
Best-Ever Compliance Checklists for Consumer Loans (WEBINAR)
- 11**  
UCA® Cash Flow I • Eden Prairie
- 18**  
Handling Loan Applications - What Can Go Wrong? (WEBINAR)

**FEBRUARY**

- 6**  
Guaranteed Loan Process Workshop • Detroit Lakes
- 6-8**  
MBA Leadership Development Academy (Session 3) • Grand Rapids
- 8**  
Guaranteed Loan Process Workshop • Mankato
- 13**  
UCA® Cash Flow II • Eden Prairie
- 15**  
Personal Security Considerations for Lenders • Eden Prairie
- 28**  
Marketing Roundtable • Eden Prairie

 Over 22 online certificates available from Bank Teller Certificate to Lending Compliance Certificate. For a list of certificates available, go to [www.minnbankers.com](http://www.minnbankers.com).

**MARCH**

- 7 & 8**  
Principles of Banking • Eden Prairie 
- 20 & 21**  
Call Report Preparation • Bloomington
- 22**  
Bank Day at the Capitol • St. Paul
- 27 & 28**  
AML/BSA Workshop • Bloomington

**APRIL**

- 5**  
Analyzing Financial Statements • Eden Prairie
- 12**  
Women's Leadership Conference • St. Louis Park
- 17**  
Risk Management Conference • Eden Prairie
- 17 & 18**  
Operations/Technology Conference • Alexandria
- 22-25**  
ABA Spring Summit & MBA Washington, D.C. Trip

**Videos**

- Ag Loan Documentation
- Being a Notary Is Serious Business
- Board Critical Issues in Cybersecurity
- BSA/AML Teller Training
- CDD Workshop: Preparing for the New Regulation (FREE)
- Cybersecurity Seminar
- Deposit Account Takeovers
- Effectively Stabilizing Agricultural Assets in a Workout Context
- Farmer Lender Mediation Process
- Loan Portfolio Risk Management Video Series
- Managing Appraisal & Evaluation Requirements
- NEW! Navigating Bankruptcy
- New Developments & Claims Under the ADA (FREE)
- New FLSA Overtime Rules (FREE)
- Recent Developments in Electronic Payments
- Search Warrants, Subpoenas
- TRID Training

**Free Senior Fraud Videos:**

- Financial Professionals: On the Frontlines in the Fight Against Senior Financial Exploitation
- Fraud Watch: Current Fraud Trends and Behaviors
- Protection of Vulnerable Adults: Knowing What, When and How to Report Suspected Exploitation



**Wisconsin Graduate School of Banking Online Seminars**

**November**

- 1**  
IRA Beneficiary Distributions – Part 1  
Advanced Financial Statement Analysis
- 2**  
Three Key Risk Assessments in Your ERM Program – ERM, IT, and Internal Controls
- 7 & 9**  
Fundamentals of Interest Rate Swaps and Caps
- 8**  
IRA Beneficiary Distributions – Part 2  
Baby Boomers vs Millennials
- 9**  
Building Your Brand on a Limited Budget  
Leveraging the Middle of Your Organization
- 14**  
Leading the Prospecting Effort
- 15**  
Top 10 IRA Issues  
Trusts for Planning, Privacy and Protection  
Cash Management: How Sales, Operations and Technology Can Work Together to Generate More Fee Income
- 16**  
Collateral Evaluation in C&I Lending  
Cybercrime Trends and Hot Topics in Banking
- 17**  
Managing Generations in Today's Workplace
- 21, 28 & December 5**  
Monitoring & Updating Real Estate Values: Using Real Estate Cash Flow & Other Resources Beyond Initial Underwriting  
Global Cash Flow Analysis: Examples, Issues and Obstacles  
A Practical Guide to Consumer Lending
- 28**  
Advanced Cash Flow Analysis
- 29**  
Retirement Rollovers: Are You Ready?
- December**
- 4**  
Loan Structure, Documentation and Compliance Training – a Comprehensive Approach
- 6**  
IRA Distributions
- 14**  
Make the SSAE16 Work for You

Look for more GSB classes at [www.gsb.org](http://www.gsb.org) or [www.minnbankers.com](http://www.minnbankers.com).



Winter may be right around the corner, but MBA activities are in full swing throughout the fall. To highlight just a few of the activities taking place for our members, a great class of 29 bankers just completed the 2017 Commercial Lending School (page 29); over 100 bankers participated in this year's Advanced Compliance Workshop; and we wrapped up a very successful second annual Minnesota Bankers Community Impact Week (pages 8-12), thanks to the tremendous show of support by banks throughout the state.

Even though the holiday season isn't far off, the MBA is offering a number of exceptional educational programs between now and the end of the year in general banking, security, bank management, lending, ag lending, human resources, and regulatory compliance.

Importantly, with this edition of *MBA News*, we are now making it much easier to share this magazine with bank staff at all levels of the organization. Unlike past issues, the electronic editions of the magazine going forward will not require a member login.

When you see a notice that the electronic version of *MBA News* is available, we encourage you to share this news with your co-workers and staff so that they can take full advantage of the great content provided by our MBA staff, associate members and endorsed product vendors.

The MBA exists to serve our member banks and bankers so, as always, we want to hear from you with any suggestions to better meet your needs. ■



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 Director, Communications and Education  
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## Scholarships for the 2018 Graduate School of Banking at the University of Wisconsin-Madison



The MBA offers three GSB Madison scholarships for bankers: two for the Graduate School of Banking and one for the Human Resource Management School. Information and applications can be found on our website under "schools" in the education section.

### Graduate School of Banking Scholarships

GSB's Graduate School Program provides a comprehensive course of study of general banking and management subjects especially designed to meet the needs of bankers whose responsibilities and scope of activities are expanding. The school's purpose is to meet the growing need for bank managers and others working in the financial services industry to acquire a broad knowledge and understanding of the major bank functions and their interrelationships, and to develop the skills required to lead and manage effectively in today's and tomorrow's challenging banking environment. Its curriculum reflects the contemporary trends affecting the financial services industry. Core courses address broad areas of finance, marketing, management, and the environment in which banks operate.

The scholarship amount is \$1,300.00 for each year of the student's attendance (approximately 1/3 of the annual tuition fees) for a total value of \$3,900. The scholarship is available only to students who

will begin the school in 2018. **The GSB session will be held July 29 – August 10, 2018. The application deadline is March 30, 2018.**

### Human Resource Management School Scholarship

This popular one-week school, designed specifically for HR professionals in the financial industry, addresses today's most critical HR issues. This school provides the foundation for new or veteran human resource professionals to tie together the important issues in human resource management with a bottom-line understanding about the business of banking.

The GSB Human Resource Management School is a great way to expand your knowledge of the banking industry and human resource management, improve employee performance, and establish a network of colleagues with whom to interact and exchange ideas.

The scholarship amount is \$925.00. **The School takes place April 15-20, 2018. The application deadline is February 2, 2018.**

*If you have questions or need more information, contact Eric Hawth, Director of Communications and Education, at erich@minnbankers.com.*





September 18-22, 2017

Thank you to all the banks and bankers who made the second annual **Minnesota Bankers Community Impact Week** another big success!

An incredible 98 banks and more than 260 branches undertook volunteer projects that impacted 177 cities across our great state, demonstrating again just how central Minnesota banks are to the fabric of our communities.

Whether or not your bank participated in the campaign, we encourage you to send us your stories of community building throughout the year and tell your story of community building on social media using the hashtag **#buildingcommunitiesmn**.



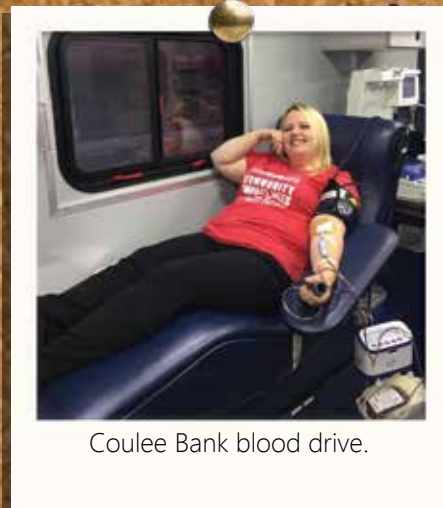
Frandsen Bank & Trust Cloquet worked at and made donations to Northern Lakes Food Bank.



Bridgewater Bank had a food drive for Pinky Swear.



F&M Bank Lino Lakes cleaning up the yard of a local veteran.



Coulee Bank blood drive.





HomeTown Bank Le Sueur staff cleaning brush off a fence at a community park.



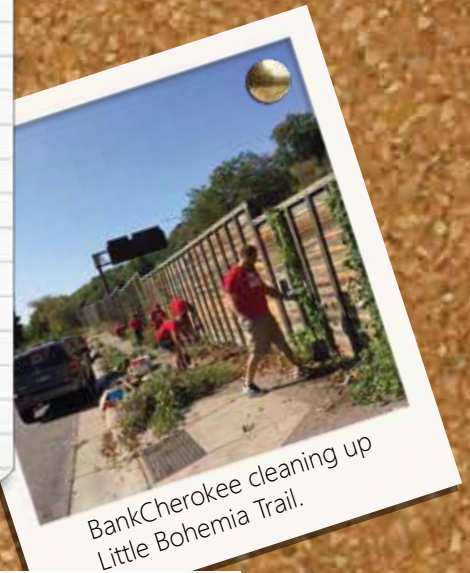
Anchor Bank Plymouth food truck serving hot dogs in exchange for donations to troops overseas.

Save the date  
for next year's  
campaign

**SEPTEMBER 17-21,  
2018**



Pioneer Bank had a school supply drive.



BankCherokee cleaning up Little Bohemia Trail.



Neighborhood National Bank gave food and a monetary donation to a local food shelf.



Crown Bank Edina at Feed My Starving Children.





Wells Fargo Neighborhood House reading buddies.



Lake Community Bank brought Random Act of Kindness baskets to local businesses.



Tradition Capital Bank packed meal bags for The Sheridan Story.



The First National Bank of Le Center picked up trash along the highway.



Janesville State Bank served an appreciation meal to the Janesville Volunteer Fire Department.



President of Frandsen Bank & Trust Hastings in the dunk tank. Proceeds went to Lewis House Shelter.



HomeTown Bank Redwood Falls stained the deck and sun shade at ELCA building.





Midwest Bank Barnesville partnered in establishing a community garden.



Minnesota Bankers Association made blankets for Project Linus.

See the full 2017  
slideshow at  
[www.minnbankers.com/  
communityimpact](http://www.minnbankers.com/communityimpact)



Security State Bank of Marine adopt a highway program.



Riverland Bank sorted and packed potatoes at Second Harvest Heartland.



Security State Bank of Kenyon



Community Bank Mankato, Vernon Center and Amboy cleaned Children's Museum of Southern Minnesota.



Northeast Bank Minneapolis brought and served lunch to AEON residents.



# Community Impact Week

## Participating Banks



HomeTown Bank Waconia painted Waconia Ice Arena.

- |                                      |                 |
|--------------------------------------|-----------------|
| 1st United Bank                      | Faribault       |
| Alliance Bank                        | New Ulm         |
| American Bank of the North           | Grand Rapids    |
| American Investors Bank and Mortgage | Eden Prairie    |
| Americana Community Bank             | Maple Grove     |
| Anchor Bank, NA                      | Eden Prairie    |
| Bank Midwest                         | New Ulm         |
| Bank of Maple Plain                  | Maple Plain     |
| Bank of Zumbrota                     | Zumbrota        |
| BankCherokee                         | Saint Paul      |
| BankVista                            | Sartell         |
| Bridgewater Bank                     | Bloomington     |
| Castle Rock Bank                     | Farmington      |
| Center National Bank                 | Plymouth        |
| Citizens Bank & Trust Co.            | Hutchinson      |
| Citizens Bank Minnesota              | Lafayette       |
| Citizens Independent Bank            | Plymouth        |
| Citizens National Bank               | Park Rapids     |
| Citizens State Bank                  | Hayfield        |
| Citizens State Bank of Roseau        | Roseau          |
| Community Bank                       | Mankato         |
| Community Pride Bank                 | Ham Lake        |
| Community Resource Bank              | Northfield      |
| Coulee Bank                          | Saint Paul      |
| Crown Bank                           | Edina           |
| Deerwood Bank                        | Grand Rapids    |
| Eagle Bank                           | Elbow Lake      |
| Exchange State Bank                  | Luverne         |
| F&M Bank Minnesota                   | Olivia          |
| Falcon National Bank                 | Foley           |
| Farmers & Merchants Savings Bank     | Vadnais Heights |

- |                                |                     |
|--------------------------------|---------------------|
| Farmers & Merchants State Bank | Morgan              |
| Fidelity Bank                  | Edina               |
| First Farmers & Merchants Bank | Luverne             |
| First Farmers & Merchants Bank | Fairmont            |
| First Farmers & Merchants Bank | Cannon Falls        |
| First National Bank            | Bemidji             |
| First National Bank            | Gilbert             |
| First National Bank            | Waseca              |
| First National Bank            | Le Center           |
| First National Bank            | Coleraine           |
| First National Bank            | Milaca              |
| First National Bank Minnesota  | Mankato             |
| First Security Bank            | Byron               |
| Flagship Bank                  | Eden Prairie        |
| Frandsen Bank & Trust          | Hastings            |
| Franklin State Bank            | Franklin            |
| Grand Timber Bank              | McGregor            |
| Great Southern Bank            | Maple Grove         |
| Harvest Bank                   | Atwater             |
| Heritage Bank                  | Pennock             |
| Highland Bank                  | Maple Grove         |
| HomeTown Bank                  | Le Sueur            |
| Janesville State Bank          | Janesville          |
| Kensington Bank                | Cokato              |
| Key Community Bank             | Inver Grove Heights |
| Klein Financial Inc.           | Chaska              |
| Lake Central Bank              | Annandale           |
| Lake Community Bank            | Long Lake           |
| Lakeview Bank                  | Lakeville           |
| Merchants Bank, N.A.           | Onalaska            |
| Midwest Bank                   | Detroit Lakes       |
| MidWestOne Bank                | Forest Lake         |
| Miners National Bank           | Eveleth             |

- |                                |             |
|--------------------------------|-------------|
| Minnwest Bank                  | Montevideo  |
| National Bank of Commerce      | Duluth      |
| Neighborhood National Bank     | Aitkin      |
| New Market Bank                | Lakeville   |
| North American Banking Company | Roseville   |
| North Shore Bank of Commerce   | Duluth      |
| Northeast Bank                 | Minneapolis |
| Peoples State Bank             | Altura      |
| Peoples State Bank of Wells    | Wells       |
| Perennial Bank                 | Darwin      |
| Pine River State Bank          | Pine River  |
| Pioneer Bank                   | Lewisville  |
| Platinum Bank                  | Oakdale     |
| Plaza Park State Bank          | Waite Park  |



Lake Central Bank delivered Meals on Wheels.

- |                                  |                       |
|----------------------------------|-----------------------|
| Premier Bank Rochester           | Rochester             |
| Profinium, Inc.                  | Mankato               |
| Riverland Bank                   | Jordan                |
| Security Bank & Trust Company    | Glencoe               |
| Security State Bank of Hibbing   | Hibbing               |
| Security State Bank of Kenyon    | Kenyon                |
| Security State Bank of Marine    | Marine On Saint Croix |
| State Bank of Richmond           | Richmond              |
| Stearns Bank N.A.                | Saint Cloud           |
| Sunrise Banks, N.A.              | St. Paul              |
| The Bank of Elk River            | Otsego                |
| The First State Bank             | Fountain              |
| The State Bank of Faribault      | Faribault             |
| Tradition Capital Bank           | Edina                 |
| U.S. Bank NA                     | Minneapolis           |
| United Community Bank            | Frazee                |
| Venture Bank                     | Bloomington           |
| Wells Fargo Bank, NA             | Saint Louis Park      |
| Western National Bank            | Cass Lake             |
| Worthington Federal Savings Bank | Worthington           |



F&M Bank Vadnais Heights made care packages for Gables Nursing Home.



# MBA Endorsed Product Vendor Spotlight: Ncontracts Total Vendor Management Solution

## Enjoying the Upside of Risk



The MBA proudly endorses a small number of products that have demonstrated their value to Minnesota banks, including Nvendor from Ncontracts. We encourage you to take a closer look at their product offering to assist your bank with vendor management.

**W**hen it comes to risk and vendor management, banks need to be prepared, protected and positioned for opportunities.

Ncontracts' flagship vendor management solution, Nvendor, is streamlining vendor management compliance at more than 600 financial institutions – reducing risk and cutting costs in the process.

We're helping banks like yours replace casual systems of spreadsheets and emails with a complete vendor management solution backed by an expert team of legal, compliance and IT professionals. From expert analysis of your bank's vendor agreements to customized tools and dashboards, Nvendor touches every aspect of vendor management. We manage the small details and guide you in focusing on the big picture.

Nvendor can help you:

- **Decrease internal expenses.** Make your institution more efficient by dedicating fewer resources to vendor management. Nvendor's team of contract specialists and compliance experts monitor regulations and vendors,

including their financial state, cybersecurity procedures and business continuity plans, so your staff doesn't have to.

- **Decrease risk.** Make insightful decisions and demonstrate due diligence to regulators with executive summaries prepared by Nvendor's experts. We collect and analyze all FFIEC-required documents and simplify them into a single-page summary to help you risk-assess vendors.
- **Cut vendor costs.** Never unintentionally auto-renew a contract or overpay a vendor again. Nvendor examines agreements for key provisions and deadlines to help you proactively negotiate agreements before notice dates, prevent non-contractually based price increases and monitor service level agreements. On average, our clients' non-interest income expenses are 33 percent lower than their industry peers.

To discover how Ncontracts can help your bank dramatically improve vendor management, visit our website at [www.ncontracts.com](http://www.ncontracts.com) or call 888-370-5552. ■



*First Farmers & Merchants Bank has used Ncontracts for a number of years and we greatly appreciate the service provided to our organization. Ncontracts assists us in staying current with issues which may arise with our vendors and helps us get the information we need from our vendors to properly manage our vendors. Their service has been extraordinary*

*Marlene Trageser, Chief Information Officer*

## MBA Cuts Life and Disability Rates

### Group Insurance Rates Announced

Group Insurance Manager Stacy Meyer has announced that the MBA Employee Benefits Trust (EBT) has cut rates for Group Basic Life and Long Term Disability by five percent for 2018. "MBA's banker group has very good claims experience and is very desirable to carriers," Meyer explained. "We are very excited to switch to Voya as our carrier this year. Not only are we able to reduce rates, but Voya has made some innovations to make the claims process more seamless for the banks. Voya's employee benefits group is managed in Minneapolis and we have known their service team for many years." Meyer also announced that the rates for optional life, short term disability, and dental will remain unchanged.

### New Vision Product

The MBA has partnered directly with VSP for a low cost vision plan. What makes this plan unique is that the MBA has secured substantially discounted rates due to the size of our group insurance plans. In addition, we are able to offer direct support to banks enrolled in this plan on an ongoing basis. There are no minimum enrollments so banks have full flexibility in offering this payroll deducted plan to employees.

### EBT Trustees

EBT is guided by a board of trustees comprised of Minnesota bankers who reviewed and approved Meyer's recommendations. Meyer also announced that Jill Amundson of Border State Bank in Baudette was appointed by the MBA Board to be a trustee. She joins David Schlitter of First State Bank of Fountain (Chair), Doug Schweim of Hometown Bank in Cleveland, Susan Lindmeier of Bridgewater Bank in Bloomington, Henry Schutz of The State Bank of Faribault, Mark Miedtke of Citizens State Bank of Hayfield (MBA Treasurer), and Dan Melcher of MBA as Trustees.

More detailed information will be distributed to the banks enrolled in our plans. If you would like any more information, please feel free to contact any of our group insurance contacts.

## LIBOR Set for Elimination in 2021

By Jack Marvin and Lara Page

The London Interbank Offered Rate (LIBOR), the interest rate tied to trillions of dollars in loans and other financial products, will be eliminated by the end of 2021. British regulators announced the timeline on Thursday, July 27, to allow for the phase-in of new benchmark rates. U.S. and international regulators are developing replacement benchmark rates and are expected to outline implementation plans later this year.

What does this mean for lenders?

- Loan originators and swap providers should evaluate non-LIBOR indexes for new loans maturing after 2021.
- For new LIBOR-based loans or swaps maturing prior to 2021, other reference rates should be identified for use as a substitute index.
- Personnel responsible for loan administration and compliance should closely monitor implementation guidelines produced by regulators.
- Loan documents for new LIBOR-based loans should specify an alternative index or expressly permit the lender to select a comparable reference rate when LIBOR is eliminated. Procedures for implementing a new index for LIBOR-based loans should be clearly stated.
- Loan documentation for existing LIBOR-based loans should be reviewed to determine the lender's ability to select an alternative index when LIBOR is eliminated. If the documents fail to expressly state an alternative, an amendment may be necessary.

### LIBOR Use and Reliability

LIBOR is used to calculate interest rates for numerous types of debt obligations, including personal and commercial loans, interest rate swaps and other derivative products, making it a primary metric in the global banking system. LIBOR is set every business day in numerous currencies and maturities, based on estimates submitted by major banks. In the wake

of the financial crisis, several banks were discovered to have doctored estimates in order to manipulate LIBOR, prompting a push for submissions based on actual interbank loans. But according to the U.K. Financial Conduct Authority (FCA), the interbank lending market slowed in recent years, resulting in a lack of data on which to base LIBOR estimates and therefore susceptible to further fraud. The FCA determined that without an active market to support estimates, LIBOR should not be used as a benchmark rate.

### Replacement Rates

In anticipation of the elimination of LIBOR, the U.S. Federal Reserve established the Alternative Reference Rates Committee (ARRC) to select a replacement index for U.S. Dollar LIBOR. ARRC, comprised of a group of large domestic banks and regulators, voted to use a benchmark based on short-term loans backed by Treasury securities, known as repurchase agreements or "repo" trades. ARRC is expected to announce a transition plan for the new rate later this year. The Bank of England has proposed replacing GBP LIBOR with an index based on short-term loans tied to the pound, and the European Money Markets Institute will identify a replacement rate for the Euro LIBOR. ■



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# Is Your Printer Environment a Security Risk?

## Here's how to keep the hackers out of your printers

By Alex Nicholas

As an IT professional, Bank President or Compliance Officer, you know that data security is a top priority for your organization. In today's highly regulated environment it is more important than ever to have a pulse on your organization's policies and procedures in all areas. With cyberattacks on the rise we've all come to realize the question we should be asking is not if our data will be compromised, but when and how. One important area of vulnerability that may not be on your radar is the security of your office printers.

All organizations take steps protecting data on networks, computers and servers, yet overlook the network printer or other end points. Hewlett Packard research reports that 90 percent of enterprises say they have suffered at least one data loss through unsecured printing. Yet a recent Spiceworks survey of more than 300 enterprise IT decision makers found that just 16 percent of respondents think printers are at high risk for a security threat/breach. Moreover, only around 40 percent of organizations deploy user authentication and use administrative passwords. The risk is real, as hackers have used vulnerable printers to access organization's data in multiple, creative ways. From a network printer intrusion to misplaced prints with sensitive data, compliance risk is ever present.



### Here are Four Steps to Take in Securing Your Printer Environment

#### 1. Conduct a Printer Security Assessment

A basic risk assessment report provides a glimpse into your print security vulnerabilities. Find a partner that can provide secure print consulting. Deploying a strategy and tools that verify your fleet's security settings against a set of secure policy guidelines is often the first step. The process will identify and report any non-compliant features and identify areas of improvement or vulnerability.

#### 2. Set Up Authentication Controls and Limit Access

Authorizing printer use only for designated staff using badge scans or pass codes, and tracking printer use is essential in the event of a forensics investigation. Software that implements these processes will show who has been printing or scanning, where they printed from or where they scanned to, what and how much they printed or scanned, and when they did it. This information can mean the world in the case of a data breach. It also is a great way to prevent unauthorized usage. It's often possible to integrate the same security badges or cards which are used for building access for user authentication purposes. Everything is tied to a user's directory status and group policy. If only marketing and executives are authorized to print in color then that policy can be set. If your policy is to never print emails, then print usage can be determined by application.

#### 3. Implement a Secure Release Solution that Eliminates Abandoned Print

In many financial organizations, people use the "print and sprint" strategy – send a file to the printer and then run so no one sees their output before they reach the printer or they forget it during their busy day. Another popular method is providing additional print devices to each employee to keep sensitive information within a specific office or area. Both models present additional costs and compliance risks.

Software solutions now exist that allow jobs to be held at the server level and that restrict jobs from being released until the user authenticates at a device via a badge scan or pass code. This allows a bank employee to maintain both efficiency and security in their day-to-day functions. This is also a valuable platform for multi-location organizations in which bank employees may need to travel between branches to better serve clients. The bank employee no longer needs to be cognizant of which specific printer they select or which branch they are working from that day. Simply print and retrieve at the

most convenient device at that moment. When the end user authenticates at the device, the user can choose to print or delete the job, eliminating abandoned print that may contain sensitive information and lead to sensitive data sitting on the printer or in open areas. These solutions also allow for automatic deletion of print jobs held longer than a specified amount of time set by the organization. This function eliminates print jobs which were never actually retrieved, saving both cost and the dreaded stack of paper on the printer.

#### 4. Utilize new technology that constantly monitors printer threats

Instant notification of security issues can prevent potential attacks and enable immediate action to be taken. Newly developed solutions allow organizations to:

- Automatically monitor threats
- Detect intrusions
- Validate operating software

Printers and multifunctional devices that copy, print, scan and fax are gateways to a potential breach in your network. It's now essential to identify the gaps in print environments and take action to secure all devices. ■



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# Equifax Lessons Learned

By Chad Knutson

## One of the Most Impactful Breaches to Date

It's important to know that the details of most data breaches change over time – especially during an active investigation – usually for the worse. And, it is possible things could get worse for Equifax. Here is what is currently being reported:

Sensitive data belonging to 145.5 million customers have been breached (updated as of October 6th to include an additional 2.5 million identities). The leaked information may include:

- Consumer Names
- Social Security Numbers
- Birthdates
- Addresses
- Driver's License Numbers (in some cases)

Additionally, the following information may have also been exposed:

- 209,000 credit cards
- 182,000 consumer dispute documents containing personal information.

This is a considerable number of records and, to add insult to injury, it's pretty rich data compared to other breaches. This information would be prime data to conduct identity theft and will bring a premium on the dark web. This data is valuable to open new lines of credit under your name, commit tax fraud, or create an identity similar to yours and commit crimes. In addition to the issues related to the loss of this sensitive data, many other things have gone wrong with this breach and the process Equifax has taken to address it.

## The Equifax Breach – What Happened?

Let's start with what we know about the breach. The following are all great examples of what NOT to do in a data breach scenario.

Equifax announced on September 7th that they have been investigating “unauthorized access” to a web application system that it identified July 29th. This unauthorized access could have started mid-May through July and was made possible because of a software vulnerability in an open-source software program called Apache Struts, which is a programming framework for building

web applications in Java. It reported that most Fortune 100 companies leverage this software. Equifax has recently announced that the breach was related to a vulnerability that was publicly announced in March. This confirms many experts' suspicion that the breach was a result of slow patch management patches and not an unknown zero-day vulnerability.

It is also reported that three executives at Equifax, including its Chief Financial Officer, President of U.S. Information Solutions, and President of Workforce Solutions, collectively sold shares and exercised stock options totaling approximately \$1.8 million before August 2. The Senate Finance Committee wants details on these three individuals to determine if they had knowledge of the security breach being investigated prior to selling their stock. Whether or not they did, the claims of insider trading surely don't look favorable for Equifax.

On September 15th, Equifax reported that two other executives, their Chief Information Officer and Chief Security Officer, will be retiring immediately. These positions will be filled by other internal team members. On September 26th, the CEO of Equifax – Richard Smith – also retired amid the fallout of the breach. Ex-CEO Smith provided testimony to a U.S. Congressional Committee regarding the breach and how the events that ultimately led to the breach transpired. While Smith took responsibility for the hack, he blamed one single individual who was tasked with responsibility for patch management and the software that was vulnerable. Equifax's patch management process was found to be lacking, and it was discovered that much of its confidential customer information was stored in plain text.

In response to the breach and massive public concern over the lost consumer data, Equifax has setup a website to help people understand details of the breach and take next steps. The website was given a new domain name, which has sparked additional criticism as the URL looks like a phishing site: <https://www.equifaxsecurity2017.com>. On their website, they provide you a way to check if you were one of the 145 million affected Americans. According to an article by Brian Krebs, this site does not appear to be producing reliable information. In some cases, it says a particular person is not affected, but when the same data



is provided a second time, it would report that same consumer is affected. To check your breach status, you are asked to provide your last name and last 6 digits of your social security number. Providing parts of your SSN on a website that looks phishy to a company that was just breached – and already has your data anyhow – doesn't seem like a great idea.

If you do check Equifax's site to determine your status, you can automatically enroll in Equifax's TrustedID Premier which is their credit monitoring service and identify theft protection. This service is free for a year, but there is a cost for you to continue the coverage beyond the next 12 months. Initially, it also had a clause in their terms and conditions that limited a consumer's ability to litigate against Equifax. The company has since made adjustments to these terms, and the website now reads, "We've added an FAQ to our website to confirm that enrolling in the free credit file monitoring and identity theft protection that we are offering as part of this cybersecurity incident does not waive any rights to take legal action."

Also, Equifax has adopted an insecure practice for issuing PIN numbers that allowed you to manage your credit freeze. It is reported that these pin numbers were generated in a non-random and apparently sequential method; based on the current date/time stamp. This insecure PIN practice appears to have been updated, according to their website. Those who already have a PIN should ensure it is changed to a more secure number that can't be easily brute-forced or guessed.

Last but not least, at least 23 class action lawsuits have been proposed against Equifax. These lawsuits allege security negligence by Equifax, damages from a delay in notification of the public, and concerns around the free credit monitoring service offered, which is a service owned by Equifax and, it could be perceived, promoted to sell its service to those affected by this breach.

## **Lessons Learned**

### **Patch Management**

Regardless of the issues in this particular data breach, there is value in examining what went wrong so that we can all learn and improve our own processes to protect against cybercrime. As we learned from the WannaCry Ransomware worm, patching our systems is critical. In this case, there is the possibility that an externally facing web application system was not fully patched and could have allowed the cybercriminals access to the sensitive data. Given the rate at which vulnerabilities are detected and exploited by hackers, patching cycles need to get shorter so that security gaps are closed in days or weeks, not months.

### **External Web Application Testing**

It has been a best practice for years to ensure your institution has an annual independent Penetration Test conducted on its externally facing systems. In this case, such an assessment might have identified that a vulnerable webserver was exposed to the Internet. It's a vital auditing process to ensure your institution is truly implementing a strong patch management program. In addition to

the standard External Penetration Test, it has become essential to ensure the testing process includes a Web Application Assessment. This assessment uses special tools that focus on identifying and exploiting vulnerabilities in the actual web application itself, such as insecure code, not just focusing on the networking and services layer that a traditional penetration test does.

### **Vulnerability Assessment**

In addition to these two external assessments, it is also a best practice to conduct an independent internal Vulnerability Assessment of your network. A Vulnerability Assessment (VA) provides another layer of security in detecting missing security updates, insecure or default security settings, or other vulnerabilities. It has also become a common practice to conduct regular vulnerability scans using a Continual Vulnerability Assessment process. Most Vulnerability Assessment software is fairly affordable and can be easily configured to run a weekly or month scan of your network to give you a more frequent snapshot of its security health.

### **Asset-Based Risk Assessment**

Systems similar to this suspected vulnerable web application system should have been evaluated in an IT Risk Assessment. An IT Risk Assessment should capture the value of the system and the data it stores, transmits, and processes, as well as threats against the asset, and current risk-mitigating controls implemented. This would have allowed for a risk assessment of the system and a comparison against the institution's risk appetite. If the risk was outside the institution's risk tolerance, then additional security controls could have been added. Many things from patch management, intrusion prevention, encryption, system hardening, network segregation, SIEM, and other control considerations could be selected to manage and mitigate the risk.

### **Improve Vendor Management**

There has been a debate in the past if you should include your credit bureau in your vendor management program or not. SBS would suggest that if you are publishing data to a credit bureau, you include the credit bureau in your vendor risk assessment, scoring them appropriately and following your standard process according to the appropriate vendor's risk level. They may not be a critical vendor but having customer data would likely mean you are requesting SOC 2 reports and evaluating if adequate controls are in place.

### **Incident Response Program**

This is also an ideal time to take a look at your own institution's incident response procedures. While this type of incident might not require you to notify your customers, it does pose a good question; should we notify customers proactively as an advisor, to help them be prepared for potential fraud and identify theft? Other considerations could include: template notifications, a designated public relations person, offer of credit monitoring (or alternative solution), procedures for incident investigation, and forensic resources.

*Equifax Lessons Learned continued on page 34*

# Disasters are Prime Time for Cybercriminals. How to Think Ahead.

By Ben Potaracke

Disasters and other big news events are “triggers” that move hackers to action. Even before Hurricane Harvey’s wind died down, hackers were already setting up bogus charities designed to exploit good people wanting to help the relief effort. They even created web and social networking sites to further their credibility.

## Thinking ahead means understanding how hackers find their victims.

Most people don’t know that cybercriminals are trend watchers. They’re “dark marketers” scoping out major events that fill your thoughts. News aggregator sites like Reddit, Quora and Google Trends show current events state-by-state or nationally – allowing hackers a steady stream of opportunities to create phishing and phone scams related to those events.



## Thinking ahead means never saying, “It won’t happen to us.”

Cybercriminals consider small businesses low hanging fruit and it’s why their attacks on small business keeps escalating. In spite of more robust security budgets, big business also suffers under the weight of cybercrime.

Equifax, one of the largest credit reporting agencies in America, recently dropped a bombshell on 143 million Americans that an authorized third party gained access to their customers’ names, dates of birth, Social Security numbers, addresses, and in some cases, credit card numbers. It was a major score for cybercriminals!

Street value of hacked emails is high. Profits are made by selling off SSNs and drivers licenses for as much as \$20 a piece to other hackers. Multiply that times millions and hackers had a big payday! Most likely the victims in the sale of Equifax “spoils” are already being contacted in phishing emails, phone and other scams.

## Emails account for 90 percent of breaches and attacks. Think ahead about training employees.

Using Equifax as an example again, an attack could look like this. You receive a phishing email that appears to come from Equifax saying, “Your data has been compromised. Go ahead and click

this link (or it may be an attachment) and we’ll be able to tell if you’re one of the 143 million who was impacted.” So, you click on the link and the hacker is in your system working its way to your sensitive data.

In a hacker phone scenario, the call might look like this, “Hey this is Ben from Equifax and we’re doing a double check to be sure your information is protected. But, first I’ll need to make sure it’s you. Can you give me your social security number and birthday?”

Other big news events like the death of a celebrity, a compelling human interest story, new disease breakthroughs and holidays like Christmas are just a few of the many opportunities hackers take to enter your system. They just need “one” person in your company – it doesn’t matter what their position – to give them access. Once inside, a hacker can move laterally across your network.

It can’t be emphasized enough, training your employees on email security should be one of the first goals for hacker prevention.

## Think ahead to build the best line of security defense.

Remember when your parents said don’t talk to strangers? The same advice goes for opening unfamiliar emails. Considering the sophistication of hackers, sorting out legitimate charities can be just as difficult.

Watch for indicators like:

- Signs of a ‘sound-alike’ of a reputable charity.
- Refusing to give information on how your donation will be used.
- Having no proof of their tax-deductible status.
- High pressure tactics to push for your donation.
- Asking for cash only donations.
- Offering guaranteed winnings in exchange for your contribution.

For verification, check with third parties like Charity Navigator or Guidestar to confirm that the charity you’re considering is legitimate. You can also see if they’re registered with your state through the National Association of State Charity Officials. ■



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## 2018 Community Champion Recognition

The MBA wants to recognize the important connection banks have with their communities. To honor that vital role, the MBA announces the sixth annual Community Champion Recognition. It's a great way for your bank to get the deserved recognition for your community support.

This past year, we recognized twenty-four banks for community involvement. These twenty-four banks worked with hundreds of organizations in their communities, donated over \$1.2 million, provided volunteers, materials, supplies, or food for their neighbors and volunteered over 34,000 hours of time. Recipients of the recognition ranged in size from small

community banks to large banks with multiple branches. Many of these banks reported over 50 percent of the bank's employees volunteered on behalf of their bank for organizations.



It's easy to apply for your 2018 recognition – and the MBA will publicize your good deeds in the *MBA News*, at Bank Day at the Capitol, on MBA's social media and provide you with a press release and certificate for display in your bank. We've included an application with this issue of the *MBA News* and it's also on our website. The deadline for the

2018 Community Champion Recognition is January 26, 2018. Staff contact is Chris Harrison, [chris@minnbankers.com](mailto:chris@minnbankers.com), 952-857-2634. ■



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— **Joey Goracke, Vice President Operations/ Compliance – Prime Security Bank** Prime Security Bank is a full-service community bank with offices in Shakopee, Eagan, and Karlstad, MN. Chartered in 1925, the bank has \$65 million in assets and 20 employees.

## Republican Tax Reform Bill Lacks Details on Issues Affecting Community Banks

By Amanda Garnett



On September 27, 2017, the Trump administration and Congressional GOP leaders unveiled their much-anticipated tax reform plan, the “Unified Framework for Fixing Our Broken Tax Code.” This framework cuts corporate tax rates, lowers the individual tax brackets, changes tax deductions, and makes sweeping changes to how S corporations would be taxed.

At this time, the bill’s framework remains a broad proposal and no formal legislation has been revealed. And as with earlier proposals issued by President Trump in April 2017, the plan remains sparse on details. But as specifics continue to emerge, bankers should consider the potential impact of these changes on their organizations, as well as their customers.

### Reducing the corporate tax rate to 20 percent

The Republican proposal would reduce the corporate tax rate from 35 percent to 20 percent and eliminate the alternative minimum tax. The provisions would also affect how S corporation shareholders are taxed on pass-through income.

In addition, personal income tax brackets would be reduced, and many of the deductions currently available to individuals would be eliminated. One important element yet to be decided is how Republicans will pay for the proposed tax cuts.

Business Tax Reforms	Current	Proposed
C corporation tax rate	35% maximum	20%
Corporate Alternative Minimum Tax (AMT)	20%	Repealed
S corporation pass-through rate	Taxed at the shareholder’s personal tax rate	25% maximum

Individual Tax Reforms	Current	Proposed
Personal tax rates	7 brackets with a 39.6% maximum rate	3 brackets with a 35% maximum rate
Personal AMT	28%	Repealed
Standard deduction	\$6,350 single, \$12,700 married filing jointly	\$12,000 single, \$24,000 married filing jointly
Personal exemption	\$4,050 per taxpayer or dependent	Eliminated
Estate tax	Up to 40% on estates over \$5.49 million	Repealed

### Any tax changes made will likely be temporary

Though Republicans have proposed making at least portions of the tax reform plans retroactive to January 2017 to spur economic growth, given the recent challenges in Congress, we believe it is unlikely that legislation will be finalized before year end.

It is likely that the tax reform package will move in Congress under the reconciliation rules, which require only a simple majority in the Senate to pass. But under these rules, the tax cuts would likely sunset after 10 years. Though Republicans would certainly prefer permanent reforms, Treasury Secretary Steven Mnuchin has said, “If we have it for 10 years, that’s better than nothing.” So the long-term impact of lower tax rates and the repeal of the estate tax will be difficult to predict.

### Lending considerations

Community banks have expressed concern about how their loan portfolios may be affected by these proposals. Here’s how the bill, if passed, could affect areas of your community bank:

#### Home mortgage interest

Under the new proposals, most itemized deductions would be eliminated, including those for medical expenses, state and local income taxes, and property taxes, leaving taxpayers with the ability to only itemize home mortgage interest and charitable contributions. In addition, the framework includes a dramatic increase in the standard deduction from \$12,700 to \$24,000 for married couples filing jointly.

According to IRS data, around 30 percent of households itemize their deductions today. With these proposed changes, we anticipate that far fewer households would be able to itemize in the future. The inherent subsidy created historically by the home mortgage interest deduction will effectively be eliminated for a large section of American families, especially for the middle-class in parts of the country where home prices have remained affordable. The impact of this change on home ownership and mortgage lending cannot be predicted, but it is certainly a risk that banks should begin to consider.

#### Businesses may begin searching for alternative financing

Addressed only briefly in the framework, Republicans have proposed that the tax deduction for net interest expense incurred by C corporation businesses be eliminated. The framework leaves open the opportunity to limit the deduction of interest paid by non-corporate taxpayers.



If businesses are not able to deduct interest expense, they may search for alternative financing, such as equity investments, rather than borrowing to make large purchases.

#### **Immediate expensing of capital investments could increase lending**

The framework allows businesses to immediately expense the cost of new investments in depreciable assets, other than buildings and similar structures, for a five-year period beginning in 2017. This effectively allows 100 percent bonus depreciation on these investments. The bonus depreciation rate has fluctuated wildly over the last 15 years, from zero percent up to 100 percent. While it is seen as an incentive to spur equipment purchases, many believe this type of incentive only speeds up the purchase of assets businesses would have purchased anyway.

This provision, if enacted, could increase some commercial, industrial, and agribusiness production lending. However, many small to mid-size businesses will likely not be affected, as they are already able to take up to \$500,000 in annual Section 179 deductions on equipment purchases, which amply covers their needs in many cases.

#### **S corporation shareholders face uncertainty**

As previously addressed, the tax reform plans may initially challenge C corporation community banks because of the potential impact on deferred tax assets and capital. But over the long run, it is clear that most C corporation banks would appreciate lower corporate tax rates, even if those rates are temporary.

For S corporations, there is more uncertainty in these new proposals. The framework limits the maximum tax rate applied to the business income of small and family-owned businesses, including S corporations, to 25 percent. This is much different than the current system where

S corporation shareholders pay taxes on their share of S corporation income at individual ordinary income tax rates, resulting in some bank shareholders paying at rates of up to 39.6 percent.

On the surface, this proposal sounds like great news for wealthier shareholders investing in S corporation banks, but it isn't clear if the 25 percent rate will apply to S corporations of all sizes, or if it will be limited to businesses below a certain size threshold, which could exclude certain institutions. In addition, there are provisions in the framework that indicate Congress may adopt measures to prevent the re-characterization of personal income (such as wages) into business income to prevent wealthy individuals from avoiding the top personal tax rate.

Furthermore, the proposed repeal of the estate tax, which will also likely be temporary, could leave some shareholders struggling to plan how they will pass on their shares to the next generation. Speculation also remains as to how the gift tax will be structured if the estate tax is repealed.

#### **How we can help**

While it is still unknown how these tax reform proposals will play out, it is clear that the Republican Party is committed to working towards major changes to the tax code. We anticipate that these topics will be hotly debated in the fall of 2017 and into 2018. In the meantime, your management team should be ready to act when the time comes. Leaders of community banks should consider preemptively meeting with their tax advisors to carefully consider how these changes may impact your bank's future plans. ■

*The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting, investment, or tax advice or opinion provided by CliftonLarsonAllen LLP (CliftonLarsonAllen) to the reader. For more information, visit [CLAconnect.com](http://CLAconnect.com).*



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# Commercial PACE Financing Brings New Equity to Projects

By Meghan Marty and Daniel Schleck



Commercial PACE (Property Assessed Clean Energy) is a cost competitive way to finance energy efficiency, renewable energy, water conservation, mechanical system replacement and other upgrades to new and existing buildings. PACE can pay for new heating and cooling systems, lighting improvements, solar panels, wind energy systems, structural repairs, insulation, and more for almost any property – commercial, industrial, non-profit, and agricultural.

In addition to providing a readily available source of financing for these specific aspects of redevelopment and new development, property owners use PACE to also lower utility bills and contribute equity following completion. PACE pays for 100 percent of a project's hard costs and much of the engineering, permitting, project management and other soft costs. Additionally, terms on PACE loans regularly extend to 20 years with debt payment added to the property's tax bill as a special assessment similar to new roads and infrastructure. Commercial PACE financing automatically stays with the property upon sale and is part of the taxes that can be assessed to tenants in traditional triple net lease situations. However, financing is off-set by savings in Common Area Maintenance ("CAM") and may result in no net increase per square foot of rent paid.

## How is PACE Provided to Property Owners?

PACE is a nation-wide initiative, but programs are established locally and tailored to meet regional market needs. State legislation is passed that authorizes municipalities to establish PACE programs, and local governments are involved in collection of the assessments and ultimately pay the debt service on PACE loans.

PACE can be used to fund projects with no out-of-pocket costs. Since PACE financing terms extend to 20 years, it's possible to undertake deep, comprehensive retrofits that have meaningful energy savings and a significant impact on the bottom line. In many cases, annual energy savings for a PACE project exceeds the annual assessment payment allowing some property owners to be cash flow positive immediately.

## Minnesota PACE Programs

Minnesota passed PACE-enabling legislation in 2010, allowing multiple PACE programs to begin operating in the state. There are currently two active commercial PACE programs in Minnesota.

MinnPACE, a division of the Saint Paul Port Authority, is the State of Minnesota's largest provider of PACE financing for commercial building owners for energy system upgrades and renewable energy projects. Additionally, MinnPACE is entering into strategic partnerships with local lenders to further increase the use of the program throughout the State. MinnPACE has many Joint Powers Agreements ("JPA") in place with counties and local municipalities allowing PACE loans to be made in virtually any community within Minnesota. Furthermore, MinnPACE has been successful in entering into new agreements with governmental agencies on almost a weekly basis to further promote the program.

## What Type of Projects have been Financed with PACE?

The range and scope of projects utilizing PACE financing is extensive and includes: energy efficiency upgrades, HVAC, lighting, motors, compressed air, new manufacturing equipment, outdoor lighting, and insulation and structural support improvements for all of the forgoing projects. The types of buildings utilizing PACE financing is also widespread and includes: industrial/manufacturing, multi-family housing (5+ units), agriculture, nonprofits, charter schools and places of worship. In addition, PACE financing is used for energy investments such as solar, wind and geothermal.

## Prime Example of the Use of PACE

Earlier this year, Go Wild, LLC secured \$6.74 million in PACE financing as part of its capital stack for the Treasure Island Center redevelopment project in Saint Paul, Minnesota. Treasure Island Center is a major, mixed-use redevelopment project scheduled for completion this fall located at the site of the former Dayton's department store in downtown St. Paul. PACE funds are being used for energy efficiency upgrades that are projected to cut utility costs by 40 to 60 percent. The new building facility will be home to TRIA Rink, a fully enclosed rooftop ice arena that will be used by the Minnesota Wild as a practice facility. Once opened, the building will also be home to a fitness center, a brew pub, a restaurant, an event center, a multilevel Walgreen's, Tim Hortons, an orthopedic clinic and office space.

## Limitations on the Use of PACE

While extremely flexible, there are several limitations on the use of PACE. For example, the improvements financed using commercial



PACE must be shown through a review by Xcel Energy or a private licensed professional engineer to meet national standards for energy efficiency, and the total amount of the PACE loan cannot exceed 20 percent of the completed tax assessed market value of the property. Further, most commercial mortgages have a Due on Encumbrance clause that gives the mortgage-holder the right to call the loan due if additional debt is placed on the property without the lender's consent. A PACE loan is "unsecured" in the traditional sense because no mortgage is recorded against the property. However, as a property tax special assessment that runs with the land, the payment stream for a PACE loan actually has a "super priority" over even a first mortgage. Because of this, it is crucial to make use of an experienced PACE lending attorney to prepare documentation so as to appropriately manage risk and security interests when using PACE financing.

### Summary

PACE financing is a fairly new and flexible mechanism for adding equity to old projects, providing necessary capital inputs into new projects and extending commercial financing over a longer period than is available with most traditional commercial real estate financing products at this time. Inevitably, commercial lenders and banks will need to become familiar and ultimately comfortable with the use of PACE financing both alone and in combination with other more traditional products. Commercial PACE is here to stay and will likely become much more common in commercial financing in the years to come. ■

**Editor's Note:** *The MBA supports Commercial PACE in Minnesota. However, during the 2017 Legislative Session, the MBA helped pass legislation that would suspend existing Residential PACE language due to numerous concerns around the country regarding the lack of consumer protections. In addition to suspending the existing language, the legislation created a task force to address the consumer protections concerns, which includes the ability to repay, lien position and disclosures. The MBA worked with the Minnesota REALTORS, Legal Aid and the Center for Energy and Environment on the legislation and continues to work on the PACE task force.*



Meghan Marty  
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Attorney  
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Del Mari Runck, Chief Operating Officer of Neighborhood National Bank in Alexandria, announced that the Bank has promoted two staff members:



**Jean Feigum** was promoted to Mortgage Lender after serving as a Personal Banker and Consumer Lender at Neighborhood National for over 15 years. Her banking career spans over 40 years and she is a member of the Runestone Lions Club in Alexandria.

**Chris Merten** was promoted to Commercial Lender after serving most recently as a Credit Analyst and Loan Support. Chris is currently a chairperson for the St. Mary's Church Block Party Committee, and also is a member of the Alexandria Lakes Area Chamber of Commerce Young Professionals.



Winona National Bank is pleased to announce **Patrick Smock** has joined the Bank as Mortgage Officer. In his new role, Smock is responsible for originating, processing, and closing mortgage loans. He brings 23 years of customer service experience to Winona National Bank.

**Christian M. Barnett, CFP**, has joined RiverWood Financial as a Financial Advisor. This announcement is jointly made by RiverWood Bank and Investment Centers of America, Inc. (ICA), a nationwide provider of non-deposit financial products and services. RiverWood Financial is located within RiverWood Bank in Baxter. Barnett will service customers from both the Baxter and Crosslake offices.



Chuck Johnson, President/CEO of Root River State Bank, Chatfield, and The First State Bank of Fountain, announced the following new hires:



**Teresa Narveson** was hired as Assistant Vice President & Operations/Teller Supervisor at Root River State Bank in Chatfield. She brings 40 years of experience in banking to her role with Root River State Bank. Among her other talents, she co-chairs the annual Western Days homemade pie baking effort for her church, which resulted in over 200 pies this year.

**Katrina Pulham** was hired as Personal Banker & Compliance Officer at The First State Bank of Fountain. She brings eight years of experience in banking to her role, most recently at Wells Fargo Bank in Mooresville, North Carolina. Outside of banking, her talents include bow hunting and fishing, and she is an accomplished wildlife painter.



**Lorianne Kellogg** was hired as Lending & Compliance Assistant at The First State Bank of Fountain. She brings a 14 year career in banking to her position. Lorianne enjoys her kids, grandkids, outdoor activities, and keeping herself fit.

U.S. Bank Wealth Management has named **Rod Dolan** as the national head of Business Owner Advisory Services (BOAS). Dolan will be based in Minneapolis. In his new role, Dolan will be responsible for leading Business Owners Advisory Services, including growing the team and launching this important program that provides unbiased advice and strategies to a key segment of wealth management clients.



Eagle Valley Bank is pleased to announce the hire of **Matthew Shook** as Vice President – Retail Banking. In his new role, Shook will focus on branch profitability, deposit origination and the development of branch personnel. Shook will oversee three branch locations and will also assist with the holding company's most recent acquisition of First Resource Bank in Lino Lakes.

**Jim Mack** has joined Foresight Bank in Plainview and Rochester as Vice President, Ag & Commercial Lender. Jim brings over 30 years of banking experience to his new role.



Prime Security Bank in Shakopee is pleased to announce that **Andrew Krehbiel** has joined the team as a Credit/Operations Assistant. Andrew has his MBA from Augsburg University, which he attained in 2017. Andrew is an avid fan of the Vikings, Timberwolves, and Twins.

Community Bank Owatonna (CBO) has hired **Tim Kluender** as its new President and Chief Executive Officer. Kluender, who has also joined the bank's Board of Directors, brings 24 years of banking experience to the role, including the last 15 years in an executive management capacity. Kluender is an Iowa native and a 1993 graduate of Simpson College in Indianola, Iowa, where he majored in Economics/Finance and earned a minor in Mathematics. "I am honored to join the Community Bank team and Board of Directors," Kluender said. "I am passionate about the value and importance of community banking, and am pleased to be joining an organization in CBO that shares this vision. Additionally Sherry and I look forward to becoming very involved in the Owatonna community."







Lakeview Bank hired **Dave Louiselle** as Vice President Commercial Lending. After graduating from the College of St. Thomas, Dave began his banking career as a credit analyst for Marquette Bank in Minneapolis. During the next 30 years Dave held a variety positions in commercial lending, including nearly 14 years at American Bank of St Paul.

**Brad Cartie** was recently hired by Lakeview Bank as a Senior Credit Analyst. Brad has a Business Degree from St. Cloud State University and is a graduate of the Graduate School of Banking in Madison, WI. He comes to Lakeview Bank with over 25 years of banking and finance experience.



Tom Mork, President of Lakeview Bank, announced that **Glenn Starfield** has joined Lakeview Bank's Board of Directors. Owner of Express Employment Professionals in Lakeville since 2005, Starfield has expanded his business to include an office in Savage and works as a Franchise Developer to support 14 other Express franchise locations. "We are excited that someone of Glenn's energy and business acumen has agreed to join the Lakeview Bank Board of Directors. Glenn brings a level of entrepreneurship, hiring expertise, and personnel development that will be important to us as we continue to grow and add staff," said Tom Mork.

#### Announcements

**Pine Country Bank** is celebrating its 90-year anniversary.

Formerly known as Royalton State Bank, it has been a locally-owned and run financial institution since 1927. Every year through its Hometown Pledge program, Pine Country Bank gives 5% of profits back to community organizations and employees are allowed to volunteer during work hours to local nonprofits.

"Through the work of our talented employees we have been able to remain a strong and stable community bank through 90 years of change and ups and downs," said Rob Ronning, President of Pine Country Bank ■

If you have an announcement you would like to include, please send it to Eric Hauth at [erich@minnbankers.com](mailto:erich@minnbankers.com). Also look for *Bankers on the Move* in the "Human Resources" section of [minnbankers.com](http://minnbankers.com).

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**Counsel's Corner**

**Michael Thro**  
 MBA Associate Counsel  
 michaelt@minnbankers.com



**Recently we had a school group tour our branch. We took pictures and want to use them on our website and other marketing materials. The group informed us that all children already have consent forms. Can we rely on that consent form?**

The bank should first analyze the existing consent form to see if the consent transfers to third parties. If the consent form only gives the school the right to use photographs, then that same consent would not transfer to the bank. If the bank wants to use the photographs, it likely needs to obtain a separate consent form.

**One of our customers owns an ATM. Does Minnesota require registration of the ATM?**

Interagency guidance states that all money service businesses (MSB) should be able to produce proof of registration and

licensure. Minnesota does require money transmitters, which includes ATM owners, to be licensed. The Minnesota Department of Commerce's website has useful information on money transmitters.

**We have an attorney that is repeatedly using the same writ of execution when collecting on a garnishment for a customer. Can they do this?**

Minnesota Statute § 550.051 states that writs of execution expire 180 days after issuance. However, it does not clarify if a new writ of execution is needed after partial satisfaction. My understanding is that the generally accepted practice is for attorneys to use the same writ until it expires. Whether the statute specifically allows this practice is open for interpretation.

**Is there any problem with the bank notarizing a will that is hand-written?**

No. The bank is not notarizing the will per se, but instead is notarizing the signature. As long as the signature is done in the presence of the notary, then the normal procedures will apply.

**Our bank recently received notice of death of one of our customers. The customer has an individual loan and joint deposit accounts with our bank. Currently, the loan is set up for automatic payments from the deposit account held at our bank. Can the automatic payments continue?**

The payments likely have to stop. The automatic payment agreement was between the sole borrower and the bank. Once the sole borrower dies, it is likely that the automatic payment agreement terminated. Without the agreement, the bank may have no legal right to continue to withdraw funds automatically.

**Are there any state statutes that prohibit the issuance of a debit/credit card to access a home equity line of credit (HELOC) directly?**

Minnesota statutes do not address this issue, so a card that can access a HELOC appears to be allowed. However, remember that according to Regulation Z, a debit card that can reach a HELOC that is attached to a deposit account for overdraft protection would be considered a credit card and therefore would not be eligible for setoff. ■

For more information and members only information on legal matters in banking, log onto minnbankers.com, and click on "Legal and Compliance."



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**Jennifer Ericson**  
 612.305.2058  
 jericson@crfusa.com



## Compliance Query

Tom Boswell-Healey  
Associate Counsel/Compliance Consultant  
tomb@minnbankers.com



### **What is my bank's reasonably expected market area (REMA) and how do examiners use REMA?**

Each bank's REMA is unique. Generically, REMA encompasses the areas where the bank "actually marketed and provided credit and where it could reasonably be expected to have marketed and provided credit." See Interagency Fair Lending Examination Procedures p.32. REMA often expands upon on the bank identified Community Reinvestment Act (CRA) assessment area (AA). Examiners will determine REMA by interviewing bank staff, reviewing branch locations, reviewing the bank's marketing efforts, interviewing local brokers and realtors, and by mapping and plotting the bank's originations and applications. Examiners will also initially review the bank's CRA AA to determine if the bank has split census tracts and/or counties or if adjacent census tracts are low-moderate income or majority minority areas. REMA is developed as part of a fair lending review and is primarily used to assess the bank's redlining risk. The evaluation of redlining risk may include looking at whether the bank avoids extending credit in certain areas, targets certain areas with costlier products, offers different products in different areas, and avoids marketing loans in certain areas.

### **Do we have to provide a written notice when informing consumers that their EFT error investigation is complete?**

No. Regulation E requires that the bank notify, orally or in writing, the consumer within three business after completing its investigation. This notification should include the fact that any provisional credit has become final. However, if the bank determines that no error or a different error has occurred, then it must provide a written explanation. The written explanation must include a description of the bank's findings and identify the consumer's right to request any documents relied on in making the bank's findings. In addition, if the bank is debiting provisional credit, then the written explanation must include:

1. The date and amount of the debiting; and
2. A statement that the bank will honor checks, drafts, and similar instruments payable to third parties or preauthorized transfers from the consumer's account (without overdraft-related charges) for five business days after the written explanation.

The bank must honor all items listed in the written explanation, but only if the items would be paid if the provisional credit had not been debited.

As long as the bank's investigation has affirmed the consumer's reported error the bank may provide the final notice in writing or orally. If the bank provides the notice orally, then it is a best practice to note the date and method of the final notice on a tracking sheet to demonstrate the bank's compliance with Regulation E requirements. ■

## Ask the Agent

Connie Mack  
Senior Plan Administrator-  
Dental and Insurance Agent  
conniem@minnbankers.com



### **I heard that our MBA Life Plan is adding two benefits beginning January 1, 2018 for Travel Assistance and Funeral Planning and Concierge. Would you tell me more about these benefits?**

That's correct. The MBA Life Plan will include these two new benefits as part of our life plan:

**Travel Assistance** – Help with pre-trip information such as immunizations, VISA/Passport requirements, exchange rates, embassy/consular referral & travel/tourist advisories. Emergency personal services are also available including message relay, emergency travel arrangements, assistance with lost or stolen luggage or possessions and legal assistance.

**Funeral Planning & Concierge** – 24/7 advisor assistance with funeral planning and access to a nationwide database that will provide a report of local funeral homes and their current pricing and services to allow families the ability to negotiate and avoid excessive expenses.

For more information, please refer to "No Additional Cost Services" on the MBA's website under the Group Insurance tab or contact Connie Mack, Sr. Plan Administrator/Insurance Agent, at conniem@minnbankers.com. ■

For a full list of MBA's insurance offerings, log on to minnbankers.com and click on the "Group Insurance" button.

## 2018 Holiday Survey Results

The following report indicates the holidays that will be observed by Minnesota member banks during 2018. The **2018 Holiday Survey** is available online at [www.minnbankers.com](http://www.minnbankers.com). If you have any questions about the survey, please contact Diane Brower, MBA Human Resources Director: 952-857-2608 or [dianeb@minnbankers.com](mailto:dianeb@minnbankers.com).

### 2018 Holidays (total respondents)

O=Open C=Closed	Metro (26)		Non-Metro (90)	
	O	C	O	C
* New Years Day (Monday · 1/1)	0	26	0	90
Saturday, January 13	20	6	75	15
* Martin Luther King, Jr. Day (Monday · 1/15)	11	15	34	56
Saturday, February 17	20	6	74	16
* President's Day (Monday · 2/19)	10	16	29	61
Saturday, May 26	18	8	71	19
* Memorial Day (Monday · 5/28)	0	26	0	90
* Independence Day (Wednesday · 7/4)	0	26	1	89
Saturday, September 1	18	8	70	20
* Labor Day (Monday · 9/3)	0	26	0	90
Saturday, October 6	20	6	74	16
* Columbus Day (Monday · 10/8)	12	14	34	56
Saturday, November 10	19	7	74	16
* Veteran's Day (Monday · 11/12)	11	15	21	69
* Thanksgiving (Thursday · 11/22)	0	26	0	90
* Christmas (Tuesday · 12/25)	0	26	0	90

The Federal Reserve Bank will be closed on these holidays in 2018.

**Note:** Under Minnesota law, any financial institution in the state may remain closed on any Monday following a Sunday holiday and on any Saturday following a Friday holiday or preceding a Sunday or Monday holiday. For example, banks are allowed to close on Saturday, January 13, 2018, as that is preceding a Monday holiday.

### 2018 Holidays Closing Early

	Metro (26)		Non-Metro (90)	
	Open all day	Closing early	Open all day	Closing early
Christmas Eve (Monday 12/24)	2	24	3	87
New Years Eve (Monday 12/31)	18	8	75	15

### 2018 Floating Holidays

	Metro (26)	Non-Metro (90)
0	16	64
1	3	7
2	2	6
3	1	4
4	4	9
5	0	0
6 +	0	0



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Contact: Brandon Hall, Owner  
[brandon.hall@bghvaluation.com](mailto:brandon.hall@bghvaluation.com)

BGH Valuation Services, LLC is a business valuation and appraisal firm that specializes in compiling valuations and appraisals for SBA lending purposes. BGH also provides certified independent business valuations and appraisals for tax transactions, buy-sell agreements, acquisitions, and succession planning.

### MKZ Capital, LLC

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952-806-6354  
[www.mkzcapital.com](http://www.mkzcapital.com)

Contact: Eric Przybilla - Principal, [eric@mkzcapital.com](mailto:eric@mkzcapital.com)

MKZ Capital is a leading consulting firm specializing in Executive Benefits and Tax-efficient funding solutions. The Principals of MKZ have been consulting with Midsize and Large Banks on a national level since 2000. We continue to expand our client base and are focused on growing our Community and Midsize Bank Practice in Minnesota. We have extensive experience with Bank Owned Life Insurance (BOLI), and have developed unique insights over the last 15+ years on how to optimize the design and strategic uses of this unique asset.

If you have a positive working relationship with a business that other bankers could benefit from, please have them contact Nicole Hanger at the MBA at [nicoleh@minnbankers.com](mailto:nicoleh@minnbankers.com) or 952-857-2630.



## Graduates of the MBA Commercial Lending School, October 2017



Jeff Barrett  
United Prairie Bank, Mountain Lake

Tracy J. Bergland  
State Bank of Belle Plaine, Belle Plaine

Logan R. Bloom  
Premier Bank, Maplewood

Mathew Chirhart  
BankCherokee, St. Paul

Michael M. Dietsch  
Roundbank, Farmington

Jonathan R. Dufault  
Ultima Bank Minnesota, Fosston

Andrew R. Geisenhof  
Pine Country Bank, Rice

Stephen C. Gertken  
First International Bank & Trust, Staples

David Gullixson  
Pioneer Bank, North Mankato

Kelby T. Jennissen  
Frandsen Bank & Trust, Braham

Michael Kjelshus  
American Federal Bank, Grand Forks, ND

Kurt Klicker  
Neighborhood National Bank, Mora

Jordan Krebsbach  
American Bank of the North, Mountain Iron

Kevin Miller  
Pioneer Bank, North Mankato

Lori Neft  
American Bank of the North, Grand Rapids

Kathleen Oberg  
Midwest Bank, Detroit Lakes

Scott E. Ogdahl  
Heritage Bank, Sioux Falls, SD

Trevor Park  
United Prairie Bank, Mankato

Jennifer J. Pontinen  
American Bank of the North, Hibbing

Brandon Prange  
United Prairie Bank, Mankato

Sarah Scholl  
Bridgewater Bank, Minneapolis

Matthew M. Schwartz  
Premier Bank, Maplewood

Stefanie Scofield  
American Bank of the North, Hibbing

Michael Steffen  
Northview Bank, Finlayson

Tyler Strand  
Border State Bank, Greenbush

Michael J. Swanson  
Merchants Bank, N.A., Hastings

Eric Wergin  
Bridgewater Bank, Bloomington

Kiera M. Wilson  
The Lake Bank, Two Harbors

Ryan J. Wynia  
First Farmers & Merchants Bank, Luverne



### Minnesota Bankers Association and Graduate School of Banking at Colorado Seek Applicants for Future Leaders Scholarship

The Graduate School of Banking at Colorado (GSBC) partners with the Minnesota Bankers Association each year to offer the GSBC Future Leaders Scholarship. Awarded to one banker per state, per year, recipients receive \$1,360 per year for three years to attend GSBC's Annual School Session, and must enter as a first-year student.

The GSBC Future Leaders Scholarship is offered through the MBA. To access additional information about the scholarship, including the application, visit [www.GSBCColorado.org](http://www.GSBCColorado.org).

GSBC's Annual School Session is a 25-month, graduate school of banking that is hosted each July on the campus of the University of Colorado at Boulder. Since 1950, banks have trusted the GSBC to prepare the next generation of community

bank leaders. This legacy, combined with a cutting-edge curriculum, expert faculty and state-of-the-art facilities make GSBC's banking school an ideal management training program for community banks nationwide.

The 68th Annual School Session will be hosted July 15-27, 2018. The application deadline is March 1, 2018. Candidates will be notified by March 31, 2018, of selection decisions.

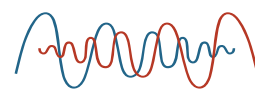
Contact the GSBC office at 800-272-5138, or Eric Hauth at the MBA ([erich@minnbankers.com](mailto:erich@minnbankers.com)) with questions. Prospective students should complete the application online and send supplementary materials (if applicable) to [GSBC@GSBCColorado.org](mailto:GSBC@GSBCColorado.org) by March 1, 2018. There is a maximum of one scholarship award per recipient. ■

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Applications must be received by March 31, 2018.



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## Jill Amundson Appointed to Employee Benefits Trust Board

The MBA is proud to announce the appointment of Jill Amundson to a seat on the MBA's Employee Benefit Trust (EBT) Board. Amundson, who is the Human Resource Director for Border State Bank in Baudette, brings valuable experience to the EBT.



"For many years, the Employee Benefits Trust has provided high quality dental, life, and disability products to the majority of banks in the state - covering over 5,000 bank employees," noted Dan Melcher, CFO of the MBA. "Bankers are our only customers and we are proud of our many long-term relationships. We look forward to Jill's tenure and her guidance on the EBT board." ■

## Save the Date!



## Women's Leadership Conference

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#### Congratulations 2017 Graduates from Minnesota

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**Bob Beadell**  
Community Bank Mankato  
Mankato



**Susan Nelson**  
Americana Community Bank  
Maple Grove



**Steve Beuning**  
United Bankers' Bank  
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**Eric Peterson**  
Farmers and Merchants  
State Bank of Pierz  
Sauk Rapids



**Eric Boelter**  
Community Bank Mankato  
Mankato



**Mary Polus**  
Winona National Bank  
Winona



**Christina Bohlke**  
BankVista  
Mankato



**Dan Scheffler**  
Frandsen Bank & Trust  
Dundas



**Nikki Brink**  
First National Bank of Bemidji  
Bemidji



**Jamie Simmons**  
CornerStone State Bank  
Cloquet



**Jon Dahlke**  
Security Bank & Trust  
Company  
Glencoe



**Corey Simonson**  
BlackRidgeBANK  
Alexandria



**Tony Girard**  
United Bankers' Bank  
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**Tom Simonson**  
North Shore Bank of  
Commerce  
Duluth



**Jennifer Gowin**  
Premier Bank Rochester  
Rochester



**Bill Turgi**  
Think Mutual Bank  
Rochester



**Terri Hoffman**  
Citizens Independent Bank  
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**Max Zappia**  
Minnesota Department of  
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## Articles

MBA News regularly publishes a variety of by-lined columns authored by individuals whom we consider to be knowledgeable in their respective fields and who have a valuable message to share with Minnesota's banking community. Opinions in these columns, however, are those of the authors and do not necessarily represent the opinions of the Board of Directors, members, or staff of the Minnesota Bankers Association.

## Incident Response Next Steps

As an institution, if you have decided to share information with your customers about the breach, what should you communicate? The process Equifax is currently suggesting might not be the most beneficial for those affected long-term. The good news is there are lots of alternative suggestions to consider in addition to or in replacement of Equifax's suggestions.

Here is what Equifax is suggesting on their new website to protect yourself:

- Check if you are affected and, regardless, enroll in the free identify protection offered by Equifax: <https://trustedidpremier.com/eligibility/eligibility.html>
- Monitor your bank account for fraudulent activity
- Obtain and monitor your credit report: <http://annualcreditreport.com>
- Consider placing a "fraud alert" on your credit report: <https://www.consumer.ftc.gov/articles/0275-place-fraud-alert>
- Consider placing a "credit freeze" on your credit report: <https://www.consumer.ftc.gov/articles/0497-credit-freeze-faqs>

Brian Krebs has suggested that there is limited value in the results of the website tool that checks if you were affected or not. It is better, particularly in this day-and-age where data breaches occur regularly, to assume your data has been breached, regardless of the Equifax website results. There is probably no harm, however, in using the free service provided by Equifax, given the fact they are no longer taking your legal right away to litigate against them and that you will not be automatically opted into the paid-for solution a year from now when the free coverage expires.

Krebs makes some good points in a recent Q&A post about the Equifax breach,

suggesting all of these services are just detection tools. Once they find fraud on your credit report, it's too late. You will be stuck cleaning up the situation. To really protect yourself from identify theft and fraud, you should place the security freeze (also known as credit freeze) on your account with each of the four credit bureaus. This will make getting new credit cards, loans, and mortgages harder in the future, as you would need to temporarily thaw your credit to get approved. For more information on how a security freeze works, check out this article from Brian Krebs, which is full of useful information: <https://krebsonsecurity.com/2015/06/how-i-learned-to-stop-worrying-and-embrace-the-security-freeze/>

Also, if you have concerns about the effectiveness or intentions behind the TrustID solution provided by Equifax, there are other monitoring solutions out there you can suggest to your customers, such as:

- Credit Karma - <https://www.creditkarma.com>
- Credit Sesame - <https://www.creditsesame.com>
- LifeLock - <https://www.lifelock.com>

## Summary

The Equifax breach is a very significant breach – perhaps one of the most impactful breaches thus far – and it will have a large-scale impact on millions of Americans. It might be easy to just dismiss this story and move on with life, but we want to encourage you to stop and consider how you can learn from this scenario and improve your own organization, as well as how you might help protect your customers and communicate information in the future. Breaches will continue to be a regular occurrence, and we can't stand idle and do nothing. Learning from someone else's mistakes are the cheapest lessons to learn. ■



**Chad Knutson**  
 Partner, President of the SBS Institute  
 SBS CyberSecurity, LLC  
[chad.knutson@sbscyber.com](mailto:chad.knutson@sbscyber.com)







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as we **draft important emails** by the fire.

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# 2018 MBA Community Champion Recognition

*Recognizing Minnesota's Banks as the Champions for their Communities*



The Minnesota Bankers Association (MBA) recognizes our members for making a positive difference in the communities they serve. The MBA Community Champion Recognition serves to recognize member financial institutions for their contributions, service and support to and for their local communities.

**The MBA Community Champion Recognition Includes:**

- Recognition at the 2018 Bank Day at the Capitol – March 22, 2018
- A certificate to display in your lobby
- Announcement of Recognized Banks in the March Issue of *MBA News*, *MBA* social media and *MBA* website
- News Release to Local Media

**Eligibility**

All member financial institutions of MBA are eligible to enter.

**How to Enter:**

Fill out information below and return it to Chris Harrison at [chrish@minnbankers.com](mailto:chrish@minnbankers.com) or fax to (952) 896-1100.

**APPLICATION FORM**

Bank \_\_\_\_\_  
Bank Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Title \_\_\_\_\_ Phone \_\_\_\_\_  
Email \_\_\_\_\_

**Bank Name & City as you would like it on the certificate:**

**Submit form to:**  
Minnesota Bankers Association  
Attn: Chris Harrison  
8050 Washington Ave S, Suite 150  
Eden Prairie, MN 55344  
  
Fax: (952) 896-1100  
Email: [chrish@minnbankers.com](mailto:chrish@minnbankers.com)  
*Applications must be received by  
January 26, 2018.*

**HOW HAVE YOU SERVED YOUR LOCAL COMMUNITY IN 2017? (Mark all that apply)**

\_\_\_\_\_ In Cash (Approximate Amount \$ \_\_\_\_\_) (optional)

\_\_\_\_\_ Volunteer Hours: \_\_\_\_\_ Total Hours  
\_\_\_\_\_ Number of Employees Volunteering  
\_\_\_\_\_ Number of Organizations worked with (List organizations on a separate sheet.)

\_\_\_\_\_ Special Program(s) you have initiated in your community (attach add'l sheet if necessary)  
Please specify: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Financial Education

\_\_\_\_\_ Goods & Services

\_\_\_\_\_ Participated in 2017 Minnesota Bankers Community Impact Week

\_\_\_\_\_ Other: \_\_\_\_\_

# Education Calendar



## November 2017

Monday	Tuesday	Wednesday	Thursday	Friday
		<b>1</b>	<b>2</b> Bank Directors Training I, Bloomington	<b>3</b>
<b>6</b> 📺 Consumer Lending (ABA Facilitated Online)	<b>7</b>	<b>8</b>	<b>9</b> 📺 Employment Records & How to Keep Them	<b>10</b>
<b>13</b> 📺 Basic Administrative Duties of a Trustee (ABA Facilitated Online)	<b>14</b> Building A Profitable Retail Banking Strategy II, Eden Prairie	<b>15</b> Introduction to Global Cash Flow, Eden Prairie	<b>16</b>	<b>17</b> 📺 Managing Generations in Today's Workplace (GSB Online)
<b>20</b> 📺 Developing an Incident Response Plan for an Information Security Breach	<b>21</b>	<b>22</b>	<b>23</b> THANKSGIVING DAY	<b>24</b> 📺
<b>27</b>	<b>28</b>	<b>29</b> 📺 Retirement Rollovers: Are You Ready? (GSB Online)	<b>30</b> Common Legal Issues Faced By New Bankers, Eden Prairie	

**Symbol Key**  
 📺 = webinar  
 📺 = online learning

**This is just a sample of our educational offerings.  
 We have classroom, webinar, online and video options.  
 Visit our website for more details and registration information.**

### **MBA EDUCATION DEPARTMENT**

Eric Hauth, Director	erich@minnbankers.com
Nicole Hanger, Education/Associate Mbr Coordinator	nicoleh@minnbankers.com
Chris Harrison, Education Coordinator	chris@minnbankers.com
Mary Henriksen, Registrar	maryh@minnbankers.com
Kim Philipson, Executive & Education Coordinator	kimp@minnbankers.com

**www.minnbankers.com**



# November 2017

## MBA Program Highlights

### **Bank Directors Training I, November 2, Bloomington**

This one day program is designed to assist bank directors and executive management with carrying out their duties and responsibilities. Directors and management make a pledge to “Enhance/Increase Shareholder Value”. This commitment is at the heart of the fiduciary responsibilities. This class explores the relationship between bank directors and management, regulators, customers, employees and shareholders. As banking is a very regulated business, we will cover the many requirements that directors face on a day to day basis. The perfect director is described as being knowledgeable and active.

### **Building a Profitable Retail Banking Strategy II, November 14, Eden Prairie**

This presentation builds upon the retail strategies and concepts of the original presentation that has helped banks across the Midwest rethink their retail banking strategy.

During this session, an examination of a new breed of fee-based checking accounts with attractive value-added services and the packaging strategies of top-performing institutions will be reviewed. We will review an actual community bank that moved to a sales-based checking strategy with outstanding success and discuss the top ten profitable retail strategies that can be applied to your bank.

### **Introduction to Global Cash Flow, November 15, Eden Prairie**

The term “global cash flow” has become very important to small business lenders, in part because of the effect of the economy on small business borrowers, and in part because of heightened regulatory attention. In fact, regulators now commonly mention global cash flow analysis “deficiencies.”

*What exactly is global cash flow?*

*How should it be analyzed by a business lender?*

In this introductory seminar, participants will have the opportunity to understand, both intuitively and practically, what global cash flow actually is, what it measures, and how it can be used to analyze a business loan request. (While a global cash flow analysis can be performed on *any* business, it is most often performed on *closely-held* businesses, and that will be our *primary* focus in this class.)

### **Common Legal Issues Faced By New Bankers, November 30, Eden Prairie**

This half-day session will give the attendee a practical, big-picture legal overview for new lenders. This workshop is designed to be very real world. The instructor will take you through legal issues surrounding the entire lending process: from making initial contact with a prospect, to documenting the loan (or more precisely working with credit and navigating issues surrounding using form documents or attorney-prepared documents), to managing the lending relationship while the loan is performing, to handling troubled credits in a pre-foreclosure situation, to working with attorneys when the matter goes into liquidation.

***For more details on these or other MBA programs, go to [www.minnbankers.com](http://www.minnbankers.com).***

# Education Calendar



## December 2017

Monday	Tuesday	Wednesday	Thursday	Friday
				<b>1</b>
<b>4</b> FSA Workshop, New Ulm	<b>5</b> FSA Workshop, Marshall & St. Cloud	<b>6</b> FSA Workshop, Worthington & Detroit Lakes	<b>7</b> FSA Workshop, Mankato & Thief River Falls  Attracting & Retaining Staff in a World of Change, Eden Prairie	<b>8</b> FSA Workshop, Rochester & Willmar
<b>11</b> 📺 Fundamentals of Mortgage Lending (ABA Facilitated Online)	<b>12</b> HANUKKAH BEGINS	<b>13</b>	<b>14</b>	<b>15</b> 📺 Managing Generations in Today's Workplace (GSB Online)
<b>18</b>	<b>19</b> 📺 Writing Business Account Procedures- New CDD Rules	<b>20</b>	<b>21</b>	<b>22</b>
<b>25</b> CHRISTMAS	<b>26</b>	<b>27</b>	<b>28</b> Check out the newest MBA Video: <i>Navigating Bankruptcy.</i>	<b>29</b>

**Symbol Key**  
 📺 = webinar  
 📺 = online learning

This is just a sample of our educational offerings.  
 We have classroom, webinar, online and video options.  
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Kim Philipson, Executive & Education Coordinator	kimp@minnbankers.com

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# December 2017

## MBA Program Highlights

### **Farm Service Agency Workshop, December 4-8, Various Locations**

Farm Service Agency representatives will present an update on the Guaranteed Loan Program, policy issues, and farm planning for fiscal year 2018. Current key issues such as security and servicing requirements will also be discussed. Attendance at this training will also meet FSA annual lender training requirements.

### **Items to be discussed:**

- Update on FSA "Farm Programs"
- Recent Guaranteed Loan Program Changes
- Planning for 2018 Guaranteed Loans
- Unique Loan Making and Servicing Issues
- Issues from Lender File Reviews

\* Updates and changes may be made to the schedule

### **Attracting & Retaining Staff in a World of Change, December 7, Eden Prairie**

This interactive workshop will be divided into two sections. In the first half you will hear from Juli Lynch as she covers three of the top staffing issues facing banks today. Each topic will include group discussion and Q & A. The second half of the day will be an open roundtable discussion. Come prepared to share!

### **9:00 a.m. – 12:00 p.m.      The 4 Key Strategies to Onboarding Culture**

- KNOW your desired Bank's culture and operationalize or define it
- KNOW where in the Bank the operational or defined culture thrives and where it doesn't thrive
- CREATE an innovative and interactive culture onboarding process that will have MEANING and IMPACT for new hires
- EXPECTATION that new employees are "Culture Contributors," vs. "Culture Distractors"

### **Engaging Employees When Promotion Opportunities Are Limited**

- Who empties the garbage and other indicators of employee engagement

### **Are you Ready to Engage the New Generation of Leadership in Banking**

- The FOUR shifts in Leadership Perspective the Next Generation Will Bring
- The Next Generation Leadership Training Starts NOW – Who's Ready?
- The Impact of Next Generation Leadership Across the Generational Matrix at Your Bank – Who's Right and Who is Leading Who?

### **12:00 p.m.                      Lunch**

### **12:45 – 2:00 p.m.              Roundtable Discussion**

This is an excellent opportunity to discuss issues presently affecting your bank and an opportunity to share experiences and opinions on a wide variety of HR topics.

***For more details on these or other MBA programs, go to [www.minnbankers.com](http://www.minnbankers.com).***

## SENIOR MANAGEMENT

# Building a Profitable Retail Banking Strategy II



## DATE & LOCATION

---

**November 14, 2017**

Minnesota Bankers Association  
8050 Washington Avenue South  
Eden Prairie, MN 55344  
952-835-3900

## WHO SHOULD PARTICIPATE

---

CEOs, presidents, senior managers, retail managers, product managers and marketing managers.

## SESSION DESCRIPTION AND TOPICS

---

This presentation builds upon the retail strategies and concepts of the original presentation that has helped banks across the Midwest rethink their retail banking strategy.

During this session, an examination of a new breed of fee-based checking accounts with attractive value-added services and the packaging strategies of top-performing institutions will be reviewed. We will review an actual community bank that moved to a sales-based checking strategy with outstanding success and discuss the top ten profitable retail strategies that can be applied to your bank.

You will leave the presentation with strategies and ideas that are sure to help your bank make the move to higher retail profitability.

### **During this 1-day interactive seminar, the following topics will be covered in detail:**

- Defining bank retail profitability
- Review of checking account philosophies
- Review of regulation and its impact on profitability
- Checking strategy and its relationship to loan growth
- Free checking – is it here to stay?
- Are higher checking fees the answer?
- Top-ten profitable retail banking strategies?
- Retail products to fund loan growth
- Implementing a new retail strategy
- Retail merchandising with a payback

## PRESENTER

---

**Jay Coakley**, manager of Coakley Strategic Solutions LLC, is a 32-year veteran of the financial services industry. Before starting Coakley Strategic Solutions, Jay served as Senior Vice President of Marketing for Central Bancompany, where he managed customer acquisition and retail profitability strategies for the corporation. Jay also works with future bank leaders as an instructor with the Graduate School of Banking at the University of Wisconsin. Jay was also honored for his work in the area of new demand deposit product development with Harvard Business School case study.



## Building a Profitable Retail Banking Strategy II

<b>DATE</b>	November 14, 2017	
<b>CHECK IN</b>	8:30 a.m.	
<b>PROGRAM</b>	9:00 a.m. – 4:00 p.m.	
<b>REGISTRATION FEE</b> <small>(Fee includes materials, breakfast, and lunch)</small>	Member: \$295 Each additional person from same bank: \$245	A limited number of seats are available.
<b>LOCATION</b>	Minnesota Bankers Association 8050 Washington Avenue South Eden Prairie, MN 55344 952-835-3900	
<b>LODGING</b>	<i>Lodging arrangements can be made at:</i> Hyatt Place, Eden Prairie, at (952) 944-9700 - dial "0" for the front desk (Ask for the Minnesota Bankers Association rate of \$145.00, plus tax)	

**CANCELLATION POLICY:** MBA reserves the right to cancel programs due to insufficient enrollment, instructor illness, or other reasons. Participants wishing to cancel must inform MBA in writing prior to the event. Send cancellation notices to maryh@minnbankers.com. A cancellation fee of 25% of the program cost will be charged for withdrawing, or you may send a substitute. The full program fee will be charged for withdrawing after the event or a no-show.

**SPECIAL NEEDS:** If you have a disability that may affect your participation in the program, please send MBA a statement regarding any special needs at least two weeks prior to the program. We will contact you to discuss accommodations.

**\*\* Please let us know if you have any dietary issues at least two weeks prior to the program. \*\***

**PLEASE PRINT OR TYPE (One registrant per form - copy form if needed.)**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ M.I. (required) \_\_\_\_\_

Bank \_\_\_\_\_ Phone \_\_\_\_\_

Bank Address \_\_\_\_\_ Fax \_\_\_\_\_

City/State/Zip \_\_\_\_\_ Mail Code/Station \_\_\_\_\_

E-mail \_\_\_\_\_

*Please provide your email address in order to receive a confirmation.*

**PAYMENT OPTIONS:** Check enclosed  Bill bank  Visa/MC  Amex  Amount due \$ \_\_\_\_\_

Account # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

Name on Card \_\_\_\_\_

**PLEASE NOTE: For security purposes if you fax in your registration, please choose the "bill bank" option, OR call the MBA registrar at 952-857-2629 if you choose to use a credit card.**

**MAIL WITH PAYMENT TO:** Minnesota Bankers Association  
Attention: Registrar  
8050 Washington Avenue South, Suite 150  
Eden Prairie, MN 55344

**FAX TO:** 952-896-1100 **OR**  
**EMAIL TO:** maryh@minnbankers.com  
**TO REGISTER ON LINE:**  
[www.minnbankers.com](http://www.minnbankers.com)



**New Class!**

## LENDING

# Keep Calm and Obey the Law: A Practical Overview of Common Legal Issues Faced by New Bankers



### DATE & LOCATION

---

**November 30, 2017**

Minnesota Bankers Association  
8050 Washington Avenue South  
Eden Prairie, MN  
(952) 835-3900

### PROGRAM OVERVIEW

---

This half-day session will give the attendee a practical, big-picture legal overview for new lenders. This workshop is designed to be very real world. The instructor will take you through legal issues surrounding the entire lending process: from making initial contact with a prospect, to documenting the loan (or more precisely working with credit and navigating issues surrounding using form documents or attorney-prepared documents), to managing the lending relationship while the loan is performing, to handling troubled credits in a pre-foreclosure situation, to working with attorneys when the matter goes into liquidation.

This program is meant to ease the minds of new bankers, and banks with new bankers who are afraid that the new banker might say something to a prospect that could give rise to liability, or do something during the loan documentation process that might create regulatory problems for the bank, or do/say something to a troubled borrower that could compromise the bank for a workout perspective.

### WHO SHOULD PARTICIPATE

---

New lenders with less than three years' experience will find this seminar worthwhile. This program will have useful information that would be helpful to any banker.

**Make your attendance count towards your continuing professional education credits! MBA will provide a certificate of attendance that you may submit to the appropriate advisory board to determine if this program qualifies for credits.**

### PRESENTER

---

**Matthew Bialick**, Hellmuth & Johnson, represents a variety of banks, businesses and individuals, primarily in commercial and banking law matters. His experience ranges from business sales, general commercial transactions and the preparation of all manner of loan documents, to complex litigation and appeals. Matthew graduated magna cum laude from the University of Minnesota law school. Prior to law school, Matthew attended the honor's program at University of Minnesota's Carlson School of Management, where he graduated first in his class, summa cum laude and with high distinction.

# A Practical Overview of Common Legal Issues Faced by New Bankers

<b>CHECK IN</b>	8:00 a.m.	
<b>PROGRAM</b>	8:30 a.m. – 12:30 p.m.	
<b>REGISTRATION FEE</b> (The live program fee includes continental breakfast, lunch, and materials)	Member: \$130	Qualified Non Member: \$210
<b>DATE &amp; LOCATION</b>	<b>November 30, 2017</b> Minnesota Bankers Association Eden Prairie	
<b>LODGING</b>	<i>Lodging arrangements can be made at:</i> Hyatt Place, Eden Prairie, at (952) 944-9700 - dial "0" for the front desk (Ask for the Minnesota Bankers Association rate of \$145.00, plus tax)	

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**NON-MEMBERS:** Qualified non-members are encouraged to apply. Please call our office for further information.

**SPECIAL NEEDS:** If you have a disability that may affect your participation in the program, please send MBA a statement regarding any special needs at least two weeks prior to the program. We will contact you to discuss accommodations.

**\*\*\*Please let us know if you have any dietary restrictions at least two weeks prior to the program.\*\*\***

**PLEASE PRINT OR TYPE (One registrant per form - copy form if needed.)**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ M.I. (required) \_\_\_\_\_

Bank \_\_\_\_\_ Phone \_\_\_\_\_

Bank Address \_\_\_\_\_ Fax \_\_\_\_\_

City/State/Zip \_\_\_\_\_ Mail Code/Station \_\_\_\_\_

E-mail \_\_\_\_\_

*Please provide your email address in order to receive a confirmation.*

**PAYMENT OPTIONS:** Check enclosed  Bill bank  Visa/MC  Amex  Amount due \$ \_\_\_\_\_

Account # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

Name on Card \_\_\_\_\_

**PLEASE NOTE: For security purposes if you fax in your registration, please choose the "bill bank" option, OR call the MBA registrar at 952-857-2629 if you choose to use a credit card.**

**MAIL WITH PAYMENT TO:** Minnesota Bankers Association  
 Attention: Registrar  
 8050 Washington Avenue South, Suite 150  
 Eden Prairie, MN 55344

**FAX TO:** 952-896-1100 **OR**  
**EMAIL TO:** [maryh@minnbankers.com](mailto:maryh@minnbankers.com)  
**TO REGISTER ON LINE:**  
[www.minnbankers.com](http://www.minnbankers.com)

website



# MBA 2017 Compensation & Benefits Survey Order Form



**Order your copy TODAY!**

**Note: Banks that participated in the 2017 Survey do NOT need to complete this order form.**

ORDER FORM				
Contact Name:		Bank:		
Address:		City:	State:	
Zip:		Phone:		
MBA Member?	Yes	No	Email: (Password to access online survey sent here)	
ITEM	Member Price	Non-Member Price	TOTAL	
Survey Online	\$849.00	\$1,250.00		
Additional (with survey purchase):				
Hard Copy	\$30.00	\$30.00		
CD	\$25.00	\$25.00		
Excel File	\$30.00	\$30.00		
**Custom Analysis Tool	\$399.00	\$399.00		
Add 6.875% MN sales tax		Check if located in MN		\$
Add Hennepin County (0.15%) & Transit (0.5%) sales taxes *		Check if located in Hennepin County		\$
<b>Total:</b>				\$

To order, click the **Attach form to email** button at the top of the form. We'll process your order and email you an invoice.

Or print and mail/fax completed form with payment to:  
 Minnesota Bankers Association  
 8050 Washington Ave S, Suite 150  
 Eden Prairie, MN 55344  
 Fax: 952-896-1100

\* We collect Hennepin County sales tax and Hennepin County Transit sales tax on transactions for Hennepin County residents only. If you are located outside Hennepin County, you may be responsible for local transit sales and use taxes.

\*\*The Custom Analysis Tool allows for narrowing the scope of the data to provide a customized report that is appropriate for your bank's needs. You may narrow the data using several different data breakouts, which include:

- Specific banks (i.e. peer group)
- Region
- Market Area
- Bank Asset Size
- Employees size

# HSA Assets Reach Record High

Don't overlook the HSA market as health savings becomes a priority.



Contact Jason Bain to discuss your HSA program.

Regional Sales Director  
Direct: 218-330-5099  
jason.bain@ascensus.com



## **Bert Ely's FARM CREDIT WATCH®**

*Shedding Light on the Farm Credit System, America's Least Known GSE*

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To contact Bert Ely: Email: [bert@ely-co.com](mailto:bert@ely-co.com); Fax: 703-836-1403; Phone: 703-836-4101  
Mail: P.O. Box 320700, Alexandria, Virginia 22320

**September 2017 (No. 234)**

### **FinCEN should direct the FCA to enforce the Bank Secrecy Act**

A banker recently posed a most interesting question: Is the FCS subject to FinCEN's final rule on beneficial ownership with respect to customer due diligence requirements? Bankers are becoming painfully aware of the burdens imposed by this new rule. According to a memorandum from Covington & Burling, a Washington law firm, "the final rule requires covered financial institutions to adopt due diligence procedures to identify and verify a legal entity customer's beneficial owner(s) at the time a new account is opened." The new rule is intended to counter money laundering, corruption, and tax evasion. The legal basis for the rule is the Bank Secrecy Act (BSA), which is administered by the Treasury Department's Financial Crimes Enforcement Network (FinCEN). The bank regulatory agencies along with other financial regulators are charged with ensuring that the financial institutions they regulate comply with the BSA and FinCEN's rules. As bankers know all too well, the bank regulators are very diligent in enforcing these rules.

Most interestingly, the Farm Credit Administration (FCA), the FCS's regulator, stated in an email that "[FCS] institutions are not subject to the [BSA]." That is an extremely dubious assertion given that FCS institutions are financial institutions. Additionally, although FCS institutions are not authorized under the Farm Credit Act to accept deposits, in recent years a number of FCS associations, in cooperation with the FCS banks funding those associations, have become very aggressive in offering "cash management services" to FCS member/borrowers; those "services" include accepting deposits. For example, Compeer Financial, which serves portions of Minnesota, Wisconsin, and Illinois, [advertises its offering of remote deposit services to its member/borrowers](#). In this most important regard, Compeer is no different than the commercial banks it competes against. Because Compeer and many other FCS associations now accept deposits, they can easily facilitate the laundering of illicitly obtained funds into farmland and other agricultural assets.

That the FCA believes FCS institutions are exempt from the BSA reflects FinCEN's misinterpretation of the BSA. Specifically the beneficial ownership rule applies to "covered financial institutions," which includes FDIC-insured banks and savings associations. The BSA, however, does not define the term "covered financial institution." Instead, this statute defines "financial institutions" to encompass a broad range of financial institutions, including any "agency of the United States government . . . carrying out a duty or power of a business" that is described as a financial institution. In other words, because FCS institutions, which effectively are government agencies, lend money and, in some cases, also accept deposits, they should be subject to the same rules and requirements of the BSA as any FDIC-insured bank. Therefore, FinCEN needs to expand its regulatory definition of "covered financial institution" to include FCS institutions. More importantly, it needs to direct the FCA to implement rules and compliance procedures to ensure that FCS institutions are as vigilant as FDIC-insured banks in blocking money-laundering transactions as well as other activities that would violate the BSA.

In 2013, the FCA adopted four regulations which the FCA might argue approximate what the FCS would be subject to if it was determined that FCS institutions fall within the jurisdiction of FinCEN with regard to enforcing the BSA. Essentially, the regulations provide that "to ensure public confidence in the [FCS], to ensure the reporting of known or suspected criminal activity, to reduce potential losses to institutions, and to



ensure the safety and soundness of institutions,” FCS institutions are “to notify the appropriate Federal authorities when any known or suspected Federal criminal violations . . . involving the assets, operations, or affairs of an [FCS] institution . . . are discovered” The FCA provides a criminal referral form on its website. While the FCA examination manual provides some guidance to examiners on assessing an FCS institution’s compliance with the criminal referral regulation, it does not appear to require the rigor of the BSA examinations to which banks are subject. Of course, if the FCA did issue an enforcement order penalizing an FCS institution for not making a criminal referral or not properly monitoring its transactions in order to detect money laundering or other BSA-like violations, the public would never know about it because of the FCA’s longstanding policy of **not** publicizing its enforcement actions, a policy I have criticized on numerous occasions.

## **New FCA director has been nominated**

On September 12, President Trump nominated Glen R. Smith of Atlantic, Iowa, to fill a vacancy on the FCA’s three-member board of directors. If confirmed by the Senate, Smith would serve for the rest of a term ending on May 21, 2022, a board seat last occupied by the late Kenneth Spearman. Smith is the president and co-owner of Smith Land Service, a company he found in 1982; it specializes in farm management, land appraisal, and farmland brokerage services. Smith also owns and serves as president of a family farm operation that encompasses about 2,000 acres of mainly corn and soybeans in western Iowa. Smith graduated from Iowa State University in 1979 with a B.S. in agricultural business. There is no indication from readily available biographic materials if Smith has ever been an FCS borrower or if, as a borrower, he has been active in FCS affairs or served as an officer or director of an FCS institution. Iowa is served by FCS of America, the FCS’s largest association. If Smith is confirmed, it will be interesting to see if he makes any waves at the FCA.

## **FCA updates mission compliance examination procedures**

On September 7, the FCA issued an [update to the Mission Compliance section of its Examination Manual](#). Bankers have long complained, with substantial justification, that the FCS lends outside of its congressionally-mandated mission. There is some sound guidance in this section of the manual (“know its customer base and agricultural marketplace” and have “a marketing plan”) and lots of “do’s.” However, the Examination Procedures and Guidance related to Mission Compliance leave much to be desired. In particular, this guidance is sorely lacking in “don’ts,” i.e., the types of loans the Farm Credit Act bars the FCS from making, such as lending to large, investor-owned utilities or financing hunting lodges and fishing camps that although rural in nature, have nothing to do with production agriculture, farm-related service businesses, or agricultural processing or marketing operations. While noting that the FCS finances rural homes, the guidance does not warn that FCS home loans must only be for moderately priced homes in rural areas or towns of less than 2,500 and must be the borrower’s principal residence — loans on rural mansions, even a principal residence, are *verboten*. The discussion on YBS (young, beginning, and small) lending fails to differentiate, for example, lending to genuine young (under 35) farmers just getting started from loans to young Silicon Valley millionaires seeking cheap financing for a country estate on which they plan to run a few cows or grow some trees.

## **Bert Ely's FARM CREDIT WATCH®**

*Shedding Light on the Farm Credit System, America's Least Known GSE*

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**October 2017 (No. 235)**

### **The four FCS banks are commercial banks???**

According to a recent press release issued by the on-line magazine [Global Finance](#), the four FCS banks are among the world's 50 safest **commercial** banks. AgriBank was ranked #19, CoBank #25, AgFirst #28, and Farm Credit Bank of Texas #30. The press release stated that the banks on its list of the safest commercial banks "were selected through an evaluation of long-term foreign currency ratings — from Moody's, Standard & Poor's, and Fitch." Apart from their equity capital, the FCS banks are almost entirely funded with debt issued by the Federal Farm Credit Banks Funding Corporation and are jointly and severally liable for that debt. Global Finance, though, did not acknowledge that fact nor the fact that the four FCS banks are GSEs implicitly backed by the federal government, they also are the beneficiaries of a \$10 billion cost-free line-of-credit from the U.S. Treasury. Five U.S. bank holding companies also made the top-50 list — U.S. Bancorp (21), BNY Mellon (40), State Street (43), Northern Trust (44), and Wells Fargo (49).

It is absolutely appalling that Global Finance fails to understand that the FCS banks are not commercial banks, but worse, when I pointed out that rather obvious fact to the editors at Global Finance, they would not acknowledge it. More troubling, when CoBank touted its inclusion the list of Global Finance's 50 safest banks in this [news release](#), it failed to note that its outstanding debt is raised for it by the Funding Corporation and that it was erroneously included in Global Finance's companion list of the world's safest **commercial** banks. CoBank's failure to publicly state it should not be characterized as a commercial bank is a tacit admission that it does not mind being viewed by Global Finance's readers as a commercial bank. Worse, for at least the last six years, CoBank news releases have cited it as being ranked by Global Finance as one of the world's safest banks without pointing out the magazine's error in characterizing it a commercial bank. **If CoBank has no objection to repeatedly being called a commercial bank, then it should be regulated as if it were a commercial bank.**

Trying to set the record straight, I emailed the editors at Global Finance to explain that the FCS banks are **not** commercial banks and that they are largely funded by the unranked Funding Corporation. On September 29, Andrea Fiano, Global Finance's editor, emailed a substantive reply, but he failed to address my central complaint — the magazine's characterization of the FCS banks as commercial banks when they clearly are not. Worse, on October 6, Global Finance published a list of the "Safest 25 Commercial Banks In The World," which is merely the top 25 banks from its earlier list of the 50 safest commercial banks. Accordingly, this list included AgriBank and CoBank. So far Fiano has failed to respond to a follow-up query as to why Global Finance continues to call the FCS banks commercial banks. Hopefully, Global Finance will soon drop the FCS banks from its list of the safest commercial banks.

The FCS's regulator, the Farm Credit Administration (FCA), should object to any mischaracterization of any FCS institution, if for no other reason than to protect its regulatory turf, for if a widespread belief

developed that FCS banks are commercial banks, then political pressure would build to subject them to oversight by the bank regulators, specifically the OCC and the Federal Reserve. The FCA has indicated that it will respond to my request for a comment on Global Finance's mischaracterization of the FCS banks as commercial banks. I will share that response with FCW readers after I receive it. Finally, I emailed CoBank to request that it inform the magazine that CoBank is not a commercial bank and to cease publicizing, even indirectly, that it, and the other three FCS banks, are among the world's safest **commercial** banks. So far, CoBank has not responded to this request.

## **What is happening at Lone Star Ag Credit?**

As I reported in the FCW two months ago, on August 9 Lone Star Ag Credit, the FCS association headquartered in Fort Worth, Texas, issued a Notification of Non-Reliance on Previously Issued Financial Statements Applicable to the financial statements Lone Star issued for 2016 and the first quarter of 2017. In a parallel move, the Farm Credit Administration dropped from its website Lone Star's quarterly call reports for 2016 and the first quarter of 2017. Apart from the Notification of Non-Reliance, Lone Star has posted absolutely nothing on its website about the "appraisal and accounting irregularities affecting a segment of the Association's lending portfolio" that triggered the withdrawal of its financial statements and call reports nor has it posted any other information about this accounting fiasco. While visitors to the site will learn about the 2017 Lone Star Ag Credit Dove Hunt Invitational and the Annual Appreciation Event for Corsicana Stockholders, there is no listing of the association's current management or of recent management changes, if any, as well as corrective actions being taken to fix Lone Star's accounting problems. As cooperatives, FCS associations should be fully transparent to its member/borrowers — that definitely is not the case today at Lone Star.

## **Will FCS of America and Frontier Farm Credit ever merge?**

In the October 2014 FCW, I wrote about a "strategic alliance" that Frontier Farm Credit, which serves the eastern third of Kansas, entered into with Farm Credit Services of America (FCSA), the largest FCS association, which serves Nebraska, Wyoming, South Dakota, and Iowa. At June 30, 2017, FCSA has assets of \$26.9 billion while Frontier had assets of \$2.0 billion. To the best of my knowledge, there are no other strategic alliances in the FCS universe. According to a letter FCSA sent to its member/borrowers when the "strategic alliance" was formed, the two associations "will be jointly managed under of a single team of [FCSA] leaders."

The question then was why didn't Frontier simply merge with FCSA; that question still resonates today as the FCSA management team runs Frontier even though Frontier has its own board of directors. Presumably the FCSA managers in Kansas take their marching orders from Frontier's directors even if those directors have adopted policies that differ from policies adopted by FCSA's directors. Although there is a coordinating committee comprised of directors from both associations, it is puzzling as to how one management team can be responsible to two independent boards of directors, especially given the degree of operational integration of the two associations. The arbitrary manner in which income and expenses are divided between the two associations, as summarized in their respective annual reports, reinforces the key question: Why haven't Frontier and FCSA merged? Reasons not to merge are not at all evident, which raises this question: What is the real reason they have not merged? As is the case in the Lone Star Ag Credit situation, the lack of transparency here is very troubling, and should be especially so for Frontier's member/borrowers since Frontier is very much the junior partner in this alliance. Worse for Frontier's member/borrowers, they are stuck in the alliance because Frontier no longer has its own management team.