

SDBANKER

OFFICIAL PUBLICATION OF THE SOUTH DAKOTA BANKERS ASSOCIATION | NOVEMBER 2019



L-R: Kristina Schaefer, First Bank & Trust, Sioux Falls; Jamica Quillin, Federal Reserve Bank of Minneapolis; Halley Lee, SDBA, Pierre; Marnie Herrmann, Security First Bank, Rapid City; and Kelsea Kenzy Sutton, First Fidelity Bank, Burke

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Registration packet and complete agenda coming soon.



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features

- 7 Education**
SDBA Holds Compliance Workshop
- 9 Emerging Leaders**
Emerging Leader of the Month: Heather Sieh
- 10 Banking Schools**
 - Enrollment Open for All 2020 GSB Schools
 - SDBA, Graduate School of Banking Colorado Seek Applicants for Future Leaders Scholarship
- 12 Women in Banking**
More Than 230 Strong at SDBA Women in Banking Conference
- 18 Compliance**
A Review of the CFPB's Latest Supervisory Highlights

in every issue

- 4 Message from the Chairman**
Get Uncomfortable to Grow
- 5 From the Executive Office**
Forward Movement in Banking Industry
- 6 SDBIS Update**
Did everyone take their vacation this summer?
- 16 Ask the Appraiser**
Appraisal Reporting: Certification and Signatures
- 20 Bank Notes**
- 22 Classifieds**
- 23 Education Calendar**



message from the chairman.....

BY SHAWN ROST | South Dakota Market President | First Interstate Bank, Rapid City

Get Uncomfortable to Grow

Four of my co-workers attended the SDBA's LEAD STRONG: Women in Banking Conference last month in Sioux Falls. I asked each of them to share a personal takeaway from the conference. There were two common threads in each of their responses.

The first was and I quote one employee, "I went to the event thinking I have too much to do back at the bank, and I should cancel. I debated more than once, do I go or not. I was stressed and worried about a lot of items I needed to be finishing. I went and thought maybe this is what I need; I can come back refreshed to start a new week. And I came back really feeling energized from being with peers and hearing some great speakers that presented relevant information to help me improve myself."

The second thread was a quote from presenter Dr. Suzi Kalsow. "BE PREPARED TO FAIL! Confidence comes not from always being right, but from not fearing to be wrong."

After reading each response, I really wished I could have been there. I can always use more energy. I'm always looking for ways to try to improve myself, and I know I am wrong many times every day! Just ask those with whom I work.

My co-workers had many more items that made the time away from work and family worthwhile to them, and I expect all of the conference attendees felt the same way. I want to thank everyone who attended for investing in themselves and their career. I also want to thank the attendees' supervisors for finding a way for each of these people to get to the conference. Investing in our number one asset, our employees, always pays dividends.

As I thought about the common threads of the conference, it reminded me of a saying I use to push myself and my team. Stretch your comfort zone or get completely out of your comfort zone. Who hasn't signed up for a conference and thought as they were driving to it, "Why did I sign up for this? I have so much to..." Who heads to work every day not fearing to be wrong or better yet, "Prepared to Fail?" That isn't the way we are programed as people or how our work environment necessarily trains us.

I continually challenge myself and my co-workers to stretch our comfort zones to grow to the next level. It can be as simple as striking up conversations with



I challenge all bankers in South Dakota to find a way to challenge yourself and your team to get uncomfortable, get out of your rut and stretch your comfort zone.

strangers to not-so-simple public speaking. Or more stressful, like getting senior bank leaders to dress up as cheerleaders and get on the ice with the Rapid City Rush during a hockey game to raise money for the United Way. Yes, that is on my get uncomfortable list for first quarter of next year. I like to choose things every month that make me wake up in the middle of the night in a sweat thinking about them. Or things that might make me sick to my stomach thinking, "How am I going to get myself to do this?"

Why do I challenge myself and my teammates to do this? Because when you are driving home from the conference, or walking away from the podium after your first speech, or you are laying on the ice in a costume in front of 3,000 hockey fans, you know you learned and accomplished something that forced you to try something new. You may have made mistakes, but you still accomplished what you set out to do. You have some great takeaways, you are alive and energized, you have helped others, and you are probably a better person and teammate for just attempting something new.

I challenge all bankers in South Dakota to find a way to challenge yourself and your team to get uncomfortable, get out of your rut and stretch your comfort zone. Let's all make a difference for others and improve our communities. One way to do that would be to invest in a few of your bankers and send them to our next SDBA event, NEXT STEP: SDBA Emerging Leaders Summit in Sioux Falls. I will be attending with three co-workers, and I bet as we are driving across the state we will be thinking, "Why did I...?" But we know why, don't we.

Shawn Rost is South Dakota market president at First Interstate Bank in Rapid City. Rost can be reached at 605.716.8928 or shawn.rost@fib.com.



from the executive office.....

BY CURT EVERSON | President | South Dakota Bankers Association

Forward Movement in Banking Industry

About one year from now, we will know the identity of the next president of the United States of America. As chaotic as presidential politics has become, it is at least somewhat comforting to know that the nation's electors are still empowered to determine which candidate prevails. I am also encouraged by the fact that despite all the news/noise about impeachment, renewed hostilities between Turkish and Kurdish forces in Syria, and movements in Democrat presidential polls, forward movement is taking place in Washington on issues important to this country's banking industry.

AML/BSA—Beneficial Owners

On a bipartisan vote of 249-173, the U.S. House of Representatives approved H.R. 2513, the Corporate Transparency Act. For the first time in nearly 50 years, this bill proposes to update and modernize the nation's anti-money laundering and Bank Secrecy Act statutes. The measure also establishes a secure national database to warehouse beneficial ownership information for this nation's business entities.

Bankers know all too well the level of effort it takes to collect and record information to meet existing legal requirements to determine a legal business entity's beneficial owners each and every time a new or existing business client opens an account or applies for a loan. This bill places the responsibility to disclose that information where and when it belongs—on the true owners of the business at the time of formation. A handful of Democrats and 167 Republicans, including Rep. Dusty Johnson, voted no on H.R. 2513, accepting the arguments raised by the National Federation of Independent Businesses that self-disclosure of the beneficial owners of their business was too onerous.

Let's think about that for a second. Under current U.S. Treasury rules, only individuals having an equity interest of 25% or more of the legal business entity are required to be identified and disclosed. Unless my math is bad, that means that the interests of no more than four equity owners would need to be reported in the new national database. Whether or not one believes that documenting the identity of individuals owning 25% or more of the equity of a business is an onerous task, should that task fall on the shoulders of front-line bankers or the business owners themselves? Two

hundred and forty-nine members of the U.S. House felt that duty should reside with those business owners.

A measure substantially similar to H.R. 2513 was introduced in the Senate on Sept. 26 by Sen. Mark Warner (D-VA). S. 2563, the ILLICIT CASH Act, currently has seven bipartisan co-sponsors, including Sen. Mike Rounds. I will be working with my colleagues in D.C. and other state associations to urge forward movement on a compromise measure that Republicans and Democrats in both houses can enact into law.

Credit Unions

According to its website, the Tax Foundation is a leading independent tax policy organization whose stated goal is "to improve lives through tax policies that lead to greater economic growth and opportunity." On Oct. 16, the Foundation released Tax Foundation Fiscal Fact No 670 entitled "Repealing the Federal Tax Exemption for Credit Unions." Here are its key findings.

- Under current law, the tax code exempts credit unions from paying corporate income taxes. The Joint Committee on Taxation estimates the exemption will reduce federal revenue by \$1.9 billion in 2019.
- Historically, the exemption was justified on the grounds that credit unions would fulfill three purposes: restrict their customer base to people with a common bond, serve customers of moderate means and provide services that were difficult to obtain at banks.
- Evidence indicates that the credit union industry has strayed from its original, tax-exempt purpose and is in direct competition with its taxed competitors.
- The exemption cannot be justified on the grounds of sound tax policy, is not neutral and leads to an inefficient allocation of resources.
- Ending the exemption would make the tax code more efficient and provide lawmakers with revenue that could be used to offset other improvements in the tax code.

The entire study can be found at: <https://taxfoundation.org/repealing-credit-union-exemption>.

It is gratifying to know that professionals whose job it is to study and report on sound tax policy agree with what we have contended for a very long time—it is time for Congress to take a critical look at what large credit unions have become, full service, tax-exempt banks that can only pretend to be traditional credit unions.



Did everyone take their vacation this summer?



va-ca-tion, noun

- 1) a period spent away from home or business in travel or recreation
- 2) a. a scheduled period during which activity (as of a business, court, or school) is suspended
b. a period of exemption from work granted to an employee

By Craig M. Collins, President, Financial Services,
OneBeacon Financial Services



Why worry about vacations?

Vacations provide several benefits to both employees and employers. Employees come back from vacation refocused on the tasks at hand, while the employer benefits by having motivated and refreshed employees. Vacations are necessary for all parties involved.

What's common in the banking industry is temptation. Bank employees are surrounded by opportunities for dishonest acts, teller shortages, CD documentation fraud, fictitious loans and unauthorized account transfers are all exposures that are unique to the banking industry.

Internal controls such as segregation of duties, job rotations and internal audits are great methods of both discovering and preventing these acts, but the best control to prevent and discover employee dishonesty is a vacation.

Why is it important?

Most dishonest schemes start out relatively small. In fact, the dollar amount remains relatively stable for the first couple of years. As time passes, however, a dishonest employee becomes emboldened since he/she has not been caught and starts to increase the amount taken from the bank—sometimes dramatically. The amount can grow to millions of dollars over a relatively short period of time.

During my 32 years of underwriting fidelity

insurance for banks, I have seen many employee dishonesty losses. The largest ones have been discovered while the employee was on a mandated vacation (dishonest employees do not like to take long vacations) or on an unplanned leave from the bank (perhaps due to a serious illness). The scheme will start to unravel when the employee is cut off from access to the bank's systems and is not able to continue covering his/her tracks. Customers that normally only speak with the dishonest employee ask account questions of another employee, who starts to investigate and the scheme unwinds.

Employee Warning Signs

1. Employee is resistant to taking vacations lasting more than two to three days.
2. Employee is highly protective of his/her work product.
3. Employee resists change to his/her work process or job duties.
4. Employee comes into his/her working environment during vacation.
5. Employee directs customers to channel their questions only to him/her.

Vacation Policy Suggestions

1. Require that all employees take a vacation that spans five consecutive work days and two weekends on each side (nine days total out of the bank).
2. Do not allow employees to enter his/her work area during vacation. Any banking transaction can be done via the drive thru or ATM.
3. Disable VPN or any "work at home" technology that the employee may be using during the vacation period.
4. Disable the access card or key that the employee uses for the duration of the vacation period.

It is understood that in today's workplace there is a need for flexibility in work schedules for employees. However, the banking industry has unique risk factors that must be addressed. Vacation has tremendous benefit to the well-being of employees but serves as the best deterrent and early detection of employee dishonesty. Enjoy your time off. 🌈

SDBA Holds Compliance Workshop

The SDBA hosted the 2019 Compliance Workshop on Oct. 15-16 in Sioux Falls. With so much up in the air in this regulatory environment, one thing that remains constant is the need for a commitment to compliance. A strong understanding of the continually shifting landscape is essential.

The workshop was led by Compliance Alliance (C/A), an SDBA endorsed vendor and associate member. Founded in 2011, Compliance Alliance is the only banking industry compliance resource that is owned, operated and managed by 29 state bankers associations.

Darlia Fogarty, director of compliance and COO with C/A, shared her expertise on hot topics, BSA, ADA compliance, fair lending, CRA and flood. Tory Haggerty with Tuscan Club Consulting in Sioux Falls, an SDBA associate member, provided additional insight into fair lending and CRA.

Brett Koenecke, legal counsel for the SDBA, discussed state-related issues and updates of interest in the banking compliance world. Regulators Cassandra Remmenga with the OCC, Liane Safar with the Federal



Instructors Tory Haggerty with Tuscan Club Consulting and Darlia Fogarty with Compliance Alliance.

Reserve Bank in Minneapolis and Jennifer Johansen with the FDIC engaged participants in a discussion addressing hot topics, trends and best practices.

For more information on Compliance Alliance and Tuscan Club Consulting, visit www.sdba.com.



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SDBA to Offer IRA Essentials Seminar

The SDBA will offer the IRA Essentials Seminar on December 5 at the Ramkota Hotel in Sioux Falls. The seminar will give attendees a solid foundation of IRA knowledge.

Real case problems and examples are included throughout the day to help participants apply information to job-related situations. Attendees will leave this session able to work with IRA holders and process basic IRA transactions with confidence.

The course is for all new IRA staff, people who are in a backup position or an IRA support person wanting to stay current. This is also a great review course for those that have been away from IRAs for a few years.

This course, which will be taught by Mike Nelson with JM Consultants, will go in a logical order from opening an IRA, to talking about contribution rules, then on to distribution rules and regulations, which includes RMDs and death distributions. The course will also address moving money as a transfer or rollover.

Course Highlights

Introduction to IRAs

- Explain the benefits of an IRA
- Identify the tax differences of a Traditional and Roth IRA

Establishing an IRA

- Examine the process for establishing an IRA and the required documents
- Differentiate between the types of beneficiaries

Funding

- Learn about the Traditional and Roth IRA eligibility requirements
- Identify the contribution limit and deadline

IRA Distributions

- Distinguish the possible taxes on IRA distributions
- Identify federal and state tax withholding requirements
- Examine IRS penalties and their exceptions

Portability

- Identify the differences between a rollover and a transfer
- Recognize rollovers between IRAs and employer-sponsored retirement plans

Reporting

- Learn which IRA form to use for each type of transaction and how to complete it so proper reporting and compliance issues can be performed

Learn more about the seminar and register to attend at www.sdba.com.

Standards Created for Strong Bank-Core Provider Relationships

As part of the ABA's ongoing work to strengthen the relationship between banks and their core providers so banks can deliver the



innovative products and services customers want and need, the Association released a set of Principles for Strong Bank-Core Provider Relationships.

Developed by ABA's Core Platforms Committee, the Principles offer reasonable standards for quality service, responsive and open communication, access to bank data, fair contracts, and security and protection that banks can use as part of their conversations with core providers.

ABA President and CEO Rob Nichols and Core Platforms Committee Chairman Julieann Thurlow, who is president and CEO of Reading Cooperative Bank in Reading, Mass., unveiled the Principles during ABA's Annual Convention on Oct. 29 in Seattle.

"Getting this relationship right is critically important to you and the core providers," Nichols told convention attendees. "We're already hearing from bankers that their conversations with their cores are more responsive and solutions-oriented since the committee began its work."

The Principles offer reasonable standards under which a bank's relationship with its core provider, and its customer base, can thrive. Fair and transparent contracts, adoption of technologies outside of the core provider offering and access to customer data are achievable standards that will allow banks to be innovative and competitive.

Banks are encouraged to discuss these Principles when engaging with their core providers, and core providers are encouraged to embrace these Principles as they continue to work with their bank customers. Ultimately the terms of any contractual relationship between banks and their partners must be negotiated between the two parties.

Nichols and Thurlow also provided a preview of the committee's next steps, including conversations with regional and emerging core providers. Read the principles at www.aba.com/-/media/documents/reference-and-guides/principles-core-providers.pdf.

Emerging Leader of the Month: **Heather Sieh**

As part of the SDBA's mission to grow South Dakota's future bank leaders, we are featuring a monthly emerging leader in SDBANKER Magazine. This month's feature is Heather Sieh who works for CorTrust Bank in Aberdeen.

First-Ever Job



My very first job was babysitting. A friend of my family had a younger child, so I spent a lot of summer days babysitting, along with nights and weekends. I don't remember the exact pay, but to me it was effortless work as we had a lot of fun making creations, playing sports and spending time with the family cat.

Emerging Leader Story

I spent my college career thinking I was going to be an elementary teacher. During college, I worked at CorTrust Bank as a teller and loved my job, customers and the people with whom I worked. I graduated with a degree in elementary education and coaching minor. I next worked in the Warner School District for a year while still employed at the bank. After a year of teaching, I began working at the bank as a full-time teller and then moved up to loan processor. From there, I have grown with the company from credit analysis to my current position of assistant vice president/loan officer. I provide all types of loans including consumer, construction, ag loans and commercial loans. It's been a career path that I never imagined, but I would not want it any other way.

What She Most Likes About Her Job

I enjoy working in the banking industry because every day is different. No two days in this job are the same, which keeps us on our toes and forces us to keep learning. I enjoy the versatility of working on commercial, ag and consumer deals.

If She Could Have Any Job...

If I could have any other job in the world, hands down I would be a dolphin or killer whale trainer. I have always been fascinated with dolphins and have had the opportunity to swim with them a few times, which in my mind is one of the most calming and relaxing feelings a person can experience.

What Motivates Her

My kids, family and work challenges are what motivates me most in life. Most everything I do I think about my kids before I do it. I love to complete a challenge in my job knowing that I conquered and put my best foot forward. There is nothing more gratifying and rewarding to know that there was a problem or hurdle along the way that I could help overcome and help make us better.

In Her Spare Time

I enjoy scrapbooking memories made throughout my life. I have been scrapbooking both of my kids since they were born. This is something they can have when they are older and share with their kids. I also enjoy traveling and seeing different cultures around the world. I enjoy camping and fishing with my family. We spend a lot of weekends at the river fishing, relaxing and enjoying the outdoors.

Involvement in SDBA Emerging Leaders

I think the SDBA emerging leader program is good for new and upcoming bankers throughout the state. This gives us a chance to network and meet others in our industry that normally we would probably not ever have the chance to meet. I have been involved since the beginning of 2019 and have enjoyed going to Pierre for State Legislative Day and attending the SDBA/NDBA Annual Convention in Sioux Falls. I have met quite a few people through the program and look forward to meeting many more. 🍷



Heather Sieh and her husband, Bob, and their children, Madelyn and Brandon.

Enrollment Open for All 2020 GSB Schools



The Graduate School of Banking (GSB) at the University of Wisconsin-Madison is wrapping up its 75th year of educating bankers and creating leaders in the industry. GSB is proud of its long tradition of success and enthusiastically looking forward to hosting exceptional programs in the year ahead.

Now is the time to budget and make plans to include these outstanding learning opportunities in your bank's professional development plan. Applications are currently being accepted for the following 2020 programs:

- **Graduate School of Banking:** Aug 2-14, 2020
- **Bank Technology Management School:** March 22-27, 2020
- **Human Resource Management School:** March 29-April 3, 2020

- **Financial Managers School:** Sept. 20-25, 2020
- **Sales and Marketing School:** Sept. 27-October 2, 2020
- **Bank Technology Security School:** Oct. 11-16, 2020

Scholarships Available

The SDBA offers scholarship opportunities to its members through the Herbert V. Prochnow Educational Foundation, a supporting organization to GSB. Scholarships are distributed through the SDBA for the Graduate School of Banking and the GSB Human Resource Management School.

The deadline to apply for the \$1,050 scholarship for the Human Resource Management School is Feb. 10, 2020. The deadline to apply for the Graduate School of Banking Scholarship, which is \$1,500 for each year of a student's attendance (a total value of \$4,500) is May 15, 2020. Learn more and apply for a scholarship at www.sdba.com/gsb-wisconsin.

OPPORTUNITY AWAITS AT GSB

The South Dakota Bankers Association is pleased to offer scholarship opportunities to its member bankers through the Herbert V. Prochnow Educational Foundation, a supporting organization to the Graduate School of Banking at the University of Wisconsin - Madison. Scholarships are distributed through the SDBA for the Graduate School of Banking and the GSB Human Resource Management School.

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Graduate School of Banking
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SDBA, Graduate School of Banking Colorado Seek Applicants for Future Leaders Scholarship



The Graduate School of Banking at Colorado (GSBC) is proud to partner with the SDBA to offer the GSBC Future Leaders Scholarship. The scholarship, in the amount of \$1,460, will be awarded to a recipient each year of their schooling.

About the School

GSBC's annual school session is a 25-month program hosted each July at the University of Colorado Boulder. For 70 years, banks have trusted 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 program the premier bank management training program for community banks nationwide.

Enrollment for the school is open until April 2020. The scholarship winner must enroll for the 2020 session. Those who enroll for the 70th annual school session will attend the below session dates in Boulder:

- July 19-31, 2020
- July 18-30, 2021
- July 17-29, 2022

How to Apply

The scholarship application deadline is March 1, 2020, and candidates will be notified by March 31, 2020, of selection decisions. Visit www.sdba.com/gsb-colorado to access and submit the online scholarship application. Supplementary materials (if applicable) can be sent to gsbc@gsbcolorado.org.

The scholarship will be awarded to one banker per state, per year, and the student must enroll as a first-year student. GSBC has three scholarship programs; there is a maximum of one scholarship award per student, disqualifying recipients of another GSBC scholarship from the Future Leaders Scholarship. For more information, see the GSBC scholarship page at www.gsbcolorado.org/programs/annual-school-session/scholarship-opportunities.

Questions, contact Blair Suddarth, GSBC, at 800.272.5138 or bsuddarth@gsbcolorado.org or Halley Lee, SDBA, at 605.224.1653 or hlee@sdba.com.

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More Than 230 Strong at SDBA Women in Banking Conference

More than 230 women strong and despite an approaching winter storm, the SDBA's LEAD STRONG: Women in Banking Conference took place on Oct. 10 at the Sioux Falls Convention Center, along with a networking reception the evening prior.



The conference is designed to encourage, support and inspire women to succeed in the workplace. The event benefits all levels of staff interested in the enhancement and career growth of women in banking.

Natalie Bartholomew, creator of The Girl Banker blog and chief administrative officer at Grand Savings Bank in Bentonville, Ark., shared her journey in the banking industry and spoke about the roles we all play in the future of the banking industry.

"As a female having an opportunity to take a step up in a role or take a step up in pay, you have to look at those things and not feel guilty about them," she said. "If you have opportunities, you need to listen to them, and think about what is best for you."

Bartholomew spoke on five messages:

- Support the girls around you.
- Brand yourself.
- Network, network, network.
- Mentor and be mentored.
- Advocate for the industry.

Jamica Quillin with the Office of Minority and Women Inclusion at the Federal Reserve Bank of Minneapolis spoke about diversity and inclusion in the banking industry. Other topics included getting noticed as a potential leader, next-level conversational banking services, improving your emotional intelligence, body language detection skills, daring leadership and team building.

Thank you to attendees who donated personal care items to be distributed to women in need through the Helpline Center.

Also, thank you to the sponsors who helped make this year's conference a success: Ballard Spahr LLP, First Bank & Trust, First Interstate Bank, First PREMIER Bank, Fiserv, Dacotah Bank, U.S. Bank, MetaBank, Eide Bailly LLP, Full Throttle Living, Bell Bank, Richland State Bank, Davenport Evans, Vantage Point Solutions, First Fidelity Bank and Rivers Edge Bank.

Mark your calendars for next year's LEAD STRONG: Women in Banking Conference set for Sept. 23-24, 2020, at the Sioux Falls Convention Center. 🌈





women in banking.....






*Together,
let's
make
it happen.*

Todd Holzwarth

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Appraisal Reporting— Certification and Signatures

Disclosing Prior Appraisal of a Property

Question: I occasionally receive requests to appraise a property that I have appraised in the past. Since the ETHICS RULE requires me to disclose all prior services that I performed within the three years prior to the date of acceptance of the assignment, isn't disclosing that I previously performed an appraisal on the property a violation of an appraiser's responsibility under the Confidentiality section of the ETHICS RULE?

Response: Generally, no. The Confidentiality section of the ETHICS RULE prohibits, with some exceptions, the disclosure of "confidential information or assignment results prepared for a client." The mere fact that an appraiser appraised a property is not confidential information as defined in USPAP. However, the appraiser must be careful not to disclose confidential information from a previous assignment in the new assignment.

Appraising a Property More Than Once in Three Years

Question: I am aware of the USPAP requirements to disclose to the client, both prior to accepting an assignment as well as in the certification of the report, services I performed on a property within the prior three years. However, I have been told that based on this requirement, USPAP prohibits me from appraising a property more than once within a three-year period. Is this true?

Response: No. The requirements in the Conduct section of the ETHICS RULE exist to inform the client of services that the appraiser has performed within the prior three years. USPAP places no restrictions on how many times an appraiser can appraise a specific property.

It should be noted that some appraisers may contractually agree with a client not to appraise a property for another client within a specified time frame, but agreements of this type are business decisions made by appraisers and are not USPAP requirements.

Disclosure Requirements When an Appraiser Has Not Performed Services Regarding a Property in the Prior Three Years

Question: I am aware of the disclosure requirements in the Conduct section of the ETHICS RULE to disclose any services I performed regarding the subject property (or the work under review) within the prior three years. If I have not performed any such services, am I required to make that disclosure as well?

Response: Yes. Standards Rules 2-3, 4-3, 6-3, 8-3 and 10-3 require the signed certification to include a statement with each report about whether the appraiser has performed any services regarding the property that is the subject of the report (or, for appraisal reviews, regarding the property that is the subject of the work under review).

Examples of appropriate disclosures for (1) an appraisal and (2) an appraisal review when the appraiser has performed no services within the past three years are, as follows:

(1) I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

(2) I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of this assignment.

Reminder: South Dakota does not allow an appraisal management company to prohibit an appraiser from reporting the fee paid to the appraiser in the body of the appraisal report. Violation of ARSD 20:77:07:03 is grounds for disciplinary action against the appraisal management company. 📊

If you have an appraisal related question that you would like to have answered in the "Ask the Appraiser" column, submit it to Sherry Bren, executive director of the Appraiser Certification Program, 308 S. Pierre St., Pierre, SD 57501, fax 605.773.5405 or by email to Sherry.Bren@state.sd.us.

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A Review of the CFPB's Latest Supervisory Highlights

By Victoria E. Stephen, Compliance Alliance

The Consumer Financial Protection Bureau (CFPB) recently released its Summer 2019 Supervisory Highlights, which includes key findings from the CFPB's exams for the most part between December 2018 to March 2019. In each edition, the Bureau chooses the areas where it has seen the most supervisory activity, and for this one, it highlighted auto loan origination, credit card account management, debt collection practices, FCRA information furnishing and mortgage loan origination.

Auto Loan Origination

In the auto loan origination space, the CFPB called out lenders who sell "GAP insurance" to consumers with low loan-to-value ratios because they likely would not benefit from the additional coverage. If the vehicle were stolen or damaged, the difference in the amount owed on the loan and the amount obtained from the insurance company is likely to be low. The Bureau found that consumers showed "that they lacked an understanding of a material aspect of the product" by purchasing a product they would not benefit from, and that lenders had enough information to know this and sold them the insurance anyway. This was considered an "abusive" practice because it took "unreasonable advantage" of this lack of understanding, and needless to say, a lot of GAP insurance was refunded.

Credit Card Account Management

The first issue in this area was with so-called "triggering terms" found in Reg. Z, 12 CFR 1026.16(b). In some exams, institutions included triggering terms in their advertisements and simply failed to provide some or all of the required additional disclosures. In others, there were issues with the "one click away" rule. Not only were some disclosures multiple clicks away, but some were not properly labeled at all or were not conspicuous. I'll note that these issues often come up in Compliance Alliance's document reviews, so it would be worthwhile to do a double check of your credit card ads before they're published.

This wasn't the end of the credit card issues either. In general, 12 CFR 1026.12(d) prohibits credit card issuers from offsetting credit card debt with a consumer's deposit account. However, there's an exception for a security interest in a deposit account if the consumer affirmatively agrees in the account-opening disclosures. The hangup is that the security



interest cannot be effectively the same as the right of offset, so an institution that just routinely includes a security interest provision in the cardholder agreement would generally not qualify for the exemption.

The Bureau highlighted that the consumer must be aware that granting a security interest is a condition for the credit card (or for more favorable terms on the account) and must specifically intend to grant a security interest in the account. Some indicators of the consumer awareness and intent mentioned were: (1) separate signature or initial lines on the agreement indicating that a security interest is being given; (2) placement of the security agreement on a separate page from any other disclosures; and (3) referencing a specific amount of deposited funds or a specific deposit account number.

Debt Collection Practices

The Fair Debt Collection Practices Act (FDCPA) of course prohibits using any false, deceptive or misleading representation or means in the process of collecting any debt. Specifically, Section 807(2)(A) of the FDCPA prohibits falsely representing the character, amount or legal status of any debt. Examiners found that certain debt collectors claimed that interest was owned on debts when, in fact, it was not authorized by the underlying contracts between the debt collectors and the creditors. In doing so, the debt collectors falsely represented to consumers the amount due and ultimately had to provide remediation. As a side note, a "debt collector" for FDCPA purposes generally does not include a bank that collects its own debts in its own name, but we've talked to many C/A members who follow the FDCPA rules as guidelines, even though they technically do not apply as a matter of law.

FCRA Information Furnishing

The Fair Credit Reporting Act (FCRA) requires that when a bank that is acting as an information "furnisher" receives a notice of a dispute from a consumer reporting agency (CRA), that it complete its own investigation generally within 30 days. Not only did some institutions miss this deadline, but others failed to conduct an investigation or respond at all. In addition, if a furnisher determines that previously furnished information is not complete or accurate, the furnisher must promptly let the CRA know and provide any corrections or additional information to make the reporting complete and accurate. Some failed to provide these corrections or updates, while others did so, but subsequently continued reporting inaccurate information after the correction.

Another issue cropped up with accounts that were paid-in-full or settled-in-full. Certain institutions had a practice of deleting the identification number when an account was paid in full, and this practice changed the search key that the furnishers used for matching when making account updates. As a result, the CFPB found that almost 2,000 accounts were not updated to reflect the correct paid-in-full or settled-in-full status.

The Bureau also found that when some institutions received consumer disputes, they continued furnishing information about the disputed accounts for several months without providing the CRA with notice that the information was disputed, in clear violation of the FCRA. In response to these findings, the CFPB required

them to set up enhanced monitoring activities, as well as policies and procedures on compliance with furnisher-specific requirements of the FCRA, in addition to providing evidence of corrective actions.

Mortgage Loan Origination

The focus of this section was on the inaccurate disclosure of annual percentage rates and total annual loan costs in reverse mortgage transactions. While most of our members do not originate reverse mortgages, this is still a sobering reminder of how pervasive a failure to properly calculate the APR can be and the very high cost of consumer restitution.

This covers the key takeaways that are most likely to affect our community bank members. To read the review in its entirety, visit <https://bit.ly/36gKXcA>.



Victoria E. Stephen, CRCM, serves as associate general counsel for Compliance Alliance. She heads C/A's team of hotline attorneys who assist members with the spectrum of regulatory compliance questions on a daily basis and serves as editor of C/A's monthly Access Magazine.

Stephen joined C/A in 2015 and has worked in corporate tax law, mergers and acquisitions, and performed legal research on a range of regulatory issues. For more information on Compliance Alliance, visit www.compliancealliance.com or call 888.353.3933.

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Brandon Spanier Promoted to Market President



Brandon Spanier of Faulkton has been promoted to market president of the Dacotah Bank location in Faulkton. His primary responsibilities include providing leadership and overseeing the loan and deposit operations of the Faulkton location. Other duties are to ensure that quality customer service is provided along with maintaining a positive relationship with existing and new customers.

Spanier first joined Dacotah Bank in 2012 as an agricultural banker. He earned a bachelor's degree in business administration from Presentation College and will complete the Graduate School of Banking at the University of Wisconsin-Madison in August 2020.

Spanier is involved in the community of Faulkton through his service on the Faulkton Area Economic Development Corporation, the president of Lakeside Country Club, and a board member on the Faulkton Housing and Redevelopment Commission.

Spanier and his wife, Melissa, have two boys, Kamden and Gibson. 🌈

Josh Pauli Joins Dacotah Bank Board



The Dacotah Bank Board of Directors discussed the value in the addition of a member versed in technology and cybersecurity. The Dacotah Bank Board elected Josh Pauli, vice president for research and director of the Cyclops Lab at Dakota State University in Madison, to the Board and its Audit Committee.

In addition to his administrative and faculty appointments at DSU, Pauli also serves on the faculty of the Graduate School of Banking in Madison, Wis., where he teaches cybersecurity best practices. Pauli also teaches internal courses and conducts classified research and development related to cybersecurity and cyber operations at the National Security Agency.

Pauli helped develop the Cybersecurity Enhancement Act of 2014, the Cyber Act of War Act of 2016, the Cyber Command Employment Personnel Training Act of 2016 and the National Defense Authorization Act for Fiscal Year 2016. He holds bachelor of science and master of science degrees from DSU and a PhD in software engineering from North Dakota State University. 🌈

Rusty Toupal Joins Bankwest as Business Development Officer

BankWest announced the addition of Rusty Toupal as a business development officer serving eastern South Dakota.

Mitchell Regional President Ryan Huber notes Toupal's experience with agriculture and the financial services sector will make him an integral part of the BankWest team.

"Rusty is a great addition to BankWest," Huber noted. "He understands the ag economy as it relates to our customers and will provide excellent service to eastern South Dakota area residents, businesses and ag producers."



Toupal has five years of ag lending experience and earned his bachelor's degree from South Dakota State University in Brookings. He has served as a member of the South Dakota Army National Guard since 2002 and helps as a Junior Achievement volunteer. He and his wife, Sarah, have four children: Connor, Cassidy, Raya and Lily.

"My customers' financial needs will always come first," said Toupal. "I will provide the outstanding products that BankWest offers and unsurpassed service to my customers." 🌈

BankWest Celebrates 130 Years

Sept. 2, 2019, marked BankWest's 130th year of business serving South Dakota communities. With a long-standing tradition of community pride, BankWest shared that sentiment with area residents and helped them give back to their communities.

In honor of the 130th anniversary, employees hid BankWest cash cubes in communities across the state. The individuals who found the cubes received a \$130 gift card and were able to select their favorite charity to also receive a \$130 donation from BankWest.

The following organizations received \$130: Armour Community Foundation, Delmont Volunteer Fire Department, Geddes American Legion Post, Connect in Gregory, Trevor's Legacy Foundation in Kadoka, Reliance United Methodist Church, Make-A-Wish Foundation of South Dakota, Weekend Snack Pack Inc. in Mitchell, Onida Fire Department, Missouri Shores Domestic Violence Center in Pierre, Oahe Hockey Association in Pierre, That Others May Live Foundation in Henderson, Nev., Western South Dakota Senior Services Inc. in Rapid City, Tripp Fire Department, and Winner Area Breast Cancer Foundation and Support Group Inc. The Walworth County Care Center received \$260 as the individual who found the cube in Selby donated their \$130 to the organization. 🌈



Azalea Perman finding a cash cube in Selby.

Larry Ness, Jerry Nachtigal Honored as Distinguished SDSU Alums

Larry Ness and the late Jerry Nachtigal were two of six people honored as distinguished alumni of South Dakota State University during activities during Hobo Day weekend on Oct. 4-5 in Brookings.



Larry Ness

Larry Ness, Yankton, graduated in 1969 with a degree in economics. Ness, a Sinai native and a 1963 Brookings High School graduate, is CEO of First Dakota National Bank and First Dakota Financial Corp. in Yankton. He became president of the then-troubled bank in 1983. Today, it is the 38th largest ag lender in the nation, and Ness was named 2018

Banker of the Year by NorthWestern Financial Review.

Ness also has been committed to the advancement of his alma mater. He has served on the SDSU Foundation's Council of Trustees since 2007. Ness and his wife, Diane, have contributed more than \$5 million to SDSU, making them among the 10 most generous individual donors in SDSU history. In addition, First Dakota National Bank has given nearly \$2 million to SDSU.

Today, the Ness Division of Management and Economics at SDSU bears his name, but that was at the

insistence of then-President David Chicoine, not the aspiration of Ness, said Steve Erpenbach, president of the SDSU Foundation. Ness stipulated that all donors be recognized equally with no mention of gift amounts.



Jerry Nachtigal

Jerry Nachtigal, a Brookings native, earned a degree in journalism in 1981 and began an 18-year career with The Associated Press. He then served four years as communications director for the Missouri governor's office. In 2003, he returned to South Dakota as senior vice president of public affairs for Citibank. He died from cancer April 16, 2017.

As nominator V.J. Smith wrote, "Cancer may have taken his life, but it could not steal his legacy."

In addition to his professional accomplishments, "Jerry Nachtigal was a true humanitarian," Smith wrote. An example of this is the work he did to help South Dakota organizations prepare high-quality grant proposals for consideration by the Citi Foundation in New York. As a result of this, funds were directed to low-income housing, quality child care and programs to ensure college readiness and accessibility for Native Americans and immigrants. ■■■

ABA Foundation Honors Banks with Community Commitment Awards

Eight banks earned the ABA Foundation's highest honor by being named Community Commitment Award winners for 2019. The annual awards recognize banks for their corporate



social responsibility efforts in categories ranging from affordable housing to economic inclusion. This year's winners also include a new award for banks going above and beyond to support military families. The 2019 winners were presented with their award at the ABA's Annual Convention in Seattle on Oct. 29.

"Banks of all sizes are stepping up their corporate social responsibility efforts to serve their communities, and this year's nominations in every category were incredibly impressive," said Rob Nichols, ABA president and CEO. "The programs developed by our Community Commitment Award winners stood out to our judges and really demonstrate how banks are helping communities solve challenging issues."

First National Bank of Omaha (FNBO) and Wells Fargo & Company were co-winners in the affordable housing category. FNBO was recognized for its Habitat for Humanity of Omaha Loan fund, which was

created to increase Habitat Omaha's ability to build and rehabilitate even more homes for low-income families. Wells Fargo & Company was recognized for its NeighborhoodLIFT® program, a collaboration with NeighborWorks® America and its network members, which offers homebuyer education plus down payment assistance grants for lower- and average- income households.

Citibank, New York, was the supporting military families award winner for its support of Bring Them HOMES, an initiative developed by the Local Initiatives Support Corporation to increase affordable and supportive housing for low-income, homeless and at-risk veterans.

First Interstate Bank headquartered in Billings, Mont., received honorable mention in the financial education category. See the full list of award winners at www.aba.com/advocacy/community-programs/community-commitment-awards/past-winners. ■■■

SDBA MEMBERS

Have information from your bank about promotions, accomplishments or branch news? Submit your Bank Notes stories and photos to Alisa Bousa at abousa@sdba.com.

Accountant, BankWest, Pierre, S.D.

BankWest, a family-owned business with more than 125-year history, is seeking a full-time accountant to join its financial services team. The successful candidate should possess a bachelor's degree in a related field as well as experience in accounting or finance, including budget experience or expertise and extensive use of spreadsheets. Our accountant is responsible for the input and oversight of various accounting transactions into multiple systems, analyzing financial data, and is responsible for providing management, the Board of Directors and regulatory agencies with accurate and timely financial reporting. Applicants are invited to review the full job description and complete an online application at: www.bankwest-sd.bank/about/careers/. Contact BankWest Human Resources at 800.253.0362 with questions. EO/AA. ■

Commercial Insurance Agent, CorInsurance, Mitchell, S.D.

If you are ready for your next move, consider joining our growing CorInsurance team as a commercial insurance agent! We are looking for an experienced agent to prospect and develop insurance relationships and provide each customer an exceptional insurance experience. This includes networking to prospect new customers and calling on existing customers to deepen relationships with us and provide professional referrals to other bank products and services. Primary duties would include ensuring that policy requirements are fulfilled, monitor claims to ensure they are settled equitably for both the client and insurer, sell various types of insurance policies on behalf of insurance companies; while performs all duties being conscientious to regulatory, transaction, reputation and cybersecurity risks to the business. Qualifications: combination of education and experience; valid South Dakota insurance licenses issued by SD Division of Insurance; agency experience preferred. With us, you can expect a family atmosphere committed to building outstanding teams. Paid time off, medical, dental and vision insurance, 401K. EOE. Contact Merle Scheiber at 605-996-6070 to learn more or apply today: <https://www.cortrustbank.com/careers/insurance-agent-mitchell>. ■

Insurance Agent, BankWest, Presho, S.D.

BankWest, a family-owned business with more than 125-year history, is seeking a full-time insurance agent to join its financial services team. The successful candidate should possess an industry recognized professional certification and related experience. Our insurance agents prospect, service and generate sales resulting in the achievement of the defined production and profitability goals for BankWest Insurance. Applicants are invited to review the full job description and complete an online application at: www.bankwest-sd.bank/about/careers/. Contact BankWest Human Resources at 800.253.0362 with questions. EO/AA. ■

CLASSIFIED LISTINGS

If you have a job opening at your bank, send your classified listing via email to abousa@sdba.com and we will post it on the SDBA website and print it in the SDBanker Magazine. The fee is \$50 per ad (200 word limit) for SDBA members or \$100 per ad (200 word limit) for non-members.

SBA Lending in South Dakota Surpasses \$67 Million

U.S. Small Business Administration (SBA) lending, both nationally and in South Dakota, continues to reflect strong economic trends during fiscal year 2019—the period Oct. 1, 2018, to Sept. 30, 2019. Nationally, the agency approved 63,539 7(a), 504 and microloans worth \$28.2 billion.



In South Dakota, SBA approved 160 guaranteed loans worth \$67.7 million, which created or retained more than 1,700 jobs in the state. Wells Fargo is the top SBA 7(a) lender in the state (20 loans worth \$4.4 million) and is also the top 504 lender (22 loans worth more than \$17 million).

"SBA's loan programs continue to show strong performance in 2019, and this strength should only continue given the President's pro-business agenda that will help more small businesses prosper in the coming year," said SBA Regional Administrator Dan Nordberg. "The SBA is building a more favorable environment for entrepreneurship and innovation across South Dakota and is helping entrepreneurs with the tools they need to start, grow and expand their businesses. I'm particularly proud of the work we've done to better assist underserved areas in both rural and urban communities."

A strong economy is powering America's 30 million small businesses, and the SBA's FY19 numbers bear that out. When the economy is doing well, 7(a) lenders are more willing to provide capital without the need for a federal loan guarantee. SBA's 504 and Microloan programs continued to grow from last year, as all of these loans are designed to create jobs and grow all small businesses in communities across the country.

"Our network of SBA lenders, resource partners and our SBA South Dakota team is committed to continuing to provide excellent service to get small businesses started and growing," said Jaime Wood, SBA's South Dakota District Director. "We're excited about the FY19 loan numbers and are looking ahead to further connecting small businesses to the resources they need to flourish!"

For more information on SBA's programs and services, visit www.sba.gov and follow on Twitter @SBA_SouthDakota. ■

Seminars/Conferences/Webinars/Schools

SDBA EVENTS

NEXT STEP: SDBA Emerging Leaders Summit

Nov. 5-6, 2019 | Sioux Falls

Certified Banking Security Manager

Nov. 5-6, 2019 | Sioux Falls

ABA Agricultural Credit Conference

Nov. 10-13, 2019 | Dallas, Texas

IRA Basics Seminar

Dec. 5, 2019 | Sioux Falls

SDBA 2020 State Legislative Day

Feb. 12, 2020 | Pierre

NDBA/SDBA Bank Management Conference

Feb. 14-15, 2020 | Scottsdale, Ariz.

IRA Update Seminar

March 5, 2020 | Sioux Falls

ABA 2020 Washington Summit

March 23-25, 2020 | Washington, D.C.

New Accounts Seminar

April 8-9, 2020 | Sioux Falls

SDBA Agricultural Credit Conference

April 15-17, 2020 | Pierre

2020 NDBA/SDBA Annual Convention

June 7-9, 2020 | Bismarck, N.D.

WEBINARS

For a complete list of webinars, visit www.sdba.com/webinars.

A Lender's Guide to Understanding and Assessing Commercial Real Estate Leases

November 18, 2019

Controlling the Risks of Power of Attorney Documents

November 19, 2019

Opening Accounts for Marijuana Related Businesses

November 19, 2019

Top 15 Issues with HMDA

November 20, 2019

IRS Information Reporting: Rules and Forms

November 20, 2019

FDIC Insurance Update and Review

November 21, 2019

Safe Deposit Marketing and Profitability

November 22, 2019

CECL: How to Calculate and Maintain a Proper Allowance

November 25, 2019

ACH Origination Risk Management

November 25, 2019

TRID Hot Spots

November 26, 2019

Understanding Revocable and Irrevocable Trust Documents

November 26, 2019

Commercial Construction Lending

December 2, 2019

Notary Public: More Than Just a Title

December 3, 2019

Loan Documentation 101: Basic Secured Loan Documentation

December 3, 2019

Loan Documentation 101: Two-Part Series

December 3, 2019

Loan Documentation 101: Lien Perfection, Business Collateral

December 4, 2019

Information Security Programs for Banks

December 4, 2019

Overdraft Requirements & Best Practices

December 5, 2019

Opening Foreign Business Accounts—CIP, CDD and Risk

December 5, 2019

Outsourced Third Party (Vendor) Management

December 9, 2019

Quarterly Compliance Briefing

December 10, 2019

Residential Construction Lending

December 10, 2019

Excel 101: Introduction to Spreadsheets

December 11, 2019

10 Practices to Create and Present Engaging Training

December 11, 2019

Top 50 "Most Important" Safe Deposit Procedures

December 12, 2019

Deposit Year End Wrap Up

December 12, 2019

Using Principles of Critical Thinking

December 13, 2019

SCHOOLS

GSB Bank Technology Management School

March 22-27, 2020 | Madison, Wis.

GSB HR Management School

March 29-April 3, 2020 | Madison, Wis.

Dakota School of Lending Principles

April 14-17, 2020 | Bismarck, N.D.

GSBC Executive Development Institute for Community Bankers

April 26-29, 2020 | Broomfield, Colo.

GSBC Community Bank Investments School

May 17-21, 2020 | Denver, Colo.

Dakota School of Banking

June 14-19, 2020 | Jamestown, N.D.

National School for Experienced Ag Bankers

June 22-25, 2020 | Spearfish

Graduate School of Banking Colorado

July 19-31, 2020 | Boulder, Colo.

GSBC Community Bankers Summit

July 27-29, 2020 | Boulder, Colo.

Graduate School of Banking Wisconsin

August 2-14, 2020 | Madison, Wis.

GSBC Workshop on Community Bank Investments

Sept. 16-18, 2020 | Las Vegas

GSB Financial Managers School

Sept. 20-25, 2020 | Madison, Wis.

GSB Strategic HR Forum

Sept. 24-25, 2020 | Minneapolis

GSB Sales and Marketing School

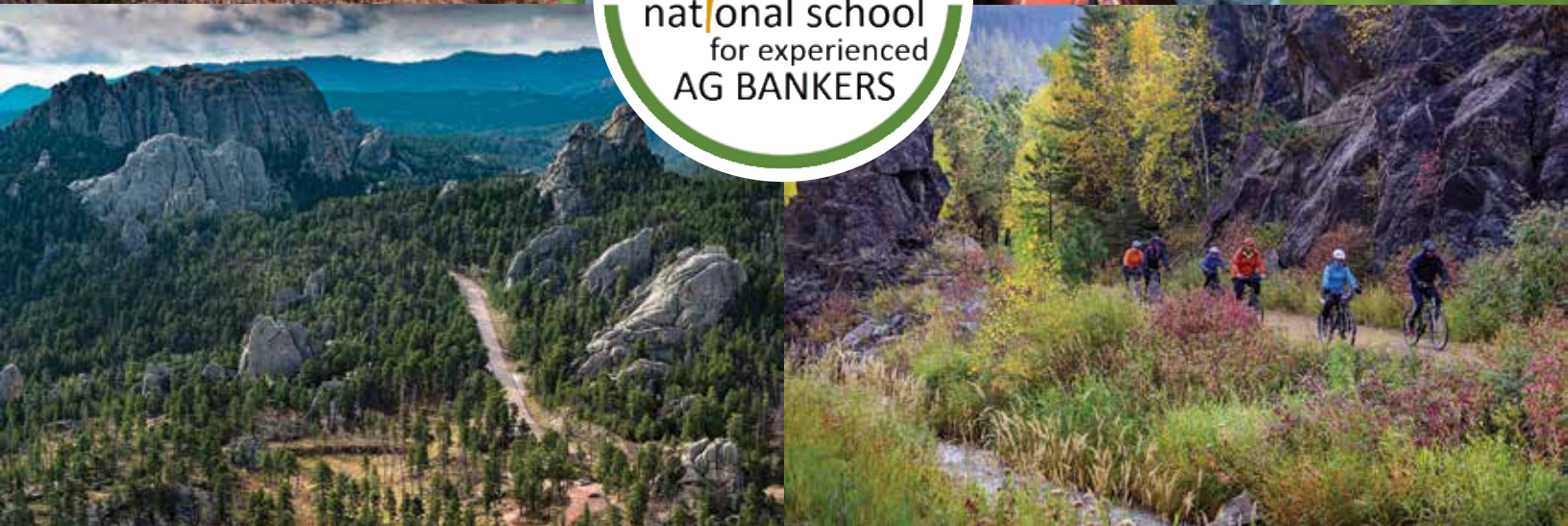
Sept. 27-Oct. 2, 2020 | Madison, Wis.

GSB Bank Technology Security School

October 11-16, 2020 | Dallas, Texas

BEYOND THE FUNDAMENTALS

2020 National School for Experienced Ag Bankers



Photos by South Dakota Tourism

JUNE 22-25, 2020

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