

## **ASK KENNEDY**

### **September 6, 2023**

---

#### Topics Covered:

- Special Guest: Vice President of Product Management for Abrigo, Russ Chacon
- Member Questions
- Bank Accounting Advisory Series
- FDIC 2023 Risk Review
- Agencies Issue Final Policy Statement on Real Estate Loan Accommodations and Workouts
- USDA Fast Track Pilot Program
- Tyler v. Hennepin County, Minnesota – U.S. Supreme Court Addresses Taking Home Equity
- FDIC Updates Equal Housing Lender Posters
- NDBA Useful Resources
- Upcoming NDBA Events

DISCLAIMER: THESE MATERIALS PROVIDE GENERAL INFORMATION AND ARE INTENDED FOR EDUCATIONAL PURPOSES ONLY. THESE MATERIALS DO NOT PROVIDE, NOR ARE THEY INTENDED TO SUBSTITUTE FOR, LEGAL ADVICE.

---

#### **Special Guest: Vice President of Product Management for Abrigo, Russ Chacon**

As the current Vice President of Production Management for Abrigo, Russ Chacon has extensive experience in the financial services industry, including experience in strategic planning, and product management. In addition to his extensive financial background, he has also served in a variety of leadership roles on behalf of industry leaders such as PayPal, Bank of America, and Fiserv. Russ joins us today to discuss the mechanics of the new FedNow service and how banks can utilize this service. Welcome, Russ!

---

#### **Member Questions**

**Question #1: Are there any other documents required by North Dakota state law that need to be provided to the consumer on a paid off non-real estate installment loan, other than a copy of the paid promissory note?**

**Response:** No, there is no separate North Dakota law for consumer non-real estate installment loans. UCC Article 3, found in Chapter 41-03 of the North Dakota Century Code is applicable to promissory notes as physical negotiable instruments. Sometimes the borrower/maker will ask for the original to be returned, however, a notation directly on the promissory note stating it has been paid will suffice.

---

### **Bank Accounting Advisory Series**

On August 15, the Office of the Comptroller of the Currency (OCC) released its annual update to the Bank Accounting Advisory Series (BAAS). The BAAS includes staff responses to frequently asked questions from the banking industry and bank examiners on a variety of finance-related topics.

To view the Bank Accounting Advisory Series, please visit this [link](#).

### **FDIC 2023 Risk Review**

On August 14, the FDIC published its 2023 Risk Review which summarizes the conditions in the U.S. economy, financial markets, and bank industry. The FDIC's Risk Review is an annual publication and based on year-end banking data from the prior year. The 2023 Risk Review provides a comprehensive summary of developments and risks within the U.S. banking system, and this year includes a new section focused on crypto-asset risk.

To view the 2023 Risk Review, please visit this [link](#).

### **Agencies Issue Final Policy Statement on Real Estate Loan Accommodations and Workouts**

The financial institution regulation agencies issued a final policy statement on real estate loan accommodations and workouts. These updates reinforce and build on existing supervisory guidance calling for financial institutions to work with creditworthy borrowers during stressful circumstances.

The statement includes a section on short-term loan accommodations that was not included in the previous guidance. An accommodation includes an agreement to defer one or more payments, make a partial payment, or provide other assistance or relief to a borrower who is experiencing a financial challenge. The statement also addresses recent accounting changes for estimating loan losses and provides examples of how to classify and account for loans affected by workout activity.

To view the final policy statement, visit this [link](#).

### **USDA Fast Track Pilot Program**

On August 3, notification of the Application Fast Track Pilot Program (AFT) was published in the Federal Register. AFT provides an accelerated underwriting process using financial data to benchmark and identify applicants least likely to default. This process provided through AFT will result in significant time savings and allow staff to reallocate time and resources to other priorities. AFT is currently active and will be in effect through September 30, 2024. Initial pilot offices for AFT in North Dakota include, Bottineau, Cass, Emmons, Ramsey, Traill, and Sioux counties.

For additional information on the program, please visit this [link](#).

---

### **Tyler v. Hennepin County, Minnesota – U.S. Supreme Court Addresses Taking Home Equity**

In Tyler v. Hennepin County, Minnesota, the County seized a condo and sold it for \$40,000 to satisfy a \$15,000 outstanding tax debt. The County then retained the remaining \$25,000 in home equity. Tyler sued the County alleging the County's retention of the \$25,000 in home equity was an unconstitutional taking. The District Court and Eighth Circuit ruled in favor of the County. Tyler appealed to the U.S. Supreme Court and in a landmark unanimous opinion the U.S. Supreme Court overturned the District and Circuit Courts, holding the retention of the home equity was an unconstitutional taking.

For a the full U.S. Supreme Court opinion, visit this [link](#).

### **FDIC Updates Equal Housing Lender Posters**

As required by the Fair Housing Act, FDIC-supervised institutions are required to maintain up-to-date Equal Housing Lender (EHL) posters. Recently, the FDIC had updated some of the details of the posters including the name of the office which complaints should be addressed, along with the web address of the FDIC's web-based complaint portal.

FDIC-supervised institutions may obtain complaint posters from the FDIC Online Catalog through this [link](#).

---

### **NDBA Useful Resources**

**Ask the Regulator Webinar** | September 14, 2023 | The Office of the Comptroller of the Currency Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation and National Credit Union Administration will hold an Ask the Regulators webinar to explain the revisions and additions to the policy statement. Register for the webinar [here](#).

**How to Successfully Implement the FedNow Service – A Webinar Series** | September 13, 2023 | To prepare for the Federal Reserve's FedNow Service, the ABA is providing a five-part webinar series that will help master the basics of FedNow and instant payments. Register for the September webinar [here](#).

---

### **Upcoming NBDA Events in 2023**

NBDA has many exciting and informational events coming up. Mark your calendars!

#### **TRAINING**

- **Breaking into Banking 201: Analyzing Repayment Sources** | September 7 | Virtual Training | Register [here](#).
- **Annual Bank Security Seminar** | October 17 | Bismarck or Virtual | Register [here](#).

#### **CONFERENCES**

- **Regional Member Meetings** | September 11 in Grand Forks | September 12 in Fargo | September 13 in Bismarck | September 14 in Minot | For more information, visit this [link](#).
  - **2023 Ag Credit Conference** | September 28-29, 2023 | Bismarck, ND or Virtual | For more information, visit this [link](#).
-

