

DECEMBER 2018

## BANCERVE PRESS

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*Merry Christmas and Happy Holidays from the Staff at MBA*

### 2018 Executive Development Program Graduation

Another Executive Development Program is in the books!! We made it through our fourth year of the Montana Bankers Association Executive Development Program. We had bankers from all across the state – Lewistown, Billings, Kalispell to Belt, meet in locations throughout the state – Missoula, Billings, Great Falls and Lewistown! The group of thirteen were taught by excellent instructors who did not score less than 4.5 on a scale of 5 in terms of knowledge and teaching ability.



Don Bennett, President/CEO of Freedom Bank, gave the keynote speech sharing his personal story of starting a bank in a double wide trailer and encouraging students to think outside the norm - which we can all agree, Don lives by every day.

In anticipation of this article, we asked the participants a few questions about the program and what they found of value in it:



Where do you feel you were professionally when you started the Executive Development Program?

*When I started the ED Program, I had a basic*

*understanding of Bank Financials and Management. The EDP taught me so much more about Bank Financials and Management of the bank, not to mention helping me grow as a person.*

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*Prior to EDP, I was somewhat confident in my ability to take the next step in my banking career. Now I am so much more comfortable in my role with the bank.*

What did you feel about the Executive Development Program when it began in January?

*Like most things, I approached with caution. It turned out to be far more beneficial to me as a banker and person than I ever imagined.*

*I was very excited to gain the knowledge necessary to grow my banking career.*

What changes have you seen in your personal skill level and banking knowledge as a result of the program?

*The Executive Development Program taught me a deeper knowledge about banking as a whole, but more importantly, it helped me become a better person and future leader of my bank. I believe I learned more about myself as a person, personal growth and other personalities than I did Bank Financials, which is essential to becoming a future leader.*

*The knowledge I gained from EDP has improved my ability to do my job effectively and has made me realize the areas where I need to gain more understanding.*

What has your participation in the Executive Development Program meant to you as an employee of your institution?

*The Executive Development Program helped me gain a deeper knowledge of the bank, which is so critical to becoming a future leader. My bank made the effort to send me to the EDP and not a dime was wasted. I learned so many things about so many different topics.*

*It made me proud that my institution invested the time and money to give me the tools to advance my banking career.*



Now we embark on our fifth year of the Executive Development Program. We currently have 13 registrants from Bank of the Rockies, Citizens Bank & Trust, First Security Bank of Missoula, Glacier Bank, Independence Bank, Pioneer Federal Savings & Loan, Rocky Mountain Bank and Stockman Bank. The program's design purposely maintains a small class size to facilitate productive group interaction and provide individual access to our "best-in-class" instructors. You have identified that "next-generation" leader in your bank that you want to prepare for the future, now is the time to enroll them in MBA's Executive Development Program.

Technically, registration for the program ends December 31, 2018 but please contact Pam O'Reilly at [pam@montanabankers.com](mailto:pam@montanabankers.com) or 406-441-4703. She will work with you as we continually strive to serve you, the member.

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*well with us!*

2018 Executive Development Program Graduates

*Curt Swenson, FutureSYNC and Steve Turkiewicz, MBA featured in many of the below pictures*



*Chris Hedrick & Denice Berger,  
Bank of the Rockies*



*Bob Burns & Kevin Cotner,  
Stockman Bank*



*Kris Eklund, Western Security  
Bank*



*Addie Fields, Bob Nystuen &  
Libby Fields, Glacier Bank*



*Steve Fawcett, Stockman Bank*



*Bob Nystuen & AJ Spear  
Glacier Bank*



*Gail Whitney & Jolene  
Giarde, Valley Bank of  
Helena*



*Scott Klein & Clay Redding,  
First State Bank of Forsyth*



*Paul Pahut & Brenton Melton,  
Stockman Bank*



*Bruce Hoyer & Jessica Schatzka,  
Belt Valley Bank*



*Frank Boucher, Jr. & Karen Shepherd,  
Valley Bank of Helena*



*Katie Eve, Little Horn  
State Bank*



*Brandon Briggs & Brent Taylor,  
First Security Bank of Missoula*

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Fax: 406/495-2674



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**2019 Federal Government Relations Agenda Shaping Up**

Rex Phipps, CEO – Garfield County Bank

Jeff Szyperski, ABA's newly elected Chairman, recently appointed me to the ABA's Government Relations Committee. My first meeting was in Washington, DC earlier this month. The GR Committee membership is made up of bankers from all of the states. We met to develop ABA's legislative agenda for 2019 and beyond. I was very impressed by how much ABA values the input of bankers from banks of all sizes and encourages all of us to be a part of determining the path forward for ABA legislative agenda.

We began the process by reviewing and discussing A Blueprint for Growth in 2018 and Beyond which is available on the ABA website: <https://www.aba.com/Advocacy/Issues/Pages/GR-Priorities.aspx>. The Blueprint for Growth sets the legislative priorities for ABA.

We met in small groups that included representatives from banks of all sizes along with an ABA staff member. We discussed the components of the Blueprint along with future concerns and other issues. A spokesperson from each group presented their group's thoughts to the entire GRC for discussion. In addition, there was an open mic session allowing GRC members to bring up topics or issues not brought up in the small group discussions. Through this process, we developed recommendations for changes to The Blueprint for Growth. Our recommendations will go to the ABA Board of Directors for review and approval. The revised Blueprint will be the foundation for the industry's 2019 legislative agenda.

As part of the program, we heard from a number of speakers including:

Robert Costa, a national political reporter for the Washington Post. As a Washington insider, he provided great insight into the current political climate in DC as well as what we may expect in 2019.

Congressman Gregory W. Meeks (D- New York). Congressman Meeks is a senior member of the House Financial Services Committee. Meeks shared his insight on what we can expect from the Democrat controlled House in 2019. Congressman Meeks also demonstrated an understanding of the importance of banks in our communities.



Kipp Kranbuhl, Acting Assistant Secretary for Financial Institutions for the U.S. Department of the Treasury. Kipp demonstrated a good understanding the importance of the banking industry to the economic success of the country.

The 2019 ABA Washington Summit will be held at the Washington Marriot Marquis on April 1-3, 2019; I hope to see you there. I believe it is more important than ever that we, as bankers, go to Washington, DC to tell our story and make sure our members of Congress and the regulators understand and value the role of our banks in our communities.

## Commercial Loans and the FCRA

By: Victoria E. Stephen, Compliance Alliance

The Fair Credit Reporting Act, or FCRA for short, basically regulates the furnishing and collecting of credit information and imposes certain disclosure requirements in connection with accessing credit reports. The FCRA itself is a statute and only a few parts of the statute have implementing regulations, so it can be particularly tricky to interpret at times.

One of the most common questions we get on the Compliance Alliance Hotline is whether the FCRA applies to commercial loans. Unfortunately, there's not a straightforward answer to this like there is for Regulations X or Z. Although the FCRA is generally limited to consumer purpose transactions, it also applies in some cases to commercial purpose transactions involving a consumer.

You might be asking, if there is a "consumer," how can this possibly be a commercial loan? Well, the answer is that the statute defines "consumer" very simply—just as an "individual":

§ 603. Definitions; rules of construction [15 U.S.C. § 1681a] ...

(c) The term "consumer" means an individual.

As you can see, there's no requirement that the individual be obtaining a product or service specifically for a consumer purpose. Likewise, the term "consumer report" includes other purposes besides just personal, family, or household purposes:

(d) Consumer Report (1) In general. The term "consumer report" means any written, oral, or other communication...used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for

(A) credit or insurance to be used primarily for personal, family, or household purposes;

(B) employment purposes; or

(C) any other purpose authorized under section 604 [§ 1681b].

Does this mean that the bank has to have a permissible purpose before pulling a credit report on an individual guarantor for a loan to a business entity? The answer to this is conclusively 'yes'—there always has to be some permissible purpose before pulling any consumer report on any individual. The question is whether the application itself is enough of a permissible purpose, since the individual is just a guarantor. For this, we turn to the Federal Trade Commission's (FTC) "Tatelbaum Opinion" which ultimately concludes that if an individual has any kind of personal liability on a business loan, including just a guarantee, there would be permissible purpose under the FCRA by means of the application for credit.

What about during the term of the loan though? Many banks regularly pull consumer reports on individuals throughout the term of the loan, and there's a question as to whether the need to review itself constitutes a permissible purpose. In the "Gowen Opinion," the FTC concludes that in order to have valid permissible purpose, the bank would need to have some authority to change the terms of the loan as a result of the review; for example, if the bank had the authority to terminate or freeze the loan if the report contained certain negative information. On the other hand, if the bank is just "reviewing" the report so as to potentially offer the borrower different terms, then it would generally not be allowed, "unless the contract expressly provides for such action."

As a caveat, however, these opinions are only informal guidance that are not binding on the FTC, and further,



interpretive authority for the FCRA technically transferred to the Consumer Financial Protection Bureau (CFPB) pursuant to the Dodd-Frank Act. While plenty of banks do rely on them, we would still recommend getting written authorization from the individual to pull credit. In fact, we'd recommend this in every case, for any consumer report pulled. This way, the bank can rely on that written authorization as valid permissible purpose to pull the consumer report, rather than having to justify that one of the other permissible purposes apply. Said another way, the bank always has a permissible purpose to obtain a consumer report if the individual authorizes this in writing. (For reference, the full list of permissible purposes can be found in § 604(a) of the FCRA).

Besides permissible purpose questions, the other common question we get on the Hotline is whether an adverse action notice has to be provided in a commercial context. The general rule in the FCRA is that if the bank obtains a consumer report and takes adverse action based (in whole or in part) on any information in the report, it must give the consumer an adverse action notice. The catch here is how the FCRA defines an "adverse action." The definition is based on Regulation B's (12 CFR § 1002) definition of "adverse action," which does not include guarantors:

...Under section 701(d)(6) of the ECOA and § [1002.2(c)] of Regulation B, only an applicant can experience adverse action. Further, a guarantor or co-signer is not deemed an applicant under § [1002.2(e)]. ...

Luckily, the FTC clarifies this in the "Stinneford Opinion." If the consumer is only a guarantor (or acting in a similar capacity in which she or he is only secondarily liable on the business-purpose loan), then an adverse action notice would not be required to be provided to the guarantor. This is true even if the application is being denied based on information from the consumer report of the guarantor. On the other hand, if the individual is a co-borrower (or acting in a similar capacity in which she or he is primarily liable on the loan), then a FCRA adverse action notice would be required.

If trying to figure out the difference between the two sounds like way too much work, the bank is welcome to provide an adverse action notice in both cases. Note, however, that any time the bank provides multiple FCRA adverse action notices, each individual should receive a separate adverse action notice with the credit score disclosures associated with just her or his own report. In other words, the individual should never receive the credit score information of another co-applicant.

Although the focus of this article is the FCRA, we always get a follow-up question regarding whether a Reg. B adverse action notice is required, even if a FCRA adverse action is not. According to Reg. B, the bank may provide the adverse action notice only to the primary applicant, if there is one, but it also does not prohibit the bank from providing a notice to each applicant if it chooses.

As always, Compliance Alliance and TBA members are welcome to contact us with any other questions by email at [hotline@compliancealliance.com](mailto:hotline@compliancealliance.com), or by calling 888-353-3933, or chatting in on the website. Non-members should direct inquiries to the Membership Team at [info@compliancealliance.com](mailto:info@compliancealliance.com)



**COMPLIANCE  
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## The Modernization of BSA

We hearing a lot in today's regulatory arena about "modernizing" regulations put in place over 30 years ago to align with today's society and banking practices. The conversation is mainly focused around modernizing the Bank Secrecy Act (BSA) and the Community Reinvestment Act (CRA). I think we can agree both need some revamping.

H.R. 6068, the Counter Terrorism and Illicit Finance Act, was introduced to the House Financial Services Committee in June of this year. If passed, this will be a step in the right direction towards modernization. Specifically, this bill calls for increases to the Currency Transaction Report (CTR) and Suspicious Activity Report (SAR) filing thresholds.

When CTRs were first introduced, \$10,000 was a significant amount of money. Due to inflation, it is estimated that it equals \$60,000 in today's economy. Do not get too excited though! The bill only calls to increase the filing threshold to \$30,000. While not aligning entirely with inflation, it will drastically decrease the 'paper pushing' that does not necessarily assist law enforcement in catching the true financial criminals. I think we can easily argue SARs are better at that job! Speaking of SARs – the bill also addresses SAR thresholds. It calls for an increase in the reportable threshold from \$5,000 to \$10,000.

Along with raising the thresholds, the bill addresses a handful of other topics, including streamlining the requirements for CTRs and SARs via a government-facilitated formal review of their requirements and their effectiveness, an 18-month enforcement safe harbor of the CDD rule, and encouraging the use of technological innovations. Many industry associations, lobbying groups, and regulatory agencies are in support of modernization efforts. You can read more on the bill here.

Make your voice heard on these updates – contact your political action committee of choice and take advantage of comment periods.

Jessica Caballero, CRCM

Caballero is a former OCC Examiner and currently Senior Manager of Strategy & Evangelism at Banker's Toolbox. Banker's Toolbox is the leading enterprise risk management solution for financial institutions, offering a suite of products to help mitigate risk and streamline compliance. The Banker's Toolbox team is a unique combination of seasoned bankers, former regulators, and information technology consultants who specialize in designing, developing, and implementing risk management solutions while providing unparalleled customer service. For more information, visit <https://www2.bankerstoolbox.com/MontanaBankers>.



## MT Department of Revenue to first-time filers: Keep your address current

The Montana Department of Revenue has an important message to anyone filing Montana income tax returns for the first time: Keep your mailing address current with the department. Otherwise, your state income tax refund could get delayed.

Nearly everyone who worked in Montana in 2019 is required to file a Montana state income tax return – and many people will receive a refund. But if you change your mailing address after you file your return, please notify the Montana Department of Revenue.

Here's why first-time filers need to do this: As part of its ongoing anti-fraud measures, the department will not send refunds by direct deposit to first-time filers – just paper checks, through the mail. And, the Post Office will not forward paper checks to your next address, so just changing your address with the Post Office won't be enough.

Changing your address is easy. You can download and complete a change-of-address form at [revenue.mt.gov](https://revenue.mt.gov). (Click on "Forms" and then on form ADD-CH; or just click here: <https://app.mt.gov/myrevenue/Endpoint/Form/ADD-CH>.) Or, call our Help Desk at (406) 444-6900.

In 2018, about 2,000 state income tax refunds came back to the department before eventually finding their rightful owners. The majority of those refunds belonged to college students.

And remember, the easiest, quickest and most secure way to file your tax return is electronically. The Department of Revenue lists several software options on its website, and there are organizations around the state that offer help with tax preparation, some for free or at low-cost for those who qualify.

So don't delay. Filing your return is easy, and it's the law. File by April 15 to avoid possible penalties or interest.

Call the Department at (406) 444-6900 or visit [revenue.mt.gov](https://revenue.mt.gov) for more information.



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**For more information, contact your Montana Calling Officers:**

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## Compliance Alliance Question of the Month

**Question:**

If the Bank identifies a bookkeeping error or a posting error prior to a commercial customer notifying the Bank, does the Bank still need to fill out the Error Resolution form and/or follow the procedures set out in Reg. E for errors? We know that we need to correct the error, of course.

**Answer:**

Technically the bank does not need to comply with the procedures set forth in section 1005.11 of Reg. E. This is for multiple reasons, though. The first and foremost reason being that the scope of Reg. E coverage is limited to consumer accounts, as the definition of “account” is narrowed to include only consumer-type accounts. Thus, when a bank encounters an error in respect to a commercial customer, the bank is not bound by Reg. E. The second reason being that errors discovered by the Bank, itself, are expressly carved out of the error resolution procedures of Reg. E. So, even if the error was in regards to a consumer account, for section 1005.11 procedures to kick in, the customer would need to notify the Bank of the error.

(b)(1) “Account” means a demand deposit (checking), savings, or other consumer asset account (other than an occasional or incidental credit balance in a credit plan) held directly or indirectly by a financial institution and established primarily for personal, family, or household purposes.

12 CFR § 1005.2(b)(1): <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1005/2/#b>

5. Discovery of error by institution. The error resolution procedures of this section apply when a notice of error is received from the consumer, and not when the financial institution itself discovers and corrects an error.

12 CFR § 1005.11(b)(1)-5: <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1005/Interp-11/#11-b-1-Interp>

However; check your disclosures to ensure the bank has not given error resolution rights to commercial customers. If it is disclosed, we must follow our contract with the customer.

**Question:**

Would the bank be violating Reg. O if it offered a higher Money Market rate for just shareholders?

**Answer:**

There is not a direct prohibition in Reg. O, since it primarily governs credit and not deposit accounts, like money market accounts. However, many banks have it in their internal policy to not give preferential interest rates to shareholders on deposit accounts either, to follow the spirit and intent of Reg O. Also, remember preferential treatment will oftentimes bring extra scrutiny.

Not a member? Learn more about membership with Compliance Alliance by attending one of our live demos:

- Live Weekly Demos on Tuesday’s and Thursday’s - register for them at [www.compliancealliance.com/news-events/events](http://www.compliancealliance.com/news-events/events)

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## 2019 MBA Conferences and Workshops



- ❑ 2019 Executive Development Program - 12 month program (January - December 2019) designed for insight into all aspects of community banking.
- ❑ 2019 Ag Banker Conference, Best Western Gran Tree, Bozeman, March 21 -22, 2019
- ❑ 2019 IRA Basics and Update, Hilton Garden Inn, Billings, March 26 -27, 2019
- ❑ 2019 IRA Basics and Update, Best Western Great Northern, Helena, March 28 -29, 2019
- ❑ 2019 Basics in Banking: Key Ratio Analysis & Basic Tax Returns, Best Western Gran Tree, Bozeman, April 11 - 12, 2019

Watch for upcoming Conferences and Workshops coming in 2019 at [www.montanabankers.com](http://www.montanabankers.com) or for more information contact Pam O'Reilly, Association Services Director, at 800/541-5126 or [pam@montanabankers.com](mailto:pam@montanabankers.com).



## *June 6 - 8, 2019*

***Plan ahead to join Montana  
Bankers Association  
&  
Wyoming Bankers Association at  
the Snow King Resort in  
Jackson Hole, Wyoming***





**Montana Bankers  
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**Upcoming Events**

**CRCM Exam Prep**  
January 14-18, 2019  
Nashville, TN

**Insurance Risk Management Conference**  
February 3-6, 2019  
Orlando, FL

**National Conference for Community Bankers**  
February 10-13, 2019  
San Diego, CA



**Upcoming Events**

**2019 Executive Development Program**  
Monthly 2019  
Billings, Bozeman, Helena, Lewistown,  
Missoula, Kalispell & Great Falls

**2019 Ag Banker Conference**  
March 21-22, 2019  
Best Western Gran Tree  
Bozeman

**IRA Basic and Update**  
March 26-27, 2019  
Hilton Garden Inn  
Billings

**IRA Basic and Update**  
March 28-29, 2019  
Best Western Great Northern  
Helena

**Basics in Bank Lending: Key Ratio Analysis &  
Basic Tax Returns**  
April 11-12, 2019  
Best Western Gran Tree Bozeman



**MFEC 2019 Calendar**



Chris Romano  
 President, Montana Financial Education Coalition  
 Non-Depository Bureau Chief  
 Montana Div. of Banking & Financial Institutions



**MFEC**  
 Montana Financial Education Coalition

Earlier this year I had the honor of representing the Montana Financial Education Coalition (MFEC) at the annual meeting of coalition leaders held by National Jump\$tart. During the meeting National Jump\$tart announced an exciting new initiative called Project Groundswell.

The primary goal of this initiative is to increase by 25 percent the number of U.S. elementary, middle and high school students who are receiving effective classroom-based financial education by 2025. To achieve this growth Project Groundswell also seeks a 25 percent growth in the number of teachers trained in personal finance education. National Jump\$tart plans to enlist the help of its affiliates such as MFEC to realize this vision. However, it will take the help of everyone...parents, family members, educators, and volunteers to make this happen. This serves as a reminder that financial education doesn't begin in the classroom, it begins at home.

This recognition is also why early on the MFEC adopted a scope which includes a cradle to the grave approach in advocating for financial education. The MFEC believes that financial literacy is a basic life skill that all of us need to be successful in life. It is this belief that fuels our coalition's dedication to empowering Montana citizens in making wise decisions toward their financial future.

We are a community-based coalition that is proactive in promoting personal financial health which also functions as a platform to forge partnerships and support research and best practices. This year we have supported our commitment to promoting financial education by sharing resources from our coalition partners, hosting a biennial conference themed Financial Education Matters, hosting an elder fraud and exploitation network convening in conjunction with the Consumer Financial Education Coalition, awarding financial education themed mini grants, and providing scholarships for teachers to attend Jump\$tart's National Educator Conference.



This year in creating our annual calendar, the MFEC went a slightly different direction in leveraging our coalition partnership with the First Interstate Bank Foundation. The photos contained in the calendar are derived from submissions to the First Interstate Bank 11th Annual Piggy Bank Contest. First Interstate Bank branches ran the piggy bank contest in conjunction with Financial Literacy Month and the American Banker Association's Teach Children to Save Day. Thank you to all the children who created their own unique piggy bank for the contest.

Publication and distribution of our calendar is made possible by contributions from sponsoring businesses and organizations who partner with MFEC to promote public awareness for the need of personal financial education and to improve the personal financial knowledge and decision making for all Montanans. The Montana Bankers Association sponsors April – Financial Literacy Month in the 2019 Calendar with funds from the MBA Education Endowment.



If you would like a calendar, Pam O'Reilly at [pam@montanabankers.com](mailto:pam@montanabankers.com) or 406-441-4703.