NDBA Live
August 12, 2026

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- ABA 2026 Fraud Education Campaign Updates
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Special Guest: Tara McFadden | Senior Vice President of Strategic Partnerships, North Dakota Bankers Association

Please welcome our guest, Tara McFadden! Tara is the Senior Vice President of Strategic Partnerships for the North Dakota Bankers Association. With more than two decades of experience in community banking and compliance leadership, she has built a reputation for regulatory expertise, relationship development, and service to North Dakota's banking industry. Prior to joining the NDBA, she held several leadership positions with Choice Bank, including Chief Compliance Officer. Tara is a Certified Regulatory Compliance Manager (CRCM) and Certified Community Bank Compliance Officer (CCBCO) and is committed to helping community banks thrive through collaboration, innovation, and strategic partnerships. When asked what she enjoys most about her role, Tara points to the opportunity to build meaningful partnerships that create value for member banks, encourage collaboration across the industry, and advance initiatives that help strengthen the future of banking in North Dakota. She will be discussing NDBA's 2026 Peer Groups, which include:

- Audit
- Chief Credit Officer (CCO)
- Chief Financial Officer (CFO)
- Collateral Valuation
- Communication and Marketing
- Community Reinvestment Act (CRA
- Compliance

- Credit Analyst
- Enterprise Risk Management (ERM)
- Fraud
- Front Line Operations
- Human Resources (HR)
- Information Technology (IT)

Member Questions

Question 1: Mom has a mortgage on real estate at Bank A. Mom sells real estate to son on contract for deed (2nd behind Bank A) and son makes payments at Bank A on existing loan. Son is now coming to my bank to pay out Bank A, but not the contract for deed with Mom (we will get Mom to subordinate 1st position to us). Would this loan qualify for the ACRE program on the son's loan?

Response: **This appears to be a legal question that should be directed to your counsel. I can provide general information regarding the ACRE Act and North Dakota law to help get you started and identify the issues that may need to be addressed.**

Federal Law

The Access to Credit for our Rural Economy (ACRE) Act defines a "qualified real estate loan" as any loan:

1. **secured by (a) rural or agricultural real estate or (b) a leasehold mortgage (with a status as a lien) on rural or agricultural real estate;**
2. **made to a person other than a specified foreign entity; and**
3. **made after the date of the enactment of this section [July 4, 2025].**

***See* 26 U.S.C. § 139L. Notice 2025-71 further provides that "[a] qualified real estate loan is secured by qualified rural or agricultural property only if, at the time interest income on such loan accrues, the qualified lender holds a valid and enforceable security interest with respect to the qualified rural or agricultural property under applicable law."**

"[A] loan shall not be treated as made after the date of the enactment of this section to the extent that the proceeds of such loan are used to refinance a loan which was made on or before the date of the enactment of this section (or, in the case of any series of refinancings, the original loan was made on or before such date). 26 U.S.C. § 139L.

North Dakota Law

Under North Dakota Law, a vendee under a contract for deed acquires an equitable title and interest in the real estate, while the vendor retains the legal title as security for the unpaid purchase price. *See Mid-America Steel v. Bjone*, 414 N.W.2d 591 (N.D. 1987). A mortgage is defined as "a contract by which specific real property capable of being transferred is hypothecated for the

performance of an act without requiring a change in possession, and includes a transfer of an interest in real property, other than a trust, made only to secure the performance of an act." N.D.C.C. § 35-03-01.1.

Issues

- **Whether the land is rural or agricultural real estate**
- **Whether the loan by your bank would be secured by the land or a leasehold mortgage on the land**
- **When Bank A made the loan to Mom**
- **Whether the loan by your bank would be deemed a refinancing of Bank A's loan**

Question 2: ND once had a restriction on late fee charges of $15 or 15%, whichever was less. I now see that NDCC 47-14-05 states, "*A charge for a late payment penalty may be imposed only if the amount of the late charge or the method of calculation of the late charge has been agreed to by the parties in the loan documents that are signed by the borrower."* Before changing our late fees for consumer and commercial loans (it's been about 20 years!), I want to make sure we're not missing something.

***One additional question: "*the method of calculation of the late charge has been agreed to by the parties in the loan documents that are signed by the borrower."* In this case, we'd be looking at changing all loan fees across the board. We would normally send a letter at least 30 days notifying borrowers of the change in fees; however, NDCC seems to suggest these fees would need to be agreed to by all parties at closing. Would we need every borrower to sign off on the new late fee charges, or could we just notify them?

Response: **Correct. A prior version of N.D.C.C. § 47-14-05 provided that "a charge for late payment penalty charged in addition to interest…may not exceed fifteen dollars or fifteen percent of the late payment, whichever is less, unless otherwise agreed to in any commercial, agricultural, or real estate note or mortgage." In March 2013, the statute was amended to remove the $15/15% cap and instead provide: "A charge for a late payment penalty may be imposed only if the amount of the late charge or the method of calculation of the late charge has been agreed to by the parties in the loan documents that are signed by the borrower." Accordingly, a borrower may agree to a different late charge or method of calculation of the late charge in the loan documents.**

Under the statute, banks cannot unilaterally change the late payment penalty. An executed agreement from the borrower is required.

SEC Commissioner Peirce Discuses Application of Federal Securities Laws to Crypto Vaults and On-Chain Lending

In a July 22, 2026 statement, SEC Commissioner Hester Peirce emphasized that while many crypto assets and activities may fall outside the federal securities laws, the migration of financial activities to blockchain technology does not, by itself, remove them from the SEC's jurisdiction. Focusing on crypto "vaults" and on-chain lending strategies, Peirce explained that these products vary significantly in structure, ranging from fully automated smart contract arrangements to platforms involving substantial managerial discretion. Depending on their specific design and operation, vaults and lending strategies may constitute investment contracts, investment companies, or notes that are securities, or otherwise trigger investment adviser issues. Peirce stressed that the analysis is highly fact-specific and should consider the economic realities of each arrangement rather than its technological form. She encouraged market participants to engage with the SEC to develop compliant structures and invited public input on whether existing regulations should be modified to accommodate innovation while continuing to protect investors and maintain fair, orderly, and efficient markets.

ABA 2026 Fraud Education Campaign Updates

The American Bankers Association (ABA) announced the return of its annual fraud awareness campaigns, #BanksNeverAskThat and #PracticeSafeChecks, for 2026. To prepare participating banks, the ABA is hosting a free webinar on August 26, 2026, providing an overview of the latest fraud and scam trends and introducing new campaign resources before the public launch on October 1, 2026. [Link]

House Financial Services Committee Seeks Public Input on CFPB Reform Proposal

The House Financial Services Committee is seeking public feedback on a discussion draft of legislation that would significantly reform the structure, authority, and oversight of the Consumer Financial Protection Bureau (CFPB). The request follows a recent committee hearing on the agency's future, with comments due by August 21, 2026.

The discussion draft proposes reforms across five key areas. It would bring the CFPB under the congressional appropriations process, establish an independent CFPB Inspector General, require more robust cost-benefit analyses and retrospective reviews of regulations, and reform the agency's use of civil penalty funds. The proposal also seeks to clarify the CFPB's authority under its unfair, deceptive, or abusive acts or practices (UDAAP) authority, add procedural safeguards for enforcement actions, clarify jurisdictional boundaries, and establish clearer statutes of limitation.

Additional provisions are intended to promote innovation in consumer financial services by encouraging small-dollar lending by depository institutions and requiring regulators to distinguish non-binding guidance from legally enforceable requirements. The draft also would revise the CFPB's supervisory framework by adjusting examination thresholds, allowing certain institutions to elect supervision by their prudential regulator for consumer compliance, strengthening interagency coordination, and narrowing the CFPB's authority over nonbank entities. Finally, the proposal aims to reduce "regulation by enforcement" by reforming civil money penalties, improving complaint procedures, updating supervisory thresholds, and enhancing protections for sensitive consumer data. The Committee is specifically requesting stakeholder feedback on each of these proposed reforms before moving forward with legislation.

[Link]

CFPB Submits New Section 1033 Open Banking Proposal

The CFPB has submitted a proposal entitled "Personal Financial Data Rights Reconsideration" to the Office of Information and Regulatory Affairs (OIRA). Although the substance of the proposal has not yet been released, the submission follows the CFPB's August 2025 advance notice of proposed rulemaking and signals a substantial reconsideration of the Biden-era 2024 Section 1033 rule. OIRA review is generally expected to be completed within 90 days, after which the CFPB may publish the proposed rule in the Federal Register for public comment. [Link]

Attorneys General Urge FCC Action to Combat Illegal Robocalls

A bipartisan coalition of 49 attorneys general urged the FCC to strengthen rules designed to prevent scammers from obtaining legitimate phone numbers to conduct illegal robocalls and fraud schemes. The coalition recommended enhanced Know Your Customer requirements for companies that assign and resell phone numbers, including customer verification, recordkeeping, reporting obligations, and safeguards against number cycling. The attorneys general noted that scammers increasingly use legitimate numbers rather than spoofed numbers, contributing to billions of scam calls and significant consumer losses. The proposed measures aim to improve law enforcement's ability to trace illegal calls and disrupt fraud operations.

Clarity Act

The Digital Asset Market Clarity Act (the "Clarity Act") is a major U.S. crypto market-structure bill that would establish a federal framework for regulating digital assets. The biggest issue the bill tries to resolve is the long-running SEC v. CFTC jurisdictional fight. The bill would generally make the CFTC the primary regulator for digital assets that qualify as commodities, while the SEC would retain authority over digital securities and certain investment-contract activities. It also creates registration and disclosure requirements for crypto exchanges, brokers, and other intermediaries. The U.S. Senate is delaying a vote on the Clarity Act until lawmakers return from their August recess next month.

Upcoming Events

NDBA has many exciting and informational events planned. Below are some special dates to mark on your calendars!

- **2026 Regional Member Meetings |** September 14-17, 2026 | Grand Forks, Fargo, Washburn and Minot | Link
- **NDBA Ag Credit Conference |** October 1-2, 2026 | Hilton Garden Inn, Fargo
- **2026 NDBA Peer Group Consortium |** October 13-14, 2026 | Bismarck | Link
- **2026 NDBA Fall IRA Seminars |** Link
    - **IRA Fundamentals |** October 26, 2026 | Holiday Inn, Bismarck
    - **IRA Advanced |** October 27, 2026 | Holiday Inn, Bismarck
    - **IRA Fundamentals |** October 28, 2026 | Holiday Inn, Fargo
    - **IRA Advanced |** October 29, 2026 | Holiday Inn, Fargo
- **Health Savings Account Seminar** | October 30, 2026 | Holiday Inn of Fargo
- **Bank Management Conference & Legislative Reception |** January 2027 | Bismarck
- **2027 Tri-State Trust Conference |** April 2027 | Fargo
- **2027 SDBA/NDBA Annual Convention |** June 6-8, 2027 | Sioux Falls, SD

TOKENIZED DEPOSITS

Bitcoin, stablecoins, and tokenized deposits are regular topics in discussions about the future of banking and payments (and in NDBA Live). Although these concepts are often discussed together, they represent different types of assets and different ways of moving or representing value. A basic understanding of those distinctions provides a useful starting point for looking more closely at tokenized deposits.

	Bitcoin	Stablecoin	Tokenized Deposit
What is it?	A digital asset designed to operate without a bank or central issuer	A digital token designed to maintain a stable value	A digital representation (token) of money held in a bank deposit account
Who issues it?	No central issuer	A private company or financial institution	A financial institution
What backs it?	Not backed by dollars or other assets	Liquid, low-risk reserve assets such as the U.S. dollar or short-term securities	The underlying bank deposit
Value	Changes based on the market	Designed to maintain 1:1 value with the U.S. dollar	Represents 1:1 deposit funds
Main Purpose	Digital asset / payment / investment	Digital payment instrument and settlement asset	Faster, programmable movement of bank money
Bank Relationship	Not required	May involve banks as reserve holders or service providers	Central to the product
Simple Analogy	Gold (You own the asset. Its value can rise or fall based on what people are willing to pay for it.)	Casino Chip (You hand over dollars and receive a chip with a fixed face value that the issuer is expected to honor.)	Debit Card (The card is a way of representing/accessing the money in your bank account; it is not the money itself.)

What is a Tokenized Deposit?

The easiest way to understand a tokenized deposit is to start with a traditional bank deposit. When a customer deposits $100 into a bank account, the bank records a $100 deposit liability. The customer then has a claim against the bank for $100 and the bank has an obligation to repay that amount in accordance with the terms of the account.

A tokenized deposit takes that familiar bank deposit and adds a digital token to it. Instead of the deposit existing only as an entry in the bank's traditional deposit system, the bank can create a digital token representing the deposit. That token can potentially be transferred or used for settlement through blockchain or another distributed-ledger technology. This means near-instant settlement and 24/7 availability. Another feature is programmability, which allows payments to occur automatically when certain conditions are satisfied.

Who is Building Tokenized Deposit Systems?

Tokenized deposits generally operate in a closed system with private blockchains in which funds are intended to be transferred only among the issuing bank's customers. Currently, a major focus of industry discussions around tokenized deposits is interoperability – the ability for a tokenized deposit issued by one bank to interact with or settle against tokenized deposits issued by another bank. A tokenized deposit system operating only within a single institution may provide efficiencies for that bank and its customers, but broader adoption will likely depend on whether tokenized deposits can move across institutions and connect with existing payment infrastructure.

A number of industry participants are working on different pieces of this infrastructure, from individual banks developing tokenized deposit products to payment networks and technology providers building systems designed to support broader connectivity:

- **Large Banks.** Large financial institutions have been among the earliest developers of tokenized deposit and on-chain money initiatives. For example, JPMorgan Chase & Co. has developed JPM Coin, which is generally described as a form of tokenized deposit used to facilitate the movement of commercial bank money on JPMorgan's private blockchain infrastructure.

- **The Clearing House.** On June 5, 2026, The Clearing House announced a new bank-led initiative involving a group of major financial institutions to establish infrastructure for the clearing and settlement of tokenized commercial bank money. The initiative is designed to allow tokenized deposits to move between banks within an established banking framework while also connecting blockchain-based activity with traditional payment rails, including the RTP and CHIPS networks. The stated use cases include programmable treasury operations, real-time liquidity management, cross-border payments, digital-asset settlement, agentic commerce, and automated financial workflows.

- **The Cari Network.** The Cari Network enables banks to issue and move tokenized deposits through a permissioned blockchain platform, enabling programmable payments. [Whitepaper]. It is a member of the American Bankers Association's (ABA) Premier Partner Network since July 2026.

- **Texas Bankers Association (TBA).** In February 2026, TBA announced it will offer member banks pilot access for tokenized deposit capabilities, enabled by San Antonio-based Vantage Bank's platform.

- **The Bank of North Dakota (BND).** The Bank of North Dakota has partnered with Fiserv to develop North Dakota's own stablecoin, the Roughrider coin. While this is a stablecoin rather than a tokenized deposit, the Roughrider Coin involves similar underlying technology and has been described as a payment mechanism available to North Dakota's banking system. [Link]

Legal and Regulatory Issues

Many discussions regarding tokenized deposits emphasize that they are intended to fit within the existing bank deposit framework. Because a tokenized deposit represents a deposit liability of a bank rather than a separate digital asset, industry participants generally view tokenized deposits as capable of operating within existing bank laws and regulations, including the deposit insurance framework.

Notwithstanding the foregoing, tokenization does introduce new questions regarding how existing deposit rules and customer protections apply when deposits can be transferred through digital infrastructure. For example, banks will need to consider how tokenized deposits interact with existing requirements and risk frameworks, such as fraud recovery processes, unauthorized transfers, cybersecurity obligations, third-party risk, and recordkeeping requirements.

Conclusion: What Community Banks Should Know

Tokenized deposits are not a replacement for traditional banking. Rather, they are an effort to make traditional bank money more transferable, programmable, and adaptable to emerging payment infrastructure. For community banks, the key question is not whether they need to develop a tokenized deposit product today, but how this technology may affect the future of payments, deposits, and customer expectations.

As the market develops, community banks should monitor how tokenized deposits address the practical issues that will determine adoption, including interoperability between institutions, regulatory treatment, deposit insurance, fraud recovery, cybersecurity, and third-party risk. Although tokenized deposits are intended to operate within the existing bank deposit framework, the systems and controls supporting them will be critical.