

NDBA Live

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Special Guests

Tara McFadden | SVP of Strategic Partnerships, NDBA

Please welcome one of our guests, Tara McFadden! Tara serves as the SVP of Strategic Partnerships for NDBA and will share insights into her role at NDBA, what bankers should know, how she supports member banks, and her experience attending the Washington Summit – both as a representative of her bank and as an emerging leader.

Rick Clayburgh | President and CEO, NDBA

Please also welcome Rick Clayburgh, President and CEO of NDBA! Rick will talk about the NDBA Legislative Committee and the emerging leaders opportunity for the Washington Summit.

The ABA Washington Summit is free for bankers to attend. NDBA offers a \$750 stipend to help cover expenses for member banks. In addition, there are two \$750 Emerging Leader scholarships available. Contact NDBA President and CEO Rick Clayburgh at rick@ndba.com for more information.

Member Questions

Question 1: Our bank is exempt from the remittance transfer Reg E rules because we're under the 500 / covered transactions per year. I'm thinking we would be exempt from the 1% tax on cross-border remittance transfers that was included in the One Big Beautiful Bill, but I suppose it depends on the exact wording in the statute and what does or doesn't come from within the regulation itself, which I don't think has yet been revised.

Response: The responsibilities under the new rule are imposed on a "remittance transfer provider." The term "remittance transfer provider" has the same meaning given by the Electronic Fund Transfer Act. [26 USC 4475\(e\)\(1\)](#). The Electronic Fund Transfer Act defines "remittance transfer provider" as "any person or financial institution that provides remittance transfers for a consumer in the normal course of its business, whether or not the consumer holds an account with such person or financial institution." 15 USC 1693o-1(g)(3). Reg E clarifies that a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person provided 500 or fewer remittance transfers in the previous calendar year and 500 or fewer in the current calendar year. 12 CFR 1005.30(f)(2)(i).

Accordingly, if you are not a "remittance transfer provider" under Reg E/EFTA by reason of the 500/fewer safe harbor, I think it is fair to say you are not a "remittance transfer provider" under the Internal Revenue Code provision.

Question 2: I sent a hold harmless to a bank and the money was subsequently back in our Fed GL. However, the bank later said "late claim" and pulled the money back. Broadly speaking, is a hold harmless enforceable without a signature and will a hold harmless protect a bank from a late return?

Response: A hold harmless agreement generally must be signed to be enforceable. The purpose of the hold harmless (or indemnification) in this type of scenario to shift risk: the paying bank agrees to cover any losses the other bank may experience if the claim results in an action against that bank (namely, by its customer). Accordingly, a hold harmless would protect the other bank for losses if it acts in reliance on your bank's assurance, but it does not make a late claim timely.

Question 3: Can we open a deposit account with two revocable living trusts as the owners, tenants in common? I have always said no to this more as a best practice, but it's been a few years since I have been asked.

Some things I found online suggested each state legislation could be different regarding this. I looked through Century Code title 59 and don't see anything

addressing this. Language around this seems to be for physical property itself, not bank accounts. Does NDBA have an opinion or guidance on whether a bank could or should do this? To me it seems like the trust itself would have to allow for assets to be co-mingled and even then, if a Grantor died and half the funds were frozen, seems risky that funds owned by one trust could be allocated to another.

Response: **There is nothing in North Dakota that prohibits a bank from opening a deposit account with two revocable living trusts as tenants in common. However, the bank should confirm that each trust instrument authorizes property to be held jointly with another trust. To that end, you should consider asking for a certification of trust that shows an excerpt from the trust designating the power for the transaction (ability to own an account with another revocable trust). See NDCC Section 59-18-13(5) below:**

5. A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

The account documentation should clearly state each the respective interests of each trust. Such an ownership structure may involve increased operational and risk considerations for the bank, including administration, authority, and potential disputes between trustees.

Ultimately, whether your bank wants to open such an account is up to you and if you do decide to do so consider my suggestions above.

Discover Fraud Alert

NDBA member banks have reported multiple incidents in which customers' check payable to Discover Card were altered or counterfeited to redirect the payee to various individuals. Similar activity is appearing in other states. Banks are urged to remain vigilant, particularly in light of rising mail theft-related check fraud.

OCC Requests Comments on Proposed Amendments to Heightened Standards

The Office of the Comptroller of the Currency (OCC) issued a notice of proposed rulemaking seeking public comment on changes to its heightened standards guidelines that apply to large national chartered banks, federal savings associations, and federal branches. The proposal is to raise the asset threshold from banks with \$50 billion+ in average total consolidated assets to those with \$700 billion+. Public comments on the proposed rule are due within 60 days after publication in the Federal Register. [[Link](#)]

OCC Updates Online Complaint Website for Unlawful Debanking

Back in September, the OCC issued bulletins for banks “to eliminate politicized or unlawful debanking in the federal banking system.” The OCC’s updated online customer complaint [website](#) allows customers who “have a problem with [their] national bank or federal savings association, or [who] believe [they] have been unfairly debanked or discriminated against...due to...political or religious beliefs or lawful business activities” to submit complaints.

Bowman Outlines Risk-Focused, Tailored Approach to Bank Supervision

Federal Reserve Vice Chair for Supervision Michelle Bowman outlined her vision for bank supervision and regulation, emphasizing a pragmatic, risk-focused approach. She stressed that supervision should target material financial risks rather than procedural issues and that oversight should be scaled according to the size and complexity of each institution. Bowman highlighted the importance of tailoring regulatory requirements to differentiate between community banks and larger, more complex institutions, avoiding a one-size-fits-all approach.

She called for improvements to supervisory rating systems to better reflect actual risk and financial condition, and encouraged examiners to focus on credit, interest rate, and liquidity risks over low-value procedural tasks, while maintaining transparency and fairness. Bowman also discussed the role of guidance in providing clarity on permissible activities, including emerging technologies such as digital assets and AI, while ensuring safety and soundness. She emphasized the need for well-trained examiners with strong professional expertise and pointed to the importance of reviewing the capital framework to ensure it appropriately captures risk without creating distortions.

Overall, Bowman presented a vision of U.S. bank supervision that balances practical oversight, targeted risk management, and adaptability to innovation, aiming to strengthen the financial system while reducing unnecessary burden on banks.

[\[Link\]](#)

Elderly Woman Loses \$700K in Scam; Banks Accused of Negligence

An 86-year-old woman lost nearly \$700,000 of her life savings in a sophisticated scam and is now suing multiple major banks, alleging negligence and failure to protect her from clear warning signs. The victim was targeted by fraudsters who used pop-up warnings over many months to convince her that her accounts were at risk and that withdrawing her funds was the only way to safeguard them. Despite the unusually large withdrawals (in 30 years, the victim’s withdrawals never exceeded \$5,000), the banks did not flag the activity or intervene. The victim had also previously submitted a fraud claim and out of concern for her cognitive health and susceptibility to being scammed added her niece as co-trustee or POA of her accounts. The lawsuit claims the institutions negligently failed to flag the atypical behavior and failed to contact her trustee and agent under her POA or decline the transactions.

OCC Approves 5 Crypto Companies for National Trust Charters

The OCC [announced](#) that it has conditionally approved five national trust bank charter applications. These approvals, which are subject to each applicant meeting required conditions, expand the number of national trust banks supervised by the OCC from 60 to 65. The approvals include de novo charters for First National Digital Currency Bank and Ripple National Trust Bank, as well as conversions from state trust companies to national trust banks for BitGo Bank & Trust, Fidelity Digital Assets, and Paxos Trust Company. Notably, each of these are crypto companies. While banking groups are questioning whether these companies have met the standards for the charter, which are supposed to serve a narrow, limited purpose, the OCC emphasized that these decisions followed its standard review process and said that new entrants contribute to a competitive, innovative federal banking system.

2026 Stablecoin Trends

[According to Noelle Acheson](#), stablecoins are shifting from a niche crypto product to core financial infrastructure, driven largely by nonbanks and new chartered entities. Traditional banks will be pulled in through partnerships, deposit token innovation, and client demand. Here are 5 trends to look out for in 2026:

- 1. Nonbanks will dominate stablecoin issuance:** Unsurprisingly, more stablecoins will be issued by nonbanks than banks. This is due, in part, because nonbanks can move faster in implementing new technology systems due to less regulation and the business model for new payment rails is clearer for nonbanks.
- 2. Stablecoins will integrate with banking—but mostly outside traditional banks:** Traditional banks are more likely to partner with fintechs to provide stablecoin on- and off-ramps rather than issue their own. Most innovation will come from new chartered financial entities (e.g., digital banks, trust banks, ILCs) that can blend deposits, stablecoins, lending, and Fed access.
- 3. Deposit tokens and stablecoins will increasingly converge:** By 2026, early experimentation is likely to expand as more banks recognize that they can preserve deposit relationships while still offering stablecoin-like functionality. This can be achieved by enabling funds to move between different token formats based on how and where they are used. Doing so will require greater comfort with public blockchain infrastructure, which may challenge traditional compliance approaches. However, increased flexibility for customers could strengthen deposit retention and open new revenue opportunities tied to on-chain activity and digital asset services.
- 4. Some traditional banks will test limited decentralization:** A small number of banks will experiment with smart contracts and decentralized features to reduce costs and improve efficiency, while still maintaining KYC/AML controls. Advances in digital identity could gradually expand peer-to-peer and automated capabilities within regulated frameworks.
- 5. Agentic (machine-to-machine) payments will enter bank planning:** Stablecoins are well-suited for AI-driven and automated payments, making them foundational for agentic payment systems. Banks are unlikely to build these systems directly at first, but clients will

expect banks to provide trusted fiat on-/off-ramps. Over time, programmable money may also be used internally by banks for operational efficiency

Update on Stablecoin Debate (GENIUS Act)

The American Bankers Association (ABA) continues to campaign to close the loophole in the GENIUS Act. With the Senate Banking Committee expected to consider related market structure legislation in mid-January, the President and CEO of the ABA is calling on CEOs, bank employees, and customers to contact Congress to support extending the interest/yield prohibition in the GENIUS Act to all stablecoin market participants. Crypto firms are lobbying aggressively to preserve the loophole, making industry engagement critical. To contact your senators, visit [Secure American Opportunity](#).

FDIC Proposes Approval Process for Bank-Issued Payment Stablecoins Under GENIUS Act

The Federal Deposit Insurance Corporation (FDIC) issued a [notice of proposed rulemaking](#) to implement the GENIUS Act by creating an approval process for FDIC-supervised insured state nonmember banks and state savings associations that want to issue payment stablecoins through subsidiaries. The proposal would add a framework under 12 CFR Part 303 specifying application requirements. It establishes firm timelines, requiring the FDIC to determine whether an application is substantially complete within 30 days and to act on a substantially complete application within 120 days, with failure to act resulting in deemed approval. Comments are due February 17, 2026.

Upcoming Events

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

- **Midwest Economic Forecast Forum** | January 14, 2026 | Virtual
- **NDBA Bank Management Conference** | February 13 & 14, 2026 | Fairmont Scottsdale Princess, Scottsdale, AZ
- **2026 Washington Summit** | March 9-11, 2026 | Marriott Marquis, Washington, DC
- **Dakota School of Lending Principles** | April 7-10, 2026 | Ramkota Hotel, Pierre, SD
- **Opening New Accounts Seminars** | April 22 & 23, 2026
- **Tri-State Trust Conference** | April 27-29, 2026 | Holiday Inn, Fargo
- **FDIC Directors College** | May 19, 2026 | Radisson Hotel, Bismarck
- **Dakota School of Banking** | May 31 – June 5, 2026 | University of Jamestown, Jamestown, ND
- **NDBA/SDBA Annual Convention** | June 15-17, 2026 | Bismarck, ND



- **National School for Beginning Ag Lenders** | June 22-25, 2026 | Spearfish SD
- **NDBA Ag Credit Conference** | October 1-2, 2026 | Hilton Garden Inn, Fargo