Banking/Insurance/Securities Laws, Court Cases Relevant to Jan. 23 Regulation Discussion

1791 The first Bank of the United States was established (with one-fifth equity by U.S. government). State banks already existed. Both types of banks issued bank notes.

1816 Second Bank of the U.S. created. (Also had one-fifth equity from U.S. government.)

1819 Supreme Court decided in McCulloch v. Maryland that the Supremacy Clause of the U.S. Constitution meant the "states 'have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operations' of an entity created under federal law." (Quoted from the OCC's preemption proposal in the Federal Register, Vol. 68, No. 150, p. 46120.)


1863-64 National Currency Act passed in 1863 with revisions in the National Bank Act in 1864. Established the Office of Comptroller of the Currency to oversee the national banks. Also set capitalization requirements.

1909 First credit union formed in Manchester, New Hampshire.

1913 Federal Reserve Act, created Federal Reserve system. All national banks had to be members; state banks could be members.

1927 McFadden Act prohibited interstate banking.

1932 Federal Home Loan Bank system created, worked with Savings and Loan Associations.

1933 Glass-Steagall Act (the Banking Act of 1933) passed and put into place post-Depression Era reforms intended to separate investment from commercial banking and to insure bank holdings to a certain level per account through the Federal Deposit Insurance Corp., which was created at that time. Federally chartered and state banks both signed up with the FDIC. Securities Act of 1933 passed to require information be provided to investors regarding securities being offered for sale and to prohibit misrepresentations and fraud in securities sales.

1934 Creation of the Securities and Exchange Commission.

1945 McCarran-Ferguson Act, authorized state regulation of insurance.

1950 Federal Deposit Insurance Act established on its own.

1956 Bank Holding Company Act required Federal Reserve Board approval for a bank holding company to be established. Prohibited acquisition of banks across state borders.

1970 National Credit Union Administration created, along with an independent share insurance fund, initially capitalized without tax dollars through the credit unions.

1978 International Banking Act allowed foreign banks to operate here under federal regulations.

1980 Depository Institutions Deregulation and Monetary Control Act passed, which blurred line
between banks and savings and loan associations.

1989 Financial Institutions Reform, Recovery and Enforcement Act abolished the FSLIC and gave the FDIC responsibility for insuring thrift institution deposits. Abolished the Federal Home Loan Bank Board and created the Federal Housing Finance Board and the Office of Thrift Supervision as replacements. The Act was an effort to fix the savings and loan debacle.

1994 Riegle-Neal Interstate Banking and Branching Efficiency Act allowed interstate banking, subject to concentration limits, state laws and Community Reinvestment Act compliance.

1996 Barnett Bank of Marion County v. Nelson, 517 U.S. 25, -- a U.S. Supreme Court case finding that "[W]here Congress has not expressly conditioned the grant of 'power' upon a grant of state permission, the Court has ordinarily found that no such condition applies." (As cited in the Federal Register Vol. 68, No. 150), p. 46121)

1999 Gramm-Leach-Bliley Act allowed bank holding companies to engage in securities and insurance activities. Preserved states' authority to regulate insurance but "prohibits state actions that have the effect of preventing bank-affiliated firms from selling insurance on an equal basis with other insurance agents." (information from www.fdic.gov/regulations/laws website, regarding important laws). Gramm-Leach-Bliley also restricted disclosure of nonpublic consumer financial information and required opt-out provisions.

2002 Sarbanes-Oxley Act provided standards to prevent stockbrokers and accounting firms from defrauding stockholders of publicly traded companies. The Act also required preservation of financial and audit records.

Montana Laws Affecting Financial Institutions
1887 First banking laws that regulate Montana banks.
1927 The Bank Act passed. Title 32, Chapter 1.
1937 Part 6 of Title 32 incorporates references to Federal Deposit Insurance Corp.
1959 Montana Consumer Loan Act passed. Title 32, chapter 5.
Montana Insurance Code enacted. Title 33, chapter 1 and following.
Implementation of McCarran-Ferguson Act enacted to regulate trade practices. Title 33, chapter 18.
"Wild card" statute passed for state banks to have powers of national banks, if approved by the regulating department. See statute below, with history.

32-1-362. National bank powers extended to state banks. (1) A bank organized under the laws of this state may engage in any activity or business in which the bank could engage if it were operating as a national bank if the power or activity is not expressly prohibited or limited by the laws of this state and:
   (a) if the power or activity is clearly authorized to national banks by federal statute, regulations, or interpretive ruling issued or adopted by a federal banking regulator having jurisdiction over national banks; and
   (b) upon application to and approval by the department.
(2) The department may adopt rules to govern the application procedure under this section. The department shall act upon an application under this section within 15 days of receipt of the application. The department may, for good cause, extend the time period for processing an application under this section for an additional 15 days. If the department fails to act on the application within 15 days of receipt of the application and does not extend the time period for good cause, the bank may engage in the activity requested without the approval of the department.

**History:** En. Sec. 1, Ch. 119, L. 1973; R.C.M. 1947, 5-1002.1; amd. Sec. 1, Ch. 163, L. 1981; amd. Sec. 8, Ch. 117, L. 1997; amd. Sec. 3, Ch. 100, L. 1999; amd. Sec. 3, Ch. 36, L. 2001.

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1975
Subsidiary Trust Company Act of 1975 passed. Title 32, Chapter 1.
Montana Credit Union Act passed, including "wild card" statute that gives state credit unions the powers of national credit unions, if approved by the regulating department. See statute below, with history. Title 32, chapter 3.

32-3-206. Authorized activities of credit unions. Upon written application to the department of administration, a credit union may engage in any activity in which a credit union could engage if it were operating as a federal chartered credit union at the time the authority is granted. The activities include but are not limited to the power to do any act and to own, possess, and carry as assets property including stocks, bonds, or other debentures that, at the time the authority is granted, are authorized under federal laws and regulations for transactions by federal credit unions and are not subject to any restrictions contained elsewhere in Montana law. However, the department may not charter a credit union not having a common bond of membership as defined in 32-3-304. The department shall approve an activity if it finds that the activity fosters competitive equality between state and federal credit unions and prevents adverse effects on members of state-chartered credit unions. If the department disapproves an activity, the credit union must be given an opportunity for a hearing pursuant to Title 2, chapter 4, part 6, to determine whether a compelling reason exists for denying approval of the activity for which the credit union applied.

**History:** En. 14-676 by Sec. 76, Ch. 38, L. 1975; R.C.M. 1947, 14-676; amd. Sec. 1, Ch. 522, L. 1985; amd. Sec. 12, Ch. 237, L. 2003.

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1977
Montana Electronic Funds Transfer Act passed. Title 32, part 6.
1979
Insurers Supervision, Rehabilitation, and Liquidation Act, Title 33, chapter 2, part 13
1981
Insurance Premium Finance Company Act passed. Title 33, chapter 14
1989
Regulation of Escrow Businesses Act passed. Title 32, part 7.
1995
Insurance Fraud Protection Act passed, Title 33, chapter 1, part 12.
1997
Montanan Foreign Capital Depository Act passed. Title 32, chapter 8.
1999
Montana Deferred Deposit Loan Act passed. Title 31, chapter 1, part 7.
2001
Uniform Electronic Transactions Act passed. Title 30, chapter 18.
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<th>Year</th>
<th>Description</th>
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<tr>
<td>2003</td>
<td>Montana Title Loan Act passed. Title 31, chapter 1, part 8.</td>
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<td>Montana Mortgage Broker and Loan Originator Licensing Act passed. Title 32, chapter 9.</td>
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