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## DIVISION OF BANKING

217 ½ West Missouri, Pierre, SD 57501  
605-773-3421

## MEMORANDUM

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NUMBER: 20-010

DATE: October 22, 2012

TO: SOUTH DAKOTA TRUST COMPANIES

FROM: BRET AFDAHL, Director

RE: AMENDED ADMINISTRATIVE RULES

This memo is a follow-up to Memo Number 20-009 dated June 8, 2012 which explained certain legislative changes made as part of House Bill 1045 (HB 1045). HB 1045 was an omnibus bill including most of the work of the Governor's Task Force on Trust Administration Review and Reform (Trust Task Force) for 2011. The two rules described in this memo were also a result of the work of the Trust Task Force in 2011 but are formally adopted by a separate process. These rules were amended by the South Dakota Banking Commission (Commission) at the request of the Division of Banking (Division) to provide for ongoing revenue needs to grow with the number of South Dakota chartered trust companies and to clearly define public trust company situs requirements. The Commission formally adopted both rule amendments by a unanimous vote following a public hearing on August 8, 2012 in Sioux Falls. The adopted rules were then presented to the Interim Rules Review Committee of the South Dakota Legislature on September 12, 2012 and received a unanimous vote in favor. The rule amendments became effective on October 9, 2012.

The Commission amended South Dakota Administrative Rule (ARSD) 20:07:22:01 to increase the asset based fee from \$.06 to \$.07 per \$10,000 in assets and to establish separate fee schedules for private and public trust companies with a minimum and maximum fee for each. As required in the rule, a separate fee calculator will be available on our website for each type of company and corresponding fee structure. An additional fee was also established for the costs incurred by the Division in the process of tracking compliance with enforcement actions placed on individual trust companies. Additional information regarding the payment of these fees will be provided by the Division in the near future as part of the annual report and fee payment notice process.

The Commission also amended ARSD 20:07:22:04, which defines the term "trust administration" for purposes of SDCL 51A-6A-11.1 and requires certain administrative acts be performed in South Dakota. The rule provides the basic options for compliance and allows some flexibility for companies the Division determines to be of low risk based on a review of their company profile. The rule also allows the Division to require additional administration be performed in South Dakota if deemed necessary. SDCL 51A-6A-11.1 provides public trust companies chartered in South Dakota prior to July 1, 2012 until July 1, 2015 to come into full compliance with the requirements in SDCL 51A-6A-11.1 and ARSD 20:07:22:04.

If you have any questions or need any additional information, please do not hesitate to contact the Division at 605-773-3421