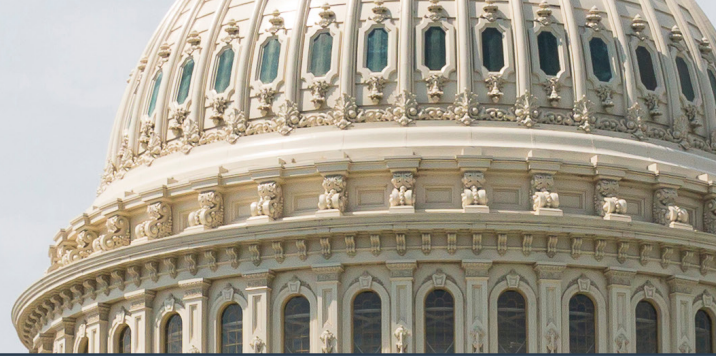


# CUNA GAC

## 2020 Legislative Issues



### Credit Union Difference and Not-For-Profit Tax Status

---

- Established by Congress over 80 years ago, CUs have a strong, positive reputation as member-owned, community-centered financial cooperatives.
- Congress designated CUs as not-for-profit organizations because of their unique structure and mission within the financial service industry.
- Banks were created and operate under their own distinct structure with a mission different from CUs.
- Congress has long recognized that different structures necessitate different tax treatments, not only in the financial service sector but throughout other areas of our economy
- While CUs don't pay corporate income tax because of the unique structure, we do pay all other applicable taxes, like payroll and social insurance, real estate, Unrelated Business Income Tax (UBIT), sales (state charters), etc.
- Banks can raise capital for the equity and bond markets. CUs can only raise capital through retained earnings.
- CU boards are drawn from members, elected by the members and serve as unpaid volunteers. Banks can provide stock options and ownership to their boards, executives and staff. CU directors and officers are focused on service as opposed to benefiting from stock appreciation. This important structural difference, as well as CUs' commitment to serve the unique needs of the underbanked and local economies, has contributed to the bipartisan support for the federal and state corporate income tax exemptions.
- CU profits are shared with members through higher savings returns, lower loan rates, fewer and lower fees, low-cost or free products and services and financial literacy programs.
- CUs focus on financial education for youth and adults.
- More than half of CU-originated mortgages go to borrowers earning middle incomes or less.
- 75% of CU branches are in middle, moderate, and low-income communities.
- We understand legislation may be offered that would take away the income tax exemption for large asset CUs (those over \$500 million) and subject these CUs to the Community Reinvestment Act.
- Michigan CUs are adamantly opposed to any such legislation and ask for support in defeating this or similar legislation.
- Allowing consumers to retain local access to financial services is an important goal of CUs
- According to data from the FDIC, NCUA and CUNA, CU branches have increased by more than 1,500 while bank branches have declined by more than 4,700, mostly due to bank failures or low profitability.
- From 2012 to mid-year 2019, there have been more than 2,000 bank of bank acquisitions, totaling \$1.7 trillion in assets vs. 30 transactions where CUs have acquired bank assets and liabilities.
- As bank branch closures create financial deserts, CUs step up to provide basic access to financial services. For example CUs:
  - Keep earnings local by serving the community, not local investors
  - Offer better rates and lower fees than many megabank buyers
  - Retain more staff than competitors
  - Offer cash which can be taxed rather than an all-stock buyout

**Why this matters for consumers:** The CU not-for-profit tax status serves as the foundation on which each CU is established, operates and serves its members and communities. Without it, the benefits realized both by members and non-members would not exist and consumer financial costs would be higher.

## Data Security and Privacy

---

- Since 2005, more than 10,000 data breaches have occurred, exposing more than 11.6 billion records.
- The retail industry's self-policing and lack of meaningful security standards is woefully inadequate.
- Financial institutions are forced to assume the costs related to card replacement, fraud control, member communication and most, if not all, of the fraudulent transaction cost.
- Data must be secure and private, no matter who holds it.
- While draft data privacy/security legislation is being reviewed by the House Energy and Commerce Committee and Senate Banking Committee, no formal comprehensive legislation has been introduced yet.
- We ask that you work with us to ensure the bills, if introduced, reflect our priorities and that you then work to build support for its passage.
- Laws put in place years ago, the Gramm Leach Bliley Act (GLBA) and the Health Insurance Privacy and Accountability Act (HIPPA) are no longer enough to keep Americans' data private and secure.
- Congress should pass legislation that holds all Americans' data — and those who keep the data — to modern high standards.

**Why this matters for consumers:** Consumers have a huge stake in the data privacy/security debate. Not only do they deserve better protections from the retail community in terms of the safeguarding of personal ID and financial information, consumers also deserve relief from the costs associated with data breaches. These costs are ultimately passed along to consumers in terms of higher prices for products, higher fees/ rates, etc. Stronger data security laws will force bad actors to strengthen systems, resulting in a decline in data breaches and fewer costs being passed on to consumers.

## Modernizing the Federal Credit Union Act

---

- The financial service industry is rapidly changing. Advancements in technology have significantly changed our society and how financial institutions do business.
- Consolidation continues to increase the average size of CUs.
- Updating the Federal Credit Union Act has become necessary to ensure federally chartered CUs have the power and flexibility to be competitive and best serve their members.
- H.R. 1661 has been introduced to eliminate the 15- year loan maturity limit on non-mortgage loans. Doing so will expand consumer access to affordable student loan and agriculture, fishing and other business lending products.
- H.R. 2305, the Veterans Members Business Loan Act and its Senate companion, S. 2834, have also been introduced. The bill would exempt loans made to veterans from the member business loan cap.
- Congress should also introduce and pass legislation that:
  - Removes outdated responsibilities of federal CU boards of directors.
  - Modernizes governance and procedures for federal CUs.
  - Permits CUs to establish their own fiscal year.
  - Permits electronic balloting for conversions from state to federal charter and from federal to state charter.
  - Provide relief to CUs for loans made to groups such as farmers, veterans, minorities and women.

**Why this matters for consumers:** CU members will have access to products and services that better reflect the needs of today's consumer.

## Cannabis Banking SAFE Harbor

---

### For meetings with U.S. House Members:

- Last September, the Secure and Fair Enforcement (SAFE) Banking Act, H.R. 1595, was passed by the House on a 321-103 vote. Members from Michigan voting in support include: Reps. Amash, Dingell, Kildee, Lawrence, Levin, Mitchell, Slotkin, Stevens, Tlaib and Upton. If your member is listed, please thank them!
- It remains to be seen whether the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act, H.R. 2093, will be voted on. We urge the House to bring it up for a vote and ask for your support of the bill.
- Both the SAFE Banking Act and STATES Act would provide safe harbor protections to financial institutions from regulatory punishment for providing services to legal cannabis businesses in states where cannabis is legalized.
- While the SAFE Banking Act is solely focused on cannabis banking matters (providing financial institutions a safe harbor to serve the industry), the STATES Act takes a more comprehensive approach on cannabis. In addition to the safe harbor language for financial institutions, the STATES Act amends the Controlled Substances Act to curb federal enforcement against state-legal cannabis activity, prevents the forfeiture of assets derived from these businesses and protects state-legal businesses from federal money laundering laws.

**Why this matters for consumers:** By passing legislation that allows CUs and other financial institutions to responsibly serve cannabis businesses, Congress will: move millions of dollars in cash off the streets into monitored, regulated accounts; improve safety and security for countless towns; and enhance financial well-being for thousands of businesses.

## Cannabis Banking SAFE Harbor

---

### For meetings with U.S. Senators:

- The House passed the Secure and Fair Enforcement (SAFE) Banking Act, H.R. 1595, last fall.
- Thank you, Senator Peters, for co-sponsoring the Senate version, S. 1200.
- Senate Banking Committee Chairman Mike Crapo appears reluctant to bring the SAFE Banking Act up for consideration in committee.
- Senators Peters and Stabenow, please urge Chairman Crapo, either directly or through members of the Committee, to take up the SAFE Banking Act or introduce his own version of a cannabis banking bill and take it up in committee.
- It remains to be seen whether the Strengthening of the Tenth Amendment Through Entrusting States (STATES) Act, S.1028, will be voted on. We urge the Senate to bring it up for a vote and ask for your support of the bill.
- Both the SAFE Banking Act and STATES Act would provide safe-harbor protections to financial institutions from regulatory punishment for providing services to legal cannabis businesses in states where cannabis is legalized.
- The bills would bring cannabis-related cash into the legitimate framework of financial institutions.
- This is a matter of public safety, trafficking prevention and, in some respects, even a public health necessity.
- The Michigan Governor, Attorney General, Department of Insurance and Finance Services (DIFS) Director and House of Representatives are formally on record urging Congress to act on safe harbor legislation.
- While the SAFE Banking Act is solely focused on cannabis banking matters (providing financial institutions a safe harbor to serve the industry), the STATES Act takes a more comprehensive approach on cannabis. In addition to the safe harbor language for financial institutions, the STATES Act amends the Controlled Substances Act to curb federal enforcement against state-legal cannabis activity, prevents the forfeiture of assets derived from these businesses and protects state-legal businesses from federal money laundering laws.

**Why this matters for consumers:** By passing legislation that allows CUs and other financial institutions to responsibly serve cannabis businesses, Congress will: move millions of dollars in cash off the streets into monitored, regulated accounts; improve safety and security for countless towns; and enhance financial well-being for thousands of businesses.

## Bank Secrecy Act/Anti-Money Laundering Reform

---

- CUs take Bank Secrecy Act and Anti-Money Laundering (BSA/AML) compliance very seriously and dedicate significant resources to it.
- CUs often spend their limited resources disproportionately on compliance, which means fewer resources are available to spend on innovation and providing safe and affordable products and services.
- H.R. 2514, the Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform (COUNTER) Act, was passed by the U.S. House last fall, both as a stand-alone bill and as part of H.R. 2513, the Corporate Responsibility Act.
- H.R. 2513 would require certain companies and LLC's to disclose beneficial ownership information to FinCen and provisions of H.R. 2514 included in that bill would provide some good initial reforms for CUs, such as indexing the currency transaction reporting (CTR) threshold for inflation.
- The bill would also require a study on a modified suspicious activity report (SAR) form and a review of financial institution reporting requirements under the BSA and require the Treasury Department and other appropriate departments/agencies to propose reforms to reduce the regulatory burden.
- S. 2563, the ILLICIT CASH Act, was introduced in the Senate in December of last year. The bill would, among other things:
  - Require annual reports from the Department of Justice to Treasury on the use of BSA reporting by law enforcement.
  - Require periodic law enforcement feedback to financial institutions on their suspicious activity reports.
  - Review and streamline reporting requirements to ensure a "high degree of usefulness" for CTR/SAR filings.
  - Require Treasury and the Attorney General to review the CTR and SAR thresholds and determine whether any changes are necessary.
- We support efforts by Congress, including those in H.R. 2513 and H.R. 2514, along with S. 2563, to reduce the compliance burden on CUs while also ensuring the government has access to the information it needs to combat crime.
- Furthermore, CUs urge Congress to adopt legislation that:
  - Minimizes redundancies, including the reporting of the same or similar information.
  - Provides additional flexibility based on the reporting institution type or level of transactions.
  - Curtails the continually enhanced Customer Due Diligence (CDD) rule requirements.
  - Increases the CTR threshold immediately and allows for periodic adjustments going forward.

**Why this matters for consumers:** While still meeting the goals of BSA/AML laws and regulations, common-sense reforms will allow CUs to focus more of their limited resources on high-risk accounts and on delivering better overall products and services to all members.

## Housing Finance Reform

---

- Following the Great Recession, it's clear we need to fix our flawed housing finance system.
- CUs are significant participants in the secondary mortgage market.
- According to CUNA and the NCUA, CUs, for the year ending 9/19, originated \$152.2 billion in first mortgages, helping 710,000 families realize the American dream of owning a home.
- More than half of the first mortgages went to borrowers earning middle incomes or less.
- Equal access to a secondary market for lenders of all sizes provides consumers with more options when choosing a mortgage partner.
- Predictable, affordable mortgage payments help qualified consumers realize their dream of home ownership.
- A reasonable and orderly transition to a new housing finance system reduces costs and confusion for stakeholders and, ultimately, consumers.
- Strong oversight and supervision ensure consumer safety and market soundness.
- Durability through an explicit federally insured or guaranteed component is essential to ensure that, even in hard economic times, the secondary mortgage market exists.
- Preserve what works, such as cost-effective and member-oriented credit union mortgage-servicing options, consumer education and home-purchase counseling, and applying reasonable confirming loan limits that adequately consider local real estate costs in higher cost areas.

**Why this matters for consumers:** Access to responsible mortgage credit is vital to realizing the American dream.