2021 KEY FEDERAL ISSUES

2021 CUNA GAC Update

Credit Union Difference

- Established by Congress over 80 years ago, credit unions have a strong, positive reputation as member-owned, community-centered financial cooperatives.
- Congress designated credit unions 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 credit unions.
- 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.
- Banks can raise capital for the equity and bond markets. Credit unions can only raise capital through retained earnings.
- Credit union 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. Credit union directors and officers are focused on service as opposed to benefiting from stock appreciation.
- These important structural differences, as well as credit unions' 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.
- We anticipate credit union opponents will seek, as they did in the 116th Congress, to have legislation introduced that would eliminate the income tax exemption for credit unions, either across the board or focused on large asset credit unions and subject credit unions to the Community Reinvestment Act (CRA).
- Michigan credit unions are adamantly opposed to any such legislation and ask for support in defeating this or similar legislation.
- Credit unions are not subject to the CRA for many reasons, among them:
  - At no time in our 100-plus year history have credit unions engaged in "redlining", we are member owned financial institutions that serve the needs of our members,
  - We are committed to serving diverse and historically underserved communities,
  - 75% of credit union branches are in middle, moderate and low-income communities, and
  - Importantly, our consumer-focused model is self-regulating.

The Pandemic Recovery Continues: How Credit Unions Can Help

- Credit unions are our nation's financial first responders and are fully committed to supporting people most in need.
- Credit unions have a long history of service through disasters, emergencies and disruptions, tailoring services to meet the most immediate and long-term needs and providing direct assistance to their members in the form of:
  - Low and no-interest loans
  - Payment forbearance
  - Fee waivers
  - Payroll advances
  - Loan modifications
- As the pandemic continues, we urge Congress to take the following immediate actions to assist those most impacted by the crisis and to afford credit unions additional flexibility needed to help those struggling to make ends meet.
- We ask that Congress:
  - **Establish a $75 billion Housing Assistance Fund modeled after the Hardest Hit Fund created during the Great Recession approximately 10 years ago.** The Housing Assistance Fund would provide funding to State Housing Finance Agencies, who will then help individuals and families at significant risk of losing their homes due to the ongoing pandemic.
  - **Exempt member business loans during and for one year after the National Emergency.** As the pandemic persists, small businesses will continue to need capital and credit unions are able to pump billions into the economy at no cost to the government and, according to the SBA, with little impact on business lending conducted by banks.
  - **Provide temporary flexibility to NCUA to offer forbearance from prompt corrective action requirements.** While credit unions entered the crisis extremely well-capitalized, the impact of the ensuing economic crisis has and will put stress on capital and, given credit unions' limited ability to raise capital, the regulator could use additional tools.

Protecting Consumers

- As not-for-profit cooperatives, we treat our members as if they own the credit union, because they do.
- By taking a few critical steps to modernize the Consumer Financial Protection Bureau (CFPB), Congress can help credit unions improve the financial well-being of millions of consumers.
- Credit unions recommend the steps be taken to modernize the CFPB:
  - **Establish a multi-member leadership commission to oversee CFPB.** When regulations change due to new administrations, credit unions are forced to shift resources away from consumers to catch up. A diverse commission would create a strong, stable and consistent environment for financial institutions and consumers.
  - **The Bureau should tailor policies to fit credit unions' unique model.** Policies that apply to cooperative, not-for-profit credit unions should be informed by the NCUA and separate from those meant to rein in abusive Wall Street actors.
  - **The Bureau should maintain and expand accommodations for small service providers.** By providing compliance flexibility — such as reduced remittance requirements and expanded HMDA relief — smaller credit unions can expand services to members.
- At the end of the day, consumers lose when credit unions are treated like Wall Street banks.
  - These reforms will prove beneficial for consumers for years to come

Voluntary Overdraft Protection

- We anticipate that legislation will once again be introduced related to voluntary overdraft protection services and fees offered by financial institutions. In the past, these efforts sought to:
  - Prohibit overdraft fees on debit card transactions and ATM withdrawals.
  - Prohibit financial institutions from charging more than one overdraft fee per month and no more than six overdraft fees in any single calendar year for check and recurring bill payment overdrafts.
  - Limit check and recurring bill payment overdrafts fees to an amount that is reasonable and proportional to the financial institution's costs in providing the overdraft coverage.
  - Mandate a three-day waiting period between when an individual opens a new account and when a financial institution may offer overdraft protection.
  - Mandate that depository institutions post transactions in a manner that minimizes overdraft and non-sufficient fund fees.
- While there have been specific abuses in the past by certain for-profit institutions, CFPB regulations were issued a few years ago to require an "opt-in" for overdraft protection.
- Survey data has shown that credit union members highly value this protection/service.
- Credit unions offer overdraft protection as a convenience and accommodation for their members' benefit, and members that choose to opt-in often do so for the peace of mind these services provide.
- During the COVID-19 crisis, consumers are buying critical goods and services intended to help them and their families weather shelter-in-place orders or tend to their health.
  - We believe effectively shutting down a popular product offering, even temporarily, would unjustifiably limit credit unions' abilities to assist their members and could be the wrong action to take at this time.
- Credit unions often work with their financially distressed members to reduce the cost of overdraft fees, waive fees entirely, and develop customized solutions to secure members' financial well-being.
- Relying on credit unions to do what they do best is preferable to a situation where consumers are getting declined in line at the grocery store or pharmacy.
  - We oppose new laws or regulations that would limit the flexibility of credit unions to structure the services they make available to their members.

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 but the FCUA and implemented regulations have not kept pace.
- Consolidation continues to increase the average size of credit unions.
- Updating the FCUA has become necessary to ensure federally chartered redit unions have the powers and flexibility to be competitive and best serve their members.
- We anticipate the re-introduction of legislation to eliminate the 15-year loan maturity limit on non-mortgage loans.
  - Doing so will expand consumer access to affordable student loans, along with agriculture and other business lending products.
- Credit unions urge Congress to pass legislation to exempt member business loans during and for one year after the national emergency.
  - According to an analysis by CUNA, removing the cap will provide over $5.5 billion in capital to small businesses, creating nearly 50,000 jobs over the course of the next year.
- Throughout 2021 we anticipate additional FCUA modernization bills will be introduced. Specifically, MCUL, working with CUNA, will seek to have legislation to:
  - Remove outdated responsibilities of federal credit union boards of directors,
  - Modernize governance and procedures for federal credit unions,
  - Permit credit unions to establish their own fiscal year and
  - Allow electronic balloting for conversions from state to federal charter and from federal to state charter.

Data Security and Privacy

- Since 2005, nearly **12 BILLION** records have been breached due to lax data security standards.
- The recent Solar Winds breach underscores how imperative it is for Congress to pass legislation that holds everyone's data — and those that keep the data — to a high standard.
- The retail industry's self-policing and lack of meaningful security standards is woefully inadequate.
- Breaches have cost credit unions, banks and the consumers they serve hundreds of millions of dollars, and they have compromised the consumers' privacy, jeopardizing their financial security.
- 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.
- We were encouraged by the introduction of the Setting an American Framework to Ensure Data Access, Transparency and Accountability (**SAFE DATA**) Act, S. 4626, late in the 116th Congress.
    - The bill would simplify privacy and data security laws by creating a national standard that protects all Americans while reducing compliance burdens that occur currently because of the many standards across the states.
    - It didn't pass but it incorporated a great deal of stakeholder input and should serve as the foundation for legislative efforts this session.
- Laws like the Gramm-Leach-Bliley Act (GLBA) and the Health Insurance Privacy and Accountability Act (HIPPA) were once considered the gold standard in privacy and security but are no longer enough to keep people's data private and secure.
- It's time for Congress to act; patchwork efforts by the states aren't enough.
- Any new privacy law should include both data privacy and data security standards. Congress should enact robust data security standards to accompany and support data privacy standards
    - The new law should cover all business, institutions and organizations that collect, use or share personal data.
    - Any new law should preempt state requirements to simplify compliance and create equal expectation and protection for all consumers.
    - Breach disclosure and consumer notification are important, but these requirements alone won't enhance security or privacy.
    - The law should provide mechanisms to address the harms that result from privacy violations and security violations, including data breach.

Cannabis Banking

- Although cannabis remains illegal at the federal level, it has been in legal use medically in Michigan since 2008 and became recreationally legal in the state in 2019.
- A growing number of states have legalized various forms of cannabis usage under state law. To date in the United States, there are 36 states (including Washington, D.C.) with legalized medicinal cannabis. Sixteen states (including Washington, D.C.) have legalized recreational cannabis usage and another 14 states that have legalized cannabidiol (CBD) usage.
- As with any growing industry, access to financial services are critical. However, due to the illegality at the federal level, financial institutions remain apprehensive.
- With a limited number of financial institutions willing to bank the industry, cannabis-related businesses are forced to operate on a cash-only basis.
    - Given the significant amount of cash being exchanged, the safety and security of those working in the industry and the communities in which these businesses are located, are at constant risk.
    - The situation also creates an environment that makes it extremely difficult to combat money laundering, tax fraud and other violations of law.
- MCUL does not take a stand on the legalization of cannabis; however, we do support legislation that provides safe harbor protections to financial institutions from regulatory punishment for providing services to legal cannabis business in states where cannabis is legalized.
    - During the 116th Congress we supported the SAFE Banking Act (H.R. 1595 and S. 1200) that would provide these protections and Michigan credit unions are calling on Congress to re-introduce this or similar legislation and work to pass it into law.

Modernize Federal E-Commerce Laws

- The difficulties with electronic property transactions and electronic and remote notarizations experienced during the pandemic have intensified the need for Congress to update our nation's e-Commerce laws.
- Credit unions call on Congress to pass legislation that authorizes and establishes minimum standards for electronic and remote notarizations as called for last session in S. 3533 and H.R. 6364, the Securing and Enabling Commerce Using Remote and Electronic Notarization Act of 2020.
- We also urge Congress to also update the 20 year old E-Sign Act to simplify how consumer signal their acceptance of electronic transactions.

Bank Secrecy Act/Anti-Money Laundering Reform

- Credit unions take Bank Secrecy Act and Anti-Money Laundering (BSA/AML) compliance very seriously and dedicate significant resources to it.
- Credit unions 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.
- We support efforts by Congress to reduce the compliance burden on credit unions while also ensuring the government has access to the information it needs to combat crime.
- Credit unions will work with Congress to pass 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.

Credit Unions - A Critical Partner in the Journey to Homeownership

- Credit unions are a critical partner for those consumers eyeing home ownership
- As the Administration and Congress look at making reforms to our nation's housing finance system, credit unions urge our leaders to ensure any changes take into consideration the following principles to ensure credit unions can continue to empower low- and moderate-income homeowners who may not be able to secure affordable, fair and sustainable mortgages from other creditors:
  - Equal access to a secondary market for lenders of all sizes provides consumers with more options,
  - A reasonable and orderly transition out of conservatorship for Fannie and Freddie, with capital requirements that are substantial enough to allow for them to operate safely and soundly during the economic downturn, yet reasonable enough to allow the housing finance system to reduce costs through innovation and competition,
  - Preserve what works, such as cost-effective and member-oriented credit union mortgage-servicing options, consumer education and home purchase counseling and reasonable conforming loan limits that adequately consider local real-estate costs in higher cost areas.

MICHIGAN CREDIT UNION LEAGUE & AFFILIATES