



# 2019 KEY FEDERAL ISSUES

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

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- CUs are not-for profit co-ops, owned by their members.
- CUs do not pay corporate income tax because of their not-for-profit co-op business structure, as opposed to for-profit banks. CUs pay all other applicable taxes, like payroll and social insurance, real estate, 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 bi-partisan 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.
- CU business lending is growing dynamically to support our communities and businesses.
- While the consumer and business services provided by CUs may look and feel similar to banks, it's the not-for-profit co-op business structure that drives the CU tax status.

## Cannabis Banking

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- The Controlled Substances Act (CSA) classifies cannabis as a Schedule 1 drug.
- While cannabis remains illegal at the federal level, many states, including Michigan have made it medically and/or recreationally legal.
- Despite Michigan legalizing medical and recreational use, financial institutions are apprehensive about providing financial services to cannabis businesses, because it remains federally illegal.
- The Secure and Fair Enforcement (SAFE) Banking Act of 2019, H.R. 1595 and S. 1028, and the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act of 2019, S. 1200 and H.R. 2093, have been introduced.
- The House Financial Services Committee has marked up and reported the SAFE Banking Act, and now goes to House Judiciary Committee unless bypassed. Action – up to full floor action in the House – is still expected this spring. No actions have been scheduled yet on the STATES Act bills.
- Both would provide safe harbor protections to financial institutions providing services to legal cannabis businesses in states where cannabis is legalized.
- Bringing cannabis-related cash into the legitimate framework of financial institutions is a public safety, trafficking prevention and, in some respects, even a public health necessity.
- The Michigan AG, DIFS Director, and House of Representatives are formally on record urging Congress to act on safe harbor legislation.

## Modernizing the Federal Credit Union Act

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- The financial service industry is rapidly changing. Advancements in technology have significantly changed our society and how financial institutions do business.
- Updating the Federal Credit Union Act has become necessary to ensure federally-chartered CUs have the powers 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.
- 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.

## Data Security and Privacy

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- Since 2005, approximately 10,000 data breaches have occurred, and more than 11.6 billion records have been exposed.
- 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.
- Congress must introduce and pass legislation to:
  - Strengthen the weak links in the system by creating strong national data protection and consumer notification standards.
  - Provide for the preemption of inconsistent state laws and regulations in favor of strong federal standards.
  - Afford credit unions and banks the clear authority to inform customers and members about a breach, including where it occurred.

## CECL Act

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- U.S. Sen. Thom Tillis (R-North Carolina) introduced S. 1564, the Continued Encouragement for Consumer Lending (CECL) Act.
- S. 1564 would require FASB and relevant financial agencies to report on the impact of their current CECL proposal on availability of credit, depletion of regulatory capital, investor decisions and competition, as well as disproportionate impacts on financial institutions of different sizes.
- It would prohibit application of the new CECL standards from the date of enactment until one year after the required report under the act is issued.