



2023 MCUL FEDERAL ISSUES

Interchange

Credit Union Ask:

Oppose changes to the existing interchange system, including those proposed under the Credit Card Competition Act.

- Interchange fees are vital to credit unions as they help credit unions recoup the growing costs associated with credit card fraud detection, credit monitoring and, importantly, they allow credit unions to shield members AND merchants from fraudulent charges via zero-liability protection policies when bad actors strike.
- Increasing fraud and the possibility of reduced interchange fees pose a real threat to data security.
- On June 7, Sens. Dick Durbin (D-IL) and Roger Marshall (R-KS) introduced the Credit Card Competition Act (S.1838) with Sen. Welch (D-VT) and Vance (R-OH) signing on as original co-sponsors. Also on June 7, Rep. Lance Gooden (R-TX- 5) introduced H.R. 3881, the Credit Card Competition Act. The bill is identical to the Senate version. Reps. Lofgren (D-CA-18), Tiffany (R-WI-7) and Ven Drew (R-NJ-2) signed on as original co-sponsors.
- If passed into law, the Credit Card Competition Act would decimate a credit card payment system that is efficient and effective, and is designed around both protecting consumers and their personal information and giving retailers a fast, reliable and guaranteed method of payment that protects them from fraudulent payments, bounced checks and the significant costs and inherent risks that come from dealing with large sums of cash.
- The Credit Card Protection Act would encourage retailers, whose primary goal is to maximize profits, to choose cheaper card networks that haven't invested in the latest security technology. As a result, sensitive consumer payment data will be vulnerable to bad actors and foreign networks.
- In addition to reduced revenue, recent Federal Reserve data shows that credit unions and community banks also face higher costs as a result of these price controls.
- Small financial institutions are harmed even with the \$100 billion exemption in the bill. Changes to any part of this ecosystem will cause substantial ripple effects throughout the card network because the cost of running the card program will only increase, and those costs will be passed down to other system participants. This means those with the least bargaining power (e.g. credit unions, community banks, small businesses and consumers) will be greatly impacted.
- Bottom line is the current system works and shouldn't be touched. Consumers win with access to easy-to-use credit; merchants win with guaranteed payments; and financial institutions win by being able to recoup the significant costs associated with providing safe and secure products to consumers.
- Michigan credit unions urge members of the Michigan delegation to oppose the Credit Card Competition Act or any other changes to the current interchange system that might be proposed.

Federal Lawmaker Positions on Interchange

Supports MCUL position:

U.S. Sen. Gary Peters, U.S. Sen. Debbie Stabenow, Reps. Dan Kildee, Bill Huizenga, John Moolenaar, and Lisa McClain

Undecided:

Reps. Jack Bergman, Hillary Scholten, Tim Walberg, Debbie Dingell, Elissa Slotkin, John James, Haley Stevens, Rashida Tlaib and Shri Thanedar

Modernizing the Federal Credit Union Act

Credit Union Ask:

Co-sponsor credit union-supported legislation and urge leadership to pass the bills.

- The financial service industry is rapidly changing. Advancements in technology have significantly altered 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.
- For-profit financial institutions continue to close brick-and-mortar locations in both rural and urban areas in search of more profitable locations.
- Updating the FCUA has become necessary to ensure federally chartered credit unions have the powers and flexibility to be competitive, serve those who live in banking deserts and best serve their members.
- We are asking members of the delegation to co-sponsor the Veterans Member Business Loan Act (S.539/H.R. 4867) that would exempt business loans to veterans from the member business lending (MBL) cap. The arbitrary government imposed cap on business loans is set at 12.25% of a credit unions total assets and applies to loans over \$50,000.
- Excepting loans to veterans from the cap would free up capital for veterans as they start up and grow their small businesses.
- We expect legislation will be introduced in the 118th Congress focused on the follow areas and urge members of the Michigan congressional delegation to co-sponsor the legislation and work to support its passage:
 - Expand opportunities for federal credit unions to serve underserved areas.
 - Afford federal credit unions flexibility with regard to the frequency of board meetings. The Credit Union Board Modernization Act (H.R. 582) has been introduced and passed by the House by voice vote and companion legislation (S. 610) has been introduced in the Senate. Under the bill, boards of federal credit unions in strong financial standing would be required to meet at least six times per year, at least once per fiscal quarter, instead of on a monthly basis as currently required.
 - Michigan U.S. House members who co-sponsored H.R. 582 include: Reps. Huizenga, Kildee, McClain, Scholten and Walberg.
 - Permit federal credit unions to offer non-mortgage loans (eg. student loans, agricultural loans and other business lending products with a maturity limit of 20 years). Currently, federal credit unions are prohibited from offering many types of loan products with maturity limited beyond 15 years, which suppresses consumer choice.
- Please co-sponsor and support the Member Business Loan Expansion Act (H.R. 4868).

Voluntary Overdraft Protection and Junk Fee Rhetoric

Credit Union Ask:

- *Oppose legislation that would limit the flexibility of credit unions to structure the services they make available to their members.*
- *Reject rhetoric that classifies the highly regulated and transparent fees levied by credit unions as “junk fees.”*

- 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.
- Survey data has shown that credit union members highly value this protection/service.
- 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.
- 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 wellbeing.
- We anticipate legislation will again be introduced that would negatively impact a financial institution's ability to offer voluntary overdraft protection to members/customers.
- Past legislation would have, among other things:
 - Prohibited overdraft fees on debit card transactions and ATM withdrawals.
 - Prohibited financial institutions from charging more than one overdraft fee per month and no more than six overdraft fees in a single calendar year for check and recurring bill payment overdrafts.
- 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.
- 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.
- Rhetoric from the Administration seeks to lump together the highly regulated and transparent fees credit unions levy on their members with hidden, deceptive and last minute fees imposed on consumers by various non-financial service industries such as the entertainment industry or travel industry.
- The CFPB does this knowing most of the rules governing bank and credit union fees are either promulgated or administered by the Agency.
- Reg. Z requires disclosure, at application or solicitation, outlining the amount of and circumstances resulting in fees for a consumer's credit card account.
- Reg. E requires disclosure, before account opening, of all fees associated with other consumer accounts.
- These regulations are actively administered by the Bureau.

Federal Lawmaker Positions on Voluntary Overdraft Protection

[Opposes MCUL position/co-sponsored anti-overdraft legislation in 117th Congress \(2021/2022\):](#)

Rep. Rashida Tlaib

[Undecided:](#)

U.S. Sens. Debbie Stabenow and Gary Peters, along with Reps. Jack Bergman, John Moolenaar, Hillary Scholten, Bill Huizenga, Tim Walberg, Debbie Dingell, Elissa Slotkin, Dan Kildee, Lisa McClain, John James, Haley Stevens and Shri Thanedar

Community Development Financial Institutions (CDFI) Fund

Credit Union Ask:

- *Co-sponsor the CDFI Transparency Act (S. 2674/H.R. 3161).*
 - *Use oversight to ensure the Fund provides meaningful guidance and assistance to credit unions regarding program certification and work with credit unions to explore necessary program modernization opportunities through legislation.*
 - *Fund CDFI at \$341 million for FY24*
- In 2022, credit unions in Michigan and across the country experienced problems applying for CDFI certification or seeking recertification.
 - The Fund is in the process of rewriting the program certification/recertification rules and all indications are the process will become more difficult in the future, not less, which will hurt the communities Congress directed the Fund to help.
 - CDFIs reported significant concerns regarding the application of target market modification process resulting in some 10-15% of CDFIs reporting an inability to retain their CDFI designation and, for some, the loss of grant awards under Federal programs.
 - Several credit unions in Michigan lost certification due to not meeting both Target Market thresholds of the Fund.
 - The Target Market thresholds is one area MCUL believes should be looked at by Congress to gauge whether it remains valid and look to modernize the threshold if it does not.
 - Michigan CUs are asking Congress to pass the CDFI Transparency Act (S.2674/H.R. 3161), which would improve accountability and oversight of the Fund to better meet the financial service needs in underserved communities. The bill would require the CDFI Director to testify before Congress annually.

Digital Assets/Cryptocurrency

Credit Union Ask:

- *Congress must ensure credit unions have equitable and comparable competition with fintech participants in the stablecoin market, as well as other digital assets legislation and regulation.*
 - *We are urging Congress to amend H.R. 4766, the Clarity for Payment Stablecoins Act of 2023, to remove current competitive barriers for credit unions in stablecoin legislation.*
- Credit unions and other traditional financial service institutions continue to gain interest in cryptocurrency as credit union members and the public at large become more comfortable with it and crypto matures.
 - According to CUNA, 94% of household decision-makers are aware of cryptocurrency and 33% own crypto.
 - 18% of households have indicated they're likely or very likely to switch financial institutions based on crypto services.
 - According to a 2021 Deloitte study, three-quarters of global financial executives believe failing to provide digital asset services will harm them competitively. These services include holding keys for members, trading on mobile devices or online banking, creating rewards programs and issuing stable coins.

Cannabis Banking

Credit Union Ask:

Co-sponsor and support the Safe Banking Act and urge leadership to pass the bill in 2023.

- 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 38 states (including Washington, D.C.) with legalized medicinal cannabis. 22 states (including Washington, D.C.) have legalized recreational cannabis usage.
- As with any growing industry, access to financial services is 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.
- As such, Michigan credit unions are urging Congress to pass the SAFE Banking Act (H.R. 2891 and S. 1323).

Federal Lawmaker Positions on Cannabis Banking/SAFE Banking Act

Supports MCUL position:

U.S. Sen. Gary Peters, U.S. Sen. Debbie Stabenow, Reps. Jack Bergman, Debbie Dingell, Dan Kildee, Hillary Scholten, Elissa Slotkin, Haley Stevens and Rashida Tlaib

Opposes SAFE Banking Act:

Reps. Bill Huizenga, Lisa McClain, John Moolenaar and Tim Walberg

Undecided:

Reps. John James and Shri Thanedar.

Data Security and Privacy

Credit Union Ask:

Work with and urge leadership to pass comprehensive legislation that includes strong data security & privacy standards and holds all entities that collect, use or share personal data accountable.

- Since 2005, over 12 billion records have been breached due to lax data security standards.
- 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.
- 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 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 businesses, 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.

The Central Liquidity Facility

Credit Union Ask:

Co-sponsor and support S.544 to provide a three-year extension of CARES Act provisions related to the Central Liquidity Facility.

- The Central Liquidity Facility (CLF) exists within the NCUA with member credit unions owning the facility.
- The CLF is a quasi-government corporation created to improve the financial stability of credit unions by serving as a lender to credit unions experiencing unexpected liquidity shortfalls.
- The CARES Act made it easier for credit unions to join the CLF through their corporate credit union.
- The CARES Act provisions reflected lapses in existing law that do not afford credit unions sufficient access to emergency liquidity during times of crisis.
- The CLF provisions expired at the end of 2022.
- The Central Liquidity Facility Act (S.544) has been introduced to extend the CLF provisions of the CARES Act for three years. We are urging our members of Congress to co-sponsor the legislation and call on leadership to pass the bill.
- With a potential recession approaching it could prove unsafe to allow the CLF to return to its previous level of borrowing authority and credit union access.
- Over 3,600 credit unions nationally with less than \$250 million in assets no longer have access to the emergency liquidity backstop previously provided by the CLF.

Credit Union Difference

Credit Union Ask:

Continue to recognize and support the unique structure and role of credit unions.

Oppose legislation that changes the not-for-profit tax status of any credit union.

- 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 could 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.

Federal Lawmaker Positions on Credit Union Tax Status

Supports MCUL position:

U.S. Sen. Gary Peters and U.S. Sen. Debbie Stabenow, along with Reps. Jack Bergman, John Moolenaar, Bill Huizenga, Tim Walberg, Debbie Dingell, Elissa Slotkin, Dan Kildee, Lisa McClain, Hillary Scholten, Haley Stevens and Rashida Tlaib.

Seeking statements of support from the following new members:

Reps. John James and Shri Thanedar