

## 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.
- Under the current interchange system, merchants benefit substantially through an increased number of transactions and larger transaction amounts as consumers spend more often and in higher amounts when using cards vs. cash.
- In June of 2023, 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. Sens. Hawley (R-MO) and Reed (D-RI) have since co-sponsored. In total, six of 100 U.S. Senators are publicly supporting the bill.
- Also in June of 2023, Rep. Lance Gooden (R-TX-5) introduced H.R. 3881, an identical bill in the House. Reps. Lofgren (D-CA-18), Tiffany (R-WI-7), Van Drew (R-NJ-2), Miller (R-OH-7), Good (R-VA-5), McGovern (D-MA-2) and Pingree (D-ME-1), along with Delegate Sablan (D-MP-at large) have signed on as co-sponsors. In total, nine of 435 members of the House are publicly supporting the bill.
- 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 Competition 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.**
- The Credit Card Competition Act has little chance of passing as a stand-alone bill, rather bill supporters have sought and will continue to seek to add the bill onto a larger must-pass bill like an omnibus appropriations measure, the National Defense Authorization Act, the FAA Reauthorization Act or perhaps the Farm Bill.
- Michigan credit unions urge members of the Michigan delegation to oppose the Credit Card Competition Act and any other changes to the current interchange system that might be proposed. Furthermore, we are asking our delegation to call on leadership in both chambers to reject attempts to add the bill or any other interchange modifications to must-pass legislation.

## Federal Lawmaker Positions on Interchange

### Supports MCUL position:

U.S. Sens. Gary Peters and Debbie Stabenow and Reps. Jack Bergman (1st), John Moolenaar (2nd), Hillary Scholten (3rd), Bill Huizenga (4th), Tim Walberg (5th), Debbie Dingell (6th), Ellisa Slotkin (7th), Dan Kildee (8th), Lisa McClain (9th), John James (10th), Haley Stevens (11th) and Rashida Tlaib (12th)

### Undecided:

Rep. Shri Thanedar (13th)

## Electronic Fund Transfer Act (EFTA)

### Credit Union Ask:

- *Oppose changes to the EFTA proposed in H.R. 9303/S.4943, the Protecting Consumers from Payment Scams Act of 2024.*
- The EFTA was designed to create a balance between a financial institution's role in preventing unauthorized transfers and an individual's responsibility to exercise sound financial judgement over the transactions they choose to authorize.
- **H.R.9303 (sponsored by Rep. Maxine Waters (D-CA-43) and S.4943 (sponsored by Sens. Richard Blumenthal (D-CT) and Elizabeth Warren (D-MA) would amend the EFTA to define an unauthorized transfer as one that includes a fraudulently induced transfer, requiring credit unions and other financial institutions to reimburse consumers for this type of fraud.**
- The bill would also define merchant charges for undelivered goods as errors along with misdirected payments resulting from information a consumer initially provided.
- In addition, the bill would change the way the Act handles wire transfers, treating remittance transfers the same as other electronic fund transfers subject to the EFTA's framework for error resolution and consumer reimbursement.
- **These radical changes to the EFTA's careful delineation of financial institution responsibility would impose severe costs on credit unions and dramatically alter their ability to absorb future losses.**
- The bill's failure to address the root causes of criminal activity that have left consumers vulnerable would result in a larger portion of cooperative resources being diverted to cover fraud that occurs beyond the control of credit unions.
- **The bill embraces an unsustainable and unfair strategy of shifting losses to credit unions and other financial institutions that are spending more money than ever to fight fraud and protect consumers.**
- **Credit unions support efforts to stop fraudulent schemes and invest in robust security and fraud mitigation technologies to protect members from scams and identify theft.**
- The expansion of credit unions' liability for the misdeeds of fraudulent actors as proposed in the bill would have the unintended effect of limiting consumer choice and access to services.
- The credit union industry's capacity to absorb fraud losses is not without limit.
- **Credit unions are significantly smaller than banks and are sensitive to new regulatory expectations that alter financial institution liability under the EFTA and Regulation E.**
- Legislative solutions in this area should aim to prevent fraud before it occurs and should include bolstering the resources of law enforcement, educating consumers about fraud and scam risks and creating a level playing field between insured depository institutions and underregulated companies.

### Federal Lawmaker Positions on EFTA Legislation

#### Supports MCUL position:

Reps. Jack Bergman (R-MI-1) and Bill Huizenga (R-MI-4)

#### Unknown:

Sens. Gary Peters and Debbie Stabenow and Reps. Moolenaar (R-2), Scholten (D-3), Walberg (R-5), Dingell (D-6), Slotkin (D-7), Kildee (D-8), McClain (R-9), James (R-10), Stevens (D-11), Tlaib (D-12) and Thanedar (D-13)

## 2025 Congressional Tax Debate

### **Credit Union Ask:**

- *Protect the credit union not-for-profit tax status during the 2025 tax debate.*
- With numerous provisions of the 2017 Tax Cuts & Jobs Act expiring in 2025, Congress is expected to dedicate a significant amount of time debating both cuts and increases in federal taxes next year.
- While it's too early to tell what type of proposals will be on the table next year, Congress must ensure the credit union not-for-profit tax status remains untouched and reject any efforts that would jeopardize the tax status of credit unions regardless of asset size.

## Credit Unions Saving Jobs and Keeping Your Money Local

### **Credit Union Ask:**

- *Members of the delegation have most likely heard from the bankers about credit unions "buying banks." Any suggestion that credit unions purchasing banks should result in a change to a credit union's tax status should be rejected. We also ask that members oppose any future legislation that would restrict the practice.*
- When a bank decides to merge with a credit union, it is typically because the credit union will keep the jobs and money in the local community.
- No one forces a bank to sell to a credit union, rather the conversation is usually initiated by a bank because they view a potential sale to a credit union as the best business decision for everyone involved: the bank's customers, the community, the employees and investors.
- Bank CEOs surveyed cite these reasons for selling to credit unions: 1) Keeping branches open (50%), 2) Preserving focus on the community (50%), 3) Retaining employees (89%), and fair price (100%).
- The bank board must approve the sale.
- Every bank sale to a credit union is subject to corporate taxation, averaging 24.5% of the purchase price.
- Despite banker efforts to push the perception that credit unions are disproportionately acquiring banks, since 2012 only 78 banks have sold their assets to credit unions compared to 2,572 sales to other banks.
- Over 80% of bank-to-credit-union transactions involved low-income-designated credit unions. This ensures the consumers most affected by banking deserts retain access to a local financial institution.
- Credit unions only account for \$2.2 trillion in all financial assets, while the four largest banks each hold more in assets.

## 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 be introduced again, perhaps in the 119th Congress, 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.
  - The CFPB issued proposed rules on overdraft in January of 2024 that while directly focused on large financial institutions (those over \$10 billion) will indirectly and severely impact smaller institutions, including credit unions.
  - MCUL believes the CFPB's proposed regulations are misguided and unwarranted as credit unions and other financial institutions have been responding to the needs of the marketplace and overdraft services are evolving on their own to meet consumer demand.

### 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

## 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 union's total assets and applies to loans over \$50,000.
- Exempting 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 following 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.
  - Sen. Peters has co-sponsored S. 610 and we urge Sen. Stabenow to do the same. Furthermore, we are asking our U.S. Senators to call on that chamber's leadership to pass H.R. 582 or bring S. 610 to the floor and pass it.
  - 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.
  - We are urging our members of the U.S. House to co-sponsor H.R. 6933 and ask House leadership to bring the bill to the floor for a vote.

### Federal Lawmaker Support for FCUA Reforms

#### [S. 539](#)

No Michigan Senators currently co-sponsoring. Thus far, four of 100 U.S. Senators co-sponsoring.

#### [H.R. 4867](#)

No Michigan House members are co-sponsoring currently. Thus far, 46 of 435 U.S. House members are co-sponsors.

#### [H.R. 582](#)

Rep. Bill Huizenga (R-MI-4) is the lead Republican sponsor of the bill. Michigan Reps. Scholten (D-3), Walberg (R-5), Kildee (D-8) and McClain (R-9) have co-sponsored. 60 of 435 U.S. House members are co-sponsors of the bill.

#### [S. 610](#)

Sen. Gary Peters is a co-sponsor and we are urging Sen. Debbie Stabenow to co-sponsor as well. Thus far, 34 of 100 U.S. Senators are co-sponsoring the bill.

#### [H.R. 6933](#)

No Michigan House members have co-sponsored to-date. Thus far, ten of 435 U.S. House members have co-sponsored the bill.



## Community Development Financial Institutions (CDFI) Fund

### Credit Union Ask:

- *Co-sponsor the CDFI Transparency Act (S. 2674/H.R. 3161).*
  - *Co-sponsor the Rural Credit Access Act of 2024 (H.R. 7338).*
  - *Fund CDFI at \$354 million for FY25, as passed by the Senate Appropriations Committee.*
- 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 CDFI's 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.
  - The U.S. Department of Treasury launched a newly developed CDFI application process in December 2023. The new application process and agreement language do not include a system to ensure that CDFIs receive adequate notice of possible decertification or receive information outlining what steps are needed to address the reason(s) for decertification.
  - The lack of notification and information can create significant confusion and problems for CDFIs facing decertification without suitable recourse and negatively affect the communities that depend on CDFI efforts.
  - Michigan credit unions 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.
- To address these concerns, Congress must also pass the Rural Credit Access Act of 2024 (H.R. 7338). The bill ensures CDFIs receive fair and transparent treatment when facing potential decertification by creating a required notice and comment process for CDFIs and forming an ombudsman's office to act as an advocate for CDFIs working to cure a decertification notice.

### Federal Lawmaker Support for CDFI Reform Legislation

#### [S.2674](#)

No Michigan U.S. Senators co-sponsoring currently. Thus far, three of 100 U.S. Senators have co-sponsored.

#### [H.R. 3161](#)

Rep. Jack Bergman (R-MI-1) has co-sponsored. Thus far, 28 of 435 U.S. House members have co-sponsored.

#### [H.R. 7338](#)

No Michigan delegation co-sponsors yet. Thus far, two of 435 U.S. House members have co-sponsored.

## 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 (CLF).*

- The 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 CLF Act (S.544) has been introduced to extend the CLF provisions of the CARES Act for three years. To-date, neither of our U.S. Senators has co-sponsored the bill. We urge Senators Stabenow and Peters to do so and to also call on leadership to pass the bill.
- Should a recession or economic downturn occur, 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.

## Cannabis Banking

### **Credit Union Ask:**

*Co-sponsor and support the Safe Banking Act and urge leadership to pass the bill in 2024.*

- 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 SAFER Banking Act (S. 2860). The bill will provide financial institutions with safe harbor protections to service cannabis legitimate businesses in states where cannabis is legal.

### Federal Lawmaker Positions on Cannabis Banking/SAFE Banking Act

#### Supports MCUL position:

U.S. Sens. Gary Peters and Debbie Stabenow

#### Co-sponsored SAFE Banking Act in 118th Congress (2023/2024):

U.S. Sens. Gary Peters and Debbie Stabenow, along with U.S. Reps. Jack Bergman, Hillary Scholten, Elissa Slotkin, Dan Kildee, Rashida Tlaib and Shri Thanedar

#### Opposes SAFER Banking Act:

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

## 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.
  - Globally, crypto's worldwide market capitalization was estimated to be approximately \$1.1 trillion in August of 2023. The number of cryptocurrency wallets grew from 82 million in 2022 to approximately 92 million in 2023.
  - 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.

## Data Security and Privacy

### **Credit Union Ask:**

*Work with and urge leadership to pass comprehensive legislation that includes strong data security and 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.



## 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:

All members of the Michigan congressional delegation.