



crossstate

Credit Union Association

2024 GAC
March 3-7, 2024

**Legislative
Regulatory
Update**

Agenda

- Legislative Update
- Regulatory Update
- CrossState
 - Resources
 - Tools
 - Solutions

Legislation

Protect and Empower Consumers

- **Maintain Interchange Rules**
 - **Credit Card Competition Act (S 1838/H.R. 3881)**
 - Like the Durbin amendment, credit card interchange would be capped.
 - Proposed changes to interchange rules would decimate the current payments system by giving retailers power to use any credit card network, regardless of its data security requirements. This would significantly increase the risk to consumers and their financial institution.
- **Protect data security**
 - Support national data security and privacy standards that includes requirements to those required of financial institutions (GLBA) for all who collect or hold personal data and is preemptive of state laws.

Legislation

Protect and Empower Consumers

- **Support cannabis banking**
 - **The Secure and Fair Enforcement (SAFE) Banking Act (H.R. 2891/S. 1323)**
 - Provide clarity and a safe harbor for financial institutions to serve cannabis related businesses in states where cannabis is legal.
- **Include credit unions in stablecoin and cryptocurrency**
 - Amend H.R. 4766 to remove current competitive barriers for credit unions in stablecoin legislation.
 - Ensure credit unions have equitable and comparable competition with fintech participants in the stablecoin market, and other digital asset legislation and regulation.
 - Give credit unions parity with other financial institutions and fintechs.

Legislation

Protect and Empower Consumers

➤ Allow remote and electronic notarization

➤ The Securing and Enabling Commerce Using Remote and Electronic (SECURE) Notarization Act (H.R. 1059)

➤ Allows notary publics to remotely notarize electronic records and perform notarizations for remotely located individuals.

➤ Legislation passed the House and awaits Senate consideration.

➤ Establish CDFI Transparency

➤ The CDFI Transparency Act (H.R. 3161/S. 2674)

➤ Requires CDFI Director to provide testimony before Congress annually. Improves accountability and oversight of the CDFI to meet the financial services needs of underserved communities.

Legislation

Modernize Credit Union Priorities

- **Enhance credit union board meeting flexibility**
 - **The Credit Union Board Modernization Act (H.R. 582/S. 610)**
 - Allows federal credit union boards to meet a minimum of six times a year instead of the currently required 12 times a year.
 - H.R. 582 unanimously passed the House. Attention is on the Senate to support the Act.
- **Expand consumer access to credit unions**
 - Exploring legislation that provides more access to credit unions, addressing financial deserts and underserved areas.
 - Improve consumer access to financial services the option to join and use a credit union for their financial needs and to help consumers and small businesses.

Legislation

Modernize Credit Union Priorities

- **Lift credit union member business lending caps for veteran-owned small businesses**
 - **Veteran Member Business Loan Act (H.R. 4867/S.539)**
 - Exempts credit union member business loans to veterans from the statutory lending cap.
 - Expands access to credit union member business lending opportunities for veterans.
- **Increase loan maturity limits**
 - **Member Business Loan Exemption Act (H.R. 4868)**
 - Allow federal credit unions to expand non-mortgage loan terms to more than 25 years.
 - Increase the threshold for member business loans to \$100,000 creating better student, agricultural, and business loan access.

Legislation

Right-Size Regulations

- **Keep overdraft protection available to consumers.**
 - A helpful safety net that consumers both choose to use and count on as a safeguard and convenience. Protect access to overdraft protection, giving consumers the choice whether to use it or not.
- **Reform the Consumer Financial Protection Bureau (CFPB)**
 - **CFPB Transparency and Accountability Reform Act (H.R. 2798)**
 - Establish bipartisan leadership structure, placing the CFPB under the appropriations process, providing justification and cost-benefit analysis, impact, and data for proposed rulemaking
- **Expand Access to NCUA Central Liquidity Facility (CLF) for small credit unions**
 - Allow corporate credit unions to obtain liquidity on behalf of small credit union for the next three years to respond more quickly to economic challenges (**S. 544**).

Regulatory Priorities and Emerging Issues

- **Consumer Financial Protection Bureau (CFPB)**
- **Federal Reserve Board (Fed)**
- **Financial Crimes Enforcement Network (FinCEN)**
- **National Credit Union Administration (NCUA)**

Consumer Financial Protection Bureau (CFPB)

CFPB Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications Proposed Rule ([RIN 3170-AB17](#)) – *Comments Closed 1/8/24*

- The CFPB is proposing to supervise larger nonbank companies that offer services like digital wallets and payment apps. Driven largely by Big Tech and other large technology firms, digital payment apps and wallets continue to grow in popularity, but many of the companies are not subject to CFPB supervisory examinations
- The proposed rule would limit the CFPB's authority over companies providing general-use digital consumer payment applications to only those (1) with an annual volume of at least five million consumer payment transactions, and (2) that are not a small business concern
- Authority would ensure nonbank entities adhere to the same rules as large banks, credit unions, and other financial institutions already supervised by the CFPB

Consumer Financial Protection Bureau (CFPB)

CFPB Overdraft Lending: Very Large Financial Institutions Proposed Rule ([RIN 3170-AA42](#)) – *Comments due April 1, 2024*

- The CFPB proposes to amend Regulations E and Z to update regulatory exceptions for overdraft credit provided by very large financial institutions, thereby ensuring that extensions of overdraft credit adhere to consumer protections required of similarly situated products, unless the overdraft fee is a small amount that only recovers applicable costs and losses
- The proposal would allow consumers to better comparison shop across credit products and provide substantive protections that apply to other consumer credit

Consumer Financial Protection Bureau (CFPB)

CFPB Issues Nonsufficient Funds Fees Notice of Proposed Rulemaking ([RIN 3170-AB16](#)) – *Comments due March 25, 2024*

- The CFPB issued a Nonsufficient Funds Fees Notice of Proposed Rulemaking ([NSF NPRM](#)) January 24, 2024
- The NSF NPRM proposes to prohibit covered financial institutions from charging fees, such as NSF fees, when a consumer initiates certain payment transactions that are instantaneously declined, on the grounds that charging such fees would constitute an abusive practice
- The NSF NPRM proposes the term “covered financial institution” have the same meaning as a “financial institution” in existing Regulation E, 12 CFR 1005.2(i)

Federal Reserve System (Board)

Federal Reserve System (Board) Debit Card Interchange Fees and Routing Proposed Rule ([RIN 7100-AG67](#)) – *Comments due February 12, 2024*

- Regulation II implements a provision of the Dodd-Frank Act that requires the Federal Reserve System (Board) to establish standards for assessing whether the amount of any interchange fee received by a debit card issuer is reasonable and proportional to the cost incurred by the issuer with respect to the transaction
- The Board proposes to update all three components of the interchange fee cap based on the latest data reported to the Board by large debit card issuers, and to update the interchange fee cap every other year going forward by directly linking the interchange fee cap to data from the Board's biennial survey of large debit card issuers
- The Board also proposes a set of technical revisions to Regulation II

Federal Reserve System (Board)



Federal Reserve System (Board) Debit Card Interchange Fees and Routing Proposed Rule ([RIN 7100-AG67](#)) – ~~Comments due February 12, 2024~~

- **Update!** The Board just announced on January 22 that it will extend the comment period until May 12, 2024, on its Interchange Fee proposal
- The Board extended the comment period to allow the public more time to analyze the proposal and prepare their comments. Comments on the proposal were originally due by February 12, 2024.
- Separately, the Board published [additional data](#) related to the interchange fee cap to give the public additional information as they consider the proposal

US Treasury Financial Crimes Enforcement Network (FinCEN)

U.S. Beneficial Ownership Information (BOI) Registry Now Accepting Reports

- January 1, FinCEN began accepting beneficial ownership information (BOI) reports
- The bipartisan Corporate Transparency Act, enacted in 2021 to curb illicit finance, requires many companies doing business in the United States to report information about the individuals who ultimately own or control them
- Filing is simple, secure, and free of charge. Companies that are required to comply (“reporting companies”) must file their initial reports by the following deadlines:
 - Existing companies: Reporting companies created or registered to do business in the United States before January 1, 2024 must file by January 1, 2025.
 - Newly created or registered companies: Reporting companies created or registered to do business in the United States in 2024 have 90 calendar days to file after receiving actual or public notice that their company’s creation or registration is effective.

US Treasury Financial Crimes Enforcement Network (FinCEN)

U.S. Beneficial Ownership Information (BOI) Registry Now Accepting Reports

- BOI reporting is not an annual requirement, a report only needs to be submitted once, unless the filer needs to update or correct information
- Generally, reporting companies must provide four pieces of information about each; beneficial owner:
 - Name;
 - Date of birth;
 - Address; and
 - The Identifying number and issuer from either a non-expired U.S. driver's license, a non-expired U.S. passport, or a non-expired identification document issued by a State (including a U.S. territory or possession), local government, or Indian tribe. If none of those documents exist, a non-expired foreign passport can be used. An image of the document must also be submitted.

National Credit Union Administration (NCUA)

The NCUA Board held its first meeting of 2024, on January 18, via livestream; two significant actions resulted:

1. Reviewed the agency's [2024-2026 Diversity, Equity, Inclusion, and Accessibility \(DEIA\) Strategic Plan](#)
 - NCUA to hold its annual DEIA Summit from July 9-11, 2024
 - The deadline for credit unions to complete the volunteer [diversity self-assessment survey](#) is Feb. 15
2. The Board unanimously approved the [NCUA's 2024 Annual Performance Plan](#)
 - Provides the agency with direction and guidance toward achieving its mission and the following strategic goals and objectives included in the NCUA's 2022-2026 Strategic Plan:
 - 1) Ensure a safe, sound, and viable system of cooperative credit that protects consumers;
 - 2) Improve the financial well-being of individuals and communities through access to affordable and equitable financial products and services; and
 - 3) Maximize organizational performance to enable mission success.

National Credit Union Administration (NCUA)

NCUA Regulatory Guidance:

- Letter to Credit Unions / Jan 22, 2024 - [NCUA's 2024 Supervisory Priorities](#)
- Letter to Federal Credit Unions / Jan 18, 2024 - [Federal Credit Union Operating Fee Schedule for 2024](#)
- Accounting Bulletin / Dec 20, 2023 - [Technical Correction for the CECL Transition Amount](#)
- Letter to Credit Unions / Oct 11, 2023 - [Resumption of Federal Student Loan Payments](#)
- Letter to Credit Unions / Aug 14, 2023 - [Cyber Incident Notification Requirements](#)

National Credit Union Administration (NCUA)

NCUA Board of Directors Changes

- Board Member Rodney Hood has completed his final term and has left the NCUA
 - Recently, CrossState had the opportunity to thank former Board Member Hood in-person at his Farewell Reception in Washington, DC, for his many years of service to the NCUA, his hard work and dedication toward improving the regulatory environment for credit unions
- The January meeting was the first for incoming Board Member Tanya Otsuka
- CrossState looks forward to working with Board Member Otsuka to ensure the agency continues to work toward reducing regulatory burdens to credit unions, while sharing their voice in pursuit of the issuance of sensible regulation

Comment Letters

CrossState works throughout the year with its Regulatory Review Committee and Government Relations Committee members to capture feedback and insight on new and proposed regulations and how it may affect credit unions to inform comment letters submitted to varying regulatory financial institution agencies and government entities.

The members are comprised of CU CEOs.

Thank you!

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