

APRIL 1-3, 2019

# WBA WASHINGTON SUMMIT

In conjunction  
with the

ABA Washington  
Summit

Marriott Marquis Washington, DC

901 Massachusetts Avenue NW, Washington, DC 20001

Register with ABA at:

[www.wisbank.com/advocacy/washington-summits/](http://www.wisbank.com/advocacy/washington-summits/)

## ITINERARY

### Monday, April 1

- |               |   |
|---------------|---|
| 3 - 4 p.m.    | WBA Briefing, 4 <sup>th</sup> Floor Conference Room, Marriott Marquis |
| 4:15 - 5 p.m. | ABA Orientation for Capitol Hill Visits                               |
| 5 - 6:30 p.m. | ABA Summit Opening Reception<br>Dinner on your own                    |

### Tuesday, April 2

- |                     |  |
|---------------------|--|
| 7:30 - 8:30 a.m.    | ABA Breakfast Buffet   |
| 8:30 - 11:30 a.m.   | ABA GENERAL SESSION  |
| 11:45 a.m. - 1 p.m. | ABA Luncheon   |
| 1 - 5 p.m.          | Capitol Hill Visits<br>(WBA will schedule visits - take cab) |

### Tuesday, April 2

- |           |  |
|-----------|--|
| 1:00 p.m. | Group photo at Capitol   |
| 4:30 p.m. | Take Cabs from Capitol Hill to Occidental Grill & Seafood  |
| 5:00 p.m. | WBA Reception and Dinner Speaker Rep. Mike Gallagher (R-District 8) at Occidental Grill (1475 Pennsylvania Ave., NW) |
| 6:00 p.m. | WBA Appreciation Dinner at Occidental Grill (1475 Pennsylvania Ave., NW)   |

### Wednesday, April 3

- |                   |                       |
|-------------------|-----------------------|
| 7:30 - 8:30 a.m.  | ABA Breakfast Buffet  |
| 8:30 - 10:30 a.m. | ABA GENERAL SESSION   |
| 11 a.m.           | GR Summit Adjournment |

#### What should I wear and bring?

Business attire is recommended for all official meetings and social functions. Comfortable shoes are recommended. Please bring business cards for legislator visits. Briefing materials will be provided at the conference and are available on ABA's website.

#### What should I expect during the congressional/regulatory visits?

WBA has arranged all of the appointments and you will be fully briefed during WBA/ABA briefings on Monday afternoon. Due to the limited space, it is asked that spouses and guests not attend the working sessions. Spouses and guests are invited to attend the WBA (Wisconsin) Appreciation Dinner on Tuesday night.

#### Do I need any additional personal identification?

While we will not be going directly to the Federal Reserve, please bring a government-issued picture I.D. and your patience. WBA will ask for your home address, but not your social security number for this conference.

**Details on the meeting schedules, issues materials and other logistical information will be provided by ABA and WBA on Monday, April 1.**



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**2019**

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*In conjunction*  
with the

ABA Washington Summit

**Marriott Marquis Washington, DC**

901 Massachusetts Avenue NW, Washington, D.C. 20001

Thank you for registering for the  
WBA Washington Summit/ABA Government Relations Summit.

## Wisconsin Delegation Attendee List

**Elsa Condon** – Vice President (5)  
BMO Harris Bank, N.A., Watertown

**Cynthia Erdman** – President (3)  
Partnership Bank, Tomah

**Morgan Farmer (Emily/Avery)** – Executive VP (3)  
Park Bank, Holmen

**Joe Fazio** – Co-Founder & CEO (6)  
Commerce State Bank, West Bend

**Dave Feldhaus** – (IL-11)  
Federal Home Loan Bank of Chicago

**Brooke Frehse** – Risk Management Officer (8)  
Stephenson National Bank, Marinette

**Steve Haen** – Director (8)  
East Wisconsin Savings Bank, Kaukauna

**Corey Hoze** – SVP/GR (4)  
Associated Bank, Milwaukee

**Gary Kuter** – Senior Vice President (2)  
Capitol Bank, Madison

**Judd Levy** – VP/Associate General Counsel (IL)  
Federal Home Loan Bank of Chicago

**Loni Meiborg** – SVP Marketing (6)  
Fortifi Bank, Berlin

**Mark Meloy** – President/CEO (2)  
First Business Bank, Madison

**Tom Pamperin** – President and CEO (8)  
Premier Community Bank, Marion

**Dan Peterson** – President and CEO (8)  
Stephenson National Bank, Marinette

**Peter Prickett** – (6)  
Fortifi Bank, Berlin

**Daela Reiswitz** – AVP/BSA (8)  
Stephenson National Bank, Marinette

**Patty Roloff** – Vice President/CFO (6)  
East Wisconsin Savings Bank, Kaukauna

**Charlie Schmalz (Dana)** – President and CEO (6)  
East Wisconsin Savings Bank, Kaukauna

**Dave Schuelke** – President and CEO (5)  
Spring Bank, Brookfield

**Dan Shepard** – EVP (5)  
Waukesha State Bank

**Tom Van Pelt** – President and CEO (7)  
Citizens State Bank, Hudson

**Jon Willems** – Market President (6)  
Commerce State Bank, Cedarburg

## WBA Staff Participants

**Darryl Lund** – EVP & Chief of Staff (2)  
Wisconsin Bankers Association, Madison  
Cell: 608.220.9406

**Mike Semmann** – EVP & COO (2)  
Wisconsin Bankers Association, Madison  
Cell: 608.516.8567



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## CONGRESSIONAL VISITS

### Tuesday, April 2

1:30 p.m. (Confirmed 3/5/19)	<b>Rep. Sean Duffy (R-District 7)</b> 1714 Longworth House Office Building (202) 225-3365 (*Van Pelt, Frehse, Haen, Hoze, Kuter, Lund, Meiborg, Meloy, Peterson, Pamperin, Schmalz, Willems)
2:15 p.m. (Confirmed 3/26/19)	<b>Rep. Ron Kind (D-District 3)</b> 1502 Longworth House Office Building (202) 225-5506 (*Erdman, Condon, Farmer)
2:20 p.m. (Confirmed 3/27/19)	<b>Rep. Bryan Steil (R-District 1)</b> 1408 Longworth House Office Building (202) 225-3031 (*Schuelke, Prickett, Reiswitz, Semmann, Shepard)
2:30 p.m. (Confirmed 3/18/19)	<b>Senator Tammy Baldwin (D-Madison)</b> 709 Hart Senate Office Building (202) 224-5653 (*Peterson, Frehse, Haen, Hoze, Kuter, Lund, Meloy, Pamperin, Van Pelt)
2:30 p.m. (Confirmed 3/8/19)	<b>Rep. Glenn Grothman (R-District 6)</b> 1427 Longworth House Office Building (202) 225-2476 <b>Note:</b> Legislative Director Ryan Croft will also attend the meeting. (*Schmalz, Fazio, Meiborg, Roloff, Willems)
3:00 p.m. (Confirmed 3/26/19)	<b>Rep. Jim Sensenbrenner (R-District 5)</b> 2449 Rayburn House Office Building (202) 225-5101 (*Schuelke, Condon, Erdman, Farmer, Fazio, Reiswitz, Roloff, Semmann, Shepard)

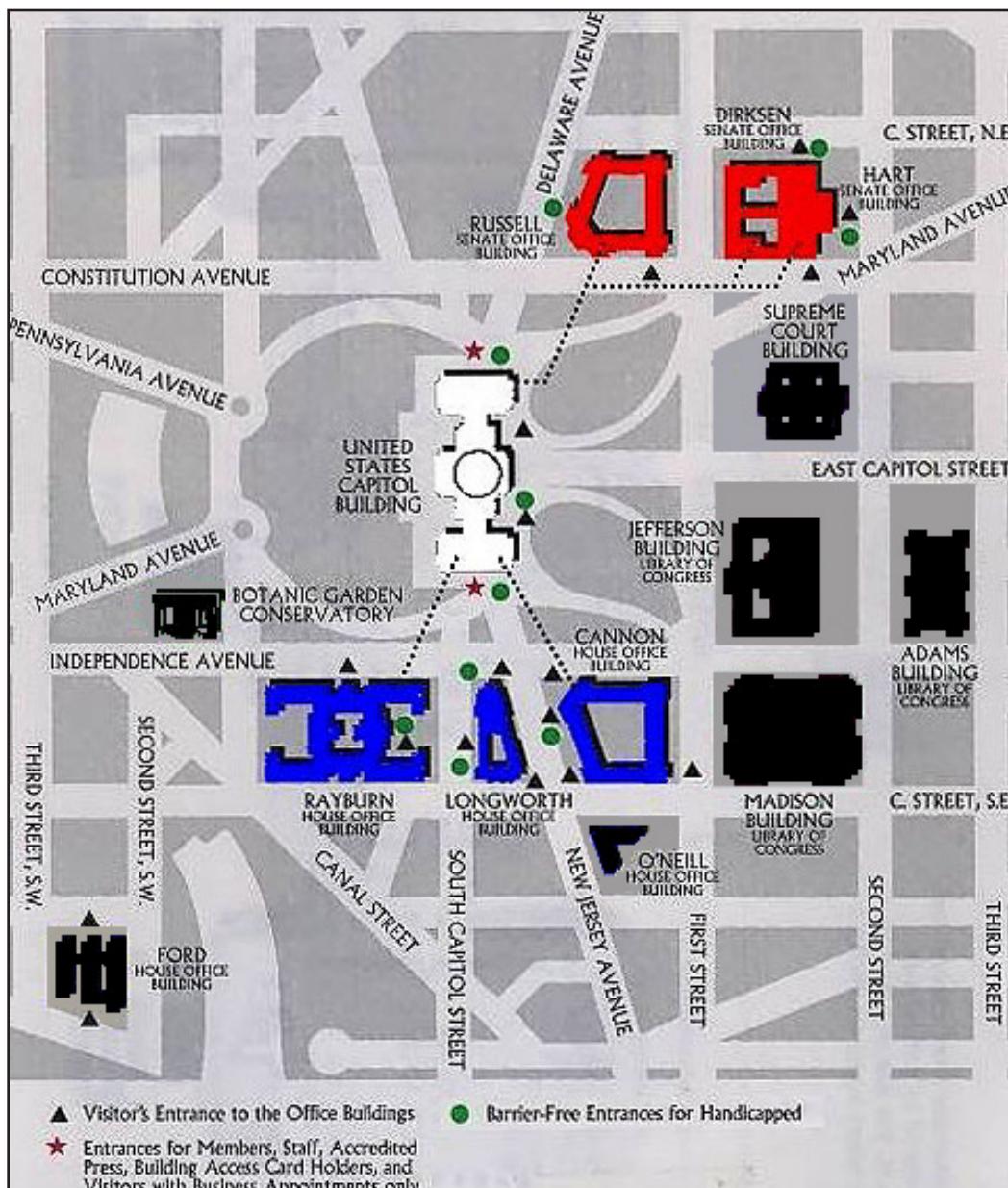
### Tuesday, April 2

3:30 p.m. (Confirmed 3/29/19)	<b>Rep. Mark Pocan (D-District 2)</b> 1421 Longworth House Office Building (202) 225-2906 <b>Note:</b> The meeting will be with Legislative Assistant Kate Huffman. (*Meloy, Frehse, Haen, Kuter, Pamperin, Prickett, Semmann, Van Pelt)
4:00 p.m. (Confirmed 3/5/19)	<b>Senator Ron Johnson (R-Oshkosh)</b> 328 Hart Senate Office Building (202) 224-5323 <b>Note:</b> Legislative Counsel Alexis Alber will also attend the meeting. (*Schmalz, Condon, Erdman, Farmer, Fazio, Hoze, Lund, Meiborg, Peterson, Reiswitz, Roloff, Schuelke Shepard, Willems)
5:30 p.m. (Confirmed 3/12/19)	<b>Rep. Mike Gallagher (R-District 8)</b> Dinner Speaker The Occidental Grill 1475 Pennsylvania Avenue, NW

**\*Discussion Leader:** Introduce group, thank lawmaker for taking time to meet, introduce discussion topics, wrap up meeting after 20 minutes.



Senate buildings (*colored red*) are on the north side of the Capitol. House buildings (*colored blue*) are on the south side of the Capitol.



**Russell Senate Office Building** is northeast of the Capitol, bounded by Constitution Avenue, First Street, Delaware Avenue and C Street, NE.

**Hart Senate Office Building** is northeast of the Capitol, adjoining the Dirksen Senate Office Building on a site bounded by Constitution Avenue, First Street, Second Street and C Street, NE.

**Rayburn House Office Building** is southwest of the Capitol bounded by Independence Avenue, South Capitol Street, C Street SW, and First Street.

**Longworth House Office Building** is south of the Capitol bounded by Independence Avenue, New Jersey Avenue, C Street SE, and South Capitol Street.

**Cannon House Office Building** is southeast of the Capitol bounded by Independence Avenue, First Street, New Jersey Avenue, and C Street SE.

# Credit Unions

## Wisconsin's Shrinking Tax Base

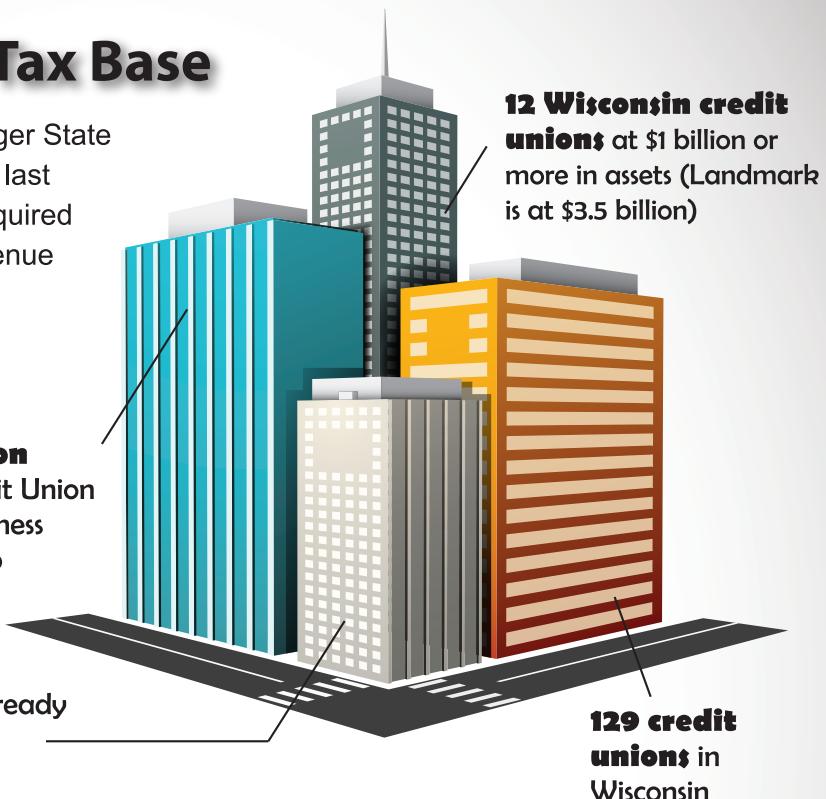
Wisconsin's tax base is shrinking due to Badger State banks being acquired by credit unions. In the last four years, tax-exempt credit unions have acquired four tax-paying banks. That's income tax revenue that is lost to Wisconsin.

Roads, parks, police, and fire departments depend on the support derived from income taxes.

This is a trend that is picking up speed as credit unions experience higher profits and an ever-expanding field of membership.

**13 credit unions** already exceed the 12.25% business lending cap

**\$2.3 Billion**  
Royal Credit Union has no business lending cap



01

### Profits

Wisconsin credit unions are doing extremely well with an already overly permissive state charter.

Their net income was up 7.7% and lending grew by 11.5% in the fourth quarter of 2018 according to the Wisconsin Department of Financial Institutions.

02

### Lending

Wisconsin credit unions enjoy the most expansive business lending rules in the nation.

Most of the large Wisconsin credit unions are nowhere near the current 12.25% business lending cap and are able to ask for a waiver from the limits if they wish. To date, all waivers sought from the Office of Credit Unions have been granted.

03

### Taxes

You personally pay more in income taxes than the entire Wisconsin credit union industry.

They benefit from this tax exemption while every year they grow larger and pull further away from their mandated mission of serving those of low and modest means.

# Credit Unions are No Longer the Little Guy

*Revenue opportunities with tax reform*

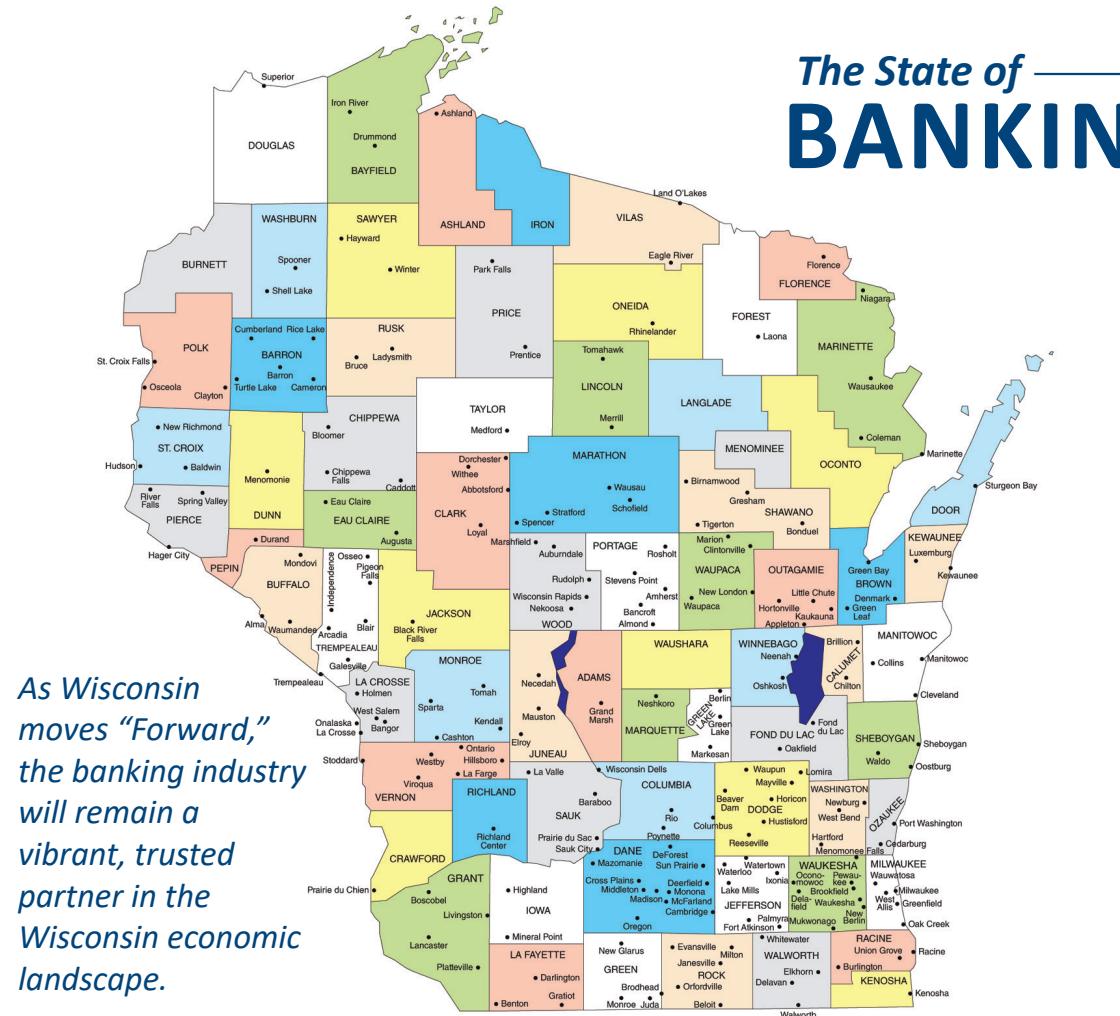
**50%** of the top twenty financial institutions are billion dollar credit unions which pay **ZERO** in income tax!

Associated Bank	\$ 33,604,332,000
Johnson Bank	\$ 4,983,497,000
Landmark Credit Union	\$ 3,895,497,000
Summit Credit Union	\$ 3,190,312,000
Nicolet National Bank	\$ 3,095,694,000
Community First Credit Union	\$ 3,004,203,000
University of Wisconsin Credit Union	\$ 2,765,831,000
Royal Credit Union	\$ 2,364,139,000
Town Bank	\$ 2,147,149,000
North Shore Bank	\$ 2,031,675,000
Educators Credit Union	\$ 1,994,716,000
First Business Bank	\$ 1,958,397,000
Connexus Credit Union	\$ 1,948,533,000
National Exchange Bank and Trust	\$ 1,945,433,000
WaterStone Bank	\$ 1,911,865,000
Bank First	\$ 1,790,594,000
Fox Communities Credit Union	\$ 1,622,487,000
Convantage Credit Union	\$ 1,605,708,000
Investors Community Banker	\$ 1,514,041,000
Altra Credit Union	\$ 1,501,937,000

## Top 20 Financial Institutions in Wisconsin

*Fourth Quarter 2018*

Wisconsin's 201 banks headquartered in the state play a significant role in the economic development and growth of their communities. Not only do banks finance local businesses, schools and municipalities, but they also generously donate both money and time to a myriad of charitable and other worthwhile community organizations.



For more information, visit [www.wisbank.com](http://www.wisbank.com) or contact:



**ROSE  
OSWALD POELS**

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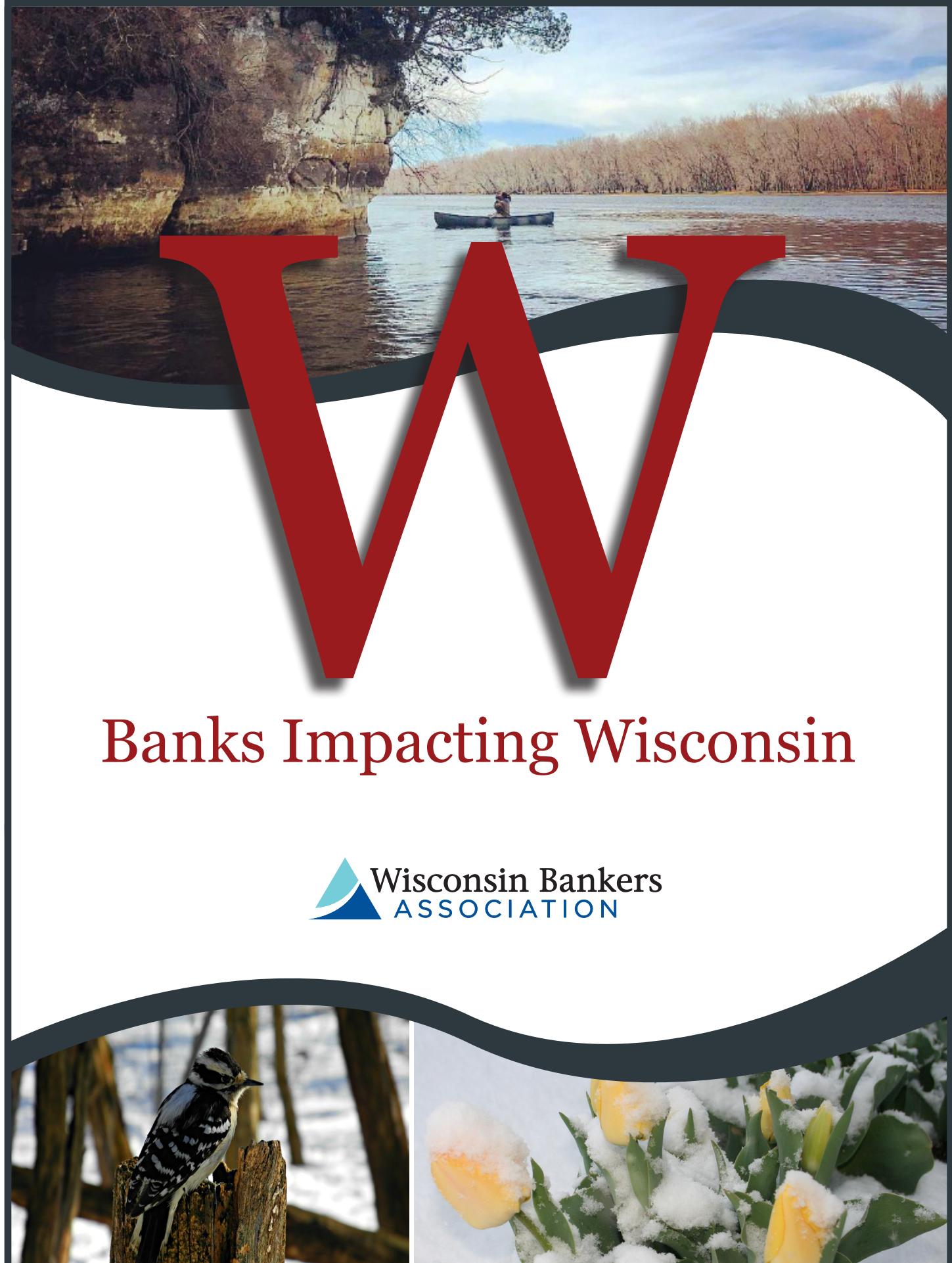


**DARYLL  
LUND**

WBA Executive Vice President  
and Chief of Staff  
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#### About the Wisconsin Bankers Association

Founded in 1892, the Wisconsin Bankers Association (WBA) is the state's largest financial industry trade association, representing nearly 235 commercial banks and savings institutions and their nearly 2,300 branch offices and almost 21,000 employees. Of the 201 Wisconsin banks, 98 percent are members of the Wisconsin Bankers Association. The Association represents banks of all sizes from banks in rural Wisconsin to the state's largest financial institution in Milwaukee.



## THE WISCONSIN BANKING INDUSTRY IS VITAL TO OUR STATE'S ECONOMIC WELL-BEING

### ➤ WI BANKS FACILITATE COMMERCE

Our banks facilitate billions in payments annually. Confidence that these payments will be honored allows for the efficient flow of commerce in our state and across the nation.

### ➤ WI BANKS FINANCE THE BADGER STATE

Our banks hold billions in loans not including the billions in mortgage, credit card, auto and commercial loans that Wisconsin banks originate and sell to the secondary market annually.

### ➤ WI BANKS MAKE PUBLIC IMPROVEMENT POSSIBLE

Our banks hold millions in municipal bonds and in loans to local governments to make public improvements.

### ➤ WI BANKS HELP OTHERS BUILD WEALTH

Households, businesses and nonprofit organizations entrust our banks in Wisconsin to administer their money in fiduciary assets.

### ➤ WI BANKS PROVIDE A SAFE PLACE TO STORE WEALTH

Our banks safely store billions in deposits - and pay FDIC insurance premiums to guarantee coverage up to \$250,000 per deposit account to ensure customer deposits are secure.

### ➤ WI BANKS INVEST IN CONVENIENCE

Our banks provide thousands of physical and electronic locations for consumers. Mobile, telephone and Internet banking allow customers 24/7 access.

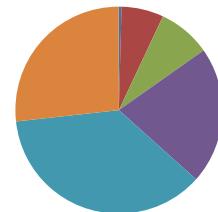
### ➤ WI BANKS CONTRIBUTE TO THE ECONOMY

Our banks employ more than 23,000 people and pay billions in federal, state and local income taxes every year.

## WISCONSIN BANKS AT-A-GLANCE

Total Deposits: \$91.3 billion  
Total Loans: \$83.4 billion  
Total Assets: \$116.2 billion

Total Number of Banks: 201  
Total Employees: 20,608  
Payroll and Benefits: \$1.85 billion  
Number of Locations: 2,345



**WISCONSIN BANKS**  
(by asset size)

Greater than \$10 Billion	1
\$1 Billion - \$10 Billion	17
\$501 Million - \$1 Billion	19
\$251 Million - \$500 Million	56
\$101 Million - \$250 Million	70
\$1 Million - \$100 Million	38

	WISCONSIN	NATION
Return on Assets	1.25%	1.35%
Profitable Institutions	97.0%	96.7%
Noncurrent Loans to Total Loans	0.70%	0.99%
Core Capital Ratio	11.0%	9.7%
Loan to Deposit Ratio	91.3%	72.3%

Source: FDIC  
4th Quarter 2018

## WISCONSIN BANKS PROVIDE OPPORTUNITIES FOR CONSUMERS AND BUSINESSES

**\$23.6 Bil**

1-4 family residential

**\$14.6 Bil**

Commercial & industrial loans

**\$5.8 Bil**

Multi-family residential real estate

**\$5.1 Bil**

Construction and land development

**\$4.1 Bil**

Farm loans

**\$3.5 Bil**

Farmland



### Home Ownership:



**67.7%**  
Wisconsin



**63.9%**  
Nation

**Auto Loans: \$300 Mil**



**Credit Cards: \$635 Mil**



AMERICA'S BANKS  
HELPING PEOPLE & PLACES  
**GROW**



[aba.com/AmericasBanks](http://aba.com/AmericasBanks)



# BANKS OF ALL SIZES

Play key roles in the economy while delivering safety and convenience for customers.

- › \$356.9 billion in small business loans
- › \$2.5 trillion in home loans
- › \$187.2 billion in agricultural loans
- › \$9 out of \$10 in attempted deposit account fraud stopped
- › \$3.4 billion in community donations
- › 12.6 million volunteer hours
- › 2.1 million bank employees

Sources: FDIC, Call Report and ABA Survey Data

Together, America's banks employ more than 2 million women and men whose work helps to create jobs and generate economic growth. Our fundamental mission is to ensure the security and prosperity of the people and communities we serve.

Our ability to fulfill this mission has been challenged in recent years by ill-fitting regulations and an unlevel playing field. But important progress has been made on both fronts.

We urge you to continue to help America thrive by helping banks deliver jobs, growth, safety and convenience.

## » MODERNIZE ANTI-MONEY LAUNDERING/ BANK SECRECY ACT LAWS

Banks play a critical role in helping law enforcement combat money laundering, terrorist financing, human trafficking and more. Congress can help banks be even more effective fighting these crimes by updating the anti-money laundering/Bank Secrecy Act (AML/BSA) regime to make it more efficient. The basic AML/BSA compliance structure has not changed since 1970, even though banking law enforcement and technology have changed dramatically. ABA urges Congress to reform these areas:

- **Customer Due Diligence.** Banks collect information about the true owners of their legal entity customers, but they have no way to verify the information provided. A federal registry of beneficial ownership would provide a source to validate the data and ensure its accuracy. It also would facilitate law enforcement's access to the information.
- **Currency Transaction Reports (CTRs).** The current \$10,000 threshold for filing a CTR has not been changed since it was adopted in 1970. If adjusted using the Consumer Price Index, the threshold today would be \$63,000. A seasoned customer exemption—within parameters to be set by Treasury—would also help reduce excessive CTR filings, making it easier to spot critical information.
- **Information Sharing.** Suspicious activity reports are more useful when financial institutions share information with each other, yet the process for sharing is hindered by red tape. Improved processes and better feedback from law enforcement about priorities, possible illicit activity and how BSA data is used would help banks more efficiently focus limited resources.

## » ESTABLISH STRONG, CONSISTENT NATIONAL DATA SECURITY AND PRIVACY STANDARD

Since data security breaches continue to put millions of consumers at risk, protecting consumer information and the privacy of personal information is a shared responsibility of all parties involved. While robust federal data security and privacy requirements for banks have been in place for over 20 years, other business sectors lack comparable requirements and have been the source of many large-scale breaches. To help consumers understand their rights and responsibilities, transparency is important and a national standard that preempts state and local data protection standards is essential.

ABA supports legislation to protect consumers that includes the following elements:

- **Privacy Rights.** A national privacy standard that recognizes the strong privacy and data security standards that are already in place for financial institutions under the Gramm-Leach-Bliley Act (GLBA) and other federal financial privacy laws and avoids provisions that duplicate or are inconsistent with those laws.
- **Strong Data Protection and Breach Notice.** Ensure that all entities that handle sensitive personal information are required to protect that data and provide notice in the event of a breach that puts consumers at risk.
- **Robust Enforcement.** Provide robust, exclusive enforcement of this national standard by the appropriate federal or state regulators, including preserving the GLBA's existing administrative enforcement structure for banks and other financial institutions.
- **Clear Preemption.** Preempt state privacy and data security laws to ensure that a national standard provides consistent protection for all Americans.

## » RESOLVE THE FEDERAL-STATE CONFLICT ON CANNABIS BANKING

Thirty-three states have legalized cannabis for medical or adult use. Nevertheless, federal law still defines cannabis as an illegal drug under the Controlled Substances Act and, as a result, all proceeds generated by a cannabis-related business can be considered unlawful for banks to process. Even accepting a cannabis-related deposit can be considered money laundering.

The problem extends to any entity that derives revenue from a cannabis firm, including real estate owners, security firms, utilities and other vendors and investors. That puts banks in the untenable position of either potentially violating federal law or refusing services to a significant legal sector of their local economies.

But excluding the cannabis industry from the banking system has serious consequences for the communities where they operate. Cannabis businesses are handling increasingly large amounts of cash—even paying their state taxes and licensing fees in cash—creating public safety and supervisory concerns. Permitting cannabis businesses to use the banking system would improve the safety, regulation, transparency and accountability of the industry. ABA urges members of Congress to:

- Support and pass bipartisan legislation H.R. 1595, the Secure and Fair Enforcement (SAFE) Banking Act of 2019.
- Allow banks to serve cannabis-related businesses in states where the activity is legal and clarify that handling proceeds from their legitimate transactions is not money laundering and does not violate federal law.
- Require federal banking regulators to provide explicit, clear and uniform expectations regarding the treatment of all cannabis-related accounts.
- Specify that a Suspicious Activity Report is not required solely because a transaction involves proceeds from a legal state cannabis business.



## » DELAY AND STUDY CURRENT EXPECTED CREDIT LOSS (CECL) STANDARD

The Financial Accounting Standard Board's Current Expected Credit Loss accounting standard requires banks to forecast all future losses at the time a loan is made. Such upfront loss recognition will require more capital at the time of origination, fundamentally changing the economics of lending and potentially increasing the cost to consumers of longer-term products like residential mortgages and of loans issued to non-prime borrowers.

All banks, including community banks, will be heavily impacted by CECL. They may have to raise capital and will need to purchase or develop costly new systems and processes to track loan performance. In addition, the new standard will increase the complexity of a highly judgmental area of accounting, add to the volatility of regulatory capital and, due to the inability to forecast turns in the economy, also add to the procyclicality of the banking industry—exacerbating economic downturns in times of uncertainty.

The standard will be effective in 2020 for SEC registrants, 2021 for non-Registrant banks with outside equity/debt holders, and 2022 for privately-held and mutual banks.

ABA urges Congress to enact legislation that:

- Requires the SEC and the federal banking agencies to perform a quantitative impact study.
- Requires the study to assess the impact of CECL on the industry and lending throughout an economic cycle and across banks of all sizes, and to recommend changes to address any negative impacts.
- Delays the required effective date until one year after such a study can be completed.

## » CONTINUE BIPARTISAN PROGRESS ON REGULATORY REFORM

America's banks work to help their individual and small business customers reach their financial goals every day. Regulatory compliance and examiner demands can make it harder for them to do this, as rules aimed at the more complex institutions trickle down to all, regardless of size, risk or applicability to a bank's business model. Such ill-tailored rules impede banks' ability to provide services that their creditworthy customers want and need, restrict local business expansion, limit job growth and frustrate consumers.

We urge Congress to consider targeted legislation that will provide relief and funding options to financial institutions, including measures that would: empower regulators to tailor regulatory actions so that they apply only when required by the bank's business model and risk profile; establish an independent examination review process to ensure consistency of bank examinations; provide more flexibility for the treatment of brokered deposits; and fully fund the Community Development Financial Institutions Fund.

These and other provisions are important steps in right-sizing rules for America's banks and will allow financial institutions to better serve their customers and communities while maintaining safety and soundness. ABA urges Congress to work on these measures in a bipartisan manner.

## » STOP THE SPECIAL TREATMENT OF CREDIT UNIONS

Congress exempted credit unions from paying federal income taxes during the Great Depression to encourage their mission as small financial institutions that served consumers of modest means who shared a common bond. Much has changed since then.

Today, there are roughly 300 credit unions with more than \$1 billion in assets that, though representing just 5 percent of all credit unions, enjoy 75 percent of the industry's tax benefit. Nearly half hail from just six states. These fast-growing and increasingly complex institutions are indistinguishable from commercial banks yet individually are larger than nearly 90 percent of the banks in this country. Many actively sponsor NFL teams and NBA arenas, openly promote that they will bank any customer who walks in the door, engage in complex commercial lending and aggressively market to the affluent – all while being subsidized by an outdated and unnecessary federal tax exemption and supervised by a compliant regulator. These entities are increasingly buying small banks to expand, leveraging their tax exemption to permanently remove taxpaying entities from the tax rolls.

As credit unions move from church basement to conglomerate, Congress should ask if the tax exemption for the largest credit unions still makes sense. ABA urges Congress to:

- Remove the tax exemption for all credit unions above \$1 billion in assets.
- Require credit unions to file the same salary and compensation disclosures as any other not-for-profit.
- Require credit unions to demonstrate they serve low- and moderate-income communities.

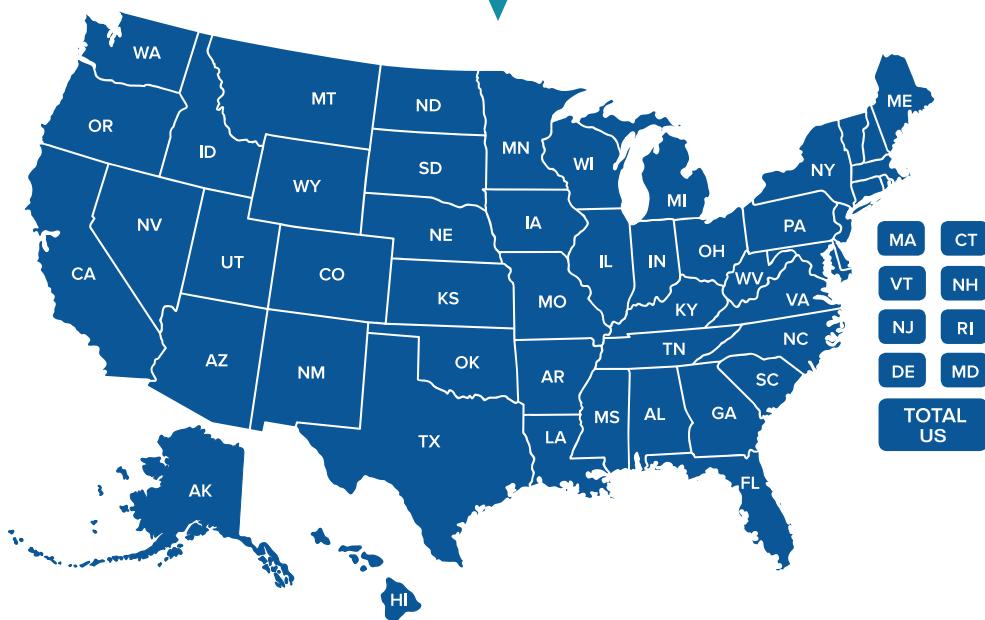
## » LEVEL THE PLAYING FIELD WITH THE FARM CREDIT SYSTEM

The Farm Credit System (FCS) is a \$335 billion government-sponsored enterprise (GSE) that competes directly with banks, making farm, ranch, consumer, housing, business and energy loans. If the FCS were a bank, it would be the seventh largest in the country. But as a GSE, it does not pay taxes at the same rate as banks.

When the FCS was created in 1916, farmers had limited options available to finance their operations. For too long, FCS has been able to unfairly compete with rural banks, especially in long-term agricultural real estate financing. Congress must examine this issue and not pick winners and losers in agriculture financing. ABA urges members of Congress to:

- Support H.R. 1872, the Enhancing Credit Opportunities in Rural America (ECORA) Act, introduced by Rep. Steve Watkins (R-Kan.). ECORA would remove the taxation on interest from agricultural real estate loans, giving rural banks the same tax status as the FCS when making farm real estate loans.
- Help farmers and ranchers create equalization among all lenders to agriculture.
- Provide long overdue solutions to the unfair playing field between banks and FCS.

# WHAT ARE BANKS DOING IN YOUR STATE?



Find out at  
**[aba.com/AmericasBanks](http://aba.com/AmericasBanks)**



American  
Bankers  
Association®

## Bank Secrecy Act/Anti-Money Laundering

Rob Rowe | rrowe@aba.com | 202-663-5029

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### Issue Update

As they have for many years, banks continue to identify BSA/AML compliance as one of the most costly and burdensome regulations. Banking, law enforcement, and technology have undergone rapid change in recent years but the basic BSA/AML compliance structure is still heavily based on manual processing and analysis. There is a growing consensus that now is the time to update BSA and ABA submitted extensive recommendations to the U.S. Treasury for BSA reform.

### Why it Matters

Banks spend a great deal of time and effort complying with BSA/AML requirements but despite their efforts, success is limited. Better communication between law enforcement and banks and more efficient and streamlined reporting is needed to fight illicit finance effectively.

### Recommended Action Items

- **Customer Due Diligence.** The major challenge facing banks today is the beneficial ownership rule. The new rule sets a higher bar for legal-entity customers by requiring transparency about the owners and one identified manager. ABA has been engaged with FinCEN and the banking agencies to ensure effective compliance with the rule. However, banks must rely on the information provided by the customer and have no means to verify beneficial ownership.
  - ABA recommends Congress create a federal beneficial ownership registry. A single federal registry of beneficial ownership data would facilitate law enforcement access to the information and would ease the pressure on the financial sector.
- **Information Sharing.** ABA has long called for streamlining the information sharing process. Better and more consistent feedback from law enforcement is critical to help banks focus resources. ABA supports the FinCEN Exchange program, a Treasury initiative announced at the ABA conference last December. There is also a need to streamline and expand how banks may share information internally and with each other.
  - Require better feedback from law enforcement, particularly information on law enforcement priorities to allow banks to focus resources efficiently and effectively.
  - Require regulators to clearly explain how a compliance default identified in an examination or an enforcement action undermines the mission of combatting illicit finance instead of merely emphasizing technical compliance.
- **Currency Transaction Reports (CTRs).** The current \$10,000 threshold for filing a CTR has not been changed since it was adopted in 1970. If adjusted using the Consumer Price Index, the threshold would have been over \$63,000 in 2019. Congress has considered increasing the threshold to \$30,000 but law enforcement opposes any increase, arguing that cash transactions stand out much more today than they did in 1970.
  - Require FinCEN to study and analyze which CTRs are not helpful to law enforcement efforts
  - To eliminate unnecessary CTR filings, adopt a seasoned customer exemption that would let banks exempt customers within parameters set by regulations established by Treasury, to eliminate unnecessary reporting.

## Brokered Deposits and the National Rate Cap

Alison Touhey | atouhey@aba.com | 202-663-5182

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### Issue Update

Enacted in 1989, Section 29 of the Federal Deposit Insurance Act (FDIA) sets restrictions on the acceptance of brokered deposits by institutions with weakened capital positions. Brokered deposits themselves are not defined in the statute or implementing regulations. Instead, the FDIC has issued legal interpretations, examiner guidance, and other materials to indicate what deposits it considers to be “brokered.” Section 29 also directs the FDIC to calculate a national rate cap on the interest rates weaker institutions may offer on deposits.

In December 2018, the FDIC issued an advanced notice of proposed rulemaking (ANPR) on brokered deposits and the national rate cap. The ANPR is a welcome step towards modernizing the FDIC’s framework. This is the first time the FDIC has sought to revisit its approach to brokered deposits since they were originally implemented in the early 1990s.

### Why it Matters

The current definition of “brokered” casts too wide of a net, ultimately discouraging healthy banks from gathering stable funding. The FDIC’s view on brokered deposits has not kept up with extensive statutory and technological changes that have significantly changed bank structure and the sources of and mechanisms through which banks gather deposits. A broad, outdated concept of brokered deposits has led to increased regulatory costs and supervisory bias against what, as a practical matter, is stable funding.

Regarding the national rate cap, the FDIC’s current methodology does not accurately reflect either market share or deposit competition in local markets, which in rising rate environments imposes an artificially low cap. This is problematic for well-capitalized and weaker banks alike. Because examiners use the national rate cap as a proxy for higher risk deposits, banks are often discouraged from raising or holding deposits with a rate higher than the national rate cap. Additionally, a non-competitive rate means that weaker institutions have a reduced ability to improve their condition as they are hobbled in their ability to raise deposits.

### Recommended Action Items

The FDIC should modernize its definition of what deposits are considered “brokered” and revise the methodology behind the national rate calculation.

- Deposit account products involving a direct, continuing relationship between a customer and an insured depository institution should not be considered “brokered” deposits, even if an unaffiliated third-party is involved in the origination of the deposit.
- Deposits resulting from affiliates and subsidiaries of [an insured depository institution or holding company] should not be considered “brokered.”
- The national rate cap should be a dynamic market rate that reflects local markets for banks of all sizes;
- Supervisors should take a holistic view of liquidity risk, assessing a bank’s funding mix based on its business model and measurement and mitigation of its risks.

## Cannabis Banking

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### Issue Update

Thirty-three states have legalized cannabis for medical or adult-use. Federal law (namely, the Controlled Substances Act (21 U.S.C. §801 et seq.)), still considers it an illegal drug and prohibits its use for any purpose. For banks, that means that all proceeds generated by a cannabis-related business operating in compliance with state law are unlawful, and that any attempt to conduct a financial transaction with that money (including simply accepting a deposit), is considered money-laundering. All banks, whether state or federally chartered, are subject to federal anti-money laundering laws.

In fact, the consequences extend beyond cannabis growers and shops to any person or business that derives revenue from a cannabis firm – including real estate owners, security firms, utilities and other vendors. Despite years of non-enforcement by the Department of Justice and attempts by financial regulators to advise banks on identifying and reporting cannabis money, the federal law has not changed. That means banks have been put in the untenable position of violating federal law or refusing financial services to a legal sector of their local economies.

### Why It Matters To Your Community

Leaving the cannabis industry unbanked is not a viable option – sales totaled over \$6 billion in 2016 and are conservatively estimated to reach \$24 billion by 2025. Those numbers do not even include the ancillary businesses that violate federal law by providing goods, services, or real estate to cannabis businesses and consequently put their own access to banking services at risk. Cannabis businesses, which are legally permitted under state law, are forced to handle increasing large amounts of cash as a result of their exclusion from the banking system. Cash intensive businesses are difficult to monitor for compliance with tax laws or irregular financial activity and are themselves ripe targets for violent crime. These businesses will be safer and better regulated if they are permitted to use the banking system, which would increase the transparency and accountability of the industry and better protect our communities.

### Recommended Action Items

Only Congress can resolve the divide between state and federal law. Without a change in federal law, neither the federal banking agencies nor state governments can remove the legal restrictions on providing banking services to marijuana-related businesses. According to an ABA survey, 90 percent of bankers said Congress should act to resolve the conflict.

- Support and pass H.R. 1595, the Secure and Fair Enforcement (SAFE) Banking Act of 2019.
- Allow banks to serve cannabis-related businesses in states where the activity is legal and clarify that handling proceeds from their legitimate transactions is not money laundering and does not violate any provision of federal law.
- Require federal banking regulators to provide explicit, clear, and uniform expectations regarding the treatment of all cannabis-related accounts.
- Specify that a Suspicious Activity Report is not required solely because a transaction involves proceeds from a legal state cannabis business.

## CECL Accounting Standard for Credit Losses

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### Issue Update

FASB's Current Expected Credit Loss ("CECL") accounting standard requires banks to record allowances for credit losses on loans and held-to-maturity debt securities at origination, based on a so-called "life of loan loss" expectation. Issued in 2016, CECL requires forecasting all future losses, a process that increases the complexity of this highly judgmental area of accounting, adds to the volatility of regulatory capital and may also add to the procyclicality of the banking industry. Its upfront loss recognition requirement also changes the economics of lending, as more capital is required at the time of origination. The standard will be effective in 2020 for SEC registrants, 2021 for non-Registrant banks with outside equity/debt holders, and 2022 for privately-held and mutual banks.

Many factors will determine the regulatory capital impact of CECL for each bank. However, preliminary estimates indicate that the CECL standard can increase the ALLL and its volatility by multiples for products that are long-tenored, such as residential mortgages, and for those loans that are issued to non-prime borrowers. Due to the inability of professional economic forecasters to foresee turns in the economy, banks are also noting that, had CECL been in place prior to the Financial Crisis, CECL would have added to the procyclicality in the industry. Further, the punitive effect of recording a lifetime loss upon origination severely curtails the incentive to provide credit during such times.

In addition to the regulatory capital impacts, larger U.S. banks will also be subjected to a capital disadvantage from CECL, compared to foreign banks that apply the more lenient international standards. Community banks will be heavily impacted, too, as a recent study noted that several hundred should consider raising capital just for CECL's impact and capital volatility will also be higher within smaller bank portfolios. Their biggest challenge, however, may be the operational impact. Costly new systems and processes to track loan performance are normally needed to be purchased or developed for banks of all sizes. While regulators insist the sophistication of a bank's CECL process should be consistent with the sophistication of its operations, significant procedural and data challenges will, nevertheless, be faced both in implementation and on an ongoing basis, especially in the face of increasingly stringent auditing standards.

### Why it Matters To Your Community

Higher and more volatile ALLL levels and higher operational costs will reduce available capital and limit a bank's ability to meet credit needs, especially during an economic downturn.

### Recommended Action Items

- The banking agencies must revisit Basel III regulatory capital rules to ensure consistency with CECL. In the meantime, until such a regime is finalized, the incremental CECL levels compared to current accounting should be added back to CET1 capital levels.
- The agencies should perform a quantitative impact study to:
  - a. Assess the impact of CECL on the industry and lending throughout an economic cycle.
  - b. Assess the costs of CECL to smaller banks, considering stringent auditing standards.

## Credit Unions

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### Issue Update

The public policy purposes of the credit union tax exemption no longer match the facts on the ground, and a growing and respected chorus from the political right and left – including the Chairman of the Senate Finance Committee, a federal judge, and thought leaders from the Brookings Institution, Tax Foundation, National Taxpayers Union, and others – are raising new and important questions about this rapidly expanding industry.

New Congressional Oversight; New Compensation Tax. Then-Senate Finance Committee Chairman Orrin Hatch sent letters to the National Credit Union Administration Chairman and IRS Commissioner last year raising questions about how the tax benefits are being used, including questionable tax-subsidized marketing expenses and the degree of oversight of excessive executive compensation packages. The new tax bill also requires non-profits, including all credit unions, to pay a 21% excise tax on executive compensation over \$1 million per year. We are hopeful that the Finance Committee keeps credit unions on the oversight agenda this year.

Positive Litigation Decision. The U.S. District Court for the District of Columbia, in response to an ABA suit, overturned two significant elements of the 2016 NCUA field of membership rule providing expansion for community credit unions. The court struck down provisions that allowed multistate regions to be declared a “local community,” and entire states to be declared “rural districts.” NCUA is appealing this decision; ABA has cross-appealed seeking additional provisions of the rule to be invalidated.

NCUA Regulatory Expansion Efforts Continue. In response to the court decision above, NCUA finalized a new field of membership rule that attempts to circumvent the court’s concerns. In addition, the agency has proposed to delay and significantly pair back the credit union version of Basel III, and it is anticipated it will move forward with a proposal to allow credit unions to accept capital from investors. ABA continues to oppose NCUA expansions of credit union powers, and by extension, the tax status, by all means possible.

### Why it Matters To Your Community

The credit union industry today is the story of two industries. At the top, more than 300 credit unions with assets above \$1 billion represent just 5% of the credit union industry, but enjoy 75% of the industry’s profits and tax benefit. These credit unions have graduated, yet hide behind small credit unions to protect their tax status. Policymakers must understand that this is an unnecessary waste of taxpayer resources and a direct attack on local community banks unable to compete with government-subsidized competition.

### Recommended Action Items

- Given many credit unions have grown beyond recognition, Congress must address the tax status of the largest who have evolved to be banks who don’t pay taxes. Expansion of credit union powers must come from Congress, not NCUA, and be tied to changes in the credit union tax status.
- Many credit union executives make millions – salaries we all finance, but do not see, because most credit unions are not required to file the IRS Form 990 that discloses executive compensation. Congress should require credit unions to file this form, as is required of all other not-for-profits.

## Data Breach and Privacy Legislation

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### Issue Update

Data security breaches continue to put millions of consumers at risk and protecting consumer information and the privacy of personal information is a shared responsibility of all parties involved. While robust federal data security and privacy requirements for banks have been in place for nearly 30 years, other business sectors lack such requirements and have been the source of many large-scale breaches.

Due to controversy over certain uses of personal information by nonbanks, such as Facebook and Google, it is possible that legislation providing additional privacy protections for consumers will be considered by the 116<sup>th</sup> Congress along with data breach legislation. ABA agrees that it would make sense for Congress to consider legislation providing Federal privacy protections for consumers.

However, it is important to remind Congress and policy-makers that banks are not the problem and should not be the focus of such legislation. GLBA and other existing privacy laws impacting the financial services industry already provide important privacy protections and that these protections must not be duplicated or undermined by Federal privacy legislation.

For example, the GLBA already provides transparency by requiring banks to provide written notices of their privacy policies and use of personal information to customers and prohibits sharing their personal information with unaffiliated third parties without the consumer's consent.

### Why it Matters To Your Community

The application of robust data security and privacy standards by all entities that handle sensitive personal and financial information is critical. Stopping incidents like the Equifax, Sonic, Hyatt, Target, Home Depot and other breaches is critical for consumers, and also important to ABA members who often have the closest relationships with those affected. Data breaches impose significant costs on banks of all sizes because our first priority is to protect consumers and make them whole.

### Recommended Action Items

#### **ABA supports legislation to protect consumer privacy that includes the following elements:**

- **Privacy Rights.** A national privacy standard that recognizes the strong privacy and data security standards that are already in place for financial institutions under the GLBA and other federal financial privacy laws and avoids provisions that duplicate or are inconsistent with those laws.
- **Provide Strong Data Protection and Breach Notice.** Ensure that all entities that handle sensitive personal information are required to protect that data and provide notice in the event of a breach that puts consumers at risk.
- **Robust Enforcement.** Provide robust, exclusive enforcement of this national standard by the appropriate federal or state regulators, including preserving the GLBA's existing administrative enforcement structure for banks and other financial institutions.
- **Clear Preemption.** Preempt state privacy and data security laws to ensure that a national standard provides consistent protection for all Americans.

## Farm Credit System

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### Issue Update

The Farm Credit System (FCS) is a \$335 billion Government Sponsored Enterprise (GSE) that competes directly with banks, making farm, ranch, consumer, housing, business, and energy loans. If the FCS were a bank, it would be the ninth largest. But as a GSE, it does not pay taxes at the same rate as banks.

The reason for the FCS's creation – and its enormous tax break – must be questioned. The Farm Credit System was the first GSE, created in 1916 when farmers had limited options available to finance their operations. That is no longer true in rural America today. Thanks to a robust banking industry, rural Americans enjoy the same credit opportunities as their urban counterparts.

The FCS lacks a specific statutory mission to do anything other than compete with taxpaying institutions. The lending that FCS provides often goes to farmers who least need subsidized credit. Less than 12 percent of all FCS loans in 2018 went to young farmers, less than 15.5 percent to small farmers and less than 16 percent to entry-level farmers and ranchers – the three categories that would be the most appropriate to receive the FCS's subsidized credit.

### Why it Matters To Your Community

The Subsidy Is an Enormous Cost to Taxpayers. FCS profits were \$5.3 billion in 2018, yet it only paid a total of \$122 million in combined federal, state, and local taxes – an effective tax rate of only 2.3 percent. The FCS's growth also impacts the tax revenues of state and local governments. The FCS has bullied states into accepting that it is a *federal instrumentality*, and therefore not subject to state taxation. The FCS also uses its GSE status to withhold payment of local taxes and fees.

The FCS Competes Directly with Tax-Paying Banks. Banks are heavily involved in making the same types of loans and in the same areas as the FCS, so the FCS's activities halt the activities of tax-paying institutions rather than creating new lending.

### Recommended Action Items

- Support H.R. 1872, the Enhancing Credit Opportunities in Rural America Act (ECORA), which would remove the taxation on interest from agricultural real estate loans giving rural banks the same tax status as the Farm Credit System when making farm real estate loans.
- Help farmers and ranchers and create equalization among all lenders to agriculture.
- Provide a long overdue solution to the unfair playing field between banks and FCS.
- Congress should statutorily require annual oversight hearings on the Farm Credit System. Only recently has Congress conducted oversight hearings on the FCS.