

2019  **CAPITAL SUMMIT** 

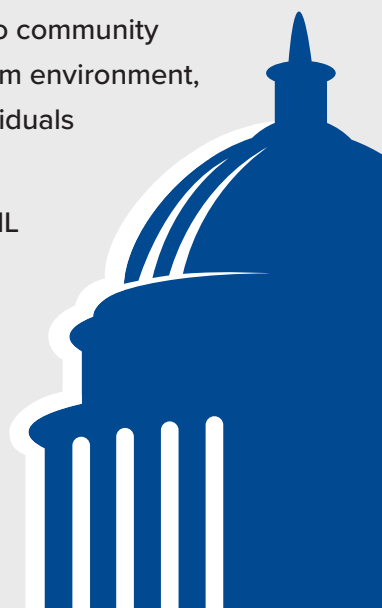
COMMUNITY FOCUS 2020

THE COMMUNITY BANK AGENDA FOR EXPANDING ECONOMIC OPPORTUNITY

ICBA's Community Focus 2020 (CF2020) is a set of specific, common-sense, legislative recommendations developed by community bankers to promote greater access to financial services and economic opportunity in all American communities while preserving consumer protections and bank safety and soundness. The provisions of CF2020, designed to draw bipartisan support, advance a more efficient system of regulation, unbiased laws governing the financial sector, a safer and more secure business environment, and more effective agriculture policies to extend the nation's economic growth to every corner of the country. CF2020 will help deter further industry consolidation that threatens to permanently change the American financial services landscape to the detriment of American consumers, small business borrowers, and communities.

Community Focus 2020 includes legislative recommendations in the following issue areas:

- **Regulatory Relief:** Ensuring common-sense reforms that tier regulations to community banks' scale and risk profile, including capital standards and the bank exam environment, to better promote the flow of credit and economic opportunity for all individuals and families.
- **Bank Secrecy Act/Anti-Money Laundering:** Addressing outdated BSA/AML rules to make them more efficient and effective by raising the currency transaction report and suspicious activity report thresholds and ensuring that beneficial ownership information is collected and verified by either the IRS or other appropriate federal or state entities at the time a legal entity is formed.





- **Data Security, Fraud, and Privacy:** Advancing proper security and confidentiality of customer information by subjecting all entities that use and store consumer financial data to the strong safeguards of the Gramm-Leach-Bliley Act, which already apply to banks.
- **Preserving Mortgage Lending Liquidity:** Supporting access to an open and robust secondary mortgage market, including Fannie Mae and Freddie Mac, which are a critical source of capital for lenders of all sizes and are obligated to serve all markets at all times.
- **More Competitive Landscape:** Promoting a fair playing field between chartered financial institutions, such as community banks, and new entrants in the marketplace that are not subject to the same consumer protection and safety and soundness standards, while scrutinizing the taxpayer-subsidized advantages enjoyed by tax-exempt credit unions and Farm Credit System lenders.
- **Tax Relief:** Promoting tax policies that foster economic growth and support the community banking sector by preserving and advancing tax reforms that encourage private savings and small business investment.
- **Industry Concentration and Systemic Risk:** Advancing legislative changes that would curb or end advantages enjoyed by too-big-to-fail banks while preserving the separation of banking and commerce to ensure unbiased credit decisions and avoid excessive market power.
- **Cannabis Banking:** Creating a safe harbor from federal sanctions for banks that serve cannabis-related businesses, and the ancillary businesses that serve those business, in states where cannabis is legal.
- **Agriculture and Rural America:** Advocating policies that will support rural America by strengthening community banks, which fund nearly 80 percent of all agricultural loans from the commercial bank sector.

The recommendations of CF2020 will strengthen community bank lending and investment in thousands of local economies across America. They will spur job creation and extend the economic expansion.

To view the policy platform, visit <https://www.icba.org/communityfocus2020>.





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BANK SECRECY ACT MODERNIZATION

MODERNIZATION WILL PRODUCE MORE USEFUL INFORMATION WHILE ALLEVIATING COMPLIANCE BURDEN

Community bankers are committed to supporting balanced, effective measures that will prevent terrorists from using the financial system to fund their operations and prevent money launderers from hiding the proceeds of criminal activities. Modernization and reform of the Bank Secrecy Act (BSA) will produce more useful information for law enforcement while alleviating one of the most significant and costly sources of community bank compliance burden. BSA modernization will free community bank resources to better serve customers and communities. Below are ICBA's recommendations for BSA modernization.

CUSTOMER DUE DILIGENCE RULE / COLLECTION OF BENEFICIAL OWNERSHIP INFORMATION

Treasury's Customer Due Diligence rule, which became effective in 2018, requires banks to collect information on the beneficial owners of legal entity accounts.

ICBA believes that beneficial ownership information should be collected and verified by a federal or state agency at the time a legal entity is formed.

This procedure would provide uniformity and consistency across the United States. Making the formation of an entity contingent on receiving beneficial owner information would create a strong incentive for equity owners and investors to provide such information. Additionally, periodic renewal of an entity's state registration would provide an efficient and effective vehicle for updating beneficial ownership information. If such information is housed at a government entity, community banks should have access to it.





UPDATE REPORTING THRESHOLDS

As the government combats money laundering and terrorist financing, ICBA strongly recommends an emphasis on quality over quantity for all BSA reporting. Reporting thresholds are significantly outdated and capture far more transactions than originally intended. The currency transaction report (CTR) threshold, which was set in 1970, should be raised from \$10,000 to \$30,000 with future increases linked to inflation.

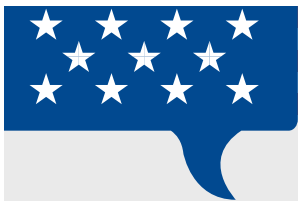
Suspicious activity reporting (SAR) is the cornerstone of the Bank Secrecy Act (BSA) system and is a way for banks to provide pertinent information to law enforcement. However, in the current regulatory environment, community banks have a strong incentive to file SARs as a defensive measure to protect themselves from examiner criticism. Moreover, community banks follow the same SAR procedure for every suspicious transaction alert no matter how minor the potential offense. This approach leaves community banks skeptical that SARs have real value to law enforcement.

ICBA recommends reform of the SAR process to a risk-based system with appropriate threshold increases. SAR filing thresholds (which vary according to circumstances) have not been adjusted since becoming effective. Increasing filing thresholds for both SARs and CTRs would enable community banks to provide more targeted and valuable information to law enforcement.

MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Despite the lack of feedback from FinCEN or law enforcement, complying with the BSA consumes a growing share of community banks' scarce compliance resources.
- Modernization will make BSA more effective while allowing community banks to better serve their customers and communities.





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BANKING CANNABIS-RELATED BUSINESSES

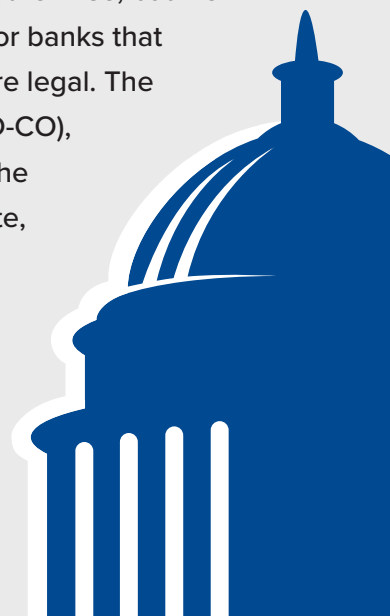
CONFLICT BETWEEN FEDERAL AND STATE LAW

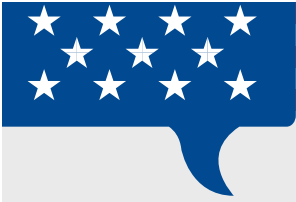
Cannabis is currently legal for recreational use in 10 states and the District of Columbia and for medical use in 33 states.

At the federal level, cannabis remains illegal under the Controlled Substances Act. As more states legalize cannabis and this segment of the business community continues to mature, the conflict between state and federal law creates increasingly significant legal and compliance concerns for state and federally chartered banks that wish to service cannabis-related businesses (CRBs) or continue to serve existing customers that may also do business with CRBs. Due to legal and regulatory uncertainty, CRBs lack access to the traditional banking system forcing them to operate mostly in cash. Cash-only businesses, especially those with a high volume of revenue, pose a significant risk to public safety.

SAFE BANKING ACT (H.R. 1595/S. 1200) WOULD CREATE LEGAL CERTAINTY

ICBA does not advocate for legalization of cannabis at the federal level or otherwise, but we do support the creation of an effective safe harbor from federal sanctions for banks that choose to serve CRBs in states and jurisdictions where these businesses are legal. The SAFE Banking Act (H.R. 1595/S. 1200), sponsored by Reps. Ed Perlmutter (D-CO), Denny Heck (D-WA), Steve Stivers (R-OH), and Warren Davidson (R-OH) in the House and Sens. Jeff Merkley (D-OR) and Cory Gardner (R-CO) in the Senate, would create such a safe harbor by providing that in jurisdictions where cannabis is legal federal banking regulators may not threaten or limit a bank's deposit insurance, downgrade a loan, prohibit or discourage the provision of banking services, or take any other prejudicial action solely because a bank customer is a CRB.





Importantly, this safe harbor would extend to banks that serve the many ancillary businesses that serve CRBs such as landlords, accountants, utilities providers, and others that may be paid in funds ultimately derived from cannabis sales. These ancillary businesses may be difficult to identify in states that have legalized cannabis, and potentially create a legal and regulatory trap for even those banks that choose not to serve CRBs directly.

STATUS OF SAFE BANKING ACT

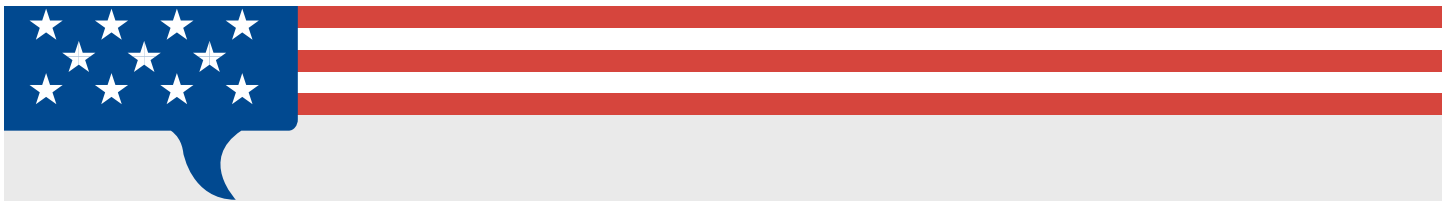
The House Financial Services Committee held a hearing on H.R. 1595 on February 13, 2019. Greg Deckard, Chairman and CEO of State Bank Northwest in Spokane, Washington, testified in support of the bill on behalf of ICBA.

H.R. 1595 was passed by the House Financial Services Committee on March 28, 2019 by a bipartisan vote of 45 to 15. It is pending consideration on the House floor. A companion bill (S. 1200) has been introduced in the Senate.

MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Support the SAFE Banking Act (H.R. 1595) to create a safe harbor and legal certainty for banks in states that have legalized cannabis.





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DATA SECURITY, PRIVACY, AND FRAUD

Community banks are committed guardians of the security and confidentiality of customer information as a matter of good business practice as well as legal and regulatory compliance. Safeguarding customer information is central to maintaining public trust and retaining customers. Nonetheless, community banks are only one of numerous entities that store consumer financial data. As bad actors continue to look for vulnerabilities in the payments and information systems of various industries, breaches will continue to occur. Data breaches at a national credit bureau, national retailers, major hotel chains, and elsewhere have the potential to jeopardize consumers' financial integrity and confidence in the payments system. ICBA supports legislation to enhance customer data security and strengthen the public trust. Provisions should include:

STRENGTHEN WEAKEST LINKS

Under current law, retailers and other parties that process or store consumer financial data are not subject to the same federal data security standards and oversight as financial institutions. A chain is only as strong as its weakest link. Consumer data safeguarded at financial institutions is exposed at the point-of-sale and other processing points. Gramm-Leach-Bliley Act-like standards should be applied to non-bank entities that handle consumer financial data. The enforcement of these standards should also be similar.





UNIFORM BREACH NOTIFICATION WILL MITIGATE LOSSES

Consumers must be notified in the event of a breach so that they can take steps to protect themselves from identity theft or fraud. While most states have enacted breach notification laws, they differ in key respects from state to state. This patchwork of state laws increases burdens and costs, fosters confusion, and ultimately harms customers. Legislation is needed to replace the state law patchwork with a national data breach notification standard.

ALIGN COST INCENTIVES TO BETTER SECURE DATA

The costs of data breaches should ultimately be borne by the party that incurs the breach, be it a retailer, financial institution, data processor, or other entity that stores consumer data. This is not only a matter of fairness; a liability shift is needed to properly align incentives for entities that store consumer financial and personally identifiable data to strengthen their data security. When breaches have a material impact on entities' bottom lines, they will quickly become more effective at avoiding them. Barring a shift in liability to the breached entity, community banks should continue to be able to access various cost-recovery options after a breach, including account-recovery programs and litigation.

PRIVACY

Any privacy legislation considered by the Congress must recognize the existing requirements community banks undertake to protect customer information and privacy.

MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Support legislation to create a secure, end-to-end payments environment for consumers and businesses, with a national breach notification standard.
- Cost incentives should align with data security. The party that incurs a breach should be liable for all costs associated with the breach.
- Congress must recognize the existing requirements community banks undertake to protect customer information and privacy when considering any privacy legislation.





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END CREDIT UNION AND FARM CREDIT SYSTEM TAX SUBSIDIES & BLOCK EXPANSION EFFORTS

CREDIT UNION TAX SUBSIDY HAS OUTLIVED ANY JUSTIFICATION

Federal credit unions are exempt from federal, state, and local taxes. The federal-tax subsidy alone has been valued by the Office of Management and Budget at nearly \$3 billion annually and rising.

A relic of the Depression era, the credit union tax exemption was originally conditioned on a narrowly defined mission: **serving consumers of modest means with a common bond** such as an employer, church or trade union. While many of today's credit unions adhere to this model, other are "stealth banks" – multi-billion dollar financial centers with broad commercial-lending powers and no effective check on their fields of membership. They fund shopping malls, real-estate developments, and other commercial ventures. They seek naming rights to large sports stadiums, state fairgrounds, performing arts centers and other expensive public venues rather than serving members of "modest means."

Credit unions are equivalent to banks and should be taxed like banks. Alternatively, new tax credits or deductions should be created for community-bank lending to low- and moderate-income individuals, businesses, and farmers and ranchers. Independent studies show that community banks do a better job of serving low- and moderate-income customers than do credit unions.

NEW, PERMISSIVE RULES WILL FURTHER TRANSFORM CREDIT UNIONS

The National Credit Union Administration (NCUA) has issued a series of new rules that will broadly expand credit union powers and authorities, nearly erasing any difference between credit unions and tax-paying, commercial banks.

- A 2016 NCUA rule significantly expands credit union commercial lending powers by excluding certain commercial loans or loan participations from the member business lending cap. ICBA believes this rule exceeds the NCUA's statutory authority.
- Another final NCUA rule lifts many field-of-membership restrictions, expanding the reach of tax-exempt credit unions beyond their statutory limits. A follow-up proposal would expand the population limit for community credit unions from 2.5 million to 10 million, flouting the statutory mandate that community credit unions serve only well-defined, local communities or neighborhoods.
- The NCUA is also considering a proposal that would allow credit unions to issue "alternative" capital instruments to outside investors, undermining the cooperative form of ownership that underpins their tax exemption.

The NCUA has thwarted the intent of Congress. For years, Congress has debated these issues and decided not to make these changes. The NCUA's actions will transform credit unions and cause irreparable harm to community banks, and their customers and communities. Enough is enough! The NCUA is an industry advocate and cheerleader, not a regulator.





FARM CREDIT SYSTEM CHARTERED BY CONGRESS FOR A NARROW PURPOSE

The Farm Credit System (FCS) is a government sponsored enterprise (GSE) chartered by Congress primarily to serve bona fide farmers and ranchers and a narrow group of farm-related businesses that provide on-farm services. FCS lenders leverage their tax and funding advantages as government sponsored enterprises (GSEs) to siphon the best loans away from community banks and disrupt rural communities. The FCS is the only GSE that competes directly against private sector, tax-paying lenders at the retail level. FCS was chartered by Congress with a narrowly defined mission in exchange for its GSE tax and funding advantages.

However, in recent years FCS has sought numerous non-farm lending powers to compete directly with commercial banks for non-farm customers.

FARM CREDIT REGULATOR FLOUTING CONGRESSIONAL AUTHORIZATION

FCS's compliant regulator, the FCA, has also sought to expand FCS activities through regulatory initiatives such as "investment bonds" and the "Rural Community Investments" regulation finalized in 2018. These initiatives provide authority for non-farm lending under the guise of "investments," though such lending goes beyond the constraints of the Farm Credit Act. Additionally, the Farm Credit Council has proposed replacing the FCA's approval of these "investments" with blanket FCS authority to finance any investment. ICBA opposes the Farm Credit Council's proposal.

Additionally, FCS has misused its "similar entity" authority to lend to the world's largest corporations headquartered in urban, not rural, areas, including CyrusOne, Verizon, Vodafone, U.S. Cellular, Constellation Brands, AT&T, and Frontier. This authority should focus exclusively on rural America.

Recent proposals to allow the FCS to become the equivalent of rural commercial banks would devastate thousands of rural community banks that serve rural and remote areas of the U.S. Such proposals are another FCS-initiated effort to utilize GSE tax and funding advantages to expand beyond statutory lending constraints, ignore FCS's GSE mission of serving actual farmers and ranchers, and dramatically increase FCS institutions' profits at the expense of the private sector.

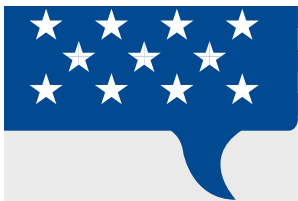
MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Oppose expanded powers for tax-subsidized credit unions.
- Support repeal of the credit union tax subsidy or enact tax relief for community banks.
- The FCS should return to its primary mission of serving bona-fide farmers and ranchers. FCS investments must be limited to comply with the Farm Credit Act's lending authorities. Oppose expanded infrastructure lending for FCS institutions.
- Enact comparable tax relief for community banks as envisioned in H.R. 1872, the Enhancing Credit Opportunities for Rural America (ECORA) Act.

REFORM AND REFOCUS THE FARM CREDIT SYSTEM

Congress should, among other actions, reform and refocus the FCS by equalizing tax treatment between community banks and FCS lenders; prohibiting FCS non-farm lending including "similar entity" and other types of loans to large corporations; prohibiting FCS predatory, below-market pricing of loans; and enforcing prohibitions against FCS deposit-taking schemes.





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HOUSING FINANCE AND FLOOD INSURANCE REFORM

COMMUNITY BANKS AND THE MORTGAGE MARKET

For decades, American homeowners have benefited from the critical role Fannie Mae and Freddie Mac (the government sponsored enterprises or “GSEs”) have played in helping finance homeownership. The GSEs have provided a steady, reliable source of funding for home mortgage lending through all economic cycles and in all markets.

Community banks depend on the GSEs for direct access to the secondary market without having to sell their loans through a larger financial institution that competes with them. The GSEs allow community banks to retain the servicing on the loans they sell, which helps keep delinquencies and foreclosures low. And unlike other private investors or aggregators, the GSEs have a mandate to serve all markets at all times.

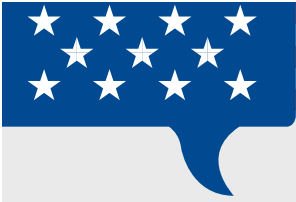
ICBA SUPPORTS A TWO-PRONGED APPROACH TO HOUSING FINANCE REFORM

As described below, effective housing finance reform must be comprehensive and encompass both (i) administrative reforms, using authorities granted to the Federal Housing Finance Administration (FHFA) by the Housing and Economic Recovery Act (HERA), and (ii) legislative reforms designed to preserve what’s working well and make targeted changes to aspects of the current system that are not working or that put taxpayers at risk.

LEGISLATIVE REFORMS

- Legislation should create an explicit government guaranty on GSE mortgage backed securities. For the market to remain deep and liquid, government catastrophic-loss protection must be explicit and paid for through the GSE guaranty fees, at market rates. This guarantee is needed to provide credit assurances to investors, sustaining robust liquidity even during periods of market stress.
- To reduce systemic risk, Congress should permanently cap the GSEs’ retained portfolios. Highly leveraged retained portfolios drove high quarterly earnings and took the GSEs’ focus off their core mission.
- Legislation must permanently eliminate preferential pricing/loan sale terms for lenders based on production volume/market share. These policies favor the largest lenders and promote consolidation which harms borrowers.





- The FHFA's governance structure should be converted from a single director to a five-member board. This change would bring a diversity of views to the FHFA and create a system of checks and balances that would strengthen rulemaking.
- Congress should change the GSE corporate charters from the current government-chartered, shareholder-owned, publicly traded companies, to regulated financial utilities that are shareholder owned. This change would help the GSEs stay focused on their mission and provide regulated returns to shareholders.

ADMINISTRATIVE REFORMS

- The FHFA must end the quarterly net worth sweep of Fannie and Freddie net income to the Treasury so that they can begin to retain earnings to rebuild capital.
- FHFA should direct the GSEs to develop and file capital restoration plans, as required by HERA, to provide a road map for the industry, taxpayers, and policy makers. The plans must detail the GSEs' capital activities, milestones, and timeframe to achieve desired capital levels and specify the steps FHFA will take to approve the GSEs' eventual exit from conservatorship. These plans are critical for all stakeholders to ensure the process is transparent, with robust oversight by FHFA. Recapitalization cannot wait for legislative reform to occur.
- GSE shareholder rights must be upheld. Any reform of the housing finance system must address the claims of GSE shareholders and respect the rule of law that governs the rights of corporate shareholders.

FLOOD INSURANCE MUST BE AFFORDABLE AND READILY AVAILABLE

Affordable and readily available flood insurance is vital for many communities, along the coasts as well as inland rivers, and for those who live and work in areas impacted by disasters. The National Flood Insurance Program (NFIP) expires on May 31, 2019 and must be reauthorized. Congress is considering reforms to place the Program on sound financial footing, ensure that rates and maps are accurate, and provide for mitigation. ICBA generally supports these efforts and will evaluate proposals based on the following criteria:

- There should be a long-term reauthorization of the NFIP in order to have certainty and continuity in the market.
- Coverage must be affordable and reasonably available to all homeowners and business owners.
- Consumers should be allowed to switch to a private market policy and then return to the NFIP without losing their grandfathered status.
- The mandatory purchase requirement for commercial properties should be maintained as it helps community banks compete with regional and national banks for loans in flood zones.

MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Housing finance reform must preserve community bank access and liquidity in the secondary market.
- Support timely, long-term reauthorization of the National Flood Insurance Program.