

1. BSA / AML.

The Bank Secrecy Act (BSA) is the primary anti-money laundering (AML) law and the basic compliance structure has not been changed since 1970. Banking and technology have changed rapidly since the 70s yet BSA is one of the most costly and burdensome regulations to comply with. NDBA requested support for the following: (1) a federal registry for beneficial ownership data, (2) increasing the Currency Transaction Reports (CTRs) limit to eliminate unnecessary CTR filings and adopt a seasoned customer exemption, and (3) streamlining the sharing of information between banks and law enforcement.

2. CANNABIS BANKING.

Under current federal laws, regardless of state laws, banks cannot conduct business with any entity whose proceeds are derived from cannabis. This includes ancillary businesses that provide goods, services, or real estate to cannabis businesses and put their own banking services at risk. This does not include hemp-related business since hemp has been removed from the Controlled Substance Act. The Secure and Fair (SAFE) Banking Act¹ was recently passed through committee and is moving to a vote on the House Floor. It would create a safe harbor for depository institutions which would allow proceeds from a legitimate cannabis business or ancillary business to be considered lawful under federal money laundering statutes or any other federal law.

Senator Cramer recently co-sponsored the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act². The bill would give states the power to determine whether cannabis should be legal or not for their state. However, it's unclear how this will bring clarity or solve banking issues involving interstate commerce. Additionally, it appears to not protect "correspondent banks" like the Bank of North Dakota in cannabis-related transactions.

3. CECL ACCOUNTING STANDARD FOR CREDIT LOSSES

FASB's Current Expected Credit Loss (CECL)³ accounting standard requires banks to record allowances for credit losses on loans and held-to-maturity debt securities at origination, based on "life of loan loss" expectation. The standard

will come into effect in 2020 and will bring higher and more volatile ALLL levels and operational costs consequently reducing available capital and limiting a bank's ability to meet credit needs, especially in the case of an economic downturn. This would negatively affect North Dakota banks' ability to provide loans. NDBA is asking for a delay on the implementation of CECL and a study on the potential impact.

4. DATA BREACH AND PRIVACY LEGISLATION.

Data security breaches are always of the upmost importance to the banking industry. NDBA discussed the importance of a national standard in place of the current patchwork of state laws.

5. ENHANCED CREDIT OPPORTUNITIES IN RURAL AMERICA ACT.

The Enhanced Credit Opportunities in Rural America Act (ECORA-HR1872) was introduced by Congressman Steven Watkins (R-Kansas) on March 26. It seeks to amend the Internal Revenue Code to exclude interest earned on certain agricultural real estate loans and certain single family rural residential loans. This Act could greatly assist North Dakota banks in competing with Farm Credit and allow North Dakota banks to better serve rural communities.

6. CAPITAL SIMPLIFICATION.

North Dakota banks spend a good portion of their resources to ensure capital is far in excess of any amounts required by Basel III risk-based capital rules. On November 20, 2018, banking agencies made a proposal⁴ that would simplify regulatory capital requirements for qualifying community banking organizations, as described in Section 201⁵ of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The proposal would bring regulatory relief to banks that qualify as "well capitalized" if they hold a Community Bank Leverage Ratio of greater than 9% and are under \$10 billion in total assets. Thus, Section 201 could shield qualifying institutions from future changes to the risk-based capital standards. Bankers communicated to Senator Hoven, Senator Cramer and Congressman Armstrong that 8% would be more appropriate.

¹H.R. 1595 (SAFE Banking Act of 2019): <https://financialservices.house.gov/uploadedfiles/bills-116-hr1595-p000593-amdt-1.pdf>

²STATES Act: <https://www.warren.senate.gov/download/states-act-one-pager>

³J.P. Morgan on CECL: <https://www.alli.com/alli-regulations/fasb-cecl/jpmorgan-chase-gives-look-at-cecl-impact/>

⁴Proposal: <https://www.occ.gov/news-issuances/bulletins/2019/bulletin-2019-6.html>

⁵Section 201: <https://www.congress.gov/bill/115th-congress/senate-bill/2155/text#toc-id8365BF58FB9C41119C321BE98FD3C80A>