

NASCUS

The National Voice of the State Credit Union System

Interstate “Banking” by State Credit Unions

By Parker Cann

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Overview

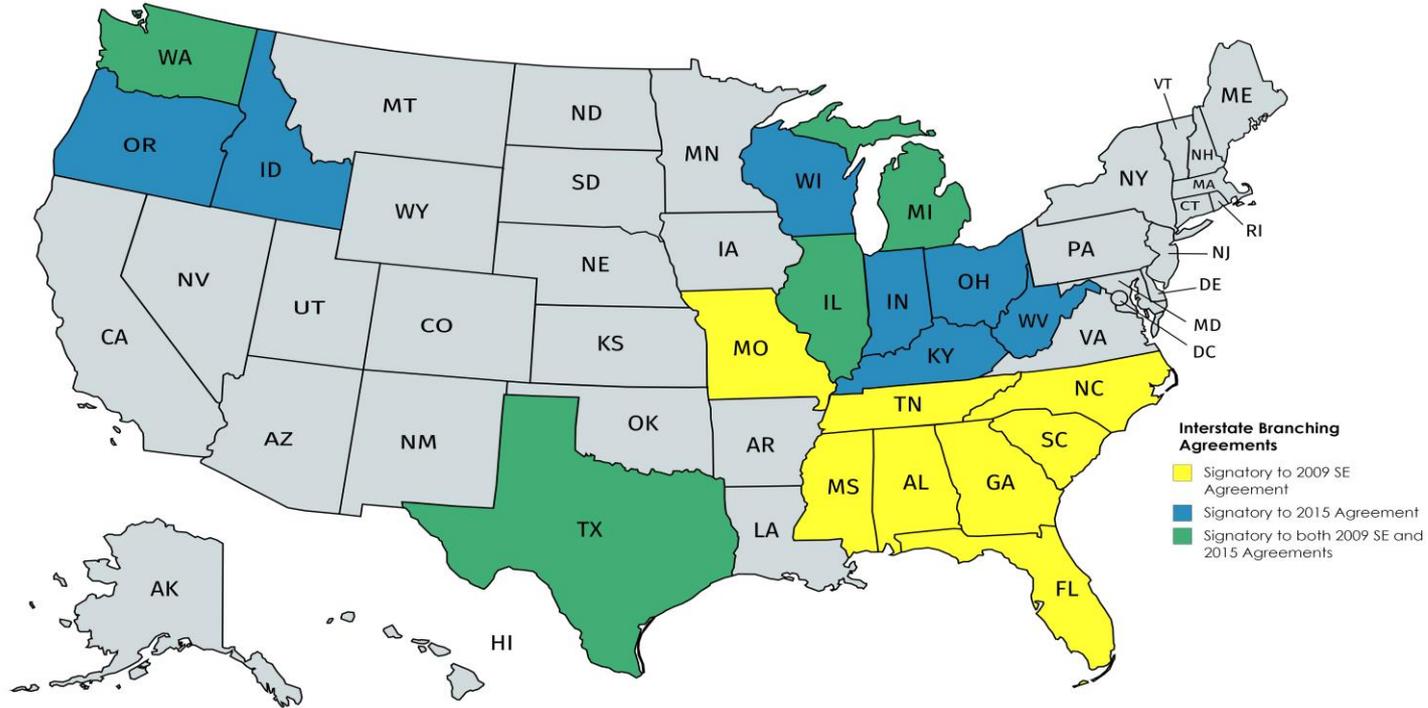
- Historical development of the NASCUS “Cooperative Interstate Agreement for the Supervision of Credit Unions”
- Draft of a 3rd generation Interstate Agreement
 - Still a work in progress
 - Expands breadth of the Interstate Agreement from interstate branching to interstate banking
 - Provides more clarity for State Supervisors and SCUs

NASCUS role in developing Interstate Agreement template

- NASCUS has had strong interest in interstate banking by SCUs for over two decades
- Concern – SCUs may seek out more expansive interstate powers through charter conversion
- In late 1990's, NASCUS pioneered a written Interstate Protocol and Agreement signed by many states

NASCUS role

- The 2009 “Southeast” Interstate Agreement has been signed by 12 states
- The separate 2015 Interstate Agreement has been signed by 11 states (2015 Interstate Agreement)



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Regulation of Interstate Banking by SCUs

- Unlike SCUs, state and national banks and FCUs (within approved FOMs) may for the most part branch freely across state lines
- For state banks, the preemption was effected through the 1994 Riegle-Neal Act and its 1997 amendments (Riegle-Neal II). Significantly, the latter specified which Host State laws applied to out-of-state banks.

Regulation of Interstate Banking by SCUs

- Despite NASCUS work with Congress, no federal preemption in sight for SCUs
- SCUs face an uncertain Host State-by-Host State patchwork quilt of laws on interstate activities
- This uncertainty diminishes the value of the state charter relative to other charters

Regulation of Interstate Banking by SCUs

- The Interstate Agreement cannot create a consistent legal platform across the country for interstate banking by SCUs
- Conditions in the Agreement create uncertainty about the actual impact of many provisions. For example:
 - “Financial services provided through automated teller machines, cash delivery machines and similar automated and unmanned facilities shall be permitted on a reciprocal basis, subject to applicable state law requirements.” (underline supplied)

Regulation of Interstate Banking by SCUs

- **But an Interstate Agreement can identify major state law differences affecting SCU's interstate activity, allowing the elimination of many of the conditions in the current Agreements**
- **These kinds of refinements could reduce uncertainty (and controversy) among State Supervisors and SCUs**

Draft 3rd Generation Interstate Agreement (Draft 3GIA)

Three bedrock principles are preserved:

- Home State Supervisor is the primary regulator for supervision and examination
- Home State Supervisor is the “single point of contact” for the filing of all applications and notices under Home or Host State law
- The Interstate Agreement is subject to applicable state law

Draft 3GIA

- NASCUS staff has been working with a group of State Supervisors, SCUs and Leagues for several months now to work out the Draft
- Still a work in progress
- One of goals is to reach as much agreement as possible within existing state law

Draft 3GIA

- Goals of Draft:
 - Broaden scope of Agreement to cover interstate banking (not just branching)
 - Identify interstate activities, for each signatory state, that trigger application or notice requirements under Host State law
 - Agree on types of Host State law that apply to out-of-state CUs
 - Address allocation of regulatory assessments and fees

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