INTRODUCTION

This Special Alert provides an overview of various federal regulatory actions issued in response to the COVID-19 pandemic compiled by Farleigh Wada Witt. This overview provides a brief synopsis of the various actions affecting compliance and operations for credit unions and our analysis of impacts on credit unions.

REGULATORY ACTION SUMMARY

The following is a summary of the regulatory federal regulatory actions that may impact compliance and operations for credit unions and CUSOs.

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<th>Effective Date</th>
<th>Agency Action</th>
<th>Area Affected</th>
<th>Regulatory Action (Ctrl + click to link to Rule/Agency site)</th>
<th>Credit Union Impact/Action</th>
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<tbody>
<tr>
<td>03/18/20</td>
<td>HUD/FHA</td>
<td>Lending</td>
<td>FHA Mortgagee Letter 2020-04</td>
<td>Credit union servicers are urged to take reasonable actions to support those adversely impacted mortgagors by:</td>
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<td></td>
<td>Fannie Mae</td>
<td>Mortgage</td>
<td><a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/20-04hsglm.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/20-04hsglm.pdf</a></td>
<td>• Forbearing mortgage payments for 90 days;</td>
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<td>Freddie Mac</td>
<td>Lending</td>
<td>Fannie Mae Lender Letter (LL 2020-02)</td>
<td>• Refraining from reporting late payments to credit rating agencies for 90 days;</td>
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<td>FHA Mortgagee Letter 2020-04</td>
<td>Mortgage Lending</td>
<td>Freddie Mac Bulletin 2020-4 Temporary Servicing Requirements Related to COVID-19 &amp; 60-day moratorium on foreclosures</td>
<td>• Offering mortgagors an additional 90-day grace period to complete trial loan modifications, and ensuring that late payments during the COVID-19 pandemic does not affect their ability to obtain permanent loan modifications;</td>
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<td>Fannie Mae Lender Letter (LL 2020-02)</td>
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<td>Freddie Mac Bulletin 2020-4 Temporary Servicing Requirements Related to COVID-19</td>
<td>• Waiving late payment fees 90 days;</td>
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<td>Freddie Mac Bulletin 2020-4 Temporary Servicing Requirements Related to COVID-19</td>
<td>Mortgage Lending</td>
<td><a href="https://guide.freddiemac.com/app/guide/bulletin/2020-4">https://guide.freddiemac.com/app/guide/bulletin/2020-4</a></td>
<td>• Postponing foreclosures for 90 days;</td>
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<td>Mortgage</td>
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<td>• Ensuring that mortgagors do not experience a disruption of service</td>
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<tr>
<td>03/22/20</td>
<td>NCUA</td>
<td>Lending; Accounting</td>
<td>Interagency Statement on Loan Modifications and Reporting During COVID-19</td>
<td>Review and update loan modification reporting practices &amp; risk management guidelines for troubled debt restructurings (TDR), and data management systems. Portions regarding TDR superseded by CARES Act.</td>
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<tr>
<td>03/16/20</td>
<td>NCUA</td>
<td>Lending; Board &amp; Management</td>
<td>NCUA Letter to Credit Unions No. 20-CU-20</td>
<td>Evaluate and implement operations and loan relief practices. Review guidance for Annual &amp; Board Meeting issues and practices.</td>
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<tr>
<td>03/27/20</td>
<td>Congress</td>
<td>Lending</td>
<td>Coronavirus Aid, Relief and Economic Security Act (CARES Act, S.3548)</td>
<td>For loan modifications during COVID-19 crises, if credit union enters into any loan modification or deferral payment arrangement any credit report must state loan as current.</td>
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<tr>
<td>03/27/20</td>
<td>Congress</td>
<td>Lending</td>
<td>Coronavirus Aid, Relief and Economic Security Act (CARES Act, S.3548)</td>
<td>For loan modifications, deferrals, or forbearances during COVID-19 crises, a credit union need not classify the loan modification as a (TDR).</td>
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<tr>
<td>03/31/20</td>
<td>Fannie Mae</td>
<td>Mortgage Lending</td>
<td><a href="https://www.fanniemae.com/portal/covid-19.html">https://www.fanniemae.com/portal/covid-19.html</a></td>
<td>Credit unions who are Fannie Mae Single-Family Sellers must review Fannie Mae letters providing with guidance related to appraisals, origination and servicing practices and requirements.</td>
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| 04/02/20      | SBA          | Commercial Lending | SBA Paycheck Protection Program Interim Final Rule SBA Paycheck Protection Program | Credit unions must review Final Rule for implementing the Paycheck Protection Program under the CARES Act including:  
- Credit unions need to qualify to process, close, disburse, or service loans made under the Paycheck Protection Program  
- Application for Approval as Lender  
- Amount of the SBA loan guaranty under the Program  
- Required due diligence prior to extending loans under the Program  
- Terms and conditions of Program loans  
- Capital, reserves, and fees incentives for lenders to participate in the Program  
- Sale of the loans on the secondary market  
- Required documents for a loan forgiveness |
<p>| 04/01/20      | CFPB         | Lending       | CFPB Credit Reporting Guidance During COVID-19 Pandemic | CFPB guidance to furnishers regarding credit reporting for loan modifications during COVID-19 crises. If credit union enters into any loan modification or deferral payment arrangement any credit report must state loan as current. |
| 04/14/20      | NCUA         | Real Estate Lending | <a href="https://www.ncua.gov/files/agenda-items/AG20200416Item3b.pdf">Deferral of Real Estate Appraisals</a> | NCUA &amp; Federal Banking Agencies issued an Interagency Statement on the Deferral of Real Estate Appraisals &amp; Evaluations to address challenges relating to appraisals and evaluations for real estate lending affected by the COVID-19 crisis. |
| 04/16/20      | NCUA         | Real Estate Lending Commercial Lending | <a href="https://www.ncua.gov/files/agenda-items/AG20200416Item3b.pdf">https://www.ncua.gov/files/agenda-items/AG20200416Item3b.pdf</a> | NCUA issued Interim Final Rule changes to Part 722 for Deferral of Real Estate Appraisals for 120 days after closing. |</p>
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<td>Real Estate Lending</td>
<td><a href="https://www.ncua.gov/files/agenda-items/AG20200416Item4b.pdf">https://www.ncua.gov/files/agenda-items/AG20200416Item4b.pdf</a></td>
<td>NCUA issued Interim Final Rule changes to Part 722 Real Estate Appraisals to Increase the Threshold for Appraisals from $250,000 to $400,000.</td>
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</tbody>
</table>
| 04/16/20      | NCUA         | Regulatory Relief | [https://www.ncua.gov/files/agenda-items/AG20200416Item2b.pdf](https://www.ncua.gov/files/agenda-items/AG20200416Item2b.pdf) | NCUA issued an interim final rule to temporarily modifying 3 regulatory requirements to provide relief for FICUs & FCUs  
  - Loan Participation Purchase Limit (FICUs) - temporarily raised  
  - Eligible Obligation Purchase Limits (FCUs) - temporarily suspended  
  - Time for Occupying or Disposing of Property (FCUs) - time period tolled. |
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<tbody>
<tr>
<td>03/26/20</td>
<td>FRB</td>
<td>Operations;</td>
<td>Reserves Central-Account Administration Application FAQs</td>
<td>Determine Savings Accounts</td>
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<td>Corporate</td>
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<td>terms and reclassifications;</td>
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<td>revise forms, policies</td>
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<td>Terms after changes made.</td>
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<td>03/16/20</td>
<td>FinCEN</td>
<td>Operations</td>
<td>The Financial Crimes Enforcement Network (FinCEN) Encourages</td>
<td>Review guidance to credit</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Financial Institutions to Communicate Concerns Related to the</td>
<td>unions on BSA reporting and</td>
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<td>Coronavirus Disease 2019 (COVID-19) and to Remain Alert to</td>
<td>FinCEN relief.</td>
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<td>Related Illicit Financial Activity</td>
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<td>03/16/20</td>
<td>CFPB</td>
<td>Operations</td>
<td>Protecting your finances during the Coronavirus Pandemic.</td>
<td>Review guidance to consumers</td>
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<td>on protecting finances by</td>
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<td>status, debt collections and</td>
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<td>review operations procedures</td>
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<td>and practices for updates.</td>
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<tr>
<td>04/03/20</td>
<td>FinCEN</td>
<td>Operations</td>
<td>FinCEN Provides Further Information to Financial Institutions</td>
<td>Review additional FinCEN</td>
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<td>in Response to the Coronavirus Disease 2019 (COVID-19)</td>
<td>guidance to on BSA reporting</td>
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<td>04/13/20</td>
<td>NCUA</td>
<td>Corporate</td>
<td>NCUA Interim Final Rule on Central Liquidity Fund</td>
<td>NCUA Issued Interim Final</td>
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<td>Finance</td>
<td>20-CU-8 Letter to Credit Unions</td>
<td>rule on Central Liquidity</td>
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<td>Fund to reflect changes from</td>
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<td>CARES Act and revise CLF</td>
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<td>NCUA Issued Letter to Credit</td>
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<td>Unions 20-CU-8, Enhancements</td>
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<td>Facility Membership and</td>
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The following is a brief explanation of the federal actions that may impact credit union and CUSO compliance and operations functions.

### FEDERAL

#### Fannie Mae, Freddie Mac, and HUD

Fannie Mae, Freddie Mac, and HUD have issued guidance to urge all mortgage servicers to do their part to alleviate the adverse impact caused by COVID-19 on mortgage borrowers who demonstrate they are not able to make timely payments. These agencies have all suspended foreclosures for at least 60 days on single family mortgages backed by those entities.

Credit union servicers are urged to take reasonable and prudent actions, subject to the requirements of any related guarantees or insurance policies, to support those adversely impacted mortgagors by:

- Forbearing mortgage payments for 90 days from their due dates;
- Refraining from reporting late payments to credit rating agencies for 90 days;
- Offering mortgagors an additional 90-day grace period to complete trial loan modifications, and ensuring that late payments during the COVID-19 pandemic does not affect their ability to obtain permanent loan modifications;
- Waiving late payment fees and any online payment fees for a period of 90 days;
- Postponing foreclosures for 90 days;
- Ensuring that mortgagors do not experience a disruption of service if the mortgage servicer closes its office, including making available other avenues for mortgagors to continue to manage their accounts and to make inquiries; and
- Proactively reaching out to mortgagors via app announcements, text, email or otherwise to explain the above-listed assistance being offered to mortgagors.

#### NCUA

**Interagency Statement on Loan Modifications and Reporting During COVID-19**

NCUA, and other federal banking agencies issued an Interagency Statement on loan modifications and reporting in response to the Coronavirus Disease 2019 ("COVID-19"). The Agencies provide guidance regarding working with member/customers, accounting for loan modifications, past due reporting, nonaccrual status and charge-offs, and discount window eligibility. The Interagency Statement provides credit unions with guidance in key areas:

**Working with Members.** Credit unions are encouraged to work prudently, through safe and sound practices, with borrowers who are unable to make their payments due to the effects of COVID-19. NCUA will not criticize credit unions that work with borrowers as part of a risk mitigation strategy. In addition, NCUA will not direct credit unions to automatically categorize all COVID-19 related loan modifications as troubled debt restructurings (TDRs).

**Accounting for Loan Modifications.** Credit unions’ short-term loan modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief, are not considered TDRs. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant. Borrowers considered current as those that are less than 30 days past due on their contractual payments at the time a modification program is implemented. Regardless of whether modifications result in loans that are considered TDRs or are adversely classified, NCUA examiners will not criticize prudent efforts to modify the terms on existing loans to affected customers.

**Past Due Loan Reporting.** For loans not otherwise reportable as past due, credit unions are not expected to designate deferred loans granted due to COVID-19 as past due because of the deferral or during the deferral.

**Nonaccrual Status and Charge-offs.** Generally, short-term loan modifications granted due to COVID-19 should not be reported as nonaccrual during the deferral period. Rather credit unions should refer to the charge-off guidance in NCUA LCU 03-CU-01 and the unique circumstances of the particular loan.

**FWW Compliance Note:** Credit unions need to (i) review & update loan modification reporting practices and guidelines for TDRs; (ii) review & update risk management guidelines for TDRs; and (iii) review & update data management systems for new tracking requirements.
NCUA
Letter to Credit Unions No. 20-CU-02

NCUA issued Letter 20-CU-02 NCUA Actions Related to COVID-19 to federally insured credit unions to highlight how NCUA will work with credit unions at the supervisory level to allow credit unions to more easily respond to the needs of their members during the current COVID-19 crisis,

- **Operations Guidance – Working with Members.** NCUA outlined a number of strategies credit unions may consider in determining how to work with members to address their challenges during the COVID-19 crisis. NCUA examiners will not criticize credit unions efforts to provide prudent relief for members when conducted in a reasonable manner with proper controls and management oversight. Specifically, NCUA outlined efforts credit unions may consider for affected member/borrowers:
  - Waiving automated teller machine (ATM) fees
  - Increasing ATM daily cash withdrawal limits
  - Waiving overdraft fees
  - Waiving early withdrawal penalties on time deposits
  - Waiving availability restrictions on insurance checks
  - Easing restrictions on cashing out-of-state and non-member checks
  - Easing credit terms for new loans for members who qualify
  - Offering or expanding payday alternative loan programs
  - Increasing credit card limits for creditworthy borrowers
  - Waiving late fees for credit card and other loan balances
  - Offering payment accommodations, such as allowing borrowers to defer or skip some payments, or extending the payment due dates, which would avoid delinquencies and negative credit bureau reporting caused by any COVID-19-related disruptions.

- **Examination and Supervision.** NCUA will be limiting its examination and supervision work scheduling to minimize disruption and will conduct examinations off-site where possible and take steps to exchange information securely.

- **FCU Governance Issues.** NCUA issued a series of FAQs to provide FCUs guidance on delaying annual meetings and elections; continued Board member terms; Board meetings conducted with video or teleconferencing participation. This guidance is inapplicable to state chartered credit unions, which generally have greater governance flexibility under state law and credit union Bylaws.

- **Branch Access & Closures.** Credit unions have flexibility to make reasonable decisions on facilities access and branch closures. Credit unions will be subject to the direction of state authorities on social distancing and public assembly, which will lead to staff reductions, a limited access to branches and branch closures. Credit unions do not need to notify NCUA of any branch closures unless there is an interruption in vital member services exceeding 2 days in which case a credit union has 5 days to notify the applicable NCUA regional director.

- **Reporting.** NCUA will work with credit unions impacted by the crisis and will not assess penalties or take other supervisory action with regard to delayed quarterly Call Reports reporting responsibilities where the credit unions have taken reasonable and prudent steps to comply.

**FWW Compliance Note:** Credit unions need to (i) evaluate and implement operations and loan relief practices; (ii) evaluate and implement temporary product and service changes for fee waivers and account restrictions; and (iii) review NCUA guidance for FCU Annual Meeting & Board meeting issues and practices.
NCUA

Central Liquidity Fund (Part 725) Final Rule & NCUA Letter to Credit Unions 20-CU-8

On April 13, 2020 NCUA issued interim final rule to revise Part 725, Central Liquidity Fund (CLF) to ease membership and loan advance requirements to accelerate liquidity access for credit unions.

Also, NCUA issued Letter to Credit Unions 20-CU-8, Enhancements to Central Liquidity Facility Membership and Borrowing Authority to provide clarifying guidance to the CLF rule changes.

NCUA’s rulemaking supplements recent legislative changes in the CARES Act that revise the FCUA that (i) to increase the CLF’s borrowing authority with U.S. Treasury (Federal Financing Bank) from 12x to 16x its subscribed capital stock, and (ii) permits Corporate credit unions the ability to borrow from CLF for their own liquidity needs.

NCUA’s CLF Interim Rule changes primarily ease the requirements for credit unions to join, use and exit from the CLF, which enhances the CLF as a funding source for liquidity during the economic downturn from the COVID-19 crisis. Most of the changes are temporary relief changes that sunset December 31, 2020.

NCUA

Real Estate Appraisals Deferrals Final Rule

Issued April 16, 2020, NCUA’s interim final rule defers the requirement to obtain an appraisal or written estimate of market value for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions.

Under the interim final rule, a credit union may close a real estate loan without a contemporaneous appraisal or written estimate of market value, provided the credit union obtains the appraisal or written estimate of market value, as would have been required under the appraisal regulations without the deferral, without a grace period of 120 days after closing of the transaction. While appraisals and written estimates of market value can be deferred, the NCUA expects credit unions to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property. In addition, NCUA continues to expect credit unions to adhere to internal underwriting standards for assessing borrowers’ creditworthiness and repayment capacity and to develop procedures for estimating the collateral’s value for the purposes of extending or refinancing credit.

NCUA

Interagency Statement on Deferral of Real Estate Appraisals

NCUA joined the other federal banking regulators and issued an Interagency Statement (Interagency Statement On Appraisals And Evaluations For Real Estate Related Financial Transactions Affected By The Coronavirus) to address challenges relating to appraisals and evaluations for real estate related financial transactions affected by COVID-19. The Interagency Statement outlines existing flexibilities in industry appraisal standards and in the appraisal, regulations issued by NCUA and describes temporary changes to Fannie Mae and Freddie Mac appraisal standards that can assist credit union lenders.

In the Interagency statement, NCUA provided: while exterior and interior inspections are commonly conducted in preparing appraisals and evaluations and can facilitate high quality valuations, such inspections are not required by NCUA’s appraisal regulations. Rather, as allowed by USPAP, an appraiser can determine the characteristics of a property through, among other things, any combination of property inspection, asset records, photographs, property sketches, and recorded media. Interior inspections are still required for certain higher-priced mortgage loans affected by the COVID crisis between January 31, 2020 and the later of 120 days after Friday March 27 or 120 days after the date that the presidentially declared national emergency terminates.
### Congressional – CARES Act

#### Loan Deferrals & Modifications – No TDR Classification

Section 4013 of the CARES Act (signed into law on Friday) went a step further than the financial regulators and provided that with respect to any modification, deferral, etc. entered into between March 1 and December 31, 2020 (or 60 days after the end of the declared emergency, whichever is later), credit unions need not classify the loan as a TDR or treat it as impaired if the loan was current at the time of the modification and the modification is due to COVID-19. It further provides that NCUA “shall defer” to the credit union in making this determination. However, the credit union does need to keep track of the “volume” of these loans and the regulator may “collect data” about them for supervisory purposes.

### Fannie Mae

**Lender Letter (LL-2020-04) Impact of COVID-19 on Appraisals**  
**Lender Letter (LL-2020-03) Impact of COVID-19 on Originations**  
**Lender Letter (LL-2020-02) Impact of COVID-19 on Servicing**

On March 31, 2020, Fannie Mae issued a series of letters providing Fannie Mae Single-Family Sellers with guidance related to appraisals, origination and servicing practices and requirements.

**Lender Letter (LL-2020-04) Impact of COVID-19 on Appraisals**

During this COVID-19 national emergency, in many cases Fannie Mae Single-Family Sellers (lenders) are unable to obtain an appraisal based on a full interior and exterior inspection of the subject property. In response, Fannie Mae is allowing temporary flexibilities to our appraisal requirements. Fannie Mae is working closely with Freddie Mac under the guidance of FHFA to offer these temporary measures.

**Lender Letter (LL-2020-03) Impact of COVID-19 on Originations**

Fannie Mae has provided updated guidance for Fannie Mae Single-Family Sellers (lenders) on a series of origination practices and requirements:

- Age of documentation: modifying age of document requirements from 4 months to 2 months
- Verification of self-employment: requiring lenders to confirm the borrower’s business is open and operating within 10 business days of the note date
- Market-based assets: updating policies for use of securities for down payment & closing
- Powers of attorney: providing flexibilities for use of a power of attorney
- Remote online notarization: providing expansion of the use of remote online notarization
- Lender quality control requirements: allowing post-closing reverifications to occur verbally or electronically, and other flexibility related to review of appraisals
- Verbal verification of employment: Offering flexibilities for obtaining the verbal verification of employment
- Submission of financial statements and reports: Extending the deadline for submission of financial statements and Form 582 to Apr. 30, 2020
- Notes, electronic records, and signatures: Reminder of existing policies regarding possession of the original promissory note before loan purchase, and electronic signature requirements
- Title insurance: Reminder of title insurance written on the 2006 ALTA loan title insurance form or a local equivalent, which includes “gap coverage”
- Business continuity plans: Reminder to follow business continuity plans

**Lender Letter (LL-2020-02) Impact of COVID-19 on Servicing**

Fannie Mae has provided updated guidance for Fannie Mae Single-Family Sellers (lenders) on a series of servicing practices and requirements:

- Attempting to establish QRPC: Reminder of acceptable methods in attempting to achieve quality right party contact (QRPC).
- Reporting a reason for delinquency code.
- Property inspections and preservation.
- Submission of financial statements and reports: Extending the deadline for submission of financial statements and Form 582 to April 30, 2020.
- Forbearance plan eligibility: Expanding eligibility for a forbearance plan for borrowers impacted by COVID-19.
- Evaluating the borrower for a payment deferral or mortgage loan modification after a forbearance plan: Clarifying the mortgage loan modifications that must be considered near the conclusion of a forbearance plan term.
- Credit bureau reporting: Clarifying that servicers must suspend credit reporting for hardships related to COVID-19.
- Suspension of foreclosure sales: Instructing servicers to not allow any foreclosure sales within the next 60 days.

### CFPB

**Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act**

**CFPB Credit Reporting Guidance During COVID-19 Pandemic**

President Trump signed the CARES Act, which contains relief provisions for credit reporting practices related to loan modifications granted to consumers affected by the COVID-19 crises. On April 1, 2020, the CFPB issued this Policy Statement to identify credit union (furnishers’) credit reporting responsibilities under Fair Credit Reporting Act (FCRA) and Regulation V.

The CFPB intends to consider the circumstances that credit unions face as a result of the COVID-19 pandemic and their good faith efforts to comply with their statutory and regulatory obligations as soon as possible.

**Furnishing Consumer Information Impacted by COVID-19.** Section 4201 of The CARES Act amends the FCRA, to require furnishers to report as current certain credit obligations for which they make payment accommodations to consumer members affected by COVID-19 who have sought such loan payment accommodations.

CFPB reiterates that credit unions must report loans as current despite such accommodations. The CFPB does not intend to cite in examinations or take enforcement actions against credit unions who furnish information to consumer reporting agencies that accurately reflects the payment relief measures they are employing.

**Disputes.** The FCRA generally requires that consumer reporting agencies and furnishers investigate disputes within 30 days of receipt of the consumer’s dispute. The 30-day period may be extended to 45 days if the member provides additional information that is relevant to the investigation during the 30-day period.

### Federal Reserve Board

**Reduced Reserve Requirements**

The FRB reduced reserve requirement ratios to zero percent, effective March 26, 2020. This action eliminates the need for credit unions to maintain balances in accounts at Reserve Banks to satisfy reserve requirements, thereby freeing up liquidity in the banking system to support lending needs. As part of the announcement, the FRB has issued a comprehensive Q & A guidance on the reserve changes and compliance requirements under Regulation D (Reg. D).

**Key issues for credit unions include:**

**0% Reserve Requirement.** The FRB reduced the reserve requirement ratios on net transaction accounts to zero percent (0%) The change in reserve requirement ratios on net transaction accounts takes effect with the maintenance period beginning March 26, 2020. The FRB has no plans to re-impose reserve requirements in the future.

**Changes to Reporting.** There are no changes to deposit reporting (FR 2900) associated with the elimination of reserve requirements. Credit unions should continue to report deposits on the FR 2900 at the same frequency and in the same way as they have been reporting.

**Changes to Savings Account Transaction Limits.** Based on the elimination of the reserve requirements, there is no longer any distinction between savings deposits and transaction accounts for reserve requirements purposes. The 6-transfer limit under Regulation D distinguished savings deposits from transaction accounts. Credit unions are now free to allow an unlimited number of transfers from previously classified savings accounts provided that the credit union reclassifies and reports the account as a “transaction account.” for purposes its FR 2900 deposit reports.

**FWW Compliance Note:** Before a credit union decides to reclassify its savings accounts, it is important that changing a savings account to a transaction account under Reg D causes the account to be a transaction account for purposes of Reg CC. Therefore, check deposits made to a reclassified savings account are subject to the funds availability rules, holds and account opening disclosures of Reg CC.

### FinCEN

**Guidance on BSA Reporting**

FinCEN advises on BSA reporting. FinCEN provides credit union about potential delays in their ability to file required Bank Secrecy Act (BSA) reports due to the impact of the coronavirus crisis should be reported “as soon as
practicable” to state or federal regulators. The Financial Crimes Enforcement Network (FinCEN) Encourages Financial Institutions to Communicate Concerns Related to the Coronavirus Disease 2019 (COVID-19) and to Remain Alert to Related Illicit Financial Activity.

### SBA

**Paycheck Protection Program Interim Final Rule**

As a federal legislative response to the COVID-19 crises, the CARES Act was enacted on March 27, 2020, and has created a brave new world for lenders to serve their business clients during uncertain economic times. The SBA’s interim final rule outlines the key provisions of SBA’s implementation of sections 1102 and 1106 of the CARES Act. The Small Business Administration (“SBA”) issued guidance on implementing the Paycheck Protection Program under the CARES Act. The Final Rule addresses the following requirements:

- Credit unions and business lending CUSOs need to qualify to process, close, disburse, or service loans made under the Paycheck Protection Program
- Application for Approval as Lender
- Amount of the SBA loan guaranty under the Program
- Required due diligence prior to extending loans under the Program
- Terms and conditions of Program loans
- Capital, reserves, and fees incentives for lenders to participate in the Program
- Sale of the loans on the secondary market
- Required documents for a loan forgiveness

Some of the relevant details for lenders are covered here: [Key Points for Lenders under the Paycheck Protection Program](#)

### FinCEN

**BSA Compliance Guidance**

FinCEN’s issued a notice of additional information to assist financial institutions in complying with their Bank Secrecy Act (BSA) obligations during the COVID-19 pandemic,

**Compliance with BSA Obligations.** FinCEN expects credit unions to continue following a risk-based approach, and to diligently adhere to their BSA obligations. Due to social distancing issues for credit union employees, FinCEN appreciates the challenges in meeting certain BSA obligations, including the timing requirements for certain BSA report filings.

**Beneficial Ownership Information Collection Requirements for Existing Members.** One of the primary components of the CARES Act is the Paycheck Protection Program (PPP). For eligible federally insured credit unions, PPP loans for existing customers will not require re-verification under applicable BSA requirements, unless otherwise indicated by the credit union’s risk-based approach to BSA compliance.

For non-PPP loans, FinCEN reminds credit unions of FinCEN’s 2018 ruling (FIN-2018-R004) offering certain exceptive relief to beneficial ownership requirements. To the extent that renewal, modification, restructuring, or extension for existing legal entity members falls outside of the scope of that ruling, FinCEN recognizes that a risk-based approach taken by credit unions may result in reasonable delays in compliance.

FinCEN will continue to assess reasonable risk-based approaches to BSA obligations and will issue further information, as appropriate, particularly as the CARES Act is implemented.

**BSA Reporting Obligations & Updates to CTR Filing Obligations.** FinCEN recognizes that timing requirements with regard to BSA filings may be challenging during the COVID-19 pandemic with reasonable delays in compliance. FinCEN has suspended implementation of its 2020 ruling (FIN-2020-R001) on CTR filing obligations when reporting transactions involving sole proprietorships and entities operating under a “doing business as” (DBA) name (the “2020 Ruling”) until further notice. FinCEN will issue further information on these types of CTR filings at an appropriate time with reasonable implementation periods. Until such issuance, Credit unions should continue to report transactions involving sole proprietorships and DBAs under prior practice. Those financial institutions that have already made the necessary changes to comply with the 2020 Ruling need not revert to prior practice and may report CTRs in accordance with the now-suspended ruling.

**New FinCEN COVID-19 Online Contact Mechanism.** FinCEN has created a COVID-19-specific online contact mechanism, via a specific drop-down category, for financial institutions to communicate to FinCEN COVID-19-related concerns while adhering to their BSA obligations.
This 2020 Special Alert, Overview of Federal COVID-19 Regulatory Actions is part of the compliance resources Farleigh Wada Witt regularly provides its credit union and CUSO clients.

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