

Association Compliance Resources for COVID-19 (DE)

The Cooperative Credit Union Association provides this quick-hit compilation of both state and federal regulatory compliance considerations and resources on issues particularly relevant during the current Coronavirus (COVID-19) pandemic.

Federal and state regulatory agencies have provided directives and guidance to financial institutions relative to COVID-19, including policies that financial institutions should have in place. As the issue of the COVID-19 pandemic remains ongoing, regulators continue to release updated guidance and resources. The Association continues to work with credit union regulators to raise operational challenges and promote regulatory reasonableness. In any crisis, even a public health crisis, it is paramount that credit unions and other financial service providers work to instill public confidence in the banking system. As credit unions consider various scenarios reflective of the severity of developments, no clear approaches are apparent. The Association recommends careful, well thought, reasonable approaches using best judgement on a day-to-day basis understanding the fluidity of the situations.

A number of key takeaways from state and federal regulators follow.

Delaware Takeaways

Governor John Carney has issued an Executive Order relative to essential businesses while issuing a stay-at-home order amid the coronavirus pandemic. The order directed all non-essential businesses to close by March 24th, and shall not reopen or resume operations until May 15th. Credit unions and other financial institutions are businesses included on the essential list and may remain open. Residents are asked to stay at home unless conducting essential business and are also asked at all times to practice social distancing.

The following guidance for essential services on social distancing practices has been issued and includes:

- Teleworking must be maximized, especially for individuals at highest risk of poor outcomes, such as those over age 60 and those with chronic underlying conditions.
- Follow all State and CDC guidelines and recommendations for social distancing for staff and customers. Social distancing means remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible (with the exception being healthcare workers using appropriate PPE).
- Screen all staff for symptoms and illness prior to entering worksite.
- Separate sick employees from other individuals immediately.
- Prohibit employees who have been told they must be isolated or quarantined from work until they have been cleared by DPH or a medical professional.
- Have handwashing stations and / or hand sanitizer readily available for all employees throughout the day. Staff should wash hands with warm water and soap when entering and leaving worksite.
- Enforce cough and sneeze hygiene, such as coughing into your elbow.
- Follow all State and CDC guidelines and recommendations for environmental cleaning.
- Prohibit visitors inside worksites unless they are providing essential services.

Credit unions and others, even those determined essential or not, are encouraged to continue their operations through a remote means, such as telework, that will not require employees, members, or the public to report to a credit union's physical facility.

The Emergency Order is available [HERE](#) and the list of essential businesses issued is available [HERE](#). Provisions important to credit unions and the scope of financial services are set forth on page 3 of essential services list.

Members are encouraged to direct questions, concerns or comments to advocacyde@ccua.org.

Federal Takeaways

The Federal Reserve, FDIC, NCUA, OCC, CSBS, and CFPB have issued a press release and statement regarding loan modifications and reporting, providing guidance to financial institutions that are working with customers amid the coronavirus pandemic. The thrust of the interagency statement is to encourage financial institutions to work constructively with borrowers affected by COVID-19 and providing additional information regarding loan modifications. Key takeaways include:

- The agencies encourage financial institutions to work with borrowers, will not criticize institutions for doing so in a safe and sound manner, and will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings (TDRs). The joint statement also provides supervisory views on past-due and nonaccrual regulatory reporting of loan modification programs.
- The agencies view prudent loan modification programs offered to financial institution customers affected by COVID-19 as positive and proactive actions that can manage or mitigate adverse impacts on borrowers, and lead to improved loan performance and reduced credit risk.
- The statement reminds institutions that not all modifications of loan terms result in a TDR. Short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs. This includes short-term -- for example, six months -- modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant.
- The agencies' examiners will exercise judgment in reviewing loan modifications, including TDRs, and will not automatically adversely risk rate credits that are affected, including those considered TDRs. Regardless of whether modifications are considered TDRs or are adversely classified, agency examiners will not criticize prudent efforts to modify terms on existing loans for affected customers.

In addition, the NCUA has released its own letter to credit unions which contains a Frequently Asked Questions document with information on working with members, delaying annual meetings, board meetings, the examination process and other issues. The letter is available [HERE](#).

Regulation D

The Federal Reserve Board's Regulation D limits withdrawals or outgoing transfers from a savings or money market account. No more than six such transactions per statement period may be made from an account by various methods, which include checks, debit card payments, and automatic transactions such as automated clearing house transfers or electronic bill payment. In general, when members reach this limit, credit unions must notify members that a transaction exceeds the limit and must freeze, close or reclassify accounts that do so repeatedly.

While flexibility in the application of the federal regulation is sought by regulators and trade groups, member education may help to minimize account disruption. The Association has

prepared a document of sample Questions and Answers to guide members, their expectations and practices, available [HERE](#).

Annual Meetings

Fraud and BSA

The Financial Crimes Enforcement Network ("FinCEN") has also released guidance. Key takeaways include:

- Contact FinCEN and state regulator about any potential delays in the ability to file required Bank Secrecy Act ("BSA") reports.
- For suspected suspicious transactions linked to COVID-19, along with checking the appropriate suspicious activity report template boxes for certain typologies, FinCEN encourages financial institutions to enter "COVID19" in Field 2 of the template.
- FinCEN also warned financial institutions to be on alert about malicious or fraudulent transactions similar to those that occur in the wake of natural disasters.

Dialogue with both the NCUA for Association members remains underway so please monitor emails and the Daily Scan for details. As a reminder, the Association is regularly updating its state and federal regulatory trackers, which are comprehensive documents containing applicable regulatory guidance released as a result of the Coronavirus, as soon as practicable. The documents are available on the Association's website [HERE](#), and credit unions are reminded to check back regularly for updates as the situation remains fluid.

Association Contacts

As a reminder, the Association remains available to assist with your compliance questions. Staff can be reached by email at complianceconnection@ccua.org, by phone at (800) 842-1242 option 4, or as follows:

Katherine Butler: kbutler@ccua.org or 508/335-6954

Mary Ann Clancy: mclancy@ccua.org or 508/294-5626