

Delaware Coronavirus Tracker: PPP Loans; SAFE ACT; CDFI; Corporate Rule; CFPB/AG credit scores lawsuit; Mortgage Loss Mitigation and Small Dollar Lending; EIPs – 5.22.20

Small Business Administration and PPP Loan Reports

Starting today, May 22, 2020, credit unions that participated in the Small Business Administration's ("SBA") Paycheck Protection Program ("PPP") can begin reporting on PPP loans and collecting the processing fee on fully disbursed loans that they are eligible to receive.

Lenders will use an SBA Form 1502 to report fully disbursed loans to SBA. Additionally, credit unions should ensure their ACH information is inputted into the Fiscal Transfer Agent Lender portal.

SAFE Act Update

Colorado's Attorney General recently led a bipartisan coalition of 34 state and territorial Attorneys General urging Congress to pass as part of upcoming COVID-19 relief legislation the federal Secure and Fair Enforcement ("SAFE") Banking Act ([H.R. 1595](#)) or similar measures that would give legal marijuana-related businesses access to the federal banking system.

The SAFE Banking Act has widespread, bipartisan support with 206 cosponsors in the U.S. House of Representatives. The House passed the bill in September 2019. The HEROES Act relief legislation, which the House approved last week, also included the language of the SAFE Banking Act. In their letter, the Attorneys General note that the COVID-19 pandemic has shed new light on problems that the SAFE Banking Act is intended to remediate, including health and safety concerns stemming from frequent and large cash exchanges.

The full text of the letter can be read [here](#).

The coalition of states and territories includes Alaska, Arkansas, California, Connecticut, Delaware, the District of Columbia, Guam, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Northern Mariana Islands, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

NCUA CDFI Streamlined Certification Deadline May 31

Credit unions interested in using the National Credit Union Administration's streamlined process for obtaining Community Development Financial Institution certification have until May 31 to apply. The [NCUA's online program guide](#) has all the necessary instructions for the qualification process.

To qualify, low-income-designated credit unions submit data on their loan originations to the NCUA by email to CURECDFI@ncua.gov using the NCUA's secured email encryption system and complete [an online participation form](#). The Office of Credit Union Resources and Expansion then analyzes each credit union's products, services, and other indicators to determine whether it qualifies to use the streamlined certification application. The NCUA will provide qualified credit unions with the necessary information to complete and submit the streamlined certification application to the Community Development Financial Institutions Fund, which will make a final certification decision.

[NCUA-CDFI Certification Initiative webpage.](#)
[Online participation form](#)
[CDFI Fund certification information \(standard process\)](#)

NCUA Proposal on Corporate Credit Union Regulation

The NCUA Board is seeking comment on a proposed rule that would amend the NCUA's corporate credit union regulation. The proposed rule would update, clarify, and simplify several provisions of the NCUA's corporate credit union regulation, including: permitting a corporate credit union to make a minimal investment in a credit union service organization ("CUSO") without the CUSO being classified as a corporate CUSO under the NCUA's rules; expanding the categories of senior staff positions at member credit unions eligible to serve on a corporate credit union's board; amending the minimum experience and independence requirement for a corporate credit union's enterprise risk management expert; and requiring a corporate credit union to deduct certain investments in subordinated debt instruments issued by natural person credit unions.

Comments must be received on or before July 27, 2020.

Consumer Financial Protection Bureau and State Attorney General Lawsuit Credit Scores

The Consumer Financial Protection Bureau ("CFPB") and Massachusetts Attorney General Maura Healey today jointly filed a lawsuit against Commonwealth Equity Group, LLC, which does business as Key Credit Repair ("KCR"), and Nikitas Tsoukales, KCR president and owner. As alleged in the complaint, from 2016 through 2019 alone, KCR enrolled nearly 40,000 consumers nationwide, and since 2011, it collected at least \$23 million in fees from consumers. The CFPB alleges that in their telemarketing of credit-repair services, the Consumer Financial Protection Act's (CFPA) prohibition against deceptive acts or practices and the Telemarketing Sales Rule's ("TSR") prohibitions on deceptive and abusive telemarketing acts or practices were violated.

The complaint, filed in the federal district court for the District of Massachusetts, specifically alleges the deceptively misrepresentation that KCR's actions will or likely will result in a substantial increase to consumers' credit scores and the removal of material negative entries on consumers' credit reports when in numerous instances, KCR did not achieve those results. The CFPB further alleges that KCR and Tsoukales engaged in abusive acts or practices in violation of the TSR by requesting and receiving payment for their credit-repair services before achieving the promised results and before giving consumers a consumer report more than six months after achieving the results to demonstrate the results.

Practices used:

- telemarketing through receiving inbound phone calls from consumers; scripts used in the sale of services; content of websites; and general marketing and advertising;
- required consumers to pay a "first work fee" of between \$99.95 and \$159.95 or more within five days of enrolling with the company;
- charged consumers additional monthly fees of \$99.95 to \$159.95 or more, depending on the service level the consumer chooses;
- failed to maintain a \$10,000 surety bond written by a company authorized to do business in Massachusetts and establish and maintain a trust account with a Massachusetts bank or savings and loan institution;
- failed to provide consumers with a written statement "asserting the buyer's right to proceed against the surety bond or trust account, along with the name and business address of any surety company and trust-account depository, together with the name of the trustee and the account number;" and

-added an "expedited billing processing fee" of at least \$6.50 to the monthly fees.

KCR has a handful of Boston-based employees, only some of whom interact directly with consumers. The majority of KCR's sales and client interactions are conducted by contract telemarketers located in Central America who are compensated almost entirely by commission based on the number of clients they enroll in KCR's programs. The complaint seeks redress to consumers, an injunction, and the imposition of civil money penalties.

The complaint is available at:

https://files.consumerfinance.gov/f/documents/cfpb_commonwealth-equity-group-dba-key-credit-repair-nikitas-tsoukales_complaint.pdf

Consumer Financial Protection Bureau Loss Mitigation and Small Dollar Lending

The Consumer Financial Protection Bureau ("CFPB") recently issued two No-Action Letter ("NAL") Templates under its innovation policies. To encourage innovation, last year the CFBB introduced an improved NAL Policy that includes, among other things, a more streamlined review process focusing on the consumer benefits and risks of the applicant's product or service. NALs are a statement that the CFPB will not bring a supervisory or enforcement action against a company for providing a product or service under certain facts and circumstances.

One NAL Template approved permits mortgage servicers seeking to assist struggling borrowers to avoid foreclosure and engage in loss mitigation efforts to apply for their own NAL. The template, requested by Brace Software, Inc. ("Brace"), would enable mortgage servicers to use Brace's online platform to implement loss-mitigation efforts for their borrowers. The platform is an online version of the Fannie Mae Form 710, which is the loss mitigation application used by most mortgage servicers. While the CFBP does not endorse particular products or providers, digitizing the loss mitigation application process has the potential to improve a process that is experiencing an increase in loss mitigation requests from consumers due to the COVID-19 pandemic.

With respect to small-dollar lending, the CFPB also approved a NAL template that credit unions can use to apply for a NAL covering small-dollar credit products. The NAL template includes important protections for consumers who seek small-dollar loan products.

Brace's application may be found here:

https://files.consumerfinance.gov/f/documents/cfpb_brace_no-action-letter-request.pdf.

The Brace NAL Template may be found here:

https://files.consumerfinance.gov/f/documents/cfpb_brace_no-action-letter.pdf.

BPI's application may be found here:

https://files.consumerfinance.gov/f/documents/cfpb_bpi_no-action-letter-request.pdf.

The BPI NAL Template may be found here:

https://files.consumerfinance.gov/f/documents/cfpb_bpi_no-action-letter.pdf.

Economic Impact Payments

The Treasury Department and the Internal Revenue Service today released updated state-by-state figures for Economic Impact Payments reflecting the opening weeks of the program.

State	Total Number of EIP Payments	Total Amount of EIP Payments
Delaware	463,653	\$ 778,262,906

Massachusetts	3,136,787	\$	5,028,963,151
New Hampshire	676,004	\$	1,139,776,925
Rhode Island	536,218	\$	869,615,684

Reminder-Complimentary Member Benefit

State specific Coronavirus Credit Union Trackers for the member states of Delaware, Massachusetts, New Hampshire and Rhode Island are prepared and posted regularly to each state’s resource page on the Association’s website. To assist credit unions in navigating daily operations during this time of unprecedented pace and scope of details, the Association has compiled and is continuously updating coronavirus legislative and regulatory trackers highlighting official information released.

Please continue to be on alert for additional guidance and best practices as they become available. The Association serves a clearinghouse and will continue to echo timely releases of information and provide helpful interpretations wherever possible. These trackers provide credit unions with detailed state and federal regulatory and legislative updates and may be of interest across state lines as plans for back to business continues.

Visit <https://www.ccu.org/coronavirus/> and then select a state to access Coronavirus Trackers and more.