

Federal Regulatory Directives, Recommendations, and Best Practices Tracker Coronavirus (COVID-19) for Federally Chartered and Federally-Insured Credit Unions

Federal regulatory agencies have provided directives and guidance to financial institutions relative to the Coronavirus (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.

As with any policy decision made by credit union officials, documentation should be maintained to justify the reasonableness of the decision, as well as the board's approval of those actions. Regulatory review will likely be based on management's justification and a holistic view of the risks, including those that are community health related. Swift decisions may need to be made by credit union officials weighing competing risks.

Credit union inquiries and concerns may be sent to govaff-reg@ccua.org.

The Association has compiled the following regulatory guidance and resources and will continue to update this page with additional regulatory recommendations as they become available.

I. Federal

a. Regulatory Recommendations and Other Guidance

NEW: Financial Crimes Enforcement Network ("FinCEN")

<https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions> - March 16, 2020

FinCEN urged financial institutions that are affected by the COVID-19 pandemic to contact FinCEN and their functional regulator about any potential delays in their ability to file required Bank Secrecy Act ("BSA") reports.

FinCEN Regulatory Support Section

Telephone: 1-800-949-2732, option 6

Email: FRC@fincen.gov.

For suspected suspicious transactions linked to COVID-19, along with checking the appropriate suspicious activity report template boxes for certain typologies, FinCEN also encourages financial institutions to enter "COVID19" in Field 2 of the template.

Finally, 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.

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National Credit Union Administration (“NCUA”) Letter to Credit Unions 20-CU-02
<https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/ncua-actions-related-covid-19> - March 16, 2020

Addresses working with members, information website, frequently asked questions, NCUA’s Examination and Supervision Program, and NCUA’s operational status.

NOTE: Federal Credit Union Annual Meeting Details addressed in the Questions and Answers.

NCUA and Conference of State Bank Supervisors (CSBS)
[Press Release Encouraging Financial Institutions to Meet Financial Needs of Members Affected by Coronavirus](#) - March 9, 2020

“Regulators note that financial institutions should work constructively with borrowers and other customers in affected communities. Prudent efforts that are consistent with safe and sound lending practices should not be subject to examiner criticism.”

NCUA Contact: Ben Hardaway, (703) 518-6333

Federal Financial Institutions Examination Council (“FFIEC”)
[Interagency Statement on Pandemic Planning](#) - March 6, 2020

The NCUA, through the FFIEC, has issued updated guidance to remind financial institutions that business continuity plans should address the threat of a pandemic outbreak and its potential impact on the delivery of critical financial services. This guidance is an update to the [2007 Interagency Statement on Pandemic Planning](#) as well as the “[Interagency Advisory on Influenza Pandemic Preparedness](#)” issued on March 15, 2006 by bank regulators, as well as the “[Letter to Credit Union 06CU-06 - Influenza Pandemic Preparedness](#)” issued by the NCUA in March 2006.

This *guidance* identifies actions that should be taken to minimize the potential adverse effects of a pandemic:

- Ensure that business continuity plan(s) (“BCP”) should address pandemics and provide for a preventive program, a documented strategy scaled to the stages of a pandemic outbreak, a comprehensive framework to ensure the continuance of critical operations, a testing program, and an oversight program to ensure that the plan is reviewed and updated; and
- Ensure that the pandemic segment of the BCP be sufficiently flexible to address a wide range of possible effects that could result from a pandemic, and be reflective of the institution’s size, complexity, and business activities.

NACHA Reminder Regarding ACH Responsibilities (“NACHA”)
[ACH Operations Bulletin #2-2020](#) - March 9, 2020

This guidance addresses automated clearing house (“ACH”) payment processing capabilities in the event of possible disruptions.

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- Understand the expectations of and ACH Operators with regard to ACH processing in potential scenarios of workforce disruption;
- Performance of obligations beyond required time limits may be delayed if:
 - the delay was caused by the interruption of communication or computer facilities; and,
 - the delay was beyond the reasonable control of the financial institution seeking the excused delay.
- Delays beyond the reasonable control of the party asserting an excused delay must be determined based on the available facts and circumstances surrounding the delay, including whether the financial institution exercised the level of diligence required under such circumstances; and
- Delays caused, in whole or in part, by the failure of a financial institution to maintain or implement an appropriate business continuity plan is not excused under the Rules for that financial institution.

b. Federal Credit Union Regulatory Provisions

i. Meetings of Members (FCU Bylaws, [12 C.F.R. 701, Appendix A](#))

A credit union's annual meeting is important, however the health and lives of members is a top priority. The current pandemic raises considerations for public gatherings. Credit unions are encouraged to conduct annual meetings as proscribed by law, regulation, and credit union bylaws, while making necessary adjustments in consideration of the health and safety of members.

Assess circumstances:

- Will the meeting include voting on a contested election or other issue?
- What do the credit union's bylaws specify for meeting requirements and procedures?
- Has notice of the meeting already been provided to members?
- What capability does the credit union have to permit electronic participation or communication?

For federal credit unions, the NCUA's FCU Bylaws require an in-person meeting to be held in a county where an office of the credit union is located, or within a radius of 100 miles of an office, as determined by the board and announced in the notice to members.

Electronic or Virtual Meetings

Virtual attendance and participation in an annual meeting are permissible but only as a supplement to the in-person meeting that must be held. An FCU must post notice of its annual meeting conspicuously in the FCU's physical office, and on the FCUs website if it maintains one.

In addition to notice requirements, the rule encourages FCUs to provide live streaming options so that members may watch annual and special meetings, as well as post a video of the annual meeting on the FCUs website, if it maintains one.

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As technology advances and more FCUs serve members across the country, there have been requests that FCUs be permitted to conduct virtual meetings. The Association advocated for enhanced virtual meeting capability in its [comment letter](#) to the NCUA. The current rule, as most recently amended last fall, permits all FCUs to conduct hybrid meetings, which consist of an in-person meeting that also allows virtual attendees, so long as they have adequate technology and cybersecurity protections to successfully conduct meetings.

Elections

If a contested election is planned at the annual meeting this year, absent a postponement, the election can still be conducted with full member participation. Electronic ballots should pose no issues for disruption or delay. Providing absentee paper ballots that can be mailed or dropped off at the branches is an option. Use of absentee ballots with a postponed meeting or extended voting period will also give all members the opportunity to vote.

ii. Board and Committee Meetings (FCU Bylaws, [12 C.F.R. 701, Appendix A](#))

- The board must hold a regular meeting each month at the time and place fixed by resolution.
- The board must conduct one regular meeting each calendar year in person.
- If a quorum of the board is present at the in-person meeting, the remaining board members may participate by audio or video teleconference.
- The board may conduct the other regular meetings by audio or video teleconference.
- The board will give notice of all meetings in the manner set by resolution.
- The board may conduct special meetings by audio or video teleconference.
- The board may take action and vote on resolutions without a meeting.
- The board must first obtain unanimous consent for the action in writing or by electronically recorded means.

iii. Branch Closings

A federal credit union may want to consider providing notice to its members. From a member service perspective, it can be helpful to notify members that a branch will be closing. Consider posting the notice in all branches, website, member newsletter, and include which branch will be closing and the date it will close.

iv. Loan Terms ([12 CFR §701.21 Loans to Members and Lines of Credit to Members](#))

Generally, 15 year loan terms with exceptions.

v. Examination Cycle

All qualifying federal credit unions are subject to NCUA's [Risk-Based Examination Scheduling Policy](#) and an extended examination cycle between 14 and 20 months.

II. Additional Considerations for Federally-Insured Credit Unions

Examination Considerations and Reminders:

- Regulators are very mindful of the impact of the current health crisis on credit unions and more specifically, the challenges that it imposes on the scheduling and conduct of examinations. The overall goal remains to work with individual credit unions on a case-by-case basis to develop a plan that minimizes disruption and burden. A more targeted examination scope, increased off site monitoring, advance electronic delivery of documents, and condensed onsite activity are all ongoing considerations.

Governance Considerations and Reminders:

- Notify members of special circumstances of an annual or special meeting.
- Distribute meeting materials electronically, such as meeting minutes and committee reports.
- Quorum requirements remain in place and should be adhered to.
- As plans expand to include employees working remotely, be aware of cybersecurity risks and scams.

Safety/Soundness/Operational Considerations and Reminders:

- Closely monitor and notify regulators of business disruptions or other significant developments that result from the effects of Coronavirus, such as closures of office or branch locations, significant staff shortages, or the rapid withdrawal of deposits and other signs of erosion in consumer confidence.
- Closely monitor liquidity levels in anticipation of heightened demand for cash withdrawals at branch locations/ATMs and increased loan refinancing activity in the low interest rate environment.
- Ensure all sources of liquidity are readily available should the need arise.
- Confirm electronic credentials and authorized users with essential third party providers to minimize delays.
- Update contact information for liquidity/borrowing sources while ensuring operating procedures have been reviewed and are understood throughout the credit union.

Member Service Considerations:

- Offer payment accommodations, such as allowing borrowers to defer payments, extending the payment due dates or otherwise adjusting or altering terms of existing loans, which would avoid delinquencies and negative credit agency reporting.
- Offer lifeline banking services, including interest free loans.
- Waiving/forgiveness of overdraft and other fees.
- Ease credit terms for new loans.
- Waive late fees on loan balances.
- Encourage online applications, with increased technical assistance, as may be available.
- Promote use of video tellers.
- Monitor development of possible government-backed loan programs/incentives, such as those available from the Small Business Administration at <https://www.sba.gov/about-sba/sba-newsroom>

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- Proactively reaching out to members and those adversely impacted via app announcements, text, email or otherwise to explain any other assistance offered.
- Consider precautions and protocols recommended to appraisers and other third parties interacting with members and any operational impact, such as to the mortgage processing process, while balancing fair lending requirements.
[http://www.appraisalfoundation.org/iMIS/TAF/Coronavirus and Appraisers.aspx](http://www.appraisalfoundation.org/iMIS/TAF/Coronavirus_and_Appraisers.aspx)
- Consider drive-up only service when appropriate. A phased plan of member facing rolling branch, those first impacted by taking into account geographic locations if another branch is nearby may be an option. Review credit union shared branching options and remind geographically dispersed members of such service.

Health and Safety Considerations and Reminders:

- Suspend annual meeting door prizes, meals, drawings to minimize contact.
- Promote contactless/digital/online payments, remote banking, direct deposit and wash hands/change disposable gloves/sanitize frequently.
- Avoid direct handoffs.
- Encourage drive-up window usage.
- Adopt reserve online and express pickup on site/mail options for routine transactions such as card replacements, checks, etc. to reduce onsite time in offices.
- Manage communications with members appropriately.
- For members wearing masks upon arrival at a credit union location, consider posting a notice on entry doors indicating that anyone wearing a mask due to coronavirus is requested to use the drive-up lanes for both safety and security reasons. This practice of notice and recommended member action upon entry is similar to previous steps taken as a best practice for safety to minimize robberies. Consider reconfiguring a drive-up lane and designate it for walk-up traffic if safe.

Association Resources

Association [Coronavirus Resource Page](#)

Association [Coronavirus Recorded Webinar](#)

Association [Coronavirus Chat Room Using Yammer](#)

Association Emergency Contacts

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

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