The Cooperative Credit Union Association bring you this update on recently released guidance from the Massachusetts Office of the Attorney General on debt collection, and on the federal legislative package passed into law 3/27/2020.

Massachusetts Coronavirus Regulatory Tracker

The Office of Massachusetts Attorney General Maura Healy has issued an emergency regulation designed to protect consumers for unfair, deceptive and harmful debt collection practices during the current COVID-19 pandemic.

As part of the filing of the emergency regulation with the Secretary of State, Attorney General Healy included her finding that the immediate amendment of the debt collection regulation, 940 CMR 35:00, is necessary for the preservation of the public health, safety and general welfare. The regulation is effective immediately, and prohibits creditors under M.G.L. c. 93A from engaging in methods of debt collection that could require people to leave their homes or have in-person contact, including filing new lawsuits against Massachusetts consumers, visiting their homes or places of work, or repossessing their cars, among other protections. The emergency regulation also prohibits debt collection agencies and debt buyers from making unsolicited debt collection telephone calls to consumers.

The emergency debt collection regulation will remain in effect for 90 days or until the conclusion of the declared state of emergency.

The regulation applies to all creditors and prohibits deceptive practices in pursuing the payment of a debt during the COVID-19 emergency, including:

- Filing any new collection lawsuit;
- Garnishing wages, earnings, properties or funds;
- Repossessing vehicles;
- Applying for or serving a capias warrant;
- Visiting or threatening to visit the household of a debtor;
- Visiting or threatening to visit the place of employment of a debtor; and
- Confronting or communicating in person with a debtor regarding the collection of a debt in any public place.

The regulation can be read in full HERE.

Massachusetts credit unions are encouraged to review debt collection practices and consider the following 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

- 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.sec.state.ma.us/rod/rodgde/gdeidx.htm
- 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.

Federal Update

Congress has passed and President Trump has signed into law an historic $2 trillion stimulus package in response to COVID-19 knows as the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act. The legislation is the largest emergency aid package in the country's history and represents an injection of funds into the economy along with provisions aimed at assisting American workers, small businesses, and other industries affected by the virus.

The bill was first passed in the Senate earlier this week, and ultimately passed in the House with a voice vote after members returned from their home states to Washington to establish a quorum.

Some key elements of the bill include a provision to deliver direct financial aid directly to individuals and families, an expansion of unemployment benefits, funds for hospitals and health care providers, financial assistance for small businesses, and $500 billion in loans for distressed companies.

Most notably to credit unions, the legislation ensures that credit unions will continue to have the ability to serve members during this difficult time. Below are summaries of a number of provisions impacting credit unions:

Section 1102. Paycheck Protection Program
Credit unions can offer small business loans for operational costs: Credit unions will be eligible to participate in the paycheck protection program, which would allow for 100% federally guaranteed loans to small businesses that maintain their payroll, rent, benefits, insurance premiums and other emergency expenses. This is a large lending program through which credit unions can help millions of Americans.

Section 1102. Temporary Relief from TDR Disclosures
Flexibility to modify loans impaired by COVID-19: Temporary relief from TDR disclosures allows credit unions to modify troubled and other loans in relation to COVID-19 difficulties without being required to comply with FASB Troubled Debt Restructurings by Creditor Accounting Standards.

Section 2301. Employee retention credit for employers subject to closure due to COVID-19
The Employee Retention Payroll Tax Credit or Employer Subject to Closure or 50% Reduction in Gross Receipts does appear to apply to credit unions. The bill provides a refundable payroll tax credit, capped at $10,000.00 per employee, for 50% of wages paid

by employers to employees from March 13 through Dec. 31, 2020. Employers qualify if they either (1) are subject to a full or partial shut-down order due to the COVID-19 crisis or (2) see gross receipts decline by more than 50% when compared to the same quarter in the prior year. In the event the qualifying event is a decline in gross receipts, the employer remains eligible for the credit during 2020 until it reaches 80% of gross revenues in a quarter compared to the prior year.

Section 4008. Debt Guarantee Authority
Unlimited federal insurance protection through NCUSIF and FDIC for transaction accounts held at credit unions and banks: By reestablishing the Transaction Account Guarantee Program, the government will guarantee certain noninterest-bearing transaction accounts. This will help credit unions support business and other large accounts.

Section 4014. Optional Temporary Relief from Current Expected Credit Losses
Temporary relief for credit unions currently required to comply with CECL: Affected credit unions have the option to temporarily delay measuring credit losses on financial instruments under the new Current Expected Credit Losses methodology.

Section 4016. Temporary Credit Union Provisions; Expanding Liquidity Temporarily enhances access to the Central Liquidity Facility (CLF)
Increased resources available for liquidity needs: Expanding liquidity temporarily enhances credit union (including corporates) access to the Central Liquidity Facility (CLF). The amendment makes it easier for credit unions to access, which will be essential if there is a higher demand for cash

Section 4021. Credit Protection During Covid-19.
The law amends the Fair Credit Reporting Act to shield borrowers from the reporting of negative information related to pandemic-related loan accommodations.

Section 4022. Foreclosure Moratorium and Consumer Right to Request Forbearance
The bill includes provisions related to forbearances of federally-backed mortgage loans as well as a foreclosure moratorium on those loans during the COVID-19 pandemic. These provisions seem to codify policies already announced by FHFA. CUNA continues to evaluate the impact these policies may have on credit unions and CUSOs.

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