Massachusetts State and Federal Coronavirus Tracker – 3.31.20

As part of the Association's ongoing commitment to provide timely and useful updates, this email provides a compilation of advocacy and regulatory activities at both the state and federal levels on issues particularly relevant during the current Coronavirus (COVID-19) pandemic. A number of key state and federal takeaways follow.

Massachusetts Takeaways

Emergency Order Extensions and Updated List of Essential Services

Today, Governor Charlie Baker announced an extension to the emergency orders relative to the closing of non-essential businesses and organizations and assemblages of more than 10 people to May 4, 2020. Additionally, the Governor has updated the list of essential services and workforces. Credit unions remain classified as essential services. The category under which credit unions fall, Financial Services, has been expanded to include the following:

- Workers who are needed to provide, process and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; and capital markets activities).
- Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.
- Workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including ATMs, lending and money transmission, and to move currency, checks, securities, and payments (e.g., armored cash carriers).
- Workers who support financial operations and those staffing call centers, such as those staffing data and security operations centers, managing physical security, or providing accounting services.
- Workers supporting production and distribution of debit and credit cards.
- Workers providing electronic point of sale support personnel for essential businesses and workers.

The extended orders and updated list of essential services can be read HERE.

Boston City Council Moratorium

On behalf of Massachusetts credit unions, the Association filed a letter with the Boston City Council opposing its Resolution on Mortgage Payments, Rent, Eviction Moratorium. The proposed moratorium, which would apply to all rent and mortgage payments and evictions in the city of Boston, has not yet been taken up by the Council for a vote. However, in the Association's mission to advocate for credit unions at all levels and in all places, comments were provided to the Council now highlighting the current work of credit unions to assist members and their communities, current and ongoing state and federal regulatory changes, and the effects a municipal moratorium of this type would have on all involved, including potential unintended negative consequences for the very consumers such a moratorium is intended to protect.

The full letter

Federal Takeaways

NCUA Responses to COVID-19 Webinar - Summary

The National Credit Union Administration ("NCUA") hosted a webinar today on the agency's responses to the COVID-19 crisis. NCUA Board Chairman Rodney Hood opened the meeting with a reminder to credit unions of the various resources and information the agency has released to date, including its interagency guidance encouraging institutions to work with borrowers, the announcement of urgent needs grants, and a number of other efforts intended to provide regulatory relief to institutions during the crisis. His comments highlighted the continued safety and security of federal share insurance, and encouraged all credit unions to remain in communication with the agency with questions, issues, and in response to requests for information. All questions should be directed to covid19questions@ncua.gov.

Guidance which is currently underway with the agency includes guidance on extending reporting deadlines for the CUSO registry, capital plans and stress testing. Credit unions have already been granted relief for reporting deadlines for the March 31st Call Report.

NCUA has a dedicated resource page which can be found at: www.ncua.gov/coronavirus.

The Chairman acknowledged the many beneficial provisions contained within the recently passed H.R. 748, Coronavirus Aid, Relief, and Economic Security (CARES) Act, and turned to Acting General Counsel Frank Kressman to provide an overview of ten of the key features of the bill that will help credit unions, workers, families and businesses:

- **Central Liquidity Facility ("CLF").** Section 4016 of the bill makes four amendments to the liquidity fund provisions of the Federal Credit Union Act which enhance the CLF's ability to serve as effective liquidity provider to credit unions, all of which sunset or expire on December 31, 2020.
    - The bill removes references to the CLF primarily serving natural persons in order to permit temporary access for corporate credit unions.
    - A CLF membership provision is amended to provide flexibility to corporate credit unions serving as agent members with respect to the amount paid to subscribe to capital stock.
    - Provisions on member applications for extensions of credit were amended to remove the reference to disapproval of applications filed with the intend to expand credit union portfolios.
    - The bill increases the Board's borrowing authority on behalf of the CLF, which now must not exceed sixteen times the capital stock and surplus of the CLF.
- **Secured Deposit Threshold.** The bill increases share insurance coverage on any non-interest bearing transaction account in any FISCU without exception. Any increase must terminate by December 31, 2020.
- **Temporary Relief from Troubled Debt Restructurings ("TDRs").** The bill permits financial institutions to suspend requirements under GAAP for loan modifications related to COVID-19 that would otherwise be characterized as TDRs. Credit unions may also suspend any determination of a loan modified as a result of effects of COVID-19 as a TDR including for account impairment purposes. This shall be applicable for term of the loan modification but only with respect to modifications, including forbearances, interest rate modification, repayment plans, or any other similar arrangements that defers the payment of principal or interest for a loan not more than 30 days past due as of December 31, 2019. Any suspension shall not apply as an adverse impact credit to the borrower. The bill requires agencies to defer to the determination of a financial institution to make a suspension under this section; however, credit unions should continue to maintain records of the loans involved, as NCUA may collect this data in the future for supervisory purposes.

- **Optional Temporary Relief from CECL.** Although credit unions are not required to comply with CECL until 2023, the bill provides that no FISCU or any affiliate shall be required to comply with CECL.
- **Paycheck Protection Program.** The Small Business Administration ("SBA") is authorized to create a loan guarantee program called the Paycheck Protection Program ("PPP") for small businesses, nonprofits, independent contractors, the self-employed and others to meet payroll needs, cover utilities, and pay employee salaries, health insurance, and paid leave expenses. Insured depository institutions may participate so long as participation does not impact safety and soundness. A "0" risk weight will be applied to loans made under the PPP. The SBA may make loans directly, or may delegate the authority to lenders. The interest rate on a loan cannot exceed 4%, and the loan requires complete payment deferral relief for not less than six (6) months. The current loan limit is raised to $1M. Subsequent to the webinar, the SBA released guidance on PPP which is available HERE.
- **Credit Protection.** The bill requires that furnishers to credit reporting agencies who agree to account forbearance or who agree to modify payments on an account of a consumer impacted by COVID-19 must report the obligation or account as current, or as the status reported prior to the period of accommodation, unless the consumer becomes current. Such protection only applies to forbearance or modified payments.
- **Foreclosure Moratorium on Single-Family Mortgages and Consumer Right to Request Forbearance.** The bill prohibits foreclosures on all single family federally-backed mortgage loans for 60 days. It provides 180 days of forbearance for borrowers of federally-backed mortgage for borrowers affected as attested by the borrower without the need for more documentation.
- **Forbearance of Residential Mortgage Loan Payments for Multi-Family Properties.** The bill provides for up to 90 days of forbearance for multi-family borrowers with federally-backed multi- family loans who have experienced financial hardship. Applicable mortgages include loans made on real property designed for 5 more families.
- **Temporary Moratorium on Eviction Filings.** The bill provides for a four (4)-month moratorium on eviction proceedings on single and multi-family properties including those secured by federally-backed mortgages.
- **Economic Stabilization through Loans, Loan Guarantees, and other investments.** The bill authorizes Treasury to inject at least $450B into loans, loan guarantees, and investments in support of the Federal Reserve's lending facility to eligible businesses, states, and municipalities. It authorizes the Fed to establish a main street lending program that supports lending to small and mid-size businesses.

Additional items were addressed by both Kressman and Myra Toeppe, Strategic Advisor for Office of Examinations and Insurance. The NCUA's statement encouraging institutions to make responsible small dollars loans was raised, and credit unions were encouraged to structure the terms appropriately to ensure that payment benefits each borrower. Credit unions were also encouraged to provide loan modifications where they better fit the circumstances, and to remember the option of PALs loans, which allow for additional flexibility in underwriting terms. A question was asked relative to zero-interest loans, and attendees were informed that there is nothing preventing them from offering a short-term loan at zero interest.

While the NCUA does not anticipate a decrease in net worth ratios, it is developing a streamlined net worth template to assist credit unions in developing and submitting a plan as required. If a credit union's net worth ratio falls below 6%, the NCUA regional office should be contacted to discuss options for a restoration plan.

Attendees were also reminded of the additional flexibility granted by the agency's regulatory relief initiatives to review and updates to existing regulations and avoid proscriptive regulations, for example relative to its real estate appraisals rule, audit report delivery timeframe flexibility, and others. The agency's regulations are intended to address safe and sound operations, but that credit union board-approved policies, period reviews, best practices, and strong corporate governance are paramount. The agency will make every effort to work with every credit union and consider its situation in the coming weeks and months.

In the future, the agency hopes to have more information on TDRs via a webinar, guidance on the effect to escrow and disclosure due to forbearances, and additional detailed guidance. The agency will be updating its Frequently Asked Questions document as often as possible and credit unions are encouraged to regularly check back.

The slides from the NCUA's webinar.

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