New Hampshire Coronavirus Tracker: State Legislative Update; PPP Update; Accounting Guidance; NCUA EXIM and FOM Litigation; Regulation D Survey; Deadlines – 6.10.20

State Legislative Update

New Hampshire lawmakers will gather tomorrow at the Whittemore Center Arena for the first House session to be held outside the State House since the Civil War. The Legislature suspended its work in March because of the coronavirus but has gradually resumed committee work and public hearings via video conferencing. The 24-member Senate will again meet in person next week, spread out in Representatives' Hall.

The room set up for the House has been a challenge to bring together 400 members while keeping them 6 feet apart to help contain the virus. Chairs have been set up on the floor of the Durham arena, roughly corresponding to the Statehouse seating arrangement. Lawmakers will arrive at staggered times and have their temperatures taken before parking. They will also be given face masks and plastic face shields, though anyone who cannot wear a mask for health reasons will be seated in a separate section. A different separate section is planned for those who refuse to cover their faces. Microphones used during debate will be cleaned between speakers. Lawmakers will vote via handheld electronic devices, with results posted on the arena scoreboard. There are about three dozen bills on the calendar.

The Association will be closely monitoring any debate on mortgage foreclosures and forbearance. During both written and oral testimony on the measure this week, the central message on behalf of members is that credit unions are currently very focused on meeting member needs. No action from the state is necessary at this time and efforts such as the language proposed will only inhibit our flexibility to deal with, work with, and try to meet member needs. The bill remains pending before the Judiciary Committee but grassroots efforts are underway to count votes for a final report on the bill.

PPP Update

The Small Business Administration ("SBA") recent updates include:

-June 30th is the last day to get a PPP loan funded in ETRAN
Now 24 weeks or December 31st 2020 as the covered period.

-60 percent for salaries and 40 percent for other expenses. There is no cliff so it is possible to get forgiveness if less than 60 percent. The reduction would be proportional. IFR is currently in development and will be out shortly.

-If the loan stands, and is not forgiven in whole or part, then loans made before June 5th can be extended to the 5 years if the Lender and Borrower agree to modify the note (allonge). They can extend the term out to 5 years. All loans made after June 5th will automatically have a 5 year term.

-The application form for both borrowers and lenders is now being worked on but it is now 24 weeks.

-If a business were unable to re-hire, replace employees, return to economic viability, or have impact based on closure and social distancing, they will be covered and any inability to reemploy will be part of the forgiveness equation. It will create greater opportunity.

Applications will end on June 30th and the ETRAN system will be off for PPP and no funds will be available.

AICPA Accounting Guidance for forgivable PPP loans
https://www.aicpa.org/content/dam/aicpa/interestareas/frc/downloadabledocuments/tqa-sections/tqa-section-3200-18.pdf

The AICPA worked with the FASB staff and others to develop technical question and answers ("TQA") for *Borrower Accounting for a Forgivable Loan Received Under the Small Business Administration Paycheck Protection Program.* The TQA addresses accounting for nongovernmental entities only (which include business entities and not-for-profit entities ("NFPs")). The TQA explains that an entity accounting for the PPP loan under Topic 470:

- Would initially record the cash inflow from the PPP loan as a financial liability and would accrue interest in accordance with the interest method under ASC Subtopic 835-30.
- Would not impute additional interest at a market rate.
- Would continue to record the proceeds from the loan as a liability until either (1) the loan is partly or wholly forgiven and the debtor has been legally released or (2) the debtor pays off the loan.
- Would reduce the liability by the amount forgiven and record a gain on extinguishment once the loan is partly or wholly forgiven and legal release is received.

According to the TQA, if a nongovernmental entity that is not an NFP (that is, it is a business entity) expects to meet the PPP's eligibility criteria and concludes that the PPP loan represents, in substance, a grant that is expected to be forgiven, it may analogize to IAS 20 to account for the PPP loan. An entity accounting by analogy to IAS 20 would not be able to recognize government assistance until there is reasonable assurance that any conditions attached to the assistance will be met and the assistance will be received. Once there is reasonable assurance that the conditions will be met, the earnings impact of the government grants would be recorded on a systematic basis over the periods in which the entity recognizes as expenses the related costs for which the grants are intended to compensate.

NCUA and EXIM Educational Initiative
The Export-Import Bank of the United States ("EXIM") and the National Credit Union Administration (NCUA) have launched a three-year collaborative effort to promote EXIM export financing products among federally-insured credit unions and their members. The initiative will facilitate the engagement of credit unions in export financing, thereby leading to expanded opportunities for businesses, more jobs, and prosperity to local communities. The Memorandum of Understanding signed represents EXIM's first-ever targeted outreach to credit unions providing important support to small businesses, especially those that may be exporting for the first time.

Helping small businesses to gain access to capital is an essential shared goal between both organizations. One solution is to point lenders and borrowers toward the support resources that already exist. Credit unions fill that gap and serve as an information gateway to connect small business owners. Accordingly, NCUA will work with EXIM to develop educational and training initiatives on export financing opportunities to share with credit unions, so that they can educate their small-business members about the available opportunities such as an EXIM guaranteed loan. These loans are exempt from the member business cap of 12.25 percent. While not all credit unions work with small businesses that handle export trade, for those that do, being able to share information with small business borrowers on where to go for help with financing will be beneficial.

For NCUA, this endeavor is similar to the successful agreement it forged with the Small Business Administration. As part of EXIM's recent reauthorization, Congress directed EXIM to build on the agency's robust support of small businesses even further, and the partnership with NCUA and credit unions is an important step toward that goal.

NCUA Field-of-Membership Litigation

The American Bankers Association ("ABA") filed another brief as part of the pending field of membership litigation earlier this week responding to the National Credit Union Administration's ("NCUA") recent brief. The central debate advanced by the ABA is the interpretation of the Chevron doctrine, which is the landmark case in which the United States Supreme Court set forth the legal test for determining whether to grant deference to a government agency's interpretation of a statute which it administers. In its latest brief, the ABA characterizes the NCUA's response as containing "extravagant interpretations of 'local community' and 'rural district'."

The U.S. Supreme Court has scheduled the ABA's petition for its June 25th conference, meaning there will most likely be a decision announced on whether the petition is granted on Monday, June 29. There is also a possibility that this decision also could be announced on Friday, June 26.

Regulation D Survey

The Board of Governors of the Federal Reserve System ("Fed") is seeking comments on an interim final rule adopted in April to delete the numeric limit of six (6) transfers and withdrawals per month from savings deposits accounts under *Regulation D, Reserve Requirements of Depository Institutions*.

The Association plans to file a comment letter to the Fed and seeks member input to inform its response on the Regulation D change and related issues in the current economic environment. Member feedback is the backbone of the Association's comment letters, and is sought in the form of a brief survey, available **HERE**. Your response is requested no later than Friday, June 19.

The full proposal by the Federal Reserve is available **HERE**.

Upcoming Deadlines

PPP-June 30, 2020
NCUA Minority Depository Institution Mentoring Grant-June 30, 2020