RI: Association Compliance Resources for COVID-19
3.24.20

As part of the Association’s ongoing commitment to provide timely and practical compliance resources, this email provides a quick-hit compilation of both state and federal regulatory compliance considerations and resources on issues particularly relevant during the current Coronavirus (COVID-19) pandemic.

Federal and state regulatory agencies have provided directives and guidance to financial institutions relative to 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.

Additionally, please note that the Association will host a town hall conversation with the Rhode Island Department of Business Regulation Division of Banking (“Division”) tomorrow, March 25, 2020 at 1:00 p.m. There is no cost to participate in this regulatory forum, but registration is required. Registration is available HERE. The call provides an opportunity to gain deeper insight into guidance provided by your state regulator.

A number of key takeaways from state and federal regulators follow.

**Rhode Island Takeaways**

Yesterday, the Division released guidance, Banking Bulletin 2020-2: Customer Assistance COVID-19, to assist credit unions in responding to challenges presented by the current situation. Credit unions are encouraged to review the attached guidance and understand that additional updates or reporting requests may occur as the situation evolves.

The Division encourages financial institutions to take steps to meet the financial services needs of affected customers and communities, and guidance addressed:

- **Alternative Service Options for Customers:** Financial institutions may need to temporarily close a facility due to staffing challenges or to take precautionary measures such as limiting lobby hours. The Division encourages financial institutions to reduce disruptions to their customers, provide alternative service options when practical, and reopen affected facilities when it is safe to do so.

- **Working with Customers:** The Division encourages financial institutions to work with affected customers and communities. These efforts may include, but are not limited to:
  - Waiving certain fees, such as:
    - Automated teller machine (ATM) fees for customers and non-customers,
    - Overdraft fees,
    - Late payment fees on credit cards and other loans, and
    - Early withdrawal penalties on time deposits;
  - Increasing ATM daily cash withdrawal limits;
  - Easing restrictions on cashing out-of-state and non-customer checks;
  - Increasing credit card limits for creditworthy borrowers; and
Offering payment accommodations, such as allowing borrowers to defer or skip some payments or extending the payment due date, which would avoid delinquencies and negative credit bureau reporting caused by COVID-19-related disruptions.

- Prudent efforts to modify the terms on existing loans for affected customers will not be subject to examiner criticism.
- Financial institutions may also ease terms for new loans to affected borrowers, consistent with prudent banking practices.

**Financial Condition Review, Supervisory Response, and Regulatory Relief:**
Some financial institutions may experience an increase in their levels of delinquent and nonperforming loans. The Division will consider the unusual circumstances these financial institutions face when reviewing an institution’s financial condition and determining any supervisory response.

**Regulatory Reporting Requirements:** Financial Institutions affected by COVID-19 related issues that expect to encounter difficulty meeting regulatory reporting requirements, including audited financial statements and related reports, as applicable, are encouraged to contact the Division to discuss their situation.

Credit unions should contact Sara Cabral, State Chief Bank Examiner, at sara.cabral@dbr.ri.gov, or (401) 462-9570 to report a closure, ask for assistance in meeting reporting deadlines, or for questions regarding the guidance.

**Federal Takeaways**
Yesterday the Federal Reserve, FDIC, NCUA, OCC, CSBS, and CFPB issued a press release and statement regarding loan modifications and reporting, providing guidance to financial institutions that are working with customers amid the coronavirus pandemic. The thrust of the interagency statement is to encourage financial institutions to work constructively with borrowers affected by COVID-19 and providing additional information regarding loan modifications. Key takeaways include:

- The agencies encourage financial institutions to work with borrowers, will not criticize institutions for doing so in a safe and sound manner, and will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings (TDRs). The joint statement also provides supervisory views on past-due and nonaccrual regulatory reporting of loan modification programs.
- The agencies view prudent loan modification programs offered to financial institution customers affected by COVID-19 as positive and proactive actions that can manage or mitigate adverse impacts on borrowers, and lead to improved loan performance and reduced credit risk.
- The statement reminds institutions that not all modifications of loan terms result in a TDR. Short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs. This includes short-term -- for example, six months -- modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant.
- The agencies’ examiners will exercise judgment in reviewing loan modifications, including TDRs, and will not automatically adversely risk rate credits that are affected, including those considered TDRs. Regardless of whether modifications are considered TDRs or are adversely classified, agency examiners will not criticize prudent efforts to modify terms on existing loans for affected customers.

In addition, the NCUA has released its own letter to credit unions which contains a Frequently Asked Questions document with information on working with members, delaying
annual meetings, board meetings, the examination process and other issues. The letter is available HERE.

**Regulation D**
The Federal Reserve Board’s Regulation D limits withdrawals or outgoing transfers from a savings or money market account. No more than six such transactions per statement period may be made from an account by various methods, which include checks, debit card payments, and automatic transactions such as automated clearing house transfers or electronic bill payment. In general, when members reach this limit, credit unions must notify members that a transaction exceeds the limit and must freeze, close or reclassify accounts that do so repeatedly.

While flexibility in the application of the federal regulation is sought by regulators and trade groups, member education may help to minimize account disruption. The Association has prepared a document of sample Questions and Answers to guide members, their expectations and practices, available HERE.

**Annual Meetings**

**Fraud and BSA**
The Financial Crimes Enforcement Network (“FinCEN”) has also released guidance. Key takeaways include:

- Contact FinCEN and state regulator about any potential delays in the ability to file required Bank Secrecy Act (“BSA”) reports.
- For suspected suspicious transactions linked to COVID-19, along with checking the appropriate suspicious activity report template boxes for certain typologies, FinCEN encourages financial institutions to enter “COVID19” in Field 2 of the template.
- 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.

Dialogue with both the NCUA and the Division for Association members remains underway so please monitor emails and the Daily Scan for details. As a reminder, the Association is regularly updating its state and federal regulatory trackers, which are comprehensive documents containing applicable regulatory guidance released as a result of the Coronavirus, as soon as practicable. The documents are available on the Association’s website HERE, and credit unions are reminded to check back regularly for updates as the situation remains fluid.

**Association Contacts**
As a reminder, the Association remains available to assist with your compliance questions. Staff can be reached by email at complianceconnection@ccua.org, by phone at (800) 842-1242 option 4, or as follows:

Katherine Butler: kbutler@ccua.org or 508/335-6954
Mary Ann Clancy: mclancy@ccua.org or 508/294-5626