

COVID-Related Compliance Issues



Employment

- Families First Coronavirus Response Act (FFCRA)

Lending

- NCUA Directives
 - » Modifications
 - » Appraisals
- Division of Banking Communication
- Governor Bullock Directives
 - » Foreclosure/Eviction/Utility Shut-off
 - » Late Fees
 - » Vehicle Registration
- Housing Agency
- Consumer Financial Protection Bureau (CFPB)
 - » Forbearance & Foreclosure Guidance
 - » Credit Reporting
 - » Appraisals
 - » TILA/RESPA & Right of Rescission Flexibility
 - » Credit Card Disclosure & ESIGN Flexibility
- SBA & PPP Program
- Credit Reporting under CARES Act
- Uniform Residential Loan Application (URLA)

Operations

- Reg D Transfer Limitation Removed (Fed Reserve)
- Remote Notarization (RON)
- FinCEN BSA Obligations

Other

- Annual Meeting Timing & Virtual Meeting Option
- Offsite Exams
- Branch Closures/Adjustments
- Call Report Extension
- Supervisory Fee Waiver
- Prompt Corrective Action

Employment

FFCRA: U.S. Department of Labor oversees the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act, both part of the Families First Coronavirus Response Act (FFCRA). Effective April 1, 2020, employers with fewer than 500 employees can be reimbursed with tax credits for the cost of providing employees with paid leave taken for specified reasons related to COVID-19. Employers may not be subject to the Family Medical Leave Act (if less than 50 employees), but may still be subject to the Emergency Leave Act.

- [Requirements of FFCRA](#)
- [FFCRA Poster](#)

Lending

NCUA: Issued several Letters to CUs and keeps an updated [FAQ](#) on their website. Credit unions have been encouraged to work with borrowers to modify, extend, and skip payments if they were impacted by Coronavirus closures or reductions. Actions will not be considered TDRs if applied broadly to impacted audience.

- **Modifications:** A [joint letter](#) with other federal agencies, noted examiners “will not criticize financial institutions that mitigate credit risk through prudent actions consistent with safe and sound practices. The agencies consider such proactive measures to be in the best interest of institutions, their borrowers, and the economy. ... Financial institutions have broad discretion to implement prudent modification programs consistent with the framework included in this statement.”
- **Appraisal Flexibility:** An [interim final rule](#) waived the appraisal requirement until 120 days after loan closure, allowing real estate loans to proceed without the need for appraisers to enter homes during COVID. [**Note:** State-chartered CUs have to apply to the Division individually for similar relief under the Montana Wild Card statute.]

Division of Banking: Issued a [statement](#) encouraging “credit unions to work with affected members and communities. The Division recognizes that such efforts serve the long-term interests of communities and the financial system when conducted with appropriate management oversight and consistent with safe and sound credit union practices and applicable laws.”

Governor Bullock: Issued a [directive](#) March 30 prohibiting foreclosures, evictions, and utility shut-offs for any residential properties within Montana. Late fees on mortgage loans were also not allowed during the duration of the directive. While originally valid to April 10, it was extended to May 24 for most provisions. As of phase two, restrictions are lifted on late fees, but

foreclosures restrictions remain for those who are “vulnerable population,” as explained in [our blog](#).

- **Vehicle Registration Extensions:** Per another [directive](#) on April 2, the governor also extended timelines for registering vehicles by 90 days. This may impact credit unions trying to confirm liens or title work for purchases made after March 16 and lasting the duration of the emergency. View the status of county title & registration offices [here](#).

Housing Agencies: Various federal housing agencies and servicers have issued guidance regarding federally backed mortgage loans and selling loans in forbearance. Some are listed below, but you are encouraged to check with your own provider to see what their current flexibility might include.

- [Freddie Mac Guidance](#)
- [Fannie Mae Guidance](#)
- [FHA Bulletin](#)
- [FHFA COVID Announcements](#)
- [FHFA extends moratorium to Aug 31](#)

CFPB: Various programs have been announced through the CFPB to provide relief to consumers during COVID.

- [Joint guidance](#) with the Conference of State Banking Supervisors on state forbearance & foreclosure guidance under the CARES Act
- Statement on [Credit Reporting](#)
- Appraisal information-- [Coverage](#) & [Delivery](#) factsheets clarifying FAQ on delivery of copies of the appraisal and timing of such
- [Interpretive rule](#) on TILA/RESPA & Right of Rescission flexibility
- Temporary [flexibility](#) for consent to provide electronic credit card disclosures

SBA & Paycheck Protection Program (PPP): This has been an extremely fluid program in terms of guidance, FAQ, and almost daily updates of requirements and reporting. We have communicated primarily with those involved in the program via an email list and encourage anyone looking for current compliance expectations to contact the MT SBA office directly (Tom White Thomas.white@sba.gov or Rena Carlson lorena.carlson@sba.gov) or the PPP [website](#).

Credit Reporting: The CARES Act requires credit report data providers, including credit unions, to report loan modifications resulting from the COVID-19 pandemic as “current” or as the status reported before the accommodation unless the consumer becomes current. This protection is available beginning January 31, 2020 and ends 120 days after enactment or 120 days after the date the national emergency declaration for COVID-19 is terminated, whichever occurs later. [Note: As of June 8, 2020, we are still under a national emergency declaration.]

The CFPB issued a [Compliance Aid](#) on 6/16 discussing credit reporting that includes FAQ on dispute investigations and CARES Act provisions.

Uniform Residential Loan Application (URLA): Fannie Mae [announced](#) delay of implementation of the revised URLA due to COVID to March 1, 2021 with a sunset date of March 2022.

Operations

Reg D Transfer Limits Removed: The Federal Reserve issued an [Interim Final Rule](#) on April 24 to amend Reg. D that removed the 6-per-month limit on transfers from the “savings deposit” definition. The rule change allows credit union to suspend enforcement of the six-transfer limit and is expected to be a permanent change. Questions like impact to the Reg. CC definition of a “transaction account” are answered in this [FAQ](#). [Hint: it does not change anything with your funds availability policy/practice.]

Remote Notarization: Montana law already allowed for RON (remote online notarization), but few were aware of it, and no credit unions were using it prior to COVID. Given some of the challenges of notarizing documents with limited face-to-face contact, MCU worked with the Secretary of State notary division to develop a [training webinar](#) to encourage RON.

FinCEN: The agency that oversees the Bank Secrecy Act (BSA) enforcement issued two different notices of interest--

- [Notice](#) of awareness of issues with BSA reporting timing and beneficial ownership reporting with COVID and limited staffing
- [Advisory](#) on medical scams and red flags for financial institutions

Other

Annual & Virtual Meetings: With COVID hitting just as many credit unions were planning their annual membership meeting, regulators were quick to offer guidance on how to delay them, and later on how to hold them virtually if needed.

- NCUA Letter to CUs [20-FCU-02](#) offered details on quorum flexibility, virtual meeting options, and bylaw provision adjustments that could assist
- Division of Banking [temporary emergency rule](#) to allow virtual annual meetings and later adoption of [revised model bylaws](#) that incorporate virtual meeting verbiage (see Article IV, section 1)

Offsite Exams: Both NCUA and the Division were doing partial offsite/remote exams prior to COVID. They moved to full offsite, but continued exams during recent months. NCUA offered updated details in this [Letter to CUs](#) and Commissioner Hall expressed during weekly calls with SCUs that she is committed to doing them with the least amount of disruption possible.

Branch Closures: The Division [asked for](#) updates of branch closures and NCUA addressed notice to their agency of closures extending beyond two days in [this letter](#) (see #4). Both reminded CUs that their board of directors should ratify the decision by email or at their next board meeting.

Call Report Extension: Per the [FAQ](#) on their website, NCUA will not take action against any credit union for submitting the March 31, 2020 Call Report after the respective filing deadline provided the report is submitted within 30 days of the official file date of Sunday, April 26, 2020. Along with notifying the NCUA, state-chartered credit unions should contact the MT Division of Banking.

Assessment Waiver: Montana Division of Banking [announced](#) waiver of assessment of first half 2020 supervisory fees for state-chartered credit unions to assist. NCUA has not made any adjustment or notice on fee changes.

Prompt Corrective Action (PCA): NCUA made two temporary changes to its [PCA regulations](#) at their May board meeting. The first amends its regulations to temporarily enable the NCUA Board to issue an order applicable to all FICUs to waive the earnings retention requirement for any FICU that is classified as adequately capitalized. The second modifies its regulations with respect to the specific documentation required for net worth restoration plans (NWRPs) for FICUs that become undercapitalized.

Tax Filing Deadlines: Many tax filing deadlines originally set for April 15, 2020 were moved to July 15, 2020. That may impact credit unions who offer IRA, HSA, and ESA accounts and provide Form 5498. Contact your provider for details or refer to the [IRS website](#).

MCU COVID & Compliance Resources

InfoSight: Look to [this page](#) for blogs, news releases from agencies, compliance events, and recently updated compliance topics.

COVID Updates- We provide [this resource page](#) to keep sections on Employer, Lender, Regulator, and Reopening Resources updated regularly for any COVID topic you may need, but also include links to Scams and Fraud for your staff to keep up on and share with your membership and community.

Contact: Contact [Donya Parrish](#) via [email](#) or phone (406.459.3497) with any questions or for any compliance resource need.