Regulatory and Legislative Recap
April 2020

Resources for Coronavirus (COVID-19) Information:

NCUA.gov – Coronavirus (COVID-19): Information for Federally Insured Credit Unions

FDIC.gov – Coronavirus (COVID-19) Information for Bankers and Consumers

Federalreserve.gov – Coronavirus Disease 2019 (COVID-19)

occ.treas.gov – Frequently Asked Questions Regarding COVID-19

CFPB – Protecting your finances during the Coronavirus Pandemic

CFPB – CFPB Provides Flexibility During COVID-19 Pandemic

FinCEN – Coronavirus Updates

Washington – COVID-19 Resources

Oregon – Coronavirus Updates

Department of the Treasury – Financial Services Sector Essential Critical Infrastructure Workers

NCUA – Letter to Credit Unions (20-CU-03) Identification of Essential Critical Infrastructure Workers During COVID-19

FDIC - Identification of Essential Critical Infrastructure Workers During the COVID-19 Response Efforts

CISA – Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response.

FINAL REGULATIONS/RULES

Effective Date	Regulation	Citation	Summary
04/17/2020	Real Estate Appraisals (FRB, FDIC, OCC)	85 FR 21312	The agencies issued an interim final rule to amend regulations requiring appraisals of real estate for certain transactions. The interim final rule defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions. This interim final rule is effective through December 31, 2020.
04/30/2020	Real Estate Appraisals (NCUA)	85 FR 23909	The NCUA is amending the agency's regulation requiring appraisals for certain residential real-estate related transactions. The final rule increases the threshold level below which appraisals are not required for residential real-estate related transactions from $250,000 to $400,000. Instead of an appraisal, and consistent with the requirement for other transactions that fall below applicable appraisal thresholds, federally insured credit unions (FICUs) are required to obtain written estimates of market value of the real estate collateral consistent with safe and sound practices.
07/01/2020	HMDA Thresholds Regulation C (CFPB)		See below for recap
04/27/2020	Treatment of Pandemic Relief Payments Under Regulation E and Application of the Compulsory Use Prohibition (CFPB)	85 FR 23217	The Bureau of Consumer Financial Protection (Bureau) is issuing this interpretive rule to provide guidance to government agencies distributing aid to consumers in response to the COVID-19 pandemic. The Bureau concludes in this interpretive rule that certain pandemic-relief payments are not "government benefits" for purposes of Regulation E and the Electronic Fund Transfer Act (EFTA) and are therefore not subject to the compulsory use prohibition in EFTA, if certain conditions are met. Specifically, government benefits do not include payments from Federal, State, or local governments if those payments: (1) are made to provide assistance to consumers in response to the COVID-19 pandemic or its economic impacts; (2) are not part of an already-established government benefit program; (3) are made on a one-time or otherwise limited basis; and (4) are distributed without a general requirement that consumers apply to the agency to receive funds.
04/23/2020	Convenient Account Transaction Limitations Regulation D (FRB)		See our blog at: https://compliancservicesgroup.com/regulation-d-convenience-transfer-limitation-dropped/ This throws a twist into Regulation CC's definition of an account for funds availability purposes. The Regulation CC definition of an account excludes savings deposits (204.2(d)(2)) but also states that an account "may be in the form of" any transaction account described in 204.2(e). (NCUA 20-RA-02)
TBD	Application of Certain	TBD	The CFPB issued an interpretive rule clarifying that, due to COVID-19, consumers have a greater

	Provisions in the TILA-RESPA Integrated Disclosure Rule and Regulation Z Right of Rescission Rules in Light of the COVID-19 Pandemic (CFPB)		ability to exercise their rights to modify or waive certain required waiting periods under the TILA-RESPA integrated disclosures and Regulation Z rescission rules. The interpretive rule takes effect upon publication in the Federal Register. Borrowers who affirm, via a brief signed statement, that their financial situation due to the coronavirus pandemic necessitates a faster closing before the end of the TRID or Reg Z rescission waiting periods would be permitted to waive those waiting periods, the CFPB said. The rule also states that the pandemic is a "changed circumstance" for purposes of TRID's fee disclosure tolerance provisions, which allows creditors to use revised estimates reflecting changes in settlement charges when determining good faith compliance. The CFPB also issued FAQs related to when creditors must provide appraisals or other written valuations to mortgage applicants in order to expedite access to credit for consumers affected the COVID-19.
04/21/2020 - 12/31/2020	Temporary Regulatory Relief in Response to COVID-19 (NCUA)	85 FR 22010	The NCUA is temporarily modifying certain regulatory requirements to help ensure that federally insured credit unions (FICUs) remain operational and liquid during the COVID-19 crisis. Specifically, the Board is temporarily raising the maximum aggregate amount of loan participations that a FICU may purchase from a single originating lender to the greater of $5,000,000 or 200 percent of the FICU's net worth. The NCUA is also temporarily suspending limitations on the eligible obligations that a federal credit union (FCU) may purchase and hold. In addition, given physical distancing policies implemented in response to the crisis, the Board is tolling the required timeframes for the occupancy or disposition of properties not being used for FCU business or that have been abandoned. These temporary modifications will be in place until December 31, 2020, unless extended.

PROPOSED REGULATIONS

Comments Due	Regulation	Citation	Summary

RESOURCES/GUIDANCE

Guidance	Summary

Consumer Compliance Outlook (FRB)	This issue of the Federal Reserve's Consumer Compliance Outlook includes commonly cited violations on spousal signature requirements (Regulation B); forced place flood insurance (Regulation H); finance charge requirements (Regulation Z); and adverse action notice requirements (FCRA).
Risk Management for Cloud Computing Services (FFIEC)	The FFIEC's Statement addresses the use of cloud computing services and security risk management principles in the financial services sector. The statement does not contain new regulatory expectations but highlights that management should not assume that effective security and resilience controls are in place simply because the technology systems are operating in a cloud computing environment.
Equal Credit Opportunity Act Valuation Rule (CFPB)	The Bureau released two factsheets on the ECOA valuations rule in response to frequently asked questions it has received. The factsheets provide information on transaction coverage under the Rule and delivery method and timing requirements for appraisals and other written valuations. The Bureau also published an FAQ related to the ECOA valuations rule in light of the COVID-19 emergency.
Mortgage Forbearance Lump Sum Missed Payments Guidance (Fannie Mae, Freddie Mac, FHFA)	The guidance states that borrowers in forbearance will not be required to pay back the missed payments in a lump sum for Fannie Mae, Freddie Mac, and FHFA mortgages, but encourages all lenders to adopt a similar approach.
Residential Appraisals Threshold Increase and Other COVID-19 Related Relief Measures LTCU 20-CU-10 (NCUA)	The letter provides details regarding the rules (the rule to increase the residential appraisal threshold from $250,000 to $400,000 and the interim rule allowing credit unions to temporarily defer appraisals and written estimates of market value for up to 120 days after the closing of a loan) that were approved at the April 16th meeting of the NCUA Board. The letter to credit unions does the following: • It provides guidance on the appropriate use of the appraisal and written estimate of market value deferral. • It also summarizes additional appraisal relief and flexibility measures put forth by Fannie Mae, Freddie Mac, and other federal agencies in response to the disruptions of the real estate valuation process caused by the COVID-19 pandemic.
COVID-19 Financial Support Programs: Visitorial Authority Bulletin 2020.43 (OCC)	The OCC said that the exclusive authority for the OCC, provided by federal law, "generally precludes state and local officials from conducting examinations, requiring the production of banks' books or records, or exercising other visitorial authority" over national banks, federal savings associations, and federal branches and agencies of foreign banks. Any state or local authorities with information to indicate that a bank may be violating federal or applicable state law should contact the OCC, the agency said. Banks that receive a request from a state or local official seeking information that constitutes an attempt to exercise "visitation" over the bank "is not required to provide this information" but "should contact its examiner-in-charge as soon as possible," it states.
Bulletin 2020-02 - Compliance Bulletin and Policy Guidance: Handling of Information and Documents During	The Bulletin highlights several practices for servicers to consider, including: developing a servicing transfer plan; engaging in quality control work after transfer of preliminary data; determining servicing responsibilities for legacy accounts; conducting a post-transfer review to determine the effectiveness of the transfer plan; tracking consumer complaints and loss mitigation performance metrics; and identifying loans in default, active foreclosure and bankruptcy and any forbearance agreements entered in with the borrower.

Mortgage Servicing Transfers (CFPB)	
ACH Network Rules Pandemic-Related Frequently Asked Questions (NACHA)	NACHA issued the ACH Network Rules Pandemic-Related Frequently Asked Questions (FAQs) based on information it has provided, information it has learned, and inquiries posed to NACHA, including questions about the Economic Impact Payments.
Enhancements to Central Liquidity Facility Membership and Borrowing Authority 20-CU-08 (NCUA)	This Letter provides vital information about key changes to the NCUA's Central Liquidity Facility (CLF). Credit unions have improved access to the CLF because of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) signed into law on March 27, 2020, and regulatory amendments that will be effective upon publication in the Federal Register. The COVID-19 pandemic has created uncertainty for credit unions and their members. Liquidity, like capital, is a pillar of strength upon which the safety and soundness of the credit union system rests. The NCUA is implementing initiatives that will provide greater access to liquidity so credit union operations can remain uninterrupted during this rapidly evolving crisis. While we hope for the best outcome, we must prepare for the possibility that the CLF will be a vital resource to help credit unions address the impact of the COVID-19 pandemic. The NCUA encourages credit unions that are not members of the CLF to join as soon as possible, either as regular members or through an agent member.
Provision of Humanitarian Assistance and Trade to Combat COVID-19 (OFAC)	OFAC issued a Fact Sheet highlighting the most relevant exemptions, exceptions, and authorizations for humanitarian assistance and trade under the Iran, Venezuela, North Korea, Syria, Cuba, and Ukraine/Russia-related sanctions programs. The Fact Sheet also outlines specific guidance for OFAC-administered sanctions programs related to personal protective equipment (PPE) and other Coronavirus Disease 2019 (COVID-19)-related humanitarian assistance and trade.
BSA/AML Exam Manual Update (FFIEC)	The Federal Financial Institutions Examination Council yesterday released long-awaited updates to its Bank Secrecy Act/Anti-Money Laundering examination manual. The updates—which do not establish new requirements—are intended to provide additional transparency and emphasize a risk-based approach to BSA/AML supervision. The manual was last updated in 2014. Specifically, the updated manual provides instructions to examiner for tailoring BSA/AML examinations to a bank's risk profile; assessing the adequacy of an institution's BSA/AML compliance program; assessing a bank's BSA/AML risk assessment processes; and developing conclusions and finalizing the exam. The agencies also made clarifications about the difference between mandatory regulatory requirements and supervisory expectations set forth in guidance.
Federal Disclosure Tools (FFIEC)	The FFIEC announced the availability of computational tools for both the Annual Percentage Rate (APR) and the Annual Percentage Yield (APY). The tools were designed to assist financial institutions in verifying accuracy and ensuring compliance. • **APR Tool** - In addition to verifying the accuracy of an APR, this tool can also assist financial institutions in calculating reimbursements. The tool can be used for both non-dwelling secured and dwelling secured loans. It is also designed to verify the Military Annual Percentage Rate (MAPR) for loans subject to the Military Lending Act.

	• **APY Tool** - This tool allows financial institutions to verify the APY for disclosures and periodic statements, as well as, advertising purposes.
What you need to know about student loans and the coronavirus pandemic (CFPB)	Information for borrowers on suspension of principal and interest payments on federally-held student loans through 09/30/2020.
Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (FRB, FDIC, NCUA, OCC, CFPB)	This letter describes a variety of strategies credit unions can use to work with borrowers who experience financial hardship because of the COVID-19 pandemic, from offering additional funding to making temporary or permanent loan modifications. NCUA's Letter to Credit Unions 20-CU-13 piggy backs onto this, and describes how credit unions should monitor and report loan modifications.
Statement on Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic (CFPB)	The Dodd-Frank amendments to the Electronic Fund Transfer Act required a remittance transfer provider to disclose certain information to consumers who send remittance transfers, including information related to the exact costs of a transfer. The Act also provided a temporary exception to that allowed insured institutions to disclose estimated exchange rates and certain third-party fees, instead of exact amounts, in some circumstances. The temporary exception expires on July 21, 2020. The CFPB proposed amendments to the Regulation E remittance rule in December 2019, in part, to address the effects of the expiration of this temporary exception and expects to issue a final rule in May. However, in order to minimize the impact of the pandemic on the remittances market, the CFPB announced that it will neither cite supervisory violations nor initiate enforcement actions against remittance transfer providers in connection with this expiring exception through January 1, 2021.
Extended URLA Implementation Timeline	Fannie Mae and Freddie Mac issued a joint statement to announce that—due to the Covid-19 pandemic—the effective date of the revised Uniform Residential Loan Application (URLA) and Automated Underwriting Systems—is extended to January 1, 2021. Lenders must begin use of the redesigned URLA by March 1, 2021, and the current URLA will be retired on March 1, 2022.
Temporary Regulatory Relief in Response to the COVID-19 Pandemic Letter to Credit Unions (20-CU-09) (NCUA)	The Letter provides information of regulatory relief in §701.36 Federal Credit Union Occupancy and Disposal of Acquired and Abandoned Premises, § 701.23(b) Purchase, Sale, and Pledge of Eligible Obligations – Purchase, § 701.22 Loan Participations, Annual Supervisory Committee Audit Reports, Late Call Report Civil Money Penalties, and Miscellaneous Policy and Review Requirements.

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The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic (FinCEN)	This notice updates the Financial Crimes Enforcement Network's (FinCEN's) March 16, 2020 COVID-19 Notice, provides additional information to assist financial institutions in complying with their Bank Secrecy Act (BSA) obligations during the COVID-19 pandemic, and announces a direct contact mechanism for urgent COVID-19-related issues. FinCEN recognizes financial institutions face challenges related to the COVID-19 pandemic. In addition, FinCEN is committed to promoting the success of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), including the need to facilitate expeditious disbursal of CARES Act funds. Accordingly, FinCEN will issue further information, as appropriate, as the CARES Act is implemented and questions arise.
Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act (CFPB, FRB, FDIC, NCUA, OCC, CSBS)	The policy statement clarifies that the agencies do not intend to take supervisory or enforcement action against mortgage servicers for delays in sending certain early intervention and loss mitigation notices and taking certain actions relating to loss mitigation set out in the mortgage servicing rules, provided that servicers are making good faith efforts to provide these notices and take these actions within a reasonable time.
New SBA and Treasury Programs Available for Small Business Relief FIL-33-2020 (FDIC)	The FDIC is advising financial institutions of multiple forms of relief available in the Coronavirus Aid, Relief, and Economic Security (CARES) Act to small businesses through programs administered by the Small Business Administration (SBA). The U.S. Department of the Treasury (Treasury) also offers small business loan programs. The FDIC encourages financial institutions to consider using these programs in a prudent manner as they actively work with small business borrowers with less financial flexibility to weather near-term operational challenges due to the Coronavirus Disease 2019 (referred to as COVID-19).
Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act (CFPB)	The CFPB released the Statement outlining the responsibility of credit reporting companies during the COVID-19 pandemic. The Statement also informs lenders that they must comply with the CARES Act and encourages lenders to provide payment relief to consumers.
Guide to coronavirus mortgage relief options (CFPB)	The CFPB launched a new consumer webpage outlining relief options for mortgage borrowers who may be facing financial hardship as a result of the coronavirus pandemic. The page emphasizes that borrowers who are able to make their mortgage payments should continue to do so and instructs those who cannot to contact their servicer directly to discuss their options.

Paycheck Protection Program

Round 1 –

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Act provides up to $350 billion in fully forgivable loans to help small business maintain payrolls during the coronavirus pandemic. The loans are fully guaranteed by the Small Business Administration (SBA), but the SBA will waive all SBA guaranty fees. Paycheck Protection Program (PPP) loans are made for two years at a 1.0% fixed rate (originally .5% but was increased to get more financial institution buy in.)

All banks, as well as a broad range of nonbanks, are eligible to make PPP loans. Existing SBA-certified lenders will be given delegated authority. Other lenders must be approved before making loans.

On April 3, small business and sole proprietorships – generally, those with 500 or fewer employees – could apply for PPP loans. Independent contractors and self-employed workers could apply starting on April 10. PPP loans will be fully forgiven when used for payroll costs, interest on mortgages, rent and utilities, with at least three quarters of the forgiven amount being used for payroll; forgiveness is based on the employers maintain headcount or quickly rehiring and maintaining salary levels.

Related Links:
Interim Final Rule
Paycheck Protection Program – FAQs (updated as of 05/03/2020)
US Treasury The CARES Acts Works for All Americans
SBA Paycheck Protection Program (overview, guidance, and links)
Small Business Paycheck Protection Program overview (one-page summary)
Lenders' Information Sheet
Borrowers' information Sheet
Borrowers' Loan Application
Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program – Additional Eligibility Criteria and Requirements for Certain Pledges of Loans
Affiliation and Faith Based Organization Guidance
NCUA Letters to Credit Unions 20-CU-06 Small Business Administration Loan Programs to Help Small Businesses and Members During the COVID-19 Pandemic
NCUA How to Become a Paycheck Protection Program (PPP) Lender (slideshow)

On April 16, 2020 the SBA announced that it was no longer accepting applications for the PPP as funding was exhausted.

Paycheck Protection Program (PPP) Report – Approvals through 04/16/2020

Of course, with a quickly released assistance Act, there were more problems that just running out of funds. Multiple class action suits were introduced claiming favoritism and non-compliance with the 'first-come, first-served" requirement in the Act. (Frost, Wells Fargo, Bank of America, JP Morgan Chase, & U.S. Bancorp) And, some larger public companies were shamed into returning their loans.

Round 2 –

As a result of additional approved funding of $310 billion, on April 27, 2020, the SBA resumed accepting applications from participating lenders. The Act provides an additional $310 billion in PPP loans to help small businesses keep their employees on the payroll including $30 billion in guaranteed loans for lenders with less than $10 billion in assets and another $30 billion in guaranteed loans for lenders with $10 billion to $50 billion in assets.

The SBA also announced that it will cap the maximum dollar amount of funding authority that any one institution may receive to 10% of total PPP funding authority, exclusive of the $60 billion earmarked for lenders with assets under $50 billion.

Related Links:

XML File Submission Process for Paycheck Protection Program (PPP) one-time batch submission instructions for > 5,000 loans. (No longer available.)
Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program – Additional Eligibility Criteria and Requirements for Certain Pledges of Loans
How to Calculate Maximum Loan Amounts – By Business Type
Letter to Credit Unions 20-CU-11 Regulatory Treatment for Paycheck Protection Program Loans
Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program – Requirements – Disbursements
Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program—Requirements—Promissory Notes, Authorizations, Affiliation, and Eligibility

Treasury Secretary Steven Mnuchin stated that the SBA will conduct a full audit of PPP loans made in the amounts over $2 million to ensure the borrower's legitimate economic need before they can be forgiven. Mnuchin said "it's the borrowers who have criminal liability if they made this certification and it's not true."

The CFPB posted a blog which highlights fair lending protections for businesses seeking PPP loans.

OCC Bulletin 2020-45 urges banks to "prudently document" their decisions for the PPP loans, and encourages banks to identify and track the PPP loans made to small business borrowers that have annual revenues of $1 million or less and are located in low- to moderate-income areas.

Guidance on Participation Sales for Paycheck Protection Program Loans
IRS Guidance on PPP Loan Forgiveness Tax Effects

HMDA Updates

The CFPB amended HMDA reporting requirements effective 07/01/2020.

- Effective 07/01/2020 the closed-end coverage threshold is raised from 25 to 100 closed-end mortgage loans in each of the two preceding calendar years. (Note that the rule is effective July 1, 2020. If this change means you will no longer be a closed-end reporter, you do still need to record your first-quarter HMDA data on your LAR (by April 30th) AND you must continue collecting HMDA data until July. However, you won't be required to report any of your 2020 data)
- Effective 01/01/2022, when the temporary 500 open-end threshold expires, the threshold will be 200 open-end lines of credit in each of the preceding calendar years.

In its Executive Summary, the CFPB states that for 2020 closed-end loan data:

- *Collection*: Newly excluded institutions can stop collecting HMDA data on their closed-end mortgage loans beginning on July 1, 2020. Note, though, that other laws or regulations may require collection of certain data on home loan activity. For example, Regulation B includes an independent requirement to collect information regarding the applicant's ethnicity, race, sex, marital status, and age where the credit sought is primarily for the purchase or refinancing of a dwelling that is or will be the applicant's principal residence and will secure the credit.
- *Recording*: Newly excluded institutions must still record closed-end data for the first quarter of 2020 on a loan/application register by 30 calendar days after the end of the first quarter. They will not, however, be required to record closed-end data for the second quarter of 2020 because the deadline for recording that data is after July 1, 2020.
- *Reporting*: Because newly excluded institutions collecting HMDA data in 2020 would not otherwise report those data until early 2021, the final rule relieves newly excluded institutions of the obligation to report by March 1, 2021 data collected in 2020 on closed-end mortgage loans (including data collected in 2020 before July 1, 2020). Under the final rule, a newly excluded institution may report voluntarily HMDA data on closed-end mortgage loans in 2021 as long as the institution reports data for the full calendar year 2020.

- Unofficial, informal redline to reflect changes to Regulation C
- Executive Summary
- HMDA Rule Key Dates Timeline 2020-2022
- HMDA institutional coverage chart, effective July 1, 2020 through December 31, 2021
- HMDA institutional coverage chart, effective January 1, 2022
- HMDA transactional coverage chart, effective July 1, 2020 through December 31, 2021
    - HMDA transactional coverage chart, effective January 1, 2022