Federal Updates & Impact:
Insights from Advocacy & Compliance

New laws and resulting compliance realities
Webinar Comments and Questions

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Federal Updates & Impact: Insights from Advocacy & Compliance

New Laws & Resulting Compliance Realities
Webinar Presenters

• Amy McLard
• Lisa Althoff Simmons
• John McKechnie
Overview

- Legislation
- Intent/impact
- Compliance focus
- Resources
- Questions?
Legislation
Three COVID-19 related bills passed and signed into law between March 4 and March 27.

- **March 4, 2020**: Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (H.R. 6074)
- **March 18, 2020**: Families First Coronavirus Response Act (H.R. 6201)
- **March 27, 2020**: Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748)
COVID-19 Related Legislation

Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (H.R. 6074)

Focused on funding for federal agencies to respond to the coronavirus outbreak related to:

- Developing a vaccine
- Medical supplies
- Public health agency grants
- Small business loans
COVID-19 Related Legislation

Families First Coronavirus Response Act (H.R. 6201)

- Guaranteed free coronavirus testing
- Established paid leave
- Enhanced unemployment insurance
- Expanded food security initiatives
- Increased federal Medicaid funding.
- Includes FMLA changes that Lisa will cover.
COVID-19 Related Legislation

Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748)

Also referred to as Phase 3

$2 TRILLION package

Cash flow and liquidity for businesses

Direct aid to individuals

Direct aid to hospitals for care

Specific sections that affect credit unions – good and bad
Intent & Impact
CARES Act: An Overview

Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748)
Also referred to as Phase 3

Overview of sections affecting credit unions:
https://heartlandcua.org/node/4622

Sections included in the online overview:
- 1102
- 1106
- 1107
- 2301
- 4008
- 4013
- 4014
- 4016
- 4021
- 4022
- 4023
Sections Related to the Small Business Administration (SBA)

- Section 1102 New SBA Paycheck Protection Program
- Section 1106 Loan Forgiveness for SBA Loans
- Section 1107 Direct Appropriations to the SBA
What does the law do?

- Establishes the Paycheck Protection Program, for loans to small businesses, nonprofits, and individuals through the SBA’s 7(a) loan program.
- Authorizes $349 billion in SBA 7(a) lending from Feb. 15 through June 30. This replaces the current $30 billion authorization for FY2020.
- Mandates that SBA fully guarantees loans under the new program, compared with a 75% or 85% guarantee for standard SBA 7(a) loans.
CARES Act: Loans & Investments
Small Business Administration (SBA) 7(a) Loans

What does the law do?

- Loans available for any business, nonprofit, veterans’ group, or tribal business with 500 or fewer employees, or a number set by the SBA for the relevant industry.
- Funds cannot be used to compensate individual employees at an annual rate above $100,000, or to pay for sick or family leave.
- Rules requiring recipients to pay certain fees, provide collateral, or be unable to obtain credit elsewhere will be waived.
- SBA 7(a) lenders could issue covered loans if they determine a business was operating with salaried employees or paid contractors as of Feb. 15.
CARES Act: Loans & Investments
Small Business Administration (SBA) 7(a) Loans

What does the law do?

- $25 million will be available for the Treasury Department to allow additional credit unions or banks to participate.
- SBA will require lenders to let applicants who were in business as of February 15 defer payments for at least six months up to one year.
- SBA loans will receive a 0% risk weight under credit union and bank capital rules.
- Lenders that modify these SBA loans are temporarily exempt from Troubled Debt Resolutions (TDR) disclosures.
SBA Loan Forgiveness:

- Recipients of SBA-guaranteed loans can apply for loan forgiveness over 8 weeks for eligible payroll costs and for mortgage interest, rent, and utility payments.
- SBA will pay lenders for any canceled debt plus interest. Lenders will not be subject to SBA enforcement actions related to loan forgiveness.
- Loan forgiveness would be reduced for businesses that fire employees or cut their pay.
- Covered loans will have a maximum maturity of 10 years, with remaining balances guaranteed by SBA.
- SBA will receive $17 billion for SBA to pay the principal, interest, and fees for loans under the SBA 7(a) for 6 months.
CARES Act: Loans & Investments
Small Business Administration (SBA) 7(a) Loans

Impact:
- Credit unions legally able to participate in the new SBA relief programs
- SBA just released PPP guidance on Tuesday
- No set process or checklist for credit unions that are not already SBA 7(a) approved lenders….YET

Where to find/share more information:
- HCUA COVID-19 webpage: https://heartlandcua.org/coronavirus
  Under “Regulatory Guidance and Compliance Resources” – SBA
- HCUA Survey to CEOs about SBA interest
- Congressional SBA informational calls April 6 (MO) and 7 (KS)
CARES Act: Loans & Investments
Mortgage Market Forbearance

Sections 4021, 4022, and 4023

- Borrowers of government-backed mortgages (Fannie Mae, Freddie Mac, HUD, VA and USDA) can request up to 360-day payment forbearance without proof of hardship.

- No additional fees, interest, or penalties can be assessed for the forbearance. Except for abandoned or vacant property, there may be no foreclosure actions for 60 days from 3/18/2020.

- Owners of multifamily properties who were current on their mortgage payments as of February 1, 2020, and have federally backed loan (including low income housing tax credit) may request forbearance for 30 days due to financial hardship, with extensions of up to a total of 90 days.
CARES Act: Loans & Investments
Mortgage Market Forbearance (continued)

- Borrowers receiving the forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.

- Moratorium on eviction filings, or fees or penalties for tenants for nonpayment of rent for 120 days on properties insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, covered by the Violence Against Women Act of 1994.

- NCUA and other regulators announced similar relief in a March 22 interagency statement.
CARES Act: Accounting Rules

CECL - Section 4014

- Financial institutions are temporarily exempt from CECL, until December 2020.

Temporary Relief from Troubled Debt Restructuring (TDR) - Section 4013

- Financial institutions could exempt themselves from accounting rules that categorize certain loan modifications related to coronavirus, such as payment deferrals and TDRs.
- Regulators would have to defer to the financial institutions on this decision.
**CARES Act:**
Non-Interest Bearing Account Guarantees
Temporary Asset Guarantee (TAG) Program

**Section 4008**

- NCUA and FDIC are authorized to guarantee additional types of deposits, including on accounts that don’t accrue interest.

- NCUA and FDIC are authorized to establish an emergency program guaranteeing debt of solvent insured institutions up to a maximum level without further congressional approval.
CARES Act: NCUA Central Liquidity Facility

Section 4016

- Corporate credit unions are allowed (for the first time) to borrow directly through the CLF. This will simplify lending—until now only natural person credit unions could get liquidity, and they had to first purchase stock in the CLF.

- Applicants for CLF loans would have to show that they made reasonable efforts to obtain liquidity from certain other sources.

- The lending limit on the CLF is increased from the current 12X capital to 16x; in dollars, this takes CLF capacity from $7.4 billion to $9.8 billion.
Compliance Focus
Families First Coronavirus Response Act (FFCRA)

HCUA White Paper Regarding FFCRA:

- Expanded FMLA Protections
- Emergency Paid Sick Leave
- Employer Tax Credits

  - “Employment & Operational Guide” tab
CARES Act: Payroll Tax Credit

- **Section 2301-Employee Retention Payroll Tax Credit:** This provision provides a refundable payroll tax credit, capped at $10,000 per employee, for 50% of wages paid by employers to employees from March 13 through December 31, 2020. Employers may qualify if they either:

  (1) are subject to a full or partial shut-down order due to the COVID-19 crisis, or

  (2) see gross receipts decline by more than 50% when compared to the same quarter in the prior year.
CARES Act:
Delay of Payment of Employer Payroll Taxes

- Section 2302 – Allows employers to defer the employer share of Social Security Tax they are responsible for paying for their employees, generally 6.2%.
CARES Act: Limitation on Paid Family & Sick Leave Requirements

- **Section 3601** – Amends the additions made to the Family and Medical Leave Act by the FFCRA.

- Limits certain leave paid by employers to no more than $200 per day and $10,000 in the aggregate for each employee.
CARES Act: Emergency Paid Sick Leave Act Limitation

- **Section 3602**: Amends and adds limitations to the FFCRA which was effective April 1, 2020.
  - Leave for an employee:
    - subject to a Federal, State or local quarantine or isolation order related to COVID-19;
    - who has been advised by a health care provider to self-quarantine due to COVID-19 concerns; or
    - Experiencing symptoms of COVID-19 who is seeking a medical diagnosis
  - Limited to $511 per day and $5,110 in the aggregate for each employee.
CARES Act: Emergency Paid Sick Leave Act Limitation

- **Section 3602 (continued)** – Amends and adds limitations to the FFCRA which was effective April 1, 2020.

- Leave for an employee:
  - Caring for someone subject to a local quarantine or isolation order or someone who has been advised to self-quarantine.
  - Caring for their child if the child’s school or child care is closed or unavailable due to COVID-19 precautions; or
  - Experiencing any “substantially similar condition” specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

- Limited to $200 per day and $2,000 in the aggregate for each employee.
CARES Act:  
Paid Leave for Rehired Employees

- **Section 3605** – Amends the addition made to the Family and Medical Leave Act by the FFCRA which was effective April 1, 2020.

- This provision clarifies that employees who were laid off on March 1, 2020 or later, can still be eligible for paid Expanded Family and Medical Leave described in the FFCRA once they have been rehired, as long as they had worked for the credit union for 30 of the last 60 calendar days prior to their layoff. This provision doesn’t appear to include Emergency Sick Leave.
CARES Act: Temporary Waiver of RMD Rules for Certain Retirement Plans & Accounts

- **Section 2203** – Waives the required minimum distribution rules for certain defined contribution plans and individual retirement accounts (IRAs) for calendar years beginning December 31, 2019.
CARES Act: Credit Protection During COVID-19

- **Section 4021** - Amends the Fair Credit Reporting Act (FCRA) by requiring furnishers of information to consumer reporting agencies, such as credit unions, to report an account current if an accommodation has been made to defer, modify, forbear or accept partial payment on 1 or more payments during the COVID-19 pandemic.
Resources
HCUA COVID-19 Resource Page

- Website: www.heartlandcua.org/coronavirus

WHAT HCUA IS DOING IN RESPONSE TO THE COVID-19 SITUATION

Skip down to credit union resources

Read the March 24 email sent to all HCUA-affiliated member credit unions from HCUA president/CEO Brad Douglas.

OUR ADVOCACY EFFORTS DURING COVID-19
We are working closely with policymakers on several fronts during these extraordinary times. We connect with policymakers and regulators (including the Kansas Department of Credit Unions and the Missouri Division of Credit Unions) regularly, around the clock, and work in tandem with CUNA on a national level.

- Credit unions are essential businesses: We continue to connect with both Kansas and Missouri’s governors and with other local and state leaders to reinforce that credit unions are “essential services” in our states. Several counties and cities have made “shelter-in-place announcements” and credit unions (and other financial institutions) have been listed as “essential businesses.” This stance is reinforced in federal guidance from Homeland Security and CISA.
- Reinforcing the safety and soundness of credit unions: Credit union member accounts are insured and protected through NCUA, and we are emphasizing the safety and soundness of credit unions in our ongoing interactions with state and federal leaders, and media. Messaging for credit unions is below under “member facing messaging and graphics.”
- Credit unions included in Cares Act. We have been (and continue to be) in contact with every member of the Kansas and Missouri Congressional delegation to ensure credit union language is included in key financial services sections of the Cares Act (phase 3 of the financial stimulus package). Read more.
- Our team is meeting regularly with the Kansas Department of Credit Unions and the Missouri Division of Credit Unions. State and federal regulators provided guidance for annual meeting changes, and the NCUA issued a letter outlining COVID-19 actions. Stay tuned for further development.
- We issued a joint letter with the Kansas Bankers Association and the Community Bankers of Kansas indicating that Kansas financial institutions stand ready, as always, to meet the financial services needs of our state’s families and businesses during the coronavirus public health emergency.

HCUA EVENT INFORMATION
Skip down to see the “HCUA Events” section to see the latest about our events.

LET US KNOW HOW YOUR OPERATIONS ARE CHANGING

- If your credit union is changing its operations or offering special services or assistance to members, let us know.
- CUNA survey: Please take part in this national survey to collect our industry’s response to the coronavirus disease (COVID-19) pandemic. Collect answers from your team with this PDF of the questions to ensure only ONE survey per credit union is submitted.
HCUA COVID-19 Resource Page

- **Website:** [www.heartlandcua.org/coronavirus](http://www.heartlandcua.org/coronavirus)

**CREDIT UNION COVID-19 RESOURCES**

- Employment & Operational Guidance
- Regulatory Guidance & Compliance Resources
- Guidance from State & Local Agencies
- Member-Facing Messaging & Graphics
- Industry Information & Resources
- Connect with Your Credit Union Peers
- Health & Safety
- Scam Information
- Co-op Shared Branch Updates
- HCUA Events
- Grants & Assistance
- Webinars, Podcasts & Online Communities
# HCUA COVID-19 Resource Page

- **Website:** [www.heartlandcua.org/coronavirus](http://www.heartlandcua.org/coronavirus)

## CREDIT UNION COVID-19 RESOURCES

### EMPLOYMENT & OPERATIONAL GUIDANCE

- **HCUA White Paper:** Impact of the Families First Coronavirus Response Act on Employers (3.31.20)
- CUNA Mutual protection resource center sign-up (access risk alerts and other resources - for Bond Policyowners) (3.26.20)
- Essential worker letter - pdf (3.25.20)
- CUNA CompBlog post: New Law Requires Employers to Provide COVID-19 Related Paid Leave (CUNA username and password required) (3.20.20)
- Emergency federal paid leave legislation (3.20.20)
- FAQ for employers related to COVID-19 Issues (3.20.20)
- Guidance on the essential critical infrastructure workforce (3.20.20)
- OSHA Guidance

### U.S. Department of Labor (DOL)

- Field Assistance Bulletin describing WHD's 30-day non-enforcement policy (3.27.20)
- DOL publishes model notice and guidance on Families First Coronavirus Response Act (3.26.20)
- Eligibility for unemployment insurance benefits in Missouri and Kansas due to COVID-19 (3.26.20)
- Emergency Paid Sick Leave model poster and FAQs about the poster (3.26.20)
- Families First Coronavirus Response Act: Guidance for paid sick leave and expanded family and medical leave under Families First Coronavirus Response Act (3.25.20)
- Families First Coronavirus Response Act: Fact Sheet for Employees (3.25.20)
- Families First Coronavirus Response Act: Fact Sheet for Employees (3.25.20)
- Families First Coronavirus Response Act: Questions and Answers (3.25.20)

- **National online dialogue:** The U.S. Department of Labor is hosting an online dialogue, Providing Expanded Family and Medical Leave to Employees Affected by COVID-19, to help employers and workers understand their responsibilities and rights, respectively, under the Families First Coronavirus Response Act (FFCRA). ODEP’s ePolicyWorks will facilitate the dialogue initiative. Please register to participate. (3.25.20)

- Coronavirus resource page

### Remote working resources

- 25 Tips for arranging your office space (3.25.20)
- Things to consider when working from home (3.25.20)
- Work from home toolbox (3.25.20)
HCUA COVID-19 Resource Page

Website: www.heartlandcua.org/coronavirus

REGULATORY GUIDANCE & COMPLIANCE RESOURCES

Small Business Administration (SBA)
- Overview of the CARES Act specifically targeted to small business owners (3.31.20)
- PPP Lender Information Fact Sheet (3.31.20)
- Small Business Paycheck Protection Program (3.31.20)
- Borrower Paycheck Protection Program Application (3.31.20)
- Phase 3 Package passes U.S. Senate and House with Impact to credit unions (3.27.20)

CFPB
- Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act (3.30.20)
- Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers (3.30.20)
- Statement on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic (3.30.20)

CUNA Mutual risk alerts
- CUNA Mutual protection resource center sign-up (access risk alerts and other resources - for Bond Policyowners) (3.26.20)

National Automated Clearing House Association (NACHA) guidance
- NACHA Provides Relief to RDFIs on Signature Requirements for Written Statements of Unauthorized Debit (3.30.20)
- ACH Operations Bulletin #2-2020: NACHA Issues Reminder on ACH Responsibilities to Financial Institutions Potentially Impacted by Coronavirus (3.10.20)

Federal Reserve
- Federal Reserve: Interagency Statement on Working with Borrowers Affected by COVID-19 (3.23.20)
- Federal Reserve: March 9, 2020 Interagency Joint Press Release to Encourage FIs to Meet Needs of Members Affected (3.10.20)

Federal Financial Institutions Examination Council (FFIEC)
- FinCEN Notice Encouraging FIs to Report BSA Reporting Delays (3.16.20)
- FFIEC Updates Pandemic Preparedness Guidance (3.9.20)
- FFIEC’s Business Continuity Management Booklet

National Credit Union Administration (NCUA)
- NCUA’s COVID-19 Response - slides from webinar (3.31.20)
- NCUA: Offsite Examination and Supervision Approach (3.31.20)
- NCUA: Responsible Small-Dollar Lending in Response to COVID-19 (3.26.20)
- NCUA: Interagency Statement on Working with Borrowers Affected by COVID-19 (3.23.20)
- NCUA’s guidance for federally-insured credit unions regarding annual meetings and other frequently asked questions (3.16.20)
- NCUA: March 2020 Interagency Guidance (3.9.20)
- NCUA Letter to Federally Insured Credit Unions No. 09-CU-13 Regarding Pandemic Planning
- NCUA’s Disaster Preparedness and Response AIRES Questionnaire (Click on "AIRES Exam Questionnaires," then "Open," then double-click on the "Question" Excel worksheet, then "Disaster Preparedness" in the middle column.)
HCUA is here to help.

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HCUA COVID-19 Webpage: www.heartlandcua.org/coronavirus
Your Questions
Thank You!