



State of Wisconsin
Department of Financial Institutions

Tony Evers, **Governor**

Kathy Blumenfeld, **Secretary**

April 30, 2020

TO: ALL WISCONSIN STATE-CHARTERED CREDIT UNIONS

RE: OFFICE OF CREDIT UNIONS (OCU) COVID-19 RESOURCE GUIDE

The Office of Credit Unions (OCU) has updated the resource document (originally dated April 9, 2020). Below is a summary of credit union related topics and resources prepared by OCU staff. This document will be updated as needed.

Credit unions are encouraged to contact the OCU if they have questions, concerns, or need assistance in dealing with the COVID-19 pandemic. Our contact information is enclosed in the resource document.

Sincerely,

Kim Santos

Kim Santos
Director
Office of Credit Unions



Office of Credit Unions

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Annual Meetings

The Office of Credit Unions issued a letter to all credit unions regarding Annual Meetings on March 19, 2020. The letter is available at the DFI website: <http://www.wdfi.org/fi/cu/>

The Wisconsin Department of Financial Institutions (DFI) also issued emergency guidance on annual meeting requirements for businesses formed under statutes administered by DFI in Wisconsin. This emergency guidance applies to entities formed under Chapters 178 to 188, 214, 215, and 220 to 223 of the Wisconsin Statutes. To learn more, read DFI's Emergency Guidance on Virtual Annual Meetings. See: <http://www.wdfi.org/>

Appraisals (added April 30, 2020)

On April 14, 2020, an *Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus* was published. The statement outlined existing flexibilities in industry appraisal standards and regulations.

On April 16, 2020, the National Credit Union Administration (NCUA) approved a final rule to increase the residential appraisal threshold from \$250,000 to \$400,000. The NCUA Board also approved an interim final rule to temporarily allow credit unions to defer appraisals and written estimates of market value for up to 120 days after the closing of a loan. NCUA published Letter to Credit Unions No. 20-CU-10, *Residential Appraisals Threshold Increase and Other COVID-19 Related Relief Measures*, to explain the two rules and provide 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.

See Resources section for link to the Interagency Statement.

<https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/residential-appraisals-threshold-increase-and-other-covid-19-related-relief-measures>

Bank Secrecy Act Compliance

The Financial Crimes Enforcement Network (FinCEN) provided information to financial institutions in response to COVID-19 on April 3, 2020. Compliance with BSA remains crucial to protecting national security. FinCEN expects financial institutions to continue to follow a risk-based approach and to diligently adhere to their BSA obligations.

<https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial>

Board of Director Meetings

Credit unions should reference Wisconsin Statute Chapter 186.07 (3) and their bylaws regarding board of director meetings. The 2017 model bylaws, Article V, Section 8 is regarding board meetings:

- There is no requirement for monthly meetings. Section 8 (b) states that there should be “regular meetings”.
- Section 8 (d), states that you can hold the meeting by having a conference call or other means of communication.

Credit unions should make an effort to have virtual monthly board meeting during this pandemic. If a monthly board meeting must be cancelled, it is recommended that there is documentation in the board minutes of the reasons and circumstances regarding the cancellation.

5300 Call Report

The first quarter 5300 call report is due on April 26, 2020. The NCUA recognizes that some credit unions may experience disruptions in operations because of the impact of COVID-19, and joined the federal financial institution regulatory agencies in issuing an interagency press release recognizing that financial institutions, including credit unions, may need additional time to submit their quarterly call report. Credit unions encountering such problems and not able to meet the filing deadline are encouraged to file as soon as possible thereafter and inform the NCUA’s Office of Examination and Insurance at CallReportLateFiler@ncua.gov. The NCUA will not take action against any credit union for submitting the March 31, 2020 Call Report after the respective filing deadline as long as the report is submitted within 30 days of the official file date of Sunday, April 26, 2020. If a credit union is filing a late call report, they should also notify the Office of Credit Unions at dfi-ocu@dfi.wisconsin.gov

Closing Credit Union Offices

Please inform the Office of Credit Unions at dfi-ocu@dfi.wisconsin.gov or call (608) 261-9543, if any changes are made to public access at your credit union due to COVID-19 concerns.

Credit Report Guidance

The Bureau of Consumer Financial Protection (Bureau) issued a policy statement to highlight furnishers’ responsibilities under the CARES Act and inform consumer reporting agencies and furnishers of the Bureau’s flexible supervisory and enforcement approach during this pandemic regarding compliance with the Fair Credit Reporting Act (FCRA) and Regulation V. The Bureau intends to consider the circumstances that entities face as a result of the COVID-19 pandemic and entities’ good faith efforts to comply with their statutory and regulatory obligations as soon as possible. The Bureau believes that this flexibility will help furnishers and consumer reporting agencies to manage the challenges the current crisis poses. It also will enable consumers, as well as lenders, insurers, employers and other consumer report users, to maintain confidence in the consumer reporting system.

See link to the document on the Resources page (last page of this document).

Examinations

All DFI credit union examiners are now engaged in mandatory telework until further notice. The Office of Credit Unions is conducting remote examinations. If you are due for an exam, the OCU will contact the credit union and ask about your ability to accommodate a remote exam. The credit union will need to have the ability to upload the exam documentation to our secure portal. If you have questions on using the portal, staff can assist. If you cannot accommodate an exam, just let the OCU know and the exam will be scheduled at a later date.

OCU examiners will be fair and understanding regarding the impact of COVID-19 and the efforts made to work with members and businesses during the pandemic. We understand that the pandemic may affect delinquency and charge offs, profitability and net worth. Fortunately, many Wisconsin credit unions have strong net worth levels that will enable them to remain sound financially.

The OCU will continue to review and process normal business. This includes but is not limited to bylaw amendment changes, mergers, acquisitions, and subsidiary office applications. We ask that you send any required documentation or questions via email (dfi-ocu@dfi.wisconsin.gov) for the quickest response.

Please note that these changes will be processed as fast as possible but may require additional time. We appreciate your patience.

Fraud Awareness

Credit unions are on the front lines of defending against fraud schemes. The Federal Trade Commission (FTC) and other agencies are warning consumers of COVID-19 scams. Credit unions should consider educating staff and sending messages to their members about scams. Here is a link to information from the FTC: <https://www.consumer.ftc.gov/features/coronavirus-scams-what-ftc-doing>

Liquidity

Credit unions should evaluate their contingent liquidity plans in light of the current environment. They should also monitor their standard sources of funding to determine if a contingent source from a backup provider may be necessary and if so become reacquainted with how such access works. For credit unions with access, the Federal Reserve's 'discount window' is available to assist with eligible depository institutions, including credit unions. Federal Reserve lending to depository institutions plays an important role in supporting the liquidity and stability of the banking system and the effective implementation of monetary policy. By providing ready access to a backup source of funding, the discount window helps depository institutions manage their liquidity risks efficiently and avoid actions that have negative consequences for their customers. Thus, the discount window supports the smooth flow of credit to households and businesses.

Providing liquidity in this way is one of the original purposes of the Federal Reserve System and other central banks.

Additionally, credit unions that are members of the Central Liquidity Facility (CLF) can borrow funds for their liquidity needs and membership is open to all credit unions. Access to the CLF is voluntary and open to all credit unions that join the CLF and purchase a prescribed amount of stock. There are two types of membership: natural-person credit unions (a “regular” member) and corporate credit unions (an “agent” member).

Natural-person credit unions can borrow from the CLF either directly as a regular member or indirectly through an agent member. The purpose of the CLF is to improve general financial stability by providing credit unions a source of loans to meet their liquidity needs and encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

Information about borrowing from the CLF, including how to become a member, is available online at <https://www.ncua.gov/support-services/central-liquidity-facility>.

Liquidity (added April 30, 2020)

The National Credit Union Administration (NCUA) issued Letter to Credit Unions No. 20-CU-08, *Enhancements to Central Liquidity Facility (CLF) Membership and Borrowing Authority*. In the letter, NCUA encourages credit unions that are not members of the CLF to join as soon as possible either as a regular member or through an agent member. The letter also describes the legislative and regulatory changes to the CLF.

The CLF enhancements described in the letter provide significant liquidity support to the entire credit union system as it addresses the impact of the COVID-19 pandemic. All credit unions, natural person and corporates alike, should look at joining the CLF to bolster the system’s access to liquidity.

<https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/enhancements-central-liquidity-facility-membership-and-borrowing-authority>

National Credit Union Administration (NCUA) Resources

The NCUA has many resources for credit unions and members on their website including frequently asked questions, Letters to Credit Unions, Press Releases, Pandemic Planning letters, etc. The coronavirus section of the NCUA website can be accessed at: <https://www.ncua.gov/coronavirus>

National Credit Union Administration (NCUA) Regulatory Relief (added April 30, 2020)

The NCUA has published information regarding regulatory relief during COVID-19. The information includes:

- Changes to the Central Liquidity Fund (see Liquidity)

- *Letter to Credit Unions No. 20-CU-09, Temporary Regulatory Relief in Response to the COVID-19 Pandemic.* This letter lists areas of temporary relief from certain regulatory requirements. If you have questions, please contact the Office of Credit Unions.
- The issuance of an interim final rule on April 22, 2020 that amended the capital adequacy and member business loans and commercial lending regulations related to Small Business Administration's Paycheck Protection Program. [Note: Wisconsin credit unions must follow Wisconsin Administrative Code DFI-CU 72 for member business loans.]

<https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/temporary-regulatory-relief-response-covid-19-pandemic>

Pandemic Preparedness Resource

The Federal Financial Institutions Examination Council (FFIEC) updated guidance identifying actions that financial institutions should take to minimize the potential adverse effects of a pandemic.

Pandemic preparedness is an important part of a financial institution's business continuity planning. The guidance provides the Council's prudent expectations that regulated institutions should periodically review related risk management plans, including continuity plans, to ensure their ability to continue to deliver their products and services in a wide range of scenarios and with minimal disruption.

Sound planning, in advance of imminent risk to particular institutions, helps minimize the disruptions to services to consumers, businesses, and communities when such contingencies occur.

<https://www.ffiec.gov/press/pr030620.htm>

Remote Notarization

At the direction of Governor Tony Evers, the Wisconsin Department of Financial Institutions (DFI) issued emergency guidance on March 18 pertaining to remote online notarization in Wisconsin. Remote online notarizations must be performed using technology providers that are regulated under standards that meet or exceed the safeguards set by Wisconsin Act 125. DFI has approved four remote online notarization providers thus far: Notarize.com and NotaryCam, which provide remote notary services to the general public, and Pavaso or Nexsys, which provide them for title companies and other real-estate transactions.

To learn more, read DFI's Emergency Guidance on Remote Notarization and visit DFI's Apostilles, Notary Public, and Trademark webpage:

[http://www.wdfi.org/Apostilles Notary Public and Trademarks/default.htm](http://www.wdfi.org/Apostilles%20Notary%20Public%20and%20Trademarks/default.htm)

Regulation D, Reserve Requirements of Depository Institutions (added April 30, 2020)

On April 24, 2020, the Federal Reserve Board announced an interim final rule that amends Regulation D to delete the six-per-month limit on certain kinds of “convenient” transfers from “savings deposit” accounts. The interim final rule allows depository institutions immediately to suspend enforcement of the six transfer limit and to allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits at a time when financial events associated with the coronavirus pandemic have made such access more urgent.

The regulatory limit in Regulation D was the basis for distinguishing between reservable “transaction accounts” and non-reservable “savings deposits.” The Fed’s recent action reducing all reserve requirement ratios to zero has rendered this regulatory distinction unnecessary.

Concurrently, the Federal Reserve is making temporary revisions to the FR 2900 series, FR Y-9, and FR 2886b reports to reflect the amendments to Regulation D.

Staffing (Credit Union During Pandemic)

If staffing and/or running the credit union is a concern during the pandemic, the credit union should contact the Office of Credit Unions. Staff will assist a credit union in evaluating options for the continuance of operations.

Staffing (Office of Credit Unions)

All OCU staff are working remotely. Contact information for the OCU is:

- Email: DFI-OCU@dfi.wisconsin.gov
- Phone: (608) 261-9543
- Mail: Office of Credit Unions, PO Box 14137, Madison, WI 53708-0137

Staffing notes: OCU recently promoted Troy Kaja to the Financial Examiner –Supervisor of the Northwest and Madison areas. OCU also recently hired Igor Kaun and Lisa Sheffer as Financial Examiners in the same area.

Wisconsin Credit Union League

Credit unions that are a member of the Wisconsin Credit Union League are encouraged to review the League resources on COVID-19. See: <https://www.theleague.coop/covid19curesources>

Wisconsin Department of Financial Institutions (DFI) Resources

The Wisconsin Department of Financial Institutions (DFI) has resources on their webpage related to COVID-19 at: www.wdfi.org

Working with Members

The OCU encourages credit unions to work with their members in this time of economic volatility in accordance with appropriate management oversight and consistent with safe and sound practices and applicable laws. Credit Unions are encouraged to consider:

- Waiving overdraft and ATM fees;
- Increasing ATM daily cash withdrawal limits;
- Waiving early withdrawal penalties on time deposits;
- Offering or expanding payday alternative loan programs;
- Increasing credit card limits for creditworthy borrowers;
- Waiving late fees for credit card and other loan balances;
- Easing restrictions on cashing non-member checks; and
- Easing credit terms for new loans for members who qualify.

Interagency Guidance and Statements on Lending

The OCU also encourages financial institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of COVID-19. Three interagency statements have been issued regarding working with borrowers:

- March 22, 2020, and April 7, 2020: **Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus.** *(Note: Statement was updated on April 7, 2020.)*
 - The agencies held a webinar on April 24, 2020 on this topic. The webinar will be archived for future viewing.
- March 26, 2020: **Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19** *(Also, see NCUA Letter to Credit Unions No. 20-CU-04)*
- April 3, 2020: **Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act**

See links to the documents on the Resources page (last page of this document).

It should be emphasized that the OCU will not criticize credit unions that mitigate credit risk through prudent actions consistent with safe and sound practices. The OCU considers such proactive actions to be in the best interest of the credit union, their borrowers, and the economy.

State Emergency Order #15

On March 27, 2020, Governor Tony Evers directed Wisconsin Department of Health Services (DHS) Secretary-designee Andrea Palm to temporarily order the suspension of evictions and foreclosures amid the COVID-19 public health emergency. Emergency Order #15 prohibits landlords from evicting tenants for any reason unless failure to proceed with the eviction will result in an imminent threat of serious physical harm to another person and mortgagees from

commencing civil action to foreclose on real estate for 60 days. Wisconsinites who are able to continue to meet their financial obligations are urged to do so. This order does not in any way relieve a person's obligation to pay their rent or mortgages.

<https://content.govdelivery.com/accounts/WIGOV/bulletins/2835235>

Paycheck Protection Program (PPP) Loans via the Small Business Administration (SBA)

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law. The CARES Act provides \$349 billion in assistance to small businesses, many of which are facing economic difficulty due to social distancing, shelter-in-place orders, and other measures designed to stem the pandemic. The U.S. Small Business Administration (SBA) issued an interim final rule that outlines the key provisions of the Paycheck Protection Program (PPP). Small businesses may apply for PPP loans on April 3, 2020 and independent contractors and self-employed individuals may apply beginning April 10, 2020.

The NCUA issued a Letter to Credit Unions No. 20-CU-06, *Small Business Administration Loan Programs to Help Small Businesses and Members during the COVID-19 Pandemic*, on April 7, 2020.

<https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/small-business-administration-loan-programs-help-small-businesses-and-members-during>

NCUA has stated that unlike a 7(a) loan, PPP loans are 100 percent guaranteed, meaning there is no credit risk to a credit union if it complies with the applicable lender obligations set forth in the interim final rule. They have also stated that since PPP loans are 100 percent guaranteed by the federal government, these loans are not included in the member business loan cap. NCUA has also stated it will not criticize credit unions' good faith efforts to prudently use the SBA programs with members affected by COVID-19.

Wisconsin Administrative Rule DFI-CU 72.02 (2) (d) states that "A business purpose loan where a federal or state agency or any of their political subdivisions fully insures repayment, or fully guarantees payment, or provides an advance commitment to purchase in full" is not a member business loan. Thus, in Wisconsin, these loans would not be included in the member business loan cap if the loan is guaranteed. However, if a credit union does not comply with the lender obligations and the loans are not guaranteed, these loans would be considered member business loans.

At this time, the PPP is an evolving program and credit unions need to stay up to date on any developments. It is recommended that credit unions reference related resources such as a set of Frequently Asked Questions about PPP published by the SBA. Credit unions should check these FAQs regularly. The Wisconsin Credit Union League has also published a variety of guidance on the PPP loan program.

<https://www.sba.gov/document/support--faq-lenders-borrowers>

If a credit union does not currently engage in member business loans and more specifically, SBA loans, it is suggested that they do not engage in the PPP loans but work with a third party with SBA 7(a) lending expertise. Like with any new lending product, credit unions that want to engage in the PPP loan program should complete and document due diligence. While not required, the OCU asks that credit unions engaging in PPP loans consider the following:

1. **Approval to grant SBA loans:** Does someone on staff have experience in SBA lending?
2. **Staffing:** Credit union must give consideration to additional staffing and processing needs.
3. **Commercial lending:** SBA loans are commercial loans and credit unions must establish commercial lending policies, concentration limits, oversight programs, and compliance reviews. The Board of Directors must approve all required policies.
4. **Liquidity Considerations:** Credit unions are required to establish a long-term liquidity plan prior to granting SBA loans, including PPP loans.
5. **Membership and Customer Identification Programs:** Membership requirements have not been waived with respect to SBA loans. Nor have OFAC, Customer Identification Programs, and other AML rules been waived or relaxed in any capacity.
6. **Business identification concerns:** Credit unions must be able to properly identify an applicant business, its affiliates, its principals, its business model and tax-identification status, and whether it is eligible for a PPP loan under the CARES Act.
7. **Hold-Harmless provisions:** Specifically for PPP loans, the CARES Act includes a hold-harmless provision regarding approval of an application for forgiveness. Credit unions must fully understand the requirements they must meet to satisfy the hold-harmless provisions prior to granting PPP loans.
8. **Guarantee requirements:** Credit unions are required to demonstrate a full understanding of how SBA guarantees operate, what requirements must be satisfied, and how a credit union can collect on a SBA guarantee.
9. **Interest Rate Risk:** PPP loans have a maximum applicable interest rate and a maximum term for remaining balances after forgiveness. Credit unions must consider whether granting PPP loans exposes them to a heightened interest rate risk.
10. **Sale on secondary market:** PPP loans are authorized for sale on the secondary market; however, forgiveness provision, deferment, and prohibition on fees remain applicable after sale. Credit unions must understand the secondary market restrictions prior to placing a loan for sale. A PPP loan may be sold on the secondary market at a premium or a discount to par value.

- 11. Agent fees:** Agent fees are paid by the credit union in those amounts set forth by the CARES Act. Credit unions must develop a policy or procedure regarding agent fees.
- 12. Underwriting procedures:** Credit unions are required to review and understand the required underwriting procedures and maintain records showing proof of compliance for each PPP loan.
- 13. Fraud:** Credit unions are alerted to the possibility of fraud connected to PPP loans and are encouraged to develop fraud detection procedures, including but not limited to CIP, BSA, and AML reviews. Take particular note of individuals opening new business accounts without a legitimate business in order to appear eligible for PPP loans.

Paycheck Protection Program (PPP) Loans (updated April 30, 2020)

The PPP continues to change and evolve. Credit Unions should check the Small Business Administration website (www.sba.gov) for the most updated information. The SBA Frequently Asked Questions document on PPP Loans was updated as of April 28, 2020.

In addition, the National Credit Union Administration (NCUA) has published two Letters to Credit Unions on the PPP program:

- Letter 20-CU-06, *Small Business Administration Loan Programs to Help Small Businesses and Members During the COVID-19 Pandemic*
 - Added (on April 24) is a presentation on How to Become a SBA PPP Lender
- Letter 20-CU-11, *Regulatory Treatment for Paycheck Protection Program Loans*

In addition, the Financial Crime Enforcement Network (FinCEN) has a Frequently Asked Questions document on the PPP. See their website: www.fincen.gov

NASCUS also has a repository of PPP information on their website:

<https://www.nascus.org/pandemic-planning-coronavirus/sbas-paycheck-protection-program/>

Resources

- [Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act](#)
- [Interagency Statement on Pandemic Planning](#)
- [Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act](#)
- [Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19](#)
- [Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus \(Revised\)](#)
- [Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus](#)
- [Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus](#)