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2020 Special Alert

OVERVIEW OF COVID-19 REGULATORY ACTIONS AFFECTING COMPLIANCE & OPERATIONS FOR CREDIT UNIONS

(April 3, 2020)

INTRODUCTION

This Special Alert provides an overview of various federal and state regulatory actions issued in response to the COVID-19 pandemic compiled by Farleigh Wada Witt. This overview provides a brief synopsis of the various actions affecting compliance and operations for credit unions and our analysis of impacts on Pacific Northwest credit unions.

REGULATORY ACTION SUMMARY

The following is a summary of the regulatory federal and state regulatory actions that may impact compliance and operations for credit unions and CUSOs.

Effective Date	Agency Action	Area Affected	Regulatory Action (Ctrl + click to link to Rule/Agency site)	Credit Union Impact/Action
LENDING				
FEDERAL				
03/18/20	HUD/FHA Fannie Mae Freddie Mac FHA Mortgagee Letter 2020-04 Fannie Mae Lender Letter (LL 2020-02) Freddie Mac Bulletin 2020-4 Temporary Servicing Requirements Related to COVID-19 & 60-day moratorium on foreclosures	Mortgage Lending	FHA Mortgagee Letter 2020-04 https://www.hud.gov/sites/dfiles/OCHCO/documents/20-04hsgml.pdf Fannie Mae Lender Letter (LL 2020-02) https://singlefamily.fanniemae.com/media/22261/display Freddie Mac Bulletin 2020-4 Temporary Servicing Requirements Related to COVID-19 https://guide.freddiemac.com/app/guide/bulletin/2020-4	Credit union servicers are urged to take reasonable actions to support those adversely impacted mortgagors by: • Forbearing mortgage payments for 90 days • Refraining from reporting late payments to credit rating agencies for 90 days; • Offering mortgagors an additional 90-day grace period to complete trial loan modifications, and ensuring that late payments during the COVID-19 pandemic does not affect their ability to obtain permanent loan modifications; • Waiving late payment fees 90 days; • Postponing foreclosures for 90 days; • Ensuring that mortgagors do not experience a disruption of service
03/22/20	**NCUA** Interagency Statement on Loan Modifications and Reporting During COVID-19	Lending; Accounting	Interagency Statement on Loan Modifications and Reporting During COVID-19	Review and update loan modification reporting practices & risk management guidelines for troubled debt restructurings (TDR), and data management systems. Portions regarding TDR superseded by CARES Act.
03/16/20	**NCUA** Letter to Credit Unions No. 20-CU-20	Lending; Board & Management	NCUA Letter to Credit Unions No. 20-CU-20	Evaluate and implement operations and loan relief practices. Review guidance for Annual & Board Meeting issues and practices.
3/27/20	**Congress** CARES Act Sec. 4201requirement for credit reporting of	Lending	Coronavirus Aid, Relief and Economic Security Act (CARES Act, S.3548)	For loan modifications during COVID-19 crises, if credit union enters into any loan modification or deferral payment arrangement any credit report must state loan as current.

Effective Date	Agency Action	Area Affected	Regulatory Action (Ctrl + click to link to Rule/Agency site)	Credit Union Impact/Action
	loan deferrals as current			
3/27/20	**Congress** CARES Act requirement that loan deferrals not to be classified as a TDR	Lending	Coronavirus Aid, Relief and Economic Security Act (CARES Act, S.3548)	For loan modifications, deferrals, or forbearances during COVID-19 crises, a credit union need not classify the loan modification as a (TDR).
03/31/20	**Fannie Mae** Fannie Mae Lender Letters (LL-2020-04) Impact of COVID-19 on Appraisals (LL-2020-03) Impact of COVID-19 on Originations (LL-2020-02) Impact of COVID-19 on Servicing	Mortgage Lending	https://www.fanniemae.com/portal/covid-19.html	Credit unions wo are Fannie Mae Single-Family Sellers must review Fannie Mae letters providing with guidance related to appraisals, origination and servicing practices and requirements.
04/02/20	**SBA** Paycheck Protection Program Interim Final Rule	Commercial Lending	SBA Paycheck Protection Program Interim Final Rule SBA Paycheck Protection Program	Credit unions must review Final rule for implementing the Paycheck Protection Program under the CARES Act including: • Credit unions need to qualify to process, close, disburse, or service loans made under the Paycheck Protection Program • Application for Approval as Lender • Amount of the SBA loan guaranty under the Program • Required due diligence prior to extending loans under the Program • Terms and conditions of Program loans • Capital, reserves, and fees incentives for lenders to participate in the Program • Sale of the loans on the secondary market • Required documents for a loan forgiveness
4/1/20	**CFPB** CFPB Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V	Lending	CFPB Credit Reporting Guidance During COVID-19 Pandemic	CFPB guidance to furnishers regarding credit reporting for loan modifications during COVID-19 crises. If credit union enters into any loan modification or deferral payment arrangement any credit report must state loan as current.
STATE				
03/20/20	**Oregon** Division of Financial Regulation Bulletin No. DFR 2020-07 Mortgage loan relief assistance to borrowers affected by the COVID-19 pandemic.	Lending	Oregon Division of Financial Regulation Bulletin No. DFR 2020-07	The Oregon DFR's bulletin encourages credit unions and regulated CUSO lenders and loan servicers to take active measures to help borrowers economically affected by the COVID-19 pandemic, including offering loan forbearance plans, fee waivers, and other deferred payment options.

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Effective Date	Agency Action	Area Affected	Regulatory Action (Ctrl + click to link to Rule/Agency site)	Credit Union Impact/Action
3/27/20	**Washington** Real Estate and Mortgage Lending Guidance – Stay Home, Stay Healthy Proclamation (20-25)	Mortgage Lending	Real Estate and Mortgage Guidance – Stay Home, Stay Healthy Proclamation (20-25)	For real estate and mortgage transactions currently pending in Washington State, such pending/under contract sales should be allowed to close, using remote/electronic means whenever possible, and following social distancing guidelines if remote/electronic closing cannot occur.
3/27/20	**Washington** Real Estate and Mortgage Lending Guidance – Stay Home, Stay Healthy Proclamation (20-27)	Mortgage Lending and Notary Operations	Real Estate and Mortgage Lending Guidance - Stay Home, Stay Health Proclamation (20-27)	Notaries may begin process to apply to DOL for approval to conduct remote online notarizations
DEPOSITS & OPERATIONS				
FEDERAL				
03/26/20	**FRB** Announcement and FAQs on Reserve Account Changes	Operations; Corporate	Reserves Central-Account Administration Application FAQs	Determine Savings Accounts terms and reclassifications; revise forms, policies and send Notice of Change in Terms after changes made.
03/16/20	**FinCEN** **BSA compliance Guidance**	Operations	The Financial Crimes Enforcement Network (FinCEN) Encourages Financial Institutions to Communicate Concerns Related to the Coronavirus Disease 2019 (COVID-19) and to Remain Alert to Related Illicit Financial Activity	Review guidance to credit unions on BSA reporting and FinCEN relief
03/16/20	**CFPB** Financial Resources for Consumers	Operations	Protecting your finances during the Coronavirus Pandemic.	Review guidance to consumers on protecting finances by requesting lenders for loan relief, asserting consumer complaints, protecting credit status, debt collections and review operations procedures and practices for updates
04/03/20	**FinCEN** **Additional BSA Compliance Guidance**	Operations Lending	FinCEN Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic	Review additional FinCEN guidance to on BSA reporting and FinCEN relief in the following areas: • For new PPP loans Beneficial Ownership Information Collection Requirements • CTR reporting
STATE				
	Oregon Department of Consumer and Business Services Providing insurance relief assistance	Insurance	DCBS 202000325Order	Order applies to all lines of insurance and requires insurers to: • Provide a grace period for policyholders to pay their insurance premiums while the order remains effective. • Refrain from canceling any policy for nonpayment of premium • Extend deadlines for reporting claims
	Oregon	Operations	Oregon Letter to Credit Unions on COVID-19	Credit unions requested to notify DFR on issues or concerns related to:

Effective Date	Agency Action	Area Affected	Regulatory Action (Ctrl + click to link to Rule/Agency site)	Credit Union Impact/Action
	Department of Financial Regulation Letter to Credit Unions – Guidance on notification to DFR			• Temporary Branch closures • Offsite Exams • Accommodation Programs for Members • Media Communications
03/27/20	**Washington** Insurance Commissioner order to property & casualty insurers to provide relief to consumers to retain insurance coverage	Insurance	Kreidler orders property insurers to give grace periods, halt cancelations until May 9	Order requires insurers that sell property and casualty policies in our state to: • Provide a grace period for policyholders to pay their insurance premiums. • Waive fees related to any late payments, late and reinstatement fees. • Refrain from canceling any policy for nonpayment of premium
03/05/20	**Washington** Department of Financial Institutions letter to credit unions requesting notice of branch closures	Operations	Notice of Closures	Credit unions requested to notify DFI on issues or concerns related to: temporary Branch closures
03/12/20	**Idaho** Department of Finance guidance pandemic and business continuity planning	Operations	Temporary Guidance on COVID-19	Review guidance reminding credit unions that business continuity plans should address the threat of a pandemic outbreak and its potential impact on the delivery of critical financial services.

The following is a brief explanation of the federal and state actions that may impact credit union and CUSO compliance and operations functions.

FEDERAL

Fannie Mae, Freddie Mac, and HUD

Fannie Mae, Freddie Mac, and HUD have issued guidance to urge all mortgage servicers to do their part to alleviate the adverse impact caused by COVID-19 on mortgage borrowers who demonstrate they are not able to make timely payments. These agencies have all suspended foreclosures for at least 60 days on single family mortgages backed by those entities.

Credit union servicers are urged to take reasonable and prudent actions, subject to the requirements of any related guarantees or insurance policies, to support those adversely impacted mortgagors by:

- Forbearing mortgage payments for 90 days from their due dates;
- Refraining from reporting late payments to credit rating agencies for 90 days;
- Offering mortgagors an additional 90-day grace period to complete trial loan modifications, and ensuring that late payments during the COVID-19 pandemic does not affect their ability to obtain permanent loan modifications;
- Waiving late payment fees and any online payment fees for a period of 90 days;
- Postponing foreclosures for 90 days; and
- Ensuring that mortgagors do not experience a disruption of service if the mortgage servicer closes its office, including making available other avenues for mortgagors to continue to manage their accounts and to make inquiries; and
- Proactively reaching out to mortgagors via app announcements, text, email or otherwise to explain the above-listed assistance being offered to mortgagors.

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NCUA

Interagency Statement on Loan Modifications and Reporting During COVID-19

NCUA, and other federal banking agencies issued an Interagency Statement on loan modifications and reporting in response to the Coronavirus Disease 2019 ("COVID-19"). The Agencies provide guidance regarding working with member/customers, accounting for loan modifications, past due reporting, nonaccrual status and charge-offs, and discount window eligibility. The Interagency Statement provides credit unions with guidance in key areas:

Working With Members. Credit unions are encouraged to work prudently, through safe and sound practices, with borrowers who are unable to make their payments due to the effects of COVID-19. NCUA will not criticize credit unions that work with borrowers as part of a risk mitigation strategy. In addition, NCUA will not direct credit unions to automatically categorize all COVID-19 related loan modifications as troubled debt restructurings (TDRs).

Accounting for Loan Modifications. Credit unions' short-term loan modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief, **are not considered TDRs**. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant. Borrowers considered current as those that are less than 30 days past due on their contractual payments at the time a modification program is implemented. Regardless of whether modifications result in loans that are considered TDRs or are adversely classified, NCUA examiners will not criticize prudent efforts to modify the terms on existing loans to affected customers.

Past Due Loan Reporting. For loans not otherwise reportable as past due, credit unions are not expected to designate deferred loans granted due to COVID-19 as past due because of the deferral or during the deferral.

Nonaccrual Status and Charge-offs. Generally, short-term loan modifications granted due to COVID-19 should not be reported as nonaccrual during the deferral period. Rather credit unions should refer to the charge-off guidance in NCUA LCU 03-CU-01 and the unique circumstances of the particular loan.

***FWW Compliance Note**:* Credit unions need to (i) review & update loan modification reporting practices and guidelines for TDRs; (ii) review & update risk management guidelines for TDRs; and (iii) review & update data management systems for new tracking requirements.

NCUA

Letter to Credit Unions No. 20-CU-02

NCUA issued Letter 20-CU-02 *NCUA Actions Related to COVID-19* to federally insured credit unions to highlight how NCUA will work with credit unions at the supervisory level to allow credit unions to more easily respond to the needs of their members during the current COVID-19 crisis,

- **Operations Guidance – Working with Members.** NCUA outlined a number of strategies credit unions may consider in determining how to work with members to address their challenges during the COVID-19 crisis. NCUA examiners will not criticize credit unions efforts to provide prudent relief for members when conducted in a reasonable manner with proper controls and management oversight. Specifically NCUA outlined efforts credit unions may consider for affected member/borrowers:
    - Waiving automated teller machine (ATM) fees
    - Increasing ATM daily cash withdrawal limits
    - Waiving overdraft fees
    - Waiving early withdrawal penalties on time deposits
    - Waiving availability restrictions on insurance checks
    - Easing restrictions on cashing out-of-state and non-member checks
    - Easing credit terms for new loans for members who qualify
    - Offering or expanding payday alternative loan programs
    - Increasing credit card limits for creditworthy borrowers
    - Waiving late fees for credit card and other loan balances
    - Offering payment accommodations, such as allowing borrowers to defer or skip some payments, or extending the payment due dates, which would avoid delinquencies and negative credit bureau reporting caused by any COVID-19-related disruptions.

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- **Examination and Supervision**. NCUA will be limiting its examination and supervision work scheduling to minimize disruption and will conduct examinations off-site where possible and take steps to exchange information securely.
- **FCU Governance Issues**. NCUA issued a series of FAQs to provide FCUs guidance on delaying annual meetings and elections; continued Board member terms; Board meetings conducted with video or teleconferencing participation. This guidance is inapplicable to state chartered credit unions, which generally have greater governance flexibility under state law and credit union Bylaws.
- **Branch Access & Closures**. Credit unions have flexibility to make reasonable decisions on facilities access and branch closures. Credit unions will be subject to the direction of state authorities on social distancing and public assembly, which will lead to staff reductions, a limited access to branches and branch closures. Credit Unions do not need to notify NCUA of any branch closures unless there is an interruption in vital member services exceeding 2 days in which case a credit union has 5 days to notify the applicable NCUA regional director.
- **Reporting**. NCUA will work with credit unions impacted by the crisis and will not assess penalties or take other supervisory action with regard to delayed quarterly Call Reports reporting responsibilities where the credit unions have taken reasonable and prudent steps to comply.

FWW Compliance Note: Credit unions need to (i) evaluate and implement operations and loan relief practices; (ii) evaluate and implement temporary product and service changes for fee waivers and account restrictions; and (iii) review NCUA guidance for FCU Annual Meeting & Board meeting issues and practices.

Congressional – CARES Act

Credit Reporting Loan Deferrals & Modifications as Current

Section 4021 of the CARES Act provides that if a credit union enters into any modification, forbearance, or deferral arrangement with respect to any payments, the credit union must report the loan as current. If the loan was delinquent before the modification, forbearance, etc., and the modification does not address that delinquency, the lender must report only that pre-modification delinquency. This covers accommodations entered into for borrowers affected by the COVID crisis between January 31, 2020 and the later of 120 days after Friday March 27 or 120 days after the date that the presidentially declared national emergency terminates.

Congressional – CARES Act

Loan Deferrals & Modifications –No TDR Classification

Section 4013 of the CARES Act (signed into law on Friday) went a step further than the financial regulators and provided that with respect to any modification, deferral, etc. entered into between March 1 and December 31, 2020 (or 60 days after the end of the declared emergency, whichever is later), credit unions need not classify the loan as a TDR or treat it as impaired if the loan was current at the time of the modification and the modification is due to COVID 19. It further provides that NCUA "shall defer" to the credit union in making this determination. However, the credit union does need to keep track of the "volume" of these loans and the regulator may "collect data" about them for supervisory purposes.

Fannie Mae
Lender Letter (LL-2020-04) Impact of COVID-19 on Appraisals
Lender Letter (LL-2020-03) Impact of COVID-19 on Originations
Lender Letter (LL-2020-02) Impact of COVID-19 on Servicing

On March 31, 2020, Fannie Mae issued a series of letters providing Fannie Mae Single-Family Sellers with guidance related to appraisals, origination and servicing practices and requirements.

Lender Letter (LL-2020-04) Impact of COVID-19 on Appraisals

During this COVID-19 national emergency, in many cases Fannie Mae Single-Family Sellers (lenders) are unable to obtain an appraisal based on a full interior and exterior inspection of the subject property. In response, Fannie Mae is allowing temporary flexibilities to our appraisal requirements. Fannie Mae is working closely with Freddie Mac under the guidance of FHFA to offer these temporary measures.

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Lender Letter (LL-2020-03) Impact of COVID-19 on Originations

Fannie Mae has provided updated guidance for Fannie Mae Single-Family Sellers (lenders) on a series of origination practices and requirements:

- Age of documentation: modifying age of document requirements from 4 months to 2 months
- Verification of self-employment: requiring lenders to confirm the borrower's business is open and operating within 10 business days of the note date
- Market-based assets: updating policies for use of securities for down payment & closing
- Powers of attorney: providing flexibilities for use of a power of attorney
- Remote online notarization: providing expansion of the use of remote online notarization
- Lender quality control requirements: allowing post-closing reverifications to occur verbally or electronically, and other flexibility related to review of appraisals
- Verbal verification of employment: Offering flexibilities for obtaining the verbal verification of employment
- Submission of financial statements and reports: Extending the deadline for submission of financial statements and Form 582 to Apr. 30, 2020
- Notes, electronic records, and signatures: Reminder of existing policies regarding possession of the original promissory note before loan purchase, and electronic signature requirements
- Title insurance: Reminder of title insurance written on the 2006 ALTA loan title insurance form or a local equivalent, which includes "gap coverage"
- Business continuity plans: Reminder to follow business continuity plans

Lender Letter (LL-2020-02) Impact of COVID-19 on Servicing

Fannie Mae has provided updated guidance for Fannie Mae Single-Family Sellers (lenders) on a series of servicing practices and requirements:

- Attempting to establish QRPC: Reminder of acceptable methods in attempting to achieve quality right party contact (QRPC).
- Reporting a reason for delinquency code
- Property inspections and preservation:
- Submission of financial statements and reports: Extending the deadline for submission of financial statements and Form 582 to Apr. 30, 2020.
- Forbearance plan eligibility: Expanding eligibility for a forbearance plan for borrowers impacted by COVID-19.
- Evaluating the borrower for a payment deferral or mortgage loan modification after a forbearance plan: Clarifying the mortgage loan modifications that must be considered near the conclusion of a forbearance plan term.
- Credit bureau reporting: Clarifying that servicers must suspend credit reporting for hardships related to COVID-19.
- Suspension of foreclosure sales: Instructing servicers to not allow any foreclosure sales within the next 60 days.

CFPB

Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act

CFPB Credit Reporting Guidance During COVID-19 Pandemic

President Trump signed the CARES Act, which contains relief provisions for credit reporting practices related to loan modifications granted to consumers affected by the COVID-19 crises. On April 1, 2020, the CFPB issued this Policy Statement to identify credit union (furnishers') credit reporting responsibilities under Fair Credit Reporting Act (FCRA) and Regulation V.

The CFPB intends to consider the circumstances that credit unions face as a result of the COVID-19 pandemic and their good faith efforts to comply with their statutory and regulatory obligations as soon as possible.

Furnishing Consumer Information Impacted by COVID-19. Section 4201 of The CARES Act, amends the FCRA, to require furnishers to report as current certain credit obligations for which they make payment accommodations to consumer members affected by COVID-19 who have sought such loan payment accommodations.

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CFPB reiterates that credit unions must report loans as current despite such accommodations. The CFPB does not intend to cite in examinations or take enforcement actions against credit unions who furnish information to consumer reporting agencies that accurately reflects the payment relief measures they are employing.

Disputes. The FCRA generally requires that consumer reporting agencies and furnishers investigate disputes within 30 days of receipt of the consumer's dispute. The 30-day period may be extended to 45 days if the member provides additional information that is relevant to the investigation during the 30-day period.

Federal Reserve Board

Reduced Reserve Requirements

The FRB reduced reserve requirement ratios to zero percent, effective March 26, 2020. This action eliminates the need for credit unions to maintain balances in accounts at Reserve Banks to satisfy reserve requirements, thereby freeing up liquidity in the banking system to support lending needs. As part of the announcement, the FRB has issued a comprehensive Q & A guidance on the reserve changes and compliance requirements under Regulation D (Reg. D). Key issues for credit unions include:

0% Reserve Requirement. The FRB reduced the reserve requirement ratios on net transaction accounts to zero percent (0%) The change in reserve requirement ratios on net transaction accounts takes effect with the maintenance period beginning March 26, 2020. The FRB has no plans to re-impose reserve requirements in the future.

Changes to Reporting. There are no changes to deposit reporting (FR 2900) associated with the elimination of reserve requirements. Credit unions should continue to report deposits on the FR 2900 at the same frequency and in the same way as they have been reporting.

Changes to Savings Account Transaction Limits. Based on the elimination of the reserve requirements, there is no longer any distinction between savings deposits and transaction accounts for reserve requirements purposes. The 6 transfer limit under Regulation D distinguished savings deposits from transaction accounts. Credit unions are now free to allow an unlimited number of transfers from previously classified savings accounts provided that the credit union reclassifies and reports the account as a "transaction account." for purposes its FR 2900 deposit reports.

***FWW Compliance Note**:* Before a credit union decides to reclassify its savings accounts, it is important that changing a savings account to a transaction account under Reg D causes the account to be a transaction account for purposes of Reg CC. Therefore, check deposits made to a reclassified savings account are subject to the funds availability rules, holds and account opening disclosures of Reg CC.

FinCEN

Guidance on BSA Reporting

FinCEN advises on BSA reporting. FinCEN provides credit union about potential delays in their ability to file required Bank Secrecy Act (BSA) reports due to the impact of the coronavirus crisis should be reported "as soon as practicable" to state or federal regulators. . The Financial Crimes Enforcement Network (FinCEN) Encourages Financial Institutions to Communicate Concerns Related to the Coronavirus Disease 2019 (COVID-19) and to Remain Alert to Related Illicit Financial Activity.

SBA

Paycheck Protection Program Interim Final Rule

As a federal legislative response to the COVID-19 crises, the CARES Act was enacted on March 27, 2020, and has created a brave new world for lenders to serve their business clients during uncertain economic times. The SBA's interim final rule outlines the key provisions of SBA's implementation of sections 1102 and 1106 of the CARES Act. The Small Business Administration ("SBA") issued guidance on implementing the Paycheck Protection Program under the CARES Act. The Final Rule addresses the following requirements:

- Credit unions and business lending CUSOs need to qualify to process, close, disburse, or service loans made under the Paycheck Protection Program
- Application for Approval as Lender
- Amount of the SBA loan guaranty under the Program

- Required due diligence prior to extending loans under the Program
- Terms and conditions of Program loans
- Capital, reserves, and fees incentives for lenders to participate in the Program
- Sale of the loans on the secondary market
- Required documents for a loan forgiveness

Some of the relevant details for lenders are covered here: **Key Points for Lenders under the Paycheck Protection Program**

FinCEN

BSA Compliance Guidance

FinCEN's issued a notice of additional information to assist financial institutions in complying with their Bank Secrecy Act (BSA) obligations during the COVID-19 pandemic,

Compliance with BSA Obligations. FinCEN expects credit unions to continue following a risk-based approach, and to diligently adhere to their BSA obligations. Due to social distancing issues for credit union employees, FinCEN appreciates the challenges in meeting certain BSA obligations, including the timing requirements for certain BSA report filings.

Beneficial Ownership Information Collection Requirements for Existing Members. One of the primary components of the CARES Act is the Paycheck Protection Program (PPP). For eligible federally insured credit unions, PPP loans for existing customers will not require re-verification under applicable BSA requirements, unless otherwise indicated by the credit union's risk-based approach to BSA compliance.

For non-PPP loans, FinCEN reminds credit unions of FinCEN's 2018 ruling (FIN-2018-R004) offering certain exceptive relief to beneficial ownership requirements. To the extent that renewal, modification, restructuring, or extension for existing legal entity members falls outside of the scope of that ruling, FinCEN recognizes that a risk-based approach taken by credit unions may result in reasonable delays in compliance.

FinCEN will continue to assess reasonable risk-based approaches to BSA obligations and will issue further information, as appropriate, particularly as the CARES Act is implemented.

BSA Reporting Obligations & Updates to CTR Filing Obligations. FinCEN recognizes that timing requirements with regard to BSA filings may be challenging during the COVID-19 pandemic with reasonable delays in compliance. FinCEN has suspended implementation of its 2020 ruling (FIN-2020-R001) on CTR filing obligations when reporting transactions involving sole proprietorships and entities operating under a "doing business as" (DBA) name (the "2020 Ruling") until further notice. FinCEN will issue further information on these types of CTR filings at an appropriate time with reasonable implementation periods. Until such issuance, Credit unions should continue to report transactions involving sole proprietorships and DBAs under prior practice. Those financial institutions that have already made the necessary changes to comply with the 2020 Ruling need not revert to prior practice, and may report CTRs in accordance with the now-suspended ruling.

New FinCEN COVID-19 Online Contact Mechanism. FinCEN has created a COVID-19-specific online contact mechanism, via a specific drop-down category, for financial institutions to communicate to FinCEN COVID-19-related concerns while adhering to their BSA obligations.

Idaho

Operations

Due to the Coronavirus/COVID-19 pandemic, the Idaho Department of Finance (DOF) issued the guidance to credit unions to remind credit unions that business continuity plans should address the threat of a pandemic outbreak and its potential impact on the delivery of critical financial services. The DOF guidance is intended to offer credit unions the ability to take precautions deemed necessary to avoid the risk of exposure or to comply with voluntary or mandated quarantines and is effective through June 30, 2020, unless otherwise modified or withdrawn.

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Washington

Insurance

Washington Insurance Commissioner ordered all property and casualty insurers in Washington state to take steps to make sure policyholders retain coverage for their homes, vehicles, other property and liability policies during Washington state's coronavirus state of emergency. https://www.insurance.wa.gov/news/kreidler-orders-property-insurers-give-grace-periods-halt-cancelations-until-may-9?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

Specifically, the order requires insurers that sell property and casualty policies in our state to:

- Provide a grace period for policyholders to pay their insurance premiums.
- Waive fees related to any late payments, including late fees and reinstatement fees.
- Refrain from canceling any policy for nonpayment of premium, unless the policyholder requests the policy to be canceled.

The order will remain in effect for 45 days, until May 9, 2020.

FWW Compliance Note: Washington insurance order affects CUSOs involved in property & casualty business. However, the order has minimal impact on credit unions and their actions on CPI.

The duty is on insurers to not allow policies to lapse for non-payment during this period. An insurer should not be sending any notices of lapse that cover this period. Also borrowers may still terminate one policy and get a new one, and if the policy is terminated (not lapsed) and credit union does not have proof of replacement coverage, credit union will want to place the CPI.

For any CPI that was placed and for which there is actual coverage, the credit union should be able to get a premium refund for the timeframe during which coverage was in place.

Credit unions should check with their CPI providers on how they want to handle policies for which a lapse notice was sent before the order but would become effective afterward.

Mortgage Lending

Real Estate and Mortgage Lending Guidance – Stay Home, Stay Healthy Proclamation (20-25)

Governor's proclamation to permit completion of real estate transactions and financing/refinancing and guidance regarding essential business designations related to Washington State Real Estate and Mortgage transactions. https://www.governor.wa.gov/sites/default/files/Essential%20Business%20Guidance%20-%20Real%20Estate%20Memo.pdf?utm_medium=email&utm_source=govdelivery

For real estate and mortgage transactions currently pending in Washington State, such pending/under contract sales should be allowed to close, using remote/electronic means whenever possible, and following social distancing guidelines if remote/electronic closing cannot occur. For homeowners in distress related to the COVID-19 event, it is important that they have the option to sell their home or pursue a refinance or residential mortgage loan modification. For purposes of social distancing, it is permissible to engage in real estate sales, as appraisers, settlement agents and escrow officers, property inspectors, mortgage loan originators, processors, and underwriters, and other necessary office personnel including IT professionals, and back office staff necessary to maintain office operations, along with those government workers necessary to review real estate excise tax and record documents.

Mortgage Lending

Real Estate and Mortgage Lending Guidance – Stay Home, Stay Healthy Proclamation (20-27)

Governor's proclamation to temporarily remove the delayed effective date of legislation authorizing remote online notarization process.
https://www.governor.wa.gov/sites/default/files/proclamations/20-27%20-%20COVID-19%20Notary%20%28tmp%29.pdf?_cldee=ZGViYmllLm1heHdlbGxAd2FyZWFsdG9yLm9yZw%3d%3d&recipientid=contact-3b1eaa04ce534608be522d78868f5c17-7a8957ab9be04c8d8c82b1d071b7e169&utm_source=ClickDimensions&utm_medium=email&utm_campaign=Coronavirus&esid=cbcede9c-396e-ea11-9c3a-00155d10104b

In 2019, the Washington legislature passed SB 5641 authorizing a new remote online notarization process. The bill was scheduled to take effect on October 21, 2020. The proclamation removes the delayed effective date, making the legislation effective immediately and for as long as the order remains in effect.
***FWW Compliance Note**: This does not authorize notaries to begin notarizing by video using Skype or Facetime. A notary must apply to the state for designation as a remote notary, and must use special technology for the video connection and must use third party technology to assist in verifying identity. The setup and approval process will likely take some time.*

Oregon

Mortgage Lending

Oregon Division of Financial Regulation Bulletin No. DFR 2020-07
Providing mortgage loan relief assistance to borrowers affected by the COVID-19 pandemic.

TO: All Oregon-regulated lenders and loan servicers (Credit unions & CUSO lenders)

The Oregon DFR's bulletin encourages credit unions and regulated CUSO lenders and loan servicers to take active measures to help borrowers economically affected by the COVID-19 pandemic, including offering loan forbearance plans, fee waivers, and other deferred payment options.

DFR encourages credit unions and regulated CUSO lenders to take active measures to provide help to people and businesses affected by the pandemic. Accommodations for borrowers should comply with safe and sound banking practices and other applicable state and federal prudential regulations. These steps include:

Mortgage Loans:

- Forbearing mortgage payments for 90 days from their due dates
- Offering mortgagors an additional 90-day grace period to complete trial loan modifications, and ensuring late payments during the COVID-19 pandemic do not affect their ability to obtain permanent loan modifications
- Postponing foreclosures and evictions for 90 days Mortgages and loans:
- Offering payment accommodations, such as allowing borrowers to defer payments, extending the payment due dates, or otherwise adjusting terms of existing loans, which would avoid delinquencies and negative credit agency reporting
- Easing credit terms for new loans
- Refraining from reporting late payments to credit rating agencies for 90 days
- Waiving late payment fees and any online payment fees for 90 days
- Ensuring that borrowers do not experience a disruption of service if the lender closes its office, including providing other avenues for borrowers to continue to manage their accounts and make inquiries
- Actively reaching out to borrowers via app announcements, text, email, or otherwise to explain the above-listed help being offered by the credit union or CUSO.

Credit Union Operations:

- Waiving overdraft and nonsufficient funds fees

DFR considers the above measures to be in the public interest and assures Oregon credit unions regulated CUSO lenders they will not be subject to regulatory criticism by DFR for making reasonable and prudent efforts to help borrowers who are temporarily unable to repay their loans due to the COVID-19 pandemic.

Insurance

Oregon Department of Consumer and Business Services
Providing insurance relief assistance to consumers affected by the COVID-19 pandemic.

The Oregon Department of Consumer and Business Services (DCBS) issued a temporary emergency order today in response to the COVID-19 outbreak. It requires all insurance companies to extend grace periods for premium payments, postpone policy cancellations and nonrenewals, and extend deadlines for reporting claims.

Insurance companies must take steps immediately to do the following until the order is no longer in effect:

- Institute a grace period for premium payments on all insurance policies issued in the state
- Suspend all cancellations and nonrenewals for active insurance policies
- Extend all deadlines for consumers to report claims and communicate about claims

Provide consumers the ability to make premium payments and report claims while maintaining safe social distancing standards.

This 2020 **Special Alert,** Overview of Federal and State COVID-19 Regulatory Actions is part of the compliance resources Farleigh Wada Witt regularly provides its credit union and CUSO clients in addition to its compliance management program, *Compliance Smart*.

Compliance Smart is a comprehensive compliance management program for credit unions to organize the credit union's compliance process from understanding the impact of new regulations through the implementing necessary operational changes for the credit union. Today's regulatory challenges require advanced solutions that are *Compliance Smart.* Learn how your Credit Union can realize "**More Oversight, Less Overhead"** for your compliance management. Call or email Brian Witt, Farleigh Wada Witt, 503.228.6044, bwitt@fwwlaw.com for more information about the *Compliance Smart* program.

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Brian represents credit unions and CUSOs on corporate, operational, compliance, executive compensation and financial service delivery matters. Practicing law for more than 30 years, Brian has vast experience working with credit unions at all levels from the teller line to the Board room. Brian has developed extensive compliance resources for member response management, vendor management and contract reviews, information security programs, security response guidelines, online delivery of financial services, and credit union consumer and business lending**.**



Hal has been providing legal advice to credit unions since 1991, focusing on state and federal regulatory compliance, deposit and lending operations, contract and business matters, corporate governance, CUSOs, and all other aspects of financial service delivery. He frequently conducts seminars on legal matters for the Northwest Credit Union Association, Credit Union National Association councils, local chapters, and other trade groups.



With a background in banking and business, Kelley brings considerable experience and working knowledge in the areas of consumer and commercial law relevant to assisting financial service providers on matters related to legal compliance. She monitors consumer regulatory changes and legislation in Oregon and Washington that affects financial service providers.

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