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## OFFICE OF CREDIT UNIONS

# Statement on Interagency and Federal Regulatory Guidance and Frequently Asked Questions for Credit Unions

*Affected by Coronavirus Disease 2019 (COVID-19)*

This document was updated on [August 27, 2021](#). [Changes are in green.](#)

## Statement on Interagency and Federal Regulatory Guidance

As we [continue to](#) deal with the impact of COVID-19, DIFS is mindful of the myriad of effects resulting from the global pandemic. The DIFS Office of Credit Unions supports prudent measures taken by credit unions to protect the health of their employees, members, and communities, in addition to the primary role of credit unions to assist consumers and businesses with their financial needs. The extent of the financial impact of COVID-19 is currently unknown. Credit unions play an important role during these challenging times. The Office of Credit Unions trusts our state-chartered credit unions will work with their members in a safe and sound manner.

The Office of Credit Unions has a long history of active involvement in the National Association of State Credit Union Supervisors (NASCUS), which advances the system of state credit union supervision, and interagency bodies such as the Federal Financial Institutions Examination Council (FFIEC), whose members include the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB), the National Credit Union Administration (NCUA), the State Liaison Committee (SLC). We continue to maintain close, cooperative working relationships with our federal counterpart, the National Credit Union Administration (NCUA).

On March 22, 2020, the federal financial institution regulators issued an interagency statement encouraging financial institutions to work with their customers impacted by coronavirus. Since that time, additional press releases, interagency statements, Letters, Bulletins, and FAQs have been issued and resources have been provided by the [FFIEC](#) and the [NCUA](#). **The Office of Credit Unions supports the content of these communications and the guidance they provide.** Information relating to COVID-19 is changing rapidly, and we will endeavor to provide timely and clear communication to the industry. In the unlikely event the Office of Credit Unions has a position other than that conveyed through NCUA, the FFIEC or other federal agency, (e.g. because there is a conflict with state law), we will work to advise the industry of our position expeditiously.

We appreciate your partnership as we work toward the common goal of protecting you, your employees, and all Michigan citizens, while continuing the essential services your institution and DIFS provide.

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## Frequently Asked Questions for Credit Unions

### EXAMINATIONS

1. **(Updated August 2021) Will the Michigan Office of Credit Unions reinstate on-site examinations?** Yes. OCU converted to more off-site monitoring in the latter part of 2019. We **have** appreciated your patience and cooperation in providing (securely) as much information as possible via remote means.
  - a. **As of October 2021, on-site examination work will resume.** While examination scopes in the near future might be expanded to focus on areas where limited review was necessitated by the previous remote posture, some of the fieldwork going forward will continue to be conducted remotely, as conditions warrant. Regional Supervisors and Examiners-in-Charge will coordinate with the NCUA and credit union management to ascertain the optimal logistics for each examination depending on individual circumstances. Fully on-site or fully off-site examinations are unlikely to occur except for during extraordinary circumstances. Any credit union with extraordinary conditions regarding their ability to host an impending examination, should contact their Regional Supervisor or contact the Office of Credit Unions at 517-284-8821 or [DIFS-OCU@michigan.gov](mailto:DIFS-OCU@michigan.gov) to discuss the situation.
  - b. Presently, DIFS employees in our office are expected to be masked and social distance; field staff, at minimum, will observe protocols required of DIFS office staff. These requirements may change *at any time* depending on directives from DIFS or the Office of the State Employer. Regional Supervisors and Examiners-in-Charge will contact each credit union in advance of planned on-site fieldwork to discuss the credit union's safety protocols, ascertain what workspace/accommodations can be reasonably provided, and to plan the logistics of the examination.
2. **(Updated August 2021) How will joint examinations with NCUA be managed?**

There are no anticipated changes to standard protocols and coordination with NCUA on joint examinations. Customary joint examination processes will continue and your OCU Examiner-in-Charge (EIC) will work with NCUA examiners in managing the **examination process and coordinate on-site/off-site work arrangements.**
3. **What means are available to securely provide my information requested by examiners?**

Examination staff will work with individual credit unions in planning for secure transfer of information. Examiners will be using State of Michigan approved systems only. If an institution has their own portal or would like to use the NCUA portal, OCU examiners will accept information from them in that manner. OCU does not require credit unions use the NCUA portal nor provide any guarantees related to that mechanism, as it is not our product. Examiners have secure email with zix/ZSecure as an option. Where these systems are not possible, and in some cases, staff may pick up information from the institution on an encrypted flash drive with immediate download and return the flash drive to the credit union representative. All credit union internal protocols and policies for secure data transmission will be followed.

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#### 4. What will the examination approach be for managerial decisions made during this extraordinary time?

Credit unions' prudent efforts to modify the terms of existing loans and/or provide other assistance to affected members, when done in a safe and sound manner, will not be subject to examiner criticism. Safety and soundness considerations will include systems by which credit union management will monitor and manage the risks being assumed, and the credit union's financial ability to absorb the potential losses. Examiners will also consider these extraordinary circumstances which may result in temporary increases of delinquency and non-performing loans, etal. when reviewing an institution's financial condition and determining appropriate supervisory response.

### CREDIT UNION OPERATIONS

#### 5. (Updated August 2021) Are credit unions permitted to remain operational during periods when there are government directives to temporarily suspend activities that are not necessary to sustain or protect life, e.g. MIOSHA and MDHHS Orders and Rules?

There are no such directives in place at this time. Previous Orders have made exceptions for critical infrastructure workers, as described in guidance issued by the Director of the U.S. Cybersecurity and Infrastructure Security Agency. More recently, May 23, 2021, [MIOSHA issued updated Emergency Rules entitled "Coronavirus Disease 2019 \(Covid-19\)" \(Emergency Rules\)](#) which prescribes responsibilities relative to in-person working conditions and a variety of expectations of employers for promoting a safe working environment.

New: [U.S. Cybersecurity and Infrastructure Security Agency \(CISA\), Financial Services Sector](#)

#### 6. Should credit unions restrict the way they provide access to certain services?

Yes. Credit unions must abide by all applicable conditions outlined in the Emergency Rules, Rule 9 and take aggressive steps to minimize the spread of coronavirus through social distancing practices and other mitigation measures to protect workers and members. Prudent steps include restricting lobby access, providing drive-thru services, and advocating the use of alternative service options. Credit unions may want to remind members of the various ways they can access banking services, such as by managing their accounts online or with a mobile banking application, performing transactions at an automated teller machine (ATM), or using telephone banking, if available. Financial institutions may also provide information about bill pay and mobile remote deposit capture services. Where in-person services are necessary, such as to access a safe deposit box, social distancing practices should continue to be implemented to the greatest extent possible.

#### 7. Can we cancel/reschedule our annual meeting?

Many accommodations were made in 2020 for instances where a board determined it to be appropriate and necessary to cancel a planned annual meeting for the safety of attendees during 2020. In 2021, institutions are expected to hold their annual meetings, by remote means if possible/practical, to achieve the statutorily-required annual meeting (within the calendar year, as prescribed in [Section 351](#) of the Michigan Credit Union Act). The standard bylaws language requiring an annual meeting is not interpreted to mean the meeting must be "in person"; as such, a bylaw amendment may not be necessary. Depending on what your elections will necessitate (particularly in the event there are challengers to presently held seats), you may want to review your bylaws to ascertain how voting might be accomplished or if you need to pursue different bylaw language on that count. This being said, OCU will not

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criticize any institution which makes a reasonable effort to hold their 2021 annual meeting timely but experiences a slight delay (2 months or less) for logistical or safety reasons. Should an institution determine it is impossible or impractical from a safety standpoint to hold their 2021 meeting timely (anything beyond a two month delay), please notify the Office of Credit Unions at [DIFS-OCU@michigan.gov](mailto:DIFS-OCU@michigan.gov) immediately with the details of that determination.

#### 8. What flexibilities exist for monthly Board meetings?

Credit unions should adhere to their Bylaws and the Michigan Credit Union Act regarding Board meetings. [Section 490.342\(9\)](#) of the Michigan Credit Union Act requires the Board of a domestic credit union meet at least 6 times in each calendar year and at least every other month. The Board shall meet in person **or** by means of electronic communication devices that enable all participants in a meeting to communicate with each other (e.g. teleconference).

#### 9. Can a credit union limit access to branch offices and require customers to use the drive-up window?

Yes. Financial institutions can consider alternative service options to provide access to financial services. Credit unions may want to remind customers of the various ways they can access banking services without physically coming to a facility, such as managing their accounts online, performing transactions at an automated teller machine (ATM), using telephone banking, or accessing a mobile banking application. Financial institutions could also provide additional information about how to use electronic payments, bill pay, and mobile remote deposit capture services.

#### 10. (Updated August 2021) Must OCU be notified of closures?

Yes. Notify the OCU ([DIFS-OCU@michigan.gov](mailto:DIFS-OCU@michigan.gov)) if you choose to **permanently fully close** one or more of your credit union locations (pursuant to [Section 221](#) of the Michigan Credit Union Act). Please include the date(s) of the planned closure and the location being closed. Please include in your notification any significant detrimental impact you anticipate to the credit union's ability to deliver financial services to your membership. (Modifications to operating hours, days or methods do not require notice, unless you anticipate a material decline in your overall ability to deliver financial services.) **Credit unions must ensure they also update their CUOnline profile timely.**

#### 11. What else should I notify OCU about?

Please also keep the OCU apprised of any other significant developments within your institution that may disrupt member access to financial services and steps your credit union is taking to mitigate the impact. Please include the name and phone number of a contact for your credit union where we might refer such calls as appropriate.

#### 12. Has OCU issued guidance related to preparedness for this event?

Yes. OCU issued guidance related to disaster recovery and continuity of operations preparedness on March 10, 2020. You should refer to [Letter No. 2020-CU-04](#) for detailed guidance. Other statewide information is available at [www.michigan.gov/coronavirus](http://www.michigan.gov/coronavirus).

#### 13. What liquidity options are available?

NCUA issued Letter 20-CU-14 regarding the expanded availability of the Central Liquidity Facility (CLF). All eleven corporate credit unions have joined the CLF as agent members, expanding the availability of CLF borrowings to their members. Refer to NCUA [Letter 20-CU-14](#) for more information. Credit unions must still assess and evaluate their contingency

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liquidity plans, given the current circumstances. Information about borrowing from the CLF, including how to become a member, is available [on their website](#). For credit unions with access, the Federal Reserve's discount window is also available to assist with eligible credit unions, as well as existing lines of credit.

#### 14. Has Financial Crimes Enforcement Network (FinCEN) identified emerging fraudulent transaction trends since the onset of the COVID-19 pandemic?

Yes. On March 16, 2020, [FinCEN issued a press release](#) related to the COVID-19 and encourages financial institutions to communicate concerns and remain alert to related illicit financial activity, including the following:

- a. **Imposter Scams:** This trend includes bad actors that impersonate government agencies (such as the Centers for Disease Control (CDC)), international organizations (such as the World Health Organization (WHO)), or healthcare organizations in order to solicit donations, steal personal information, or distribute malware.
- b. **Investment Scams:** This trend includes promotions that falsely claim that the products or services of a publicly traded company can prevent, detect or cure the coronavirus or COVID-19.
- c. **Product Scams:** This trend covers the sale of unapproved or misbranded products that make false health claims pertaining to COVID-19, including by companies that have received public warning letters or statements from the U.S. Federal Trade Commission and the U.S. Food and Drug Administration. The Guidance notes that FinCEN has also received reports relating to the fraudulent marketing of COVID-19 related supplies, including facemasks.
- d. **Insider Trading:** FinCEN has also received reports of suspected insider trading related to COVID-19.

### OFFICE OF CREDIT UNIONS

#### 15. (Updated August 2021) Will OCU services be reduced or significantly changed going forward?

No. OCU has adjusted our internal operations as needed, to ensure uninterrupted availability to you and uninterrupted processing of examinations and corporate activities. Applications will continue to be processed, calls answered, examinations performed, and we will work to keep you informed of any changes.

### WORKING WITH MEMBERS

#### 16. What strategies should we consider in working with members during this time?

OCU encourages credit unions to work with affected members in addressing the impact and challenges resulting from COVID-19. Strategies to consider may include the following:

- a. Waiving or reducing fees (ATM, overdraft, early withdrawal penalties on time deposits, late fees on loans, etc.)
- b. Increasing ATM daily cash withdrawal limits
- c. Offering payment accommodations (deferring payments, skip-a-pay, due date extensions, etc.)
- d. Increasing lines of credit, credit card limits, etc. for credit-worthy borrowers
- e. Offering or expanding payday alternative loan programs

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- f. Easing credit terms for members who qualify
- g. Easing restrictions on cashing out-of-state and non-member checks
- h. Waiving availability restrictions on insurance checks
- i. Adjusting or altering terms on existing loans where appropriate
- j. Easing terms for new loans where prudent

**In evaluating strategies, credit unions should not assume undue risk and should be able to adequately monitor and track strategies in relation to the credit union's overall risk profile and the net worth position.** Assistance should always be provided in a safe and sound manner to members facing short-term setbacks. Additional information on member services and safety/soundness considerations was issued in OCU [Letter 2020-CU-05](#).

#### **17. What products may be offered and what type of documentation should financial institutions maintain relative to providing an accommodation to a borrower affected by COVID-19?**

Credit unions play an important role in helping members weather through difficult times. While the Office of Credit Unions does not make lending decisions for any credit union, all credit union activities are subject to examination and the documentation and rationale for any material decisions is subject to such review for its safety and soundness. There is an endless array of possible products/terms an institution could offer to help their members (skip pays, deferrals, extensions, refinances, customized loan products, reduced or waived fees, etal.). It is the credit union board and management's purview to determine what loan products/terms are appropriate for their institution and their members. The board and management are likewise responsible to manage the risks appropriately. Credit unions are encouraged to aid their members with reasonable lending decisions, prudent and appropriate for your institution. Be sure you evaluate the individual risks, the aggregate risks, and any impact on the short- and long-term health of your credit union to ensure its ongoing safety and soundness. Rationale for credit decisions should be clearly documented, and effective systems in place to monitor and control the risks being assumed.

#### **18. How should deposits from stimulus checks be treated?**

IRS Economic Impact Payment (stimulus) funds deposited may be subject to special treatment under federal and state law, including executive orders. Care must be taken to ensure compliance with all regulatory restrictions which may apply. Credit unions are encouraged to treat such deposits in the spirit of the disaster relief legislation to enable members to use the funds, to the greatest extent possible, for basic living needs and emergencies. Credit unions are strongly urged not to access the stimulus funds to satisfy overdrafts that existed prior to a stimulus payment being deposited, or to exercise rights of offset against the funds with respect to other debts without express agreement of the member. If a credit union system automatically applies a stimulus payment to an account overdraft, the credit union is urged to reverse the application of the stimulus payment as promptly as possible. Credit unions are also strongly urged not to charge against the stimulus funds for fees, such as overdraft fees, ATM fees and late payment fees. Refer to [DIFS Bulletin 2020-25-BT/CU](#) for further information.

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### **19. May loans receiving payment accommodations need to be reported as TDRs?**

Yes, such loans *may* need to be reported as TDRs. A TDR is a loan restructuring in which an institution, for economic or legal reasons related to a borrower's financial difficulties, grants a concession to the borrower that it would not otherwise consider. However, a loan deferred, extended, or renewed at a stated interest rate equal to the current interest rate for new debt with similar risk is not reported as a TDR. Credit unions may refer to Accounting Standards Code (ASC) 310-40 (formerly Financial Accounting Standards Board (FASB) Statement No. 15) for additional guidance on determining whether a loan with renegotiated terms should be accounted for as a TDR. A SC 310-10-35 (formerly FASB Statement No. 114) also provides guidance on accounting for impairment losses on TDRs.

Consistent with present interagency and federal practices, short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not necessarily TDRs. This includes short-term (e.g. up to six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant. Credit unions must make the individual TDR determinations and document such. TDRs must continue to be tracked for reporting purposes.

### **20. Have there been changes to Regulation D applicable to helping members affected by COVID-19?**

Yes. On April 24, 2020, the Federal Reserve Board announced an interim final rule to amend Regulation D (Reserve Requirements of Depository Institutions) to delete the six-per-month limit on convenient transfers from the "savings deposit" definition. 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.

## **REPORTING REQUIREMENTS**

### **21. Do loans that receive payment accommodations have to be reported as nonaccrual, reflect appropriate ALLL, and be charged off?**

Each credit union should refer to the applicable regulatory reporting instructions, as well as its internal accounting policies, in determining whether to report loans with accommodations to customers affected by COVID-19 as nonaccrual assets in regulatory reports. Each institution must maintain an appropriate ALLL for these loans, considering all information available prior to filing its reports about their collectability. As information becomes available that indicates a specific loan will not be repaid, institutions should preserve the integrity of their internal loan grading methodology and maintain appropriate accrual status on affected credits. Financial institutions should appropriately recognize credit losses according to their charge-off policies as soon as a loss can be reasonably estimated.

### **22. (Updated August 2021) What if COVID-19 disrupts filing my quarterly Call Report?**

Some accommodations were made in 2020 while credit unions adjusted to off-site posture. Call reports should be timely submitted going forward. Credit unions encountering problems and who are not able to meet deadlines should inform OCU at [DIFS-OCU@michigan.gov](mailto:DIFS-OCU@michigan.gov) and NCUA's Office of Examination and Insurance at [CallReportLateFiler@ncua.gov](mailto:CallReportLateFiler@ncua.gov). The reason for the delay should be included with correspondence.

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### **23. Do credit unions with reduced staff have to meet the timeframes for processing reports related to Bank Secrecy Act (BSA)?**

On March 16, 2020, FinCEN issued a press release encouraging financial institutions affected by COVID-19 to contact FinCEN and their functional regulators as soon as practicable if there were concerns about any potential delays in their ability to file required BSA reports. FinCEN's Regulatory Support Section will continue to be available to support financial institutions for the duration of the COVID-19 pandemic. Financial institutions supervised by OCU and NCUA should contact their Regional Office to discuss any concerns with filing BSA reports.

## **RESOURCES**

### **State and Federal Credit Union System Information**

[National Association of State Credit Union Supervisors \(NASCUS\)](http://www.nascus.org)

([www.nascus.org](http://www.nascus.org))

[Federal Financial Institutions Examination Council \(FFIEC\)](#)

[National Credit Union Administration \(NCUA\)](#)

[Consumer Financial Protection Bureau](#)

[Michigan Credit Union League \(COVID19 Resource Page\)](#)

### **State of Michigan**

[Coronavirus Disease 2019 \(COVID-19\)](#)

[Governor Whitmer's Executive Orders](#)

[Michigan Department of Health and Human Services Epidemic Orders](#)

[Michigan Department of Labor and Economic Opportunity COVID-19 Workplace Safety Guidance](#)

[Michigan Economic Development Corporation](#)

[DIFS Bulletins](#)

[DIFS - Coronavirus Page](#)