

NCUA LETTER TO CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314

DATE: March 2020

LETTER NO: 20-CU-02

TO: Federally Insured Credit Unions

SUBJ: NCUA Actions Related to COVID-19

Dear Board of Directors and Chief Executive Officer:

The NCUA recognizes COVID-19 will impact credit unions and their members to varying degrees. I want to assure you that the NCUA is doing all we can to address the situation.

The health and safety of all NCUA staff, credit union staff, and credit union members are our paramount concern. We plan to take every step to ensure that our agency's critical mission of protecting the safety and soundness of the credit union industry will continue to be executed as effectively and efficiently as possible.

In addition, it is important to ensure credit unions can continue to meet, to the extent possible, the financial needs of their members. I encourage you to review [previously issued NCUA guidance](#) that addresses business continuity, hurricane, disaster, emergency, and pandemic planning and preparedness.

Working with Members

The credit union industry has a long history of assisting their members in times of need. This letter outlines a number of strategies credit unions may consider when determining how to work with their members to address the impact of, and challenges associated with, COVID-19. I want to assure you that the NCUA's examiners will not criticize a credit union's efforts to provide prudent relief for members when such efforts are conducted in a reasonable manner with proper controls and management oversight.

The NCUA encourages credit unions to work with affected borrowers. A credit union's efforts to work with members in communities under stress may contribute to the strength and recovery of these communities. Such efforts also serve the long-term interests of impacted credit unions, and may include:

- 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

The NCUA emphasizes that prudent efforts to adjust or alter terms on existing loans in affected areas will not be subject to examiner criticism. For example, a credit union may work with a borrower to extend the terms of repayment or otherwise restructure the borrower's debt obligations. Such efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen a credit union's ability to collect on its loans.

Credit unions may also ease terms for new loans to affected borrowers where prudent. This may help consumer and business members deal with any impact on their cash flows due to COVID-19.

The NCUA recognizes there may be other accommodations that could assist members and communities in responding to challenges associated with COVID-19. We encourage credit unions to consult with their respective NCUA regional office or state regulator regarding additional actions that may help address the situation.

Information Website and Frequently Asked Questions

The attached Frequently Asked Questions (FAQ) document can further assist federal credit unions in responding to the current situation. The FAQ outlines various options credit unions have, such as delaying annual meetings and how board meetings can be conducted. The FAQ also addresses issues related to some of the measures the NCUA is taking related to the examination and supervision process. Additional procedures may be implemented as warranted.

Federally insured, state-chartered credit unions should consult with their state regulator regarding laws, regulations, bylaw provisions, and examination and supervision processes applicable to them.

The NCUA is adding a section to our website that contains all of the information we are providing credit unions related COVID-19. The FAQs will be hosted on this site and updated as new information becomes available. Please consult this page for the most contemporary information from NCUA on this situation.

NCUA's Examination and Supervision Program

We recognize some credit unions are implementing expanded telework programs and limiting external visitors. In light of this and the safety of the NCUA staff, the NCUA is limiting examination and supervision work over the next couple of weeks to offsite procedures only, with a few exceptions for exigent circumstances. We will be evaluating this posture regularly and extending it as necessary.

Examiners will work with credit union staff to facilitate the secure exchange of information needed to conduct offsite examination and supervision work, and will be mindful of the impact of information requests on any credit unions experiencing operational and staffing challenges associated with responding to COVID-19.

As we evaluate credit unions over the coming months, consistent with long-standing practices, examiners will consider the extraordinary circumstances credit unions are facing when reviewing the credit union's financial and operational condition.

NCUA's Operational Status

Effective March 16, 2020, through March 30, 2020, the NCUA has mandated telework for headquarters and regional office staff unless narrow exemptions are met. The agency has a history of operating the agency from a telework posture. We expect operations to proceed with little interruption. This includes processing credit union inquiries and requests such as regulatory approvals and field of membership expansions.

In order to continue and process your requests for action and approval, we encourage credit unions to submit your information to the NCUA in electronic form to the maximum extent possible. We have mailboxes setup in each region and the central office where you can email packages you have historically sent hard copy. Additionally, in our offsite posture, you may see things signed with a "digital certification" where you used to see a pen and ink signature to support teleworking.

We are committed to assisting credit unions during this difficult time. If you have any questions or concerns, please contact your NCUA Regional Office or state supervisory authority.

Sincerely,

/s/

Rodney E. Hood
Chairman

Attachment

FREQUENTLY ASKED QUESTIONS REGARDING COVID-19, NCUA AND CREDIT UNION OPERATIONS

1. What flexibilities exist for federal credit unions (FCUs) in planning annual meetings?

The FCU Act requires a FCU to hold an annual meeting “at such time and place” as stated in the FCU’s bylaws each calendar year.¹ Other than this requirement to hold an in-person meeting annually, the FCU Act is silent. The FCU Bylaws echo this requirement, and provide additional details regarding how to conduct the meeting, where to conduct the meeting, and how to provide notice of the meeting. The FCU Bylaws permit virtual attendance at an annual meeting provided an in-person meeting is held for those who cannot attend virtually or choose to attend in-person.²

A FCU has flexibility to postpone its annual meeting. While there is no law or regulation that prohibits a FCU from postponing its annual meeting, it should provide notice of the rescheduled meeting as required in the FCU Bylaws. Under current circumstances, a FCU might consider delaying its annual meeting until a more appropriate time. A FCU can amend the date of its annual meeting by using the fill-in-the-blank provision in its bylaws with the two-thirds vote of its board, without seeking the NCUA’s approval.

The FCU Bylaws also permit adjournment of a meeting for lack of a quorum, but the reconvened meeting must occur 7 to 14 days after the originally scheduled meeting.³ In some cases, this provision could provide sufficient flexibility, depending on the date of the meeting.

Finally, the FCU Bylaws allow four options for conducting elections. If a credit union’s board or management determines that a different option would be more convenient, they may amend the credit union’s bylaws with the vote of two-thirds of the directors.⁴ Even if a FCU conducts its elections by mail ballot or electronically, however, it still must conduct an annual meeting, with a quorum of members present in-person.⁵

2. If a FCU delays its annual meeting and election, what happens to the FCU’s Board?

¹ 12 U.S.C. § 1760.

² FCU Bylaws, Art. IV, § 1.

³ *Id.* Art. IV, § 5.

⁴ *Id.* Art. XVII, § 7.

⁵ See Roberts Rules of Order, Newly Revised (11th ed. 2013) Chapter II, § 3 (“[A] provision of the bylaws should specify the number of members that shall constitute a quorum, which should approximate the largest number that can be depended on to attend any meeting except in very bad weather or other extremely unfavorable conditions.”)

Under the FCU Bylaws, the term of a FCU director continues until “the election and qualification of successors.” Accordingly, if a FCU delays an annual meeting, the current directors’ terms continue until the FCU holds its meeting and election. If there is a vacancy on the Board, the FCU may fill it by a majority vote of the remaining directors. Directors appointed in this manner, however, hold office only until the next meeting.

3. What flexibilities exist for FCU monthly Board of Directors meetings?

The FCU Act requires FCU Boards to meet monthly.⁶ The FCU bylaws require only one face-to-face board of directors meeting per year. All other meetings may be conducted by video or teleconference. The one in-person meeting requires the actual presence of only a quorum of directors, not every director. Absent directors may participate by video or teleconference.⁷

4. May a FCU restrict access or close its facilities?

Yes. A FCU may adopt reasonable measures to safeguard the health and safety of its staff and members. CUs taking these measures, however, should ensure they apply the policy in a uniform and consistent manner. **FCUs should follow the direction of any federal, state or local authorities with respect to social distancing or related measures** (emphasis added).

There is no federal law or regulation that requires FCUs to be open certain hours or days or that would prevent a FCU from closing its offices. Credit unions have the flexibility to make reasonable, good faith decisions to close branches and offer members services available through other channels such as by phone, at automated teller machines, or via online and mobile platforms. This can include situations where advance notice is not feasible as a closure may need to occur quickly. Decisions to close branches can be ratified by the credit union board by email or at the next board meeting. Credit unions do not need to notify NCUA of branch closures unless there is an interruption in vital member services exceeding two days, in which case credit unions have five days to notify their regional director as set forth in 12 C.F.R. 748.1(b). FISCUs may be subject to different requirements under state law or regulation.

5. What impact is this having on the NCUA’s examination and supervision program?

Effective Monday, March 16, all examination related staff are required to be offsite through at least March 30, 2020. This policy will be reevaluated at least every two weeks and is subject to change. Any exceptions to this policy must be approved by the Office of the Executive Director. Generally staff will not be scheduling any onsite exam work until further notice. However,

⁶ 12 U.S.C. § 1761b.

⁷ FCU Bylaws. Art. VI, § 5.

NCUA may conduct onsite work at a credit union if necessary to deal with an exigent circumstance.⁸

Our examiners will take advantage of technology to securely exchange information, and will use teleconference and videoconference capabilities to interact with credit union management.

6. What technology is available to credit unions to share exam documents with their examiners?

Examiners and credit unions can exchange information through the NCUA's Secure File Transfer Portal. A credit union [guide for using the SFTP portal](#) is available online, and provides instructions to access and use the portal. The Secure File Transfer Portal is a protected workspace where NCUA staff and partners can share large or sensitive files.

The SFTP portal is the preferred method for exchanging information; however, other secure methods may be used to share examination documents:

NCUA examiners can initiate an encrypted email exchange using the Zix Gateway. Recipients without Zixit will receive an email notification and, for first time users, will be required to register an account to receive the secure email message. Returning users will enter their password to sign in to receive the secure email message. To respond securely, recipients must respond using the link within the original encrypted email message.

Password-protected zip files may be used. Strong passwords should be used. NCUA examiners must use strong passwords that meet current agency requirements.

Credit union file transfer portals are permitted under certain conditions. NCUA examiners may use a credit union's portal or other non-portable electronic transmission solution to **download** electronic documents that contain PII. NCUA staff will not use a credit union or third party provided solution to **upload or transfer** any electronic documents (whether they contain PII or not) to the credit union or third party.

⁸ The NCUA is requiring staff to self-quarantine and not come to work for 14 days, including at any insured credit union, if they have returned from travelling to countries that the CDC has designated as a level 3 Travel Health Notice, or if they have contact with anyone travelling from these countries. Staff are also required to self-quarantine and not come to work for 14 days if they have close contact with someone who tests positive for COVID-19 or if they exhibit any symptoms of COVID-19.

7. What if COVID-19 disrupts a credit union's ability to file its quarterly Call Report timely?

The NCUA recognizes that some credit unions may experience disruptions in operations because of the impact of COVID-19. Credit unions encountering such problems and not able to meet the filing deadline should file as soon as possible thereafter and inform the NCUA's Office of Examination and Insurance at CallReportLateFiler@ncua.gov as to the reason for the delay when they do file. State Chartered credit unions should also contact their respective state regulator.

8. Can a credit union use the NCUA's Central Liquidity Facility (CLF) for contingent liquidity purposes?

Yes, 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>.

9. What other options do credit unions have to manage any impact on liquidity of the COVID-19 situation?

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 can borrow funds for their liquidity needs and membership is open to all credit unions.