CARES Act Economic Stabilization and Assistance to Severely Distressed Sectors of the U.S. Economy

The relief found in the Economic Stabilization and Assistance to Severely Distressed Sector of the U.S. Economy affects multiple sectors of the economy. While the Economic Stabilization title of the Act authorizes the Secretary of the Treasury to make loans, loan guarantees, and other investments in support of eligible businesses to states and municipalities in an amount of up to $500 billion, there are also provisions that directly affect credit unions. It is expected that the U.S. Department of Treasury and perhaps impacted agencies will release guidance in the coming weeks to provide further details of the provisions of the law. The guidance may make changes to the summary below.

Does the Act increase the National Share Insurance Fund's coverage for member accounts?

Yes, the Act authorizes the National Credit Union Administration (NCUA) to temporarily increase share insurance coverage in an unlimited amount (with NCUA Board approval) for noninterest-bearing transaction accounts in any federally insured credit union. Increases in the coverage shall terminate no later than Dec. 31, 2020.

How does the Act affect the accounting rules for troubled debt restructurings (TDRs)?

Beginning March 20, 2020, credit unions may elect to suspend requirements under U.S. GAAP for loan modifications related to the coronavirus pandemic that would otherwise be categorized as a troubled debt restructuring (including for impairment for accounting purposes). NCUA must defer to a credit union regarding the determination to make a suspension.

Any suspension shall be applicable for the term of the loan modification, with respect to any modification, including a forbearance arrangement, an interest rate modification, a repayment plan, and any other similar arrangement that defers or delays the payment of principal or interest that occurs during the applicable period for a loan that was not more than 30 days past due as of Dec. 31, 2019. Such election may last no later than 60 days after the lifting of the coronavirus national emergency.

For modified loans for which a suspension is applied, credit unions should continue to maintain records of the volume of loans involved; NCUA may collect data about such loans for supervisory purposes.

What impact does the Act have on the FASB's implementation of CECL?

No credit union shall be required to comply with the Financial Accounting Standards Board's (FASB) Accounting Standards Update No. 2016-13 – Measurement of Credit Losses on Financial Instruments, including the current expected credit losses methodology for credit losses (CECL) through the end of the national emergency or Dec. 31, 2020.

How does the Act apply to credit unions and the Central Liquidity Facility?

The Act enhances access to the CLF for natural persons, adds corporate credit union access to the CLF, and increases resources to meet liquidity needs. These provisions sunset on Dec. 31, 2020.

What provisions are included in the Act to protect the credit of members?

The Act requires furnishers of information to credit bureaus, which agree to an accommodation with respect to one or more payments on a credit obligation or consumer's account. The consumer then makes the payments, or is not required to make one or more payments pursuant to the accommodation, to report affected accounts as "current," or as the status reported prior to the accommodation during the period of the accommodation unless the borrower becomes current (so long as the borrower meets the obligations under the modification). It does not apply to an obligation or account that has been charged-off.

What are the provisions for mortgages?

The Act provides for the right of a consumer to request a forbearance with regard to a federally backed mortgage loan, which includes any loan that is secured by a first or subordinate lien on a residential real property (including individual units of condominiums and cooperatives). This is designed principally for the occupancy of 1 to 4 families, where the borrower is experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency and regardless of delinquency status, by submitting a request to the servicer and affirming that the borrower is experiencing a financial hardship during the COVID-19 emergency for a period of 180 days, with the potential for a second 180-day period.

The servicer shall not require any other documentation than the borrower's request and attestation. It will provide the forbearance without fees, penalties, or interest (beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract) charged to the borrower in connection with the forbearance for up to 180 days. The 180 days may be extended for an additional period of up to 180 days at the request of the borrower, provided that the borrower's request for an extension is made during the covered period, and, at the borrower's request, either the initial or extended period of forbearance may be shortened.

What provisions are there in the Act with regard to foreclosures?

The Act imposes a moratorium on foreclosures except with respect to a vacant or abandoned property. A servicer of a Federally backed mortgage loan may not initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.

Do the mortgage provisions apply to multifamily borrowers?

Yes, the Act provides for a forbearance upon request from a multifamily (five or more units) borrower with a Federally backed multifamily mortgage loan that was current on its payments as of Feb. 1, 2020, and, upon receipt of the request, the servicer shall document the financial hardship and provide an initial forbearance for up to 30 days, with the possibility of extending an additional two 30-day periods, so long as the request is made during the covered period, and, at least 15 days prior to the end of the forbearance period.