

Regulatory Alert for Financial Services

Regulatory Insights

April 2020

Financial services regulatory expectations for COVID-19: #3

Recent responses by federal and state regulators and agencies address a broad array of regulatory requirements and reflect the issuance of guidance for new requirements under the CARES Act (notably the SBA's PPP), increased flexibility for financial institutions to implement certain rules (such as in option to defer the regulatory impact of CECL or to accelerate the SA-CCR), a grace-period for filing select regulatory reports, and delayed implementation for new rulemakings. All of these changes will continue to force executional strain on operations and compliance. Please contact us if we can assist in any way.

Federal Regulatory Actions

In response to the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, which provided \$349 billion in direct appropriations for Small Business Administration (SBA) loan guarantees:

- On April 2, 2020, the SBA published an [interim final rule](#) providing guidance on the [Paycheck Protection Program](#) (PPP) created by the CARES Act.
- The program is expected to become operational beginning April 3, 2020 for small businesses and sole proprietorships, and on April 10, 2020 for independent contractors and self-employed individuals.
- Treasury separately posted [additional information](#) on the PPP for borrowers and lenders.

The Federal Financial Services Regulatory Agencies (FRB, OCC, FDIC, CFPB, SEC, CFTC) have continued to identify ways to selectively ease regulatory requirements as financial institutions work to meet the challenges presented by COVID-19 for their customers, employees, and operations.

Banking Regulators

The Federal Banking Agencies (FRB, OCC, FDIC) have:

- Issued an [interim final rule](#) that permits banking organizations that implement the FASB's **Current Expected Credit Losses** (CECL) methodology before the end of 2020 the option to delay for two years an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period to phase-out the aggregate amount of capital benefit provided during the initial two-year delay.
 - The interim final rule does not replace the current three-year transition option available under the agencies' [2019 final rule](#). Banking organizations that have already adopted CECL have the option to elect the three-year transition option contained in the 2019 CECL rule or the five-year transition contained in the interim final rule, beginning with the March 31, 2020, Call Report or FR Y-9C.
 - The mechanics of the Five-Year Transition Provision are outlined within the rule, including consideration of the provisions of the [CARES Act](#), which permit insured depository institutions, including credit unions, bank holding companies, or any of their affiliates to opt to temporarily delay

compliance with the FASB CECL methodology. Such an option will expire at the earlier of December 31, 2020 or the date on which the national emergency is terminated.

- Announced a [30-day grace period](#) for financial institutions to file their March 31, 2020 **Call Reports** after the official filing deadline. The FRB separately announced that it would allow [small financial institutions](#) with total assets of \$5 billion or less to file their Consolidated Financial Statements for Bank Holding Companies (FR Y-9C) or Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies (FR Y-11) within 30 days of the official filing due date.
- Announced changes to the calculation of [Credit Concentration Ratios](#) for the **Community Bank Leverage Ratio**.
- Provided notice that depository institutions and depository institution holding companies subject to the capital rule may accelerate implementation of the "**standardized approach for measuring counterparty credit risk**" rule, also known as [SA-CCR](#), on a best efforts basis for the first quarter of 2020. The SA-CCR rule effective date remains April 1, 2020, and the mandatory compliance date will remain January 1, 2022.
- Issued an [interagency statement](#) with the CFPB and NCUA to encourage banks, savings associations, and credit unions to offer **responsible small-dollar loans** to consumers and small businesses through a variety of structures, such as open-end lines of credit, closed-end installment loans, or appropriately structured single payment loans.

The FRB separately:

- Issued an [interim final rule](#) to temporarily amend, through March 31, 2021, its Supplemental Leverage Ratio applicable to large BHCs and SLHCs, and U.S. IHCs.
- Issued an [interim final rule](#) that revises the definition of "eligible retained income" for purposes of the FRB's **total loss-absorbing capacity** (TLAC) rule. The revised definition will make any automatic limitations on capital distributions that could apply under the TLAC rule more gradual and aligns to recent action taken by the FRB and the other federal banking agencies in the capital rule.
- Explained [adjustments to its supervisory approach](#), including a focus on monitoring and outreach and reduction in examination activities; large banking entities are still expected to submit their capital plans developed under CCAR by April 6.

- **Delayed, for six-months**, changes to its [Payments System Risk Policy](#), and also the revisions to its [Controls Determinations Framework](#).
- In its central bank role, the FRB announced a **new credit facility** - a temporary repurchase agreement facility for foreign and international monetary authorities ([FIMA Repo Facility](#)) to help support the financial markets, including the U.S. Treasury market. The FIMA Repo Facility will allow FIMA account holders, which consist of central banks and other international monetary authorities with accounts at the Federal Reserve Bank of New York, to enter into repurchase agreements with the Federal Reserve to temporarily exchange their U.S. Treasury securities held with the Federal Reserve for U.S. dollars, which can then be made available to institutions in their jurisdictions. The FIMA Repo Facility will be available on April 6 and will continue for at least 6 months.

The CFPB:

- Issued a [Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act](#) indicating lenders should comply with the CARES Act and providing flexibility for lenders and credit bureaus regarding the time they take to investigate disputes.
- Announced that it will not expect:
 - Quarterly information reporting by certain mortgage lenders as required under the [Home Mortgage Disclosure Act](#) (HMDA) & Regulation C.
 - Reporting of certain information related to [credit card and prepaid accounts](#) under the Truth in Lending Act, Regulation Z, and Regulation E, including annual submissions concerning agreements between credit card issuers and institutions of higher education; quarterly submission of consumer credit card agreements; collection of certain credit card price and availability information; and submission of prepaid account agreements and related information.

[Capital Markets Regulators](#)

The SEC:

- Issued a new order to supersede and extend until July 1, 2020 an earlier order that allowed [publicly traded companies](#) an additional 45 days to file certain **disclosure reports**. The new order applies to reports that due between March 1, 2020 and July 1, 2020. The relief is conditional on companies meeting certain requirements, including an explanation of why the relief is needed.
- Issued new orders to supersede and extend earlier orders related to the [Investment Advisers Act](#) and the

Investment Company Act. Among other conditions, entities must notify the Division staff and/or investors, as applicable, of the intent to rely on the relief, but generally no longer need to describe why they are relying on the order or estimate a date by which the required action will occur.

- Issued disclosure guidance providing the **staff's current views regarding disclosure** and other securities law obligations that companies should consider with respect to COVID-19 and related business and market disruptions.
- Announced temporary flexibility for registered funds to borrow funds from certain affiliates and to enter into certain other lending arrangements to address recent market events.
- Issued a temporary final rule that provides relief from the **Form ID notarization requirement** from March 26, 2020 through July 1, 2020, subject to certain conditions and for certain filers, and extends the filing deadlines for specified reports and forms due pursuant to **Regulation Crowdfunding and Regulation A** for certain issuers.
- Issued a temporary conditional exemptive order that provides, subject to certain conditions, affected municipal advisors with an additional 45 days to file annual updates to **Form MA** that would have otherwise been due between March 26, 2020 and June 30, 2020. Among other conditions, the municipal advisor must be unable to meet the filing deadline for its annual update to Form MA due to circumstances related to current or potential effects of COVID-19 and must provide a brief description of the reasons why it could not timely file

The CFTC:

- Issued targeted, temporary no-action relief to foreign affiliates of certain futures commission merchants; the relief expires on September 30, 2020.

State Insurance Regulatory Actions

A growing number of state insurance regulators have requested or required insurers to extend the time for premium payment and to not cancel or non-renew policies during the crisis. For example:

- California and Georgia have requested *all* insurance companies provide insureds with "at least a 60-day grace period" to pay insurance premiums so the policies are not cancelled for non-payment. Maryland

issued a bulletin encouraging *all* insurers to make *reasonable accommodations* to individuals and businesses so they do not lose coverage due to non-payment of premium during the crisis. Other states like Massachusetts, Missouri, Tennessee and Wisconsin have issued directives requesting insurers to work with *consumers* on premium extensions and deferrals.

- New York has required issuers of life insurance and annuity contracts, property and casualty insurers and premium finance agencies to provide relief to New York consumers and businesses experiencing financial hardship due to COVID-19. Consumers experiencing financial hardship due to COVID-19 may defer paying life insurance premiums for ninety (90) days. Consumers and small businesses experiencing financial hardship due to COVID-19 may defer paying premiums for property and casualty insurance for sixty (60) days.

Related KPMG Thought Leadership

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[Regulatory Alert | Financial services regulatory expectations and response to COVID-19: #2](#)

[Regulatory Alert | Regulatory expectations for COVID-19](#)

For additional information, please contact us:

Amy Matsuo

Principal, Advisory, U.S. Leader, Regulatory Insights
amatsuo@kpmg.com

Jitendra Sharma

Principal, Americas Advisory Leader, Financial Services and Global Leader, Risk Consulting
jitendrasharma@kpmg.com

Joseph Hargrove

Principal and Global Tax Leader, Financial Services
jhargrove@kpmg.com

Peter Torrente

Partner and U.S. Sector Leader, Banking and Capital Markets
ptorrente@kpmg.com

Ed Chanda

Partner and U.S. Sector Leader, Insurance
echanda@kpmg.com

Amy Matsuo
Principal and National Lead
Regulatory Insights
T: 919-664-7302
E: amatsuo@kpmg.com

Contributing authors:
Amy Matsuo, Principal and National Lead,
Regulatory Insights
Karen Staines, Director, Regulatory Insights

kpmg.com/socialmedia



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