**MCUL Summary**

**Recently Enacted COVID Relief & Fiscal Year 2021 Omnibus Appropriations Legislation (H.R. 133, Consolidated Appropriations Act for Fiscal Year 2021)**

H.R. 133, the Consolidated Appropriations Act for FY 2021, was recently passed by Congress and signed into law by the President. The bill includes numerous provisions that address credit union concerns related to the ongoing pandemic, provides funding in the current fiscal year for credit union priorities and overall, positively impacts credit unions’ ability to continue to serve their members during and after this crisis. Below is a summary of those provisions in the bill MCUL and CUNA have identified as impacting credit unions.

**COVID-19 Relief**

**Extension of Temporary Relief from Troubled Debt Restructuring and Insurer Clarification**

Section 541 of Division N of the bill extends the CARES Act’s Troubled Debt Restructuring (TDR) provision for one-year. This extension safeguards consumers’ ability to obtain COVID-related loan modifications by giving credit unions the flexibility not to consider these modifications as troubled debt for supervisory purposes. The TDR extension ensures credit unions can meaningfully and effectively help financially distressed members.

**Extension of Temporary Relief and Emergency Authorities**

The CARES Act included a much-needed expansion of NCUA’s Central Liquidity Facility (CLF). Section 540(b) of Division N of H.R. 133, extends these authorities for one-year, allowing corporate credit unions to act as agents for natural person credit unions and expanding the CLF’s borrowing authority from 12 times the paid in capital to 16 times. These changes make the CLF more accessible to credit unions and expand the amount of liquidity NCUA could provide credit unions. The consequence of not having these provisions in place prior to this crisis is that NCUA had to engage in a membership campaign for the CLF, asking credit unions to contribute capital to the facility at the very time credit unions are most reluctant to give up capital. cuna.org

**Paycheck Protection Program**

Language in the bill directs approximately $284 billion to the SBA’s Paycheck Protection Program (PPP) to initiate another round of loans. To ensure PPP dollars reach the smallest and hardest-hit businesses, the legislation sets aside $15 billion of the total PPP funds for community financial institutions and an additional $15 billion for certain small depository institutions. Further set-asides include $35 billion for first-time borrowers, of which $15 billion is reserved for those with 10 or fewer employees, or loans less than $250k in low-income areas; and $25 billion for second-draw loans by smaller borrowers with 10 or fewer employees, or loans less than $250k in low-income areas.

The legislation makes several important changes to PPP, including:

* Establishes a **simplified forgiveness application process** for borrowers with loans up to **$150,000**.  Within 24 days of enactment, the SBA is required to establish a one-page form that borrowers sign, attesting that they accurately provided the required certification and complied with PPP loan requirements. MCUL made this reform a focal point of our meetings with Michigan’s congressional delegation in October and we are extremely pleased to see it included.
* Provides PPP lenders with assurances that **no enforcement action will be taken against a lender** who originated a loan in good faith, complied with all regulations, and relied in good faith on a borrower’s certification and documents.
* Permits additional eligible expenses for forgiveness purposes.
* Stipulates that second-round loans are for smaller and harder-hit businesses, with a max amount of 2.5X average monthly payroll costs, up to $2 million.  Businesses can employ no more than 300 employees; must have used or will use the full amount of the first PPP loan; and demonstrate at least a 25% reduction in gross receipts in one of the 1st three quarters of 2020 relative to the same 2019 quarter.
* Small businesses operating under NAICS code 72 (accommodation and food services) may receive loans up to 3.5X average monthly payroll costs
* Establishes a tiered structure for PPP lender compensation. Loans up to $50k, lender processing fee will be the lesser of 50% of the principal amount or $2,500; loans $50-$350k, the lender fee will be 5%; loans $350k and above the lender fee will be 3%.
* Allows borrowers to include additional group insurance payments when calculating their PPP payroll costs.
* Provides borrowers with additional flexibility by allowing them to select their loan forgiveness covered period between 8 and 24 weeks.
* Eliminates the requirement that Economic Injury and Disaster Loan (EIDL) advances be subtracted from PPP forgiveness.

For additional detail, please see the U.S. Senate Committee on Small Business’ summary of PPP and SBA lending provisions found [here](https://www.rubio.senate.gov/public/_cache/files/f3c3b2bc-573d-4702-ae03-593cd06d62d5/D5A0CBD674EFDED3AAAE4DBEDC48450E.covid-relief----12.21.20-the-economic-aid-to-hard-hit-small-businesses-nonprofits-and-venues-act-republican-summary-final.pdf), along with the Committee’s more comprehensive section-by-section analysis of the small business lending portion of the bill that can be viewed [here](https://www.rubio.senate.gov/public/_cache/files/1403f003-1cbf-4d18-a772-5c9c9a7224ba/C65DAE0A12A4FA6AD54AE8CDC94843B6.small-business-title-section-by-section-12.21-final.pdf).

**Employee Retention Tax Credit**

Federal credit unions are not-for-profit financial cooperatives and considered instrumentalities of the federal government under the Federal Credit Union Act. For tax purposes, they are classified with other instrumentalities under Section 501(c)(1) of the Internal Revenue Code. The CARES Act and the Families First Coronavirus Response Act included important tax credits related to employee retention, paid sick, and dependent care leave. Unfortunately, these provisions inadvertently excluded federal credit unions from accessing those credits. Section 207(d)(3)(A)(2)(A) of Division EE of the bill permits federal instrumentalities from being able to access the Employee Retention Credit in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The bill did not include language allowing federal credit unions to access the sick and paid leave credit, however. Therefore, only state chartered credit unions remain eligible for that credit.

**Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs)**

This legislation includes $9 billion in urgently needed emergency capital investments in CDFIs and MDIs to support lending in low-income and underserved communities. Also included in the bill is $3 billion in direct emergency funding to the CDFI Fund to respond to the economic damage left in the wake of the COVID-19 pandemic. CFDI and MDI credit unions are eager to leverage these resources to help advance their communities and improve the financial well-being of their members during and after this crisis.

**Tax Extenders**

The bill extends through 2025 the provision to make forgiven mortgage debt not subject to income tax. Also, another crucial provision extends through 2021 the deductibility of mortgage insurance premiums. These provisions will help ensure the stability of the housing market during this challenging time.

**Current Expected Credit Losses (CECL) Accounting Standard Delay**

The legislation delays implementation of the CECL accounting standard for one year, until January 1, 2022.

**Fiscal Year 2021 Omnibus Appropriations**

The annual (Fiscal Year 2021) appropriations portion of the bill provides funding for credit union priorities, along with committee report language of interest to credit unions, including:

**Community Development Financial Institutions Fund and Community Development Revolving Loan Fund**

The CDFI Fund and the Community Development Revolving Loan Fund (CDRLF) are important programs that facilitate credit unions’ improving their members’ financial well-being and advancing their communities. In addition to the funds specific to the COVID crisis mentioned previously, the legislation includes $270 million for the CDFI Fund and $1.5 million for the CDRLF for the remainder of the fiscal year, until September 30, 2021.

**House Appropriations Report Language**

**Payments Security**

Language was included in the Homeland Security Appropriations bill report that directs the Cybersecurity and Infrastructure Security Agency (CISA) to do a risk assessment “on vulnerabilities in U.S. payments systems, including point of sale and online purchase systems, vulnerable to data breaches. CISA shall make an unclassified version of the assessment publicly available to help inform businesses and consumers.” The findings of the report will help credit unions educate federal lawmakers as it relates to the need for commonsense data security and data privacy legislation.

**Postal Banking**

Finally, language was included in the report accompanying the House-passed Financial Services and General Government Appropriations bill that encourages the United States Postal Services to carry out pilot programs to expand its postal banking services. America’s credit unions were created to promote thrift and provide access to credit for provident purposes. Rather than relying on the postal service to enter a complicated and highly regulated market, Congress ought to encourage and facilitate credit unions expanding service to more Americans. We will work to educate delegation members on this issue and discourage expansion of postal banking.