



American Share's Guide to the Coronavirus, Aid, Relief, and Economic Security Act
The C.A.R.E.S. Act (H.R. 748) - Signed into Law on Friday, March 27, 2020
As of March 30, 2020

Paycheck Protection Program

The Paycheck Protection Program created under Section 1102 of the C.A.R.E.S. Act (hereafter the "Act") funds \$350 billion for loans to qualifying small businesses (under 500 employees) that effectively become grants if those loans are used to keep workers on the payroll, make rent and mortgage payments, or pay utilities. See also Sections 1106 and 1109 for more details.

Q1: Are privately insured credit unions able to participate in the Government's new Paycheck Protection Program to help small businesses through these tough times?

A1: Yes, privately insured credit unions can definitely participate in the Act's Paycheck Protection Program (PPP).

First, Section 1109 of the Act, which gives all federally insured financial institutions the right to participate (Section 1109(a)), also empowers the PPP's Administrator, the United States Treasury, the authority to include "other lenders...to participate in the paycheck protection program to provide loans under this section until the date on which the national emergency...expires." [Section 1109(b)]

Also, Section 1109(g) states that: "Lenders qualified to participate as a lender under 7(a) of the Small Business Act (15 U.S.C. 636(a)) may elect to participate in the paycheck protection program..." as well, since most of the dialogue addressing the PPP encompasses the Small Business Administration and many of their other loan programs and services. So if you are a privately insured credit union that is already an approved SBA Section 7(a) lender, you can "opt-in" to the PPP.

If you are not such an approved lender, American Share has retained the services of an independent entity (at no cost to our member credit unions) that is seasoned in soliciting the SBA's approval of privately insured credit unions in less than 45 days. Your credit union's ASI staff contact or Regional Sales Manager will be happy to discuss this with you or your staff, or you may reach out directly to ASI's Vice President of Examination and Insurance, kloose@americanshare.com, for more information.

Q2: Can we start today to seek guarantees for loans made on member business accounts?

A2: No. Not yet.

The US Treasury is required under the Act to prepare rules governing all the conditions imposed upon lenders, the loans and the borrowers (Sections 1109(c), (d) and (e)); and while we think that should not be slow in forthcoming, the Treasury is also cutting \$1,200 checks to millions of U. S. citizens and families that are out of work that qualify for this relief check -- the consumer powerhouse of this Act -- while overseeing a now-delayed tax return filing process. They have quite an assignment to say the least. Also, if you are an SBA approved 7(a) lender and you have made a loan to another qualifying small business, or that business has applied for such a loan during the period February 15, 2020 and December 31, 2020, the borrower's rights to a PPP loan could be denied (Section 1109(f)). We are confident rules and guidance will follow soon from the Treasury.

Unlimited Federal Share/Deposit Insurance on Noninterest-Bearing Transaction Accounts

Q3: I understand that the NCUA Board has been empowered under the Act to establish share insurance without limitation on certain federally insured share accounts. That would put our credit union at a market disadvantage. What should we tell our members?

A3: Tell your members that their “noninterest-bearing transaction” accounts with your credit union are also insured without limit, the same as federally insured accounts are at credit unions and banks.

Section 4008(b) of the Act allows the NCUA to “...increase to unlimited, or such lower amount as the Board approves, the share insurance coverage provided by the National Credit Union Share Insurance Fund in any noninterest-bearing transaction account, without exception, provided that any such increase shall terminate not later than December 31, 2020.”

Please note that this is not the first time this coverage increase has occurred. In October 2008, federal deposit insurance coverage was elevated to \$250,000 as well as unlimited coverage was afforded certain transaction accounts to calm the nerves of depositors, especially, business depositors. As a result, in 2014 management and the ASI Board successfully amended our governing statute in Ohio (and your insurance policy) to ensure that ASI’s primary share insurance coverage would always match in amount - and exceed in reach -- that of federal share insurance. Our governing statute, O.R.C. 1761.09(A), now reads as follows:

“Each credit union share account of an individual member, or,.... a nonmember of a participating credit union shall be guaranteed in amounts established from time to time by the share guaranty corporation. Such primary guaranteed amount shall not be less than the amount of the credit union share account but, in no event, shall exceed two hundred and fifty thousand dollars or the primary guaranteed amount insured by the national credit union administration, whichever is greater.” [Emphasis added.]

Based on the last sentence of our law above, you can now tell your members that your credit union not only matches this change in coverage on noninterest bearing transaction accounts, but also insures each and every other account they hold with you to \$250,000; whereas, federal share insurance (current issue excluded) only insures the member to \$250,000 on the collective balance in their principal regular shares, share draft and MMA accounts.

Private share insurance is a better value in these trying times!

Temporary Relief from Troubled Debt Restructuring

Q4: We heard that federally insured credit unions can suspend the requirements of Generally Accepted Accounting Principles for loan modifications related to the coronavirus that would otherwise be categorized as Troubled Debt Restructuring, or TDRs. Will privately insured credit unions be afforded the same relief?

A4: Absolutely, yes you will!

Since the NCUA added their very narrow description of credit unions to the draft legislation last weekend, ASI has fought to have it corrected to read “all credit unions,” as it should have, and our efforts will continue during the markup this week of the “fourth” coronavirus bill (the corrections bill). More importantly, this past week, the Financial Accounting Standards Board (FASB), the accounting policy control board for America’s CPAs, went public in a statement indicating they would follow the forbearance set forth in the Act which is to start “...March 1, 2020 and ending on the earlier of December 31, 2020, or the date that is 60 days after the date on which the national emergency concerning the novel coronavirus.....terminates.”

On March 22, 2020, the collective group of all the key federal regulators released their “Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Consumers Affected by the Coronavirus,” stating in part that they “...will not direct supervised institutions to automatically categorize all COVID-19 related loan modifications as troubled debt restructurings (TDRs).” They went on to state that: “The agencies will not criticize financial institutions that mitigate credit risk through prudent actions consistent with safe and sound practices,” in turn “...encouraging financial institutions to assist borrowers in times of natural disaster.” While we have yet to receive a unified statement from the National Association of State Credit Union Supervisors, American Share is confident that it will be forthcoming.

As importantly, the Interagency statement went on to say that our nation’s federal agencies had confirmed with the “...Financial Accounting Standards Board (FASB) that short-term modification made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief, are not TDRs.”

For the record, American Share will follow the guidance of the FASB and federal and state regulators to make every effort to work with our member credit unions to follow a similar practice of forbearance and cooperation in how loan modifications, tied to COVID-19, will be handled in the months ahead.

Please watch for more information as this critical legislation progresses into rulemaking and through corrections over the weeks ahead. Our staff contacts and Regional Sales Managers have all been instructed to aid you, your management team, board of directors and members in any way they can.

ASI is here as your business partners, please take advantage of this special relationship during this tough times.

Sincerely,

DENNIS R. ADAMS
President/CEO
March 30, 2020