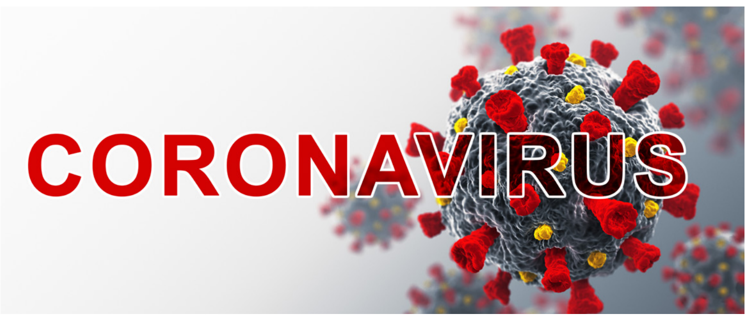
JUNE 18, 2020 COVID-19 PANDEMIC REGULATORY UPDATES FOR FINANCIAL INSTITUTIONS



CFPB and CSBS Issue Joint Statement Regarding CARES Act Mortgage Loan Forbearances

To guide homeowners with federally backed loans through the process of obtaining mortgage relief, the Consumer Financial Protection Bureau (CFPB) and the Conference of State Bank Supervisors released a Consumer Relief Guide with borrowers' rights to mortgage payment forbearance and foreclosure protection under the federal CARES Act.

In the statement earlier this month, the CFPB and CSBS first summarize the forbearance provisions of the CARES Act and provide links to guidance that they and other agencies have issued. They then address the permissibility of certain specific actions.

Forbearance Period Shorter than 180 Days: The CARES Act provides for an initial forbearance period of up to 180 days if a borrower request a forbearance and affirms a financial hardship due, directly or indirectly, to the COVID-19 emergency. In the joint statement, the CFPB and CSBS refer to the required affirmation as an attestation. The CFPB and CSBS advise that servicers can grant a forbearance term of less than 180 days at the borrower's request or with the borrower's consent. Servicers must default to the forbearance term requested by the borrower, not to exceed 180 days, if the servicer and borrower cannot agree on a term, or communication with the requesting borrower is not possible. If the borrower agrees to an initial forbearance term of less than 180 days, the servicer must extend the term unless the borrower agrees to no extension, and no further attestation of financial hardship may be required. The CFPB and CSBS also caution as follows when a servicer implements a forbearance term of less than 180 days with the borrower's consent: "The servicer's board of directors and management must provide the additional resources necessary to continue forbearance as required under the CARES Act. In order to be responsive to borrowers and to ensure compliance with law, management should assess its ability to adequately perform under shorter, incremental forbearance periods, including any supplemental systems or human resources needed."

No Information or Proof from Borrower. The CFPB and CSBS confirm that a servicer may not require any information from a borrower supporting the request for a forbearance, and that borrowers do not need to prove a hardship. However, a servicer may work with a borrower to better understand their situation provided that "(i) borrowers are not misled about the requirements of, or

dissuaded from proceeding with, a CARES Act forbearance if they have a COVID-related hardship and (ii) any information obtained from the borrower has no bearing on the servicer's provision of a CARES Act forbearance." Although not noted in the joint statement, Fannie Mae and Freddie Mac have developed scripts for discussing forbearance options with borrowers.

Borrower Entitled to Forbearance. For a borrower that meets the conditions for a CARES Act forbearance, the CFPB and CSBS make clear that a servicer may not determine that a borrower does not need a forbearance or limit the amount of the forbearance that is given, regardless of the delinquency status of the borrower.

No Steering of Borrowers Away from a Forbearance. The CFPB and CSBS note that some servicers are steering borrowers away from requesting a forbearance and state as follows: "The CARES Act dictates that forbearance must be granted upon request by an attesting borrower. Bank Examiners will evaluate communications between borrowers and their servicers, including the servicer's communication of repayment options for legal compliance or resulting consumer harm. A servicer that offers very limited repayment options when others are reasonably available could, depending on the facts and circumstances, be at risk of legal violation or causing consumer harm."

No Discouraging Borrowers from Requesting a Forbearance. Finally, the CFPB and CSBS address the use of loan closing attestations that are designed to discourage borrowers that subsequently experience a COVID-19 related hardship from requesting forbearance: "Examiners will evaluate originator communications with borrowers for legal compliance or causing consumer harm. An originator that misleads a borrower concerning her rights under the CARES Act could, depending on the facts and circumstances, be at risk of committing a legal violation or causing consumer harm."

READ THE GUIDE

U.S. Small Business Administration

SBA Streamlines PPP Forgiveness Applications for Many PPP Borrowers

The Small Business Administration today released a three-page "EZ" Paycheck Protection Program loan forgiveness application requiring less documentation and fewer calculations than previously required. Form 3508EZ applies to borrowers who meet any one of these three criteria:

- Applied for the PPP loan as self-employed, an independent contractor or a sole proprietor with no employees.
- Did not reduce salary or wages for any employee by more than 25% and did not reduce the number or hours of their employees (excepting laid-off employees who refused an offer to return).
- Did not reduce salary or wages for any employee by more than 25% during the covered period and experienced reductions in business activity as a result of health directives related to COVID-19.

The streamlined forgiveness form is expected to smooth the forgiveness application process for a substantial portion of PPP borrowers. SBA also updated the regular Form 3508 to reflect recent changes made by Congress in the PPP Flexibility Act and issued a new interim final rule that implements changes made by the PPPFA.

DOWNLOAD FORM 3508EZ
DOWNLOAD THE INSTRUCTIONS FOR FORM 3508EZ
DOWNLOAD THE REVISED FORM 3508
DOWNLOAD THE INSTRUCTIONS FOR THE FORM 3508

Share of Mortgage Loans in Forbearance Levels out at 8.55%

The Mortgage Bankers Association's latest Forbearance and Call Volume Survey said loans now in forbearance increased just slightly, to 8.55% of servicers' portfolio volume as of June 7 compared to 8.53% the prior week. MBA now estimates 4.3 million homeowners are in forbearance plans.

The movement in the share of loans in forbearance varied by investor type. The share of Fannie Mae and Freddie Mac loans in forbearance dropped by 2 basis points to 6.38%. Ginnie Mae loans in forbearance held steady at a share of 11.83%, while the forbearance share for portfolio loans and private-label securities increased to 10.18%. The percentage of loans in forbearance for depository servicers rose to 9.24%, and the percentage of loans in forbearance for independent mortgage bank servicers increased to 8.43%.

"Results from the first week of June showed a slight uptick in the overall share of loans in forbearance, but this increase was primarily driven by a larger share of portfolio and PLS loans in forbearance," said Mike Fratantoni, MBA Senior Vice President and Chief Economist. "Half of the servicers in our sample saw the forbearance share decline for at least one investor category. Although there continues to be layoffs, the job market does appear to be improving, and this is likely leading to many borrowers in forbearance deciding to opt out of their plan."

Fratantoni added with June mortgage payments due, servicers did report the first increase in forbearance requests in two months. "The level of forbearance requests is still quite low, but there was a noticeable increase in call volume over the course of the week," he said.

Key Report Findings for Week of June 1 - 7

	Week of June 1 - 7	Week of May 25 - 31
Total Loans in Forbearance	8.55%	8.53%
Ginnie Mae Loans	11.83%	11.83%
Fannie and Freddie Loans	6.38%	6.40%
Other (Private, Portfolio Loans)	10.18%	10.03%
Forbearance Requests as % of portfolio	0.19%	0.17%
Weekly Servicer Call Center Volume:		
Average Speed to Answer	1.8 minutes	1.6 minutes
Hold Times	5.0 minutes	5.0 minutes
Abandonment Rate	6.0%	5.2%
Average Call Length	7.3 minutes	7.1 minutes

Report findings based on nearly 76% of first-mortgage servicing market (38.2 million loans).

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Fannie, Freddie Foreclosure Moratoriums Extended through August

The Federal Housing Finance Agency is extending its foreclosure and eviction moratorium for loans backed by Fannie Mae and Freddie Mac until at least August 31 to protect borrowers and renters during the coronavirus pandemic.

Previously the moratorium was set to expire June 30. It is the second time the agency has pushed back the moratorium, which was originally set to last until May 17. The Federal Housing Administration also indicated that it would join FHFA in extending its foreclosure and eviction moratorium until August 31.

"During this national healthy emergency, no one should worry about losing their home," FHFA Director Mark Calabria said in a press release.

READ FHFA PRESS RELEASE
READ FHA PRESS RELEASE

Main Street Lending Program Opens for Business

The Federal Reserve, after spending three months designing the Main Street Lending Program (MSLP), has invited financial institutions to register so they can begin lending immediately. The program offers up to $600 billion in loans to businesses with up to 15,000 employees or with up to $5 billion in revenue. The program is aimed at companies too large to qualify for the Paycheck Protection Program and might be expanded to include nonprofits. Minimum loan size is $250,000 with a maximum term of five years with the option of delaying principal payments for two years.

REGISTER TO BECOME AN MSLP LENDER
ACCESS MSLP FORMS AND AGREEMENTS
READ THE PROPOSAL ON NONPROFITS

States Halting Repossessions During COVID-19

Ten states have acted during the COVID-19 emergency through guidance or order to halt repossession of personal property, including vehicles purchased through secured loans.

Alaska SB 241 / Chap. 10 : Effective until 6/30 or until public health emergency ends.

Arizona Attorney General Attorney General Request to Lenders: Issued 3/19 for 90 days.

District of Columbia B23-0757/Act A23-0326: Effective until 8/27.

Illinois Executive Order 2020-16: Issued 3/26 and for duration of Gubernatorial Disaster Proclamation.

Maryland Executive Order 20-04-03-01: Effective 4/3 until end of State of Emergency.

Massachusetts Regulation: Effective 3/27 for 90 days or end of State of Emergency, whichever is earlier.

Nevada Financial Institutions Division Letter to Licensees: Issued 3/17 and effective until termination.

New Mexico Public Regulation Commission Letter: Issued 4/14 and effective during Stay at Home order (classifies towing services for re-possession as non-essential effectively banning repossessions).

Texas Office of the Consumer Credit Commissioner Emergency Measures: Revised 5-15 and effective until 6/30.

Federal Reserve Board Will Resume Examination Activity

The Federal Reserve Board on Monday announced that it will resume examination activities for all its banks, after previously announcing a reduced focus on exam activity in light of the coronavirus response.

In March, the Board announced that it would focus on outreach and monitoring in light of the coronavirus response measures and temporarily reduce exam activity, with the greatest reduction for smaller banks. Since that time, banks have had time to implement contingency operating plans and adapt their operations, so exam activity will resume.

The Board anticipates that exams will continue to be conducted offsite until conditions improve and will continue to work with banks to understand and specific issues they may be facing.

READ STATEMENT

Consumer Financial Protection Bureau

CFPB Publishes FAQs on Consumer Reporting Obligations During Pandemic

The Consumer Financial Protection Bureau published a set of frequently asked questions regarding a previous statement about financial institutions' reporting obligations under the Fair Credit Reporting Act during the coronavirus pandemic. The CARES Act amended the FCRA to provide that credit furnishers that agree to defer payments, forbear on any delinquent credit or account or provide any other relief to consumers during the national emergency must report that account as current to consumer reporting agencies

READ THE FAQS

FDIC
FEDERAL DEPOSIT INSURANCE CORPORATION

Banks Reported Reduced Profitability but Strong Loan Growth 1st QTR 2020

FDIC-insured banks and savings institutions earned $18.5 billion in the first quarter 2020, a 69.6% decline from the previous year. The decline reflected the sharp economic downturn that took place as the coronavirus pandemic began in the U.S., causing an increase in loan loss provision expenses and goodwill impairment charges.

Among the 5,116 FDIC-insured institutions, net interest income fell by $2 billion, or 1.4% from a year before. Meanwhile, noninterest income rose 23%, with almost two-thirds of banks reporting an increase. While noninterest expense increased $13.6 billion, or 11.8%, in the first quarter, the increase was driven by $8.4 billion in impairment charges at a few institutions. Average return on assets fell from 1.35% in the first quarter of 2019 to 0.38% in the first quarter 2020, and average net interest margin fell 29 basis points to 3.13%.

Community banks earned $4.8 billion, a 20.9% decline from the same period last year. Loan loss provision expenses at community banks tripled year-on-year, which constrained profitability even as net operating revenue increased. Meanwhile, loan growth at community banks held steady at 5.8%, despite deteriorating economic conditions.

FDIC Chairwoman Jelena McWilliams stated, "The FDIC was born out of a crisis, and we now find ourselves in the midst of another unprecedented period. During the last month of the first quarter, the COVID-19 pandemic led governments across the world to take emergency actions, including widespread stay-at-home orders that temporarily shut down large portions of the global economy. The attendant economic downturn, illustrated by the 5 percent decrease in U.S. GDP during the first quarter, adversely affected several industry sectors and financial markets. In spite of these anomalous shocks, the banking industry has proven to be a source of strength for the economy. Although bank earnings were negatively affected by increases in loan loss provisions, banks effectively supported individuals and businesses during this downturn through lending and other critical financial services. Loans and deposit inflows increased dramatically, reflecting drawdowns on corporate lines of credit and the flight to liquid assets during the market volatility. Notwithstanding these disruptions, at the end of the first quarter, bank capital and liquidity levels remain strong, asset quality metrics are stable, and the number of 'problem banks' remains near historic lows."

READ THE REPORT