



COVID-19 Roundtable

April 2, 2020

PRESENTED BY:

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Joining the Discussion

⚓ Log in to the **Webinar FIRST**. Then call into the session with the information in the “Audio” section of your webinar panel including your **PIN**.

⚓ **You may also select computer audio. You will need to have an active microphone if you wish to speak.**

⚓ Please “raise your hand” to be unmuted to speak.

⚓ Then **just speak** after the presenter has acknowledged you.

⚓ **Note: This session is being recorded.**



COVID-19 PAYMENT DEFERMENT POINTERS



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EXISTING LOANS AND COVID-19

- Loan Modification?
- Forbearance?
- Refinance?
- Payment Deferral ?
- Commercial vs. Consumer vs. Residential Mortgage
- Open-End vs. Closed-End

Compliance Considerations

- **Loan Modification**

This is used to modify the terms of an existing loan without requiring a new note (which would trigger a Refinance). Every Forbearance Agreement and Payment Deferral Agreement are a form of Loan Modification.

Compliance Considerations

- **Forbearance Agreement**

This is used when the Lender is “forbearing” taking actions that we could take.

“Forbearing” – to refrain or abstain from; desist from

This is used when the borrower is in default and this is part of a workout.

Compliance Considerations for Refinances (and new loans)

- **Refinance**– Paying off and replacing an existing loan

Residential Mortgage Refis – QM/ATR, Underwriting, Exception approval and tracking, TRID, etc. Disclosures

All Refi improved real estate-secured loans – Flood requirements, Appraisal requirements

All Refi loans – Underwriting, Exception approval and tracking, Consistency

Will payments be deferred on the new refinance? Will this be built into the loan terms?

Compliance Considerations

- **Payment Deferral** – Putting off payments

P&I

Principal Only

Interest Only (HELOCs, Lines of Credit)

Escrow???

-Consumer, Mortgage, and Commercial

-Closed-End and Open-End

Compliance Considerations

- **Payment Deferral Loan Modification**

- 1) **Decide on the Program(s) for each Product**

Options must be offered to all, KISS

- 2) **Every borrower needs to be informed of their right to request the Loan Modification if they have been negatively impacted by the COVID-19 emergency**

- 3) **Document borrower request for relief – this is a Reg B request that triggers the 30-day timing requirement**

Compliance Considerations

- Snail mail, Email, Web Site, Calls(?)
- Right to Request, simple application form
- How will the application be submitted? (Drive-up, Night Depository, Printed and scanned and signed and emailed back, Electronically signed if disclosures are in place, by Telephone?)
- Is the Request/Application required to be signed? If not, include their attestation in the Agreement.



Compliance Considerations

- **Payment Deferral Loan Modification** (continued)

4) Why underwrite? Why collect income info? Why pull a CB? This is an emergency. If the loans is not more than 30 days past due (as of the date of their request), this is not a TDR. Consider loans > 30 days past due.

Compliance Considerations

- **Payment Deferral Loan Modification** (continued)

5) The Loan Modification Agreement must spell out all terms and changes:

- How many payments are deferred?
- What payments are deferred (Interest, Principal, P&I, Escrow)?
- What payments still must be made and how will they be billed/paid?
- Is there an option to extend? If so, how, when, and up to how long?

5) The Loan Modification Agreement must spell out all terms and changes (continued):

- What happens to the amount deferred?
- Balloon payment verbiage may be triggered.
- Will the loan maturity date be extended?
- Will it be put in a fee bucket that balloons at maturity or will there be installments (so that interest is not charged on it)?
- Will it cause more interest to accrue and potentially affect payoff?
- Will interest be charged on interest?
- Will escrow payments waived be calculated into the analysis and potentially cause a shortfall? (Consider a one-month cushion)

Payment Deferral Loan Modification (continued)

- 6) Balloon payments may be the quickest and easiest way to go for now but will need to be addressed later**
- 7) Consider DOT expiration date when extending maturity-know if this will create a brief unsecured period**
- 8) HELOCs – Consider pushing interest only payments to the repayment period and amortize with principal. Think twice before freezing ANY Line.**

Payment Deferral Loan Modification (continued)

9) The signed Agreement legally modifies the loan

- **No late fees during deferment period**
- **No late payment reporting to CB**

Payment Deferral Loan Modification (continued)

10) Set review date to determine if any additional action is needed

11) Code these loans to identify the modifications as COVID-19

12) Commercial loans have SBA vs. tax deferral options and state programs

COVID-19 RELIEF PROGRAMS

- **Include Compliance in the Team making decisions**
- **There are many lurking compliance issues in the who, what, when, and how of these Programs (UDAAP, Reg B, Advertising, etc.)**
- **Identify the known and unknown and what these are based on**
- **What is the likely outcome based on current information?**
- **Make decisions for now but preserve flexibility for the future**
- **Be optimistic**

POLLS

- ⚓ What are doing in reference to Overdraft fees?
- ⚓ How are you reporting loan forbearance or deferment payments to the CRAs?
- ⚓ What type of protection are you providing for drive-thru tellers who are customer facing and essentially on the front lines?
- ⚓ Do you have a protocol for changing the masks or gloves?
- ⚓ Are you offering or considering “combat pay” in the form of an hourly increase or bonus?
- ⚓ How are you handling safe deposit box traffic?
- ⚓ How are lenders handling stock secured loans that will be repricing and the collateral will probably be deficient?

POLLS

- ⚓ Is your FI sending Adverse Action Notices in those rare instances where a modification or deferment request is declined?
- ⚓ What documentation are you requiring from borrowers as proof they've been impacted by COVID-19?
- ⚓ When making the determination that a borrower has been impacted by COVID-19 do you consider liquid funds?
- ⚓ Is your institution planning on offering Payroll Protection Program loans?
- ⚓ If we have an Insider apply for the SBA Paycheck Protection Program, is it considered a covered transaction under Regulation O?

Joint Agencies

- ⚓ The regulators have issued a joint statement encouraging financial institutions to offer responsible small-dollar loans to consumers and small businesses in response to COVID-19
- ⚓ Such loans can be offered through a variety of structures including open-end lines of credit, closed-end installment loans, or appropriately structured single payment loans
- ⚓ In addition, the agencies are working on future guidance and lending principles for responsible small-dollar loans

[Joint Statement](#)

Joint Agencies

⚓ The Federal Financial Institutions Examination Council announced a 30-day extension for institutions for the Call Report due on March 31

⚓ Banks anticipating a delayed filing should notify their primary regulator in advance

[FFIEC Release](#)

⚓ The FDIC Announces a 30-Day Grace Period for the Call Report for the First Quarter of 2020

[FIL-28-2020](#)

CFPB

⚓ The CFPB has announced that it is postponing the following data collections:

- Quarterly information reporting by certain mortgage lenders as required under the Home Mortgage Disclosure Act (HMDA) and Regulation C
- Reporting of certain information related to credit card and prepaid accounts under the Truth in Lending Act, Regulation Z, and Regulation E
- The survey that seeks information on the cost of compliance in connection with pending rulemaking on Section 1071 of the Dodd-Frank Act

[CFPB Notice](#)

FDIC

⚓ FDIC FIL-29-2020

- All FDIC employees are now engaged in mandatory telework through at least April 12
- Supervisory and other FDIC activities at financial institutions will be conducted off-site for an additional two weeks through April 12. The FDIC will evaluate the necessity of continuing off-site work as we approach April 12.
- Institutions that may have limited ability to respond to normal supervisory requests should contact their Examiner-in-Charge or Regional Director to coordinate the timing of any response.

[FIL-29-2020](#)

FDIC

⚓ During this period of national emergency, the FDIC is encouraging financial institutions and other parties to use alternative procedures to send the agency official mail related to supervisory matters and to use secure email to send official supervisory correspondence

[FIL-27-2020](#)

⚓ The FDIC will not take supervisory action against any IDI for submitting its Part 363 Annual Report or its written notification of late filing as long as the annual report or notification of late filing is submitted within 45 days of the 90- or 120-day report filing deadline

⚓ Encourages IDIs to contact the FDIC in advance of the official filing date if the IDI anticipates a delayed submission

[FIL-30-2020](#)

Federal Reserve

- ⚓ The Fed announced that it will not take action against a financial institution with \$5 billion or less in total assets for submitting its March 31, 2020, 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) after the official filing deadline, as long as the applicable report is submitted within 30 days of the official filing due date
- ⚓ Institutions are encouraged to contact their Reserve Bank:
 - In advance of the filing deadline if they anticipate a delayed submission
 - If they anticipate difficulty in submitting their reports within the 30 days following the official filing due date, or experiencing challenges in obtaining director attestations

[Federal Reserve Release](#)

NCUA

- ⚓ All NCUA examinations will take place offsite through May 1, 2020
- ⚓ The NCUA will reevaluate this approach through the duration of the pandemic and will notify credit unions of any changes to the procedures contained in this notice
- ⚓ Field staff will prioritize those credit unions experiencing significant financial or operational problems in our supervision efforts.
- ⚓ Examiners will contact each credit union periodically to discuss the institution's operational and financial status,
- ⚓ The letter outlines key procedures for how the NCUA will conduct examinations during the pandemic

[20-CU-05](#)

NCUA

- ⚓ Federally insured, low-income-designated credit unions can request grants and loans from the National Credit Union Administration to assist members, businesses, and communities experiencing economic hardships due to the COVID-19 pandemic
- ⚓ Eligible credit unions may apply for the COVID-19 Emergency Response grants or loans now through May 22 using the NCUA's [CyberGrants portal](#)

[Press Release](#)

Fannie Mae

⚓ Fannie Mae has updated Lender Letters LL-2020-03 and LL-2020-04:

- LL-2020-03 - added temporary requirements on these loan origination policies: age of documentation; verification of self-employment; market-based assets; powers of attorney; remote online notarization; and lender quality control requirements

[Updated LL-2020-03](#)

- LL-2020-04 - provides additional temporary guidance on appraisal requirements, including flexibilities for new construction loans and Homestyle[®] Renovation loans

[Updated LL-2020-04](#)

New York

- ⚓ The Governor of New York issued Executive Order 202.9 on March 21 declaring that it will be an unsafe and unsound business practice if, in response to the pandemic, **any bank which is subject to the jurisdiction of the NYDFS** shall not grant a forbearance to any person or business who has a financial hardship as a result of the COVID-19 pandemic for a period of ninety days and directed NYDFS to issue regulations
- ⚓ The NYDFS has issued emergency regulations which require these institutions to:
 - Eliminate any overdraft fees
 - Make applications for forbearance of any payment due on a residential mortgage of a property located in New York, widely available to any individual who resides in New York and who demonstrates financial hardship as a result of the COVID-19 pandemic

New York

- Grant such forbearance for a period of ninety days subject to safety and soundness requirements
 - Eliminate fees charged for the use of automated teller machines (“ATMs”) that are owned or operated by the regulated banking organization
 - Eliminate any credit card late payment fees
 - As soon as reasonably practicable, and in no event not later than ten (10) business days following the promulgation of the regulation, e-mail, publish on their website, mass mail, or otherwise similarly broadly communicate to customers how to apply for COVID-19 relief and provide their contact information
- ⚓ The regulation also contains rules on how Applications for COVID-19 Relief are to be processed

[Governor's Order](#)
[Regulation](#)

State Issues - Notaries

- ⚓ Pennsylvania has provided a limited suspension of in-person requirements for:
 - Personal real estate transactions already in process
 - Commercial real estate transactions already in process as well as new transactions during the emergency period
- ⚓ All notaries using audio-visual technology as an alternative to personal appearance must the requirements set out in the temporary order

[PA Notary Issuance](#)

- ⚓ Maryland issued guidance to notaries on the use of communications technologies that permit the notary to see and hear the person signing a document in real time

[Order of the Governor](#)

State Issues

⚓ Massachusetts has enacted an emergency debt collection regulation to protect consumers from unfair and deceptive debt collection by all creditors that collection that prohibits a number of collection actions

[Emergency Regulation](#)

CARES ACT

- ⚓ 4013 - A financial institution may elect to suspend the requirements under GAAP principles for loan modifications related to COVID-19 that would otherwise be categorized as TDRs
 - Only loans that are not more than 30 days past due as of December 31, 2019 are eligible
 - Does not apply to any adverse impact on the credit of a borrower that is not related to the COVID-19 emergency
- ⚓ Effective beginning March 1, 2020 and ending on the earlier of December 31, 2020, or the date that is 60 days after the end of the emergency

CARES ACT

- ⚓ 4021 - Amends 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 the account as current to consumer reporting agencies
 - If the credit or account was delinquent before the accommodation was made, the furnisher must continue to maintain the same delinquent status while it is in effect
- ⚓ Effective beginning January 31, 2020 and ending on the earlier of December 31, 2020, or the date that is 120 days after the end of the emergency

CARES ACT

- ⚓ 4022 - Any borrower with a federally backed mortgage (e.g., Fannie, Freddie, VA, FHA, USDA) may request forbearance for up to 180 days, which may be extended for another 180 days if the borrower requests
- ⚓ Servicers are restricted from assessing penalties, fees or extra interest during the forbearance period and may not initiate judicial or non-judicial foreclosure process or move for foreclosure judgments for not less than the 60-day period beginning on March 18, 2020
- ⚓ Effective upon enactment through the end of the emergency
 - Foreclosure Moratorium applies to 60-day period beginning on March 18, 2020
- ⚓ Limited to guaranteed or insured loans; no impact on portfolio lenders

CARES ACT

- ⚓ 4023 - Owners of apartment buildings (5+ units) can also seek forbearance on federally backed mortgages for 30 days with up to two 30-day extensions, provided:
 - Borrowers are current on payments as of February 1, 2020
 - Borrowers agree that they will not evict tenants or charge late fees
 - Servicers document borrower's hardship
- ⚓ Effective upon enactment through the earlier of the end of the emergency or December 31, 2020
- ⚓ Limited to guaranteed or insured loans; no impact on portfolio lenders

ask the Regulators



Regulators

⚓ Regulators General Covid-19 Information Pages

- [OCC Information Page](#)
- [FDIC Information Page](#)
- [Federal Reserve Information Page](#)
- [NCUA Information Page](#)

Federal Issuances

Updated March 31, 2020	OCC	<u>Coronavirus Disease 2019 (COVID-19) Frequently Asked Questions for National Banks and Federal Savings Associations</u>
March 27, 2020	FDIC	<u>FDIC employees in all FDIC facilities are engaging in mandatory telework through at least April 12</u>
Updated March 27, 2020	CFPB	<u>CFPB Resources for Consumers</u>
March 27, 2020	FDIC FIL-30-2020	<u>Additional information and guidance to insured depository institutions subject to part 363 Annual Reports</u>

Federal Issuances

March 27, 2020	FDIC FIL-30-2020	<u>Additional information and guidance to insured depository institutions subject to part 363 Annual Reports</u>
March 2020	NCUA	<u>Offsite Examination and Supervision Approach</u>
March 26, 2020	Fed.	<u>Federal Reserve offers regulatory reporting relief to small financial institutions affected by the coronavirus</u>
March 26, 2020	FDIC FIL-27-2020	<u>Temporary alternative procedures for sending supervision-related mail and email to FDIC</u>
March 26, 2020	CFPB	<u>The CFPB postpones some data collections from on Bureau-related rules</u>
March 26, 2020	Joint	<u>Statement encouraging financial institutions to offer responsible small-dollar loans to consumers and small businesses</u>
March 25, 2020	Joint	<u>30-day extension for institutions for the Call Report due on March 31</u>

Federal Issuances

March 25, 2020	NCUA	<u>Frequently Asked Questions Regarding COVID-19, NCUA and Credit Union Operations</u>
March 22, 2020	Joint	<u>Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus</u>
March 19, 2020	Fed., OCC & FDIC	<u>Joint Statement on CRA Consideration for Activities in Response to the COVID-19</u>
March 18, 2020	FDIC	<u>The FDIC has provided two sets of frequently asked questions, one for financial institutions and one for consumers</u>
March 13, 2020	OCC	<u>Pandemic Planning: Working With Customers Affected by Coronavirus and Regulatory Assistance</u>
March 9, 2020	Joint	<u>Agencies Encourage Financial Institutions to Meet Financial Needs of Customers and Members Affected by Coronavirus</u>

Fannie Freddie

Updated March 31, 2020	Fannie LL-2020-03	Provides reminders and temporary guidance on these loan origination policies: <ul style="list-style-type: none">• Verbal verification of employment• Continuity of income• Notes, electronic records, and signatures• Title insurance• Seller/servicer business continuity and submission of financial statements
Updated March 31, 2020	Fannie LL-2020-04	Temporary guidance on appraisal requirements and completion reports
March 23, 2020	Freddie 2020-05	Temporary guidance related to credit underwriting and property valuation requirements Expansion of the automated collateral evaluation eligibility An extension to the deadline for certain annual reporting requirements

Fannie Freddie

March 18, 2020	Fannie LL-2020-02 Freddie 2020-04	Credit reporting requirements Forbearance plans Loan modifications Foreclosure sale moratorium

States

March 30, 2020	Maryland Notaries	Maryland's guidance on the use of technologies that permit the notary to see and hear the person signing a document in real time
March 25, 2020	PA Notaries	Pennsylvania's limited suspension of in-person requirements for Notaries
March 24, 2020	Emergency Relief Reg.	The NYDFS emergency regulations which require in response to Executive order 202.9
March 21, 2020	Executive Order 202.9	It is an unsafe and unsound business practice if a bank subject to the jurisdiction of the NYDFS does not grant a forbearance those suffering a financial hardship as a result of the COVID-19

Trade Groups

ICBA	Free Webinar: COVID-19 Update & Impact On Community Banking
ICBA	Free Webinar: ICBA Community Bank Briefing Q1: COVID-19 Pandemic
ABA	An alphabetical list of publicly announced steps taken by banks of all sizes to respond to the crisis
ABA	A page containing a range of resources to assist banks (aba.com/coronavirus)
ABA	A frequently asked questions document FAQ's
ABA	The Coronavirus Response Network , discussion group for bankers to engage directly with one another
ABA (members only)	Webinar - operational challenges posted by the pandemic, provides an updated on the current situation and highlights business continuity planning practices for banks
ABA (members only)	Webinar - focuses on managing the operational risk posed by the pandemic, department by department

ACBB Resource Center

⚓ ACBB has also created a resource center located at <https://www.acbb.com/resources/bankers-associations>

ACBB MESSAGE CENTER



Week of March 23, 2020

Upcoming Events

⚓ Log into our website to register for the events listed below: <https://complianceanchor.com/member-login>

- Don't have a login?
- Reach out to us at information@complianceanchor.com

⚓ **Confused on CTRs? You're Not Alone** April 9th from 2:00-3:00 PM EST

⚓ **Common TRID Errors Explained (CRCM Credits Pending)** April 21st from 2:00-3:00 PM EST

⚓ **Cryptocurrency School** 3 CAMS Credits – April 23rd from 1:00-4:00 PM EST. **Compliance Anchor Members get a discount!**

Ever Seen Our Veterans' Venues?

- ⚓ This COVID-19 Roundtable came from a group discussion we had at our last Compliance Veterans' Venue.
- ⚓ Our next **Compliance Veterans' Venue** is April 16th from 2:00-3:00 PM EST and will cover the latest updates on Compliance, COVID-19 and if time, a discussion on Reg. E - Error Resolution and Information Requests.
- ⚓ Our **BSA Veterans' Venue** is on Tuesday, April 7th from 2-3 PM EST. It is all the latest news from the previous month on fraud, virtual currency, cannabis, consent orders, etc. It is a packed session.
- ⚓ **Contact us at information@complianceanchor.com if you have never seen one and would like to join us for either or both!**

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