

# Supplement to the FCA Informational Memorandum Providing Guidance for System Institutions Affected by the COVID-19 Pandemic

## Consumer financial protection

The Farm Credit Administration issued an [informational memorandum on May 4 \(PDF\)](#) to provide guidance to Farm Credit System (System) institutions on issues related to the COVID-19 pandemic. The memorandum includes guidance for working with borrowers affected by the pandemic. It also states that we will provide additional guidance in the form of supplements to the informational memorandum.

This is the fourth supplement to the May 4 informational memorandum. It explains FCA's flexible supervisory and enforcement approach regarding certain consumer financial protection requirements. We are providing this flexibility to help System institutions manage the challenges that COVID-19 may pose to their operations.

### **What is FCA's supervisory and enforcement approach regarding mortgage servicing requirements?**

We will not take supervisory or enforcement action against System institutions that are mortgage servicers for any of the following reasons:

- Delays in sending certain early intervention and loss mitigation notices and taking certain actions related to loss mitigation set out in the mortgage servicing rules, provided the institutions are making good-faith efforts to send these notices and take these actions within a reasonable time
- Failing to provide acknowledgement notices within five days of receipt of incomplete applications for short-term payment forbearance programs or repayment plans, provided the institutions send the acknowledgment notices before the end of the forbearance or repayment period
- Delays in sending annual escrow statements, provided the institutions are making good-faith efforts to send these statements within a reasonable time

Our flexible approach toward supervision and enforcement of these mortgage servicing requirements is similar to the approach of the Consumer Financial Protection Bureau (CFPB) and the other banking regulators, and System institutions should look to their guidance for further information:

- [Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act \(PDF\)](#)
- [Mortgage Servicing Rules FAQs related to the COVID-19 Emergency \(PDF\)](#)

Neither we nor the CFPB and the other regulators have granted any other mortgage servicing relief at this time.

## **What is FCA's supervisory and enforcement approach regarding fair credit reporting requirements?**

In evaluating compliance with the Fair Credit Reporting Act as a result of the pandemic, we will consider an institution's individual circumstances, and we do not intend to cite in an examination or bring an enforcement action against an institution that is making a good-faith effort to investigate disputes as quickly as possible, even if dispute investigations take longer than the statutory timeframe.

This approach is similar to that of the CFPB, and institutions should look to its guidance for further information: [Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act \(PDF\)](#). Neither we nor the CFPB has granted any other fair credit reporting relief at this time.

## **What flexibility exists regarding redisclosure requirements?**

Under Regulation Z, at [12 CFR § 1026.20\(a\)](#), and as further explained at 1026.20(a)-1 of the [Official Interpretations](#), redisclosures are required only if a transaction is a refinancing. A refinancing has occurred if the original obligation has been satisfied or extinguished and has been replaced by a new obligation, according to the contract between the parties and applicable law.

If the transaction is not a refinancing, then Regulation Z does not require redisclosure. However, if a transaction is a refinancing, redisclosure is required. Neither we nor the CFPB has granted relief from redisclosure requirements at this time.

## **What other consumer financial protection relief has FCA granted?**

System institutions should adhere to consumer protection requirements as they work with their borrowers. When we exercise our supervisory and enforcement responsibilities, we will consider the unique circumstances impacting borrowers and institutions resulting from COVID-19. We will also consider an institution's good-faith efforts demonstrably designed to support borrowers and comply with consumer protection laws. We expect supervisory feedback for institutions to focus on identifying issues, correcting deficiencies, and ensuring appropriate remediation to borrowers.

We do not expect to take a consumer compliance enforcement action against an institution provided that (1) the circumstances were related to COVID-19, (2) the institution has made good-faith efforts to support borrowers and comply with the consumer protection requirements, and (3) the institution has responded to any needed corrective action.

This approach is similar to that of the CFPB and the other banking regulators, and institutions should look to their guidance for further information: [Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus \(Revised\) \(PDF\)](#).

## **Whom do I contact for more information?**

If you have any questions regarding this supplement, please contact Jennifer Cohn, Senior Counsel, Office of General Counsel, at 720-213-0440 (cohnj@fca.gov), or Keta Garcia, Senior Compliance Specialist, Office of Examination, at 469-359-4124 (garciak@fca.gov).