Farm Credit Administration

1501 Farm Credit Drive
McLean, VA 22102-5090
(703) 883-4000

INFORMATIONAL MEMORANDUM

July 24, 2020

To: Chief Executive Officer
Each Farm Credit System Institution

From: Roger Paulsen, Director and Chief Examiner
Office of Examination

Subject: COVID-19-related compliance guidance from the Consumer Financial Protection Bureau

This informational memorandum describes an interim final rule (IFR) and guidance issued by the Consumer Financial Protection Bureau (CFPB) related to the COVID-19 pandemic. We are providing this information as a courtesy to keep you informed of issues that may affect your institution.

Interim final rule on loss mitigation options for homeowners recovering from pandemic-related financial hardships

As we discussed in our May 14 informational memorandum (PDF), the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (PDF) provides forbearance relief for borrowers with "federally backed mortgage loans."

On June 23, the CFPB offered additional forbearance relief by issuing an interim final rule to make clear that mortgage servicers will not violate Regulation X by offering certain loss mitigation options during the COVID-19 pandemic to borrowers with incomplete loss mitigation applications. Normally, with certain exceptions, Regulation X would require servicers to collect a complete loss mitigation application before making an offer.

Also, this IFR applies to all homeowner loans — not only to federally backed mortgage loans with payments under the CARES Act — because the CFPB recognized that servicers of residential mortgages that are not federally backed mortgage loans may also be offering payment forbearance programs to their borrowers.

The IFR specifies that the loss mitigation option must meet certain criteria for the servicer to qualify for an exception from the typical requirement to collect a complete application. Among other things, these criteria include the following:

- The loss mitigation option must allow the borrower to delay paying all principal and interest payments that were forborne or became delinquent as a result of a financial hardship caused, directly or indirectly, by the COVID-19 emergency.

- Servicers must not charge any fees to borrowers in connection with the option.
- The borrower's acceptance of the loss mitigation offer must resolve any preexisting delinquency.

The IFR also provides servicers relief from certain requirements under Regulation X that normally would apply after a borrower submits an incomplete loss mitigation application. Once the borrower accepts an offer for an eligible program under the IFR, the servicer need not exercise reasonable diligence to obtain a complete application and need not provide the acknowledgment notice that is generally required under Regulation X when a borrower submits a loss mitigation application.

Servicers still must comply with Regulation X's other requirements after a borrower accepts a loss mitigation offer. For example, if the borrower becomes delinquent again after accepting the offer, the servicer would have to satisfy Regulation X's early intervention requirements. Similarly, if the servicer receives a new loss mitigation application from the borrower, the servicer would have to comply with Regulation X's loss mitigation procedures.

The IFR was published in the Federal Register on June 30, 2020, and took effect on July 1, 2020.

CFPB COVID-19-related compliance guidance

The CFPB issued the following guidance to explain the application and flexibility of certain consumer financial protection requirements in light of the COVID-19 pandemic:

- Consumer Reporting FAQs Related to the CARES Act and COVID-19 Pandemic (PDF)
- CARES Act Forbearance & Foreclosure (PDF)
- The Bureau's Equal Credit Opportunity Act and Regulation B FAQs related to the COVID-19 Emergency (PDF)

You can find the CFPB's COVID-19-related compliance guidance and resources on the CFPB website. Since the CFPB constantly updates this information, you should refer to the website frequently to ensure you have the latest information.

Please note that reviewing this informational memorandum is not a substitute for reviewing the resources provided on the CFPB website. Reviewing this website is part of exercising your due diligence in monitoring issues that may affect your institution.

If you have any questions about this informational memorandum, please contact Jennifer Cohn, Senior Counsel, Office of General Counsel, at (720) 213-0440 or cohnj@fca.gov; or Lynn Major, Senior Examiner, Office of Examination, at (703) 883-4285 or majors@fca.gov.