

Frequently Asked Questions for Financial Institutions Affected by the Coronavirus Disease 2019 (Referred to as COVID-19) – As of May 27, 2020

Working with Borrowers

1. ***Payment Accommodations.* Would it be acceptable for a bank to offer borrowers affected by COVID-19 payment accommodations, such as allowing borrowers to defer or skip some payments or extending the payment due date.**

Yes. The FDIC encourages financial institutions to provide borrowers affected in a variety of ways by the COVID-19 outbreak with payment accommodations that facilitate their ability to work through the immediate impact of the virus. Such assistance provided in a prudent manner to borrowers facing short-term setbacks could help the borrower and a community to recover. The FDIC understands that effective loan accommodation programs may involve protracted resolutions, but all should be ultimately targeted toward loan repayment.

Financial institutions may want to consider addressing any deferred or skipped payments by either extending the original maturity date or by making those payments due in a balloon payment at the maturity date of the loan. When deferring or skipping payments, providing borrowers with accurate disclosures that are consistent with federal and state consumer protection laws will help to avoid any misunderstandings relative to the changes in the terms. Financial institutions can call their FDIC Regional Office, which can assist them by discussing key considerations and regulations on payment accommodations and disclosures.

2. ***Documentation.* What type of documentation should financial institutions maintain relative to providing an accommodation to a borrower affected by COVID-19?**

Financial institutions should maintain appropriate documentation that considers borrowers' payment status prior to being affected by COVID-19, and borrowers' payment performance according to the changes in terms provided by the payment accommodation. Documentation could also include the borrowers' recovery plans, sources of repayment, additional advances on existing or new loans, and value of the collateral.

3. ***Reporting Delinquent Loans.* Do loans that receive payment accommodations have to be reported as delinquent or non-performing?**

Borrowers who were current prior to becoming affected by COVID-19 and then receive payment accommodations as a result of the effects of COVID-19 generally would not be reported as past due. Each financial institution should consider the specific facts and circumstances regarding its payment accommodations for borrowers affected by COVID-19 in determining the appropriate reporting treatment in accordance with generally accepted accounting principles (GAAP) and regulatory reporting instructions. Past due reporting status in regulatory reports should be determined in accordance with the contractual terms of a loan, as its terms have been revised under a payment accommodation or similar program provided to an individual customer or across-the-board to all affected customers. Accordingly, if all payments are current in accordance with the revised terms of the loan, the loan would not be reported as past due.

For loans subject to a payment deferral program on which payments were past due prior to the borrower being affected by COVID-19, it is the FDIC's position that the delinquency status of the loan may be adjusted back to the status that existed at the date of the borrower became affected, essentially being frozen for the duration of the payment deferral period. For example, if a consumer loan subject to a payment deferral program was 60 days past due on the date of the borrower became affected by COVID-19, an institution would continue to report the loan in its regulatory reports as 60 days past due during the deferral period (unless the loan is reported in nonaccrual status or charged off).

4. [As of 4/14/2020] Troubled Debt Restructurings (TDRs). When does a payment accommodation become a TDR?

Modifications of loan terms do not automatically result in TDRs, and, as described below, institutions generally do not need to categorize COVID-19-related modifications as TDRs. According to U.S. generally accepted accounting principles (GAAP), a restructuring of a debt constitutes a TDR if the creditor, for economic or legal reasons related to the debtor's financial difficulties, grants a concession to the debtor that it would not otherwise consider.¹

Under Section 4013 of the CARES Act, banks may elect not to categorize loan modifications as TDRs if they are (1) related to COVID-19; (2) executed on a loan that was not more than 30 days past due as of December 31, 2019; and (3) executed between March 1, 2020, and the earlier of (A) 60 days after the date of termination of the National Emergency or (B) December 31, 2020. For all other loan modifications, the agencies have confirmed with staff of the Financial Accounting Standards Board (FASB) that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief, are not TDRs. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant.² Borrowers considered current are those that are less than 30 days past due on their contractual payments at the time a modification program is implemented.

Examiners will exercise judgment in reviewing loan modifications, and will not automatically adversely risk rate credits that are affected by COVID-19. Regardless of whether modifications result in loans that are considered TDRs or are adversely classified, agency examiners will not criticize prudent efforts to modify the terms on existing loans to affected customers. Please refer to interagency supervisory guidance,³ which provides more information on TDRs.

¹ The TDR designation is an accounting categorization, as promulgated by the FASB and codified in Accounting Standards Codification (ASC) Subtopic 310-40, Receivables – Troubled Debt Restructurings by Creditors (ASC 310-40).

² According to ASC 310-40, factors to be considered in making this determination, which could be qualitative, are whether the amount of delayed restructured payments is insignificant relative to the unpaid principal or collateral value of the debt, thereby resulting in an insignificant shortfall in the contractual amount due from the borrower, and whether the delay in timing of the restructured payment period is insignificant relative to the frequency of payments due under the debt, the debt's original contractual maturity, or the debt's original expected duration.

³ See at <https://www.fdic.gov/news/news/financial/2020/fil20036.html>.

5. *TDR Categorization.* Will FDIC examiners make banks categorize all loan modifications related to COVID-19 events as a TDR?

No. The FDIC continues to encourage financial institutions to work with borrowers who may be impacted by COVID-19, by offering to modify, extend, suspend, or defer the repayment terms. FDIC examiners have been directed to exercise significant flexibility in reviewing credits that are impacted by COVID-19 and will work with financial institutions relative to any reporting issues. Please refer to interagency supervisory guidance,⁴ which provides more information on TDRs.

6. *Accommodations for Loans Guaranteed by the Small Business Administration.* Can financial institutions provide payment accommodations to borrowers whose loans are guaranteed by the SBA?

Financial institutions can provide payment accommodations that modify, extend, suspend, or defer the repayment terms on SBA-guaranteed loans to borrowers affected by COVID-19. While the majority of payment accommodations do not require SBA approval, financial institutions should determine what types of modifications require the SBA's approval. More information regarding the SBA's programs is available at <https://www.sba.gov/>.

7. *Nonaccrual Status, Allowance for Credit Losses (ACL), Allowance for Loan and Lease Losses (ALLL), and Charge-offs.* Do loans that receive payment accommodations have to be reported as nonaccrual, reflect appropriate ACL or ALLL, and be charged off?

Each financial institution should refer to the applicable regulatory reporting instructions, as well as its internal accounting policies, in determining whether to report loans with accommodations to customers affected by COVID-19 as nonaccrual assets in regulatory reports. (See also the response to questions 3 and 5). Each institution should maintain an appropriate allowance allocation for these loans, considering all information available prior to filing its reports about their collectability. As information becomes available that indicates a specific loan will not be repaid, institutions should preserve the integrity of their internal loan grading methodology and maintain appropriate accrual status on affected credits. Financial institutions should refer to the charge-off guidance in the instructions for the Consolidated Reports of Condition and Income.

⁴ See at <https://www.fdic.gov/news/news/financial/2020/fi120036.html>.

Operational Issues

1. ***Alternative Service Options.*** In an effort to protect employees and customers, can a financial institution limit access to branch offices, such as by limiting access to the use of the drive-up window?

Yes. Financial institutions can consider alternative service options to provide access to financial services. Financial institutions may want to remind customers of the various ways they can access banking services without physically coming to a facility, such as managing their accounts online, performing transactions at an automated teller machine (ATM), using telephone banking, or accessing a mobile banking application. Financial institutions could also provide information about how to use electronic payments, bill pay, and mobile remote deposit capture services.

Providing regularly updated information about the operating status of the bank, branch offices, remote access facilities, and mobile and online services as pandemic conditions evolve could be helpful to customers. Posting this information on the institution's website, providing recorded information on its customer support lines, and pushing notifications out to customers that have signed up for alerts are just some of the ways institutions could help customers.

2. ***Filing Applications.*** Does the FDIC require financial institutions impacted by COVID-19 to file applications for temporary office closures?

No. The FDIC does not require an application to temporarily close a facility due to staffing challenges or to take precautionary measures. For example, some institutions may wish to limit foot traffic within a branch and provide services only through the drive-through lanes. The FDIC supports flexible approaches and encourages financial institutions to maintain a safe environment for their employees, reduce disruptions to their customers, provide alternative service options when practical, and reopen affected facilities when it is safe to do so.

However, financial institutions should check with their state regulator to determine whether state laws and regulations require applications to be filed. While no official application is required by the FDIC, affected financial institutions are encouraged to notify their primary federal and state regulator and their customers of temporary closure of an institution's facilities and the availability of any alternative service options as soon as practical.

3. ***Difficulties Filing Reports.*** Will the FDIC give some forbearance to financial institutions experiencing difficulties in meeting regulatory reporting requirements?

The FDIC's staff stands ready to work with financial institutions that may experience challenges fulfilling their reporting responsibilities, taking into account each financial institution's particular circumstances. The FDIC encourages institutions affected by COVID-19 to take reasonable and prudent steps to comply with regulatory reporting requirements to the extent possible, and to contact their Regional Office if they are unable to do so.

4. ***First Quarter 2020 Regulatory Report Filings.*** The effects of COVID-19 may affect the ability of financial institutions to submit timely and accurate regulatory reports for March 31, 2020. These reports include bank Reports Condition and Income (Call Reports). What approach does the FDIC expect to take in situations where institutions affected by COVID-19 expect to encounter difficulty completing their March 31, 2020, regulatory reports?

The FDIC understands that financial institutions may need additional time to submit certain regulatory reports in light of staffing priorities and disruptions caused by the COVID-19. The FDIC will not take action against any institution for submitting its March 31, 2020, Reports of Condition and Income (Call Reports) after the respective filing deadline, as long as the report is submitted within 30 days of the official filing date. FDIC-supervised institutions are encouraged to contact the FDIC in advance of the official filing date if they anticipate a delayed submission.⁵

5. ***First Quarter 2020 Regulatory Reporting Disclosure.*** Is there an ability for a financial institution to disclose additional information in its regulatory reports about the consequences of the impacts of COVID-19?

Yes, the FDIC notes that for financial institutions that file Call Reports, the management of such financial institutions may, if it wishes, submit a brief narrative statement on the amounts reported in the Call Report. This optional narrative statement will be made available to the public, along with the publicly available data in the Call Report. This statement has long been available for the use of financial institutions that are required to file a Call Report. Financial institutions may wish to comment on certain financial consequences to their institutions resulting from the effects of COVID-19 in the optional narrative statement. Institutions can refer to the General Instructions to the Call Report Instructions for more information.

6. ***Sales of Held-to-Maturity Securities.*** If a financial institution affected by the impact of COVID-19 sells investment securities that were classified as "held to maturity" (HTM) to meet its liquidity needs, will that financial institution's intent to hold other investment securities to maturity be questioned?

Under normal circumstances, the sale of any HTM investment would call into question an institution's intent to hold its remaining HTM investments to maturity. However, ASC Section 320-10-25 indicates that events that are isolated, nonrecurring, and unusual for the reporting enterprise that could not be reasonably anticipated may cause an enterprise to sell or transfer an HTM debt security without necessarily calling into question its intent to hold other HTM debt securities to maturity. ASC Section 320-10-25 specifically states that extremely remote disaster scenarios should not be anticipated by an entity in deciding whether it has the positive intent and ability to hold a debt security to maturity.

Accordingly, in this situation, the sale of any HTM investment security would not necessarily call into question the bank's intent to hold its remaining HTM investment securities until maturity. Financial institutions are encouraged to maintain documentation memorializing the intent and purpose of transactions involving the sale of HTM investment securities.

⁵ See March 25, 2020 Federal Financial Institutions Examination Council release, *Financial Regulators Highlight Coordination and Collaboration of Efforts to Address COVID-19* <https://www.ffiec.gov/press/pr032520.htm>.

7. *First Quarter 2020 Allowance for Loan and Lease Losses or Allowances for Credit Losses.* How should financial institutions with borrowers affected by the effects of COVID-19 determine the appropriate amount to report for their allowance for loan and lease losses (ALLL) or allowances for credit losses (ACLs), if applicable, in their first quarter regulatory reports?

For financial institutions that have not adopted FASB Accounting Standards Update (ASU) No. 2016-13, “Measurement of Credit Losses on Financial Instruments,” with loans to borrowers impacted by the effects of COVID-19, it may be difficult at this time to determine the overall effect that the situation will have on the collectability of these loans. Many of these financial institutions will need time to evaluate their individual borrowers, assess the repayment capacity, and other available sources.

For its first quarter regulatory reports, management should consider all information available prior to filing the report about the collectability of the financial institution’s loan portfolio in order to make its best estimate of probable losses within a range of loss estimates, recognizing that there is a short time between the beginning effects of COVID-19 and the required filing date for the first quarter regulatory report. Consistent with GAAP, the amounts included in the ALLL in first quarter regulatory reports for estimated credit losses incurred as a result of the effects of COVID-19 should include those amounts that represent probable losses that can be reasonably estimated. As financial institutions are able to obtain additional information about their loans to borrowers affected by COVID-19, estimates of the effect of COVID-19 on loan losses could change over time and revised estimates of loan losses would be reflected in financial institution’s subsequent regulatory reports.

For financial institutions that have adopted FASB ASU No. 2016-13, with financial assets impacted by the effects of COVID-19, it may also be difficult at this time to determine the overall effect that the situation will have on the collectability of these assets. Many of these financial institutions will need time to evaluate their collective assessments on the net amount expected to be collected.

For its first quarter regulatory reports, management should consider all information available prior to filing the report about the collectability of the financial institution’s financial assets in order to make a good faith estimate on the net amount expected to be collected. Furthermore, management should ensure the measurement of expected credit losses includes forward-looking information, such as reasonable and supportable forecasts, in assessing the collectability of financial assets. The FDIC expects financial institutions to make good faith efforts to include its best estimate of expected credit losses within a range of expected loss estimates, recognizing that there is a short time between the beginning effects of COVID-19 and the required filing date for the first quarter regulatory report.

Consistent with GAAP, the amounts included in the ACL in first quarter regulatory reports for expected credit losses as a result of the effects of COVID-19 should include those amounts that represent expected credit losses over the remaining contractual term of the financial asset, adjusted for prepayments. As financial institutions are able to obtain additional information about their financial assets affected by COVID-19, estimates of the effect of COVID-19 on credit losses could change over time and revised estimates of credit losses would be reflected in financial institution’s subsequent regulatory reports.

8. *Security.* How should a bank handle customers wearing masks coming into a branch? It may be difficult to distinguish between a customer and a bank robber.

The FDIC encourages financial institutions to provide appropriate training to staff and to take appropriate measures to maintain the security of their staff as well as their customers. Local law enforcement should be contacted whenever staff is concerned about individuals on bank premises.

9. *Community Bank Leverage Ratio (CBLR) Election.* Should financial institutions considering whether to make their CBLR election, delay their CBLR election?

The decision to elect the CBLR rests with financial institutions. Financial institutions will reflect their CBLR election on the March 31, 2020 Reports of Condition and Income (March Call Reports). The decision to elect CBLR for the March Call Report is not binding, and may be reversed in a subsequent quarter.

10. *Real Property Inspections.* How should financial institutions respond to COVID-19 related issues relative to inspections of real property?

Financial institutions should consult with appraisers and other persons performing real estate inspections about alternative arrangements if the inspector cannot access the interior of a property due to concerns related to COVID-19.

11. *Interior Inspection Alternatives.* What alternative options are available in lieu of obtaining an interior inspection for real estate secured loans due to concerns related to COVID-19?

Responses to COVID-19 related questions⁶ provided by The Appraisal Foundation note that the Uniform Standards of Professional Appraisal Practice (USPAP) address situations where access to the interior of a property may not be feasible. USPAP permits an appraiser to make an extraordinary assumption about the interior of a property due to health concerns or other emergency conditions, such as the COVID-19 pandemic. Appraisers may have a variety of reasonable bases for an extraordinary assumption, including, but not limited to:

- Determining an interior inspection is not needed because the appraiser has a reasonable basis for an extraordinary assumption and its use still results in a credible analysis.
- Having conducted a prior inspection of the property in the recent past.
- Obtaining an affidavit and/or pictures from the borrower regarding the interior.

12. *Real Property Appraisals.* How should COVID-19 related issues be addressed in appraisal reports?

Financial institutions should consult with appraisers about how to address any short-term, temporary reduction in the income stream produced by income-producing real estate that has been affected by COVID-19.

⁶ See at http://www.appraisalfoundation.org/iMIS/TAF/Coronavirus_and_Appraisers.aspx. Refer to USPAP Standards Rule 1-2, Standards Rule 2-2, and Advisory Opinion 2 for more information.

13. [4/14/2020] Updated Valuation Information. Do financial institutions need to obtain updated valuation information for real estate related transactions when granting a short-term loan modification to a borrower affected by COVID-19?

No. Loan modifications, extensions, or similar arrangements, such as those that may be provided in connection with mortgage forbearances required under Sections 4022 and 4023 of the CARES Act, do not require appraisals under the agencies' appraisal regulations if the transaction is wholly or partially insured or guaranteed by a federal agency or government-sponsored enterprise (GSE), such as Fannie Mae or Freddie Mac. Such transactions would instead be subject to the valuation standards required by the agency or GSE. Relatedly, the federal financial institutions regulatory agencies' appraisal regulations generally would not require an appraisal for this type of transaction, as their appraisal regulations do not require an appraisal for a transaction involving an existing extension of credit at the lending institution (*i.e.*, subsequent transactions) if there is not a new advance of funds, other than funds necessary to cover reasonable closing costs.

Rather, an evaluation is permitted in lieu of an appraisal under those circumstances. The federal financial institutions regulatory agencies' appraisal regulations also permit an evaluation for extensions of credit at the lending institution if there has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the real estate collateral protection after the transaction, even with advancement of new funds. Note additionally that a loan modification that only entails a decrease in the interest rate or a single extension of a limited or short-term nature would not be viewed as a subsequent transaction, and as such, not require an evaluation.⁷

14. [4/14/2020] Alternative Signature Processes. With regard to Part 363 Annual Reports and Notifications of Late Filings, can financial institutions submit documents with email authorization instead of the traditional wet signatures?

Yes, it is acceptable for financial institutions to use alternative methods to sign Part 363 Annual Reports and Notifications of Late Filing, such as email authorization and typing the name of the individual or individuals signing the reports. However, financial institutions should retain copies of Parts 363 Annual Reports and Notifications of Late Filing with original signatures.

For more information regarding electronic submissions, refer to [FIL-71-2016](#), Electronic Filing of Part 363 Annual Reports and Other Reports and Notices, which addresses filing Part 363 Annual Reports with the FDIC using FDIC Connect – Supervisory Business Center (FCX-SBC).

15. [4/14/2020] Real Estate Loans in Excess of Loan-to-Value (LTV) percentages. How will the FDIC view refinanced real estate loans with an advancement of new funds to borrowers affected by COVID-19 whose LTV exceeds supervisory LTV limits?

⁷ Interagency Guidelines on Appraisals and Evaluations. See 75 FR 77450, at 77464-77465 (December 10, 2010), available at <https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf>.

The FDIC recognizes the COVID-19 pandemic may have a negative impact on the market value of real estate collateral for loan renewal and refinancing requests from existing, creditworthy borrowers seeking to obtain additional funds from the transaction. Such transactions may result in exceptions to the supervisory LTV limits listed in the *Interagency Guidelines for Real Estate Lending Policies*, unless they meet certain criteria, including that the transaction was part of a prudent loan workout plan.⁸

An institution's board of directors is responsible for establishing standards for the review and approval of LTV exception loans, including those due to COVID-19. Such standards include reporting all such LTV exceptions to the board at least quarterly. Within these reports, financial institutions may find it useful to separately identify transactions that exceed the supervisory LTV limits due to COVID-19, such as for creditworthy borrowers' liquidity needs.

The FDIC recognizes that the LTV ratio is only one of several pertinent credit factors to be considered when prudently underwriting a real estate loan. The FDIC will not criticize financial institutions that exceed the supervisory LTV limits for real estate secured loans, if extended in a safe and sound manner to creditworthy borrowers affected by COVID-19.

16. [4/14/2020] Risk weighting multifamily loans. Can multifamily loans continue to receive a 50 percent risk weight after they are restructured or modified consistent with the Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Loan Modification Statement)?⁹

Yes. The Loan Modification Statement states that financial institutions' efforts to work with borrowers with prudently underwritten one-to-four family mortgages whose loans are not past due or carried in nonaccrual status will not be considered restructured or modified for the purposes of the agencies' respective risk-based capital rules. This approach applies to multifamily loans of \$1 million or less that qualify as *residential mortgage exposures*.¹⁰ For other multifamily loans, the criteria to "*not be restructured or modified*" is not included within the requirements for a statutory multifamily mortgage¹¹ to receive a 50 percent risk weight under the risk-based capital rules. However, a statutory multifamily loan will receive a 150 percent risk weight if it is 90 days past due or on nonaccrual status. Institutions should refer to the Interagency Statement for additional information on when a loan is considered past due or on nonaccrual status.

17. [4/14/2020] Debt Service Coverage (DSC) Ratio for Statutory Multifamily Mortgages. How should financial institutions calculate the DSC ratio to determine whether a loan to a borrower affected by COVID-19 continues to meet the definition of a statutory multifamily mortgage after it has been modified?

⁸ See at: FDIC: <https://www.fdic.gov/regulations/laws/rules/2000-8700.html>.

⁹ See at <https://www.fdic.gov/news/news/press/2020/pr20038a.pdf>.

¹⁰ *Residential mortgage exposure* is defined in part 324.2 of the FDIC Rules and Regulations.

¹¹ *Statutory multifamily mortgage* means a loan secured by a multifamily residential property that meets the requirements under section 618(b)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, and that meets the criteria for Statutory Multifamily Mortgage in part 324.2 of the FDIC Rules and Regulations.

The definition of a statutory multifamily mortgage¹² requires a DSC of at least 120 percent for a fixed-rate loan, or 115 percent for an adjustable rate loan. The DSC ratio is based on the property's annual net operating income (NOI) for the most recent fiscal year and the loan's annual debt service. Because there typically is a lag before a financial institution receives a property's financial statements, the DSC ratio usually is based on the prior year's operating results. Therefore, any accommodation provided to a statutory multifamily mortgage borrower affected by COVID-19 in 2020 will generally not affect eligibility as a statutory multifamily mortgage until 2021. For determining whether the DSC ratio meets the eligibility criteria in 2021, financial institutions can use the property's NOI from 2020, taking into account any accommodations that modify, extend, suspend, or defer the payments to borrowers affected by COVID-19.

18. [4/14/2020] Risk-Weight for Balloon Payments. If a financial institution adds the option of including a deferred payment as a balloon payment at maturity, does that jeopardize it receiving a 50 percent risk weight?

The option to include the deferred payment as a balloon payment will not jeopardize the 50 percent risk weight if it is prior to the 30-year maturity (so that the loan would otherwise amortize to \$0 by the end of 30 years.)

19. [04/23/2020] Fraudulent Economic Impact Checks. We are worried about individuals presenting fraudulent IRS economic impact checks. What can a bank do to reduce the risk of accepting a fraudulent paper check?

The United States Treasury Department has informed us that economic impact checks will look similar to IRS tax refund checks. They can be verified using the Treasury Check Verification Application (https://tcva.fiscal.treasury.gov/approot/tcva/TCVA_Welcome.html), provided that the financial institution has a valid routing transit number, check number and check amount. This site also provides a description of [Treasury Check Security Features](#).

Financial institutions should be alert to increased attempts of fraud. Federal law enforcement agencies are observing a rise in economic relief fraud and expect the fraud attempts to continue throughout the pandemic.

20. [04/23/2020] Accounts for Unbanked Consumers. Can banks open accounts for unbanked consumers to receive economic relief payments?

Yes. The FDIC is supportive of efforts to bring unbanked consumers into the banking system, and encourages financial institutions to consider opening such accounts so that these consumers can receive their economic impact payments safely and quickly. Financial institutions should take a risk-based approach in assessing individual customer relationships. There is significant flexibility built into the existing rules. The customer identification program (CIP) rule¹³ asks for the collection of name, address, date of birth and a taxpayer identification number when an account relationship is established.

¹² The criteria are within the definition of statutory multifamily mortgage in part 324.2. Loans that meet the definition of statutory multifamily mortgage are eligible for 50 percent risk weight per section 32(g).

¹³ 31 CFR 1010.220.

This information enables a bank to form a reasonable belief that it knows the true identity of each customer wanting to establish an account relationship. Under the CIP rule, a bank must have risk-based procedures for verifying a customer's identity. Banks may use various methods to verify a customer's identity including verification through information such as a utility bill or public databases.

Consumer Compliance and Protection

1. [As of 4/14/2020] Reporting to Credit Reporting Agencies. How should financial institutions report loan payment histories to the credit reporting agencies when the institution and borrower have agreed to a payment accommodation?

For institutions that report credit payment histories to a credit reporting agency, Section 4021 of the recently enacted Coronavirus Aid, Relief, and Economic Security Act (CARES Act)¹⁴ amends the Fair Credit Reporting Act¹⁵ to provide relief from negative credit reporting for those who receive payment modifications or forbearances because of the coronavirus pandemic. Under Section 4021, during the period of January 31, 2020 until 120 days after the end of the national coronavirus emergency declaration, if a financial institution makes an accommodation for one or more payments, and the borrower fulfills the terms of the accommodation, the institution should report the account as current. However, if an account was delinquent before the coronavirus pandemic the financial institution can continue to report the account as delinquent unless the account is brought current. Further, Section 4021 does not apply to accounts that have been charged off.

The credit reporting agencies have provided guidance regarding the credit reporting coding options available for furnishers of credit report information during disasters and specifically the COVID-19 emergency. Furnishers are encouraged to review the options available to determine the appropriate coding policy for their borrowers.

The Consumer Financial Protection Bureau (CFPB)¹⁶ released a statement reiterating that financial institutions must follow the provisions of the CARES Act.¹⁷ Refer to the CFPB for more information regarding the FCRA. In addition, the FDIC encourages financial institutions to provide borrowers affected by the COVID-19 outbreak with payment accommodations that facilitate their ability to work through the immediate impact of the virus.

2. Cash Management. With the financial market disruptions caused by COVID-19, some customers may seek to deposit their money into FDIC-insured deposit accounts, while other customers may feel the need to withdraw large amounts of cash. What can a financial institution do to protect customers looking to hold onto large sums of cash?

Financial institutions may want to remind customers about the safety of their money in a financial institution that is FDIC-insured and discuss deposit insurance coverage of the customer's accounts. Closely monitoring deposits, withdrawals, and the availability of cash can ensure financial institutions are prepared to meet customers' cash needs.

3. [4/10/2020] Community Reinvestment Act (CRA) Credit. Will all COVID-19 activity count toward CRA, or just those activities directed at LMI individuals and census tracts?

¹⁴ See at <https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>.

¹⁵ See at <https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>.

¹⁶ See at <https://www.consumerfinance.gov/>.

¹⁷ See at https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf.

The agencies issued the Joint Statement on CRA Consideration for Activities in response to the COVID-19 ([FIL-19-2020](#)) (CRA Statement) on March 19, 2020. The CRA Statement discusses categories and examples of activities related to COVID-19 that will be given consideration under the CRA. Those include retail banking services and retail lending activities in a financial institution's assessment areas that are responsive to the needs of low- to moderate-income (LMI) individuals, small businesses, and small farms affected by COVID-19 consistent with safe and sound banking practices. In addition, qualifying community development (CD) activities will receive consideration. These would include CD activities that help to revitalize or stabilize LMI and distressed or underserved non-metropolitan middle income census tracts as well as those that support community services targeted to LMI individuals.

4. [4/10/2020] Eligible CRA Activities. Does delivering food and stocking shelves count during the COVID-19 crisis?

The CRA Statement discusses categories and examples of activities related to COVID-19 that will be given consideration under the CRA. One of the examples provided in FIL-19-2020 for consideration as a community development activity is investment or service activities that support provision of food supplies and services for low- and moderate-income individuals or communities. The donation of food to support LMI individuals, such as through a food bank, would fall within the qualified investment category. Volunteer hours to help at a food bank that are not financial-related are not considered community development services.

5. [4/10/2020] CRA Credit for Assisting LMI Employees. Can a financial institution receive positive CRA consideration for assisting its LMI employees?

The CRA Statement discusses categories and examples of activities related to COVID-19 that will be given consideration under the CRA. Provided the financial institution's employees are LMI and live within the financial institution's assessment area or broader statewide or regional areas (for community development activities), the financial institution can receive CRA consideration for activities beyond the scope of the normal employment relationship that benefit the employees during this pandemic, given that those activities match the permissible retail or community development activities under the regulations and the interagency questions and answers related to CRA. Nothing in the guidance differentiates between LMI individuals who are non-employees of the bank and those who are employed at the financial institution. Consideration would be dependent on the activity on a case-by-case basis.

6. [04/17/2020] CRA Credit for Assistance Outside Assessment Area (AA). Will a bank receive CRA credit for assisting COVID-19 impacted businesses if those businesses are located outside of a financial institution's AA?

The agencies will provide favorable CRA consideration for retail banking services, retail lending activities, and community development activities in a financial institution's assessment areas that are responsive to the needs of low- and moderate-income individuals, small businesses, and small farms affected by the COVID-19 emergency and that are consistent with safe and sound banking practices. See [March 19, 2020 Interagency Statement](#) (Interagency Statement).

The agencies will also give favorable consideration to community development activities located in a broader statewide or regional area that includes a bank's CRA assessment area and that help to stabilize communities affected by the COVID-19 emergency, provided that the bank is responsive to the community development needs and opportunities that exist in its own assessment area(s). See [Interagency Statement](#).

Under the existing CRA regulations, a bank may receive community development credit for loans that have a primary purpose of community development (as defined in §345 12(g) of the CRA regulations) and that have not been reported for consideration in the bank's assessment area as a home mortgage, small business, small farm, or consumer loan.

7. [05/20/2020] COVID-19 CRA Disaster Areas. Are COVID-19 affected states and jurisdictions considered CRA designated disaster areas?

The Coronavirus Disease (COVID-19) national emergency raises unique needs for revitalization and stabilization activities that generally differ from those typically undertaken in response to natural disasters or other emergencies. The Federal Emergency Management Agency (FEMA) has issued major disaster declarations that include assistance for emergency protective measures (Public Assistance Category B) for all 50 states, the District of Columbia, and certain U.S. territories in connection with COVID-19. Areas identified for Category B assistance are not normally considered designated disaster areas under CRA because of the temporary nature of the activities covered under this category of assistance. However, the agencies believe that it is appropriate to recognize such COVID-19 designated disaster areas due to the circumstances of this national pandemic; therefore, the agencies will grant consideration for activities that revitalize or stabilize these areas by protecting public health and safety,¹⁸ particularly for low- or moderate-income individuals, low- or moderate-income geographies, or distressed or underserved nonmetropolitan middle-income geographies. Examples of qualified activities include loans, investments, or community development services that support:

- Emergency medical care, including medical facility services and supplies, temporary medical facilities, and enhanced medical/hospital capacity;
- Purchase and distribution of personal protective equipment;
- Provision of emergency food supplies; or
- Assistance to state, tribal, territorial, or local governments for emergency management and to support communications of general health and safety information to the public.

8. [05/20/2020] CRA Activities in COVID-19 Disaster Areas. How long will the Board of Governors of the Federal Reserve System, the Office of the Comptroller, and the Federal Deposit Insurance Corporation (agencies) grant consideration for activities that revitalize or stabilize COVID-19 designated disaster areas?

¹⁸ <https://www.fema.gov/news-release/2020/03/19/coronavirus-covid-19-pandemic-eligible-emergency-protective-measures>

The March 19, 2020 Joint Statement¹⁹ indicates that it is effective through the six-month period after the national emergency declaration is lifted, unless extended by the agencies. With specific reference to COVID-19 related revitalization and stabilization activities needed to help protect public health and safety during the health emergency, as FEMA has issued the major disaster declarations described in the Response to the question – Are COVID-19 affected states and jurisdictions considered CRA designated disaster areas? – the agencies believe that a time period of six months after any particular disaster declaration is lifted is an appropriate time period for consideration of such activities.

9. [05/20/2020] CRA Activities. How will activities undertaken in response to COVID-19 that are responsive to community needs be considered in CRA examinations?

In light of the declaration of a national emergency, and consistent with the Joint Statement on CRA Consideration for Activities in Response to COVID-19, the Board of Governors of the Federal Reserve System, the Office of the Comptroller, and the Federal Deposit Insurance Corporation (agencies) are clarifying that banks will receive favorable CRA consideration for community development activities that are responsive to community needs and conducted in response to COVID-19. Qualifying activities include those that support community services targeted to low- or moderate-income individuals, economic development by meeting the “size” and “purpose” tests, affordable housing for low- or moderate-income individuals or families, or that help to revitalize or stabilize low- or moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies. As described in the Response to the question - Are COVID-19 affected states and jurisdictions considered CRA designated disaster areas? - qualifying activities also include those that help to stabilize COVID-19 designated disaster areas by protecting public health and safety, particularly for low- or moderate-income individuals or geographies.

10. [05/20/2020] CRA Activities. Can a bank receive consideration for activities related to the COVID-19 emergency and that are conducted on a nationwide basis?

The COVID-19 emergency has had a significant health and economic impact that extends beyond many banks’ assessment areas. Banks that are responsive to community development needs and opportunities in their assessment areas will receive favorable consideration for community development activities located in a broader statewide or regional area that includes the banks’ CRA assessment area(s). Banks that are responsive to needs and opportunities in the broader statewide or regional areas that include bank assessment areas may also receive consideration for activities outside those broader statewide or regional areas provided that those activities help to revitalize or stabilize COVID-19 designated disaster areas by protecting public health and safety as described in the Response to the question - Are COVID-19 affected states and jurisdictions considered CRA designated disaster areas? - activities that benefit low- or moderate-income individuals or geographies, distressed or underserved nonmetropolitan middle-income geographies, or small businesses and small farms will be considered particularly responsive.

11. [05/20/2020] PPP CRA Considerations. Are bank loans made under the Paycheck Protection Program (PPP) eligible for CRA consideration? For PPP loans that are eligible community development loans, what is the appropriate community development purpose?

¹⁹ <https://www.federalreserve.gov/supervisionreg/caletters/CA%2020-4%20Attachment.pdf>; <https://www.fdic.gov/news/news/financial/2020/fil20019a.pdf>; <https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-19.html>.

Generally, loans, including PPP loans, in amounts of \$1 million or less to for-profit businesses, or to nonprofit organizations that are secured by nonfarm, nonresidential real estate, are reported and considered as small business loans under the applicable retail lending test. PPP loans will be considered particularly responsive if made to small businesses with gross annual revenues of \$1 million or less or to businesses located in low- or moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies. Participation in such loan programs could also receive consideration as innovative or flexible lending practices

PPP loans in amounts greater than \$1 million may be considered as community development loans if they also have a primary purpose of community development as defined under the CRA. Generally, loans to small businesses with gross annual revenues \$1 million or less that create or retain jobs for low- or moderate-income individuals or in low- or moderate-income geographies, or that otherwise meet the economic development “size” and “purpose” tests, qualify as community development loans. Such loans may also qualify if they help to revitalize or stabilize low- or moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies.

12. [05/20/2020] Reporting PPP Loans. How should Paycheck Protection Program (PPP) loans be reported on Call Reports?

PPP loans are Small Business Administration (SBA) 7(a) loans. Banks should follow Call Report requirements for reporting PPP loans based on the loan type, amount, and collateral, as applicable.

13. [05/20/2020] CRA PPP Reporting. For Paycheck Protection Program (PPP) loans reported as small business loans (Type 01), with loan amounts of \$1 million or less, made to an existing bank customer, should a bank report revenue on the CRA loan register based on what it had previously gathered about that business? For a new PPP borrower, which has an unknown revenue, may banks use a revenue estimate and report it as having gross annual revenues of “1” (gross annual revenues of \$1 million or less) or must they use a CRA revenue code of “3” (unknown/not used in credit decision).

Generally, a bank should rely on and report the gross annual revenues that it considered in making its credit decision. Loans for which the bank did not collect revenue information may not be included when evaluating a bank’s performance in lending to businesses and farms with gross annual revenues of \$1 million or less unless the small business or small farm provides supplemental information or the bank has another source demonstrating the borrower’s revenue, such as information on existing customers. Banks that have access to an applicant’s gross annual revenue information may, but are not required to, report that information. When evaluating CRA performance, the Board of Governors of the Federal Reserve System, the Office of the Comptroller, and the Federal Deposit Insurance Corporation (agencies) will take into account the unique circumstances affecting borrowers and banks resulting from the COVID-19 emergency and will not penalize a bank for making a large volume of loans for which gross annual revenue information is not available. The agencies will also take into account a bank’s good faith efforts demonstrably designed to support low- and moderate-income individuals and small businesses and small farms and its efforts to comply with applicable consumer protection laws.

14. [05/20/2020] PPP CRA Consideration. How will Paycheck Protection Program (PPP) loans be considered when evaluating the borrower and geographic distribution of loans and the distribution of loans inside and outside of bank assessment areas?

PPP loans in amounts of \$1 million or less will be considered when evaluating a bank's performance under the applicable retail lending test. This includes the evaluation of performance based on the distribution of loans inside and outside of its assessment areas, by business size based on gross annual revenues, and across geographies of different income levels. The Board of Governors of the Federal Reserve System, the Office of the Comptroller, and the Federal Deposit Insurance Corporation (agencies) understand that this current environment presents unique challenges. Therefore, although performance may appear to be negatively affected, for example by a high level of out-of-assessment area lending, examiners will consider the information in context and evaluate it accordingly. That said, banks should continue to seek to meet the credit needs of their communities if making a significant amount of loans outside of their assessment areas.

Additionally, an examiner's review of the borrower distribution of retail lending is typically focused on activities within a bank's assessment area(s). However, as noted in Q&A 345.22(b)(2) & (3)—4,²⁰ a bank may receive consideration for retail loans to low- or moderate-income individuals, small businesses, or small farms outside of their assessment area(s), provided that they have adequately addressed the needs of borrowers within their assessment area(s).

15. [05/20/2020] Main Street Lending Program. Are bank loans made under the Main Street Lending Program eligible for CRA consideration?

A bank may receive CRA consideration for Main Street Lending Program loans that meet relevant CRA requirements. Specifically, small business loans, including Main Street Lending Program loans, in amounts of \$1 million or less to for-profit businesses, or to nonprofit organizations that are secured by nonfarm, nonresidential real estate, are reported and considered as small business loans under the applicable CRA retail lending test. Main Street Lending Program loans will be considered particularly responsive if made to small businesses with gross annual revenues under \$1 million or to businesses located in low- or moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies. Such loan programs could also receive consideration as innovative or flexible lending practices.

Main Street Lending Program loans in amounts of greater than \$1 million may be considered as community development loans if they also have a primary purpose of community development as defined under CRA. Generally, loans to small businesses with gross annual revenues of less than \$1 million that create or retain jobs for low- or moderate-income individuals or in low- or moderate-income geographies, or that otherwise meet the economic development "size" and "purpose" tests, qualify as community development loans. Such loans may also qualify if they help to revitalize or stabilize low- or moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies.

16. [05/20/2020] CRA Affordable Housing. The Joint Statement on CRA Consideration for Activities in Response to COVID-19 did not include a reference to affordable housing. Will examiners consider bank activities that help to maintain affordable housing for low- or moderate-income individuals, including homeowners or renters, as responsive to community needs during the COVID-19 emergency?

Yes. Community development under CRA includes activities that promote affordable housing, including single-family and multifamily rental housing, for low- or moderate-income individuals or families. Activities that promote housing stability for low- or moderate-income renters who are

²⁰ See Interagency Questions and Answers Regarding Community Reinvestment, 81 Fed. Reg. 48506 (July 25, 2016).

experiencing financial hardship due to COVID-19 are considered particularly responsive to the unique challenges presented by the COVID-19 emergency. These activities include loan forbearance, reduced payments, loan modifications, or restructuring debt for residential rental property owners who in turn agree to offer rent relief to and suspend evictions for low- or moderate-income renters.²¹ In addition, investments in or grants to intermediary organizations that provide housing support for low- or moderate-income individuals are considered responsive to community needs.

Additionally, as the Joint Statement indicates, activities that promote stability for low- or moderate-income homeowners who are experiencing financial hardship due to COVID-19 are also considered particularly responsive to the unique challenges presented by the COVID-19 emergency. These activities include loan forbearance or loan modifications for low- or moderate-income homeowners. These activities will receive favorable consideration when retail lending is evaluated.²²

All activities must be undertaken in a manner consistent with safe and sound banking practices and applicable consumer protection laws.

17. [05/20/2020] *Job Losses.* Will job loss or loss of income due to the COVID-19 emergency be considered when determining whether an individual or family is considered to be low- or moderate-income?

CRA encourages activities that benefit low- or moderate-income individuals and families. This includes individuals and families who have recently become low- or moderate- income due to lost jobs, decreased hours, or furloughs that will reduce income due to the COVID-19 emergency.

18. [05/20/2020] *Retail Banking Service Activities.* What retail banking service activities will be considered particularly responsive to the needs of low- and moderate-income individuals due to the COVID-19 emergency?

As the Joint Statement on CRA Consideration for Activities in Response to COVID-19 explains, the Board of Governors of the Federal Reserve System, the Office of the Comptroller, and the Federal Deposit Insurance Corporation (agencies) encourage banks to work with affected individuals and communities, particularly those that are low- or moderate-income. Examples of services that are considered particularly responsive to the needs of low- or moderate-income individuals include cashing federal government stimulus checks at no cost to non-customers or waiving late fees and customer overdraft charges.

19. [05/20/2020] *Community Services.* The Joint Statement on CRA Consideration for Activities in Response to COVID-19 highlights loans, investments, and services that support access to health care for low- and moderate-income individuals and communities. Are there other community services that are particularly responsive to the needs of low- and moderate-income individuals during the COVID-19 emergency?

²¹ Suspension of evictions for tenants would cover instances involving non-payment of rent related to financial hardship caused by the COVID-19 emergency and instances involving evictions already in process prior to the emergency.

²² An intermediate small bank that is not a Home Mortgage Disclosure Act reporter would have the option to submit for consideration home mortgage loans with a primary purpose of providing affordable housing for low- or moderate-income individuals as a community development activity.

Examples of community services that are responsive to the needs of low- and moderate-income individuals due to the COVID-19 emergency include but are not limited to:

- Childcare for low- or moderate-income essential workers;
- Food banks;
- Shelters or programs for individuals facing homelessness or domestic violence;
- Alcohol or drug recovery programs; or
- Utility assistance programs.

20. [04/23/20] Non-customer Checks. Is a financial institution required to cash an Economic Impact paper check issued to a non-customer?

No. As a general matter, a bank is under no legal duty to cash a check, even one drawn on the bank by an accountholder. However, the FDIC and other bank regulatory agencies have issued statements encouraging institutions to work with consumers and communities affected by COVID-19 developments. The FDIC recognizes that such efforts serve the long-term interests of communities and the financial system when conducted with appropriate management oversight and are consistent with safe and sound banking practices and applicable laws, including consumer protection laws. These efforts may include easing restrictions on cashing non-customer checks. For example, we understand some banks have voluntarily decided to cash non-customer's economic impact checks without charging a fee. For more information on assisting consumers in light of COVID-19 developments, see the FDIC's *Statement on Financial Institutions Working with Customers Affected by the Coronavirus and Regulatory and Supervisory Assistance* ([FIL-17-2020](#)), issued on March 13, 2020.

Moreover, pursuant to the March 19, 2020, *Joint Agency Statement on CRA Consideration for Activities in Response to COVID-19* ([FIL-19-2020](#)), institutions may receive CRA consideration for easing restrictions on cashing out-of-state and non-customer checks. The FDIC will favorably consider retail banking services and retail lending activities in a financial institution's assessment areas that are responsive to the needs of low- and moderate-income individuals, small businesses, and small farms affected by COVID-19 and that are consistent with safe and sound banking practices.

21. [04/23/2020] Offset of Deposits. Are Economic Impact payments subject to offset for charged-off loans or other obligations to the financial institution?

The [CARES Act](#) does not restrict banks from using economic impact payment funds to pay consumers' old debts, e.g., delinquent loans or overdraft or other fees, where permitted by applicable law. However, the FDIC and other bank regulatory agencies have issued statements encouraging institutions to work with consumers and communities affected by COVID-19. For more information on assisting consumers in light of COVID-19 developments, see the FDIC's *Statement on Financial Institutions Working with Customers Affected by the Coronavirus and Regulatory and Supervisory Assistance* ([FIL-17-2020](#)), issued on March 13, 2020.

COVID-19 related developments continue to evolve. We recommend that you monitor the [U.S. Treasury Department's](#) website in the event it issues any new information addressing the offset of economic impact payments.

22. [04/23/2020] Garnishment. Are Economic Impact payments subject to garnishment?

Specific exemptions apply prohibiting garnishment of economic impact funds, such as for federal garnishment orders ([CARES Act](#)), certain federal benefits payments, certain unemployment benefits (state law), and student loan debt (CARES Act). Absent additional guidance or clarification from the U.S. Department of Treasury, Economic Impact payments may otherwise be garnished in accordance with garnishment orders currently in force. For example, payments may be garnished to provide child support pursuant to a court order. COVID-19 related developments continue to evolve. We recommend that you monitor the [U.S. Treasury Department's](#) website in the event it issues any new information addressing garnishment protections regarding economic impact payments. Some states and local jurisdictions have suspended enforcement of certain garnishment orders, and banks are encouraged to monitor developments from local and state jurisdictions.

23. [04/23/2020] Deposits into Closed Accounts. What should a financial institution do if an Economic Impact payment is direct deposited to an account that is closed?

The payment must be returned. The [Green Book, issued by the U.S. Department of Treasury's Bureau of Fiscal Service](#), is a comprehensive guide for financial institutions that receive ACH payments from and send payments (i.e. collections) to the federal government. As the National Automated Clearing House Association (NACHA) notes in its "[ACH Network Rules Pandemic-Related Frequently Asked Questions](#)" (Updated April 16, 2020), according to the Green Book (page 4-2), if a U.S. Treasury payment is made to a closed account, the receiving depository financial institution (RDFI) should return the payment. The Green Book states in Chapter 4 that all ACH payments must be returned in accordance with the NACHA Operating Rules and Guidelines, including when an account is closed or does not exist. Most ACH returns to the IRS will result in a paper check being issued; therefore, RDFIs must make appropriate use of Return Reason Codes.

24. [04/28/2020] Qualified Mortgage Status. Does providing a loan modification impact an existing loan's qualified mortgage (QM) status?

No. Mortgage originations are typically subject to the CFPB's Ability to Repay and Qualified Mortgage Rule (ATR/QM). The ATR/QM rule does not apply when you alter the terms of an existing loan without refinancing it. A loan modification that does not meet the definition of a refinancing in Regulation Z at § 1026.20(a) is not subject to the ATR/QM rule, and, accordingly, would not alter the QM status of a loan that was a QM at origination. As the CFPB notes in its Small Entity Compliance Guide: "The Truth in Lending Act applies to a loan modification only if it is considered a refinancing under Regulation Z. If a loan modification is not subject to the Truth in Lending Act, it is not subject to the ATR/QM rule. Therefore, you should determine if a loan modification is a refinancing to see if the ATR/QM rule applies. You will find the rules for determining whether a loan workout is a modification or a refinance in Regulation Z at § 1026.20(a) and accompanying Commentary."

25. [04/28/2020] Flood Insurance. Are lenders still required to make a flood hazard determination, establish escrow accounts, and provide flood notices to borrowers when modifying loans for borrowers adversely affected by COVID-19?

The FDIC understands that the COVID-19 emergency could pose significant temporary business disruptions and challenges that affect banks, businesses, borrowers, and the U.S. economy. The FDIC will consider the unique circumstances resulting from the COVID-19 emergency as described in more detail below.

The FDIC encourages financial institutions to work prudently with borrowers adversely affected by the COVID-19 emergency. Such efforts serve the long-term interest of communities and the financial system when conducted with appropriate compliance management oversight, and are consistent with safe and sound banking practices and applicable laws, including the Federal flood insurance laws.

As lenders work with borrowers to address their financial service needs, Federal flood insurance requirements may be triggered upon the making, increasing, renewing or extending (i.e., a MIRE or triggering event) of any designated loan. For example, if a lender modifies a loan by extending the loan term, the loan modification would constitute a triggering event under flood insurance law, and the lender would be required to comply with certain flood insurance requirements, such as making a new flood hazard determination and providing notice to the borrower. The FDIC recognizes that meeting these requirements as lenders work to accommodate borrowers during the COVID-19 emergency could pose challenges for lenders and delay relief for borrowers in need.

Therefore, when working with borrowers impacted by the COVID-19 emergency triggers a MIRE event, lenders may, if applicable:

- Rely temporarily on a loan's previous flood hazard determination on file rather than obtain a new one during the COVID-19 emergency;²³
- Delay the establishment of escrow accounts for applicable loans until after the COVID-19 emergency; and
- Delay providing a written flood notice to a borrower until after the COVID-19 emergency if a property is located in a Special Flood Hazard Area (SFHA) and informing consumers about the availability for special disaster relief assistance in the event of a flood. Prior to providing written notice, the lender may, at their discretion, choose to use another method to inform the borrower of this information (e.g. by email or telephone).

Lenders should have a system in place to ensure deferred flood insurance requirements are addressed as soon as reasonably practicable. FDIC examiners, under the FDIC's discretionary examination authority, will not criticize lenders' good faith flood insurance compliance efforts to accommodate borrowers in a safe and sound manner during the COVID-19 emergency.

²³ When a lender increases, renews or extends a loan, it may rely on the previous flood determination if (1) the last flood determination was made not more than seven years before the date of the transaction, and (2) there were no flood map revisions or updates affecting the security property since the original determination was made (42 U.S.C. 4104b(e)). However, if the flood determination was made outside of the seven years or if the flood map has been revised, during the COVID-19 emergency period, lenders may temporarily rely on the pre-existing determination to accommodate borrowers.

26. [04/28/2020] Flood Insurance Triggers. If a lender offers a payment deferral program or skip-a-payment program, will this trigger the Federal flood insurance requirements?

Generally, a payment deferral program, such as a payment holiday or skip-a-payment program, is not a loan modification under the Federal flood insurance requirements and does not constitute a triggering event for purposes of flood insurance law because the term of the loan is not extended. However, if a lender extends the loan term, effectively modifying the loan, it is a triggering event and the flood insurance should cover the term of the loan plus any loan extension. Additionally, if a lender increases the loan amount, either through capitalizing interest or adding fees, then this would be a triggering event if such an increase is not permitted in the loan contract. If a MIRE event is triggered (see Question 12) when working with borrowers affected by the COVID-19 emergency, lenders may take the measures discussed in the answer to Question 12 above.

27. [04/28/2020] Flood Insurance Coverage. Do flood insurance renewal premium payments still need to be received within 30 days of the policy's expiration date to avoid a lapse or reduction in coverage?

For certain flood insurance policyholders, the Federal Emergency Management Agency (FEMA) announced that the grace period for making premium payments has been extended during the COVID-19 emergency. Specifically, on March 29, 2020, FEMA indicated it was taking steps to ensure flood insurance policies are not canceled for nonpayment of premiums due to the COVID-19 emergency. FEMA acknowledged that National Flood Insurance Program (NFIP) policyholders may experience serious changes to their financial situations, including loss of income, along with disruptions of normal business services.

Due to a concern about possible lapses or reduction in coverage and the subsequent denial of claims occurring during the gap in coverage, FEMA extended the grace period for receipt by the NFIP of flood insurance renewal premiums and of any additional premiums due as required by an underpayment notice from 30 days to 120 days. The announcement applies to flood insurance policies with an expiration date between February 13, 2020 and June 15, 2020. Accordingly, lenders should factor this extended grace period (or as further extended by FEMA) in working with borrowers or with respect to force placement of flood insurance.

For additional information about FEMA's extension of the grace period for flood insurance renewal premiums, please see: <https://nfipservices.floodsmart.gov/sites/default/files/w-20002.pdf>; and <https://www.fema.gov/news-release/2020/03/29/fema-extends-grace-period-flood-insurance-renewal-premiums>

28. [04/28/2020] Cash Withdrawals. What are the consumer compliance implications if a bank wants to limit customers' cash withdrawals?

For consumer accounts, transaction limits must be properly disclosed in advance in accordance with applicable Regulation DD (Truth in Savings) and/or Regulation E (Electronic Fund Transfers) requirements. For example, Regulation DD requires account disclosures to state any limitations on the number or dollar amount of withdrawals. If a bank intends to institute limits that were not previously disclosed, banks must provide customers with a change in terms

notice with the new limitations 30 days prior to implementation. Similarly, new limits on electronic funds transfers would need to be properly disclosed. There are some exceptions for special circumstances. Financial institutions may call their FDIC Regional Office if they have questions about whether the rules for special circumstances apply.

If banks are encountering customers who are worried about the COVID-19 emergency and, as a result, want to withdraw large sums of cash and keep it in their possession, it may be helpful to remind them of the following:

- The Federal Reserve System has and will continue to meet the currency needs of banking customers. Sufficient resources are available to handle customer needs.
- Consumers are encouraged to continue to conduct transactions as they normally would. Credit and debit cards and other payment systems will continue to operate as normal.
- The FDIC has stated that the safest place for customers' money is deposited at an FDIC-insured bank.
- Banks will continue to ensure that their customers have access to funds either directly or electronically. Since 1933, no depositor has ever lost a penny of FDIC insured funds.

29. [05/03/2020] Force Place Flood Insurance. How does the Federal Emergency Management Agency (FEMA) Bulletin W-20002 affect the force placement requirement under the Flood Disaster Protection Act and the implementing regulation? If a flood insurance policy lapses during the COVID-19 emergency, should a lender force place insurance?

The FDIC understands that the effects of the COVID-19 emergency on lenders and their customers is an evolving situation that could pose significant temporary business disruptions and challenges that affect lenders, businesses, and borrowers. In accordance with the flood insurance force placement regulations, when a lender makes a determination that a designated loan is not covered by a sufficient amount of flood insurance, it must notify the borrower. If the borrower does not provide evidence of sufficient coverage within 45 days after notification, the lender must force place flood insurance in an amount to satisfy the regulatory requirements. In addition, as a result of the COVID-19 emergency, National Flood Insurance Program (NFIP) policy holders with policies that expire between February 13, 2020 and June 15, 2020 (FEMA emergency period) now have a grace period of 120 days (up from the standard 30 days) after the expiration date of a policy to reinstate flood insurance coverage.²⁴

In light of this policy, for NFIP policies expiring during the FEMA emergency period, lenders may consider the following examples on implementing FEMA's grace period extension:

- A lender may provide the required notice to the borrower after determining the policy has expired with an indication that the NFIP grace period has been extended for 120 days.

²⁴ On March 29, 2020, FEMA announced in Bulletin W-20002 that the grace period to renew NFIP policies has been extended from 30 days to 120 days due to the COVID-19 emergency.²⁴ Based on Bulletin W-20002, a borrower will be continually covered by the NFIP policy if flood insurance premium is paid before the 120-day grace period expires.

Lenders may inform borrowers that, in light of Bulletin W-20002, force placement will not occur until the end of the 120-day period.

- Alternatively, a lender may provide the required notice to the borrower at least 45 days before the end of the 120-day grace period.
- For either example, if a flood insurance policy is insufficient or has expired or lapsed, lenders should make good faith efforts to have borrowers obtain sufficient flood insurance; otherwise, flood insurance should be force-placed on behalf of a borrower if the borrower does not pay the premium at the end of the 120-day grace period to ensure protection is in place in the event of a flood.
- FDIC examiners, under the FDIC's discretionary examination authority, will consider lenders' good faith efforts to comply with flood insurance requirements, provided that the circumstances were related to the COVID-19 emergency and that the institution responded to any needed corrective action.
- Lenders should be aware that if they force place flood insurance for NFIP policies that expire during the FEMA emergency period prior to the expiration of the 120-day grace period and the borrower pays the premium by the end of the 120-day grace period, the lender would be required under existing flood insurance regulations to refund the borrower for any overlapping flood insurance coverage.

For additional information about FEMA's extension of the grace period for flood insurance renewal premiums, please see: <https://nfipservices.floodsmart.gov/sites/default/files/w-20002.pdf>; and <https://www.fema.gov/news-release/2020/03/29/fema-extends-grace-period-flood-insurance-renewal-premiums>

30. [05/04/20] Reserve Account Administration/Regulation D. Are there changes to the six convenient transfer limit on savings deposits associated with the Federal Reserve Board's elimination of reserve requirements?

On April 28, 2020, the Federal Reserve Board published an interim final rule in the *Federal Register* to eliminate the six-per-month limit on convenient transfers within Regulation D. Effective April 24, 2020, the interim final rule permits depository institutions to allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits at a time when financial events associated with COVID-19 have made such access more urgent. The interim final rule permits institutions to suspend enforcement of the six-transfer limit but it does not require institutions to do so. For additional information, we recommend that institutions review the Federal Reserve Board's FAQs at: <https://www.frbervices.org/resources/central-bank/faq/reserve-account-admin-app.html>.

Bank Secrecy Act (BSA)

1. **[4/14/2020] Meeting BSA Filing Requirements. Do financial institutions with reduced staff have to meet the timeframes for processing reports related to BSA?**

On March 16, 2020, the Financial Crimes Enforcement Network (FinCEN) issued a press release encouraging financial institutions affected by COVID-19 to contact FinCEN and their functional regulators as soon as practicable if there were concerns about any potential delays in their ability to file required BSA reports. FinCEN's Regulatory Support Section will continue to be available to support financial institutions for the duration of the COVID-19 pandemic. Financial institutions supervised by the FDIC should contact their Regional Office to discuss any concerns with filing BSA reports.

On April 3, 2020, the Financial Crimes Enforcement Network (FinCEN) issued a notice (FinCEN's April 3rd Notice) that addressed BSA issues related to COVID-19.²⁵ FinCEN's April 3rd Notice addressed the timing of BSA filings given COVID-19 circumstances, as follows:

- FinCEN has heard from certain financial institutions and trade associations for financial institutions about difficulties in meeting certain BSA obligations, including the timing requirements for certain BSA report filings. In response to concerns regarding certain timing requirements of BSA filings, FinCEN recognizes that certain regulatory timing requirements with regard to BSA filings may be challenging during the COVID-19 pandemic and that there may be some reasonable delays in compliance.
- FinCEN will continue to assess reasonable risk-based approaches to BSA obligations and will issue further information, as appropriate.
- In addition, FinCEN suspended the implementation of the February 6, 2020 ruling (FIN-2020-R001) on currency transaction report (CTR) filing obligations when reporting transactions involving sole proprietorships and entities operating under a "doing business as" (DBA) name (the "2020 Ruling") until further notice. FinCEN's April 3rd Notice stated that FinCEN will issue further information on these types of CTR filings at an appropriate time with reasonable implementation periods. Until such issuance, financial institutions should continue to report transactions involving sole proprietorships and DBAs under prior practice.

2. **[4/14/2020] BSA Questions. How can financial institutions raise BSA compliance concerns or challenges with FinCEN?**

FinCEN's April 3rd Notice stated that FinCEN had created an online contact mechanism for financial institutions to communicate to FinCEN concerns related to COVID-19. Financial institutions wishing to communicate concerns related to COVID-19 to FinCEN can:

²⁵ Refer to [The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 \(COVID-19\) Pandemic](https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial) at <https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial>.

- Go to www.FinCEN.gov,
- Click on “Need Assistance,” and
- Select “COVID19” in the subject drop-down list, which will facilitate COVID-19 communication with FinCEN.

FinCEN also encouraged financial institutions to contact their functional regulator(s) or other BSA examining authority as soon as practicable if a financial institution has BSA compliance concerns because of the COVID-19 pandemic. Financial institutions are encouraged to keep FinCEN and their functional regulator(s) or other BSA examining authority informed as their circumstances change.

3. ***[4/14/2020] Are the Small Business Administration’s Paycheck Protection Program (PPP) loans for existing customers considered new accounts for Financial Crimes Enforcement Network (FinCEN) Customer Due Diligence (CDD) Rule purposes? Are lenders required to collect, certify, or verify beneficial ownership information in accordance with the rule requirements for existing customers?***

Department of the Treasury PPP FAQ Response

Treasury’s PPP FAQs include a specific response to beneficial ownership and CDD requirements at account opening (see FAQ 18 at <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>). If the PPP loan is being made to an existing customer and the necessary information was previously verified, you do not need to re-verify the information. Furthermore, if federally insured depository institutions and federally insured credit unions eligible to participate in the PPP have not yet collected beneficial ownership information on existing customers, such institutions do not need to collect and verify beneficial ownership information for those customers applying for new PPP loans, unless otherwise indicated by the lender’s risk-based approach to BSA compliance.

FinCEN Response

FinCEN’s April 3rd Notice addressed PPP loans as well as other extensions of credit (non-PPP loans). Refer to *The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic* see <https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial>.

- For eligible federally insured depository institutions and federally insured credit unions, PPP loans for existing customers will not require re-verification under applicable BSA requirements, unless otherwise indicated by the institution’s risk-based approach to BSA compliance.
- For non-PPP loans, FinCEN reminds financial institutions of FinCEN’s September 7, 2018 ruling (FIN-2018-R004) offering certain exceptive relief to beneficial ownership requirements. To the extent that renewal, modification, restructuring, or extension for existing legal entity customers falls outside of the scope of that ruling, FinCEN recognizes that a risk-based approach taken by financial institutions may result in reasonable delays in compliance.

4. ***[4/14/2020] BSA Issues for New Customers. What are a financial institution’s BSA requirements when a financial institution is approached by a non-customer (potential new customer relationship) regarding the Small Business Administration’s Paycheck Protection Program (PPP)?***

[Treasury’s PPP FAQs \(#25\)](#)²⁶ and [FinCEN’s PPP FAQs \(#2\)](#)²⁷ address BSA requirements, relative to the PPP, for lenders with new customers. For new customers, the lender’s collection of the following information from all natural persons with a 20% or greater ownership stake in the applicant business will be deemed to satisfy applicable BSA requirements and FinCEN regulations governing the collection of beneficial ownership information: owner name, title, ownership %, TIN, address, and date of birth. If any ownership interest of 20% or greater in the applicant business belongs to a business or other legal entity, lenders will need to collect appropriate beneficial ownership information for that entity.

If you have additional questions about requirements related to beneficial ownership, refer to <https://www.fincen.gov/resources/statutes-and-regulations/cdd-final-rule>. Decisions regarding further verification of beneficial ownership information collected from new customers should be made pursuant to the lender’s risk-based approach to BSA compliance.

²⁶ See at <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.

²⁷ See at https://www.fincen.gov/sites/default/files/2020-04/Paycheck_Protection_Program_FAQs.pdf.

Available Resources

- FIL-36-2020, *Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus*, April 7, 2020, <https://www.fdic.gov/news/news/financial/2020/fil20036.html>.
- FIL-22-2020: *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus*, March 22, 2020, <https://www.fdic.gov/news/news/press/2020/pr20038a.pdf>.
- FIL-19-2020: *Joint Statement on CRA Consideration for Activities in Response to COVID- 19*, March 19, 2020, <https://www.fdic.gov/news/news/financial/2020/fil20019a.pdf>.
- FIL-17-2020: *FDIC Statement on Financial Institutions Working with Customers Affected by the Coronavirus and Regulatory and Supervisory Assistance*; March 13, 2020, <https://www.fdic.gov/news/news/financial/2020/fil20017a.pdf>
- FFIEC Statement on Pandemic Planning, March 6, 2020, <https://www.ffiec.gov/press/pr030620.htm>.
- Financial Crimes Enforcement Network (FinCEN) Encourages Financial Institutions to Communicate Concerns Related to the Coronavirus Disease 2019 (COVID-19) and to Remain Alert to Related Illicit Financial Activity, March 16, 2020, <https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions>.
- Call Report forms and instructions: https://www.ffiec.gov/ffiec_report_forms.htm.
- Accounting and Regulatory Reporting Questions and Answers: <https://www.ffiec.gov/katrina.htm>.
- FIL-50-2013: *Troubled Debt Restructurings Interagency Supervisory Guidance*: <https://www.fdic.gov/news/news/financial/2013/fil13050.html>.
- Interagency – Small Dollar Lending, <https://www.consumerfinance.gov/about-us/newsroom/federal-agencies-encourage-banks-savings-associations-credit-unions-to-offer-responsible-small-dollar-loans-consumers-small-businesses-affected-covid-19/>.
- CFPB – Credit Reporting Guidance, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-credit-reporting-guidance-during-covid-19-pandemic/>.
- Interagency Mortgage Servicing Guidance, <https://www.consumerfinance.gov/about-us/newsroom/federal-agencies-encourage-mortgage-servicers-work-struggling-homeowners-affected-covid-19/>.
- Interagency Loan Modification Guidance – updates March 22 publication, <https://www.consumerfinance.gov/about-us/newsroom/agencies-issue-revised-interagency-statement-loan-modifications-coronavirus/>.