Community Bank COVID-19 FAQs

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SBA Paycheck Protection Program (PPP)

The recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act created the new Paycheck Protection Program (PPP) to help struggling small businesses impacted by the COVID-19 pandemic and appropriates $349 billion for this purpose.

The PPP provides vital cash-flow assistance through 100 percent federally guaranteed loans to small businesses who maintain their payroll during the COVID-19 crisis. If the small business borrower maintains its payroll, the portion of the loan used for certain covered expenses including payroll, interest on mortgage obligations, rent, and utilities would be forgiven.

The following Questions and Answers provide more detail on this new lending program. ICBA will continue to update this document as more information becomes available.

A1) Who can get a loan?

Businesses, including self-employed and independent contractors, sole proprietorships, nonprofit (501(c)3) organizations, veterans organizations (501(c)19), and tribal business concerns, with less than 500 employees. Businesses with the NAICS Code beginning with 72, such as restaurants and hotels, receive further expansions of eligibility for PPP.

For independent contractors, sole proprietors, or self-employed individuals, banks will need documents such as payroll tax filings, 1099 forms, and income and expenses.

A2) Does the business need to prove that it has a hardship to qualify for the loan?

The borrower will have to provide a good faith certification that the uncertainty of current economic conditions makes the loan request necessary to support ongoing operations.

A3) Who can make PPP loans?

Both current SBA lenders and non-SBA lenders will be able to participate. For those not currently participating in SBA lending, the legislation includes a provision directing the Secretary of the Treasury to establish criteria for non-SBA lenders to participate in PPP lending.

A4) Are PPP loans guaranteed by the government?

PPP loans have a 100 percent SBA guarantee.

A5) What is the maximum loan amount?

The size of the loan cannot exceed 250 percent of an employer's average monthly payroll during the 1-year period before the date on which the loan is made. The maximum loan amount is $10 million.

A6) What is considered a "payroll cost"?

"Payroll costs" include more than simple base salary. Payroll costs include salary, payment of cash tips, vacation, parental, family medical or sick leave, payments for the provisions of group health care, benefits including insurance premiums, retirement payments, and the payment of state and local tax assessed on the compensation of employees.

A7) What can PPP loans be used for?

PPP loans can be used for payroll, healthcare costs, mortgage interest, utilities, rent, and interest on debt that existed as of February 15, 2020.

A8) How long does the program last?

The program is open until June 30, 2020.

A9) How does the PPP loan forgiveness component operate?

Under the PPP, a borrower will be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, interest payments (but not principal) on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020. The amounts forgiven may not exceed the principal amount of the loan.

Eligible payroll costs include compensation up to $100,000 in prorated wages per employee. Aggregate payroll cost must not exceed payroll costs incurred during the equivalent 8-week period in the previous year, proportionate to the number of employees.

The amount of loan forgiveness may be reduced if there is a reduction in the number of employees or a reduction more than 25 percent in wages paid to employees. To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period. The PPP also allows forgiveness for additional wages paid to tipped workers.

Borrowers will verify through documentation to the lender their payments during the period, and lenders that receive the required documentation will not be subject to an enforcement action or penalties by the Administrator relating to loan forgiveness for eligible uses.

Upon a lender's report of an expected loan forgiveness amount for a loan or pool of loans, the SBA will purchase such amount of the loan from the lender. Canceled indebtedness resulting from this section will not be included in the borrower's taxable income. Any loan amounts not forgiven at the end of one year are carried forward with terms of a maximum of 2 years at maximum rate of interest of 0.50%.

The 100% loan guarantee remains intact.

A10) Who determines borrower eligibility and creditworthiness?

The PPP provides all participating lenders delegated authority, which is the ability for lenders to make determinations on borrower eligibility and creditworthiness without going through all of SBA's channels.

A11) Can community banks themselves receive a PPP Loan?

This issue is expected to be addressed in upcoming SBA guidance. At this time, ICBA does not expect banks to be eligible borrowers.

A12) What processing fees are payable to lender?

The program Includes a processing fee payable to lender within 5 days of loan disbursement, based on the loan's size:

· Five percent for loans of less than $350,000

· Three percent for loans of between $350,000 and $2,000,000; and

· One percent for loans of more than $2,000,000

Rebate/Stimulus Payments

The following is based on our best, current information It will be updated as ICBA obtains additional information. You may also check the IRS website for updated information.

B1) I'm concerned about my branches being flooded with "recovery rebate" checks. What is the plan for distributing these payments?

· Treasury plans to issues as many of these payments as possible electronically. Treasury estimates 85 percent of payments (or 128 million payments) will be ACH payments.

· The IRS database will be used to determine routing and bank account numbers for qualified individuals. If a taxpayer has not yet filed a return for tax year 2019, the IRS will use the 2018 return for both payment calculation and direct deposit information.

· Treasury has indicated that a website will be set-up for people to provide routing and account numbers if the government doesn't already have that information. This website will be available in the coming weeks.

B2) How will people who do not typically file returns (e.g., some seniors) receive their rebate payments?

Treasury is encouraging people who do not typically file returns to file a "simple return" in order to receive the recovery rebate payment. The IRS will soon provide information on how to file a 2019 tax return with basic information on filing status, dependents, and direct deposit bank account information.

B3) What is the timing of the payments?

· Treasury announced on March 30 that the payments would begin within the next three weeks.

· Those who have not yet filed a return for 2018 or 2019 will have until year-end 2020 to do so in order to claim a rebate payment.

B4) Who qualifies for a payment and how is the amount calculated?

· Eligible taxpayers who filed tax returns for either 2019 or 2018 will automatically receive a payment of up to $1,200 for individuals or $2,400 for married couples. Parents also receive $500 for each qualifying child.

· Tax filers with adjusted gross income up to $75,000 for individuals and up to $150,000 for married couples filing joint returns will receive the full payment.

· For filers with income above those amounts, the payment amount is reduced by $5 for each $100 above the $75,000/$150,000 thresholds. Single filers with income exceeding $99,000 and $198,000 for joint filers with no children are not eligible.

· There is no exclusion for lower income individuals who are not subject to income tax. An individual who has been claimed as a dependent on the return of another taxpayer in the current tax year is not eligible for a payment.

B5) Is the payment taxable?

· The payment is not taxable because it is structured as an advanced, refundable credit against the taxpayer's 2020 tax liability.

· The final amount of the payment will be determined based on 2020 income and settled on the 2020 tax return. A taxpayer who ultimately qualifies for a larger payment (e.g., an individual whose income dropped from 2019 to 2020 or who had a child in 2020) will be compensated with a larger refund or smaller tax liability in 2021. However, a taxpayer who ultimately qualifies for less money will not have to pay back the overpayment.

Loan Modifications/Accounting

C1) Do federal bank regulators support lender modifications of loans?

Federal regulators do encourage banks to work with borrowers when they are experiencing problems making loan payments. Specific to COVID-19, regulators have reinforced their encouragement of banks to work with borrowers who may be experiencing economic difficulties.

C2) What types of modifications can a bank make to a loan when requested by the borrower?

A bank can make any contractual modification to a loan when it is the creditor in the contractual relationship. Banks can reduce interest rates, forgive principal and interest, delay the receipt of regularly scheduled monthly payments, accept additional collateral as a security interest, swap collateral, create additional loan arrangements, and many other options. How and when a bank chooses to modify a loan will often depend greatly on the type of loan, the type of borrower, the financial condition of the borrower, the bank's current loan systems, and the bank's willingness to be flexible in payment arrangements. Banks should document policies for how and when modifications are made and share those policies with their independent accountants and state and federal regulators as needed.

C3) Can the bank make a minor loan modification that does not result in a significant financial impact on the contractual relationship or the bank's accounting for that loan?

Banks must evaluate all loan modifications for impairment. Generally, when a modification to the contractual cash flows does not materially impact the yield on the loan, the bank can make a contractual modification to the loan without needing to impair the loan. In this instance the bank is deemed to have not granted a concession to the borrower. FASB states that an insignificant delay or insignificant shortfall in the amount of payments does not result in impairment if the creditor expects to collect all contractual amounts due. Examples of such minor modifications include the deferral of one or more payments to the end of the loan term and deferral of one or more payments with an adjustment to the payment schedule going forward.

C4) How do I know if my loan modification results in an insignificant delay or insignificant shortfall in cash flows to determine what type of modification I am making?

A bank's determination of insignificant delay or insignificant shortfall is a matter of accounting policy and is dependent on agreement with management, the bank's audit committee, the independent accountants, and its primary federal and state regulators. Generally, payment delays of up to three months would not be expected to have a significant impact on cash flows for long-term loan arrangements like residential mortgage loans. Only by running contractual cash flows and discounting those cash flows at the loan's effective interest rate can a bank determine what impact a modification will have on yield.

C5) If I make a minor loan modification what happens to my interest accruals?

The subject of interest accruals is not addressed under generally accepted accounting principles, so banks generally rely on regulator guidance to determine if they place the loan on nonaccrual status. The FFIEC 051 call report instructions define nonaccrual status for the following conditions:

(1) The loan is maintained on a cash basis because of deterioration in the financial condition of the borrower

(2) Payment in full of principal or interest is not expected

(3) For commercial loans, principal and interest has been in default for a period of 90 days or more unless the asset is both well secured and in the process of collection

Therefore, loans that do not meet the call report definition for nonaccrual should continue to accrue interest in accordance with its contractual terms during the payment delay. A bank's determination of when it places a loan on nonaccrual is a matter of accounting policy and should be shared with the independent accountants and state and federal regulators as needed.

C6) What if the bank grants a concession to the borrower or modifies a loan that results in a significant delay or shortfall in contractual cash flows? See also Q7. and Q8.

Once the bank reaches the conclusion that a loan modification is not minor it must evaluate the loan as a troubled debt restructuring (TDR). A TDR is a loan modification that results when both of the following conditions are present:

(1) The borrower is experiencing financial difficulty

(2) The bank grants a concession to the borrower that it would not otherwise consider

When the bank concludes that the modification results in a TDR, the bank generally records impairment equal to the present value of expected future cash flows discounted at the loan's effective interest rate. In some cases, the observable market price of the loan can be used as a practical expedient.

C7) When can a loan classified as a TDR be returned to accrual status? See also Q8.

Loans classified as TDRs can be placed on accrual status when the bank concludes that the borrower will be able to make payments under the revised terms. The bank must perform an analysis that considers the borrower's historical repayment performance under the loan's modified terms, which generally would include a period of at least six months.

C8) Does my bank need to consider and reflect the impact of TDRs on modifications that are made to loans based on the impact of the COVID-19 pandemic?

Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020, a financial institution may elect to suspend the application of generally accepted accounting principles as it pertains to TDRs. Under CARES Act, loans that are modified due to the COVID-19 coronavirus pandemic would not be impaired. The additional considerations of accrual status and applicable financial statement and regulatory disclosures would be ignored.

Suspension of TDR application would apply for the remaining contractual life of the loan. Eligible loans are those were impacted by the pandemic starting on March 1, 2020 and ending on the earlier of December 31, 2020 or 60 days after the date on which the national emergency is terminated. Additionally, the loan could not be 30 days or more past due on December 31, 2019. Loans modified pursuant to the Act that would otherwise be considered TDRs should be tracked in the financial institution's systems and banks should be prepared to provide selected data to prudential bank regulators for supervisory purposes.

C9) What is the impact of amendments made by both Congress through legislation and the federal banking regulators on the implementation of the current expected credit loss model (CECL)?

Under the CARES Act, a bank that would otherwise be required to apply the provisions of CECL on January 1, 2020 has the option to defer the initial application of the standard to the earlier of December 31, 2020 or the date on which the national emergency is terminated.

Additionally, on March 27, 2020 the federal banking regulators issued an interim final rule that provides an option for 2020 adopters to delay the regulatory impact of CECL for two years from the date of adoption. The already existing three-year transition period for regulatory recognition of the cumulative impact of adopting CECL would start once the two-year delay ends. Under the three-year transition period, the retained earnings impact of the implementation of CECL for regulatory capital calculations would be reversed at 75% in year one, 50% in year two, and 25% in year three.

Mortgage Lending

D1) Where can I locate the most recent guides from the GSEs/FHFA on changes made to origination and servicing requirements?

See: FHFA's Page with all links and updates

For more information, check out Fannie Mae's Lender Letters:

- Impact of Covid-19 on Originations

- Lender Letter on Payment Deferrals

D2) What are the most significant changes on forbearance requirements in the Administration's recently passed stimulus package?

Mortgage Forbearance Summary

- Applies to all federally backed mortgages (Fannie Mae, Freddie Mac, FHA, VA, USDA Rural Housing Loans), but does not apply to loans held in portfolio

- Borrowers can request up to 180 days forbearance initially and can be extended for an additional 180 days

- The servicer must accept the borrower's attestation of a COVID-19 hardship with no additional documentation required from the borrower

- Interest continues to accrue, and the servicer must continue to pay property taxes and insurance premiums from borrower escrow accounts

- Any deferred payments will be added to the balance and the term of the loan extended accordingly, with no additional fees or interest charged beyond what the borrower would have normally paid.

- There is also a 60-day moratorium on foreclosure actions

Multifamily Properties

- Applies to all federally backed multifamily mortgages

- Multifamily borrower can request a 30-day forbearance period and may request 2-additional 30-day forbearance periods

- Borrower request for forbearance can be oral or in writing

- No evictions are permitted during the forbearance period

General Moratorium on Evictions

- On properties with federally backed mortgages, a 120-day moratorium on evictions

D3) Our bank recently closed a loan that was committed to and underwritten for a GSE. Before it was delivered, we learned that the borrower is now unemployed due to a COVID-19 shutdown. Is the loan now ineligible to be sold to the GSE?

At this time, the GSEs are still following a policy that if the lender learns that the borrower is unemployed prior to delivery, the loan is ineligible for delivery.

D4) We are experiencing difficulty in obtaining the verbal verifications of employment (VOEs) from a borrower's employer due to COVID-19. Are the GSEs offering any flexibility?

Yes. When a verbal VOE is not possible, the GSEs will allow a written VOE: The Selling Guide permits the lender to obtain a written VOE confirming the borrower's current employment status within the same timeframe as the verbal VOE requirements. This includes:

- An email directly from the employer's work email address that identifies the name and title of the verifier and the borrower's name and current employment status may be used in lieu of a verbal VOE.

- Paystub: The lender may obtain a year-to-date paystub from the pay period that immediately precedes the note date.

- Bank statements: The lender can provide bank statements evidencing the payroll deposit from the pay period that immediately precedes the note date.

D5) Our bank is having trouble finding appraisers willing to conduct on-site appraisals. Are the GSEs allowing for any alternatives to traditional appraisals?

Yes. Either Fannie Mae or Freddie Mac will allow either a desktop appraisal or an exterior-only inspection appraisal in lieu of the interior and exterior inspection appraisal. See below and HERE for more information.

Loan purpose	LTV ratio	Occupancy	Ownership of loan being refinanced	Permissible appraisals (in order of preference)
Purchase*	Per *Eligibility Matrix*	Principal residence	N/A	Traditional appraisal Desktop appraisal Exterior-only appraisal
	≤ 85%	Second home Investment		Traditional appraisal Desktop appraisal Exterior-only appraisal
	> 85%	Second home		Traditional appraisal
Limited cash-out refinance	Per *Eligibility Matrix*	All	Fannie Mae-owned	Traditional appraisal Exterior-only appraisal
			Not Fannie Mae-owned	Traditional appraisal
Cash-out refinance			Fannie Mae or not Fannie Mae-owned	Traditional appraisal

*Excludes new construction and construction-to-permanent loans.

D6) If payments are deferred for 3 months, does a bank charge for insurance and taxes or, rather, adjust the payment when payments resume?

For GSE loans, interest continues to accrue and then the bank adds those deferred payments onto the end of the loan, maintaining the same amortization. Any taxes or insurance the bank must advance that was not collected during the forbearance period can be capitalized into the balance.

D7) We are concerned about being able to close some of our GSE loans before the rate lock expires because of appraisals and title searches being difficult to get done with courthouses closed. Will Fannie Mae and Freddie Mac extend rate locks?

Fannie Mae and Freddie Mac will extend commitments, but it's possible they may charge for it.

D8) Is there any current guidance on the extension of mortgage payments?

Other than for loans that you may service for Fannie/Freddie/FHA/VA or Rural Housing, there has not been any definitive guidance on forbearance for mortgage loans retained in portfolio. California and New York have issued proclamations, but so far other states have not. The banking agencies have encouraged bankers to work with their customers based on their individual needs and provide forbearance and other loan modification tools to help them through the crisis. Of course, the troubled debt restructuring provisions of the CARES Act will also help. We are monitoring the situation and will provide any updates we receive.

Federal Reserve Lending Support

E1) What changes has the Federal Reserve made to the discount window in response to the current crisis?

· The Federal Reserve is encouraging depository institutions to use the discount window to help meet demands for credit from households and businesses.

· The Board announced that it has lowered the primary credit rate by 150 basis points to 0.25 percent, effective March 16, 2020.

· In addition, the Board extended the borrowing period from the discount window to as long as 90 days, prepayable and renewable by the borrower on a daily basis.

· The Federal Reserve continues to accept the same broad range of collateral for discount window loans.

· The banking agencies announced that discount window borrowing will receive favorable treatment under the liquidity coverage rule.

· The banking agencies announced that that loans that have been restructured as described in accordance with their recent guidance will continue to be eligible as collateral at the discount window based on the usual criteria.

E2) What is the Main Street Small Business Lending Program?

· The Federal Reserve announced that it will create a Main Street Small Business Lending Program to provide credit support to community banks and other lenders for lending to small businesses.

· Details of the new program have not been announced, nor has a timeframe for implementation, but the Fed has indicated that it is a high priority and more information will be available soon.

· Funding for the program is appropriated in the CARES Act in an unspecified amount as part of a larger Coronavirus Economic Stabilization fund of $500 billion.

· While details of the Main Street Small Business Lending Program are not yet available, the CARES Act does specify terms and conditions for a new Federal Reserve facility for nonprofit organizations and businesses between 500 and 10,000 employees. These terms and conditions include a 90% employee retention requirement, a prohibition on offshoring for the term of the loan plus two years and other labor restrictions; a 2% annual interest rate and no collection of principal or interest payments for at least the first six months.

E3) Will the Federal Reserve support mortgage servicers?

· The CARES Act provides that any borrower with a federally backed mortgage (e.g., Fannie, Freddie, VA, FHA, USDA) may request forbearance for up to one year.

· ICBA believes it is likely that the Federal Reserve will create a liquidity facility for mortgage servicers that service federally backed loans.

E4) What else is the Federal Reserve doing to support credit in the broader economy?

· The Federal Reserve announced that it will use a range of authorities to support credit markets. These include: the Primary Market Corporate Credit Facility (PMCCF); the Secondary Market Corporate Credit Facility (SMCCF); the Term Asset-Backed Securities Loan Facility (TALF); the Money Market Mutual Fund Liquidity Facility (MMLF); and the Commercial Paper Funding Facility (CPFF). Link here for more information.

· These programs are not likely to be used by community banks.

Deposit Insurance, Exams and Reporting

F1) Does the CARES Act authorize the FDIC to fully insure noninterest bearing transaction accounts?

Yes. The CARES Act authorizes the FDIC to establish a new Transaction Account Guarantee (TAG) program that would fully guarantee all noninterest bearing transaction accounts until December 31, 2020. NCUA is also authorized to establish a similar TAG program for credit unions. It will be up to the FDIC and the NCUA to decide when/if to exercise this authority and to establish any limits to the guarantee.

F2) How will the FDIC define a noninterest bearing transaction account?

The FDIC will define what a noninterest bearing transaction account is when it establishes a TAG program. During the financial crisis when the FDIC established the first TAG program, it defined a "noninterest bearing transaction account" as a transaction account that doesn't accrue or pay interest, and on which the bank does not reserve the right to require advance notice of withdrawal. However, FDIC also determined that low-interest bearing transaction accounts (at the time chiefly NOW accounts) and Interest on Lawyers Trust Accounts (IOLTAs) were covered, but not interest bearing money market deposit accounts or MMDAs.

F3) Does the CARES Act also authorize the FDIC to insure the debt of banks and bank holding companies?

Yes, the same authorization for a new TAG program also includes authorization for a new Temporary Liquidity Guarantee Program (TLGP) that would insure other non-deposit debt of banks and bank holding companies. During the financial crisis, this guarantee was used mainly by large banks, but was available to all banks. This authorization also expires on December 31, 2020.

F4) Can community banks use a lower community bank leverage ratio?

Yes. Beginning the first quarter of this year, qualifying community banks under $10 billion in assets may opt in to a new community bank leverage ratio (CBLR) of 9 percent by completing a CBLR reporting schedule on their call reports or Form FR Y-9Cs. The election allows the bank to forego calculating capital requirements using risk-based capital rules. The CARES Act requires regulators to temporarily set the CBLR at 8 percent rather than at 9 percent, and also requires the agencies to provide a grace period to banks that fall below the ratio. This mandate expires at the earlier of the end of the COVID-19 emergency declaration or December 31, 2020.s

F5) Does the CARES Act provide any authority for lowering lending limits?

Through the earlier of December 31, 2020 or the end of the national COVID-19 emergency, the CARES Act authorizes the OCC to exempt loans or other extensions of credit made to any "nonbank financial company" (those with 85 percent of gross revenue or assets derived from activities that are "financial in nature" as defined under the Bank Holding Company Act) from the lending limits stated under federal law. Further, the OCC also has the authority to exempt, by order, any transaction or series of transactions from legal lending limits if it finds that it is in the public interest.

While this provision of the CARES Act only applies to national banks and federal savings associations since state-chartered bank lending limits are determined by state law, nevertheless, many states have "wild card" statutes that give state-chartered banks the same powers as national banks. Depending on how the state law is written, if the OCC exempts certain transactions from the lending limit, state banks may be able to take advantage. Note, however, that the OCC will act by order which may impact whether the state wild card statute is invoked.

F6) Will the banking agencies reduce their focus on exams during the COVID-19 outbreak?

The FDIC has said that it will work with affected financial institutions to reduce burden when scheduling examinations, including making greater use of off-site

reviews, consistent with applicable legal and regulatory requirements.

The OCC is evaluating alternative options to conduct supervisory activities. These include working remotely and maximizing the use of electronic records and communication. The OCC encourages banks to discuss the exam schedule with their Examiner-in-Charge.

According to recent guidance, the Federal Reserve is reducing its focus on exams and inspections during this time. For banks with less than $100 billion in total consolidated assets, the Federal Reserve will cease all regular exam activity, except where the exam work is critical to safety and soundness or consumer protection, or is required to address an urgent or immediate need. The Federal Reserve will reassess its approach to exams in the last week of April to see if circumstances have changed. The Federal Reserve is also extending the time periods for remediating existing supervisory findings by 90 days, unless the Federal Reserve otherwise notifies the bank.

The CFPB says it will work with banks over $10 billion in assets in scheduling exams and other supervisory activities to minimize disruption and burden, and will keep in close contact with affected banks to determine when supervisory events can be appropriately scheduled. When conducting exams and other supervisory activities, the CFPB will consider the circumstances banks may face as a result of the COVID-19 pandemic and will be sensitive to good-faith efforts demonstrably designed to assist consumers.

F7) Did the banking agencies extend the deadline for filing call reports for the first quarter of 2020?

Guidance released by the FFIEC on March 25, 2020 indicate that the federal banking agencies will not take action against any institution for submitting its March 31, 2020, Reports of Condition and Income (Call Report) after the respective filing deadline, as long as the report is submitted within 30 days of the official filing date. Institutions are encouraged to contact their primary federal regulator in advance of the official filing date if they anticipate a delayed submission.

In addition the Federal Reserve has indicated that it will not take action against a bank holding company with $5 billion or less in assets for submitting March 31, 2020, bank holding company reports (FR Y-9C or FR Y-11) after the filing deadline, as long as the report is submitted within 30 days of the filing date. Institutions are encouraged to contact their Reserve Bank in advance of the normal filing deadline if they anticipate a delayed submission. Institutions anticipating difficulty submitting their reports within the 30 days following the official filing due date, or experiencing challenges in obtaining director attestations, should likewise contact their Reserve Bank.

F8) Can we get relief from filing Bank Secrecy Act ("BSA") documents such as suspicious activity reports (SARs) and currency transaction reports (CTRs)?

On March 16th, FinCEN issued guidance encouraging banks to communicate with them and their functional regulator if the bank has concerns about any potential delay in its ability to file required BSA reports. Financial institutions should call FinCEN's Regulatory Support Section at 1-800-949-2732 and select option 6 or e-mail at FRC@fincen.gov. ICBA, along with other trade associations, has requested an extension for filing these types of reports. ICBA's letter can be found here.

Compliance FAQs

Note: An additional 2,500 compliance Q&As can be found in ICBA's Compliance Vault

G1) Can we allow our savings deposit customers to go over the six-per-month withdrawal and transfer limit?

According the Reserves Central—Reserve Account Administration Application Frequently Asked Questions issued on March 15th, yes. However, banks must report the account as a "transaction account" and should work with their local Reserve Banks to support their efforts to accurately report on the FR 2900 on a timeline that makes sense relative to the current situation.

G2) Can we get relief from beneficial ownership data collection requirements to expedite the processing of small business loans?

No express relief has been given by FinCEN for beneficial ownership. However, ICBA recommends that financial institutions call FinCEN's Regulatory Support Section at 1-800-949-2732 and select option 6 or e-mail at FRC@fincen.gov regarding questions about the collection of beneficial ownership data.

G3) Can we get relief from filing Bank Secrecy Act ("BSA") documents such as suspicious activity reports (SARs) and currency transaction reports (CTRs)?

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G4) What are banks' responsibilities for credit reporting under the newly passed CARES Act?

Under section 4021 of the CARES Act, if a bank makes a late-payment accommodation for one or more payment obligations on a debt, then the bank may not report a negative change in status to a reporting agency. So for example, if a borrower does not make a payment because a payment deferral accommodation was made, the bank cannot report the delinquency to the credit reporting agency. However, if a bank charges-off the obligation, then the bank may furnish that information to a credit reporting agency.

G5) Can we get relief from fulfilling Home Mortgage Disclosure Act (HMDA) requirements?

Large volume lenders are relieved from new quarterly reporting; however, all entities should continue collecting and recording HMDA data in anticipation of making annual submissions in March 2021. On March 26, The Consumer Financial Protection Bureau (Bureau) issued a statement that it will not expect quarterly information reporting by certain mortgage lenders as required under the HMDA and Regulation C (generally financial institutions that report for the preceding calendar year at least 60,000 covered loans and applications (excluding purchased loans) must report their HMDA data quarterly (except for the fourth quarter) in addition to annually).

G6) Will the CFPB delay the 1071 rulemaking as a result of COVID-19?

The Bureau has not stated whether it will delay the small business loan data collection rulemaking, but it has stated that it has temporarily postponed the publication of a survey of initial costs. This survey is a prerequisite to subsequent considerations in a 1071 rulemaking.

G7) Has the NCUA delayed its deadline for comments in response to its proposed rulemaking on credit union combinations with non-credit unions?

Yes, the NCUA voted on Friday, March 27 to delay the comment deadline for 60 days.

Federal Home Loan Banks

H1) Are the FHLBs in the system coordinating to ensure consistency in their treatment of collateral and collateral haircuts, etc.?

Currently each FHLB has its own policies on FHLB collateral and bankers should check their respective FHLB website or contact their FHLB representative to determine their FHLB's collateral policy. Most FHLB websites have statements permitting collateral with modifications or forbearance as a result of the COVID emergency.

H2) As banks continue to work with their customers on loan modifications resulting from COVID-19, will the FHLBs continue to require a wet ink signature on a modification agreement for their Mortgage Purchase and Mortgage Purchasing Finance Programs?

There hasn't been official confirmation on this, but ICBA is working with the FHLBs to confirm that they will accept modifications that are executed by the borrower and faxed or scanned for submission to the lender. In addition, they are likely to accept electronically or digitally signed modifications.

Operations

J1) Are bank employees considered essential workforce?

Yes. The Department of Homeland Security issued guidance on essential workforce which includes the following financial services employees:

o Workers who are needed to provide, process and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; and capital markets activities).

o Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.

o Workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including ATMs, lending and money transmission, and to move currency, checks, securities, and payments (e.g., armored cash carriers).

o Workers who support financial operations and those staffing call centers, such as those staffing data and security operations centers, managing physical security, or providing accounting services.

o Workers supporting production and distribution of debit and credit cards.

o Workers providing electronic point of sale support personnel for essential businesses and workers.

· ICBA has posted this guidance, along with a letter from Treasury Secretary Mnuchin and a template letter banks can use to provide local authorities with details describing the essential nature of their business, on its Crisis Preparedness webpage. Bank employees are encouraged to carry all three documents when traveling to and from work.

J2) What should employees do with respect to handling cash?

The CDC has not issued any guidance specific as to how long COVID-19 survives on cash. Any employee frequently handling cash should sanitize their hands frequently and avoid touching their face after handling cash.

J3) What procedures should banks follow if an employee or customer has tested positive for COVID-19?

Steps to take if an outbreak occurs in your workplace include:

o Separate sick employees.

o If an employee is confirmed to have COVID-19, employers should notify other employees of their possible exposure and suggest they self-monitor for symptoms.

o Close off all areas visited by the ill person. Open outside doors and windows and use ventilating fans to increase air circulation in the area.

o Wait 24 hours or as long as practical before beginning cleaning and disinfection

o Cleaning staff should clean and disinfect all areas such as offices, bathrooms, common areas, and shared electronic equipment (touch screens, keyboards, remote controls, ATMs, etc.) used by the ill persons.

o More information on proper cleaning procedures can be found here: https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html

J4) Are there any benefits for farmers and ranchers in the coronavirus aid bill?

Yes, in addition to adding $14 billion to USDA's Commodity Credit Corporation (CCC), USDA's funding arm, to replenish that account to fund USDA's farm safety net, the COVID-19 aid package provides a separate $9.5 billion to assist producers who raise: livestock, dairy, and specialty crops. Local food markets are also eligible for aid under this package.

The aid package also provides funding for a multitude of rural programs and initiatives including: hiring of temporary staff at Farm Service Agency field offices, lowering the costs for rural development programs, an additional $1 billion for the Business & Industry (B&I) loan program, telemedicine, rural hospitals, broadband and other needs.

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J5) Are farmers and ranchers eligible for the SBA paycheck protection loan program?

Farmers and ranchers who otherwise meet the qualifications for the new SBA program are eligible.

J6) Are there any coronavirus related cyber threats?

Yes. Unfortunately, criminals thrive during chaos and are looking to take advantage of employees and customers. The most common threat during the crisis has been socially engineered phishing emails using COVID-19 as a lure to get people to click on malicious links. Banks should consider proactively letting their customers know what they can and cannot expect from the banks via phone calls and email.

Agriculture

K1) Are there any benefits for farmers and ranchers in the coronavirus aid bill?

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K2) Are farmers and ranchers eligible for the SBA paycheck protection loan program?

Farmers and ranchers who otherwise meet the qualifications for the new SBA program are eligible.

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