

MBA COVID-19 Single-Family Policy Tracker

February 2021

The Mortgage Bankers Association is committed to maintaining its role as the industry leader for housing finance policy analysis and advocacy. Please see below for a detailed review of MBA's response to the COVID-19 outbreak.

SERVICER AND ORIGINATOR LIQUIDITY. *Workplace disruptions caused by COVID-19 have made it more difficult for many consumers to handle mortgage debt, increasing the likelihood of default and/or government intervention in the form of forbearance programs. Widespread forbearance or borrower distress would cause significant liquidity strains, particularly for institutions without direct access to the Federal Reserve's discount window or Federal Home Loan Bank advances.*

POLICY ISSUES	STATUS
<p>FEDERAL RESERVE LIQUIDITY FACILITY</p> <ul style="list-style-type: none">• The Federal Reserve should establish a mechanism for servicers to access liquidity through its Section 13(3) Emergency Lending Authority.	<ul style="list-style-type: none">• MBA has engaged in extensive discussions with the Federal Reserve, the Treasury Department, and other policymakers in the administration and Congress on this issue, advocating strongly for the creation of one or more liquidity facilities to provide financing so that servicers can help distressed borrowers with forbearance through this crisis.• March 22, MBA submitted formal recommendations to the Federal Reserve and the Treasury Department, advocating for the creation of a liquidity facility dedicated to mortgage servicers.• April 6, four members of Congress sent a bipartisan letter to the Federal Reserve reiterating the importance of liquidity facilities to ensure all mortgage servicers are able to carry out the Congressionally-mandated borrower forbearance.• April 7, MBA's Bob Broeksmit issued a statement addressing FHFA Director Mark Calabria's troubling comments in which Calabria dismissed the immediate need for a federally-backed liquidity facility to assist mortgage servicers.• April 9, the Federal Reserve announced additional actions to provide up to \$2.3 trillion in loans to support the economy, including expansions of the Paycheck Payment Program Liquidity Facility (PPPLF), Term-Asset Backed Securities Loan Facility (TALF), and Primary and Secondary Market Corporate Credit Facilities (PMCCF and SMCCF). Additionally, the Federal Reserve announced \$600 billion in available loans through the Main Street Lending Program.• April 15, Senator Sherrod Brown, Ranking Member of the Senate Banking Committee, and Representative Maxine Waters, Chairwoman of the House Financial Services Committee, released a letter in which they called on the Federal Reserve and Treasury to ensure sufficient liquidity in the housing market.• April 15, the Conference of State Bank Supervisors recommended that Congress establish a liquidity facility in future legislative efforts to address COVID-19.

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GINNIE MAE LIQUIDITY FACILITY

- Ginnie Mae should adapt its Pass-Through Assistance Program to assist with servicer advance obligations.

GINNIE MAE POOLING ELIGIBILITY

- MBA is engaging with Ginnie Mae to ensure that servicers maintain sufficient flexibility to re-pool loans into Ginnie Mae securities following a period of borrower forbearance to promote liquidity.

- April 21, FHFA [announced](#) the alignment of the GSEs' timelines for required servicer advancing obligations, limiting these obligations to four months of advances of missed borrower payments. This step will help limit the maximum liquidity demands placed on servicers, and was welcomed in a [statement](#) by MBA's Bob Broeksmit.
- May 13, MBA worked closely with the Texas MBA in support of its letter to Texas Banking Commissioner Cooper — the Conference of State Bank Supervisors (CSBS) representative on FSO — requesting a Federal Reserve liquidity facility for servicers.
- March 27, following extensive MBA advocacy and detailed review of existing program parameters, Ginnie Mae [announced](#) its intention to implement a revised version of its Pass-Through Assistance Program (PTAP). Importantly, the revised program will not require that issuers be deemed to be in default by virtue of their participation.
- April 7, Ginnie Mae [approved](#) the inclusion of a private market servicing advance facility under the terms of its Acknowledgement Agreement. While not necessarily a market-wide solution for servicer liquidity needs, this facility does provide an additional option for financing advances separately from MSR financing.
- April 10, Ginnie Mae [announced](#) the implementation of its revised Pass-Through Assistance Program. This program will provide an additional option for all issuers to access liquidity to finance principal and interest advances as a result of COVID-19-related borrower forbearance.
- May 4, Ginnie Mae released a set of [FAQs](#) outlining PTAP details, as well as [summary statistics](#) regarding the usage of the program.
- June 29, Ginnie Mae issued [temporary pooling restrictions](#) on re-performing loans following forbearance in order to mitigate accelerating prepayment speeds that could occur as a result of buyouts of loans in forbearance from Ginnie Mae securities. Covered loans will be eligible for re-pooling following a buyout only through custom securities, and only after seasoning requirements are met. MBA worked closely with Ginnie Mae to ensure servicer flexibility was not excessively curtailed.
- December 4, following its prior decision to institute pooling restrictions for re-performing loans that had been bought out of pools, Ginnie Mae [issued](#) details on a new pool type for the re-securitization of these loans. MBA worked closely with Ginnie Mae on the development of the new custom pool type to minimize costs placed on issuers and has confirmed that these pooling restrictions are temporary in nature.

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BANK REGULATOR GUIDANCE REGARDING WAREHOUSE LINES <ul style="list-style-type: none">• The federal banking agencies should allow greater flexibility in capital requirements to encourage increased availability of bank warehouse financing to IMBs.	<ul style="list-style-type: none">• MBA submitted formal recommendations to the Federal Reserve, OCC, and FDIC recommending that risk weights on warehouse lending be decreased from 100 percent to 50 percent. This modification would increase warehouse lenders' ability to accommodate high borrower demand.
MARGIN CALLS ON ORIGINATION PIPELINES <ul style="list-style-type: none">• As MBS prices rise in response to Federal Reserve purchases, TBA hedges on pipelines lose value, resulting in margin calls from counterparties. While such margin calls generally protect against counterparty default, margin calls of alarming magnitudes can raise stability concerns.	<ul style="list-style-type: none">• MBA submitted formal recommendations to FINRA and the SEC regarding the need for broker-dealers to work constructively with their mortgage originator counterparties. MBA argued forcefully that margin calls should not reach destructive levels at which they threaten the viability of otherwise healthy companies.• MBA has engaged in direct advocacy with FINRA, the SEC, Treasury, and other policymakers to ensure reasonable practices are encouraged by regulators with respect to broker-dealer margin calls. A CNBC report covered this advocacy in greater detail.
PAYCHECK PROTECTION PROGRAM <ul style="list-style-type: none">• To facilitate eligibility of mortgage servicers in the Paycheck Protection Program.	<ul style="list-style-type: none">• MBA urged the Treasury and SBA to issue guidance to clarify the 14-day sale requirement for purposes of determining mortgage company eligibility under the PPP. MBA asked that the guidance specifically state that mortgage companies that originate and sell loans "in the ordinary course of their business" be eligible borrowers under the PPP – without regard to whether every loan is actually sold with 14 days.• April 23, FHFA announced that the Federal Home Loan Banks will begin accepting PPP loans as collateral for advances to members.• June 4, the Senate passed by unanimous consent legislation that would ease restrictions on the Paycheck Protection Program. The legislation, which was already approved by the House of Representatives, extends the period of time over which funds can be spent and reduces the share of funds that must be spent on payroll.• July 27, Senate Republicans introduced several legislative vehicles that in total make up the <i>Health, Economic Assistance, Liability Protection and Schools (HEALS) Act</i>. The pillars of the proposal include

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MAIN STREET LENDING PROGRAM <ul style="list-style-type: none">To facilitate eligibility of mortgage companies for the Main Street Lending Program.	<p>another round of \$1,200 in direct payments to individual Americans and more money for the Paycheck Protection Program (PPP).</p> <ul style="list-style-type: none">May 27, the Federal Reserve Bank of Boston released a series of forms, agreements, and FAQs to provide market participants with detailed information regarding the Main Street Lending Program. The Program is designed to support medium-sized and small businesses by providing credit to sustain operations and employment through the pandemic.May 28, MBA submitted comments to the Federal Reserve seeking clarity on the eligibility of independent mortgage banks for its Main Street Lending Program.September 9, the Senate Banking Committee held a hearing on the Federal Reserve's emergency lending facilities. Lawmakers largely agreed that the Federal Reserve's Main Street Lending Program (MSLP) has fallen short, but members lacked consensus on whether or how to implement change. As of September 3, the MSLP had completed \$1.2 billion in loans, just a fraction of the \$600 billion authorized in the <i>CARES Act</i>. A summary of the hearing can be found here.

MARKET LIQUIDITY. *The onset of COVID-19 and the resulting economic harm has weakened liquidity in a variety of fixed-income markets, including MBS markets. Reduced liquidity has the potential to harm a wide variety of market participants, including borrowers.*

POLICY ISSUES	STATUS
FEDERAL RESERVE SUPPORT FOR MBS MARKET <ul style="list-style-type: none">MBA requests that the Federal Reserve ensure ample liquidity in the agency MBS market, including through purchases of commercial MBS.	<ul style="list-style-type: none">In response to a troubling lack of liquidity in the agency MBS market, MBA submitted recommendations to the Federal Reserve and the Treasury Department, calling on them to take more active measures to support market liquidity.The Federal Reserve announced that it will use a full range of authorities to support the economy, including purchases of Treasury securities and agency residential and commercial MBS. MBA's Bob Broeksmit issued this statement applauding the announcement.
GSE SUPPORT FOR SECONDARY MARKET LIQUIDITY <ul style="list-style-type: none">MBA supports the GSEs using their unique positions in the market to enhance liquidity.	<ul style="list-style-type: none">FHFA directs the Enterprises to enter into additional dollar roll transactions, providing MBS investors with short-term financing of their positions. Eligibility is limited to agency MBS.May 1, Fannie Mae and Freddie Mac each issued an announcement that certain credit risk transfer (CRT) securities will treat COVID-19-related forbearance as a "natural disaster" or a "casualty event" for purposes for suspending triggers that would have generated losses for some investors. These "fixed-severity" securities, issued prior to 2016, could have generated investor losses despite the

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	<p>GSEs not suffering similar losses on the reference pools of mortgages. While these announcements do not cover all “fixed-severity” CRT securities, they do represent a positive step for the functioning of the CRT market.</p> <ul style="list-style-type: none">• June 24, Freddie Mac released Bulletin 2020-24 and Fannie Mae updated Lender Letter 2020-02 to adjust IMB liquidity requirements to account for loans in forbearance due to a COVID-19 hardship. Effective June 30, loans that are in pandemic-related forbearance and were current prior to entering forbearance will be counted toward servicers’ aggregate agency non-performing loan (NPL) ratios at a 30 percent multiplier (a decrease from the existing 100 percent multiplier). This change should lower agency NPL ratios for IMB servicers, resulting in a lower minimum liquidity requirement for servicers that exceed (or otherwise would have exceeded) the existing 6 percent agency NPL ratio threshold.

ORIGINATION ISSUES. *MBA promotes flexibility in origination policies and requirements arising out of a need for social distancing to contain COVID-19. Policymakers should adopt measures supporting social distancing while allowing for the continued functioning of the mortgage origination process.*

POLICY ISSUES	STATUS
<p>POWER OF ATTORNEY</p> <ul style="list-style-type: none">• Within the context of remote online notarization, title companies should be permitted to act with the power of attorney to execute documents on behalf of the borrower.	<ul style="list-style-type: none">• March 31, Fannie Mae LL-2020-03 was edited and Freddie Mac Bulletin 2020-08 was issued to include guidance allowing for the use of powers of attorney by “persons connected to the transaction.” eNotes may be delivered in transactions using an agent with powers of attorney.• May 5, Fannie Mae and Freddie Mac announced an extension to their underwriting flexibilities from application dates on or before May 17, 2020 to June 30, 2020.• June 11, FHFA announced it will extend several loan origination flexibilities implemented by Fannie Mae and Freddie Mac through July 31, including flexibilities regarding power of attorney.• July 9, FHFA extended several loan origination flexibilities implemented by Fannie Mae and Freddie Mac through August 31, including flexibilities regarding power of attorney.• August 26, FHFA issued an extension of several important COVID-19-related loan origination flexibilities, including those related to power of attorney.• September 24, FHFA again extended several Fannie Mae and Freddie Mac loan origination flexibilities including those related to power of attorney until October 31, 2020.• October 19, FHFA again extended several Fannie Mae and Freddie Mac loan origination flexibilities including those related to power of attorney until November 30, 2020.

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ENOTES/EVAULT/ESIGNING

- Ginnie Mae should move from pilot to production on eNotes.
- FHLBs should accept eNote collateral.
- Borrowers may need e-documents for payment plans.
- Clarification is needed to determine if Gap Insurance is a viable alternative for documents not fully executed at the time of closing.

PHYSICAL PROPERTY INSPECTIONS/APPRAISALS

- MBA is working to address a particularly problematic bottleneck in the production process—i.e. the need for in-person appraisals—through various channels, including extended use of appraisal waivers or appraisal alternatives at the GSEs, FHA, VA, and USDA.

- February 10, FHFA again extended several GSE loan origination flexibilities including those related to power of attorney through March 31, 2021.
- MBA advocated for Ginnie Mae to accelerate its digital collateral initiative to facilitate broader use of eNotes. Full implementation of this initiative is expected in the coming weeks.
- Ginnie Mae issued [APM 20-01](#) temporarily allowing for the electronic execution and transmission of the Release of Security Interest (form HUD 11711A) and the Certification and Agreement (form HUD 11711B). The execution of these documents includes the temporary approval of electronic signatures. This allowance will continue until otherwise directed by Ginnie Mae, whereupon the issuer will again be required to deliver these documents with wet signatures.
- March 16, VA issued [Circular 26-20-7](#) advising that unless appraisers have flu-like symptoms, are at high-risk of COVID-19, or have been in close conduct with someone confirmed to have COVID-19, they should conduct business as outlined in the Lender's handbook.
- March 23, [FHFA directs enterprises](#) to grant flexibilities on appraisals.
- March 23, Fannie Mae issued [LL-2020-04](#) temporary guidance on appraisal requirements. Exterior-only appraisals are permitted for purchase loans and limited cash-out refinances where the loan being financed is owned or guaranteed by Fannie Mae.
- March 23, Freddie Mac [Bulletin 2020-5](#) outlines permissible appraisals based on mortgage purpose. Exterior-only appraisals allowed for all loans except for second homes with LTVs >85%, no-cash-out refinances with mortgage to be refinanced not owned by Freddie Mac, and cash-out refinances.
- March 27, VA issued [Circular 26-20-11](#) outlining temporary guidance for external-only or desktop appraisals.
- March 27, FHA released [Mortgagee Letter 20-05](#) allowing single-family forward purchase transactions to utilize an optional exterior-only or desktop-only appraisal for inspections completed before May 17, 2020. These options are not available for new construction, construction to permanent, building on own lands, and 203(k) purchases.

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- March 31, Fannie Mae edited [Lender Letter 2020-04](#) to allow for desktop appraisals on new construction projects. This expanded flexibility excludes construction to permanent loans.
 - April 8, USDA announced [immediate measures](#) including eligibility of purchase and non-streamline refinances for exterior-only appraisals. Note that streamline refinances already do not require an appraisal.
 - April 14, Fannie Mae edited [Lender Letter 2020-04](#), adding guidance related to condominium project reviews, virtual inspections and flexibilities for HomeStyle® Renovation loans.
 - April 14, Freddie Mac released [Bulletin 2020-11](#) updating appraisal flexibilities, including condominium project review flexibilities and updates to CHOICERenovation Mortgages.
 - April 16, MBA publishes member [guide](#) to temporary flexibilities.
 - May 5, [Fannie Mae](#) and [Freddie Mac](#) announced an extension to their appraisal flexibilities from application dates on or before May 17, 2020 to June 30, 2020.
 - May 14, FHA released [ML 2020-14](#) extending appraisal flexibilities to appraisals conducted on or before June 30, 2020.
 - June 11, FHFA [announced](#) it will extend several loan origination flexibilities implemented by Fannie Mae and Freddie Mac through July 31, including flexibilities regarding appraisals.
 - June 29, HUD [extended](#) existing flexibilities related to appraisals for FHA loans. These flexibilities – detailed in [Mortgagee Letter 2020-05](#) – are now available for inspections completed on or before August 31.
 - July 9, FHFA [extended](#) appraisal flexibilities offered by Fannie Mae and Freddie Mac through August 31.
 - August 26, FHFA issued an [extension](#) of several important COVID-19-related loan origination flexibilities, including those related to appraisals.
 - August 28, FHA [extended](#) its appraisal flexibilities through October 2020.
 - September 24, FHFA again [extended](#) several Fannie Mae and Freddie Mac loan origination flexibilities including those related to appraisals until October 31, 2020.
 - October 19, FHFA again [extended](#) several Fannie Mae and Freddie Mac loan origination flexibilities including those related to appraisals until November 30, 2020.

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VERBAL VERIFICATION OF EMPLOYMENT

- MBA is engaging senior staff at various agencies and GSEs, seeking temporary exemptions to the requirement for verbal verification of employment when other documented sources of employment are available.

- October 28, FHA [extended](#) its appraisal flexibilities through December 30, 2020.
- December 17, FHA extended its appraisal flexibilities through February 28, 2021.
- February 10, FHFA again extended several GSE loan origination flexibilities including those related to appraisals through March 31, 2021.
- February 23, FHA released a longer-term extension of its appraisal flexibilities until June 30, 2021.
- December 4, HUD [announced](#) a temporary waiver allowing use of “third-party tools” in lieu of a traditional field review for the appraisal requirement portion of the FHA’s quality control reviews. MBA has confirmed this includes the use of automated valuation models. This waiver reflects MBA advocacy and collaboration with FHA and was a direct response to information provided to MBA by our members.
- March 23, [FHFA directed the Enterprises](#) to grant flexibilities on employment verifications.
- March 23, Fannie Mae [LL-2020-03](#) and Freddie Mac [Bulletin 2020-5](#) outlined documentation accepted in lieu of 10-day pre-closing verification types outlined in the guides. These flexibilities include an e-mail directly from the employer, year-to-date paystub from pay-period immediately preceding, and asset account statement evidencing payroll deposit.
- March 27, VA issued [Circular 26-20-10](#) outlining temporary guidance for adjusted underwriting standards due to COVID-19, including alternatives to traditional verification of employment.
- March 27, FHA released [Mortgagee Letter 20-05](#) exempting lenders from obtaining re-verification of employment within 10 days of the Note date on single-family forward transactions if the lender is not aware of any loss of employment by the borrower and the lender has obtained evidence of a minimum of 2 months of PITI in reserves; and (a) a year-to-date paystub or direct electronic verification of income for the pay period that immediately precedes the Note date, or (b) a bank statement showing direct deposit from the borrower’s employment for the pay period that immediately precedes the Note date.
- March 31, Fannie Mae [LL-2020-03](#) was edited to (1) require documents to be no more than 60 days old, and (2) require lenders to certify self-employed borrower’s business is still open at least 10 days before closing.
- April 8, USDA announced [immediate measures](#) including allowing for alternatives such as an email from the borrower’s employer, or two months cash reserves.
- April 16, MBA published member [guide](#) to temporary flexibilities.

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- May 5, [Fannie Mae](#) and [Freddie Mac](#) announced an extension to their underwriting flexibilities from application dates on or before May 17, 2020 to June 30, 2020.
 - May 14, FHA released [ML 2020-14](#) extending verbal verification of employment flexibilities to cases closed on or before June 30, 2020.
 - June 11, FHFA [announced](#) it will extend several loan origination flexibilities implemented by Fannie Mae and Freddie Mac through July 31, including flexibilities regarding verbal verification of employment.
 - June 29, HUD [extended](#) existing flexibilities related to re-verification of employment for FHA loans. These flexibilities – detailed in [Mortgagee Letter 2020-05](#) – are now available for cases closed on or before August 31.
 - July 9, FHFA [extended](#) a series of temporary loan flexibilities offered by Fannie Mae and Freddie Mac through August 31. These flexibilities address methods for documenting income and verifying employment.
 - August 26, FHFA issued an [extension](#) of several important COVID-19-related loan origination flexibilities, including those related to income and employment verification.
 - August 28, FHA [extended](#) its re-verification of employment flexibilities through October 2020.
 - September 24, FHFA again [extended](#) several Fannie Mae and Freddie Mac loan origination flexibilities including those related to re-verification of employment until October 31, 2020.
 - October 19, FHFA again [extended](#) several Fannie Mae and Freddie Mac loan origination flexibilities including those related to re-verification of employment until November 30, 2020.
 - October 28, FHA [extended](#) its re-verification of employment I flexibilities through December 30, 2020.
 - December 17, FHA extended its re-verification of employment flexibilities through February 28, 2021.
 - February 10, FHFA again extended several GSE loan origination flexibilities including those related to re-verification of employment through March 31, 2021.
 - February 23, FHA released a longer-term extension of its re-verification of employment flexibilities until June 30, 2021.

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TREATMENT OF SELF-EMPLOYMENT INCOME

- Guidance needed as to the treatment of income from self-employment, particularly if employment has been impacted by the pandemic.

DISRUPTIONS IN IRS TAX TRANSCRIPT PROCESSING

- Lenders have received notice that the IRS' Income Verification Express Service (IVES) is not processing new requests.

TAX RETURNS FOR NEW LOANS

- Guidance needed as to what will satisfy requirements for most recent borrower tax returns, as the filing deadline is now extended.

- May 28, Fannie Mae updated [LL-2020-03](#) and Freddie Mac released [Bulletin 2020-19](#) to publish new requirements for borrowers using self-employment income to qualify for loans. As a result of the COVID-19 pandemic, the GSEs are now requiring lenders to obtain and assess year-to-date profit and loss statements that are no older than 60 days prior to the note date. The Lender Letter and Bulletin provide further details regarding evaluations of business operations, income, and stability.
- July 29, HUD released [Mortgagee Letter 2020-24](#), which details additional requirements lenders must meet when verifying self-employment or rental income for FHA borrowers. The new, temporary guidelines require lenders to verify the existence of borrowers' businesses within 10 calendar days of the note date and to take extra steps to validate payments received from rental properties.
- February 23, HUD extended its requirements related to verification of self-employment and rental income to June 30, 2021.
- MBA advocated for the need for an IRS Form 4506-T processing back-up plan and has been in discussions with agencies including the IRS on this issue.
- March 31, Fannie Mae [LL-2020-03](#) was edited to remove certain documentation requirements for loans with application or disbursements dates between April 15 and July 15 due to the federal income tax filing extension.
- April 27, the IRS re-started its tax transcript processing functions. Due to ongoing COVID-19-related constraints, the IRS is currently working through the backlog of requests rather than accepting new requests.
- June 1, the IRS re-opened all of its centers that are responsible for tax transcript processing. These centers currently continue to work through the backlog of prior requests.
- June 8, the IRS announced that, in addition to working through the backlog of existing tax transcript requests, it is now accepting new requests, as well. While processing times are likely to remain delayed, this development represents tangible progress in the return to regular operations.
- March 18, the Treasury Department and the IRS issued [Notice 2020-18](#), extending the filing deadline for federal income tax.
- MBA is aware of this issue and pursuing clarity with related agencies, particularly with respect to requirements related to "most recent" tax information.

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CONDOMINIUM GUIDANCE

- Need to alleviate bottlenecks in condo lending created by COVID-19 response.

EXPIRING INTEREST RATE LOCKS

- Production issues and delays related to COVID-19 result in high levels of expiring interest rate locks.

GSE REPS AND WARRANTS

- Need for clearer GSE reps and warrants that explicitly outline protections associated with delivery of loans utilizing temporary underwriting guidelines (increased use of desktop/exterior-only appraisals, re-verification of employment changes).

POST-FORBEARANCE ELIGIBILITY

- Need for guidance to outline eligibility for new loans – both purchases and refinances – for borrowers who participated in a forbearance program.

- March 27, FHA released a waiver allowing mailing alternative for condo project approval application packages. FHA employees working remotely now will be able to access packages for processing. This alternative method does not affect lenders that currently upload their packages through FHA Connection.
- April 14, Fannie Mae edited [LL-2020-04](#) and Freddie Mac released [Bulletin 2020-11](#) adding guidance related to condominium project reviews.
- MBA is working to alleviate pipeline issues to reduce instances of expiring interest rate locks.
- MBA is in discussion with the GSEs on this topic and has communicated that absent further clarity, lenders, aggregators, and investors will likely implement overlays that offset the benefits of the flexibilities provided by the GSEs.
- In conjunction with its announcement to purchase certain loans that entered forbearance shortly after closing, Fannie Mae provided [scenarios](#) for reps and warrants in accordance with this policy change.
- May 5, Fannie Mae [LL-2020-03](#) was edited to include an announced suspension of representation and warranty relief through the DU employment validation service.
- May 19, FHFA [announced](#) temporary guidance from the GSEs to improve access to credit for borrowers who previously had entered forbearance. As is detailed in a Fannie Mae [lender letter](#) and a Freddie Mac [bulletin](#), borrowers who remained current on or reinstated their loans will be eligible to refinance or purchase a new home with a GSE-backed loan, and borrowers utilizing a repayment plan, a deferral option, or a loan modification will regain eligibility after making three consecutive payments. This guidance, which reflects input and advocacy from MBA, represents an important step toward ensuring that forbearance does not unnecessarily hinder borrower access to credit or the broad economic recovery, and was praised in a [statement](#) by Bob Broeksmit.
- MBA developed and published a [visual guide](#) to provide members greater clarity on borrower eligibility for new GSE-backed loans following a COVID-19 forbearance. This guide illustrates common scenarios covered by policy updates released by [Fannie Mae](#) and [Freddie Mac](#) in mid-May. The MBA visual guide is not a substitute for the official GSE guidance, but it can serve as a resource to help lenders understand the options available to borrowers.

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GSE ADVERSE MARKET REFINANCE FEE

• [Fannie Mae](#) and [Freddie Mac](#) announced a 50-basis-point adverse market refinance fee to be imposed on refinances delivered on or after September 1. This directive is contrary to recent Federal Reserve actions aimed at keeping mortgage interest rates low and the administration's recently announced directives to support homeowners. In addition, the September 1 effective date will cost lenders significant sums on their locked pipelines and will harm borrowers who did not lock in their interest rates, as they will face unanticipated cost increases just days from closing.

- July 1, VA released [Circular 26-20-25](#), providing additional flexibility regarding borrower eligibility for new loans following forbearance. For purchases and cash-out refinances, VA is temporarily relaxing certain credit underwriting policies, clarifying that pandemic-related forbearance should not be used as a reason to deny borrowers VA-guaranteed loans. For IRRRLs, VA is temporarily waiving certain prior approval requirements applicable to delinquent loans. This circular also contains details regarding compliance with existing refinance requirements, and notes VA's support of fee waivers for borrowers affected by COVID-19.
- September 10, FHA released [Mortgagee Letter 2020-30](#), outlining guidance for situations in which borrowers seek new FHA-insured loans following resolution of a COVID-19-related forbearance. This guidance was released following persistent advocacy from MBA.
- August 12, FHFA authorized Fannie Mae and Freddie Mac to impose an "Adverse Market Refinance Fee" – a 50-basis-point fee on most refinance mortgages, effective for loans delivered on or after September 1. The fee applies to all refinances with the exception of single-closing construction-to-permanent loans that are processed and delivered as a refinance. Following the announcement, MBA President and CEO Bob Broeksmit, CMB, released a [statement](#) strongly urging FHFA to withdraw this directive.
- August 13, MBA and 19 other organizations representing the housing and financial services industries as well as public interest and consumer advocacy issued a joint [statement](#) in opposition to the adverse market refinance fee.
- August 14, MBA submitted a [letter](#) to FHFA Director Calabria reiterating opposition to both the timing and substance of the adverse market refinance fee. Similarly, several letters expressing concerns with the fee were sent to FHFA and the GSEs by Members of Congress representing both parties and chambers.
- August 14, MBA hosted a [webinar](#) highlighting the TRID implications of the adverse market refinance fee.
- August 25, FHFA announced steps to limit the impact of the adverse market refinance fee on both consumers and lenders. Following two weeks of sustained MBA-led advocacy, including close coordination with consumer and industry coalition partners, the administration, and Congress, FHFA delayed the implementation date of the fee from September 1, 2020 to December 1, 2020, and exempted loans with balances below \$125,000, as well as refinance loans originated through the HomeReady and Home Possible programs.

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	<ul style="list-style-type: none">September 16, the House Financial Services Committee held a hearing with FHFA Director Mark Calabria on the agency's response to the COVID-19 pandemic. Director Calabria received bipartisan pushback regarding the imposition of a 50-basis-point fee on GSE refinance loans. As a result of MBA advocacy, FHFA pushed the implementation date of the fee to December 1, 2020, and exempted low-cost loans under \$125,000.

SERVICING OPERATIONAL ISSUES. *MBA supports the need to provide borrowers with robust options for mortgage payment relief, and advocates for the most effective system by which to implement these temporary policies.*

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FORBEARANCE AND LOSS MITIGATION POLICIES <ul style="list-style-type: none">MBA is working with other trade associations and federal and state regulators to craft appropriate forbearance proposals that reflect the scale and breadth of the crisis.MBA recommends that the agencies and GSEs repurpose disaster-related post-forbearance loss mitigation options, as appropriate. This is reflective of those policies' tendency for smooth transitions and minimal negative credit consequences for borrowers who were current before the incident leading to forbearance.Where possible, MBA encourages agencies to provide partial claim options to borrowers exiting COVID-19-related forbearances.	<ul style="list-style-type: none">March 16, VA issued Circular 26-20-7 encouraging holders of guaranteed loans to offer forbearance to borrowers unable to make their mortgage payments as a result of COVID-19. VA encourages servicers to evaluate borrowers per Chapter 5 of the VA Servicer Handbook M26-4.March 18, Fannie Mae issued LL-2020-02 and Freddie Mac issued Bulletin 2020-4, outlining guidance for assisting borrowers experiencing temporary hardship due to COVID-19.March 25, Fannie Mae issued LL-2020-05 and Freddie Mac issued Bulletin 2020-6, outlining a payment deferral program for eligible borrowers who have resolved a temporary hardship and resumed their monthly contractual payment but cannot afford full reinstatement or a repayment plan to bring the loan current.April 1, FHA published ML 2020-06, outlining loss mitigation and home retention options specific to COVID-19 effective immediately, including a Standalone Partial Claim. Lenders currently using options available for Presidentially Declared Major Disaster Areas (PDMDAs) must convert those options immediately to the COVID-19 options listed in the ML. All the other provisions in the ML are effective April 30 but may be implemented immediately. COVID-19 forward forbearance and HECM extension period can be used no later than October 30, 2020.April 3, in direct response to MBA advocacy efforts, the CFPB along with the Federal Reserve, FDIC, NCUA, OCC, and significantly, the Conference of State Banking Regulators (collectively, "the agencies") issued a Joint Statement detailing their collective approach to supervision and enforcement of Regulation X mortgage servicing rules in response to the CARES Act. In addition to the Joint Statement, the CFPB also released an FAQ to provide additional compliance guidance to mortgage servicers offering short-term forbearance options either voluntarily or as required by the CARES Act. Note that the announcement does not bind private litigants and some of these time frames are subject to a

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private right of action. Limiting those provisions in those lawsuits would require that the Bureau complete a rulemaking, likely an interim final rule or interpretative rule.

- The GSEs released forbearance scripts – located [here](#) and [here](#) – to assist servicers as they guide homeowners through their options if they have experienced a hardship as a result of COVID-19. These scripts should help promote consistency in borrower communications – an important objective of MBA’s ongoing efforts.
- April 14, HUD updated its [FAQ](#) for Single Family Housing for COVID-19-related matters, including forbearance policies.
- To help provide accurate and consistent information to borrowers, MBA launched a new, consumer-focused [webpage](#) that provides resources on forbearance. The launch of this webpage coincides with MBA’s increased media presence, featuring new messages on the importance of borrowers understanding not only how to find help if they are struggling to make their mortgage or rent payments, but also what forbearance means and how it works.
- April 27, FHFA Director Mark Calabria released a [statement](#) emphasizing that “No lump sum payment is required at the end of a borrower’s forbearance plan” for loans backed by the GSEs.
- MBA submitted comments to HUD applauding the release of FHA’s national emergency standalone partial claim. MBA sought clarification on this release and other COVID-19-related issues, while also urging HUD to consider additional alternatives to its existing FHA partial claims process.
- May 6, FHA, VA, and USDA jointly released two fact sheets on COVID-19-related forbearance – one directed at [lenders and servicers](#) and one directed at [borrowers](#). These fact sheets serve as resources and overviews of program guidelines, including overviews of each program’s loss mitigation options.
- May 12, the CFPB, FHFA, HUD, and VA jointly introduced a consumer-facing [website](#) with mortgage and housing assistance information. The creation of a unified source of information from the federal government is a welcome development and is responsive to recommendations made by MBA and several other industry and consumer advocacy organizations.
- May 13, in line with MBA advocacy, FHFA [announced](#) an expanded payment deferral option at the GSEs for borrowers in forbearance due to COVID-19-related hardship. The payment deferral option allows borrower mortgage payments to remain unchanged and for up to 12 months of missed payments to be deferred and repaid once the home is sold, the loan is refinanced, or the loan reaches maturity.

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- CSBS and the CFPB jointly released a [Consumer Relief Guide](#) to provide borrowers with information regarding mortgage payment forbearance and foreclosure protection.
 - May 27, in response to member inquiries regarding the GSEs' [payment deferral options](#) for borrowers in COVID-19 forbearance plans, MBA staff, along with counterparts from other national trade associations, developed [FAQs](#) following discussions with FHFA, Fannie Mae, and Freddie Mac representatives. These FAQs, while not official guidance, include an overview of information provided by FHFA and the GSEs to help market participants better implement the payment deferral options.
 - May 27, Fannie Mae updated [LL-2020-05](#) and [LL-2020-07](#) to provide operational requirements related to reporting and completing a COVID-19 payment deferral and the process for obtaining servicer reimbursement for expenses upon the successful execution of a COVID-19 payment deferral.
 - June 10, Freddie Mac issued [Bulletin 2020-21](#) and Fannie Mae issued [Lender Letter 2020-09](#) to provide servicer incentive fees for COVID-19 payment deferrals, as well as update servicer incentive fees for other workout options. Incentive fees for repayment plans and payment deferrals will be \$500, while incentive fees for flex modifications will be \$1,000. Aggregate incentive fees will be capped at \$1,000 per loan, though workout and relief options already completed or begun prior to the effective dates of the new guidance will not be subject to this cap.
 - June 16, FHFA [announced](#) that it published versions of its COVID-19 servicing scripts and revised Mortgage Assistance Application that have been translated into several languages. The documents, now available in English, Spanish, traditional Chinese, Vietnamese, Korean, or Tagalog, are available on FHFA's [Mortgage Translations website](#). MBA has supported the continued development of the Mortgage Translations website, which serves as a clearinghouse of translated documents and information to assist borrowers with limited English proficiency.
 - July 8, HUD released FHA [Mortgagee Letter 2020-22](#), providing additional loss-mitigation options for borrowers impacted by the COVID-19 pandemic. These options include several home retention and disposition measures that are designed to streamline processes for both borrowers and servicers. The new loss-mitigation options are available for immediate use and *must* be offered by October 6, 2020.
 - MBA developed a [Loan Closing Attestation Form](#) to help lenders understand if there are pandemic-related income shocks affecting the borrower at the time of closing. This form does not limit any substantive rights the borrower may have.

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- August 3, the Federal Financial Institutions Examination Council (FFIEC) issued a [statement](#) providing prudent risk management and consumer protection principles for financial institutions to consider while working with borrowers as loans near the end of initial loan accommodation periods applicable during the COVID-19 pandemic.
 - October 20, FHA released [ML 2020-34](#), extending the amount of time borrowers have to make an initial COVID-19 forbearance request. Originally borrowers had until October 30, 2020, to make their initial request. The ML extends this deadline through December 31, 2020. MBA continues to advocate for an extension of correlated policies related to early payment forbearance insurance eligibility as outlined in [ML 2020-16](#). These policies currently are set to expire on November 30, 2020.
 - December 9, VA released details of its proposed temporary Veterans Assistance Partial Claim Payment program for VA borrowers impacted by the COVID-19 pandemic. Upon review of the proposal, MBA identified structural issues with the program that, without changes, will result in negative borrower experiences. MBA and other organizations sent a [joint letter](#) to VA outlining these concerns.
 - February 16, FHA, VA, and USDA announced they will allow eligible borrowers to extend their forbearance beyond 12 months for an additional six months. The extensions will be offered in three-month increments for borrowers who initiated a COVID-19 forbearance plan prior to June 30, 2020. The agencies also extended the period in which borrowers can request an initial COVID-19 forbearance to June 30, 2021. FHA further announced it will now allow borrowers to receive more than one COVID-19 loss mitigation option.
 - February 25, FHFA further extended the maximum duration of forbearance to 18 months for borrowers in an active forbearance plan as of February 28, 2021. Similarly, FHFA clarified that COVID-19 payment deferrals can cover up to 18 months of missed payments.
 - MBA released the results of its latest [Forbearance and Call Volume Survey](#), which estimated that the share of loans in forbearance declined slightly to 5.22% as of February 14. The share of Ginnie Mae-backed loans in forbearance decreased by 2 basis points to 7.32%, while the share of GSE-backed loans in forbearance declined by 4 basis points to 2.97%.
 - March 16, VA issued [Circular 26-20-7](#), encouraging servicers to “suspend credit bureau reporting on affected loans.”
 - April 1, [FHA ML 2020-06](#) states borrowers granted forbearance under the FHA COVID-19 policy and otherwise performing are not considered delinquent. The ML requires servicers to comply with the
- CREDIT REPORTING ISSUES**
- MBA supports ensuring borrowers’ credit is not affected by forbearance plans, though

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further clarity is needed from policymakers regarding implementation.

Fair Credit Reporting Act (FCRA) but consider financial impacts created by COVID-19 when taking any negative credit reporting actions.

SUSPENSION OF EVICTIONS/FORECLOSURES

• MBA is tracking agency and GSE suspensions of evictions and foreclosures.

- April 1, CFPB issued a [statement](#) on supervisory and enforcement practices regarding FCRA and Regulation V considering the Cares Act COVID-19 response. The guidance reiterates the CARES Act section amending FCRA, requiring furnishers to report as current certain credit obligations for which furnishers make payment accommodations to consumers affected by COVID-19.
- April 28, FHA [announced](#) a new default reason code in response to the COVID-19 pandemic. The announcement requests that servicers begin using Default Reason Code 055: Related to National Emergency Declaration by May 1.
- April 29, VA released [Circular 26-20-17](#), which provides a new default reason code to identify borrowers impacted by the COVID-19 pandemic.
- May 14, Freddie Mac [Bulletin 2020-16](#) reminded servicers they must use default reason code 032 when a borrower is experiencing a COVID-19-related hardship.
- June 16, the CFPB published a [compliance aid](#) with frequently asked questions related to consumer reporting obligations in response to the COVID-19 pandemic.
- March 18, FHA issued [ML 2020-04](#) announcing a foreclosure and eviction moratorium effective until May 17, 2020. The foreclosure moratorium applies to initiation and completion of foreclosures and is effective for 60 days. Deadlines for the first legal action and reasonable diligence timelines are extended by 60 days.
- March 18, [FHFA directed](#) Fannie Mae and Freddie Mac to suspend foreclosures and evictions for homeowners with an Enterprise-backed mortgage for 60 days (until May 17, 2020).
- May 14, FHA released [ML 2020-13](#) extending foreclosure and eviction moratoriums to June 30, 2020. Deadlines for the first legal action and reasonable diligence timelines are extended by 90 days from the date of expiration of this moratorium for FHA-insured Single Family mortgages, except for FHA-insured mortgages secured by vacant or abandoned properties.
- May 14, FHFA [extended](#) the GSEs' moratorium on foreclosures and evictions until at least June 30, 2020.
- May 15, VA released [Circular 26-20-18](#) extending its foreclosure moratorium until June 30, 2020.
- June 17, [FHFA](#) and [HUD](#) extended the foreclosure and eviction moratoria on single-family loans backed by Fannie Mae and Freddie Mac or insured by FHA, respectively. Both announcements

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EARLY PAYMENT DEFAULT/FORBEARANCE

- MBA is forcefully advocating for the GSEs and FHA to accept delivery of or insure loans for which the borrower has requested forbearance in the period between closing and delivery or insurance.

extend these moratoria through August 31. The FHA moratorium does not apply to vacant or abandoned properties.

- The week of August 24, [FHFA](#), the [Federal Housing Administration](#), and the [U.S. Department of Veterans Affairs](#) extended their respective moratoria on foreclosures and evictions. The current moratoria were set to expire August 31, 2020, but now will be extended through December 31, 2020.
- February 9, FHFA [announced](#) an extension of its foreclosure and eviction moratorium for Enterprise-backed, single-family mortgages and REO properties through March 31, 2021.
- February 16, [FHA, VA](#), and [USDA](#) announced they would be extending their foreclosure and eviction moratoria for borrowers impacted by the COVID-19 pandemic. The initial expirations of the moratoria were set to occur for the three agencies on March 31, 2021 but have now been extended to June 30, 2021.
- February 25, FHFA further extended the foreclosure and eviction moratorium for GSE-backed, single-family mortgages and REO properties until June 30, 2021.
- March 31, GSEs released guidance stating loans in forbearance are not eligible for delivery.
- MBA is engaged with FHFA, the GSEs, FHA, and Members of Congress to secure a viable policy response by which such loans are eligible for sale to the GSEs or insurance from FHA.
- April 22, FHFA [announced](#) it would direct the GSEs to purchase certain single-family loans in forbearance. Loans in forbearance eligible for purchase are subject to restrictions based on loan type and date of closing, and will feature significant loan-level price adjustments (LLPAs) or delivery fees.
- Fannie Mae released [LL-2020-06](#) and Freddie Mac released [Bulletin 2020-12](#), announcing temporary guidelines for purchasing loans in forbearance. Eligibility is limited to notes dated February 1, 2020 through May 31, 2020. Loans in forbearance cannot be more than one-month delinquent at the time the lender submits the loan data in Loan Delivery for whole loan purchase or MBS execution. Cash-out refinances are ineligible. The GSEs also will assess LLPAs or delivery fees of 500bps for first time homebuyers and 700bps for all other loans purchased under these guidelines.
- MBA's Bob Broeksmit [expressed industry concern](#) that the GSEs' use of higher fees and exclusion of cash-out refinances would unduly constrain credit availability.
- April 23, USDA released [immediate actions](#) including clarifying that as long as the borrower is still employed and meets income eligibility requirements, the loan is eligible for guaranty.

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- April 27, VA issued an [update](#) to a previous circular to clarify that loans closed under automatic authority are considered to be guaranteed as of the date of closing.
- May 19, FHFA [announced](#) that it will extend the GSEs' [ability](#) to purchase loans in forbearance through note dates on or before June 30 (for which the loans must be delivered to the GSEs by August 31).
- June 4, HUD released [Mortgagee Letter 2020-16](#) detailing the revised FHA policy for providing insurance on loans in "early payment forbearance." Whereas these loans previously were ineligible for FHA insurance, HUD will now allow them to be endorsed, subject to a two-year partial indemnification from the lender. This indemnification, which is governed by a new [indemnification agreement](#), is equal to 20% of the initial loan amount.
- June 10, in response to [guidance](#) released by FHA with respect to loans in "early payment forbearance," MBA led a coalition of 17 housing and financial services organizations calling for FHA to substantially revise its new policy. In its comments, the coalition urged FHA to remove the requirement that lenders indemnify loans that enter into forbearance after closing but prior to the loans obtaining FHA insurance. The coalition warned that "the excessive indemnification requirements...will effectively force lenders to impose higher credit and financial overlays to protect against risks that they cannot control during the underwriting process."
- June 11, FHFA [announced](#) it will extend several loan origination flexibilities implemented by Fannie Mae and Freddie Mac through July 31, including the GSEs' ability to purchase loans in forbearance (now through note dates on or before July 31).
- June 22, FHA [announced](#) a suspension of the requirement that lenders review all Early Payment Defaults, recognizing that many such loans have exhibited missed payments due to COVID-19-related hardships.
- June 22, FHA [announced](#) a [temporary partial waiver](#) allowing lenders to use third-party tools as an alternative to field reviews of appraisals for loans in post-closing quality control samples.
- June 22, FHA [announced](#) that it will consider the impact of COVID-19 and widespread borrower forbearance when evaluating lenders' Compare Ratios in the Neighborhood Watch System.
- July 31, FHFA [announced](#) that it is extending through August 31 the temporary policy allowing the GSEs to purchase loans for which the borrower has requested – or entered – into forbearance prior to the delivery of the loans to the GSEs. Fannie Mae and Freddie Mac updated their [lender letter](#) and [bulletin](#), respectively, to reflect this change. While the extension of this policy provides a secondary market outlet for loans in forbearance, it continues to do so with steep price discounts applied to

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CFPB RESPA WAIVERS

- MBA is seeking clarity on the application of RESPA to certain COVID-19-related servicing considerations.

FHA FACE-TO-FACE SERVICING REQUIREMENTS

- In order to follow CDC guidelines on social distancing, FHA should lift face-to-face meeting requirements for servicers.

such loans. The recent announcement also indicated that FHFA will be sharing aggregated data on these loans with the CFPB to ensure that the loans are complying with ability-to-repay requirements.

- August 13, [Fannie Mae](#) and [Freddie Mac](#) each updated FAQs to announce that they would no longer purchase loans in forbearance, effective for loans with note dates after August 31 (delivery to the GSEs through October 31).
- August 26, FHFA issued an [extension](#) through September 30, 2020 of several important COVID-19-related loan origination flexibilities, including the GSEs' ability to purchase loans in forbearance.
- August 28, FHA [extended](#) its quality control review [waivers](#) for early payment defaults caused by COVID-19-related forbearance through the August QC reviews.
- September 24, FHFA again [extended](#) several Fannie Mae and Freddie Mac loan origination flexibilities including those related to the GSEs' ability to purchase loans in forbearance until October 31, 2020.
- October 21, FHFA [extended](#) the GSEs' ability to purchase loans in forbearance until November 30, 2020.
- December 31, FHFA did not extend the ability of the GSEs to purchase loans that have entered into forbearance and the policy expired after several extensions.
- The CFPB issued an [FAQ](#) on compliance issues related to Regulation X, Regulation Z, the Bureau's Mortgage Servicing Rules and impacts from the COVID-19 emergency.
- March 13, [FHA Info 20-20](#) outlined a [temporary partial waiver](#) of the Face-to-Face meeting requirement under FHA loss mitigation procedure. To satisfy § 203.604 of the Single-Family Handbook, the mortgagee must (1) establish contact with the borrower using alternative methods (e.g. video conference), (2) inform the borrower that HUD will be reporting credit information, (3) inform the borrower of available assistance, and (4) inform the borrower of the names and addresses of HUD officials available for future communication.
- February 3, FHA announced it is extending its [waiver](#) for required face-to-face contact for servicers performing early default interventions with borrowers at risk of foreclosure through December 31, 2021.

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TELEPHONE CONSUMER PROTECTION ACT (TCPA) PETITION

- To facilitate efficient and accurate communication during this crisis, the Federal Communications Commission (FCC) should allow calls/texts related to the COVID-19 pandemic to be made without the consent of the called party pursuant to the TCPA's "emergency purposes" exception.

PROPERTY PRESERVATION ISSUES

- MBA is monitoring and assessing agency and GSE restrictions on pre-foreclosure property inspections, preservation of vacant and abandoned properties, and other related issues.

DOCUMENT CUSTODIAN AUDIT ISSUES

- MBA is monitoring issues related to physical inspections associated with document custodian audits.

- March 30, MBA joined a coalition of financial services trade associations in [petitioning](#) the FCC for an expedited declaratory ruling that calls and text messages by financial services providers on matters related to the COVID-19 pandemic are "call[s] made for emergency purposes," and thus may be placed with an autodialer without the consent of the called party. Specifically, the coalition seeks approval for calls/texts to: (1) offer payment deferrals or other modification or forbearance on mortgage payments; (2) advise consumers of branch closings, service limitations, reduced hours, or the availability of remote access options; or (3) make consumers aware of programs, relief, and resources offered by the institution in response to the pandemic.
- April 6, the FCC issued a [Public Notice](#) seeking comment on MBA's petition. The deadline for initial comments is May 6, while reply comments must be received by May 21.
- April 17, MBA submitted a follow-up [letter](#) calling on the FCC to act with greater urgency. The letter notes broad support for the petition's "emergency purposes" exemption request, including from an NCLC-led coalition of consumer advocacy groups, and encourages the FCC to issue an interim declaratory ruling.
- May 21, MBA and a coalition of industry associations submitted comments once again urging the FCC to allow calls and text messages by financial services providers on matters related to the pandemic to be deemed "call[s] made for emergency purposes."
- May 14, Freddie Mac [Bulletin 2020-16](#) stated servicers must not complete property inspections for delinquent borrowers as outlined in [Section 9202.12](#) if the borrower is experiencing a COVID-19-related hardship, unless the delinquent borrower's property is determined to be vacant or abandoned. The same day, Fannie Mae updated [LL 2020-02](#) to clarify an equivalent policy.
- May 14, Freddie Mac [Bulletin 2020-16](#) outlined that property valuations conducted for short-sale or Deed-in-Lieu (DIL) of foreclosure proceedings may be supplanted by an external valuation in some cases. Fannie Mae [also](#) provided valuation flexibilities.
- November 13, Ginnie Mae released [APM 20-14](#), providing flexibility for document custodian audits in response to the COVID-19 pandemic. For issuers with a 2020 fiscal year ending on or before December 31, 2020, Ginnie Mae will accept independent audits that relied on alternative procedures in lieu of physical inspections or observations.

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FEDERAL LEGISLATIVE AND POLITICAL ACTIVITIES. *MBA supports Congressional action where necessary to facilitate the smooth functioning of the mortgage market and provide relief to market participants temporarily experiencing hardship due to the COVID-19 pandemic.*

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BORROWER FORBEARANCE

- As Congress demonstrated interest in legislating federal forbearance programs, MBA advocated for programs aligned with industry best practices.

- MBA advocated with legislative staff that any forbearance program outlined as part of the package should (1) be equally generous as programs currently offered by GSEs/agencies, (2) allow for FHA partial claims options, (3) not change the modification framework, (4) not require heavy documentation, (5) not bypass current streamline options, (6) not impose notification requirements that are unrealistic given the desired implementation timeline, and (7) not include overly broad language translation requirements.
- The CARES Act forbearance language allows any borrower with a federally-backed mortgage to defer payment for up to one year. Lenders may not require any documentation to prove hardship due to COVID-19.
- May 15, the House of Representatives passed expansive [legislation](#) that would supplement prior COVID-19-related stimulus efforts. The wide-ranging bill includes modification to, and expansion of, the CARES Act forbearance framework.
- July 16, the House Financial Services Committee's Subcommittee on Oversight and Investigations held a hearing on mortgage servicing and forbearance during the COVID-19 pandemic. Despite a bipartisan recognition from subcommittee members that mortgage servicers have assisted millions of borrowers following the passage of the *CARES Act* in March, lawmakers asked questions of hearing witnesses regarding requirements for lump-sum repayments and voiced concerns regarding the perception of housing-related discrimination. MBA continues to communicate that servicers are offering a variety of exit options for borrowers in forbearance due to a COVID-19 hardship.
- October 1, the U.S. House of Representatives narrowly passed H.R. 8406, a modified and truncated version of the previously House-passed *HEROES Act*. The bill represents the latest efforts by Democrats to pass additional COVID-19-related relief (albeit at a reduced cost of roughly \$2 trillion), and it includes expanded forbearance requirements for servicers.

LIQUIDITY FACILITIES

- MBA advocated for the congressional appropriation of funds for liquidity facilities to support mortgage servicers.

- March 27, the President signed into law the CARES Act, which [contains](#) funding for a broad set of liquidity facilities operated by the Federal Reserve. This funding reflects focused MBA advocacy to ensure the legislation provided the Federal Reserve with the necessary tools to establish a liquidity facility intended for mortgage servicers.
- April 24, MBA's Mortgage Action Alliance launched a [campaign](#) to urge representatives in Congress to include the following in the next comprehensive relief portfolio: (1) a mandate to the Federal Reserve

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FEDERAL REMOTE ONLINE NOTARIZATION	<p>to establish a liquidity facility, (2) amendments to the National Housing Act to help GNMA issuers access liquidity facilities, and (3) language ensuring all loans in forbearance under provisions of the CARES Act are eligible for purchase by the GSEs, without punitive pricing.</p> <ul style="list-style-type: none">• May 15, the House of Representatives passed expansive legislation that would supplement prior COVID-19-related stimulus efforts. The wide-ranging bill includes a directive that mortgage servicers be ensured access to Federal Reserve liquidity facilities, as well as important modifications to the National Housing Act to provide greater access to liquidity facilities for Ginnie Mae issuers.• MBA's Mortgage Action Alliance launched a Call to Action supporting bills in the U.S. House and Senate that would facilitate implementation of remote online notarization across the entire country.
CECL DELAY	<ul style="list-style-type: none">• MBA is engaging Congress on possible federal legislation to facilitate remote online notarization.• The federal banking agencies issued an interim final rule that allows banking organizations that are currently required to implement the Current Expected Credit Losses (CECL) framework to mitigate the regulatory capital effects of the new standard for up to two years. This change comes in addition to the three-year transition period already in place.• The CARES Act provided an optional temporary delay of CECL implementation for institutions that are currently required to implement the new standard.• August 26, the federal bank regulatory agencies issued final rules relating to the <i>CARES Act</i> modifications to the community bank leverage ratio (CBLR), current expected credit loss (CECL) implementation, and restrictions on distributions for banks with capital ratios that decline below specified levels. These final rules are similar to interim final rules that were issued earlier this year.
COMMUNITY BANK LEVERAGE RATIO	<ul style="list-style-type: none">• MBA advocated for delayed implementation of CECL to ensure that its implementation did not hinder COVID-19 responses.• The CARES Act includes a provision that reduces the community bank leverage ratio from 9% to 8%, making it possible for more qualifying community banks to elect into the simplified regulatory capital framework.• August 26, the federal bank regulatory agencies issued final rules relating to the <i>CARES Act</i> modifications to the community bank leverage ratio (CBLR), current expected credit loss (CECL) implementation, and restrictions on distributions for banks with capital ratios that decline below specified levels. These final rules are similar to interim final rules that were issued earlier this year.

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TROUBLED DEBT RESTRUCTURING (TDR)

- MBA actively advocates that forbearance activities not be subject to TDR accounting rules.

GOVERNMENT LEADERSHIP PROPOSALS AND RESPONSE

- MBA is actively engaged with leadership in the White House and both chambers of Congress to advocate for legislative actions in line with MBA policy objectives.

- Congress and the banking agencies have all taken the position that loan modifications or any event that is a result of forbearance action due to COVID-19 will not be treated as a troubled debt restructuring, and therefore not subject to TDR rules under GAAP accounting.
- MBA responded to Chairwoman Waters' request for information on industry responses to the COVID-19 pandemic.
- MBA and other industry trade associations [sent a letter](#) to the White House and other government agencies describing the concerns and challenges facing homeowners in paying their mortgages during the COVID-19 pandemic.
- May 19, the White House issued an [executive order](#) on the need for regulatory relief to support the economic recovery from the COVID-19 pandemic. The executive order calls on federal agencies to rescind, modify, waive, or provide exemptions from regulations that may inhibit the economic recovery.
- September 1, the White House announced that the U.S. Department of Health and Human Services and the U.S. Centers for Disease Control and Prevention declared a health emergency due to COVID-19 that requires a halt to evictions for renters through December 31, 2020. The Agency Order – published in the [Federal Register](#) – applies to all renters regardless of whether the property they are living in is financed by private or government-backed loans. MBA's summary of the Agency Order can be found [here](#). MBA released a [press statement](#) from President and CEO Bob Broeksmit, CMB, noting MBA's appreciation for the administration's intent, but explaining why an eviction moratorium is not a complete or long-term solution.
- September 10, Senate Democrats blocked Senate Republicans' \$300 billion COVID-19 aid package from advancing. The new "skinny" relief bill stalled in a 52-47 vote, falling short of the 60 votes needed to advance. The package from Senate Republicans would provide \$300 in weekly federal jobless benefits through December 27, 2020, establish legal protections for businesses and health providers, add an infusion of funding for testing and vaccines, and provide new money for schools.
- In December, Treasury Secretary Steven Mnuchin and Federal Reserve Chair Jerome Powell appeared before the Senate Banking Committee and the House Financial Services Committee as part of their quarterly *CARES Act* updates. In these appearances, they discussed the course of the economic

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recovery and the status of various emergency lending facilities put in place by the Federal Reserve and backed by the Treasury Department.

- January 14, President-elect Joe Biden [announced](#) the “American Rescue Plan” to provide, among other things, additional economic assistance in the wake of the COVID-19 pandemic. The proposed \$1.9 trillion legislation includes a broad array of new federal funding with specific measures that impact housing. The proposal extends the eviction and foreclosure moratoriums and continues applications for forbearance on federally guaranteed mortgages until September 30, 2021. The proposal does not expand mortgage forbearance requirements to non-government-backed loans. It proposes a total of \$35 billion in housing assistance comprised of rental assistance and homelessness assistance, among other issues. The proposal includes direct economic stimulus payments, extends current unemployment insurance benefits and eligibility, and provides a \$400 supplement until the end of the fiscal year. It also provides grants to more than 1 million of the hardest-hit small businesses and leverages \$175 billion for additional small-business lending and investment.

MORTGAGE PAYMENT ASSISTANCE

- MBA supports federal mortgage payment assistance for borrowers to promote home retention.

- May 7, Senators Jack Reed (D-RI) and Sherrod Brown (D-OH) introduced S.3620, a bill to authorize \$75 billion in new grant funding to state-level Housing Finance Agencies to enable homeowners to make mortgage payments and assist with other housing-related expenses. MBA sent a joint [letter](#) with the National Association of Realtors (NAR) to Senator Reed and House Financial Services Committee Chairwoman Maxine Waters (D-CA) “in support of legislation that funds emergency mortgage and rental assistance to ensure American families experiencing financial hardships due to the Coronavirus (COVID-19) pandemic are able to remain in their homes.” This bill was included in broader [legislation](#) that was passed by the House of Representatives on May 15.
- July 1, the Democratic-controlled House of Representatives passed legislation largely along party lines featuring single-family and multifamily mortgage provisions that are essentially identical to those passed by the House in the *HEROES Act* in May. These provisions, which include mortgage and rental payment assistance, expanded forbearance requirements, and greater access to liquidity support for mortgage servicers, are subject to potentially significant modifications as they are considered by the Republican-controlled Senate in the coming weeks.
- October 1, the U.S. House of Representatives narrowly passed H.R. 8406, a modified and truncated version of the previously House-passed *HEROES Act*. The bill represents the latest efforts by Democrats to pass additional COVID-19-related relief (albeit at a reduced cost of roughly \$2 trillion), and it includes housing provisions such as emergency rental/homeowner financial assistance.
- February 11, the House Financial Services Committee passed legislation that includes key housing provisions of President Joe Biden’s \$1.9 trillion American Rescue Plan. The Financial Services

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POLICY ISSUES

STATUS

EARLY PAYMENT FORBEARANCE

- MBA supports a legislative mandate for government agencies or the GSEs to purchase, insure, or guarantee loans in forbearance due to a COVID-19 hardship that otherwise meet underwriting and eligibility criteria.

Committee title of the larger reconciliation package included \$10 billion for a Homeowner Assistance Fund (HAF) to provide relief for mortgage payments, reinstatement from a forbearance, principal reduction, interest rate reductions, utility payments, internet service payments, property taxes, homeowner's insurance, flood insurance, mortgage insurance, HOA fees, and other assistance as approved by Treasury.

- MBA launched [a MAA Call to Action](#) in support of legislation introduced in the House of Representatives that would prohibit FHA and the GSEs from denying the insurance or purchase of loans in forbearance due to a COVID-19 hardship.
- June 25, a group of senior House Democrats sent a [letter](#) to FHFA and HUD, calling for revisions to their “policies that impose significant fees and increased costs” with respect to loans in early payment forbearance.
- July 22, Senator Bob Menendez (D-NJ) introduced S. 4260, the *Promoting Access to Credit for Homebuyers Act of 2020*, to mitigate the economic impact of COVID-19 on the housing market and protect borrowers from additional pricing constraints on their mortgage loans. MBA supports S. 4260, as it would promote continued access to credit for homebuyers through the duration of the pandemic. The legislation is the Senate companion to H.R. 6794, introduced by Representative Juan Vargas (D-CA) and co-sponsored by House Financial Services Committee Chair Maxine Waters (D-CA). Under the bill, the GSEs and FHA would be prohibited from denying the purchase or insurance of loans solely due to a borrower request for forbearance. Such a policy should alleviate the need for credit overlays or other restrictions on product offerings in the primary market.
- October 1, the U.S. House of Representatives narrowly passed H.R. 8406, a modified and truncated version of the previously House-passed *HEROES Act*. Notably, this “*HEROES 2*” package also contains a provision identical to the language of H.R. 6794, legislation offered by Rep. Juan Vargas (D-CA) and House Financial Services Committee Chairwoman Maxine Waters (D-CA) that would prohibit the GSEs and FHA from applying punitive pricing penalties on loans that go into early payment forbearance. MBA sent a [letter](#) to House leaders thanking them for including the Vargas language within the package.

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STATE/LOCAL ADVOCACY ISSUES. Working with state and local associations and industry partners nationwide, MBA advocates for the policy and infrastructure necessary to ensure the continued operation of the mortgage market given complications posed by COVID-19.

POLICY ISSUES	STATUS
CLOSINGS OF COUNTY RECORDING AND MUNICIPAL OFFICES <ul style="list-style-type: none">• MBA is working with state and local partners to track the extent of closures of recording offices.• Lenders also need to obtain Certificates of Occupancy for new construction from municipal offices.	<ul style="list-style-type: none">• MBA posted Simplifile and ALTA's county recording office closures tracking sites to the MBA COVID-19 Resource Page.• MBA is working with ALTA and the National Association of Counties on messaging for state authorities (legislating bodies, governors, etc.) explaining the necessity of maintaining a level of support at the recording offices to provide this vital service.• Some companies offer gap insurance between disbursement and recording. Title insurers are looking for borrower or lender affidavits to cover extended gap timelines.• MBA's Mortgage Action Alliance launched a Call to Action urging governors to ensure that essential activities for businesses and government services include financial services and housing.• MBA supports standards-based state legislation (e.g. Alaska) or executive orders but pushes back on ill-drafted actions (e.g. NY executive order). MBA encourages use of MISMO standards.• MISMO is providing a list of vendors that offer RON.• April 2, MBA sent a joint letter with the MBA of Greater Philadelphia and MBA of Southwestern Pennsylvania to advocate for the enactment of state RON legislation in Pennsylvania.• April 3, MBA sent a joint letter of support with the New York MBA to members of the state Assembly and Senate to advocate for the passage of A.4076B and S.4352B, which would enable RON.• April 7, MBA sent a joint letter to the New Jersey State Treasurer to encourage the adoption of rules consistent with MISMO's RON standards. MBA was joined by the MBA of New Jersey on the letter.• May 15, a New Jersey executive order signed by Governor Murphy permits the use of remote ink notarizations (RIN), which differ from RON because they require the principal to fax or email a signed copy of the original document to the notary, while RON is a completely online process.• June 9, the Colorado legislature unanimously passed a bill that would authorize the use of remote online notarization in accordance with the standards developed by MBA and ALTA. This bill was signed into law on June 26.• June 26, Oregon enacted into law a bill that includes temporary provisions to enable the use of RON.
ENABLING CONSISTENT REMOTE ONLINE NOTARIZATION (RON) <ul style="list-style-type: none">• Expediting adoption of Remote Online Notarization laws by the 25 states that do not currently allow RON.	

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POLICY ISSUES

STATUS

STATE-WIDE MANDATORY BUSINESS CLOSURES

- States and localities that have issued mandatory business closures or shelter-in-place requirements could impact lending operations or support industries.

- June 30, MBA announced the completion of its [model executive order](#) for states to enable remote notarizations during the health crisis created by the COVID-19 pandemic.
- September 15, Hawaii enacted legislation ([SB2275](#)) enabling remote online notarization that conforms to the approach taken in model legislation developed by MBA and the American Land Title Association, which is available on the MBA RON Resource Center.
- October 23, MBA was joined by MBA of the Carolinas, the American Land Title Association, and the North Carolina Land Title Association in a [joint letter](#) to North Carolina Secretary of State William Toole to express concern over the state potentially codifying temporary COVID-19 response policies for remote notarizations that do not align with industry standards. The temporary policies would introduce unnecessary legal uncertainty and risk to transactions conducted under such a legal framework.
- October 29, Pennsylvania Governor Tom Wolf signed legislation permanently adopting RON.
- MBA issued a Mortgage Action Alliance Call to Action that has led to thousands of messages delivered to governors, and also sent sample language for state and local associations to request policymakers include the real estate, finance, and housing industries be deemed “essential services.”
- Treasury Secretary Mnuchin issued a [statement](#) on financial services employees as “essential critical infrastructure workers.”
- An MBA-led coalition of trade associations [urged](#) state and local government groups to recommend to their respective policymaker members that as they implement stay-at-home orders to combat COVID-19, they include among “essential services” the businesses and governmental agencies providing and supporting the financial services, real estate, and housing industries. The National Governors Association has responded that they have distributed guidance to governors asking them to mirror Cybersecurity and Infrastructure Security Agency (CISA) language.
- March 28, CISA issued [revised guidance](#) that addresses the industry’s concerns and MBA reissued its Mortgage Action Alliance Call to Action and request to state and local groups to urge state policymakers to use the CISA guidance in their announcements.
- April 14, the Pennsylvania MBA and Pennsylvania Manufactured Housing Association sent a letter to Governor Tom Wolf urging him to revise guidance issued by the Secretary of State to permit inspections, appraisals, final walkthroughs and title insurance activities in a manner consistent with

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POLICY ISSUES

STATUS

REMOTE WORK FOR LOAN ORIGINATORS AND OTHER FINANCIAL INSTITUTION EMPLOYEES

- MLOs and other employees are not always legally able to work remotely, as teleworking does not satisfy legal requirements to operate at a licensed branch.

public safety guidelines. Similar industry efforts in Vermont resulted in the Governor revising guidance to permit appraisal activities announced on April 17.

- Governor Tom Wolf [announced](#) that as of May 8, twenty-four Pennsylvania counties would be listed in the “Yellow Phase” of reopening. This news triggers language in an April 28 [memorandum](#) from the Secretary of State to allow the resumption in those counties of in-person inspections, appraisals, final walkthroughs, and title insurance activities. Working with MBA, the MBA of Pennsylvania and the Pennsylvania Manufactured Housing Association submitted a [letter](#) to the Governor asking for the resumption of these activities statewide consistent with safety measures detailed in the Secretary’s memorandum. On May 15, thirteen more counties were listed in the “yellow phase” of reopening in Pennsylvania.
- May 19, Pennsylvania Governor Tom Wolf issued an [Executive Order](#) allowing all counties that were not previously listed in the “yellow phase” of reopening to resume in-person closing activities so long as they strictly adhere to public health guidance. This approach had been the topic of a Mortgage Action Alliance [Call to Action](#).
- July 24, MBA President and CEO Bob Broeksmit, CMB, sent a [letter](#) to the CSBS asking the group to urge state regulators to extend current work-from-home guidance through the end of 2021. In the letter, MBA also encouraged CSBS to create an easy method using the NMLS for state-licensed lenders to request remote work flexibility. Finally, MBA also asked CSBS to collaborate on moving to a regulatory structure that embraces remote work capabilities on a permanent basis, provided appropriate safeguards are established and implemented.
- MBA is working closely with CSBS to highlight concerns about state requirements that could inhibit the ability of state-licensed lenders and servicers to perform certain activities remotely. More information on updates from specific state regulators is available [on MBA's resource page](#).
- Many state regulators have issued helpful guidance to allow mortgage loan originators (MLOs) to work from home even if their home is not a licensed branch. If a state requires MLOs to work from licensed branches and the regulator has not yet issued such guidance, industry participants should encourage them to do so. Washington was the first state to publish guidance, and industry participants can send their [document](#) to other regulators as an example of such guidance.
- MBA continues to advocate for flexibility among state regulators amidst challenges that lenders are facing as different parts of the country “re-open” on varying timelines. For IMBs, one such challenge is that more time may be needed for MLOs to work from home and not at a licensed branch. MLOs living/working in parts of the country with longer shelter-in-place orders may need to serve other

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POLICY ISSUES

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STATE REGULATOR EXAMINATION FLEXIBILITY

- MBA is seeking flexibility in timing of state regulatory and supervisory examinations for lenders given workload changes due to COVID-19.

parts of the country where these orders have been lifted. Moreover, simply because orders have been lifted, it does not mean that companies are ready or staff are able or feel safe to return to their offices.

- September 9, the NMLS Ombudsman, Jim Payne, held a virtual/online [NMLS Ombudsman's](#) meeting to discuss licensing reforms in the age of COVID. MBA's Pete Mills participated in the meeting as a panelist along with MBA members and several state regulators.
- September 11, the Conference of State Bank Supervisors publicly released an August 25 [letter](#) urging state financial services regulators to extend or adopt guidance or no-action positions allowing licensed mortgage loan originators to work from home rather than from a licensed location. The letter reflects a vote of the Non-Depository Supervisory Committee to respond to the challenges IMBs face in the pandemic to keep their staffs and their customers safe while still providing products and services. The letter quotes July [correspondence](#) from MBA President and CEO Bob Broeksmit, CMB, to the CSBS and aligns with several specific recommendations for remote work standards made by MBA.
- In October, MBA [continued to work with](#) its state and local partner associations to urge governors and state regulators to extend guidance and "no action" letters to allow state-licensed staff to work from home during the pandemic, rather than from licensed locations. In line with MBA recommendations, the CSBS issued a [letter](#) to its member state financial services regulators urging them to extend their current guidance or no action positions. MBA is now working with state and local associations to encourage individual states to extend this flexibility at least through the end of 2021, and to consider making such changes permanent. In addition, MBA believes any end date should be accompanied by a 120-day transition period.
- In December, MBA launched a new web resource center – www.mba.org/LicensingFlexibility – to provide resources for MBA members seeking additional clarity and information regarding state regulator guidance allowing employees at state-licensed institutions to work outside a licensed location during and after the pandemic. This resource center supports MBA's advocacy campaign to expand remote work options for employees of state-licensed institutions throughout the country.
- MBA has engaged extensively with state regulators on this issue. CSBS has responded indicating that the State Coordinating Committee encouraged state regulators to: 1) be open to requests for extensions from a company for information requests and be aware that while licensees should have access to the necessary information offsite, it could take longer to retrieve and that licensees will not have the normal access to specific departments or key employees, which could also cause delays; 2) extend request timelines from the onset of the exam; and 3) try to facilitate coordinated calls with specific members of the company at a set time during the day rather than hold multiple calls throughout the day.

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POLICY ISSUES

STATUS

MORTGAGE LOAN ORIGINATOR TESTING

- MBA is working with state regulators to ensure testing capacity remains sufficient throughout the country for MLOs.

NLMS FINGERPRINTING ISSUES

- MBA is assessing whether there is an adequate work-around for fingerprinting requirements for new employees.

STATE ATTORNEYS GENERAL ADVOCACY

- MBA is monitoring and responding to requests for actions or policy changes made by state attorneys general.

WASHINGTON, D.C. COVID-19 RESPONSE LEGISLATION

- The Washington, D.C. City Council quickly passed, and the Mayor quickly signed, sweeping forbearance requirements for single- and multifamily mortgages. The new law has a number of provisions that are not aligned with the federal CARES Act and others that exceed the limits of the District's authority to compel actions by federally-regulated institutions.

- MBA has been advised by CSBS that testing center capacity for the NMLS Mortgage Loan Originator (MLO) test has been improving. Many Prometric test centers are opening earlier and staying open later, with some offering new weekend hours. CSBS advises MLOs seeking to make their initial test appointment, or to reschedule a cancelled appointment, to consider alternative test centers for additional time and location options.
- MBA has raised this issue with CSBS/NMLS and asked regulators and staff to develop a work-around to accommodate the requirement to fingerprint MLOs and others required to be licensed.
- April 27, NMLS [announced](#) that Prometric test centers will provide an exception to their closure effective until May 31 for essential programs including NMLS. Prometric opened a limited number of test centers – with new social distancing policies – on May 1.
- May 11, [NMLS](#) temporarily extended by 60 days the time for licensees to complete their fingerprinting requirement. Licensees will now have 240 days to complete the requirement, instead of the standard 180 days. The additional 60 days will apply to any expiration window that is currently open or subsequently opened, including expiration windows that have expired since March 17.
- MBA engaged with many state attorneys general to ensure that their requests are consistent with agency and GSE guidelines and investor contractual obligations.
- MBA collaborated with industry representatives to respond to a letter the New York Attorney General sent to mortgage servicers.
- April 14, MBA led a joint letter to the Washington, D.C. Department of Insurance, Securities and Banking (DISB) requesting that DISB use its emergency authority to deem institutions subject to and in compliance with the CARES Act as satisfying the requirements of the DC law. MBA also requested an urgent meeting with the Department to discuss the many regulatory conflicts with federal mandates that are created by the law.
- May 8, after DISB did not accommodate MBA's request regarding the CARES Act guidance, MBA urged DISB to postpone the first reporting requirement, which came only two days after DISB's first written guidance and five days after the law's enactment. DISB responded by noting that MBA should urge members to make "best efforts" to comply.
- May 15, in a letter to Council Member McDuffie, MBA and the DC, MD and VA mortgage banking associations provided detailed suggestions on proposed changes to the new law.

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CALIFORNIA LEGISLATION ADDRESSING FORBEARANCE AND REPAYMENT TERMS

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- The Washington, D.C. City Council amended its omnibus COVID-19 response legislation to include technical provisions requested by MBA and state associations representing DC, MD and VA.
 - The week of June 8, the Washington, D.C. City Council quickly introduced and passed amendments to its COVID-19 relief legislation that would prohibit users of credit reports from using or taking into consideration any adverse information in a report that occurred during any public health emergency if the report includes a personal statement. MBA and mortgage banking associations in Virginia, Maryland, and the District of Columbia joined together to oppose the bill in a letter illustrating numerous unintended consequences to the Council ahead of its vote. This coalition will also write a letter to the Mayor urging a veto.
 - June 15, the District of Columbia's DISB [released](#) an updated version of its FAQs that provide guidance for the implementation of the D.C. Residential Mortgage and Commercial Mortgage Program. The FAQs now reflect an amendment ([B23-0759](#)) to D.C. law that exempts federally backed residential and commercial loans from the program. The new guidance is consistent with feedback provided by MBA.
 - MBA was joined by the MBA of Metropolitan Washington, the Maryland Mortgage Bankers and Brokers Association, and the Virginia MBA on a letter to Washington, D.C. Mayor Bowser urging her to consider alternatives to legislation that was recently enacted in the District to restrict the use of credit reporting information during the COVID-19 health crisis. Amendments to the District's COVID-19 relief law expose all users to significant litigation and liability risk for any negative decision based on a credit report, as it would be virtually impossible for them to prove that they did not consider certain information provided.
 - The bill, proposed by the Assembly Banking Committee Chair, would set sweeping new forbearance and repayment terms, including a possible halting of foreclosures for up to 18 months.
 - May 15, MBA and the CA MBA submitted a letter to the bill's sponsor ahead of a hearing planned for May 19. The letter urges that a provision in the bill for multifamily loans that deems CARES Act compliance to be sufficient to meet the mandates of the bill be added to the provisions which relate to residential mortgages. The letter also states that the bill: is too broad and lacks definitions that may distract from efforts to focus on those truly in need of financial assistance; fails to acknowledge that mortgage servicers are intermediaries that must adhere to contractual obligations and investor guidelines; raises legal and constitutional issues, such as takings and impairment of contracts; introduces the potential for preemption for federally-chartered institutions; imposes punitive penalties that are unevenly applied throughout the measure; and upends a national approach deployed through the CARES Act and federal agencies.

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NEW YORK LEGISLATION ADDRESSING FORBEARANCE

- The bill set new terms requiring banking institutions to make applications for forbearance for residential mortgages available to qualified mortgagors during the period in which the NY on PAUSE order is in effect in the county wherein the

- MBA sent a separate letter with state and national banking trades highlighting conflicts between the CA bill and federal law on mortgages and other financial products.
- California [Assembly Bill 2501](#) failed to secure approval ahead of a critical procedural deadline, effectively ending its potential to become law in 2020. Sustained advocacy across the industry helped MBA and its coalition partners achieve a political victory against tremendous odds by defeating this problematic legislation.
- August 5, MBA signed onto a [letter](#) to members of the California Senate Judiciary Committee opposing legislation that would enact sweeping new forbearance standards that conflict with and diverge from existing federal standards for residential and multifamily mortgages. The bill, [AB 1436](#), was amended to include many of the problematic provisions of legislation (AB 2501) that a broad industry coalition had previously defeated in June.
- August 18, the California Judiciary Committee unanimously approved [AB-1436](#), a bill that would enact sweeping new forbearance standards that conflict and diverge from existing federal mandates for residential and multifamily mortgages. While the bill now includes a “safe harbor” for all loans subject to the federal *CARES Act*, it still contains many of the problematic provisions of legislation (AB 2501) that a broad industry coalition had previously defeated in June. Ahead of the Judiciary Committee meeting, MBA and the California MBA signed on to an industry coalition [letter](#) opposing the bill.
- August 31, California Governor Gavin Newsom signed [AB 3088](#), extending the state’s residential foreclosure and eviction protections until January 31, 2021. AB 3088 contains significant improvements over a prior iteration of the legislation. These improvements, supported by a broad industry coalition, include a safe harbor for both federally backed and non-federally backed loans that are serviced in compliance with the federal CARES Act. The law also allows mortgage servicers to comply with applicable federal guidance regarding borrower options following a COVID-19-related forbearance.
- On June 17, Governor Cuomo signed SB 8243 / Chapter 112 into law. Effective immediately, the act will require New York regulated banking organizations to make available applications for forbearance for qualified mortgages and to grant such forbearance for a period of 180 days.
- MBA collaborated with the NYMBA to successfully get the inclusion of language that exempts loans made, insured, or securitized by a federal agency, government sponsored enterprise or federal loan home bank.

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<p>qualified mortgagor is located and to grant such applications for a period of 180 days.</p>	<ul style="list-style-type: none">• July 19, the New York Assembly and Senate convened a Special Legislative Session to complete their regularly scheduled business before adjourning for the remainder of the summer. The session included deliberation of COVID-19-relief bills that would require forbearance on residential and commercial properties that goes beyond federal <i>CARES Act</i> mandates (A.10532-A/S.8744). Although the bills contained provisions exempting loans connected with the federal housing programs, other provisions remained problematic, and MBA and the New York MBA opposed the bills in a Mortgage Action Alliance (MAA) Call to Action.• August 3, the New York Department of Financial Services (NYDFS) issued guidance on the recently enacted state law (S.8243-C and S.8428) that requires mortgage loan servicers to work with borrowers impacted by the COVID-19 pandemic. In a series of frequently asked questions, NYDFS identified areas of the new banking law that required additional clarity pertaining to mortgage payment forbearance assistance provided by servicers.• Facing a December 31, 2020 expiration of existing eviction and foreclosure moratoria, New York Governor Andrew Cuomo signed new legislation whereby homeowners and small landlords who own 10 or fewer residential dwellings can file hardship declarations to prevent a foreclosure.• July 20, MBA issued a Call to Action urging members of the Massachusetts state legislature to oppose legislation HD.5166 and S.2831. In addition to the expanded forbearance requirements, the bills would require lenders to advance escrows for taxes and insurance payments to the end of the mortgage term and would prevent lenders from requesting documentation of financial hardship.
<p>MASSACHUSETTS LEGISLATION ADDRESSING FORBEARANCE</p>	
<ul style="list-style-type: none">• Bills HD.5166 and S.2831 seek to extend current eviction and foreclosure moratoria, as well as institute mandatory forbearances for 12 months after the state of emergency order related to the COVID-19 pandemic.	
<p>OREGON LEGISLATION ADDRESSING FORBEARANCE</p>	
<ul style="list-style-type: none">• HB 4204 and HB 4213 were enacted in a matter of days, and undermine ongoing efforts to assist consumers as they create duplicative – and sometimes contradictory – requirements to those required by the federal <i>CARES Act</i>, the GSEs, and the federal housing agencies.	<ul style="list-style-type: none">• July 24, MBA sent Oregon Governor Kate Brown and party leadership in the legislature a letter urging them to amend recently passed laws related to the COVID-19 pandemic (HB 4204 and HB 4213) that create regulatory and legal risk for the real estate finance industry in the state.• August 13, MBA led a joint trades letter that was submitted to Oregon Governor Kate Brown, urging her not to extend the “emergency period” of the state’s recently-passed forbearance law (HB 4204/HB 4213) beyond the current sunset date of September 30, 2020. In the letter, MBA and other national industry groups argued that the current law undermines the ongoing efforts by our industry to assist homeowners and renters because it creates duplicative – and sometimes contradictory – requirements to those already mandated by the federal <i>CARES Act</i> and the policies of the federal government’s affordable housing programs.

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	<ul style="list-style-type: none">• August 31, Oregon Governor Kate Brown issued Executive Order 20-37, extending foreclosure protections for Oregon homeowners and business owners through December 31, 2020. MBA has worked closely with the Oregon MBA, engaged the Mortgage Action Alliance, and led an industry coalition in urging Governor Brown not to extend the provisions further. MBA Education also held an informative webinar about the new law, which can be accessed here.

REGULATORY AND SUPERVISORY ISSUES. *As the mortgage industry's primary representation in Washington, D.C., MBA will continue to identify and address sources of friction within the mortgage market created by COVID-19.*

POLICY ISSUES	STATUS
SUPERVISORY AGENCY ISSUES <ul style="list-style-type: none">• COVID-19 has caused significant uncertainty for mortgage lenders, servicers, and other market participants with respect to regulator expectations for ongoing operations, supervisory contacts, and pending administrative actions.	<ul style="list-style-type: none">• MBA worked with regulators to ensure required reporting on COVID-19 responses does not impede the ability of lenders/servicers to provide relief to consumers.• March 25, OCC Bulletin 2020-24 announced a collective response by banking regulators to not take action against any institution for submitting in good faith its March 31, 2020, Consolidated Reports of Condition and Income (or call report) after the official filing deadline, as long as the report is submitted within 30 days after the official filing deadline• Federal and state banking regulators clarified that they will not criticize institutions for working constructively with borrowers, providing relief on issues such as classifications of loan modifications as troubled debt restructurings.• The Federal Reserve provided additional information to financial institutions on how it is adjusting its supervisory approach in light of COVID-19.• April 29, the CFPB issued a set of FAQs addressing the timeline by which applicants may receive copies of appraisals or other written valuations to expedite access to credit for consumers impacted by the COVID-19 pandemic.• May 27, the Federal Reserve, FDIC, and OCC jointly released new FAQs addressing the eligibility of COVID-19 response activities for credit under the Community Reinvestment Act. The FAQs cover activities that promote affordable housing and housing stability for homeowners and renters experiencing COVID-19-related hardships, as well as provide details on the consideration of loans made under the Paycheck Protection Program and the Main Street Lending Program.

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- June 4, the CFPB and CSBS issued [joint guidance](#) to mortgage servicers on implementation of congressionally-mandated forbearance for federally-backed mortgages. The guidance contains information and expectations regarding forbearance duration, hardship documentation, and potential steering of borrowers away from forbearance.
- June 4, the IRS issued [Notice 2020-39](#), providing answers to frequently asked questions on COVID-19-related relief for Qualified Opportunity Funds and their investors. The guidance provides important relief from certain requirements under the Code and its implementing regulations. The IRS also updated the existing [Qualified Opportunity Zone Frequently Asked Questions](#).
- June 15, the Federal Reserve [announced](#) that it will resume examination activities for all banks after temporarily reducing these activities due to the COVID-19 pandemic. The Fed notes that examinations will continue to be conducted offsite, and that it will work with financial institutions to better understand any specific issues that have arisen as a result of the pandemic
- June 17, the OCC released a [bulletin](#) reminding stakeholders that national banks, federal savings associations, and federal branches and agencies of foreign banks are governed primarily by uniform federal standards – not standards enacted by state and local governments. In the bulletin, the OCC notes that, while many state and local governments have taken laudable actions in response to the COVID-19 pandemic, the proliferation of many differing requirements could increase risk to banks' safety and soundness, and harm consumers. The OCC specifically referenced pre-emption of state laws that conflict with real estate lending, focusing on state laws that limit the ability of banks to foreclose on defaulted loans and take possession of collateral beyond what is provided for by federal legislation.
- June 22, the OCC [approved](#) an interim final rule in response to the COVID-19 pandemic that will reduce assessments paid by national banks and other OCC-supervised banks.
- June 22, the FDIC [approved](#) a final rule that will mitigate the impact of participation in various emergency lending programs on deposit insurance assessments. These measures should result in savings for many institutions.
- June 23, the CFPB [issued](#) an [interim final rule](#) to provide clarity to servicers as they work with borrowers exiting mortgage payment forbearance. The interim final rule makes clear that servicers will not be in violation of Regulation X if they offer certain pandemic-related loss mitigation options based on an incomplete application from the borrower. Servicers are also provided relief from certain Regulation X requirements, such as the need to obtain a complete application, if borrowers

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POLICY ISSUES

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EXTENSION OF REGULATORY DEADLINES

- MBA members may seek deadline extensions for: URLA implementation, HMDA reporting, LIBOR phase-out, agency audits and exams, tax filing and payments, and financial reporting.

accept offers for eligible loss mitigation options. This interim final rule is particularly relevant for the use of payment deferral options, such as those now offered by Fannie Mae and Freddie Mac.

- June 23, a group of federal and state financial regulators issued [examiner guidance](#) that instructs examiners to “consider the unique, evolving, and potentially long-term nature of the issues confronting institutions due to the COVID-19 pandemic and to exercise appropriate flexibility in their supervisory response.”
- July 1, the CFPB issued a set of [Frequently Asked Questions](#) regarding its “prioritized assessments” – a new, targeted supervisory approach developed in response to the COVID-19 pandemic. These prioritized assessments are described as “higher-level inquiries than traditional examinations” and are “designed to obtain real-time information” from market participants. The CFPB will be focusing its efforts “where it believes the risks are highest to consumers who have lost jobs or income and have trouble making loan payments that are due,” as well as “markets where Congress provided special provisions to help consumers in the *CARES Act*.”
- MBA worked with regulators to ensure flexibility is provided to regulated institutions that are continuing to extend credit to consumers, including seeking an extension of relevant deadlines, such as certain quarter-end financial reporting.
- The Financial Conduct Authority and the Bank of England [announced](#) that while some interim deadlines may change, firms still cannot rely on LIBOR being published after the end of 2021.
- March 24, Ginnie Mae released APM 20-02 extending the [due date for Annual Audited Financial Statements](#) to April 30, 2020.

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POLICY ISSUES

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GINNIE MAE DELINQUENCY THRESHOLDS

- Ginnie Mae should ensure that its program guidelines accommodate the increased delinquencies expected as result of COVID-19-related impacts on borrowers.

- March 26, the CFPB announced it will be postponing deadlines for HMDA, TILA, Reg Z and Reg E information collection, including annual submissions. The surveys on Section 1071 of DFA and PACE issuers are also postponed. Examinations will continue, but the Bureau will work with firms to minimize disruption. MBA's Bob Broeksmit [applauded](#) these measures, which closely align with MBA recommendations to the Bureau.
- April 14, the GSEs [announced](#) extended URLA implementation deadlines. The new mandate date of use for the redesigned URLA and AUS specifications is March 1, 2021.
- June 3, the Financial Accounting Standards Board (FASB) [issued](#) a one-year delay in the effective date of the new revenue recognition and lease accounting standards for private companies and not-for-profit organizations that have not yet issued (or made available) financial statements that reflect adoption of the new standards. Early application continues to be permitted.
- July 1, Fannie Mae and Freddie Mac issued a [lender letter](#) and [bulletin](#), respectively, that offer additional information for market participants regarding the implementation of the redesigned URLA. MBA will continue to work with FHA, VA, and USDA to ensure that all government and GSE programs can transition to the new URLA on the same timeline.
- MBA has engaged Ginnie Mae staff on the need to ensure that issuers are not deemed to be out of compliance with required delinquency and default ratios purely as a result of COVID-19-related impacts on borrowers.
- March 27, Ginnie Mae [announced](#) that it expects to publish information about forbearance of sanctions for violation of liquidity and delinquency standards attributable to the COVID-19 crisis.
- May 14, Ginnie Mae released an [All Participant Memorandum](#) affirming it will not take adverse actions against issuers for exceeding maximum delinquency thresholds due to loans in COVID-19-related forbearance. This statement aligns with MBA advocacy and reflects the continued coordination and collaboration between MBA and Ginnie Mae during the COVID-19 pandemic.
- December 7, Ginnie Mae [announced](#) that it would extend exceptions made to delinquency thresholds that were implemented earlier in 2020 in response to the COVID-19 pandemic. The exceptions, originally outlined in All Participant Memorandum 20-06 (APM 20-06), will now be extended from December 31, 2020 through July 31, 2021 (June 2021 investor reporting).

MBA COVID-19 Single-Family Policy Tracker

February 2021

POLICY ISSUES

STATUS

NY DFS REQUEST FOR PREPAREDNESS PLANS

- The New York State Department of Financial Services (DFS) is issuing a request for assurance that institutions have preparedness plans in place to address operational risk posed by the COVID-19 outbreak.

- MBA is engaged with the NY DFS on this issue and is looking to provide resources to members that are required to produce such plans.
- March 24, NY DFS [granted an extension](#) for submission of the plans to May 25.