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OFFICE OF BANKING

Statement on Interagency and Federal Regulatory Guidance and Frequently Asked Questions for Banks

Affected by Coronavirus Disease 2019 (COVID-19)

Statement on Interagency and Federal Regulatory Guidance

As we deal with the impact of COVID-19, DIFS is mindful of the myriad effects resulting from the global pandemic. The DIFS Office of Banking supports prudent measures taken by banks to protect the health of their employees, customers, and communities, in addition to the primary role of banks to assist consumers and businesses with their financial needs. The extent of the financial impact of COVID-19 is currently unknown. The Office of Banking trusts our state-chartered banks will work with their customers in a safe and sound manner.

The Office of Banking has a long history of active involvement in the Conference of State Bank Supervisors (CSBS), which advances the system of state financial supervision, and interagency bodies such as the Federal Financial Institutions Examination Council (FFIEC), whose members include the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB), the National Credit Union Administration (NCUA), the State Liaison Committee (SLC). We maintain close, cooperative working relationships with our local federal counterparts with the FDIC Chicago Regional Office and the Federal Reserve Banks of Chicago and Minneapolis.

On March 9, 2020, the CSBS and the federal financial institution regulators issued a joint press release encouraging financial institutions to work with their customers impacted by coronavirus. Since that time, additional press releases, rules, interagency statements, Financial Institution Letters, and FAQs have been issued, and resources have been provided by the CSBS, the FFIEC, the FRB, and the FDIC. **The Office of Banking supports the content of these communications and the guidance they provide.** Information relating to COVID-19 is changing rapidly, and we will endeavor to provide timely and clear communication to the industry. In the unlikely event the Office of Banking has a position other than that conveyed through CSBS, the FFIEC or your institution's primary federal regulator, e.g., because there is a conflict with state law, we will work to advise the industry of our position expeditiously.

We appreciate your partnership as we work toward the common goal of protecting you, your employees, and all Michigan citizens, while continuing the essential services your institution and DIFS provide.

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NEW - REGULATORY RULES, STATEMENTS OF POLICY AND GUIDANCE

Since early March, numerous new federal rules have been issued along with policy statements, guidance, FAQs, and other regulatory releases. Presented below are links to information sources that address many of the most commonly raised issues. Various other specific, topical links are also provided throughout this document. Please note that for joint/interagency releases related to particular topics and applicable to state nonmember, state member and national banks, links are generally only provided to the FDIC's website for the sake of simplicity.

Ask the Regulators: Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus

<https://www.webcaster4.com/Webcast/Page/583/34317>

FDIC Coronavirus (COVID-19) Information for Bankers

<https://www.fdic.gov/coronavirus/bankers/index.html>

FDIC Coronavirus (COVID-19) Information for Small Business Lenders

<https://www.fdic.gov/Coronavirus/smallbusiness/>

FDIC FAQs for Financial Institutions Affected by COVID-19

<https://www.fdic.gov/Coronavirus/faq-fi.pdf>

Federal Reserve System Coronavirus Disease (COVID-19) Resources

<https://www.federalreserve.gov/covid-19.htm>

Federal Reserve System COVID-19 Supervisory and Regulatory FAQs

<https://www.federalreserve.gov/covid-19-supervisory-regulatory-faqs.htm>

Federal Reserve System Funding, Credit, Liquidity, and Loan Facilities

<https://www.federalreserve.gov/funding-credit-liquidity-and-loan-facilities.htm>

Federal Reserve System Paycheck Program Liquidity Facility (PPPLF) FAQs

<https://frbdiscountwindow.org/pages/general-information/faq>

U.S. Small Business Administration (SBA) Paycheck Protection Program (PPP)

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>

U.S. SBA PPP FAQs for Lenders and Borrowers

<https://www.sba.gov/document/support--faq-lenders-borrowers>

Frequently Asked Questions for Banks

OFFICE OF BANKING OPERATIONS

1. Will Office of Banking services continue to be available?

Yes. The Office of Banking has adjusted our internal operations for remote working. Calls continue to be answered, examinations performed, and applications processed. We will keep the industry informed should any changes occur. Please note receipt of information submitted to our Lansing office via postal mail or overnight delivery may be delayed up to three business days. Electronic submissions are preferred. Please contact us should you have questions regarding the best method for submitting information electronically.

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EXAMINATION PROGRAM

2. Will the Office of Banking continue to conduct examinations?

Yes. Office of Banking staff members have the capability to perform off-site examination work and monitoring. While off-site examination is not ideal, we appreciate your continued patience and cooperation in providing as much information as possible securely via remote means. Additional on-site supplemental portions of the exam may need to be completed at a later date. If an institution is unable to accommodate an off-site examination, please discuss the situation with your bank's Examiner-In-Charge (EIC) and/or Regional Supervisor during the pre-examination contact.

3. How will joint examinations with the FDIC or the FRB be managed?

The Office of Banking will continue to coordinate examination and supervision activities with our federal regulatory partners at the FDIC Chicago Regional Office and the Federal Reserve Banks of Chicago and Minneapolis.

BANK OPERATIONS

4. **Updated** - Are banks permitted to remain operational during periods in which there are government directives to temporarily suspend activities that are not necessary to sustain or protect life, i.e., Governor Whitmer's Executive Orders 2020-21 (COVID-19), dated March 23, 2020, 2020-42 (COVID-19), dated April 9, 2020, and 2020-59 (COVID-19), dated April 24, 2020?

Yes. The subject Executive Orders broadly prohibit in-person work and provide a narrow exception for critical infrastructure workers. Some workers in the financial services sector are considered critical infrastructure workers as described in guidance issued by the Director of the U.S. Cybersecurity and Infrastructure Security Agency referenced within the Executive Orders. DIFS Bulletin 2020-11-BT/CF/CU provides guidance on the specific industries included within the term "financial services" as used within the Executive Orders.

Updated - Governor Whitmer's Executive Order 2020-59 (COVID-19)
https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-526894--,00.html

U.S. Cybersecurity and Infrastructure Security Agency (CISA), Financial Services Sector
<https://www.cisa.gov/financial-services-sector>

DIFS Bulletin 2020-11-BT/CF/CU RE: Executive Order 2020-21: Essential Financial Services
https://www.michigan.gov/documents/difs/Bulletin_2020-11-BT_CF_CU_685132_7.pdf

Updated - DIFS Bulletin 2020-13-BT/CF/CU RE: Executive Order 2020-42: Essential Financial Services
https://www.michigan.gov/documents/difs/Bulletin_2020-13-BT_CF_CU_686618_7.pdf

5. Should banks restrict the way they provide access to certain services?

Yes. Banks must abide by all applicable conditions in Governor Whitmer's Executive Orders, and take aggressive steps to minimize the spread of coronavirus through social distancing practices and other mitigation measures to protect workers and customers. Prudent steps include restricting lobby access, providing drive-thru services, and advocating the use of alternative service options. Banks may want to remind customers of the various ways they can access banking services, such as by managing their accounts online or with a mobile banking application, performing transactions at an automated teller machine (ATM), or using telephone banking, if available. Financial institutions may also provide information about bill pay and mobile remote deposit capture services. Where in-person services are necessary, such as to access a safe deposit box, social distancing practices should continue to be implemented to the greatest extent possible.

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6. Must the Office of Banking be notified of branch closures?

Yes. Provide notification to the Office of Banking if you **fully close**, temporarily or permanently, one or more of your banking locations. Please include the address and date(s) of the planned closure.

7. What other notifications should be provided to the Office of Banking?

As your institution implements phases of its pandemic response plan, we ask that you notify us when aspects of the plan may disrupt customer access to financial services and steps your institution is taking to mitigate the impact. Please also notify us of possible disruptions to bank operations due to the health of employees.

8. Are annual shareholder meetings and board of directors' meetings required to be in-person?

No. The Michigan Banking Code of 1999 (Code) does not require bank shareholders to meet in person and permits shareholders to vote by proxy. The Code specifically permits boards of directors to meet "by means of electronic communication devices that enable all participants in a meeting to communicate with each other."

9. Must original Individual Oath of Director forms be filed with the Office of Banking?

No. The Individual Oath of Director forms required upon election or appointment of board members may be transmitted to the Office of Banking electronically.

10. Has any relief been provided related to notary services rules and requirements due to COVID-19?

Yes. Governor Whitmer's Executive Order 2020-41 provides limited and temporary relief from certain rules and requirements to enable and encourage the use of electronic signatures, remote notarizations, remote witness attestations and acknowledgments, and remote visitations. Among other provisions, Executive Order 2020-41 temporarily suspends strict compliance with the Michigan Law on Notarial Acts to the extent it requires a notary to be in the physical presence of an individual seeking the notary's services or of any required witnesses.

Governor Whitmer's Executive Order 2020-41 (COVID-19)

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-525178--,00.html

11. Has the Financial Crimes Enforcement Network (FinCEN) identified emerging fraudulent transaction trends since the onset of COVID-19 outbreak?

Yes. On March 16, 2020, FinCEN issued a press release related to COVID-19 and encourages financial institutions to communicate concerns and remain alert to related illicit financial activity, including the following:

- *Imposter Scams*: This trend includes bad actors that impersonate government agencies (such as the Centers for Disease Control), international organizations (such as the World Health Organization), or healthcare organizations in order to solicit donations, steal personal information, or distribute malware.
- *Investment Scams*: This trend includes promotions that falsely claim that the products or services of a publicly traded company can prevent, detect or cure the coronavirus or COVID-19.
- *Product Scams*: This trend covers the sale of unapproved or misbranded products that make false health claims pertaining to COVID-19, including by companies that have received public warning letters or statements from the U.S. Federal Trade Commission and the U.S. Food and Drug Administration. The guidance notes that FinCEN has also received reports relating to the fraudulent marketing of COVID-19 related supplies, including facemasks.
- *Insider Trading*: FinCEN has received reports of suspected insider trading related to COVID-19.

FinCEN Encourages Financial Institutions to Communicate Concerns Related to the COVID-19

<https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions>

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WORKING WITH CUSTOMERS

The Office of Banking urges banks to meet the financial needs of consumers and businesses affected by the COVID-19 pandemic. Banks should work constructively and proactively with affected borrowers and other customers in the best interests of the borrowers, the financial institutions, and the Michigan economy. We recognize such efforts serve the long-term interest of Michigan banks and communities when conducted with appropriate management oversight. Such efforts should be consistent with safe and sound practices and applicable laws. Prudent efforts to modify the terms on existing loans for affected customers will not be subject to examiner criticism.

CSBS: Federal, State Regulators Encourage Consumer Support During Coronavirus Crisis

<https://www.csbs.org/federal-state-regulators-encourage-consumer-support-during-coronavirus-crisis>

Revised Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus <https://www.fdic.gov/news/news/press/2020/pr20049a.pdf>

Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency <https://www.fdic.gov/news/news/press/2020/pr20047a.pdf>

12. What strategies should banks consider when working with consumers during this time?

The Office of Banking encourages banks to work with affected consumers and communities in addressing the impact and challenges resulting from COVID-19. Strategies to consider may include the following:

- Waiving certain fees, such as:
 - Automated teller machine (ATM) fees for customers and non-customers,
 - Overdraft fees,
 - Late payment fees on credit cards and other loans, and
 - Early withdrawal penalties on time deposits;
- Increasing ATM daily cash withdrawal limits;
- Easing restrictions on cashing out-of-state and non-customer checks;
- Increasing credit card limits for creditworthy borrowers; and
- Offering payment accommodations, such as allowing borrowers to defer or skip some payments or extending the payment due date, which would avoid delinquencies and negative credit bureau reporting caused by COVID-19-related disruptions.

In evaluating strategies, banks should not assume undue risk and should be able to adequately monitor and track strategies in relation to the bank's overall risk profile and capital position. Banks should also clearly communicate the terms of any such accommodations including when the deferred payments will be due.

The Office of Banking views prudent loan modification programs offered to financial institution customers affected by COVID-19 as positive and proactive actions that can manage or mitigate adverse impacts on borrowers, and lead to improved loan performance and reduced credit risk.

13. What type of documentation should financial institutions maintain relative to providing a loan modification to a borrower affected by COVID-19?

Banks should maintain appropriate documentation that considers borrowers' payment status prior to being affected by COVID-19, and borrowers' payment performance according to the changes in terms provided by the accommodation. Documentation could also include the borrowers' recovery plans, sources of repayment, additional advances on existing or new loans, and value of collateral. Loan modifications made due to the impact of COVID-19 should be identified as such in the institution's loan reporting system(s).

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14. New - Are financial institutions encouraged to offer responsible small-dollar loans to consumers and small businesses affected by COVID-19?

Yes. On March 26, 2020, the FDIC, FRB, OCC, CFPB, and NCUA issued a joint statement encouraging financial institutions to offer responsible small-dollar loans to consumers and small businesses in response to COVID-19. The statement recognizes that such loans can play an important role in meeting customers' credit needs because of temporary cash-flow imbalances, unexpected expenses, or income disruptions during periods of economic stress or disaster recoveries. Loans can be offered through a variety of structures including open-end lines of credit, closed-end installment loans, or appropriately structured single payment loans, and should be offered in a manner that provides fair treatment of consumers, complies with applicable laws and regulations, and is consistent with safe and sound practices.

Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19
<https://www.fdic.gov/news/news/press/2020/pr20039a.pdf>

15. Does the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) waive bank legal lending limits?

No. The CARES Act temporarily permits the Comptroller of the Currency to, by order, exempt any transaction or series of transactions from the requirements of the national bank legal lending limits upon a finding by the Comptroller that such exemption is in the public interest and consistent with the purposes of the limits. The Michigan Banking Code of 1999 authorizes the DIFS Director to make exceptions to state bank legal lending limits via order or declaratory ruling.

16. Are Small Business Administration (SBA) Paycheck Protection Program loans exempt from the legal lending limit for Michigan state-chartered banks?

Yes. The Michigan Banking Code of 1999 specifies the following loans and extensions of credit are not subject to the general legal lending limit for state banks:

A loan or extension of credit to a customer, secured or covered by guarantees or by commitments or agreements to take over or to purchase the loan or extension of credit, made by a federal reserve bank or by the United States, or a department, bureau, board, commission, or establishment of the United States, including a corporation wholly owned directly or indirectly by the United States.

17. Updated - Has any liquidity relief been provided to fund bank lending of SBA Paycheck Protection Program (PPP) loans?

Yes. On April 6, 2020, the Federal Reserve announced a facility to bolster the effectiveness of the SBA's Paycheck Protection Program (PPP) by supplying liquidity to participating financial institutions through term financing backed by PPP loans to small businesses. The Paycheck Protection Program Liquidity Facility (PPPLF) extends credit to eligible financial institutions that originate PPP loans, taking the loans as collateral at face value. The PPPLF became fully operational and available to provide liquidity to eligible financial institutions on April 16, 2020.

Federal Reserve Paycheck Program Liquidity Facility (PPPLF)
<https://www.federalreserve.gov/monetarypolicy/ppplf.htm>

New - Federal Reserve Paycheck Program Liquidity Facility (PPPLF) Term Sheet & Documentation
<https://www.frbdiscounwindow.org/generalpages/emergency%20credit%202020>

New - Federal Reserve Paycheck Program Liquidity Facility (PPPLF) FAQs
<https://frbdiscounwindow.org/pages/general-information/faq>

18. New – Can a bank make an SBA PPP loan to an applicant of which an outside director of the bank or a shareholder of the bank owns a direct or indirect equity interest?

Yes, provided the applicant otherwise meets the eligibility requirements of the PPP, AND the director is not an officer or key employee of the bank and, in the case of a shareholder, the holder

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owns less than a 30 percent equity interest in the bank. On April 14, 2020, the SBA issued an interim final rule stating, among other things, that SBA lending restrictions shall not apply to prohibit an otherwise eligible business owned (in whole or part) by an outside director or holder of less than 30 percent equity interest in a PPP lender (e.g., a bank) from obtaining a PPP loan from the [bank] on whose board the director serves or in which the equity owner holds an interest, provided that the eligible business owned by the director or equity holder follows the same process as similarly situated customer or account holder of the [bank]. The rule also states that SBA lending restrictions would continue to apply to officers and key employees of a [bank], and that favoritism by a [bank] in processing time or prioritization of a director's or equity holder's PPP application is prohibited.

Interim Final Rule – Business Loan Program Temporary Changes

<https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

19. New – How does the Federal Reserve’s Regulation O impact the availability of SBA PPP loans for bank directors and shareholders?

On April 17, 2020, the Federal Reserve issued an interim final rule that excepts certain loans that are guaranteed under the SBA PPP from the requirements of section 22(h) of the Federal Reserve Act and the corresponding provisions of Regulation O. The change temporarily modifies the Federal Reserve's rules so that certain bank directors and shareholders can apply for PPP loans for their small businesses. However, section 22(g) of the Federal Reserve Act and section 215.5 of Regulation O still apply.

Federal Reserve Board announces rule change to bolster the effectiveness of the Small Business Administration's Paycheck Protection Program

<https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200417a.htm>

20. Has any relief been provided from the requirement that banks obtain an appraisal or evaluation on residential and commercial real estate properties affected by COVID-19 prior to closing the loan?

Yes. On April 14, 2020, the FDIC, FRB and OCC issued an interim final rule that temporarily defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible valuation of real property collateral before the loan closing, and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards. This temporary change to the appraisal rules expires on December 31, 2020.

The FDIC, FRB, OCC, NCUA and CFPB, in consultation with the state financial regulators, also issued an Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus. The Statement outlines existing flexibilities provided by industry appraisal standards and the agencies' appraisal regulations and highlights temporary changes to Fannie Mae and Freddie Mac appraisal standards to facilitate real estate transactions.

Interim Final Rule - Facilitating Real Estate-Related Transactions Affected by COVID-19

<https://www.fdic.gov/news/news/press/2020/pr20051a.pdf>

Interagency Statement on Appraisals and Evaluations for Real Estate Transactions Affected by the Coronavirus <https://www.fdic.gov/news/news/press/2020/pr20051b.pdf>

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21. How should financial institutions respond to COVID-19 related issues relative to inspections of real property, and what alternative options are available in lieu of obtaining an interior inspection for real estate secured loans due to concerns related to COVID-19?

The federal banking agencies' appraisal regulations require that appraisals be conducted in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). While exterior and interior inspections are commonly conducted in preparing appraisals and evaluations and can facilitate high quality valuations, such inspections are not required by the agencies' appraisal regulations. Rather, as allowed by USPAP, an appraiser can determine the characteristics of a property through, among other things, any combination of property inspection, asset records, photographs, property sketches, and recorded media.

On March 17, 2020, the Appraisal Standards Board issued "2020-21 USPAP Q&A" which indicates that when an interior inspection would customarily be part of the scope of work, a health or other emergency condition may require an appraiser to make an extraordinary assumption about the interior of a property. USPAP permits this approach as long as the appraiser has a reasonable basis for the extraordinary assumption and as long as its use still results in a credible analysis. Both desktop appraisals and exterior-only appraisals can fulfill the requirements of USPAP as long as the analysis is credible. Interior inspections are still required, however, for certain higher-priced mortgage loans.

Q&As from the Appraisal Standards Board

https://www.appraisalfoundation.org/imis/TAF/Standards/Q_As/TAF/QAs.aspx

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

Responses to COVID-19 related questions provided by The Appraisal Foundation note that the USPAP addresses situations where access to the interior of a property may not be feasible. USPAP permits an appraiser to make an extraordinary assumption about the interior of a property due to health concerns or other emergency conditions, such as the COVID-19 pandemic.

Appraisers may have a variety of reasonable bases for an extraordinary assumption, including, but not limited to:

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

The Appraisal Foundation - Coronavirus and Appraisers: Your Questions Answered

http://www.appraisalfoundation.org/iMIS/TAF/Coronavirus_and_Appraisers.aspx

22. **New** – Has any relief been provided relative to reserve requirements and the six convenient transfer limit on savings deposits associated with the Federal Reserve's Regulation D?

Yes. Effective March 26, 2020, the Federal Reserve reduced reserve requirement ratios to zero percent. On April 24, 2020, the Federal Reserve announced an interim final rule to amend Regulation D to delete the six-per-month limit on convenient transfers from the "savings deposit" definition. The rule allows depository institutions immediately to suspend enforcement of the six transfer limit and to allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits at a time when financial events associated with the coronavirus pandemic have made such access more urgent. The regulatory limit in Regulation D was the basis for distinguishing between reservable "transaction accounts" and non-reservable "savings deposits." The recent action reducing all reserve requirement ratios to zero rendered this regulatory distinction unnecessary.

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FRB Services - Reserve Account Administration Application Frequently Asked Questions
<https://www.frbervices.org/resources/central-bank/faq/reserve-account-admin-app.html>

Interim Final Rule - Regulation D: Reserve Requirements for Depository Institutions
<https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200424a1.pdf>

Federal Reserve Savings Deposit Frequently Asked Questions
<https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm>

23. New – Are any tools available to assist financial institutions comply with consumer protection laws and regulations relative to disclosures subject to the Truth in Lending Act and the Truth in Savings Act?

Yes. On April 16, 2020, the FFIEC, on behalf of its member agencies, announced the availability of FFIEC Federal Disclosure Computational Tools, including the Annual Percentage Rate (APR) Computational Tool and the Annual Percentage Yield (APY) Computational Tool. The FFIEC member agencies collaborated to develop the Federal Disclosure Computational Tools, which will assist financial institutions in their efforts to comply with the consumer protection laws and regulations.

The APR Computational Tool is designed to streamline the process by which examiners and financial institutions can verify finance charges and annual percentage rates included on consumer loan disclosures subject to the Truth in Lending Act and its implementing regulation, Regulation Z. This web-based tool supports the verification of disclosed APR calculations related to unsecured and secured installment and construction loans, including real estate-secured loans. The APR Computational Tool also supports verification of compliance with the Military Annual Percentage Rate (MAPR) limits under the Military Lending Act.

The APY Computational Tool supports verification of APYs on consumer deposit account disclosures subject to the Truth in Savings Act, including advertisements and periodic statements.

FFIEC Federal Disclosure Computational Tools <https://www.ffiec.gov/calculators.htm>

REPORTING REQUIREMENTS

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law. The CARES Act creates a forbearance program for federally backed mortgage loans, protects borrowers from negative credit reporting due to loan accommodations related to the National Emergency, and provides financial institutions the option to temporarily suspend certain requirements under U.S. generally accepted accounting principles (GAAP) related to troubled debt restructurings (TDR) for a limited period of time to account for the effects of COVID-19.

24. Does the CARES Act provide temporary relief from TDR reporting for loan modifications?

Yes. A financial institution may account for an eligible loan modification either under section 4013 of the CARES Act or in accordance with U.S. GAAP (ASC Subtopic 310-40.5). If a loan modification is not eligible under section 4013, or if the institution elects not to account for the loan modification under section 4013, the financial institution should evaluate whether the modified loan is a TDR.

To be an eligible loan under section 4013 of the CARES Act, a loan modification must be:

- (1) related to COVID-19;
- (2) executed on a loan that was not more than 30 days past due as of December 31, 2019; and
- (3) executed between March 1, 2020, and the earlier of
 - (A) 60 days after the date of termination of the National Emergency or
 - (B) December 31, 2020 (applicable period).

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Financial institutions accounting for eligible loans under section 4013 are not required to apply U.S. GAAP to the section 4013 loans for the term of the loan modification. Financial institutions do not have to report section 4013 loans as TDRs in regulatory reports. Institutions do not need to determine impairment associated with certain loan concessions that would otherwise have been required for TDRs (e.g., interest rate concessions, payment deferrals, or loan extensions). However, consistent with section 4013, financial institutions should maintain records of the volume of section 4013 loans. Data about section 4013 loans may be collected for supervisory purposes.

Update - We expect new data items related to the volume of section 4013 loans to take effect as early as this quarter for reporting on each institution's June 30, 2020 Consolidated Reports of Condition and Income (Call Report).

For the most recent information on reporting requirements for section 4013 loans, refer to the Federal Financial Institutions Examination Council (FFIEC) instructions https://www.ffiec.gov/ffiec_report_forms.htm.

25. Is a loan modification a TDR if it is not eligible under section 4013 of the CARES Act or an institution elects not to apply section 4013?

There are circumstances in which a loan modification may not be eligible under Section 4013 or in which an institution elects not to apply Section 4013. For example, a loan that is modified after the end of the applicable period would not be eligible under Section 4013. For such loans, the guidance below applies.

Modifications of loan terms do not automatically result in TDRs. According to U.S. GAAP (ASC Subtopic 310-40), a restructuring of a debt constitutes a TDR if the creditor, for economic or legal reasons related to the debtor's financial difficulties, grants a concession to the debtor that it would not otherwise consider. Short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current (i.e., less than 30 days past due) prior to any relief are not TDRs. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant. The agencies have confirmed with staff of the Financial Accounting Standards Board (FASB) that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs under ASC Subtopic 310-40.

Accordingly, working with borrowers who are current on existing loans, either individually or as part of a program for creditworthy borrowers who are experiencing short-term financial or operational problems as a result of COVID-19 generally would not be considered TDRs. More specifically, financial institutions may presume that borrowers are not experiencing financial difficulties at the time of the modification for purposes of determining TDR status, and thus no further TDR analysis is required for each loan modification in the program, if:

- The modification is in response to the National Emergency;
- The borrower was current (i.e., less than 30 days past due) on payments **at the time the modification program is implemented** [emphasis added]; and
- The modification is short-term (e.g., six months).

FASB Statement on Prudential Regulator Guidance Concerning Troubled Debt Restructurings https://www.fasb.org/cs/Satellite?c=FASBContent_C&cid=1176174374016&pagename=FASB/FASBContent_C/NewsPage

26. How will examiners view loan modifications?

Examiners will exercise judgment in reviewing loan modifications, and will not automatically adversely risk rate credits that are affected by COVID-19. All loan modifications should be consistent with safe and sound practices (including maintenance of appropriate allowances for loan and lease losses or allowances for credit losses, as applicable). Regardless of whether

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modifications are considered TDRs, section 4013 loans, or are adversely classified, examiners will not criticize prudent efforts to modify terms on existing loans for affected customers.

27. How do loan modifications of one-to-four family residential mortgages impact a bank's risk based capital?

The agencies note that efforts to work with borrowers of one-to-four family residential mortgages as described above, where the loans are prudently underwritten, and not 90 days or more past due or carried in nonaccrual status, will not result in the loans being considered restructured or modified for the purposes of risk-based capital rules.

28. Do loans that receive payment deferrals have to be reported as past due?

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

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

FDIC FAQs for Financial Institutions Affected by the Coronavirus Disease 2019 (COVID-19)
<https://www.fdic.gov/coronavirus/faq-fi.pdf>

29. Do loans that receive payment deferrals have to be reported as nonaccrual, reflect appropriate allowances for credit/loan and lease losses, and be charged off?

Each financial institution should refer to the applicable regulatory reporting instructions, as well as its internal accounting policies, in determining whether to report loans with accommodations to customers affected by COVID-19 as nonaccrual assets in regulatory reports. Each institution should maintain an appropriate allowance allocation for these loans, considering all information available prior to filing its reports about their collectability. As information becomes available that indicates a specific loan will not be repaid, institutions should preserve the integrity of their internal loan grading methodology and maintain appropriate accrual status on affected credits. Financial institutions should appropriately recognize credit losses according to their charge-off policies as soon as a credit loss can be reasonably estimated.

30. New – Have the federal regulatory agencies provided a forum to discuss and answer questions about loan modifications?

Yes. On April 24, 2020, the federal regulatory agencies hosted an "Ask the Regulator" webinar on loan modifications and reporting for financial institutions working with customers affected by coronavirus. The goals of the session included raising awareness of the revised interagency statement, dated April 7, 2020, clarifying the interaction between current accounting rules and Section 4013 of the CARES Act, demonstrating the consistency of views across the agencies, and answering industry questions. A recording of the session may be accessed using the link provided for the webinar.

Guidance related to this pandemic is changing rapidly. We will endeavor to update this document as information becomes available. Critical and time-sensitive information will continue to be distributed directly to Michigan bank executives and industry associations.

Ask the Regulators: Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus

<https://www.webcaster4.com/Webcast/Page/583/34317>

31. Updated - Has relief been provided related to the capital effect of banks making SBA PPP loans and funding the loans through the Federal Reserve's PPP lending facility?

Yes. On April 9, 2020, the federal banking agencies issued an interim final rule that modifies the agencies' capital rules to neutralize the regulatory capital effects of participating in the Federal Reserve's PPP liquidity facility because there is no credit or market risk in association with PPP loans pledged to the facility. Consistent with the agencies' current capital rules and the CARES Act requirements, the interim final rule also clarifies that a zero percent risk weight applies to loans covered by the PPP for capital purposes. For PPP loans **not** pledged to the Federal Reserve's PPPLF, a financial institution must include the on-balance-sheet carrying value of the PPP-covered loans in its average total consolidated assets and total leverage exposure.

Interim Final Rule – Regulatory Capital: Paycheck Protection Program Lending Facility and Paycheck Protection Program Loans <https://www.fdic.gov/news/news/press/2020/pr20041b.pdf>

32. Updated - Has any relief been provided related to implementation of the new accounting standard for Current Expected Credit Losses (CECL)?

Yes. Section 4014 of the CARES Act provides banks the option to temporarily delay implementing CECL until the earlier of December 31, 2020 or the date on which the national emergency declaration related to coronavirus is terminated. On March 27, 2020, the federal banking agencies issued an interim final rule that allows banking organizations that implement CECL before the end of 2020 the option to delay an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, for two years. This delay is then followed by a three-year transition period. On March 31, 2020, the agencies issued a joint statement that clarifies the interaction between the interim final rule that provides a five-year transition period for the impact of the current expected credit loss methodology (CECL) on regulatory capital and the temporary CECL relief provided by the CARES Act. On April 22, 2020, the agencies published a technical correction, final rule that corrects errors in and clarifies the interim final rule.

Interim Final Rule – Regulatory Capital: Revised Transition of the Current Expected Credit Losses Methodology for Allowances <https://www.fdic.gov/news/news/press/2020/pr20041b.pdf>

Joint Statement on the Interaction of the CECL Revised Transition Interim Final Rule with Section 4014 of the CARES Act <https://www.fdic.gov/news/news/financial/2020/fil20032a.pdf>

New - Technical Correction Rule – Regulatory Capital: Revised Transition of the CECL Methodology for Allowances <https://www.fdic.gov/news/news/press/2020/pr20048a.pdf>

33. Has any relief been provided related to the Community Bank Leverage Ratio (CBLR) framework?

Yes. Section 4012 of the CARES Act requires the federal banking agencies to temporarily lower the CBLR to 8 percent until the earlier of December 31, 2020 or the date on which the national emergency declaration related to coronavirus is terminated. It also required the agencies to provide for a reasonable grace period if a community bank's CBLR falls below the prescribed level.

On April 6, 2020, the agencies issued two interim final rules. The first rule provides that, as of the second quarter 2020, a banking organization with a leverage ratio of 8 percent or greater that meets the other existing qualifying criteria may elect to use the CBLR framework. It also establishes a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls below the 8-percent CBLR requirement, so long as the banking organization maintains a leverage ratio of 7 percent or greater.

Guidance related to this pandemic is changing rapidly. We will endeavor to update this document as information becomes available. Critical and time-sensitive information will continue to be distributed directly to Michigan bank executives and industry associations.

Interim Final Rule – Regulatory Capital: Temporary Changes to the Community Bank Leverage Ratio Framework <https://www.fdic.gov/news/news/press/2020/pr20048a.pdf>

The second rule provides a transition from the temporary 8-percent CBLR requirement to a 9-percent CBLR requirement. The requirements in this rule become applicable as of the earlier of December 31, 2020 or the date on which the national emergency declaration related to coronavirus is terminated. When this rule becomes applicable, the CBLR requirement will be greater than 8 percent for the second through fourth quarters of calendar year 2020, greater than 8.5 percent for calendar year 2021, and greater than 9 percent thereafter. It also maintains a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 100 basis points below the applicable CBLR requirement.

Interim Final Rule – Regulatory Capital: Transition for the Community Bank Leverage Ratio Framework <https://www.fdic.gov/news/news/press/2020/pr20048b.pdf>

34. What if COVID-19 disrupts the filing of quarterly Consolidated Reports of Condition and Income (Call Reports)?

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

Financial Regulators Highlight Coordination and Collaboration of Efforts to Address COVID-19 <https://www.ffiec.gov/press/pr032520.htm>

FIL-28-2020 FDIC Announces a 30-Day Grace Period for the Call Report for First Quarter 2020 <https://www.fdic.gov/news/news/financial/2020/fil20028.html>

35. What if COVID-19 delays the filing of annual reports required by Part 363 of FDIC's regulations?

The agencies recognize that insured depository institutions subject to Part 363 of the FDIC's regulations may not be able to file Part 363 Annual Reports in a timely manner due to the effects of COVID-19. The agencies will not take supervisory action against any institution for submitting its Part 363 Annual Report or its written notification of late filing as long as the annual report or notification of late filing is submitted within 45 days of the 90- or 120-day report filing deadline. Institutions are encouraged to contact the FDIC in advance of the official filing date if they anticipate a delayed submission.

FIL-30-2020 FDIC Statement on Part 363 Annual Reports in Response to the Coronavirus <https://www.fdic.gov/news/news/financial/2020/fil20030.html>

36. Do banks with reduced staff have to meet the timeframes for filing reports required under the Bank Secrecy Act (BSA)?

On March 16, 2020, the Financial Crimes Enforcement Network (FinCEN) issued a press release requesting that financial institutions affected by the COVID-19 pandemic contact FinCEN and their functional regulator as soon as practicable if such an institution has concerns about any potential delays in its ability to file required BSA reports. FinCEN's Regulatory Support Section will continue to be available to support financial institutions for the duration of the COVID19 pandemic.

FinCEN Encourages Financial Institutions to Communicate Concerns Related to the COVID-19 <https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions>

Guidance related to this pandemic is changing rapidly. We will endeavor to update this document as information becomes available. Critical and time-sensitive information will continue to be distributed directly to Michigan bank executives and industry associations.

RESOURCES

State and Federal Banking System Information

Conference of State Bank Supervisors (CSBS)

<https://www.csbs.org/information-covid-19-coronavirus>

Federal Financial Institutions Examination Council (FFIEC)

<https://www.ffiec.gov/press.htm>

Federal Deposit Insurance Corporation (FDIC)

<https://www.fdic.gov/coronavirus/>

Board of Governors of the Federal Reserve System

<https://www.federalreserve.gov/covid-19.htm>

Consumer Financial Protection Bureau

<https://www.consumerfinance.gov/>

State of Michigan

Coronavirus Disease 2019 (COVID-19)

<https://www.michigan.gov/coronavirus>

Governor Whitmer's Executive Orders

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705---,00.html

Michigan Department of Insurance and Financial Services (DIFS) COVID-19

<https://www.michigan.gov/difs/0,5269,7-303-98496---,00.html>

Michigan DIFS Bulletin 2020-11-BT/CF/CU – Essential Services

https://www.michigan.gov/documents/difs/Bulletin_2020-11-BT_CF_CU_685132_7.pdf

Michigan DIFS Bulletin 2020-13-BT/CF/CU – Essential Services

https://www.michigan.gov/documents/difs/Bulletin_2020-13-BT_CF_CU_686618_7.pdf

Michigan Economic Development Corporation Resources for Michigan Businesses During COVID-19

<https://www.michiganbusiness.org/covid19/>

Bank Industry Associations

Michigan Bankers Association

<https://www.mibankers.com/MIBANKERS/Communications/COVID19%20Resources.aspx>

American Bankers Association

<https://www.aba.com/banking-topics/risk-management/incident-response/coronavirus>

Community Bankers of Michigan

<https://www.cbomf.org/covid-19.html>

Independent Community Bankers of America

<https://www.icba.org/news/Crisis-Preparedness>

Other

U.S. Small Business Administration

<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

The Appraisal Standards Board

https://www.appraisalfoundation.org/imis/TAF/Standards/Q_As/TAF/QAs.aspx

The Appraisal Foundation - Coronavirus and Appraisers: Your Questions Answered

http://www.appraisalfoundation.org/iMIS/TAF/Coronavirus_and_Appraisers.aspx