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Some Mortgage Loan Servicers' Websites Offer Information about CARES Act Loan Forbearance That Is Incomplete, Inconsistent, Dated, and Unclear

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MEMORANDUM

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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Subject: Some Mortgage Loan Servicers' Websites Offer Information about CARES Act Loan Forbearance That Is Incomplete, Inconsistent, Dated, and Unclear

Background and Introduction

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG) conducted this study to assess what information servicers of mortgage loans insured by Federal Housing Administration (FHA) are providing to borrowers regarding forbearance options available under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).[1]

On March 27, 2020, the President signed the CARES Act into law to provide economic relief to individuals and businesses impacted by the COVID-19 pandemic. The CARES Act provides the following relief for homeowners with mortgage loans during the pandemic:

> "…a borrower with a Federally backed mortgage loan[2] experiencing a financial hardship due, directly or indirectly, to the COVID–19 emergency may request forbearance on the Federally backed mortgage loan, regardless of delinquency status, by (A) submitting a request to the borrower's servicer; and (B) affirming that the borrower is experiencing a financial hardship during the COVID–19 emergency."[3]

Under the CARES Act, servicers are required to grant forbearance for an initial period of up to 180 days, and borrowers can request an additional extension of 180 days. The borrower also has the option at any time to shorten the forbearance period and resume payments. To request forbearance, borrowers do not need to provide any documentation showing their hardship and

[1] Public Law No: 116-136.
[2] A "Federally backed mortgage loan" includes any loan which is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1- to 4- families that is—(A) insured by the Federal Housing Administration under title II of the National Housing Act (12 U.S.C. 1707 et seq.); (B) insured under section 255 of the National Housing Act (12 U.S.C. 1715z–20); (C) guaranteed under section 184 or 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a, 1715z–13b); (D) guaranteed or insured by the Department of Veterans Affairs; (E) guaranteed or insured by the Department of Agriculture; (F) made by the Department of Agriculture; or (G) purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association. See Section 4022 of the CARES Act.
[3] See Section 4022 of the CARES Act.

only have to "attest" to their servicer that they are suffering a financial hardship. During the forbearance period, servicers cannot charge borrowers additional fees, penalties, or interest. Additionally, servicers are required to cease any foreclosure activities for a period of 60 days beginning on March 18, 2020.

The CARES Act does not specify the terms by which borrowers must repay amounts not paid during the forbearance period. FHA has provided guidance to servicers and borrowers, by stating that, generally, a borrower who receives forbearance under the CARES Act is responsible for repaying the suspended mortgage payments or the balance of reduced mortgage payments. FHA's guidance also outlines how and when total missed payments will need to be repaid,[4] and FHA has clarified that borrowers will not be required to pay a "lump-sum" repayment at the end of the forbearance period.[5] According to FHA, eligible borrowers must be offered a "COVID-19 Standalone Partial Claim,"[6] and if a borrower is not eligible for a COVID-19 Standalone Partial Claim, the servicer must evaluate the borrower for other standard loss-mitigation options.[7]

Methodology

To conduct this study, HUD OIG identified the top FHA servicers as of April 1, 2020. The 30 top servicers accounted for 90.5 percent of all FHA loans. The percent of the active portfolio for which each of these top 30 servicers accounted ranged from 14.7 percent to 0.6 percent.

On April 17, 2020, 22 days after enactment of the CARES Act, HUD OIG reviewed the public facing websites of the top 30 servicers to identify readily accessible information for borrowers related to the COVID-19 crisis. We defined "readily available" as information the public could find by accessing the servicers' main websites or by clicking clearly labeled links describing available options for borrowers during the pandemic. HUD OIG did not attempt to conduct an exhaustive search of all servicers' websites to identify all possible relief options available to borrowers who are unable to make mortgage payments.

Some servicers' websites acknowledged that information about options for borrowers is confusing and, at times, seemingly contradictory. Additionally, some servicers' websites noted that contacts with servicers would likely be difficult and delayed, whether by telephone, mail, email, or the website, due to the volumes of contacts servicers are receiving. As such, complete, consistent, current, and clear information on servicers' websites is all the more valuable.

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[4] See Mortgagee Letter 2020-06 (https://www.hud.gov/sites/dfiles/OCHCO/documents/20-06hsngml.pdf)
[5] https://www.hud.gov/sites/dfiles/SFH/documents/COVID-19HomeownerHelp.pdf
[6] A partial claim is a no interest, junior loan secured by the borrower's property. For a "COVID-19 Standalone Partial Claim" no payments are due until the payoff, maturity or acceleration of the insured mortgage, including for the sale of the property or a refinancing, or the termination of FHA insurance on the borrower's mortgage.
[7] See Single Family Housing Policy Handbook 4000.1, Section III.A.2(j). HUD's Loss Mitigation Options.

Results

Not all servicers' websites provided readily accessible information about forbearance

Ten servicers did not have information about forbearances readily available on their websites. Many of these servicers required borrowers to log into their online accounts or call to learn what options are available to them if they are unable to pay their mortgages. Because HUD OIG did not have accounts with these servicers, we were unable to verify the options available to borrowers. One servicer did not mention forbearance as an option, and instead listed a variety of other options – such as refinancing or a short sale – as available options at this time. Another servicer pointed borrowers to a PDF document via a link that mentioned forbearance, but with little specificity.

Servicers' websites provided inconsistent information about durations of forbearances

Four servicers indicated initial forbearance periods could last 180 days. Two of these servicers listed possible extensions for an additional 180 days, for a total of 360 days. This information agrees with what is in the CARES Act. The other two servicers did not provide information about a forbearance extension.

Two servicers indicated that initial forbearance periods could last 6 months. Although 6 months is approximately 180 days, it is not exactly 180 days. One of these servicers indicated borrowers could request extensions of an additional six months, whereas the other servicer did not provide information about extensions. Overall, four servicers listed the 12 months as the maximum period of forbearance, which is 365 days, not the initial period of 180 days and the extension of up to 180 days for a total of 360 days.

Six servicers listed 90 days as the initial forbearance period, and four additional servicers listed 3 months as the initial period. One of the servicers indicating 90 days said borrowers could request an extension of another 90 days, and a total of up to 12 months (i.e., 365 days). Another servicer indicating 90 days said borrowers could request an extension of 3 months (i.e., potentially more than 90 days). Finally, one of the servicers indicating an initial forbearance period of 3 months said borrowers could request an additional 3 months. Seven of the ten servicers did not provide information about forbearance extensions.

Fourteen servicers did not offer information on the duration of the initial forbearance period on their websites. Some of these servicers are the ones requiring borrowers to log into their accounts to learn options available to them. Others simply did not provide such information.

Of note, one servicer highlighted the "up to 180 days" text of the CARES Act. The servicer made the case that it did not want to overestimate the duration of the borrower's financial hardship as the reasoning for an initial 90 day forbearance period. In contrast, another servicer indicated on its website that for any borrower under a 3-month forbearance plan at the time of passage of the CARES Act would be switched automatically to a 6-month plan.

See Table 1, an appendix to the memorandum, summarizing information “readily available” on servicers’ websites.

<u>Some servicers’ website information was dated prior to enactment of the CARES Act, did not specifically meet the mandates of the Act, or indicated that they were awaiting further guidance</u>

One servicer’s website information was dated March 13, 2020, and another’s was dated March 18, 2020, 14 and 9 days prior to the enactment of the CARES Act, respectively. One servicer’s website indicated that it would not make negative credit reports during the months of March, April, and May and would not charge late fees during the months of April and May. One servicer’s website stated that they were waiting for guidance from government agencies on options available after forbearance periods end, another stated the website would be updated after receiving additional information on relief programs from investors and insurers, another stated that possible further forbearance extensions beyond 90 days could become available as the new Federal requirements became clear, and yet another said that they were currently working with Federal and State Government agencies on options that may be available to borrowers.

<u>Several servicers’ gave the impression that lump sum payments would be required at the end of the forbearance period</u>

Some servicers offered “real world” examples of what would happen during and after a forbearance period. An example may state “Bob opts for a forbearance period of 90 days. His normal mortgage payment is $1,000 a month. At the end of those 90 days, Bill would owe $4,000 for the three mortgage payments he missed and for the current month.” Other servicers’ websites said things along the lines of “you may need to pay any missed payments at the end of the forbearance period,” “any unpaid payments will become due at the end of the forbearance period,” or “you will have to pay all payments postponed during the forbearance period in one lump sum at the end of that period.”

Despite the above implications and statements, servicers’ websites often had information indicating that borrowers had options other than lump sum payments at the conclusion of the forbearance period. However, such information typically came later than the statements about the need for borrowers to pay missed payments in a lump sum. The examples especially gave the impression that borrowers would have to make lump sum payments and the magnitude of what those payments might be.

Conclusion

While FHA has provided some guidance to FHA servicers regarding implementation of the CARES Act, specifically provisions related to forbearance, HUD OIG’s review of 30 FHA servicers who service approximately 90 percent of FHA loans, revealed that FHA servicer websites provided incomplete, inconsistent, dated, and unclear guidance to borrowers related to their forbearance options under the CARES Act. Lack of clear and consistent guidance from FHA servicers and enforcement by FHA of that guidance allows servicers to leave struggling homeowners unable to make informed decisions about paying their mortgages and relief that may be available to them during this pandemic.

In light of the findings outlined above, HUD OIG plans to initiate additional work related to forbearance offered by FHA servicers under the CARES Act.

Table 1: Information From Servicers' Websites About Options Available to Borrowers Experiencing Challenges Making Mortgage Payments

Website Information	Forbearance Mentioned as Option	Initial Forbearance Period	Forbearance Period Extension	Maximum Forbearance Period
No				
Yes	Yes			
Yes	Yes	180 days		
Yes	Yes	180 days	180 days	360 days
No				
Yes	Yes			
No				
No				
Yes	Yes	90 days	Awaiting Guidance	
Yes	Yes	90 days	90 days	12 months
Yes	Yes	90 days		
Yes	Yes	90 days		
Yes	Not specifically	180 days		
Yes	Yes	3 months	3 months	12 months
No				
No				
Yes	Yes	3 months		
Yes	Yes	Not specified		
Yes	Yes	90 days	3 months	12 months
Yes	Yes	6 months	6 months	12 months
Yes	Yes	90 days		
Yes	Yes	3 months		
Yes	Yes	3 months		
Yes	Yes			
No				
No				
Yes	No			
Yes	Yes	180 days	180 days	360 days
Yes	Yes	6 months		
Yes	Yes			

Indicates information not listed on servicer website