

CARES Act Compliance Exam – Exam Procedures

Licensee No: _____ Exam Date: _____ On-Site or Off-Site: _____

Examiner: _____

Instructions:

The following procedures are designed to evaluate the servicer's policies and procedures with respect to the forbearance requirements of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or Act). Examiners are asked to verify that the direction provided in the servicer's policies and procedures comply with the requirements of the Act, and do not steer borrowers away from requesting a forbearance plan or limit the amount of assistance a borrower is eligible to receive.

CARES Act Information:

The [CARES Act](#) requires servicers of federally backed mortgages to grant forbearance to any requesting borrower who attests to a hardship related to the COVID-19 national emergency. The CARES Act specifies that servicers must grant an initial forbearance period of 180-days, followed by a second period of 180-days, if requested by the borrower. It has been widely accepted that the 180-day periods can be provided in shorter increments so long as the 180-day periods are available. Under the CARES Act, interest, late fees and penalties cannot be capitalized during the forbearance period.

The CARES Act also states that a servicer of a federally backed mortgage loan may not initiate any judicial or non-judicial foreclosure, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020. Furthermore, on June 17, 2020, the Federal Housing Finance Agency ([FHFA](#)) and Department of Housing and Urban Development ([HUD](#)) announced foreclosure and eviction moratoriums effectively freezing all foreclosures on loans federally backed by Fannie Mae, Freddie Mac and, FHA initially until August 31, 2020.

CSBS and the CFPB jointly issued [consumer guidance](#) and [industry guidance](#) to help borrowers and mortgage servicers navigate the processing of CARES Act forbearances. Additionally, the CFPB issued [Mortgage Servicing Rules FAQs related to the COVID-19 Emergency](#), which provides additional guidance on how the CARES Act forbearance requirements interact with loss mitigation and other requirements under Regulations X and Z.

The Multistate Mortgage Committee (MMC) has identified risks to consumers based on servicer implementation of the CARES Act. Examiners are to identify cases where servicers led borrowers away from beneficial options they are or were entitled to under the CARES Act. In addition to forbearance, servicers may have steered borrowers towards repayment options the GSEs and federal agencies backing mortgages have made clear multiple forbearance payback options are available. If consumer harm is present, a review of the servicer's policies and procedures, as well as the servicer's financial condition will help identify the root causes of these issues. Financial condition information requests and exam procedures for the MMC are available on [CSBS' website](#). If the servicer does not have policies and procedures specifically addressing CARES Act requirements additional scrutiny of borrower loan files may be required. When documenting findings, examiners should account for the time servicers needed to implement CARES Act requirements and other challenges during the national emergency, such as staff working from home.

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Review of Servicer’s CARES Act Policies & Procedures

1) Servicer Script

A. Does the servicer use Fannie/Freddie call center script?¹ Yes No

1. If yes, please note any deviations from the script:

2. If no, does the script make clear forbearance is available to anyone with a federally backed mortgage that requests assistance because of a COVID-related hardship (including those with a delinquent loan status at the time of request)? Yes No

3. If no, does the script default to a 180-day forbearance period if agreement in the length of forbearance is not reached between servicer and borrower? Yes No

4. If no, does the script make clear that there will be no additional interest, fees or penalties added to the borrower’s account during the forbearance period? Yes No

5. If no, does the script make clear that the servicer will continue reporting the borrower’s loan as current, or in the case of a delinquent loan, will continue to report the loan with the same delinquent status (and not report the loan as being further delinquent), as a result of entering a CARES Act forbearance? Yes No

2) COVID-related Forbearance Policy

A. Does servicer have a policy for CARES Act forbearance terms? Yes No

1. If yes, does the policy reflect CARES Act requirements, including:

a. Are borrowers, with a federally backed loan who request a forbearance, granted a CARES Act forbearance, if they attest to having a COVID-related hardship? Yes No

b. Are borrowers, with a federally backed loan who request a forbearance, granted a CARES Act forbearance, regardless of their loan status (e.g., current or delinquent)? Yes No

c. Forbearance terms last for at least two 180-day periods if requested by the borrower? Yes
No

d. No additional documentation (beyond affirming the hardship) is required to qualify a borrower to enter forbearance? Yes No

¹ Available at <https://singlefamily.fanniemae.com/servicing/covid-19-forbearance-script-servicer-use-homeowners> and https://sf.freddiemac.com/content/assets/resources/pdf/covid-19_forbearance-servicer-script.pdf

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- e. When exiting forbearance, are borrowers given a repayment option other than a lump-sum repayment, if unable to repay in full immediately after the forbearance period ends? Yes
No
- f. Does the servicer provide forbearance periods that are shorter than 180-days in length? Yes
No
- i. If yes, does the servicer default to 180-days if agreement cannot be reached with borrower?
Yes No
- ii. If no, are there any aspects of the forbearance period that appear to be problematic? Yes
 No
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- g. Does the servicer's policy address credit reporting requirements for a CARES Act forbearance accommodation? Yes No
- i. If yes, does the policy require accounts that are current at the time the forbearance period begins (and the borrower meets the terms of forbearance), are reported as current throughout the forbearance period? Yes No
- ii. If yes, does the policy require accounts that were delinquent when entering forbearance to maintain the same delinquent status throughout the forbearance period? Yes No
- iii. If yes, when a borrower brings their account current while in forbearance, does the policy require the servicer to report the borrower's account current during the forbearance? Yes
No
- h. Does the servicer use or have template CARES Act forbearance borrower offer letters? Yes
No
- i. If yes, does the offer letter require the borrower to affirm employment or income status in the future? Yes No
- ii. If yes, does the offer letter state or imply that entering a CARES Act forbearance will require the servicer to report the borrower's account as not current? Yes No
- iii. If yes, does the servicer assertions or attestations result in disparate treatment of borrowers with certain loan types? Yes No
- i. Does servicer use or have template COVID-related assertions or attestations? Yes No
- i. If yes, do the assertions or attestations require the borrower to affirm employment or income status in the future? Yes No

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- ii. If yes, do the assertions or attestations state or imply that entering a CARES Act forbearance will require the servicer to report the borrower's account as not current? Yes No
 - iii. If yes, does the servicer have criteria to determine which loan type an assertion or attestation must be provided to the borrower? Yes No
 - iv. If yes, does the servicer's assertions or attestations result in disparate treatment of borrowers with certain loan types? Yes No
2. If no (to question A. above), does the existing forbearance policy create inconsistencies with the following*:
- a. Is forbearance granted to any requesting borrower attesting to a COVID-19 related hardship? Yes No
 - b. Forbearance terms last for at least two 180-day periods, if requested? Yes No
 - c. Does the servicer require additional documentation for a borrower to qualify for forbearance? Yes No

* Note – If the servicer does not have a specific policy addressing CARES Act forbearances, examiners should verify compliance with CARES Act through loan file review, with additional scrutiny given to the loan file review.

3) COVID-related Consumer Complaints

- A. Can the servicer identify all COVID-related consumer complaints received on or after March 2020?* Yes No
1. If yes, can the servicer identify COVID-related consumer complaints concerning forbearance, foreclosure or loss mitigation in general? Yes No
 2. If yes, does the servicer have template correspondence or call scripts to address COVID-related consumer complaints concerning forbearance or foreclosure, that comply with Sections 4021 and 4022 of the CARES Act? Yes No
 3. If yes, does the servicer resolve COVID-related consumer complaints concerning forbearance or foreclosure in compliance with Sections 4021 and 4022 of the CARES Act? (Note: Examiner to select and review consumer complaints.) Yes No

* If no, determine if the servicer adequately responds to consumer complaints related to loss mitigation requests received on or after March 2020, through a review of the servicer's loan files. When selecting loan files for review, examiners are asked to select files in which borrowers have submitted a complaint related to payment assistance or loss mitigation.

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4) COVID-related Training Materials

A. Does the servicer have CARES Act training materials for employees? Yes No

1. If yes, does the content of the training materials comply with the requirements of Sections 4021 and 4022 CARES Act? Yes No
2. If yes, does the servicer require CARES Act training for all employees who interact directly with consumers? Yes No
3. If yes, does the servicer track the employees who have completed the CARES Act Training? Yes No

