TO: California Financial Institutions

FROM: Lourdes Castro Ramírez, Secretary
Manuel P. Alvarez, Commissioner of Business Oversight

DATE: March 22, 2020

SUBJECT: Guidance to Financial Institutions During the COVID-19 Pandemic

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This guidance is directed to financial institutions in California whose customers may be suffering from loss of income or other financial hardship as a result of the COVID-19 pandemic. The purpose of this guidance is to encourage financial institutions to take steps to meet the financial services needs of affected customers and communities. The Department of Business Oversight will provide one-on-one regulatory assistance to individual affected financial institutions subject to its supervision, upon request.

Background

COVID-19 is a respiratory illness caused by a novel virus that has been spreading worldwide. Community-acquired cases have now been confirmed in California. We are gaining more understanding of COVID-19's epidemiology, clinical course, immunogenicity and other factors, and the situation is changing daily. It has become clear that the response to this pandemic will continue for many weeks, if not months.

Context

Many Californians have already experienced losses of income or other financial hardships during the COVID-19 pandemic as the result of business closures, lost hours or wages, and layoffs related to the pandemic. Over time, these are likely to grow in number as the virus continues to present a threat. In light of the state of emergency proclaimed by Governor Gavin Newsom on March 4, 2020, the Business, Consumer Services and Housing Agency and the Department of Business Oversight (Department) issue this guidance to its licensees under the Banking Law and Credit Union Law.

Working with Customers

Governor Gavin Newsom issued Executive Order N-28-20 on March 16, 2020, which requests financial institutions holding home or commercial mortgages, including banks and credit unions, to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic or by any government response to COVID-19. The executive order also directs the Department to engage with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during the state of emergency. Pursuant to this direction, the Department encourages financial institutions to adopt the following practices during the state of emergency:

- 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.

The Department emphasizes that prudent efforts to modify the terms on existing loans for affected customers will not be subject to examiner criticism. For example, when appropriate, a financial institution may restructure a borrower's debt obligations due to temporary hardships resulting from COVID-19 related issues. Such cooperative efforts can ease cash flow pressures on affected borrowers, improve their capacity to service debt, and facilitate the financial institution’s ability to collect on its loans.

Financial institutions may also ease terms for new loans to affected borrowers, consistent with prudent banking practices, and consult Federal Housing Administration guidance on loss mitigation options. Such practices may help borrowers to recover or maintain their financial capacity and enhance their ability to service their debt.

The Department recognizes there may be other accommodations that could assist customers and communities in responding to challenges from COVID-19. The Department supports and will not criticize efforts to accommodate customers in a safe and sound manner. Also, the Department will refrain from citing violations directly arising from any late mortgage recordation due to the closure of a county recorder’s office related to COVID-19. It encourages financial institutions to contact the

Department regarding additional actions that may more effectively manage or mitigate any adverse impact due to COVID-19.

Additionally, the Department reminds licensees that it is important to adhere to the fair lending and borrowing provisions of the California Homeowner Bill of Rights (HBOR). The HBOR is designed to guarantee basic fairness and transparency for homeowners in the foreclosure process. Key HBOR provisions can be found on the California Department of Justice's website.

Essential Services

Current "shelter-in-place" or "stay-in-place" orders have recognized that financial institutions perform an essential service that is not subject to the "shelter-in-place" or "stay-in-place" order. The Department supports this view of the services provided by banks and credit unions and will work with them to continue servicing their communities.

Financial Condition Review, Supervisory Response, and Regulatory Relief

The Department appreciates that some financial institutions with customers affected by COVID-19 related issues may experience an increase in their levels of delinquent and nonperforming loans. Consistent with long-standing practices, the Department will consider the unusual circumstances these financial institutions face when reviewing an institution's financial condition and determining any supervisory response. As needed, the Department will work with affected financial institutions to reduce burden when scheduling examinations or inspections, including making greater use of off-site reviews, consistent with applicable legal and regulatory requirements.

Regulatory Reporting Requirements

Financial institutions affected by COVID-19-related issues that expect to encounter difficulty meeting regulatory reporting requirements, including audited financial statements and related reports, as applicable, are encouraged to contact the Department to discuss their situation. The Department's staff stand ready to work with affected financial institutions that may experience problems fulfilling their reporting responsibilities, considering each financial institution's circumstances.

Alternative Service Options for Customers

The Department understands that financial institutions may need to temporarily close a facility due to staffing challenges or to take precautionary measures. The Department encourages financial institutions to reduce disruptions to their customers, provide alternative service options when practical, and reopen affected facilities when it is safe and practical to do so. Affected financial institutions are encouraged to notify the Department and their customers of temporary closure of an institution's facilities and the availability of any alternative service options, including access to online banking options or how to find nearby alternatives for cash withdrawal, as soon as practical. In situations where Department approval is required by law, banks should contact their portfolio manager; reasonable plans will be approved by the Department.

Virtual Meetings

The Department recognizes that social distancing may necessitate holding annual shareholder meetings, annual meeting of members, and regular board of directors meetings via videoconference or teleconference rather than in-person. The Department will not criticize banks that conduct meetings virtually without obtaining 100 percent consent from shareholders or credit unions that conduct meetings virtually in violation of the credit union's own bylaws.

This Guidance does not modify any existing law or regulation.