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COVID-19 Related Frequently Asked Questions (FAQs) as Received by WBA Legal

(Updated Daily)

The following is a list of FAQs received by WBA Legal related to COVID-19 and WBA Legal's general response to each question.

BRANCH/LOCATION

Branch Closure

Q1. Can Bank close a branch lobby location and operate only via drive-thru due to reduced staffing or other virus mitigation steps? If so, what are the notice requirements if Bank need close a lobby due to COVID-19?

A1. Yes, Bank can close a branch lobby location and operate only via drive-thru. Depending upon staffing circumstances, Bank may need to temporarily close both branch and drive-thru services if severely impacted by the virus. In either case, when Bank decides it need close a branch location, it need provide notice to both state and federal banking regulators. This is no different than if there had been a natural disaster, such as a tornado or fire that would have caused a bank location to be closed.

Bank need also somehow provide notice to its customers so customers can make other arrangements. Customer notice may be on lobby door postings, on Bank's website, and any other messaging options. Bank should be mindful of its messaging to help assure customers that their money is safe and secure and that the closure is merely for preventive and mitigation efforts.

Bank should also consider whether there may be instances where lobby may be available by appointment to accommodate previously scheduled loan closings, certification of deposit renewals, and possible safe deposit box entry. If this is the case, Bank also need consider how it communicates this limited lobby availability to its customers.

FAQ Added: March 11, 2020

Q2. Is Bank required to close due to Wisconsin Department of Health Services' (DHS') Emergency Order #5 issued March 17, 2020, which prohibits mass

gatherings of 10 people or more to slow the spread of COVID-19?

A2. No. Bank is not required to close due to DHS' Emergency Order #5. Included in the order were several exemptions. One exemption is: office spaces. If to remain open, office spaces are to implement social distancing. Additionally, DFI issued a clarifying statement that banks are exempt from the Emergency Order. As stated in FAQ1 in this section, if Bank decides to close a lobby location, Bank need contact its state and federal regulators.
FAQ Added: March 11, 2020

Q3. Are banks exempt from Safer at Home Emergency Order #12?

A3. Yes. Banks are exempt from the order. The Governor, through his designee, Department of Health Services Secretary Andrea Palm, issued Emergency Order #12, "Safer at Home" which became effective at 8 a.m. on Wednesday, March 25 and ends at 8 a.m. Friday, April 24 (unless superseded sooner). The banking industry is exempt from the order as it is deemed an essential business. This is accomplished in two ways under the order. First, the order refers to the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) guidance for the 16 categories of "Essential Critical Infrastructure Workers". In the CISA document, "financial services" is a category, and it describes the workers as follows:

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities);

- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers); and

- Workers who support financial operations, such as those staffing data and security operations centers.

In addition, banks are also separately and specifically identified in the order in Section 13(l) as follows: Financial institutions and services. Banks, credit unions, and other depository or lending institutions; licensed financial service providers; insurance services; personnel necessary to perform essential functions at broker dealers and investment advisor offices.

WBA has created a template letter meant for the individuals the bank has deemed essential. While the order does not require this, out of an abundance of caution, banks might consider use of the template: https://www.wisbank.com/media/567116/wba-template-for-essential- workers.docx

FAQ Added March 25, 2020

Q4. Are other related industries exempt from Safer at Home Emergency Order #12, such as appraisers or title companies?

A4. Yes. Certain professional services are exempt under the Safer at Home Emergency Order #12. See Section 13(u) of the order which lists as an exemption: Professional services. Professional services, such as legal or accounting services, insurance services, real estate services (including appraisal, home inspection, and title services). These services must, to the greatest extend possible, use technology to avoid meeting in person, including virtual meetings, teleconference, and work from home.

FAQ Added March 25, 2020

Q5. Should Bank split its on-site staff into separate groups?

A5. Yes. As we continue to see cases of the virus escalate in Wisconsin, it is critical that banks that have not already done so, begin immediately separating on-site staff into groups or tiers, and have plans in place to ensure continual staffing of all open branch locations. It is very possible that some bank staff will catch the virus and if one employee tests positive for COVID-19, all staff who have been around that person in a branch should self-quarantine for 14 days. Wisconsin Department of Health Services recommends that employees who are told they have a medium or high-risk exposure should be excluded from work for 14 days during which they should monitor for symptoms and/or fever.

Employers with staff who have been diagnosed with COVID-19 who have not had any symptoms may discontinue home isolation when at least seven days have passed since the date of their first positive COVID-19 diagnostic test and have had no subsequent illness. See CDC guidance.

To ensure continual staffing ability so you don't have to shut down a location affecting your customers, you should separate your staff into different groups, or tiers, so that not all of your key staff could be affected if one employee becomes sick with the virus. Some banks have separated their staff into two or three distinct teams of people such that the same small group works in the branch one week, while the next small group works in the branch the following week. Another suggestion is to have a limited small group continually staffing each location but have another tier of staff who are not at that location, ready to take over a particular branch location if someone becomes ill. Others are contacting retired staff to engage them on an as-needed basis only as part of their pandemic planning. All banks must be planning for this potential circumstance; however, it is particularly critical for smaller banks with very few locations and an already-lean staff.
FAQ Added: March 27, 2020

Branch Reopening

Q6. What is the outcome of the Wisconsin Supreme Court case regarding the validity of the Safer at Home Emergency order?

A6. On May 13, 2020, the Wisconsin Supreme Court issued a 4-3 decision striking down Governor Evers' stay at home order. The ruling concerned Department of Health Services Secretary-Designee Andrea Palm's order, not Governor Evers' original Safer-At-Home order. The majority opinion explains that Palm did not have the constitutional authority to execute that order nor the authority to assign civil and criminal penalties for violating the order.

Additionally, the Court denied the Legislature's request that the order remain in place for six days following the decision, saying the lawmakers have had time to produce replacement rules.

It is important to note that since the Court did not strike down the portion of the order closing public and private K-12 schools for the remainder of the school year, many workers may have difficulties returning to work because of childcare constraints.
FAQ Added: May 20, 2020

Q7. Is Bank required to reopen its branch locations now that the Wisconsin Supreme Court has ruled the Safer at Home order is invalid?

A7. No, the decision by Wisconsin's Supreme Court to invalidate the order does not mean every business must immediately reopen. In some instances, businesses are not able to immediately return to normal due to county or local "at home" order being in place. Bank must follow any county or local municipality's "at home" order.

Banks with branches in counties where businesses are permitted to open may consider opening those branch locations following the guidance issued by the local municipality. Of course, as essential businesses, banks always could have had their lobbies open; however, most chose to close them to keep staff and customers safe. It is important to remember that no business is mandated to open in these regions; however, many will want to start to return to "normal."

WBA encourages bankers to refer their business customers to re-opening guidelines posted by the Wisconsin Economic Development Corporation (WEDC). WBA also has provided bankers with re-opening guidance for their own institutions on our website at https://www.wisbank.com/articles/2020/04/reopening-resource-center/
FAQ Added: May 20, 2020

Q8. Are Wisconsin counties or other local municipalities authorized to issue "at home" orders?

A8. Yes, it appears municipalities have such authority. Due to the considerable confusion regarding the impact of the Wisconsin Supreme Court decision,

Wisconsin Attorney General Josh Kaul issued an immediate interim opinion on May 15. The opinion provides four main points of guidance to local authorities:

1. Because the court's decision addressed only DHS' authority (found in Wis. Stat. § 252.02) it is not directly controlling on powers of local authorities, which are set out in Wis. Stat. § 252.03(1)-(2).

2. Local authorities should limit enforcement of local orders to ordinances or administrative enforcement, because of specifics within the court decision regarding criminal penalties.

3. Local authorities should ensure that any measures that direct people to stay at home, forbid certain travel, or close certain businesses speak specifically to the local authority's statutory power to "prevent, suppress, and control communicable diseases" and "forbid public gatherings when deemed necessary to control outbreaks or epidemics."

4. The court's decision does not limit other measures directed by a local authority under Wis. Stat. § 252.03.

Several areas, including Madison, Milwaukee, and Dane County, each currently have their own “at home” orders in place. WBA has created a reference of orders issued by local municipalities which may be found at: https://www.wisbank.com/articles/2020/05/wisconsin-county-list-of-safer-at-home-orders/

FAQ Added: May 20, 2020

Q9. Where may I find Wisconsin’s reopening guide?

A9. The State of Wisconsin has created several guides:

- https://wedc.org/reopen-guidelines/
- https://wedc.org/wp-content/uploads/2020/05/COVID-19-Professional-Services-Guidelines.pdf

WBA has also created a reopening resource: https://www.wisbank.com/articles/2020/04/reopening-resource-center/

FAQ Added May 21, 2020

Q10. When can Bank expect for local circuit courts to reopen?

A10. The Wisconsin Supreme Court recently issued an order to allow for local courts to being to reopen to in-person activities, including jury trials. However, before such activity can begin, each court must prepare a plan to resume activities safely. The plan must be approved by the chief judge of the court's administrative district. Only then will the Court's previously issued orders and interim rule terminate for that court, thereby allowing it to resume in-person proceedings in accordance with its safety plan.

Reopening will occur on a county-by-county basis. As such, Bank should monitor whether the local court has implemented a plan and prepare accordingly. Court information is likely found on county and local municipality websites. If Bank has locations in multiple counties Bank will need monitor each county separately as plans could be implemented at different paces and with different safety requirements. When preparing Bank staff who may be required to participate in a courtroom event (e.g., testifying as witness to robbery event or fraudulent check-cashing activity), Bank should inform participating staff of the safety requirements of the particular circuit court to help ease any concerns of Bank staff.
FAQ Added Jun. 3, 2020

DEPOSIT RELATED

Q1. Can Bank increase its daily ATM cash withdrawal limits for customers since many may be using ATMs more frequently due to lobby assess restrictions?

A1. Yes. Bank can increase its daily ATM cash withdrawal limits for customers. Obviously, if increasing customers' daily withdrawal limits, Bank will need to increase cash levels in the ATM and monitor any need for cash replenishment. Be sure vault and courier cash deliveries can accommodate the increased limits.

If Bank instead decides to restrict or reduce the frequency or dollar amount of transfers, Reg E Section 1005.8 requires 21-day advance notice to consumers of the restriction or reduction.
FAQ Added: March 11, 2020

Q2. Can Bank waive the early withdrawal penalty of a CD due to customer needing money because they are currently not working due to DHS' Emergency Order #5 which prohibits mass gatherings of 10 people or more to slow the spread of COVID-19?

A2. Yes. Bank can waive the early withdrawal penalty of a CD for a customer impacted by COVID-19. While regulators have encouraged Banks to consider waiving early withdrawal penalties for impacted consumers, WBA Legal would recommend Bank document why an early withdrawal penalty was waived should Bank be questioned during an upcoming exam.
FAQ Added: March 17, 2020

Q3. Bank anticipates requests for large cash withdrawals by customers. Can Bank prohibit customers from making large cash withdrawals?

A3. Yes, however, this can be a difficult customer service situation for Bank. Similar to events surrounding Y2K, 9/11 events, and the latest economic downturn, some customers react to crisis events by requesting large amounts of cash from their bank accounts. Bank should remind customers of its safe and sound position and caution customer on security considerations when keeping large amounts of cash at home. Bank could also offer the funds as an official bank check as an alternative.
FAQ Added: March 11, 2020

Q4. Can Bank place a longer hold on checks deposited by customer due to COVID-19 related emergencies?

A4. Yes, Regulation CC section 229.13(f) does allows Bank to place a longer hold on deposited checks due to emergency conditions in the case of: (1) an interruption of communication or computer or other equipment facilities; (2) a suspension of payments by another bank; a war; or (4) an emergency condition beyond the control of the Bank, if the Bank exercises such diligence as the circumstances require.

Notice need be provided to the customer, including when funds will be available. Bank should review its Funds Availability Policy and Deposit Account Rules to also ensure Bank's deposit contract permits longer holds.
FAQ Added: March 11, 2020

Q5. Has Regulation D been revised to allow for more than 6 withdrawals from a savings deposit account to assist those affected by COVID-19?

A5. Yes. On April 24, 2020, the Board of Governors of the Federal Reserve System issued an interim final rule to amend Regulation D (Reserve Requirements of Depository Institutions) to delete the six-per-month limit on convenient transfers from the "savings deposit" definition. The interim final rule allows banks immediately to suspend enforcement of the six-transfer limit and to allow customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits at a time when financial events associated with COVID-19 have made such access more urgent.

The interim final rule permits, but does not require, banks to suspend enforcement of the six-transfer limit. The interim final rule also includes a series of questions and answers to assist with operations of the interim rule. The changes to the numeric limits on certain kinds of transfers and withdrawals that may be made each month from accounts characterized as "savings deposits" were applicable on April 23, 2020. The interim final rule may be viewed at:
https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200424a1.pdf
FAQ Updated April 27, 2020

Q6. Are the Regulation D changes to delete the six-per-month limit on convenient transfers from the "savings deposit" definition permanent?

A6. While no regulatory change is ever "permanent", in issuing the interim rule to eliminate the restriction, the Federal Reserve did not include any sunset or temporary dates to cause the elimination to automatically return. Additionally, the Federal Reserve in released a series of frequently asked questions (FAQs) in which their answer demonstrates the Federal Reserve's intent that the changes are meant to be a permanent change. In order to revive the elimination, the Federal Reserve would first have to engage in rulemaking to replace the eliminated terms. The FAQs may be viewed at:
https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm
FAQ Added May 20, 2020

Economic Impact Payments (EIP)

Q1. Will the Treasury Department and the Internal Revenue Service issue stimulus payments?

A1. Yes. Distribution of stimulus payments, referred to as economic impact payments (EIP) will be issued by the IRS.
FAQ Added: April 7, 2020

Q2. How will EIPs be issued?

A2. For most customers, it will look like a tax refund. Meaning, most customers will receive their EIP through direct deposit. These payments will appear as standard tax refund payments through ACH. For those who do not file, such as benefit recipients, the ACH will appear similar to the benefit payment.

IRS is in the process of preparing a form to send in with payment info for eligible recipients who are not automatically paid through their tax return, benefit payment, or other means. Treasury has encouraged banks to work with their customers in helping them to understand the information IRS needs to deliver their EIP, such as bank routing number and their account number.
FAQ Added: April 7, 2020

Q3. Where can customers learn more and check the status of their EIP?

A3. IRS has launched a customer-facing portal which includes information regarding EIP, including obtaining a status update. The portal:
https://www.irs.gov/coronavirus/economic-impact-payment-information-center
FAQ Updated: May 20, 2020

Q4. Will EIP be issued by check?

A4. In some cases, yes, Treasury will issue EIPs by check. Checks can be verified online through the Treasury Check Verification Application (TCIS). There are some limitations to the verification tool in that the tool is not capable of performing live-time verification. This means an EIP check negotiated earlier in the day will not captured in the verification tool until the tool has had a chance to update. Banks should also familiarize themselves with the

appearance of official Treasury checks and their security features. The TCIS and Treasury Check security features can be found here: https://tcva.fiscal.treasury.gov/approot/tcva/TCVA_Welcome.html
FAQ Added: April 7, 2020

Q5. Are EIPs subject to legal process such as garnishment?

A5. Generally speaking, yes. The CARES Act does not exempt EIP from garnishment whereby a third-party creditor seeks through legal process, to collect funds owed to them. Thus, if a bank receives a legal process item such as a garnishment order it is required by law to comply with, the EIP amount would not be exempt.

EIPs cannot be intercepted by the government for any tax debts. The only exception is for child support. Meaning, delinquent payments collected through the Treasury Offset Program (where tax refunds, for example, would be automatically collected) apply to EIP only for delinquent child support payments. As a result, Bank may see EIPs arrive in odd amounts, depending on the amount of child support that may have been offset by Treasury.

The topic is also address in IRS' FAQs. See FAQ# 42 which was added by IRS May 15, 2020: https://www.irs.gov/coronavirus/economic-impact-payment-information-center#eligibility
FAQ Updated: May 20, 2020

Q6. Can Bank use EIP to offset balances the Bank?

A6. The CARES Act does not exempt payments from that type of collection. However, Bank should review its policies and consider potential reputational harm before deciding to pursue debt collection from an EIP. As with all matters involving offset, WBA recommends Bank consider consulting with its legal counsel before acting.
FAQ Added: May 20, 2020

Q7. How should Bank handle EIP payable to deceased person?

A7. On May 6, 2020, IRS updated its EIP FAQs to include new questions and answers related to EIP issued to deceased individuals. IRS Q10 asks whether someone who has died qualifies for an EIP. The answer states the following:

- No. A payment made to someone who died before receipt of the Payment should be returned to the IRS by following the instructions in the Q&A about repayments (IRS Q54). Return the entire Payment unless the Payment was made to joint filers and one spouse has not died before receipt of the Payment, in which case, you only need to return the portion of the Payment made on account of the decedent. This amount will be $1,200 unless adjusted gross income exceeded $150,000.

The specific instructions for how and where to return the payment is listed in the repayment question and answer (IRS Q54).

The information provided by IRS answers the question as to how EIP made to decedent should be handled, making it clear that they are to be returned. This is true for EIP made both by check and direct deposit. An individual who receives an EIP to a decedent, or who is in possession of EIP paid to a decedent, need return those funds.

Unfortunately, because the information was not issued until after many payments had already been made, it means that Bank has likely already accepted payments made to a decedent. While the information provided by IRA instructs the recipient to return the EIP funds, Bank should consider how it uses the IRS information.

Certainly, if a customer receives a direct deposit on behalf of a decedent, or presents a check payable to a decedent, that customer should be directed to the instructions for returning the payment. For customers who have already received the funds, either by direct deposit or by depositing a check, those funds still need be returned pursuant to the IRS instruction.

IRS instructions also provide how the recipient is to determine the amount that need be returned. Bank is reminded that the appropriate amount that is to be returned is a consideration that should be made by the customer, not Bank. The instructions relate to the recipient and furthermore, Bank is not in a position to know the customer's adjusted gross income to make the determination on a customer's behalf.

FAQ Updated: May 20, 2020

EXAM RELATED

Q1. Have any state or federal regulators made changes to bank examination schedules due to the impact of COVID-19?

A1. Yes. On March 25, **FRB** issued a statement that to minimize disruption and burden to financial institutions, it has reduced its focus on examinations and inspections at this time. Any exam will be conducted off-site until normal operations resume at the bank and FRB.

For financial institutions with less than $100 billion in total consolidated assets, FRB generally intends to cease any regular exam activity, except when exam work is critical to the safety and soundness, or consumer protection, or is required to address urgent or immediate needs. FRB stated it intends to review the matter the last week in April to determine if conditions have changed.

For financial institutions with more than $100 billion in total consolidated assets, FRB intends to defer a significant portion of exams based on its assessment of burden and importance of exam activity to the supervisory understanding of the firm, consumer protection, or financial stability.

FRB has also extended the time period for remediation for existing supervisory findings by 90 days, unless FRB notifies the financial institution that a more timely remediation would aid the institution in addressing a heightened risk, or for consumer protection.

On March 25, **WDFI** issued a statement that they are suspending any examination- related requests for information and exams for the immediate future. Banks will be contacted by their WDFI district supervisor as regularly scheduled exams are coming up to discuss next steps, questions, concerns, etc. WDFI stated it will monitor and be re- evaluating the situation.

In a series of frequently asked questions, **OCC** stated it is evaluating alternative options to conduct its supervisory activities, including working remotely and maximizing the use of electronic records and communications. OCC encourages banks to discuss the examination schedule with their

Examiner-in-Charge (EIC). OCC also instructs bank management seeking specific regulatory relief to contact their EIC for further discussion.
FAQ Added March 25,2020

Q2. Bank has been instructed to keep in contact regulators. What is their contact information?

A2. WBA Legal strongly suggest Bank keep in contact with their regulator through this crisis regarding actions taken or questions resulting from the impact of COVID-19. Bank already has in-house contact from past exams, and contact information from prior interaction with regulators. However, the following is a listing of DFI contact information and regional federal regulator offices. While examination staff are working remotely under each agency's own COVID-19 mitigation efforts, office lines are being monitored and routinely checked.

Wisconsin DFI:
Madison Office: 608/261-7578

FDIC:
Appleton Field Office: 920/733-1009
Milwaukee/Brookfield Field Office: 262/879-0831

Eau Claire Field Office: 715/834-3821
Madison Field Office: 608/833-0737
Alternative: Contact DFI and they will also be in touch with federal counterpart/co- supervisor

OCC:
OCC Milwaukee Field Office: 414/203-5001
OCC Minneapolis Field Office: 612/355-1465

FRB:
FRB Chicago Office: 312/322-5322
FRB Minneapolis Office: 612/204-5000
Alternative: contact DFI and they will also be in touch with federal counterpart/co- supervisor
FAQ Added: March 11, 2020

IRA and RETIREMENT ACCOUNTS

Q1. What is a Coronavirus-related Distribution?

A1. The CARES Act created a new distribution from an IRA or retirement account called a "coronavirus-related distributions" (CRDs). For a distribution to be considered a CRD, the distribution need be:

1. Made on or after January 1, 2020 and before December 31, 2020; and
2. Made to an individual:
   (a.) Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;
   (b.) Whose spouse or dependent (as defined in section 152 of the Internal Revenue Code) is diagnosed with such virus or disease by such a test; or
   (c.) Who experiences adverse financial consequences as a result of being:
   - Quarantined;
   - Furloughed or laid off or having work hours reduced due to such virus or disease; or
   - Unable to work due to lack of childcare due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury.

FAQ Added: Jun 03, 2020

Q2. What is the dollar amount limit for a CRD?

A2. The CARES Act permits up to $100,000 (in the aggregate) from eligible retirement accounts and are not subject to the standard 10% withholding tax penalty that would otherwise apply to a distribution taken before the participant was 59½. Eligible retirement accounts include qualified defined contribution retirement plans, including 401(k), 403(b), 457(b), and IRAs.
FAQ Added: June 03, 2020

Q3. How does Bank document that an individual qualifies for CRD?

A3. The CARES Act does allow for retirement plan administrators to rely upon an employee certification that he/she meets the CARES Act conditions to make a CRD. There is no further detail in the CARES Act regarding what specific certification should be made for reliance there upon. Bank should expect IRS to issue further guidance regarding the certification.
FAQ Added: Jun. 03, 2020

Q4. Can Bank allow customer to repay CRDs back? If so, what is time period for repayment?

QA. Yes, the CARES Act allows participants to repay CRDs back to eligible retirement plans and IRAs for which they are beneficiaries and for which a rollover contribution of such distributions can be made. The repayment period is three years from date the distribution was received. Repayments will be treated as satisfying general 60-day rollover requirements and will generally require the participant to file an amended tax return.
FAQ Added: Jun. 03, 2020

Q5. Are IRA RMDs waived for 2020?

A5. Yes. Pursuant to section 2203 of the CAREs Act, required minimum distributions (RMDs) for defined contribution plans (such as 403(b) and certain 457(b) accounts) and IRAs are waived for 2020. As such an accountholder who was otherwise required to take an RMD in 2020 is no longer required to take the RMD. Additionally, an accountholder who turned 70½ in 2019 but had not yet taken the first RMD by April 1, 2020, is not required to take the first RMD; nor is that accountholder required to take a 2020 RMD.

If an accountholder inherited an IRA from a person who died before January 1, 2020, the accountholder is not required to take a 2020 RMD. If the accountholder inherited an IRA as a designated beneficiary, the accountholder is generally required have the IRA funds distributed to him/her within a ten-year time period. Under the CARES Act, if the death occurred after December 2019, the ten-year period does not start until 2021—skipping 2020.

A non-designated beneficiary (i.e., estate, charity) normally is required to receive the inherited IRA funds over a 5-year period. Under the CARES Act, 2020 is skipped giving the non-designated beneficiary six years to have the IRA funds fully distributed. Bank should consider whether further tracking of withdrawals should be implemented for distributions made pursuant to the CARES Act. For example, is Bank be able to track the amount of CRDs taken by a qualified individual from an IRA to help ensure the customer did not exceed the $100,000 threshold. Or whether Bank should track CRDs to then anticipate repayments thereof and perhaps monitor both the timing and amount of repayment.
FAQ Added: Jun. 03, 2020

Q6. Do the retirement account changes made by the CARES Act have an impact on changes made by SECURE Act?

A6. No. The changes made by the CARES Act is independent of the Setting Every Community up for Retirement Enhancement Act (SECURE Act). The CARES Act made no changes to the new timing rules of the SECURE Act. Thus, under the SECURE Act, it remains that if an IRA-holder reached 70½ prior to January 1, 2020, or if the IRA-holder is not yet 70½, once the IRA-holder reaches 72 after December 31, 2019, he/she must take an RMD.
FAQ Added: Jun. 03, 2020

LOAN RELATED

Q1. Can Bank offer a loan modification or defer loan payments for customers affected by COVID-19?

A1. Yes. The federal banking agencies have recommended in guidance for Bank to consider making such accommodations to those affected. Bank should consider several factors (the following is a non-exclusive list):

- Which customers is Bank willing to accommodate;
- How is Banking willing to accommodate;
- What are the impacts to the Bank in making the accommodation(s);
- What forms does Bank have to document the accommodation;
- How long should Bank make the accommodation;
- How will Bank communicate with borrowers regarding its efforts and options;

- How will Bank track all efforts and follow-up with borrowers;
- Will the accommodation rise to level of a Troubled Debt Restructuring;
- How will accommodations affect loan operating systems, such as automatic late payment notices, automatic late-fee assessments, automatic payment allocations, automatic reporting to credit bureaus, and others; and
- Wisconsin Consumer Act limitations on charging deferral fees.

Guidance issued March 22, 2020: *Interagency Statement on Loan Modifications by Financial Institutions with Customers Affected by Coronavirus*: https://www.fdic.gov/news/news/press/2020/pr20038a.pdf

Revised guidance issued April 7, 2020: *Interagency Statement on Loan Modifications by Financial Institutions with Customers Affected by Coronavirus*: https://www.fdic.gov/news/news/press/2020/pr20049a.pdf
FAQ Updated: May 27, 2020

Q2. If Bank allows for loan modification due to the effects of COVID-19, is Bank required to categorize the modified loan as a TDR?

A2. The federal banking agencies issued guidance on March 22, 2019, and later revised the guidance on April 7, 2020, clarifying that the agencies will not

criticize institutions for working with borrowers and will not direct supervised institutions to automatically categorize all COVID-19 related loan modifications as troubled debt restructurings (TDRs). The agencies also provided instruction regarding accounting for loan modifications. The instruction includes confirmation from FASB that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who are current 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 guidance also states that financial institutions are not expected to designate loans with deferrals granted due to COVID-19 as past due because of the deferral. Both interagency statements may be viewed at the links provided in the answer directly above.
FAQ Updated: May 27, 2020

Q3. Does WBA have loan modification documents?

A3. Yes. FIPCO has deferral agreements and loan modification documents within their Compliance Concierge™ Loan and Mortgage systems. Hardcopy forms are also available. FIPCO is offering a discount on these electronic forms through May 31, 2020.

The FIPCO deferral forms were created for use with existing loan agreements between the lender and the customer for deferral of loan payments under an existing loan arrangement. The forms provide that one or more installments can be deferred for the number of months agreed to by the lender and noted in the Payment Deferral Agreement. The maturity date would be extended by the number of months that payments were deferred. There are three deferral agreement forms available:

- The WBA (TL) 4 Deferral Agreement was drafted to be used only with precomputed transactions governed by the Wisconsin Consumer Act.

- The WBA (TL) 4S Simple Interest Deferral Agreement was drafted to be used with simple interest transactions governed by the Wisconsin Consumer Act.

- The WBA (TL) 4B Payment Deferral Agreement was drafted to be used with commercial and agricultural transactions.

As a reminder, the Wisconsin Consumer Act (WCA) prohibits deferral fees and imposes form requirements. It also places additional restrictions on deferral agreements for precomputed transactions. As a result, FIPCO has separate forms for precomputed transactions verses simple interest transactions. For non-WCA transactions, Bank is generally deciding between the WBA (TL) 4S or the WBA (TL) 4B. Note that even though the WBA (TL) 4B was drafted for commercial or agricultural purpose loans, that does not preclude a bank from utilizing the WBA (TL) 4S in such transactions if it decides to do so.

For more information on when a deferral fee can be charged in connection with a WCA-covered loan, consider the following DFI interpretive opinion: https://www.wdfi.org/wca/business_guidance/interpretive_opinions/deferral_fees_in_simple_interest_transactions.htm

WBA also has modification agreements. These agreements are also available through FIPCO. There are four modification agreements available:

The WBA 463F Mortgage Note Modification Agreement (Fixed Rate) was drafted for the purpose of modifying existing notes with a fixed rate. It is narrow in its purpose and should not be used in transactions governed by the WCA, to add a variable rate, or to increase the amount of the obligation.

The WBA 463VAR Mortgage Note Modification Agreement (Variable Rate) was drafted for the purpose of modifying existing notes with a variable rate. It is narrow in its purpose and should not be used in transactions governed by the WCA, to add a variable rate to a fixed rate loan, or to increase the amount of the obligation.

The WBA 464F Modification Agreement (Fixed Rate) was drafted for the purpose of modifying payments and/or interest rates for the term of an existing note with a fixed rate.

The WBA 464VAR Modification Agreement (Variable Rate) was drafted for the purpose of modifying the payments and/or interest rate for the term of an existing note with a variable rate.

For more information on the forms including availability and instructions please contact the FIPCO Forms Department by calling (800)722-3498, or at fipcoforms@fipco.com.

FAQ Updated May 27, 2020

Q4. Does WBA have a reaffirmation of guaranty form available for use with loan modifications?

A4. Yes. WBA has recently created the WBA 4G for use with modifications of existing loans that include a guaranty. The form provides that the guarantor agrees that he, she, or it continues to be obligated under the terms of the existing guaranty notwithstanding the loan modification.

If Bank has a guaranty, it may already contain a provision that the lender can take certain actions without notifying or obtaining consent from the guarantor. Thus, the use of the WBA 4G is optional. Bank should use the new

form if it seeks to obtain an additional reaffirmation that the guarantor is still bound. Since execution of the form might have wide-ranging repercussions, Bank should consider contacting its attorney to determine under what circumstances Bank will use the form. The WBA 4G should not be used for loans that are subject to the Wisconsin Consumer Act.
FAQ Added March 31, 2020

Q5. How does Bank meet ability to repay (ATR) requirements?

A5. CFPB has issued no waiver of ATR requirements. Each application is a case-by-case situation based upon each applicant's unique circumstance. First step: be in conversation with applicant to fully understand the circumstance and to work with applicant through the process. Perhaps the application can be suspended until DHS' Emergency Order is lifted or otherwise modified in manner that positively affects applicant. While being understanding of applicant's current situation, Bank still need be careful that underwriting requirements are met.

However, various investors have provided additional guidance which may be helpful in underwriting a residential mortgage transaction during COVID-19 pandemic, including:

- Fannie Mae LL-2020-03 Impact of COVID-19 on Originators, updated: Mar. 23, Mar. 31, May 5 and May 19, 2020: https://singlefamily.fanniemae.com/media/22316/display
- Fannie Mae COVID-19 FAQs, updated: May 5, 2020: https://singlefamily.fanniemae.com/media/22326/display
- Fannie Mae Impact on Appraisals, updated: Mar. 23, Mar. 31, Apr. 14, and May 5, 2020: https://singlefamily.fanniemae.com/media/22321/display
- Freddie Mac: Servicing Guidance, 2020-4, issued Apr. 18, 2020: https://sf.freddiemac.com/articles/news/guide-bulletin-2020-4
- Freddie Mac: Selling Guidance, 2020-14, updated May 5, 2020: https://guide.freddiemac.com/app/guide/bulletin/2020-14
- Freddie Mac Temporary Servicing Requirements Related to COVID-19, 2020-16, issued May 14, 2020: https://guide.freddiemac.com/app/guide/bulletin/2020-16

- Freddie Mac: Selling Requirements and Guidance Relate to COVID-10, 2020-17, reissued May 22, 2020: https://guide.freddiemac.com/app/guide/bulletin/2020-17

FAQ Updated May 27, 2020

Q6. Can Bank allow a consumer to waive the 3-business day right of rescission waiting period due to COVID-19?

A6. Perhaps. Regulation Z allows for a consumer to waive the 3-business day right of rescission waiting period in emergency situations. The threshold for what constitutions an "emergency" has historically been a high standard. If Bank determines a consumer's unique circumstance rises to the level of an emergency, and Bank permits the distribution of funds prior to the end of the 3-business day right of rescission waiting period, Bank must document such determination.

As mentioned, one of the Regulation Z requirements for a waiver is for the consumer to document, in writing, that an bona fide financial emergency exists. The regulation prohibits creditors from having a pre-printed or standardized form for use to document a request to waive the right of rescission. As such, even if Bank anticipates several requests for a waiver, Bank cannot create a template or standardized form for consumers to request waiver of right of rescission.

On May 4, 2020, CFPB published an interpretive rule to confirm the possibility of a waiver of the Regulation Z right of rescission 3-busines day waiting period for an emergency resulting for COVID-19 related matters. The published interpretation may be viewed at: https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09515.pdf

FAQ Updated May 27, 2020

Q7. Has FHLB Chicago issued any guidance of how to meet income verification for mortgage loan origination under its Mortgage Partnership Finance (MPF) Program?

A7. Yes. FHLB Chicago has issued MPF Announcement 2020-10 regarding the impact of COVID- 19 on mortgage loan originations. The announcement provides specifications of how to satisfy employment verification requirements and electronic records and signatures. The policies outlined in the announcement are effective immediately until further notice for all loans in process and remain in place for loans with application dates on or before May 17, 2020.

FHLB Chicago has issued subsequent guidance in the form of MPF Announcements and has extended the effective date from May 17, 2020 to June 30, 2020. See MPF Announcement 2020-28 for greater detail. All MPF Announcements may be viewed at: https://www.fhlbmpf.com/mpf-guides/announcements/Index/?pg=1&pt=

FAQ Updated: May 27, 2020

Q8. Is Bank required to obtain a new real estate valuation when executing a modification with a customer affected by COVID-19?

A8. No, according to the *2010 Interagency Appraisal and Evaluation Guidelines*, Bank is not required to obtain a new real estate valuation just because it executed a modification with a customer affected by COVID-19. According to the "Modification and Workout of Existing Credits" section of the 2010 guidance, the agencies have stated that a loan modification to existing credit that involves a limited change(s) in the terms of the note or loan agreement and that does not adversely affect the institution's real estate collateral protection after the modification does not rise to the level of a new real estate-related financial transaction and thus, does not require a new valuation for purposes of the agencies' appraisal regulations. The guidance further states that a loan modification that entails a decrease in the interest rate or a single extension of a limited or short-term nature would not be viewed as a subsequent transaction. The agencies provide an example: an extension arising from a short-term delay in the full repayment of the loan where there is documented evidence that payment from the borrower is forthcoming, or a brief delay in the scheduled closing on the sale of the property when there is evidence that the closing will be completed in the near future.

FAQ Added March 30, 2020

Q9. Bank is having difficulty obtaining appraisals for real estate transactions due to safer-at-home and social distancing orders. Have there been any changes to regulations to allow deferral or waiver of appraisal requirements?

A9. Yes. There have been two releases by the federal banking agencies to assist Bank with processing appraisals and evaluations during the COVID-19 pandemic. The first resource is an interagency statement issued mid-April which outlined existing flexibilities in appraisal-industry standards and in applicable banking regulations. The statement may be viewed at: https://www.fdic.gov/news/news/press/2020/pr20051b.pdf

The agencies also issued an interim final rule to defer the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate.

If an appraisals and evaluations is deferred, Bank is expected to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property. Bank is also required to adhere to internal underwriting standards for assessing borrowers' creditworthiness and repayment capacity, and to develop procedures for estimating the collateral's value for the purposes of extending or refinancing credit.

Lastly, Bank must develop an appropriate risk mitigation strategy if the appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value. Bank's risk mitigation strategy should consider safety and soundness risk to the institution, balanced with mitigation of financial harm to COVID-19-affected borrowers. The interim final rule is effective until December 30, 2020. The interim final rule may be viewed at:
https://www.govinfo.gov/content/pkg/FR-2020-04-17/pdf/2020-08216.pdf
FAQ Updated: May 27, 2020

Q10. Does offering a loan modification or loan deferral to customer affected by COVID-19 trigger Flood Insurance rules?

A10. Generally speaking, yes. Flood Insurance rules may be triggered when Bank offers a loan modification or loan deferral. However, federal banking agencies have issued guidance to provide additional flexibility given the COVID-19 pandemic.

Under Flood Insurance rules, when a lender makes a loan, increases a loan amount, renews a loan, or extends the maturity date of the loan, Flood Insurance rules need be followed. As such, if through a loan modification or loan deferral the loan's maturity date is extended, Bank need comply with Flood Insurance rules. Bank may rely upon the current flood determination on file, but Bank need provide a flood notice to the borrower and must ensure the proper amount of flood insurance is in place.

FRB has stated that when exercising supervisory and enforcement responsibilities, it will consider the unique circumstances that impact borrowers and institutions resulting from the COVID-19 emergency. FRB has instructed that banks should make good-faith efforts demonstrably designed to support consumers and comply with the flood insurance requirements. In addition, supervisory feedback for institutions will be focused on identifying issues, correcting deficiencies, and ensuring appropriate remediation to consumers. FRB does not expect to take a public enforcement action against an institution, provided that the circumstances were related to the COVID-19 emergency and that Bank made good faith efforts to support borrowers and comply with the flood insurance requirements, as well as responded to any needed corrective action. The FRB release may be viewed at: https://www.federalreserve.gov/supervisionreg/caletters/caltr2007.htm

FDIC's instruction is slightly different than that provided by FRB. FDIC has stated that when working with borrowers impacted by the COVID-19 emergency triggers a MIRE event, Bank may, if applicable:

- Rely temporarily on a loan's previous flood hazard determination on file rather than obtain a new one during the COVID-19 emergency;
- Delay the establishment of escrow accounts for applicable loans until after the COVID-19 emergency; and
- Delay providing a written flood notice to a borrower until after the COVID-19 emergency if a property is located in a SFHA and informing consumers

about the availability for special disaster relief assistance in the event of a flood. Prior to providing written notice, Bank may, at its discretion, choose to use another method to inform the borrower of this information (e.g. by email or telephone).

FDIC has stated that Bank should have a system in place to ensure deferred flood insurance requirements are addressed as soon as reasonably practicable. FDIC examiners, under the FDIC's discretionary examination authority, will not criticize Bank's good faith flood insurance compliance efforts to accommodate borrowers in a safe and sound manner during the COVID-19 emergency. FDIC has addressed the matter in its COVID-19 FAQs which may be viewed at: https://www.fdic.gov/coronavirus/faq-fi.pdf
FAQ Updated: May 27, 2020

Q11. Bank has heard of flood policy extensions, what has been extended?

A11. **FEMA** has issued Bulletin W-20002 to extend the grace period for payment of National Flood Insurance Program (NFIP) policies that expire between February 13, 2020 to June 15, 2020 from 30 days to 120 days. The borrower will be covered by the NFIP policy if the flood insurance premium is paid before the 120-day grace period expires. The extension only applies to NFIP polices.

FRB has stated that for customers with NFIP policy impacted by FEMA's Bulletin, Bank may provide the required notice to the borrower after determining the policy has expired with an indication that the NFIP grace period has been extended for 120 days. Bank may inform borrowers that, in light of the Bulletin, force placement will not occur until after the end of the 120-day period. Alternatively, FRB will allow Bank to provide the required notice to the borrower at least 45 days before the end of the 120-day grace period. For either alternative, Bank must force place flood insurance on the borrower's behalf if the borrower does not pay the premium by the end of the 120-day grace period.

Bank should be aware that if it force-places flood insurance for NFIP policies that expire during the FEMA emergency period prior to the expiration of the 120-day grace period and the borrower pays the premium by the end of the

120-day grace period, consistent with the flood insurance regulatory requirements, Bank is required to refund the borrower for any overlapping flood insurance coverage.
FAQ Updated May 27, 2020

Q12. Has there been any compliance-specific guidance issued by banking agencies which may offer relief from some compliance regulation requirements?

A12. Yes. The have been a couple of compliance-specific guidance issued by federal banking agencies that may provide flexibility in meeting compliance requirements during COVID-19 pandemic setting. Including:

Regulation X (RESPA) mortgage servicing FAQs:
https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rules-covid-19_faqs.pdf

Federal Banking Agencies Joint Statement: Supervisory and Enforcement Practices Regarding the Mortgage Service Rules in Response to COVID-19 Emergency and CARES Act:
https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200403a1.pdf

CFPB Valuation FAQ:
https://files.consumerfinance.gov/f/documents/cfpb_mortgage-origination-rules_faqs-covid-19.pdf

Before Bank adopts any of the revised practices outlined in the guidance, WBA recommends Bank must first discuss its plans with bank's own legal counsel. Of concern, while the relief provided by the banking agencies in the mortgage servicing guidance is helpful in a supervisory and examination setting, not complying with any required notice or disclosure requirement under Regulation X could still subject Bank to civil litigation risks. Bank's own counsel need assist Bank with determining whether to take the risk or proceed as Bank would otherwise have acted under any applicable mortgage servicing requirement.
FAQ Updated Jun. 03, 2020

SAFE DEPOSIT

Q1. Bank wants to close branch lobby to implement COVID-19 mitigation efforts but the location contains Bank's safe deposit vault. Is Bank permitted to close the branch lobby or must the lobby remain open so customers can access their safe deposit box?

A1. Bank is permitted to close its branch lobby. Bank should review its safe deposit box lease terms for specific language addressing bank location closure. The WBA forms all include a provision within safe deposit box leases that allow for Bank to close its lobby and therefore its safe deposit vault at any time for any reason and without notice. If Bank decides to close its lobby, in communicating such closure to its customers, Bank may want to consider whether it will permit access to safe deposit box if a customer needs access, such as by scheduling an appointment for access. When scheduling appointments, Bank may want to consider scheduling appointments during a certain block of time on a given day for efficiency of having the vault open and having appropriate staff present for assistance while meeting all access requirements, including proper dual control.
FAQ Added: March 11, 2020

OTHER

Q1. Is remote notarization valid in Wisconsin?

A1: Yes. DFI issued an emergency rule to implement 2019 Wisconsin Act 125, which revises state law governing notaries and notarial acts and authorizes notaries public to perform notarial acts for remotely located individuals using approved communication technologies. The emergency rule is effective as of May 9, 2020.

In summary, the emergency rule does the following:

- Creates procedures for communication technologies by which remote online notarization providers can apply for approval of their systems, processes, training programs, and safeguards. Once approved, providers can be utilized by Wisconsin notaries.

- Requires approval by a remote notary counsel for all providers of communication technology.
- Sets a maximum fee of $25 for performing a remote notarial act.
- Creates processes for granting and restricting notary commissions.

As previously reported in this FAQ, on March 18, 2020, DFI issued emergency guidance on remote notarization. Within that guidance, DFI provided a list of approved remote online notarization providers. DFI indicated that individuals who need to notarize a document remotely can use Notarize.com and NotaryCam. Title companies and others performing real-estate transactions can also use Pavaso or Nexys, which provide remote online notarization platforms for real-estate transactions. DocVerify also offers remote notarization services for businesses and others.

The emergency rule specifies that a provider that was provisionally approved by DFI must submit its application to the remote notary counsel before August 1, 2020. Such a provider's approval remains effective unless the remote notary counsel denies the application, or the approval is otherwise restricted or terminated.
FAQ Updated: June 03, 2020

BSA and BSA-Related

Q1. Is Bank still required for follow all BSA requirements during emergency pandemic?

A1. Yes, FinCEN has not issued any waiver of reporting requirements (ie., CTR or SAR filings) nor new customer procedures (i.e., CIP or CDD procedures). However, FinCEN has instructed Banks affected by COVID-19 to contact FinCEN and their functional regulator as soon as practicable if Bank has concern about any potential delays in its ability to file required BSA reports. In such cases, Bank should contact FinCEN's Regulatory Support Section 1- 800-949-2732 and selection option 6 or email at FinCEN at: FRC@fincen.gov

FinCEN subsequently refreshed its previous announcement. The refreshed

announcement includes BSA requirements for SBA's PPP loans: https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial
FAQ Updated: Jun. 03, 2020

Q2. Is there a code word that should be used when filing SAR in connection with COVID-19?

A2. Yes, FinCEN has instructed that for SARs linked to COVID-19, along with checking the appropriate SAR-template box(es) for certain typologies, FinCEN encourages Bank to enter "COVID10" in Field 2 of the SAR-template. SARs linked to COVID-19 could include activities related to imposter scams, investment scams, product scams, and suspected COVID-19 related insider trading.
FAQ Added: March 20, 2020

Q3. Wisconsin's DOT offices are were closed for a period of in March. This had made it difficult for some customers to renew their driver license. Can Bank accept an expired driver license for CIP purposes if customer has not been able to renewal the driver license due to DOT office closures or for other C OVID-19 related reasons?

A3. Yes, is possible to accept an expired driver license in limited circumstances. DOT had closed its offices in March. The offices have since reopened. Effective May 11, 2020, driver licenses can be renewed online. Drivers over the age of 65 cannot renew their license online.

For driver licenses and CDLs that expired on or after March 12, DOT has automatically extended the expiration date until July 25, 2020. Late fees will be waived.

As a result of the DOT's temporary changes, WBA believes Bank may accept an expired driver license for CIP purposes if the expiration had occurred during the automatically extended time period. Bank should retain documentation of its determination to rely upon DOT's actions. Bank may want to plan for a follow-up with the customer once the temporary changes have been removed and the customer has obtained the renewed license under normal DOT practices.
FAQ Updated: Jun. 03, 2020