

March 25, 2020

Guidance for California Financial Institutions Regarding COVID-19 Pandemic

California Business, Consumer Services and Housing Agency and California Department of Business Oversight Issue Guidance to Financial Institutions During the COVID-19 Pandemic

On March 22, 2020, the California Business, Consumer Services and Housing Agency (BCSH) and the California Department of Business Oversight (DBO) jointly issued new guidance to financial institutions in light of the COVID-19 pandemic. The purpose of the guidance is to encourage financial institutions to meet the financial services needs of customers and communities affected by the pandemic or by government responses to the pandemic. The topics covered by the guidance include working with customers, financial condition review and regulatory relief, regulatory reporting requirements, alternative service options for customers, and virtual meetings. Importantly, this guidance does not have the force of law and does not modify any existing law or regulations.

A. WORKING WITH CUSTOMERS

On March 16, 2020, the Governor of the State of California issued an executive order requesting financial institutions holding home or commercial mortgages to implement an immediate moratorium on foreclosures and related evictions when the cause of the foreclosure is related to the COVID-19 pandemic or government response. In light of this order, the DBO encourages financial institutions to adopt a number of practices during the state of emergency, including waiving overdraft and late payment fees, increasing daily withdrawal limits at ATMs and offering payment accommodations, such as extending payment due dates.

Additionally, prudent efforts to modify the terms of existing loans or ease terms for new loans, or other efforts to accommodate customers in a “safe and sound” manner, will not be subject to DBO criticism. The

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guidance also states that institutions must adhere to the fair lending and borrowing provisions of the California Homeowner Bill of Rights.

B. FINANCIAL CONDITION REVIEW, SUPERVISORY RESPONSE, AND REGULATORY RELIEF

According to the guidance, the DBO will consider the impact of COVID-19 on financial institutions when reviewing an institution's financial condition and determining any supervisory response. The DBO will work with such institutions to reduce burden when scheduling examinations and inspections.

C. REGULATORY REPORTING REQUIREMENTS

The guidance states that the DBO is ready to work with affected financial institutions that may experience difficulties fulfilling their reporting responsibilities as a result of COVID-19-related issues and encourages financial institutions that expect to encounter such difficulties to contact the DBO to discuss their situations.

D. ALTERNATIVE SERVICE OPTIONS FOR CUSTOMERS

The guidance recognizes that financial institutions may need to temporarily close a facility due to staffing challenges or to take precautionary measures. The DBO 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 institutions are encouraged to notify the DBO and customers of temporary closures and any available alternatives. In situations where DBO approval is required, the guidance advises banks to contact their portfolio manager and indicates that reasonable plans will be approved.

E. VIRTUAL MEETINGS

The California Corporations Code prohibits California corporations, including California state-chartered banks, from holding virtual meetings without shareholder consent. However, in light of the COVID-19 pandemic, the DBO will not criticize banks that conduct virtual meetings without 100% consent from shareholders or credit unions that conduct meetings virtually in violation of their bylaws. Given that the guidance does not have the force of law, the guidance does not seem to provide significant assistance for those California corporations attempting to schedule their shareholder meetings under current circumstances.

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