MEMORANDUM
September 30, 2020

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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From: Brian T. Pattison
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Subject: Some Mortgage Loan Servicers' Websites Continue To Offer Information about CARES Act Loan Forbearance That Could Mislead or Confuse Borrowers, or Provide Little or no Information at all

Background and Introduction

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG) conducted this study to follow up on information we shared previously regarding 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]

We reported on April 27, 2020, that although FHA has provided some guidance to FHA servicers regarding implementation of the CARES Act provisions related to forbearance, our 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. We cautioned that 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.

<u>CARES Act Forbearance Provisions and Applicable HUD Guidance</u>

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

[1] Public Law No: 116-136. 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 prior brief HUD OIG released April 27, 2020 on servicers' website information can be found here.
[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

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> 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 or make payments while in forbearance. To request forbearance, borrowers do not need to provide any documentation showing their hardship and only have to "attest" to their servicer that they are suffering a financial hardship as a result of the COVID-19 emergency. During the forbearance period, servicers cannot charge borrowers additional fees, penalties, or interest, or report them to credit agencies. Initially, pursuant to the CARES Act, servicers were required to cease any foreclosure activities for a period of 60 days beginning on March 18, 2020. Through a series of mortgagee letters, FHA extended the moratorium on foreclosure activities on FHA-insured mortgages through December 31, 2020.[4]

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,[5] and FHA has clarified that borrowers will not be required to pay a "lump-sum" repayment at the end of the forbearance period.[6] According to FHA, eligible borrowers must be offered a "COVID-19 Standalone Partial Claim," or other COVID-19 Loss Mitigation Options [7] and if a borrower is not eligible for COVID-19 Loss Mitigation Options, the servicer must evaluate the borrower for other standard loss-mitigation options.[8] FHA informed OIG that it took additional steps to inform the public and mortgage servicers about FHA's policy on forbearance related to COVID-19, including providing information to the Consumer Financial Protection Bureau, and offered

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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.

[4] See Mortgagee Letters 2020-04, 2020-13, 2020-19, 2020-27 (https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-27hsgml.pdf)

[5] See Mortgagee Letter 2020-06 (https://www.hud.gov/sites/dfiles/OCHCO/documents/20-06hsngml.pdf)

[6] https://www.hud.gov/sites/dfiles/SFH/documents/COVID-19HomeownerHelp.pdf

[7] 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.

[8] See Single Family Housing Policy Handbook 4000.1, Section III.A.2(j). HUD's Loss Mitigation Options and Mortgagee Letter 2020-22 (https://www.hud.gov/sites/dfiles/OCHCO/documents/20-22hsgml.pdf)

training to mortgage servicers on forbearance and loss mitigation options due to COVID-19. Additionally, FHA published FAQ's on its website related to the loss mitigation options available to borrowers due to COVID-19 and the CARES Act.[9]

FHA implemented a new code for servicers to use to report loans that are delinquent or in default and subsequently placed in a COVID-19 forbearance.[10] Servicers must have fully implemented the new code to report delinquencies or defaults by August 7, 2020, when July mortgage data was required to be reported to FHA.

The Number of Borrowers in Formal Forbearance Remains at High Levels

As of August 31, 2020, FHA reported 779,745 borrowers in formal forbearance, with 716,646 in a formal forbearance status related to the national emergency declaration (see Table 1). This result is a decrease of 39,995 in total borrowers in a formal forbearance status over July 31, 2020 results, but still 767,125 over March 31, 2020 results, which was the start of the national emergency.

The number of loans in formal forbearance represents approximately 9.7 percent of the entire FHA portfolio. For comparison, as of July 31, 2019, 11,130 borrowers, or 0.1 percent, were in a formal forbearance plan. Additionally, as of July 31, 2020, 39,929 borrowers have filed a partial claim, effectively leaving forbearance (See Table 2). This result reflects a more than doubling of borrowers in a partial claim status as of the end of July 2020.

Methodology

To conduct this study, HUD OIG used the same list of the top FHA servicers as of April 1, 2020 that we used to conduct our prior review for consistency. At that time, the top 30 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 August 11, 2020, 4 months and 15 days after enactment of the CARES Act, HUD OIG reviewed the public facing websites of the 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.

[9] https://www.hud.gov/sites/dfiles/SFH/documents/IACOVID19FB_FactSheetServicers.pdf
[10] The new code is DDR Code 055 – Related to National Emergency Declaration, which must be used to report that the delinquency is a result of the COVID-19 pandemic. DDR Code 055 was available for use beginning May 1, 2020 (for April reporting data). If DDR code 055 could not be used by servicers, FHA permitted servicers to utilize DDR Code 010 – Neighborhood Problem until DDR Code 055 could be utilized. See Mortgagee Letter 2020-13 (https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-13hsngml.pdf)

We conducted this review under the Quality Standards for Federal Offices of Inspector General as issued by the Council of the Inspectors General on Integrity and Efficiency.

Results

Some servicers' websites continue to provide information that could mislead or confuse borrowers

Overall, 29 of the top 30 servicers changed the information on their websites related to the COVID-19 emergency since we reviewed it back in April 2020. Some servicers provide information that reflects the mortgage relief the CARES Act offers. For example, one website states "A forbearance plan allows for a temporary pause in your monthly mortgage payment(s) for an initial period of up to 180 days. If you still need assistance after the initial term of your forbearance expiration, you may be able to request an extension of the initial forbearance term for up to an additional 180 days."

Still, nine servicers provided information suggesting the initial forbearance period was or could be less than 180 days. Of these servicers, the most common initial forbearance period listed was 90 days, although one servicer listed 30 days as a possible initial forbearance period, and another listed 60 days. At least one servicer website made the case to borrowers that a shorter forbearance period was in borrowers' best interests. Several other servicer websites did not offer clear information on the length of the initial forbearance period.

Nine servicers did not make clear on their websites that borrowers are entitled to a forbearance extension, which can be up to an additional 180 days, after the initial 180 days.

One servicer continued to offer a forbearance repayment example that suggests the borrower will need to repay the amount owed as a lump sum. The servicer website offers the following: "For example: Let's say your monthly mortgage payment is $1,000, including principal, interest, taxes, and insurance. If you choose to enter a 90-day forbearance plan, you won't owe that $1,000 for the next three months. But at the end of the 90-day plan, you'll owe $3,000 (or $1,000/month for the past 3 months) to become current again. This can result in payment shock for some…."

Lastly, some servicers' websites did not clearly state that forbearance is an option for borrowers. Instead, websites offer that borrowers need to apply for a "pandemic relief plan" or complete a "loan hardship form," or the websites use other terms not included in the CARES Act.

Some servicer websites continue to provide little or no information about forbearance

Six servicer websites do not provide information about forbearance. Four additional servicers offer information about relief options not clearly labeled as forbearance, although forbearance is mostly mentioned elsewhere on the site. Several servicer websites require borrowers to log into their mortgage accounts to learn what options might be available to them to address their specific situations. Lastly, one servicer website continues to list information dated prior to enactment of the CARES Act (despite the website receiving updates since we viewed it in April 2020).

Additionally, servicer websites do not always provide clear information on options available to borrowers after the period of forbearance ends. For example, one servicer website offered the following in response to the question "How do I repay my Forbearance?" Answer given: "Near the end of your Forbearance Plan we will work with you to help you determine the best program available to help you catch up on your mortgage payments. The programs available to you may vary based on your circumstances and the type of loan you have. If you are ready to resume making payments at the end of your forbearance period, we will work with you to determine the options available to repay the missed payments. The method of repayment depends on your loan type, your circumstances, and the options offered by the investor in your mortgage." Another servicer's website offered the following: "When you regain employment or replace your income, (whether that is during the six month forbearance period or thereafter), you will work with our COVID Relief Task Force to reset your loan to fit your new circumstances. Options will vary by your loan type, owner, and how many payments are missed. If you are unable to repay your missed payments, your options will include things like extending your loan by adding the missed payments on the end of the term, dividing up the missed payments over the remaining term, or simply paying what has been missed to bring you current."

Conclusion

Despite virtually all of the top 30 servicers updating information on their websites on options available to borrowers during this COVID-19 emergency, some servicer websites continue to provide information that could mislead or confuse borrowers or provide little or no information to borrowers related to their forbearance options under the CARES Act. FHA data indicate that the number of borrowers seeking forbearance continues to increase and some borrowers are beginning to leave forbearance. Additionally, Fannie Mae found that some borrowers are not aware of their relief options. For these reasons, complete and accurate information on servicers' websites is all the more important.

Just as we followed up on our initial work with this assessment, HUD OIG plans to continue work related to forbearance offered by FHA servicers under the CARES Act.

Table 1. FHA Mortgage Forbearance Data

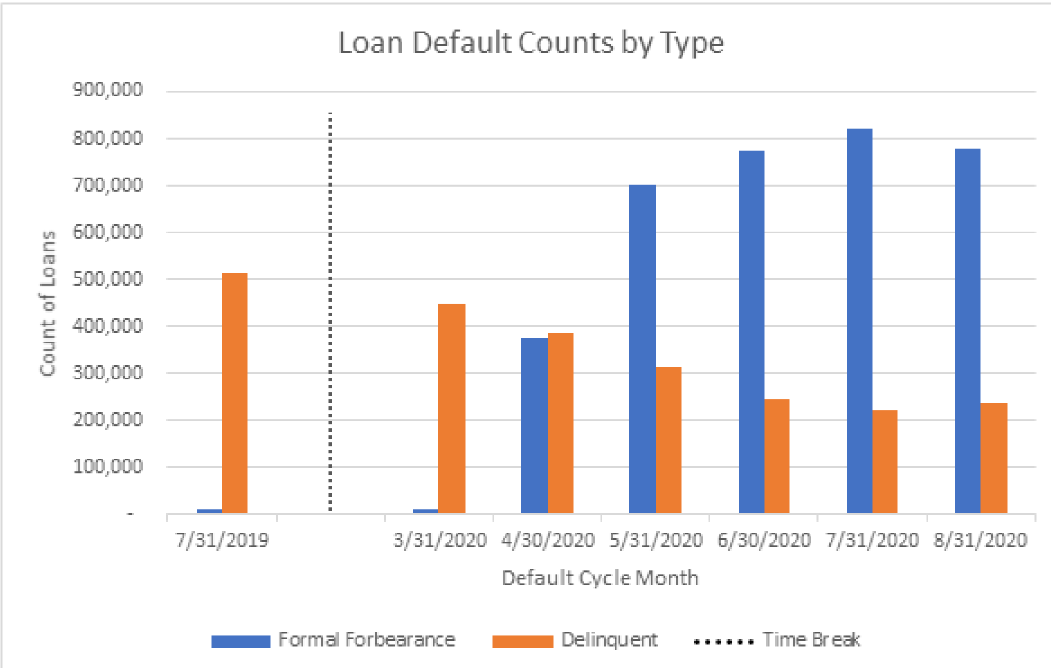

Table 2. FHA Partial Claims