

Statement on Supervisory Practices Regarding Financial Institutions and Consumers Affected by Hurricane Harvey

The Consumer Financial Protection Bureau (Bureau) encourages its supervised entities¹ to work with consumers who may be at financial risk due to the major disaster caused by Hurricane Harvey. This event will cause financial strain on consumers and communities. By providing flexibility and other assistance to consumers in communities under such stress, supervised entities can lessen negative impacts and hasten recovery. These efforts may also build goodwill and provide other benefits to the institutions undertaking them. When communities thrive, so do the financial institutions that serve them.

A. Assisting Consumers

Supervised entities should, to the extent possible, maintain adequate staffing to address consumers' needs following this major disaster. Additionally, to the extent consistent with applicable law,² the Bureau encourages supervised entities to address consumers' needs by taking the following actions in the aftermath of Hurricane Harvey:

- Offering penalty-free forbearance or repayment periods with clearly disclosed terms;
- Limiting or waiving fees and charges, including overdraft fees, ATM fees, or late fees;
- Restructuring existing debt by, for example, extending repayment terms with clearly disclosed terms;
- Refinancing existing debt or extending new credit with terms favorable to the consumer. Terms could, for example, reduce costs, limit payment amounts, or offer consumers other flexibility;
- Easing documentation or credit-extension requirements;
- Increasing capacity for customer service hotlines, particularly those that serve consumers in languages other than English; and/or
- Increasing ATM daily cash withdrawal limits.

¹ Supervised entities generally include large insured depository institutions and their affiliates, large insured credit unions and their affiliates, and certain non-depository consumer financial services companies. 12 USC 5514-15.

² In addition to consumer financial laws subject to the Bureau's authority, "applicable law" includes all State and Federal requirements to which supervised entities are subject and any requirements of other agencies pursuant to such authorities. Accordingly, supervised entities should take care that any actions they take to assist consumers following major disasters or emergencies are consistent with such requirements.

B. Specific Regulatory Guidance

The Bureau encourages supervised entities to make use of existing regulatory flexibility where doing so would benefit consumers affected by a major disaster or emergency. Here are a few examples from Regulation B, Regulation X, and Regulation Z:

Regulation B (implementing the Equal Credit Opportunity Act)

Regulation B requires creditors to provide applicants for first-lien loans on a dwelling with copies of appraisals, as well as other written valuations, developed in connection with the application promptly upon completion, or three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier.³ However, the consumer may waive the timing requirement and agree to receive any copy at or before consummation or account opening, except where otherwise prohibited by law.⁴

This regulatory flexibility can expedite access to credit secured by a first lien on a dwelling for consumers affected by a major disaster or emergency.

Regulation X (implementing the Real Estate Settlement Procedures Act)

Regulation X generally requires servicers to obtain a complete loss mitigation application before evaluating a mortgage borrower for a loss mitigation option, such as a loan modification or short sale. Servicers generally may not offer a loss mitigation option based upon an evaluation of any information provided in connection with an incomplete application.⁵

However, Regulation X permits servicers to offer certain short-term options based upon an evaluation of an incomplete application.⁶ In addition, a servicer may offer loss mitigation options to a borrower who has not submitted an application. A servicer also may offer loss mitigation options to a borrower when the offer is not based on any evaluation of information submitted by the borrower in connection with a loss mitigation application.⁷

This regulatory flexibility permits servicers to offer relief to borrowers affected by a major disaster or emergency without first having to collect a complete application. These borrowers in particular may have difficulty timely obtaining and submitting application documents and information.

³ 12 CFR 1002.14(a)(1).

⁴ 12 CFR 1002.14(a)(1). The waiver must generally be obtained at least three business days prior to consummation or account opening unless it pertains solely to the receipt of a copy of an appraisal or other written valuation that contains only clerical changes from a copy that was already provided to the applicant three or more business days prior to consummation or account opening. The applicant may provide the waiver through an oral or written statement. See Regulation B comment 14(a)(1)-6.

⁵ 12 CFR 1024.41(c)(2)(i).

⁶ 12 CFR 1024.41(c)(2)(iii).

⁷ Regulation X, comment 41(c)(2)(i)-1.

Regulation Z (implementing the Truth in Lending Act)

Regulation Z provides that consumers may waive or modify certain timing requirements when necessary to meet a bona fide personal financial emergency. For example:

- **Right to rescind.** Consumers have at least three business days to rescind certain credit obligations secured by a dwelling.⁸ But consumers may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency.⁹
- **Review periods before consummation.** With certain exceptions, creditors must generally deliver or place in the mail disclosures associated with the Know Before You Owe mortgage disclosure rule a certain number of days before consummation: no later than the seventh business day before consummation for a loan estimate¹⁰ and no later than three business days before consummation for a closing disclosure.¹¹ However, the consumer may modify or waive these waiting periods if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency.¹²

This regulatory flexibility can help expedite access to credit for consumers facing a bona fide personal financial emergency following a major disaster or emergency.

C. Supervisory Response

The Bureau recognizes that supervised entities may themselves experience difficulties due to a major disaster or emergency. To that end, when conducting examinations and other supervisory activities, the Bureau will consider the circumstances that supervised entities may face following a major disaster and will be sensitive to good faith efforts to assist consumers.

For more information, please contact CFPB_Supervision@cfpb.gov.

D. Regulatory Requirements

This Policy Guidance is a non-binding general statement of policy articulating considerations relevant to the Bureau's exercise of its supervisory and enforcement authorities. It is therefore exempt from the notice and comment rulemaking requirements under the Administrative

⁸ 15 USC 1635; 12 CFR 1026.15 and 1026.23.

⁹ 15 USC 1635(d); 12 CFR 1026.15(e) and 1026.23(e). To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signature of all the consumers entitled to rescind. Printed forms for this purpose are prohibited.

¹⁰ 12 CFR 1026.19(e)(1)(iii)(A) and (B).

¹¹ 12 CFR 1026.19(f)(1)(ii)(A).

¹² 12 CFR 1026.19(e)(1)(v) and (f)(1)(iv). To modify or waive these review periods, a consumer must, pursuant to Regulation Z, give the creditor a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all consumers who are primarily liable on the legal obligation. Printed forms for this purpose are prohibited under the rules.

Procedure Act pursuant to 5 USC 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. See 5 USC 603(a), 604(a). The Bureau has determined that this Policy Guidance does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 USC 3501, *et seq.*