Apr. 3, 2020

The CARES Act & Regulatory Actions

Mortgage and Personal Finance & COVID-19 FAQs

Congress has passed three relief packages to respond to COVID-19. Bank regulators have also adopted many new policies in light of needs COVID-19. See below for those provisions and actions that are designed to address homebuying, homeowner/landlord, and personal finance issues.

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Homebuyer Questions

1. My company's offices are closed, and I am having a hard time providing my final verification of employment within the 10 days prior to loan closing.

FHA and RHS are allowing verbal verification of employment. Specifically, your employer can provide this by phone. RHS is also allowing email verification. If you cannot get either of these, the lender will require higher reserves to cover risk.

Fannie Mae and Freddie Mac will allow verbal verification when available and an email verification under certain conditions. They have also made other forms of temporary verification available in order to help with verification while social distancing.

2. My lender indicated that the IRS has shut down and they cannot process loans without an income verification document that only the IRS can generate. Is this true?

Luckily, there is precedence for an IRS shutdown based on several recent government shutdowns. Some lenders may require this document, but Fannie Mae, Freddie Mac, and FHA do not so this is a lender overlay.

Fannie and Freddie both issued guidance in January 2019 following the previous government shutdown to note that they do not require the 4506T IRS tax transcripts at closing. Rather, they only require a request for the document be signed by the borrower. However, they do require the tax transcript be submitted as part of their post-closing review. NAR has asked both Fannie and Freddie to clarify and publish updated guidance given the unique challenges posed by COVID-19.

Furthermore, the IRS reopened this facility during the shutdown as it was deemed essential. We have reached out to the IRS on this point.

3. I have heard that the FHA, Fannie Mae, and Freddie Mac have raised rates and fees on borrowers with lower credit scores or smaller down payments?

These claims are not true. To date, neither the FHA nor Fannie Mae and Freddie Mac have made any changes to credit scoring or down payment requirements. The only change they have made for borrowers is to allow MORE flexibility in how a lender can verify employment.

However, some individual lenders are adding their own, higher standards on these products. The rational is that the cost of servicing these loans has surged due to the widespread forbearance that is taxing servicers' resources. Under forbearance, the servicer must continue to pay PITI to the investor, but the sheer volume of forbearance to deal with the COVID-19 response is unprecedented. Since lower-credit borrowers are more likely to take forbearance and servicing is harder to get, lenders are less willing to extend this credit regardless of the FHA or GSEs' standards.

NAR sent a letter to the Treasury, Federal Reserve, and the Federal Housing Finance Agency requesting help for servicers dealing with the unprecedented demands on funds due to broad forbearance requests. Improving servicing is one key to improving the flow of funds to borrowers and homeowners.

Ginnie Mae has announced the creation of a new program, that should help alleviate lender concerns and improve access to mortgage financing. The program will provide cover for lenders by advancing them the money so they can make the required pass-through payments to investors during the forbearance period.

4. I have been told that Fannie Mae and Freddie Mac require a "wet signature" on all documents, so we can't get funding!?!?

Fannie Mae and Freddie Mac (the GSEs) require a number of documents to be signed before they will buy a mortgage from a lender. However, both GSEs allow electronic signatures on virtually all documents except for the promissory note. See here for Fannie Mae and Freddie Mac's guidance for more detail.

Unfortunately, in many areas of the country, lenders may not be able to meet face-to-face with their client in order to get a wet signature. The promissory note is part of the uniform commercial code and not determined by the bank or financial regulators. NAR is working with the GSEs, their regulators, and industry partners to get more clarity on the rules and potential fixes. Furthermore, real estate and financial services, as well as the government offices for documents and recording, that are needed to close the transactions have been deemed "essential services" by the federal government and many state governments. NAR continues to work with state and local associations to have local policy reflect this, which can enable wet signatures.

5. In my area, appraisers have stopped appraising; Now what?

FHFA has directed Fannie Mae and Freddie Mac to utilize appraisal alternatives to reduce the need for appraisers to conduct interior property inspections for eligible mortgages through May 17, 2020. Fannie Mae and Freddie Mac have provided detailed appraisal alternative guidance, including directions on using desktop appraisals and exterior-inspection only appraisals with specific language that appraisers are to use in their reports.

FHA is also allowing desktop and exterior only appraisals, as well as VA with enhanced assignment conditions or in limited instances, a Desktop appraisal to complete the VA loan requirements in light of the COVID-19 crisis. The Rural Housing Service of the USDA is also allowing exterior-only appraisals.

6. My lender indicates that so called "non-QM" loans, those with alternative income verification, are impossible to get and loans in higher cost areas like Los Angeles and New York are becoming more difficult to get as well. Is this true?

Unfortunately, in most cases, loans with lower documentation or alternative means of documenting are not being made at this time. Without a job, borrowers are more likely to go into default, which would hurt lenders. Therefore, lenders are less willing to make loans during a crisis to borrowers whose source of income is in flux or not clear.

Reports indicate it is becoming more difficult to get funding for "jumbo" loans, mortgages for larger loan amounts, common in high cost markets. This issue is caused by investors pulling back from these purely private mortgages as few lenders can hold them in portfolio and the private label securitization market diminishes. Some lenders with solid capital and portfolios are still making these, but have tightened standards.

The Fed recently started buying MBS backed by Fannie Mae, Freddie Mac, and the FHA, in order to keep rates low and steady the supply of mortgage finance, but, by law, the Fed cannot buy individual mortgages or MBS that are privately backed. One solution is to temporarily raise the "high cost" conforming loan limits to enable Fannie Mae, Freddie Mac, and the FHA to buy these loans. However, Congress would need to change the law that defines the conforming loan limits, which NAR is actively advocating for with industry partners.

7. How do the interest rates being lowered impact us?

Wild swings in mortgages rates have hampered many deals. Initially rates jumped hurting many transactions that were near closing. To lower and stabilize rates, the Federal Reserve has purchased mortgage backed securities since March 20, 2020 and rates fell over the subsequent week. However, many lenders continued to tighten requirements because of problems getting mortgage servicers to take on new mortgages, particularly on lower credit or higher debt-to-income loans.

NAR is working to alleviate the issue and servicing and to restore access to mortgage credit for all borrowers. On March 16-17 2020, NAR conducted a flash survey of members on the impact of the coronavirus on their market. The survey was delivered to a random sample of 72,734 members. For 96% of respondents, the majority of their business is residential. For 2% of respondents, the majority of their business is commercial. 45% of members cited there was no notable change in client behavior regarding the stock market and mortgage rate change. There is a one to one ratio of members who cited the stock market correction significantly damaged confidence, to those who cited lower interest rates excited clients. The share of members who cited the stock market correction influenced clients more than doubled from March 9 to March 16. We will continue to update this survey and will provide results here.

Homeowner/Landlord Questions

1. **Does the HUD/FHFA moratorium on evictions and foreclosures cover everyone in the country?**

   No, the moratorium only affects borrowers with mortgages backed by Fannie Mae, Freddie Mac, FHA, VA and RHS. This does not apply to the roughly 35% of mortgages held in bank portfolios and private label securities, but some individual lenders are offering relief.

   The HUD notice only applies to FHA single family mortgage borrowers and Home Equity Conversion Mortgage (HECM) borrowers. The moratorium is set for 60 days (through May 16th). FHFA has also directed Freddie Mac and Fannie Mae to do the same. Homeowners should check with their mortgage servicer/lender.

Personal Finance Questions

1. **I've lost my job or had my income reduced due to the social distancing required to battle COVID-19. What can I do to avoid falling behind on my mortgage?**

   Fannie Mae, Freddie Mac, and the federal agencies are offering forbearance on mortgages they back.

   Fannie Mae, Freddie Mac, FHA, and USDA Rural Housing are requiring lenders to approve six months forbearance for any borrower whose income has been adversely affected by COVID-19 and another six months forbearance is available but lender must approve for FHA borrowers. Lenders are to waive all late charges, fees, and penalties during the forbearance period.

   Individuals must contact their servicers to request this forbearance, which freezes payments during the specified time period. There are no fees during and after the forbearance period, and requests can be made to have the missed payments extended onto your payment term. Forbearance can be applied to mortgages on single family properties that are owner-occupied, second home, and investor properties.

   After the forbearance period, the GSEs will modify the loan so that you can afford your payments. You must bring missed escrow payments up to date within 5 years, but are eligible for an "extend mod" which adds the missed payments onto the end of your loan term. If you cannot make the pre-forbearance payments there are a number of other modifications that can be made. This document outlines Fannie Mae's modification options and here is more information about the extend mod.

   Some private banks are offering forbearance on loans that they hold which are not federally backed. Individuals should contact them directly to learn more about their programs. The CFPB has organized a primer and video on what consumers should look for when exploring forbearance or other relief options.

2. **I'm going to have a hard time making my student loan payments, as my job was put on hiatus during the crisis; What do I do?**

   The CARES Act provides 6 months of forbearance on federal student loans. It also prohibits negative credit reporting or involuntary debt collection during forbearance period. The Department of Education has also waived all interest on student loans for this period. You must contact your loan servicer to get a forbearance.

3. I'm worried about my credit score. What should I do if a miss a few payments due to the crisis?

The CARES Act implemented provisions to protect credit scores from January 30, 2020 through 120 days after enactment of the national emergency. If customers are making payments, or made arrangement to not make payments, customers must be reported as being current. If a customer was delinquent, but was able to make an arrangement with the servicer and is now current, then their account must be reported as current. The important thing is to reach out to your servicer, bank or credit card company if you are having trouble making your payments.

Stay tuned to NAR.REALTOR for the latest Federal Advocacy Efforts.