



## Financial Services Litigation / Financial Services & Products ADVISORY ■

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### CFPB Reflects on the Impact of COVID-19 and Provides a Window into Future Enforcement

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On May 1, 2020, the Consumer Financial Protection Bureau (CFPB) held a [Joint Advisory Committees meeting](#), discussing COVID-19-related impacts on consumers and how the CFPB is responding.

At this stage of the pandemic, the CFPB is focusing on accommodating consumers through the financial uncertainty COVID-19 has created while implementing the purposes of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. In furthering that purpose, the CFPB seeks to anticipate and accommodate the needs of consumers, particularly in light of consumer complaints.

#### **Focus on Rising Complaints**

The CFPB reported its highest historical level of consumer complaints in April 2020, with a swell of complaints related to COVID-19. The CFPB noted that the highest number of complaints mentioning COVID-19 were related to mortgages and credit card products, particularly by consumers seeking more favorable loan terms or to suspend or reduce monthly payment amounts.

#### ***Servicer responsiveness***

The most common theme in consumer complaints relates to servicer responsiveness. Specifically, the CFPB has seen an increase in complaints that consumers cannot reach a customer service representative or that they have to remain on hold for an impracticable period of time to discuss their options. While the CFPB remains cognizant of service challenges in light of the increase in customer engagement and a possible decrease in staffing, companies should remain vigilant in being as responsive as possible during the current public health crisis.

#### ***Forbearance repayment***

Mortgage forbearance has been a particularly robust topic, with nearly 7% of all mortgages in a forbearance plan as of April 19, 2020. Not surprisingly, the CFPB has seen the largest uptick in complaints from consumers struggling

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to pay their mortgages and encountering trouble during the payment process. Consumers have also complained about the impracticability of balloon payments following a period of forbearance. The CFPB is coordinating with mortgage investors, such as the Federal Housing Administration (FHA), and is encouraging lenders to not require balloon payments after a period of forbearance.

### ***Credit reporting***

The CFPB observed a substantial decline in credit applications in March, as measured by the number of “hard inquiries” lenders perform when a consumer applies for credit. The report found that between the first and last week of March, auto loan inquiries dropped by 52%, new mortgage inquiries dropped by 27%, and revolving credit card inquiries declined by 40% compared to usual patterns seen in the data in prior years.

Despite the decrease in credit applications, the CFPB anticipates credit reporting complaints to increase once consumers receive information about application inquiries, as well as credit reporting issues that may arise in the context of mortgage forbearance. Credit reporting complaints tend to lag because of the delay from the direct consumer interaction.

## **What This Means for the Enforcement Landscape**

The CFPB advised that, in its efforts to protect consumers during these uncertain times, it will not hesitate to take public enforcement action against companies that violate the law or engage in unfair and deceptive trade practices. The CFPB is monitoring the marketplace and complaints in real time, coordinating with federal and state counterparts, regulators, and law enforcement, and stated that it will take swift action against companies that are viewed as exploiting consumers during the COVID-19 pandemic.

The CFPB’s analysis of complaints suggests that enforcement is likely to arise with mortgage and credit card products. This is particularly true for forbearance arrangements and communications, which have been impacted by rapidly evolving regulatory guidance, as well as credit reporting, which has historically been an enforcement priority.

Lenders and servicers should ensure that they are successfully communicating to consumers what accommodations are available under the CARES Act for loan relief and do so in a way consistent with the guidance. Lenders and servicers should maintain a focus on robust recordkeeping to document how they implemented and communicated with consumers in these uncertain times.

You can review CFPB consumer complaints nationally, as well as state-by-state, at the [Consumer Complaint Database](#).

CFPB guidance, and expectations for consumer accommodation, can be reviewed on the [CFPB website](#).

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