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CFPB Publishes Information Request Concerning Making COVID Mortgage Foreclosure/Loss Mitigation Relief Rules Permanent

By: [Michael Flynn](#)

On September 27, 2022, the Consumer Financial Protection Bureau (CFPB) issued a Request for Information Regarding Mortgage Refinances and Forbearances. The Request indicates that the CFPB is considering making the COVID emergency relief foreclosure/loss mitigation requirements a permanent requirement for mortgage lenders and servicers when dealing with temporarily distressed borrowers. This step also raises the question of whether this could be the start of a trend - whether similar types of relief targeted toward certain consumers will be required by the CFPB or other regulators for other consumer financial products in the future.

The Request can be found [here](#). Public comments on the Request are due by November 28, 2022.

In the Request, the CFPB states that it is seeking comment from the public about (1) ways to facilitate mortgage refinances for consumers who would benefit from refinancing, especially consumers with smaller loan balances; and (2) ways to reduce risks for consumers who experience disruptions in their financial situation that could interfere with their ability to remain current on their mortgage payments.

The CFPB references the special COVID foreclosure and loss mitigation rules, which were implemented to protect borrowers in the crisis and to facilitate faster and more responsive mortgage loan modification efforts from lenders and servicers. It indicates that it is seeking information about how it and others can extend the kinds of protections designed for borrowers in difficult COVID circumstances to a permanent set of steps for borrowers facing "temporary financial hardship", and that it is seeking public comments about "the actions it or others can take or should consider taking to spur automatic and streamlined short and long-term loss mitigation offers for borrowers with mortgages impacted by temporary financial hardship more generally . . . what features of these COVID-era short and long-term loss mitigation programs should be made more generally available to borrowers, and in particular, if there are ways to automate and streamline the offering of short and long-term loss mitigation solutions."

The types of requirements the CFPB is contemplating can be found in the original COVID relief rule issued on June 28, 2021. A description of the requirements of that rule, and thus the types of restrictions the CFPB is now contemplating making permanent, can be found in this June 30, 2021 [Buchalter Client Alert](#).

This inquiry from the CFPB reflects a significant change in perspective regarding whether and how temporarily distressed borrowers should be protected, and what additional burdens would be placed on lenders and servicers. During COVID, the CFPB and some states expanded such relief as an emergency

measure. Now the CFPB is considering it as a permanent requirement and further restriction on financial institutions.

Commentators have previously noted the possibility of this move to make such COVID relief permanent. For instance, in articles in the *Conference on Consumer Finance Law Quarterly Report* in January, 2022 and the *American College of Mortgage Attorneys Spring 2021 Abstract*, the author of this Client Alert discussed the possibility that these types of COVID relief could be made permanent for distressed borrowers, and whether similar types of permanent relief might be extended to borrowers in other types of consumer loans besides mortgages.

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