Fannie Mae®

Supplement 20-13: Updated and Consolidated COVID-19 Forbearance Delegation

Effective: 08/20/20
Retired: 12/22/20

Summary of Changes

HIGHLIGHTS

Effective August 20, 2020, Fannie Mae is consolidating and updating the multifamily information for pandemic relief due to COVID-19 (the Event) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) including the

- initial forbearance delegation,
- forbearance extension delegation,
- late fees,
- delinquency advances, and
- electronic signatures.

These updates include:

- updating the required forms for
  - an initial forbearance or a forbearance extension, and
  - the optional form of Borrower Forbearance Agreement Certification;
- extending forbearance relief for multifamily Borrowers experiencing a financial hardship due, directly or indirectly, to COVID-19;
- republishing the Fannie Mae Notice of Accommodations form required by Oregon HB 4204 for Mortgage Loans secured by an Oregon Property with 5 or more units; and
- superseding 4 previous forbearance-related publications.

Updated Forbearance Forms

You must immediately cease using the

- Forbearance Agreement Form and Forbearance Extension Form provided in Supplement 20-11, or
- Forbearance Agreement Certification provided in Notification 20-11.

Instead, use the revised attached:

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- Exhibit A, required for an initial forbearance;
- Exhibit B, required for any forbearance extension; and
- Exhibit C, optional for the Borrower's Forbearance Agreement Certification required per the forbearance agreement.

The revised forbearance agreement and forbearance extension forms include updated tenant protection provisions during the Borrower's forbearance and repayment periods, including:

- requiring the Borrower to notify tenants with the following information:
  - statement that the Mortgage Loan is in forbearance;
  - dates of the Forbearance Period;
  - information about any applicable residential tenant protections, including suspension of evictions;
  - effective dates of the tenant protections, including the period during which evictions are suspended; and
  - the Property manager's contact information;
- allowing tenants to repay missed rent over a reasonable time determined by the Borrower in its sole discretion;
- requiring the Borrower to provide notices to vacate to tenants before repossessing a unit; and
- prohibiting the Borrower from charging late fees on missed rent payments.

Initial Forbearance Delegation

If a Borrower requests forbearance related to the Event for any Mortgage Loan that was current as of February 1, 2020, you should immediately consider executing a pre-negotiation letter with the Borrower and Fannie Mae (if participating in the discussions) using either the

- simplified form of pre-negotiation letter (Exhibit D), or
- form of pre-negotiation letter per the Guide.

If you determine a forbearance is necessary, you are delegated the authority to execute a forbearance agreement for an initial forbearance period of up to 3 monthly payments beginning with the first missed monthly payment occurring after February 1, 2020. You may grant a forbearance for any one or more monthly payments, provided:

- the total initial forbearance granted does not exceed 3 monthly payments; and
- for any initial forbearance of less than 3 months, the Borrower requests an extension at least 15 days before the expiration of the then current forbearance term.

If any initial forbearance term exceeds 30 days, the Borrower must acknowledge it has

requested extension of the forbearance period allowed under the CARES Act.

This delegation is effective until the earlier of

- December 31, 2020, or
- termination of the national emergency related to the Event.

Under this delegation, you may not charge the Borrower a fee for granting the forbearance or any extension.

A pre-negotiation letter is not required before exercising your forbearance delegation, however, a pre-negotiation letter must be executed before you engage in on-going Borrower discussions. Fannie Mae has negotiated a flat fee of $750, to be paid by you or the Borrower, with the Reed Smith law firm for preparing both the forbearance agreement and pre-negotiation letter. Using Reed Smith is not mandatory, but is provided as a convenience to you and the Borrower. If you choose to engage the Reed Smith law firm,

- please contact Keith Aurzada at 469-680-4211 or kaurzada@reedsmith.com, and
- see attached Exhibit E Reed Smith's ouRSite Security Fact Sheet for its web portal.

The initial forbearance agreement must:

- Require the Borrower to bring the Mortgage Loan current by the earlier of the date:
  - that is the multiple of 4 months for each month of total forbearance (e.g., 2 months of forbearance equals 8 months of repayment, 3 months of forbearance equals 12 months of repayment, etc.); or
  - the Borrower receives (or you receive on the Borrower's behalf) Business Income insurance proceeds (or any other assistance or relief program proceeds), per the forbearance agreement.
- Include the required tenant protection provisions for
  - tenant notices,
  - rent repayment,
  - notices to vacate, and
  - late fees for missed rent payments.
- Require the Borrower to suspend all tenant evictions for nonpayment of rent for any reason for the longer of
  - the months of actual payment forbearance, or
  - as otherwise required by applicable law.
- Require the Borrower to remit all Net Operating Income (NOI) to you after paying operating expenses.

- Be documented on the required forbearance agreement form (Exhibit A) without modification and executed by an authorized representative of the Borrower and you.

Forbearance Extension Delegation

You should immediately consider extending the initial forbearance if:

- the Borrower continues to experience financial hardship due directly or indirectly to COVID-19;
- a Borrower has received all 3 months of the available initial delegated forbearance relief related to the Event of any Mortgage Loan that was current as of February 1, 2020; and
- you determined that the Borrower will be unable to begin repaying the amounts owed after the initial Forbearance Expiration Date.

You are delegated the authority to execute a forbearance extension agreement for up to 3 additional monthly payments beginning with the first monthly payment after the initial Forbearance Expiration Date if:

- a pre-negotiation letter was executed between you and the Borrower covering on-going Borrower discussions;
- you documented the Borrower's continued financial hardship; and
- you confirmed the Borrower has complied with the terms and conditions of the forbearance agreement, including, without limitation,
  - submitting monthly reporting,
  - remitting any required NOI,
  - suspending evictions, and
  - performing any required repairs.

The maximum relief any Borrower may receive under the initial delegated forbearance program plus this extended delegated forbearance relief is 6 months of missed payments.

You are delegated the authority to:

- extend forbearance for any 1 or more monthly payments immediately following the initial Forbearance Expiration Date; and
- provide additional extensions so long as the total forbearance extension does not exceed the 3 monthly payments immediately following the initial Forbearance Expiration Date.

Under this delegation, you may not charge the Borrower a fee for the extension.

The extension agreement must:

- Require the Borrower to bring the Mortgage Loan current by the earlier of the date



- that is the multiple of 4 months for each month of total forbearance (e.g., 4 months of forbearance equals 16 months of repayment, 5 months of forbearance equals 20 months of repayment, etc.), and
- the Borrower receives (or you receive on the Borrower's behalf) Business Income insurance proceeds (or any other assistance or relief program proceeds), per the forbearance agreement.

- Extend the existing terms and conditions within the initial forbearance agreement, including, but not limited to the
  - eviction suspension,
  - monthly reporting, and
  - remitting of NOI for each month of forbearance during both the initial and extended forbearance periods.
- Include the required tenant protection provisions for
  - tenant notices,
  - rent repayment,
  - notices to vacate, and
  - late fees for missed rent payments.
- Be documented on the required extension agreement form (Exhibit B) without modification and executed by you and the Borrower's authorized representative.

Borrower Certification

Borrowers must certify compliance with the requirements of the Forbearance Agreement and/or any forbearance extension to you in writing, including the moratorium on tenant evictions and providing the required notice to tenants. You may use Exhibit C Forbearance Agreement Certification with a Borrower to evidence its compliance with the Forbearance Agreement.

Actions During Forbearance Period

During any initial or extended forbearance period, you must:

- certify you
  - acted as a prudent commercial real estate lender,
  - conducted sufficient due diligence to document the Borrower's hardship, and
  - reviewed the necessary information and documents to determine the relief granted to the Borrower is necessary;

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- obtain Fannie Mae's approval of any changes to the forbearance agreement form, including the extension form;
- submit a copy of the executed forbearance agreement in the Multifamily Asset Management Portal (MAMP); and
- retain a copy in your Servicing File, including any forbearance extension documentation.

After granting a forbearance during the Event, you must:

- make all required Delinquency Advances and Servicing Advances per the Guide for a Mortgage Loan granted a forbearance; your Delinquency Advances do not advance the Mortgage Loan's last paid installment date;
- apply reasonable judgment and comply with the Guide and this Supplement;
- determine if any further action or relief is necessary and feasible; and
- determine whether to recommend continuing forbearance until all relevant information is obtained and analyzed.

Neither the forbearance agreement, nor any forbearance extension agreement, may extend or modify the Maturity Date of the Mortgage Loan unless expressly agreed to by Fannie Mae and documented by an Amendment to the Loan Documents signed by all parties. For any Mortgage Loan with a Maturity Date within the repayment period, all amounts outstanding under the forbearance or extension will be due and payable on the stated Maturity Date.

During the forbearance period, Fannie Mae:

- is waiving the late charges to which we are entitled, and encourages you to provide relief from the late charges that may be retained by you per , unless otherwise provided in your Lender Contract;
- will refrain from taking any adverse action against the Borrower to give you and the Borrower time to determine the status of the Property and its operations (including the status and amount of any insurance claims); and
- must approve in writing
  - any initial forbearance period of greater than 3 months, or
  - any forbearance extension exceeding 3 months after the initial forbearance period.

No Delegation

You are not delegated the authority to enter into an initial forbearance for a

- Bond Credit Enhancement Mortgage Loan,
- Mortgage Loan secured by a Property located in Oregon, or
- Non-Performing Mortgage Loan transferred to Fannie Mae's Special Asset Management for a

non-Event related default.

You are not delegated the authority to extend any forbearance beyond the initial 3 month period for

- the above Mortgage Loans,
- any Mortgage Loan with an Unpaid Principal Balance (UPB) of $50 million or more, or
- a Seniors Housing Mortgage Loan.

Electronic Signatures

The forbearance agreement or extension may be electronically signed, if:

- Each signature is attached to, or logically associated with, the forbearance agreement or extension, with a visual symbol evidencing the signer's electronic signature.
- All electronic signatures, electronic signature systems, and software must comply with, and be enforceable under, the Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA), as adopted by the state where the signature is applied.
- You retain and deliver to Fannie Mae, for each electronic signature, an audit trail evidencing how the transaction was conducted and all other relevant data under the circumstances.

You are solely responsible for all costs and expenses associated with using electronic signatures and electronic notarization, and agree to indemnify and hold Fannie Mae harmless against any loss, damage, judgment, cost or expense that we may sustain from your use of electronic signatures or electronic notarization, including, without limitation, reasonable attorneys' fees and costs incurred by or on our behalf.

Oregon Properties

For Mortgage Loans secured by Properties located in Oregon, you must send the Fannie Mae Notice of Accommodations in the form of Exhibit F, as required by Oregon HB 4204 known as the Oregon COVID-19 Borrower Relief Act (Oregon Act). The Oregon Act requires Servicers to:

- make certain relief available to Borrowers during Oregon's COVID-19 Emergency Period (March 8, 2020 through September 20, 2020, as may be extended by law); and
- provide written notice to each Borrower of their rights to accommodations under the Act.

For any Mortgage Loan secured by a Property in Oregon, you must:

- Obtain Fannie Mae's approval for all forbearances.
- Deliver the Notice of Accommodations mandated by the Act to the Borrower:

- per the Mortgage Loan document notice provisions;
- using the form of Notice of Accommodations attached as Exhibit F; and
- as soon as possible, but no later than August 29, 2020.

- By August 31, 2020, send the Maturity Management Group at maturity_management_group@fanniemae.com, a:
  - list of all Mortgage Loans subject to the notice requirement, and
  - copy of each notice sent to a Borrower.
- Retain a copy of each notice sent in your servicing file.

Superseded Communications

This Supplement supersedes

- Supplement 20-05: Updated COVID-19 Forbearance Delegation Incorporating CARES Act and Asset Management Site Inspections,
- Supplement 20-11: COVID-19 Delegated Forbearance Extension,
- Supplement 20-12: Oregon COVID-19 Borrower Relief Act Notice of Accommodations, and
- Notification 20-11: Forbearance Agreement Certification.

Questions

Please contact maturity_management_group@fanniemae.com with any questions.

Additional Resources

Please reference the COVID-19 response website for:

- Fannie Mae at https://www.fanniemae.com/portal/covid-19.html; and
- Fannie Mae Multifamily at https://www.fanniemae.com/heretohelp/multifamily/.

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