

Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, D.C. 20552



September 14, 2018

## **Statement on Supervisory Practices Regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency**

The Bureau of Consumer Financial Protection (Bureau) recognizes the serious impact major disasters or emergencies have on consumers and the operations of many supervised entities.<sup>1</sup> Existing laws and regulations provide supervised entities regulatory flexibility to take certain actions that can benefit consumers in communities under stress and hasten recovery. The Bureau will also consider the impact of major disasters or emergencies on supervised entities themselves when conducting supervisory activities.

### **A. Specific Regulatory Guidance**

Supervised entities can 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

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<sup>1</sup> 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.

earlier.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

However, Regulation X permits servicers to offer certain short-term options based upon an evaluation of an incomplete application.<sup>5</sup> 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.<sup>6</sup>

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.

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<sup>2</sup> 12 CFR 1002.14(a)(1).

<sup>3</sup> 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.

<sup>4</sup> 12 CFR 1024.41(c)(2)(i).

<sup>5</sup> 12 CFR 1024.41(c)(2)(iii).

<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>
- **Review periods before consummation.** With certain exceptions, creditors must generally deliver or place in the mail disclosures associated with the TILA/RESPA integrated mortgage disclosure rule (TRID) a certain number of days before consummation: no later than the seventh business day before consummation for a loan estimate<sup>9</sup> and no later than three business days before consummation for a closing disclosure.<sup>10</sup> 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.<sup>11</sup>

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

### **B. 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 or emergency and will be sensitive to good-faith efforts to assist consumers.

For more information, please contact [CFPB\\_Supervision@cfpb.gov](mailto:CFPB_Supervision@cfpb.gov).

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<sup>7</sup> 15 USC 1635; 12 CFR 1026.15, 1026.23.

<sup>8</sup> 15 USC 1635(d); 12 CFR 1026.15(e), 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.

<sup>9</sup> 12 CFR 1026.19(e)(1)(iii)(A)–(B).

<sup>10</sup> 12 CFR 1026.19(f)(1)(ii)(A).

<sup>11</sup> 12 CFR 1026.19(e)(1)(v), (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.

### **C. 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 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 3501–3521.

Resources for consumers facing major disasters or emergencies are available on the Bureau's website at <https://www.consumerfinance.gov/consumer-tools/disasters-and-emergencies/>.