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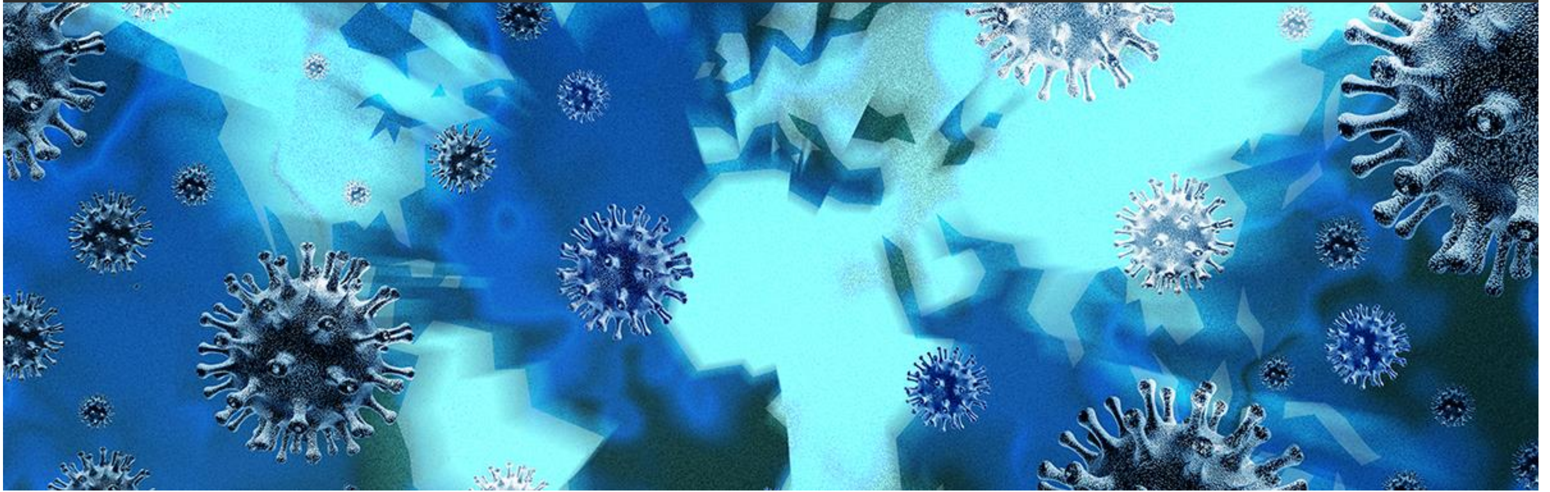
Alert | Health Emergency Preparedness Task Force: Coronavirus Disease 2019



March 2020

Bank Regulators Issue Joint Statements and Guidance in Response to Coronavirus Pandemic

In response to the global spread of the Coronavirus Disease 2019 (COVID-19), federal and state banking regulators have begun advising banks on how to respond to the economic impact of COVID-19. Within the past few weeks, regulators have issued a number of joint statements and additional guidance as part of their efforts to respond to the pandemic. We have included a brief summary of these recent developments below.

On March 19, 2020, the Federal Deposit Insurance Corporation issued a Financial Institution Letter addressing questions that financial institutions and consumers may have about the potential impact of COVID-19. The Financial Institution Letter includes two sets of frequently asked questions (FAQs), one for financial institutions and one for consumers . These FAQs address a variety of issues that may arise for financial institutions such as questions related to providing payment accommodations, reporting delinquent loans, maintaining documentation, handling trouble debt restructurings, reporting nonaccrual assets in regulatory reports, and operational issues. The FDIC will continue to add to the list of FAQs as additional issues arise.

On the same day, the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (the Agencies) issued an Interim Final Rule to establish the Money Market Mutual Fund Liquidity Facility (the MMLF), pursuant to section

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13(3) of the Federal Reserve Act. (12 U.S.C. § 343(3)). Under the MMLF, the Federal Reserve Bank of Boston will extend nonrecourse loans to eligible financial institutions to purchase assets from money market mutual funds. The Agencies' Interim Rule is in response to the increasing liquidity pressure on money market mutual funds resulting from the spread of COVID-19. To address concerns that participating in the MMLF could potentially subject banks to increased capital requirements under the Agencies' capital rule, the interim final rule will permit banking organizations to exclude nonrecourse exposures acquired as part of the MMLF from a banking organization's total leverage exposure, average total consolidated assets, advanced approaches-total risk-weighted assets, and standardized total risk-weighted assets, as applicable.

The Agencies also issued a Joint Statement encouraging financial institutions to work with customers and communities affected by COVID-19, particularly those that are low- and moderate-income. The Joint Statement provides that, pursuant to the Community Reinvestment Act (CRA), the Agencies will favorably consider retail banking services and retail lending activities in a financial institution's assessment areas that are responsive to the needs of low- and moderate-income individuals, small businesses, and small farms affected by COVID-19 and that are consistent with safe and sound banking practices. The Joint Statement also clarifies that financial institutions will receive CRA consideration for qualifying activities that help to revitalize or stabilize low- or moderate-income geographies as well as distressed or underserved nonmetropolitan middle-income geographies and that support community services targeted to low- or moderate-income individuals.

On March 17, 2020, the Agencies issued a Joint Statement encouraging banks to use their capital and liquidity buffers as they respond to the challenges presented by the effects of the coronavirus. The Agencies noted that "[s]ince the global financial crisis of 2007-2008, U.S. banking organizations have built up substantial levels of capital and liquidity in excess of regulatory minimums and buffers." These capital and liquidity buffers were intended to provide banks with the means to support the economy in adverse situations and allow banks to continue to serve households and businesses.

While the Agencies indicated their support of banks that choose to use their capital and liquidity buffers to lend and undertake other supportive actions in a safe and sound manner, the Agencies also expressed their expectation that banks continue to manage their capital actions and liquidity risk prudently.

In the same announcement, the Agencies also issued an Interim Final rule revising the definition of "eligible retained income" for all depository institutions, bank holding companies, and savings and loan holding companies subject to the agencies' capital rule (Banking Organizations). The term was defined to mean the greater of: (1) a Banking Organization's net income for the four preceding calendar quarters, net of any distributions and associated tax effects not already reflected in net income, and (2) average of a Banking Organization's net income over the preceding four quarters. By modifying the definition of "eligible retained income," the Agencies believe that Banking Organizations will be able to more freely use their capital buffers, which may help to promote lending activity and other financial intermediation activities and avoid compounding negative impacts on the financial markets.

On March 16, 2020, the Agencies released a Joint Statement encouraging banks to use the Federal Reserve's "discount window" so that they can continue supporting households and businesses. The discount window provides short-term loans to banks and plays an important role in supporting the liquidity and stability of the banking system. By providing ready access to funding, the discount window helps depository institutions manage their liquidity risks efficiently and avoid actions that have negative consequences for their customers such as withdrawing credit during times of market stress.

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On March 9, 2020, federal financial institution regulators and state regulators (collectively, the Federal and State Agencies) issued a Joint Statement encouraging financial institutions to meet the financial needs of customers and members affected by the coronavirus. Recognizing the potential impact of the coronavirus on customers, members and the operations of financial institutions, the Federal and State Agencies committed to providing appropriate regulatory assistance to affected institutions subject to their supervision.

The Federal and State Agencies acknowledged that many financial institutions may be facing current staffing and other challenges. In light of these challenges, the Federal and State Agencies committed to working with affected financial institutions in scheduling examinations or inspections to minimize disruption and burden. In cases where there are operational challenges, the Federal and State Agencies will expedite, as appropriate, any request to provide more convenient availability of services in affected communities.

The Federal and State Agencies also encouraged financial institutions to work constructively with borrowers and other customers in affected communities. "Prudent efforts that are consistent with safe and sound lending practices should not be subject to examiner criticism."

The Federal and State Agencies joint statement followed guidance issued by the Federal Financial Institutions Examination Council (the FFIEC) on March 6, 2020, reminding financial institutions of the actions that they should take to minimize the potential adverse effects of a pandemic (the FFIEC Guidance). The FFIEC Guidance is an update to guidance that was previously issued in 2006 and 2007 and is intended to reiterate the importance of ensuring that business continuity plans address the threat of a pandemic outbreak and its potential impact on the delivery of critical financial services.

As the COVID-19 pandemic continues to unfold and its economic impact is felt, we may see the issuance of additional guidance and coordinated regulatory relief efforts from bank regulators.

For more information and updates on the developing COVID-19 situation, visit GT's Health Emergency Preparedness Task Force: Coronavirus Disease 2019.

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