CORONAVIRUS REGULATORY GUIDANCE

I. BANKS CLOSING BRANCHES DUE TO CORONAVIRUS

The Office of the Comptroller of the Currency (OCC) has issued guidance for banks that may need to temporarily close or otherwise restrict access to a facility due to staffing issues or other precautionary measures related to the Coronavirus pandemic. The agency has directed institutions to notify their supervisory office and their customers about the closure and to communicate the availability of alternative service options “as soon as practical.”

The OCC also encouraged banks to work constructively with borrowers and others affected by the virus in their communities. The agency emphasized that “prudent efforts to modify the terms on existing loans for affected customers should not be subject to examiner criticism.” Such efforts could include extending repayment terms, restructuring existing loans or easing terms for new loans.

The Federal Deposit Insurance Corporation (FDIC) also issued its own statement encouraging banks to work with customers in accordance with safe and sound banking practices. The agency said it would work with state regulatory agencies to expedite requests to open temporary facilities for banks that may be facing operational challenges. “In most cases, a telephone notice to the FDIC or state authority will suffice to start the approval process, with the necessary written notification being submitted shortly thereafter.”

II. WORKING WITH CUSTOMERS AFFECTED BY CORONAVIRUS

The OCC recognizes the potential for the Coronavirus Disease 2019 (COVID-19) to adversely affect the customers and operations of banks. The OCC encourages banks to take steps to meet the financial services needs of customers adversely affected by COVID-19-related issues. The OCC will provide appropriate regulatory systems, as warranted, to banks affected by COVID-19-related issues.

A. Banks Working With Customers

The OCC encourages banks to work with affected customers and communities. The OCC recognizes that such efforts in the long–term interests of communities and the financial system when conducted with appropriate management oversight and are consistent with safe and sound banking practices and applicable laws, including consumer protection laws. These efforts may include:
• waiving certain fees, such as:
  o automated teller machine (ATM) fees for customers and non–customers;
  o overdraft fees;
  o late payment fees on credit cards and other loans; and
  o early withdrawal penalties on time deposits.
• increasing ATM daily cash withdrawal limits.
• easing restrictions on cashing out–of–state and non–customer checks.
• increasing credit card limits for credit worthy borrowers.
• offering payment accommodations, such as allowing borrowers to defer or skip
  some payments or extending the payment due date, which would avoid
delinquencies and negative credit bureau reporting caused by COVID-19-related
disruptions.

The OCC emphasizes that prudent efforts to modify the terms on existing loans for
affected customers should not be subject to examiner criticism. For example, when
appropriate, a bank may restructure a borrower’s debt obligations due to temporary
hardships resulting from COVID-19-related issues. Such cooperative efforts can
accommodate temporary medical conditions or the inability of affected borrowers to
access their normal payment methods, ease cash flow pressures on affected borrowers,
improve their capacity to service debt, and facilitate the bank’s ability to collect on its
loans.

Modifications of existing loans should be evaluated individually to determine whether
they represent troubled debt restructurings. This evaluation should be based on the facts
and circumstances of each borrower and the terms of the loan modification. This
evaluation requires judgment, as not all modifications will result in a troubled debt
restructuring.

Banks may ease terms for new loans to affected borrowers, consistent with prudent
banking practices. Such practices may help borrowers to recover or maintain their
financial capacity and enhance their ability to service their debt.

The OCC recognizes there may be other accommodations for customers and communities
while responding to COVID-19-related issues. The OCC supports and generally will not
criticize efforts to accommodate customers in a safe and sound manner. The OCC
encourages banks to work with their supervisory office with respect to accommodations
that may more effectively manage or mitigate adverse impacts due to COVID-19.

B. Agencies Providing Regulatory Relief

1. Financial Condition Review, Supervisory Response, and Regulatory Relief

The OCC appreciates that some banks with customers affected by COVID-19-
related issues may experience an increase in their levels of delinquent and
nonperforming loans. Consistent with long–standing practices, the OCC will
consider the unusual circumstances these banks face when reviewing a bank's
financial condition and determining any supervisory response. As needed, the
OCC will work with affected banks to reduce burden when scheduling examinations or inspections, including making greater use of off–site reviews, consistent with applicable legal and regulatory requirements.

2. Regulatory Reporting Requirements

Banks affected by COVID-19-related issues that expect to encounter difficulty meeting regulatory reporting requirements, including audited financial statements and related reports, as applicable, are encouraged to contact their OCC supervisory office to discuss their situation. The OCC will work with banks that may experience problems fulfilling their reporting responsibilities, taking into account each bank’s particular circumstances.

3. Alternative Service Options For Customers

The OCC understands that banks may need to temporarily close or otherwise reduce access to a facility because of staffing challenges or to take precautionary measures. The OCC encourages banks to reduce disruptions to their customers, provide alternative service options when practical, and reopen affected facilities when it is safe to do so. Affected banks are encouraged to notify their OCC supervisory office and their customers of temporary closure of a bank’s facilities and the availability of any alternative service options as soon as practical.

The foregoing Compliance Update is for informational purposes only and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.