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June 17, 2020

Guidance to New York State-Regulated Financial Institutions Regarding Support for New York Consumers Impacted by the Novel Coronavirus (COVID-19)

To: The Chief Executive Officers or the Equivalents of New York State-Regulated Financial Institutions

On March 11, 2020, the World Health Organization declared the spread of the novel coronavirus COVID-19 a pandemic, and both New York State and the U.S. Federal Government have declared states of emergency. Since the beginning of the outbreak, COVID-19 has caused significant financial hardship on consumers and businesses, with millions of people losing their jobs and regular source of income. As a result, a significant number of otherwise creditworthy consumers could become unable to honor their credit obligations, in part or in full, until social distancing restrictions are lifted and economic activity returns to more normal levels.

In response to this crisis, the Department has asked the financial services industry to take several reasonable and prudent steps to protect New York consumers' physical and financial health and well-being, and to ensure that New York consumers are not unfairly penalized for events beyond their control. This guidance is available on the Department's website at <https://www.dfs.ny.gov/industry/coronavirus>.

As New York consumers navigate these uncertain times, many with significantly diminished incomes, the Department urges all regulated financial institutions to alleviate the hardship caused by COVID-19 by taking the following reasonable and prudent actions to support consumers:

- Ensure compliance with Section 623(a)(1)(F) (enacted as part of the federal Coronavirus Aid, Relief, and Economic Security (“CARES”) Act), which requires that when a furnisher reaches an “accommodation” (as defined therein) with respect to one or more payments on a credit obligation or account of a consumer, and the consumer makes the payments or is not required to make one or more payments pursuant to the accommodation, the furnisher report the credit obligation or account as “current,” unless such credit obligation or account was delinquent before the accommodation, or has been charged off by the furnisher;
- In the case of consumer credit information relating to student loans, ensure compliance with Section 3513 of the CARES Act, which suspends all payments due for loans made under part D and part B (that are held by the Department of Education) of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.; 1071 et seq.) through September 30, 2020, and requires that any payment that has been suspended is treated, for the purpose of consumer credit reporting, as if it were a regularly scheduled payment made by a borrower;
- Report credit obligations of consumers who have missed or are delinquent in making payments under a credit obligation after January 31, 2020 as the result of COVID-19, but for whom no accommodation has been reached that would requiring reporting as current under Section 4021 of the CARES Act, as forbore, deferred, affected by a natural or declared disaster, or otherwise report that the payment(s) are not due, consistent with the furnisher’s treatment of such account;
- Review credit obligations that such financial institutions have reported as delinquent following January 31, 2020 that had been reported as current prior to January 31, 2020, to verify that the reporting of such credit obligation (both retrospectively and prospectively) complies with the CARES Act, and if the credit obligation is not required to be reported as “current” pursuant to the CARES Act, report the credit obligation as forbore, deferred, affected by a natural or declared disaster, or otherwise report that the payment(s) are not due, consistent with the furnisher’s treatment of such account; and
- If a consumer disputes the accuracy of any consumer credit information provided to a credit reporting agency, promptly conduct a reasonable investigation to determine whether the disputed information is inaccurate, and if such information is inaccurate, promptly correct the disputed information.

The Department believes that reasonable and prudent efforts by lenders to recognize the unique challenges facing consumer borrowers under these unusual and extreme circumstances are consistent with safe and sound industry practices as well as in the public interest.

Sincerely,

Linda A. Lacewell
Superintendent

Who We Supervise
Institutions That We Supervise

The Department of Financial Services supervises many different types of institutions. Supervision by DFS may entail chartering, licensing, registration requirements, examination, and more.

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