



March 20, 2020

**Latest Update: Information On Additional Mortgage Lending Related Matters, Albany Updates, FinCEN/BSA Reporting & SBA Information**

**I. Update On Mortgage Relates Challenges**

There are a number of challenging issues related to mortgage lending in the current coronavirus environment. New York State is trying to get around some of this (e.g. executive order to allow e-signatures and e-notary). IBANYS has consulted with various sources. Here is a list that the Federal Home Loan Bank of New York (FHLBNY) has identified and provided.

- Appraisers not being able to enter homes to do appraisals
- Unable to obtain verbal VOEs
- Recording offices are being closed
- Documents needed notarization
- Assignments and endorsements
- Many title companies can't record electronically they will NOT close the loan at all.
- Meeting CFPB timing requirements for loss mitigation reviews if requests become excessive
- Credit reporting for affected borrowers/loans
- Determining what makes someone eligible for loss mitigation (do they need to be directly affects/loss of job/income? What if they now have to feed their children who used to get 2-3 free meals at school?)
- There has been no update on this yet, but there is speculation that if courts close, foreclosure proceedings won't be initiated within timelines, or foreclosure sales won't be happening in non-judicial states. **Latest From Albany:**

**II. Latest Updates From New York State**

**Governor Cuomo today issued a sweeping edict that:**

- Compels New Yorkers to stay indoors as much as possible. Nonessential gatherings of any size for any reason are banned.
- Orders all nonessential businesses to keep their workers home. (Businesses considered nonessential must keep all of their workers at home.)
- Lists essential businesses that can stay open, which include: grocers and restaurants, health care providers, pharmacies, gas stations, convenience stores, **banks**, hardware stores, laundromats and cleaners, child-care providers, auto repair shops, utility companies, warehouses and distributors, delivery services, plumbers and other skilled contractors, animal-care providers, transportation providers, construction companies and many kinds of manufacturers.



According to the most recent data from the New York City and State, as of Friday afternoon the number of confirmed coronavirus cases in New York State stood at 7,845— an increase of more than 2,000 from yesterday (Thursday). There were 5,151 confirmed cases in New York City.

- The State Legislature is officially on standby and expects to return to Albany on Monday or Tuesday – but everything is officially “TBD”
- New York State Budget Director Robert Mujica said yesterday the state is now facing at least a \$7 billion shortfall, and needs federal aid. State Comptroller Thomas DiNapoli had initially said the gap would likely be between \$4 billion and \$7 billion for the state’s new fiscal year beginning April 1. Mujica said his newest estimate takes into consideration the stock market, closed businesses and other major sources of tax revenue because of the coronavirus .

### **III. Update On FinCEN Regarding BSA Reports**

FinCEN recently issued the guidance below, under which it appears there may be some relief if banks are delayed in filing BSA reports (CTRs, etc.) as a result of COVID. The guidance does not explicitly allow for delays; however, indicates that FIs affected by COVID should contact FinCEN if there are such delays. **IBANYS has consulted with ICBA, and they have informed us they will be advocating specifically for delays in reporting.**

#### **(From FinCEN):**

On March 13, 2020, President Trump declared a National Emergency in response to COVID-19. FinCEN requests financial institutions affected by the COVID-19 pandemic to contact FinCEN and their functional regulator as soon as practicable if a COVID-19-affected financial institution has concern about any potential delays in its ability to file required Bank Secrecy Act (BSA) reports. Financial institutions seeking to contact FinCEN should call FinCEN’s Regulatory Support Section (RSS) at 1-800-949-2732 and select option 6 or e-mail at [FRC@fincen.gov](mailto:FRC@fincen.gov).

FinCEN’s RSS will continue to be available to support financial institutions for the duration of the COVID-19 pandemic. Financial institutions are encouraged to keep FinCEN and their functional regulators informed as their circumstances change. FinCEN also advises financial institutions to remain alert about malicious or fraudulent transactions similar to those that occur in the wake of natural disasters. FinCEN is monitoring public reports and BSA reports of potential illicit behavior connected to COVID-19 and notes the following emerging trends:

1. **Imposter Scams** – Bad actors attempt to solicit donations, steal personal information, or distribute malware by impersonating government agencies (e.g., Centers for Disease Control and Prevention), international organizations (e.g., World Health Organization (WHO)<sup>[2]</sup>), or healthcare organizations.



2. Investment Scams – The U.S. Securities and Exchange Commission (SEC) urged investors to be wary of COVID-19-related investment scams, such as promotions that falsely claim that the products or services of publicly traded companies can prevent, detect, or cure coronavirus.[3]
3. Product Scams – The U.S. Federal Trade Commission (FTC) and U.S. Food and Drug Administration (FDA) have issued public statements and warning letters to companies selling unapproved or misbranded products that make false health claims pertaining to COVID-19.[4] Additionally, FinCEN has received reports regarding fraudulent marketing of COVID-19-related supplies, such as certain facemasks.
4. Insider Trading – FinCEN has received reports regarding suspected COVID-19-related insider trading.

In addition, please see FinCEN’s advisory, FIN-2017-A007 “Advisory to Financial Institutions Regarding Disaster-Related Fraud” (October 31, 2017) for descriptions of other relevant typologies, such as benefits fraud, charities fraud, and cyber-related fraud.[5] For suspected suspicious transactions linked to COVID-19, along with checking the appropriate suspicious activity report-template (SAR-template) box(es) for certain typologies, FinCEN also encourages financial institutions to enter “COVID19” in Field 2 of the SAR-template.

Financial institutions are encouraged to review information from other relevant functional regulators as updates are available. FinCEN will continue to monitor this situation and will release updated information for financial institutions as appropriate.

#### **IV. Information From Empire State Development On Small Business Administration (SBA) Disaster Assistance Loan Program**

This afternoon, IBANYS heard back from Rafael Salaberrios at Empire State Development ([Rafael.Salaberrios@esd.ny.gov](mailto:Rafael.Salaberrios@esd.ny.gov)), and we received the following update we wanted to share with you regarding the Small Business Administration's Disaster Assistance Loan Program. (**Please note** we have attached information from them for your review.)

*"Good afternoon to the banking community. NYS is trying to get the word out to small businesses state wide that the **SBA Disaster Assistance Loan program** is up and ready. **NYS has submitted the needed disaster declaration and it was approved by the SBA.** We are looking for assistance from the banking community to help get the word out and to also offer Technical Assistance to your local small business owner who may need the help in completing and submitting the SBA Disaster Assistance application. NYS businesses should take advantage of the SBA program to cover working capital needs to pay their bills and pay their employees until the COVID-19 crises is brought under control. Please don't hesitate to reach out to me with any questions you may have. Thank you all for your assistance."*

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As always, thanks for your participation and support. We will continue to keep you informed on a regular basis as more information becomes available.



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