

## REGULATORY UPDATE

### Collection Practices During the COVID-19 Pandemic Health Emergency

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This is the third Pinnacle Regulatory Update since the beginning of the COVID-19 Pandemic.

In our first two Regulatory updates concerning the Pandemic, we focused on multiple issues identified by multiple factions, including the economic impact the pandemic was expected to have on the consumer, the expected income loss to the economy and financial institutions, and the regulatory recommendations for the FI to balance the two, including various forbearance approaches. While the Cares Act focused on protecting consumers with forbearance and foreclosure restrictions on mortgages and other Federal loan programs, there was little protection mandated for the consumer with installment debt or unsecured debt, including small consumer loans and overdrafts.

Regulatory guidance encouraged the waiver of fees but gave little in the way of lifting any safety and soundness expectations when it came to recognizing charge offs. Pinnacle's earlier guidance included options and recommendations for retaining the customer deposit relationship while remaining in conformance with the guidance and regulations and keeping the customer's credit history from being adversely affected. Each FI had to assess how they were going to respond to the pandemic, weighing credit risk, reputational risk, capital capacity and legal risk.

While Federal law has been absent in providing consumer protections for unsecured debt and overdrafts, we are now finding many states and localities have passed or are passing health emergency Covid-19 forbearance laws that may affect smaller consumer debt including secured installment loans, unsecured debt, and overdraft debt. This legislation is passed as either a stand-alone act or amendment to an existing law, or it may be a temporary amendment, and they generally restrict or change the prevailing standard collections process, legal proceedings, and normal legal recourse for collection efforts of banks and credit unions, as well as third party debt collection agencies.

The provisions vary from state to state, but the temporary restrictions may include those placed upon a creditor or debt collector with respect to any debt to:

- Initiate, file, or threaten to file any new collection lawsuit.
- Initiate, threaten to initiate, or act upon any statutory remedy for the garnishment, seizure, attachment, or withholding of wages, earnings, property, or funds for the payment of a debt to a creditor.

We note these provisions are very different from state to state, may extend beyond the termination of the emergency, and many include both unsecured and secured consumer debt including unsecured overdrafts and secured auto. We encourage every FI to consult their legal counsel for a state specific review and guidance concerning any prohibited collection efforts found for any state where you may have customers in residence and under the protection of that state. We are also reminding our Pinnacle clients to specifically include your overdraft collection letters as a part of your review.

As always, if you have any questions or concerns please contact your Client Services Manager or email us at [clientcare@pinnstrat.com](mailto:clientcare@pinnstrat.com) for additional information.