

Fast Facts: NY DFS Regulations Issued March 24, 2020, pursuant to Executive Order 202.9

<p>Who is subject to the Regulations (newly added as 3 NYCRR Part 119) (Regs)?</p>	<p>A regulated institution, defined as:</p> <ul style="list-style-type: none"> • any New York-regulated banking organization as defined in New York Banking Law; and • any New York-regulated mortgage servicer entity subject to the authority of the DFS. <p>Other entities, such as national banks, nonbank lenders, and broker-dealers are not subject to the Regulations.</p>
<p>Under what authority were the Regs issued?</p>	<p>Executive Order 202.9 included a directive to the DFS to promulgate regulations to provide two specified forms of relief to individuals and the Regs are issued pursuant to that directive.</p>
<p>Who do the Regs protect?</p>	<p>Individuals who can demonstrate financial hardship from COVID-19. (Financial hardship is not defined in the Regulations).</p>
<p>Do the Regs apply to all loans made by a Regulated institution?</p>	<ul style="list-style-type: none"> • No. The Regs relate only to certain residential mortgages on property in New York state. • The Regs expressly do not apply to mortgages “made, insured or securitized” by any US agency, instrumentality, or GSE or Federal Home Loan Bank. Thus loans backed by Ginnie Mae, Freddie Mac, or Fannie Mae are excluded from the Regs. • The Regs expressly do not apply to rights and obligations of any lender, issuer, servicer or trustee of such obligations, including servicers for Ginnie Mae. • The Regs expressly do not apply to “commercial mortgages or any other loans not described herein.” <i>Note, however, that commercial mortgages and the bar on foreclosure of commercial mortgages remain subject to EO 202.8.</i>
<p>What is the Regulated institution required to do?</p>	<p>In addition to servicing requirements in Part 419, the regulated institutions are required to:</p> <p>(i) make applications for forbearance of “any payment due” on a residential mortgage property in NY state “widely available to any individual who resides in New York and who demonstrates “financial hardship as a result of the COVID-19 pandemic” and</p> <p>(ii) subject to safety and soundness requirements of the institution, grant such forbearance for a period of 90 days to such individual. See Section 119.3(a).</p> <p>Separately, under Section 119.3(b), regulated banking organizations “will provide” financial relief to individuals who can demonstrate financial hardship from COVID-19, subject to safety and soundness concerns:</p> <ul style="list-style-type: none"> • Eliminating ATM fees on the institution’s ATMs (owned or operated by it) • Eliminating any overdraft fees; and • Eliminating any credit card late payment fees.

	Regulated institutions are not limited to these forms of relief and are encouraged to take additional reasonable and prudent actions to assist individuals demonstrating financial hardship.
What is the duration of these Regs?	As issued the Regs apply to the duration of Executive Order 202.9, which is currently effective through April 20, 2020, "which may be extended"
Are there deadlines in the Regs?	<p>Yes.</p> <ul style="list-style-type: none"> • Under Section 119.3(c), "as soon as reasonably practicable, and in no event not later than ten (10) Business days [from March 24, 2020], all regulated institutions shall e-mail, publish on their website, mass mail, or otherwise similarly broadly communicate to customers how to apply for COVID-19 relief and provide their contact information." • Under Section 119.3(e)(1), the regulated institution shall process and respond to requests for COVID-19 relief immediately, and in no event not later than 10 Business days after it receives all information it reasonably requires • Regulated institutions shall also develop procedures for expedited processing of applications for individuals with exigent circumstances. • Regulated institutions need to maintain documents relating to applications for relief for seven years.