

COVID-19 Prompts Guidance for Consumer Finance Companies

Given the outbreak of COVID-19, state regulatory agencies have been very active in providing guidance regarding consumer finance companies. With the fast pace of newly implemented guidance, it is important to stay up to date on both what the guidance is and how to comply with such guidance. The following summarizes key developments in state guidance related to the coronavirus outbreak.

Remote Work

For consumer finance companies, activities requiring licensure generally cannot be performed outside of a licensed location. As a result, under ordinary circumstances, employees cannot perform certain services remotely unless the remote location is itself licensed. Many state agencies have eased these restrictions to make working remotely possible for employees. States that have issued guidance about transitioning to a work-from-home scenario have generally allowed remote working for either (a) an indefinite period of time; (b) such period of time that there is a declared emergency; or (c) until a set end date. It is important to note that, although remote work may be allowed without a license for the location, states have provided requirements that the licensee must follow. Some common requirements include:

- Providing notice to the relevant state agency;
- Prohibiting in-person activity with consumers in the home;
- Creating temporary policies, procedures and plans for supervision of employees working remotely;
- Safeguarding company and consumer data; and
- Maintaining compliance with data security laws and regulations.

When maintaining compliance with data security laws and regulations, there are certain best practices that a business should take. Finance companies allowing employees to work offsite should:

- Implement password and identification authentication measures and at-rest encryption;

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- Maintain updates, requirements and patches to keep information and devices secure;
- Use due diligence to safeguard company data information, customer data information and records to protect against unauthorized use, modification, duplication, destruction and disclosure of such data;
- Prohibit paper records from leaving the work site;
- Use a VPN or similar technology; and
- Prohibit employees from using public networks, such as those at coffee shops.

Essential Business

Consumer finance companies based in states where “Safer at Home,” “Shelter in Place,” or similar orders have been issued, should review the orders to determine if they may continue operations at their office location as an essential business. Orders to date have included some category of licensed financial services, consumer finance companies or financial institutions as essential. Consumer finance companies should consult with counsel to determine whether their business is essential.

Working with the Consumer and Limitations on Consumer Finance Companies

In addition to issuing to authorizing remote work, state agencies are issuing guidance encouraging license holders to work with consumers through these trying times. Specifically, state agencies are encouraging finance companies to work with consumers regarding deferrals, late fees and similar penalties and charges. In related areas, such as debt collection and mortgage lending, some state agencies have stricter prohibitions, including limiting debt collection activities and prohibiting mortgage licensees from foreclosing on homes.

We are continuing to monitor state guidance that is issued related to consumer finance companies, and we will provide further alerts as necessary. It is important that you continue to monitor newly issued guidance and ensure that your business is complying with all legal requirements.

If you have any questions about any state guidance or regulations or whether such guidance or regulation applies to your business, contact [Kristi French](#), [Daniel Daubert](#) or your Reinhart attorney.



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