Forbearance FAQ

Definitions

Forbearance reduces the borrower's monthly mortgage payment—or suspends it completely—during the forbearance period. Forbearance does not eliminate the amount owed; any missed or reduced payments will have to be repaid in the future.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides a mortgage payment forbearance option for all borrowers who, either directly or indirectly, suffer a financial hardship due to the COVID-19 national emergency.

Reinstatement occurs when the borrower has paid all missed payments and any associated fees or other expenses in a lump sum payment in order to return the mortgage loan to a current status under the terms of the original Note.

Other Loss Mitigation Items refer to additional solutions available when the borrower is unable to reinstate their loan. These include, but are not limited to, a repayment plan, payment deferral, and modification.

Agency Guidance

The following Agencies have issued direction for how to consider a forbearance in credit qualifying.

Fannie Mae	Lender Letter 2020-03
Freddie Mac	Bulletin 2020-23 Bulletin 2020-17 Bulletin 2020-12
FHA	Mortgagee Letter 2020-30
USDA/RD	COVID-19 FAQ
VA	Circular 26-20-25

Frequently Asked Questions

Q1: On a conventional loan, can I get a credit supplement (in lieu of a payment ledger) to satisfy the requirement for updated mortgage history to verify the current status of the mortgage?

A: Yes. If the credit reporting agency contacts the servicer to confirm the payment history, a credit supplement is sufficient to verify the current status of a mortgage. All credit supplements must contain details who they spoke to when obtaining the updated information. We must be able to confirm that the credit reporting agency called and obtained the information from the servicer. Supplements that do not contain these details are not acceptable.

At a minimum, the last 3 months of payments under one of the loss mitigation options must be verified as being made as agreed in order to be eligible for refinance after a loss mitigation solution was pursued. The below documentation is also recommended:

- Satisfactory letter of explanation from the borrower addressing why the issue occurred and how they will proceed in the future
- Forbearance / loss mitigation documentation
- Source of funds used to bring the loan current

Q2: Borrower took forbearance, and 3 payments need to be made to reinstate. Can they include those payments in the proceeds of refinance?

A: Neither Fannie nor Freddie permit proceeds from a refinance to be used to reinstate.

FHA also allows suspended mortgage payments resulting from a payment forbearance to be included in the new refinance mortgage amount, providing the forbearance plan is terminated at or prior to closing.

RD does not permit suspended mortgage payments to be included in the proceeds of a refinance. RD loans require a 3 month post-forbearance seasoning period on all transaction types, but the required total amount of satisfactory payments differs by transaction type.

VA allows past due payments deferred under a CARES Act forbearance to be paid with the proceeds of a cash out refinance, and included in the loan amount of an IRRRL.

Q3: Borrower took forbearance, and 3 payments need to be made to reinstate. Does the borrower have to pay those 3 payments and be reinstated prior to closing, or can they pay them at closing on the CD with their own funds (not included in the proceeds of the refinance)?

A: Neither Fannie nor Freddie would permit this. Their requirement is that the loan "has been" reinstated, not that it is being reinstated simultaneously. Reinstatement must occur PTC.

FHA would permit the borrower to pay the missed payments with their own funds, or include them in the new refinance mortgage amount. In either case, the forbearance plan must be terminated at or prior to closing.

RD does not allow this. A 3 month post-forbearance seasoning period is required on all transaction types, but the required total amount of satisfactory payments differs by transaction type.

VA would allow the veteran to pay the necessary amount to reinstate with his/her own funds on the CD at closing.

Q4: Borrower took forbearance and did not reinstate, and the 4 payments are now listed on the payoff as a 2nd lien. Can we complete the refinance?

A: For Conventional loans, if the second lien on the payoff statement can be verified and documented as being the result of a loss mitigation solution, then the borrower must have made three complete, consecutive, and timely payments before becoming eligible for a refinance. Once borrower is eligible for a new transaction, standard eligibility requirements apply, including the criteria for a rate/term refinance vs cash out (non-purchase money second lien).

For FHA purchases, no cash out refinances, and cash out refinances, a mortgage that has been modified must meet the guidance as described in the 4000.1 (not new direction per ML 2020-30). However, for all streamline transactions, where the FHA-insured mortgage has been modified after forbearance, the borrower must have made at least six payments under the modification.

For RD financing, any post-forbearance loss mitigation option must follow the direction as stated in Attachment 18-A of the 3555.

VA guidance does not state that a borrower must make a certain number of payments under a loss mitigation option before becoming eligible for a refinance; however, borrowers must provide a reason for the deficiency, and information to establish that the cause of the delinquency has been remediated. If the borrower wants to refinance with an IRRRL, the payments deferred under a CARES Act forbearance may be included in the loan amount, but the loan must credit/income qualify, and additional requirements as detailed in Circular 26-20-25 apply.

Q5: Borrower took forbearance due to concerns regarding what could potentially happen with COVID. He never lost his job or wages. He did not reinstate, and the 4 payments show on the payoff and mortgage statement as still due. Since he had no extenuating circumstances, is it okay to refinance?

A: On a Conventional loan, regardless of the reason for the forbearance, borrower must either reinstate prior to closing, or pursue a loss mitigation option. If the latter is selected, then the borrower must have made three complete, consecutive, and timely payments before becoming eligible for a refinance. Once borrower is eligible for a new transaction, standard eligibility requirements apply, including the criteria for a rate/term refinance vs cash out (non-purchase money second lien).

FHA permits refinancing for borrowers with a previous mortgage forbearance, but requires the file to be downgraded to a Refer and manually underwritten unless:

- Purchase or No Cash Out Refi:
  - Borrower has made at least 3 consecutive payments since forbearance
- Cash Out Refinance:
  - Borrower has made at least 12 consecutive payments after forbearance
- Credit Qualifying Streamlines
  - Borrower has made payment in month due for six months prior to forbearance, **and**
  - Has had no more than one 30-day late in previous 6 months

RD financing does not allow a refinance until post-forbearance seasoning periods are met. RD loans require a 3 month post-forbearance seasoning period on all transaction types, but the required total amount of satisfactory payments differs by transaction type.

VA guidance does not state that a borrower must make a certain number of payments under a loss mitigation option before becoming eligible for a refinance; however, borrowers must provide a reason for the deficiency, and information to establish that the cause of the delinquency has been remediated. If the borrower wants to refinance with an IRRRL, the payments deferred under a CARES Act forbearance may be included in the loan amount, but the loan must credit/income qualify, and additional requirements as detailed in Circular 26-20-25 apply.

Q6: For purposes of determining eligibility, is a borrower considered current if they have been making partial payments during forbearance?

A: No. To be considered current, the borrower must have made all mortgage payments due in the month prior to the note date of the new transaction by no later than the last business day of that month.

Q7: What eligible sources of funds may be used to reinstate a mortgage loan with missed payments?

A: For all loan types, when a lump sum payment was made to reinstate a mortgage loan on or after the loan application date for the new transaction, the source of funds must be documented in accordance with eligible sources of funds in the guidelines. Any source of funds eligible for down payment and closing costs may be used for reinstatement, provided it is documented in accordance with existing requirements. Note that if the lump sum payment was made prior to the loan application date for the new transaction, no sourcing of funds is required.

Q8: What if a borrower completes a non-retention loss mitigation solution such as a deed-in-lieu of foreclosure or short sale?

A: In these cases, the borrower must continue to meet the requirements for derogatory credit events, waiting periods, and reestablishing credit.

Q9: If a borrower's existing mortgage loan is in forbearance, but is current, does the borrower need to exit forbearance to be eligible for a new purchase or refinance transaction?

A: No. If the borrower is current on all mortgage loans, there is no requirement to exit forbearance prior to obtaining a new loan.

Q10: If a borrower sells their home prior to making the three required mortgage payments post-forbearance, are they eligible for a new purchase loan?

A: For Conventional and VA loans, yes, providing the loan had not gone into a loss mitigation plan. If, for example, they had a 3 month payment deferral, and all deferred payments became due on the fourth month, it would need to be documented that it was fully satisfied by that fourth month.

FHA is requiring lenders to manually underwrite new loans for all borrowers (including those who have paid off their existing mortgages) "if the borrower has made less than 3 consecutive monthly housing payments post-forbearance".

However, for RD loans, since the borrower is going straight from forbearance to purchasing a new home, they would not be eligible. They need to establish a history (3 months) of making payments before purchasing a new home.

Q11: If the borrower has entered a repayment plan or other loss mitigation solution, must the required number of timely payments be consecutive?

A: For Conventional, FHA, and RD loans, yes.

On Conventional loans, regardless of the loss mitigation solution, the borrower must make three consecutive payments to be eligible for the new transaction. If a borrower misses one or more of the three required payments, the loan is not eligible, and the borrower should contact their mortgage loan servicer to discuss an appropriate loss mitigation solution.

On FHA loans, the borrower must make 3 consecutive payments for a purchase or rate/term refinance, and 12 consecutive payments for a cash out refinance, or the loan must be downgraded to a Refer and manually underwritten.

RD loans require a 3 month post-forbearance seasoning period on all transaction types, but the required total amount of satisfactory payments differs by transaction type.

VA guidance does not state that a borrower must make a certain number of payments under a loss mitigation option before becoming eligible for a refinance; however, borrowers must provide a reason for the deficiency, and information to establish that the cause of the delinquency has been remediated. If the borrower wants to refinance with an IRRRL, the payments deferred under a CARES Act forbearance may be included in the loan amount, but the loan must credit/income qualify, and additional requirements as detailed in Circular 26-20-25 apply.

Q12: Can I still rely on an Approve/Eligible recommendation in DU?

A: Yes, for all loan types that use DU.

For Conventional loans, all the additional due diligence requirements to determine if all mortgage loans are current and that any missed payments have been resolved must be complied with. These additional eligibility requirements are currently not automated in DU and must be manually applied.

Q13: If the borrower is on a repayment plan on another mortgage loan, does the higher payment amount need to be used in qualifying?

A: Yes. If the borrower is on a repayment plan temporarily requiring higher payments to repay missed amounts, the PITIA under the terms of the repayment plan must be used in qualifying. For Conventional and FHA loans, the borrower must have made 3 payments under the repayment plan agreement to be eligible for a new purchase or refinance transaction.

Documentation Requirements

	Forbearance	Loss Mitigation
Conventional	• Forbearance paperwork • Source of funds used to resolve the missed payments (must be documented in accordance with eligible sources of funds in the applicable GSE's guidelines)	• Loss mitigation paperwork • Evidence of the last three consecutive, timely payments under the applicable loss mitigation solution (repayment plan, payment deferral, or modification). For a loss mitigation solution other than one of those three, evidence of successful completion of the program or three consecutive full payments is required.
FHA	• Forbearance paperwork • Evidence of the payment amount and date of payments during the agreement term **a forbearance plan is not required if the forbearance was due to the impacts of the COVID-19 National Emergency*	• Modification paperwork • Evidence of the payment amount and date of payments during the agreement term
Rural Development	• Forbearance paperwork • Evidence of an acceptable payment history post-forbearance (both number of payments made since forbearance and number of satisfactory payments)	(all requirements as described in Attachment 18-A of the 3555 – no special guidance provided)
VA	• Forbearance paperwork • Borrower explanation regarding reason for the deficiency • Information to establish that the cause of the delinquency has been corrected	• Loss mitigation paperwork • Borrower explanation regarding reason for the deficiency • Information to establish that the cause of the delinquency has been corrected