

# COVID-19 UPDATE



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## Need Relief? A CMBS Borrower's Quick Guide for Communicating with Your Servicer in Cases of Need

*What borrowers should know about potentially requesting forbearance and relief for commercial real estate mortgages owned by a CMBS trust*

CREFC's dialog with constituents within the CMBS community have indicated that the following are best practices when submitting requests for relief due to circumstances brought about by COVID-19 impacts. First, required loan payments should continue to be made to the extent possible. Second, requests for relief must be reasonable and fit the circumstances of the property, loan structure, and borrower, as well as meet the credit requirements of the lender ("servicer") and the terms of the Pooling and Servicing Agreement for the specific CMBS trust.

### **Useful Tips for Borrowers to Remember if Submitting a Request for Relief:**

#### **1. Be Transparent**

- a. Communicate directly with your servicer as expeditiously as possible according to the directions provided in the servicer's communication, web portal, billing statements, payment advice, and/or other communications.
- b. Provide written communication regarding your situation and hardship. This should include:
  - i. The nature of your request and the relief alternatives you would like to be considered;
  - ii. A candid description of property operations;
  - iii. Current financial statements (borrower financials and property operating statements) and anticipated changes in financial position;
  - iv. The most recent rent roll and any anticipated changes in tenancy;
  - v. Physical property status and condition;
  - vi. A description of what steps you will take during the forbearance to protect and maintain the property – in particular if you or any tenants are ceasing operations, and
  - vii. Any other documentation that specifically supports your request

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## **2. Highlight Your Operational Capability**

- a. Outline factors that evidence competence in:
  - i. Property operations;
  - ii. Management; and
  - iii. Relationship management with your franchise (for hotels), tenant representatives, and other key entities related to the operation of your business.
- b. Outline a plan to maintain payment of taxes, insurance and ground rent if not escrowed;
- c. Demonstrate ownership's commitment to the property.

## **3. Disclose Significant Issues (with Available Documented Support)**

Include:

- a. Employment and retention status for property employees;
- b. Property contracts and leases;
- c. Franchise (hotel flag) agreements, plans to maintain the flag and directives;
- d. Tenant operating status and requests for rent relief; and
- e. Notices of intent by tenants to forego rental payment.

## **4. Offer a Detailed Plan Demonstrating Your Understanding of the Situation and Thoughtful Intent for Future Operations of the Property**

Include:

- a. The future direction of the property operations, both near and longer term; and
- b. Your plan to resolve the issues identified if the request is granted, including plans for repayment of any forbearance.

These general guidelines are offered for informational purposes only, and are of course, not binding on any of the parties to the loan documents in any manner whatsoever. Additionally, you are encouraged to review your loan documents for more specific information concerning your loan, as well as consulting your counsel as may be necessary.