

Borrowers in Moldova Impacted By Coronavirus. Are you ready?

Financial Needs of Customers Affected By Coronavirus



Moldovan state banking regulators issued only statements instructing financial institutions how to work with clients impacted by COVID-19/coronavirus and avoid contamination but nothing about: **how to get ready for potential events of default?**

Several industries in the country are experiencing **disruption that may affect their ability to comply with loan covenants and even affect their ability to make timely loan payments.**

The message regulators must send that banks should not strictly enforce loan obligations if a borrower is impacted by coronavirus.

Moreover, how banks do this, while still following safe and sound banking practices, is left to individual banks to determine.

Among the questions you need to ask yourself are:

- How do you **establish that a borrower is financially impacted** by coronavirus?
- What are **reasonable conditions to place on a borrower claiming such impact** in exchange for your institution forbearing on its rights?
- What actions are **consistent with safe lending practices, while at the same time address the expectations of the regulators?**

Main Considerations to Avoid Disruption

Although banks are expected to work with their distressed borrowers, they must still follow safe lending practices.

Unlike other economic disruptions, **borrowers may assert novel defences in loan, such as the "justifying impediment" and *force majeure* clauses that could unnecessarily complicate a loan.**



Consider implementing the following steps now as appropriate to address the expectations of regulators and potentially minimize any negative impacts arising from coronavirus:

- **Review Policies & Procedures, Develop New Ones.** *Develop new written policies and procedures designed to identify and address issues with troubled loans at every stage of the lending process. This may include new criteria for board/management committee involvement, credit portfolio review, preparation/qualifications for loan workout counsel and professionals, and internal management of troubled credits.*
- **Review Your Loan Files & Documents.** *In addition to normal course credit monitoring, review and update the bank's loan files, including loan documents, collateral searches, recorded mortgages, to stay ahead of any unexpected loan workout. You also should have legal counsel review "boilerplate" force majeure and similar clauses to ensure that you can enforce your loan documents.*
- **Prepare Exit Strategies.** *Look ahead to consider potential exit strategies, whether rehabilitating a credit or exiting it. Exit strategies include a note sale, liquidation, litigation, and restructuring.*

How Can We Help You?

We can review loan files to ensure they contain necessary and proper documentation, that your collateral is secured and properly perfected, and an appropriate legal strategy is in place before the situation further deteriorates. We can also address defences that borrowers may raise in light of coronavirus, including reliance on *force majeure* clauses.

Our legal advice and regulatory know-how can help ensure your bank vigilantly and prudently addresses its troubled loan assets in light of current events. We can help your bank develop strategies for addressing all of these issues before and during your next examination.

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