BULLETIN April 2020

COVID-19 IMPACTS ON LENDERS

The following is our understanding at the time of writing. The situation is subject to quick changes. Specific practices will vary between lenders. You should contact a lender to discuss any specific issues.

Mortgages are based on lending criteria and agreements/contracts, which vary across lenders and circumstances. The below answers may be different than applicable to a specific lender and specific circumstances being considered in a specific deal. A mortgage broker can best assist clients by being informed as to the policies and documentation of lenders with which they do business. It is unavoidable that a mortgage broker will have to do homework to learn of specific changes COVID-19 has caused those lenders to make.

Payment Deferrals

What is a payment deferral?

- a deferral is an agreement entered into between the borrower and the lender where the lender forgives what would otherwise be a default under the mortgage
    - but for the agreement, the lender would be entitled to act on the default, including the right to take foreclosure action
        - sometimes called a forbearance agreement
- a deferred payment agreement is where the lender permits the borrower to not make payments required under the mortgage
    - limited to either specified payment or for a specified time

How do lenders decide whether to grant a deferral request?

- different lenders have different policies
    - CMHC, taking COVID-19 into account, is allowing lender to defer payments for insured mortgages.
    - the big six banks each are allowing deferral, more information can be found at:
        - www.bmo.com/main/personal/bmo-branches-coronavirus-update
        - www.cibc.com/en/personal-banking/advice-centre/covid-19.html
        - www.nbc.ca/personal/notice.html
        - www.scotiabank.com/ca/en/personal/scotia-support/latest-updates.html
        - www.rbc.com/covid-19

    - www.td.com/ca/en/personal-banking/covid-19
  - where the mortgage is not an insured mortgage, the borrower will have to contact the lender to explore whether the lender is agreeable to deferring payments.
- a borrower is not entitled to have payments deferred, the agreement of the lender is required
  - most lenders want to work with the borrower to have the mortgage payment and mortgage payout process go smoothly
  - many lenders make deferral decisions on a case-by-case basis, considering:
    - the particular needs and circumstances of the borrower are considered (such as the need to skip required payments for a period of time) and
    - the increased risk to the lender (such as there being enough equity in the security property for the increased debt)
  - many lenders have online applications for deferral
    - generally, minimal information is required
    - the initial deferral is often for 3 months, after which it can be reassessed for a further 3-month deferral
- the details of the deferral are important
  - a deferral is not payment forgiveness, the missed payment is added to the outstanding balance, and until paid itself bears interest under the mortgage
    - a borrower should have the lender confirm in writing any rights the borrower has to pay the deferred payment at a later date, so as to stop it from continuing to attract interest
- rather than a deferral, consider whether it would be better to ask the lender to agree to:
  - a longer amortization period so as to reduce the amount of the required monthly payments
  - having the missed payments being added to the balance outstanding under the mortgage, rather than being repaid before the entire balance is paid
  - reduce the amount of the payments required under the mortgage, temporarily

    ***Each of these options generates more interest being paid by the borrower over the life of the debt, by having the debt remain outstanding longer or making the debt larger and so attracting more interest. The borrower needs to decide whether the short-term gain is needed and/or warrants the greater financial cost.

Will obtaining a deferral later result in a higher renewal rate?

- most lenders will consider whether the request for deferral is related to COVID-19 when deciding whether to grant the deferral

- if the lender was satisfied that the need for the deferral arose out of COVID-19, then almost certainly they will see it as having been an extraordinary circumstance not impacting long-term creditworthiness or renewal rates

Does deferring mortgage payments also defer the part of the payment that goes toward paying property taxes?

- whether deferring mortgage payments also defers property taxes is a matter of agreement between the borrower and the lender
  - some lenders will defer only the amount of the payment going toward the mortgage debt and will expect the tax component to continue to be paid
  - some lenders will agree to add any amount ultimately paid by the lender toward property taxes to be added to the deferred amount
  - some lenders will agree to defer the property tax component and allow the borrower to pay the shortfall when taxes are due, or have the amount added to the mortgage balance
- a request to defer the tax component of the payment should be made at the same time as the request to defer the mortgage debt payment
- factors such as the borrower's payment history and the amount of equity available to the lender in the security property might be part of the considerations
- to prevent further disputes and issues, the agreement should be in writing

Do deferrals get reported to credit reporting agencies?

- deferrals are not reported to credit bureaus
- a deferral is the parties agreeing to modify/restructure the existing agreement and hence the deferred payments are not defaults under the mortgage
- the borrower should obtain a written copy of the deferral agreement
- some financial institutions have systems setup to automatically report late or missed payments to credit reporting agencies
  - it would be inaccurate if a late or missed payment entry is made on a credit report, notwithstanding a deferral agreement
  - a copy of the written deferral agreement would be helpful in fixing such an error

Does obtaining a deferral prohibit any further mortgages being registered?

- breaching the terms of a deferral agreement could itself amount to a default under the mortgage
- almost every mortgage already contains a clause making the registration of a further a default, although historically it has not been enforced
- the subsequent lender would want to know the details of the deferral

Lending Criteria

Are lenders changing their lending guidelines?

- the guidelines have not changed for most lenders, but some lenders are collecting fuller information before making a lending decision
  - for example, previously a lender may not have been concerned with an applicant's liquid assets or supplementary income, but now these factors could make the difference in whether the loan application is approved
  - some lenders are now wanting to see the income documentation from the outset

What are lenders expecting of mortgage brokers in the COVID-19 market as to "know your client"?

- most brokers do not, same as in the past, meet their clients face-to-face
- important that brokers, lenders, and the lawyer/notary all are satisfied as to the identity of the borrower (including generally by a photo ID and a second piece showing the address)
- lawyers and notaries have been figuring out how to do virtual signings with clients
  - notaries are subject to FINTRAC requirements and lawyers are subject to law society requirements as to confirming identity
  - both are subject to legislation requirements setting out identity requirements when taking signatures on land title documents

What is the impact if the borrower's income has changed due to COVID-19 between mortgage approval and mortgage funding?

- the commitment letter would be significant in determining any right a lender might have to withdraw an approval/commitment
  - institutional lenders do not generally pay mind to the change in income and follow the process that once a mortgage is approved, it remains approved
  - private lenders vary as to their policies, factors such as the following might be considered:
    - the customer's profile and history
    - whether a return-to-work date is provided by the employer
    - equity in the security property available to the lender
  - the person's work income is not used on new applications where the person has been laid off without a return to work date

  - since COVID-19 has caused changed working circumstances, there is greater difficulty getting in touch with employers to obtain verbal confirmation of income. Some lenders are using combinations of other tools:
    - job letter
    - pay stub
    - Notice of Assessment
    - T4
    - getting the client to have the employer call or email the broker/lender

What if the mortgage was approved with the property to be owner-occupied but the seller (or the owner-borrower) cannot evict the tenant?

- there is uncertainty because this is the early days of the 'no eviction' policy
- the risk level is different for tenanted properties and so the interest rate and other terms (such as a registered assignment of rents) might need to be revisited
- mortgage terms require insurance policies to be in place and the insurer will need to know about the tenant
  - this would likely change the costs and terms of the insurance policy
- some lenders are allowing the person to have the property tenanted for some time and deferring the owner-occupied requirement
  - have to wait and see what will be allowed on insured mortgages

Will short-term income assistance resulting from COVID-19 be considered in a loan application?

- mortgage insurers haven't provided guidance

Are business-for-self borrowers treated differently now?

- mortgage insurers have not provided guidance
- the standard has been to take the average of the reported income in the last 2 years, that is average of 2018-2019
  - if the person is expected to, because of COVID-19, have a drop in income, is that lower income to now be considered
- the lending decision seems to be required on a case-by-case basis, assessing the long-term situation. Questions such as the following become important:
  - is the nature of the business such that there will be more or less demand during COVID-19?
  - how long has the business existed and what is its track record?
  - no one knows how long COVID-19 will last, but is the business interruption likely to be a hiccup or a fatal blow to the person's business?

  - is business interruption insurance available?
  - has the person converted/adapted their business to produce income during COVID-19?
- some lenders have always looked more at current income, rather than past income
  - for these lenders, it is important to know whether the business is currently operating and its future outlook
- the loan-to-value of the mortgage would be a significant factor likely
  - where there is a lower loan-to-value there is a greater likelihood the income will be less important (of course, it is uncertain as to what the long-term impact of COVID-19 will be on property values so the future loan-to-value itself might be in doubt)

What impact is appraisals now containing COVID-19 limitation clauses having on lending decisions?

- the appraisal is an opinion as to the value of a property at a specific time
- a lender works with an appraisal as it is provided
- the appraisal is part of the information considered in making a lending decision and you consider it is for what it is

Lending Capital and Mortgage Rates

Is there any concern for lenders about capital market volatility and liquidity and credit tightening?

- federal government has been supportive but no certainty as to what steps they will take to assist lenders in maintaining capital or liquidity
- the government has dedicated more funds to purchase insured mortgages, so as to keep lenders liquid to do further lending
- some lenders are focusing on switches and refinancing, rather than on purchases
  - brokers may want to consider whether they should follow this lead

Why are some lenders increasing rate when the Bank of Canada rate is decreasing?

- the lower Bank of Canada rate puts more capital in the marketplace for lending
- however, COVID-19 creates so many future unknown risks that some lenders/mortgage investors see greater risk and translate the greater perceived risk into higher mortgage rates

What can brokers do in the current market of changing rates to help clients hold a rate or get the benefit of a dropped rate?

- each lender has its own policy as to policy changes after a commitment has been provided
  - a broker should be familiar with the policies of lenders they use
- make the request once through the lender's portal if there is one
  - multiple requests clog the process and can delay the response
- recognize that some underwriters are working from home with lesser equipment and other work conditions

Small Town Mortgages

Is COVID-19 effecting approving mortgages for properties in small communities/towns?

- some lenders have become more conservative in lending on mortgages secured by properties in small communities/towns

Time to Process Applications

Is COVID-19 slowing down the approval process?

- there are a number of issues related to COVID-19 (such as layoffs, property values, getting income verification, and new qualifying language in appraisals) that can take time to resolve
- lenders are sometimes not sure of how the mortgage insurer will address a situation (such as a tenant who will not leave where the property is to have been owner-occupied)
  - lenders need time to review the situation and get an answer from the insurer
- new issues are always arising, as COVID-19 is not something anyone prepared for in advance
- mortgage brokers can help by:
  - providing fulsome information from the outset
  - identifying any out of the ordinary circumstances the lender will need to consider
  - allowing time for the lender and insurer to work through the process.