



News

Expert Analysis: 10 Ways Financial Companies Can Avoid Payment Relief Pitfalls

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Vaishali S. Rao

In a recent *Law360* Expert Analysis byline, Hinshaw partner Vaishali Rao considers parallels between the Great Recession of 2008 and the global economic downturn related to the COVID-19 coronavirus pandemic. In particular, she explores the potential pitfalls for financial services companies in offering payment relief options to customers, while noting that some financial institutions are still paying the price of offering modifications to payment terms nearly 12 years after the Great Recession.

In addition to the mortgage loan industry, institutions in the credit card, student loan, auto finance, retail installment, personal loan, and even debt collection industries, may either be mandated to offer payment relief by state or federal law, or choose to offer it as a customer retention policy.

For many companies, simply having a robust existing compliance program may not suffice to respond to regulatory scrutiny.

Accordingly, Rao considers these 10 top-of-mind issues for regulators in evaluating a financial institution's effectiveness in administering payment relief options:

- Disclosure and Consistency of Options Offered
- Ease of Application Procedures
- Underwriting Abilities
- Statute of Limitations Considerations
- Testing
- Disclosure of Consequences
- Effectiveness of Payment Relief Option
- Bankruptcy Rules
- Cross-Selling
- Record-Keeping

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Attorneys

Vaishali S. Rao

Service Areas

Consumer Financial Services
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Chicago



Rao concludes by noting that with the patchwork of evolving state regulations across the country, coupled with the intricacies of new federal legislation, it can be difficult to prognosticate exactly what will be the focus of government regulators. She adds that outside counsel who are familiar with the issues above, and the perspectives and judgments of consumer regulators, can help financial institutions structure effective payment modification options and avoid many of the regulatory pitfalls from 2008.