



COVID-19 Mortgage Servicing Trends Report

Updated as of 09/28/2021

DISCLAIMER: Bradley is proud to share the following information collected from the live polls presented at its weekly COVID-19 Compliance Roundtables. This report is intended to show industry trends, not facts, and does not necessarily reflect the opinions of Bradley attorneys. Bradley is not responsible for any inaccuracies and this report should not be considered legal advice.

The polling results included in this report are the anonymous responses of Roundtable attendees. The results may be skewed based on the number of responses in relation to the group as a whole or if more than one person from a company responded to the question. The number of respondents varies by poll. Percentages are rounded to the nearest 0.5.

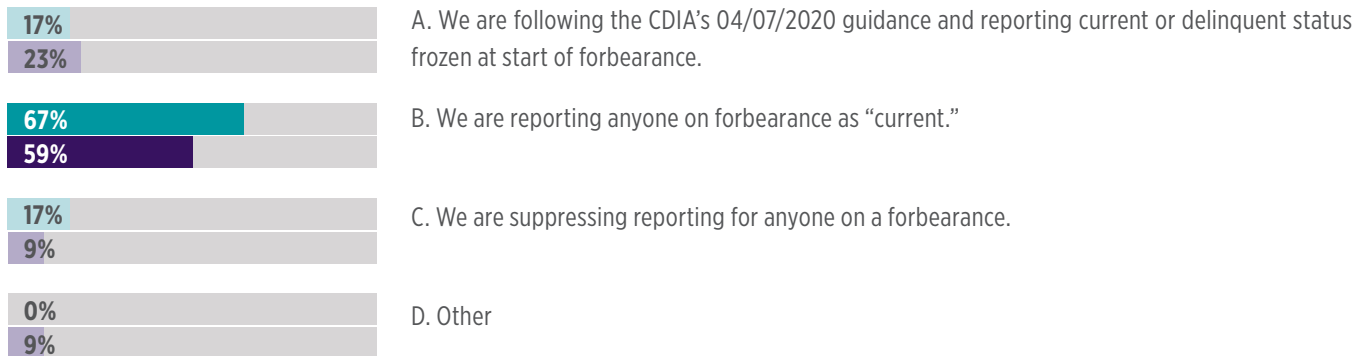
The date of the polls are important to understanding and interpreting them, as the approach to COVID-19 issues changes rapidly, and the industry has been nimble in responding to such changes over the last several months.

For questions related to this report or to seek formal legal advice on any of the topics herein, please contact your Bradley attorney or email COVID-FS@bradley.com.

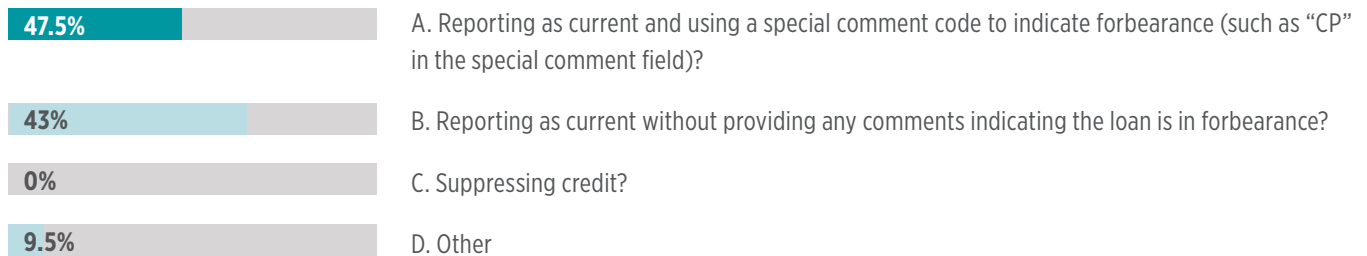
The polling results found in this trends report are sorted by topic, then by date of the poll.

- Credit Reporting 3
- Deferral 5
- Forbearance 10
- Post Forbearance Resolution 19
- Foreclosure 20
- Litigation 25
- Normal Servicing 26
- FHA/HUD Issues 29
- Notary 31
- State Specifics 32
- Return to Work Issues 37
- Juneteenth 39

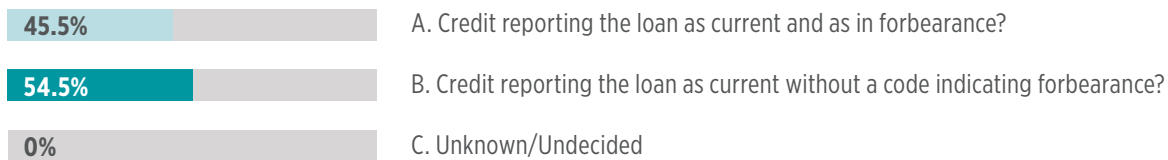
How is your company handling credit reporting forbearances? (Polled on 04/22/2020 & 09/16/2020)



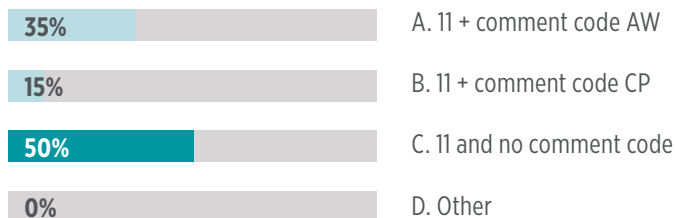
When credit reporting a loan in COVID-19 forbearance that was current when forbearance began, are you: (06/02/2020)



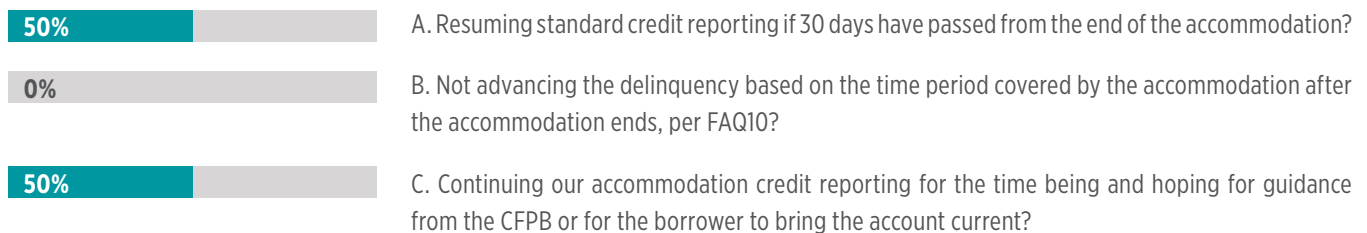
For a borrower who receives a CARES Act forbearance and continues to make the regularly scheduled monthly payments, are you: (06/02/2020)



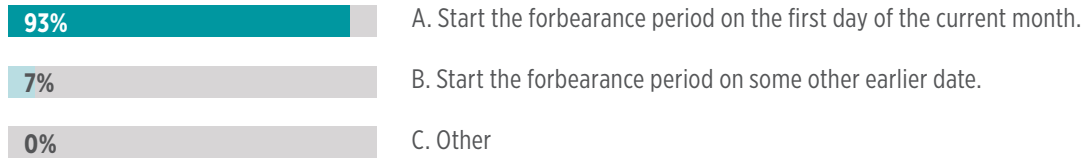
How are you using comment codes for credit reporting during forbearance? (08/19/2020)



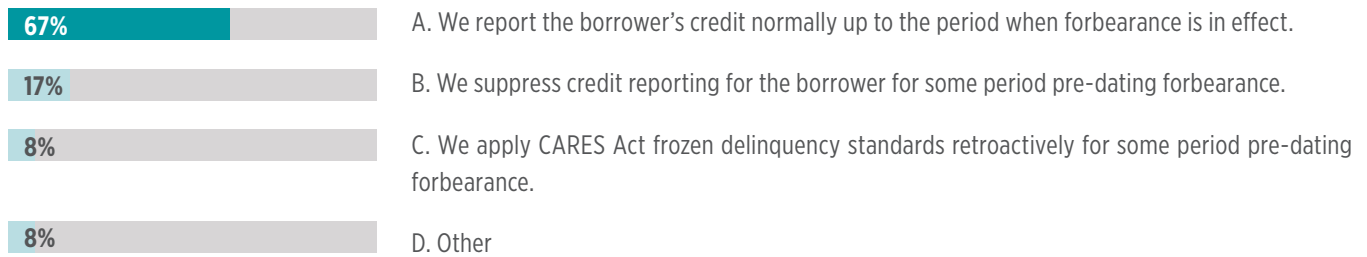
If a borrower obtained a 180-day CARES forbearance but then did not bring their account current (or request another forbearance), are you (11/04/2020):



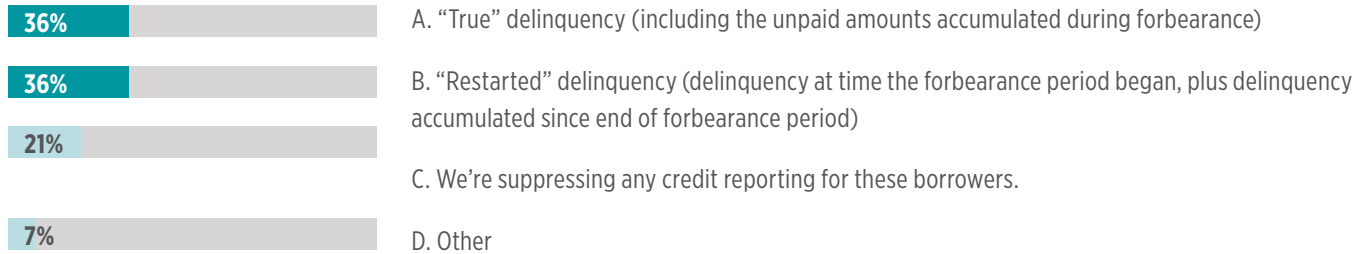
How do you handle accounts where the borrower is already delinquent when he or she contacts you to request forbearance? (04/07/2021)



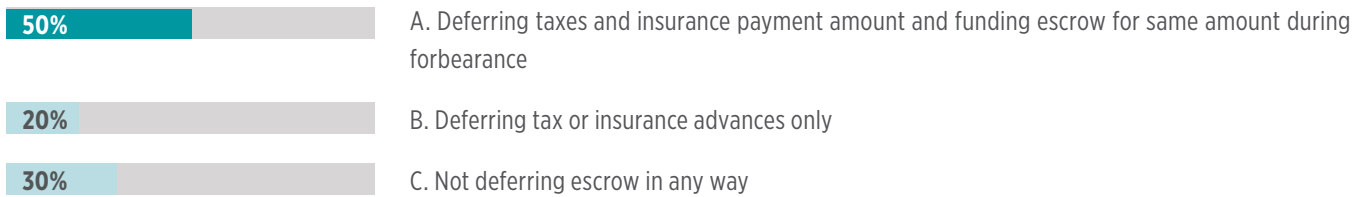
If you do not backdate the start of the forbearance period, how do you report the borrower's credit for the time before forbearance? (04/07/2021)



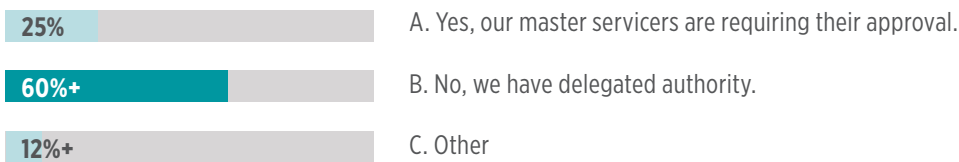
When a borrower CARES Act forbearance period ends without a modification, renewal, or other method for handling the accumulated delinquency, how are you credit reporting the borrower's delinquency status? (02/10/2021)



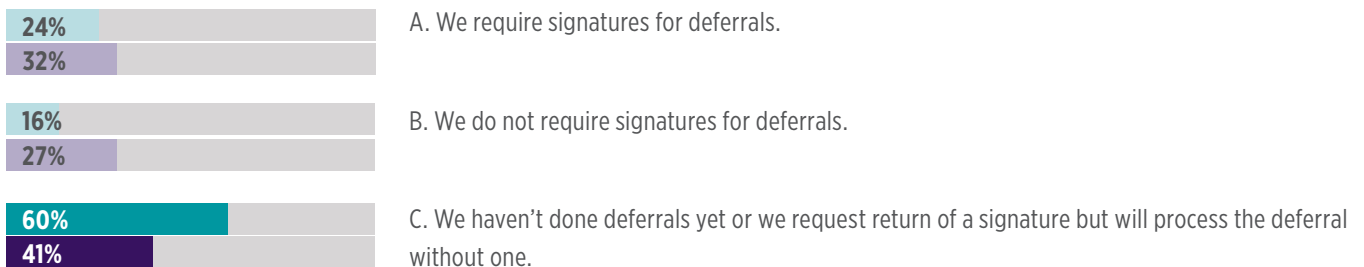
How are you handling escrow issues and deferral? (04/29/2020)



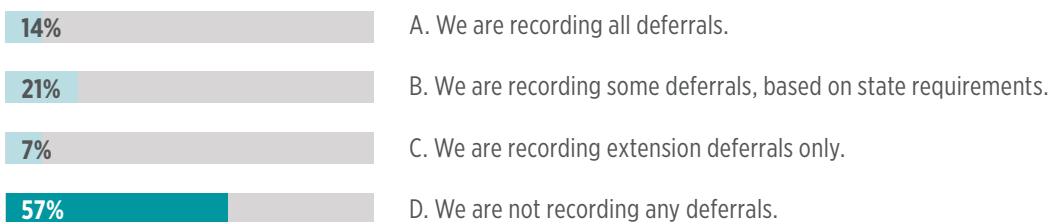
Are your master servicers, or other interested parties, requiring approval of modifications, deferrals, or other servicer programs? (04/29/2020)



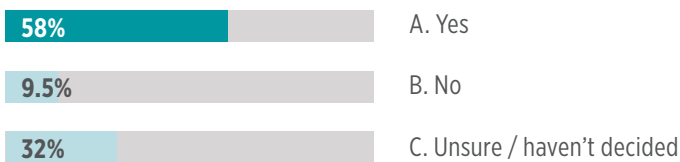
Signatures on deferrals: (Polled on 05/06/2020 & 09/08/2020)



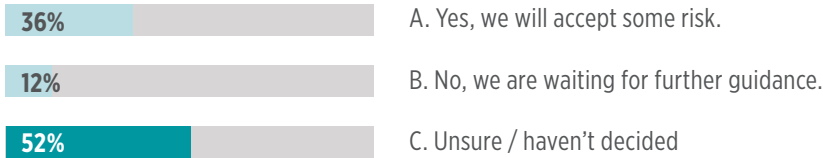
Recording deferrals: (05/13/2020)



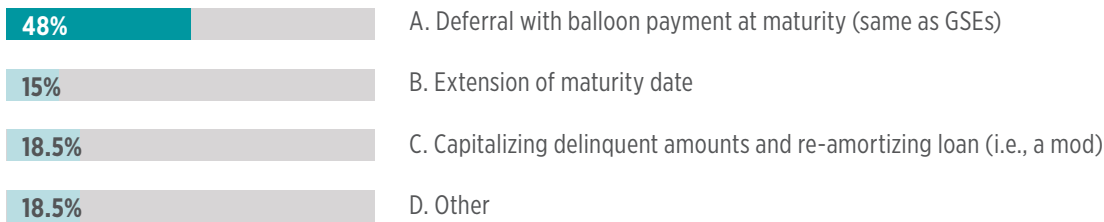
Are you planning on implementing a similar GSE-like deferral program for non-GSE loans? (05/20/2020)



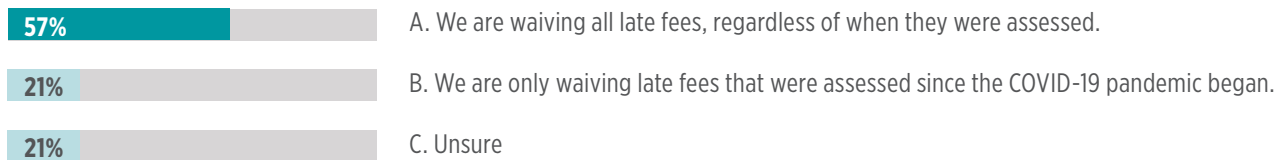
Are you planning on implementing the GSE deferral program by July 1, 2020? (05/20/2020)



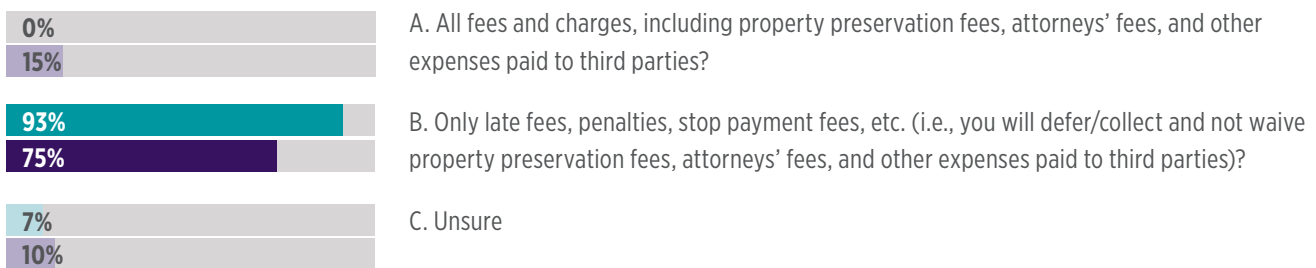
For portfolio loans, what post-forbearance deferral/extension/modification are you envisioning? (06/17/2020)



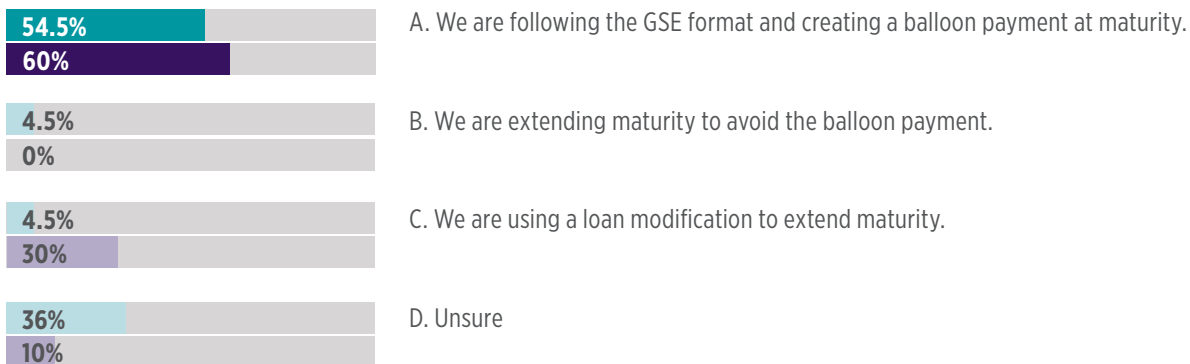
In connection with a payment deferral program issued under the CFPB's Interim Final Rule, how are you handling fees that were outstanding prior to (and are arguably unrelated to) COVID-19? (07/08/2020)



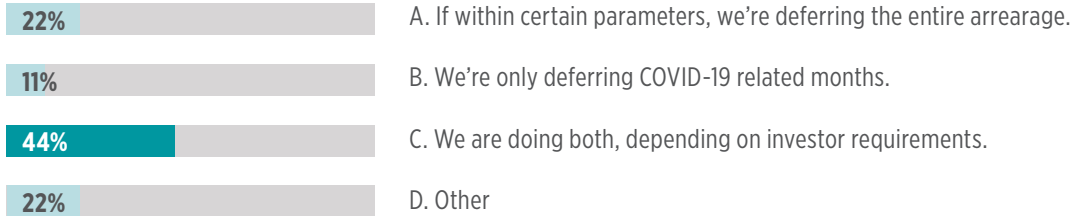
As a part of a deferral offer made pursuant to the CFPB's new Interim Final Rule, are you waiving: (Polled on 07/08/2020 & 09/16/2020)



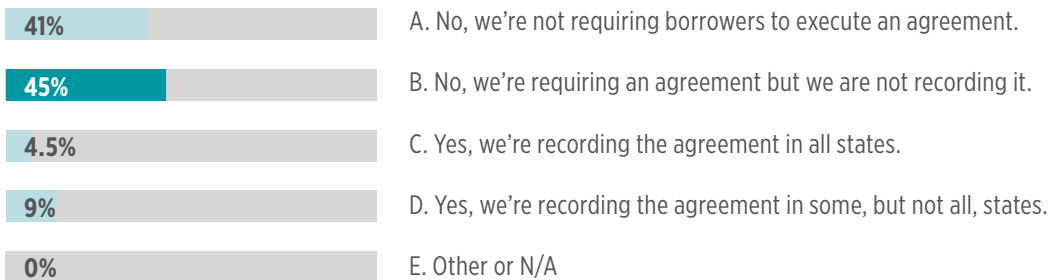
How are you handling deferrals on Texas 50(a)(6) loans (non-GSE)? (Polled on 07/22/2020 & 09/08/2020)



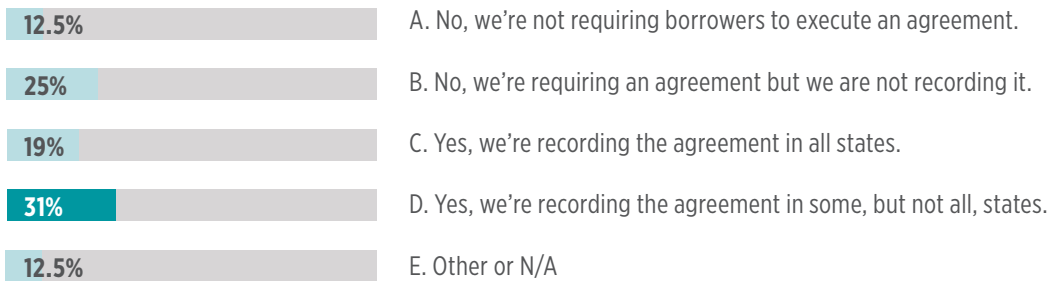
For a borrower who was delinquent before COVID-19, are you curing the entire arrearage with a deferral or only the COVID-19 related arrearage (non-gov loans)? (08/19/2020)



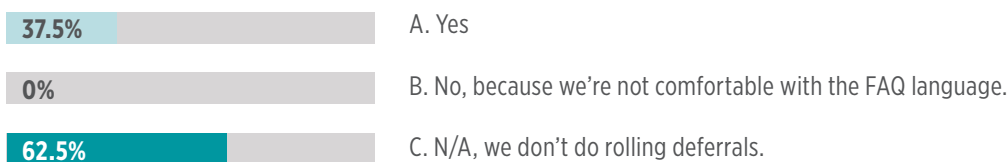
Are you RECORDING deferral agreements whereby the borrower pays the deferred amount by way of a lump sum balloon payment at maturity/sale/refinance? (09/08/2020)



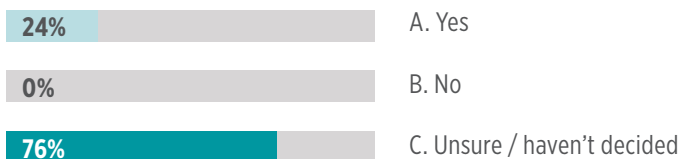
Are you RECORDING deferral agreements whereby the borrower pays the deferred amount by way of an extension of the maturity date? (09/08/2020)



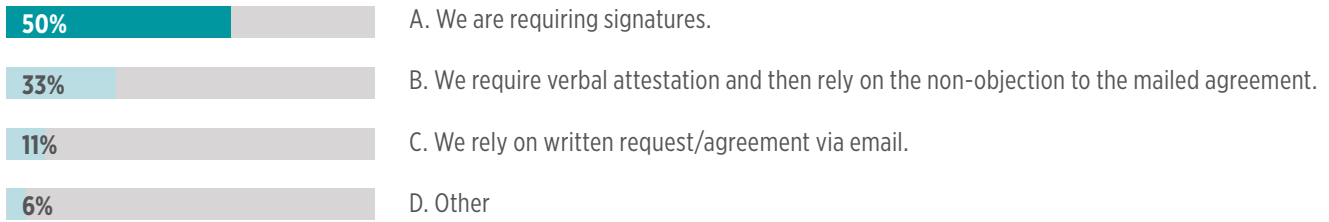
Are you offering rolling deferrals in New York? (09/08/2020)



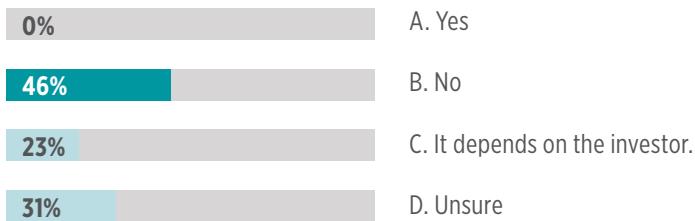
On your Veterans Affairs loans, do you plan to offer borrowers the new VA deferment program? (09/23/2020)



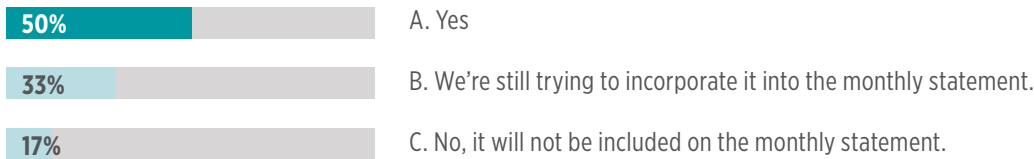
How are you handling deferral acceptance? (09/30/2020)



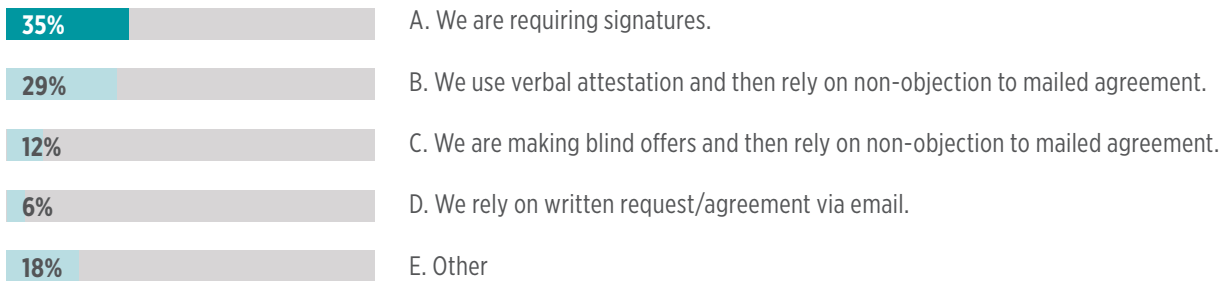
For a non-GSE loan, does existence of a prior deferral disqualify a borrower for a COVID-19-related deferral? (10/7/2020)



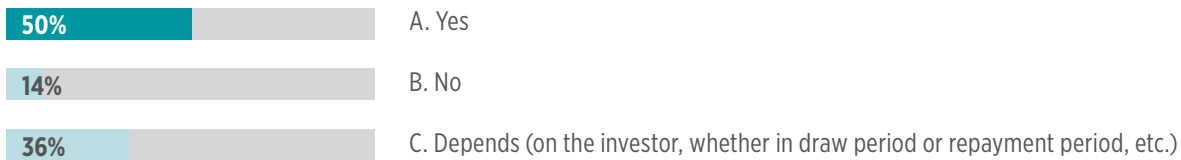
Have you found a way to represent the COVID-19 deferral balance on the monthly statement? (10/7/2020)



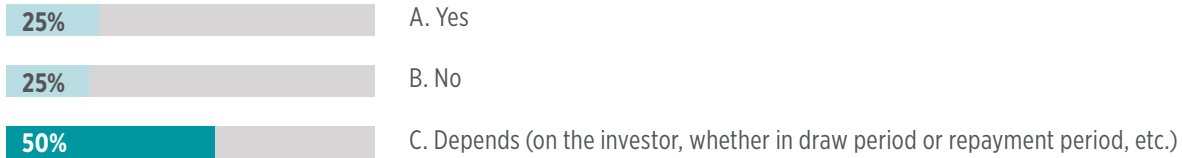
For acceptance of non-GSE deferrals: (11/18/2020)



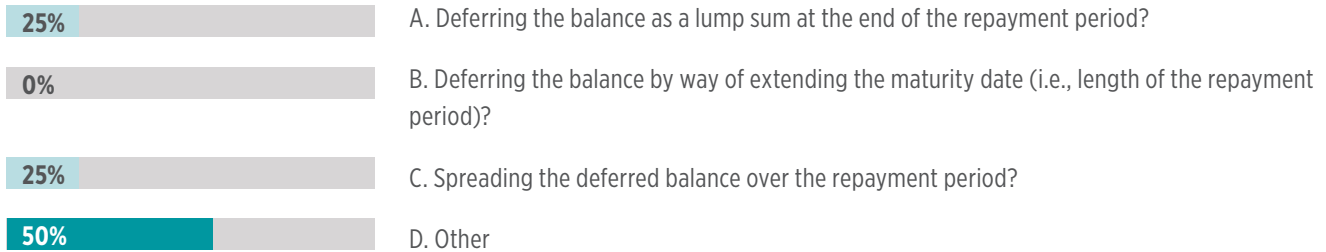
Are you offering deferrals on HELOCs? (01/6/2021)



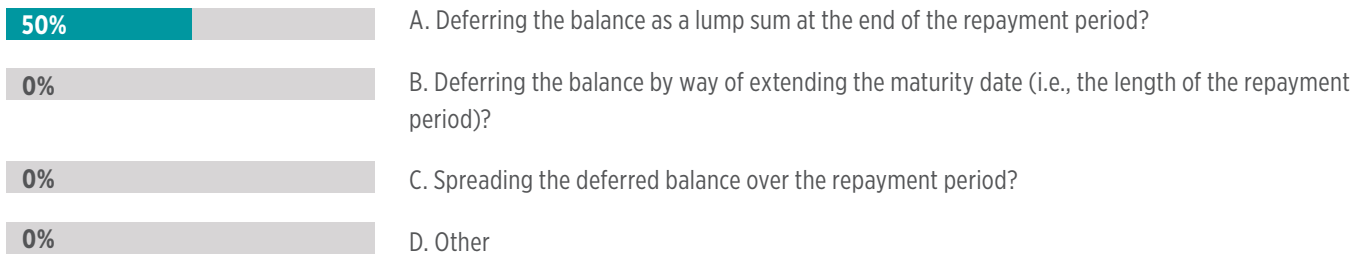
Are you requiring written, executed agreements for deferrals on HELOCs? (01/6/2021)



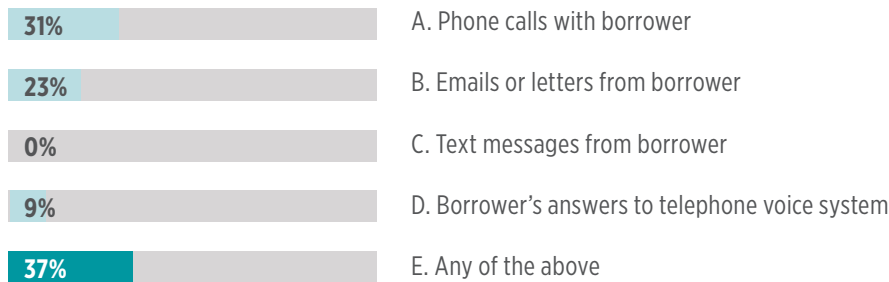
For HELOCs deferrals offered during the borrower's draw period, are you: (01/6/2021)



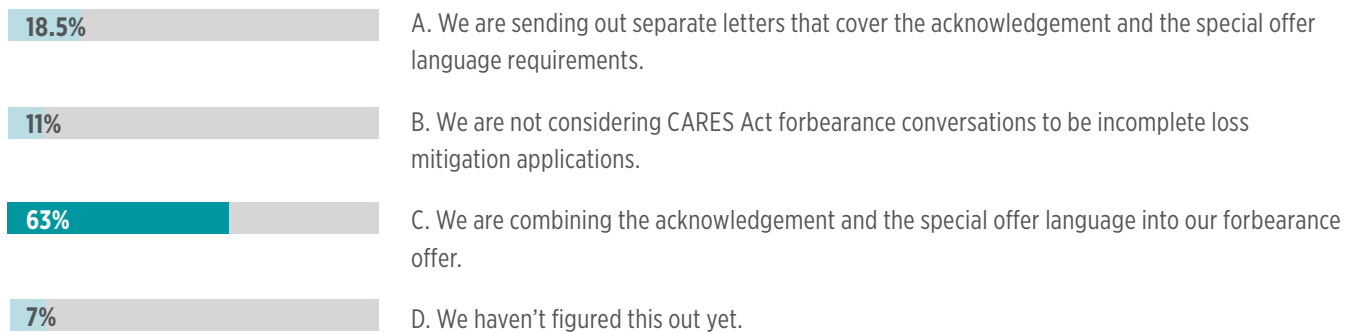
For HELOCs deferrals offered during the borrower's repayment period, are you: (01/6/2021)



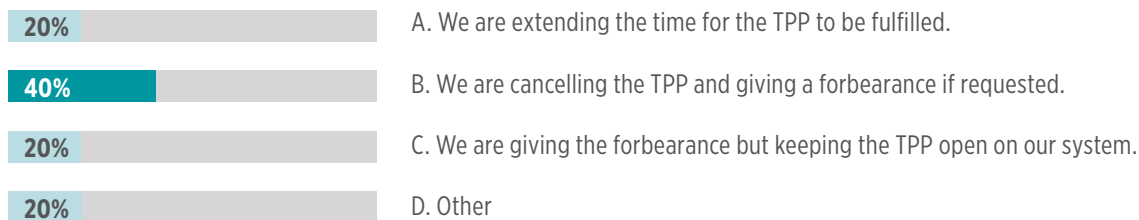
What are you using to document borrower’s “attestation” of financial distress? (04/22/2020)



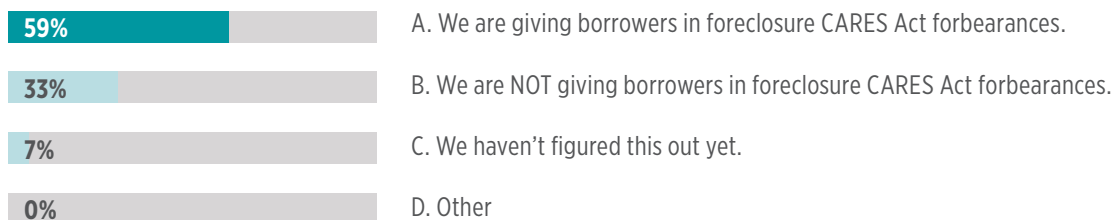
Incomplete package notices: (04/22/2020)



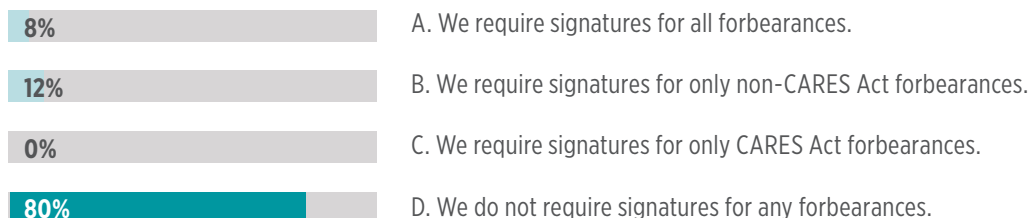
How are you handling TPP in place before the CARES Act? (04/22/2020)



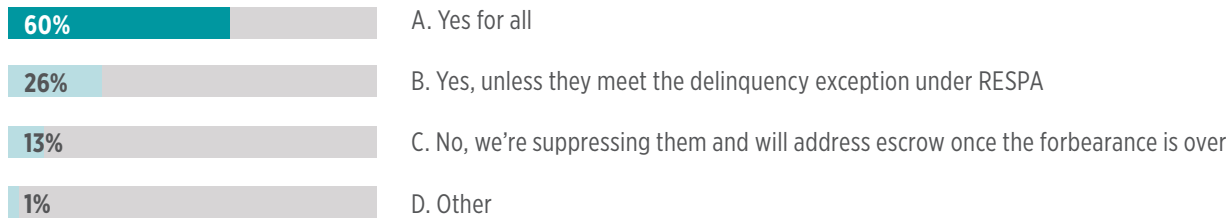
Forbearances and foreclosures (CARES Act): (04/22/2020)



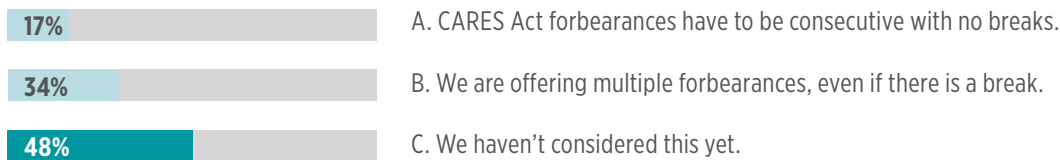
Signatures on forbearances: (05/06/2020)



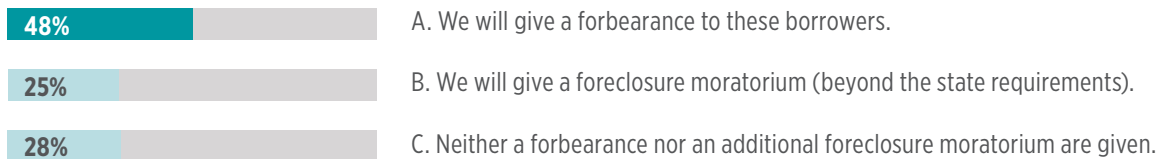
Are you sending escrow statements out while borrowers are in forbearance? (05/06/2020)



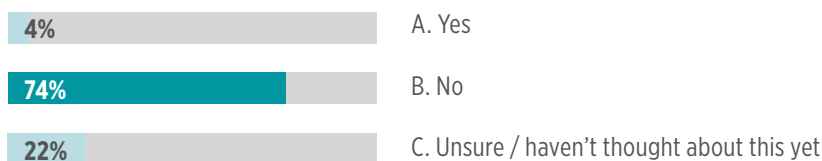
Consecutive forbearances: (05/13/2020)



Loans in foreclosure (non-CARES Act): (05/13/2020)



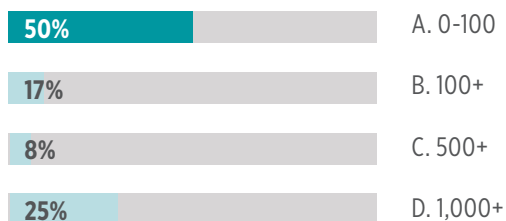
If a borrower makes a payment during a forbearance period, are you extending the term of the plan by a month? (05/20/2020)



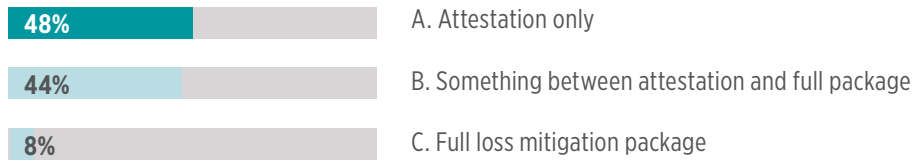
As a part of your disclosures/FAQs/disclaimers to consumers regarding COVID-19 forbearance plans, are you disclosing that obtaining the forbearance plan might impact their ability to obtain a new mortgage loan or refinance? (06/02/2020)



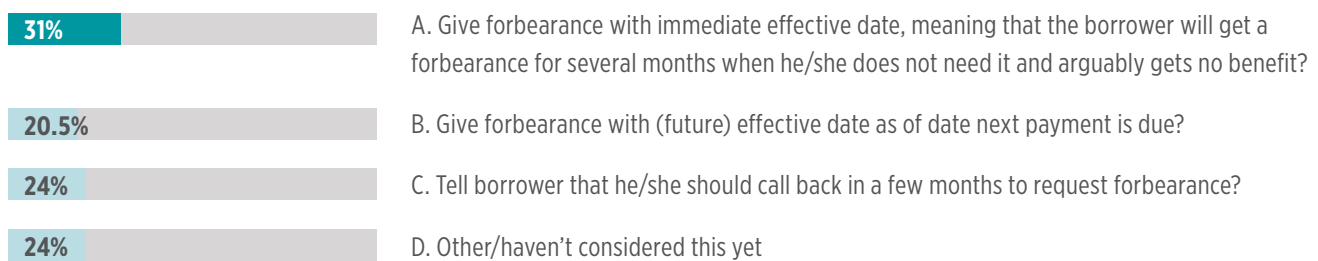
How many loans in foreclosure have you given CARES Act forbearances? (06/10/2020)



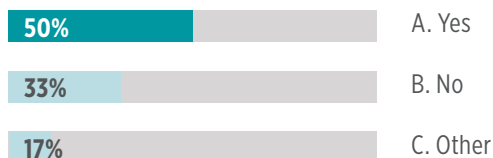
When a non-government loan borrower requests another forbearance, what documentation are you requiring? (Not NY/MA/D.C.) (06/17/2020)



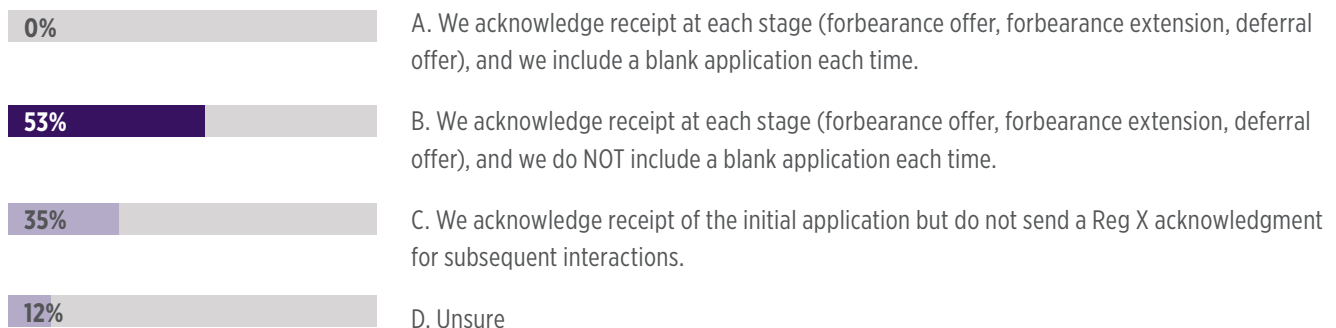
When a borrower requests a CARES Act COVID-19 forbearance but his/her loan is paid ahead by several months (i.e., borrower request is made in mid-July but account is due for the October payment), do you or would you: (07/15/2020)



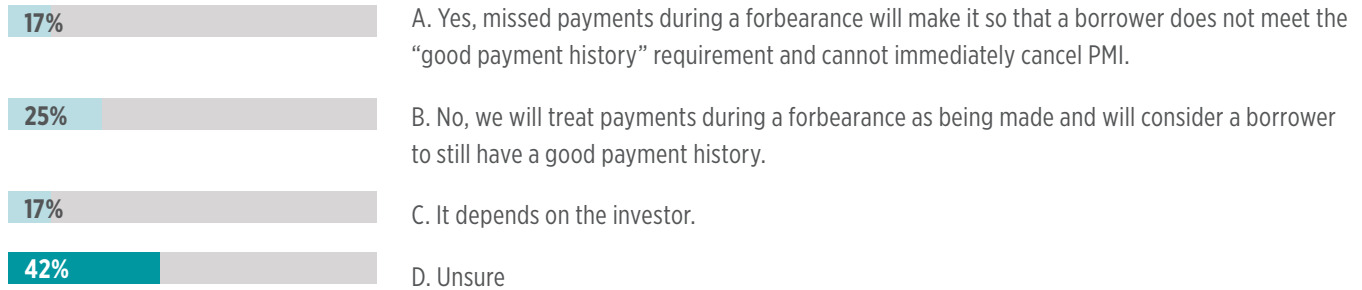
Are you always auto extending the borrower on a 90-day forbearance to a 180-day forbearance if you have lost contact with them? (07/22/2020)



Related to the above question: Throughout the process of offering forbearance, potentially extending a forbearance period, and then offering a deferral, when are you sending a Reg X acknowledgment letter? (09/30/2020)



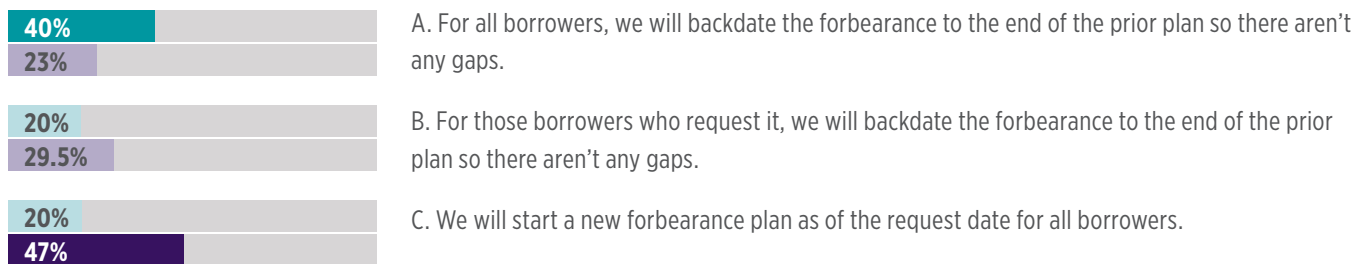
For borrowers with private mortgage insurance (PMI), will being on a forbearance and not making payments impact whether you will cancel PMI upon request? (07/22/2020)



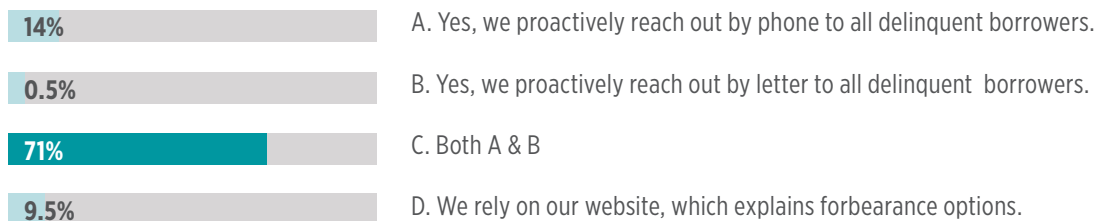
Are you turning late fees and convenience fees back on for loans not in forbearance? (08/19/2020)



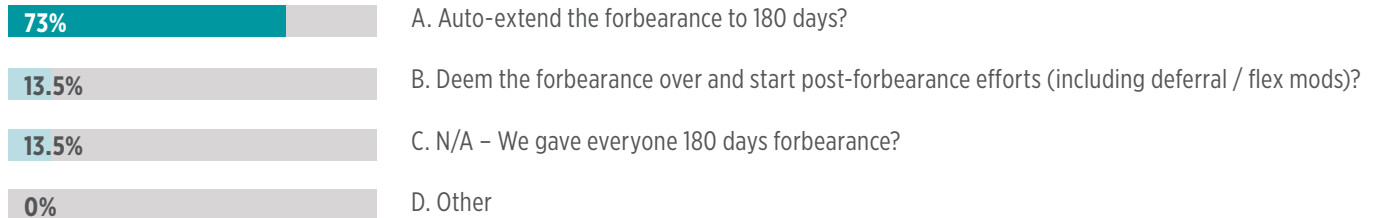
For a loan covered by the CARES Act, if a borrower requests forbearance after the initial six-month forbearance plan has already concluded (e.g., six weeks later), will you (1) backdate the new forbearance plan to the end of the prior plan so there isn’t a gap or (2) start a new plan as of the request date? (08/26/2020 & 01/27/2021)



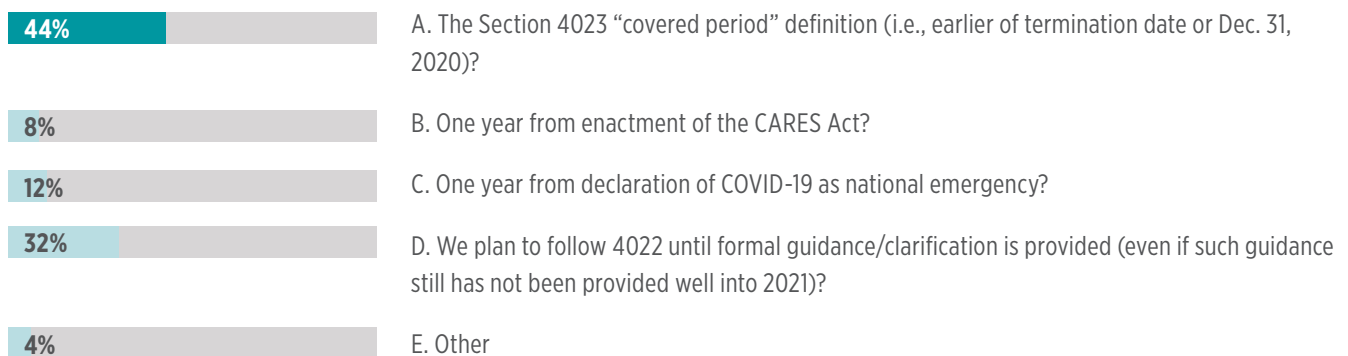
Are you currently making efforts to reach delinquent borrowers about forbearance options? (09/23/2020)



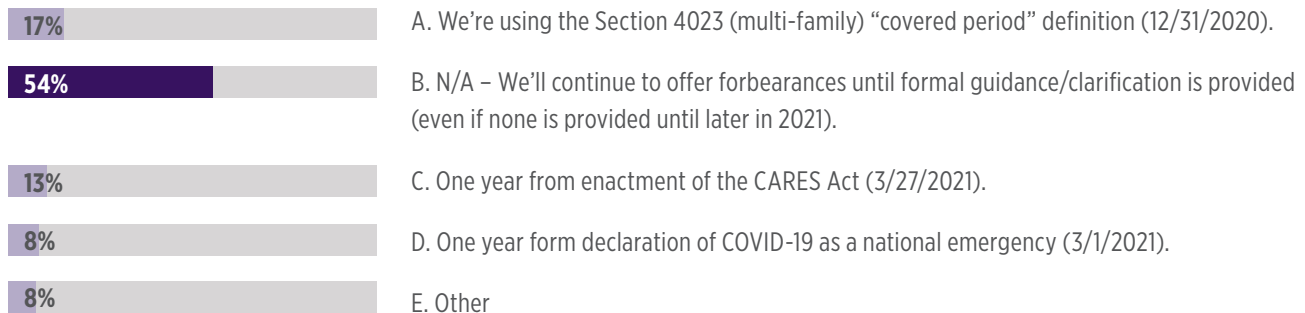
For CARES Act loans, if a borrower was given a 90-day forbearance to start and you lose contact with them, will you: (09/30/2020)



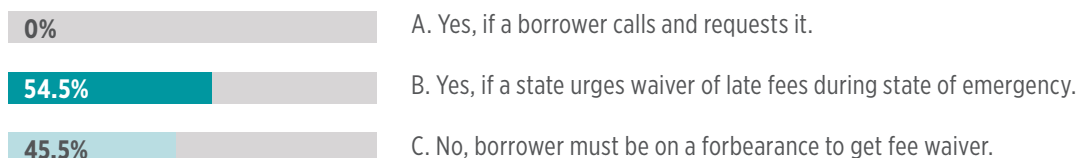
As an institution, are you defining the CARES Act “covered period” under Section 4022 as: (09/30/2020)



Related to the above question: As an institution, how are you defining the end of the CARES Act “covered period” under Section 4022 (12/02/2020)?



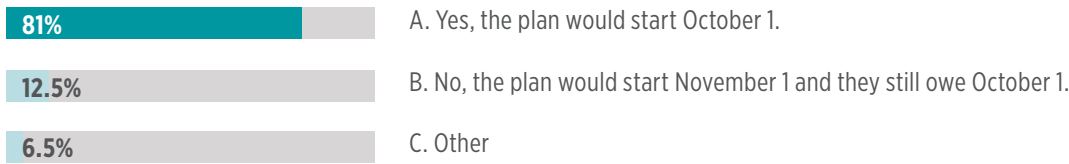
Are you waiving late fees for borrowers who are not in a forbearance? (10/7/2020)



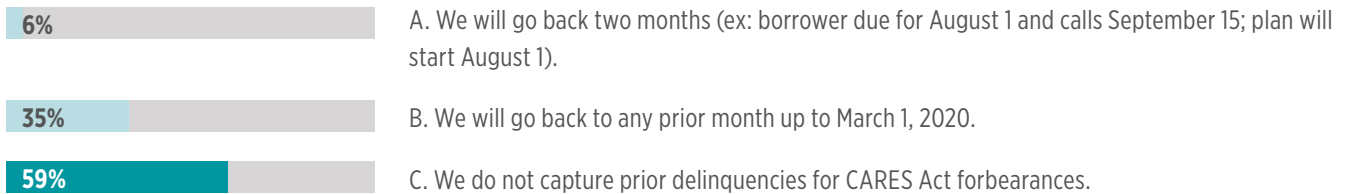
When a borrower is on a COVID-19 forbearance, and as it pertains to the forbearance time period afforded the borrower under the forbearance plan, will you “stop the clock” during any months in which the borrower makes his/her monthly payment? (10/21/2020 & 02/24/2021)



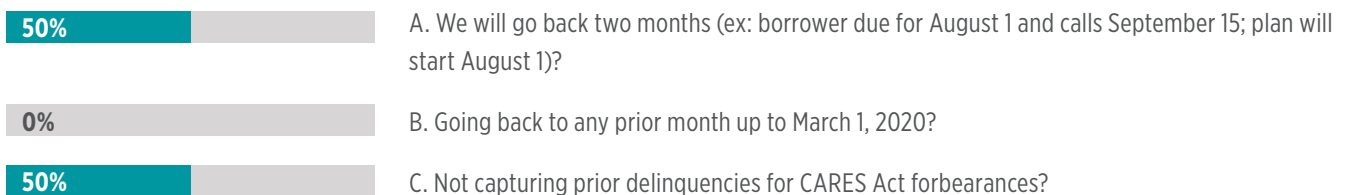
If a borrower calls during month they are due for and requests a CARES Act forbearance due to COVID-19-based hardship, do you start their forbearance as of the first of that month (ex: borrower is due for October 1 and calls October 20)? (10/28/2020)



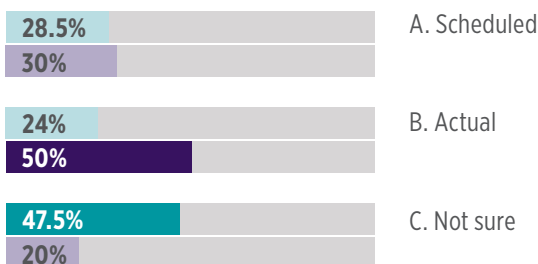
If a borrower is already delinquent more than 30 days when they call to request a CARES Act forbearance, and they blame their delinquency on a COVID-19-based hardship, how far back will you start the forbearance? (10/28/2020)



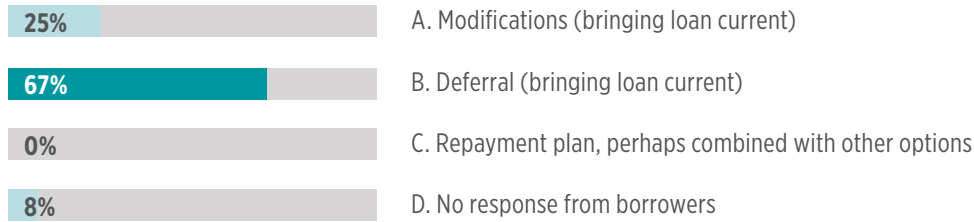
If a borrower obtained a 180-day CARES Act forbearance but then did not bring his account current (or request another forbearance), are you: (11/4/2020)



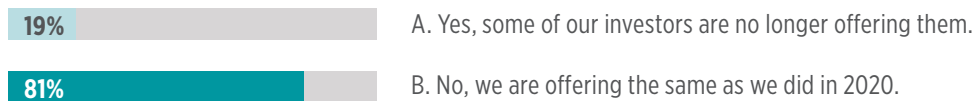
For a borrower who has received a CARES Act forbearance but subsequently requests a payoff statement, will you calculate the interest component of the payoff quote based on the scheduled UPB or based on the actual UPB? (11/18/2020 & 01/13/2021)



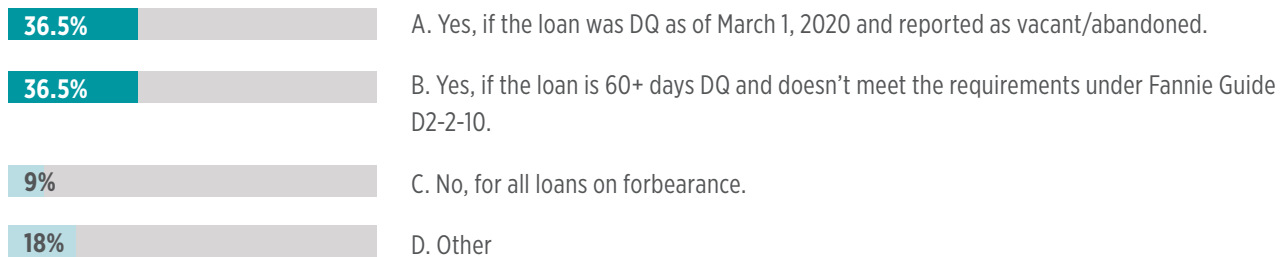
What is occurring after your forbearances end? (01/13/2021)



As COVID-19 continues, are you changing your non-CARES Act forbearance offerings? (01/27/2021)



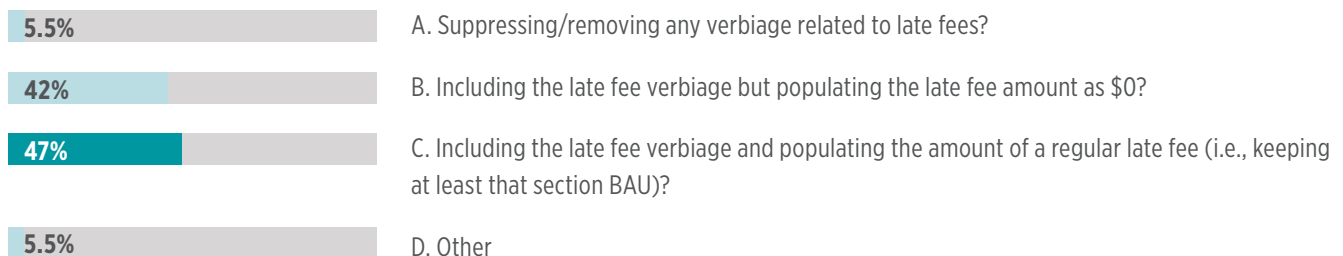
For loans on CARES Act forbearances, are you conducting inspections? (01/27/2021)



For loans on CARES Act forbearances, are you charging bankruptcy counsel fees to borrowers? (01/27/2021)



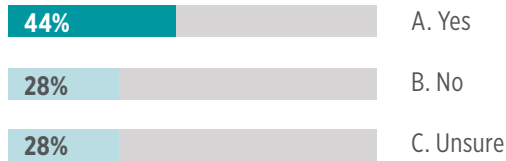
On your periodic billing statements for borrowers on a forbearance plan, and with respect to the requisite late fee verbiage in the Amount Due section of the statement, are you: (02/17/2021)



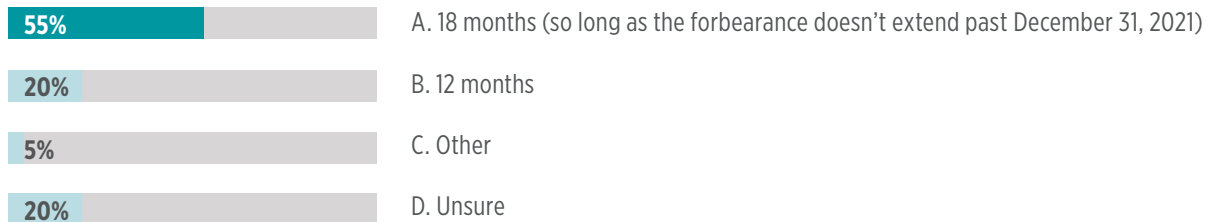
For borrowers on a forbearance plan, are you suppressing any late payment reminders/notices? (02/17/2021)



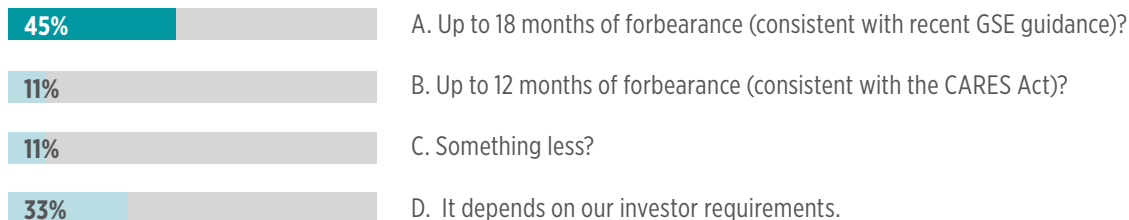
If a borrower is entitled to a remaining period of forbearance under the CARES Act, can that period of forbearance be combined with the additional forbearance now available pursuant to the GSE guidelines? (03/10/2021)



In instances where a borrower's request for forbearance was on or before June 30, 2020, but the borrower subsequently brought their loan current or cancelled forbearance and then re-defaulted after June 30, 2020, and requested forbearance again, is the borrower entitled to 18 months of total forbearance or is the borrower entitled to only 12 months? (03/10/2021)



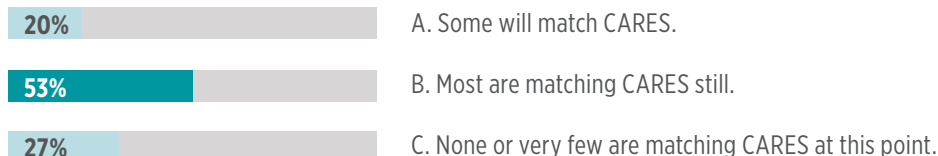
For non-GSEs loans, are you currently giving borrowers: (03/17/2021)



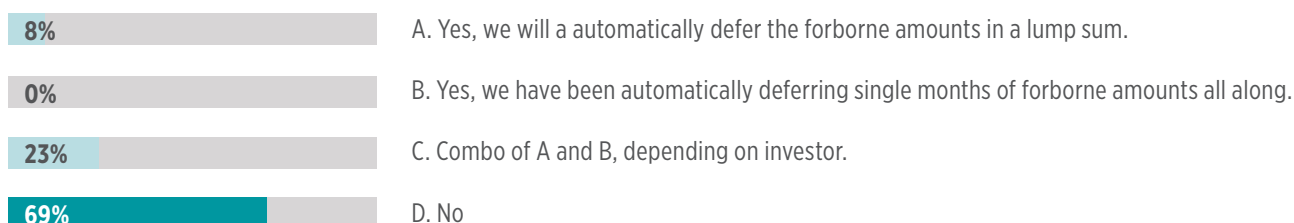
Do you confirm occupancy when you first engage with a consumer about a CARES Act forbearance? (04/7/2021)



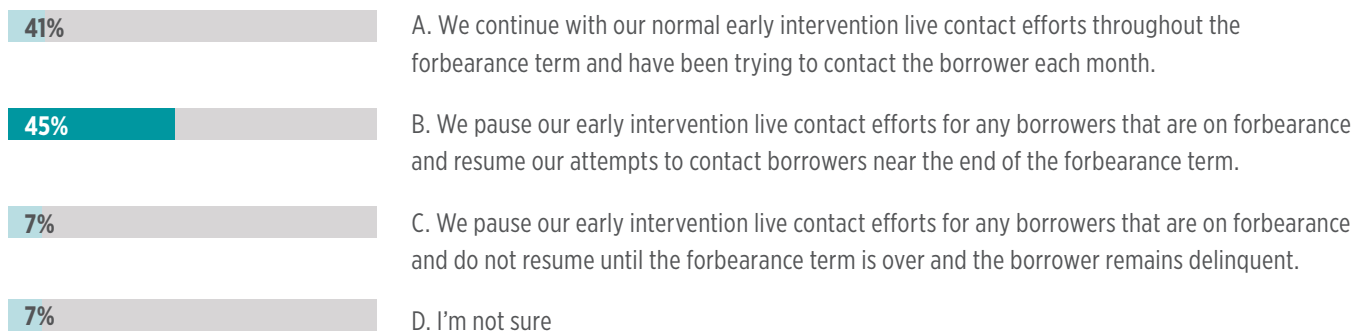
How many of your private investors are matching federally backed loans now that forbearances can extend to 18mo? (04/21/2021)



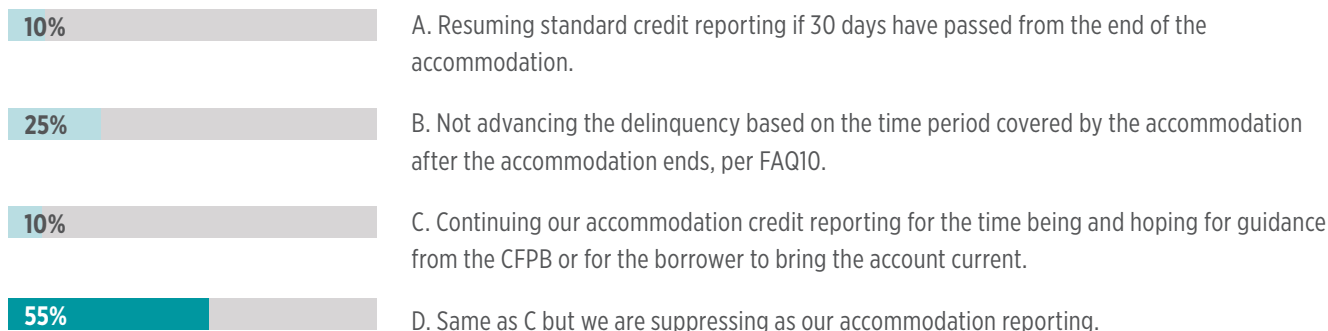
For portfolio loans, will you automatically defer the forborne amounts when the borrower is non-responsive? (06/23/2021)



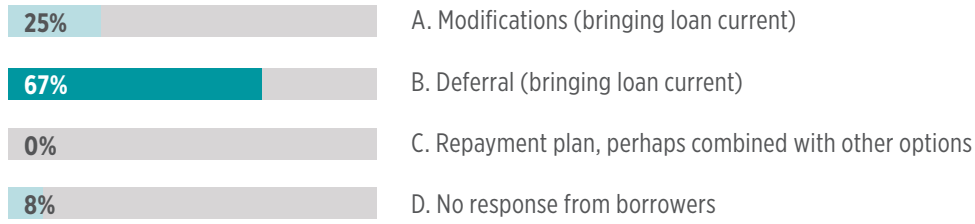
Throughout the pandemic, have you been making “good faith efforts to establish live contact” with borrowers that are on forbearance plans? (07/07/2021)



If a borrower obtained a complete CARES forbearance but then did not bring their account current (or request another forbearance), are you: (07/07/2021)



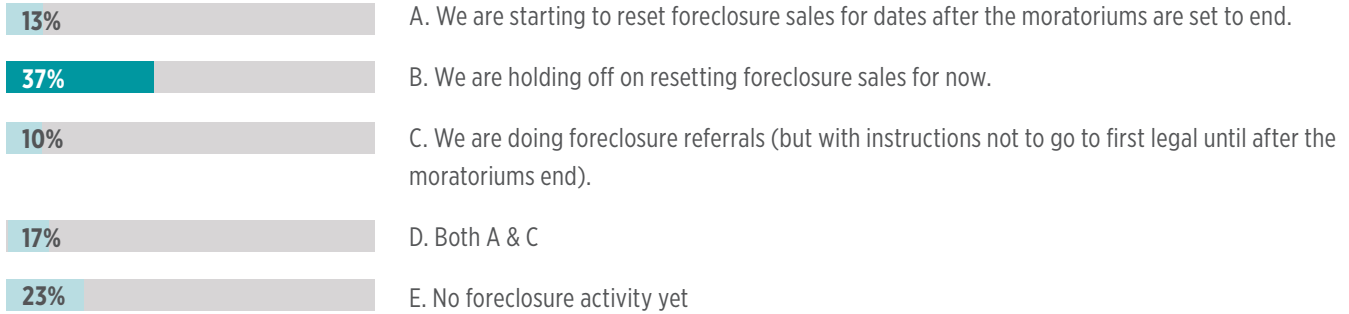
What is occurring after your forbearances end? (01/13/2021)



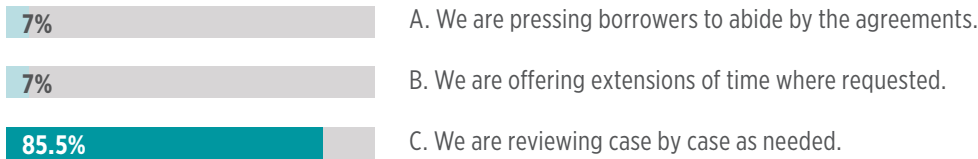
Do you plan to offer the VA Partial Claim Payment (VAPCP)? (08/18/2021)



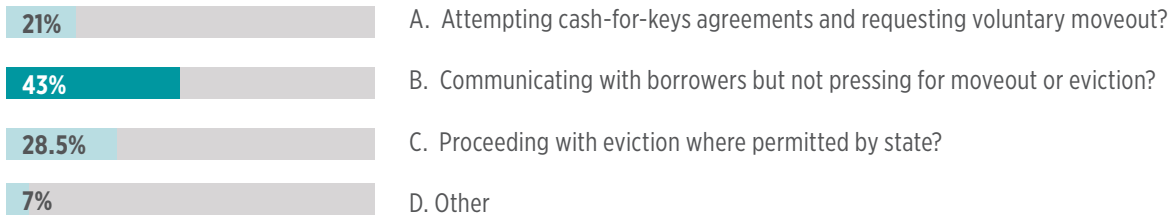
Foreclosures: (05/13/2020)



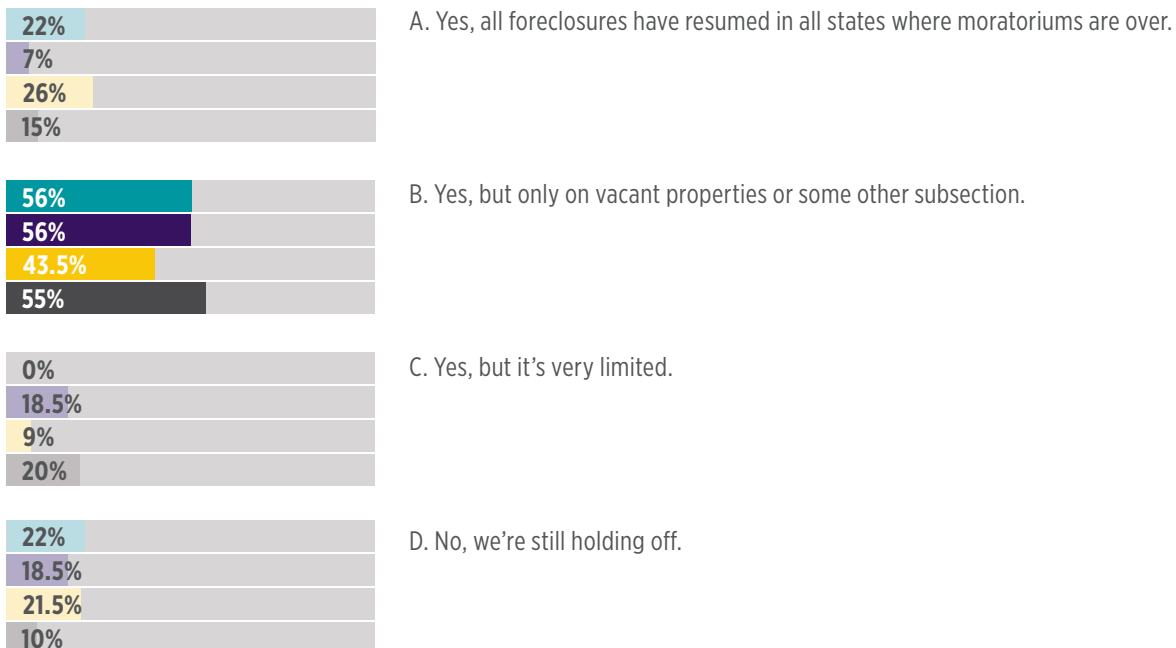
How are you handling previously agreed CFK or consent-to-foreclosure agreements? (06/02/2020)



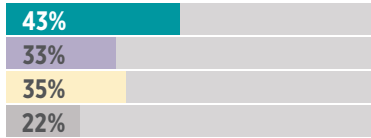
If foreclosure was already completed and the borrower is still in the home, are you: (08/12/2020)



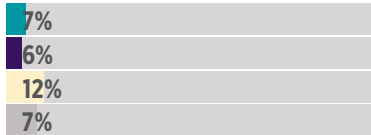
Are you resuming pre-COVID-19 foreclosures for loans *not* on forbearance? (Polled on 08/26/2020 & 09/23/2020 & 01/13/2021 & 03/17/2021)



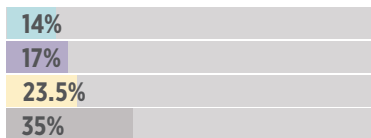
Are you starting NEW foreclosures for loans *not* in forbearance (non CARES Act)? (Polled on 08/26/2020 & 09/23/2020 & 01/13/2021 & 03/17/2021)



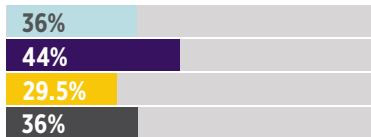
A. We're doing breach letters only.



B. We're referring to counsel but not going to first legal yet.



C. Yes, we're going to first legal in states where moratoriums are over.



D. No, we're still holding off.

Will you re-breach a borrower who received a breach letter before COVID-19 and was then placed on a forbearance (assuming loss mitigation efforts fail)? (10/21/2020)



A. Yes



B. No

Are you referring any files to foreclosure counsel while moratoriums are in place? (11/18/2020)



A. Yes, but counsel are not going first legal.



B. Yes, but referrals are for a "COVID-19 review" or other special handling that will not appear on the borrower's account.

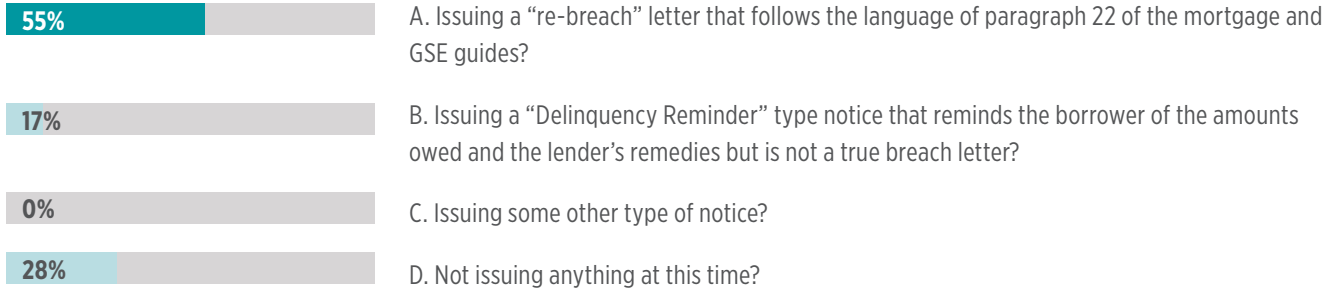


C. No, we are doing breach letters only until moratoriums are lifted.

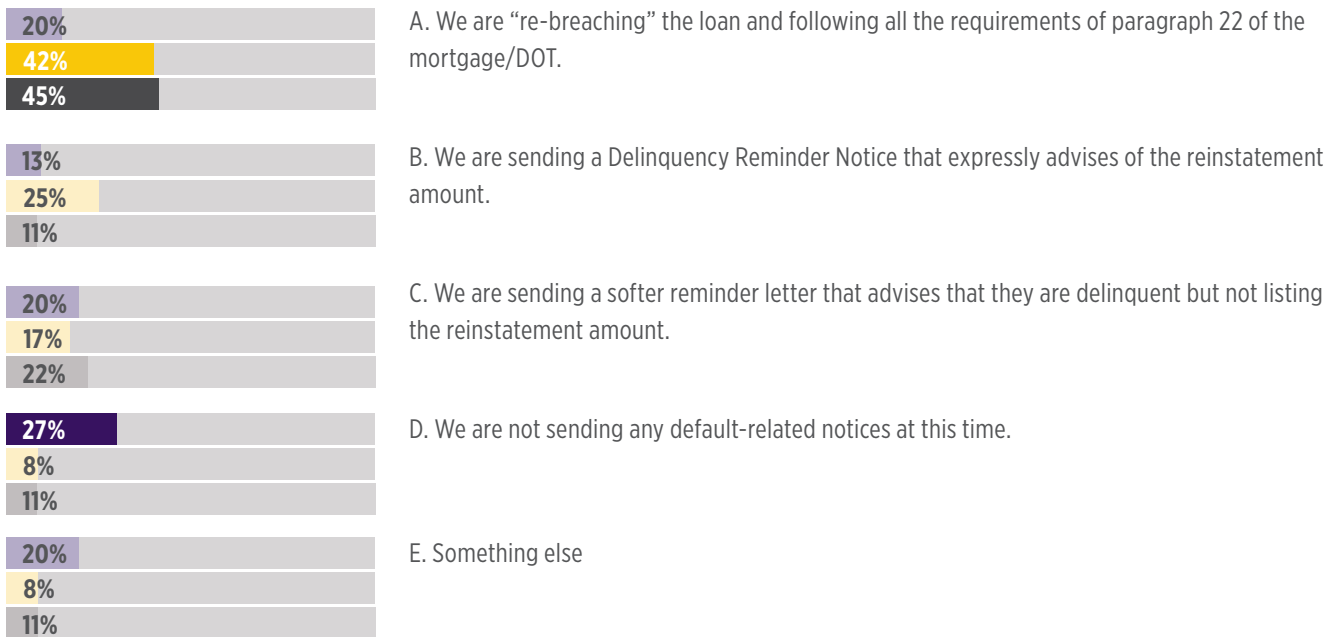


D. No, we are holding off on breach letters and referral until moratoriums are lifted.

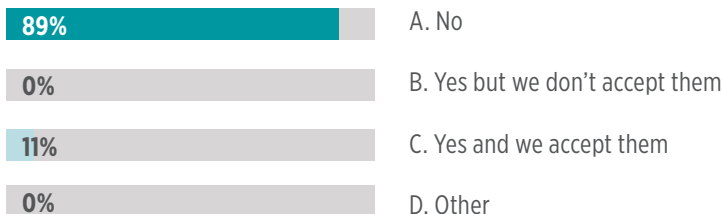
For loans that were delinquent before the foreclosure moratoriums, are you: (12/02/2020)



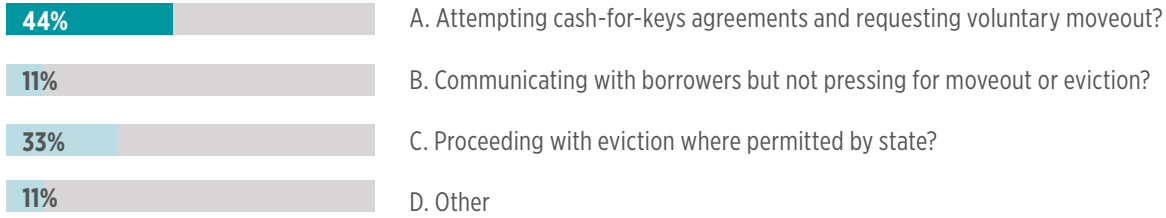
Related to the above question: If a borrower received a breach letter before COVID-19 (March 2020) and remains delinquent, are you doing any of the following (this envisions borrowers who were on forbearance and couldn’t resolve the delinquency, as well as those who were never on a forbearance)? (01/13/2021 & 04/21/2021)



Have you received any CDC Eviction Notices from tenants in REO properties? (03/31/2021)



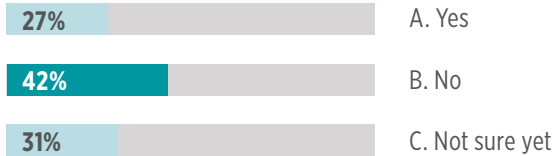
If foreclosure was already completed and the borrower is still in the home, are you: (03/31/2021)



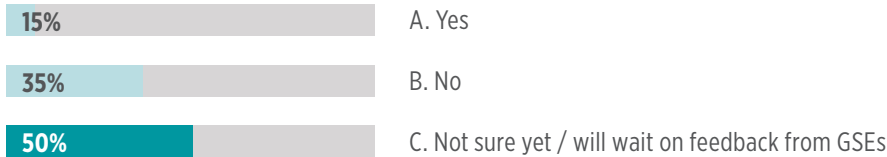
For non-GSE loans, and despite the lack of formal guidance/rulemaking at this time, are you considering tolling the 120-day foreclosure time period for the time in which a borrower is on forbearance (i.e., are you requiring that the borrower have at least 120 days of missed payments outside of a forbearance period before filing for foreclosure)? (03/17/2021)



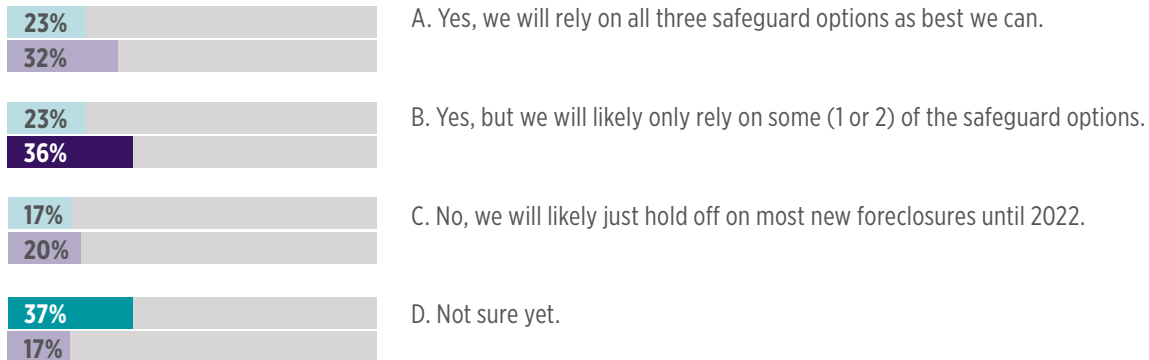
For portfolio loans in which there is currently no foreclosure moratorium, and prior to the effective date of the CFPB's new proposed rule, do you plan to file first legal on closed-end residential mortgage loans secured by the borrower's primary residence? (04/21/2021)



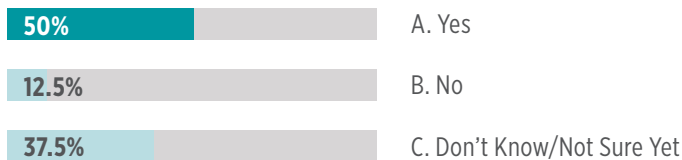
For GSE loans, and to the extent there is a gap between the end of the GSE foreclosure moratorium and the effective date of the CFPB's proposed rule, do you plan to file first legal on closed-end residential mortgage loans secured by the borrower's primary residence? (04/21/2021)



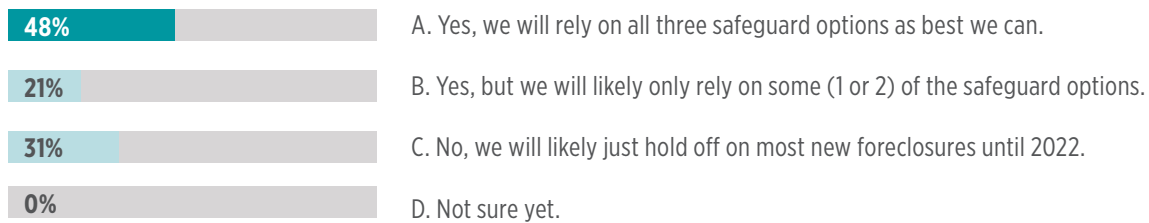
Although it is still early, do you believe that you will take advantage of the “procedural safeguards” beginning on August 31 in order to start foreclosures during the latter part of 2021? (07/07/2021 & 07/21/2021)



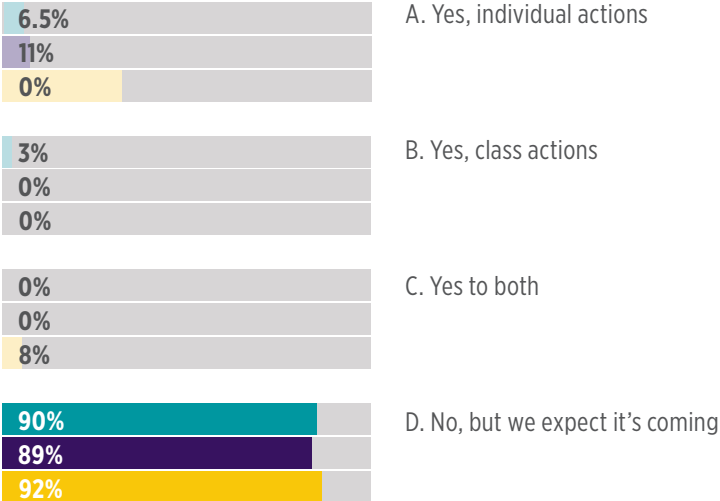
If a borrower (1) was more than 120 days delinquent on March 1; (2) brought his/her account less than 120 days delinquent after March 1; (3) and then became more than 120 days delinquent (again), will you seek to satisfy a CFPB Procedural Safeguard before filing first legal (i.e. do you believe the rule applies in this scenario)? (07/21/2021)



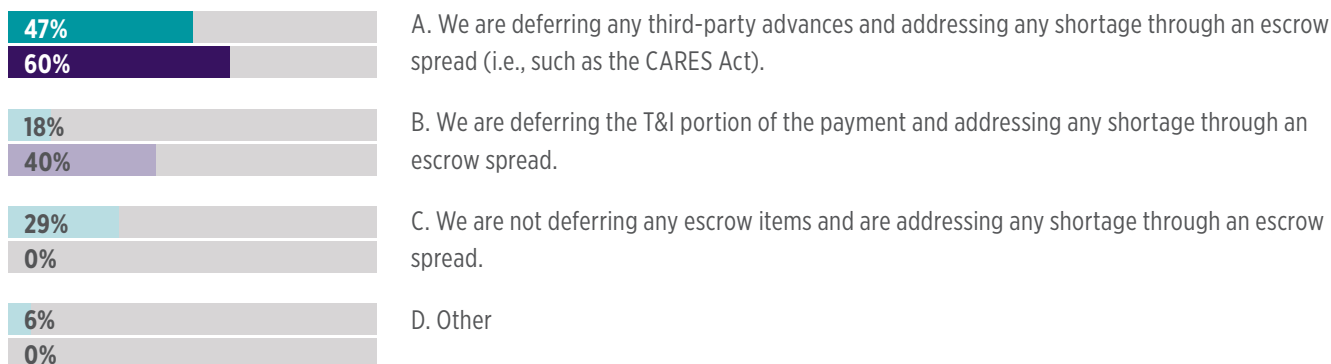
Do you believe that you will take advantage of the CFPB’s “procedural safeguards” in order to start foreclosures during the latter part of 2021? (09/01/2021)



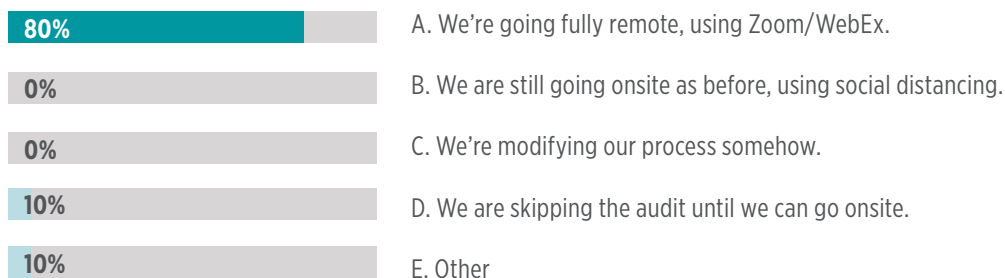
Have you started to receive CARES Act or forbearance-related litigation? (Polled on 05/20/2020 & 09/16/2020 & 02/03/2021)



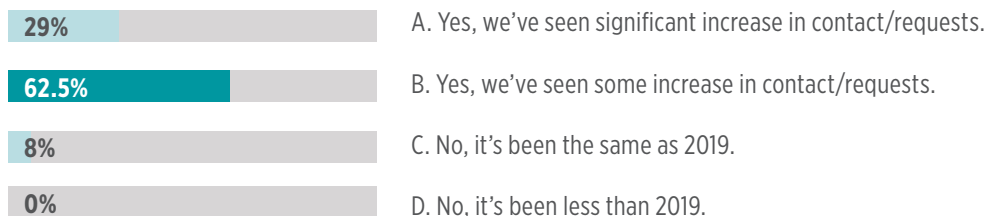
For non-CARES Act loans, how are you handling escrow after forbearance? (07/29/2020 & 04/21/2021)



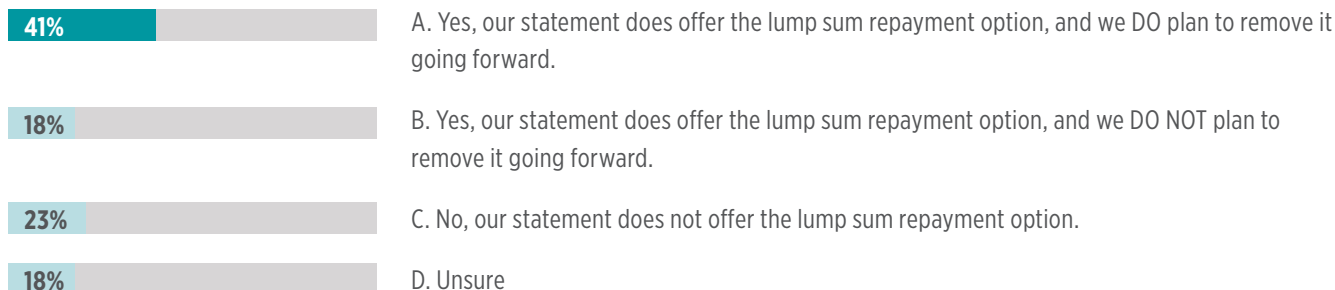
What is your plan for modifying onsite review of vendors in 2020? (08/12/2020)



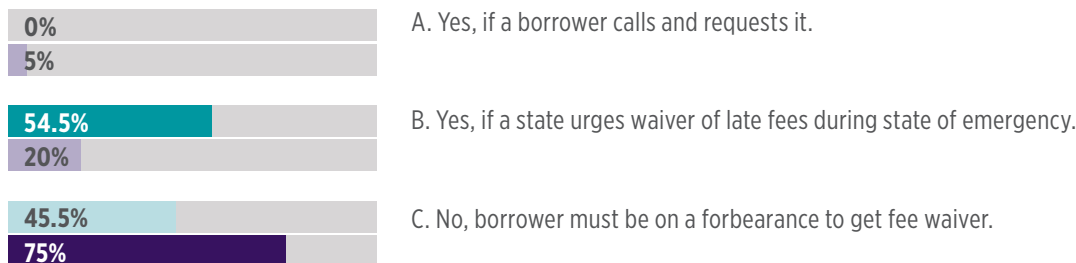
Has regulator outreach to your company increased (document requests, exams, etc.)? (09/16/2020)



Does your annual escrow statement offer a borrower with a shortage of more than one month's escrow payment the option of repaying in a lump sum and, if so, do you plan to remove that option? (09/23/2020)



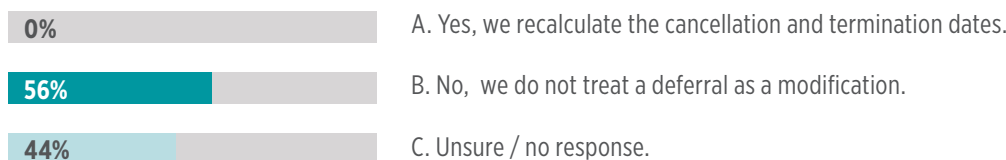
Are you waiving late fees for borrowers who are not in a forbearance? (10/7/2020 & 02/17/2021)



Have you identified your cut-over date to SOFR? (10/28/2020)



In connection with PMI cancellation and termination under the Homeowners Protection Act, are you considering a deferral to be a “modification of the terms or conditions of [the] loan” that triggers a recalculation of cancellation and termination dates? (10/28/2020)



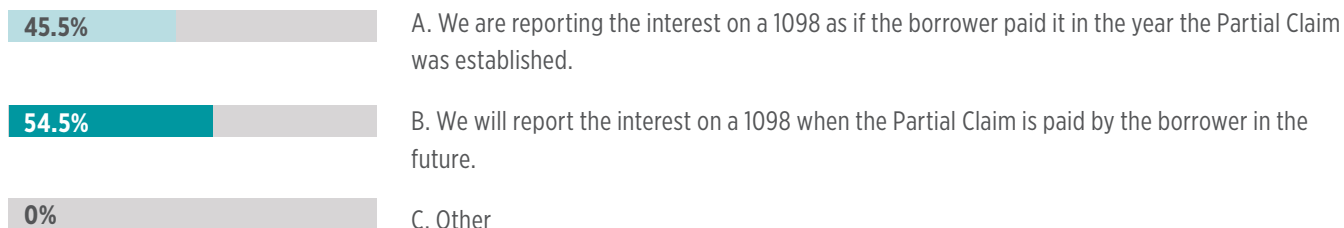
Are you transitioning away from LIBOR before the end of 2021? (10/28/2020)



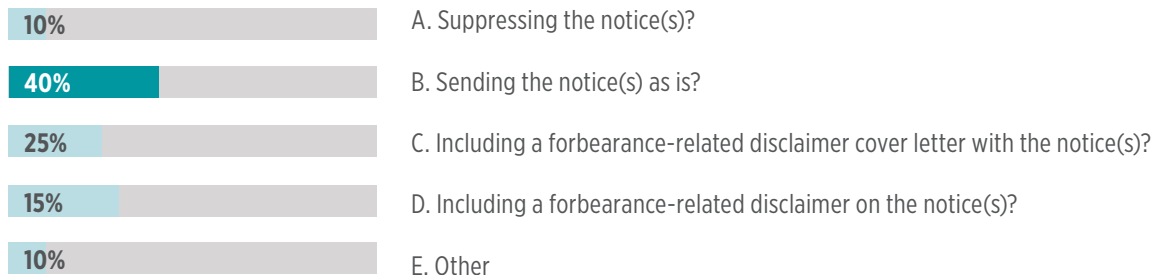
Are you waiting on the GSEs to announce legacy-servicing specific guidance? (10/28/2020)



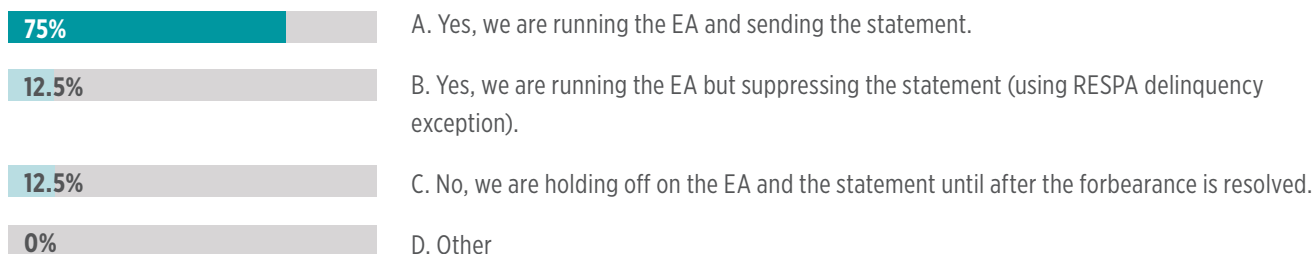
How are you reporting the interest on a borrower’s 1098 Mortgage Interest Statement when they receive a HUD Partial Claim? (11/4/2020)



For state and federally mandated servicing notices that (arguably) must be sent even when a borrower is on a forbearance but that might create some risk/confusion (i.e., CFPB early intervention letter), are you generally: (12/09/2020)



Are you running annual escrow analyses (EA) and sending statements for borrowers who are on a forbearance? (01/13/2021)



Do you have a formal fair servicing program? (06/16/2021)



Fair Servicing: Do you track race/ethnicity in loss mitigation and foreclosure? (06/23/2021)



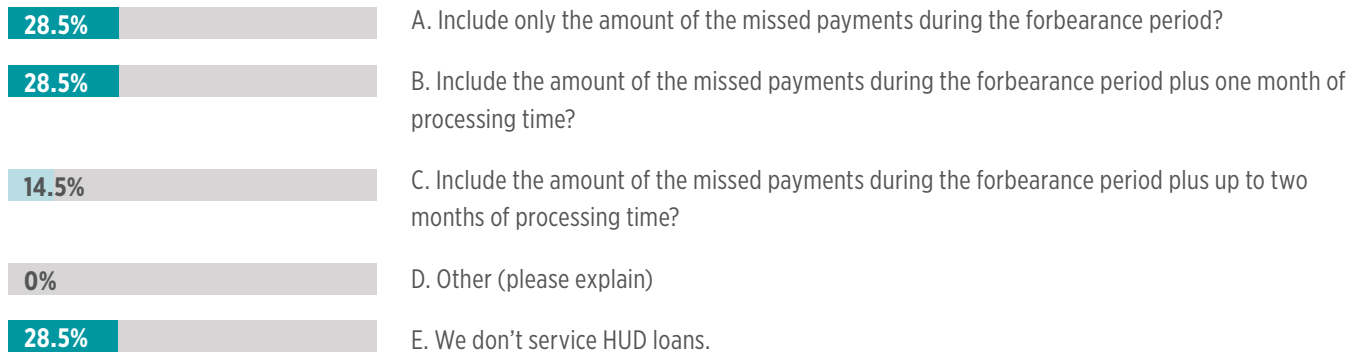
Section 1026.10(b)(4) of Reg Z states that creditors who accept nonconforming payments “shall credit payments within five days of receipt.” Do you use: (09/15/2021)



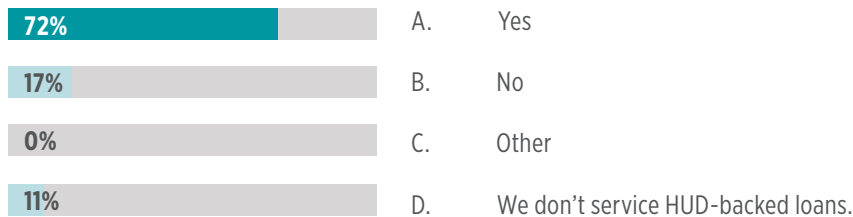
Did you adopt the CFPB Spanish translations for early intervention notices? (09/15/2021)



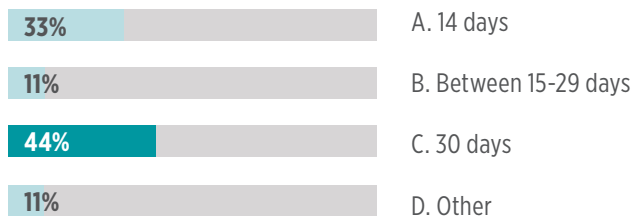
For a HUD COVID-19 Partial Claims calculation, do you: (02/24/2021)



Are you including escrow shortage in HUD COVID-19 Loan Mods and COVID-19 Combination Partial Claim and Loan Modification? (03/10/2021)



How many days do you allow the borrower to return the partial claim agreement? (05/19/2021)



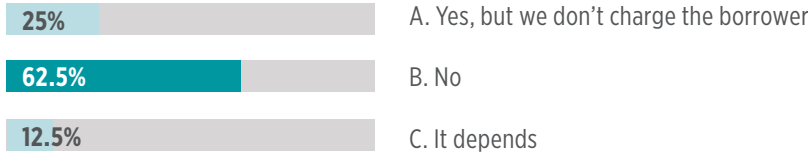
How many processing months are you including in the PC? (05/19/2021)



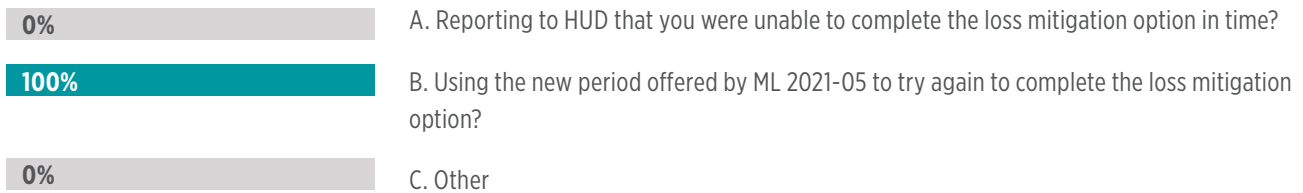
Do you have a cutoff date at some point in the month to terminate (or perhaps restart) the process due to HUD timing concerns? (05/19/2021)



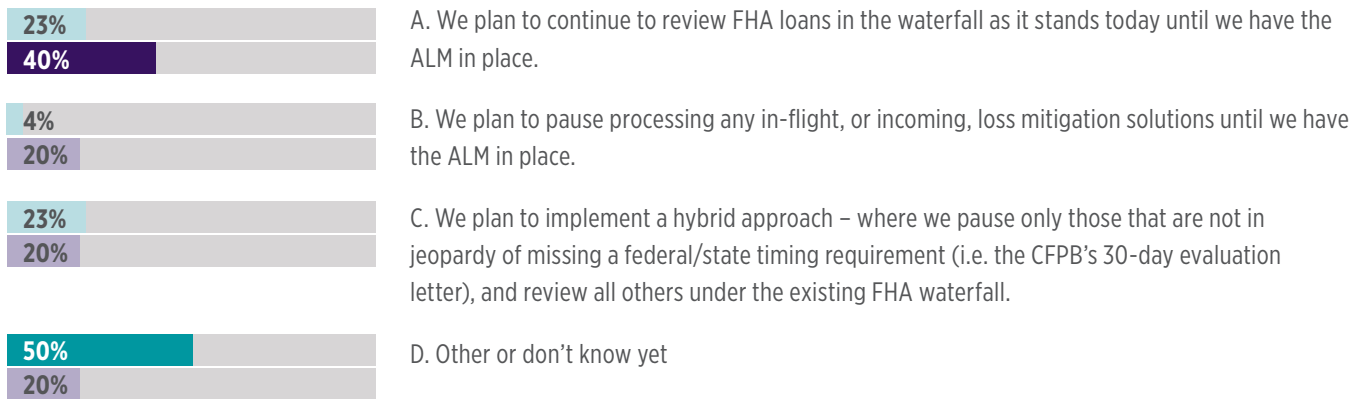
For FHA loans, if you didn't confirm occupancy when you first engaged with a consumer and offered a forbearance, do you conduct exterior inspections during the forbearance? (04/07/2021)



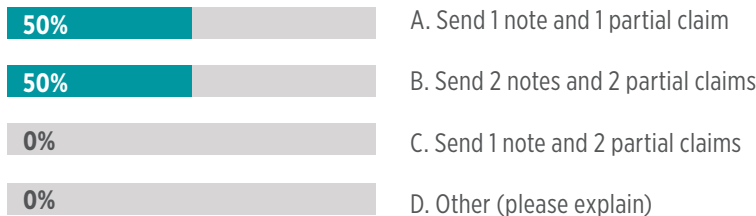
For FHA loans where the forbearance already expired and you were not able to complete a loss mitigation option within the original 90-day period, are you: (04/07/2021)



You are not required to implement HUD's new ALM program until August 24th. However, upon implementation, you must evaluate certain sets of borrowers where final mod documents were not provided as of June 25th. Given this, what are your intentions with respect to your ongoing FHA loss mitigation reviews? (07/07/2021 & 08/04/2021)



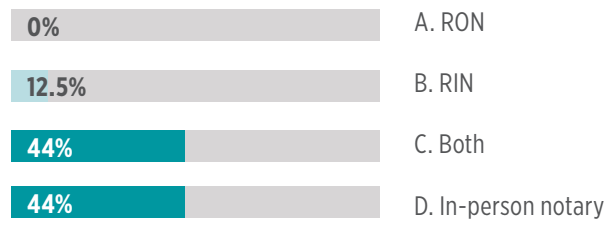
When sending out original documents for a HUD Partial Claim to be executed by the borrower, do you? (07/21/2021)



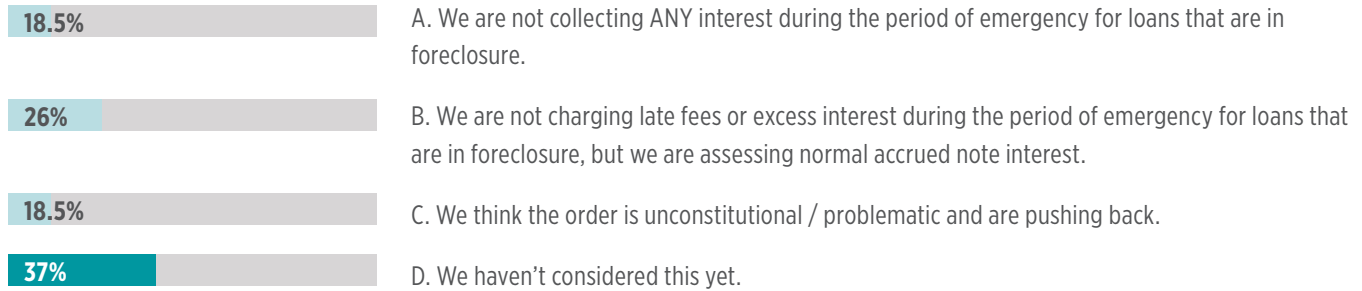
Are you subordinating FHA Partial Claims? (09/01/2021)



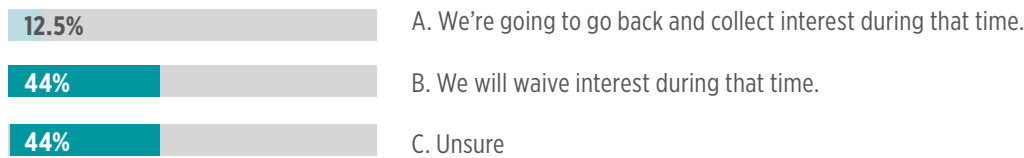
How are you handling notary issues? (04/22/2020)



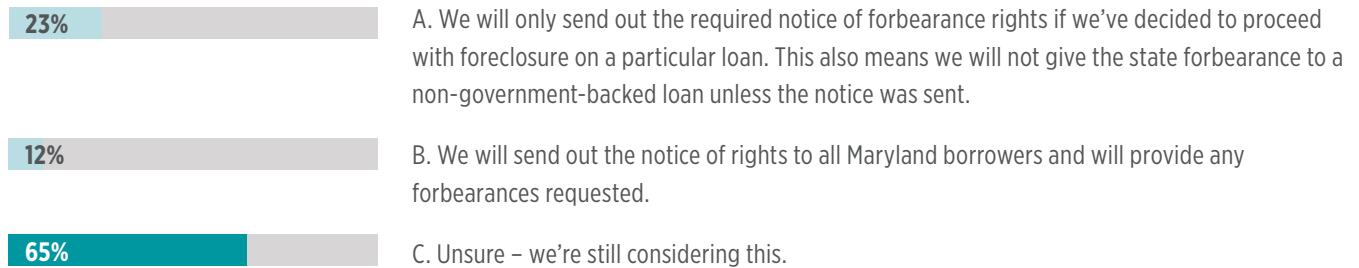
How are you handling Delaware’s order? (06/02/2020)



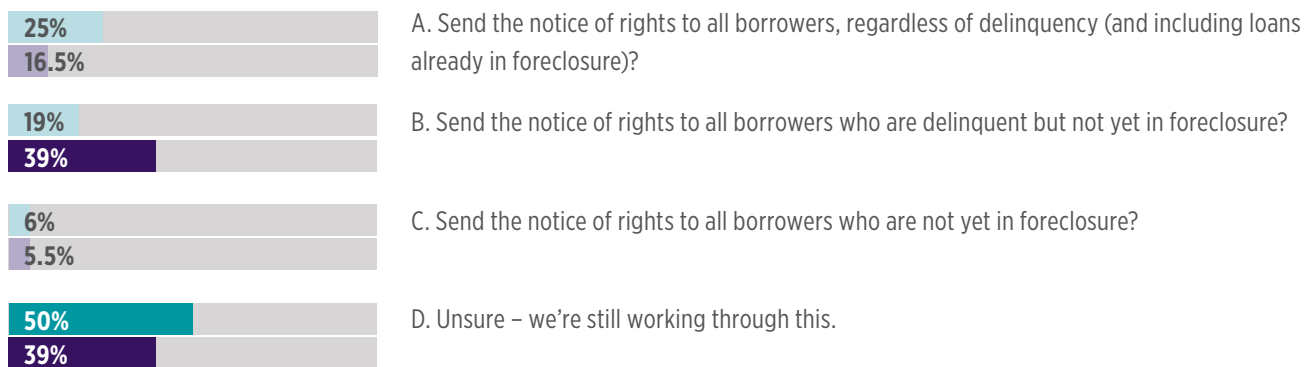
How do you interpret Delaware’s 23rd modification regarding collection of interest from March 24, 2020, through June 30, 2020? (07/08/2020)



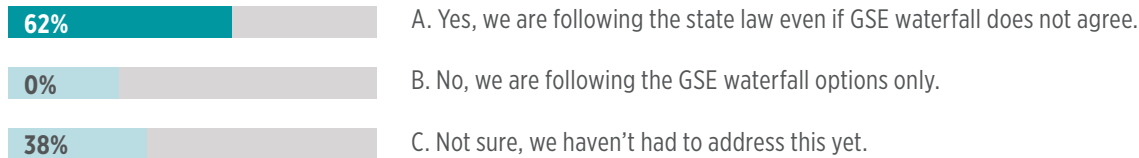
Maryland’s new Executive Order requires offering forbearances of up to a year to non-federally backed loans as a condition precedent to filing a new NOI. How are you implementing this order? (10/21/2020)



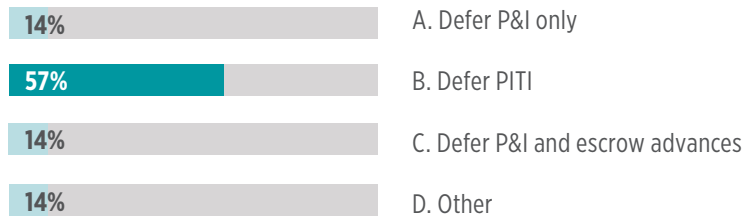
To comply with the new Maryland Executive Order regarding non-federally backed mortgage loans, will you: (Polled on 11/04/2020 & 12/09/2020)



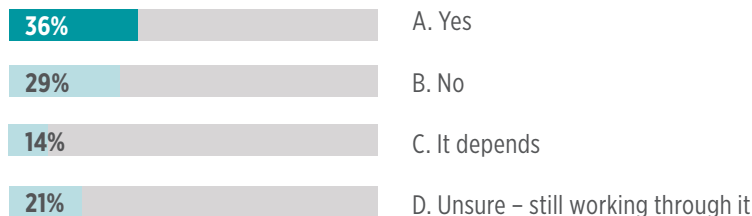
Are you offering deferrals or extensions for GSE loans under the MA & OR state laws if borrower insists? (09/08/2020)



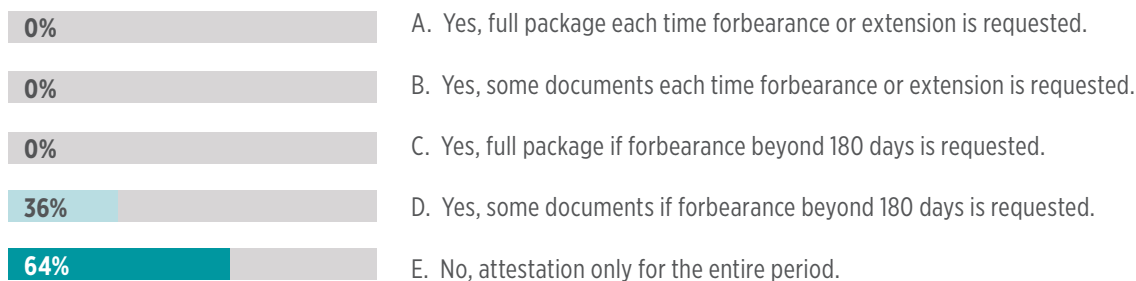
Massachusetts and Oregon: Where a GSE borrower does not receive a flex modification, how are you handling the state requirement to defer the forbore amounts? (10/21/2020)



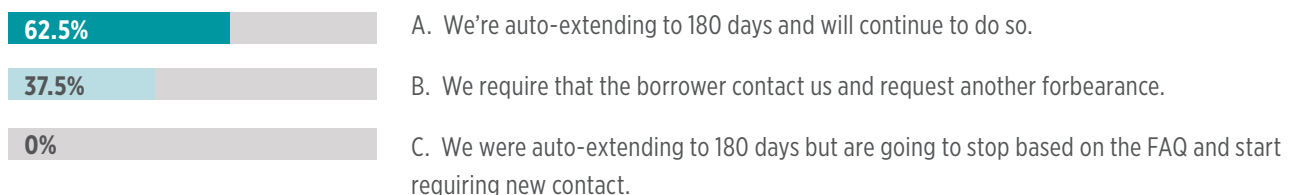
Massachusetts Act 65 prohibited initiation of the foreclosure process from April 20, 2020, to October 17, 2020. Are you re-breaching in Massachusetts? (11/4/2020)



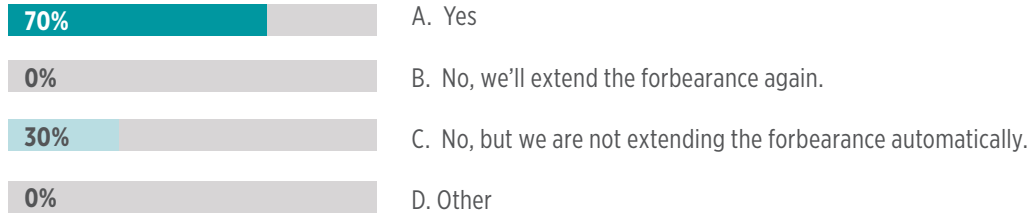
Are you asking for a package to “demonstrate financial hardship” in New York? (08/12/2020)



How are you handling the expiration of a borrower’s 90-day forbearance under the New York Executive Order if you are unable to make contact with the borrower? (08/12/2020)



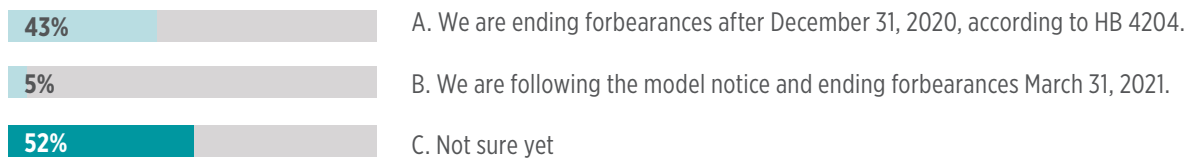
If borrower has received 180 days forbearance in New York and won't make contact, will you defer to maturity at that point? (08/12/2020)



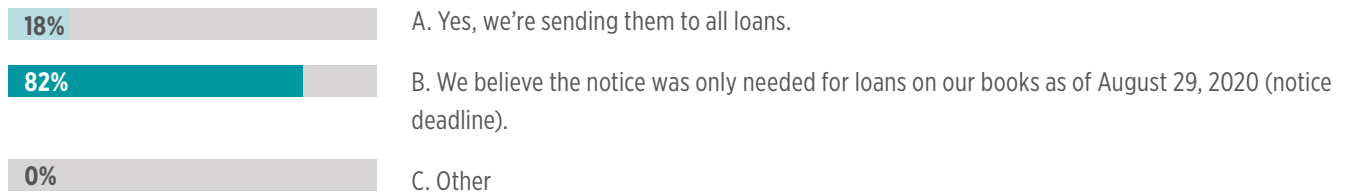
New York Forbearances: Have you found a way to solve for the “repayment over lifetime of loan” option required after forbearance? (05/19/2020)



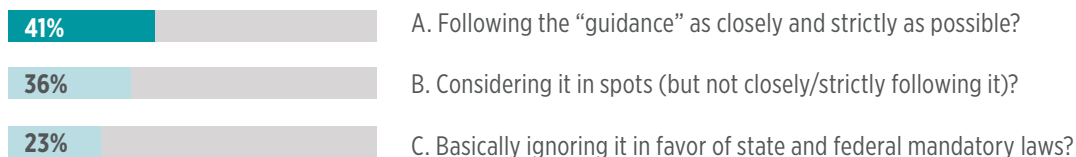
In Oregon, are you allowing accommodations under HB 4204 according to the definition of the emergency period (ending December 31, 2020) or the emergency period plus 90 days (March 31, 2021) as stated in Oregon’s model notice of rights? (12/09/2020)



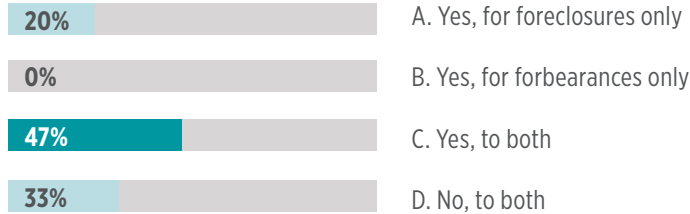
Have you continued to send Oregon Notice of Rights to newly originated loans? (12/09/2020)



With respect to state regulatory “guidance” (such as the Texas OCC’s “Regulated Lender Advisory Bulletin: Coronavirus Emergency Measures”), are you: (09/30/2020)



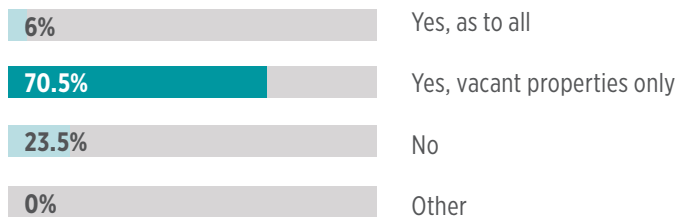
Do you believe that the Oregon EO 20-67 properly extended the forbearance and/or foreclosure deadlines under HB 4204? (01/06/2021)



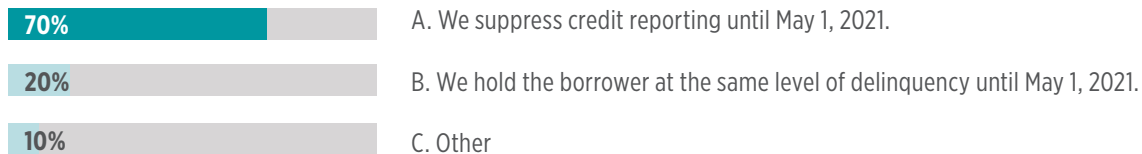
Are you going to proceed with foreclosures in Oregon at this time (for whatever reasons)? (01/06/2021)



For PLS loans, are you moving ahead with foreclosures in Washington? (02/10/2021)



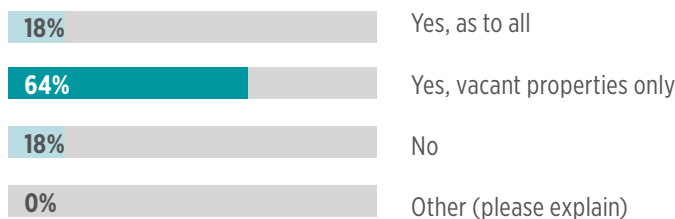
In New York, if in receipt of a hardship declaration that stays foreclosure or eviction, how are you handling credit reporting? (02/10/2021)



Are you sending a Notice of Rights for forbearance for non-CARES Act loans in Maryland in order to later conduct foreclosures? (02/24/2021)



For PLS loans, are you moving ahead with foreclosures in Maine? (03/17/2021)



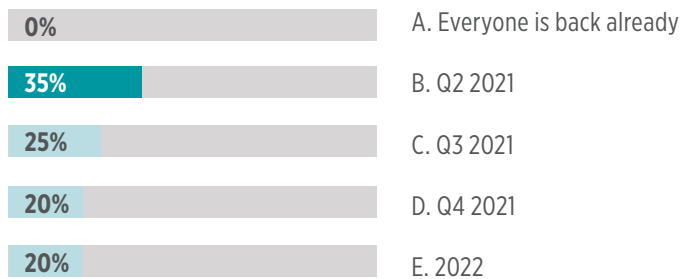
Have you received pushback from Fannie Mae or Freddie Mac regarding offering a COVID-19 Deferral for a Massachusetts 35B “certain mortgage loan”? (08/04/21)



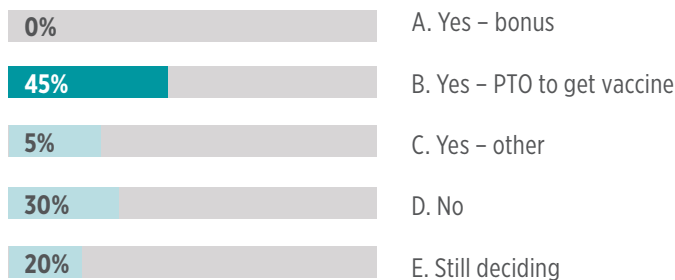
Are you planning on requiring employees to be vaccinated (to remain employed)? (05/12/2021)



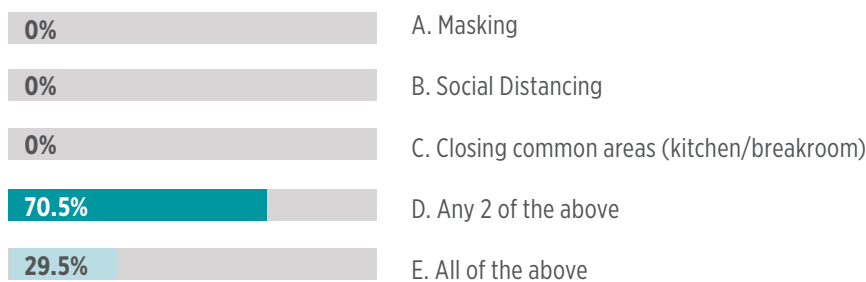
When do you plan to bring employees back to the office? (05/12/2021)



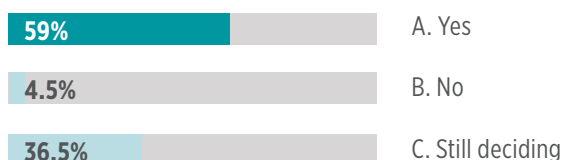
Are you (will you) offering incentives to get the vaccine? (05/12/2021)



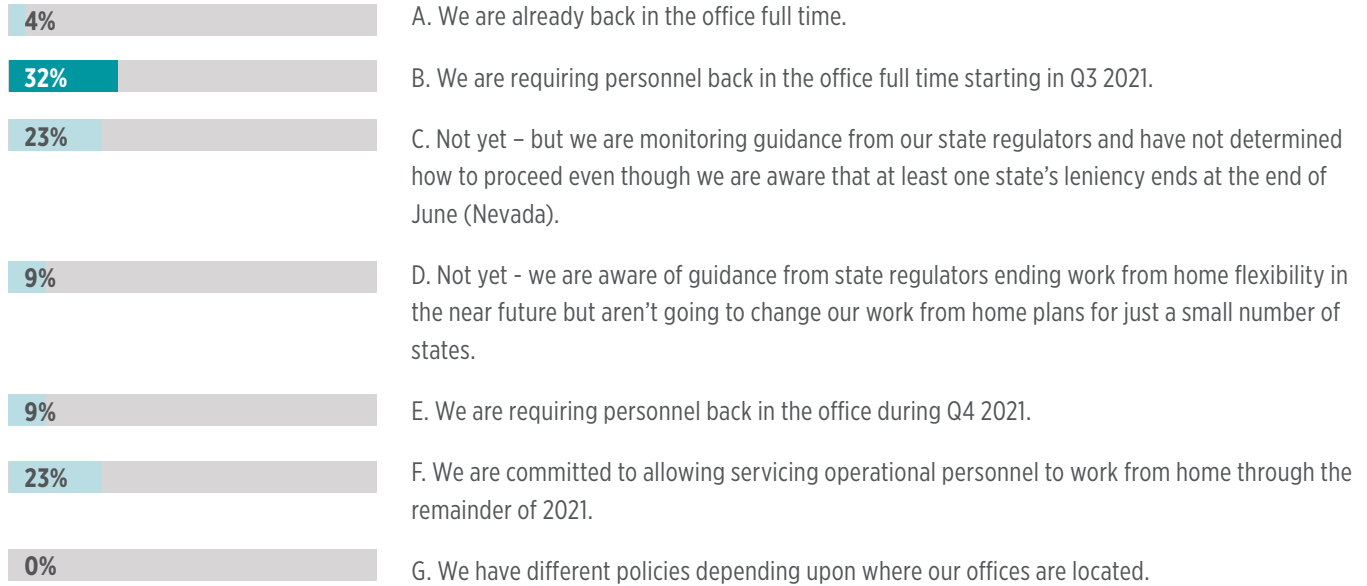
When employees return, are you requiring? (05/12/2021)



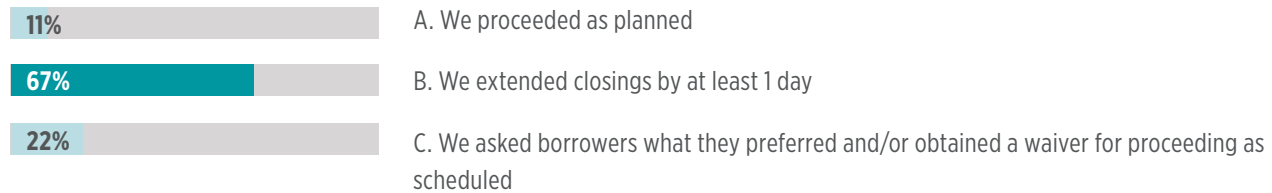
Do you plan to leave certain groups of employees remote permanently who do not need to be in the office because their function is not a licensable activity required to be performed in a licensed location? (05/12/2021)



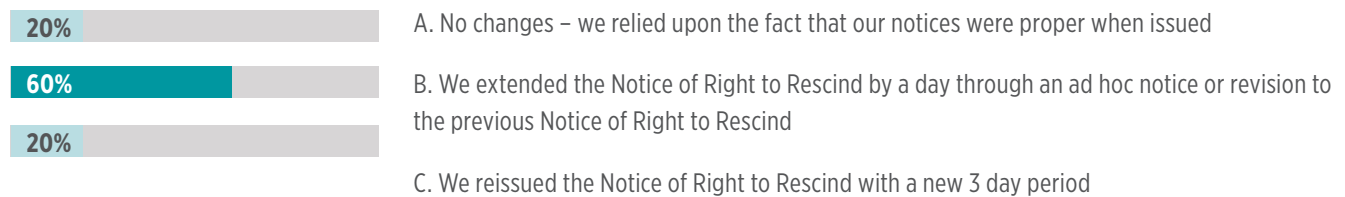
For your servicing operational personnel (as opposed to members of the compliance, legal, HR, and similar departments), when do you anticipate having at least 75% of your personnel back in the office? (06/23/2021)



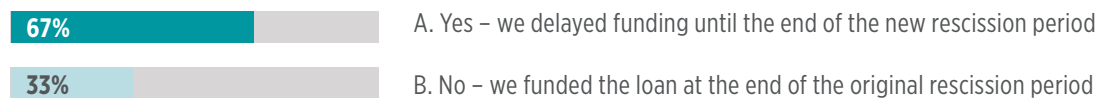
How did you approach loans within the 3 days window for Closing Disclosures? (06/23/2021)



How did you approach loans that already had their Notice of Right to Rescind Issued? (06/23/2021)



If you extended the Rescission Period or reissued the Notice of Right to Rescind, did you delay funding the loan until the extended Rescission Period expired? (06/23/2021)



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