



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

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MEMORANDUM- Sent via Electronic Mail

DATE: March 31, 2020

TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL EXECUTIVE UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS
ALL CIVIL CHIEFS
ALL FINANCIAL LITIGATION UNIT COORDINATORS

FROM: Corey F. Ellis
Acting Director

SUBJECT: Temporary Suspension of Affirmative Civil Debt Collection and Enforcement Activities during the COVID-19 Pandemic

ACTION REQUIRED: Effective immediately, suspend affirmative civil debt collection and enforcement activities, with limited exceptions, through May 31, 2020.

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To mitigate the financial impact of the coronavirus (COVID-19) pandemic, effective immediately, the Department of Justice (Department) is suspending its collection of civil debts through at least May 31, 2020 (Temporary Suspension). This Temporary Suspension may be extended by legislation or other administrative action. This memorandum explains the general scope and limits of the Temporary Suspension.

1. Civil Debt Collection Temporary Suspension, Including Debts in TOP

Effective immediately, United States Attorneys' offices (USAOs) should cease affirmative civil debt collection and enforcement actions. Preparatory debt collection actions

(*e.g.*, preparing but not filing liens, running credit reports) and measures to protect the government's interests may continue. Any preparatory action must stop short of contacting debtors to demand payment or taking affirmative action to collect the debt. This Temporary Suspension does not apply to ongoing litigation, appeals, or cases that are not subject to a final, non-appealable judgment.

The Temporary Suspension applies to collection and enforcement activity on civil debts, including debts referred by the Department to the Department of the Treasury (Treasury) for collection through the Treasury Offset Program (TOP). The Department will suspend the reduction or withholding, known as the "offset," of eligible federal payments authorized by the Internal Revenue Code and the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996. Depending on the nature of the debt, interest may accrue on the principal while the offset is suspended. USAOs do not need to take any action to effectuate the suspension in TOP. Similarly, the Department will resume TOP offsets upon the conclusion of the Temporary Suspension, including any extensions. Additionally, the Department's Debt Collection Management (DCM) staff will transmit a notice of the Temporary Suspension to all debtors with civil debts in the Consolidated Debt Collection System (CDCS) that are subject to TOP and will notify these debtors when the Temporary Suspension concludes and TOP offsets recommence.

Voluntary payments are still permitted. If a debtor contacts the USAO's Financial Litigation Unit (FLU) and expresses a desire to pay, the debtor may voluntarily pay their debt or make interest-only payments during the Temporary Suspension. If a debtor requests payment instructions to make voluntary payments, the FLU should transmit those instructions.

2. Prior Court Ordered Enforcement

Collection and enforcement of any debt or obligation by operation of law as a result of a previously entered court enforcement related order, judgment, or stipulated order (*e.g.*, garnishment order) continues per normal procedures and is not affected. Thus, while USAOs should not seek to vacate previously entered garnishment orders, no new garnishment actions on civil debts should be filed during the Temporary Suspension.

3. Debts on Active Payment Plans

DCM will notify debtors who have active payment plans with FLUs that the regularly scheduled payments are suspended during the Temporary Suspension. Payments scheduled under an active payment plan and not paid during the Temporary Suspension will not be considered delinquent or in default, and no affirmative collection action should be taken for the duration of the Temporary Suspension. Payment plans will be extended for a time equal to the length of time of the Temporary Suspension. Unless the referring creditor agency waives the accrual of interest during the Temporary Suspension, interest will continue to accrue on the debt balance. DCM will further notify debtors that they have the option to continue making payments pursuant to a previously established payment plan during the Temporary Suspension period.

If a debtor makes recurring, scheduled payments through Pay.gov, the debtor will be informed that they must take affirmative action to suspend those payments in Pay.gov for the duration of the Temporary Suspension and to resume those payments in Pay.gov when the Temporary Suspension is lifted. DCM will notify debtors prior to the resumption date that failure to make payments under established payment plans once the Temporary Suspension ends may result in additional enforcement action.

4. Criminal Debt Collection

Collection and enforcement of a debt that is the result of a criminal conviction or plea and a resulting court order or judgment that was entered under a criminal statute is not subject to the Temporary Suspension. This includes criminal restitution, fines, and penalties.

5. Moratorium on HUD and USDA Rural Development Foreclosures and Evictions

On March 18, 2020, the United States Department of Housing and Urban Development (HUD) authorized the Federal Housing Administration (FHA) to implement a 60-day moratorium on foreclosures and evictions of single-family homeowners with FHA-insured mortgages. Citing financial considerations associated with COVID-19, HUD issued its moratorium to avoid displacing individuals during this period. The moratorium extends 60 days from March 18, 2020. On March 20, 2020, HUD placed a foreclosure and eviction moratorium on all tribal housing secured by Sections 184 and 184A guaranteed loans, extending 60 days from March 20, 2020.

On March 19, 2020, the United States Department of Agriculture's (USDA) Rural Development Business Center (USDA Rural Development) placed a foreclosure and eviction moratorium on all USDA Single Family Direct Loans (SFDLs), extending 60 days from March 19, 2020.

The USAOs litigate foreclosure and eviction cases referred to them by HUD and USDA Rural Development, and have authority over such cases. *See* Civil Directive 1-15, Section 4(a)(2). To be consistent with the policy concerns described in the HUD and USDA Rural Development moratoria, USAOs, including Private Counsel under contract to USAOs, are encouraged to (1) seek a stay of proceedings or otherwise defer foreclosures against homes that are secured by FHA-insured single family mortgages, Sections 184 and 184A guaranteed loans, and USDA Rural Development SFDLs, (2) seek to stay or defer evictions of individuals within those homes during the HUD and USDA Rural Development moratoria, and (3) take other steps as warranted in accordance with the moratoria.

A court-granted stay of proceedings should not waive any legal rights of the United States, including any right to pursue interest, penalties, or fees that may accrue during the period of the stay. For foreclosure and eviction cases that have been referred to USAOs by HUD and USDA Rural Development but have not yet been filed, USAOs are encouraged to defer enforcement actions and to confer with HUD or USDA Rural Development, if necessary, to take action necessary to protect the United States' rights during the moratoria. The relevant HUD and

USDA memoranda with respect to the 60-day moratoria are available on DOJBook at the following link: [COVID-19](#).

cc: All United States Attorneys' Secretaries