How Will Borrowers and Lenders Respond to the New Coronavirus Economy?

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The pandemic currently threatening the nation has precipitated a financial crisis in addition to the health crisis currently underway. The closure of non-essential businesses and events, stay-at-home orders and social distancing has upended entire industries and brought economic activity in a significant portion of the state of Florida to a near-halt.

The economic meltdown that is underway is also having a substantial adverse impact upon borrowers and lenders. As jobs are lost and a future recession looms, people and companies may have difficulties making payments on current loans or become skittish about borrowing money in such a market. Global shares have taken a hit and big shifts in stock markets, where shares in companies are bought and sold, can affect many investments in pensions or individual savings accounts. In response, the US Federal Reserve has slashed interest rates to make borrowing cheaper and encourage spending to boost the economy. Despite this incentive, lenders are not likely to see a boost soon given the shuttering of so many businesses.

Borrowers and lenders will likely respond to these adverse economic circumstances by agreeing to extend payment deadlines through forbearance agreements or otherwise modifying repayment terms through loan modifications and workout agreements. While a moratorium has been issued on foreclosures and evictions for FHA-insured single family mortgages and deferrals on SBA-backed business loans, this relief will not apply to millions of Americans facing loan default. Depending upon the nature of and/or the length of loan defaults, a lender may be forced to pursue its remedies such as appointment of a receiver or a foreclosure action. The commencement by a lender of an enforcement action may result in a borrower initiating a bankruptcy or other insolvency proceeding. While lawmakers recently reached a deal on a sweeping $2 trillion stimulus package, this infusion into the economy may not be enough to save a number of distressed loans and financing agreements.

Shutts & Bowen LLP has vast experience in advising and assisting lenders with respect to troubled loans and an extensive number of its attorneys have experience with virtually every type of credit facility including asset-based lending, accounts receivable financing, and real estate financing. Accordingly, its attorneys have the requisite knowledge and experience to address the issues in a forbearance/loan modification scenario including any special issues related to a particular type of financing.

We are also well-prepared to advise lenders regarding their remedies with respect to loan defaults and to assist lenders in their analysis of the timing of and appropriate remedies to pursue if a loan default is not satisfactorily resolved by a forbearance agreement or loan modification. Should the exercise of remedies by a lender be elected, our attorneys can initiate and pursue all actions and proceedings necessary or desirable with respect thereto including foreclosures and the entire range of actions and proceedings in bankruptcy and other insolvency proceedings.

For more information about workout agreements and the exercise of remedies, reach out to C. Richard Morgan or another member of the Financial Services Practice Group.

To learn more about the protocols Shutts & Bowen is implementing to protect its employees and clients from COVID-19 exposure, click here.

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