An auto repossession avalanche is coming: Are you ready?

December 01, 2020

The impact of the COVID-19 pandemic on the U.S. economy is momentous. As businesses across the country shut down to comply with stay-at-home orders, workers have been laid off at a record pace. With unprecedented unemployment rates, many borrowers are struggling to keep up with their auto financing payments.

As the state-imposed repossession moratoria put in place during the pandemic begin to expire, prudent lenders should be assessing the potential impacts to their auto financing portfolios. Lenders must proactively prepare for an avalanche of account defaults, credit losses, and vehicle repossessions. With this trend likely to continue for many months, lenders face substantial risks if they fail to prepare across all jurisdictions where they have credit exposure.

Economic drivers of repossessions

As COVID-19 hit the U.S., consumers were already facing many financial challenges that lenders had to address, and these challenges have only been exacerbated as the pandemic progressed and businesses were forced to shut down.

Pandemic stimulus packages and additional federal unemployment funds only acted as a temporary band-aid to lessen the impact of COVID-19. The provision of extra monthly resources gave consumers some relief for a short time. However, most of this funding has now expired, leaving consumers no better off than before. As of the end of the second quarter of 2020, auto loans that are past due 90-plus days account for 5.03 percent of the total outstanding balance, up from 4.64 percent a year ago (according to the New York Federal Reserve). As more consumers find themselves working remotely and no longer use their vehicles to commute, the need for ownership lessens, as does the urgency to make an auto loan payment. Lenders may see this translate into a higher number of motor vehicles voluntarily surrendered.

Addressing repossessions going forward and implementing internal controls

The repossession moratoria and mandatory payment deferrals previously extended to borrowers are starting to fall off. As of October 2020, the District of Columbia (through emergency legislation) and Maryland (through an executive order) still have a moratorium on repossessions in place. It is also important for lenders to understand the time periods for all moratoria that were in place (such as Alaska, Massachusetts, and Illinois), to ensure their practices were compliant in those jurisdictions during those times. Going forward, lenders must document their approach to handling motor vehicle repossessions and implement these practices in a consistent manner. A well-drafted Compliance Management System (CMS) should assist lenders as they go forward. This includes ensuring that the board of directors and relevant management committees stay apprised of any ongoing issues;

policies and procedures are implemented consistently; employees are properly trained on working with affected customers; consumer complaints are reviewed and addressed; monitoring how the business is implementing the policies and procedures is completed; and ensuring the internal audit function provides a thorough, independent assessment of the businesses operations.

It is anticipated that a lender's state and federal regulators and plaintiff's attorneys will be focusing closely on how institutions are currently handling motor vehicle repossession issues with affected customers, and how lenders continue to handle the situation when the impending avalanche of repossessions does occur. On a tactical level, lenders should ensure that they are in possession of a title for a vehicle that will be repossessed, and that the title is perfected. Addressing vehicle title processing issues early helps handle any exceptions and reduces costly delays.

Practical considerations that lenders should be thinking about:

1. **Always deal with current events.** Before starting a repossession, check to ensure that the repossession moratorium has expired in that state. It is easy for a state to extend a moratorium, so you need to confirm before repossessing a consumer's motor vehicle.

2. **The impact of mobile collateral.** The disadvantage of motor vehicles as collateral is that they are always on the move. Lenders may find the borrower has moved to a different jurisdiction than the one where the loan was originated. Lenders cannot use the same repossession notice in every state and must follow state-specific guidelines and requirements for documentation and procedures.

3. **Exhaust all loss mitigation avenues** rather than resort to repossession. In addition to getting in the good graces of your regulator, the court of "public opinion" will be more likely to look favorably on lenders who go above and beyond for their customers during this time. Additionally, by keeping customers in possession of their vehicles, lenders will maintain the customer/borrower relationship and keep payments coming in.

4. **Review your portfolio now for exceptions.** Be ready for the anticipated influx of defaults and repossessions by making sure you are properly noted as the secured party on the title, so you don't add time and complexity to the process. Doing this ahead of the repossession will spare you any hassles and save time and money.

5. **Adjust your timelines.** As you process repossession titles, take into account existing delays at the Department of Motor Vehicles and start your title requests earlier to accommodate these delays.

6. **Consider automation or outsourcing.** It can be challenging to manage the volume of repossessions with existing staff. A third-party provider can help you streamline your repossession titling process, reduce pain points, and provide transparency.

With some preparation, solid documentation, and a strong plan, proactive lenders should be equipped to minimize the effects of the oncoming repossession avalanche.

This article was co-authored by Marina Hardy and Rick Vanko of Wolters Kluwer.

This article was first published onAuto Finance Excellence, a sister service of Auto Finance News, and is reprinted with permission. McGlinchey is pleased to serve as the official Compliance partner of Auto Finance Excellence, providing insights and thought leadership through webinars, podcasts, and monthly columns.

Related people

Mark S. Edelman