

# Loan Modification and Reporting During the COVID-19 Crisis

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**We reported that, on March 9, 2020, the Federal Reserve, Office of the Comptroller of the Currency, Federal Deposit Insurance Corp., Consumer Financial Protection Bureau, National Credit Union Administration, and Conference of State Bank Supervisors issued a joint statement to**

**financial institutions urging them to work constructively with borrowers and other customers affected by COVID-19.**

Since then, the agencies provided additional guidance and the CARES Act was signed into law. Together, they offer these key takeaways:

## **Working with Customers**

The agencies encourage financial institutions to work prudently and pro-actively with borrowers – consistent with "safe and sound" practices – who are or may be unable to meet their payment obligations because of the effects of COVID-19. The agencies view loan modification programs as positive actions to mitigate adverse effects on borrowers due to COVID-19. The agencies will not criticize institutions for working with borrowers and will not direct supervised institutions to automatically categorize all COVID-19 related loan modifications as troubled debt restructurings ("TDRs").

## **Troubled Debt Restructuring (TDR)**

According to United States generally-accepted accounting principles, restructuring a debt constitutes a TDR if the creditor, for economic or legal reasons related to the debtor's financial difficulties, grants a concession to the debtor that it would not otherwise consider. The CARES Act states that from March 1, 2020, until the end of the year (unless the President terminates the COVID-19 emergency declaration sooner), financial institutions may elect to suspend the TDR accounting principles for loan modifications related to COVID-19.

The suspension applies during the modification. A modification can be a forbearance agreement, a new

repayment plan, interest rate modification, or any other arrangement that defers or delays the payment of principal or interest. This provision applies only to loans that were current – less than 30 days past due on payments – as of December 31, 2019.

The agencies are to defer to the financial institutions to suspend the TDR requirements. Financial institutions may presume that borrowers current on payments are not experiencing financial difficulties at modification to determine TDR status, and no further TDR analysis is required for each loan modification in the program. Examiners will exercise judgment in reviewing loan modifications, including TDRs, will not automatically adversely risk rate credits affected by COVID-19, and will not criticize prudent efforts to modify the terms on existing loans to affected customers.

## **Past Due Reporting and Nonaccrual Status**

Regarding loans not otherwise reportable as past due, financial institutions are not expected to designate loans with deferrals granted due to COVID-19 as past due because of the deferral. A loan's payment date is governed by the due date stipulated in the loan documents. If a financial institution agrees to a payment deferral, this may result in no contractual payments being past due, and these loans are not considered past due during the deferral period. During a short-term deferral or modification, the loans generally should not be reported as nonaccrual.

## **Paycheck Protection Program Payments**

Many financial institutions may have borrowers who apply for a loan under the CARES Act's Paycheck Protection Program (PPP), which allows an eligible borrower to obtain a loan to cover payroll, rent, mortgage interest, and utilities for the Covered Period (February 15, 2020 - June 30, 2020). Up to 100% of the loan can be forgiven if the borrower spends the loan proceeds appropriately. Financial institutions should know there are several factors that can prohibit a borrower from obtaining a PPP loan (e.g., an owner or related business in bankruptcy). Financial institutions should also be vigilant that, with any modification or workout, PPP loan proceeds are not used for a prohibited purpose (e.g., principal reduction on a loan).

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