

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 20-03: Troubled Debt Restructuring Due to COVID-19

GUIDANCE EXPIRED JANUARY 2, 2022

INT 20-03 Dates Discussed

Coronavirus Disease 2019 (COVID-19). Several states and cities have issued “stay home” orders and all non-essential businesses to temporarily close. This led to a significant increase in the potential permanent closure of many businesses. Total economic damage is still being estimated, but the total impact is likely to exceed \$1 trillion in the U.S. alone.

2. In response to COVID-19, Congress and federal and state p-3.7 () if applicable period for a loan that was not more than 30 days past due as of Dec 31, 2019.

3. Furthermore, guidance has been issued by the Financial Condition (E) Insurers Filing with the NAIC in an effort to encourage insurers to work with borrowers who may become unable to meet their contractual payment obligations because of the impact of COVID-19. As detailed in that guidance, the Committee, which is the NAIC parent committee on COVID-19, is making task forces and working groups of the NAIC, supports the use of prudent practices that can mitigate the impact of COVID-19.

4. This interpretation considers the interagency guidance issued by federal banking regulators on March 22, 2020, addressing whether the modification of mortgage terms in response to COVID-19 shall be considered a troubled debt restructuring.

INT 20-03 Discussion

5. SSAP No. 36-Troubled Debt Restructuring provides guidance, predominate GAAP, in determining whether a debt restructuring is considered a troubled debt restructuring. Additionally, SSAP No. 36 provides accounting and disclosure guidance when a troubled debt restructuring has been deemed to occur. Pursuant to existing guidance in SSAP No. 36, a debt restructuring is not necessarily considered a troubled debt restructuring and a creditor must determine if the debtor is experiencing financial difficulties. The guidance also states that a delay in payment is not a concession.

6. On March 22, 2020, the federal and state prudential banking regulators issued a joint statement that included guidance on their approach to the accounting for loan modifications in light of the economic impact of the coronavirus pandemic. The guidance was developed in consultation with the staff of the FASB who concur with the approach and indicated that they stand ready to assist stakeholders with any questions. This interagency statement is provided below and is accessible through the FASB response at the following link:

adversely classified, agency examiners will not criticize prudent efforts to modify the terms on existing loans to affected customers.

Regulatory Capital

The FRB, the FDIC, and the OCC note that efforts to work with borrowers of one-to-four family residential mortgages as described above, where the loans are prudently underwritten, and not 90 days or more past due or carried in nonaccrual status, will not result in the loans being considered restructured or modified for the purposes of their respective risk-based capital rules.

Past Due Reporting

With regard to 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 legal agreement. 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 period of the deferral.

Nonaccrual Status and Charge-Offs

Each financial institution should refer to the applicable regulatory reporting instructions, as well as its internal accounting policies, to determine if loans to stressed borrowers should be reported as nonaccrual assets in regulatory reports. However, during the short-term arrangements discussed in this statement, these loans generally should not be reported as nonaccrual. As more information becomes available indicating a specific loan will not be repaid, institutions should refer to the charge-off guidance in the instructions for the Consolidated Reports of Condition and Income.

Discount Window Eligibility

Institutions are reminded that loans that have been restructured as described under this statement will generally continue to be eligible as collateral at the FRB's discount window based on the usual criteria.

Working with Customers: Consumer Protection Considerations

The agencies encourage financial institutions to consider prudent arrangements that can ease cash flow pressures on affected borrowers, improve their capacity to service debt, increase the potential for financially stressed residential borrowers to keep their homes, and facilitate the financial institution's ability to collect on its loans. Additionally, such prudent arrangements may mitigate the long-term impact of this emergency on consumers by avoiding delinquencies and other adverse consequences.

When working with borrowers, lenders and servicers should adhere to consumer protection requirements, including fair lending laws, to provide the opportunity for all borrowers to benefit from these arrangements. When exercising supervisory and enforcement responsibilities, the agencies will take into account the unique circumstances impacting borrowers and institutions resulting from the National Emergency. The agencies will take into account an institution's good-faith efforts demonstrably designed to support consumers and comply with consumer protection laws. The agencies expect that supervisory feedback for institutions will be focused on identifying issues, correcting deficiencies, and ensuring appropriate remediation to consumers. The agencies do not expect to take a consumer compliance public enforcement action against an institution, provided that the circumstances were related to the National Emergency and that the institution made good faith efforts to support borrowers and comply with the consumer protection requirements, as well as responded to any needed corrective action.

INT 20-03 Consensus

9. The Statutory Accounting Principles (E) Working Group reached a consensus to clarify that a modification of mortgage loan or bank loan terms in response to COVID-19 should follow the provisions detailed in the April 7, 2020, "Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus" (detailed in paragraph 6) and the provisions of the CARES Act (detailed in paragraph 7) in determining whether the modification shall be reported as a troubled debt restructuring within SSAP No. 36.

10. Original Effective Date: This interpretation is effective for the specific purpose to address loan modifications in response to COVID-19. Consistent with the CARES act, this interpretation is only applicable for the term of the loan modification, but solely with respect to any modification, including a forbearance arrangement, interest rate modification, a repayment plan and other similar arrangement that defer or delays the payment of principal or interest for a loan that was not more than 30 days past due as of December 31, 2019. As determined in the CARES Act, this interpretation will only be applicable for the period beginning on March 1, 2020, and ending on the earlier of December 31, 2020, or the date that is 60 days after the date on which the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by President Trump on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates.

11. Extension of Effective Date: On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act, 2021, which slightly modified and extended the original CARES Act.
r25-1.3 (C)-0.7 -2634(a)41