Feds Issue Guidance to Financial Institutions Working with Customers Affected By COVID-19

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As the Coronavirus Disease 2019 (COVID-19) continues to impact our nation, financial institutions are finding themselves in a situation wherein their customers are unable to, or are at risk of being unable to, make timely loan payments. On March 22, 2020 the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB), and the State Banking Regulators (collectively, the "agencies") issued an interagency statement to assist financial institutions in navigating the waters with customers affected by COVID-19.

Financial institutions are encouraged to work diligently with these customers by means of permitting short term (e.g., six months) insignificant modifications to loan terms, such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment. Under these circumstances, the agencies state that:

- Loan modifications granted to customers who are less than 30 days past due on their contractual loan payments at the time of the loan modification should not be automatically classified as troubled debt restructurings ("TDRs) and therefore do not require additional TDR analysis for each loan modification made under these circumstances. Further, federal or state government mandated modification or deferral programs related to COVID-19 should also not be classified as TDRs.
- Loan modifications made to one-to-four family residential mortgages where the loans are carefully underwritten and not past due or carried in nonaccrual status will not be considered to be restructured or modified for the purposes of the FRB, the FDIC, and the OCC's respective risk-based capital rules.
- Payment deferrals granted due to COVID-19 will not result in the loan being designated as past due during the period of the deferral.
- Generally, short-term loan modifications granted under these circumstances should not be reported as nonaccrual assets in regulatory reports. However,

financial institutions should continue to refer to applicable regulatory reporting instructions and internal accounting policies to determine whether loans should be reported as nonaccrual.

- Loans modified as a result of COVID-19 remain eligible as collateral at the FRB's discount window based on customary standards.

Importantly, the interagency statement reassures financial institutions that the agencies or agency examiners:

- will not criticize you for working with your customers;
- will not automatically categorize all COVID-19 related loan modifications as TDRs;
- will not criticize you for taking steps to mitigate your credit risk, provided your steps to do this are consistent with safe and sound practices;
- will not criticize you for working with your loan customers in order to improve an existing non-pass loan; and,
- will not criticize your prudent efforts to modify existing loan terms to customers impacted by COVID-19, regardless of whether these term modifications result the subject loan being considered TDRs or becoming adversely classified.