Banking and Finance Law Daily Wrap Up, LOANS—Banking agencies endorse loan modifications for coronavirus impacted borrowers, (Mar. 23, 2020)

Banking and Finance Law Daily Wrap Up

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A joint statement released by the agencies views prudent loan modifications as positive and proactive actions that can improve loan performance and reduce risk.

The Federal Deposit Insurance Corporation, Federal Reserve Board, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, National Credit Union Administration, and the state banking regulators have released an interagency statement encouraging financial institutions to work constructively with borrowers affected by the coronavirus pandemic and providing additional information regarding loan modifications (FIL-22-2020). According to the statement, the agencies view prudent loan modification programs offered to financial institution customers affected by the coronavirus as positive and proactive actions that can manage or mitigate adverse impacts on borrowers, and lead to improved loan performance and reduced credit risk. The statement also provides supervisory views on past-due and nonaccrual regulatory reporting of loan modification programs.

The agencies: (1) encouraged financial institutions to work with borrowers; (2) will not criticize institutions for doing so in a safe and sound manner; and (3) will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings (TDRs). In addition, the agencies reminded institutions that not all loan modifications result in a TDR. For example, short-term modifications made on a good faith basis in response to the coronavirus to borrowers who were current prior to any relief are not TDRs, including short-term modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant.

The statement also advised that examiners will exercise judgment when reviewing loan modifications, including TDRs, and will not automatically adversely risk rate credits that are affected, including those considered TDRs. Moreover, agency examiners will not criticize prudent efforts to modify terms on existing loans for affected customers, regardless of whether the modifications are considered TDRs or are adversely classified.

Last week, the FDIC, Fed, and OCC said they would expand Community Reinvestment Act activities for coronavirus-affected communities, including expanding consideration beyond banks' CRA assessment areas, helping make qualifying loan modifications easier, and suggesting qualifying retail banking changes that can help ease burdens for low- and moderate-income customers affected by the coronavirus outbreak (see *Banking and Finance Law Daily*, March 20, 2020).

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