

New Interagency Policy Statement on CRE Loan Accommodations and Workouts

Alert

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By Jordan Ortmeier

On June 29, 2023, a new interagency [Policy Statement](#) (the Statement) was issued relating to commercial real estate (CRE) loan accommodations and workouts. The Statement is relevant to all financial institutions governed by the rules of: the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Board of Governors of the Federal Reserve System (together, the Agencies). This Statement updates and supersedes the October 30, 2009, previous guidance released by the Agencies, which confronted the stressed economic environment after the 2008 financial crisis.

In times of financial or economic stress, borrowers may become unable to meet payment schedules or repay their obligations under CRE loans. The Statement builds on existing framework for financial institutions to work with creditworthy borrowers in accommodation and workout scenarios, incorporating new views on short-term loan accommodations, information about changes in accounting principles since 2009, and revisions and additions to the CRE loan workouts examples.

When it is not clear if a long-term workout is appropriate or necessary, the Statement offers short-term or temporary accommodations to potentially mitigate negative long-term effects on borrowers. These accommodations include any agreement to:

- Defer one or more payments.
- Forbear any delinquent amounts.
- Modify a loan or contract.

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- Provide other assistance or relief to a borrower experiencing a financial challenge.

By implementing such strategies, financial institutions can address issues affecting repayment ability before a long-term workout becomes necessary. Along with these examples, the Agencies provide additional guidance for risk management and internal controls for short-term accommodations. When these measures prove insufficient or unsuccessful, financial institutions are then encouraged to proceed into a long-term or more complex loan arrangement under a formal workout program.

When considering a loan classification, the Statement also expands the evaluation of guarantors to include loan sponsors of a CRE borrower, recognizing that even without a legal obligation, sponsors are often similar to guarantors in regards to financial ability, willingness and incentive. Also addressed are accounting standard changes in "Generally Accepted Accounting Principles," including relevant accounting and supervisory guidance on estimating loan losses for financial institutions that use the current expected credit losses methodology.

The Agencies use new and revised illustrative CRE loan workout examples to aid financial institutions in understanding an examiner's thought process for classifications and implications for interest accrual. New examples include loans secured by an income-producing hotel, loans for acquisition, development and construction of residential properties, and loans secured by multifamily residential real estate. The examples also consider changes in technological advances and culture, such as work-from-home arrangements that may cause a decline in a borrower's cash-flow as a result of rental concessions for an office building.

With both short-term and long-term accommodations, the burden remains on financial institutions to employ prudent and appropriate internal controls to manage the risks associated with accommodated loans. Financial institutions should also consider how a loan workout arrangement may affect their regulatory reporting, particularly as it relates to interest accruals and loan loss estimates.

For advisement on internal risk management and regulatory compliance, please contact [Deb Bayles](#), [Jordan Ortmeier](#), [Scott Smalley](#) or the Stinson LLP contact with whom you regularly work.

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