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Frequently Asked Questions About Troubled Debt Restructurings Under the CARES Act and Interagency Statement

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This publication was updated on January 11, 2021, to reflect certain provisions of the Consolidated Appropriations Act, 2021, that extend relief offered under the CARES Act related to troubled debt restructurings as a result of COVID-19. Text that has been added or amended since the publication's initial issuance has been marked with a ***boldface italic date*** in brackets throughout the document. Note that additional updates to this publication may be issued in the future, as warranted.

Background

On March 27, 2020, President Trump signed into law the [Coronavirus Aid, Relief, and Economic Security Act](#) (the "CARES Act"), which provides relief from certain requirements under U.S. GAAP. Section 4013 of the CARES Act gives entities temporary relief from the accounting and disclosure requirements for troubled debt restructurings (TDRs) under ASC 310-40¹ in certain situations.² In addition, on April 7, 2020, a group of banking agencies (the

¹ FASB Accounting Standards Codification (ASC) Subtopic 310-40, *Receivables: Troubled Debt Restructurings by Creditors*.

² The relief related to TDRs under the CARES Act was extended by the [Consolidated Appropriations Act, 2021](#) (CAA), which was signed into law on December 27, 2020. Under the CAA, such relief will continue until the earlier of (1) 60 days after the date the COVID-19 national emergency comes to an end or (2) January 1, 2022. For more information, see [Appendix A](#) of this *Heads Up*, which has been updated to include Section 541 of Division N of the CAA. **[Footnote added January 11, 2021]**

“Agencies”³ issued an [interagency statement](#) that offers some practical expedients for evaluating whether loan modifications that occur in response to the coronavirus disease 2019 (“COVID-19”) pandemic are TDRs. The interagency statement was originally issued on March 22, 2020, but the Agencies revised it to address the relationship between their TDR accounting and disclosure guidance and the TDR guidance in Section 4013 of the CARES Act.

For a loan modification to be considered a TDR in accordance with ASC 310-40, **both** of the following conditions must be met:

- The borrower is experiencing financial difficulty.
- The creditor has granted a concession (except for an insignificant delay in payment).

Section 4013 of the CARES Act permits the suspension of ASC 310-40 for loan modifications that are made by financial institutions in response to the COVID-19 pandemic if (1) the borrower was not more than 30 days past due as of December 31, 2019, and (2) the modifications are related to arrangements that defer or delay the payment of principal or interest, or change the interest rate on the loan. (For ease of reference, Section 4013 of the CARES Act and Section 541 of Division N of the CAA are reproduced in [Appendix A](#) of this *Heads Up*.) **[Paragraph amended January 11, 2021]**

The interagency statement interprets, but does not suspend, ASC 310-40. It indicates that a lender can conclude that a borrower is not experiencing financial difficulty if short-term (e.g., six months) modifications are made in response to COVID-19, such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant related to loans in which the borrower is less than 30 days past due on its contractual payments at the time a modification program is implemented. In addition, a modification or deferral program that is mandated by the federal government or a state government (e.g., a state program that requires all institutions within that state to suspend mortgage payments for a specified period) does not represent a TDR because the lender did not choose to provide a concession. Accordingly, any loan modification made in response to the COVID-19 pandemic that meets either of these practical expedients would not be considered a TDR. Note that in its discussion of short-term modifications, the interagency statement is not interpreting the meaning of an insignificant delay in payment; ASC 310-40 provides guidance on determining whether a delay in payment is insignificant. See [Appendix B](#) of this *Heads Up* for an excerpt of the interagency statement’s TDR guidance. **[Paragraph amended May 1, 2020]**

A loan modification that is accounted for in accordance with Section 4013 of the CARES Act is not treated as a TDR for accounting or disclosure purposes. Similarly, a loan modification to which a practical expedient in the interagency statement is applied is also not treated as a TDR for accounting or disclosure purposes. If a loan modification does not meet the conditions for application of either Section 4013 of the CARES Act or the interagency statement, or that guidance is not applied by the lender, the modification is not necessarily a TDR. The creditor must evaluate whether, under ASC 310-40, the borrower is experiencing financial difficulty and whether a concession, other than an insignificant delay in payment, has been made. Note that all instances of the term “entity” below refer to the lender; neither Section 4013 of the CARES Act nor the interagency statement may be applied by a borrower. Rather, borrowers must evaluate all modifications under ASC 470-60.⁴

³ The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, and the State Banking Regulators.

⁴ FASB Accounting Standards Codification Subtopic 470-60, *Debt: Troubled Debt Restructurings by Debtors*, addresses the borrower’s determination of whether a modification represents a TDR. We generally believe that borrowers may reasonably conclude that modifications are not TDRs when they are made in accordance with a modification program established by lenders that broadly applies regardless of a specific evaluation of the borrower’s financial circumstances. **[Footnote amended May 1, 2020]**

We have received a number of questions regarding the TDR guidance in Section 4013 of the CARES Act and the interagency statement, which we respond to below. For simplicity, we use the term “TDR guidance” to refer to the accounting and disclosure guidance on TDRs in ASC 310-40 from which Section 4013 of the CARES Act and the interagency statement provide relief.

Questions and Answers

General

Question 1

What are the main differences between the TDR guidance in Section 4013 of the CARES Act and the TDR guidance in the interagency statement?

Answer

Differences are outlined in the following table:

	Section 4013 of CARES Act	Interagency Statement
Scope	<p>Applies only to financial institutions, including insurance companies.⁵</p> <p>Note that the terms “financial institution” and “insurance company” are not defined in the ASC master glossary or Section 4013 of the CARES Act. Entities should consult with their legal advisers regarding whether they qualify for application of Section 4013 of the CARES Act.</p> <p>[Paragraphs amended January 11, 2021]</p>	<p>The interagency statement applies to regulatory reports (e.g., call reports) prepared by entities that are subject to regulation by the Agencies. Although the interagency statement refers to “financial institutions,” its scope is not the same as that of Section 4013 of the CARES Act because, as discussed in Question 14, the TDR guidance in the interagency statement applies to all entities that apply U.S. GAAP.</p>
Types of modifications	<p>Section 4013 of the CARES Act applies only to the following modifications made as a result of the COVID-19 pandemic:</p> <ul style="list-style-type: none"> • Forbearance agreements. • Interest rate modifications. • Repayment plan. • Other arrangements that defer or delay the payment of principal or interest. <p>See Appendix C for examples of the application of Section 4013 of the CARES Act.</p>	<p>The interagency statement applies only to the following modifications made as a result of the COVID-19 pandemic:</p> <ul style="list-style-type: none"> • Short-term (e.g., six months) modifications, such as payment deferrals, fee waivers, extensions of repayment terms, or delays in payment that are insignificant under ASC 310-40. • Government-mandated programs. <p>See Appendix C for examples of the application of the interagency statement.</p>
Date on which to determine borrower’s payment status	<p>December 31, 2019.</p> <p>See Appendix C for examples of the application of Section 4013 of the CARES Act.</p>	<p>The date on which a modification program is implemented.</p> <p>See Appendix C for examples of the application of the interagency statement.</p>

⁵ Section 541 of Division N of the CAA updated Section 4013 of the CARES Act to clarify that insurance companies are financial institutions for CARES Act Section 4013 purposes. **[Footnote added January 11, 2021]**

(Table continued)

	Section 4013 of CARES Act	Interagency Statement
Payment status of borrower as of the date used to determine such payment status	Not more than 30 days past due. See Appendix C for examples of the application of Section 4013 of the CARES Act.	Less than 30 days past due. See Appendix C for examples of the application of the interagency statement.
Period applicable	Beginning March 1, 2020, and ending on the earlier of January 1, 2022, ⁶ or the date that is 60 days after the termination date of the national emergency declared by the president on March 13, 2020, under the National Emergencies Act related to the outbreak of COVID-19. [Paragraph amended January 11, 2021]	The interagency statement does not specify the period to which the TDR guidance applies. However, because its application depends on COVID-19-related modifications, the guidance is expected to be temporary in nature.

Question 2

What are some similarities between the TDR guidance in Section 4013 of the CARES Act and the TDR guidance in the interagency statement?

Answer

Similarities include the following:

- Both Section 4013 of the CARES Act and the interagency statement apply only to modifications that are related to the COVID-19 pandemic. Neither the CARES Act nor the interagency statement provides specific guidance on whether a modification is related to the COVID-19 pandemic, although the interagency statement does imply that COVID-19-related modifications that are made in accordance with a modification program would be considered COVID-19-related. In the absence of specific guidance, entities may need to use judgment to determine whether modifications were made directly in response to the COVID-19 pandemic or for other reasons. We generally would not expect differences between the scope or application of the CARES Act and the interagency statement to be the result of different interpretations of whether a modification is the result of the COVID-19 pandemic. That is, a modification program that is related to COVID-19 under Section 4013 of the CARES Act would be expected also to be related to COVID-19 under the interagency statement, and vice versa.

During its April 24, 2020, webcast, “Ask the Regulators: Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working With Customers Affected by the Coronavirus” (the “Agencies’ webcast”), staff members of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (the “Agency staff”) reiterated the need for entities to use reasonable judgment when determining whether modifications are COVID-19-related. The Agency staff further indicated that entities in certain industries that may have been experiencing the negative effects of economic conditions before COVID-19 (e.g., energy or oil and gas entities) are not required to reach a conclusion that a modification is predominantly COVID-19-related. Rather, entities making modifications can consider the fact that the COVID-19 pandemic is affecting all entities. **[Paragraph amended April 24, 2020]**

- Both Section 4013 of the CARES Act and the interagency statement can be applied to a second modification that occurs after the first modification provided that the

⁶ As amended by Section 541 of Division N of the CAA. **[Footnote added January 11, 2021]**

second modification does not qualify as a TDR under Section 4013 of the CARES Act or the interagency statement. During the Agencies' webcast, the Agency staff gave an example of a short-term payment deferral (e.g., a three-month deferral of payments of principal and interest) that is accompanied by another payment deferral after the end of the first payment deferral period because the borrower was unable to resume making payments at the end of the first payment-deferral period. The Agency staff indicated that this second modification may not be a TDR if the modification qualifies under Section 4013 of the CARES Act or the interagency statement. In its evaluation of whether a payment deferral qualifies as short-term under the interagency statement, an entity should assess multiple payment deferrals collectively (i.e., the cumulative deferrals cannot exceed six months). **[Paragraph added April 24, 2020]**

- An entity is not required to have adopted the FASB's current expected credit losses (CECL) standard (ASU 2016-13⁷) under either Section 4013 of the CARES Act or the interagency statement. Therefore, the TDR guidance under both may apply irrespective of whether an entity has adopted the CECL standard or continues to apply the incurred loss model in ASC 310-10.⁸
- Application of Section 4013 of the CARES Act or the interagency statement does not depend on the type of loan being modified (e.g., commercial vs. consumer, mortgage loan vs. personal loan).
- For loan modifications subject to either Section 4013 of the CARES Act or the interagency statement, the TDR guidance applies for the duration of the modification (i.e., the loan would not be designated a TDR through the duration of its remaining term). However, any loan modifications that are made after the initial modification would require evaluation under ASC 310-40 unless the subsequent modification meets the conditions in Section 4013 of the CARES Act or the interagency statement.
- For loan modifications that are not TDRs under either Section 4013 of the CARES Act or the interagency statement, the lender is not required to apply the accounting or disclosure requirements in ASC 310-40 that apply to TDRs.

Question 2A

[Added July 8, 2020]

Can the TDR guidance in Section 4013 of the CARES Act be applied if an entity makes an interest rate modification to a loan?

Answer

Section 4013(b)(2) of the CARES Act specifically refers to "an interest rate modification" that is made as a result of an adverse impact on the credit of a borrower that was related to COVID-19. Thus, an entity may choose to reduce the interest rate on a loan for a specified period as opposed to forbearing all payments during a specified period. As long as such a modification is made in response to the COVID-19 pandemic, it would be appropriate to not account for it as a TDR under Section 4013 of the CARES Act. However, an entity that modifies a loan to reduce the interest rate for the loan's remaining contractual term must determine whether that modification is directly related to the COVID-19 pandemic. The entity's conclusion may depend on the remaining term of the loan. For example, if the loan's remaining term is short (e.g., less than one year), the modification may be considered directly related to the COVID-19 pandemic. In other situations, consultation with the entity's legal counsel is encouraged.

⁷ FASB Accounting Standards Update (ASU) No. 2016-13, *Measurement of Credit Losses on Financial Instruments*.

⁸ FASB Accounting Standards Codification Subtopic 310-10, *Receivables: Overall*.

Question 2B

[Added July 8, 2020]

Can the TDR guidance in the interagency statement be applied if an entity makes an interest rate modification to a loan?

Answer

The interagency statement only refers to “short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or delays in payment that are insignificant.” As discussed in [Question 16](#), the interagency statement may be applied to short-term payment deferrals whether or not the entity charges interest on the deferred payments. Any modification that involves the deferral of payments of principal and interest for a short-term period, without the accrual of interest on such deferred payments, is effectively a modification of the interest rate terms on the loan. If, in lieu of deferring all payments of interest, an entity reduced the contractual interest rate for a short-term period (i.e., six months or less), it would be reasonable not to account for such a modification as a TDR provided that (1) the borrower was less than 30 days past due as of the date the modification program was implemented and (2) the short-term interest reduction was related to COVID-19.

Question 3

Should an entity evaluate whether modified loans that are not considered TDRs under Section 4013 of the CARES Act or the interagency statement represent new loans for accounting purposes?⁹

Answer

Yes. ASC 310-20-35-9 through 35-11¹⁰ provide guidance on whether, as a result of a loan refinancing or restructuring, a modified loan represents a “new loan” for accounting purposes. For modifications of loans that require “new loan accounting,” any unamortized net fees or costs and any prepayment penalties from the original loan must be recognized in interest income, and the modified loan must be initially recognized at fair value. However, if new loan accounting is not required, unless fees are received in connection with the modification, there would be no change in the net carrying amount of the loan as a result of the modification.

Under ASC 310-20-35-9 through 35-11, a modification results in a new loan for accounting purposes only if all the following conditions are met:

- The modification is not a TDR.
- The terms of the modified loan are at least as favorable to the lender as the terms of comparable loans to other customers with similar collection risks that are not refinancing or restructuring a loan with the lender. (This condition would be met if the modified loan's effective yield is at least equal to the effective yield for such newly originated loans.)
- The modification is more than minor (i.e., the present value of the cash flows under the modified terms is at least 10 percent different from the present value of the remaining cash flows under the original terms, or the specific facts and circumstances otherwise suggest that the modification is more than minor).

We would generally expect that loan modifications subject to the TDR guidance in Section 4013 of the CARES Act or the interagency statement would not represent new loans for accounting purposes. Without performing a present-value calculation, a lender can

⁹ This question is intended to address situations in which a modification was made to the loan only in response to the COVID-19 pandemic (e.g., this question does not address modifications that include other revisions such as a change from a LIBOR rate to another variable interest).

¹⁰ FASB Accounting Standards Codification Subtopic 310-20, *Receivables: Nonrefundable Fees and Other Costs*.

appropriately determine that new loan accounting is not required on the basis of a conclusion that the terms of the modified loan are less favorable than the terms of newly originated loans that would be provided to borrowers that are not subject to the modification. We expect this conclusion to be reached in most cases since these types of modifications arise from the economic difficulties associated with COVID-19.

Question 4

Should an entity continue to recognize an allowance for credit losses on modified loans that are not accounted for as TDRs as a result of Section 4013 of the CARES Act or the interagency statement?

Answer

Yes. Entities that grant loan modifications that are not accounted for as TDRs as a result of either Section 4013 of the CARES Act or the interagency statement must still recognize appropriate allowances for credit losses. It would not be necessary for an entity to apply a discounted cash flow model to reflect an impairment loss related to the time value of money “loss” for loan modifications that involve only payment deferrals. However, entities that have adopted ASU 2016-13 as well as those that have not should consider the increased economic uncertainty associated with the COVID-19 pandemic and any change in credit risk that results from loan modifications.

Question 5

[Last amended July 8, 2020]

May an entity continue to recognize interest income on modified loans that are not accounted for as TDRs as a result of Section 4013 of the CARES Act or the interagency statement if interest does not accrue on deferred payment obligations of the borrower?

Answer

It depends. ASC 310-20-35-18(a) prohibits the recognition of interest income to the extent that the net carrying amount of a loan exceeds the amount for which the borrower could prepay it without penalty. However, at the FASB’s meeting on April 8, 2020, the FASB staff responded to a technical inquiry by indicating that entities may reasonably interpret this guidance in U.S. GAAP in two ways:

- The limitation described in ASC 310-20-35-18(a) applies when a lender provides a forbearance (i.e., payment deferral).
- ASC 310-20-35-18(a) does not apply to such a forbearance.

An entity that chooses to apply ASC 310-20-35-18(a) would generally conclude that interest income is not recognizable on modified loans that do not accrue interest during the payment deferral period. An entity that chooses not to apply ASC 310-20-35-18(a) would recognize interest income (at a modified effective rate) but would consider whether the loan should be placed on nonaccrual status (see [Question 6](#)). An entity that chooses not to apply ASC 310-20-35-18(a) is not required to estimate prepayments in determining the effective yield; however, estimated prepayments must be considered in the calculation of the allowance for credit losses for entities that have adopted ASU 2016-13. Prepayments are included in the calculation of the effective yield used to recognize interest income only when the guidance in ASC 310-20-35-26 through 35-32 is applied.

Under both alternatives, except for loans that are classified as held for sale, lenders will generally need to recalculate the loan’s effective yield. A recalculation is necessary for lenders to apply the interest method during the deferral period and thereafter (i.e., when they do not apply the limitation under ASC 310-20-35-18(a)). This effective yield recalculation must

take into account the payment deferral and any unamortized discounts or premiums. Such calculations may be complex for loans with variable interest rates. An entity that chooses to apply ASC 310-20-35-18(a) would not accrue contractual interest payments during the deferral period but would continue to amortize any discounts or premiums. Once the deferral period ends, the entity would need to recalculate the effective yield to apply the interest method. Question 15 in Topic 2B of the Office of the Comptroller of the Currency's Bank Accounting Advisory Series provides relevant guidance to consider once a nonaccrual loan returns to accrual status. That guidance states, in part:

If [a] loan eventually returns to accrual status, interest income would be recognized based on the new effective yield to maturity on the loan. The new effective yield is the discount rate that would equate the present value of the future cash payments to the recorded amount of the loan. Any interest paid by the borrower and applied to principal while on nonaccrual is accounted for similar to a loan discount upon the loan returning to accruing status. This amount is accreted into interest income as a yield adjustment over the remaining life of the loan.

Interest income on loans classified as held for sale is generally recognized on the basis of the contractually stated coupon.

Although the FASB staff's response to the technical inquiry addressed a specific fact pattern, we understand from informal discussions with the staff that its intention was to establish an accounting model that applies broadly to all loans that are modified to incorporate payment deferrals. (Note that this interpretation does not apply to loans that are originated with an introductory payment deferral or modified loans that are treated as new loans under ASC 310-20.) The election of either of the two interpretations constitutes an accounting policy decision that must be applied consistently to all loans that are modified to incorporate payment deferrals. While some entities may have already elected an accounting policy (i.e., entities that had a preexisting accounting policy that addressed similar situations encountered in prior reporting periods), those that have not yet done so will need to make their election in the first financial statements that (1) include payment deferral modifications and (2) are issued after the FASB staff's response to the technical inquiry. In accordance with ASC 235,¹¹ entities should also disclose the elected accounting policy and consider providing additional information about the amounts of interest accrued.

Note also that an entity that accrues interest under the second alternative discussed above must appropriately recognize an allowance for credit losses on the accrued interest amounts. Such an allowance can be measured separately for accrued interest receivable amounts or measured as part of the total carrying amount of the related loans. Some entities that have adopted ASU 2016-13 have elected, as an accounting policy, not to measure an allowance for credit losses on accrued interest receivable amounts because they write off the uncollectible accrued interest receivable balances in a timely manner. These entities would generally still need to recognize an allowance for credit losses on accrued interest amounts that result from deferred payments because those amounts would not be considered to be written off in a timely manner.

The AICPA has issued a [technical question and answer](#) that provides additional considerations related to loan restructurings that result in periods of reduced payments.

The above guidance may not be applied by borrowers.

Question 6

Should an entity evaluate the need to report as nonaccrual assets modified loans that are not accounted for as TDRs as a result of Section 4013 of the CARES Act or the interagency statement?

¹¹ FASB Accounting Standards Codification Topic 235, *Notes to Financial Statements*.

Answer

Yes. The interagency statement states, in part:

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.

While this guidance indicates that a regulated lender would not be *required* to report a loan as a nonaccrual asset as a result of modifications made under short-term deferral programs in which the borrower was not 30 days or more past due as of the date on which the program was implemented, it does not imply that all modified loans that are not accounted for as TDRs under Section 4013 of the CARES Act or the interagency statement should be reported as accrual assets. Rather, entities should apply their existing nonaccrual policies to determine whether loans must be reported as accrual assets. In applying such policies, entities will need to take into account that the past-due status of a loan may be temporarily “frozen” as a result of contractual changes to minimum monthly payments. Examples of situations that may result in the need to report a modified loan as a nonaccrual asset even though the modification is not accounted for as a TDR may include:¹²

- Loans for which the borrower declares bankruptcy after the loan modification.
- Loans for which borrower-specific information indicates that a significant deterioration in the borrower’s credit has occurred after the loan modification and such deterioration results in a conclusion that the lender does not expect to collect all principal and interest due.
- Modifications of loans that were current as of December 31, 2019, but were 90 days past due as of the date on which the entity implemented a loan modification program.

Note that while past-due status is considered in the determination of whether a loan represents a nonaccrual asset or should be charged off, it is not the only consideration. That is, a loan that is less than a certain number of days past due is not automatically an accruing asset. **[Paragraph added May 1, 2020]**

Question 7

How do payment deferrals affect the past-due status of modified loans that are not accounted for as TDRs under Section 4013 of the CARES Act or the interagency statement during the payment deferral period?

Answer

The past-due status of a loan is generally determined on the basis of the contractual terms of the loan. Once a loan has been contractually modified to defer payments, those revised terms represent the contractual terms that are used to determine past-due status. This is acknowledged as follows in the interagency statement:

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.

In accordance with this guidance, for modifications that are not accounted for as TDRs because of the interagency statement, since the loan was current (i.e., less than 30 days

¹² These events may also result in the need to write off a modified loan.

past due) as of the date on which the program to defer principal and interest payments was implemented, the loan would remain classified as current during the deferral period.

In the Agencies' webcast, the Agency staff reiterated that the past-due status of a loan is generally determined on the basis of the contractual terms of the loan after any modification to the loan's terms. The Agency staff further indicated that loans that were current before COVID-19 would generally remain current after being modified to defer payments of principal and interest (assuming that those modifications are not accounted for as TDRs). However, the Agency staff provided an example of a loan that was 60 days past due before the COVID-19 pandemic and indicated that the past-due status would be "frozen" as of the date on which the terms were modified to reflect the delinquency status of the loan before the COVID-19 pandemic. (In the Agency staff's example, the loan had not been charged-off.) We believe that this example was intended to address modifications that are not accounted for as TDRs under Section 4013 of the CARES Act. We would expect that a modification that is not a TDR under the interagency statement would remain current after being modified, which is consistent with the loan's delinquency status as of the date of an entity's modification program. For modified loans that are not considered TDRs under Section 4013 of the CARES Act, we believe that entities must use judgment to determine the past-due status, which will be "frozen" during the deferral period. We believe that lenders could determine the past-due status of modified loans that are not treated as TDRs under Section 4013 of the CARES Act by using any of the following approaches provided that the approach used is applied consistently:

- Past-due status is determined as of March 1, 2020 (i.e., the first date on which modifications may qualify for the TDR guidance in Section 4013 of the CARES Act). Under this approach, it is assumed that the COVID-19 pandemic began to affect a borrower's ability to make payments on March 1, 2020.
- Past-due status is determined as of the date on which an entity's modification program is implemented. Under this approach, it is assumed that the COVID-19 pandemic began to affect a borrower's ability to make payments on the implementation date of the entity's modification program. This approach aligns the past-due status with how such status is determined for modifications that are not treated as TDRs under the interagency statement.
- Past-due status is determined as of the modification date. Under this approach, an entity does not try to identify a specific date on which the COVID-19 pandemic began to affect a borrower's ability to make payments. **[Paragraph added April 24, 2020; amended May 1, 2020]**

Note that an entity should not rely solely on a loan's delinquency status in determining that the loan is not a nonaccrual asset (see [Question 6](#)). **[Paragraph added April 24, 2020]**

Question 8

What incremental disclosures should an entity provide for loan modifications that are not accounted for as TDRs under Section 4013 of the CARES Act or the interagency statement?

Answer

Entities will need to use judgment to determine which incremental disclosures to provide to describe the impact that loan modifications that are not accounted for as TDRs have had or may have on an entity's financial conditions and results of operations. Although modified loans may still represent current loans, entities may find it necessary to supplement existing credit-quality disclosures and other related disclosures, including ratios, to discuss modified loans that are not accounted for as TDRs. Supplemental disclosures may be made in both the notes to the financial statements and, for SEC registrants, in MD&A. On the basis of informal discussions with the SEC's Division of Corporation Finance, we believe that many of

the suggested disclosures about loan modifications that were discussed in a [speech](#) made in December 2010 would be relevant disclosures for loan modifications related to COVID-19.

Entities that apply Section 4013 of the CARES Act or the guidance in the interagency statement should update their accounting policy disclosures under ASC 235 to describe how the application of Section 4013 of the CARES Act or the guidance in the interagency statement affected their determination of whether COVID-19 modifications were accounted for as TDRs.

[Paragraph added May 1, 2020]

CARES Act

Question 9

Must a financial institution apply Section 4013 of the CARES Act?

Answer

No. Section 4013(b)(1) states that a financial institution “may elect” to apply the guidance in Section 4013 of the CARES Act. Financial institutions that elect to apply Section 4013 of the CARES Act will be in compliance with U.S. GAAP as indicated in the April 3, 2020, [statement](#) issued by SEC Chief Accountant Sagar Teotia.

We would expect that a financial institution that elects to apply Section 4013 of the CARES Act on an entity-wide basis to all modifications that qualify for non-TDR treatment under Section 4013 of the CARES Act would do so in the first financial statements issued after enactment of the CARES Act. For example, a calendar-year financial institution that is an SEC registrant would need to make its election in the first-quarter financial statements included in its Form 10-Q quarterly report. However, as discussed in Question 10 below, an entity can elect to apply Section 4013 of the CARES Act on a basis other than entity-wide. ***[Paragraph last amended May 1, 2020]***

Question 10

Should a financial institution’s election to apply Section 4013 of the CARES Act be made on an entity-wide basis?

Answer

During the Agencies’ webcast, the Agency staff indicated that entities may apply Section 4013 of the CARES Act on an entity-wide basis, on a product-type basis, or on a loan-by-loan basis. If a financial institution chooses to apply Section 4013 of the CARES Act to some, but not all, modifications that qualify for non-TDR treatment under Section 4013 of the CARES Act, the entity should ensure that its footnote disclosures appropriately describe the modifications to which such guidance applies as well as those to which it does not. ***[Paragraph last amended May 1, 2020]***

Questions may arise regarding the application of Section 4013 of the CARES Act in circumstances in which a parent entity is not a financial institution but a consolidated subsidiary of the parent is such an institution. In these situations, consultation with the entity’s legal counsel and independent accountants is encouraged.

Interagency Statement

Question 11

Does the TDR guidance in the interagency statement apply to a financial institution that adopts the TDR guidance in Section 4013 of the CARES Act?

Answer

Yes. The interagency statement addresses this question. See [Appendix B](#) of this *Heads Up* for an excerpt of the TDR accounting and disclosure guidance in the interagency statement. See [Appendix D](#) for a flowchart illustrating the application of the guidance in Section 4013 of the CARES Act and the interagency statement. **[Paragraph amended May 1, 2020]**

Question 12

Are entities that are regulated by the Agencies that issued the interagency statement required to adopt the TDR guidance in the interagency statement?

Answer

We believe that the TDR guidance should be applied for regulatory reporting purposes. Regulatory accounting principles generally do not conflict with (or differ from) U.S. GAAP. Therefore, we would expect that entities would apply the TDR guidance for regulatory reporting purposes as well as in their financial statements prepared under U.S. GAAP. However, on the basis of informal discussions, we understand that the Agency staff intended to allow flexibility regarding a regulated entity's application of the interagency statement. That is, it may be appropriate for a regulated entity to apply the TDR guidance in the interagency statement only to certain modification programs. Consultation with an entity's banking regulator and independent accountants is encouraged in any circumstance in which a regulated entity chooses not to apply the TDR guidance in the interagency statement for regulatory reporting or U.S. GAAP purposes. **[Paragraph amended May 1, 2020]**

Furthermore, if a regulated entity chooses to apply the interagency statement to some, but not all, modifications that qualify for non-TDR treatment under the interagency statement, the entity should ensure that its footnote disclosures appropriately describe the modifications to which such guidance applies as well as those to which it does not. Note that the application of the TDR guidance in the interagency statement is considered an appropriate application of ASC 310-40, as indicated in the FASB's March 22, 2020, [statement](#). **[Paragraph amended May 1, 2020]**

Question 13

May entities that are regulated by the Agencies adopt the TDR guidance in the interagency statement on a loan-type or loan-by-loan basis?

Answer

As discussed in Question 12 above, we believe that entities that are regulated by the Agencies should generally adopt the TDR guidance in the interagency statement and apply it to all eligible loans.

Note that this question was not directly addressed during the Agencies' webcast. However, on the basis of informal discussions with the Agency staff, we understand that application of the interagency statement was intended to be flexible. See further discussion in Question 12. **[Paragraph added April 24, 2020; amended May 1, 2020]**

Question 14

Are entities that are not regulated by the Agencies eligible to apply the TDR guidance in the interagency statement?

Answer

Yes. As discussed in Question 12, the FASB has determined that the TDR guidance in the interagency statement is an appropriate application of ASC 310-40. Therefore, entities that are not regulated by the Agencies are eligible to apply the TDR guidance in the interagency statement. Generally, we would expect such guidance to be applied as an entity-wide accounting policy (i.e., to all modifications that qualify for non-TDR treatment under the interagency statement) rather than on a loan-type or loan-by-loan basis. However, see Question 12 for further discussion. Consultation with an entity's independent accountants is encouraged in any circumstance in which an entity that is not regulated by the Agencies wishes to apply the TDR guidance in the interagency statement on a loan-type or loan-by-loan basis. **[Paragraph amended May 1, 2020]**

Question 15

May a payment deferral in excess of six months be considered a "short-term" modification under the interagency statement?

Answer

No. On the basis of informal discussions with the Agency staff, we believe that entities that grant payment deferrals in excess of six months should not be considered "short-term" under the TDR guidance in the interagency statement. However, such modifications may still not be accounted for as TDRs if Section 4013 of the CARES Act applies, the modification is the result of a government-mandated modification related to the COVID-19 pandemic, or the modification otherwise does not represent a TDR under ASC 310-40 because the borrower is not experiencing financial difficulty.

During the Agencies' webcast, the Agency staff indicated that a payment deferral that does not exceed six months may be considered a "short-term" modification under the interagency statement regardless of the remaining term of the loan on the modification date. **[Paragraph added April 24, 2020]**

In determining whether a payment deferral is short-term, a lender must take into account both past-due and future payments that are deferred. For example, assume that an entity implements a loan modification program on March 15, 2020. Under the program, a deferral of up to six future monthly payments due is permitted. Assume that a borrower was less than 30 days past due on the March 15, 2020, implementation date of the program; however, the modification of the loan occurs in May 2020 when the borrower was 60 days past due (i.e., it had not made its March 1 and April 1 monthly payments). If the lender grants a payment deferral that involves the two missed monthly payments and the next six months of payments (i.e., the next required monthly payment is due on November 1, 2020), the deferral would not be considered short-term under the interagency statement because it involves the deferral of eight monthly payments. The lender could, however, defer the two missed monthly payments and the next four monthly payments due (i.e., the next required monthly payment is due on September 1, 2020) and meet the conditions in the interagency statement for not treating the modification as a TDR. **[Paragraph added May 1, 2020]**

Question 16

Is a payment deferral of up to six months considered a "short-term" modification if the entity adds the deferred payments to the end of original stated maturity date of the loan (i.e., those payments become due more than six months from the date of the modification)?

Answer

On the basis of informal discussions with the Agency staff, we believe that entities that modify loans to defer payments for up to six months may add those payments to the end of the original loan term and consider the modification to be “short-term” even if those deferred payments become contractually due more than six months from the date of the modification.¹³ Alternatively, an entity could “spread” those deferred payments over the remaining original term of the loan. In either case, entities may or may not charge interest on the deferred payments and still be considered to have entered into a short-term payment deferral and therefore qualify for the TDR guidance in the interagency statement. However, we generally do not believe that the TDR guidance in the interagency statement would apply if an entity adds the deferred payments over an unreasonable extended period after the original stated maturity date of the loan (i.e., a period after the original stated maturity that exceeds the period of deferral plus a reasonable period to take into account any interest that accrues during the deferral period). For example, assume that an entity defers six \$1,000 monthly payments on a mortgage loan and continues to accrue interest on the deferred payments. To ensure that the payments added to the end of the loan do not exceed the \$1,000 monthly payment amount, the entity adds eight \$1,000 monthly payments to the end of the loan. (Assume that the additional two months happens to equal the additional accrued interest.) This type of modification would qualify as short-term under the interagency statement. Alternatively, if the entity added 36 monthly payments of \$250 to the end of the original loan term, the modification does not appear to be short-term as envisioned by the interagency statement. However, such modification might qualify under the TDR guidance in Section 4013 of the CARES Act.

Question 17

What is meant by a loan modification “program”?

Answer

The interagency statement does not define the term “program.” However, the background discussion provides relevant information that may help an entity determine what constitutes a loan modification program (i.e., it describes the intent of the prudent workout efforts that are recommended by the Agencies). Although an entity must use judgment, we would generally expect that any arrangement that applies broadly to a population of loans with similar characteristics (e.g., loan type, geographic location of the borrower, type of borrower) would qualify as a program. Alternatively, an entity could develop a single program that applies to all loans that it originated. Since loss-mitigation efforts are made on the basis of an entity’s credit risk management policies and procedures, there is significant flexibility associated with how an entity designs modification arrangements to align with its risk management appetite. Thus, an entity may use significant discretion in determining what constitutes a loan modification program.

During the Agencies’ webcast, the Agency staff indicated that it intended to give entities flexibility in determining what constitutes a modification program. **[Paragraph added April 24, 2020]**

Question 18

Would an entity’s changes to a previously implemented loan modification program represent a new modification program?

¹³ Note that the six-month limitation is applied on a cumulative basis. For example, an entity that modifies a loan to defer payments for three months could subsequently provide for another modification to defer payments for up to another three months.

Answer

It depends. For example, assume that an entity has made payment deferrals of up to six months under a program and subsequently amends that program so that payment deferrals may not exceed three months (but does not change loans that were previously modified to defer payments for up to six months). In this example, it may be acceptable to view the change either as a new program or as a refinement of the previously implemented program. Entities will need to consider the reasons for a change to a loan modification program and use judgment to determine whether the change represents a new program. In applying judgment, entities should consider whether the revised modification program fits into the parameters of the original modification program. If it does not, the revised modification program would most likely be considered a new modification program.

Question 19

What is meant by the comment in the interagency statement that “borrowers considered current are those that are less than 30 days past due on their contractual payments at the time a modification program *is implemented*” (emphasis added)?

Answer

Entities will need to use judgment to determine when a loan modification program has been implemented. On the basis of informal discussions with the Agency staff, we believe that the time of implementation may depend on when the modification was announced publicly or when it was approved by those within an entity with the appropriate level of authority to approve such a program. Other approaches may also be acceptable. Entities should maintain documentation supporting their determination of the implementation date of each loan modification program.

Question 20

May the TDR guidance in the interagency statement be applied to a modification that is individually negotiated and designed to address an individual borrower’s situation?

Answer

Yes. The TDR guidance in the interagency statement was written in the context of a modification that is made in accordance with a loan modification program. Some loan modification programs may contain general parameters but give entities some level of discretion in assessing each borrower’s specific facts and circumstances. Such arrangements would be considered to represent changes made under a loan modification program. In other situations, an entity may negotiate a modification with an individual borrower to address specific facts and circumstances associated with that borrower. In such situations, the TDR guidance in the interagency statement may be applied if the modification is COVID-19-related; however, the evaluation of whether the borrower was current would need to be made on the modification date since the modification was not made in accordance with a broader modification program. **[Paragraph amended April 24, 2020]**

Question 21

May an entity determine the status of a borrower as current (i.e., less than 30 days past due) or noncurrent as of the date on which each modification is made in accordance with a loan modification program?

Answer

No. The interagency statement indicates that the TDR guidance applies if “the borrower was current on payments at the time *the modification program is implemented*” (emphasis added).

Therefore, the payment status of the borrower must be determined as of the date of the program's implementation, not as of the date on which each individual modification under the program is made. However, an entity could design a program that applies only to borrowers that are current as of the date on which the loan modifications are made. In this circumstance, borrowers would be eligible to take advantage of the modification program only if they were current as of the modification date. To apply the TDR guidance in the interagency statement, the borrower would still need to be current as of the date of the loan modification program's implementation. That being said, borrowers that are current as of the date of the modification would often have also been current as of the date on which the loan modification program was implemented. See also [Question 20](#).

Question 22

What is an example of a government-mandated modification or deferral program related to COVID-19?

Answer

Under Section 4022 of the CARES Act, through the earlier of the termination date of the COVID-19 emergency or December 31, 2020, a borrower with a federally backed mortgage loan (e.g., a loan insured or guaranteed by the Federal Housing Authority, Department of Veterans Affairs, Department of Agriculture, Federal Home Loan Mortgage Corporation, or Federal National Mortgage Association) that is experiencing a financial hardship due to COVID-19 may request a forbearance (i.e., payment deferral), regardless of delinquency status, for up to 180 days, which must be extended for an additional 180 days at the borrower's request.

Under Section 4023 of the CARES Act, a multifamily borrower with a federally backed multifamily mortgage loan (e.g., a mortgage loan on residential multifamily real property that is insured or guaranteed by any agent of the federal government, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association) that was current as of February 1, 2020, and is experiencing a financial hardship due to COVID-19 may request forbearance on the loan for up to 30 days, which may be extended for up to two additional 30-day periods at the borrower's request. **[Paragraph amended January 11, 2021]**

Both payment delay programs would be considered government-mandated. Therefore, the payment deferrals provided for under Section 4022 of the CARES Act would not represent TDRs under the interagency statement even though borrowers may request deferrals for up to 360 days.

Appendix A — Section 4013 of the CARES Act and Section 541 of Division N of the CAA

[Appendix amended January 11, 2021]

Section 4013 of the CARES Act is reproduced below in its entirety.

SEC. 4013. TEMPORARY RELIEF FROM TROUBLED DEBT RESTRUCTURINGS.

(a) DEFINITIONS.—In this section:

- (1) APPLICABLE PERIOD.—The term “applicable period” means 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 the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates.
- (2) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency”—
 - (A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and
 - (B) includes the National Credit Union Administration.

(b) SUSPENSION.—

- (1) IN GENERAL.—During the applicable period, a financial institution may elect to—
 - (A) suspend the requirements under United States generally accepted accounting principles for loan modifications related to the coronavirus disease 2019 (COVID–19) pandemic that would otherwise be categorized as a troubled debt restructuring; and
 - (B) suspend any determination of a loan modified as a result of the effects of the coronavirus disease 2019 (COVID–19) pandemic as being a troubled debt restructuring, including impairment for accounting purposes.

(2) APPLICABILITY.—Any suspension under paragraph (1)—

- (A) shall be applicable for the term of the loan modification, but solely with respect to any modification, including a forbearance arrangement, an interest rate modification, a repayment plan, and any other similar arrangement that defers or delays the payment of principal or interest, that occurs during the applicable period for a loan that was not more than 30 days past due as of December 31, 2019; and
- (B) shall not apply to any adverse impact on the credit of a borrower that is not related to the coronavirus disease 2019 (COVID–19) pandemic.

(c) DEFERENCE.—The appropriate Federal banking agency of the financial institution shall defer to the determination of the financial institution to make a suspension under this section.

(d) RECORDS.—For modified loans for which suspensions under subsection (a) apply—

- (1) financial institutions should continue to maintain records of the volume of loans involved; and
- (2) the appropriate Federal banking agencies may collect data about such loans for supervisory purposes.

Section 541 of Division N of the CAA is reproduced below in its entirety.

SEC. 541. EXTENSION OF TEMPORARY RELIEF FROM TROUBLED DEBT RESTRUCUTURINGS AND INSURER CLARIFICATION.

Section 4013 of the CARES Act (15 U.S.C. 9051) is amended—

- (1) by inserting “, including an insurance company,” after “institution” each place the term appears;
- (2) in subsection (a)(1), by striking “December 31, 2020” and inserting “January 1, 2022”;
- (3) in subsection (b)(1)(B), by inserting “under United States Generally Accepted Accounting Principles” after “purposes”; and
- (4) in subsection (d)(1), by inserting “, including insurance companies,” after “institutions”.

Appendix B — Excerpt From TDR Guidance in Interagency Statement

The following is an excerpt from the TDR guidance discussed in the April 7, 2020, interagency statement:

Accounting for Other Loan Modifications Not Under Section 4013

There are circumstances in which a loan modification may not be eligible under Section 4013 or in which an institution elects not to apply Section 4013. For example, a loan that is modified after the end of the applicable period would not be eligible under Section 4013. For such loans, the guidance below applies.

Modifications of loan terms do not automatically result in TDRs. According to ASC Subtopic 310-40, a restructuring of 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.⁸ The agencies have confirmed with staff of the Financial Accounting Standards Board (FASB)⁹ that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs under ASC Subtopic 310-40. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or delays in payment that are insignificant.¹⁰ Borrowers considered current are those that are less than 30 days past due on their contractual payments at the time a modification program is implemented.

Accordingly, working with borrowers who are current on existing loans, either individually or as part of a program for creditworthy borrowers who are experiencing short-term financial or operational problems as a result of COVID-19 generally would not be considered TDRs. More specifically, financial institutions may presume that borrowers are not experiencing financial difficulties at the time of the modification for purposes of determining TDR status, and thus no further TDR analysis is required for each loan modification in the program, if:

- The modification is in response to the National Emergency;
- The borrower was current on payments at the time the modification program is implemented; and
- The modification is short-term (e.g., six months).

Government-mandated modification or deferral programs related to COVID-19 would not be in the scope of ASC Subtopic 310-40, for example, a state program that requires institutions to suspend mortgage payments within that state for a specified period.

⁸ The TDR designation is an accounting categorization, as promulgated by the FASB and codified within Accounting Standards Codification (ASC) Subtopic 310-40, Receivables – Troubled Debt Restructurings by Creditors (ASC Subtopic 310-40).

⁹ [FASB Statement on Prudential \[Regulator\] Guidance Concerning Troubled Debt Restructurings](#).

¹⁰ According to ASC Subtopic 310-40, factors to be considered in making this determination, which could be qualitative, are whether the amount of delayed restructured payments is insignificant relative to the unpaid principal or collateral value of the debt, thereby resulting in an insignificant shortfall in the contractual amount due from the borrower, and whether the delay in timing of the restructured payment period is insignificant relative to the frequency of payments due under the debt, the debt's original contractual maturity, or the debt's original expected duration.

Appendix C — Differences Between Section 4013 of the CARES Act and the Interagency Statement

The following table uses examples to illustrate some of the differences between Section 4013 of the CARES Act and the interagency statement. It is assumed in the table that the lender is a financial institution that has elected to apply Section 4013 of the CARES Act.

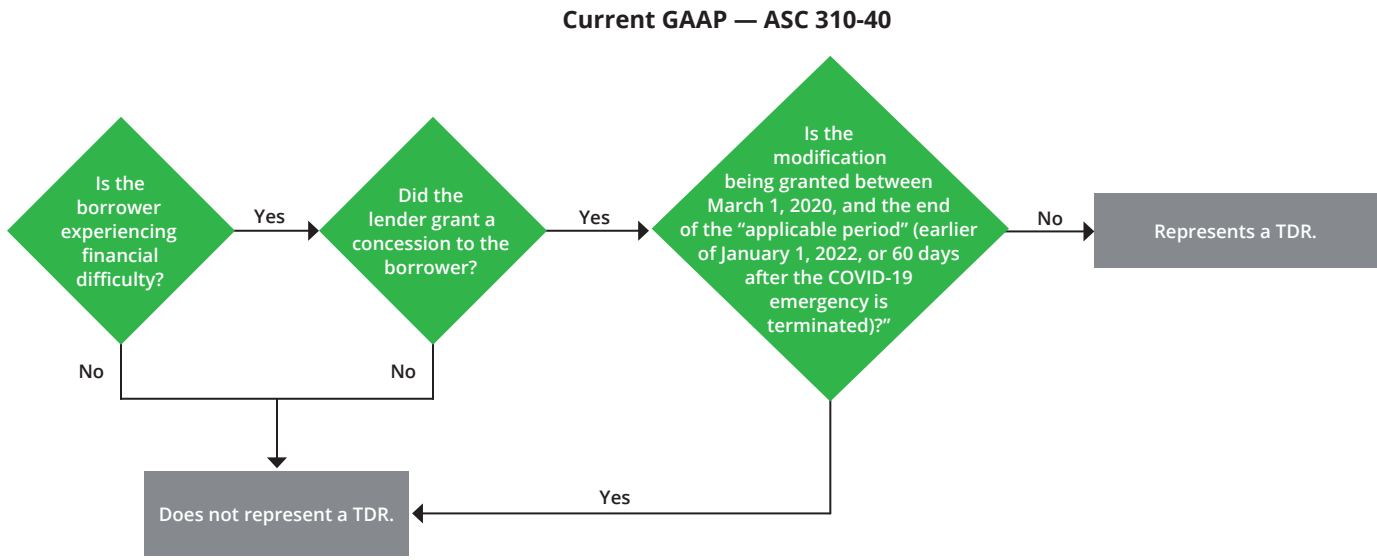
Example	Section 4013 of CARES Act	Interagency Statement
<p><i>Example 1</i> — On April 1, 2020, Entity A voluntarily implements a modification program that allows eligible borrowers to defer their minimum monthly payments (including principal and interest) for nine months.</p> <p>Assume that that all loans subject to this program were outstanding as of December 31, 2019, and were less than 30 days past due as of December 31, 2019, and April 1, 2020.</p>	<p>Applies.</p> <p>The loan modifications meet all the conditions in Section 4013 of the CARES Act. (Note that Section 4013 of the CARES Act does not limit the duration of any payment deferral.)</p>	<p>Does not apply.</p> <p>The interagency statement does not apply to a loan modification program that involves payment deferrals in excess of six months.</p>
<p><i>Example 2</i> — On April 1, 2020, Entity B voluntarily implements a modification program that allows eligible borrowers to defer their minimum monthly payments (including principal and interest) for six months.</p> <p>Assume that all loans subject to this program were originated after December 31, 2019, and were less than 30 days past due as of April 1, 2020.</p>	<p>Does not apply.</p> <p>Section 4013 of the CARES Act applies only to modifications “during the applicable period for a loan that was not more than 30 days past due as of December 31, 2019.” While the loans technically were not more than 30 days past due as of December 31, 2019 (because they did not exist), Section 4013 of the CARES Act should not be applied because such application would mean that any loan originated after December 31, 2019, would fail to qualify as a TDR regardless of its delinquency status when modified.</p>	<p>Applies.</p> <p>The loan modifications meet all the conditions in the interagency statement. (Note that the payment deferrals do not exceed six months, and the loans being modified are less than 30 days past due as of the date on which the modification program was implemented.)</p>
<p><i>Example 3</i> — On April 1, 2020, Entity C voluntarily implements a modification program that allows eligible borrowers to defer their minimum monthly payments (including principal and interest) for three months.</p> <p>Assume that Entity C is evaluating loans that were more than 30 days past due as of December 31, 2019, but less than 30 days past due as of April 1, 2020 (i.e., loans that were brought current before April 1, 2020).</p>	<p>Does not apply.</p> <p>Section 4013 of the CARES Act applies only to modifications “during the applicable period for a loan that was not more than 30 days past due as of December 31, 2019.”</p>	<p>Applies.</p> <p>The loan modifications meet all the conditions in the interagency statement. (Note that the payment deferrals do not exceed six months, and the loans being modified are less than 30 days past due as of the date on which the modification program was implemented).</p>

(Table continued)

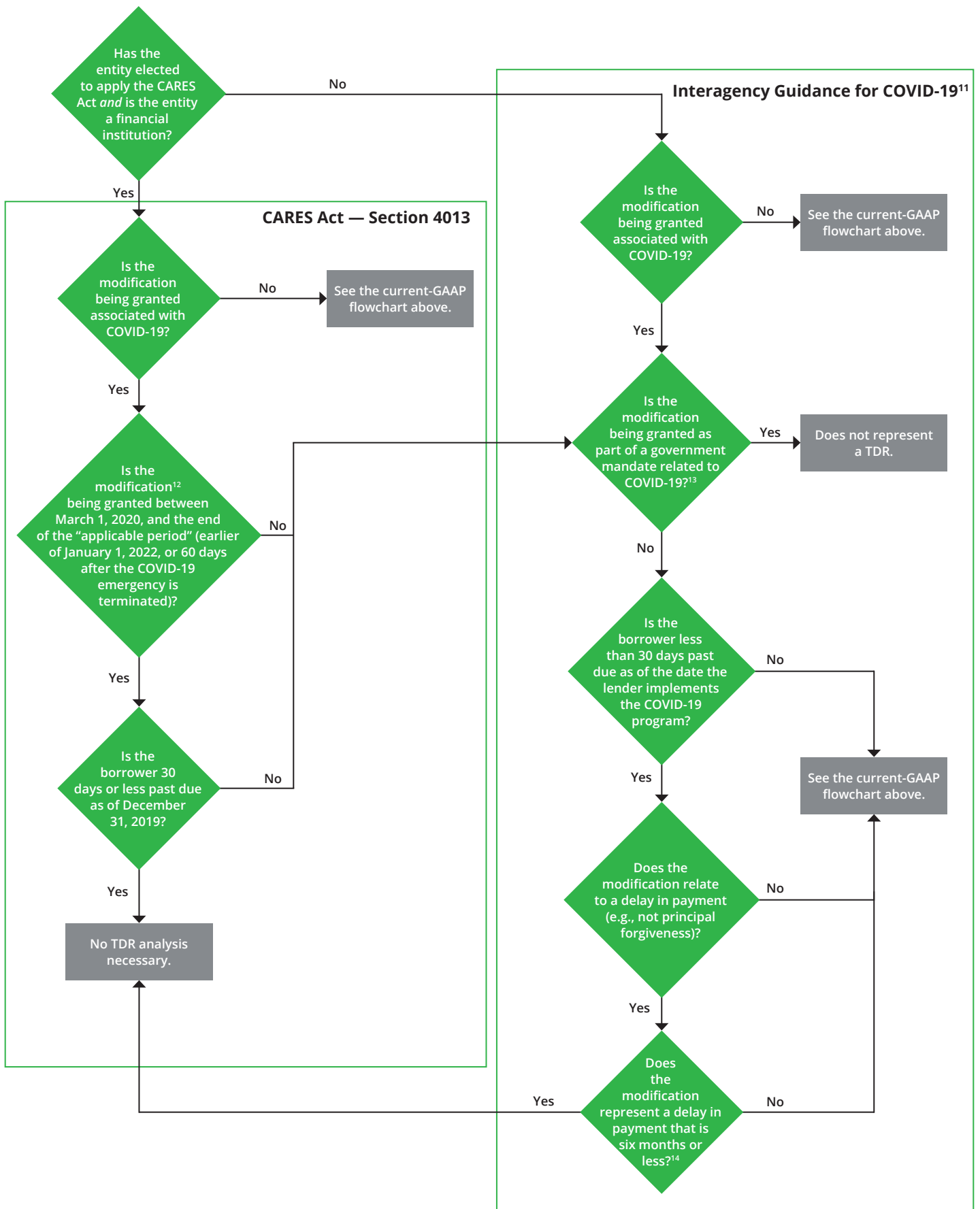
Example	Section 4013 of CARES Act	Interagency Statement
<p><i>Example 4</i> — On April 1, 2020, Entity D voluntarily implements a program that allows eligible borrowers to (1) defer their minimum monthly payments of principal for nine months and (2) receive a 100-basis-point reduction in their loan's stated interest rate for nine months.</p> <p>[Paragraph last amended May 1, 2020]</p> <p>Assume that all eligible borrowers subject to this modification program had loans outstanding as of December 31, 2019, and all loans were less than 30 days past due as of that date.</p>	<p>Applies.</p> <p>The loan modifications meet all the conditions in Section 4013 of the CARES Act. (Note that Section 4013 of the CARES Act does not preclude modifications to the interest terms of a loan.)</p>	<p>Does not apply.</p> <p>The interagency statement does not apply to a loan modification involving a payment deferral that exceeds six months. Note also that the interagency statement does not specifically address interest rate modifications. However, an entity needs to apply judgment when determining whether a payment deferral involves an interest rate modification and, if so, whether the interagency statement may be applied. [Paragraph amended May 1, 2020]</p>
<p><i>Example 5</i> — On April 30, 2020, Entity E becomes subject to a government-mandated program related to COVID-19 that requires it to provide up to 90 days of payment deferrals (of principal and interest) for all mortgage loans for which the borrower requests the delay between May 1, 2020, and June 30, 2020.</p> <p>Assume that Entity E is evaluating loans that were more than 30 days past due as of December 31, 2019, and all periods thereafter.</p>	<p>Does not apply.</p> <p>Section 4013 of the CARES Act indicates that it applies only to modifications “during the applicable period for a loan that was not more than 30 days past due as of December 31, 2019.” There is no special guidance in the CARES Act that addresses government-mandated modifications made as a result of the COVID-19 pandemic.</p>	<p>Applies.</p> <p>The interagency statement applies to government-mandated modifications related to COVID-19 without regard to the delinquency status of the loan. (Note that while this example illustrates a 90-day deferral, which is short-term, the same conclusion would apply if the deferral exceeded six months since the interagency statement applies to all government-mandated programs).</p>

Appendix D — Flowcharts: Application of Guidance

The following flowchart may be helpful in an entity's application of the guidance in Section 4013 of the CARES Act and the interagency statement:



The guidance in the flowchart on the next page only applies during the COVID-19 pandemic and cannot be applied to modification programs unrelated to COVID-19 in the future.



¹⁴ Although the interagency guidance applies to financial institutions regulated by the Agencies, because the guidance was developed in consultation with the FASB staff, which concurred with the approach, we believe that nonfinancial institutions may also elect to apply the guidance.

¹⁵ Under the CARES Act, a modification may include a forbearance arrangement, an interest rate modification, a repayment plan, and any other similar arrangement that defers or delays the payment of principal or interest.

¹⁶ This would apply only if the lender had no option to avoid granting the modification.

¹⁷ We believe that two three-month consecutive delays, for example, could be acceptable.

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