

TDR Designation and COVID-19 Loan Modifications:

Section 4013 of the CARES Act and OCC Bulletin 2020-35

Section 4013 of the CARES Act: On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law. Section 4013 of the CARES Act, “Temporary Relief From Troubled Debt Restructurings,” provides banks the option to temporarily suspend certain requirements under U.S. GAAP related to troubled debt restructurings (TDR) for a limited period of time to account for the effects of COVID-19. Section 541 of the Consolidated Appropriations Act, 2021 (CAA) was signed into law on December 27, 2020, extending the provisions in Section 4013 of the CARES Act to January 1, 2022.

Revised Statement: On April 7, 2020, the banking agencies issued a statement, “Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working With Customers Affected by the Coronavirus (Revised)” (Revised Statement), to encourage banks to work prudently with borrowers and to describe the agencies’ interpretation of how accounting rules under ASC 310-40, “Troubled Debt Restructurings by Creditors,” apply to certain COVID-19-related modifications (see OCC Bulletin 2020-35).

Which Applies?

If a loan modification is eligible, a bank may elect to account for the loan under **section 4013 of the CARES Act**. If a loan modification is not eligible under section 4013, or if the bank elects not to account for the loan modification under section 4013, the **Revised Statement** includes criteria when a bank may presume a loan modification is not a TDR in accordance with ASC 310-40. **If the criteria are not met under either section 4013 of the CARES Act or the Revised Statement, the bank should follow its existing accounting policies to determine whether the modification should be accounted for as a TDR.** The chart below provides a summary of the respective criteria.

Refer also to the flowchart “Is the COVID-19 Loan Modification a TDR?” on page 2.

	Section 4013 of the CARES Act (as amended by the CAA)	Non-Section 4013 Loan Modifications (Revised Statement)
Evaluation date of whether borrower was current (< 30 days past due)	December 31, 2019	Borrower was current on contractual payments when the modification was made or program was implemented.
Modifications terms allowed (safety and soundness principles still apply)	Any modification	Short term (not to exceed six months)
Time period of when the modification occurs	Between March 1, 2020, and the earlier of (i) January 1, 2022, or (ii) the 60th day after the end of the COVID-19 national emergency declared by the President.	Management should use judgment to determine if the modification is related to COVID-19.
Duration of non-TDR designation	Remaining life of the loan. Subsequent modifications must be evaluated if they are not also eligible under the criteria.	Remaining life of the loan; subsequent modifications must be cumulatively reevaluated.
Why is it not a TDR?	By law, the bank is not required to designate the loan as a TDR.	The bank may presume that the borrower is not experiencing financial difficulty.

If neither section 4013 of the CARES Act nor the Revised Statement criteria are met, the bank should follow its existing accounting policies to determine whether the modification should be accounted for as a TDR.

Is the COVID-19 Loan Modification a TDR?

Does the bank intend to elect to account for a loan under **section 4013 of the CARES Act** if eligible?

Yes

No

Is the loan modification eligible under **section 4013 of the CARES Act** (as amended by the CAA)?

Modification must meet all criteria:

1. Modification is due to COVID-19.
2. Modification occurred between March 1, 2020, and the earlier of (i) January 1, 2022, or (ii) the 60th day after the end of the COVID-19 national emergency declared by the President.
3. Borrower was current on contractual payments as of December 31, 2019.

No

Is the loan modification eligible under the **Revised Statement** for the bank to presume the borrower is not experiencing financial difficulties?

Modification must meet all criteria:

1. Modification is due to COVID-19.
2. Borrower was current on contractual payments when the modification was made or program was implemented.
3. Modification is short term (e.g., six months).

Yes

Yes

No

Is the loan modification a TDR under the bank's **existing accounting policies**?

Modification must meet all criteria:

1. Borrower is experiencing financial difficulty.
2. Bank is granted a concession.

No

Yes

Not a TDR

TDR

Email TDR questions to the OCC at tdr@occ.treas.gov.