New York Bankers Association
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VIA ELECTRONIC MAIL

The Honorable Charles E. Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington DC 20510

July 24, 2020

Dear Senator Schumer:

The New York Bankers Association ("NYBA")[1] is deeply appreciative of all of your work in obtaining federal relief measures provided in response to COVID-19. Our members stand with you as we continue to navigate pandemic related issues and the reopening of the State.

As Congress begins to consider its next aid package, NYBA supports a measure that has specific implication for New York banks, while we continue to gradually phase-in reopening in the State. NYBA is grateful for a provision in the initial CARES Act which allowed for an extension of time needed to designate troubled debt restructurings ("TDRs") under Section 4013,[2] however, we respectfully request further extension under the provision for the immediate future.

Specifically, Section 4013 provides limited time relief for loan modifications made between March 1, 2020 and the earlier of (1) 60 days after the date the COVID-19 national emergency is terminated or (2) December 31, 2020, thus permitting financial institutions to temporarily suspend U.S. generally accepted accounting principles (GAAP) requirements for loan

[1] NYBA is comprised of the community, regional, and large banks across every region of New York State. Together NYBA members employ nearly 200,000 New Yorkers, safeguard $2 trillion in deposits, and extend nearly $70 billion in home and small business loans.

[2] This relief is coupled guidance issued by regulatory agencies and the Financial Accounting Standards Board ("FASB") in the *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised),* ("Interagency Statement").

modifications related to COVID-19 that would otherwise be considered a TDR. In addition, the Interagency Statement limits the designation to “short-term” modifications, and thus further limits such relief for modifications to a six-month period.

NYBA’s members have been effectively navigating the designation of TDRs attributable to COVID-19 with the designation extension that has been provided thus far. However, in light of the ongoing crisis, as well as legislation recently enacted in New York State requiring an extended eviction moratorium and residential forbearance measures that could prolong such requirements for up to one year, NYBA respectfully requests a further designation extension under Section 4013.

To be clear, NYBA supports measures to protect consumers and small businesses during this unprecedented time. However, given the lengthened related requirements in New York and the possibility for similar requirements at the federal level, allowing for more flexibility in TDR designation is absolutely paramount in order for banks- particularly smaller community banks- in this State to continue to be able to provide such support and to help our communities thrive.

Furthermore, as the impact of the COVID-19 pandemic appears to be more long-term than initially projected, an additional TDR designation extension is becoming exponentially more important. As the adverse economic effects of COVID-19 appear to be continuing through the remainder of the year and into 2021, many bank customers will continue to seek loan modifications through the remainder of 2020 and 2021, long past the provisions provided in the initial CARES Act and regulatory guidance.

Absent further relief measures, banks will soon be obligated to classify these required modifications as TDRs, forcing charge-offs of the loans. Ultimately, the treatment of TDRs will impact bank earnings and capital, leading to further economic fallout in communities across New York State, thus creating more harm to the very consumers and businesses these efforts seek to protect. We are particularly concerned with the potential damage that could be done to our smaller community banks in the New York City metropolitan area, which provide a much-needed lifeline to the many small businesses in that area. Without further relief, there is potential for many to suffer irreversible and unsustainable damage beginning as early as the fourth quarter of 2020. It is therefore imperative that this action be taken quickly, within the next COVID relief package.

Allowing banks to continue working with their customers impacted by COVID-19 over the course of 2021, without the need to classify such modifications as TDRs, will promote economic recovery at a critical time, as well as provide the ability to protect consumers and small businesses going forward. NYBA respectfully urges your support of such further relief measures through Congressional action, in conjunction with further federal regulatory guidance.

We thank you for your consideration and welcome the opportunity for further discussion.

Sincerely,

Clare Cusack

Clare M. Cusack