

Federal Regulators Issue Policy Statement on Prudent Commercial Real Estate Loan Workouts

On October 30, 2009, the federal financial regulatory agencies adopted new guidance, entitled the *Policy Statement on Prudent Commercial Real Estate Loan Workouts* (“Policy Statement” or “Statement”). The Statement updates and replaces existing supervisory guidance to assist examiners in evaluating institutions’ efforts to renew or restructure loans to creditworthy commercial real estate (“CRE”) borrowers.

The Policy Statement addresses supervisory expectations for an institution’s risk management elements for loan workout programs, loan workout arrangements, classification of loans, and regulatory reporting and accounting considerations. The Statement also includes references and materials related to regulatory reporting. However, the Policy Statement does not change existing regulatory reporting guidance provided in relevant interagency statements issued by the regulators or accounting requirements under generally accepted accounting principles (GAAP). The Policy Statement notes that these general principles also could apply to commercial loans that are secured by real property or other business assets of a commercial borrower.

The Policy Statement addresses the challenges faced by institutions and borrowers when dealing with diminished operating cash flows, depreciated collateral values, or prolonged sale and rental absorption periods. It also notes that the financial regulators recognize that prudent CRE loan workouts are often in the best interest of the financial institution and CRE borrowers.

Further, the Policy Statement provides that performing loans, including those renewed or restructured on reasonable modified terms, made to creditworthy borrowers, will not be subject to adverse classification solely because the value of the underlying collateral has declined to an amount that is less than the loan balance. The Statement also explains that institutions that implement prudent CRE loan workouts after performing a comprehensive review of a borrower’s financial condition will not be subject to criticism for engaging in these efforts, even if the restructured loans have weaknesses that result in adverse classification.

The agencies have noted that the Policy Statement is intended to promote supervisory consistency, enhance the transparency of CRE workout transactions, and ensure that supervisory policies and actions do not inadvertently curtail the availability of credit to sound borrowers. The Statement replaces the *Interagency Policy Statement on the Review and Classification of Commercial Real Estate Loans* (November 1991). The Policy Statement may be accessed through the FDIC’s website at: www.fdic.gov/news/news/financial/2009/fil09061.html.