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CREDIT REPORTING UNDER THE CARES ACT ... AND BEYOND

The CARES Act includes a provision amending the FCRA to ensure that a consumer's acceptance of payment deferral or other economic relief would not result in impairment of the consumer's credit standing. In this article, the author discusses the statute, the initial regulatory response, and the reaction of state attorneys general and consumer advocates. He closes with a review of proposed legislation that would provide broader protection for the credit standing of consumers affected by the coronavirus or other natural disasters.

By Stephen J. Newman *

The economic disruption caused by the recent novel coronavirus pandemic is well-known and substantial. In addition to the direct effects on those infected with COVID-19 disease, public health efforts to control the spread of infection through shelter-in-place orders have resulted in closures of previously thriving businesses and record levels of unemployment. Many lenders have responded to the crisis by offering hardship relief in the form of payment deferrals. To further protect consumers from the economic impact of the pandemic, Congress enacted legislation governing the credit reporting treatment of consumers' participation in such relief programs. However, the credit reporting landscape in general remains unsettled, with some legislators and consumer advocates urging broader relief than the enacted legislation provides, and with the Consumer Financial Protection Bureau ("CFPB") announcing

regulatory relief for credit bureaus and data furnishers beyond what is expressly set forth in the legislation.

THE LEGISLATION

Signed into law on March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act ("CARES Act") included comprehensive measures designed to ease the financial burdens the nation faced from the pandemic. With respect to credit reporting, section 4021 of the CARES Act amended the Fair Credit Reporting Act ("FCRA") to ensure that a consumer's acceptance of payment deferral or other economic relief would not result in impairment of the consumer's credit standing.¹

¹ 15 U.S.C. § 1681s-2(a)(1)(F). Sections 4022, 4023, and 4024 of the CARES Act deliver economic relief in the form of

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The views expressed herein are those of the author and not necessarily those of the firm or its clients. This article is intended to provide a general review of recent legal developments, rather than specific legal advice.