Consumer Credit Reporting for Financial Institutions During the Coronavirus Emergency

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Coronavirus Response Team

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Authors:

Nancy Eff Presnell

The Consumer Financial Protection Bureau (CFPB) issued a *Consumer Reporting FAQs Related to the CARES Act and COVID-19 Pandemic* on June 16, 2020. Question eight specifically addresses the use of a special comment code when reporting an account impacted by a natural or declared disaster or forbearance. The CFPB reminds furnishers of credit information that the use of the special comment code is not a substitute for complying with the CARES Act Fair Credit Reporting Act and Regulation V amendments.

On March 9, 2020, the Consumer Data Industry Association (CDIA) issued an Important Metro 2 Announcement, updated April 2, 2020, to remind lenders and creditors how they can work with customers to address financial problems as a result of a natural or declared disaster. This guidance was issued "to help consumers work with their banks and other creditors if they are impacted—directly or indirectly—by the virus." Two special comment codes are available to report the status of a consumer impacted by the coronavirus. First, "AW" designates the loan's current status is one affected by a natural or declared disaster. Second, "CP" designates the account is in forbearance. The CDIA has available Frequently Asked Questions (FAQ) to assist with your determination of the use of either special comment code. See for example, FAQ 58, reporting an account affected by a natural or declared disaster; and, FAQ 45 accounts in forbearance.

During this current public health emergency, if the lender is considering amending performance under a consumer loan, the impact on the consumer's credit bureau profile should be considered. A key consideration relating both to the lender's latitude to work with impacted borrowers, and to its credit reporting considerations is whether the customer is current or delinquent at the time.

Per the CDIA, the credit reporting industry special comment codes are available to assist consumers impacted by a natural or declared disaster. The leading score modelers, Vantage and FICO, treat these codes as neutral resulting in no negative impact to a consumer's score.

Although financial institutions are not required to furnish information to the credit bureaus related to natural or declared disaster assistance, those that do may use the CDIA standardized approach. The industry standard for credit reporting is the Metro 2 format, which is used to providing report data to the Big 3 consumer credit reporting agencies (Experian, Equifax and TransUnion credit reporting agencies). The Metro 2 format gives lenders the ability to add the special comment code to an account in order to indicate the consumer-debtor is impacted by a natural or declared disaster.

The Fair Credit Reporting Act and its implementing Regulation V require financial institutions that furnish information to the credit reporting agencies to establish and implement reasonable policies and procedures regarding the accuracy of the information relating to consumers. Regulation V also requires that those practices should be reviewed periodically and updated as necessary. Now would be a good time for doing so. The timing and use of the special comment codes reporting the status of consumers impacted by a natural or declared disaster should be reflected in your institution's procedures, if not already documented.

For more information please contact Nancy Presnell or any attorney in Frost Brown Todd's Consumer Financial Services and Consumer Protection team.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a Coronavirus Response Team. Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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