

CFPB CARES Act Nuance: Comment Code Alone Does Not Cut It

June 17, 2020

On Tuesday, the Consumer Financial Protection Bureau issued a Bulletin entitled [Consumer Reporting FAQs Related to the CARES Act and COVID-19 Pandemic](#). The CFPB's Bulletin reminds creditors that compliance with the Fair Credit Reporting Act, as amended by the CARES Act, will require more than simply adding a code for natural or declared disaster or forbearance in the special comments field.

To comply with the CARES Act, a creditor must report a loan as "current" if it was current before the accommodation. In addition, the creditor may not advance the loan's delinquency level if it was delinquent before the accommodation. Adding a special comment code for a disaster or forbearance, without more, will not comply with the CARES Act reporting requirements.

As the Bureau explained:

"Furnishing a special comment code indicating that a consumer with an account is impacted by a disaster or that the consumer's account is in forbearance does not provide consumer reporting agencies with this CARES Act-required information and therefore furnishing such a comment code is not a substitute for complying with these requirements." (FAQ #8, emphasis added.)

That is, furnishers must review all of the data they report to make sure a loan under an accommodation is accurately reported under the CARES Act. For example:

"information a furnisher provides about an account's payment status, scheduled monthly payment, and the amount past due may all need to be updated to accurately reflect that a consumer's account is current consistent with the CARES Act." (FAQ #7.)

The Bureau's guidance reminds creditors to evaluate their use of multiple credit reporting fields and codes that, in combination, will show whether the creditor has complied with the nuanced reporting the CARES Act requires about borrowers who receive an accommodation. A full Client Alert will follow.

Related people

Joseph A. Apatov

Sanford Shatz

David W. Thompson