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From your JNM Financial Institution Team

In these uncertain and challenging times, JNM is here to offer advice and assistance navigating your business through the various series of news laws and guidance that has been finalized by the Federal Government over the past 2 weeks. The following is a detailed description of the various aspects of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that we believe will be most helpful. We encourage our clients to carefully review the various aspects of the CARES Act. JNM has developed various tools to advise and assist you with navigating this new law.

The CARES Act – Bank Regulatory Relief

The CARES Act includes a number of provisions designed to support financial institutions during the COVID-19 pandemic. It authorizes the Federal Deposit Insurance Corporation to further guarantee obligations of solvent insured depository institutions and depository institution holding companies provided that any such guarantee must terminate no later than December 31, 2020. The legislation does not set the maximum amount to be guaranteed. The legislation also temporarily authorizes the Office of the Comptroller of the Currency to exempt any transaction from its lending limits, if the exemption is in the public interest.

In addition, a financial institution can elect to suspend, during a covered period, requirements under U.S. Generally Accepted Accounting Principles for loan modifications related to the COVID-19 pandemic that would otherwise be categorized as a troubled debt restructuring, and the federal banking agencies must defer to the financial institution's determination. The covered period begins on March 1, 2020, and ends the earlier of December 31, 2020, or 60 days after the date on which the national emergency declaration related to coronavirus terminates. The legislation also permits an insured depository institution, bank holding company or any affiliate thereof to temporarily delay measuring credit losses on financial instruments using the new Current Expected Credit Losses (CECL) accounting standard until the earlier of December 31, 2020, or the date on which the coronavirus-related national emergency declaration terminates. Finally, in addition to providing additional financial support for the Federal Reserve's lending programs, as discussed above, the legislation would temporarily suspend the statutory limitation on the use of the Exchange Stabilization Fund for guarantee programs for the U.S. money market mutual fund industry. Any such guarantee must terminate not later than December 31, 2020.

Community banks also will receive support. The act requires the federal banking agencies by interim final rule to temporarily reduce the Community Bank Leverage Ratio (CBLR) for qualifying community banks to 8% and provides for a reasonable grace period if a community bank's CBLR falls below the prescribed level. The interim final rule would expire at the earlier of December 31, 2020, or the date on which the national emergency declaration related to coronavirus terminates.

The legislation also includes a number of consumer-oriented provisions, including a foreclosure moratorium and a consumer right to request forbearance. In general, the act prohibits foreclosures on federally backed mortgage loans for a 60-day period beginning on March 18, 2020, and provides up to one year of forbearance for borrowers under federally backed mortgage loans who have experienced a financial hardship related to the COVID-19 pandemic. Similarly, the legislation includes a 120-day moratorium on eviction filings with respect to certain properties, including where the property is subject to a federally backed mortgage loan. Federally backed mortgages include those purchased or securitized by Fannie Mae or Freddie Mac; insured by the Federal Housing Administration, the U.S. Department of Veterans Affairs or the U.S. Department of Agriculture (USDA); and directly issued by USDA. The legislation also includes consumer-oriented protections with respect to multifamily properties with federally backed loans.

The CARES Act also establishes the Office of the Special Inspector General for Pandemic Recovery, which will conduct, supervise and coordinate audits and investigations of the making, purchase, management and sale of loans, loan guarantees and other investments made by the Treasury Department under any program established by the Secretary of the Treasury through the legislation. Separately, the law establishes a Congressional Oversight Commission to conduct oversight of implementation of certain provisions of the law by the Treasury Department and the Federal Reserve. These two oversight mechanisms are similar to those included as part of the 2008 Troubled Assets Relief Program.