

THE REVIEW OF  
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## REGULATORY RISKS FOR BORROWERS UNDER THE CARES ACT LOAN PROGRAMS

*In this article, the authors provide an overview of key CARES Act loan programs and the oversight bodies Congress established to monitor loan activity. They then turn to current government enforcement activity and where the DOJ and SEC may be headed in the future. They conclude with best practice recommendations for borrowers to avoid being on the wrong end of an investigation or enforcement proceeding for alleged CARES Act loan fraud.*

By George A. Stamboulidis, Patrick T. Campbell, and Lauren Lyster \*

The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act<sup>1</sup> is a historic piece of legislation that injected over \$2 trillion in emergency stimulus funds into the economy — the largest stimulus package in U.S. history. Signed into law on March 27, 2020, the CARES Act, among other things, established various loan programs designed to help businesses weather the essential shutdown of the U.S. economy to fight COVID-19.

However, as with prior disaster relief stimulus packages, CARES Act loan recipients should expect strict government oversight, whistleblower reports and

bounties on alleged abuse, targeted audits and investigations, and a flood of enforcement activity. The speed with which the CARES Act loan programs were established and loan funds were and are distributed, the ever-changing legislative and regulatory landscape applicable to these programs, and the borrower good faith certifications on which significant portions of these programs rely, indicate that there will be even more government investigations and enforcement activity than what followed prior emergency stimulus packages. Indeed, this is no longer a hypothetical. In the relatively short time period that has passed since the CARES Act was enacted, the Department of Justice already has filed over 55 criminal actions against more than 80 individuals for alleged loan fraud. The Securities and Exchange Commission has informed the market that it

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<sup>1</sup> Coronavirus Aid, Relief, and Emergency Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

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