

# Covid-19 Credit Reporting & Scoring Update

## Research Brief

JULY 2020

The risk of significant deterioration in credit reports and scores is growing as economic activity slows in response to rising infection rates and early relief programs start to expire. Absent further action by Congress, regulators, and industry, some stakeholders fear that inability to access credit will exacerbate the financial damage to consumers and small businesses.

Market actors and regulators have taken several steps to address pandemic-related credit reporting issues and other potential obstacles to accessing credit since FinRegLab's first Research Brief on this topic in early May.<sup>1</sup> Nevertheless, new concerns are continuing to emerge, even as the strain on consumers' and small businesses' finances threatens to intensify significantly in the next few months absent additional Congressional action.

As part of our ongoing series to inform adjustments to credit scoring and underwriting models to support a more inclusive and rapid recovery, this update summarizes recent developments and analyzes their potential implications for consumers' and small businesses' long-term financial resilience. The report focuses in particular on the ways that pandemic-related information is being reported, scored, and used within the credit reporting ecosystem, including:

- » **Information about short-term relief programs:** Despite credit reporting protections in the Coronavirus Aid, Relief, and Economic Security Act,<sup>2</sup> a number of reports have emerged about score declines and loan denials based on information relating to pandemic-related forbearances. Changes to certain credit scoring models and mortgage securitization standards are designed to address concerns about access to credit, but particularly in mortgage markets many stakeholders say more action is needed.
- » **Potential credit reporting and scoring impacts on renters:** The CARES Act provides relatively limited assistance to renters. As short-term relief and eviction restrictions begin to expire, some stakeholders are concerned that distressed renters' credit reports will deteriorate more rapidly than homeowners', making it more difficult for them to find new housing and/or access credit.

» **Reporting about longer-term repayment plans after initial forbearances have ended:** Industry standards for reporting longer-term repayment plans and loan modifications to credit bureaus vary depending on the plans' structures and other factors. Additional industry guidance was released in mid-July, but not all lenders and servicers may be aware of reporting issues that can potentially have differing effects on consumers' credit scores.

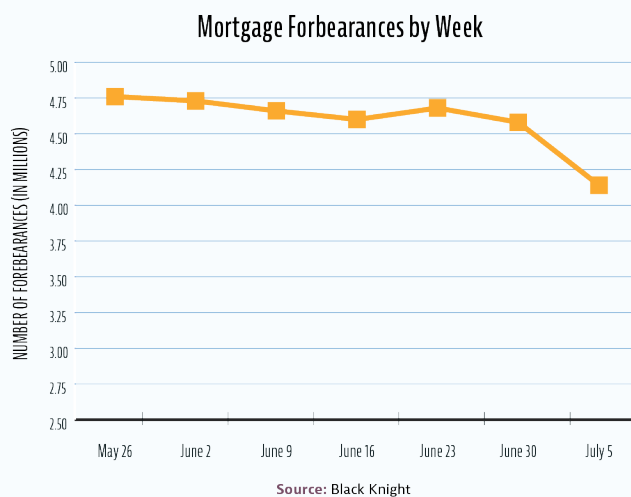
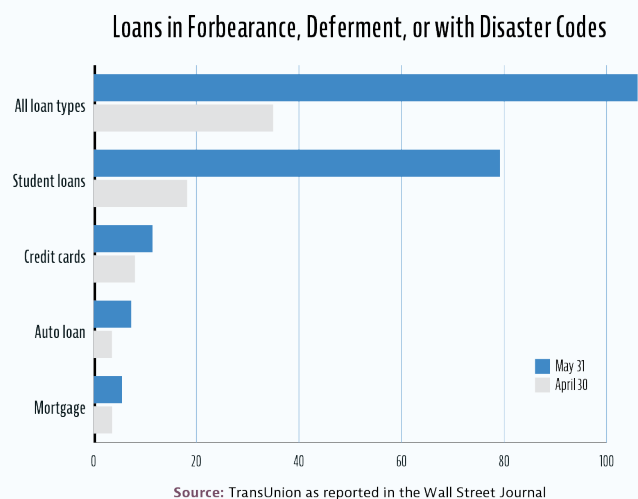
While many of these issues may appear technical on first glance, they will take on additional policy significance to the extent that direct relief programs are allowed to expire in coming weeks, leaving the nation more reliant on private credit sources as both an economic safety net and recovery accelerator. Access to credit always tightens in economic downturns due to higher risk levels, but some sources suggest that uncertainty about the consistency and probity of pandemic-related credit report data is already reinforcing lenders' tendency to impose higher standards in the face of current economic uncertainties.<sup>3</sup> Such changes can have particularly negative effects on applicants of color and low- to moderate-income households.

Thus, although pandemic-related credit reporting issues have not generally been considered as urgent as direct aid and loan accommodations for consumers and small businesses, the stakes are increasing as Congress prepares to vote on what may be the final pandemic-relief legislation for several months. And because negative information generally remains on consumers' reports for 7 years, the decisions made about pandemic relief, regulatory requirements, and reporting practices in coming months could affect not only the shape and pace of immediate recovery efforts but borrowers' broader finances for years to come.<sup>4</sup>

## Background

The lockdowns initiated in March to contain the Covid-19 pandemic triggered record unemployment rates, small business closures, hour and wage reductions, and consumer spending declines, with particularly negative impacts on African Americans, Latinos, and women.<sup>5</sup> Despite these massive disruptions, the early effects on delinquency rates<sup>6</sup> and credit scores<sup>7</sup> have been muted or even positive in some cases, thanks in significant part to government stimulus initiatives, the widespread granting of short-term forbearances and other accommodations by lenders and servicers, and the CARES Act credit reporting protections as discussed further below. Although the hardest-hit households have spent their stimulus funds relatively quickly,<sup>8</sup> many households have increased their savings and/or reduced their use of credit in response to activity restrictions and increased uncertainty.<sup>9</sup> These measures have likely contributed to credit score increases for some households, particularly those in higher bands of the scoring spectrum.<sup>10</sup>

Nevertheless, concerns are growing that household finances, delinquencies, and credit scores will start to deteriorate dramatically in the second half of the year. While the number of forbearances and various other indicators showed some improvement in late May and June as business activity accelerated in many states,<sup>11</sup> there were growing reports in late June and early July of second-time employee furloughs, spending declines, and other slowdowns as infection rates rose in roughly 40 states and activity restrictions were reimposed.<sup>12</sup> The fact that both direct aid programs and many loan accommodations are starting to expire is also causing substantial concern.<sup>13</sup> For instance, supp-



lemental federal unemployment insurance benefits for laid off workers are slated to end in late July, the federal Paycheck Protection Program closes to new small business applications in August, and CARES Act student loan forbearances will terminate in late September.<sup>14</sup> Restrictions on rental evictions are also expiring as discussed further below.

These developments have renewed concerns that pandemic-related shifts in credit reports and scores will slow the economic recovery by making it harder for consumers and small businesses to take advantage of record low interest rates, particularly in refinancing existing credit. As described in our first report, both payment history and the utilization of available credit have substantial effects on third-party credit scoring models such as FICO (Fair Isaac Corp.) and VantageScore. Individual lenders vary as to how heavily they rely on information from credit reports and third-party scores in their loan approval and pricing decisions; for instance, lenders' underwriting systems may include not only third-party scores but also attributes from the underlying credit reports and/or proprietary scores that rely on such attributes.<sup>15</sup>

Declines in credit reports and scores can affect both whether and how much credit consumers can obtain, as well as the prices that they are charged.<sup>16</sup> A substantial number of companies also use credit reports and/or scores when screening for employment, rental housing, and some forms of insurance.<sup>17</sup> And shifts in consumer credit reports and scores can also affect access to credit for small businesses because lenders often consider owners' personal information when underwriting commercial loans.<sup>18</sup>

Section 4021 of the CARES Act was adopted to reduce the risk that consumers who sought short-term pandemic relief would see declines in their credit scores, but there was initial confusion about its scope and stakeholders are continuing to debate its efficacy. The law dictates rules for reporting individual credit accounts as current or delinquent where consumers have obtained forbearances or other "accommodations" because they have been affected by the Covid-19 disease.<sup>19</sup> Where the consumer was current before the pandemic, the credit account must continue to be reported as current so long as the consumer remains in compliance with the accommodation. For consumers who

were already at a specified level of delinquency (such as 30 or 60 days), the reported delinquency level must not advance while they comply with the conditions for the accommodation.<sup>20</sup>

Yet while § 4021 requires consistency in reporting of one important factor in credit scoring and underwriting models, it does not address how model developers or individual lenders treat any particular variables or information on the back end. Critics also dislike the fact that consumers must obtain assistance separately from each lender or servicer to trigger the credit reporting protections. The CARES Act provides up to 12 months of forbearance for federally backed mortgages and 6 months of automatic forbearance for most federal student loans, but left it to the discretion of individual lenders and servicers to decide whether and on what terms to grant any accommodations on other consumer credit.<sup>21</sup> Section 4021 also does not address other items that may affect credit scores, such as collections items resulting from rental or utility delinquencies or medical debts.<sup>22</sup>

As explained in our first report, certain aspects of existing credit reporting industry standards have further complicated pandemic-related reporting. Under the Metro 2<sup>®</sup> standard used to report data to the nation's three nationwide consumer reporting agencies (NCRAs), lenders and servicers often use two optional "special comment codes" as a way to note that consumers have obtained a short-term forbearance ("CP") or have otherwise experienced difficulties stemming from a natural or declared disaster ("AW").<sup>23</sup> But while the codes have become more common after recent hurricanes, use and treatment of the codes still vary significantly among data furnishers, scoring model developers, and individual lenders.<sup>24</sup>

Although the NCRAs and their trade organization provided guidance and webinars in April to encourage both CARES Act compliance and use of the disaster-related codes, the combination of high customer call volumes, legal and process changes, and other factors complicated implementation and prompted consumer complaints about mortgage servicing and credit reporting to skyrocket this spring.<sup>25</sup> For example, there have been reports of forbearance codes being placed on the reports of consumers who had simply requested information about accommodations, special comment codes triggering unexpected declines in some scores under some models, and mortgage lenders rejecting refinance applications based on forbearance-related information due to concerns about credit risk and/or securitization.<sup>26</sup> Although industry and regulators have responded to complaints and calls for additional guidance as discussed below, recent developments are raising additional concerns about how best to effectuate the goals of § 4021 and whether additional actions are needed to facilitate greater access to credit during and after the pandemic recovery.

## Implementation of Short-Term Relief Programs

Reports of confusion and implementation problems regarding short-term forbearances, the CARES Act credit reporting provisions, and the disaster-related special comment codes continued to emerge in May and June.<sup>27</sup> The reports have helped spur action on some issues but also created new sources of uncertainty. Particularly in the mortgage context, both industry and advocate stakeholders have pushed for additional action by regulators and trade groups to provide greater consistency and clarity on reporting practices and facilitate greater access to credit in light of § 4021. There are anecdotal reports that some lenders and servicers have stopped using the special comment

codes or reporting certain other fields, though the extent of such changes is unclear in the absence of comprehensive industry data.

Several recent actions by industry actors and regulators have focused on particular points of concern about treatment of short-term relief programs:

- » **VantageScore announced on May 15 that it was making adjustments to its 3.0 and 4.0 models to reduce the risk of unexpected scoring impacts.** As described in our first report, VantageScore's recent models take disaster-related special comment codes into account in certain ways, while FICO's do not. The VantageScore models may often help consumers, for instance by ignoring negative payment history for affected tradelines while only an AW (declared disaster) code is in effect. However, where there are also codes indicating that a balance is in forbearance or deferment, credit utilization calculations and other attributes can cause scores to shift in either direction depending on individual borrower circumstances.<sup>28</sup> Although VantageScore models are not generally used in mortgage lending, they are used in other product markets and by a number of companies that provide credit score monitoring and other services directly to consumers.<sup>29</sup> The company's announcement states that the changes are designed "to minimize the potential of any negative impact associated uniquely with the usage of forbearance and deferment codes."<sup>30</sup>
- » **Government-sponsored entities Fannie Mae and Freddie Mac announced new standards on May 19 to make it easier for consumers who have obtained pandemic-related forbearances to get future mortgage loans.** The GSEs have historically required that borrowers have been current on their prior mortgages for 12 consecutive months as a condition of purchasing new loans for securitization, but have now relaxed those standards due to concerns that consumers who obtained pandemic-related forbearances would otherwise be prevented from refinancing their mortgages for at least a year after any accommodations end. The new standards allow purchases where consumers have a forbearance in place but have in fact continued to make full current payments, have reinstated their mortgages after a previous forbearance, or have made three consecutive payments under a repayment plan, payment deferral plan, or modification.<sup>31</sup>
- » **Federal and state regulators announced they were working with student loan servicer Great Lakes to resolve credit reporting concerns affecting up to 5 million borrowers.** News reports have been somewhat confusing, but the problems appear to have involved application of a separate section of the CARES Act requiring that federal student loans subject to the law's automatic forbearance requirements be reported as current rather than deferred.<sup>32</sup> While the coding error reportedly affected 5 million borrowers, the actual number of consumers whose scores were negatively affected and the extent of declines is unclear, with anecdotal reports ranging from 6 points to 90. Great Lakes resubmitted reports to the three NCRAs to correct the mistake, but a class action lawsuit has been filed against the servicer, the credit bureaus, and VantageScore in connection with the incident.<sup>33</sup>

## DECIPHERING CREDIT REPORT INFORMATION RELATING TO DISASTERS

Consumers have a right to a free annual report from the three nationwide consumer reporting agencies—Equifax, Experian, and TransUnion—and the three NCRAs have been voluntarily providing access to free weekly reports during the pandemic. As news reports have spread about consumer reporting issues, consumers are being urged to monitoring their reports.<sup>34</sup> However, several factors can affect what appears on the reports:

- » Because furnishers typically provide updates to the NCRAs on a batch basis, it can take several weeks for changes to appear.
- » The reports that consumers obtain are not formatted the same ways as reports that are provided to and used by industry users. For instance, instead of the CP or AW codes, there may codes that are unique to the particular NCRA or narrative text with language similar to “account in forbearance” or “affected by a natural or declared disaster.”
- » Because the special comment codes are used at the discretion of the furnisher, they may not appear on some reports even when an accommodation is in place. Instead or in addition to the codes, fields reflecting the frequency of scheduled payments may show “D” or “deferred,” and fields reflecting the account’s payment history may show “D” or that information is unavailable.

A report from TransUnion as of the end of May indicated that the number of accounts with some sort of hardship indicator exceeded 7% in mortgage and auto, 6% for general unsecured consumer credit, and 3.5% in credit cards. The report defined hardship to include the two special comment codes, the use of “D” characters indicating deferment, and situations in which the account status or past due amount had been frozen.<sup>35</sup> As reflected in the chart on page 3, TransUnion has reported that 106 million accounts were in forbearance, deferred payment, or disaster situations overall as of the end of May, up from 35 million in April. About 75% of that total is made up of student loans.<sup>36</sup>

Beyond these specific events, lenders and servicers indicate that there is greater awareness that special comment codes may be leading to unintended or unexpected consequences, and that industry is being more careful to ensure that forbearance codes are not placed on the files of consumers who have only requested information about pandemic-related options without actually obtaining an accommodation. The Consumer Financial Protection Bureau recently released Frequently Asked Questions on credit reporting issues that specifically reinforced that forbearance codes should not be used when an accommodation is not in place and more generally that special comment codes are not a substitute for CARES Act compliance.<sup>37</sup>

Yet despite these developments, several factors are still creating uncertainty and concern in varying parts of the credit reporting system. First, some published sources have described the CARES Act provisions incorrectly and/or in sweeping terms, which may have created unrealistic expectations and consumer confusion downstream.<sup>38</sup> More generally, consumer education is inherently challenging due to the complexity of the system. For example, regardless of how payment history and account status are being reported and scored, consumers’ credit scores may change during the pandemic due to other factors, such as shifts in both how much credit is available to them and how actively they use those sources.<sup>39</sup>

Second, stakeholders not directly involved in the recent VantageScore initiative and the Great Lakes matter are uncertain about the underlying details, the status of the companies’ follow up

activities, and the extent to which there may be continuing concerns going forward. The fact that there has been litigation and regulator involvement in the Great Lakes case has also increased anxiety about credit reporting issues among some other lenders and servicers. Beyond these specific events, recent issuances by the Consumer Financial Protection Bureau have emphasized that the agency expects good faith compliance with the CARES Act and is focusing more attention on consumer reporting issues in light of complaint levels.<sup>40</sup>

Third, there is substantial uncertainty about how individual lenders are treating pandemic-related changes in credit reports and scores in their decision making processes, as well as deeper debates about how such information should be used in light of the CARES Act and other policy considerations. Neither the special comment codes nor § 4021 of the CARES Act address the way that model builders or other consumer report users treat the information on the back end. Given uncertainty about economic conditions and the effect of forbearance issues on mortgage securitization and insurance, it is not surprising that lenders are tightening their minimum lending criteria or treating at least some signs of pandemic impacts on credit reports as signaling higher default risk.<sup>41</sup> Lenders—particularly banks—are facing substantial financial pressures of their own in managing the customers' need for payment flexibility, capital and regulatory demands, and calls to stop paying dividends and engaging in stock buybacks during the crisis. Many are allocating substantial money to loan loss reserves in anticipation of upcoming losses, in addition to tightening their origination criteria.<sup>42</sup>

However, particularly given potential inconsistencies in underlying reporting, it is unclear whether and how individual lenders are distinguishing between consumers who may in fact have different risk profiles—for instance between substantial numbers of consumers who have obtained forbearances but continued making full payments, consumers who are affirmatively managing early economic distress by obtaining and using accommodations, and consumers who have simply stopped paying.<sup>43</sup> Some sources indicate that some creditors are tightening standards across the board because they view the CARES Act reporting provisions as creating a blind spot in gauging credit risk.<sup>44</sup> While extending credit to consumers that they cannot afford to repay can substantially harm both the borrowers themselves as well as the affected lenders, some stakeholders have expressed concerns that overly rigid credit criteria could bar substantial numbers of consumers from lowering their existing credit costs and otherwise taking advantage of record low interest rates that are specifically designed to stimulate the economy in response to the pandemic.

This concern is particularly acute in the mortgage market, where some stakeholders say the GSEs' May 19 announcement was helpful but that other policy decisions by federal regulators are unduly constraining access to credit. For example, while the GSEs and Federal Housing Administration have indicated that they will purchase or insure certain types of loans even if they go into forbearance shortly after closing, they have excluded some categories and imposed substantial loan level pricing adjustments and indemnification requirements on the loans that they will accept.<sup>45</sup> While some stakeholders argue that such actions protect taxpayers and position the GSEs to leave government receivership more quickly, others assert that lenders are imposing substantially higher overlay criteria across their mortgage operations to avoid the financial penalties, despite the fact that very few loans actually go into immediate forbearance.<sup>46</sup> A coalition of nearly 40 organizations—including industry trade associations, consumer advocacy organizations, and civil rights groups—petitioned federal regulators in late June to change the policies, arguing that they are imposing unwarranted financial

## QUESTIONS ABOUT CARES ACT MORTGAGE FORBEARANCES

As the majority of homeowners who have obtained forbearances approach important check-ins with servicers this summer,<sup>47</sup> there are growing questions about how CARES Act protections should apply going forward. These issues concern not only § 4021's credit reporting protections, but also the rights of borrowers with federally backed mortgages under § 4022 to obtain forbearances for up to a year if they encounter pandemic-related financial hardships.<sup>48</sup>

Section 4022 applies to about 70% of mortgages. It provides that consumers who encounter a financial hardship during the federally declared Covid-19 disaster period may obtain a 180-day forbearance upon an affirmation of hardship, and a further 180-day extension upon request. Borrowers who obtain a forbearance must make up regularly scheduled payment amounts but will not face additional fees, interest, or penalties.<sup>49</sup>

Many servicers structured initial forbearances to last for three months, with an expected check-in in June or July. At least 4.5 million loans overall were in forbearance as of the end of June, though about 25% of those borrowers were continuing to make payments.<sup>50</sup> Industry reports indicate that the number of forbearances has declined by several hundred thousand in recent weeks, with some borrowers choosing to exit forbearance rather than renew their short-term accommodations.<sup>51</sup>

As borrowers approach their check-ins, a number of questions are emerging:

- » Should a forbearance on a federally backed mortgage be deemed to have ended if the servicer cannot reach the consumer, either at the three-month mark or at the end of the first 180 days?
- » If a forbearance on a federally backed mortgage ends relatively quickly because the borrower has actually been making payments or is able to resume regular payments within a few months, could the borrower obtain an additional § 4022 forbearance in the event of a subsequent job loss or financial hardship?<sup>52</sup> How would the 180-day clock(s) under § 4022 apply to such cases?
- » How do situations involving co-borrowers work if they do not agree about ending initial forbearances or seeking follow-up accommodations?
- » If a forbearance period ends without the consumer immediately enrolling in a plan for paying back the accrued amounts, can a furnisher report the account under § 4021 as delinquent? If so, how should the delinquency level be calculated?

Fannie Mae and Freddie Mac have instructed their servicers that if they are unable to reach consumers who obtained forbearances on loans that were current prior to the pandemic, the servicers may offer to defer payments on the accrued amounts until the end of the loan. If the borrower does not respond or if the loan was already delinquent, further evaluation and outreach are required.<sup>53</sup> However, the guidance does not address credit reporting issues specifically and only applies to certain parts of the market.

The CFPB's recent credit reporting FAQs emphasize that § 4021's protections continue to apply to the time period that was covered by an accommodation after it ends.<sup>54</sup> But some stakeholders have found the language confusing as to how to calculate and report delinquencies for consumers who do not immediately enter a long-term repayment plan, particularly if they were already delinquent prior to the pandemic, and have raised concerns about potential disconnects between reported delinquency levels and borrowers' actual status under their loan agreements.<sup>55</sup> Metro 2 guidance on how to report various longer-term repayment plan options was issued in mid-July, as discussed further below.

Another point of uncertainty concerns when the federal disaster period will end. That will cut off the ability to request a first-time forbearance under § 4022, although it is unclear whether renewals or extensions will be permitted, and affect § 4021's credit reporting protections, which apply only to credit "accommodations" obtained within 120 days of the end of the disaster declaration.<sup>56</sup>



costs on all borrowers, having particularly severe effects on home purchases and refinances by applicants of color, and threatening to exacerbate the broader financial crisis.<sup>57</sup>

Mortgage stakeholders have also urged federal regulators, the GSEs, and/or the task force that oversees the Metro 2 data standard to clarify other issues regarding CARES Act implementation. For example, given that the CARES Act itself did not address use of special comment codes, some are seeking specific affirmation that lenders and servicers can opt not to use the codes relating to disasters and forbearances under Metro 2 and general Fair Credit Reporting Act accuracy requirements.<sup>58</sup> They have also raised questions about application of the CARES Act provisions relating to mortgage forbearances as discussed on page 8 and the reporting of longer-term repayment plans, as discussed further below.

Even in the absence of formal guidance on outstanding questions, there are anecdotal reports that some lenders and servicers have decided to stop using the special comment codes or reporting certain other fields.<sup>59</sup> However, it is difficult to determine the extent of such actions absent more comprehensive and timely data from the NCRAs. Although news reports have indicated that industry actors may be working to release national statistics relating to use of the special comment codes and CARES Act implementation, the information available to date provides only simple monthly totals of the number of accounts with several types of “hardship” indicators for particular loan types as reflected on page 3.<sup>60</sup>

## Negative Effects on Renters

A growing number of stakeholders are also raising concerns that the 37% of U.S. households that rent rather than own their homes will face faster and more severe pandemic-related deterioration in both their finances and credit reports than homeowners, due in part to differences in how the CARES Act treats the two populations.<sup>61</sup> While the CARES Act imposes a temporary moratorium on evictions from federally financed rentals,<sup>62</sup> the degree of protection is significantly less than for homeowners as described above. First, only about 25% of the rental market is covered, and the general eviction moratorium expires in late July.<sup>63</sup> Landlords that receive Covid-19 forbearances on their federally backed mortgages are also separately prohibited from evicting tenants for failing to pay rent due to pandemic hardships, but the time periods are limited and tenants may have a difficult time determining that the protections apply.<sup>64</sup> The CARES Act’s credit reporting provisions also have been interpreted by most stakeholders not to apply to rental payments, such that landlords can report tenants to credit bureaus as delinquent even if the landlords have agreed to provide an accommodation to their tenants to make up past-due amounts.<sup>65</sup>

Other sources of support for tenants are also set to expire soon, for instance as various sources of federal stimulus funding end as described above. And while most states and many localities have also adopted pandemic-related rental protections, some of those restrictions began expiring in June and another large group will end by mid August.<sup>66</sup> Tenant and landlord surveys indicate that the number of tenants who are making payments improved somewhat over the course of the spring, but stagnated or worsened slightly in June and early July with about 20% of tenants failing to make any payments at all.<sup>67</sup> Reports of informal lockouts by shutting off utilities and removing locks or other safety features have been rising during the formal moratoriums, and early post-restriction

statistics reflect a surge in activity, particularly in jurisdictions where both filings and hearings were previously banned.<sup>68</sup> Some sources estimate that 7 million renters are at risk of eviction in July and that numbers could increase to about 20 million by September depending on unemployment trends.<sup>69</sup>

The extent to which tenants' financial distress will be reflected in their credit reports relative to homeowners and the consequences of negative report data on their ability to obtain housing and credit downstream is difficult to assess. Historically, reporting of information about rental payments to credit bureaus has been relatively limited, and much of it occurs through specialized companies rather than directly to the three nationwide consumer reporting agencies. Landlords are less likely to furnish information about tenants' payment patterns to credit bureaus than are mortgage lenders or other creditors, particularly landlords with only a few properties.<sup>70</sup> To the extent that data is furnished to credit bureaus, it is often provided by landlords or debt collectors only about severe delinquencies rather than providing continuous "full file" information on both positive and negative payment history.

Thus, although many credit reporting industry stakeholders have argued for years that adding full file rental information to NCRA reports would help large numbers of consumers access credit by building payment histories and credit scores,<sup>71</sup> stakeholder interviews and published sources indicate that less than 0.5% of U.S. adults in rental housing may have tradelines on their NCRA reports reflecting routine payments.<sup>72</sup> VantageScore and FICO Score 9 and 10 models will account for rental history tradelines where available, though the most commonly used FICO Score 8 version does not.<sup>73</sup> Both VantageScore and FICO models will also consider collections items relating to rent. However, stakeholder interviews suggest that it is unlikely that evictions would either appear on NCRA reports or be factored into general third-party credit scores, though they are reported by some specialty bureaus based on public records.<sup>74</sup>

Comprehensive data is also difficult to obtain on the use of credit scores and reports for tenant screening purposes. Scattered surveys suggest that between 50% to 80% of landlords screen at least some tenants by checking general credit reports and/or credit scores, specialty reports and/or scores focused specifically on rent payment and/or evictions, or criminal background records.<sup>75</sup> However, it is difficult to determine the frequency with which particular sources are relied upon by the industry as a whole. Some states and localities also limit the extent to which screening expenses can be passed on to applicants, which may influence landlords in choosing between specialty rental reports versus credit reports from the three NCRAs or general FICO or VantageScore scores that are generated based on the NCRAs' reports.<sup>76</sup>

These factors suggest that it is more likely that substantial rental delinquencies and/or evictions would affect renters' ability to find new housing than to affect their general credit reports and credit scores, but that both could occur as a result of the pandemic. Particularly to the extent that landlords report severe delinquencies as collection items, renters could see substantial declines in their scores while homeowners who have not made payments for the same number of months pursuant to a mortgage forbearance may not. This raises potential questions for lenders in gauging credit risks as well as policy issues about how to support populations that are particularly hard hit by pandemic disruptions. As discussed further below, this risk is one reason that some consumer advocates are

continuing to argue for broader legislation that would bar negative information relating to the pandemic from appearing in consumer reports.<sup>77</sup>

## Reporting of Longer-Term Repayment Plans

A final point of growing concern is the reporting of longer-term repayment plans entered into by consumers who have been affected by the pandemic after the conclusion of short-term forbearances. Such repayment plans are also “accommodations” subject to the credit reporting protections of § 4021 of the CARES Act so long as they are entered into during applicable time periods.<sup>78</sup> However, beyond reporting account status as current or delinquent pursuant to the CARES Act, the Metro 2 data standard for reporting to the three NCRAs has historically provided a variety of options for reporting such plans depending on their structures and other considerations. Particularly after the challenges in managing reporting of short-term forbearances, this is causing stakeholders to ask questions about the potential ramifications of different options on consumer credit scores.

Historically, loan modifications have often been reported by using a special comment code for “AC,” which means “paying under a partial agreement,” and is defined specifically under Metro 2 as “an agreed-upon repayment plan with account payments that are *less than* the original contract’s account payments.”<sup>79</sup> For example, AC codes are frequently used in the debt settlement context where a consumer has reached an agreement with a credit card issuer or other lender to pay less than the full balance (principal, interest, and fees) owed.<sup>80</sup> However, there are differences between third-party scoring models in how the codes are accounted for. In this case, FICO treats AC as a negative factor based on an empirical analysis of account performance, while VantageScore does not consider the code separate from other relevant fields reflecting such items as payment history and balances owed.

After the 2008 financial crisis, a number of stakeholders raised concerns about the potential effect of the AC code on consumers who obtained mortgage loan modifications, as well as various other credit reporting questions.<sup>81</sup> The Metro 2 data standard was revised to create two new special comment codes, “CN” and “CO,” to note permanent loan modifications under federal and non-federal programs, respectively, and to provide tailored guidance about reporting specific types of government modifications. However, mortgage servicers continued to use the AC code when consumers were in a trial period before entering a long-term modification.<sup>82</sup> Neither FICO nor VantageScore take the CN and CO codes into account.

With the pandemic, now that the focus is starting to shift from short-term forbearances to longer-term repayment plans, stakeholders are beginning to debate the best way to report particular structures under the existing Metro 2 standards. Although the CARES Act did not dictate particular repayment plan options, federal regulators have emphasized with regard to federally backed mortgages that consumers should not be required to make an immediate lump sum payment to reinstate their mortgage at the end of a forbearance unless they choose to do so.<sup>83</sup> While some consumers may repay accrued balances within a year of the end of a forbearance if practicable, both the Federal Housing Administration and the GSEs are offering deferment options that push various accrued balances to the end of the loan by creating either a junior lien or a balloon payment on which

no additional interest will accrue.<sup>84</sup> Other options include modifying the loan to extend the number of payments and/or reamortizing accrued balances over the original term, sometimes also with interest rate reductions. However, these alternatives do not appear to be as common for federally backed mortgages as the deferment options.<sup>85</sup>

On July 16, the Consumer Data Information Association released new Metro 2 guidance focusing on how to report key fields for various repayment plan structures coming out of a short-term forbearance.<sup>86</sup> One part of the guidance focuses specifically on Fannie Mae and Freddie Mac mortgages, outlining codes for use with four plan structures— immediate full repayment of balances after the accommodation period (often called reinstatement), short-term repayment plans, payment deferrals to the end of the loan, and loan modifications. Except with regard to loan modifications that change the original loan terms, the instructions direct that the special comment code field should be left blank.<sup>87</sup> A second section applies more generally to other loan types, with scenarios for immediate reinstatement, short-term repayment, and payment deferrals. However, the instructions for the special comment code field simply states “blank or applicable code for this reporting period.”<sup>88</sup> While stakeholders say guidance on longer-term plans is extremely helpful, some have expressed concern that lenders or servicers particularly in non-mortgage markets may not be aware of potential scoring implications and may tend to use the AC code rather than CO or no special comment code at all even when a consumer expects to pay back all amounts accrued during a pandemic forbearance.

Beyond these issues about the special comment codes, it is challenging to predict more generally how either third-party scoring models or individual lenders may react to the reporting of information relating to longer-term repayment plans, in part because the patterns could be substantially different than those that emerged after the 2008 crisis. For example, homeowners could not generally obtain mortgage modifications in the last crisis until they were already substantially delinquent, which caused their scores to decline regardless of any special comment codes. Now, however, consumers who were current before the pandemic could go directly from a short-term forbearance to a long-term repayment plan, both of which would qualify as “accommodations” that trigger the § 4021 credit reporting protections. Accordingly, some consumer reports may not reflect the same extended pattern of deterioration that has been common in past downturns, though patterns are likely to vary depending on whether and on what terms consumers have been able to obtain both short-term and long-term accommodations from individual lenders and servicers.

## Market and Policy Considerations

The developments and debates summarized above underscore the ways in which concerns about pandemic-related effects on credit reporting and scoring are both driven by broader economic trends that influence applicants’ general finances and can in turn potentially shape those trends by affecting whether and on what terms consumers and small businesses can access credit, employment, and rental housing. Thus, as Congress takes up what is likely the last major pandemic-relief legislation for several months and federal regulators consider whether to take additional action on various issues, the most important decisions they make this summer may not be focused on credit reporting and scoring specifically.

Two sets of broader issues could be particularly influential in determining the general state of consumers' and small businesses' finances, their demand for credit to help ride out and recover from the pandemic, and the availability of credit in critical markets, in addition to influencing individual applicants' ability to obtain loans as driven by changes in their credit reports and scores:

» **Provision of government transfer payments, assistance for hardship cases, and/or greater consistency in accommodation programs:** As discussed above, the CARES Act's accommodation programs and eviction protections provided up to a year's worth of breathing room for more than two-thirds of mortgage market, six months for most federal student loans, and at least four months for about a quarter of renters. Federal stimulus payments, supplemental federal unemployment insurance, and support for small businesses have also helped many households build some savings during the early months of the pandemic, although particularly vulnerable households, workers, and businesses have had more difficulty accessing those benefits and are the most likely to have already spent what they received.<sup>89</sup>

The decisions Congress makes on whether to extend, expand, and/or revamp these various direct support initiatives will have a substantial effect on which consumers and small businesses are able to continue paying their obligations (including credit, rent, utilities, and medical bills). Requiring households and small businesses to rely solely on amassed savings and private sources of credit to bridge through the pandemic recession would exacerbate current hardship patterns among low- to moderate-income populations, increasing both the likelihood that credit reports and scores deteriorate and the potential consequences of the declines for affected consumers. In addition to effects on individuals, such an outcome could potentially slow the pace of the broader recovery for communities, states, and the nation as a whole.

» **Policy decisions about mortgage market issues:** Housing and mortgage markets have historically played an important role in recovering from national recessions, likely in part because they help to transmit interest rate reductions to the broader economy, allow homeowners to refinance and/or tap equity reserves, and spur construction and spending in connection with home purchases.<sup>90</sup> But they did not lead the recovery coming out of the 2008 crisis, which was triggered largely by housing finance issues, and there are important policy debates underway about the extent to which those markets can play a countercyclical role in the new downturn. Mortgage standards still had not fully recovered from 2008 when the pandemic hit, and they have further tightened since.<sup>91</sup> Although record low interest rates have fueled higher refinance and purchase activity in recent weeks,<sup>92</sup> some stakeholders have expressed concern that federal policies are exacerbating the tightening of lending standards.<sup>93</sup>

These debates are complicated by underlying disagreements about the proper role of the federal government in housing markets that have remained unresolved since the 2008 crisis, including the current scope and risk levels of Federal Housing Administration and Department of Veterans Affairs portfolios and questions about when and how to end the federal government's conservatorship of Fannie Mae and Freddie Mac. A full discussion of those debates and of pandemic-related mortgage market dynamics more generally is

beyond the scope of this report, but concerns about the effect of federal policies exacerbating more general economic uncertainties warrant careful attention in light of the critical role that this market can play in encouraging economic recovery and building household wealth. Stakeholders suggest that more carefully calibrating loan level pricing adjustments and indemnification requirements for loans that go into forbearance soon after closing and servicer compensation in managing early stage forbearances could provide greater market certainty and increase the range of households that can access interest rate improvements and home equity during the pandemic.<sup>94</sup>

In addition to affecting the potential length and depth of the pandemic recession in general, both of these broader issues also have particular implications for longer-term financial inclusion, fairness, and wealth-building among communities of color. Historical discrimination on the basis of race, ethnicity, and gender in such fields as employment, education, housing, and lending have helped to create substantial disparities in income, wealth, and other indicators of financial health for consumers and small businesses. Many of those disparities increased during the last financial crisis, and are now both contributing to and being exacerbated by the uneven medical and economic impacts of the pandemic.<sup>95</sup> Stakeholders are voicing increasing concerns that existing inequities could substantially worsen both during and after the current crisis, particularly in light of recent surveys suggesting that there are racial disparities as to how many distressed consumers are obtaining forbearances, the impact of recent tightening in mortgage standards, and the fact that racial disparities in short-term impacts on renters could have long-term effects on those consumers' ability to move into homeownership over time.<sup>96</sup> Because negative information will remain on consumers' reports for at least 7 years, economic fallout from the pandemic could affect access to credit, employment, housing, and other services even after the recession has ended.

Yet while decisions on various forms of direct relief and mortgage policy may have the broadest impact, recent events have also demonstrated that seemingly technical credit reporting and scoring issues warrant continuing attention. Some sources say that inconsistent reporting practices, the presence of so many forbearances in consumer reports, and the CARES Act reporting provisions are causing further tightening in credit standards by making it more difficult to gauge credit risk.<sup>97</sup> Questions about reporting of longer-term repayment plans also have important implications.<sup>98</sup> More generally, as discussed in our prior brief, concerns about data consistency and probity can not only shape lenders' immediate decisions about granting credit, but the long-term process of adjusting scoring and underwriting models coming out of the pandemic.<sup>99</sup>

Stakeholders are thus both seeking guidance to clarify outstanding reporting questions and continuing to debate whether stronger measures are needed beyond § 4021. But there is little consensus about whether to pursue additional policy interventions. Calls for widescale suppression of all negative information from consumer reports remain particularly polarizing, but few targeted alternatives are being proposed.

Several considerations stand out with regard to consumer reporting and scoring issues:

- » **Requests for additional guidance are producing results, but the process is likely to be iterative and complicated.** As discussed in our first brief and above, stakeholders are continuing to seek additional guidance on implementation of the CARES Act and

historical data standards from the CFPB, the industry task force that oversees Metro 2, and other agencies that focus on particular loan markets. Additional guidance was released in June and July, but stakeholders are already seeking further follow up. The process is likely to be iterative and complicated by both practical and structural issues in accounting for a variety of potential factual situations and legal considerations. After the 2008 financial crisis, for example, multiple rounds of Metro 2 guidance were issued in subsequent years to address various mortgage-related issues as circumstances evolved, and stakeholders still disagree about the substantive outcomes on some issues.<sup>100</sup>

Several factors complicate the guidance development process. First, as discussed in our first report, the relationship between the Metro 2 standard and Fair Credit Reporting Act accuracy requirements is complex.<sup>101</sup> Where a borrower is not making full payments on time as expected under the loan agreement, the Metro 2 standards leave it to furnishers to make a series of decisions about how and in some cases whether to report special circumstances, the nature of any arrangements with the borrower, and the borrower's performance in part because a single cookie-cutter approach would not be accurate in all cases. The CARES Act's additional legal requirements and the Great Lakes litigation have further increased the stakes for industry actors by highlighting both the potential practical and legal consequences of technical decisions.

At the same time, federal regulators may be reluctant to address questions that hinge upon the interpretation of private industry standards, particularly across a broad range of factual scenarios. While the Bureau issued a set of FAQs in June on credit reporting issues as discussed above,<sup>102</sup> it did not drill down to the level of detail that many stakeholders feel is necessary to ensure consistency. And though the GSEs have in the past issued substantial instructions about credit reporting issues on loans that they securitize, they have largely withdrawn from such topics and are simply instructing servicers to comply with the CARES Act.<sup>103</sup>

» **Few new alternatives are being proposed in connection with the debate over whether to strengthen credit reporting protections.** Based on concerns that § 4021 did not provide sufficient protections, the House passed legislation on May 15 that would ban the inclusion of any adverse information in consumer reports during the designated pandemic period except for criminal convictions, as well as providing consumers with the option to shield their reports for an additional 270 days and imposing additional limitations on credit scoring models.<sup>104</sup> Similar legislation had been introduced in the Senate in March, but had encountered substantial opposition there due to concerns that it would have substantial unintended consequences.<sup>105</sup> Restrictions on credit reporting activity are also receiving continued attention in many states, the District of Columbia, and Puerto Rico, though there are substantial debates about whether they are preempted under the Fair Credit Reporting Act.<sup>106</sup>

As described in greater detail in our first report and some subsequent white papers, stakeholders have raised a number of concerns about broad suppression approaches, ranging from practical questions about how to deal with information that could be negative in some circumstances and positive in others to broader concerns that creating

large gaps in credit records would actually disadvantage many consumers, undermine confidence in the broader credit reporting system, and further encourage lenders to impose more exacting minimum standards.<sup>107</sup> At least one news report has suggested that even the relatively modest changes made by the CARES Act have prompted lenders to tighten standards because reporting accounts with forbearances as current is making it more difficult to gauge credit risk, though other stakeholders have suggested that these changes are driven by broader economic uncertainty rather than § 4021 specifically.<sup>108</sup>

But few more targeted options concerning credit reporting have emerged in recent weeks, beyond perhaps revising the CARES Act provisions on reporting account status to apply to accommodations granted to consumers on non-credit tradelines or extending the time periods in which it applies. While these changes might benefit some additional consumers at the margins, critics argue they would not be sufficient to address the potential negative effects on credit scores in situations in which consumers cannot obtain accommodations from landlords, utilities, medical providers, or debt collectors.<sup>109</sup> They also point out that more targeted solutions can sometimes produce more complexity and compliance challenges to the extent that they depend on consumers and furnishers taking particular actions in particular circumstances. Accordingly, they are continuing to advocate for blocking negative information related to the pandemic from reports or barring landlords or other credit report users from relying on such information.<sup>110</sup>

And while some states are considering the creation of systems to allow consumers to place a single alert on their credit reports as a whole rather than having to work separately with regard to each tradeline or collections item, there are important questions about whether credit report users would view such alerts as an ameliorating or positive factor indicating that the consumer is working proactively to manage their finances or as a negative sign of increased risk. Attempts to use such alerts to trigger suppression requirements raise broader policy and potential preemption issues as discussed above.<sup>111</sup>

» **Recent concerns have underscored deeper questions about how industry responds to uncertainty during what increasingly looks to be a protracted and uneven recovery.** The debates about particular policy interventions help to underscore deeper questions about how industry responds to the prospect of a protracted period of economic uncertainty. Because data is reported to the NCRAs on a delayed basis and because existing scoring and underwriting models were not built for current conditions, under any scenario lenders are likely to be more cautious in relying on traditional information sources and existing algorithms for some time to come. But there are key questions about what they use to fill in the gaps.

Both stakeholder interviews and news reports suggest that a growing number of lenders are starting to look beyond traditional data sources to find supplemental information such as bank transaction account information that provides a more timely and comprehensive picture of borrowers' current finances.<sup>112</sup> Credit scoring companies and NCRAs are also introducing a range of new products that are designed to predict consumer resiliency, track macro-economic trends, and provide other insights.<sup>113</sup> But making and implementing decisions to secure new information sources and adapt internal processes can take



substantial time and resources, and in the interim lenders' primary tool for managing uncertainty is to impose categorical credit overlays that simply exclude greater numbers of applicants because they fail to meet minimum credit scores or other benchmarks or show some evidence that they have been affected by pandemic-related economic disruptions.

Though the rationale for overlays is that existing data and models are no longer sufficiently reliable in predicting default risk, they can in some ways effectively double down on historical practices. For example, even if general historical patterns show that consumers who obtain short-term forbearances may be more likely to default over the long term, the fact that consumers are proactively managing their finances in the midst of the worst economic crisis since the Great Depression could well prove to be associated with better long-term outcomes. At the same time, the fact that a white-collar worker has maintained a high credit score to date may not provide a reliable predictor of default risk if they are subject to substantial reductions in hours and/or wages, as is occurring at unprecedented levels in the current recession.<sup>114</sup> And given differences in credit reporting for renters and homeowners, consumers who are unable to make housing payments for several months might experience substantially different changes in their credit scores.

Thus, simply changing threshold cutoffs may not be sufficient or even helpful if underlying models are not able to meaningfully distinguish true differences in risk levels, and due to historical racial disparities in credit scores may also have particularly harsh consequences for applicants of color. Thus, the ways in which individual lenders establish, use, and adjust credit overlays has important implications for consumers and small businesses, the lenders' respective market shares, and the broader recovery process.

Collectively, these considerations continue to underscore the fact that there are few easy answers to credit reporting concerns in connection with the economic disruption caused by the Covid-19 pandemic. Initiatives to preserve access to credit and facilitate a faster, broader recovery through credit reporting changes require careful attention to both design and execution because of the substantial risk of unintended consequences, for instance from implementation problems due to the complexity and scale of the ecosystem, the risk of making it more difficult to differentiate risk levels in meaningful ways, and the likelihood of increasing reliance on less calibrated credit overlays if lenders lose confidence in data consistency and probity. Thus, it is critical to consider not just short-term policy goals, but also how particular options could change creditors' broader reliance on consumer reports, credit scoring, and automated underwriting more generally.

These issues also illustrate the importance of facilitating industry efforts to secure more insightful data and adjust both scoring and underwriting models to update risk analyses in the face of emerging trends, continuing uncertainty, and potential long-term financial and economic changes from the pandemic. Future Research Briefs in this series will focus on those forward-looking questions and on ways to build more resilient consumer and small business credit sectors for the long term.

## Endnotes

- <sup>1</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options (May 2020); see also pages 4-9.
- <sup>2</sup> Pub. L. 116-136, § 4021 (Mar. 27, 2020).
- <sup>3</sup> AnnaMaria Andriotis, 'Flying Blind into a Credit Storm': Widespread Deferrals Mean Banks Can't Tell Who's Creditworthy, Wall St. J. (June 29, 2020). For discussions of tightening standards more generally, see note 41 and accompanying text.
- <sup>4</sup> 15 U.S.C. § 1681c(a)(1)-(5), (b); FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 2 & n.3 (explaining the timelines for developing and implementing substantial updates to third-party credit scoring models).
- <sup>5</sup> See, e.g., Megan Cassella, America's Hidden Economic Crisis: Widespread Wage Cuts, Politico (July 19, 2020); Anneliese Lederer et al., Lending Discrimination within the Paycheck Protection Program, National Community Reinvestment Coalition (July 2020); Robert Fairlie, The Impact of COVID-19 on Small Business Owners: Continued Losses and the Partial Rebound in May 2020, National Bureau of Economic Research Working Paper No. 27462 (July 2020); Tomaz Cajner et al., The U.S. Labor Market During the Beginning of the Pandemic Recession, National Bureau of Economic Research Working Paper No. 27159 (updated June 2020); Raj Chetty et al., How Did COVID-19 and Stabilization Policies Affect Spending and Employment? A New Real-Time Economic Tracker Based on Private Sector Data, National Bureau of Economic Research Working Paper No. 27431 (June 2020); Rakesh Kochhar, Unemployment Rose Higher in Three Months of COVID-19 Than It Did in Two Years of the Great Recession, Pew Research Center (June 11, 2020).
- <sup>6</sup> Some sources indicate that delinquencies in consumer lending markets have declined or held largely steady since the pandemic, while others suggest that they are growing but do not yet match the worst of the 2008 financial crisis. See, e.g., CoreLogic, Loan Performance Insights (July 14, 2020); Stefan Lembo Stolba, Blog, COVID-19 Impact: Changes to Consumer Debt and Credit, [experian.com](https://experian.com) (July 8, 2020); Equifax, U.S. National Consumer Credit Trends Report: Portfolio (July 14, 2020); Fitch Ratings, U.S. Credit Cards -- Asset Quality Review 1Q20 (June 30, 2020); Black Knight, Press Release: Mortgage Delinquencies Increase Another 20% in May to Hit Highest Level since 2011, but June Payment Data Suggests Rise May Be Cresting (June 22, 2020); Experian, News Release, Delinquency Rates Decrease in Q1 2020; While Affordability Remains Top of Mind (June 9, 2020); TransUnion, Monthly Industry Snapshot (May 2020). At least three factors help to explain the disparities. First, because delinquencies are not reported to the nationwide consumer reporting agencies until bills are at least 30 days past due and because many companies report on a batch basis, there can be significant time lags. Second, the CARES Act requires that consumers who were current before the pandemic and obtain an accommodation continue to be reported as current so long as they abide by the terms of the accommodation. Third, different sources focus on the total number of loans at a defined level of delinquency while others focus on the number of loans reaching a particular threshold of delinquency within a given time period. Thus, depending on the source of data, the definition of delinquency, and the time period used for comparison, tallies can vary. In contrast, commercial loan delinquencies are already reaching record levels. See, e.g., Fitch Ratings, Coronavirus Sparks Largest-Ever Rate Jump in U.S. CMBS Delinquencies (July 6, 2020).
- <sup>7</sup> As of May, Experian and TransUnion both reported based on VantageScore models that credit scores were generally stable or increasing modestly, with some reductions in the number of consumers placed in the subprime risk tier. Stolba; TransUnion, Monthly Industry Snapshot at 2-3; see also Anna Irrera, Did Uncle Sam's Virus Aid Help Your Credit Score? Don't Count on a Loan, Reuters (July 13, 2020) (reporting results of an analysis of 80 million files by Credit Karma, which also relies on VantageScore). Credit scoring impacts are influenced by many of the same factors discussed in note 6, particularly given that account delinquency/payment history plays a significant role in many scoring models. See note 39. In addition, scoring effects may vary between models because they treat special comment codes and other disaster-related information differently as discussed on page 5. The percentage of accounts with hardship codes was approximately 7% in auto and mortgage, 6% for unsecured consumer loans, and nearly 4% for bank credit cards, all up from a fraction of 1% as of the end of May. TransUnion, Monthly Industry Snapshot at 3, 8.
- <sup>8</sup> Chetty et al.; Scott R. Baker et al., Income, Liquidity, and the Consumption Response to the 2020 Economic Stimulus Payments, National Bureau of Economic Research Working Paper No. 27097 (May 2020); Ezra Karger & Aastha Rajan, Heterogeneity in the Marginal Propensity to Consume: Evidence from Covid-19 Stimulus Payments, Federal Reserve Bank of Chicago Working Paper No. 2020-15 (May 2020).
- <sup>9</sup> Federal Reserve Bank of St. Louis, Personal Savings Rate (updated June 26, 2020) (showing a 40-year peak of 32.2% in April, declining to a still-record rate of 23.2% in May); Chetty et al.; Baker et al.; Karger & Rajan.
- <sup>10</sup> Irrera; Stolba. Somewhat similarly, in the 2008 financial crisis, the number of consumers in the very highest parts of the credit score spectrum initially increased as households managed their finances more carefully. Over the course of the downturn, larger numbers of consumers saw score declines as longer-term effects played out. Rachel Bell, Blog, FICO Scores Shift During Recession, [fico.com](https://fico.com) (Sept. 19, 2011). See note 7 for a discussion of other factors that may be influencing current scores.
- <sup>11</sup> Sapna Maheshwari et al., Consumers Came Back in June, but for How Long?, N.Y. Times (July 16, 2020); Black Knight, Blog, Forbearances See Largest Weekly Drop Yet (July 10, 2020); Sarah Chaney, U.S. Unemployment Rate Fell to 11.1% in June, Wall St. J. (July 2, 2020).

- <sup>12</sup> Coronavirus in the U.S.: Latest Map and Case Count, N.Y. Times (visited July 16, 2020); Rebecca Rainey, Congress Faces Pressure to Deal with 'Roller Coaster Recovery' Amid Pandemic, Politico (July 15, 2020); Eli Rosenberg, 1.3 Million More Workers File New Unemployment Claims Last Week, Wash. Post (July 16, 2020); Emily Flitter, 'I Can't Keep Doing This': Small-Business Owners Are Giving Up, N.Y. Times (July 13, 2020); David J. Lynch, After the Fastest Recession in U.S. History, the Economic Recovery May Be Fizzling, Wash. Post (July 11, 2020); Greg Ip, A Recovery That Started Out Like a V Is Changing Shape, Wall St. J. (July 1, 2020); Eli Rosenberg & Abha Bhattarai, Workers Are Getting Laid Off for a Second Time, As the Virus's Surge Puts Reopenings on Hold, Wash. Post (June 30, 2020). News reports indicate that economic activity began to decline in heavily affected states even ahead of local or state efforts to pause or reverse reopening efforts. See, e.g., Scott Horsley, Wallets Are Already On Lockdown: People Pare Spending as Sunbelt Cases Surge, [npr.org](https://www.npr.org) (June 26, 2020); see also Christopher J. Cronin & William N. Evans, Private Precaution and Public Restrictions: What Drives Social Distancing and Industry Foot Traffic in the COVID-19 Era?, National Bureau of Economic Research Working Paper No. 27531 (July 2020) (analyzing the effect of private behavior changes and state and local restrictions through mid May); Austan Goolsbee & Chad Syverson, Fear, Lockdown, and Diversion: Comparing Drivers of Pandemic Economic Decline 2020, National Bureau of Economic Research Working Paper No. 27432 (June 2020) (same).
- <sup>13</sup> As discussed at notes 21, 32, 47-48, and accompanying text, while federal law provides up to 6-12 months of forbearance for federally backed mortgages and most federal student loans, the extent of loan accommodations on other credit products are up to the discretion of individual lenders and servicers.
- <sup>14</sup> Kate Davidson & Nick Timiraos, Congress Confronts Summer Deadlines for Stimulus Spending Decisions, Wall St. J. (June 11, 2020); see also notes 62-64 and accompanying text (discussing rental protections). State unemployment benefits were extended by various CARES Act programs and will generally last for 39 weeks or until December 31, 2020, whichever comes first. Center for Budget & Policy Priorities, Policy Basics: How Many Weeks of Unemployment Compensation Are Available? (updated July 6, 2020); Zack Friedman, These Unemployment Benefits Will End Next Month, Forbes (June 15, 2020). However, some households are still struggling to access initial benefits. Eli Rosenberg, Workers Are Pushed to the Brink as They Continue to Wait for Delayed Unemployment Payments, Wash. Post (July 13, 2020). Small business applications for PPP funding had slowed significantly by May, but attracted some additional interest after June legislation loosened various program parameters to make it easier to satisfy loan forgiveness requirements. The program was set to expire just a few weeks later, but legislation extended it to August 8 to allow applicants to seek about \$130 billion in remaining funds. Matthew S. Schwatz, Trump Signs Small Business Loan Program Extension, [npr.org](https://www.npr.org) (July 4, 2020); FinRegLab, Research Brief, Technology Solutions for PPP and Beyond (June 2020).
- <sup>15</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 3-4.
- <sup>16</sup> FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Market Context & Policy Analysis 9 (2020).
- <sup>17</sup> *Id.* at 13; notes 75-76 and accompanying text (discussing use of reports and scores in rental housing). In the employment context, consumer reports are used for screening but FICO and VantageScore scores are not. Nerdwallet, Why Employers Check Credit — and What They See (May 4, 2020); Elizabeth Gravier, Can Employers See Your Credit Score? How to Prepare for What They Actually See When They Run a Credit Check, CNBC (Feb. 10, 2020); Michelle Singletary, The Facts on How Your Credit Report Can Factor into a Job Offer, Wash. Post (Sept. 6, 2016).
- <sup>18</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 3; see also FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Small Business Spotlight 7 (2019).
- <sup>19</sup> Pub. L. 116-136, § 4021. An accommodation is defined under the law to include an agreement to defer one or more payments, make partial payments, forbear any delinquent amounts, modify a loan or contract, or any other assistance or relief granted to a consumer who is affected by the Covid-19 pandemic during the covered period. The law applies to accommodations that are obtained up to 120 days after the end of the national emergency declared by the President on March 13, 2020. The law does not specify criteria or process requirements for determining whether a particular consumer is affected by the disease. *Id.*
- <sup>20</sup> *Id.* Consumers can also cure delinquencies during an accommodation. *Id.*
- <sup>21</sup> *Id.* §§ 3513, 4022; see also notes 32, 47-48, and accompanying text. Outside of loans covered by the CARES Act, available reports suggest that forbearance lengths vary widely but rarely exceed 120 days. FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 14-15; see also American Bankers Association, America's Banks Are Here to Help (updated June 30, 2020); Teddy Nykiel, Everything You Need to Know About Student Loan Relief During Coronavirus, N.Y. Times (updated May 21, 2020); John M. Vincent, Coronavirus Pandemic: What Should I Do if I Can't Make My Car Payment?, U.S. News & World Report (Apr. 24, 2020). Consumer complaints about lenders refusing to grant accommodations increased substantially from March to May compared to the same period in 2019. U.S. Public Interest Research Group, News Release, Denial of Auto Loan Relief Leads to Spike in Consumer Complaints (June 25, 2020) (reporting analysis of complaints filed with the Consumer Financial Protection Bureau).
- <sup>22</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 8-9.
- <sup>23</sup> *Id.* at 4-5. A third alternative is to report a particular account (often called a tradeline) as deferred by entering "D" as a character in a field called "terms frequency." Furnishers also frequently enter a "D" character in another field called "payment history profile," though the character is also used there in connection with bankruptcies and certain other non-disaster situations in which no payment history

is available for the particular month. See, e.g., Consumer Data Industry Association, Credit Reporting Resource Guide, Metro 2 Frequently Asked Questions 44, 45, 58 (2020). The concepts of forbearance and deferral are related and overlapping, with forbearance used most often in the mortgage context to refer to a particular type of short-term accommodation in which the delayed payments are typically due within a relatively short time after the end of the deferral period. Deferral is typically used in mortgage markets to describe other types of repayment plans, such as situations in which borrowers are allowed to wait until the end of the loan to make the delayed payments, and in other credit markets such as student lending where no payments are due for an extended period. The “D” character is thus often—though not necessarily always—used in conjunction with the special comment codes, as well as in situations where no comment code is applied.

<sup>24</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 5-8.

<sup>25</sup> *Id.* at 9, 14; Consumer Financial Protection Bureau, Complaint Bulletin: Complaints Mentioning Coronavirus Keywords 4 (May 2020) (noting that 52% of complaints received by the CFPB in 2020 have concerned credit reporting issues, up from 41% in 2019). Among complaints mentioning the pandemic specifically as of May 11, mortgage ranked first and credit reporting ranked third. *Id.*

<sup>26</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 5-8; see also note 27.

<sup>27</sup> See, e.g., Herb Weisbaum, Many Consumers Enrolled in COVID-19 Payment Modification Programs Find Their Credit Files Erroneously Tarnished, Consumer’s Notebook (updated July 2, 2020); Kate Berry, Coronavirus Still a Threat to Credit Scores Despite Congressional Relief, Am. Banker (June 1, 2020); Andrew Ackerman & Nick Timiraos, Mortgage Credit Tightens, Creating Drag on Any Economic Recovery, Wall St. J. (May 25, 2020); CFPB, Complaint Bulletin at 8-9; Bonnie Sinnock, Hardships Rise, Delinquencies Fall as CARES Act Changes Credit Reports, Nat’l Mortgage News (May 21, 2020); Anna Bahney, Homeowners Are Getting Mortgage Relief They Didn’t Want, CNN (May 20, 2020); Adam S. Minsky, Student Loan Servicers Are Dinging Credit Reports For the CARES Act Forbearance, Forbes (May 18, 2020); Russ Wiles, Forbearance Offers Breathing Room for Homeowners but There Are Drawbacks, USA Today (May 18, 2020); Diana Olick, Some Homeowners Are Getting Mortgage Bailouts by Mistake, and It’s Keeping Them from Refinancing, CNBC (May 12, 2020).

<sup>28</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 5-8.

<sup>29</sup> Jillian Berman, 5 Million Student-Loan Borrowers May See Their Credit Scores Fall after CARES Act Paused Loan Payments — ‘It’s Another Battle,’ MarketWatch (May 26, 2020); Coronavirus Policy: Mortgage Servicers Are Adding Forbearance Remarks on Credit Reports Even for Some Borrowers Not in Forbearance, Negatively Affects Credit Scores and Mortgage Refinancing, Capitol Forum (May 7, 2020); FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Market Context & Policy Analysis at 16; Peter Carroll & Cosimo Schiavone, 2018 VantageScore Market Study Report, Oliver Wyman (2018).

<sup>30</sup> VantageScore, Statement, VantageScore Credit Scores and the COVID-19 Pandemic (May 15, 2020).

<sup>31</sup> Federal Housing Finance Agency, News Release, FHFA Announces Refinance and Home Purchase Eligibility for Borrowers in Forbearance (May 19, 2020). Reinstatement means that a consumer has completely repaid accrued amounts after a prior forbearance.

<sup>32</sup> Section 3513 of the CARES Act automatically suspended all payments and the accrual of interest on most federal student loans through Sept. 30. Pub. L. 116-136, § 3513 (Mar. 27, 2020). The law also directed the Secretary of Education to “ensure that, for the purpose of reporting information about the loan to a consumer reporting agency, any payment that has been suspended is treated as if it were a regularly scheduled payment made by a borrower.” *Id.* § 3513(d). Accordingly, the Department of Education has directed student loan servicers to report accounts as current with a \$0 monthly payment rather than deferred with a \$0 monthly payment. Although some news reports indicated that Great Lakes had reported consumers as delinquent, the actual issue seems to have involved reporting them as deferred. Deferments are commonly used in student lending, for instance while students are actively taking classes, and are not generally considered a negative event. See, e.g., Deanna Templeton, How Does Student Loan Deferral Affect Your Credit?, Marketwatch (Dec. 27, 2019); Jennifer White, When Do Deferred Student Loans Show Up on a Credit Report?, Experian (Dec. 17, 2019). However, in this case there appear to have been some unanticipated impacts. Susan Tompor, Michigan Man’s Credit Score Tumbles 91 Points Because of a Student Loan Glitch, Detroit Free Press (June 10, 2020); Berman; Michael Stratford, Emergency Relief Screw-Up Hits 5 Million Student Loan Borrowers, Politico (May 20, 2020); Minsky.

<sup>33</sup> Tompor; Berman; Stratford; Minsky.

<sup>34</sup> Kathleen Pender, Halted Loan Payments Because of the Coronavirus? Check Your Credit Report for Mistakes, S.F. Chronicle (updated June 23, 2020); Anne Tergesen & Orla McCaffrey, With Payments on Pause, Watch Your Credit Score, Wall St. J. (June 9, 2020); Scott Medintz, How to Protect Your Credit Score During the Coronavirus Pandemic, Consumer Reports (June 2, 2020); Ann Carrns, One Side Effect of the Virus: Free Credit Reports Each Week, N.Y. Times (May 15, 2020); Press Release, Equifax, Experian and TransUnion Announce Free Weekly Credit Reports to Help Americans in Response to COVID-19, Business Wire (Apr. 20, 2020).

<sup>35</sup> TransUnion, Monthly Industry Snapshot.

<sup>36</sup> AnnaMaria Andriotis, Americans Skip Millions of Loan Payments as Coronavirus Takes Economic Toll, Wall St. J. (June 18, 2020); see also page 3.

- <sup>37</sup> Consumer Financial Protection Bureau, Consumer Reporting FAQs Related to the CARES Act and COVID-19 Pandemic, FAQ nos. 8-9 (June 16, 2020).
- <sup>38</sup> See, e.g., Connie Thompson, Federal Cares Act Includes Protections against Unfair Credit Report Use during Pandemic, KOMO News (May 11, 2020) (stating that the CARES Act prohibits reporting of any negative information regarding accounts with accommodations); Diana Olick, Struggling to Pay Your Mortgage? Here's How to Get Help, CNBC (May 7, 2020) (stating that the CARES Act prohibits reporting forbearances to credit bureaus); Washington Office of the Insurance Commissioner, Kreidler Alerts Consumers to New Credit Scoring Protections during Coronavirus Pandemic (May 5, 2020) (stating that the CARES Act protects consumers from any negative credit reporting if their accounts were in good standing before the pandemic started).
- <sup>39</sup> FICO has indicated that 30% of its scores are driven by amounts owed/credit utilization, compared to 35% for payment history. VantageScore has not published percentages but reports that total credit usage, balance, and available credit are the most important factors in its most current model. FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 3-4. For discussions of how credit scoring works during economic downturns and natural disasters and simulations of different pandemic-related scenarios on FICO scores, see Equifax, Webinar, Market Pulse: Potential Impact of Pandemic on Credit Scores (May 21, 2020); Jim Bander, Blog, Validating Consumer Credit Scores in a Time of Extreme Uncertainty, Experian (May 20, 2020); FICO, Webinar, FICO Score Trends Through Economic Downturns and Natural Disasters, And What They Can Tell Us about the Road Ahead (May 13, 2020).
- <sup>40</sup> Consumer Financial Protection Bureau, Remarks by Director Kraninger During Consumer Data Industry Association Webinar (June 19, 2020); CFPB, Consumer Reporting FAQs, FAQs nos. 1-3. Attorneys general from 20 states and Puerto Rico had interpreted a previous statement by the Bureau as suggesting that it did not intend to enforce the CARES Act. FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at n.44.
- <sup>41</sup> Lenders have already made some moves to reduce marketing, tighten origination standards, and restrict credit limits, although updated comprehensive data on the degree of contraction will not be available until later in the summer. A Federal Reserve quarterly survey of senior loan officers as of early April indicated that loan standards were starting to tighten across multiple markets; subsequent industry surveys and news reports suggest that standards for new loans have further constricted at least in mortgage and credit card markets and that solicitations for new credit cards and personal loans have declined dramatically. Larry Santucci, How Has the COVID-19 Pandemic Affected the Supply of Consumer Credit? A Preliminary Look at the U.S. Credit Card Market, Federal Reserve Bank of Philadelphia Consumer Finance Institute Special Report (July 2020); Mortgage Bankers Association, Release, Mortgage Credit Availability Decreased in June, Mortgage Bankers Association (July 9, 2020); Andriotis, 'Flying Blind'; Lindsey White et al., US Lenders Walking Tightrope to Balance Consumer Loan Demand, COVID-19 Risk, S&P Global (June 12, 2020); Ackerman & Timiraos; Board of Governors of the Federal Reserve, April 2020 Senior Loan Officer Opinion Survey on Bank Lending Practices (May 4, 2020). Some news reports and surveys have also suggested that lenders are lowering limits on existing credit lines and closing inactive accounts, though more comprehensive data sources seem to suggest that such activity has been concentrated primarily in private label credit cards and general revolving consumer loans. Santucci; Equifax, U.S. National Consumer Credit Trends Report: Portfolio at 28, 34, 50, 66; Kevin Wack, Credit Card Lenders Clamp Down to Mitigate Coronavirus Risk, Am. Banker (May 29, 2020); FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 3 & n.14.
- <sup>42</sup> Ben Eisen & David Benoit, 'This Is Not a Normal Recession': Banks Ready for Wave of Coronavirus Defaults, Wall St. J. (July 14, 2020); David Benoit, Are Banks Afraid of Covid-19? Watch How Much They Set Aside for Loan Losses This Week, Wall St. J. (July 13, 2020); Renae Merle & Rachel Siegel, The Fed Is Cracking Down on Big Banks to Guard Against Risk Posed to the Financial System from Coronavirus, Wash. Post (June 25, 2020). Some lender/servicers are also starting to back non-paying mortgages from investors. Kate Berry, Wells Fargo Buys \$14B of Delinquent Mortgages Tied to Pandemic, Am. Banker (July 13, 2020).
- <sup>43</sup> Among borrowers with forbearances on their mortgages, about 46% made payments in April, about 30% in May, and about 25% in June. Black Knight, Blog, Forbearance Volumes Reverse Course for Largest Decline Yet (July 3, 2020). Federal regulators have reported that about one-third of borrowers with loans securitized by Fannie Mae and Freddie Mac have continued to make payments. Some credit card lenders have reported that as many as 45% of their borrowers with forbearances also have been able to continue payments. Harry Terris & Ali Shayan Sikander, Bank Credit Performance in Limbo as Massive Experiment in Forbearance Unspools, S&P Global (June 22, 2020); Kathleen Howley, Fannie Mae, Freddie Mac Forbearance Rate Is 'Manageable,' Calabria Says, Housing Wire (June 9, 2020); Laura Noonan, US Lenders See Hopeful Signs in Loan Repayments, Fin. Times (June 7, 2020).
- <sup>44</sup> Andriotis, 'Flying Blind.'
- <sup>45</sup> Federal Housing Finance Agency, Press Release, FHFA Extends COVID-Related Loan Processing Flexibilities for Fannie Mae and Freddie Mac Customers Through July (June 11, 2020); U.S. Department of Housing & Urban Development, Mortgagee Letter 2020-16 (June 4, 2020). The current policies extend through July 31, 2020. They exclude "cash-out" refinances in which consumers draw down some of their home equity, which has substantially affected that market. Michele Lerner, Accessing Home Equity in a Tight Economy Has Become Problematic, Wash. Post (June 11, 2020); Kate Berry, Cash-Out Refis Dry Up as Price Hikes Prove Too Costly, Am. Banker (May 4, 2020).
- <sup>46</sup> Don Layton, America's Housing Finance System in the Pandemic: The Causes and Policy Implications of Credit Tightening, Harvard University Joint Center for Housing Studies (June 2020); Bonnie Sinnock, Why Lenders Are Wary of FHA's Terms for Buying Loans with

Forbearance, Nat'l Mortgage News (June 10, 2020); Ackerman & Timiraos; Berry, Cash-Out Refis Dry Up; Hannah Lang, Cost of GSEs' Mortgage Market Support May Be Too Steep for Lenders, Am. Banker (Apr. 28, 2020).

<sup>47</sup> Black Knight, Forbearance Volumes Reverse Course for Largest Decline Yet.

<sup>48</sup> Pub. L. 116-136, § 4022. Federally backed mortgages include loans that are insured by the Federal Housing Administration, Veterans Administration, and U.S. Department of Agriculture, as well as loans that are securitized by Fannie Mae and Freddie Mac. Those government-sponsored enterprises are overseen by the Federal Housing Finance Agency.

<sup>49</sup> *Id.*

<sup>50</sup> Black Knight, Forbearance Volumes Reverse Course for Largest Decline Yet; see also note 43. Black Knight data reflects a peak of 4.67 million loans in forbearance in early May, while TransUnion reported that 5.5 million mortgages were in forbearance, deferral, or similar hardship status as of May 31. Black Knight, Forbearance Volumes Reverse Course for Largest Decline Yet; Andriotis, Americans Skip Millions of Loan Payments.

<sup>51</sup> Mortgage Bankers Association, Share of Mortgage Loans in Forbearance Decreases for Fourth Straight Week to 8.18% (July 13, 2020) (reporting survey results indicating that 43% of mortgages in forbearance as of July 5 were in an extension of the original accommodation and that 10% of borrowers had entered longer-term deferral plans down from 16% the week before); Black Knight, Blog, Forbearances See Largest Weekly Drop Yet (July 10, 2020); Mortgage Bankers Association, Share of Mortgage Loans in Forbearance Decreases for First Time in Series to 8.48% (June 22, 2020).

<sup>52</sup> See Rosenberg & Bhattarai (reporting some workers are facing second furloughs in southern and western states).

<sup>53</sup> Fannie Mae Lender Letter 2020-07: COVID-19 Payment Deferral (updated June 10, 2020); Freddie Mac Bulletin 2020-15: Freddie Mac COVID-19 Payment Deferral (May 13, 2020).

<sup>54</sup> CFPB, Consumer Reporting FAQs, no. 10. The guidance states that furnishers should not report a consumer that was reported as current pursuant to the CARES Act during an accommodation as delinquent after the accommodation ends based on the time period covered by the forbearance. Similarly, it warns against advancing the delinquency of a consumer whose delinquency level was frozen under the CARES Act based on the time period covered by an accommodation after the agreement ends. *Id.*

<sup>55</sup> See, e.g., Christy W. Hancock et al., Credit Reporting During the COVID-19 Outbreak: CFPB Issues FAQs for CARES Act Requirements, Financial Services Perspectives (June 25, 2020).

<sup>56</sup> Pub. L. 116-136, § 4021.

<sup>57</sup> Letter to the Honorable Ben Carson and Honorable Mark Calabria by the Asian Real Estate Association of America et al. (June 24, 2020); see also Layton.

<sup>58</sup> The CFPB emphasized in its FAQs on credit reporting issues that furnishers cannot comply with the CARES Act simply by using the special comment codes and that the forbearance code should not be used if an account is not in fact in forbearance, but it did not address the status of the codes as optional under Metro 2 itself. CFPB, Consumer Reporting FAQs, nos. 8-9.

<sup>59</sup> See, e.g., Andriotis, 'Flying Blind.'

<sup>60</sup> Andriotis, Americans Skip Millions of Loan Payments; TransUnion, Monthly Industry Snapshot; Berry, Coronavirus Still a Threat to Credit Scores; see also page 3 (reproducing statistics).

<sup>61</sup> U.S. Census Bureau, Release No. CB20-58, Quarterly Residential Vacancies and Homeownership, First Quarter 2020 (Apr. 28, 2020).

<sup>62</sup> Pub. L. 116-136, § 4024.

<sup>63</sup> *Id.*; Laurie Goodman et al., The CARES Act Eviction Moratorium Covers All Federally Financed Rentals—That's One in Four US Rental Units, Urban Institute (Apr. 2, 2020).

<sup>64</sup> Pub. L. 116-136, § 4023. The CARES Act ties the moratorium on multifamily evictions to the duration of the landlord forbearance, which is limited to 90 days, although the GSEs are allowing extensions for an additional 3 months and requiring some tenant protections during the repayment period. *Id.* § 4023(c), (d); Federal Housing Finance Agency, Press Release, FHFA Provides Tenant Protections (June 29, 2020). There are several sources listing multifamily properties that have federally backed loans, but it may not be clear to consumers that their landlords have obtained forbearances. National Housing Law Project, Protecting Renter and Homeowner Rights During Our National Health Crisis, [nhlp.org](http://nhlp.org) (June 25, 2020); Lissan Anfune et al., Blog, Protections for Renters During the Coronavirus Pandemic, Consumer Financial Protection Bureau (May 11, 2020); Goodman et al., The CARES Act Eviction Moratorium Covers All Federally Financed Rentals; Andrew Jakobovics, Understanding Relief for Homeowners and Renters Impacted by COVID-19, [enterprisecommunity.org](http://enterprisecommunity.org) (Mar. 27, 2020). The GSEs and FHA have separately announced prohibitions on evictions from single-family housing that is financed by federally backed loans through August 31. U.S. Department of Housing & Urban Development, Press Release No. 20-081, FHA Extends Foreclosure and Eviction Moratorium for Single Family Homeowners for Additional Two Months (June 17, 2020); Federal Housing Finance Agency, Press Release, FHFA Extends Foreclosure and Eviction Moratorium (June 11, 2020).

- <sup>65</sup> Pub. L. 116-136, § 4021. The law applies to accommodations on “on a credit obligation or account of a consumer.” *Id.* § 4021(F)(ii). Some stakeholders have suggested that “credit” may only be intended to modify “obligation,” and that “account” could refer to other types of tradelines. They also note that § 4021 amends the Fair Credit Reporting Act, which uses a broader definition of credit than some other federal consumer financial laws. 15 U.S.C. § 1681a(r) (incorporating the definition of credit used in the Equal Credit Opportunity Act, 15 U.S.C. § 1691a(d)). However, several courts have rejected arguments that typical residential leases are credit under ECOA. See, e.g., *Laramore v. Ritchie Realty Management Co.*, 397 F.3d 544 (7<sup>th</sup> Cir. 2005); *Ollie v. Waypoint Homes, Inc.*, 104 F.Supp.3d 1012 (N.D. Cal. 2015); *Portis v. River House Assocs.*, 498 F. Supp. 2d 746 (M.D. Penn. 2007).
- <sup>66</sup> Princeton University Eviction Lab, COVID-19 Housing Policy Scorecard, [evictionlab.org](https://evictionlab.org) (visited July 15, 2020); R.J. Vogt, As COVID-19 Safeguards End, Eviction Wave Begins, *Law360* (July 12, 2020); Stephanie Zimmerman, Despite Coronavirus Eviction Ban, Some Chicago Landlords Are Locking Out Tenants, *Chicago Sun Times* (June 21, 2020); Jessica Lussenhop, Coronavirus: Why US Is Expecting an ‘Avalanche’ of Evictions, *BBC* (June 19, 2020); Samantha Fields, U.S. Looking at “a Tsunami of Evictions” as Moratoriums Expire, *Marketplace* (May 29, 2020).
- <sup>67</sup> Rob Warnock & Chris Salviati, Missed Housing Payments Continue Piling Up In July, [apartmentlist.com](https://apartmentlist.com) (July 8, 2020); National Multifamily Housing Council, NMHC Rent Payment Tracker Finds 77.4 Percent of Apartment Households Paid Rent as of July 6 (undated).
- <sup>68</sup> Rebecca Cowin et al. Measuring Evictions during the COVID-19 Crisis, Federal Reserve Bank of Cleveland (July 17, 2020); see also Carrie Spivak, Milwaukee Evictions up 26% in June as Berrada Companies Continue to Be a Force in Eviction Court, *Milwaukee Journal Sentinel* (July 3, 2020); Stephanie Zimmerman, Despite Coronavirus Eviction Ban, Some Chicago Landlords Are Locking Out Tenants, *Chicago Sun Times* (June 21, 2020); Lussenhop. The moratoriums are placing substantial pressure on landlords, particularly small property owners who are not typically getting any pandemic assistance themselves. See, e.g., Abby Vesoulis, How Eviction Moratoriums Are Hurting Small Landlords—and Why That’s Bad for the Future of Affordable Housing, *Time* (June 11, 2020). Research suggests that both tenants who live in single-family homes or smaller multifamily buildings and their landlords are more likely to be negatively affected by the pandemic downturn. Whitney Airgood-Obyrcki & Alexander Hermann, Blog, Covid-19 Rent Shortfalls in Small Buildings, Harvard University Joint Center for Housing Studies (May 26, 2020).
- <sup>69</sup> Joe DiStefano, Is the U.S. Headed Toward an Eviction Crisis?, *Medium* (June 24, 2020); Katherine Lucas McKay et al., 20 Million Renters Are at Risk of Eviction; Policymakers Must Act Now to Mitigate Widespread Hardship, *Aspen Institute* (June 19, 2020). But see Jay Parsons, The Looming “Evictions Tsunami” May Never Arrive, and That’s Good News, *Real Page* (July 16, 2020) (critiquing some projections and news coverage). Households with particularly high rents relative to income are under particular strain because they are less likely to be receiving unemployment insurance. Aaron Shroyer & Kathryn Reynolds, To Stay Stably Housed, Renters Need \$16 Billion per Month in Housing Support during the COVID-19 Crisis, *Urban Institute* (June 15, 2020); see also Whitney Airgood-Obyrcki, How Much Assistance Would It Take to Help Renters Affected by Covid-19?, Harvard University Joint Center for Housing Studies (Apr. 28, 2020) (analyzing statistics about the number of renters who are employed in at-risk industries).
- <sup>70</sup> Such landlords may be less likely to use credit reports and find the operational and compliance challenges of furnishing data to be challenging. Despite its name, the Fair Credit Reporting Act applies to the compilation of consumer information for various purposes beyond assessments of creditworthiness, including insurance, employment, rental housing, bank transaction accounts, and in various other activities. 15 U.S.C. §§ 1681a(d), 1681b. Furnishing information to consumer reporting agencies (whether the large general NCRAs or smaller specialty bureaus) is voluntary, but companies who choose to provide the information are subject to certain requirements regarding accuracy, dispute resolution, and other topics. FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 6; FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Market Context & Policy Analysis at 86. The NCRAs generally require that furnishers report a minimum of 100 to 200 active accounts per month. Consumer Financial Protection Bureau, Key Dimensions and Processes in the U.S. Credit Reporting System 18 (2012).
- <sup>71</sup> FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Market Context & Policy Analysis 15-16 & n.28.
- <sup>72</sup> See, e.g., Joanne Gaskin, Blog, Truth Squad: Can Scoring Rental Data Vastly Improve Credit Access?, [fico.com](https://fico.com) (May 10, 2017). In some cases NCRAs have acquired or launched their own tenant screening services. Sarah Chenven & Carolyn Schulte, The Power of Rent Reporting Pilot, *Credit Builders Alliance* 7 (2015); Kenneth R. Harney, Experian, TransUnion Start Adding Rent Payment Data to Credit Profiles, *L.A. Times* (Aug. 10, 2014). Some web apps will also report rent to NCRAs as a service to consumers, either for free or a fee. Bev O’Shea, How to Report Your Rent to Credit Bureaus, *Nerdwallet* (June 16, 2020); Christine DiGangi, How Renting Can Impact Your Credit, [credit.com](https://credit.com) (Mar. 18, 2020).
- <sup>73</sup> O’Shea.
- <sup>74</sup> Lucy Lazarony, What Happens To Your Credit When You Get Evicted?, [credit.com](https://credit.com) (Apr. 13, 2020); Blog, How Does an Eviction Affect Your Credit?, Experian (Dec. 27, 2016). The three NCRAs have entered settlements that restrict the amount of public records that are incorporated into consumer reports because of concerns about difficulties in ensuring that the records were associated with the correct consumer. FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Market Context & Policy Analysis at 16; Kenneth R. Harney, Many Mortgage Applicants Will Get a Surprise Boost in Their Credit Scores, *Wash. Post* (Mar. 8, 2017).

- <sup>75</sup> Porch, Renters and Landlords: A Look at the Pros and Cons of the Renting Economy, [porch.com](http://porch.com) (Apr. 24, 2019); Gerri Detweiler, Landlords and Credit Checks: What You Should Know, [credit.com](http://credit.com) (July 20, 2018); Andrea Collatz, Landlord Survey: Optimism In Renting Your Property, [mysmartmove.com](http://mysmartmove.com) (June 6, 2017); TransUnion, Press Release, TransUnion Reveals Almost Half of Landlords Consider Renters' Credit Health as a Key Factor in Leasing Decision (May 12, 2014); see also Claire Tsosie & Amrita Jayakumar, What Landlords Really Look For in a Credit Check, [Nerdwallet](http://Nerdwallet.com) (Feb. 6, 2020); Lesly Gregory, Rental History Becoming Key for Approving Leases, [ApartmentGuide](http://ApartmentGuide.com) (Oct. 18, 2019).
- <sup>76</sup> See, e.g., Denise Supplee, How Much Can Landlords Charge for Rental Application Fees in Each State?, [Spark Rental](http://SparkRental.com) (Oct. 29, 2019); Stephen Michael White, Rental Application Fees (All 50 States), [RentPrep](http://RentPrep.com) (May 18, 2013). See FinRegLab Research Brief: Disaster-Related Credit Reporting Options at 3-4 for background on the NCRAs and third-party credit scoring.
- <sup>77</sup> See, e.g., Ariel Nelson & Eric Dunn, Opinion, Congress Must Make Sure Eviction Bans Will Not Lead to Housing Crisis, [The Hill](http://TheHill.com) (Apr. 28, 2020).
- <sup>78</sup> As discussed in note 19, accommodations include agreements to defer one or more payments, make partial payments, forbear any delinquent amounts, modify a loan or contract, or any other assistance or relief granted to a consumer who is affected by the Covid-19 pandemic, so long as the agreements are entered into within 120 days after the end of the national emergency declared by the President on March 13, 2020. Pub. L. 116-136, § 4021.
- <sup>79</sup> Consumer Data Industry Association, Credit Reporting Resource Guide, Exhibit 7; Jennifer Saranow Schultz, Blog, Mortgage Modifications Affect Credit Scores, [N.Y. Times](http://N.Y. Times.com) (Jan. 5, 2010).
- <sup>80</sup> After a repayment plan has been completed, the code is changed from AC to AU. Consumer Data Industry Association, Credit Reporting Resource Guide, Exhibit 7.
- <sup>81</sup> National Consumer Law Center, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (2013); Prabal Chakrabarti, How Loan Modifications Affect Credit Scores, [Federal Reserve Bank of Boston, Communities & Banking](http://Federal Reserve Bank of Boston.com) 25-27 (Fall 2010); Saranow Schultz, Federal loan modification programs were announced in February 2009. Initial credit reporting guidance was issued in May, but problems with credit score declines were reported that summer. Additional Metro 2 changes took effect in November to add the CO and CN codes, and various other changes related to mortgage reporting were made between 2010 and 2013. *Shaw v. Experian Info Solutions, Inc.*, No. 13-CV-1295 JLS (BLM) (S.D. Cal. Sep. 28, 2016); Marian Wang, Bank Errors Cause Damage to Credit, Distress to Homeowners, [ProPublica](http://ProPublica.com) (January 6, 2011); Chakrabarti; Saranow Schultz; Consumer Data Industry Association, Mortgage and Home Equity Reporting Guidelines in Response to Current Financial Conditions (May 2009); see also Katie Jones, Preserving Homeownership: Foreclosure Prevention Initiatives, [Congressional Research Service](http://Congressional Research Service.com) 14-15, 20-22 (May 14, 2015) (detailing the evolution in federal mortgage assistance programs).
- <sup>82</sup> Consumer Data Industry Association, Credit Reporting Resource Guide, Exhibit 7 & Mortgage Loan Modifications. CN codes are less commonly used now that HAMP has concluded.
- <sup>83</sup> Federal Housing Finance Agency, Press Release, "No Lump Sum Required at the End of Forbearance" says FHFA's Calabria (Apr. 27, 2020); U.S. Department of Housing & Urban Development, Office of Inspector General, COVID-19 OIG Bulletin for Homeowners (April 2020); Federal Housing Administration, If You Need Assistance in Making Your Mortgage Payments, Help is Available (updated Apr. 17, 2020).
- <sup>84</sup> The FHA version of a deferral, called a partial claim, is structured as a junior lien with a separate account number and tradeline. FHA is instructing servicers to evaluate borrowers first for this option, and only for other structures if they do not qualify. U.S. Department of Housing & Urban Development, Press Release No. 20-102, FHA Expands Home Retention Measures for Homeowners Financially Impacted by COVID-19 (July 8, 2020); Federal Housing Administration, If You Need Assistance in Making Your Mortgage Payments, Help Is Available (updated April 17, 2020). The GSEs' COVID-19 payment deferral option may be recorded in some locations but generally appears to be treated as part of the original loan. Fannie Mae Lender Letter 2020-07; Freddie Mac Bulletin 2020-15; Fannie Mae Lender Letter 2020-05 (updated July 15, 2020); Freddie Mac Bulletin 2020-06 (Mar. 25, 2020).
- <sup>85</sup> Scott Medintz, How to Get Help with Your Mortgage During the Coronavirus Pandemic, [Consumer Reports](http://Consumer Reports.com) (Apr. 2, 2020); see also note 84 and accompanying text. Mortgage servicing rules adopted after the 2008 financial crisis generally require that servicers obtain a complete application from consumers before evaluating them for "loss mitigation" alternatives to foreclosure and that they evaluate applicants for all such options in a single comprehensive process. Some stakeholders argued that those rules potentially prohibited servicers from providing the FHA and GSEs' deferral options without collecting sufficient information to evaluate consumers for all other options, but the Consumer Financial Protection Bureau issued an Interim Final Rule that temporarily permits the offering of streamlined deferral options that meet certain conditions based on an incomplete application. [Consumer Financial Protection Bureau, Interim Final Rule](http://Consumer Financial Protection Bureau.com), 85 Fed. Reg. 39055 (June 30, 2020); see also Krista Cooley et al., New Rule Allows US Mortgage Servicers to Provide Faster Relief to Borrowers Impacted by Pandemic, [Mayer Brown](http://Mayer Brown.com) (July 13, 2020); Jonathan R. Kolodziej et al., Can Mortgage Servicers Legally Offer the GSEs' COVID-19 Payment Deferral Options?, [Financial Services Perspectives](http://Financial Services Perspectives.com) (May 14, 2020).
- <sup>86</sup> Consumer Data Industry Association, Metro 2<sup>®</sup> Format COVID-19 Post-Accommodation Reporting Guidance Now Available!! (July 16, 2020).



- <sup>87</sup> Where a loan modification is involved, the guidance directs that the “CO” special comment code be used. *Id.* Metro 2 generally uses that code to describe loans that are renegotiated or refinanced not under a government program. Consumer Data Industry Association, Credit Reporting Resource Guide, Metro 2 Frequently Asked Question 42.
- <sup>88</sup> Consumer Data Industry Association, Metro 2<sup>®</sup> Format COVID-19 Post-Accommodation Reporting Guidance at 2.
- <sup>89</sup> See, e.g., Janet Holtzblatt & Michael Karpman, Who Did Not Get the Economic Impact Payments by Mid-to-Late May, and Why?, Urban Institute (July 2020); U.S. Government Accountability Office, Covid-19: Opportunities to Improve Federal Response and Recovery Efforts (Jun 25, 2020); U.S. House of Representatives Committee on Ways & Means, Economic Impact Payments Issued to Date (June 5, 2020); note 14 and accompanying text (discussion challenges in accessing unemployment benefits); FinRegLab, Research Brief, Technology Solutions for PPP and Beyond 15 & n. 62.
- <sup>90</sup> Daniel McCue, Blog, Housing Could Help Lead the Post-Covid Economic Recovery, Harvard University Joint Center for Housing Studies (May 28, 2020); Ackerman & Timiraos; Burcu Eyigungor, Housing’s Role in the Slow Recovery, Federal Reserve Bank of Philadelphia Economic Insights (2<sup>nd</sup> quarter 2016); Speech of Federal Reserve Board Chairman Ben Bernanke at the Economic Club of Minnesota Luncheon (Sept. 8, 2011); Edward E. Leamer, Housing Is the Business Cycle, 46 Int’l Econ. Rev. 149 (2007).
- <sup>91</sup> Some sources have estimated that available credit has contracted by 30% since February and raised concerns that it is acting as a substantial drag on the nation’s broader recovery. Mortgage Bankers Association, Mortgage Credit Availability Decreased in June; Ackerman & Timiraos; Joe Light, Mortgage Lenders Tighten Screws on U.S. Credit in Echo of 2008, Bloomberg (May 8, 2020); Matthew C. Klein, Banks Are Tightening Lending Standards Like It Was 2008 Again, Barron’s (May 7, 2020). Others have emphasized that the extent of the contraction is not as broad or as deep as after the 2008 crisis, although they agree that some policy issues are exacerbating the tightening of standards. Layton. For background on the mortgage market more generally heading into the pandemic, see Laurie Goodman et al., The Mortgage Market Has Caught the Virus, Urban Institute (May 2020).
- <sup>92</sup> Diana Olick, Homebuyer Mortgage Demand Spikes to 11-Year High, as Rates Hit Another Record Low, CNN (June 17, 2020); Brenda Richardson, Jump in Mortgage Refinancing Leads To Record-Breaking Loan Volume For Lenders, Forbes (May 27, 2020).
- <sup>93</sup> Layton; Letter to the Honorable Ben Carson and Honorable Mark Calabria by the Asian Real Estate Association of America et al.; Michael Neal & Laurie Goodman, The Pandemic Is Shrinking the Mortgage Credit Box, Urban Institute (Apr. 17, 2020); note 56-57 and accompanying text.
- <sup>94</sup> Layton; Letter to the Honorable Ben Carson and Honorable Mark Calabria by the Asian Real Estate Association of America et al.; Neal & Goodman. For more background on servicing issues and concerns about borrowers being able to access home equity, see Orla McCaffrey, The Economy Is in Disarray. But Borrowers Aren’t Getting Home-Equity Lines, Wall St. J. (June 18, 2020); Lerner; Ackerman & Timiraos; Goodman et al., The Mortgage Market Has Caught the Virus; Berry, Cash-Out Refis Dry Up; Don Layton, America’s Housing Finance System in the Pandemic, Part 3: Q&A on the Ugly Fight over Servicer Advances (updated Apr. 16, 2020).
- <sup>95</sup> Urban Institute, Tracking COVID-19’s Effects by Race and Ethnicity (updated July 16, 2020); Matt Saenz & Arloc Sherman, Research Note: Number of People in Families With Below-Poverty Earnings Has Soared, Especially Among Black and Latino Individuals, Center on Budget & Policy Priorities (updated July 15, 2020); Laura Barron-Lopez et al., ‘People Can’t Ignore It Anymore’: Across the Country, Minorities Hit Hardest by Pandemic, Politico (July 8, 2020); Sharon Cornelissen & Alexander Hermann, Blog, A Triple Pandemic? The Economic Impacts of Covid-19 Disproportionately Affect Black and Hispanic Households, Harvard University Joint Center for Housing Studies (July 7, 2020); Helena Bottemiller Evich, Stark Racial Disparities Emerge as Families Struggle to Get Enough Food, Politico (July 6, 2020); Michael Stegman, To Rebuild America’s Post-Pandemic Economy, We Need to Rethink Housing, Harvard University Joint Center for Housing Studies (July 1, 2020); Dana Anderson, Minneapolis, Milwaukee & Salt Lake City Have the Lowest Black Homeownership Rates in the U.S., With Just One-Quarter of Black Families Owning Their Home, Redfin (updated June 30, 2020); Michael Neal & Alanna McCargo, How Economic Crises and Sudden Disasters Increase Racial Disparities in Homeownership, Urban Institute (June 2020); Solomon Greene & Alanna McCargo, New Data Suggest COVID-19 Is Widening Housing Disparities by Race and Income, Urban Institute (May 29, 2020); Earl Fitzhugh et al., COVID-19: Investing in Black Lives and Livelihoods, McKinsey & Co. (Apr. 2020); Diana Farrell et al., How COVID-19 Could Widen Racial Gaps in Financial Outcomes, JP Morgan Chase Institute (Apr. 2020); Diana Farrell et al., Racial Gaps in Financial Outcomes: Big Data Evidence (Apr. 2020); JP Morgan Chase Institute (Apr. 2020); Aria Florant et al., The Case for Accelerating Financial Inclusion in Black Communities, McKinsey & Co. (Feb. 2020); see also Andrew Stettner, More than 25 Million Americans Are About to Lose an Essential \$600-a-Week Unemployment Insurance Benefit, The Century Foundation (July 8, 2020) (discussing how supplemental federal unemployment insurance has helped to offset pre-existing racial disparities but is set to expire).
- <sup>96</sup> See, e.g., UNIDOS US, White Paper, The Latino Community in the Time of Coronavirus: The Case for a Broad and Inclusive Government Response (July 2020); Cornelissen & Hermann; Anderson; Kelly Glass, Black Families Were Hit Hard by the Pandemic. The Effects on Children May Be Lasting, N.Y. Times (June 29, 2020); Niko Gladstone, Racial Inequities Have Long Existed in the Economy. A New BPC Survey Shows COVID-19 Made Them Worse, Bipartisan Policy Center (June 22, 2020); Reshma Kapadia, The Racial Wealth Gap Is Huge. Covid-19 Could Make It Worse, Barron’s (June 19, 2020); Jeanna Smialek, Fed Chair Powell Warns Pandemic Downturn Could Widen Inequalities, N.Y. Times (June 16, 2020); Neal & McCargo; Paolo Gaudiano, Covidisparity: How The Pandemic Is Highlighting Racial Biases In Health, Employment and Wealth, Forbes (June 2, 2020); Greene & McCargo; Fitzhugh et al.; Farrell et al; see also Steve Matthews, Fed Officials Commit to Fighting Racism as an ‘Economic Issue,’ Bloomberg (June 30, 2020).

<sup>97</sup> Andriotis, 'Flying Blind'; AnnaMaria Andriotis, Americans Skip Millions of Loan Payments; see also Terris & Sikander; Noonan.

<sup>98</sup> See notes 78-88 and accompanying text.

<sup>99</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 12-13, 15.

<sup>100</sup> See note 81 and accompanying text. Some stakeholders argued that use of the AC code should have stopped during trial periods, and there were substantial policy debates and litigation over concerns that the coding of short sales caused some consumers to be treated as if they had gone through foreclosure by the GSEs' automated underwriting systems. See, e.g., Shaw v. Experian Information Solutions, Inc., 891 F.3d 749 (9<sup>th</sup> Cir. 2018); Pam Marron, The Long & Short of Short Sales: The Problem with Credit Report Disputes, National Mortgage Professional Magazine (Oct. 2016); National Consumer Law Center, Solving the Credit Conundrum.

<sup>101</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 6.

<sup>102</sup> See notes 37, 54, 58, and accompanying text.

<sup>103</sup> For example, the GSEs had previously instructed servicers not to report accounts that were in disaster-related forbearance, but withdrew those instructions after the CARES Act. Fannie Mae Lender Letter 2020-02: Impact of COVID-19 on Servicing (updated April 8, 2020); Freddie Mac Bulletin 2020-10: Temporary Servicing Guidance Related to COVID-19 (April 8, 2020).

<sup>104</sup> H.R. 6800 (Lowrey); Cheryl R. Cooper & Darryl E. Getter, Consumer Credit Reporting, Credit Bureaus, Credit Scoring, and Related Policy Issues, Congressional Research Service (updated June 22, 2020).

<sup>105</sup> S. 3508 (Schatz & Brown).

<sup>106</sup> National Conference of State Legislatures, State Action on Coronavirus (Covid-19), [ncsl.org](https://www.ncsl.org) (visited July 15, 2020); National Consumer Law Center, Major Consumer Protections Announced in Response to COVID-19, [nclc.org](https://www.nclc.org) (June 17, 2020).

<sup>107</sup> FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 10-13; see also Michael A. Turner et al., Addition Is Better Than Subtraction, Policy & Economic Research Council (June 2020); Clifford V. Rossi, Economic Impacts of a Moratorium on Consumer Credit Reporting, Chesapeake Risk Advisors (June 2020) (research supported by FICO).

<sup>108</sup> Andriotis, 'Flying Blind'.

<sup>109</sup> In particular, stakeholders note that most non-credit items do not appear on credit reports unless and until the consumer is already substantially delinquent. Accordingly, even if the debt collector or company to which the obligation is owed later agrees to provide an accommodation, the consumer's report and credit scores would already reflect the presence of a substantial delinquency.

<sup>110</sup> Some consumer advocates have also suggested limitations on referring delinquent rent to debt collectors, which might indirectly decrease credit reporting. See, e.g., Nelson & Dunn.

<sup>111</sup> National Consumer Law Center, Protecting Credit Reports During the COVID-19 Crisis (April 2020). Restrictions on credit report users may be somewhat less likely to be preempted but raise important policy concerns to the extent that they restrict credit risk decisions and/or cause lenders to rely less heavily on data. 15 U.S.C. §§ 1681h(e), 1681t; FinRegLab, Research Brief: Disaster-Related Credit Reporting Options at 10-13, 15.

<sup>112</sup> See, e.g., Andriotis, 'Flying Blind.' For more background on bank account information and other sources of cash-flow information in credit underwriting, see FinRegLab, The Use of Cash-Flow Data in Credit Underwriting: Market Context & Policy Analysis.

<sup>113</sup> For example, TransUnion announced a new product called CreditVision Acute Relief Suite that focuses on credit report attributes that identify accounts and relationships receiving special accommodations. It also provides a specialized risk score based on trended usage and payment data to predict risk levels. TransUnion, Press Release, TransUnion Launches CreditVision Acute Relief Suite to Help Lenders and Insurers Identify and Support the 106 Million Accounts in Relief Programs, Global Newswire (June 18, 2020). FICO has launched a score that calculates consumers' resiliency during economic downturns as a means of distinguishing risk levels, particularly among consumers whose regular credit scores may be low. Robin Saks Frankel, FICO Introduces New Resilience Index. Here's What It Might Mean For You, Forbes (June 29, 2020); Press Release, FICO Works to Keep Credit Flowing During Uncertain Economic Times, [fico.com](https://www.fico.com) (June 29, 2020). Equifax and Experian are also highlighting alternative data and portfolio planning tools. Andriotis, 'Flying Blind.'

<sup>114</sup> Long & Van Dam; Cajner et al.

