Comments to the CFPB on the Equal Credit Opportunity Act & Regulation B

Intro

This Comment is in response to the Consumer Financial Protection Bureau's (CFPB) Request for Information on opportunities to prevent credit discrimination, promote fair, equitable, and nondiscriminatory access to credit, and address potential regulatory uncertainty under the Equal Credit Opportunity Act (ECOA) and Regulation B.

The definition of "creditor" in ECOA is the same one found in the Fair and Accurate Credit Transactions Act (FACTA) and the Fair Credit Reporting Act (FCRA): "the term 'creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit."[1] PERC's almost two decades of research has focused on the responsible use of data to expand access to affordable credit. We have long held that this definition of creditor includes non-financial institutions that extend credit, and that they are explicitly recognized as creditors under the law given ECOA's Regulation B.

These non-financial institutions acting as creditors have an outsized role to play in preventing credit discrimination and promoting fair, equitable, and nondiscriminatory access to credit. Our main constituency, the Credit Invisible population, are trapped in a "credit catch-22" requiring them to have a credit history to get credit, and have credit to build a credit history. Though they are treated as high-risk by lenders simply due to a lack of information about their likelihood of repaying a loan, our research has found that the credit risk distribution of the Credit Invisible population is similar to the general population but for Super-prime borrowers. They may not have a mortgage, a car loan, or a credit card, but they are extremely likely to have credit in the form of energy utility, telecommunications or media services, or rent paid for at the end of the month. That these services are often utilized via credit extended by the service provider can be clarified using ECOA Regulation B.

Including them as examples under the definition of creditors would further legitimize the inclusion of non-financial payment data in credit reports, potentially giving tens of millions of credit invisible Americans a credit history – the majority of them a *good* credit history – that they could use to access affordable credit and begin building assets and generating wealth. Owning a home or a small business requires a good credit history, but the CFPB's own research has found that 45% of those living in the lowest-income census tracts are further disadvantaged by being credit invisible.[2]

PERC has long advocated for a Credit Access and Inclusion Act that would clarify non-financial payment data is permitted to be reported to the nationwide consumer reporting agencies (NCRAs) and would pre-empt state regulations that prohibit this, to no avail. We have recently begun calling for a mandate to address this market failure,[3] made all the more urgent by the economic effects of

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[1] *Regulation B: Equal Credit Opportunity Act*, 12 C.F.R. § 1002.2(l).

[2] Kenneth Brevoort, Philipp Grimm, & Michelle Kambara, *Data Point: Credit Invisibles.* Washington D.C.: Consumer Financial Protection Bureau, May 2015, available at https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf

[3] Michael Turner & Patrick Walker, *Comments of the Policy and Economic Research Council (PERC) on the December 10, 2019 Accuracy in Consumer Reporting Workshop*. Durham: Policy & Economic Research Council, January 2020, available at https://www.perc.net/wp-content/uploads/2020/02/CFPB_FTC_Workshop-Comments_PERC.pdf

the COVID-19 pandemic. We believe a market failure exists—non-financial payment data is in demand by lenders but is grossly under-supplied largely owing to competitive concerns of oligopolistic firms—and Congress is therefore warranted to intervene and mandate reporting of positive payment data by non-financial entities including energy utilities, telecoms and media companies (CATV, SATV, broadband, wireline).

The comments below summarize PERC's research on how the inclusion of proven, non-financial payment data disproportionately helps those under-served by traditional financial institutions, promotes fair, equitable, and nondiscriminatory access to credit, and will make the case for a positive data reporting mandate for telecommunications companies.

Addition of Non-Financial Payment Data Makes the Credit System More Inclusive

Giving Underserved Consumers Better Access to the Credit System: The Promise of Non-Traditional Data

When PERC first began this research, we came up with a framework that would help evaluate what types of "nontraditional" or "alternative" data could substitute for those with thin or no credit files, Credit Invisibles.[4] The framework had three factors: credit-like, concentration, and coverage, that we used to assess the potential of various types of alternative data.

Credit-like looked at whether a good or service is provided in advance of receipt of payment, because incentives for those furnishing this data are as important as predictiveness in a voluntary reporting system. Services where non-payment resulted in immediate sanctions such as termination of services would reduce the potential furnisher's losses and the incentive to report. It was also thought that payment histories for credit-like goods or services would be sufficiently predictive for traditional financial services and be more accepted by lenders. Concentration evaluated the extent to which a category of data furnishers were concentrated in an industry, due to the upfront costs and economies of scale in implementing a reliable and standardized reporting format. Finally, coverage calculated how many consumers, and which consumers would be covered by a service. For example, encouraging the reporting of payments for a service that Credit Invisibles don't use would not be useful.

We used this framework to look at payment data for utilities, telecommunications, rent, auto liability insurance, and payday loans. The analysis concluded that utility and telecommunications data would be the most useful. Research done back in 2005 showed that over 90% of households had electricity, water, and telephone service, and 93.8% had at least one telephone line, meaning under-served consumers would be covered by this data as well.

Rental payment data will be discussed further below, in the section for a positive data mandate. PERC recently published, jointly with the U.S. Department of Housing & Urban Development, a first-of-its-kind study specifically quantifying the impacts of credit reporting public housing

[4] Michael A. Turner, *Giving Underserved Consumers Better Access to the Credit System: The Promise of Non-traditional Data*. New York: Information Policy Institute, July 2005, available at http://www.perc.net/wp-content/uploads/2013/09/nontrad.pdf

authority tenant rental payment data.[5] Despite rent not being credit-like, there is a widespread sense of injustice that those paying their mortgages get to build credit histories and those paying rent do not. When this research was first undertaken, the information sharing technology landscape also looked very different, and concentration (many landlords are individuals renting out their basements) posed a barrier that has largely disappeared thanks to new online and IT solutions.

Give Credit Where Credit Is Due

Our seminal work on this issue with the Brookings Institution looked at the quantitative impact of including utility and telecommunications data on credit files.[6] We pulled credit files of Americans who already had this data reported, and created a version of their credit profiles where this data was removed. Credit scores predicting the likelihood of default were generated for both credit profiles, one including alternative data and one excluding it. After the observation period, we compared the credit scoring models to see which one had better predicted what actually occurred. Then, the implications of improved accuracy in prediction were explored, comparing target default rate by acceptance rate and target acceptance rate by default rate for both versions of the scores (with and without alternative data).

Model accuracy was assessed using the Kolmogorov-Smirnov statistic, and all models improved when utilities and teleco data was added over the baseline model excluding the data. The primary benefit of adding the alternative data was an increase in consumers who could be scored. This translated into an increase in access to credit, as consumers who had little information in their credit files (making banks assume they were high-risk) could now be scored accurately based on their risk. Table 1 below shows how delinquencies by target acceptance rates are higher when utilities and telecommunication data is excluded. Table 2 shows how including utilities and telecommunication data on credit reports leads to more consumers being approved compared to when the data is excluded.

Table 1: Serious Delinquencies by Target Acceptance Rate (VantageScore Model)

Target Acceptance Rate	Consumers with Utility Trades		Consumers with Telco Trades	
	Includes Utilities	Excludes Utilities	Includes Telco	Excludes Telco
30%	0.90%	1.10%	1.10%	1.30%
40%	1.20%	1.50%	1.70%	2.20%
50%	1.80%	2.30%	3.30%	4.60%
60%	3.00%	4.20%	7.40%	10.10%
70%	5.40%	8.10%	12.40%	16.20%
80%	9.50%	13.80%	15.90%	20.90%
90%	13.80%	17.70%	18.20%	21.60%

[5] Michael Turner & Patrick Walker, *Potential Impacts of Credit Reporting Public Housing Rental Payment Data*. Washington D.C.: U.S. Department of Housing and Urban Development (HUD), February 2020, available at: https://www.perc.net/wp-content/uploads/2020/02/Potential-Impacts-of-Credit-Reporting.pdf

[6] Michael Turner & Alyssa Lee, *Give Credit Where Credit is Due: Increasing Access to Affordable Mainstream Credit Using Alternative Data*. Washington, DC: The Brookings Institution, December 2006, available at http://www.perc.net/wp-content/uploads/2013/09/alt_data.pdf

Table 2: Acceptance Rate by Target Delinquency Rate (VantageScore Model)

Target Delinquency Rate	Consumers with Utility Trades		Consumers with Telco Trades	
	Includes Utilities	Excludes Utilities	Includes Telco	Excludes Telco
2%	52.4%	47.2%	43.4%	38.8%
3%	60.4%	54.9%	49.0%	44.9%
4%	65.4%	59.6%	52.6%	48.4%
5%	69.1%	63.1%	55.3%	51.0%
6%	72.0%	65.7%	57.4%	53.3%
7%	74.5%	67.9%	59.4%	55.0%

When sociodemographic data was appended, the results showed that this increase in access to credit disproportionately benefited minority and lower-income populations, because they are more likely to be credit invisible. Figure 1 shows how this increase in acceptance rates is broken down by race: Black and Hispanic borrowers benefit more from the inclusion of alternative data than white borrowers. Figure 2 shows how the increase in acceptance rates by income: consumers with annual income of less than $20,000 benefit the most.

Figure 1: Increase in Acceptance Rates by Demographic Group (assumes 3% serious delinquency rate)

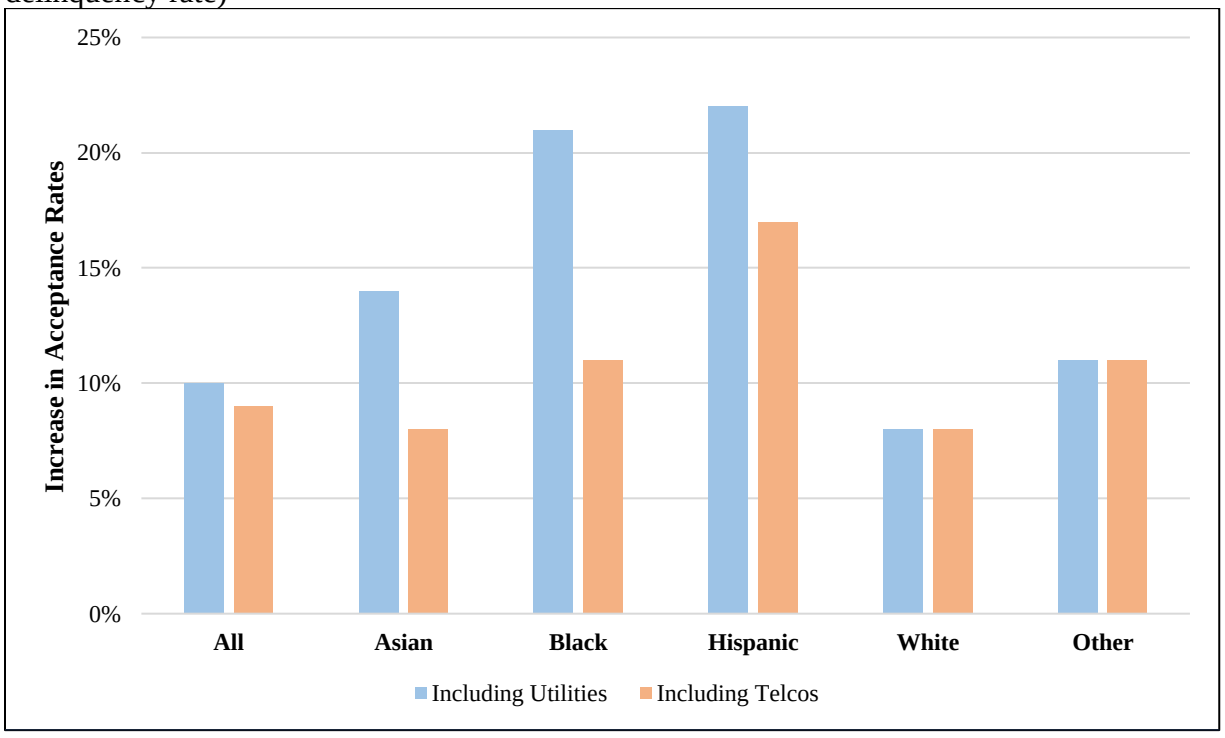
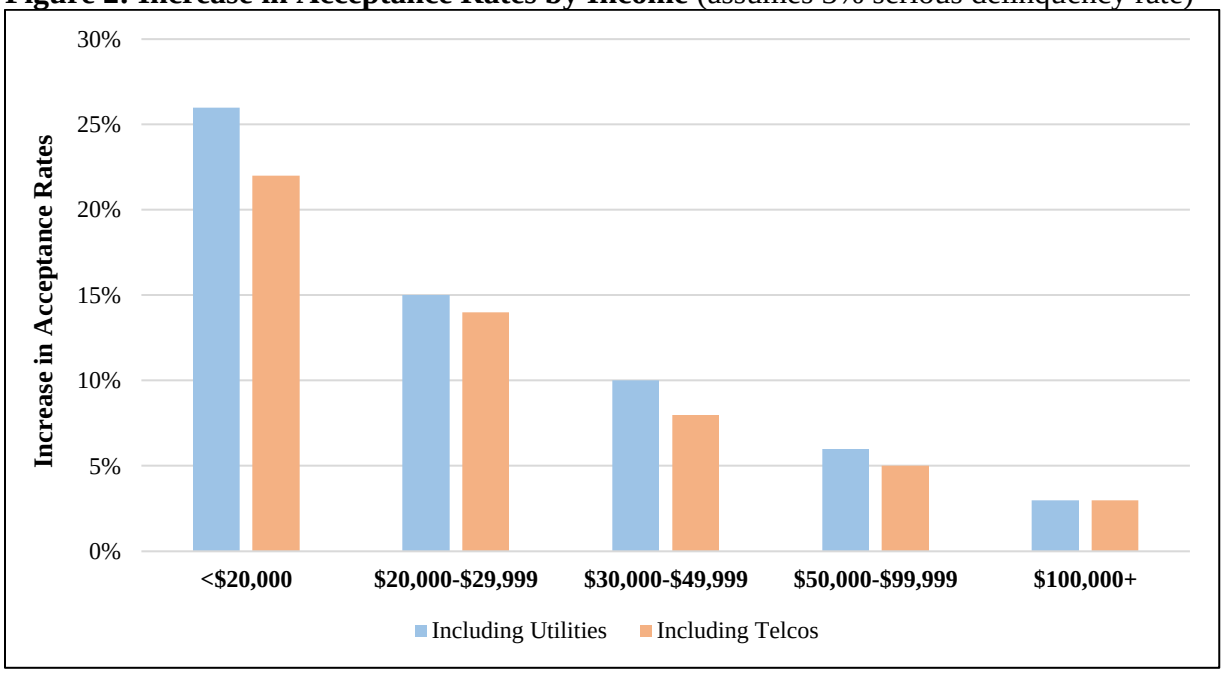


Figure 2: Increase in Acceptance Rates by Income (assumes 3% serious delinquency rate)



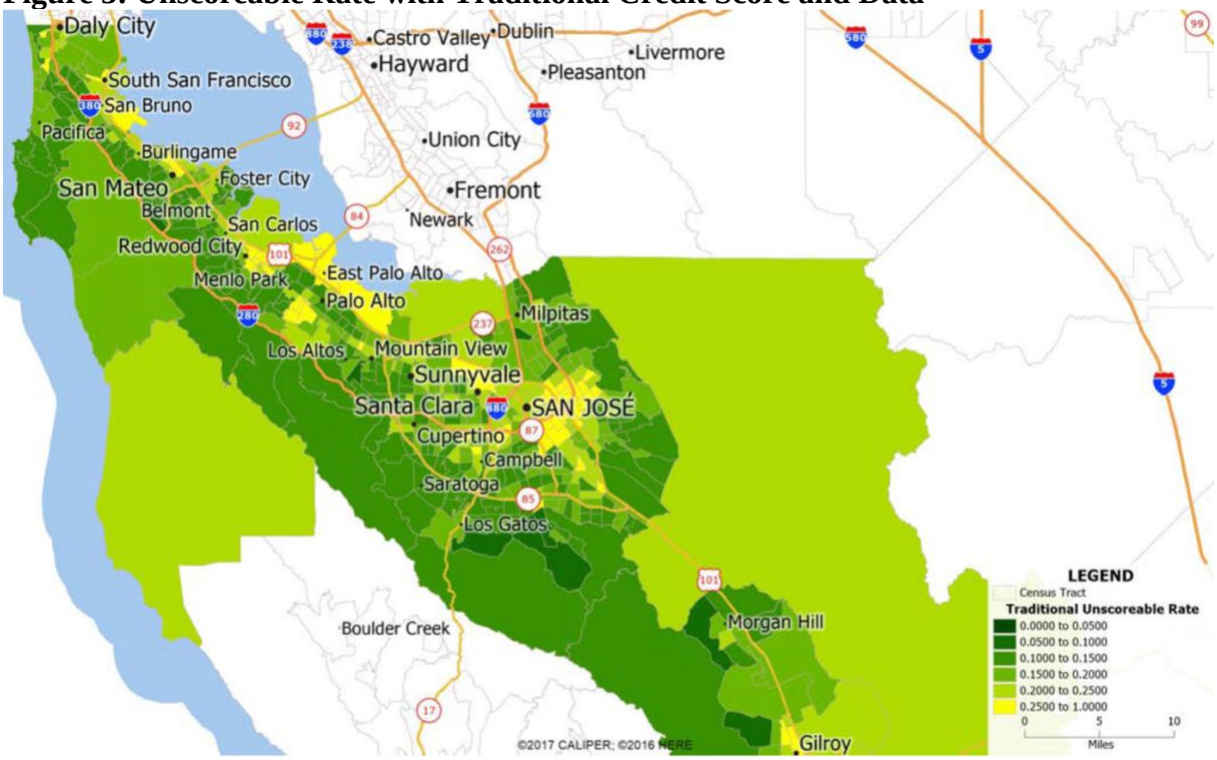
Changing the Lending Landscape: Credit Deserts, the Credit Invisible, & Data Gaps in Silicon Valley

This report was our first attempt at mapping the credit invisible population at the census tract level.[7] We looked at two counties, San Mateo and Santa Clara, in a data-rich area of the country, Silicon Valley, and found there were still concentrations of credit invisible people, which we called "credit deserts." Credit invisibility is correlated with lower income, lower credit scores, and higher concentrations of alternative financial service providers. The CFPB found that in the lowest-income census tracts, the rate of credit invisibility is 45%.[8] In Figure 3 below, the "deserts" are colored yellow.

[7] Michael Turner, Patrick Walker, & Chet Wiermanski, *Changing the Lending Landscape: Credit Deserts, the Credit Invisibles, and Data Gaps in Silicon Valley*. Chapel Hill: Policy & Economic Research Council (PERC), November 2017, available at http://www.perc.net/wp-content/uploads/2017/11/Credit_Desert.pdf

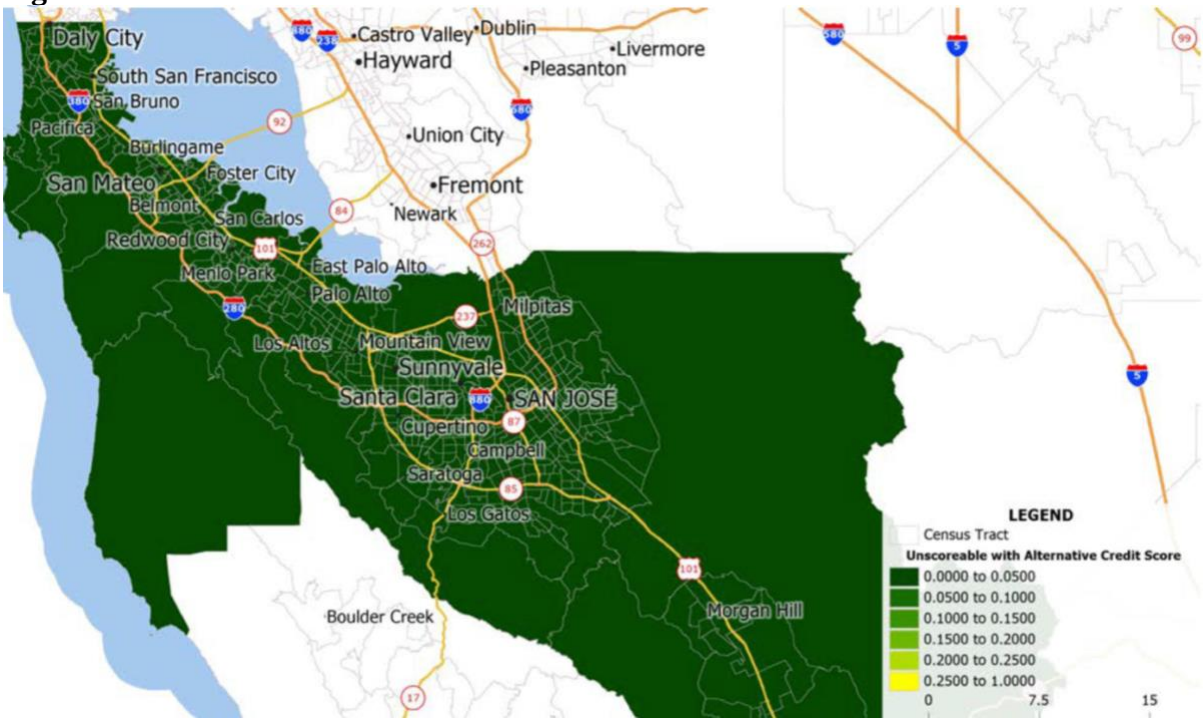
[8] Kenneth Brevoort, Philipp Grimm, & Michelle Kambara, *Data Point: Credit Invisibles.* Washington D.C.: Consumer Financial Protection Bureau, May 2015, available at https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf

Figure 3: Unscoreable Rate with Traditional Credit Score and Data



We then simulated the impact of reporting alternative data and using alternative credit scores. In Figure 4, the credit deserts transform into lush, green oases of credit. Credit invisibility is virtually eliminated.

Figure 4: Unscoreable Rate with Alternative Credit Score and Data



The inclusion of non-financial payment data on credit reports not only improves access to affordable credit but disproportionately benefits those traditionally under-served by financial institutions.

Inclusion of Non-Financial Payment Data Makes System Fairer and More Forgiving

Unlike typical banking data, the U.S. credit reporting system is mostly negative-only when it comes to non-financial payment data. An August 2018 Quarterly Consumer Trends publication of the CFPB found that between mid-2013 and the beginning of 2018, approximately between 2 and 4 million new distinct telecom collections per quarter were reported to the CRAs.[9] Despite flooding the consumer credit reporting system with very negative payment data, none of the major telecom service providers report positive, on-time data. What makes the non-reporting even more surprising is that the telecoms companies rely on the CRAs for determining customer and applicant eligibility. They take from the system but do not give to it (at least not full-file, positive data).

A consumer will be "punished" for paying their telecom bill late, but they are not "rewarded" for paying their bills on time. Some traditionally under-served consumers cannot afford to take out loans from the bank, or are wary about going into debt to build their credit profile. They should be able to build their payment history with telecom, but cannot. By only adding negative non-financial payment data to credit reports, the current system operates as a blacklist for such non-financial data. If non-financial (positive) payment data were included, it would not only allow these consumers to have a more robust credit history without going into debt, it would make the credit data system fairer and more forgiving as it would become a tool for financial inclusion and not just exclusion.

Credit Data in the Context of COVID-19

Shelter-in-place, shutdowns, and other government actions to address the coronavirus pandemic have led to a surge in unemployment as entire industries have closed down. While the numbers have been improving since peaking in the summer, they have not returned to pre-pandemic levels. The official unemployment rate published by the Bureau of Labor Statistics doubled from 3.5% in February 2020 to 6.9% by the end of October.[10] Furthermore, in October, 15.1 million persons reported that they had been unable to work because their employer closed or lost business due to the pandemic, and another 3.6 million persons not in the labor force in October were prevented from looking for work due to the pandemic.[11]

Many Americans are struggling to ensure their basic needs are met, let alone pay existing credit obligations. Some measures have already been undertaken by lawmakers and industry, notably disaster relief measures under Metro 2 (the industry credit reporting format standard), and the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which requires lenders who

[9] Brian Bucks, Susan Singer, & Nicholas Tremper, *Collection of Telecommunication Debt*. Washington D.C.: Consumer Financial Protection Bureau, Quarterly Consumer Credit Trends, August 2018, available at https://files.consumerfinance.gov/f/documents/bcfp_consumer-credit-trends_collection-telecommunications-debt_082018.pdf

[10] "The Employment Situation – October 2020." *Bureau of Labor Statistics*. 6 November 2020, accessed at: https://www.bls.gov/news.release/pdf/empsit.pdf

[11] Ibid.

grant a borrower a deferral or loan modification to preserve the pre-pandemic payment history and account status so long as borrowers are complying with the terms of the accommodation.[12]

However, the length that these accommodations can be extended is an open question. In this 9th month of the pandemic, the U.S. now faces a new surge of cases.[13] Derogatories have already begun entering into the system, as mortgage,[14] auto,[15] private student loans,[16] online personal loans,[17] and credit card delinquency rates[18] have all started trending upward. This is not part of a normal business cycle that fits credit bureau models. While the accommodations are necessary to protect consumers, the longer the pandemic goes on, the more distorted the data will become.

This means that lenders, using a "degraded" model, will make poorer lending decisions – for every chosen portfolio size or approval rate, the default rate is higher. The flip side is that for any given target default rate, lenders approve fewer applicants. Scores are less precise, which makes applicants riskier at every score level. To offset this, lenders have imposed more stringent underwriting requirements by raising minimum credit score cutoffs.[19] Rather than relying on credit bureau data, lenders turn to their own internal data about how borrowers have been meeting their credit obligations, increased their reliance on relationship lending. Smaller lenders with smaller

[12] *Coronavirus Aid, Relief, and Economic Security Act*. Pub. L. 116-136 § 4021. Accessed at: https://www.congress.gov/bill/116th-congress/house-bill/748

[13] Zeynep Tufekci, "It's Time to Hunker Down." *The Atlantic*. 14 November 2020, accessed at: https://www.theatlantic.com/health/archive/2020/11/lock-yourself-down-now/617106/

[14] The Mortgage Bankers Association reported that in February, 4.36% of all residential mortgage loans were 30-days late or later, up 59 basis points when counting forebearances as late payments. Delinquency rates for FHA guaranteed loans were up 113 basis points to 9.69%, and those for the Veterans' Administration were up 78 basis points to 4.65%. See Cathleen Howley, "Mortgage Delinquency Rate Jumps with Forbearances Tallied as Overdue." *HousingWire.com*. 12 May 2020, accessed at: https://www.housingwire.com/articles/mortgage-delinquency-rate-jumps-with-forbearances-tallied-as-overdue/

[15] At the end of 2019, outstanding balances on automobile loans and leases hit a record high of $1.33 trillion, according to the New York Federal Reserve. Some $66 billion, or 5% of the total outstanding value, are severely delinquent (above 90 days late). See Elisabeth Buchwald, "Outstanding Auto Loan Blaances Just Hit a New Record and Delinquencies are on the Rise – Should You Be Concerned?" *MarketWatch*. 25 February 2020, accessed at: https://www.marketwatch.com/story/outstanding-auto-loan-balances-just-hit-a-new-record-and-delinquencies-are-on-the-rise-should-you-be-concerned-2020-02-21

[16] Aarthi Swaminathan, "Coronavirus Shutdown: Consumer Advocates Worry About $100 Billion Private Student Loan Market." *Yahoo Finance*. 25 March 2020, accessed at: https://ca.finance.yahoo.com/news/coronavirus-100-billion-private-student-loan-market-125356980.html

[17] For prime borrowers, loan impairment rates (missed or deferred payments) have tripled to 7.5%, and for subprime borrowers they have skyrocketed to nearly 20%. See Jeff Kauflin & Antoine Gara, "Exclusive: The Coming Default Crisis with Online Loans." *Forbes*. 16 April 2020, accessed at: https://www.forbes.com/sites/jeffkauflin/2020/04/16/exclusive-early-data-shows-12-of-online-loans-in-trouble-double-just-weeks-ago/#190cad4f18c1

[18] Annamaria Andriotis & Orla McCaffrey, "Millions of Credit Card Customers Can't Pay Their Bills: Lenders are Bracing for Impact." *The Wall Street Journal*. 25 April 2020, accessed at: https://www.wsj.com/articles/millions-of-credit-card-customers-cant-pay-their-bills-lenders-are-bracing-for-impact-11587807001?mod=searchresults&page=1&pos=7

[19] Lindsay Dunsmuir, "US Banks Tightened Loans Standards in First Quarter as Coronavirus Took Hold." *Reuters*. 4 May 2020, accessed at: https://www.reuters.com/article/us-usa-fed-credit/u-s-banks-tightened-loan-standards-in-first-quarter-as-coronavirus-outbreak-took-hold-idUSKBN22G2FQ

customer databases would be particularly disadvantaged. Lenders also look to alternative data sources. This can be seen in Visa's acquisition of Plaid and Mastercard's acquisition of Finicity.[20]

Degraded or changed data patterns impacts consumers, of course. Credit scores have increased as a result of the CARES Act,[21] not because of payment behavior by consumers or true changes in consumer risk. Available credit has decreased as lenders cut credit limits, which will have its own score impacts.[22] An increase reliance on relationship lending by banks will harm consumers without longstanding relationships with lenders, including those who are traditionally under-served or excluded. These consumers may turn to predatory high-cost lenders and get caught in debt traps. Furthermore, banks' search for alternative data sources could further harm lower-income and minority borrowers if this "second-best" data does not work as well as traditional credit data.

Right now, a substantial credit crunch is predicted. How it gets managed will be consequential to the nation's economic recovery trajectory.

Addition is Better than Subtraction: The Risks from Data Suppression and Benefits of Adding More Positive Data in Credit Reporting

This white paper evaluated approaches to credit reporting in response to the COVID-19 pandemic.[23] Legislation proposed by Senators Brown and Schatz (S. 3508)[24] and Representatives Waters and Sherman (H.R. 6321),[25] predating the CARES Act, contain outright prohibitions on reporting late payment data to nationwide consumer reporting agencies (NCRAs) for potentially a long period of time. These bills would apply both to the COVID-19 pandemic and all future declared natural or man-made disasters. The HEROES Act and Senators Warren and Brown's 6-point plan for economic relief to consumers contain or support these data suppression measures.[26]

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[20] Kate Rooney, "Visa to Acquire Plaid, the FinTech Powering Venmo and Other Banking Apps, in $5.3 Billion Deal." *CNBC.* 13 January 2020, accessed at: https://www.cnbc.com/2020/01/13/visa-to-acquire-plaid-the-fintech-powering-venmo-and-other-banking-apps-for-5point3-billion.html; Natasha Mascarenhas & Alex Wilhelm, "The DOJ Has Approved Mastercard's Acquisition of Finicity." *TechCrunch.* 16 November 2020, accessed at: https://techcrunch.com/2020/11/16/the-doj-has-approved-mastercards-acquisition-of-finicity/

[21] Annamaria Andriotis, "Coronavirus Tanked the Economy. Then Credit Scores Went Up." *The Wall Street Journal.* 18 October 2020, accessed at: https://www.wsj.com/articles/coronavirus-tanked-the-economy-then-credit-scores-went-up-11603013402

[22] "How FICO Scores Look at Credit Card Limits." *MyFICO.com.* Accessed at: https://www.myfico.com/credit-education/credit-scores/fico-scores-credit-limit

[23] Michael Turner, Patrick Walker, & Kazumi Moore, *Addition is Better than Subtraction: The Risks from Data Supression and Benefits of Adding More Positive Data in Credit Reporting.* Durham, NC: Policy & Economic Research Council (PERC), June 2020, available at: https://www.perc.net/wp-content/uploads/2020/06/credit-data-suppression-deletion-addition.pdf

[24] See: https://www.congress.gov/bill/116th-congress/senate-bill/3508.

[25] See: https://www.congress.gov/bill/116th-congress/house-bill/6321?q=%7B%22search%22%3A%5B%22hr+6321%22%5D%7D&s=1&r=1.

[26] Senator Elizabeth Warren & Sherrod Brown, "Congress Must Provide Immediate Relief for Consumers. Here's How." *Medium.* 21 April 2020, accessed at: https://medium.com/@SenWarren/congress-must-provide-immediate-relief-for-consumers-heres-how-2aeb99672ef9

Past PERC research was used to assess these measures. In our 2003 report on the FCRA, we simulated the removal of negative data.[27] "Scenario D" was the most drastic removal of data that would most resemble a suppression/deletion measure. It purged accounts with 30, 60, and 90 day delinquencies, purged public record items when paid, purged all adverse information after 4 years, and clustered inquiries. However, suppression/deletion measures are likely to have a more deleterious effect on models, because recent data is the most important in prediction. The white paper concluded that rather than helping the most vulnerable consumers, suppression/deletion measures would harm them.

The following tables show that the decline in approval rates hurts lower-income and minority borrowers the most.

Figure 5: Decline in Approval Rate for Scenario "D" by Applicant Household Income (for a 3% target default rate)

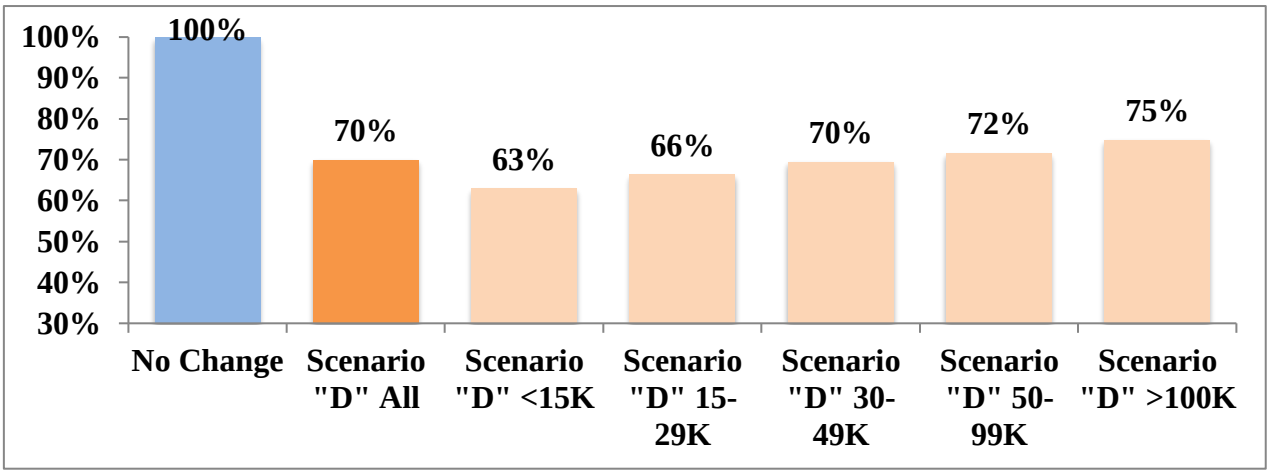
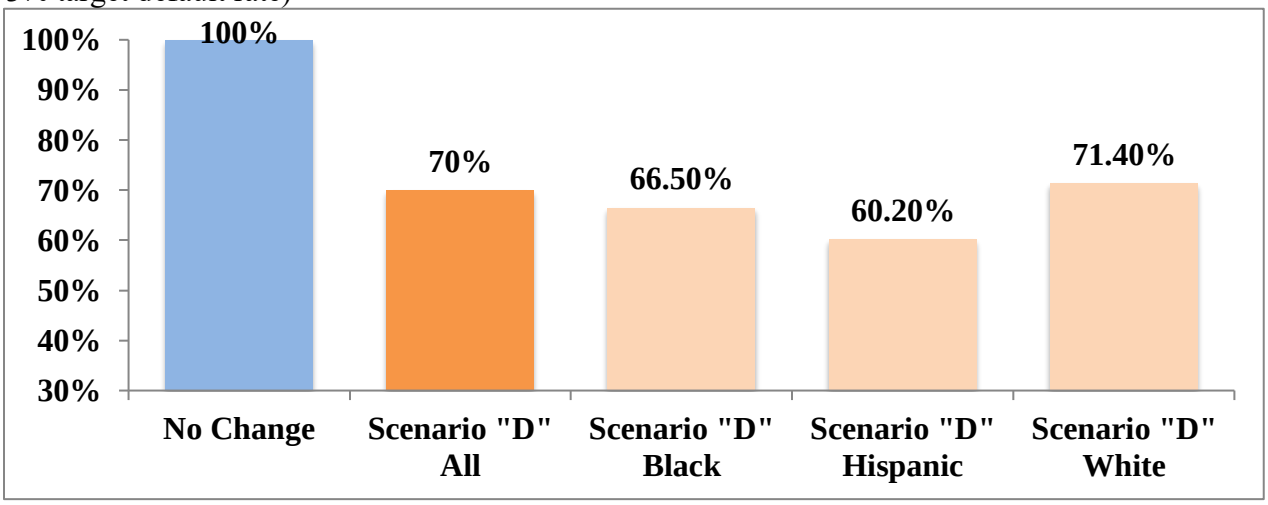


Figure 6: Decline in Approval Rate for Scenario "D" by Applicant Race and Ethnicity (for a 3% target default rate)



[27] Michael Turner et al., *The Fair Credit Reporting Act: Access, Efficiency and Opportunity*. Washington, DC: The National Chamber Foundation, June 2003, available at http://www.perc.net/wp-content/uploads/2013/09/fcra_report.pdf

The national credit reporting system is integral to both the safety and soundness of the financial sector and to post-pandemic economic recovery. Small businesses are the engine of economic growth and create 70% of new jobs.[28] Business owner personal credit information is predictive of small business credit risk.[29] Small and micro loans require a robust consumer credit information system. What harms the national consumer credit reporting system also harms small business credit access.

The Case for a Mandate

In our Comments on the Dec 10, 2019 Workshop on Accuracy in Credit Reporting, we called for the reporting of telecommunications data to be mandated.[30] In the context of the COVID-19 pandemic, we are amending our call for a mandate of *positive* telecommunications data.

As stated above, reporting telecommunications data would make the system fairer, more forgiving, and more inclusive. During a pandemic, telecommunications bills are one of the first bills consumers are likely to start repaying once they get back on their feet. Reporting telco data would flood the system with positive data at a time it is being overwhelmed with negative data.

Potential Impacts of Credit Reporting Public Housing Rental Payment Data

The reporting of positive data has already been proven to work. In our joint-study with the U.S. Department of Housing and Urban Development on reporting tenant rental payment data of public housing authorities, we tested the effect of reporting only positive payment data.[31] The following figures show that with two commercial credit scoring models, credit invisibility is virtually eliminated, and many more consumers see increases in their credit scores than decreases.

[28] Decker, Ryan et al. "The Role of Entrepreneurship in US Job Creation and Economic Dynamism." Journal of Economic Perspectives 28(3), 2014: 3-24. Accessed at: https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.28.3.3

[29] Michael Turner, Robin Varghese, & Patrick Walker, *On the Impact of Credit Payment Reporting on the Financial Sector and Overall Economic Performance in Japan*. New York: The Information Policy Institute, March 2007, available at http://www.perc.net/wp-content/uploads/2013/09/Japan.pdf

[30] "Comments on the December 10, 2019 Accuracy in Consumer Reporting Workshop." *Policy & Economic Research Council*. January 2020, available at: https://www.perc.net/wp-content/uploads/2020/02/CFPB_FTC_Workshop-Comments_PERC.pdf

[31] Michael Turner & Patrick Walker, *Potential Impacts of Credit Reporting Public Housing Rental Payment Data*. Washington D.C.: U.S. Department of Housing and Urban Development (HUD), February 2020, available at: https://www.perc.net/wp-content/uploads/2020/02/Potential-Impacts-of-Credit-Reporting.pdf

Figure 7: Credit Score Changes From Adding Positive Only Rental Data (2014 Positive Only Sample, Model A)

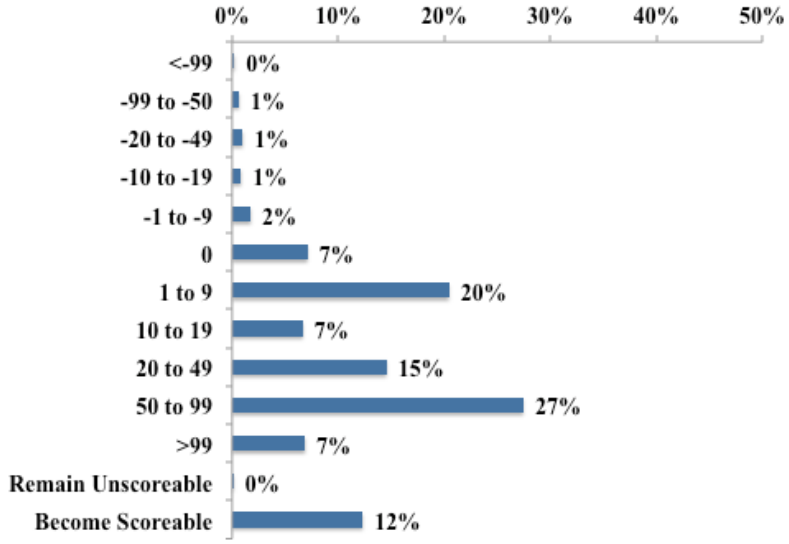
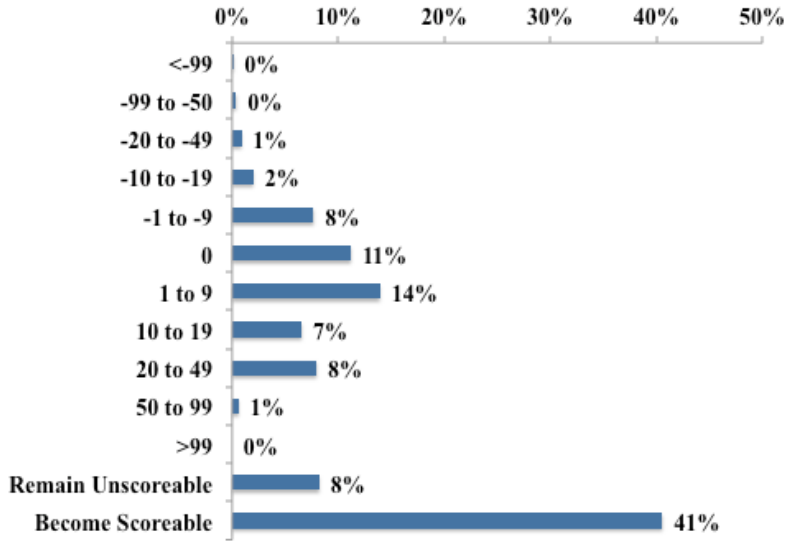


Figure 8: Credit Score Changes From Adding Positive Only Rental Data (2014 Positive Only Sample, Model B)



The large telecom companies should volunteer to report positive payment data to help their customers. Based upon years of interactions with senior executives from the largest mobile network operators (MNOs), this seems unlikely in our lifetime. If there is no forward movement in this regard, policymakers, as they have done in other markets, could move to mandate the reporting. At a minimum, on-time payments to large telecoms that utilize credit reporting and/or report negative data to the system (either directly or indirectly) should be reported to the NCRAs.

While it has been argued that the national consumer reporting agencies could solve this asymmetry by enforcing the principle of reciprocity, they are constrained from doing so by their business

model and the "voluntary" nature of the national CIS system. Because large wireless telecoms providers are major customers and are limited data furnishers (but large prospective ones), credit bureau have only so much leverage. A CEO at a credit bureau who attempted to enforce the principle of reciprocity would be fired by the Board of Directors after losing a significant revenue stream to their primary competitors.

The credit information sharing system in the U.S. is often described as "voluntary" under the FCRA, but in reality, for regulated lenders, the system today is de facto, though not de jure, a "mandatory" reporting regime. Attempts by creditors to withhold credit limit, current balance, payment amount and other pieces of information about borrowers has been disallowed by relevant regulatory agencies.[32]

There is a clear demand for and public interest in adding predictive payment data to credit reporting to make lending in the US fairer and more inclusive. Non-financial payment data is clearly undersupplied. This market failure must be corrected through government intervention. Around the world, countries have increasingly resorted to credit reporting mandates.[33] It is well past time for this discussion to begin in the United States.

Conclusion

MNOs, cable television service providers, and other media firms extending credit to their customers to purchase equipment are clearly creditors. They are offering installment loans to customers for hundreds and even thousands of dollars, and are not reporting this data to NCRAs. This is quite apart from also not reporting positive payment data for services rendered, yet reporting default and collection data. The telecommunications companies may be simply controlling access to customer data to reduce competition for good customers.

PERC research has shown that reporting positive payment data makes the system fairer, more inclusive, and more forgiving. Reporting this data disproportionately benefits those who have been traditionally under-served by the financial system. Given the COVID-19 pandemic, it is all the more urgent that consumers be given ways to rebuild and repair their credit histories without going further into debt.

The unfair and harmful practice of only reporting negative non-financial payment data must be brought to an end in order to protect consumers, improve lending safety and soundness, and advance the integrity of the national credit reporting system. Congress can accomplish this and should do so with the full support and leadership from the CFPB.

[32] Michelle Heller, "FCRA Hearing to Shine Spotlight on Credit Process." *American Banker*. 12 June 2003, accessed at: https://www.americanbanker.com/news/fcra-hearing-to-shine-spotlight-on-credit-process

[33] Michael Turner & Patrick Walker, *Fostering Competition Among Lenders: Proposed Light-Touch Mandatory CCR Unlikely to Work*. Durham: Policy & Economic Research Council (PERC), April 2018, available at http://www.perc.net/wp-content/uploads/2018/04/Australia.pdf