

October 26, 2022

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

The Honorable Michael Hsu
Acting Comptroller
Office of the Comptroller of Currency
400 7th Street, SW
Washington, D.C. 20219

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, D.C. 20219

The Honorable Julia Gordon
Commissioner
Federal Housing Administration
Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Martin J. Gruenberg
Acting Chair
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-9990

Todd M. Harper
Chair
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Jerome H. Powell
Chair
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Director Chopra, Acting Comptroller Hsu, Director Thompson, Commissioner Gordon, Acting Chair Gruenberg, Chair Harper, and Chair Powell:

The undersigned 26 consumer, civil rights, and advocacy groups write to urge your agencies to help protect the credit reports and scores of consumers impacted by Hurricane Fiona in Puerto Rico and Hurricane Ian in Florida. Tens of thousands of Americans were severely impacted by these natural disasters, both physically and financially. Consumers have lost their houses, had their jobs interrupted, suffered other unexpected expenses, and/or face dislocation for many months. The last thing these beleaguered consumers need is damage to their credit reports and scores from bills that they unavoidably missed due to the aftermath of these hurricanes, through no fault of their own.

We urge your respective agencies to encourage the lenders that you regulate or oversee to refrain from reporting negative information to the nationwide consumer reporting agencies (CRAs), i.e. Equifax, Experian and TransUnion, for consumers impacted by Hurricanes Fiona and Ian. These lenders should be encouraged to refrain from supplying negative information for consumers whose addresses as listed in the lender's files are within the presidentially declared disaster zone, or if the consumer requests relief or an accommodation due to the aftermath of these hurricanes. Such encouragement from your agency could include statements that withholding information does not cause an inaccuracy under the Fair Credit Reporting Act.

In the alternative, and at a minimum, lenders should be encouraged to follow the credit reporting provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act¹ for survivors of Hurricanes Fiona and Ian. If a consumer is able to obtain an accommodation from a lender, i.e., a forbearance, a payment deferral, a partial payment agreement, or a loan modification, then the lender should report the same status for the account as it stood prior to the accommodation (assuming the consumer is in compliance with the terms of the accommodation).

Following the CARES Act credit reporting protections should place only a minimal burden on lenders. Not only have lenders and the credit reporting industry already instituted the systems and procedures necessary to follow the CARES Act, but they have three years of experience in such reporting. Continuing such practices for Hurricane Fiona and Ian survivors should be relatively simple. Lenders might be willing to continue such reporting, especially with encouragement from your agencies.

Note that simply placing the natural disaster code (AW) on an account, as described in the Consumer Data Industry Association's [FAQ 58 –Reporting of Natural or Declared Disaster](#), is not sufficient. First, a [2018 report](#) by the Consumer Financial Protection Bureau found that, since the AW code is optional on the part of lenders, many were choosing not to use it.

Second, the AW code is essentially useless to protect a disaster survivor's credit score with respect to FICO scores. [FICO has stated](#) that the code does not affect a FICO Score; thus negative information (e.g., 30 or 60 day lates) during a disaster period will still lower the consumer's score despite the code's presence. The AW code does help protect a consumer's [VantageScore](#), because that [model will not score accounts](#) flagged with the code. However, FICO is the dominant scoring model, used in [90% of lending decisions](#).

Consumers impacted by natural disasters need more than an optional natural disaster code that, even when the lender uses it, does not protect their FICO scores from harm. Lenders should be encouraged to avoid furnishing negative information about disaster survivors in the aftermath of the disaster. At a minimum, lenders should use the existing CARES Act procedures that they are well-versed in to help survivors of Hurricane Fiona, Ian, and as part of their natural disaster response in the future.

Thank you for your consideration. If you have any questions about this letter, please contact Chi Chi Wu, National Consumer Law Center, at 617-542-8010 or cwu@nclc.org.

Sincerely,

National Organizations

National Consumer Law Center (on behalf of its low-income clients)
Americans for Financial Reform Education Fund
Appleseed Foundation
Center for Community Progress
Center for Digital Democracy
Center for LGBTQ Economic Advancement & Research (CLEAR)
Consumer Action
Consumer Federation of America
Consumer Reports
National Association for Latino Community Asset Builders (NALCAB)
National Association of Consumer Advocates
National Fair Housing Alliance

¹ Pub. L. No. 116-136, § 4021 (Mar. 27, 2020) (adding subparagraph (F) to 15 U.S.C. § 1681s-2(a)(1)).

National Housing Law Project
National Housing Resource Center
Public Justice
U.S. PIRG
UnidosUS
Woodstock Institute

State and Local Organizations

Tzedek DC
Jacksonville Area Legal Aid
Florida Consumer Action Network
Kentucky Equal Justice Center
Louisiana Appleseed
New Jersey Appleseed Public Interest LawCenter
NHS Brooklyn CDC, INC.
Texas Appleseed

cc: Francis Creighton and Eric Ellman, Consumer Data Industry Association