

May 6, 2021

David Uejio, Acting Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Re: Request that CFPB Prohibit Credit Reporting of Rent Arrears Incurred During
COVID-19 Pandemic

Dear Acting Director Uejio:

The undersigned 143 organizations urge you to take aggressive actions to protect the credit records of renters who have struggled financially due to the COVID-19 pandemic. In particular, we urge you to prohibit debt collectors from reporting rent arrears debt to the nationwide consumer reporting agencies (CRAs), *i.e.*, Equifax, Experian, and TransUnion, if the rent debts accrued during the COVID-19 period. This is another concrete step that the CFPB can take to protect renters that is well within its authority under both the Fair Credit Reporting Act (FCRA) and Section 1031 of the Dodd-Frank Act, 12 U.S.C. § 5531.

We very much appreciate the CFPB's Interim Final Rule of April 19, 2020 that requires debt collectors to provide written notice to tenants of their rights under the CDC eviction moratorium and prohibits debt collectors from misrepresenting tenants' eligibility for protection from eviction under the moratorium. We also appreciate [your joint statement with Acting FTC Chairwoman Rebecca Slaughter](#) warning major landlords that evicting or threatening to evict tenants in violation of the CDC, state, or local moratoria, without apprising them of their legal rights under such moratoria, may violate prohibitions against deceptive and unfair practices.

These steps are tremendously helpful and laudable. However, we urge you to go one step further and also protect the credit records of tenants. Just like debt collection, credit reporting rules are well within the heart of the Bureau's jurisdiction.

As documented by the CFPB's own report [Housing insecurity and the COVID-19 pandemic](#), 8.8 million American households were behind in rent payments as of December 2020 and the CDC and state moratoria do not absolve renters from making these payments or provide for formal policies allowing renters to defer them. While most landlords do not regularly report rent payments - and thus late payments - on a monthly basis to the nationwide CRAs, the credit report of a renter unable to pay rent may not remain unscathed for long. Landlords frequently refer unpaid rent to collection agencies or collection attorneys, and many debt collectors report debts to the nationwide CRAs. A debt collection item is considered a very negative entry on a credit report that can remain for up to seven years and significantly lower a renter's credit score.

Because [most landlords use tenant screening reports](#) that include credit information, a damaged credit report will seriously hinder a renter's ability to secure new housing. This could force the renter to turn to landlords who charge above-market rates for low-quality housing or even lead to

homelessness. This would likely have a disproportionate impact on Black and Latinx renters, who already had [higher eviction rates](#) before COVID-19.

The CFPB should act to prevent these dire consequences. The CFPB could issue guidance that it is an unfair or abusive practice under Section 1031 of the Dodd-Frank Act for a debt collector to report a rent arrears debt to a nationwide CRA if the renter was eligible for the CDC, a state, or a local moratorium, because such reporting would contravene and undermine the effectiveness of these moratoria. Alternatively, the CFPB could issue an Interim Final Rule, using its authority under Section 621(e) of the FCRA, 15 U.S.C. § 1681s(e), to prohibit the furnishing of such information.

As a lesser alternative, the CFPB could require that any rental arrears debt reported on a credit report must also disclose if the debt was a result of economic hardship due to the COVID-19 economic crisis or that the renter is protected from eviction by the CDC, a state, or a local moratorium. Otherwise, such reporting could be considered inaccurate in that it omits a material and important fact, much as the failure to note that a debt has been discharged in bankruptcy and thus is unenforceable is inaccurate under the FCRA.

At the very minimum, the CFPB should declare that it is an unfair practice to report a rent arrears debt if a landlord has received rental assistance funds, either from the American Rescue Plan or state or local programs, or the renter attempted to obtain rental assistance funds and the landlord refused to cooperate. Being an unfair practice, a collector reporting such debts would potentially violate Section 1031 of the Dodd-Frank Act or Sections 1692f and 1692e(8) of the Fair Debt Collection Practices Act.

The end of the COVID-19 pandemic may be in sight due to the vaccines, but the long-term impact could be with us for years. The economic prospects of consumers on the downward slope of the K-shaped economy could continue along that trajectory even after the pandemic has ended, unless more is done to protect them. The CFPB has the tools to help in one more key respect: it can protect the credit reports of renters saddled with rental debts due to the economic catastrophe of the pandemic.

Thank you for your consideration. If you have any questions, please contact Chi Chi Wu at cwu@nclc.org or 617-226-0326.

Sincerely,

National Organizations

National Consumer Law Center (on behalf of its low-income clients)

African American Health Alliance

Americans for Financial Reform Education Fund

Appleseed Foundation

Center for Digital Democracy

Center for Disability Rights

Center for LGBTQ Economic Advancement & Research (CLEAR)

(signatories continue on following page)

Coalition on Human Needs
Consumer Action
Consumer Federation of America
Consumer Reports
Credit Builders Alliance
Demos
Disability Rights Education & Defense Fund
Grounded Solutions Network
Health Justice Innovations
Housing Justice Center
Local Initiatives Support Corporation (LISC)
Minnesota Housing Partnership
Mission Asset Fund
National Association of Consumer Advocates
National CAPACD
National Center for Lesbian Rights
National Consumers League
National Fair Housing Alliance
National Housing Law Project
National Housing Resource Center
National Low Income Housing Coalition
National NeighborWorks Association
NETWORK Lobby for Catholic Social Justice
Public Citizen
Public Good Law Center
RESULTS
SPLC Action Fund
The Forum for Youth Investment
U.S. PIRG
Voices for Progress
Woodstock Institute

State and Local Organizations

AKPIRG
AIDS Alabama
Arkansas Community Institute
Arkansas Community Organizations
Arkansas Poor People's Campaign
Arkansas Renters United
Grassroots Arkansas
a new leaf (AZ)
Arizona Center for Economic Progress
Center for Economic Integrity (AZ)
Community Action Human Resources Agency (AZ)
Gila County Community Services (AZ)

(signatories continue on following page)

Gila House Inc. (AZ)
NACOG (AZ)
Wildfire: Igniting Community Action to End Poverty in Arizona
William E. Morris Institute for Justice (Arizona)
BASTA, Inc. (CA)
California Low-Income Consumer Coalition
California Reinvestment Coalition
Elder Law & Advocacy (CA)
Greater Napa Valley Fair Housing Center
Housing and Economic Rights Advocates (CA)
Mental Health Advocacy Services (CA)
Public Counsel (CA)
Public Law Center (CA)
Tenants Together (CA)
TURN–The Utility Reform Network (CA)
Western Center on Law and Poverty (CA)
Colorado Center on Law and Policy
Covid-19 Eviction Defense Project (CO)
Connecticut Fair Housing Center
Connecticut Legal Services, Inc.
New Haven Legal Assistance Association (CT)
RESULTS DC/MD (DC)
Tzedek DC
Delaware Community Reinvestment Action Council, Inc.
HerStory Ensemble LLC (DE)
Jacksonville Area Legal Aid (FL)
Legal Aid Service of Broward County (FL)
Hawaii Appleseed Center for Law & Economic Justice
Housing Action Illinois
Lawyer's Committee for Better Housing (IL)
Legal Action Chicago
Legal Aid Society of Metropolitan Family Services (IL)
Citizens Action Coalition of IN
Kansas Appleseed Center for Law and Justice
Kentucky Equal Justice Center
Acadiana Regional Coalition on Homelessness and Housing (ARCH) (LA)
Alliance for Affordable Energy (LA)
Hagar's House (LA)
Jane Place Neighborhood Sustainability Initiative (LA)
Justice & Accountability Center of Louisiana
Lafayette Habitat for Humanity (LA)
Lift Louisiana
Louisiana Appleseed Center for Law & Justice
Louisiana Coalition for Reproductive Freedom
Louisiana Fair Housing Action Center

(signatories continue on following page)

Louisiana Partnership for Children and Families
Mid City Redevelopment Alliance (LA)
New Orleans Abortion Fund
Operation Restoration (LA)
Power Coalition for Equity and Justice (LA)
DOVE (Domestic Violence Ended), Inc. (MA)
Greater Boston Legal Services
Justice Center of SE Massachusetts
Massachusetts Law Reform Institute (MLRI)
The Consumer Assistance Council, Inc. (MA)
Public Justice Center (MD)
Alliance for Metropolitan Stability (MN)
HOME Line (MN)
Jewish Community Action (MN)
Missouri Faith Voices
Mississippi Center for Justice
North Carolina Justice Center
Nebraska Appleseed
Anti-Poverty Network of NJ
Fair Share Housing Center (NJ)
Ironbound Community Corporation (NJ)
Legal Services of New Jersey
New Jersey Citizen Action
New Jersey Tenants Organization
Catholic Charities (Santa Fe)
New Mexico Center on Law & Poverty
Prosperity Works (NM)
Santa Fe Housing Action Coalition
Legal Aid Center of Southern Nevada
CNYCN
Empire Justice Center (NY)
New Economy Project (NY)
New York Legal Assistance Group
Public Utility Law Project of New York
Ohio Poverty Law Center
VOICE – OKC
Legal Clinic for the Disabled (PA)
S.C. Appleseed Legal Justice Center
RAISE Texas
Texas Appleseed
Texas Housers
United Way of Metropolitan Dallas
Legal Aid Justice Center (VA)
Virginia Citizens Consumer Council
Virginia Organizing

(signatories continue on following page)

Virginia Poverty Law Center
Columbia Legal Services (WA)
Statewide Poverty Action Network (WA)