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Dear Sirs:

The undersigned consumer, civil rights, and advocacy groups write to urge your companies to take affirmative steps to help the credit histories of consumers affected by natural disasters. Millions of Americans have been severely impacted by natural disasters in the last 18 months, including Hurricanes Michael, Florence, Maria, Harvey and Irma as well as the wildfires and now mudslides in California. Consumers have lost their houses, had their jobs interrupted, suffered other unexpected expenses, and faced dislocation for months - all through no fault of their own.

As you know the CFPB issued a report in November 2018 examining how natural disasters affect consumer credit reports and how furnishers furnish information about consumers impacted by natural disasters.¹ The CFPB Natural Disasters Credit Reporting report focused on consumers in the Hurricane Harvey disaster zone, and found that only a minority of these consumers –less than 40% - had the natural disaster code (AW) on their credit reports. Yet it is likely that that many more consumers were affected by Hurricane Harvey.

Moreover, usage of the AW code was much higher for some types of furnishers than others. For example, 16% of all mortgage servicers (constituting 58% of the Houston-area market share) used the AW code but only 5.7% of credit card issuers (constituting 35.4% of the Houston-area market share) did. As the CFPB noted, “Mortgage tradelines are most likely to have the natural disaster comment code...”² This disparity in usage likely means that many consumers had the code placed on their mortgage tradelines, but not on their credit card tradelines.

Mortgage servicers likely were more willing to place the natural disaster code on their tradelines because guidelines from Fannie Mae, Freddie Mac, FHA and other agencies require mortgage servicers to offer relief to disaster-affected consumers included directives regarding credit reporting. But this disparity is illogical and unfair – if a consumer was impacted by a natural disaster with respect to their mortgage loan, they would be impacted as to their credit card account and other tradelines as well. Without comprehensive coverage, consumers face ongoing harm from unflagged financial hardships beyond their control.

¹ CFPB, Natural Disasters and Credit Reporting, Nov. 2018, available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfcq_quarterly-consumer-credit-trends_report_2018-11_natural-disaster-reporting.pdf.

² *Id.* at 7.

We appreciate your promulgation of FAQ 58 –Reporting of Natural or Declared Disaster, which provides a standardized approach for furnishers that *choose* to report that accounts are affected by natural disasters. However, the CFPB Natural Disasters Credit Reporting report indicates that simply giving furnishers the option to place the natural disaster code is not enough, because many furnishers are not using this option. This is evidenced by the fact that, as noted above, only a minority of disaster-affected consumers in Houston had the code in their credit reports after Hurricane Harvey. Consumers lose out on the benefits of the AW code because creditors fail to use it.

Thus, we call upon your companies to take more affirmative steps by proactively placing the AW codes on tradelines for disaster-affected consumers. We urge you to:

- Place the natural disaster code on all tradelines with a delinquency that occurs within six months of a natural or declared disaster if the credit report indicates that the consumer resided in the natural or declared disaster zone immediately prior to the disaster.
- At a minimum, establish that the presence of the disaster code on other tradelines is a trigger for placing the code on all other tradelines that include negative information for the relevant time period. For example, if the consumer has a mortgage tradeline with the AW code, and a credit card showing a 30 day late without the AW code, the AW code should be placed on the credit card tradeline for the same time period. After all, it is extremely unlikely that the consumer was affected for the mortgage but not for the credit card.

The CFPB Natural Disasters Credit Reporting report indicates that the AW code remained on credit reports for only two months on average, which is not enough time for consumers to financially recover from a natural disaster. We urge that the natural disaster codes remain for a minimum of six months after the disaster event.

Finally, there is a crucial question as to whether furnishers may have continued to report delinquencies during the time that the AW code was present. FAQ 58 permits such negative information by providing option #1 for reporting as “Report the Account Status that applies to the account (credit grantor’s decision)”, i.e. the creditor can make the decision to continue to report delinquencies even while the account is flagged by the AW code.

It is a paltry form of relief to simply place the natural disaster code on a tradeline without also refraining from reporting negative derogatory information that will harm a consumer’s credit history and score. Thus, we urge you to:

- Require that if the tradeline has a natural disaster code, any delinquencies during the time period that the code is placed should be scrubbed, i.e. replaced with the “D” code for no information.
- At a minimum, revise FAQ 58 to remove option #1 so that reporting cannot proceed in a “business as usual” manner with derogatory information being reported despite the natural disaster code. Instead, the creditor should either report the account as current (option #2) or deferred with the D code when payments are not made (option #3)

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 Groups

National Consumer Law Center (on behalf of its low-income clients)
Allied Progress
Americans for Financial Reform Education Fund
CAARMA Consumer Advocates Against Reverse Mortgage Abuse
Center for Digital Democracy
Consumer Action
Consumer Federation of America
Demos
The Disaster Law Project
NAACP
National Association of Consumer Advocates
National Fair Housing Alliance
National Housing Law Project
Prosperity Now
U.S. PIRG
Woodstock Institute

State and Local Groups

AkPIRG (AK)
Arizona Center for Economic Progress
Arizona Coalition to End Sexual & Domestic Violence
Community Action Human Resources Agency (AZ)
Pinnacle Prevention (AZ)
WHEAT - World Hunger Education, Advocacy & Training (AZ)
Wildfire: Igniting Community Action to End Poverty in Arizona (AZ)
California Reinvestment Coalition
Center for Accessible Technology (CA)
East Bay Community Law Center (CA)
Housing and Economic Rights Advocates (CA)
The Greenlining Institute (CA)
The Utility Reform Network (TURN) (CA)
Connecticut Fair Housing Center
Tzedek DC
Jacksonville Area Legal Aid, Inc. (FL)
Legal Assistance Foundation of Chicago (IL)
Maryland Consumer Rights Coalition
New Jersey Citizen Action
Empire Justice Center (NY)
Long Island Housing Services, Inc. (NY)
Public Utility Law Project of New York
Citizens Coalition (OH)
Virginia Citizens Consumer Council (VA)
Virginia Poverty Law Center (VA)