



Consumer Reporting FAQs Related to the CARES Act and COVID-19 Pandemic

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

QUESTION 1:

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. 116-136 (CARES Act) addresses accommodations to consumers impacted by COVID-19. What is an accommodation for purposes of the CARES Act amendments to the Fair Credit Reporting Act (FCRA)?

ANSWER (UPDATED 6/16/2020):

An “accommodation” includes any payment assistance or relief granted to a consumer who is affected by the COVID-19 pandemic during the period from January 31, 2020, until 120 days after the termination of the COVID-19 national emergency declared by the President on March 13, 2020 under the National Emergencies Act.¹ Such an accommodation includes, for example, agreements to defer one or more payments, make a partial payment, forbear any delinquent amounts, or modify a loan or contract.² An accommodation includes assistance or relief that is granted voluntarily or pursuant to a statutory or regulatory requirement.

¹ CARES Act, Pub. L. 116-136, section 4021, codified at FCRA section 623(a)(1)(F)(i)(I), 15 U.S.C. 1681s-2(a)(1)(F)(i)(I).

² *Id.*

QUESTION 2:

If a furnisher provides a consumer an accommodation, what are its consumer reporting obligations?

ANSWER (UPDATED 6/16/2020):

Section 4021 of the CARES Act amends the FCRA to address how furnishers report accounts subject to an accommodation. For more information on what constitutes an accommodation for purposes of the CARES Act, see FAQ #1 above. As noted in FAQ #1, furnishers can grant accommodations voluntarily or pursuant to a statutory or regulatory requirement. The CARES Act provisions addressing how furnishers report accounts subject to an accommodation apply if: (1) a furnisher makes an accommodation with respect to one or more payments on a credit obligation or account of a consumer, and (2) the consumer makes the payments or is not required to make one or more payments pursuant to the accommodation.

If the credit obligation or account was current before the accommodation, during the accommodation the furnisher must continue to report the credit obligation or account as current.

If the credit obligation or account was delinquent before the accommodation, during the accommodation the furnisher cannot advance the delinquent status. For example, if at the time of the accommodation the furnisher was reporting the consumer as 30 days past due, during the accommodation the furnisher may not report the account as 60 days past due. If during the accommodation the consumer brings the credit obligation or account current, the furnisher must report the credit obligation or account as current. This could occur, for example, if the accommodation itself brings the credit obligation or account current (such as a loan modification that resolves amounts past due so the borrower is no longer considered delinquent) or if the consumer makes past due payments that bring the credit obligation or account current.

These CARES Act provisions addressing how furnishers report accounts with an accommodation do not apply with respect to credit obligations or accounts that creditors have charged off.

For additional requirements regarding payment suspensions and furnishing information about Federally held student loans, see section 3513 of the CARES Act.

QUESTION 3:

What do furnishers need to consider when reporting consumers as current pursuant to the CARES Act?

ANSWER (UPDATED 6/16/2020):

Whenever furnishers provide information to consumer reporting agencies, they have obligations related to the accuracy and integrity of the information they furnish under the FCRA and Regulation V.³ To ensure compliance with these obligations, if furnishers are reporting information to consumer reporting agencies about a credit obligation or account that is current, they should consider all of the trade line information they furnish that reflects a consumer's status as current or delinquent. For example, information a furnisher provides about an account's payment status, scheduled monthly payment, and the amount past due may all need to be updated to accurately reflect that a consumer's account is current consistent with the CARES Act. Furnishers are encouraged to ensure they understand the data fields that the consumer reporting agencies to whom they report utilize and which standard data reporting formats may apply.

QUESTION 4:

Can a furnisher comply with the requirements of the CARES Act relating to reporting of accommodations simply by using a special comment code to report a natural or declared disaster or forbearance?

ANSWER (UPDATED 6/16/2020):

As discussed in FAQ #2 above, the CARES Act requires a furnisher to report a credit obligation or account as current if it was current prior to the accommodation or not to advance the level of delinquency if it was delinquent prior to the accommodation. Furnishing a special comment code indicating that a consumer with an account is impacted by a disaster or that the consumer's account is in forbearance does not provide consumer reporting agencies with this CARES Act-required information and therefore furnishing such a comment code is not a substitute for complying with these requirements.

³ See FCRA section 623, 15 U.S.C. 1681s-2; 12 CFR part 1022, subpart E.

QUESTION 5:

Is a furnisher permitted to report all of their consumers' accounts or all of their consumers' accounts in a particular product line (e.g., all auto loans) as in forbearance?

ANSWER (UPDATED 6/16/2020):

To ensure compliance with their obligations related to the accuracy and integrity of the information they furnish under the FCRA and Regulation V,⁴ furnishers should not report that consumers' accounts are in forbearance if the accounts have not been placed into forbearance. The Bureau generally supports furnishers' voluntary efforts to provide payment relief to consumers but cautions that reporting forbearances on accounts for which consumers have neither requested a forbearance nor are delinquent increases the risks of inaccurate reporting and consumer confusion.

QUESTION 6:

What must furnishers do in reporting the status of an account after a CARES Act accommodation ends?

ANSWER (UPDATED 6/16/2020):

The consumer reporting protections of the CARES Act continue to apply to the time period that was covered by the accommodation after the accommodation ends. Assuming payments were not required or the consumer met any payment requirements of the accommodation, a furnisher cannot report a consumer that was reported as current pursuant to the CARES Act as delinquent based on the time period covered by the accommodation after the accommodation ends. A furnisher also cannot advance the delinquency of a consumer that was maintained pursuant to the CARES Act based on the time period covered by the accommodation after the accommodation ends.

⁴ See FCRA section 623, 15 U.S.C. 1681s-2; 12 CFR part 1022, subpart E.