

FCC Issues Proposed Order to Reduce Wrong Number Robocalls

FOR IMMEDIATE RELEASE: November 21, 2018

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Proposal Would Establish Reassigned Number Database; Require Callers to Cross-Reference for Accuracy of Information

WASHINGTON, D.C. — The Federal Communications Commission (FCC) [announced today](#) it will take decisive action to reduce the volume of wrong number robocalls. Consumers have been complaining for years about escalating debt collection, telemarketing, and other robocalls made to the wrong people because the calls were intended to reach previous owners of their phone number. The callers have claimed they should not be held responsible for calling the wrong numbers because there was no way for them to know the numbers were reassigned to new consumers. Today's announcement by FCC Chairman Ajit Pai outlines the Commission's plan to put a clear end to this problem, by establishing a "reassigned number database." The database will let callers check whether a number has been reassigned so that they would be able to avoid calling or texting consumers who have not provided consent to receive robocalls and text messages.

With Americans receiving [5 billion robocalls per month](#) and [consumer complaints](#) about unwanted robocalls soaring, a reassigned number database provides an essential tool in reducing the volume of unwanted calls placed to cell phones without the express consent of the recipient.

"We heartily commend the Federal Communications Commission for its creativity and leadership evidenced in this proposed order to establish a reassigned number database," **said Margot Saunders, senior counsel at the National Consumer Law Center.** "An effectively created and managed database will significantly reduce the number of unwanted calls to consumers and will reduce liability under the Telephone Consumer Protection Act (TCPA) for callers. Callers that use the reassigned number database will also reach their intended recipients much more successfully."

The proposed order would establish a single, comprehensive, and mandatory database to which all telephone service providers are required to report information about disconnected and reassigned numbers. Callers will be required to check the database to confirm that cell phone numbers at which consumers have consented to receive robocalls and texts have not been reassigned to other consumers.

"Consumer Reports welcomes Chairman Pai's proposal to protect consumers with reassigned numbers from receiving unwanted robocalls. Consumers are overwhelmed with robocalls. Companies shouldn't have free rein to robocall consumers, just because a previous owner of their phone number agreed to receive calls," **said Maureen Mahoney, a policy analyst at Consumer Reports.** "This proposal recognizes that and would set up an effective and workable system to put a stop to this abuse. We urge the Commission to continue to work to ensure that all consumers have meaningful control over the calls they receive."

The reassigned number database, populated by the carriers and paid for by robocallers, will end the robocallers frequent excuse that they had no way to know they were calling numbers that had been reassigned. Reducing these unwanted calls to cell phones will provide relief for consumers and reduce caller liability—sparing callers potential fines and costly litigation for continually dialing a reassigned number without the consent of the recipient.

“In the battle against unwanted robocalls, the reassigned number database would be a crucial piece of armor to protect consumers by requiring that the callers check first to make sure the person they’re trying to reach still has the number that’s being dialed,” **said Susan Grant, Director of Consumer Protection and Privacy at Consumer Federation of America.**

The database will be administered by an independent third party chosen pursuant to a competitive bidding process and managed according to rules determined by the FCC.

National Consumer Law Center Advocates Urge HUD to Take Immediate Action to Reduce Foreclosures on Widows and Widowers of Reverse Mortgage Borrowers

FOR IMMEDIATE RELEASE: November 27, 2018

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Washington, D.C. — Reverse mortgages are intended to help elders age in their homes. Yet, across the country, widows and widowers are losing their homes because of the U.S. Department of Housing and Urban Development (HUD)’s failure to prevent foreclosures on reverse mortgages that their now-deceased spouses previously obtained. Advocates at the National Consumer Law Center today issued a new report showing the harm that HUD’s practice causes to widows and widowers, and urging HUD to take immediate action to better inform reverse mortgage borrowers and their spouses about options to avoid foreclosure on a non-borrowing spouse, remove arbitrary and unrealistic deadlines for lenders to elect to participate in the program, and ensure that the program can work effectively to help non-borrowing spouses stay in their homes.

“Failing to take reasonable steps to protect widows and widowers from a foreclosure risk caused by HUD’s own unlawful regulation is not only unjust, it’s bad policy,” **said Sarah Mancini, an attorney with the National Consumer Law Center.** “A significant number of older homeowners now face the loss of their homes as well as their community support networks due to HUD’s harsh deadlines and a lack of information.”

Reverse mortgage loans are designed to make it easier for older homeowners to age in place by allowing them to borrow against the equity in the home without the risk of displacement. The proceeds of a reverse mortgage can be taken as a lump sum, a line of credit, or a stream of monthly payments. So long as the borrower continues to occupy the home as his or her principal residence, the borrower must pay property taxes and the homeowner’s insurance premium, but need not make payments of principal or interest on the loan. Unlike most mortgages, where the balance goes down over time, with a reverse mortgage the loan balance grows over time as the interest is added to the principal balance (hence the name “reverse” mortgage). The full loan balance becomes due and payable upon a triggering event – in most cases, the death of the last remaining borrower.

Congress specified that HUD could only insure loans that protected both the homeowner and any

spouse from displacement. However, despite this requirement, HUD issued regulations that required lenders to use form loan documents that made the loans due and payable upon the death of the borrower – ignoring any spouse who was not included as a borrower on the loan. This created an incentive for some lenders and mortgage brokers to encourage married couples to leave the younger spouse off the loan. Most couples who opted to take out a reverse mortgage in the name of only one of the spouses had no idea that the non-borrowing spouse would face foreclosure and eviction because the loan would become due and payable upon the death of the borrowing spouse.

In response to litigation, HUD changed its regulations for new reverse mortgages issued after August 2014, but pre-2014 loans still go into foreclosure unless the surviving spouse can take critical steps within a very short time after the death of the borrowing spouse. The surviving spouses are often unaware of the significant substantive requirements and short deadlines, and may be overwhelmed by the many demands they face after losing a loved one.

“HUD should require servicers to regularly inform borrowers and their spouses of the proper procedures to remain in their homes,” **said Mancini**. “Right now, too many spouses have no idea that options exist until it is too late.”

NCLC attorneys recommend the following changes in order to make assistance for reverse mortgage borrowers more accessible and viable for non-borrowing spouses.

- HUD should remove unnecessary deadlines for the program or, at a minimum, provide waivers of deadlines in appropriate cases.
- HUD should require servicers to communicate clearly with borrowers and non-borrowing spouses about the program and steps needed to qualify for the program, beginning, even before the borrower’s death.
- HUD should allow additional time for non-borrowing spouses to cure a default on property taxes or insurance when spouses are actively attempting to repay these charges or are eligible for help through an assistance program such as a Hardest Hit Funds program.
- HUD should require servicers to communicate with non-borrowing spouses at every step of the process, and HUD’s Servicing Center should provide accurate, up to date information to any non-borrowing spouse who makes an inquiry about the status of an application for the program.
- HUD should expand the program to include non-borrowing spouses who want to remain in the home when the borrowing spouse is still living but has moved out permanently, for example due to health reasons.

For a complete list of recommendations and for more information on reverse mortgages and HUD’s programs, view NCLC’s issue brief.

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American Bar Association’s Consumer Financial Services Committee Fellows Protest

ABA's Support for H.R. 5082, Which Could be Attached to Omnibus Budget Bill

FOR IMMEDIATE RELEASE: November 26, 2018

National Consumer Law Center Contact: Jan Kruse (jkruse@nclc.org); (617) 542-8010

H.R. 5082 Would Allow Lawyers to Abuse Consumers in Debt Collection Lawsuits, Exempt Attorneys and Firms from Federal Debt Collection Enforcement and CFPB Oversight

Washington, D.C. — Attorneys selected by the American Bar Association (ABA) to represent the interests of consumers wrote the ABA President today condemning the ABA's decision to back H.R. 5082, the Practice of Law Technical Clarification Act of 2018. The bill would strip consumers of vital protections by exempting attorneys and law firms engaged in debt collection litigation from the Fair Debt Collection Practices Act (FDCPA) and eliminate Consumer Financial Protection Bureau (CFPB) oversight. "The ABA is pushing for a floor vote in the House and also pressuring members of the Senate Appropriations Committee to slip it in to the omnibus budget bill," **said April Kuehnhoff, staff attorney at the National Consumer Law Center.**

"Without consulting the members of its committee most impacted by the decision, the ABA elected to partner with creditor attorneys in support of H.R. 5082—a position that does not reflect that of the bar at large," **said Jennifer Wagner, co-director of Mountain State Justice and Consumer Fellow to the Consumer Financial Services Committee of the ABA.** "Enforcement of FDCPA violations and CFPB oversight of attorney conduct do not interfere with attorneys' obligation to represent their clients appropriately and ethically."

H.R. 5082 would carve out an exception, just for attorneys and law firms, immunizing them from liability when they abuse the debt collection process in court. By exempting lawyers from enforcement of the FDCPA for conduct in litigation, the bill will encourage collection attorneys to file more lawsuits, further clogging the already overburdened trial courts.

"The ABA represents the broad legal community, but in supporting H.R. 5082 it chose to side with debt collection attorneys over attorneys that represent consumers," **said Steve Sharpe, an attorney at the Legal Aid Society of Southwest Ohio and Consumer Fellow to the Consumer Financial Services Committee of the ABA.** "The ABA chose to support this bill without consulting the consumer advocates it appointed as fellows. Had they reached out, we would have explained how this bill will harm consumers."

Representative Vicente Gonzalez (D-TX), a co-sponsor of the bill alongside Rep. Alex Mooney (R-WV), took heat for his support of this harmful legislation with more than 75 Texas-based law professors and attorneys writing the Congressman urging him to pull his support of an earlier version of the bill. Their appeal appears to have fallen on deaf ears as the H.R. 5082 moves closer to a floor vote, with the misguided backing of the ABA. The bill is also opposed by 20 state Attorneys General and 43 consumer groups.

This bill attempts to turn back the clock on decades of recognition by Congress and the courts that consumers must be protected from false, misleading, and unfair practices by lawyers collecting debts in courts. H.R. 5082 would allow collection attorneys to engage in egregious practices such as:

- Proceeding to trial without any witnesses or admissible evidence, hoping that consumers will

not show up or asking the court to reschedule if they do.

- Routinely filing court documents without confirming the accuracy of that information, often resulting in default judgments based on inaccurate information.
- Filing lawsuits in courts hundreds of miles away from the consumers' homes, making it nearly impossible for most consumers to appear in court to defend themselves.
- Filing lawsuits on ancient zombie debt after the legal time limit to sue has expired and when consumers are less likely to have critical records to prove their payments.
- Seeking fees or costs that are not legally allowable, adding to the amount of judgments against consumers who cannot afford attorneys.

For a list of additional egregious practices rubber-stamped by the bill, read NCLC's issue brief breaking down the harmful impact of H.R. 5082.

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National Consumer Law Center Files FOIA Lawsuit Against U.S. Department of Education

FOR IMMEDIATE RELEASE: November 16, 2018

National Consumer Law Center contact: Stephen Rouzer, srouzer@nclc.org, (202) 595-7847

NCLC Seeks to Obtain Records Concerning the Department’s Servicing of Defaulted Federal Student Loans

BOSTON, M.A — The National Consumer Law Center filed a federal lawsuit today against the U.S. Department of Education, asking the court to compel the Department to comply with a Freedom of Information Act (FOIA) request submitted by NCLC on October 10, 2017. The complaint, filed in the U.S. District Court for the District of Massachusetts, seeks the immediate release of records in connection with the Department’s contractual arrangements with Maximus Federal Services, Inc. or the Default Resolution Group.

“There is a long history of abusive practices by Department of Education contractors which has led to many borrowers unnecessarily having their wages, Social Security, and Earned Income Tax Credits seized by the federal government,” **said Persis Yu, director of the National Consumer Law Center’s Student Loan Borrower Assistance Project.** “Quite simply, this information is necessary to determine what the Department of Education is telling its contractors to do.”

A report released in 2014 by NCLC found that many of these abuses are rooted in structural problems related to the Department’s contracts with private collection agencies. “Given that nearly 11% of all federal student loans are in default, all of the Department’s contracts should be available for public scrutiny,” **said Yu.**

NCLC’s request for the records has gone unanswered for over 13 months. According to The FOIA Project, a nonprofit effort administered by Syracuse University, there has been a significant increase in the number of FOIA lawsuits against the Department of Education under the current administration.

Consumer Groups Welcome Bipartisan Legislation to Stop Misleading “Spoofed” Robocalls

For Immediate Release: November 16, 2018

WASHINGTON, DC — A new bipartisan bill introduced in the Senate will address the growing problem of “spoofed” robocalls that use fraudulent caller identification information to disguise the caller’s true identity.

Introduced by Senators Thune (R-S.D.) and Markey (D-Mass.), the Telephone Robocall Abuse Criminal Enforcement and Deterrence ([TRACED](#)) Act would direct the Federal Communications Commission (FCC) to develop rules requiring providers of telephone voice services to implement an effective framework for authenticating calls to better enable them to identify and stop unwanted calls before they reach the consumer. It would also increase potential civil forfeitures and criminal fines for intentional violations of the Telephone Consumer Privacy Act (TCPA).

The National Consumer Law Center, Consumer Reports, and Consumer Federation of America applaud the Senators and welcome the progress in the effort against unwanted robocalls.

“This bill will mandate that all telephone providers authenticate all telephone calls,” **said Margot Saunders, senior counsel for the National Consumer Law Center.** “It is an important step towards protecting us from calls with fake caller IDs. However, there is still much more to be done to

stop all unwanted robocalls.”

“We commend Chairman Thune and Senator Markey for taking on the ever-growing scourge of intrusive robocalls that mislead consumers with spoofed phone numbers,” **said Maureen Mahoney, policy analyst for Consumer Reports.** “Spoofed robocalls have become a major intrusion into consumers’ everyday lives, and an all-too-convenient vehicle for scammers. We look forward to working with Senators Thune and Markey to refine this bill and pass a law to strengthen robocall protections available to consumers.”

“Authenticating that a call is coming from the source that it purports to be is crucial in the fight against illegal robocalls, which often fraudulently spoof their caller ID,” **said Susan Grant, Director of Consumer Protection and Privacy at the Consumer Federation of America.** “This bill will move carriers forward to implement call authentication and provide stronger enforcement tools to use against robocallers who flout the law.”

Beware Holiday Shoppers: Deferred Interest Promotions Promise No Interest Now, but Can Cost Big Bucks Later

FOR IMMEDIATE RELEASE: November 15, 2018

National Consumer Law Center contacts: Chi Chi Wu (cwu@nclc.org) or Jan Kruse (jkruse@nclc.org), (617) 542-8010

Download NCLC infographic of big ticket holiday gifts’ cost at time of purchase and with deferred interest: <http://bit.ly/2z947C7>

Boston - As Black Friday approaches, the National Consumer Law Center warns holiday shoppers of a lurking danger in the local mall, big box store or online: deferred interest promotions on credit cards. These promotions entice consumers with promises such as “no interest for 12 months” or “0% interest until December 2019,” but there is a debt trap at the end. Consumers who don’t pay off the entire balance before the promotional period ends will be hit with a huge lump sum interest charge going back to the date that they bought the item, even on amounts that have been paid off. Check out NCLC’s infographic highlighting some popular big ticket gifts and their costs with deferred interest versus mainstream credit cards to show the pitfalls of these promotions.

For example, if a consumer buys a \$2,500 laptop on November 23, 2018 using a one-year 24% deferred interest plan, then pays off all but \$100 by November 23, 2019, the lender will add to the next bill nearly \$400 in interest on the entire \$2,500 dating back one year. NCLC’s report *Deceptive Bargain: The Hidden Time Bomb of Deferred Interest Credit Cards* details the risks and abuses of these promotions.

Deferred interest promotions are offered at many stores, including Amazon, Apple, J.C. Penney, Menards, Home Depot, Zales, and Best Buy, where they are used to sell big-ticket items, such as electronics or appliances. The biggest credit card issuers offering deferred interest are Synchrony

Bank, Comenity Capital Bank, and Citibank. While there are a number of well-known retailers that offered deferred interest, one prominent retailer has dropped the product: Walmart, which instead began offering true 0% interest promotions in 2017. Walmart subsequently replaced Synchrony as its credit card issuer and switched to Capital One, which does not offer deferred interest cards.

“Deferred interest promotions are one of the biggest credit card traps on the market today,” **stated National Consumer Law Center staff attorney Chi Chi Wu**, who authored the report. “Avoid them at all costs. No interest sounds tempting now, but you could end up in the trap of huge interest payments later.”

Wu noted that the Federal Reserve Board found that the plans were so deceptive that the Board banned them in 2009, but then reversed itself under pressure from retailers. The CFPB has also called the plans “the most glaring exception to the general post-CARD Act trend towards upfront credit card pricing.”

Pitfalls of deferred interest plans include:

- **Confusion and deception.** It’s hard to understand the complicated and confusing nature of these promotions.
- **Minimum payments don’t pay off the balance.** If you make only the minimum payment, you’ll inevitably be hit with retroactively assessed interest.
- **“Life Happens.”** One of the biggest risks with deferred interest is when something unexpected happens, like a job loss or serious medical condition, and you can’t pay off the purchase by the end of the promotional period. You’ll be socked with a huge lump sum of retroactive interest at the worst possible time, when you can least afford it.
- **High Annual Percentage Rates (APR)s.** Deferred interest credit cards typically carry very high interest rates, with an average of 24% and as high as 29.99%, compared to a typical APR of 14% for mainstream credit cards.
- **Difficulty avoiding retroactive interest if you make other purchases.** A particularly thorny problem happens when you make another purchase using the same credit card that does not have a deferred interest promotion. Most of your payments above the minimum will be applied to the other purchase, making it nearly impossible to pay off the deferred interest balance, unless you make special arrangements with your credit card company.

Wu urged that deferred promotion plans be abolished. “Nine years after the passage of the Credit CARD Act, it is well past-time to get rid of one of the last tricks and traps for credit cards.”

Infographic: Don’t Let Deferred Interest Ruin Your Holidays is available at:

<https://www.nclc.org/issues/dont-let-deferred-interest-ruin-your-holidays.html>

As the holidays approach be wary of a lurking danger in the local mall, big box store or online: deferred interest promotions on credit cards. These promotions entice consumers with promises such as “no interest for 12 months” but there is a debt trap at the end. This infographic compares the cost of some big ticket gifts before and after deferred interest.

For more information about NCLC’s work on credit card abuses, please visit:

<https://www.nclc.org/issues/credit-cards.html>

Don't Let Deferred Interest Ruin Your Holidays

November 2018

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[Note: To print, please select "Fit to Page" under Scale.]

DON'T LET DEFERRED INTEREST RUIN YOUR HOLIDAYS

As the holidays approach be wary of a lurking danger in the local mall or big box store: deferred interest promotions on credit cards. These promotions entice consumers with promises such as "no interest for 12 months" but there is a debt trap at the end. For more information about NCLC's work on credit card abuses, please visit: <https://www.nclc.org/issues/credit-cards.html>

Here are some examples of how much interest you would pay on **BIG TICKET HOLIDAY GIFTS** with a **MAINSTREAM CREDIT CARD** (14%) versus **DEFERRED INTEREST** (24%) after one year of equal payments of 8%.



APPLE WATCH SERIES 3
\$379.00
(price)
\$31 vs. ~~\$63~~
(mainstream vs. deferred interest)



AMAZON ECHO SHOW
(2ND GENERATION)
\$229.99
\$21 vs. ~~\$39~~



ALL WEATHER WICKER
ROLL ARM SOFA
\$399.00
\$35 vs. ~~\$65~~



FENDER STRATOCASTER MAPLE
FINGERBOARD ELECTRIC GUITAR
\$499.99
\$44 vs. ~~\$81~~



SAMSUNG 43" CLASS
LED 1080P TV
\$259.99
\$22 vs. ~~\$42~~



ZALES EARRINGS
\$359.99
\$31 vs. ~~\$58~~



XBOX ONE S 1TB CONSOLE
\$258.19
\$22 vs. ~~\$41~~



HIGH EFFICIENCY,
FRONT LOAD WASHER
\$598
\$52 vs. ~~\$87~~

National Consumer Law Center Foreclosure Experts Train Attorneys in Puerto Rico to Help Stave Off Foreclosures in the Wake of Hurricane Maria

For Immediate Release: October 26, 2018

Contact: Jan Kruse, jkruse@nclc.org or (617) 542-8010

Boston - The year-long moratoriums on foreclosures and legal actions in Puerto Rico due to Hurricane Maria are expiring. To address this potential foreclosure crisis, National Consumer Law Center staff attorneys Alys Cohen and Geoff Walsh traveled to San Juan to conduct a Foreclosure Prevention training on October 3, 2018. The day-long training was held at the San Juan Convention Center to accommodate over 200 legal services and pro bono attorneys in attendance as part of NCLC's Disaster Relief & Consumer Protection Project.

NCLC attorneys toured the area and met with Servicios Legales de Puerto Rico (SLPR), the largest legal services provider in Puerto Rico; and with the University of Puerto Rico School of Law's Consumer Legal Aid Clinic. SLPR and NCLC sponsored the training after NCLC began working with Servicios Legales and other Puerto Rico advocates following the hurricane last year. After the training, SLPR Executive Director Hadassa Santini Colberg sent a note to NCLC Executive Director Rich Dubois noting that the "training was deemed a success; all attendees expressed how valuable was the information and materials provided." And NCLC Of Counsel Tara Twomey "has been invaluable in helping our clients resolve complicated insurance and servicing issues," added SLPR Foreclosure Project Manager Rafael A. Rodríguez Roselló.

Additionally, NCLC has provided the two legal groups' free access to its legal manuals, disaster-focused written materials, and legal expertise in particular cases. According to Santini Colberg, "The access to NCLC legal treatises has been a valuable tool for our attorneys, offering them with most needed resources to effectively represent our low-income clients. Almost a hundred PRLS attorneys have already benefited from them. We look forward to more collaboration in the future."

Read the full letter.

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The Wrong Tool for the Wrong Purpose

Why the Credit Scoring Provision in the Immigration Public Charge Proposal Is Illogical and Ill-Advised

October 2018

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On October 10, 2018, the Department of Homeland Security (DHS) issued a proposed rule that would make it much harder for immigrants to obtain visas (including visas to study or work in the U.S.), to extend their visas, or to become lawful permanent residents (“green card holders”). The proposal greatly expands what will be considered in determining whether an immigrant would be considered a potential “public charge” and thus should be denied the visa or green card. The proposal marks a radically punitive departure from current policy for a number of reasons. For more about this proposal, see the website of the Protecting Immigrant Families campaign.

One of the factors that DHS proposes to use in the expanded public charge analysis is the immigrant’s credit report and credit score. This particular element of the proposed rule is ill-advised and illogical.

CREDIT REPORTS AND CREDIT SCORES ARE NOT DESIGNED FOR IMMIGRATION PURPOSES

Neither credit reports nor credit scores are designed to provide information on whether a consumer is likely to rely on public benefits. As the Consumer Financial Protection Bureau has explained, credit scores are specifically designed to measure the likelihood that a borrower will become 90 days late on a credit obligation. They are not designed for other purposes.

Credit scores are only partly based on his/her payment records. While 35% of a score is based on on-time payments, the rest of the score is based on factors such as having low balances on credit cards compared to the credit limit; how many years a consumer has had credit; and having a good “mix” of credit, including a mortgage. These are factors that disfavor consumers who are new to credit, such as young people *and immigrants*.

Credit reports and scores do not contain any information about the consumer’s earnings or other income. A consumer could have a substantial income and yet have a low credit score or negative marks on a credit report. Contrary to DHS’s assertion, credit reports do not include arrests or convictions, and recent changes by the credit bureaus have removed the vast majority of lawsuit records.

Using credit reports and credit scores is also a terrible idea given that more than half of the negative marks for debt collection on credit reports are for medical debts — one in five consumers with a credit report is impacted by this. Often these debts are not caused by inability to pay — the median medical debt is \$207. Instead, medical bills often end up in collection because of the dysfunctional healthcare system, which lead to delays and confusion. In turn, this dysfunction results in bills being sent to debt collectors who often automatically report the debts to credit bureaus.

CREDIT REPORTS AND SCORES ARE NOT A PROXY FOR CHARACTER

Credit reports and scores often do not reflect an individual's character or responsibility. A bad credit record is frequently the result of circumstances beyond a consumer's control, such as illness or job loss, from which the consumer may subsequently recover. Once the consumer has recovered from the event, there is no reason to assume on the basis of past delinquencies that they will be a public charge. And as discussed below, a consumer can have a low credit score simply because of not making use of credit.

IMMIGRANTS ARE UNLIKELY TO HAVE CREDIT HISTORIES AND CREDIT SCORES, OR THEIR SCORES ARE ARTIFICIALLY LOW

DHS's proposal will be unworkable for many immigrants because they may not even have a credit history or score for DHS to consider. The Consumer Financial Protection Bureau estimates that 26 million consumers in this country do not have a credit history, and that credit invisibility impacts recent immigrants.

Even when immigrants within the United States do have credit histories, their credit scores are actually artificially low. A Federal Reserve study found that immigrants' credit scores tend to be lower than what their actual repayment behavior on loans turns out to be, simply because they have not had enough time to build an extensive credit history in the United States.

CREDIT REPORTS SUFFER FROM UNACCEPTABLE RATES OF INACCURACY, ESPECIALLY FOR A PURPOSE AS IMPORTANT AS DETERMINING IMMIGRATION STATUS

The Federal Trade Commission, which conducted the definitive study on credit reporting errors, found that about 21% of consumers had verified errors in their credit reports, 13% had errors that affected their credit scores, and 5% had serious errors that would cause them to be denied or pay more for credit. These error levels are way too high for credit reports and scores to be used for a purpose as critical as immigration status. Denying 21% or even 5% of immigrants a visa or green card because of erroneous information is unconscionable.

DHS states it would not consider any error on a credit report, *but only if it has been verified by the credit bureau*. This does not adequately address the issue of excessively high errors in credit reports. Credit bureaus are notorious for obstinately refusing to correct errors after repeated disputes by consumers, even in the face of obvious evidence that information is inaccurate. And many immigrants will face significant barriers in knowledge, language, and resources that will prevent them from even submitting a dispute. They may not even be aware of what a credit report is, the contents of their credit report, or how to access their reports. Credit reports are not available in languages other than English, posing another barrier.

USE OF CREDIT SCORES WILL HAVE A DISPARATE IMPACT ON IMMIGRANTS OF COLOR

Credit reports and scores reflect stunning racial disparities. Study after study has found that African American and Latino communities have lower credit scores as a group than whites (and Asians, when the data is available). A list of these studies is available in NCLC's policy brief *Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination*, May, 2016. If DHS uses credit reports and scores, it will be making immigration decisions based on a factor that unequivocally and unfairly disfavor communities of color.

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