



May 19, 2017

Office of the Executive Secretary
Consumer Financial Protection Bureau
1275 First Street NE
Washington, DC 20002

On behalf of the Center for Data Innovation (datainnovation.org), we are pleased to submit these comments in response to the Consumer Financial Protection Bureau's (CFPB's) request for information on the use of alternative data and modeling techniques in the credit process.¹

The Center for Data Innovation is the leading think tank studying the intersection of data, technology, and public policy. With staff in Washington, DC and Brussels, the Center formulates and promotes pragmatic public policies designed to maximize the benefits of data-driven innovation in the public and private sectors. It educates policymakers and the public about the opportunities and challenges associated with data, as well as technology trends such as predictive analytics, open data, cloud computing, and the Internet of Things. The Center is a non-profit, non-partisan research institute affiliated with the Information Technology and Innovation Foundation.

The use of alternative data in the credit process could help make credit more accessible to the 45 million Americans unable to benefit from important financial services because they lack sufficient credit histories, as well as reduce bias in the credit process, and CFPB should encourage this practice.²

Please find our responses to the relevant questions in the attached document.

Sincerely,

Daniel Castro
Director

¹ "Requests for Information: Use of Alternative Data and Modeling Techniques in Credit Process," Federal Register, February 21, 2017, <https://www.regulations.gov/document?D=CFPB-2017-0005-0001>.

² Kenneth P. Brevoort, Phillip Grimm, and Michelle Kambara, "Data Point: Credit Invisibles" (Washington, DC: The Consumer Finance Protection Bureau Office of Research, May 2015), http://files.consumerfinance.gov/f/201505_cfpb_data-point-creditinvisibles.pdf.



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1. WHAT TYPES OF ALTERNATIVE DATA ARE USED IN DECISIONS IN THE CREDIT PROCESS? PLEASE DESCRIBE NOT ONLY THE BROAD CATEGORIES (E.G., CASHFLOW DATA) BUT ALSO THE SPECIFIC DATA ELEMENT OR VARIABLES USED (E.G., RENT OR TELEPHONE EXPENSE). THE QUESTIONS BELOW REFER BACK TO EACH TYPE OF ALTERNATIVE DATA LISTED IN RESPONSE TO THIS QUESTION.

Approximately 100 companies are exploring the use of alternative data sources in credit decisions.³ These data sources typically include rent payments and utility payments, such as cable, electric, and telephone bills. For example, the credit agency FICO launched FICO XD in April 2016 to generate credit scores using utility payment data for people unable to qualify for standard FICO scores due to a lack of traditional credit data.⁴ This approach shows the potential positive impact the use of alternative data sources has for increasing credit accessibility, as between 35 and 50 percent of credit card applications with FICO XD scores have a score of 620 or higher.⁵

B. PLEASE DESCRIBE ANY GOALS, OBJECTIVES, OR CHALLENGES THAT THE USE OF THIS TYPE OF ALTERNATIVE DATA IS DESIGNED TO ACCOMPLISH OR ADDRESS. FOR EXAMPLE, A CERTAIN TYPE OF DATA MIGHT BE USED IN ORDER TO PROVIDE A MORE TIMELY ASSESSMENT OF THE CONSUMER'S CURRENT INCOME WHILE ANOTHER TYPE OF DATA MIGHT BE USED TO MORE ACCURATELY PREDICT THE STABILITY OF FUTURE INCOME STREAMS. PLEASE DESCRIBE THE EXTENT TO WHICH USE OF ALTERNATIVE DATA HAS IN FACT ADVANCED OR ADDRESSED THESE GOALS, OBJECTIVES, OR CHALLENGES.

Approximately 45 million Americans are unable to get loans because the three major credit-reporting agencies, Equifax, Experian, and TransUnion, have either no credit data about them or an insufficient amount.⁶ Without sufficient data on a consumer's credit history, credit-reporting agencies are unable to generate a credit score. As a result, many Americans who are not a credit

³ Ann Carrns, "Little Credit History? Lenders Are Taking a New Look at You," *The New York Times*, February 21, 2017, <https://www.nytimes.com/2017/02/24/your-money/26money-adviser-credit-scores.html>

⁴ <https://blogs.wsj.com/moneybeat/2015/10/08/new-fico-score-may-have-wider-impact-than-first-thought/>

⁵ Ibid.

⁶ Kenneth P. Brevoort, Phillip Grimm, and Michelle Kambara, "Data Point: Credit Invisibles" (Washington, DC: The Consumer Finance Protection Bureau Office of Research, May 2015), http://files.consumerfinance.gov/f/201505_cfpb_data-point-creditinvisibles.pdf.



risk are unable to buy a home, start a new business, or qualify for student loans.⁷ In addition, many have to pay higher than average premiums on their health insurance and automobile insurance, and they have a higher likelihood of needing to use payday lenders, who charge exorbitantly high interest rates.⁸ Ultimately, these conditions impede the upward economic mobility of tens of millions of Americans, the vast majority of whom are young, raised in poverty, or immigrants.⁹ Through the use of alternative data sources, credit agencies could make credit more accessible to this large portion of the population.

Alternative data can also help reduce discrimination and bias in lending, making credit less accessible for minorities and low-income borrowers. Minority communities have traditionally been subject to credit discrimination that stems from segregation's legacy of housing discrimination and educational inequality.¹⁰ The Brookings Institute found that using alternative data would result in a 22 percent increase in credit eligibility for Hispanic borrowers, a 21 percent increase for African Americans, and a 14 percent increase for Asians.¹¹ Brookings also found that expanding alternative data availability would increase acceptance rate for potential borrowers with incomes between \$20,000 and \$30,000 by 13 percent.¹²

5. ARE THERE TYPES OF ALTERNATIVE DATA THAT HAVE BEEN EVALUATED BUT ARE NOT BEING USED IN DECISIONS IN THE CREDIT PROCESS? IF SO, PLEASE DESCRIBE AND EXPLAIN THE EVALUATION PROCESS AND OUTCOMES AND THE REASON(S) WHY THE ALTERNATIVE DATA ARE NOT BEING USED FOR THE PARTICULAR CREDIT-RELATED DECISION.

Credit-reporting agencies would be able to generate credit scores for more Americans if they had access to data about their on-time payments to nonfinancial service providers, such as landlords or telephone, cable, wireless, electric, and gas firms. Typically, telecoms and utilities only report

⁷ Keith Ellison and Mike Fitzpatrick, "Build Credit Scores Without Debt," *The Hill*, July 28, 2013, <http://thehill.com/blogs/congressblog/economy-a-budget/308215-build-credit-scores-without-debt>.

⁸ Brevoort, Grimm, and Kambara, "Data Point: Credit Invisibles." Consumer Financial Protection Bureau, May, 2015, http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf.

⁹ Ibid.

¹⁰ Sarah Ludwig, "Credit Scores in America perpetuate racial justice. Here's how," *The Guardian*, October 13, 2015, <https://www.theguardian.com/commentisfree/2015/oct/13/your-credit-score-is-racist-heres-why>.

¹¹ Michael A. Turner et al., "Give Credit Where Credit Is Due: Increasing Access to Affordable Mainstream Credit Using Alternative Data" (Political and Economic Research Council & The Brookings Institution Urban Markets Initiative, March 2006), http://www.perc.net/wp-content/uploads/2013/09/alt_data.pdf.

¹² Ibid.



information to credit agencies when consumers make late payments. Unfortunately, no law explicitly permits them to report on-time payment information, and this regulatory uncertainty prevents many from doing so.¹³ Moreover, federal privacy laws prevent landlords who use resources from the U.S. Department of Housing and Urban Development from reporting on-time rent payments to credit-reporting agencies without first obtaining consent, a requirement that interferes with adoption.¹⁴

18. THE ECOA AND REGULATION B PROHIBIT DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, MARITAL STATUS, AGE, THE FACT THAT ALL OR PART OF THE APPLICANT'S INCOME DERIVES FROM ANY PUBLIC ASSISTANCE PROGRAM, OR THE GOOD FAITH EXERCISE OF ANY RIGHT UNDER THE CONSUMER CREDIT PROTECTION ACT. EVIDENCE OF DISPARATE TREATMENT AND EVIDENCE OF DISPARATE IMPACT CAN BE USED TO SHOW DISCRIMINATION UNDER ECOA AND REGULATION B.

B. IN THE ABSENCE OF DATA ON APPLICANTS' ETHNICITY, RACE, SEX, OR OTHER PROHIBITED BASIS GROUP MEMBERSHIP, HOW PREVALENT IS THE PRACTICE OF PROXYING FOR THOSE CHARACTERISTICS IN ORDER TO TEST FOR POTENTIAL FAIR LENDING RISKS IN THE USE OF ALTERNATIVE DATA OR MODELING TECHNIQUES?

Just as alternative data can help reduce discrimination in the credit process, it can also help regulators such as CFPB better police against discriminatory practices. This opportunity is aptly demonstrated by the CFPB's December 2013 auto loan discrimination suit against Ally Financial, the largest such suit in history, in which data and algorithms played a critical role in identifying and combating racial bias.¹⁵

CFPB found that, from April 2011 to December 2013, Ally Financial had unfairly set higher interest rates on auto loans for 235,000 minority borrowers and ordered the company to pay out \$80 million in damages. But the investigation also posed an interesting challenge: Since creditors are generally prohibited from collecting data on an applicant's race, there was no hard

¹³ *Ibid.*

¹⁴ U.S. Department of Housing and Urban Development (HUD), "Enterprise Income Verification (EIV) System" (Washington, DC: HUD: March 8, 2013), <https://portal.hud.gov/hudportal/documents/huddoc?id=13-06hsgn.pdf>.

¹⁵ "CFPB and DOJ Order Ally to Pay \$80 Million to Consumers Harmed by Discriminatory Auto Loan Pricing," News Release, Consumer Financial Protection Bureau, December 20, 2013, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-doj-order-ally-to-pay-80-million-to-consumers-harmed-by-discriminatory-auto-loan-pricing/>.



evidence showing Ally had engaged in discriminatory practices.¹⁶ To piece together what really happened, CFPB used an algorithm to infer a borrower’s race based on other information in his or her loan application.¹⁷ Its analysis identified widespread overcharging of minority borrowers as a result of discriminatory interest rate markups at car dealerships—on average, African American, Hispanic, Asian, and Pacific Islander borrowers paid between \$200 and \$300 more than similarly situated white borrowers.¹⁸

¹⁶ “Using Publicly Available Information to Proxy for Unidentified Race and Ethnicity,” (Washington, DC: Consumer Financial Protection Bureau, 2017), http://files.consumerfinance.gov/f/201409_cfpb_report_proxy-methodology.pdf.

¹⁷ “Administrative Proceeding File No. 2013-CFPB-0010,” Consumer Financial Protection Bureau, December 20, 2013, http://files.consumerfinance.gov/f/201312_cfpb_consent-order_ally.pdf.

¹⁸ *Ibid.*