



# 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:

Shortly after Congress enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. 116-136, the Bureau issued a statement addressing consumer reporting and the CARES Act. What did that statement say?

## ANSWER (UPDATED 6/16/2020):

On April 1, 2020, the Bureau issued a [Statement on Supervisory and Enforcement Priorities Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act](#) (Statement). In the Statement, the Bureau informed furnishers of their responsibilities under the CARES Act amendments to the Fair Credit Reporting Act (FCRA) and stated that the Bureau expects furnishers to comply with the CARES Act. Under the CARES Act amendments to the FCRA, a consumer whose account was not previously delinquent is current on their loan if they have received an accommodation and make any payments the accommodation requires.

The Statement also addressed the FCRA requirements for consumer reporting agencies and furnishers to investigate disputes within specific timeframes. The Bureau indicated that in evaluating compliance with these dispute investigations timeframes, the Bureau will consider the individual circumstances that consumer reporting agencies and furnishers face as a result of the COVID-19 pandemic. The Statement makes clear, however, that the Bureau expects furnishers and consumer reporting agencies to make good faith efforts to investigate disputes

as quickly as possible, and that absent impediments due to COVID-19, disputes should be resolved under FCRA requirements.

**QUESTION 2:**

The CARES Act requires that furnishers must report as current certain accounts for consumers affected by the pandemic. What did the Bureau's Statement say about enforcement of this requirement?

**ANSWER (UPDATED 6/16/2020):**

As noted above, the Statement informed furnishers of their responsibilities under the CARES Act amendments to the FCRA and stated that the Bureau expects furnishers to comply with the CARES Act. The Bureau is enforcing the FCRA, as amended by the CARES Act, and its implementing regulation, Regulation V.

The Bureau is committed to protecting consumers, particularly during this pandemic. Since the Bureau's inception, it has dedicated significant resources toward enforcing the FCRA and Regulation V, through robust supervisory and enforcement actions at both consumer reporting agencies and furnishers. This work has continued as the Bureau evaluates specific risks to consumers as a result of the COVID-19 pandemic. The Bureau has focused on credit reporting accuracy and dispute handling – both obligations of consumer reporting agencies and furnishers.

The Bureau remains committed to vigorously enforcing all consumer financial protection laws under its jurisdiction, including the FCRA. As noted in the Bureau's Statement, the Bureau will consider the circumstances that entities face as a result of the COVID-19 pandemic and entities' good faith efforts to comply with statutory and regulatory obligations as soon as possible. The Bureau will, however, not hesitate to take public enforcement action when appropriate against companies or individuals that violate the FCRA or any other law under its jurisdiction.

**QUESTION 3:**

The FCRA requires furnishers and consumer reporting agencies to conduct investigations of disputes within specified timeframes. What did the Bureau's Statement say about citing or suing furnishers for violating the FCRA for failure to investigate disputes?

**ANSWER (UPDATED 6/16/2020):**

While the Bureau's Statement indicated that the Bureau would provide some flexibility in its supervisory and enforcement approach during the COVID-19 pandemic to help furnishers and consumer reporting agencies manage the challenges of the current crisis (see FAQ #1), the Statement did not say that the Bureau would give furnishers or consumer reporting agencies an unlimited time beyond the statutory deadlines to investigate disputes before the Bureau would take supervisory or enforcement action. Furnishers and consumer reporting agencies remain responsible for conducting reasonable investigations of consumer disputes in a timely fashion. The Statement makes clear that the Bureau expects furnishers and consumer reporting agencies to make good faith efforts to investigate disputes as quickly as possible when they are impacted by COVID-19. Furnishers include a wide variety of businesses that vary in size and sophistication and can range from small retailers to very large financial services firms. The Bureau has jurisdiction over the hundreds of consumer reporting agencies in operation, which include smaller and specialty consumer reporting agencies. Many of these furnishers and consumer reporting agencies face unique challenges due to the COVID-19 pandemic. Thus, the Bureau believes it is appropriate to evaluate individually the efforts and circumstances of each furnisher and consumer reporting agency in determining if it made good faith efforts to investigate disputes as quickly as possible.

**QUESTION 4:**

The CARES Act addresses accommodations to consumers impacted by COVID-19. What is an accommodation for purposes of the CARES Act amendments to the 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.<sup>1</sup> 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.<sup>2</sup> An accommodation includes assistance or relief that is granted voluntarily or pursuant to a statutory or regulatory requirement.

**QUESTION 5:**

Under the CARES Act, is there a requirement that furnishers provide accommodations to consumers impacted by the pandemic?

**ANSWER (UPDATED 6/16/2020):**

The CARES Act requires accommodations for two specific types of loans. First, consumers with a Federally backed mortgage loan (as that term is defined in the CARES Act) may obtain a forbearance from their mortgage servicer upon request and the borrower's attestation of a financial hardship due to the COVID-19 emergency.<sup>3</sup> Second, the CARES Act provides automatic suspension of principal and interest payments on Federally held student loans through September 30, 2020.<sup>4</sup> Even if accommodations are not required by the CARES Act or by other applicable law, the Bureau and other Federal and State agencies have encouraged financial institutions in prior [guidance](#) to work constructively with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of COVID-19.

**QUESTION 6:**

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

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<sup>1</sup> 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).

<sup>2</sup> *Id.*

<sup>3</sup> For more information on the CARES Act forbearance requirements for Federally backed mortgage loans, see prior Bureau [guidance](#) and [FAQs](#).

<sup>4</sup> For more information on the CARES Act requirement to suspend payments for Federally held student loans, see CARES Act, Pub. L. 116-136, section 3513.

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 7:**

**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.<sup>5</sup> To ensure compliance with these obligations, if furnishers are reporting

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<sup>5</sup> See FCRA section 623, 15 U.S.C. 1681s-2; 12 CFR part 1022, subpart E.

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 8:**

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 #3 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.

**QUESTION 9:**

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,<sup>6</sup> 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

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<sup>6</sup> See FCRA section 623, 15 U.S.C. 1681s-2; 12 CFR part 1022, subpart E.

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 10:**

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.