DISCREDITING AMERICA

THE URGENT NEED TO REFORM THE NATION'S CREDIT REPORTING INDUSTRY

by SHAWN FREMSTAD *and* AMY TRAUB

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Dēmos is a non-partisan public policy research and advocacy organization. Headquartered in New York City, Dēmos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy; a vibrant and inclusive democracy; an empowered public sector that works for the common good; and responsible U.S. engagement in an interdependent world. Dēmos was founded in 2000.

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Credit reports and scores have a direct and growing impact on Americans' economic security and opportunity. Having poor credit can mean a consumer will end up paying a higher interest rate for a loan or a higher premium for car or homeowner's insurance; have their application for a loan or insurance denied; be turned down for a job, or even be terminated from their current one. Credit history can affect the way Americans are treated by landlords, utility companies, and hospitals. Yet this report finds that today's credit reporting system falls short on basic goals of fairness and accuracy.

This report reveals the extent of credit information "mission creep," examines troubling shortcomings in the for-profit credit reporting industry, and recommends common sense steps to reform the credit reporting system.

MAIN FINDINGS

The credit reporting system falls short on basic goals of fairness and accuracy.

- Reports and scores exclude relevant information, include inaccurate information, and contain data about medical debt collections that reveal more about an individual's private health concerns than their overall credit worthiness.
    - Research suggests that more than 20 million Americans could have material errors on their credit reports.
- Credit reports largely mirror racial and economic divides, with African Americans and Latinos disproportionately likely to have lower scores. In turn, these communities are more likely to be offered high-priced loan products, which may contribute to more defaults, maintaining and amplifying historical injustice.
- Credit reports are composed exclusively of information about individual consumers, but consumers lack unrestricted access to relevant credit information and must often pay fees to obtain their own credit scores.

Credit reports and scores are experiencing "mission creep"—increasingly being used by insurance companies, employers, utilities and hospitals for a variety of economic decisions.

- Today 60 percent of employers use credit reports to evaluate job candidates, despite a lack of evidence showing that credit history correlates to job performance or likelihood to commit fraud.
- Utility companies are using credit reports to make sales and pricing decisions about basic services like heat, water and electricity.

- Home and car insurers charge more to those with low credit scores, claiming that people with poor credit are more likely to make an insurance claim. However, this propensity might reflect unfair factors such as race or income.
- Hospitals are expanding their use of credit data, raising concerns that vulnerable patients will be pressured to charge their bills to high-interest credit cards before they have a chance to apply for charity care.

DĒMOS OFFERS SPECIFIC RECOMMENDATIONS FOR REFORM

- Reduce the amount of erroneous information in credit reports and increase the transparency of credit reporting and scoring
- Eliminate information in reports that has little relevance to future likelihood to repay debt or that would further penalize individuals who have been victimized by unsafe financial products
- Rein in industry "mission creep" to ensure that Americans seeking employment, insurance, utility services or medical care are not unfairly penalized for their credit histories

Specific policy recommendations in each of these areas are detailed in the report's conclusion.

Introduction

Because of their central role in lending decisions and beyond, credit reports and scores have a direct impact on Americans' economic security and opportunity. The amount Americans pay for a car or home loan depends, often entirely, on their credit histories.[1] The rates for credit card and other installment debt are also determined by credit reports. And credit information is increasingly being used for a range of non-lending purposes as well: some utility companies use credit information to determine whether to require a security deposit, and landlords use them to decide who to rent to. Insurers now use credit scores to decide how much to charge for auto and homeowners' insurance, and hospitals have started to use credit scores and reports to determine whether to push incoming patients to pay for care with a credit card. Even further removed from its original lending purposes, credit information is now used by a majority of employers in some or all of their hiring decisions.

Credit reports and scores have become intricately linked to Americans' economic well-being just as Americans' credit quality has deteriorated. The financial crisis, and the predatory and often illegal lending practices that helped precipitate it, has had a particularly devastating impact on Americans' credit histories. The crisis has caused foreclosures to more than double, from 800,000 in 2006 to nearly 1.9 million in 2009, while seriously delinquent loan balances have more than quadrupled from about 2 percent in 2006 to more than 8 percent in 2009.[2] These and other results of the crisis have had a significant impact on Americans' credit reports and credit scores. According to the Fair Isaac Corporation (FICO) just over 25 percent of Americans had low credit scores in April 2010, compared to a historical average of 15 percent.[3]

While individuals and families did not cause the financial crisis, they have borne the brunt of it. To the extent that the impacts of the job and savings losses associated with the financial crisis—including foreclosures, late payments and other adverse financial impacts—are reflected in credit reports and scores, individuals and families will continue to pay for a crisis they didn't cause well into the future. Moreover, consumers ensnared by predatory lending practices were the most harmed; those who were "steered into overpriced and misleading credit products" marketed by a largely unregulated financial services industry had their credit damaged even further.[4]

To make matters worse, the credit report system has failed to meet basic standards of fairness and accuracy. Credit reports and scores are not always accurate and consumers have limited access to their own credit scores, often becoming aware of inaccuracies only after it's too late. Disputing information on a credit report is an overly burdensome process and information, such as medical debt, can be included in a credit report that has little relevance to an individual's ability to re-pay other types of loans.

Recognizing how important a fair and accurate system was to the economic health of the nation, Congress passed the Fair Credit Reporting Act (FCRA) in 1970 to create national credit reporting standards. The purpose of these standards was to ensure that credit reporting was done in a way that was “fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization” of credit information. The FCRA was updated in 1996 and in 2003 in a continuing effort to bring the credit reporting industry in line with these standards.

In response to the financial crisis, Congress acted again, enacting important and fairly comprehensive reforms of the financial system, including the 2009 Credit Card Accountability, Responsibility, and Disclosure (CARD) Act and the 2010 Wall Street Reform and Consumer Protection Act (Dodd-Frank). These reforms provide important new protections for consumers and establish a new watchdog agency, the Consumer Financial Protection Bureau (CFPB), which is empowered to protect consumers from unsafe and deceptive financial products. These new laws, however, do little to directly reform the credit reporting and credit scoring industry that the financial system relies on. Much will depend on how the CFPB uses its authority to regulate and supervise credit reporting companies.

This report argues that public standards for credit reporting need to be reformed to protect consumers and promote economic opportunity and security. We provide an overview of credit reports and scores and detail some overarching problems with the accuracy and fairness of the system. We then review the industry’s “mission creep”— how credit screening is now used by employers, utility companies, hospitals and other parties for non-lending decisions. The final section of the report outlines areas for reform, including:

- reducing the amount of erroneous information in credit reports and increasing the transparency of credit reporting and scoring for individuals;
- eliminating information in reports—even if technically accurate—that has little relevance to future likelihood to repay debt, or that would further penalize individuals who have been victimized by unsafe financial products; and
- reining in industry “mission creep” to ensure that Americans seeking employment, insurance, utility services, or medical care are not unfairly penalized for their credit histories.

Specific policy recommendations in each of these areas are detailed in the report’s conclusion.

As important as it is for consumers, an effective credit reporting system is also critical to banks and other lending institutions that form the central pillars of the American financial system. Access to credit history, as provided by a credit reporting system, allows lenders to assess consumers’ previous experience with various types of credit—including auto loans, mortgages and credit cards—helping them make profitable lending decisions. These institutions should be partners in the effort to reform credit reporting standards and ensure a fair system for all.

Background: The Credit Reporting Industry

Today's massive, for-profit credit reporting industry has its origins in the early 1900s in the United States.[5] In the early 20th century, the modern-day credit card and mortgage industries were essentially non-existent. Retailers provided the vast majority of credit at that time, and established local credit bureaus to pool and exchange credit information on their customers. These precursors of today's for-profit industry were generally non-profit or cooperative entities.

In the 1950s, this relatively fragmented and localized system began consolidating as larger agencies bought up smaller ones. During the same period, credit cards were introduced and began to replace the installment credit offered by retailers. The transformation of credit reporting from a largely cooperative service created and maintained by retailers to a for-profit commodity was driven both by technological and policy changes. Technological changes made it easier and cheaper to store massive amounts of consumer data. Policy changes, particularly the passage of the Fair Credit Reporting Act (FCRA) in 1970 and the Equal Credit Opportunity Act (ECOA) in the 1974, made the current credit reporting industry possible by providing a national framework for credit reporting.

Today, the credit reporting industry is controlled by three large global corporations: Equifax, Experian and TransUnion. These three corporations—commonly known as the "big three"—had combined revenues of more than $6.7 billion in 2009. Over the last several decades, their revenues have grown at "twice the increase in the overall economy and two-thirds faster than the rate of increase in outstanding consumer credit."[6] There are also a growing number of "specialty" consumer reporting agencies that operate on a nationwide basis—these agencies provide reports that relate to specific areas, including medical records or payments, residential or tenant history, and insurance claims.

While credit reporting in the United States is exclusively the province of private-sector corporations, this is not the case in many countries. According to the World Bank, at least 30 countries operate public credit registries, including seven nations in the European Union and 17 in Latin America and the Caribbean.[7] These public credit registries can often be more accurate than private credit reporting agencies, as they have both a legal right to the credit information from any financial intuition, and the legal mandate to ensure that information is accurate. They can also result in lower-cost or free credit reporting, as they are not-for-profit entities.

What Are Credit Reports?

The credit reports sold by the big three agencies include information voluntarily provided by creditors and debt-collection businesses, and information the agencies gather directly, typically from public records. The standard credit report on an individual sold by a big three agency includes personal identifying information (including Social Security Number and employment history), information on each credit account the individual has established, and a list of everyone who has accessed the individual's report within the last 24 months. It will also include information on bankruptcies, foreclosures, liens and similar public-record information.

Federal law regulates the circumstances under which a credit reporting agency may provide an individual's credit report to someone who requests it. However, these circumstances are quite broad and include "having a legitimate business need for the information."[8] For credit transactions under $150,000, federal law requires credit reporting agencies to remove most adverse financial information about an individual that is more than seven years old. Finally, FCRA gives individuals the right to obtain a free report from each of the big three agencies once every 12 months (and more frequently for a fee), and to be told if information in a credit report has been used against them. This includes notice when they receive credit on less favorable terms because of information in their report.

What Are Credit Scores?

Credit scores are distinct products from credit reports, although they are typically sold with reports. A credit score is a single number that is supposed to represent the likelihood that a borrower will make payments to a lender as agreed. Credit scores are generally calculated according to proprietary formulas that place different weight on the various pieces of information in someone's credit report. The methodology used to generate credit scores is vague, and the weights given to information can vary depending on how long an individual has been using credit.

Though there is no single methodology for producing credit scores, the Fair Isaac Corporation (FICO) score is by far the most common, capturing over 3/4 of the market for credit scores. FICO is not a credit reporting agency and generally doesn't sell its scores directly to lenders. Instead, it enters into agreements with the credit reporting agencies that allow them to sell scores using FICO's methodology. FICO then receives a royalty payment for each score sold.

In the early years of the credit scoring industry, scores were typically creditor specific and didn't necessarily reflect an individual's overall credit history. Usage of scores didn't become widespread until the 1970s when broader credit history data could be inexpensively accessed by lenders. In the 1990s, the use of credit scores spread to the mortgage lending and insurance industries.[9]

In addition to FICO, each of the big three credit reporting agencies produces and markets their own proprietary credit scores. The big three agencies have also recently joined together to develop a new score—known as the VantageScore—with the aim of reducing FICO's market share and the amount of royalties they pay to FICO. VantageScore has yet to be widely adopted by lenders and today captures less than ten percent of the credit scoring market.[10]

Each of the big three agencies also sell credit-scoring and reporting products that are tailored to particular industry uses, including insurance, health care and utilities. In addition, a growing number of smaller companies also sell reports targeted to specific users and purposes, including tenant histories, check writing histories, employment background checks and insurance claims.

The Accuracy, Fairness & Transparency of Credit Reports and Scores

With the widespread use of credit reports and scores for various types of decision-making, it is imperative that they are accurate and fair. Congress recognized the importance of a fair and accurate credit reporting system when it passed the FCRA in 1970. FCRA's purpose statement explains:

> *The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.*[11]

Some three decades after the adoption of the FCRA, the credit reporting system is still falling short of these basic goals of accuracy and fairness. Reports and scores exclude relevant information, include inaccurate information, or contain information about medical debt collections that reveal more about an individual's private health concerns than their credit worthiness. In many cases, credit scores are overwhelming correlated with identity: people of color and young people have lower credit scores than others, factors which may reflect difficult economic circumstances and in some cases, a legacy of racism, more than a borrower's ability to responsibly manage finances.

Finally, further complicating the goal of fairness is the lack of transparency in the credit reporting and scoring system: consumers must pay to access their actual credit scores, have limited information about how scores are calculated, and typically receive just one free credit report per year.

The Accuracy of Credit Report Information

If a big three agency includes erroneous information in your credit report—or fails to include accurate, positive information—the consequences can be severe. You might end up paying a higher interest rate for a loan or a higher premium for car or homeowner's insurance, having your application for a loan or insurance denied, or being turned down for a job, or even terminated from your current one. Given the size and revenues of the credit reporting industry, it is more than reasonable to expect their reports to have few or no errors. But, in fact, consumers find many errors in the big three agencies' reports.

A 2008 Federal Trade Commission (FTC)-sponsored pilot study found that about 31 percent of people who reviewed their credit report found errors that they wanted to dispute.[12] About 11 percent of people reported errors that were categorized by the FTC as "material", i.e. errors that significantly affected credit scores.[13] The FTC pilot study also provides evidence that individuals with lower credit scores are much more likely to allege errors after viewing their report. In particular, material errors were alleged in half of the cases with a credit score under 610 and one-third of cases with a score between 610-689.

The 2008 FTC pilot study is limited in scope and doesn't rely on a nationally representative sample. A 2011 study funded by the credit reporting industry and conducted by the Policy & Economic Research Council (PERC) was larger and more representative, finding that 19.2 percent of people who reviewed their credit reports identified information that appeared to be erroneous.[14] 12.1 percent reported apparent errors that could have a material impact—mistakes that go beyond a misspelled name or incorrect address.[15] While the researchers stress that not all consumers chose to dispute the errors they identified and that most information that was disputed did not lead to large changes in credit scores or in the study's risk tiers, the findings remain troubling. Like the FTC findings, PERC's study suggests that more than 20 million Americans could identify material errors in their credit reports.[16] Also similar to the FTC, PERC found that consumers with lower credit scores were more likely to identify apparent errors. These findings are consistent with earlier reports produced by consumer representatives finding a substantial level of error.[17]

Further comprehensive research is needed on the prevalence of inaccurate or missing information in credit reports. In recognition of this fact, starting in spring 2011, the Federal Trade Commission (FTC) will be fielding a large national study of credit report accuracy, one that will be methodologically superior to previous research. This study should provide the data necessary to make fairly precise estimates of the overall extent of errors in credit reports.

PERCENTAGE OF INDIVIDUALS AFFECTED BY SELECTED DATA PROBLEMS IN CREDIT REPORTS BY INCOME CLASS, 2004	LOW-OR MODERATE-INCOME	MIDDLE-INCOME	HIGH-INCOME
Failure to Eliminate Duplicate Collection Agency Accounts	2.3%	1.1%	0.6%
Reporting of Collection Agency Accounts Under $100	17.0%	11.1%	6.4%
Reporting of Medical Collection Accounts	22.8%	15.7%	9.3%
Potentially Misassigned Collections Accounts	11.6%	7.9%	6.1%

SOURCE: *Robert Avery, Paul S. Calem, and Glenn B. Canner, Credit Report Accuracy and Access to Credit, Federal Reserve Bulletin, Summer 2004.*

How do errors in credit reports affect borrowers? A 2004 study by researchers at the Federal Reserve analyzed 300,000 credit reports, cataloguing the types and frequency of various categories of negative information on the reports.[18] The researchers then simulated the effects of hypothetical errors by estimating how much each person's credit score would improve if the particular piece of negative information were found to be an error. They found that:

> *About one-third in the sample were affected by the failure to report a credit limit. If found to be an error and corrected, about two-thirds of those affected by this problem would see their credit scores increase, 13 percent by more than 10 points. About 15.5 percent of people in the sample were affected by reporting of medical collection accounts. If found to be an error and corrected, about 81 percent of those affected would see their credit scores increase, 32 percent by 10 points or more.*

Finally, much of the burden for ensuring credit-report accuracy falls on individuals. If an individual uncovers a potential error in their credit report at a particular agency, the agency must investigate the matter and report back to the consumer within 35 days. However, as a practical matter, disputing an error can be a time-consuming, nearly impossible three-party negotiation between the credit bureau, the creditor and the individual—a negotiation for which the outcome is ultimately controlled by the sometimes arbitrary decision of the agency. It's no wonder that in both the PERC and FTC studies, a significant portion of consumers who identified apparent errors in their credit reports chose not to follow through with the entire dispute resolution process. As Chi Chi Wu of the National Consumer Law Center has noted, agencies—which earn the lion's share of their profits from creditors rather than consumers—have little legal or financial incentive to conduct meaningful investigations of disputes and thus rely heavily on automated processes to resolve them.[19]

Racial and Economic Disparities in Credit Scores

Researchers at the Center for Economic Justice and National Consumer Law Center argue that "credit scoring has become the numerical expression of the racial economic divide and wealth gap in this country." There is indeed ample evidence that disparities in the credit reporting system mirror American society's larger racial and economic inequalities. As we discuss below, a large body of research indicates that Americans with low incomes, and especially African Americans and Latinos, are disproportionately likely to have low credit scores.

The poor credit histories of these communities parallel the higher rates of unemployment,[20] lower rates of health insurance coverage,[21] and lower amount of household wealth in communities of color.[22] To varying extents these disparities reflect a legacy of discrimination, including lending industry practices such as redlining and the aggressive marketing of subprime mortgages to people of color even those who could qualify for better rates.[23] Thus credit reporting frequently has the effect of perpetuating and amplifying historic injustices. This is especially true given the industry's drive to use credit information for an increasing range of decisions that impact Americans' economic well-being (see page 12 for more on "mission creep").

In a 2007 report, the Federal Reserve Board found that African-Americans and Hispanics had considerably lower credits scores than non-Hispanic whites, people living in low-income census tracts had lower scores than people living in higher-income ones, and young adults (under age 30) had lower scores than older adults.[24]

Similarly, a recent analysis of zip-code-level credit-score data for Illinois found sharp disparities in credit scores between predominantly white communities and those with higher levels of ethnic and racial minorities.[25] In areas with majority Latino populations, about 31 percent of people had credit scores below 620 (what the report characterized as a lower, "non-prime" score) compared to only 20 percent of people in Illinois as a whole. In areas with an African American population of 80 percent of more, more than half of adults had credit scores below 620. Other research has documented similar disparities in credit scores.[26]

Higher priced loan products may contribute to a higher rate of default among low-income and minority consumers than the default rate that would have occurred had they had access to more standardly priced product.

The increasing use of "risk-based pricing"—pricing credit products differently based on a consumer's credit history—means that low-income and minority consumers may have increased access to credit, but that access comes at a higher price. This higher pricing may by itself contribute to a higher rate of default among low-income and minority consumers than the default rate that would have occurred had they had access to more standardly priced product. If this is the case—and considerable evidence suggests that it is—then the disparities in credit scores are due not only to differences in credit risk, but to the products themselves.[27]

Further compounding the financial situation of many minority families is the problem of "thin" or limited credit histories. Individuals with thin or limited credit histories are often denied, or pay more, for credit. About 23 percent of credit records in the Fed's study had no credit scores, typically because they had too few active accounts to calculate a score. Latinos, African-Americans, young adults and people living in low-income areas were less likely to have scores than other groups.

Medical Debt and Credit Reporting Fairness

Federal law places few limits on what adverse financial information the credit reporting industry may include in the credit reports it sells. As noted above, the only significant limit is that most adverse information that is more than seven years old must be excluded from reports that are used for credit and insurance transactions involving less than $150,000. Though much of the adverse information included does predict future credit risk, some adverse information does not, and its inclusion runs counter to the purpose of credit reporting. Medical debt, most egregiously, has been flagged as likely unrelated to future credit risk, and its inclusion is particularly problematic.

THE IMPACT OF MEDICAL DEBT ON ECONOMIC SECURITY

According to the Commonwealth Fund, some 41 percent of working-age adults reported a problem paying their medical bills or had accrued medical debt in 2007. Some 16 percent reported having been contacted by a collection agency for unpaid medical bills in the year before they were surveyed. Similarly, recent research by Demos and the Access Project has shown how medical debt impacts families' overall levels of credit card debt. In 2008, more than half of low- and middle-income households with credit card debt said that medical expenses contributed to their debt, with the average debt attributed to medical expenses being just under $2,200.

SOURCES: *Michelle M. Doty, Sara R. Collins, Sheila D. Rustgi, and Jennifer L. Kriss, "Seeing Red: The Growing Burden of Medical Bills and Debt Faced by U.S. Families," Commonweatlh Fund, 2008; Cindy Zeldin and Mark Rukavina, "Borrowing to Stay Healthy: How Credit Card Debt is Related to Medical Expenses," Demos and The Access Project, 2007.*

Credit reports often include medical debt; credit scores typically reflect this debt in a way that lowers the credit scores of millions of Americans. While health care providers only rarely report the payment histories (positive or negative) of their patients to credit reporting agencies, debt collection agencies that are seeking to recover medical debts generally do report them in the same way as they do other collection accounts. Even when a medical collections debt is fully repaid, it can remain on an individual's credit report—and depress their credit score—for seven years.[28]

The number of Americans who are impacted by this practice is surprisingly high. Some 28 million working-age adults—about 16 percent of all working-age adults—were contacted by a collection agency for unpaid medical bills in 2007.[29] Similarly, the Federal Reserve study of credit report accuracy discussed above found that the credit reports of about 15.7 percent of middle-income people and nearly 23 percent of low-income people included collection accounts for medical debt.[30] The vast majority of these individuals had lower credit scores as a result. The most startling statistic is that Federal Reserve Board researchers found that 52 percent of all accounts reported by collection agencies consisted of medical debt.[31] Hospitals and doctors are major users of collection agencies.[32]

Medical debt suffers from a host of problems that make it unreliable as a predictor of one's likelihood to repay other debts. In their 2004 study, the Federal Reserve noted that even credit evaluators—the employees at banks and other lending institutions who evaluate applicants' reports for creditworthiness—have concerns about the appropriateness of including medical debt on credit reports because they "(1) are relatively more likely to be in dispute, (2) are inconsistently reported,

(3) may be of questionable value in predicting future payment performance, or (4) raise issues of rights to privacy and fair treatment of the disabled or ill."

The reporting of medical debt also raises serious fairness issues. People who lack health insurance or are underinsured (those who have high out-of-pocket medical expenses or deductibles relative to their income) are much more likely to have medical debts in collection.[33] The uninsured and some of the underinsured are commonly charged more for health care by doctors and hospitals than the amounts paid by insurance companies on behalf of insured patients for the same services. According to Families USA, uninsured patients are charged as much as to 40 to 60 percent more than the rate insurance companies are able to negotiate for the same medical services.[34]

Problems with Transparency in Credit Reports and Scores

Credit reports are composed exclusively of information about individual consumers, but consumers lack unrestricted access to relevant credit information and must often pay fees to obtain their own credit scores. Even then, consumers may not have access to the actual score lenders, insurers and other users of credit data used to make decisions.

A MARYLAND STORY

In 2009: my marriage abruptly fell to pieces. While separated, yet still legally married, my financial well-being was tied to the actions of someone over whom I had no control or influence. I am financially conservative and have always paid my bills and mortgage on time. After I moved out of our home and rented a modest apartment with my three-year-old daughter, however, I was shocked beyond words to discover that my estranged husband had withdrawn advance mortgage payments that I had made and deposited them into a private account to which I did not have access. Because he took that money, our home went into foreclosure... Then last year I applied for a management position for which I was well qualified. I was asked to fill out forms so that this potential employer could look at my credit history. I was mortified... As it turned out, I did not get an offer for permanent employment.

— Anonymous, Maryland

Federal law gives consumers the right to obtain a free copy of their credit report from each of the big three agencies once every 12 months. Consumers generally need to pay an additional fee if they want to obtain their reports more frequently.

Consumers' access to their credit scores is even more limited. Unlike credit reports, consumers have no right to obtain their scores for free once a year. Instead, consumers must purchase their credit scores from each agency (the typical fee is around $8 per agency). An exception to this general rule is that mortgage lenders who review credit scores as part of applications for particular types of loans are required to disclose scores and information about them for free.[35]

A related issue is that the credit scores that the big three agencies sell to consumers are not necessarily the same as those they provide to lenders. Under current law, the big three agencies can sell "educational scores," ones that "approximate scores used by lenders, but which can differ significantly."[36] However, the Dodd-Frank financial reform law added a new requirement for users of credit scores to disclose the score they relied upon in adverse action and risk-based pricing notices. The financial reform law also includes a provision that requires the new CFPB to conduct a study of this issue and report back to Congress by July 21, 2011.

Credit Reporting Industry "Mission Creep"

ONCE EXCLUSIVELY USED BY LENDING INSTITUTIONS TO ASSESS RETAIL CREDIT RISK, credit reports and scores are now being used in a variety of ways that are either unrelated to lending, including insurance and employment, or only loosely related to standard lending, including the provision of essential utility and medical services.[37] Basic federal standards for credit reporting and scoring have not kept pace with this "mission creep," although some state policymakers have been more vigilant. The largely unregulated use of credit information in each of these cases is incredibly problematic and needs to be reined in.

Auto and Homeowners' Insurance

Insurers started using credit scores in the 1990s to decide whether to provide auto and homeowners' insurance and at what price. As with mortgage lending, the use of credit scores spread quickly through the industry. An industry study conducted in the early 2000s found that 92 of 100 auto insurers surveyed used credit scores.[38] As a result, consumers with low credit scores can end up paying hundreds and even thousands of dollars more per year for insurance.

Insurers justify the use of credit scoring for insurance purposes by pointing to industry data showing that, on average, people with lower scores are more likely to make an insurance claim.[39] However, there are multiple problems with the research conducted to date on the relationship between credit scores and insurance claims. First, as stated above, the research the insurance industry depends on to demonstrate a correlation between credit scores and loss experience was conducted by the industry itself, not by an independent, disinterested third party, and the data used in these studies have not been provided to the public, making it impossible for the results to be verified. Second, even if the research is indeed sound, the industry has not been able to provide an explanation for why consumers with lower credit scores have higher loss experiences. Accordingly, the industry has not been able to rule out the fact that this correlation is the result of "a factor that is not the fault of the consumer, or a factor that we as a society would want to ban as a justification for provision of service—such as race or income."[40]

If a correlation does indeed exist between credit scores and loss experience, consumer advocates point out that this may be due to disparities in wealth between individuals with high credit scores and those with lower scores. Research has shown that upper income consumers have higher credit scores than low-and moderate-income consumers.[41] Accordingly, as Chi Chi Wu of the National Consumer Law Project, and Birny Birnbaum of the Center for Economic Justice, point out in their report on this issue:

> *Consumers with lower incomes and lower scores simply may have fewer financial resources, and thus be more likely to file a claim rather than "eating" the loss. For example, a Texas study found that while credit scores were related to loss experience, the correlation was due to a higher frequency of claims for low scorers, not a greater dollar amount per claim. This suggests that to the extent there is a correlation, it is because low scoring consumers are more likely to file claims, not because they actually sustain greater losses.*[42]

Even research conducted by the federal government has been problematic. The Fair and Accurate Credit Transactions Act (FACT) of 2003 required the FTC to study the use of credit scores by auto and homeowners insurers. In 2007, they issued their report on auto insurance. However, the accuracy of the report has been questioned by consumer advocates and even one of the FTC commissioners, who claimed it relied on data that was not demographically representative and had been previously used in an industry-sponsored report.[43] While the FTC report found a correlation between credit scores and claims risk, it also concluded that the use of credit scoring likely results in higher insurance costs for African Americans and Latinos.

Several states prohibit the use of credit scores for insurance purposes. Massachusetts and California ban the use of scores for auto insurance, and Hawaii bans it for both auto and homeowners' insurance. Several other states have limited their use of scores in significant ways, including Indiana (prohibiting the use of late medical payments as a factor in scores used by insurance companies), Minnesota (requiring insurers to provide an exception for illness and unemployment, and imposing certain other limits), and Oregon (prohibiting premiums increases when a score declines).

Employment

Recent press accounts have documented the dramatically increasing use of consumer credit reports by employers in hiring and other employment decisions.[44] The most recent employer survey conducted by the Society of Human Resources Management (SHRM) found that 6 out of every 10 employers surveyed conduct credit checks when hiring some or all of their new employees.[45] This widespread use is particularly troubling given that there is no rigorous evidence that credit checks have any validity in predicting job performance. Moreover, the Equal Employment Opportunity Commission has repeatedly warned that the practice produces discriminatory hiring and firing decisions that violate federal civil rights and deny equal opportunity to workers.

Employers who use credit checks typically argue that they are necessary to determine which applicant is "the best fit for the job" and also to protect against employee fraud.[46] However, according to Dr. Richard Tonowski, the Chief Psychologist for the

DAN'S STORY

I was laid off on July 9th, 2008 and did not find work again until July 29, 2009 and I applied for over two hundred positions during that time… These people chased me, emailed me almost daily, sent me test after test after test and according to them I'd aced everything. "We think you're heading to the top of this organization! One little thing we have to do, and this won't bother you in the least… just a credit check." And I laughed. I said, "What do you think happens to your credit when you earn zero money for eight or nine months?" …Good people are being ground into dust who have worked hard all their lives, bought into the American Dream. Some of us are veterans… But you turn us down for a job because of a credit rating…

—Dan Denton, California

Equal Employment Opportunities Commission, there is "very little evidence that credit history is indicative of who can do the job better" and it is "hard to establish a predictive relationship between credit and crime."[47]

Some representatives of credit reporting agencies have acknowledged the lack of evidence showing a relationship between credit-report data and job performance. Most notably, Eric Rosenberg, TransUnion's Director of State Governmental Relations, acknowledged earlier this year that: "…we don't have any research to show any statistical correlation between what's in somebody's credit report and their job performance or their likelihood to commit fraud."[48]

The one rigorous study of the use of credit checks for employment purposes conducted to date by qualified experts found that credit history information does not accurately measure job performance. In this study, conducted at the request of and funded by a large employer, Professors Jerry Palmer and Laura Koppes of Eastern Kentucky University sampled 178 employees, split between active and terminated, holding "financial services and collections" jobs with the employer.[49] Palmer and Koppes compared each of the specific categories of credit information in the employees' credit reports—for example, the number of past-due accounts in an employee's report—with the performance ratings (of the active employees) and termination data. The study found no relationship between the various indicators of poor credit and the performance ratings of active employees or whether or not the employee was terminated.

Despite the growing use of pre-employment credit screening, credit checks may represent an unrecognized legal liability for employers. For example, the Department of Labor won a case in 2010 against Bank of America in which the bank was found to have discriminated against African-Americans by using credit checks to hire entry-level employees.[50] A significantly higher proportion of African-American candidates (11.5 percent) were excluded because of the credit check than white candidates (6.6 percent). Other suits, including a high-profile case against Kaplan Higher Education Corporation for discrimination against African-American job applicants through the use of credit history, are pending.[51]

In general, civil rights law mandates that employers justify the appropriateness of an employment practice if it creates such a disparate impact on a group historically subject to workplace discrimination. The potential for discrimination is compounded by the fact that there are no standard metrics for employers to evaluate credit reports—leaving decisions open to individual discretion and potential bias.

Beyond the legal issues, denying employment opportunities to people who have poor credit, but may otherwise be qualified for a job raises serious moral and ethical questions. As one advocate for reform puts it, "Many job seekers across the county are caught in a Catch-22: they're behind on their bills because they don't have a job, but they can't get a job because they're behind on their bills."[52] In addition, this practice threatens to compound the abuses of the subprime lending era in which borrowers of color were targeted and steered into less-affordable loans. Consumers who have tarnished credit histories as the result of subprime loan products are now being forced to pay dearly, for many years to come, for the unethical and deceitful practices of others.

Public leaders around the country are recognizing that laws should be enacted to limit this practice. Five states—Hawaii, Illinois, Oregon, Washington and Maryland— have enacted legislation restricting the use of credit reports for employment purposes and 22 other states, including New York, California and Connecticut, are considering such legislation this legislative session.[53]

DEBRA'S STORY

I am an honest and hard-working person who has no criminal record, and whose credit problems stem almost entirely from medical debt. Twice in the last few years I was told that my credit was the reason I would not be hired. I worked as a temporary employee at a company for two years as a reimbursement representative. Around a year after my assignment ended, I was contacted by an employment agency which had viewed my resume online and I was asked to reapply for the same position at the same company. After going through the process, I was elated to receive a job offer, and later that day I was emailed a hire letter, start date and salary confirmation. However, a couple days later I received a call from the agency stating that the job now required a credit check… which caused the offer to be retracted, despite the fact that I had already performed the exact job and had consistently received high praise for my work.

—Debra Banks, California

Utilities

Basic utility services are necessary for survival. The essential nature of services like heat, water, electricity and the telephone requires treating them differently from more discretionary items like credit cards and installment credit. Yet credit history is increasingly being used to make sales and pricing decisions about these necessities as well. There is good reason to be concerned that the use of credit scoring may act as a barrier to obtaining essential utility services for low-income customers who cannot afford to pay a deposit.

Many utility companies base service and deposit decisions on utility-payment histories provided by the National Consumer Telecom and Utilities Exchange (NCTUE), which is essentially a utility-specific credit reporting agency operated by Equifax. Although NCTUE is basically a specialized credit reporting agency, few consumers applying for utility services are likely to even know that they have a NCTUE file that will be checked by the utility. Unlike other credit reporting agencies, NCTUE does not clearly provide individuals with a free copy of their reports upon request. Moreover, in recent Congressional testimony, privacy expert Evan Hendricks noted that "it is not clear whether [utility companies using NCTUE reports are] providing 'adverse action' notices [required by the Fair Credit Reporting Act] to consumers so they'd know they were negatively affected by a NCTUE report."[54]

In addition, some utility companies use credit reports and credit scores (ones not limited to utility payment histories) to decide whether to require a security deposit—and the amount of the deposit—from applicants for services. Some notable examples of the usage or attempted usage of credit information by utilities include the following:

- In 2000, the Pennsylvania Public Utilities Commission (PUC) approved requests made by several utility companies to operate pilot programs that used credit scores to determine deposits for new applicants.[55] In approving these requests, the PUC waived a state regulation that required utilities to base deposit decisions solely on utility payment history. In 2004, the Pennsylvania enacted a new state law that authorizes the use of credit scores by utilities for deposit purposes.[56]
- In 2003, several major utility companies in Illinois petitioned the Illinois Commerce Commission (state PUC) for approval to use credit scores in deciding whether to require deposits from new applicants. The request was approved with some limitations.[57]
- In 2004, TXU Energy, the largest retail electrical provider in Texas, announced that it would charge differential rates based on customer's credit scores. After the Texas PUC intervened, the practice was discontinued.[58] In 2009, the Texas PUC adopted rules that prohibited the use of credit scores in determining rates.[59]

A few states—including Idaho, Minnesota and Vermont—explicitly prohibit the use of credit scores to determine utility security deposits. A substantial number of other states have utility regulations that limit deposit requirements to cases where there has been past non-payment of utilities or a lack of a satisfactory history of utility payment. These regulations should effectively prohibit the use of credit scores (unless limited to utility-specific information).

Hospital and Other Medical Services

Health care providers have recently started using credit reports and scores to determine how to approach patients about payment for medical services. According to a 2008 investigation conducted by Consumer Reports, "hospitals increasingly are checking patients' credit reports or using scoring that rates ability to pay."[60] The danger is that patients will be pressured into paying their medical bill up-front with

PRESSURED TO "CHARGE" EMERGENCY TREATMENT, FAMILY PAYS 30 PERCENT INTEREST FOR CARE

From "Hospitals Check Credit Reports", Consumer Reports, July 2008

The pressure to "charge it" can come when you're most vulnerable, as James Wilkerson of Petersburg, Va., discovered after he was rushed to an emergency room by ambulance in January 2007, when he nearly died of complications from chemotherapy for lymphoma. Wilkerson says he was placed in financial peril when the ambulance took him to Southside Regional Medical Center, a for-profit hospital, rather than to a nonprofit hospital where his expenses had been fully covered by the hospital's charity program. Since being diagnosed with cancer in late 2006, Wilkerson has been too ill to work, and his wife, Terri, has to cover living costs for the couple and their two children on her $18,000 income from a job with the American Legion.

Wilkerson says after he returned home, hospital representatives began calling several times a week about the $28,000 bill for his four-day stay. He says they did not discuss whether he qualified for the hospital's charity-care program or offer to negotiate a reasonable monthly payment plan. The hospital obtained a copy of Wilkerson's credit report, which showed he had a Chase card he had forgotten about with available credit of $13,000. "I didn't even know we had it because we usually throw away all of the credit card offers we get in the mail, but the people from the hospital were threatening to put a lien against our home or freeze our bank account if we didn't agree to use the card for the hospital bill," he says. The couple agreed to charge $13,000 on the card, which the hospital accepted as payment in full. They made the first two months' payments of about $260 but could not keep up and sought legal help.

"I've been doing legal aid work for 20 years and I've never seen anything like this," says Dale Pittman, their attorney. "This is a couple with a good credit history, raising two kids and dealing with a devastating illness, yet still managing to hold it together until the hospital puts the wolf at their door by pushing them into a credit card with predatory terms." The credit card's annual percentage rate is up to 29.99 percent, and late fees of $39 are charged for each month they miss a payment while Pittman attempts to negotiate with the hospital and Chase.

high-interest credit cards rather than having the opportunity to negotiate payments or receive treatment through charitable care programs.

Equifax, one of the big three credit reporting agencies, sells a "Payment Predictor" score that is based on patients' credit history and hospital payment records. Other companies have also entered into the health care arena. A story in the Wall Street Journal notes that "SearchAmerica Inc. … mines credit bureaus for data on behalf of its hospital clients, which it says have doubled in number to 900 since 2005." Meanwhile Tenet Healthcare, a for-profit hospital chain, recently joined with FICO and a venture-capital firm to fund "Healthcare Analytics Inc. [a company] that is assembling bill-collection data from hospitals to develop methods for predicting patients' payment habits."[61]

As hospitals and medical providers have recently enacted this practice, limited information is available about its prevalence and impact. One concern is that hospitals will use credit history data—including information about the amount of credit patients have available on credit cards—to pressure patients to charge their bills to high-interest credit cards before or shortly after they receive treatment. The Consumer Reports article documents this happening at a Virginia hospital (see text box below). As they note, in addition to being an extremely costly form of financing, when a patient charges a hospital debt they "lose leverage to negotiate payments directly with health-care providers, who may charge self-paying patients up to five times more."[62]

Policy Recommendations

The basic standards for credit reporting and scoring have not kept up with changes in the credit reporting industry and the markets for reports. Recent federal reforms of the financial system have given the newly created Consumer Financial Protection Bureau (CFPB) the power to not only enforce the Fair Credit Reporting Act but also write regulations and supervise major financial institutions, including the large credit reporting agencies. Many of our recommendations focus on how the CFPB should use its authority.

This section details reforms that federal and state governments should make in three major areas: 1) reducing the amount of erroneous information in credit reports and increasing the transparency of credit reporting and scoring; 2) eliminating information in reports—even if technically accurate—that has little relevance to future likelihood to repay debt; and 3) reining in the growing use of credit reports and scores for purposes—including employment, insurance, health care and utility services—that go far beyond determining an individual's likelihood to repay credit cards and other installment debt.

1. Reducing Credit Industry Errors and Increasing Industry Transparency

If a credit agency includes erroneous information in a credit report—or fails to include accurate, positive information—the consequences can be severe. One might end up paying a higher interest rate for a loan or a higher premium for car or homeowner's insurance, having an application for a loan or insurance denied, or being turned down for a job, or even terminated from a current one. Given the size and revenues of the credit reporting industry, it is more than reasonable to expect their reports to have few or no errors. But, in fact, as outlined above, errors and omissions are commonplace.

In addition, transparency around credit scores and reports is too limited. Federal law gives individuals the right to obtain a free copy of their credit reports once every 12 months, but most lenders base their decisions primarily on credit scores, which individuals currently have no similar right to obtain for free. With credit reports and scores playing such a significant role in the lives of consumers, increasing access to individual credit reports and scores is imperative.

On the next page are recommendations for reducing the error rates and increasing access to credit reports and scores:

THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

In response to the ongoing economic crisis, in 2010, President Obama signed into law comprehensive legislation to curb the risky trading and predatory lending that led to devastating rates of foreclosures, unemployment and bank failures. A cornerstone of the new law was the creation of the Consumer Financial Protection Bureau (CFPB), which will bring the consumer protection functions of seven federal agencies under one roof and for the first time place household economic security on par with bank safety and soundness.

As the new agency takes shape, regulators are tasked with writing new regulations governing the oversight of banks and non-bank financial institutions, identifying deceptive lending practices, and prescribing fair disclosures for financial products.

- The new Consumer Finance Protection Bureau (CFPB) (see text box) should audit the three major credit reporting agencies and publish an annual rating.
- Federal legislation should be passed providing individuals with the right to obtain free annual disclosure of their actual credit scores (as they can currently access their credit reports) including specialty scores used to make decisions about insurance, healthcare and other services.
- Following the denial or increase in price or any credit product or other service for which a credit report is used, consumers should automatically receive the actual credit report and score used to make the adverse decision.
- The CFPB should require that the credit scores provided to individuals by credit reporting agencies are the same credit scores sold by the agencies to lenders.
- The CFPB should require credit reporting agencies to meaningfully review and evaluate disputes by consumers, and provide a meaningful review process to individuals who have had their disputes denied.[63]

2. ESTABLISHING FAIR AND SENSIBLE LIMITS ON NEGATIVE INFORMATION INCLUDED IN CREDIT REPORTS

Federal law places few limits on what adverse financial information the credit reporting industry may include in the credit reports it sells. As outlined above, certain types of debt—particularly medical debt—are unreliable as predictors of creditworthiness. In addition, American families are being forced to bear the brunt of a financial crisis they didn't create as resulting job losses and foreclosures continue to negatively impact their credit reports and scores.

Below are recommendations for needed reforms to establish fair and sensible limits on negative information included in credit reports:

- The CFPB should establish overall standards to ensure credit scores are fair and predictive.
- The CFPB should develop rules that standardize the reporting of adverse information by collection agencies to reduce inconsistencies and duplication. Disputed accounts should be excluded from reports and scores, or marked as "disputed" along with an alternate score without the disputed information.
- Medical debt—including debt turned over to collection agencies—should be excluded from credit reports.
- Given the magnitude of the current recession, federal legislation should be passed to shorten the reporting period, on a temporary basis, from seven years to three years for adverse financial information that is included in a credit report for credit transactions that are under $150,000, and for all reports used for insurance, employment and non-lending purposes.
- The CFPB should develop standards for the reporting of defaults on financial products they deem to be "unsafe," such as extremely high-interest loans. If defaults on unsafe products are not predictive of future payment risks for safe products, they should be excluded from credit reports.
- Lenders should increase their use of manual underwriting and other processes to identify borrowers who are more likely to repay a loan than their credit score would suggest.

3. REINING IN INDUSTRY "MISSION CREEP"

Once exclusively used by lending institutions to assess retail credit risk, credit reports and scores are now being used in a variety of ways that are either unrelated to lending, including insurance and employment, or only loosely related to standard lending, including the provision of essential utility services and medical services.[64] Basic federal standards for credit reporting and scoring have not kept pace with this "mission creep," although some state policymakers have been more vigilant.

Below are recommendations for reforms to rein in the use of credit screening for non-lending purposes:

EMPLOYMENT

There is little or no evidence that information in credit reports has any validity in predicting job performance. Moreover, the Equal Employment Opportunity Commission has warned that using credit reports produces discriminatory hiring and firing decisions that violate federal civil rights laws.

- Federal legislation should be passed to prohibit the use of credit reports in hiring and firing decisions, except in specific job categories where the Department of Labor, or some other federal regulatory agency, has determined through publicly-available research that credit history is a meaningful predictor of job performance for that specific position, and there are no satisfactory, less discriminatory alternatives.
- Absent federal legislation, cities, states and the federal government should take immediate steps to limit the use of credit history by employers:
    - The Equal Employment Opportunity Commission (EEOC) should issue formal guidance that limits the use of credit history by employers to jobs for which there is clear evidence that credit history is meaningfully predictive of job performance, and no other satisfactory alternative is available.
    - State legislatures should enact legislation to restrict the use of credit history for employment purposes.[65]
    - States and cities should restrict the circumstances under which they conduct credit checks as part of the hiring or promotion process for their own employees.
    - The federal government should use its administrative powers to prohibit the use of credit reports for employment purposes by both federal employers and federal contractors.

HOMEOWNERS AND CAR INSURANCE

The use of credit scores by insurers to set premiums for car and homeowners insurance has spread quickly since the 1990s. As a result, consumers with low credit scores are paying hundreds and even thousands of dollars more per year for insurance. While more reliable research is needed to examine the link between low credit scores and claims risk, as outlined above, it is clear that the use of credit scores by insurers is having a disparate impact on African American, Latino and low-income consumers who are being forced to pay higher insurance costs due to lower credit scores.

- State legislatures should prohibit the use of credit scores by insurers.
- Absent state legislation to prohibit the use of credit scores by insurers, states should adopt policies that minimize the adverse impact on low-income people and minority groups, and restrict the use of medical debt in credit scores used by insurers.[66]

UTILITIES

Many utility companies base service and deposit decisions on utility-payment histories provided by the National Consumer Telecom and Utilities Exchange (NCTUE), which is essentially a utility-specific credit reporting agency operated by Equifax. In addition, some utility companies use credit reports and credit scores (ones not limited to utility payment histories) to decide whether to require a security deposit—and the amount of the deposit—from applicants for services. The essential nature of utility services like heat, water, electricity and the telephone requires treating them differently from more discretionary items like credit cards and installment credit. There is good reason to be concerned that the use of credit scoring may act as a barrier to obtaining essential utility services for low-income customers who cannot afford to pay a deposit.

- The CFPB should enforce FCRA provisions requiring the NCTUE to provide individuals with free access to their utility credit files and give them the opportunity to correct errors before being denied service or required to pay a deposit.
- States should prohibit the use of credit scores by utility companies. Deposit requirements should be limited to cases where there has been past non-payment of utilities, and, even then, should be designed in ways that do not unduly impair low-income people's access to essential services.

HEALTH CARE

According to a 2008 investigation conducted by Consumer Reports, "hospitals increasingly are checking patients' credit reports or using scoring that rates ability to pay." One concern this raises is that credit history data—including the amount of credit patients have available on their credit cards—will be used to pressure patients to charge their bills before or shortly after they receive treatment.

- Medical providers and hospitals should not be allowed to obtain the amounts of patients' available credit on credit cards from credit reporting agencies.
- The CFPB, in conjunction with the FTC and the U.S. Department of Health and Human Services, should study the use of credit history by medical services providers and the recent development of new "medical credit scores" and recommend additional standards for their use.

Conclusion

America deserves a credit reporting system that will promote genuine economic opportunity and security for all its citizens. Erroneous and incomplete credit reports and scores; a reporting industry that lacks transparency and puts barriers in the way of consumers seeking information about their own reports; and a system that reflects and reproduces racial and economic inequalities rather than indicating genuine credit worthiness take us, as a nation, farther from these goals. As credit reports and scores are increasingly adopted for more uses—from employment to hospital billing—that go far beyond their original purpose, we must establish common sense standards to ensure that credit history is compiled, reported and used fairly. Given the rapidly growing impact of credit reporting on Americans' economic security and opportunity, reform must be an urgent priority.

ENDNOTES

1. For example, credit scores largely determine the interest rate homebuyers will pay for a mortgage. Borrowers with scores at the bottom end of Fannie Mae's acceptable range will typically pay about $2,000 more annually for the same $175,000 mortgage than those with scores near the top of the range according to Demos calculation of annual costs of a 30-year, $175,000 mortgage based on FICO scores (630 vs. 800) and APRs as of November 2010 at http://www.myfico.com/HelpCenter/FICOScores/. Similarly, the lower one's score, the more one will typically pay for credit card and other installment debt.
2. Federal Reserve Bank of New York, Quarterly Report on Household Debt and Credit, November 2010.
3. Shan Li, Credit Scores Sink to New Lows, Los Angeles Times, July 12, 2010, http://articles.latimes.com/2010/jul/12/business/la-fi-credit-scores-20100712
4. Oren Bar-Gill and Elizabeth Warren, Marking Credit Safer, University of Pennsylvania Law Review, November 2008.
5. For more on the history of credit reporting, see Robert M. Hunt, A Century of Consumer Credit Reporting in America, Federal Reserve Bank of Philadelphia, June 2005; Mark Furletti, Overview and History of Credit Reporting, Federal Reserve Bank of Philadelphia, June 2002.
6. Hunt (2005) p 16.
7. Margaret Miller, Credit Reporting Systems Around the Globe: The State of the Art in Public and Private Credit Registries, World Bank, June 2000.
8. Section 604(a) of FCRA; 15 U.S.C. §1681b.
9. John W. Straka, A Shift in the Mortgage Landscape: The 1990s Move to Automated Credit Evaluations, Journal of Housing Research, Vol. 11, Issue 2 (2000).
10. In 2006, FICO sued VantageScore and the big-agencies alleging that the development of VantageScore violated antitrust, trademark and other laws. A federal district court ruled against FICO on most of its claims in 2009.
11. Section 602(a) of the Fair Credit Reporting Act; 15 U.S.C. § 1681(a).
12. Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003* (December 23, 2008). http://www.ftc.gov/os/2008/12/P044804factarptcongress.pdf
13. The FTC used a limited definition of materiality (certain types of errors in reports of people with credit scores below 760) that likely excludes errors that are material in the employment context where it is the specific pieces of information in the report, and not credit scores (which generally are not available to employers) that can have an adverse impact. Even for employees with scores above 760, a single error could result in denial of a job offer.
14. Michael A. Turner, Robin Varghese, and Patrick D. Walker, "U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts," Policy & Economic Research Council, May 2011.
15. Consumer advocates point out that these so-called "header" errors, in which the identifying information about consumers is incorrect, can mask more serious problems, leading to a mix-up of different consumers' credit files in a creditors' version of the report.
16. Demos calculations based on 12.1 percent tradeline errors identified by consumers extrapolated to 200 million credit files.
17. See Chi Chi Wu, Testimony before the U.S. House Committee on Financial Services, June 19, 2007, p. 9.
18. Robert Avery, Paul S. Calem, and Glenn B. Canner, Credit Report Accuracy and Access to Credit, Federal Reserve Bulletin, Summer 2004.
19. Testimony of Chi Chi Wu, National Consumer Law Center before the U.S. House Committee on Financial Services, "Credit Reports: Consumers' Ability to Dispute and Change Inaccurate Information, June 19, 2007.
20. See for example, Algernon Austin, "Depressed States: Unemployment Rate Near 20 percent For Some Groups," Economic Policy Institute, 2011.
21. Megan Thomas and Cara James, "The Role of Health Coverage for Communities of Color," Kaiser Family Foundation, 2009.
22. Melvin L. Oliver and Thomas M. Shapiro, *Black Wealth / White Wealth, 2nd Ed.* Routledge, 2004.
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24. Board of Governors of the Federal Reserve System, "Report to the Congress on Credit Scoring and Its Effects on the Availability and Affordability of Credit," 2007.
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27. Jonathan S. Spader, Beyond Disparate Impact, Risk-based Pricing and Disparity in Consumer Credit History Scores, Review of Black Political Economy, 37:61-78 (2010).

28. FCRA allows accounts placed for collection to remain in a credit report for seven years, regardless of whether they have been paid after being placed. For more on this issue, see Statement of Mark Rukavina, The Access Project, Before the Committee on Financial Services, Subcommittee of Financial Institutions and Consumer Credit, House of Representatives, "Use of Credit Information Beyond Lending: Issues and Reform Proposals," May 12, 2010.

29. Michelle Doty and others, Seeing Red: The Growing Burden of Medical Bills and Debt Faced by U.S. Families, The Commonwealth Fund, August 2008.

30. Avery (2004).

31. Robert Avery, Paul Calem, Glenn Canner & Raphael Bostic, *An Overview of Consumer Data and Credit Reporting*, Fed. Reserve Bull., at 69 (Feb. 2003).

32. *See* Our View on Bill Collectors: Firms Employ Questionable Techniques to Collect Debts, USA Today, Sept. 13, 2010 (Sidebar showing that health care bills constitute 42% of collections market and "Health care companies are the biggest customers of third party debt collectors"); Robert M. Hunt, Fed. Reserve Bank of Philadelphia, *Collecting Consumer Debt in America*, Bus. Rev., at 13 (2d Quarter 2007), *available at* www.philadelphiafed.org/files/br/2007/q2/hunt_collecting-consumer-debt.pdf ("health-care providers represented the most important group of customers [for debt collectors], accounting for more than a quarter of all revenues"); Ass'n of Credit & Collection Professionals, White Paper--Healthcare Billing and Collections: The Industry Perspective (May 2004) (three-fifths of ACA members engaged in billing and collections for healthcare providers).

33. Doty (2008).

34. "A Pound of Flesh: Hospital Billing, Debt Collection, And Patients' Rights," Families USA 2007.

35. Federal Deposit Insurance Corporation, "FDIC Consumer News-- Coming Soon: Free Credit Reports and Access to Scores", Fall 2004.

36. Testimony of Evan Hendricks, Privacy Times before the House Subcommittee on Financial Institutions and Consumer Credit,Keeping Score on Credit Scores: An Overview of Credit Scores, Credit Reports, and their Impact on Consumers, March 24, 2010.

37. The latter two technically involve the provision of services on "credit"—in the sense that the services are generally provided before payment is required—but they are quite different from the various forms of installment credit, including credit cards, retail credit, and bank loans, that credit reports and scores were initially designed for.

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39. See, e.g., Michael J. Miller and Richard A. Smith, The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity, EPIC Actuaries (June 2003).

40. Chi Chi Wu and Birny Birnbaum, Credit Scoring and Insurance: Costing Consumers Billions and Perpetuating the Economic Racial Divide, National Consumer Law Center and Center for Economic Justice, June 2007.

41. Chi Chi Wu and Birny Birnbaum, Credit Scoring and Insurance: Costing Consumers Billions and Perpetuating the Economic Racial Divide, National Consumer Law Center and Center for Economic Justice, June 2007.

42. Chi Chi Wu and Birny Birnbaum, Credit Scoring and Insurance: Costing Consumers Billions and Perpetuating the Economic Racial Divide, National Consumer Law Center and Center for Economic Justice, June 2007.

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59. 16 Texas Adm. Code **§**25.575(c)(2)(E).
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