Even the Catch-22s Come with Catch-22s: Potential Harms and Drawbacks of Rent Reporting[1]

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Rent payment data has been aggressively promoted as a form of alternative data that will help consumers who are either credit invisible or have poor credit histories. In the wake of the racial justice movement of the past few years, rent reporting has been embraced by industry, policymakers, and some nonprofits as one of the primary ways to help Black and Latinx consumers, given the stark racial disparities in credit scores and credit invisibility.

Rent reporting has an intuitive appeal, supported by initially appealing arguments such as, "Why should homeowners get the benefit of reporting their housing payments to credit bureaus but not renters?", and, "Why is negative information about missed rent reported but not positive information?" (Note that the latter argument is not quite accurate as only a limited set of negative rental information – mostly debts referred to collection agencies by housing providers – is sent to the credit bureaus.)

However, rent reporting actually carries huge risks for renters, especially the most vulnerable families who struggle with housing costs. These at-risk households are also disproportionately Black and Latinx. Rent reporting risks helping some better-off credit invisible consumers at the cost of literally making other renters homeless.

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For mortgage lending, there are better alternatives to capture rent payment data, such as programs already developed by Fannie Mae and Freddie Mac that use bank account transaction data. And for those not ready (or not financially able to) purchase a home, or who already have a good credit history, cash-strapped renters should not be forced to pay for rent reporting to the credit bureaus as a service.

To the extent that advocates and policymakers want to pursue rent reporting programs, they should follow certain critical guidelines and beware of the pitfalls discussed below.

Positive-Only Reporting is Key

The most important consideration is that rent reporting should be limited to positive payment information only. Programs that report negative or "full file" information will most certainly harm vulnerable, struggling families. *This is because landlords use credit reports and scores*, either independently or bundled with criminal history and eviction records as part of tenant screening reports. Many landlords will not rent to a consumer with any record of a late rent payment, or will charge them a prohibitively high security deposit.

[1] From a reply to one of the author's Tweets

Unfortunately, many current rent reporting programs do involve reporting of negative information. In California, a new law requiring subsidized housing providers to offer rent reporting has been interpreted to require full-file reporting, including negative information.

This type of reporting can have potentially devastating consequences, as illustrated by the following example that a consumer lawyer providing *pro bono* services at a homeless shelter sent to NCLC:

> *I was shocked to find out that most of the problems had to do with credit reporting – right down my alley. Of the 10 or so folks I've met with so far, at least 6 were living in the shelter solely because a rent-related credit reporting issue had shut them out of the housing market. These are folks with enough income to pay market, non-subsidized rent, but were nevertheless forced to move their families into a homeless shelter simply because their credit history disqualified them from renting. And, it's not a credit score problem. Folks with decent credit scores were automatically disqualified because of a past rent delinquency (even a single 30-day late). … I'm keenly aware of the outsized role credit reporting can play in keeping folks in difficult financial situations in general, but I was shocked to see a direct connection to something as extreme as homelessness.*

Email from Kenneth Riemer to Chi Chi Wu. April 7, 2022, also discussed in American Banker Lenders' use of rent data in loan decisions helps homebuyers, but dangers lurk.

The pandemic has heightened the potential harm of rent reporting if done incorrectly. At various times during the past two years, between 6 million and 13 million households have been behind in rent but likely were able to stay in their homes due to various eviction moratoriums. These households are disproportionately renters of color; for example, in September 2020, about 1 in 4 Black and Asian renters and 1 in 5 Latinx renters said they were not caught up on rent, compared to just 1 in 9 white renters. The Urban Institute has found even starker statistics, i.e., that 45% of Black renters missed or were late on at least one rent payment during a one-year period.

With full-file rent reporting, these millions of tenants who missed rent payments would have negative information on their credit reports, which could literally keep them from obtaining shelter for their families. While efforts to address credit invisibility and closing the racial homeownership gap are certainly important, helping some consumers obtain a mortgage should not be at the expense of risking homelessness for vulnerable tenants.

Even reporting only positive payment history could carry some risks. If there are months in which a rental payment is not recorded, or shows a lower amount than the "scheduled payment," a landlord might make a negative assumption that the tenant failed to pay the rent that month. This is one reason why using bank account cashflow information is preferable to including the data in credit bureau files – the fact that rent is missing from bank account transactions could be attributable to a cash or money order payment, blunting negative inferences by lenders.

One solution to this conundrum would be to ban the use of credit reports and scores in tenant screening, which was proposed but not passed in at least two state (Massachusetts and California). But until there is such a ban nationwide, the reporting of negative rent payment data will always create the risk of making vulnerable tenants homeless.

Consumer Control

Rent payment reporting to the credit bureaus should always be with the consumer's active permission – it should be *opt-in* only, not opt-out or mandatory. As a basic principle, consumers should always have control over whether their data is shared.

For over half a century, consumers have had no control as our data is harvested, used, and misused by the Big Three credit bureaus, i.e., Equifax, Experian, and TransUnion. The credit reporting system is a broken oligopoly in which there are rampant abuses and little accountability due to lack of competition, where consumers have no choice but to be beholden to the credit bureaus.

This needs to change. Consumers should have a choice as to whether their rent payments are submitted to the credit bureaus. Not only is it the right thing to do with respect to privacy and consumer rights, but requiring the consumers' active permission also avoids inclusion of harmful negative information that will hurt their rental housing prospects.

This is a second reason why using bank account transaction information is preferable to including the data in credit bureau files – currently, consumers must give active permission to allow access to their bank account data.

Dollars and Sense

Feeding rent data to the credit bureaus can cost money. While some third-party platforms do not charge a fee, others charge significant upfront or monthly fees. An important question is: Who pays for the rent reporting – the landlord or the tenant? Many tenants are already burdened with excessive and unnecessary fees, such as fees for insurance that only benefits the landlord or billing convenience fees. The costs of rent reporting could add fees from $2 to a whopping $49 per "lease period," with many companies charging around $7 to $9 per month.

If a renter is not interested in homeownership or credit building (or if those goals are secondary to simply securing and maintaining housing), a renter should not be forced to pay over $100 per year for an unnecessary service, especially given how many renters are struggling with high housing costs already. Rent reporting is also not useful for the many renters who already have a good credit score. Even worse, renters who have struggled to pay on time should not be forced to pay to supply negative information into their credit reports, where it could prevent them from obtaining new housing.

For mortgage lending, this is a third reason why using bank account cashflow information is preferable to including the data in credit bureau files – it does not cost the consumer a recurring monthly fee.

Feeding the Credit Bureau Oligopoly

The Big Three credit bureaus have promoted the idea of alternative data such as rent reporting as a form of "credit inclusion." In a May 2021 Congressional hearing, the president of TransUnion Consumer Interactive touted the formation of that company's Racial Equity Task Force and emphasized how "alternative data is critical for credit inclusion."

The credit bureaus are data hoarders, and rent payment data is a new trove of additional information for them. They are dressing up efforts to tap that data in the language of racial justice and equity, at the expense of vulnerable renters who themselves are more often people of color.

Limited Efficacy

Done right, rent reporting can be somewhat helpful. Pilot studies have found that rent reporting can increase credit scores, ranging from 10 points to 23 points or even 60 points. With the exception of the study showing 60 points, these are still relatively limited increases and might not be all that helpful unless the consumer has a credit score that is close to a cutoff from a credit scoring tier (i.e., on the cusp of subprime (under 620) to near-prime (over 620)). Even the study showing 60 point increases only had 12% of consumers shifting to a higher score tier with rent reporting.

Indeed, a November 2021 Government Accountability Office (GAO) study noted that while alternative data could “improve or generate scores for [credit invisible or low scoring] consumers, it is unclear whether the increases would be sufficient to qualify many additional consumers for lower-cost mortgages.” Furthermore, the GAO also noted that nearly half (48 percent) of unscorable consumers were under 24 or over 65 years old, which the GAO characterized as “age groups less likely than most to be seeking mortgage credit.”

In general, alternative data such as rent payments will not eliminate racial disparities in credit scores and is not a panacea for credit inequities. Any data that relies on financial information will still reflect racial disparities given the unequal economic positions of households of color and white households. As a FICO spokesperson noted, “It’s important to note that credit scores didn’t create some of the social economic disparities. They simply reflect the social economic disparities that are out there. The conversation should focus on addressing the root cause of these differences.”

Of course, FICO doesn’t address the problem that credit scores do not simply serve as measurement tools or research indicators, but are used as gatekeeping criteria. But the FICO spokesperson is right about the underlying social and economic disparities, and no amount of additional data is going to close the racial credit scoring gaps if the root causes of those disparities are not addressed.

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