



May 9, 2022

Comment Intake—FCRA Trafficking  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, DC 20552

**Re: Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V); 87 FR 20771**

To Whom It May Concern:

The Center for Capital Markets Competitiveness (“CCMC”) appreciates the opportunity to comment on the Consumer Financial Protection Bureau (“CFPB”) proposed rule implementing amendments to the Fair Credit Reporting Act prohibiting inclusion of adverse information in consumer reporting in cases of human trafficking.

We fully support implementation of regulations, as prescribed by the Debt Bondage Repair Act, to help survivors of human trafficking improve their financial standing and regain financial independence. We consequently support the determination made by Congress and reflected in the Debt Bondage Repair Act, that adverse credit information resulting from human trafficking is not predictive and should not be included in credit reports. In short, consumers who are survivors of human trafficking should not experience negative credit reporting due to crimes committed against them.

The U.S. financial system relies on accurate credit reporting to inform financial institutions, and other entities, about the creditworthiness of consumers. It is critical that the data furnished to be included on credit reports be both accurate and predictive, and consistent with statutory requirements established by Congress under the Fair Credit Reporting Act. All participants in the credit reporting system – consumers, furnishers, credit bureaus, and the firms that make use of this information – need to be certain that they can rely on this information.

We also would urge the CFPB to ensure that the protections provided by the statute and its implementing regulations are reserved for survivors of human trafficking—not subject to misuse by other actors. Congress provided clear direction to this end. This reflects a common-sense policy judgment: permitting other individuals to fraudulently block adverse information from their credit reports in this manner will make lending riskier, resulting in the higher cost of credit and lower credit availability.

The CFPB should likewise advance this principle in its rulemaking by providing credit reporting agencies clear rules that allow them to efficiently ensure that survivors of human trafficking receive the protections they deserve while also ensuring that these protections are not fraudulently misused.

CFPB should strengthen the proposed rule before it is finalized so that it achieves the goals of the statute. As an initial matter, we would ask the CFPB to provide a reasonable period of time—and no less than eighteen months from promulgation of the final rule—for the credit reporting agencies to implement any rule. In addition, we would ask the CFPB to ensure that the final rule reflects the following three key points:

- The final rule should clearly inform survivors of human trafficking of their rights.
- The final rule should be designed to enhance protections for survivors of human trafficking by eliminating the risk of fraud by bad actors.
- The final rule should clearly and simply state compliance requirements.

### Analysis

#### **1. The final rule should clearly inform survivors of human trafficking of their rights.**

Survivors of human trafficking should be able to clearly understand their rights under the final rule implementing the Debt Bondage Repair Act. Clearly stating these rights will help survivors take advantage of these important statutory protections. Failing to do so, in contrast, will make it harder for survivors to secure the benefit of the protections provided by the statute.

We believe that the CFPB should improve upon its proposal by addressing some unnecessary ambiguities as proposed. For example, the CFPB decided not to define “adverse item of information.” However, defining this term would help both survivors and companies identify adverse information that should be blocked. More generally, definitions and substantive requirements under the rule should be clear and specific to ensure consumers accurately understand the rule’s requirements—and are able to secure its protections. Specificity will also promote consistency among the consumer reporting agencies. For example, the CFPB could clarify the duration of how long adverse information should be suppressed. The “adverse information” definition will play a prominent role in how the CRA can accommodate the rule. As such, if the entire tradeline is blocked, the survivor loses the benefit of any positive information that is reported along with any isolated incidents of “adverse information” which may unintentionally harm the consumer.

**2. The final rule should be designed to enhance protections for survivors of human trafficking by eliminating the risk of fraud by bad actors.** Any final rule should be designed to ensure that only survivors of human trafficking are able to get adverse information resulting from abuse blocked. Fraudulent claims related to identity theft and other forms of fraud unfortunately are unfortunately a potential concern. The CFPB consequently should implement appropriate safeguards to ensure that a policy specifically designed by Congress for survivors of human trafficking is not coopted by fraudsters. Such measures should include clear standards for documentation that will help prevent fraud, while still ensuring that survivors of human trafficking can secure the rule’s protections. To that end, the CFPB should consider requiring more than a self-attestation, including by requiring a determination from an appropriate government entity in according with the statutory requirements. By following the requirements of the statute, safeguards would be in place to enhance the protections and for survivors of trafficking to ensure that resources are focused on survivors of trafficking.

Because of the complexity of human trafficking situations, the CFPB should also clearly identify the types of government entities that have sufficient experience and expertise to identify survivors. as the CFLB should also clearly establish what documentation will be sufficient for companies to identify the adverse information that should be blocked from a consumer’s credit report. Incorporating such procedural safeguards, while being careful not to impose any undue burden on the survivor, would help to ensure that the survivors of human trafficking receive the benefits of the rule, as intended, while preventing fraud.

**3. The final rule should clearly and simply state compliance requirements.**

As noted above, we support the goals initiating the Debt Bondage Repair Act. Our member companies are committed to complying scrupulously with that statute and forthcoming regulation in order to better advance those goals. To facilitate these efforts—and achieve the statutory goals that we all share—we would urge the CFPB to ensure that the final rule clearly and simply state compliance requirements. To that end, we encourage the CFPB to follow through with Director Chopra’s intention to put a higher premium on simplicity and bright lines with respect to regulations.<sup>1</sup> A simple, bright-line rule here will allow companies to advance our shared goal of protecting the survivors of human trafficking. We consequently would urge the Bureau to ensure that the forthcoming final rule is clear and simple.

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<sup>1</sup> CFPB, Prepared Statement of Director Rohit Chopra before the House Committee on Financial Services (Apr. 27, 2022), <https://www.consumerfinance.gov/about-us/newsroom/prepared-statement-of-director-rohit-chopra-before-the-house-committee-on-financial-services/>.

Finally, the Bureau should revisit aspects of this rulemaking in the coming months and years as it strives to meet the objectives of the statute. The proposed rule correctly notes the complicated considerations with this rulemaking including identifying what persons are survivors of human trafficking and what government authorities can make such determinations. We look forward to providing additional information to the Bureau to ensure that survivors of human trafficking can realize the rights granted to them by the Debt Bondage Repair Act.

We thank you for your consideration of these comments and would be happy to discuss these issues further.

Sincerely,

A handwritten signature in black ink that reads "William R. Hulse". The signature is written in a cursive style with a horizontal line at the end.

Bill Hulse  
Vice President  
Center for Capital Markets Competitiveness  
U.S. Chamber of Commerce