

Via petitions@cfpb.gov
The Honorable Rohit Chopra
Director, Consumer Financial Protection Bureau
1700 G Street, NW Washington, DC 20552

Re: Requests for FCRA Rulemaking

Dear Director Chopra:

The National Consumer Law Center, on behalf of its low-income clients, and the Center for Survivor Agency and Justice, in partnership with survivors and advocates across the nation, write to urge you to open rulemaking under the Fair Credit Reporting Act (FCRA) during the 2024 calendar year to protect victims of coerced debt.

This letter constitutes our petition to the Consumer Financial Protection Bureau to address the following issues in FCRA rulemaking:

- The CFPB should modify the definition of “identity theft” to include “without effective consent” to provide relief for victims of coerced debt and specify what constitutes effective consent.
- The CFPB should modify the definition of “identity theft report” to reflect the modified definition of “identity theft.”
- The CFPB should allow the modified definition of “identity theft” to enable victims of coerced debt to utilize the block of information resulting from identity theft.
- The CFPB should clarify that no CRA, including specialty CRAs, can refuse to block information under 15 U.S.C. §1681c-2(c)(1)(C) if the consumer is a victim of coerced debt.

The CFPB has ample rulemaking authority to adopt these provisions. The Fair Credit Reporting Act gives the CFPB broad rulemaking authority to “prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of this subchapter, and to prevent evasions thereof or to facilitate compliance therewith.”¹ Additionally, the statute gives the CFPB specific rulemaking authority to define the terms “identity theft,”² and “identity theft report.”³

This authority remains strong even after the Supreme Court’s decision in *Loper Bright v. Raimondo*.⁴ *Loper Bright* specifically discusses the deference due an administrative agency where Congress delegates explicit authority to an administrative agency to interpret a statutory provision, as it did in § 1681a(q)(3) and (4). The Court stated:

¹ 15 U.S.C. § 1681s(e).

² 15 U.S.C. § 1681a(q)(3) stating “The term ‘identity theft’ means a fraud committed using the identifying information of another person, *subject to such further definition as the Bureau may prescribe, by regulation.*” (emphasis added). The current regulation is at 12 C.F.R. § 1022.3 (i) (1).

³ 15 U.S.C. § 1681a(q)(4).

⁴ *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024).

In a case involving an agency, of course, the statute’s meaning may well be that the agency is authorized to exercise a degree of discretion. Congress has often enacted such statutes. For example, some statutes “expressly delegate[]” to an agency the authority to give meaning to a particular statutory term. *Batterton v. Francis*, 432 U.S. 416, 425, 97 S.Ct. 2399, 53 L.Ed.2d 448 (1977) (emphasis deleted). Others empower an agency to prescribe rules to “fill up the details” of a statutory scheme, *Wayman v. Southard*, 10 Wheat. 1, 43, 6 L.Ed. 253 (1825), or to regulate subject to the limits imposed by a term or phrase that “leaves agencies with flexibility,” *Michigan v. EPA*, 576 U.S. 743, 752, 135 S.Ct. 2699, 192 L.Ed.2d 674 (2015), such as “appropriate” or “reasonable.”

When the best reading of a statute is that it delegates discretionary authority to an agency, the role of the reviewing court under the APA is, as always, to independently interpret the statute and effectuate the will of Congress subject to constitutional limits. The court fulfills that role by recognizing constitutional delegations, “fix[ing] the boundaries of [the] delegated authority,” H. Monaghan, *Marbury and the Administrative State*, 83 Colum. L. Rev. 1, 27 (1983), and ensuring the agency has engaged in “ ‘reasoned decisionmaking’ ” within those boundaries...⁵

Thus, even after *Loper Bright*, the Supreme Court has stated that the scope of judicial review when Congress has delegated discretionary authority to an agency, as § 1681a(q)(3) and (4) do, is limited to whether the agency has acted within the bounds of the authority and engaged in reasoned decision-making. If the answer is yes, the court should not substitute its own judgment or interpretation in this instance.

In addition to the CFPB’s specific authority, there is the CFPB’s broad general rulemaking authority under § 1681s(e), which states:

The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this subchapter, except with respect to sections 1681m(e) and 1681w of this title [which are not relevant in this instance]. The Bureau may prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of this subchapter, and to prevent evasions thereof or to facilitate compliance therewith.

This rulemaking authority was added to the FCRA by Section 1088(a) of the Dodd-Frank Act. It provides supplemental authority for the CFPB to provide clarity on 15 U.S.C. §1681c-2(c)(1)(C).

The stated purpose of the FCRA is to “require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this subchapter.”⁶ Adopting changes to the definition of identity theft and identity theft report will further the mission of the FCRA— to ensure that the consumer reporting system is “fair and equitable to the consumer, with regard to the confidentiality,

⁵ *Id.* at 2263.

⁶ 15 U.S.C. § 1681(b).

accuracy, relevancy, and proper utilization of [credit reporting] information.”⁷ This is because, as discussed below, information regarding coerced debt is not relevant to the creditworthiness of a survivor of domestic violence, and in fact does just the opposite– it unfairly penalizes them for debt that is not their own.

The CFPB can rely on significant precedent and experience to develop provisions that assist victims of coerced debt, given that the Bureau has already engaged in similar rulemaking efforts under the Debt Bondage Repair Act (DBRA), which protects consumers who are victims of trafficking.⁸ The DBRA and its implementing provisions in Regulation V created a new type of block on consumer reports for adverse information that resulted from human trafficking and provided guidance to consumer reporting agencies about the types of documentation that suffice to obtain a block under the new provision.⁹ These measures are similar to those requested below and further the CFPB’s ultimate mission of protecting consumers. The National Consumer Law Center and the Center for Survivor Agency and Justice urge the CFPB to exercise the authority granted under the FCRA to provide relief for victims of coerced debt.

I. Coerced Debt: the Intersection of Identity Theft and Domestic Violence

A. What Is Coerced Debt?

Abusive partners utilize different methods to control their victims, including physical, emotional, psychological, and economic abuse.¹⁰ Economic abuse involves behaviors that control a person’s ability to acquire, use, or maintain economic resources, thereby destabilizing that person’s financial security.¹¹ Researchers estimate that between 94 and 99% of women seeking services for intimate partner violence have experienced economic abuse.¹² The economic impacts of abuse are not limited to a discrete incident, but are often compounded by financial systems that create an “economic ripple effect” over the life-course of a survivor, creating profound, long-term barriers to the survivor’s safety.¹³

⁷ 15 U.S.C. § 1681(b).

⁸ 15 U.S.C. §1681c-3 (2021); Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V), 87 Fed. Reg. 60265 (June 24, 2022) (to be codified at 12 C.F.R. pt. 1022).

⁹ *Id.*

¹⁰ Advocates interchangeably use the terms “victim” and “survivor” depending on the preference of the person who experienced the abuse. If a person continues to be victimized by the abuse, or the abuse is ongoing, the person most often identifies with the term “victim.” If a person has escaped an abusive relationship and is free from ongoing abuse, the term “survivor” is more often preferred. We use the term “victim of coerced debt” throughout this petition for rulemaking and use the more general term “survivor” to refer to consumers who have experienced domestic violence or another form of family or dating violence.

¹¹ Adams, A.E. et al., *Development of the scale of economic abuse*, 14 VIOLENCE AGAINST WOMEN 563 (2008).

¹² *See id.*; Postmus, J.L. et al., *Understanding economic abuse in the lives of survivors*, 27 J. OF INTERPERSONAL VIOLENCE 411 (2011). *See also* Adams, Adrienne and Wee, Sara, “*Domestic Violence and Economic Well-being Study*,” available at <https://csaj.org/resource/domestic-violence-and-economic-well-being-study/>. Accessed March 26, 2024.

¹³ Shoener, S.J. and Sussman, E.A., *Economic Ripple Effect of Intimate Partner Violence: Building Partnerships for Systems Change*, Domestic Violence Report, August/September 2013, available at <https://csaj.org/wp-content/uploads/2021/10/Economic-Ripple-Effect-of-IPV-Building-Partnerships-for-Systemic-Change.pdf>. Accessed July 25, 2024.

Although economic abuse surfaces most in the context of intimate partner violence (also termed domestic violence or domestic abuse), it can occur in other coercive and abusive familial relationships. The Violence Against Women Act (VAWA) Reauthorization Act of 2022 defines economic abuse in the context of domestic violence, dating violence, and abuse in later life as:

“behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to--

(A) restrict a person's access to money, assets, credit, or financial information;

(B) unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or

(C) exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.”¹⁴

Economic abuse encompasses a variety of acts utilized by abusers to leverage the power and control they exert over a survivor to exploit their financial status.¹⁵ This can take the form of abusers limiting a survivor's access to employment, assets, income, joint bank accounts, or knowledge of household finances.¹⁶

While economic abuse spans a wide array of abusive behavior, damage to the victim's credit record is one predominant tactic abusers use to exert control over survivors. Damage to credit histories has become increasingly prevalent, and as consumer lending has permeated American life, the consumer credit system has become “an unknowing party to domestic violence.”¹⁷

Abusive partners destroy a survivor's credit record by fraudulently opening accounts in a survivor's name, lying about paying bills in a survivor's name, overcharging credit accounts, or coercing survivors to sign for loans, credit lines, or other expenses.¹⁸ This type of activity is known as “coerced debt.” Coerced debt is a form of economic abuse, encompassing “all non-consensual, credit-related transactions that occur in a relationship where one person uses coercive control to dominate the other person.”¹⁹ Coerced debt encompasses both fraudulent debt, incurred in the name of a survivor without their knowledge or permission, and debt obtained by a survivor through the abuser's use of force, threat, and intimidation.²⁰ According to a 2019 study conducted by Adrienne Adams and the Center for Survivor Agency and Justice, 52% of survivors reported incurring debt from abuse.²¹ According to a 2020 study from the

¹⁴ 34 U.S.C.A. § 12291(a)(13).

¹⁵ Littwin, Angela, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 CAL. L. REV. 951, 981-982 (2012).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Adams, Adrienne and Litwin, Angela, *Understanding Coerced Debt*, available at https://csaj.org/wp-content/uploads/2022/10/CSAJ-CCD_Part-2_Understanding-Coerced-Debt.pdf. Accessed March 26, 2024.

²⁰ *Id.*

²¹ Adams, Adrienne and Wee, Sara, “*Domestic Violence and Economic Well-being Study*,” available at <https://csaj.org/resource/domestic-violence-and-economic-well-being-study/>. Accessed March 26, 2024.

National Domestic Violence Hotline, 43% of female callers took on debt as a result of a coercive transaction.²²

Perpetrators of abuse use coerced debt to gain financial control over survivors' current and future economic choices.²³ In addition to experiencing coerced debt, most survivors will experience reduced income and negative rental history as a result of fleeing an abusive partner.²⁴ Loss of income and relocation costs impact a survivor's ability to pay known coerced debt accounts. Worse yet, many survivors do not discover unknown coerced debt accounts until after they have been placed for collection and their credit record has already been damaged.²⁵ And because credit records and specialty consumer reports are routinely used by creditors, potential employers, and landlords to make determinations about an applicant, survivors have difficulties obtaining resources such as housing, employment, utilities, and insurance.²⁶ Additionally, survivors are often unable to obtain credit from traditional lenders and some are driven to borrow from predatory sources such as payday lenders or utilize other unsafe online lending products. These high-cost loans aggravate an already desperate financial situation, trapping survivors in insurmountable debt and exposing them to increased risk of violence.

For all these reasons, the impact of economic abuse and coerced debt on survivors is devastating.²⁷ Due to unwanted or exploitative debt and the lack of access to employment, assets, or income, survivors are effectively trapped within their abuser's financial sphere, making it nearly impossible to leave the abusive situation.²⁸ Moreover, survivors of domestic violence are apt to stay in abusive relationships if ending the relationship would result in poverty or homelessness. If children are involved, survivors are even more prone to stay in an abusive relationship to shield their children from economic instability. When survivors do manage to separate from their abusive partners, the economic impacts of coerced debt further impoverish survivors while the separation itself leaves them vulnerable to increased risk of violence.²⁹

Because coerced debt has a long-lasting impact on whether a survivor will have access to credit, employment, or housing, the CFPB should undertake rulemaking to address the impact of coerced debt under the Fair Credit Reporting Act.

²² Adams AE, Littwin AK, Javorka M. *The Frequency, Nature, and Effects of Coerced Debt Among a National Sample of Women Seeking Help for Intimate Partner Violence*. Violence Against Women. 2020 Sep;26(11):1324-1342. doi: 10.1177/1077801219841445. Epub 2019 Apr 22. PMID: 31007144, available at <https://pubmed.ncbi.nlm.nih.gov/31007144/>.

²³ Littwin, Angela, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 CAL. L. REV. 951, 981-982 (2012).

²⁴ Adams, Adrienne and Wee, Sara, "Domestic Violence and Economic Well-being Study," available at <https://csaj.org/resource/domestic-violence-and-economic-well-being-study/>. Accessed March 26, 2024.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Adams, A.E. et al., *Development of the scale of economic abuse*, 14 VIOLENCE AGAINST WOMEN 563 (2008).

²⁸ Adams, Adrienne and Wee, Sara, "Domestic Violence and Economic Well-being Study," available at <https://csaj.org/resource/domestic-violence-and-economic-well-being-study/>. Accessed March 26, 2024.

²⁹ Spearman, K.J, Hardesty J.L., & Campbell, J., *Post-Separation Abuse: A Concept Analysis*, Journal of Advanced Nursing, 79(4), available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/jan.15310> ("Separation from an abusive partner is often thought to be the solution to ending violence; yet, abuse and the risk for lethality often escalates following separation... Post-separation abuse can be defined as the ongoing, willful pattern of intimidation of a former intimate partner that includes (1) legal abuse, (2) economic abuse, (3) threats and endangerment to children, (4) isolation and discrediting and (5) harassment and stalking.")

B. How Are Coerced Debt and Identity Theft Related?

Coerced debt encompasses:

- (1) debt incurred in the name of a survivor without their knowledge or permission, and
- (2) debt incurred by a survivor but only because of coercive acts committed by an abuser within the context of an abusive relationship. These coercive acts include the use of fraud, duress, intimidation, threat, force, coercion, manipulation, undue influence, or misinformation.

The FCRA defines identity theft as “a fraud committed using the identifying information of another person, subject to such further definition as the Bureau may prescribe, by regulation.”³⁰ The FCRA does not define fraud, and different states have different interpretations of fraud.

In Texas, for example, identity theft is defined by statute to occur when a person obtains, possesses, transfers, or uses the personal identifying information of another without that person’s consent or effective consent.³¹ Consent is not effective if, among other things, it is induced by force, threat, or fraud.³² As a result, victims of coerced debt in Texas would undeniably be victims of identity theft.

We urge the CFPB to utilize the Texas definition of identity theft as a model to further define identity theft under the FCRA.

II. Recommendations to Address Coerced Debt through the FCRA’s Identity Theft Protections

A. Amend the Definition of “Identity Theft”

It is unclear whether victims of all types of coerced debt qualify as victims of identity theft as currently defined by the FCRA. Instead, victims of coerced debt must resort to going through the tedious process of disputing any information on their credit reports that resulted from coerced debt under the reinvestigation procedure of the FCRA,³³ rather than utilizing the more expedient and safe identity theft blocking method. Victims of coerced debt often have to go through multiple rounds of disputes that each take at least thirty days, which could lead to the inability to get credit, housing, or employment until after that dispute is resolved. Victims of coerced debt should be treated as victims of identity theft, able to utilize both the identity theft block under 15 U.S.C. §1681c-2 and the reinvestigation procedure of 15 U.S.C. §1681i.

To alleviate the harmful effects of coerced debt on vulnerable consumers, the CFPB should amend the definition of “identity theft” to include the statement “without effective consent” and specify when consent is not effective.

³⁰ 15 U.S.C. § 1681a(q)(3); Title 12, Chapter X, Part 1022.3 (i) (1), Regulation V (2024).

³¹ Texas Penal Code § 32.51; Tex. Business and Commerce Code § 521.051.

³² Texas Penal Code § 1.07(a)(19)(A); Tex. Business and Commerce Code § 521.051(a-1)(1).

³³ 15 U.S.C. § 1681i (1971).

We propose that the definition of identity theft under Regulation V be amended as follows:

(3) IDENTITY THEFT.—

- (A) The term “identity theft” means a fraud committed using the identifying information of another person **without the effective consent of that person**, subject to such further definition as the Bureau may prescribe, by regulation.
- (B) **Effective consent has not been provided for purposes of subparagraph (A) if consent is:**
 - (i) **induced by force, threat, fraud, or coercion; or**
 - (ii) **given by an individual unable to contract by reason of incapacity or youth, unless consent is given by a person legally authorized to act on behalf of the individual and such action is not contrary to the best interests of the individual.**

Amending the definition of “identity theft” in this way will enable survivors to access the FCRA’s powerful blocking remedy, thereby mitigating some of the negative effects of coerced debt.

B. Amend the Definition of “Identity Theft Report”

Documentation requirements can pose acute safety concerns for survivors of domestic violence. We therefore encourage the CFPB to carefully consider a definition of “identity theft report” that mitigates those risks.

Currently, the definition of “identity theft report” has the meaning given that term by rule of the Bureau, and means, at a minimum, a report— (A) that alleges an identity theft; (B) that is a copy of an official, valid report filed by a consumer with an appropriate Federal, State, or local law enforcement agency, including the United States Postal Inspection Service, or such other government agency deemed appropriate by the Bureau; and (C) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.”³⁴ As stated in this definition, the CFPB has the authority to broaden the types of documentation that will constitute an identity theft report. Therefore, the CFPB should amend the definition of “identity theft report” to reflect an amended definition of “identity theft” that requires “effective consent.”

In its consideration of documents that will suffice as an identity theft report under the amended definition of identity theft, the CFPB should consider many of the same concerns NCLC identified in its comments to the CFPB under the rulemaking for the Debt Bondage Repair Act.³⁵

The CFPB should take into consideration the unique safety needs of survivors of domestic violence and victims of coerced debt by extension. For example, a victim of coerced debt may still be in an abusive relationship because the impact of the coerced debt on the victim’s credit record may impede the victim’s ability to secure housing. Or, the victim of coerced debt may be

³⁴ 15 U.S.C. § 1681a(q)(3); Title 12, Chapter X, Part 1022.3 (i) (1), Regulation V (2024).

³⁵ See NCLC, *et. al. Comments to the CFPB on the Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking*, Docket No. CFPB-2022-023/RIN 3170-AB12, available at https://www.nclc.org/wp-content/uploads/2022/09/FCRA_trafficking_comment.pdf.

in transition or hiding their location from their abuser. They may have obtained a confidential address or changed their Social Security Number or name. These issues may be related to ongoing threats to their safety, the trauma associated with the abuse, evidence of their victimization that is available on the internet (survivors may change their names so that they are not recognized), or stigma associated with their victimization. Interactions with law enforcement may have been difficult or traumatic. Survivors of domestic violence may have attempted to file police reports and have their reports dismissed, their credibility questioned, and their safety put at risk.³⁶ Survivors of domestic violence may have had similar negative interactions with courts.³⁷

Communities of color are also less likely to access law enforcement due to the disproportionately negative impact of the criminal justice system on their communities.³⁸ Similarly, immigrant survivors may be unwilling to seek a police report given fears of deportation or other risks to their immigration status.³⁹ Therefore, FCRA documentation requirements limited to a police report would, in effect, preclude many BIPOC survivors from accessing relief.

As a result, the CFPB should broaden the allowable categories of documentation to show that a consumer is a victim of identity theft and provide specific examples of documentation that would prove a consumer is a victim of identity theft. The best, least restrictive, most confidential, and safest approach is to allow survivors to provide a self-attestation. The Federal Trade Commission's identity theft report could serve as the vehicle for this self-attestation. The CFPB should clarify that the FTC ID theft report constitutes an official, valid report filed with an appropriate federal law enforcement agency under the FCRA and is sufficient to prove that a consumer is a victim of identity theft.

³⁶ In fact, in a recent study in Texas, less than half of divorcing women with coerced debt were willing to utilize consumer legal remedies to address coerced debt when the requirement of a police report was mentioned. See Adams, A., Littwin, A., & Kennedy, A., *Addressing Coerced Debt in Divorce: A Discussion of Findings from the First In-Depth Study of Coerced Debt in Abusive Marriages*. Center for Survivor Agency & Justice (webinar), 2024: <https://csaj.org/resource/new-research-on-addressing-coerced-debt-in-divorce-findings-from-an-in-depth-study-of-coerced-debt/>.

³⁷ For example, in a national study during the height of COVID-19 in 2020, the vast majority of advocates reported multiple barriers to accessing justice for financial and safety matters: from operating hours, virtual options, not allowing advocate accompaniment, cases deemed non-emergent, no language access, inconsistent or inadequate policy response, inadequate notification by court systems, to being threatened with deportation or other legal action. See <https://csaj.org/covid-19-data-dashboard/>.

³⁸ For example, Black survivors are more unlikely to call police due to fear of violence and also reported difficulty with law enforcement, courts and social services. Mitchell, Olivia, "*Domestic violence survivors from marginalized communities report more difficulty getting help, survey finds*," available at <https://www.cleveland.com/news/2022/02/domestic-violence-survivors-from-marginalized-communities-report-more-difficulty-getting-help-survey-finds.html> See also Balko, Radley, "*There's overwhelming evidence that the criminal justice system is racist. Here's the proof*," available at <https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/>

³⁹ See ACLU, "*New ACLU Report Shows Fear of Deportation is Deterring Immigrants from Reporting Crimes*," (May 3, 2018) available at <https://www.aclu.org/press-releases/new-aclu-report-shows-fear-deportation-deterring-immigrants-reporting-crimes>. Full report: "*ACLU, Freezing Out Justice: How immigration arrests at courthouses are undermining the justice system*," (May 3, 2018) available at <https://www.aclu.org/publications/freezing-out-justice>. See also Becerra, David, Wagaman, Alex A. et. al., "*Policing immigrants: Fear of deportations and perceptions of law enforcement and criminal justice*," available at https://socialwork.asu.edu/sites/default/files/2022-08/report_policing_immigrants_fear_of_deportation_and_perceptions_of_law_enforcement_and_criminal_justice_reduced.pdf.

C. Amending c-2 re. benefiting from goods or services v. receiving goods or services or clarify that for victims of coerced debt, this exception does not apply.

By broadening the definitions of “identity theft” and “identity theft report,” the CFPB would allow victims of coerced debt as identity theft victims to utilize the FCRA’s remedy under 15 U.S.C. §1681c-2 to block any information that resulted from coerced debt from appearing on the victim’s consumer report.

However, the CFPB will need to clarify two specific provisions as they apply to victims of coerced debt.

First, under 15 U.S.C. §1681c-2(a)(4), the consumer must include a statement that the information they request to be blocked is not information relating to any transaction by the consumer.⁴⁰ Second, § 1681c-2(c)(1)(C) permits a consumer reporting agency to decline a block if the consumer “obtained” possession of goods, services, or money as a result of the blocked transaction or transactions.⁴¹

Both provisions could be used by a CRA to deny much-needed relief to victims of coerced debt. A CRA could argue that a victim of coerced debt was “involved” in a transaction because they were forced, threatened, or coerced into the transaction by their abusive partner. Similarly, a CRA could argue that a victim of coerced debt “obtained” possession of goods, services, or money by virtue of being in the same household as the abuser, even where the victim of coerced debt may not have benefited from the transaction and may have even been denied access to the good, service, or money.

As a result, the CFPB should clarify in Regulation V that:

1. An identity theft victim is not involved in a transaction and has not obtained goods, services or money when effective consent is not present, such as when an application for credit is obtained through force, threat, or coercion.
2. An identity theft victim who does not provide effective consent, does not obtain goods, services, or money simply by virtue of residing in the same household as the thief.

III: Conclusion

We appreciate the Bureau's continued engagement in protecting consumers, especially those most vulnerable. We encourage the Bureau to exercise its clearly delineated rulemaking authority to alleviate the burdens facing victims of coerced debt by amending the definition of “identity theft,” and “identity theft report,” in Regulation V so that such victims can access identity theft blocks under Section 1681c-2. We welcome questions on this matter, directed to Carla Sanchez-Adams at csanchezadams@nclc.org. Thank you for your consideration.

⁴⁰ 15 U.S.C. § 1681c-2(a)(4).

⁴¹ 15 U.S.C. § 1681c-2(c)(1)(C).

Sincerely,

The National Consumer Law Center, on behalf of its low-income clients
The Center for Survivor Agency and Justice, in partnership with survivors and advocates across
the nation