

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1022

[Docket No. CFPB-2024-0057]

Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt

AGENCY: Consumer Financial Protection Bureau.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is seeking information in advance of preparing a proposed rule to address concerns related to information furnished to credit bureaus and other consumer reporting agencies concerning coerced debt. More specifically, this advance notice of proposed rulemaking solicits information on amending the definitions of “identity theft” and “identity theft report” in Regulation V, which implements the Fair Credit Reporting Act, as well as other related amendments to Regulation V, to include information stemming from transactions that occurred without the consumer’s effective consent.

DATES: Comments must be received by March 7, 2025.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2024-0057 by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* ANPR-Coerced-Debt@cfpb.gov. Include Docket No. CFPB-2024-0057 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Identity Theft and Coerced Debt, c/o Legal Division Docket Manager, Consumer Financial Protection Bureau, 1700 G Street

NW, Washington, DC 20552.

Instructions: The CFPB encourages the early submission of comments. All submissions should include the agency name and docket number. Because paper mail is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <https://www.regulations.gov>.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations, at 202-435-7700 or at: <https://reginquiries.consumerfinance.gov/>. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background:

On February 16, 2022, the Consumer Financial Protection Bureau (CFPB) announced updated procedures on how the public can submit petitions for rulemaking.¹ The procedures enable members of the public to request issuance, modification, or repeal of a regulation. In general, the CFPB posts these petitions publicly and solicits public comment on those petitions. On August 5, 2024, the CFPB posted to [regulations.gov](https://www.regulations.gov) a petition for rulemaking from the

¹ Consumer Financial Protection Bureau, *Consumer Financial Protection Bureau Launches New Way for the Public to Petition the Agency for Action* (Feb. 16, 2022), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-launches-new-way-for-the-public-to-petition-the-agency-for-action/>.

National Consumer Law Center and the Center for Survivor Agency and Justice seeking the amendment of Regulation V, which implements the Fair Credit Reporting Act (Docket CFPB-2024-0037-0001).² The petition requested amendments to Regulation V that would enable persons with coerced debt to avail themselves of identity theft protections under the Fair Credit Reporting Act. Specifically, the petition requested that the CFPB:

- Modify the definition of “identity theft” to include “without effective consent” to provide relief for persons with coerced debt and specify what constitutes effective consent.
- Modify the definition of “identity theft report” to reflect the modified definition of “identity theft.”
- Allow the modified definition of “identity theft” to enable persons with coerced debt to utilize the block of information resulting from identity theft.
- Clarify that no consumer reporting agency (CRA), including specialty CRAs, can refuse to block information under 15 U.S.C. 1681c-2(c)(1)(C) if the consumer is a person with coerced debt.

The petition highlighted how economic abuse, and particularly coerced debt, can cause serious and lasting harm for survivors of domestic violence and others. The petition cited research showing that between 94 and 99 percent of survivors of intimate partner violence have experienced economic abuse.³ Further, the petition emphasized how economic abuse can have lasting impacts on survivors of that abuse. Commenters on the petition also noted that studies show that a majority of survivors of domestic violence remained longer in abusive relationships

² National Consumer Law Center, *Petition for Rulemaking to Amend Identity Theft Definitions in the Fair Credit Reporting Act (Regulation V)* (Aug. 5, 2024), <https://www.regulations.gov/document/CFPB-2024-0037-0001>.

³ Adams, A.E. *et al.*, Development of the scale of economic abuse, 14 VIOLENCE AGAINST WOMEN 563 (2008). Postmus, J.L. *et al.*, *Understanding economic abuse in the lives of survivors*, 27 J. OF INTERPERSONAL VIOLENCE 411 (2011).

in part because of their coerced debt, that a significant portion of survivors reported harm to their credit scores due to the actions of abusive partners, and that a significant portion of survivors who were successful in removing coerced debt from their credit files experienced significant increases to their credit scores. Commenters cited research showing that survivors of color experienced especially acute harm as a result of coerced debt.

After a review of the petition and comments received on the petition, the CFPB has determined that a rulemaking is warranted and will issue a proposed rule. The evidence contained in the petition and comments received on the petition persuasively suggest that amending Regulation V to specifically account for coercion, and absence of effective consent, in the definition of identity theft could enable survivors to regain control of their financial lives and further their physical safety and independence from abusers. The CFPB has also preliminarily determined that addressing this issue is well within the statutory authority of the CFPB to define “identity theft.”⁴ The CFPB notes that victims of coerced debt can include people in a range of abusive relationships, including children and survivors of elder abuse. The CFPB has engaged in similar rulemakings in the past under the Debt Bondage Repair Act. In 2022, the CFPB finalized a rule to prohibit consumer reporting agencies from providing consumer reports that contain any negative item of information about a survivor of human trafficking that resulted from the trafficking.⁵

In addition to the record provided by the comments responding to the petition, the CFPB now seeks additional comment from the public to provide further information to facilitate the

⁴ See 15 U.S.C. 1681a(q)(3) (expressly authorizing the CFPB to “further defin[e] ... by regulation” the term “identity theft”).

⁵ Consumer Financial Protection Bureau, *CFPB Helps Survivors Mitigate the Financial Consequences of Human Trafficking* (Jun. 23, 2022), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-helps-survivors-mitigate-the-financial-consequences-of-human-trafficking/>.

preparation of a proposed rule. The CFPB welcomes comment on all aspects of this advance notice of proposed rulemaking from all interested parties including survivors of coerced debt and their advocates, consumers, consumer advocacy groups, legal services providers, social service agencies, academic researchers, consumer reporting agencies, other industry members or trade groups, and any other members of the public.

II. Questions

1. What information exists regarding the prevalence and extent of harms to victims of economic abuse, particularly coerced debt? How does the consumer reporting system, including provisions relating to identity theft, currently contribute to or reduce those harms?
2. To what extent do protections under the FCRA or other Federal or State laws exist for victims of economic abuse with respect to consumer reporting information? What barriers exist that may prevent survivors of economic abuse from availing themselves of existing protections?
3. Does coerced debt reflect the survivor's credit risk independent of the abuser? Why or why not? Is there any data addressing the relevance of coerced debt to the survivor's credit risk independent of the abuser?
4. What are the costs and benefits of the proposed amendment outlined by the petition for rulemaking?
5. The petition defines "coerced debt" as "all non-consensual, credit-related transactions that occur in a relationship where one person uses coercive control to dominate the other person." What alternatives to that language should the CFPB consider?

6. Comments to the petition identify survivors of intimate partner violence, domestic abuse, and gender-based violence as groups that would benefit from explicit inclusion of coerced debt as a form of identity theft. Commenters noted specific vulnerabilities for older Americans, children in foster care, and survivors of color.
 - a. What barriers do these groups face as a result of coerced debt?
 - b. How would the proposed amendments outlined in the petition for rulemaking reduce those barriers?
 - c. Are there other populations who experience problems with coerced debt and whose experiences should be considered in the proposed rulemaking?
 - d. How would the proposed amendments outlined in the petition for rulemaking address the needs of these other populations?
7. Should the CFPB propose the amendments outlined by the petition for rulemaking? What alternatives should the CFPB consider? For instance:
 - a. What documentation should a person be required to produce to show that their debt was coerced?
 - b. What self-attestation mechanisms could be considered for meeting the standard for an identity theft report?
 - c. Are there circumstances that should give rise to a presumption of coercion?
 - d. Should the CFPB propose general protections related to coerced debt, specific protections for survivors of domestic or intimate partner violence, or a combination?

Rohit Chopra,

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