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EXPLAINER: CFPB Advance Notice of Proposed Rulemaking

Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt Docket
No. CFPB-2024-0057

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NEW! Barriers to Disputing & Blocking Coerced Debt Survey Data

Download Excel file with findings from 206 advocates and attorneys from across the country. The file contains instructions, and data can be filtered by region and type of population served. Contact sarawee@csaj.org for questions or support in using this data.

What is coerced debt?

“Coerced debt” refers to “all **non-consensual**, credit-related transactions that occur in a relationship where one person uses coercive control to dominate the other person.” Two categories of coerced debt reflect the non-consensual nature of the transactions: coerced debt due to fraud and coerced debt due to coercion.

Coerced debt due to fraud is more commonly understood to be a type of identity theft- the survivor did not knowingly consent to the transaction. In other



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words, the survivor did not know about the debt, did not authorize the debt, and generally did not participate in the application for the credit or loan.

Coerced debt due to coercion happens when a survivor does participate in some way in the application of the credit or loan, for example by signing documents. However, the survivor did not “effectively” consent to the transaction because the survivor’s participation only occurred as a result of the coercive and abusive nature of the relationship. Consent was obtained by threatening and coercing the survivor.

Coerced debt results in high debt loads that low-income survivors cannot pay; it can also impact a survivor’s income via wage garnishment from debt collection judgments. Coerced debt also damages a survivor’s credit, often preventing them from accessing critical safety-related resources like housing, transportation, utilities, or services needed for immediate and long term safety.

The credit impact of coerced debt is the harm the CFPB’s ANPRM seeks to address.

See this [draft factsheet](#) for more details and research.

What’s the problem?

There are few legal remedies to address coerced debt. Only one federal law helps survivors address the credit impact of coerced debt. Survivors can use the Fair Credit Reporting Act to remove or block coerced debt from appearing on their credit report. But the process is limited in two key ways:

1. **“You can’t prove it’s identity theft.”** Survivors need an identity theft report to support a request to block coerced debt on a credit report. Though an identity theft report is not needed to dispute coerced debt, many times creditors will require a police report before agreeing to remove the coerced debt. Often when survivors seek to get an identity theft report from law enforcement, they hear that the coerced debt cannot be identity theft because they know, are in a relationship with, or live with the person who took out the debt. As a result, survivors will often try to avoid



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interactions with law enforcement and use the Federal Trade Commission's (FTC) ID theft report. Sometimes use of the FTC ID theft report works to get coerced debt blocked or removed from a credit report, but sometimes it doesn't.

2. **"The debt has to be yours because you knew about it or took it out yourself."** The context of coerced debt due to coercion means survivors may "know" about the credit transaction or debt, may have signed documents for the loan or credit, or may have made the transaction themselves, but due to coercion, threats, or actual violence, they did not and could not give "effective consent." Since the definition of identity theft does not currently take this into account, survivors are unable to get debt due to coercion blocked from their credit reports. And even though survivors with coerced debt due to coercion can dispute the debt, they are often unsuccessful in getting the debt removed from their credit reports.

Because the existing process does not account for these factors, survivors with coerced debt often struggle or fail to remove or block coerced debt from their credit reports.

What's happening?

The National Consumer Law Center and the Center for Survivor Agency & Justice petitioned the CFPB to expand the definition of "identity theft," and "identity theft report," and amend other provisions in the Fair Credit Reporting Act to address survivors' experiences with coerced debt. The Coerced Debt Working Group (CDWG), along with many other organizations and individuals, submitted comments in support of the NCLC/CSAJ petition.

The CFPB determined the petition was warranted and seeks more information about the proposal to amend the definitions of "identity theft" and "identity theft report" to include information stemming from transactions that occurred without the consumer's effective consent. We will now submit collective comments to advise the rulemaking. (Formally, this would amend Regulation V, which implements the Fair Credit Reporting Act (Docket CFPB2024-0037-0001).)



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The survey will supplement already existing research and strengthen evidence on the particular barriers in the existing process that DV/SA survivors and other individuals with coerced debt face.

What new rule is the CFPB considering? (see the [full notice here](#))

The petition requested amendments to Regulation V, which implements the Fair Credit Reporting Act (FCRA). The amendments would enable persons with coerced debt to use the identity theft protections under the FCRA. Specifically, the petition requested that the CFPB:

1. 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.
2. Modify the definition of “identity theft report” to reflect the modified definition of “identity theft.”
3. Allow the modified definition of “identity theft” to enable persons with coerced debt to utilize the block of information resulting from identity theft.
4. 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.

What can you do?

- **Write your own comments! DUE MARCH 7TH** Contact Erika Sussman for guidance/support. Template letters coming soon. Contacts: erika@csaj.org, mona@csaj.org, astark@nclc.org
- **Join the Coerced Debt Working Group!** National and state-specific organizing to advance coerced debt policy and protections. Contact Erika Sussman: erika@csaj.org
- **[Find advocacy, research, and other resources](#)** to support your 1-on-1 work with survivors of coerced debt.

Landscape of Available Research per the ANPRM Questions

Use to find relevant research in the linked factsheet to support your comments. And use to plan your own comments.

ANPRM Question (sub questions abbreviated for length)	Have Data? (checkmark=yes)	Links to Data
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 (CRS), including provisions relating to identity theft, currently contribute to or reduce those harms?	<input checked="" type="checkbox"/> Prevalence <input checked="" type="checkbox"/> Harm <input type="checkbox"/> CRS Role	Factsheet Factsheet N/A
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?	Have Data?	Links to Data
	<input checked="" type="checkbox"/> Available State law protection <input checked="" type="checkbox"/> Survivor Barriers to existing protections	Tracker Factsheet
3. Does coerced debt reflect the survivor's credit risk independent of the abuser? Why	Have Data?	Links to Data
	<input checked="" type="checkbox"/> Impact to credit	Factsheet



or why not? Is there any data addressing the relevance of coerced debt to the survivor's credit risk independent of the abuser?	score <input type="checkbox"/> Survivor independent credit risk	N/A Independence project. Analogous to medical debt
4. What are the costs and benefits of the proposed amendment outlined by the petition for rulemaking?	Have Data?	Links to Data
	<input checked="" type="checkbox"/> Costs <input type="checkbox"/> Benefits	Underscore costs to survivors in factsheet ID data needed to track benefits (CSAJ Data Dive)
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?	Have Data?	Links to Data
	<input checked="" type="checkbox"/> coerced debt definition	Model coerced debt policy Adams definition The Violence Against Women Act Reauthorization Act of 2022 (VAWA) TITLE VII—Economic Security for Victims ECONOMIC SEC.2 & SEC 701

<p>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.</p> <p>a. Pop-specific barriers?</p> <p>b. How rules would reduce barriers?</p> <p>c. Other populations to consider?</p> <p>d. How rules would address needs?</p>	Have Data?	Links to Data
	<input type="checkbox"/> Barriers (older) <input type="checkbox"/> Barriers (foster youth) <input type="checkbox"/> Barriers (BIPOC) <input type="checkbox"/> Other populations	General (anecdotal) COVID data re disparities
<p>7. Should the CFPB propose the amendments outlined by the petition for rulemaking? What alternatives should the CFPB consider? For instance:</p> <p>a. Required documentation?</p> <p>b. Self-attestation mechanisms?</p> <p>c. presumption of coercion?</p> <p>d. General protections for coerced debt or</p>	Have Data?	Links to Data
	<input checked="" type="checkbox"/> Documentation <input checked="" type="checkbox"/> Self-attestation <input type="checkbox"/> presumption of coercion	Factsheet (link to LE reports)



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specific to IPV survivors?		
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