



Program Instruction: Prohibition on Inclusion of Adverse Information on Consumer Reporting in Cases of Human Trafficking

TO: OTIP award recipients; OTIP contractors; and other interested parties
SUBJECT: Human Trafficking Screening Tools
ATTACHMENT: Trafficking Victim's Letter to Consumer Reporting Agencies

Introduction

In July 2022, the Consumer Financial Protection Bureau (CFPB) issued a [Final Rule](#) entitled *Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking* ("the Rule").¹ The Rule prohibits consumer reporting agencies (CRAs) from reporting adverse credit information resulting from an individual's human trafficking experience. Federal agencies may authorize non-governmental organizations (NGOs) to provide the documentation that a survivor needs to apply for their adverse information to be blocked ("victim determination"). The term "victim" is used to correspond with the term of reference used in the Final Rule. Only authorized organizations may issue victim determinations. **This Program Instruction (PI) authorizes prime recipients and subrecipients (collectively, "award recipients") of awards from the Office on Trafficking in Persons (OTIP) to issue victim determinations to current and previous clients served by the funded agencies. Award recipients issuing victim determinations are encouraged to provide guidance and monitor subrecipients during and after the project period to ensure policies and protocols regarding issuance of victim determinations comply with the prime recipient's procedures. Prime recipients are expected to provide OTIP with a quarterly count of all issued letters, including letters issued by subrecipients.** This PI establishes authorization for award recipients to issue documentation of victim determinations as required by the Final Rule.

"Subrecipient" means any organization receiving a subaward of an OTIP award.

"Client" means any person currently or previously receiving services from a prime recipient of an OTIP award or its subrecipients.

This PI also provides information about the Rule and guidance on its implementation.

¹ 12 CFR § 1022.142

Purpose of the Rule

Many individuals with lived trafficking experience have adverse information on their credit reports as a result of being trafficked. Traffickers often use victims' identities as a means of control and to avoid detection.² They may apply for credit cards or open bank accounts in victims' names, then default on payments or commit fraud using those accounts.

Adverse credit information can impact an individual's ability to rent an apartment, get a job, or obtain credit, and present other obstacles to the victim's recovery. These limitations can keep them reliant on the trafficker and prevent them from leaving a trafficking situation. Even when an individual exits a trafficking situation, adverse credit information can make it difficult for survivors to achieve financial security, leaving them at risk of further exploitation. The purpose of this Rule is to ensure individuals are not burdened with the effects of adverse credit information that resulted from being trafficked.

Eligibility

Anyone who has adverse information on their credit report as a result of being trafficked is eligible to apply for that information to be blocked. It is important to note that, for purposes of the Rule, the definition of "victim of trafficking" is broader than in the contexts of OTIP Certification and Eligibility Letters and award programs, immigration benefits, or criminal prosecution. The definition includes:

- **Severe Forms of Trafficking in Persons:** **Sex trafficking** in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision or obtaining of a person for **labor or services**, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery;³ AND/OR
- **Sex trafficking:** The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.⁴

Typically, OTIP award recipients may only use OTIP funding to provide services to individuals who meet the first definition (severe forms of trafficking in persons). Unlike the first definition, the second definition (sex trafficking) does not require a showing of force, fraud, or coercion. This means that *for purposes of applying for relief under the Rule only*, OTIP award recipients are authorized to assist individuals who may not otherwise qualify for award services.

² New Legislation Provides Survivors with a Path to Financial Freedom, Polaris Blog (January 4, 2022), <https://polarisproject.org/blog/2022/01/new-legislation-provides-survivors-with-a-path-to-financial-freedom/>

³ 22 U.S.C. § 7102(11)

⁴ 22 U.S.C. § 7102(12)

Submission Process

To request that a CRA block adverse information, an individual or a representative designated by the individual must submit trafficking documentation and appropriate proof of identification⁵ to the CRA. An NGO may be an individual's designated representative,⁶ meaning they may submit documentation on behalf of the individual who has experienced trafficking.

Trafficking Documentation

The trafficking documentation must contain a **victim determination** that is either:

- A **determination** from an authorized NGO or other authorized entity⁷ that the individual is a victim of a severe form of trafficking in persons and/or sex trafficking in accordance with the definitions above; OR
- A **signed statement** from the individual attesting that they are a victim of a severe form of trafficking in persons and/or sex trafficking. The statement must be signed by the individual and by an authorized NGO or other authorized entity.⁸

In addition to including a determination of trafficking experience or signed statement, the trafficking documentation must also:

- Identify items of **adverse information** that the CRA should block because they resulted from a trafficking experience; and
- Provide the individual's **preferred method of contact** (e.g., mail, email, phone). An individual's preferred contact may be their designated representative.

The Rule does not require that the trafficking documentation include details surrounding the applicant's trafficking experience.

⁵ For example, copies of a government-issued ID, driver's license, birth certificate, passport, Social Security card, or W2 may be appropriate proof of identification. In its analysis of the Rule, CFPB stated, "appropriate proof of identity for the purposes of this section requires consumer reporting agencies to develop reasonable requirements for victims of trafficking, recognizing the challenges many victims might face in establishing proof of identity by conventional methods used for other purposes."

⁶ The only type of entity prohibited from serving as an applicant's designated representative under the Rule is a "credit repair organization."

⁷ The Rule also authorizes federal, state, and tribal governments; members of a human trafficking task force authorized by a federal, state, or tribal government; or a court of competent jurisdiction to make the determination.

⁸ The Rule also authorizes federal, state, and tribal governments; members of a human trafficking task force authorized by a federal, state, or tribal government; or court of competent jurisdiction to sign/certify the statement.

Where to Submit

The Rule requires CRAs to establish specific mailing addresses for individuals who have experienced trafficking (or their designated representatives) to submit the required documentation. They may also establish a secure online portal. The largest three nationwide CRAs have established portals that may be accessed at the following links:

- [Equifax](#)
- [Experian](#)
- [TransUnion](#)

Individuals may also submit their documents to a CRA's dispute mailing address or any platform the CRA has established for addressing disputes.⁹ This is the advisable mechanism for submitting trafficking documentation unless or until a CRA has established specific mechanisms for submissions under the Rule. Contact information for each CRA may be found on their websites. For a list of CRAs and their websites, visit the [CFPB website](#).

Guidance for OTIP Award Recipients

OTIP award recipients, specifically those who provide direct services, may be well-positioned to assist individuals who have experienced trafficking in providing and assembling trafficking documentation and submitting to a CRA in culturally and linguistically responsive and trauma-informed practices. Accordingly, OTIP authorizes its award recipients to provide victim determinations under the Rule. Providing trafficking documentation and assisting with the CRA submission process are allowable services under case management funded by OTIP awards, for both previously and/or currently enrolled clients. To implement this authorization, OTIP recommends award recipients:

1. At a minimum, provide victim determinations for clients who request assistance;
2. As feasible, assist clients in assembling and submitting the other components of the required trafficking documentation (see p. 3); and
3. As feasible, provide information about the Rule and instructions on the submission requirements and process for anyone interested in applying, either in hardcopy format and/or online.

The Rule does not stipulate any specific requirements for NGOs to follow in issuing a determination of trafficking experience or certifying a signed statement. OTIP recommends award recipients:

⁹ Pursuant to § 611 of the Fair Credit Reporting Act,
https://consumer.ftc.gov/system/files/consumer_ftc_gov/pdf/fair-credit-reporting-act-611.pdf

4. Develop processes and templates that work well for them, to include voluntary quarterly reporting and subrecipient monitoring as feasible (contact OTIP to request a template victim determination letter); and
5. Include a copy of the Rule, your Confirmation of Authorization to Issue Trafficking Determinations with the trafficking documentation.

This Rule went into effect in July 2022. Some CRAs have developed their own processes and preferred templates. OTIP recommends award recipients:

6. Direct clients to the sample letter provided by CFPB for identifying adverse items to be blocked (see Annex); and
7. Check or direct the client to a CRA's website for the most up-to-date procedures.

Preventing Fraud

OTIP cautions against making victim determinations public in any capacity, especially online, including in sample or template form. OTIP recommends award recipients respond to any requests from CRAs to verify victim determinations issued by their organization. If an award recipient suspects or becomes aware that their organization's information (letterhead, personnel signatures, etc.) has been used in fraudulent victim determinations, they should report to OTIP (email EndTrafficking@acf.hhs.gov) and any applicable CRAs. Award recipients can also report to the U.S. Department of Health and Human Services Office of the Inspector General Complaint Hotline online at <https://oig.hhs.gov/fraud/report-fraud/>.

For More Information

For more information about this Rule, refer to CFPB's [Fast Facts](#) document or visit their webpage: [I'm a victim of trafficking. How do I block items from my credit report that are the result of trafficking](#). Additional non-government guidance includes information from OTIP award recipients (e.g., Polaris's [blog: The Credit Repair Process for Survivors: What We Know So Far](#)).

_____/s/
Katherine Chon
Director

TRAFFICKING VICTIM'S LETTER TO CONSUMER REPORTING AGENCIES

[Date]

[Your Name]

[Your Address]

[Your City, State, Zip Code]

[Write to each relevant consumer reporting agency, one at a time. Below are addresses for the nationwide consumer reporting agencies. You can consult the [CFPB's list of consumer reporting agencies](#) for additional addresses]

Equifax Information Services, LLC
P.O. Box 740256
Atlanta, GA 30374-0256

Experian
P.O. Box 4500
Allen, TX 75013

TransUnion, LLC
P.O. Box 2000
Chester, PA 19016

RE: Trafficking Block Request – [Your Account Number (if known)]

Dear Sir or Madam:

I am a victim of human trafficking. The information listed below, which appears on my credit report, is the result of that trafficking experience.

[Identify item(s) resulting from trafficking that should be blocked, by name of the source (such as the credit card issuer or bank) and type of item (such as credit account, checking account, criminal conviction, utility account, etc.). It may also be helpful to include dates and account numbers.]

Please block this information from my credit report within four business days, pursuant to section 605C of the Fair Credit Reporting Act

Please send me notification of the actions taken. I appreciate your prompt attention to this matter.

Sincerely,

[Your Name]

[Your preferred contact method (e.g., email address, mailing address, PO Box)]

Enclosures: **[List what you are enclosing]**

- **Proof of identity [Each consumer reporting agency sets requirements for proof of identity. Examples that are likely to satisfy the requirements may include a copy of a driver's license, another government-issued identification card, and a utility bill. If you are a representative assisting with this submission, then your proof of identity should be included too.]**
- **Trafficking documentation [Documents establishing that you're a victim of trafficking. Examples of acceptable documents include:**
 - **Documents from a federal, state, local, or tribal governmental entity;**
 - **Documents from a non-governmental organization or human trafficking task force, including affiliated victim service providers authorized by a federal, state, local, or tribal governmental entity to identify victims of trafficking;**
 - **Court documents with a determination that you are a victim of trafficking; and/or**
 - **A self-attestation that you are a victim signed or certified by a representative from a governmental entity, court, or authorized non-governmental organization or human trafficking task force.]**