

Human Trafficking Compliance Package

This information is to help you navigate the law prohibiting the furnishing of any consumer report that contains adverse item(s) of information that resulted from certain types of Human Trafficking. This will consist of

1. Establishing a method for victims of trafficking to submit trafficking documentation to you,
2. Procedures for you to review that documentation,
3. Making a determination,
4. Consumer notification, and
5. Recordkeeping/Data Retention

Overview

This new section of the FCRA is not broad in its requirements—it gets in the weeds of what you must do and how to do it—from how to be contacted by consumers, what you can and cannot consider, to timeframes for action to consumer notification and recordkeeping.

If I was in my old job with a CRA in charge of compliance and legal affairs, compliance with this law is something I would jump on it right quick-like and I would advise you to do the same and not dawdle.

Here is why: I am afraid a plaintiff attorney is going to advertise for Human Trafficking victims, find one, and then scour the web for every CRA they can find and those that don't have, on their website, the right provisions, sue them for a dead certain, clear, willful violation of the FCRA. It is not paranoia if they're really out to get you.

A fairly good overview, and for the Federal Government, non-legalese overview can be found here: https://files.consumerfinance.gov/f/documents/cfpb_fcra-trafficking_fast-facts.pdf

Things you need to do:

- You must add information on your website stating how consumers can submit trafficking documentation and appropriate proof of identity to you. If you are a *Nationwide consumer reporting agency*, you must maintain a toll-free telephone number to respond to consumer inquiries regarding trafficking documentation submissions.
 - The term “nationwide specialty consumer reporting agency” means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to (1) medical records or payments; (2) residential or tenant history; (3) check writing history; (4) employment history; or (5) insurance claims.

- o Most of you do not “compile and maintain” data.
- You must develop and implement reasonable requirements for what information consumers must provide to constitute proof of identity for purposes
 - (1) Ensure that the information is sufficient to enable your agency to match consumers with their files; and
 - (2) Adjust the information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer.
- (b) Examples of information that might constitute reasonable information requirements for proof of identity are provided for illustrative purposes only, as follows:

(1) Consumer file match. The identification information of the consumer including his or her full name (first, middle initial, last, suffix), any other or previously used names, current and/or recent full address (street number and name, apt. no., city, state, and zip code), full nine digits of Social Security number, and/or date of birth.

(2) Additional proof of identity. Copies of government-issued identification documents, utility bills, and/or other methods of authentication of a person's identity which may include, but would not be limited to, answering questions to which only the consumer might be expected to know the answer.

Be careful here. Typically, we have stringent identity requirements before we report consumer information because of the risk of harm to the consumer. Here, the risk of harm to the consumer would be from NOT blocking what the consumer wants to be blocked. Don't go overboard on identification requirements.

- You must provide consumers with two mailing addresses to submit trafficking documentation and appropriate proof of identity:
 - o At a mailing address established specifically for consumer submissions of trafficking documentation and appropriate proof of identity.
 - o At the same mailing address used for disputes under section 611 of the FCRA.
 - o You MAY also establish a website address specifically for consumer submissions of trafficking documentation and appropriate proof of identity. If you accept disputes under section 611 of the FCRA at a website address, you MUST also accept them for trafficking.
- You must block adverse information within four (4) business days of receiving the

consumer's submission.

- You must notify the consumer within five (5) business days of receiving a consumer's submission if additional information is necessary to complete the submission or if any of the required documentation is missing.
- Any requests to the consumer regarding additional or missing information are limited to situations where:
 - You cannot reasonably confirm the consumer's (or consumer representative's) appropriate proof of identity;
 - The consumer did not provide a victim determination; or
 - You cannot properly identify the adverse items of information.

You do *not* have the discretion to challenge a consumer's determination that an adverse item of information resulted from a severe form of trafficking in persons or sex trafficking under the Rule.

- You must make a final determination on the consumer's request within 25 business days of receiving a consumer's submission. A final determination under the Rule is either to initiate or maintain the block of adverse information initially placed or decline and rescind a block. You may only decline and rescind a block after notifying the consumer or the consumer's representative using the method of contact specified by the consumer and attempting to resolve any deficiencies in the consumer's submission.

You cannot make a determination based on the validity of the facts or circumstances in the consumer's trafficking documentation submission.

- You must notify the consumer in writing within five (5) business days after making a final determination. The notice to the consumer must include all of the following:
 - A statement that the review is complete.
 - A statement explaining the outcome.
 - A new consumer report provided at no cost to the consumer (if applicable).
 - A description of the procedures used to make the determination.
 - An appeal method.
 - A link to the CFPB's consumer complaint portal.
<https://www.consumerfinance.gov/complaint>

- You must maintain records of the outcome of consumer submissions and compliance with the Final Rule for a period of seven (7) years after a consumer's submission is received.

Website Wording

[Victims of Human Trafficking click here to request a block of adverse information resulting from Human Trafficking.](#)

Clicking on the above should bring them to a page with the following:

Instructions for submitting a request to block adverse Action

We will need for you to provide

1. "Appropriate proof of identity" as part of your submission to us to request a block of adverse items of information that resulted from trafficking. Please provide as much information as possible!
 - First, Middle, Last Name
 - Any other or previously used names,
 - Current and/or recent full address (street number and name, apt. no., city, state, and zip code),
 - SSN
 - DOB

Additional proof of identity if needed. Copies of government-issued identification documents, utility bills, and/or other methods of authentication of a person's identity,

2. Trafficking Documentation. This is:
 - a. Victim Determination Information
 - i. Victim determination is generally defined as documentation of a determination that a consumer is a victim of trafficking, made by either:
 - a Federal, State, or Tribal governmental entity,
 - a court of competent jurisdiction, which includes certain documents filed in court;
 - a non-governmental organization or human trafficking task force, including victim service providers affiliated with these entities, authorized by a Federal, State, or Tribal government entity; or
 - a self-attestation by a consumer who identifies as a victim of trafficking that is signed or certified by a Federal, State, or Tribal government entity, court of competent jurisdiction, or an authorized

representative of these entities.

- a. Identified adverse items of information. This is generally documents that identify items of adverse information that should not be furnished by us because the items resulted from a severe form of trafficking in persons or sex trafficking. An “adverse item of information” could include records containing derogatory information, such as payment delinquencies or defaults, records of coerced debt, records of criminal arrests and convictions, and records of evictions or non-payment of rent.
- b. A preferred means of written communication to you. This can be a mailing address or email address.

Please mail the above information to either of these mailing addresses:

Address One

Address Two

If you have questions regarding what to provide, please call us at XXX-XXX-XXXX

An overview of the Human Trafficking Regulation can be found here:

https://files.consumerfinance.gov/f/documents/cfpb_fcra-trafficking_fast-facts.pdf

Policy and Procedure for Compliance with Regulation V Human Trafficking

Purpose

The purpose of this policy is to establish procedures for our Company to comply with the Regulation V Human Trafficking Rule, which prohibits the furnishing of a consumer report that contains adverse information resulting from human trafficking. This policy also establishes procedures for us to review trafficking documentation and make determinations regarding such documentation and consumer notification requirements.

Policy and Procedure:

Website

- Information has been added on our website stating how consumers can submit trafficking documentation and appropriate proof of identity to us. If we are a Nationwide consumer reporting agency, we maintain a toll-free telephone number to respond to consumer inquiries regarding trafficking documentation submissions.

Proof of Identity

- We have developed and implemented reasonable requirements for what information consumers must provide to constitute **proof of identity**.

(1) We insure that the information is sufficient to enable us to match consumers with their files; and

(2) We adjust the information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer.

(b) Examples of information that generally constitutes reasonable information requirements for proof of identity include, but are not limited to:

(1) Consumer file match. The identification information of the consumer including his or her full name (first, middle initial, last, suffix), any other or previously used names, current and/or recent full address (street number and name, apt. no., city, state, and zip code), full nine digits of Social Security number, and/or date of birth.

(2) Additional proof of identity. Copies of government-issued identification documents, utility bills, and/or other methods of authentication of a person's identity which may include, but would not be limited to, answering questions to which only the consumer might be expected to know the answer.

Typically, we have stringent identity requirements before we report consumer information because of the risk of harm to the consumer. Here, the risk of harm to the consumer under Regulation V would be from NOT blocking what the consumer wants to be blocked.

Proof of Trafficking Harm

- Victims of trafficking are required to include “**trafficking documentation**” as part of their submission to us to request a block of adverse items of information that resulted from trafficking.

“Trafficking documentation” includes two categories of documentation: **victim determination** and **identified adverse items of information**.

Victim determination is generally defined as documentation of a determination that a consumer is a victim of trafficking, made by either:

- a Federal, State, or Tribal governmental entity,
- a court of competent jurisdiction, which includes certain documents filed in court;
 - a non-governmental organization or human trafficking task force, including victim service providers affiliated with these entities, authorized by a Federal, State, or Tribal government entity; or
 - a self-attestation by a consumer who identifies as a victim of trafficking that is signed or certified by a Federal, State, or Tribal government entity, court of competent jurisdiction, or an authorized representative of these entities.

Identified adverse items of information are generally documents that identify items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking. Regulation V does not define what an “adverse item of information” is but notes that it could include records containing derogatory information, such as payment delinquencies or defaults, records of coerced debt, records of criminal arrests and convictions, and records of evictions or non-payment of rent. We follow these guidelines and evaluate any other adverse items requested by the consumer.

Contact Information

- We provide consumers with **two mailing addresses** to submit trafficking documentation and appropriate proof of identity:
 - At a mailing address established specifically for consumer submissions of trafficking documentation and appropriate proof of identity.

- o At the same mailing address used for disputes under section 611 of the FCRA.
- o We MAY also establish a website address specifically for consumer submissions of trafficking documentation and appropriate proof of identity. We also can accept claims of human trafficking where we accept consumer disputes.

Duty to Block Information

- We block adverse information within four (4) business days of receiving the consumer's submission.
- We must notify the consumer within five (5) business days of receiving a consumer's submission if additional information is necessary to complete the submission or if any of the required documentation is missing.
- For the above and all required communications under the Rule, we use only the consumer's preferred contact method.
- Any requests to the consumer regarding additional or missing information are limited to situations where:
 - o We cannot reasonably confirm the consumer's (or consumer representative's) appropriate proof of identity;
 - o The consumer did not provide a victim determination; or
 - o We cannot properly identify the adverse items of information.

We *cannot* use discretion to challenge a consumer's determination that an adverse item of information resulted from a severe form of trafficking in persons or sex trafficking under Rule V if the required information has been provided.

- We must make a final determination on the consumer's request within 25 business days of receiving a consumer's submission. A final determination under Rule V is either to initiate or maintain the block of adverse information initially placed or decline and rescind a block. We only decline and rescind a block after notifying the consumer, or the consumer's representative, using the method of contact specified by the consumer, and attempting to resolve any deficiencies in the consumer's submission.

We do not make a determination based on the validity of the facts or circumstances in the consumer's trafficking documentation submission.

- We notify the consumer in writing within five (5) business days after making a final determination. The notice to the consumer includes all of the following:

- o A statement that the review is complete.
- o A statement explaining the outcome.
- o A new consumer report provided at no cost to the consumer (if applicable).
- o A description of the procedures used to make the determination.
(Basically, reviewing the information provided to meet the requirements of Rule V).
- o An appeal method.
- o A link to the CFPB's consumer complaint portal.
<https://www.consumerfinance.gov/complaint>
- We must maintain records of the outcome of consumer submissions and compliance with the Final Rule for a period of seven (7) years.

Final Determination Consumer Notice Template

(Information was blocked)

Dear <First, Last Name>

We have completed our review of your Human Trafficking block. We have blocked the adverse information you identified and it will not be reported in the future.

We have included a new consumer report reflecting the current status showing the removal of the blocked information.

We reviewed the information you sent us and made this determination.

While we doubt you would want to appeal our decision to comply with your request, you may appeal.

The CFPB consumer complaint portal may be found here:

<https://www.consumerfinance.gov/complaint>

Sincerely,

<CRA Name>

<Address>

<Phone Number>

Final Determination Consumer Notice Template (Information was NOT blocked)

Dear <First, Last Name>

We have completed our review of your Human Trafficking block. We have attempted to resolve the deficiencies below and are notifying you that we will be unable to comply with your request until they are corrected.

The reason(s) we were unable to comply with your request is checked below:

_____ We cannot reasonably confirm your (or your representative's) appropriate proof of identity;

_____ You did not provide a victim determination; or

_____ We cannot properly identify the adverse items of information.

We did not make a determination based on the validity of the facts or circumstances in your trafficking documentation submission.

If applicable, we have included a new consumer report reflecting the current status.

We reviewed the information you sent us and made this determination.

You have the right to appeal our decision to the CFPB as noted below. You also can forward any missing documentation to us and we will reprocess your request.

The CFPB consumer complaint portal may be found here:

<https://www.consumerfinance.gov/complaint>

Sincerely,

<CRA Name>

<Address>

<Phone Number>