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To: Consumer Financial Protection Bureau

From: The States of Delaware, Mississippi, Arkansas, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, and Wyoming

Re: Docket No. CFPB-2022-0023, Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V)

Date: May 9, 2022

Human trafficking is a multi-billion-dollar international criminal enterprise that causes immense upheaval and suffering in the lives of its many victims. Through various means, traffickers compel victims to engage in commercial sex and other forms of involuntary labor across both legal and illegal industries. However, with the diligent efforts of law enforcement agencies, community partners, and observant everyday citizens, many victims have been recovered from trafficking to become survivors of this heinous crime.

In that spirit, the undersigned attorneys general support the intent of the Debt Bondage Repair Act and offer the following comments on the Bureau's proposed rulemaking implementing these recent amendments to Section 605C of the Fair Credit Reporting Act

(FCRA), 15 U.S.C. §1681 *et seq.* As both the chief law enforcement officers and victim advocates in our states, we offer our unique perspective in response to the Bureau's request for comment.

The Importance of Restoring Financial Independence

Traffickers often target potential victims by unmooring them from the grounding forces in their lives, such as family, community, and even a sense of self. Stripping the potential victim of their financial independence is a key component of this malicious strategy. More than 1 in 4 survivors of human trafficking reported that a bank account or credit card which was opened in their name was then used or controlled by their trafficker.¹ Traffickers can then mismanage the victim's account, resulting in harm to their credit. This harm can linger for years after survivors have escaped their trafficking.

Restoring financial independence is a crucial component of a survivor's recovery. By regaining control over their finances, survivors reclaim and re-assert their personhood in defiance of their traffickers. This takes bravery and time. Without some mechanism to help them, negative consumer reports that resulted from their trafficking become an almost insurmountable obstacle to simple tasks, like opening a bank account, renting an apartment, and applying for a job – all foundational steps as they try to get back on their feet. We welcome the Bureau's proposal to implement the prohibition against reporting adverse information resulting from trafficking and to establish a method for submitting broadly-defined documentation of that trafficking, as contemplated by the Debt Bondage Repair Act.

¹ Anthony et al, Polaris Project Report: "On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking," July 2018

The undersigned attorneys general offer three potential partners the Bureau should consider as they draft and implement this proposed regulation.

Consumer Reporting Agencies as Partners

Consumer reporting agencies are the regulated entities under this rulemaking, but they are also important partners in it. As the parties who will be receiving the information from survivors, consumer reporting agencies will be the most directly engaged in the implementation of this regulation on a daily basis. Under the Fair Credit Reporting Act, consumer reporting agencies have a preexisting obligation to ensure the accuracy, confidentiality, fairness, and proper utilization of consumer information, an obligation which is jointly enforced by the CFPB and state attorneys general. This proposed rulemaking merely clarifies that obligation as it applies to a specific class of consumers, those who have been victims of human trafficking. We look forward to the swift implementation of these new procedures by the consumer reporting agencies and welcome their ideas for improving the accuracy or confidentiality of the information.

Victim Advocates as Partners

Survivors of human trafficking are often psychologically vulnerable during what can be a years-long process of recovery and reintegration. The stressful process of submitting the required documentation of their own trafficking could lead to re-traumatization. We encourage the Bureau to take a victim-centered approach and consider how this regulation might be structured to include every possible guardrail against re-traumatization.

One such guardrail could be a partnership with victim advocates, including those in attorney general's offices across the country. We encourage the Bureau to consider including a provision in the regulation allowing a third-party to complete the

documentation on the survivor's behalf and with the survivor's consent. Victim advocates in both the government and non-profit sectors have a unique skillset and ability to communicate with survivors. The Bureau should offer education about this new rule to victim advocates and train them on how to submit the documentation, much in the way an accountant might submit a tax return on behalf of an individual. A simplified and standardized form and process could facilitate this partnership. This could help prevent re-traumatization in survivors as they work to have the adverse information removed from their reports.

Attorneys General as Partners

Human trafficking is an important issue for attorneys general. As the chief law enforcement officers and victim advocates in our states, attorneys general are on the front lines of the fight against this illicit enterprise.

In Mississippi, for example, Attorney General Lynn Fitch has prioritized the fight against human trafficking under her administration. The Mississippi Attorney General's Office has executed multiple successful undercover sting operations, joined with the Mississippi Department of Public Safety to implement a statewide human trafficking awareness campaign, and successfully pushed for a new state law creating a civil cause of action for human trafficking survivors against their traffickers, and continues to actively train both law enforcement officers and prosecutors in criminal justice techniques related to this unique crime.

In Delaware, Attorney General Kathleen Jennings worked with the state legislature in 2021 to create the first dedicated Human Trafficking Unit at the Delaware Department of Justice. From the onset, this unit has prioritized disrupting human trafficking in Delaware

through both criminal and civil means. The Unit has executed multiple search warrants at Illicit Massage Establishments, drafted proposed legislation aimed at helping to improve victim safety and resources, and worked with multiple state agencies to improve awareness in the State. Moving forward, the Unit hopes to continue to improve awareness throughout the State while training the law enforcement community to increase identification and detection of potential trafficking victims.

Consistent with our work in this arena, we strongly support the Bureau's proposed interpretation of "trafficking documentation" under 605C to include both state and local law enforcement agencies as among those entities which may make determinations of a victim's status under state law for the purposes of this regulation. Through both our enforcement work and our victim advocacy, state attorneys general and our partners in local law enforcement are directly familiar with survivors of human trafficking and our offices are qualified and capable of making such determinations. We look forward to the implementation of this regulation and to continuing our work in the fight against human trafficking.

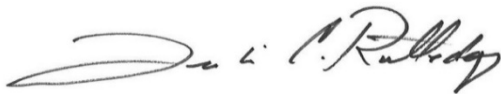
Sincerely,



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