Barriers to Building Financial Security for Survivors of Domestic Violence

Prepared for The Financial Clinic

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Foreword

This report is the result of collaboration between the Robert M. La Follette School of Public Affairs at the University of Wisconsin–Madison and The Financial Clinic. The School's objective is to provide graduate students at La Follette the opportunity to improve their policy analysis skills while contributing to the capacity of partner organizations.

The La Follette School offers a two-year graduate program leading to a master's degree in public affairs. Students study policy analysis and public management, and they can choose to pursue a concentration in a policy focus area. They spend the first year and a half of the program taking courses in which they develop the expertise needed to analyze public policies.

The authors of this report are all in their final semester of their degree program and are enrolled in Public Affairs 869 Workshop in Public Affairs. Although acquiring a set of policy analysis skills is important, there is no substitute for doing policy analysis as a means of learning policy analysis. Public Affairs 869 gives graduate students that opportunity. I am grateful to The Financial Clinic for partnering with the La Follette School on this project.

This report provides a review of the critical financial issues facing survivors of domestic abuse and then reviews an array of institutional and policy responses that The Financial Clinic should consider to improve the economic wellbeing of vulnerable individuals. The barriers to financial access for survivors are relatively understudied, and the policy and programmatic options are not widely discussed in public affairs currently. Yet, as the authors describe, being able to access financial services is a critical issue for victims of domestic abuse and the professionals serving these individuals. The report provides a succinct review of the context of domestic violence in relation to financial access, and offers a number of evidence-based insights that should be illustrative to the broader financial capability field. All of the solutions proposed involve engagement with partners from the public or private sector, complementing the core competencies of a nonprofit organization like The Financial Clinic. The policy and program alternatives analyzed all exist and are available without major legislative or regulatory changes. La Follette School of Public Affairs is grateful to staff and leadership of The Financial Clinic for supporting this project. More importantly, we appreciate the important work of The Financial Clinic and similar organizations to facilitate the economic resiliency of domestic violence survivors.

J. Michael Collins
Professor of Public Affairs
May 2014
Madison, Wisconsin

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Executive Summary

One in four women will experience intimate partner violence at some point in her lifetime. Economic abuse is a pervasive component of that cycle of abuse and constitutes a powerful array of economic and financial control tactics used by abusers. Its effect can be one of the biggest obstacles to a survivor exiting an abusive relationship and finding her way to financial self-sufficiency. When a survivor does manage to leave her abusive partner, she may find herself entangled in a web of financial challenges. Many survivors lack the tools or financial literacy to recover quickly. Domestic violence intervention advocates and financial empowerment organizations have partnered to offer financial coaching and help survivors get back on track. An important step in this recovery is establishing safe and secure financial accounts.

Barriers to Financial Accounts

As a result of financial institution policies, procedures, and federal regulations, survivors of domestic violence may encounter rigid barriers when trying to close past financial accounts that may be compromised and when trying to open a new individual account. If a survivor had an account prior to leaving an abusive relationship, and this account was known by or perhaps co-held by the abuser as a joint bank account, the account is vulnerable to continued abuse, and the first step to financial recovery is to close that account. However, a financial institution may inhibit account closure if the survivor’s financial account is delinquent or reopen a closed account if it continues to receive deposits or withdrawals.

When trying to open a new financial account that will be the foundation for a secure financial future, a survivor may be declined because of identity verification requirements or due to negative financial history reports. The Bank Secrecy Act of 1970 and USA PATRIOT Act of 2001 requires that financial institutions verify their customer identification to prevent financial crime and the funding of terrorist organizations. Survivors may have difficulty meeting a financial institution’s requirements for proof of address, particularly if they are residing in a confidential shelter. A financial institution may also decline a survivor access to a financial account due to risk management assessment. Survivors, either as a result of their own action or because of financial abuse, may have negative reports in financial account registry bureaus, such as ChexSystems. Negative records in these systems make it difficult to get approved for a new transactional account and can result in survivors having no choice but to be unbanked.

Policy and Program Opportunities

This report begins by assessing the barriers to account closure and opening for survivors of domestic violence. Next we identify several policy opportunities that could reduce or eliminate these barriers using both regulatory and programmatic strategies. Survivors of domestic violence share some of the same risk characteristics, barriers to financial services, and financial needs as other transitioning populations including immigrants, people who are homeless, and those facing household dissolutions, for example. Domestic violence intervention organizations may benefit from aligning with advocates of financial service access for other vulnerable populations. By representing a larger untapped market, advocates will have a stronger voice and potentially have a stronger ability to deliver innovative programs and products that can benefit targeted populations.

Policy and program opportunities include:

- Enhancing Customer Due Diligence program guidelines that better codify, clarify, and strengthen expectations for financial institutions and build stronger relationships with customers in order to expand access for survivors of domestic violence;
- Expanding to all 50 states Address Confidentiality Programs that mask the addresses of survivors of domestic violence to prevent perpetrators from locating their victims. The Treasury's Financial Crimes Enforcement Network established that these substitute addresses are valid for banking purposes, but financial institutions are not mandated to accept them;
- Promoting second chance accounts, a financial product offered by some financial institutions to serve as an entry point into banking for individuals that would otherwise be declined access to transaction accounts;
- Facilitating direct relationships between domestic violence intervention organizations and financial institutions that create pathways for survivors to work with financial institutions.

Next Steps for the Financial Clinic

All of these policy and program opportunities are compelling and have the ability to reduce or eliminate barriers to financial services for survivors of domestic violence. The Financial Clinic is well positioned to take action and has already made progress in developing more awareness, outreach, and resources.

We recommend The Financial Clinic pursue three next steps that will directly influence policy and program opportunities:

- Support and initiate partnerships with financial institutions on local, state, and national levels, which can create smoother pathways for survivors to work with financial institutions. These partnerships should include implementation of training for financial institution frontline personnel and managers.
- Develop an enhanced financial abuse intervention toolkit that outlines concrete steps and increases the capacity of frontline intervention advocates and financial service workers to support survivors; and
- Commission a comprehensive survey of domestic violence survivors and intervention advocates to determine the extent of and magnitude of survivors' barriers to financial security and the long-term impact of financial abuse. Results of this study can validate the not yet quantified reports from the field, fill a gap that exists in the research, and influence policy change on a larger scale.

The opportunities to enhance survivors' access to financial services are significant. The work of The Financial Clinic and similar organizations is critical to opening access for vulnerable populations; the policy and program options outlined in this report offer examples of potential innovations that can enhance the impact of this field.

We hope that this report will provide a foundation for The Financial Clinic's continued work in supporting survivors of domestic violence and catalyze new partnerships between The Financial Clinic, advocacy organizations for other vulnerable populations, and financial institutions.

Introduction

Intimate partner violence (or domestic violence) is a multifaceted, pervasive danger that one in four women will experience in her lifetime (CDC 2013).[1] Characterized by the experience or threat of physical, sexual, or psychological/emotional abuse (CDC 2013), the immediate, short-term, and long-term consequences of intimate partner violence can be devastating. While government policy, such as the 2013 reauthorization of the Violence Against Women Act, and advocate intervention have done a great deal to address the needs of survivors through better access to law enforcement, shelter, and legal assistance (NCDSV 2013), a tremendous gap remains in the realm of economic justice.

Types of Economic Abuse

Economic abuse constitutes a powerful array of control tactics used by abusers (Adams et al. 2008) and can be one of the biggest obstacles to exiting an abusive relationship (NNEDV 2014). Angela Littwin, professor of law at the University of Texas, explains that the incidence of financial control is fostered by coercive control relationships in which one partner combines physical violence with behaviors and actions specifically aimed at limiting and even stripping a victim of their agency (2012). Abusers may take actions to isolate victims from the outside world, including forbidding them from leaving the house, contacting family and friends, or holding a job. Abuser threats and any perceived victim transgressions may be accompanied by the use of violence. This “structural abuse” combined with physical violence erodes victims’ agency and sense of identity, severely impairing their ability to leave the relationship and allowing abusers to exert considerable control over victims’ lives (Littwin 2012, 974-978).

Survivors who manage to permanently leave abusive partners can suffer lifelong financial consequences from economic abuse (Gans 2012). However, while surveys have demonstrated that economic abuse is highly correlated with other forms of intimate partner violence (Postmus et al. 2011), abusive tactics vary widely, making baseline calculations of specific methods difficult. The two core variations of economic violence relevant for this report’s analysis are coercion and identity theft.

Coercion

While an individual is in an abusive relationship, she could face many forms of economic abuse. Abusers may micromanage every aspect of a victim’s life, from setting a weekly allowance to dictating what job or type of financial account she

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[1] For the purposes of this report, the authors use the terminology “survivors of domestic violence” to be inclusive of survivors and victims of intimate partner violence. On occasion we also refer to survivors using the female gender for explanatory purposes; however, we acknowledge that individuals of all genders experience intimate partner violence and economic abuse.

has. In this analysis, we define economic coercion as economic decisions that are made under intimidation or duress.

Abusers may rely on the use or threat of force to exert financial control and use basic necessities and even loved ones as collateral to force their partners to comply with their demands. For example, an abuser might threaten to take away the weekly grocery allowance or even the custody of their children if the victim will not comply (Littwin 2012).

An emerging financial barrier for survivors of domestic violence is the issue of coerced debt. Angela Littwin defines coerced debt as "all nonconsensual, credit-related transactions that occur in a violent relationship" (2012, 954). While the incidence of coercive debt has not yet been closely studied, its significance continues to grow with consumer credit's increasingly important role in the American economy.

Coercive control allows abusers to create nonconsensual debt in a number of ways, varying in complexity and level of victim involvement. Simple methods include stealing credit cards from a partner's wallet or funds from their bank account for their own use, or even forbidding a victim access to joint financial accounts. More involved methods include forcing a victim to take out a loan for the abuser. Abusers can use misinformation as a tool by putting loans and mortgages in a victim's name and asking them to sign off on the documents without an opportunity to read them.

A victim may not be privy to the debt accumulated in her name until the debt has already defaulted, leaving her unable to take any preventive measures to avoid negative marks on her credit score. Even if a victim knows that a credit card or loan has been taken out in her name, she may not know the extent of the debt acquired due to deliberate misinformation or concealment by the abuser (VonDeLinde 2002). For married victims, the debt payment issue is complicated by legal uncertainty over whether a married couple represents a single financial unit or two. Even if a court decides that a victim is not legally responsible for the debt incurred by an abuser, creditors may still view the couple as a single financial unit, forcing the victim to pay off the debt. For single victims whose credit cards and personal information have been used fraudulently by an abuser, the debt is solely in their name. Legal protection and action are even more complicated for single victims; in cases of coercion, legal arguments such as identity theft are difficult to prove when victims are technically privy to loans or payments made in their name (Littwin 2012).

Even after leaving an abusive situation, debt and a damaged credit score will follow a survivor. With credit checks becoming an increasingly commonplace component of prescreening for housing, banking, and even employment, coerced debt can severely impede a domestic violence survivor's ability to achieve financial independence and security.

Identity Theft

While instances of coercive control typically occur only within the context of an abusive relationship, even after leaving an abusive situation survivors are still vulnerable to economic abuse. Abusers may stalk or harass the survivor at work to such an extent that that she loses her job (Tolman 2011). Survivors of domestic violence are particularly vulnerable to identity theft crimes because the abuser often has complete knowledge of their ex-partner’s personal information and financial history. It has been estimated that more than 85 percent of survivors of domestic violence will have some encounter with identity theft (Reeves 2014), and these encounters can continue long after the survivor has left the abuser.

Identity theft can describe a range of fraudulent crimes that include the theft or misuse of personal, identifying information in order to gain something of value or facilitate other criminal activity (Keys 2012). Examples include using existing bank accounts or credit cards and opening new accounts or credit cards (Postmus et al. 2011).

To mitigate the effects of identity theft, domestic violence service providers are being trained to take critical steps to help survivors respond to identity theft, such as pulling a credit report and placing a fraud alert on the credit report (Wu 2010). However, it can be a long and arduous process to continually monitor and consistently respond to identity theft instances, and often requires complex steps and paperwork. For example, credit report disputes concerning identity theft necessitate the provision of a police report, which a survivor may not have. This process can be difficult and intimidating for many survivors who have not had experience working with financial information.

Financial Service Barriers Caused by Economic Abuse

Financial institutions are a cornerstone for most Americans’ financial experience. However, according to the 2011 Federal Deposit Insurance Corporation’s (FDIC) Survey of Banks’ Efforts to Serve the Unbanked and Underbanked, approximately 17 million adults in the United States live in unbanked households, which are defined as households in which no one has a checking or savings account (Osaki and Burhouse 2012). These basic financial services can be instrumental to asset building, and domestic violence intervention advocates see them as the foundation to building a survivor’s financial security.

A survivor’s experience in an abusive and coercive relationship that restricted her personal agency often results in limited financial literacy (Postmus 2011). A lack of financial experience and knowledge may make it difficult for her to interact effectively with financial institutions or make sound decisions about everyday financial matters (Postmus 2011). Furthermore, domestic violence is more likely to occur in a state of economic distress (Benson and Fox 2002). Many domestic violence service providers are working to help survivors recover from economic abuse and gain financial security by providing financial literacy programs, economic self-efficacy initiatives, and strategies for achieving economic self-sufficiency (Postmus 2010).

While no comprehensive study of the effects of economic abuse on survivors' financial future has been made, we can acknowledge that, even with economic empowerment strategies in place, domestic violence service providers continue to report rigid financial service barriers in survivors' interactions with financial institutions. For example, service providers advise survivors to immediately close any joint accounts shared with the abuser once they leave the relationship and to create new and separate savings or checking accounts (Allstate Foundation 2014). In a 2012 Manhattan Borough report of New York City, more than 80 percent of domestic abuse service providers reported that they could not remedy a lowered credit score, accumulated debt, bankruptcy, or inability to open an account due to problematic banking history (Gans 2012).

Barriers stemming from economic violence can prevent survivors from closing a past financial account and opening new individual accounts, and consequently obstruct their means for securing their financial future. Therefore, it is of the utmost importance that barriers to closing or opening accounts be eliminated. This analysis will answer the following three questions:

1. What barriers do survivors of domestic violence encounter when closing a joint financial account?
2. What barriers do survivors of domestic violence encounter when opening a new financial account?
3. What new policies, legislative changes, or bank procedures can reduce those barriers?

This report will first provide an overview of the financial landscape from the granular, discussing the types of financial accounts typically offered by financial institutions, to the broad, explaining the role of federal financial regulatory agencies. Next we will address the barriers that survivors face when closing a joint financial account and opening a new financial account. Finally, we will explore where opportunities exist for The Financial Clinic, for whom this report is prepared, to both promote and initiate policy alternatives that would lessen these barriers on both the regulatory and programmatic levels. Refer to Appendix A for an explanation of this report's scope and methodology.

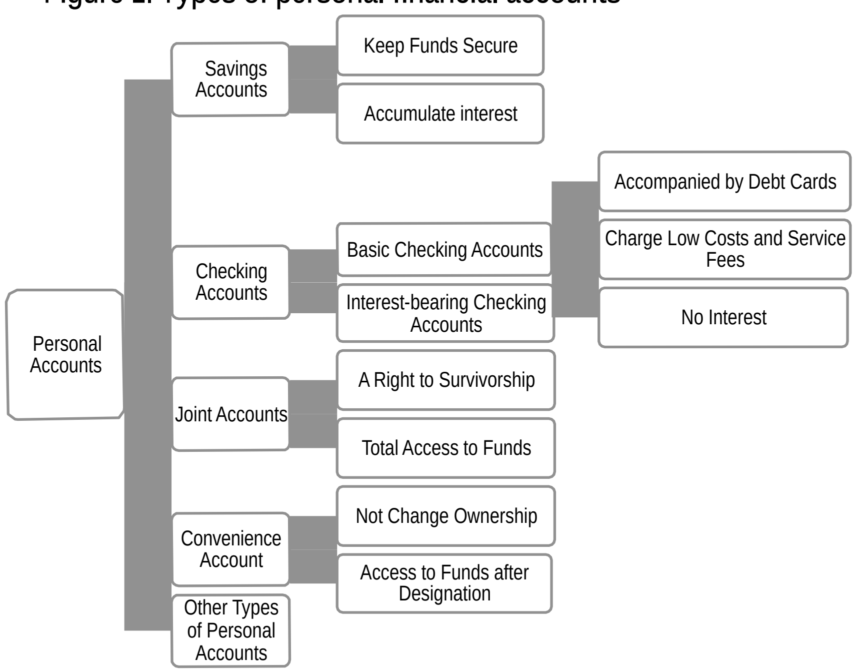
The Financial Services Landscape

Financial institutions provide a range of banking products subject to regulation at multiple levels. Easing the barriers faced by survivors of domestic violence requires an understanding of not only the content of policy that currently dictates account opening and closing, but also the context. The following section will describe financial accounts typically offered by financial institutions, as well as current alternatives to mainstream financial services. Following this, we will describe the regulatory structure that determines how bank policy is made, and thus changed.

Types of Personal Financial Accounts

Financial institutions offer a variety of financial products and services to their customers. To compete for customers, financial institutions will offer a range of features and even promotional rates. A personal account is an account for use by an individual or individuals for personal banking needs and is differentiated from accounts for corporate or business use. We will discuss the distinctions between types of personal financial accounts in this section, and they are also represented in Figure 1.

Figure 1. Types of personal financial accounts



Source: Authors

Savings Accounts

A savings account is a financial product intended to allow the account holder to keep funds secure and accumulate interest on funds saved for future needs. Interest rates can be compounded on a daily, weekly, monthly, or annual basis.

Checking Accounts

A checking account offers easy access to money for daily transactional needs and helps keep cash secure. Typically, checking accounts are accompanied by a debit card that allows the customer to use automatic teller machines (ATM) and card reader machines in many businesses. Basic checking accounts offer a limited set of services at a low cost, such as check writing. They may have no annual fee if the account holder maintains a minimum balance or enrolls in a direct deposit to the account. These accounts typically do not pay interest, and they may restrict or impose additional fees for excessive activity, such as writing more than a certain number of checks per month.

In contrast to basic checking, interest-bearing checking accounts offer a more comprehensive set of services, but at a higher cost, and are sometimes referred to as negotiable order of withdrawal (NOW) accounts. Unlike a basic checking account, a holder is usually able to write an unlimited number of checks. The interest rate typically depends on how large the balance is in the account, and most financial institutions charge a monthly service fee if the balance falls below a preset level.

Joint Accounts

A joint account is an account that is owned by two or more individuals as joint tenants with right of survivorship. Each joint owner on a joint account may withdraw, by any means made available, any or all of the funds on deposit, as well close the account, enter into special agreements regarding the account (including overdraft protection transfer agreements), and stop payment on any check or draft drawn on the account. Each joint owner guarantees the signatures of the other joint owners and authorizes the other joint owners to endorse checks for deposit if they are payable to any of the joint owners. Upon a death of one of the joint owners, the account will belong to the surviving joint owner or joint owners.

Convenience Accounts

A convenience account or “agency account” enables designation of a family member or friend to deposit or withdraw money and write checks on an account. Elderly parents and their adult children commonly use this type of account. A convenience account does not change the ownership of the money in the account or give the helper the right to keep the money if the account holder dies. However, any person the account holder designates can both deposit and withdraw money from the account, which does expose the account holder to the risk that designee could withdraw money for their own use.[2]

[2] Although holding a convenience account would give intimate partners a way to deal with their shared debts while maintaining partial financial independence at the same time, knowing to choose this type of account prior to becoming a part of a financially abusive relationship would require more financial literacy and power than many survivors have.

Appendix B provides more background on regulatory rules that pertain to joint accounts.

The Financially Underserved Market

Some survivors of domestic violence will have had experience with a financial institution, while others may have had limited to no interaction with mainstream financial services. The financially underserved market includes individuals who are unbanked, those who do not have either a checking or savings account, and individuals who are underbanked, those who have used alternative financial service credit products or transaction services in the last 12 months (Osaki and Burhouse 2012).[3] Alternative financial service products include payday loans, non-bank money orders, pawnshop loans, and other services (Wolkowitz and Oh 2013). According to the 2011 FDIC National Survey of Unbanked and Underbanked Households, 25 percent of households have used at least one alternative financial service product in the past year, including 65 percent of unbanked households (Osaki and Burhouse 2012).

In this section we will explore the growth in use of general-purpose reloadable prepaid cards, which may be available at banks as well as retail outlets like Wal-Mart, as an example of the growth in the use of many alternative financial services. Survivors of domestic abuse, low-income individuals, and others in the financially underserved market have utilized these alternative financial services to meet their needs, either because they prefer them to services offered by traditional financial institutions, or as a result of barriers to mainstream financial services.

Between 2009 and 2012, consumer ownership of general-purpose reloadable prepaid cards rose 71 percent, so that 13 percent of the U.S. adult population now use prepaid cards (Garon and Schneider 2014). Used much like a debit card, general-purpose reloadable cards allow consumers to deposit funds, withdraw cash, make point-of-sale purchases, and complete online transactions. These cards are distributed online, via retailers, and at bank branches, and are typically easier and more convenient to open than a bank account. They also rarely allow consumers to spend beyond what has been “loaded” or deposited into an account. While consumer use of prepaid cards has grown across all demographics, card adoption has been particularly high among financially underserved households. The FDIC estimates that from 2009 to 2011, the percentage of unbanked households that used a prepaid card climbed from 12 percent to nearly 18 percent, while among the previously banked (those who once had a traditional bank account but no longer have one) prepaid card usage increased from 19 percent to 27 percent (Osaki and Burhouse 2012). Eighteen general-purpose reloadable cards collectively represent approximately 90 percent of the total general-purpose reloadable card marketplace (Garon and Schneider 2014).

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[3] The financially underserved market saw annual growth in revenue of 8 percent, from a previous total of $82 billion, while the volume of business conducted grew 7 percent from $740 billion in 2011 (Wolkowitz and Oh 2013).

According to a 2012 study by the Federal Reserve Bank of Philadelphia, most customers are motivated to use prepaid cards to gain control over their finances (Wilshusen et al. 2012). They found that prepaid cards allow users to

- Make online purchases
- Avoid credit card debt
- Avoid spending more money than they have
- Avoid overdraft fees

A typical prepaid card is active for six months or less, a small fraction of the longevity seen with consumer checking accounts. A central disadvantage for prepaid card users is the high cost of ATM surcharges. Depending on the type of program, surcharges are 15 to 40 percent of cardholder costs (Wilshusen et al. 2012). In addition, the lack of uniformity in the disclosure information that accompanies prepaid cards makes it difficult for consumers to compare cards. Some cards do not disclose the fees for particular services, leaving consumers unsure about the service and its cost.

Prepaid card programs vary widely in terms of functionality. One brand, be it a bank-branded or credit card company-branded product, may offer only basic transactional capabilities, while another provides a full-featured financial platform with advanced functionality like bill payment and budgeting support. Some cards carry a fee for every transaction, while others charge a monthly membership fee.

Some cards offer a savings platform for cardholders to store and accumulate funds, and a few provide access to credit (Garon and Schneider 2014).

- Thirty percent of the prepaid card market provides consumers with tools for planning, budgeting, and tracking. These tools generally allow cardholders to create budgets, set goals, and track progress toward those goals through online accounts.
- Fifty-five percent of the prepaid card market provides a savings platform either directly on the card or linked to the card.
- Twenty percent of the prepaid card market offers cardholders access to credit.[4]
- Twenty-five percent of the prepaid card market offers cardholders an option overdraft service.

The alternative financial services system plays an important role in responding to the financially underserved population’s needs. Some of these services many be predatory, and others may be the most cost-effective and suitable options for some individuals. Domestic violence intervention advocates should become

[4] Prepaid cards, in their current form, do not provide the customer an opportunity to build or rebuild their credit because credit bureaus do not have a way to incorporate payments data into their scoring models. Prepaid payment data could play an important role in increasing financial inclusion, because financially underserved consumers are less likely to use the types of credit products that contribute to building traditional credit scores.

familiar with the range of services provided in order to present options as well as caution survivors on their use. However, the scope of this report will focus our recommendations on reducing the barriers to the mainstream financial system so that survivors may have a choice of which services they would prefer to receive.

Regulatory Agencies

The U.S. Department of the Treasury "foster[s] improved governance in financial institutions" by helping to set policy that federal regulators then implement for use in regulating financial institutions with bank charters (US Department of the Treasury 2011). The type of institution (credit union or bank), charter level (federal or state), and membership status in the Federal Reserve System determines which of the four federal regulating agencies supervises each bank (Murphy 2013).

Banks with a federal charter are regulated by the Office of the Comptroller of the Currency (OCC); banks with a state charter that are Federal Reserve members are regulated by the Federal Reserve Board; banks with a state charter that are not Federal Reserve members are regulated by the Federal Deposit Insurance Corporation (FDIC); and credit unions are regulated by the National Credit Union Association. In addition, state-chartered banks are overseen by state regulatory agencies.

While each federal agency operates independently, the Federal Financial Institutions Examination Council (FFIEC) serves to "prescribe uniform principles, standards, and report forms" for use by the federal regulatory institutions collectively (Federal Financial Institutions Examination Council 2014). Therefore, variation among federal regulations of financial institutions should be minimal. This is to say that policies instituted at the federal level face a high degree of institutional inertia due to the collaborative nature of the four agencies.

For state-chartered banks, regulation not preempted by the associated federal agency can be applied by state regulators.[5] For policy not preempted by federal or state (if applicable) regulation, financial institutions are capable of determining specifically, on an institutional or branch level (Murphy 2013). The mission of regulatory agencies includes protecting the "safety and soundness" of the U.S. financial system in addition to protecting consumers. Some tension exists in balancing these two responsibilities, as the safety and soundness rule protects banks, as for-profit entities, from mandatorily engaging in high-risk or unprofitable relationships, which therefore may disenfranchise low- and middle-income populations. For example, terrorism and fraud are issues of national security, and so drive stricter identification rules that may act as barrier for populations in transition. In response, regulatory agencies may specify exceptions

[5] In this report, we will refer to New York State banking law as the state context due to the geographical location of The Financial Clinic, for whom this report is prepared.

or acceptable identification alternatives that ease the burden on consumers. However, in such cases, financial institutions are under no obligation to accept alternative forms of identification.

The Dodd–Frank Act, passed in 2010, established the Consumer Financial Protection Bureau (CFPB) (Consumer Financial Protection Bureau 2014). The CFPB's role is to give consumers the information needed to understand the terms of agreements with financial companies and make regulations and guidance as streamlined as possible. Congress established the CFPB to protect consumers by carrying out federal consumer financial laws. The CFPB also has the authority to write rules, supervise companies, and enforce federal consumer financial protection laws; restrict unfair, deceptive, or abusive acts or practices; and enforce laws that outlaw discrimination and other unfair treatment in consumer finance.

While financial institutions must observe many federal and state regulations, they also exercise a significant amount of discretion over the exact banking policy as it is communicated to consumers. Identifying where in the regulatory process barriers to account opening and closing actually occur is a necessary first step in creating actionable recommendations that effectively and universally address these barriers.

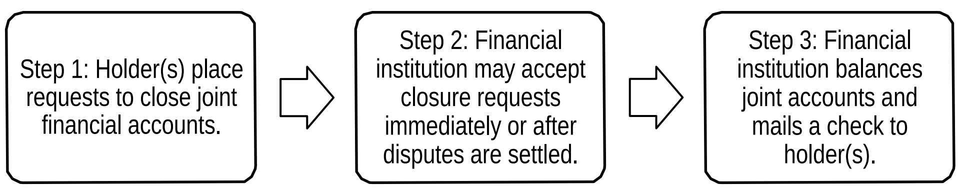
Closing a Joint Bank Account

Survivors of domestic violence may have had a bank account in their name prior to leaving their abuser. If this account was known by or perhaps co-held by the abuser as a joint bank account, the account is vulnerable to abuse (e.g. overdraft and fraud). Thus the first step in financial recovery after leaving an abusive relationship is to close compromised accounts to prevent further abuse. However, for many survivors, the foundation for financial abuse is created as early as childhood, where girls can be trained to be financially dependent and reliant on men (Anthes and Most 2000). This, combined with an abuser's tactic of retaining complete financial control of jointly earned funds (VonDeLinde 2002, Brewster 2002), can lead to a survivor's complete lack of knowledge of bank account numbers or locations.

Joint Bank Account Closure Process

This section will discuss the process required for a survivor will to formally close a compromised joint financial account. Figure 2 illustrates that account closure process.

Figure 2. Financial account closure process



Source: Authors

Step 1: Placing Request for Closure

A joint bank account with a right of survivorship delegates equal rights to each holder regardless of individual contribution of funds to the account. Therefore, the general practice adopted by most large-scale commercial banks is that any joint account holder can request to close joint checking or savings accounts without the agreement of the other co-holders (e.g. CITI Bank and Sterling National Bank[6]). Such practice is standardized policy implemented by financial institutions that serves as a minimum-risk policy in terms of banks' duty of care[7] (Silverentand and Bierman 2013).

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[6] As CITI Bank states in its customer manual, it may allow one holder to close an account without the consent or signatures of any other holders at any time (Citibank 2013). Sterling National Bank implements a similar policy for joint bank accounts that each joint holder may close the account irrespective of who contributed funds to the joint account (Sterling National Bank 2014).

[7] The term "duty of care" is meant to convey how banks should act toward its customers and third parties (Silverentand and Bierman 2013). Ultimately banks need to treat customers fairly. Allowing any holder to close a joint account is a standardized practice guaranteeing that banks will not be sued for denying any customer's closure right. Therefore, this is a minimum-risk policy.

Step 2: Accepting Request for Closure

Financial institutions will inspect relevant accounts carefully before processing the request for closure. In general, institutions have no reason to delay the closure process if the relevant joint accounts have clean transaction records; for example, no problematic transactions or disputes with any third party. However, in the case of financial abuse, the joint financial account may be involved in overdrafts, joint debts, or fraud. A financial institution has the discretion to delay or reject the closure request until all the disputes are solved between holders.

Step 3: Balancing and Closing Accounts

After accepting a closure request, the financial institution will send joint account holders a check that represents the remaining account funds less any applicable service fees (e.g. 1st Niagara Bank, HSBC, Sterling National Bank). Due to the range of joint account statuses and financial institution policies, the length of time that it takes for an account holder to receive the remaining funds in their joint accounts is unpredictable.

Barriers to Closing Joint Bank Accounts

Although financial institution policies appear to enable survivors of domestic violence to close a vulnerable account at their discretion, domestic violence service providers report that survivors and their advocates are still unable to close and protect accounts in a number of cases. We highlight three primary barriers that survivors appear to encounter. Financial institution risk management policy requires a thorough investigation of suspected illegal activity, especially fraudulent and money laundry on a daily basis. This common practice is regulated under federal regulations and New York State banking law.

Delinquent Accounts

Besides illegal transactions, an account may be deemed delinquent by the financial institution if it is in overdraft. Each joint account holder has complete access to the funds in the joint account, which means that survivors lack effective tools to prohibit abuser-holders' priory overdraft. If these irregular activities occur, banks can automatically freeze the involved accounts (e.g. JPMorgan Chase 2014). Unless banks eliminate the risks and unfreeze the account, neither the survivor nor abuser can succeed in closing the joint account.

No Access to Remaining Funds

A survivor, or abuser account holder, may withdraw all funds prior to account closure. Some accounts may have required minimum balances and an account that is drained could be subject to service fees, resulting in a delinquent account status depending on the timing and whether the remaining balance covers the fee. However, if an account is automatically closed by financial institutions with a remaining balance, two procedural difficulties may prevent survivors of domestic violence from meaningful access to the remaining funds in their joint accounts.

First, as described above in the closure process, financial institutions will issue a check for the remaining funds when an account is closed. It is critical for the survivor that the check be issued “payable to Account Holder A OR Account Holder B,” otherwise the survivor will need the abuser-holder’s signature in order to cash or deposit the funds. New York State Uniform Commercial Code requires all the payees’ signatures if payers do not explicitly state “payable to A OR B” (New York Uniform Commercial Code §3-116). Second, the financial institution will mail the check to joint holders’ address on file. If the survivor has moved elsewhere she may lose access to the address linked to the joint account.

“Zombie” Accounts

If an account holder successfully closes the financial account, she may still face a barrier of a reopened account often referred to as a “zombie” account. If a financial institution receives a deposit or withdrawal for the account after it has been closed and within a particular timeframe, it will reopen the account to credit or debit the account (e.g. JPMorgan Chase 2014 and Bank of America 2013). Holders’ negligence, such as continuing to deposit to the account or neglecting to cancel any preauthorized transfers linked to the account, could unintentionally activate the closed joint account. Furthermore, most financial institutions that implement a reopening policy do not explicitly notify holders when reopening the account and when closing the account again.

The potential for a zombie account can occur during a particular timeframe set by financial institution policy for a particular type of account. The reopening policies adopted by Wells Fargo, for example, designate a three-month window during which an account could be subject to becoming a zombie account. Well Fargo’s policy states if the “account balance does not reach zero within three months from the date of” holders’ request to close it, the bank may return the account to active status (Wells Fargo Bank 2013). Zombie accounts can severely exacerbate survivors’ vulnerability because the extended closure process can give abusers the opportunity to further damage banking history and creates obstacles to opening new accounts if survivors fail to discover them.

Opening a Financial Account

One of the first steps towards financial independence for survivors of domestic violence is opening a new individual financial account. Survivors also face barriers in this process.

Account Opening Requirements

Two important pieces of legislation dictate personal identification requirements for financial accounts. The Currency and Foreign Transactions Reporting Act of 1970, commonly referred to as the Bank Secrecy Act, requires U.S. financial institutions to report suspicious activities that might signify money laundering, tax evasion, or other criminal activities. The Bank Secrecy Act also burdens consumers with identity requirements as a tool to reduce potential financial crime (see full text of Section 103.121 of the Bank Secrecy Act in Appendix C). Due to mandatory nature of the Bank Secrecy Act, U.S. financial institutions do not have the power to override it, and have to make reasonable and cautious policies that fulfill their anti-financial crime obligations. The Financial Crimes Enforcement Network (FinCEN), a bureau within the Treasury, was initially created to implement, administrate, and enforce compliance with the Bank Secrecy Act and is now responsible for analyzing and collecting information that fights against domestic and international financial crime (FinCEN 2014).

In 2001 Congress signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, more commonly known as the USA PATRIOT Act. The USA PATRIOT Act had many purposes, but also includes a component to fight international money laundering and the financing of terrorist organizations. Similar to the Bank Secrecy Act, the USA PATRIOT Act requires financial institutions to report suspicious activities and verify consumer identities, but sets higher standards of financial supervision both for traditional financial institutions and alternative banking services.

The USA PATRIOT Act explicitly requires financial institutions to implement minimum standards to verify their customer identities when opening new financial accounts (see full text of USA PATRIOT Act Section 326 in Appendix D) (31 CFR 103.121). All financial institutions require proof of identity, age, and permanent address in opening a new account. A person's name and date of birth can be confirmed with official documents such as birth certificates, passports, driver license, and social security records. A permanent address can be verified with utility bills, a tax statement, or a bank statement (Bank for International Settlements 2003).

Also of interest to banks is a potential customer's risk profile. Sources of funds and the volume, frequency, and types of transactions may be indicators of suspicious activities such as money laundering or terrorist financing (Federal Financial Institutions Examination Council 2013). In making an initial risk assessment, banks may ask for a prior bank reference, or they may consult credit reference agencies (Bank for International Settlements 2003).

Barriers to Opening Bank Accounts

While the basic requirements for opening a financial account may appear straightforward, they could yet pose serious obstacles for survivors of domestic violence who would like to open new individual financial accounts. The three reasons most often cited by banks for rejecting new account applications are insufficient identification information, negative screening information for a prior account, and low credit scores or ratings (Bachelder et al. 2008).

Address Verification

After a survivor has left the abuser, she is in a time of transition. She may stay with friends, family, or go to a shelter for survivors of domestic violence. The safety and privacy of a survivor and her children is at risk if the abuser is able to locate her new or temporary residence. FDIC regulations enable survivors, and any other financial customer, who do not have a residential or business street address, an Army Post Office (APO), or Fleet Post Office (FPO) box number, to use the residential or business street address of next of kin or of another contact individual as a valid form of address verification (Title 31 CFR 1020.220 Subpart B (a)(3)(ii)). However, many shelter locations have confidential addresses and survivors are not permitted to distribute this address, therefore prohibiting them from opening an account.

Account Mishandling Verification Services

A few consumer-reporting agencies provide account verification services to financial institutions to assist in identifying account applicants who may have a history of account mishandling. ChexSystems, Inc.[8] is by far the most prominent, with 80 percent of the market (FIS 2014). Using a consumer-reporting agency like ChexSystems, financial institutions can estimate the financial risk of taking on a new account holder, as interpreted by the agency, and based on their banking history (FIS 2014).

Financial institutions submit incident reports to ChexSystems with each delinquency or irregular activity, such as overdraft of an account, bounced check, or fraudulent activity directly associated with a bank account. Each report submitted to ChexSystems remains on file for five years, unless the bank or credit union that filed the report requests its removal or ChexSystems becomes obligated to remove it under applicable law.

Survivors of domestic violence may encounter challenges in opening a checking or savings account when they have an active negative report listed in

[8] ChexSystems is owned by Fidelity National Information Services and governed by the federal Fair Credit Reporting Act. ChexSystems is also licensed to do business as ChexSystems Collection Agency, providing debt collection services to members participating in this service subject to the Fair Debt Collection Practices Act.

ChexSystems from their banking history. Financial institutions set their own policies for handling account-opening requests from individuals with ChexSystems report and are not obligated to take on a new account holder. According to a 2008 FDIC report, 25 percent of banks automatically reject an account application with negative information in an individual's ChexSystems records (Bachelder et al. 2008).

The decision to delete or resolve a ChexSystems report is up to each financial institution and its individual policies. A reporting member is under no obligation to remove an accurate report of account mishandling due to payment of monies owed. However, if a collection amount is reported, the member is obligated to mark the account as paid.

Individuals can place a Consumer Reported Identity Theft Security Alert with ChexSystems if they suspect their personal information has been compromised. Financial institutions will see this security freeze in ChexSystems if they look up one's report history, which will advise a financial institution to verify one's identity prior to opening an account.

Policy and Program Opportunities

After assessing the barriers to account closure and opening for survivors of domestic violence and consulting with various financial institutions, regulatory agencies, domestic violence intervention advocates, and scholars, our analysis revealed several policy and program avenues that are currently available to support improved outcomes for survivors of domestic violence and financial abuse. These range from federal regulation such as the Customer Due Diligence program to state Address Confidentiality Programs to second chance accounts offered by individual financial institutions. Many of these strategies are already being employed successfully in areas around the country, and their expansion or enhancement could reduce or eliminate barriers to financial services for survivors.

In considering policy opportunities, it is important to recognize that survivors of domestic violence are only one constituent of a larger market segment of transitioning populations with whom financial institutions have yet to establish a relationship. Immigrant and homeless populations, for example, share some of the same risk characteristics, barriers to financial services, and financial needs as survivors of domestic violence. Many of these policy opportunities are not exclusive to survivors, and domestic violence intervention organizations may benefit from aligning with advocates of financial service access for other vulnerable populations. By representing a larger untapped market, advocates will have a stronger voice and potentially have a stronger ability to deliver innovative programs and products that can benefit targeted populations.

In this section, we will first examine the opportunities for change available using both policy and program strategies, and then in the next section we will make specific recommendations on the next steps for The Financial Clinic.

Customer Due Diligence Program Guidelines

The U.S. Treasury's FinCEN believes that explicit Customer Due Diligence (CDD) program guidelines that codifies, clarifies, and strengthens existing CDD expectations for U.S. financial institutions could enhance efforts to combat money laundering, terrorist financing, tax evasion, and other financial crimes. A universal CDD program across and within sectors of the U.S. financial system could strengthen the ability of financial institutions to identify and report illicit financial transactions and comply with all existing legal requirements.

The elements of a CDD program for a financial institution include: conducting initial due diligence on customers, which includes identifying the customer; and verifying that customer's identity as appropriate on a risk basis at the time of account opening using procedures outlined in the Customer Identification Program guidelines where applicable. The financial institution needs to understand the purpose and intended nature of the account, and expected activity associated with the account for the purpose of assessing risk and identifying and reporting suspicious activity. The bank should conduct ongoing monitoring of the customer relationship and additional CDD as appropriate. This would be a clear entry point for the banks to identify financial abuse occurring with their customers. The banks must have a clear statement of management's overall expectations and establish specific staff responsibilities, including who is responsible for reviewing or approving changes to a customer's risk rating or profile and who is responsible for maintaining current customer information.

The objective of CDD should be to enable the financial institution to predict with relative certainty the types of transactions in which a customer is likely to engage. These processes assist the banks in determining when transactions are potentially suspicious. The concept of CDD begins with verifying the customer's identity and assessing the risks associated with that customer. Processes should also include enhanced CDD for higher-risk customers and ongoing due diligence of the customer base.

Address Confidentiality Programs

The Address Confidentiality Program (ACP) is a state-level program designed to help mask a person's address to prevent abusers and other perpetrators from locating their victims through official records, such as driver license registries or voter registration records (National Center for Victims of Crime 2012). Thirty-six states, including New York, have an ACP. Participants in an ACP are given a substitute mailing address, often a post office box, to use instead of their physical address. Mail sent to this substitute address is forwarded to participants' physical addresses through the entity administering the program, which varies by state. Participants receive an identification card with their name, a unique ID number, and the substitute address, which is a post office box. In New York the ACP is administered by the Secretary of State's office and participants receive a post office box number in Albany (New York Department of State 2014). Participants may present the card when using the substitute address to identify themselves as participants in the ACP. However, while state and local government agencies are required to accept the substitute address as a legitimate mailing address, private companies like utility companies, retail stores, and financial institutions are not (New York Department of State 2014).

FinCEN has established that ACP substitute addresses are valid addresses for banking purposes because the agency administering the ACP acts as "another contact individual" and the street address of the administering agency satisfies the identification requirement (full policy available in Appendix E) (FIN-2009-R003). However, there is no mandate for financial institutions to accept an ACP address and 14 states do not yet have an ACP. Among states that have ACPs, some of them are limited. In Wisconsin and Rhode Island, ACP participants may use their substitute addresses for voter registration only, while in Arkansas ACP addresses are only accepted for driver's license registration (National Center for Victims of Crime 2012). Still others require orders of protection, which survivors may not have (Greater Boston Legal Services and National Network to End

Domestic Violence 2013). Some states that do not have ACPs have state statutes that would lay the groundwork for one, but do not have functional programs due to lack of funding or outreach support. Other states lack any type of ACP legislation altogether (Greater Boston Legal Services and National Network to End Domestic Violence 2013).

We recommend that the Financial Clinic, along with other advocacy organizations, support efforts to institute an Address Confidentiality Program in all fifty states and endorse its acceptance by financial institutions as a valid form of identification. The Financial Clinic can also encourage the FDIC to take more leadership in promoting the acceptance of ACPs by financial institutions, as the FDIC did in its 2003 New Alliance Task Force partnering with the Consulate General of Mexico to promote and educate financial institutions on accepting the Matricula Consular, a Mexican government issued identification card, as a valid form of identification (Orozco and Fedewa 2006).

Second Chance Accounts

In order to address financial institutions' risk management barriers for survivors of domestic violence, one bank-level solution that is already being utilized is the offering of a financial product specifically designed for individuals with a poor credit report or a negative ChexSystems record (Melford and Nguyen 2012). Specific account requirements, services, and fees vary by financial institutions, but generally, "second chance accounts" feature no overdraft fees but fewer options than traditional accounts. These restrictions may include limiting daily withdrawals or permitting only debit card transactions (FDIC 2014). After an extended period of successful account maintenance, second chance account holders may be upgraded to regular checking accounts.

Established in 2010, New York City's SafeStart program is one example of a second chance banking product. With a significant population of unbanked adults, New York City partnered with seven banks and four credit unions to offer a starter account available to all New Yorkers. For the first two years, the account features no monthly fees, no overdraft fees, an ATM card, and a minimum balance requirement of $25 or less, depending on the financial institution (Sarlin and Miller 2010). A description of the SafeStart account is included in Appendix F.

Second chance accounts offer an entry point into mainstream banking for individuals who would otherwise be precluded from establishing a relationship with a financial institution. For survivors of domestic violence who have also been subject to financial abuse, a program such as NYC SafeStart, represents an affordable and safe way to rebuild credit. For a financial institution, second chance accounts present minimal risk while also incorporating previously untapped customers. Account holders can demonstrate over time their ability to responsibly manage an account and eventually may transition into more profitable accounts and consume other banking products, such as credit cards or automobile and home loans (Melford and Nguyen 2012).

Partnerships with Financial Institutions

Ultimately, many of the barriers we have outlined come not from regulatory policy, but from bank practices and discretionary policies. To combat this, some domestic violence intervention advocates have already established relationships with financial institutions as a strategy to create smoother pathways for survivors to work with banks and credit unions. These partnerships may be formal or informal, ranging from an individual domestic violence shelter that creates an informal agreement with the manager of the bank branch located in their neighborhood, to a statewide coalition of credit unions agreeing to implement a new procedure.

Two-way training and communication are critical components of these partnerships. Domestic violence service providers should be introduced to important knowledge about financial institution policies so they are better equipped to guide survivors through procedural challenges. Frontline tellers and bank managers should be trained on the unique needs and challenges of survivors of domestic violence in order to support their access to existing financial products and services, such as second chance accounts. In creating these relationships, domestic violence intervention advocates should ask financial institutions to identify what barriers they can eliminate or where they may be able to institutionalize exceptions.

Several pilot programs have already demonstrated successful relationships between advocates and financial institutions. The Iowa Coalition Against Domestic Violence formed a partnership with the Iowa Credit Union Foundation and through this relationship the statewide coalition of credit unions has agreed to offer exceptions to survivors who are in an Iowa Coalition Against Domestic Violence financial education program. These survivors may have otherwise been excluded from opening a standard financial account on the basis of their ChexSystems history, or for another reason (Beilke-McCallum 2014). The Kentucky Domestic Violence Association has also had good success partnering with BB&T Bank to offer similar resources (AFI 2012).

Next Steps for The Financial Clinic

The following three action items are our specific recommendations for the most impactful next steps The Financial Clinic can take to reduce the barriers to financial services for survivors of domestic violence. These next steps interact with the policy opportunities outlined in the previous section, are not mutually exclusive, and utilize the networks and practices already employed by The Financial Clinic. We acknowledge that finite resources may preclude the immediate application of all three items, however The Financial Clinic is well positioned to take action in these areas, and in some cases already working on these items. The steps are presented in ranked order according to what we predict is the largest benefit to marginal cost.

Support and Initiate Financial Institution Partnerships

Direct relationships with financial institutions afford advocates at the local, state, and national level the opportunity to create effective and immediate pathways to financial accounts, through services such as second chance accounts. We recommend that The Financial Clinic encourage and initiate the growth in these relationships wherever possible. To make the largest impact, The Financial Clinic should look for opportunities to create financial institution partnerships at the highest level possible and should set recommendations for local-level actors.

In partnering with financial institutions, The Financial Clinic should provide knowledge and training tools to equip institutions and their frontline workers with the information they need to support survivors of domestic violence. The Financial Clinic should also lead conversations with financial institution partners on the importance of second chance accounts, reducing procedural barriers, and help institutions identify where they might be able to institutionalize exceptions.

The Financial Clinic should also encourage alliances among domestic violence intervention organizations and advocacy groups representing other vulnerable populations in transition. More extensive partnerships, uniting a larger, untapped market of underserved populations, can strengthen the influence of advocates with financial institutions and demonstrate a larger value to financial institutions in creating and expanding second chance accounts. Successful strategies, once demonstrated, can be shared across the country with municipal partnerships such as the Cities for Financial Empowerment Coalition (CFED 2011).

Develop an Enhanced Financial Abuse Intervention Toolkit

The Financial Clinic already provides detailed resources for financial coaches and individuals on a range of topics. Many other financial coaching and domestic abuse intervention organizations also produce financial abuse and financial empowerment resources. However, we have not found a toolkit that combines a thorough description and definition of financial abuse, an examination of the typical financial services barriers and the needs and challenges of survivors of domestic violence, and the concrete steps individuals can take to overcome these barriers and build financial security. We recommend that The Financial Clinic develop and disseminate an enhanced comprehensive and concrete financial abuse intervention toolkit that can serve multiple audiences including survivors, advocates, and financial institutions. This toolkit should integrate the experience and expertise of financial, legal, and domestic violence experts, and build from existing resources.

A toolkit from Assets for Independence (AFI), a U.S. Department of Health and Human Services program, gives guidance for AFI grantees (that provide individual development accounts for low-income individuals) to work with domestic violence advocates in order to build assets for survivors (AFI 2012). The Center for Survivor Agency & Justice's toolkit provides steps for developing collaborative relationships among domestic violence and consumer rights lawyers and advocates (CSAJ 2013). Both toolkits give excellent advice for ensuring survivors' financial independence through access to individual development funds and coordinated efforts to attain economic justice. However, a gap remains for domestic violence advocates in the realm of mainstream financial institutions.

Organizations such as the National Coalition Against Domestic Violence (NCADV) and the National Consumer Law Center (NCLC) offer financial education programs and seminars for survivors of domestic violence, as well as attorneys, advocates, and policymakers. The NCADV's financial education program includes information to aid survivors in saving money and managing their finances, but does not include information on potential barriers they may face in establishing financial independence after leaving abusive partners or resources for dealing with these barriers (NCADV 2014).

The NCLC offers workshops and training materials to help attorneys, advocates, and policymakers understand the financial difficulties faced by survivors of domestic violence, and how financial laws and regulations apply to them. The NCLC recommends various strategies and tools for these professionals to advocate for survivors, but the materials and training lack more specific details of feasible, existing financial options that survivors may immediately pursue, such as second chance accounts (NCLC 2014).

While existing resources, including The Financial Clinic's, provide a substantial first step in remedying financial abuse and building financial independence, we envision a more comprehensive toolkit by The Financial Clinic as an effective education resource that can provide strategies and pathways for survivor inclusion in mainstream financial institutions. Variations of the toolkit could be produced for multiple audiences and could guide relationship building with and training of frontline financial and domestic abuse advocates who are in the best position to assist survivors of financial abuse.

In addition, we recommend that The Financial Clinic incorporate their existing resources as well as this new toolkit into their online financial coaching platform, Change Machine, in order to make this vital information as accessible as possible to frontline financial coaches.

Commission a Comprehensive Survey on the Effects of Financial Abuse

We recommend that The Financial Clinic, in partnership with other advocacy organizations, commission a comprehensive survey of survivors of domestic violence and frontline service providers to determine the extent and magnitude of the barriers to financial security and their impact on survivors' financial future. Results of this study could validate the not-yet quantified reports from the field and influence policy change on a larger scale. While the psychological, private, and social costs of domestic violence have been well-documented, the literature on long-term financial ramifications that accompany domestic abuse is relatively under-developed (Shoener and Sussman 2012). From the available case studies and program evaluations, it is clear that financial abuse, in its many forms, is prevalent throughout relationships of violence and coercion (Adams et al. 2008, VonDeLinde 2002). However, research into the breadth and long-term effects of financial abuse is limited, and so precludes more accurate assessments of the extent and magnitude of financial abuse after the survivor has left an abusive relationship. A survey conducted by The Financial Clinic could, at the least, address questions concerning the barriers to opening and closing financial accounts, while also having the power to take on the subject as a whole.

The Financial Clinic has two main advantages over other service providers to overcome the greatest obstacles to studies of financial abuse, the first of which occurs in the context and timing of the survey. While the ability to manage financial issues is paramount to survivors' long-term stability, it does require the survivor to be in a relatively safe environment. However, once a survivor transitions out of a shelter, contact could become more difficult, perhaps even undesired. A survey cataloguing the effects of financial abuse would be best administered within the window between these events—a period that The Financial Clinic is already familiar with in working to provide survivors with financial literacy. Additionally, a questionnaire provided during both intake and service completion could double as a program evaluation, and so provide value in the short term as well.

The second major hurdle to accurately surveying this population is the sheer number of variations in the practice of financial abuse. The Scale of Economic Abuse (Adams et al. 2008) is a validated tool to assist in the quantification of financial abuse, and is included in Appendix G, but is by no means an exhaustive list of practices. Furthermore, the Scale of Economic Abuse measures financial abuse in only one dimension: frequency. Other fundamental dimensions to measure include the magnitude of each action, such as measuring how much money was stolen or how great a loan was taken out, and specific mechanisms involved, such as whether the theft occurred without the survivor's knowledge, under duress, or without the realization that it was a negative act at the time. In this last case, an organization would have to lead some level of focus groups in order to determine which mechanisms would be tested. However, frontline workers at The Financial Clinic are already doing a similar line of questioning. Therefore, in order to develop a questionnaire, The Financial Clinic need only incorporate abuse practices already discussed by program participants.

The specific design of a financial abuse study would depend largely on the level of resources available, with the most intensive option involving the use of a professional survey center, in-person interviews, and multiple feeder sites for program participants. The study would not have to be expensive in order to be valuable, however. Even if only a self-administered paper questionnaire, questions that investigated where in the banking process survivors have encountered barriers, as well as the magnitude and frequency of a specific set of financial abuse practices, would provide The Financial Clinic with a far more nuanced and quantifiable description of financial abuse than what can be gleaned by policy description and expert opinion alone. Academic researchers at specialty survey centers such as the University of Wisconsin Survey Center can provide further guidance in designing and administering the survey.

Conclusion

The effects of financial abuse can create lifelong obstacles to financial services for survivors of domestic violence. In this report, we identified the barriers that survivors encounter when trying to close compromised financial accounts and when trying to open new independent accounts. We are optimistic that The Financial Clinic can lead the field in a meaningful way to promote and initiate innovative solutions to the problem of financial access.

Financial abuse is a heterogeneous, insidious act, making effective policy change a complex task, but clear directions for better support of survivors of financial abuse became evident in the process of this analysis.

We advise that The Financial Clinic should next engage its staff, board, advisors, and partners in a dialogue around the issues raised in this report, with the ultimate goal of developing a multi-faceted set of strategies.

We hope that this report will provide a foundation for The Financial Clinic's continued work in supporting survivors of domestic violence and catalyze new partnerships between The Financial Clinic, advocacy organizations for other vulnerable populations, and financial institutions.

Appendix A: Analysis Scope and Methodology

Analysis Scope

While intimate partner violence is a nearly universal issue, its consequences can be magnified with the intersection of at-risk populations. Survivors from rural, immigrant, non-English speaking, elderly, gay/lesbian, and other marginalized communities face barriers above and beyond those outlined in this analysis (Sokoloff and Dupont 2005). This analysis is limited to the most common barriers to opening and closing accounts, and may leave many people underserved. With this understanding, the authors encourage further development in the area of economic justice for survivors in marginalized populations in future policy analyses.

Methodology

This analysis relies on a qualitative methodology. We began by examining banking policy and regulations, including federal financial regulations, the New York State Uniform Commercial Code, and pertinent legislation, such as the USA PATRIOT Act. Select sections of these policies are available in Appendices B through E.

Next we contacted various financial institutions, including credit unions and private banks, and financial institution regulatory agencies, such as the Federal Deposit Insurance Corporation and the Consumer Financial Protection Bureau. Our view was that understanding the intended purposes of prevailing regulations and legislation, as well as how financial institutions interpret them, would help us understand bank practices and procedures in dealing with financial abuse. We then spoke with intimate partner violence service organizations and advocates who represent or work directly with survivors to determine the actual ramifications of these policies. To understand financial abuse more broadly, we also examined research on identity theft, divorce, and elder abuse, and spoke to scholars in social work, women's studies, and economic development disciplines. A list of all the organizations and individuals we contacted to ask for assistance is included on the following page.

The following people and organizations shared resources with us in the course of our project:

<u>Advocates and Advocacy Groups</u>

Center for Financial Services Innovation: Jeanne Hogarth, Vice President of Policy

Coalition of Wisconsin Aging Groups: Anne Gargano Ahmed, Wisconsin Identity Theft Coalition Manager

Domestic Abuse Intervention Services (DAIS): Hannah Wagner Jacoby

Family Justice Centers: Embry Owen, Financial Coach

The Financial Clinic: Kate Reeves, Associate Manager of Strategic Initiatives

Former judge and advocate: Rebecca St. John

Iowa Coalition Against DV: Zeb Beilke-McCallum, Housing and Economic Justice Coordinator

Redevelopment Opportunities for Women: Angela Schultz, Program Director

<u>Financial Professionals and Institutions</u>

Former bank manager: Nilton Porto

Guarantee Bank: Anonymous

National Federation of Community Development Credit Unions: Cathie Mahon, President/CEO

UW Credit Union: Connie Fedor

<u>Regulatory Agencies</u>

Federal Deposit Insurance Corporation: Sherrie Rhine

National Credit Union Administration: Bill Meyers

<u>Scholars</u>

Boise State University School of Social Work: Cynthia Sanders

Rutgers Center on Violence against Women and Children: Judy Postmus

University of Arkansas Fayetteville School of Social Work: Kameri Christy-McMullin

University of Michigan School of Social Work: Daniel G. Saunders

University of Wisconsin-Madison Department of Gender and Women's Studies: Jane Collins

University of Wisconsin-Madison Department of Gender and Women's Studies: Nancy Worcester

University of Wisconsin-Madison School of Social Work: Leah Gjertson

Appendix B: Joint Financial Account Regulatory Rules

Regulatory rules pertaining to joint accounts:

31 C.F.R. § 103.121(b)(5) -- Customer notice
Notice must be provided to all owners of a joint account. In addition, notice must be provided "in a manner reasonably designed to ensure that a customer is able to view the notice, or is otherwise given notice, before opening an account."

31 C.F.R. § 103.121(b)(5)
(ii). The Agencies agree that a bank may satisfy this requirement by directly providing the notice to any one accountholder of a joint account for delivery to the other owners of the account. Similarly, the bank may open a joint account using information about each of the accountholders obtained from one accountholder, acting on behalf of the other joint accountholders.
FDIC insurance covers joint accounts owned in any manner conforming to applicable state law, such as joint tenants with right of survivorship, tenants by the entirety and tenants in common. To qualify for insurance coverage under this ownership category, all of the following requirements must be met:

All co-owners must be living people. Legal entities such as corporations, trusts, estates or partnerships are not eligible for joint account coverage.

All co-owners must have equal rights to withdraw deposits from the account. For example, if one co-owner can withdraw deposits on his or her signature alone but the other co-owner can withdraw deposits only with the signature of both co-owners, the co-owners would not have equal withdrawal rights. All co-owners must sign the deposit account signature card unless the account is a CD or is established by an agent, nominee, guardian, custodian, executor or conservator.
If all of these requirements are met, each co-owner's shares of every joint account that they own at the same insured bank are added together with their other joint account shares at the same bank, and the total is insured up to $250,000.
The FDIC assumes that all co-owners' shares are equal unless the deposit account records state otherwise. There is no kinship requirement for joint account coverage. Any two or more people that co-own funds can qualify for insurance coverage in the joint account ownership category provided the requirements listed above are met.

Appendix C: Bank Secrecy Act Section 103.121

Relevant sections highlighted in yellow.

Sec. 103.121 Customer Identification Programs for banks, savings associations, credit unions, and certain non-Federally regulated banks.

(a) Definitions. For purposes of this section:

(1)(i) Account means a formal banking relationship established to provide or engage in services, dealings, or other financial transactions including a deposit account, a transaction or asset account, a credit account, or other extension of credit. Account also includes a relationship established to provide a safety deposit box or other safekeeping services, or cash management, custodian, and trust services.

(ii) Account does not include:

(A) A product or service where a formal banking relationship is not established with a person, such as check-cashing, wire transfer, or sale of a check or money order;

(B) An account that the bank acquires through an acquisition, merger, purchase of assets, or assumption of liabilities; or

(C) An account opened for the purpose of participating in an employee benefit plan established under the Employee Retirement Income Security Act of 1974.

(2) Bank means:

(i) A bank, as that term is defined in § 103.11(c), that is subject to regulation by a Federal functional regulator; and

(ii) A credit union, private bank, and trust company, as set forth in § 103.11(c), that does not have a Federal functional regulator.

(3) (i) Customer means:

(A) A person that opens a new account; and

(B) An individual who opens a new account for:

(1) An individual who lacks legal capacity, such as a minor; or

(2) An entity that is not a legal person, such as a civic club.

(ii) Customer does not include:

(A) A financial institution regulated by a Federal functional regulator or a bank regulated by a state bank regulator;

(B) A person described in § 103.22(d)(2)(ii)-(iv); or

(C) A person that has an existing account with the bank, provided that the bank has a reasonable belief that it knows the true identity of the person.

(4) Federal functional regulator is defined at § 103.120(a)(2).

(5) Financial institution is defined at 31 U.S.C. 5312(a)(2) and (c)(1).

(6) Taxpayer identification number is defined by section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109) and the Internal Revenue Service regulations implementing that section (e.g., social security number or employer identification number).

(7) U.S. person means:

(i) A United States citizen; or

(ii) A person other than an individual (such as a corporation, partnership, or trust), that is established or organized under the laws of a State or the United States.

(8) Non-U.S. person means a person that is not a U.S. person.

(b)Customer Identification Program: minimum requirements.

(1) In general. A bank must implement a written Customer Identification Program (CIP) appropriate for its size and type of business that, at a minimum, includes each of the requirements of paragraphs (b)(1) through (5) of this section. If a bank is required to have an anti-money laundering compliance program under the regulations implementing 31 U.S.C. 5318(h), 12 U.S.C. 1818(s), or 12 U.S.C. 1786(q)(1), then the CIP must be a part of the anti-money laundering compliance program. Until such time as credit unions, private banks, and trust companies without a Federal functional regulator are subject to such a program, their CIPs must be approved by their boards of directors.

(2)Identity verification procedures. The CIP must include risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. The procedures must enable the bank to form a reasonable belief that it knows the true identity of each customer. These procedures must be based on the bank’s assessment of the relevant risks, including those presented by the various types of accounts maintained by the bank, the various methods of opening accounts provided by the bank, the various types of identifying information available, and the bank’s size, location, and customer base. At a minimum, these procedures must contain the elements described in this paragraph (b)(2).

(i) Customer information required. (A) In general. The CIP must contain procedures for opening an account that specify the identifying information that will be obtained from each customer. Except as permitted by paragraphs (b)(2)(i)(B) and (C) of this section, the bank must obtain, at a minimum, the following information from the customer prior to opening an account:

(1) Name;

(2) Date of birth, for an individual;

(3) Address, which shall be:

(i)For an individual, a residential or business street address;

(ii) For an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of next of kin or of another contact individual; or

(iii) For a person other than an individual (such as a corporation, partnership, or trust), a principal place of business, local office, or other physical location; and

(4) Identification number, which shall be:

(i) For a U.S. person, a taxpayer identification number; or

(ii) For a non-U.S. person, one or more of the following: a taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Note to paragraph (b)(2)(i)(A)(4)(ii): When opening an account for a foreign business or enterprise that does not have an identification number, the bank must request alternative government- issued documentation certifying the existence of the business or enterprise.

(B) Exception for persons applying for a taxpayer identification number. Instead of obtaining a taxpayer identification number from a customer prior to opening the account, the CIP may include procedures for opening an account for a customer that has applied for, but has not received, a taxpayer identification number. In this case, the CIP must include procedures to confirm that the application was filed before the customer opens the account and to obtain the taxpayer identification number within a reasonable period of time after the account is opened.

(C) Credit card accounts. In connection with a customer who opens a credit card account, a bank may obtain the identifying information about a customer required under paragraph (b)(2)(i)(A) by acquiring it from a third-party source prior to extending credit to the customer.

(ii) Customer verification. The CIP must contain procedures for verifying the identity of the customer, using information obtained in accordance with paragraph (b)(2)(i) of this section, within a reasonable time after the account is opened. The procedures must describe when the bank will use documents, non-documentary methods, or a combination of both methods as described in this paragraph (b)(2)(ii).

(A) Verification through documents. For a bank relying on documents, the CIP must contain procedures that set forth the documents that the bank will use. These documents may include:

(1) For an individual, unexpired government- issued identification evidencing nationality or residence and bearing a photograph or similar safeguard, such as a driver's license or passport; and

(2) For a person other than an individual (such as a corporation, partnership, or trust), documents showing the existence of the entity, such as certified articles of incorporation, a government- issued business license, a partnership agreement, or trust instrument.

(B) Verification through non-documentary methods. For a bank relying on nondocumentary methods, the CIP must contain procedures that describe the nondocumentary methods the bank will use.

(1) These methods may include contacting a customer; independently verifying the customer's identity through the comparison of information provided by the customer with information obtained from a consumer reporting agency, public database, or other source; checking references with other financial institutions; and obtaining a financial statement.

(2) The bank's non-documentary procedures must address situations where an individual is unable to present an unexpired government-issued identification document that bears a photograph or similar safeguard; the bank is not familiar with the documents presented; the account is opened without obtaining documents; the customer opens the account without appearing in person at the bank; and where the bank is otherwise presented with circumstances that increase the risk that the bank will be unable to verify the true identity of a customer through documents.

(C) Additional verification for certain customers. The CIP must address situations where, based on the bank's risk assessment of a new account opened by a customer that is not an individual, the bank will obtain information about individuals with authority or control over such account, including signatories, in order to verify the customer's identity. This verification method applies only when the bank cannot verify the customer's true identity using the verification methods described in paragraphs (b)(2)(ii)(A) and (B) of this section.

(iii) Lack of verification. The CIP must include procedures for responding to circumstances in which the bank cannot form a reasonable belief that it knows the true identity of a customer. These procedures should describe:

(A) When the bank should not open an account;

(B) The terms under which a customer may use an account while the bank attempts to verify the customer's identity;

(C) When the bank should close an account, after attempts to verify a customer's identity have failed; and

(D) When the bank should file a Suspicious Activity Report in accordance with applicable law and regulation.

(3) Recordkeeping. The CIP must include procedures for making and maintaining a record of all information obtained under the procedures implementing paragraph (b) of this section.

(i) Required records. At a minimum, the record must include:

(A) All identifying information about a customer obtained under paragraph (b)(2)(i) of this section;

(B) A description of any document that was relied on under paragraph (b)(2)(ii)(A) of this section noting the type of document, any identification number contained in the document, the place of issuance and, if any, the date of issuance and expiration date;

(C) A description of the methods and the results of any measures undertaken to verify the identity of the customer under paragraph (b)(2)(ii)(B) or (C) of this section; and

(D) A description of the resolution of any substantive discrepancy discovered when verifying the identifying information obtained.

(ii) Retention of records. The bank must retain the information in paragraph (b)(3)(i)(A) of this section for five years after the date the account is closed or, in the case of credit card accounts, five years after the account is closed or becomes dormant. The bank must retain the information in paragraphs (b)(3)(i)(B), (C), and (D) of this section for five years after the record is made.

(4) Comparison with government lists. The CIP must include procedures for determining whether the customer appears on any list of known or suspected terrorists or terrorist organizations issued by any Federal government agency and designated as such by Treasury in consultation with the Federal functional regulators. The procedures must require the bank to make such a determination within a reasonable period of time after the account is opened, or earlier, if required by another Federal law or regulation or Federal directive issued in connection with the applicable list. The procedures must also require the bank to follow all Federal directives issued in connection with such lists.

(5)(i) Customer notice. The CIP must include procedures for providing bank customers with adequate notice that the bank is requesting information to verify their identities.

(ii) Adequate notice. Notice is adequate if the bank generally describes the identification requirements of this section and provides the notice in a manner reasonably designed to ensure that a customer is able to view the notice, or is otherwise given notice, before opening an account. For example, depending upon the manner in which the account is opened, a bank may post a notice in the lobby or on its website, include thenotice on its account applications, or use any other form of written or oral notice.

(iii) Sample notice. If appropriate, a bank may use the following sample language to provide notice to its customers:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

(6) Reliance on another financial institution. The CIP may include procedures specifying when a bank will rely on the performance by another financial institution (including an affiliate) of any procedures of the bank's CIP, with respect to any customer of the bank that is opening, or has opened, an account or has established a similar formal banking or business relationship with the other financial institution to provide or engage in services, dealings, or other financial transactions, provided that:

(i) Such reliance is reasonable under the circumstances;

(ii) The other financial institution is subject to a rule implementing 31 U.S.C. 5318(h) and is regulated by a Federal functional regulator; and

(iii) The other financial institution enters into a contract requiring it to certify annually to the bank that it has implemented its anti-money laundering program, and that it will perform (or its agent will perform) the specified requirements of the bank's CIP.

(c) Exemptions. The appropriate Federal functional regulator, with the concurrence of the Secretary, may, by order or regulation, exempt any bank or type of account from the requirements of this section. The Federal functional regulator and the Secretary shall consider whether the exemption is consistent with the purposes of the Bank Secrecy Act and with safe and sound banking, and may consider other appropriate factors. The Secretary will make these determinations for any bank or type of account that is not subject to the authority of a Federal functional regulator.

(d) Other requirements unaffected. Nothing in this section relieves a bank of its obligation to comply with any other provision in this part, including provisions concerning information that must be obtained, verified, or maintained in connection with any account or transaction.

Appendix D: USA PATRIOT Act sections 326, 351 and 356

Relevant sections highlighted in yellow.

USA PATRIOT Act of 2001, Section 326, subsection (a):

SEC. 326. VERIFICATION OF IDENTIFICATION.
(a) IN GENERAL.—Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:
‘‘(l) IDENTIFICATION AND VERIFICATION OF ACCOUNTHOLDERS.—
‘‘(1) IN GENERAL.—Subject to the requirements of this subsection, Secretary of the Treasury shall prescribe regulations setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an accountat a financial institution.
‘‘(2) MINIMUM REQUIREMENTS.—The regulations shall, at a minimum, require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures for—
‘‘(A) verifying the identity of any person seeking to open an account to the extent reasonable and practicable;
‘‘(B) maintaining records of the information used to verify a person’s identity, including name, address, and other identifying information; and
‘‘(C) consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list.
‘‘(3) FACTORS TO BE CONSIDERED.—In prescribing regulations under this subsection, the Secretary shall take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.
‘‘(4) CERTAIN FINANCIAL INSTITUTIONS.—In the case of any financial institution the business of which is engaging in financial activities described in section 4(k) of the Bank Holding Company Act of 1956 (including financial activities subject to the jurisdiction of the Commodity Futures Trading Commission), the regulations prescribed by the Secretary under paragraph (1) shall be prescribed jointly with each Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act, including the Commodity Futures Trading Commission) appropriate for such financial institution.
‘‘(5) EXEMPTIONS.—The Secretary (and, in the case of any financial institution described in paragraph (4), any Federal agency described in such paragraph) may, by regulation or order, exempt any financial institution or type of account from the requirements of any regulation prescribed under this subsection in accordance with such standards and procedures as the Secretary may prescribe.

‘‘(6) EFFECTIVE DATE.—Final regulations prescribed under this subsection shall take effect before the end of the 1-year period beginning on the date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.’’.

USA PATRIOT Act of 2001, Section 351

SEC. 351. AMENDMENTS RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.

(a) AMENDMENT RELATING TO CIVIL LIABILITY IMMUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:

‘‘(3) LIABILITY FOR DISCLOSURES.—

‘‘(A) IN GENERAL.—Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

‘‘(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

‘‘(i) any inference that the term ‘person’, as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

‘‘(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.’’.

(b) PROHIBITION ON NOTIFICATION OF DISCLOSURES.—Section 5318(g)(2) of title 31, United States Code, is amended to read as follows:

‘‘(2) NOTIFICATION PROHIBITED.—

‘‘(A) IN GENERAL.—If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—

‘‘(i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and

‘‘(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

‘‘(B) DISCLOSURES IN CERTAIN EMPLOYMENT REFERENCES.—

‘‘(i) RULE OF CONSTRUCTION.—Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies—

‘‘(I) in a written employment reference that is provided in accordance with section 18(w) of the Federal Deposit Insurance Act in response to a request from another financial institution; or

‘‘(II) in a written termination notice or employment reference that is provided in accordance with the rules of a self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, except that such written reference or notice may not disclose that such information was also included in any such report, or that such report was made.

‘‘(ii) INFORMATION NOT REQUIRED.—Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).’’.

USA PATRIOT Act of 2001, Section 356

SEC. 356. REPORTING OF SUSPICIOUS ACTIVITIES BY SECURITIES BROKERS AND DEALERS; INVESTMENT COMPANY STUDY.

(a) DEADLINE FOR SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR REGISTERED BROKERS AND DEALERS.—The Secretary, after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall publish proposed regulations in the Federal Register before January 1, 2002, requiring brokers and dealers registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 to submit suspicious activity reports under section 5318(g) of title 31, United States Code. Such regulations shall be published in final form not later than July 1, 2002.

(b) SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS, COMMODITY TRADING ADVISORS, AND COMMODITY POOL OPERATORS.—The Secretary, in consultation with the Commodity Futures Trading Commission, may prescribe regulations requiring futures commission merchants, commodity trading advisors, and commodity pool operators registered under the Commodity Exchange Act to submit suspicious activity reports under section 5318(g) of title 31, United States Code.

(c) REPORT ON INVESTMENT COMPANIES.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission shall jointly submit a report to the Congress on recommendations for effective regulations to apply the requirements of subchapter II of chapter 53 of title 31, United States Code, to investment companies pursuant to section 5312(a)(2)(I) of title 31, United States Code.

(2) DEFINITION.—For purposes of this subsection, the term ‘‘investment company’’—

(A) has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3); and

(B) includes any person that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)), would be an investment company.
(3) ADDITIONAL RECOMMENDATIONS.—The report required by paragraph (1) may make different recommendations for different types of entities covered by this subsection.
(4) BENEFICIAL OWNERSHIP OF PERSONAL HOLDING COMPA- NIES.—The report described in paragraph (1) shall also include recommendations as to whether the Secretary should promulgate regulations to treat any corporation or business or other grantor trust whose assets are predominantly securities, bank certificates of deposit, or other securities or investment instruments (other than such as relate to operating subsidiaries of such corporation or trust) and that has 5 or fewer common shareholders or holders of beneficial or other equity interest, as a financial institution within the meaning of that phrase in section 5312(a)(2)(I) and whether to require such corporations or trusts to disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.

Appendix E: FinCEN Ruling FIN-2009-R2003

Department of the Treasury
Financial Crimes Enforcement Network

Ruling

FIN-2009-R003
Issued: November 3, 2009
Subject: Customer Identification Program Rule – Address Confidentiality Programs

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I am responding to your letter dated January 16, 2009, to the Financial Crimes Enforcement Network (FinCEN), in which you seek guidance on customer identification (CIP) requirements as they relate to customers who are issued a post office box address as part of their participation in the [name of state] program, an address confidentiality program (ACP).[1]

In the situation you have described, [name of state ACP] participants who use [your institution] are having difficulty establishing accounts or changing their address to the post office box that has been assigned to them by [name of state ACP]. [Name of state ACP] is administered by the secretary of state, which maintains a post office box through which program participants receive mail. [2] Under [name of state] law "when a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant" and a program participant may use the designated address as their business address.[3]

The rules implementing the Bank Secrecy Act require a [financial institution] to implement a CIP that includes, at a minimum, risk-based policies and procedures that enable the [financial institution] to form a reasonable belief that it knows the true identity of its customers.[4] The rules also require that a [financial institution] obtain from an individual customer a residential or business street address.[5] If the individual customer does not have a residential or

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[1] ACPs are offered by 31 States; these programs provide a substitute address for victims of domestic violence, sexual assault and stalking and help a participant keep his/her physical address confidential. Substitute addresses are accepted by state and local agencies. See, e.g., Washington Secretary of State Additional Information About ACP http://www.secstate.wa.gov/acp/aboutus.aspx (last visited Oct. 13, 2009).
[2] See, e.g., Oklahoma Secretary of the State Address Confidentiality Program http://www.sos.state.ok.us/acp/acp_welcome.htm (last visited Oct. 13, 2009). For example, in the State of Oklahoma ("State"), the State issues the same post office box number to all participants in its ACP. Under the ACP, mail received at the substitute address is forwarded by first-class mail to the customer's actual address by the State and the secretary of state serves as the customer's agent for service of process and for receipt of mail.
[3] See, e.g., Minn. Stat. §5B.05 (a) and (b) (2008).
[4] See 31 C.F.R. §§ 103.121 – 103.123 and 103.131.
[5] See 31 C.F.R. § 103.121(b)(2)(i)(3)(i), §103.122(b)(2)(i)(A)(3)(i), §103.123(b)(2)(i)(A)(3)(i) and §103.131(b)(2)(i)(A)(3)(i). See also Customer Identification Programs, 68 Fed. Reg. 25090 (May 9, 2003) (Treasury determined that law enforcement should be able to contact an individual customer at a physical location, rather than solely through the mail).

business street address, then the rules permit the individual customer to provide a "residential or business street address of next of kin or of *another contact individual*."[6]

A [financial institution] would not be in compliance with the rules if it accepts the [name of state ACP] post office box address to fulfill CIP requirements. However, FinCEN understands the need to protect victim anonymity. Under the terms of 31 U.S.C. § 5318(a)(5) and 31 CFR § 103.55, FinCEN has the authority to provide exceptive relief from the requirements of 31 CFR part 103. Such exceptions may be conditional or unconditional and may apply to particular persons or classes of persons, but only to the extent that it is expressly stated in the order of authorization.[7] Moreover, exceptions may be revoked at FinCEN's discretion.[8]

Accordingly, in an effort to support [name of state ACP] requirements, as well as similar requirements that may arise in other states that have established an ACP, under 31 U.S.C. § 5318(a)(5) and 31 C.F.R. § 103.55(a), FinCEN authorizes the following exception to the requirement that a [financial institution] obtain a customer's residential or business street address: a customer who participates in a state-created ACP shall be treated as not having a residential or business street address and a secretary of state, or other state entity serving as a designated agent of the customer consistent with the terms of the ACP, will act as *another contact individual* for the purpose of complying with FinCEN's rules. Therefore, a [financial institution] should collect the street address of the ACP sponsoring agency for purposes of meeting its CIP address requirement.

We have relied upon the accuracy and completeness of the representations made in your letter. Nothing precludes FinCEN from taking other action should circumstances change, or if any of the information you have provided proves inaccurate or incomplete. We reserve the right, after redacting your name and address to publish this letter as guidance in accordance with our regulations. Please inform us within fourteen (14) days from the date of this letter of any other information that you believe should be redacted from this letter and the legal basis for redaction.

If you have questions regarding this letter, please contact [FinCEN's regulatory helpline at (800) 949-2732.]

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Regulatory Policy and Programs Division

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[6] See 31 C.F.R. §103.121(b)(2)(i)(3)(ii), §103.122(b)(2)(i)(A)(3)(ii), §103.123(b)(2)(i)(A)(3)(ii) and§103.131(b)(2)(i)(A)(3)(ii) (Emphasis added).
[7] 31 CFR § 103.55(a).
[8] *Id*.

Appendix F: Details of the NYC SafeStart Account

CFE Cities for Financial Empowerment

Co-chairs

New York City

San Francisco

Chicago

Los Angeles

Miami

Newark

Providence

San Antonio

Savannah

Seattle

The Cities for Financial Empowerment Coalition's Comments to the Federal Deposit Insurance Corporation's Proposed Templates for Safe, Low-Cost Transactional and Basic Savings Accounts

June 4, 2010

The Cities for Financial Empowerment (CFE) Coalition is a network of cities committed to advancing innovative financial empowerment initiatives locally and nationally. Expanding the vision of how municipal government can serve its citizens and create pathways for financial stability, CFE leverages power and politics in the service of at-risk communities, and provides a platform for cities to work and learn collectively, forging partnerships with public, private, and non-profit sectors. CFE members include co-chairs New York and San Francisco, and member cities Chicago, Los Angeles, Miami, Newark, Providence, San Antonio, Savannah, and Seattle.

CFE cities across the country are designing and implementing innovative policy solutions to help people who are disenfranchised from the mainstream banking system gain access to affordable financial services through both specialized account-based bank access programs and "Bank On" campaigns. By focusing on connecting low- and moderate-income families to banking, opportunities for asset building and financial education, as well as maximizing consumer protections, these municipal efforts are reaching millions.

Recommendations

The CFE coalition applauds the FDIC's leadership in promoting safe, affordable financial products and services. By establishing a baseline for safe and affordable accounts, the FDIC will be equipping the thousands of efforts at a national, state and local level to link financially underserved residents to the financial mainstream.

Based on CFE's diverse programmatic experience working across the public and private sectors to implement municipal programs that seek to increase access to mainstream financial institutions, we offer the following recommendations to further strengthen the proposed template (*See Appendix A for the revised template reflecting CFE's recommendations).*

Account Fees

- ***Overdraft Protection.*** Safe, affordable accounts must not include fee-based overdraft protection for ATM withdrawals, debit transactions, or ACH transactions. With the exception of paper checks, transactions that cannot be covered by available funds should simply be declined. A reasonable nonsufficient funds fee of $15 or less may be assessed for paper checks, whether they are covered or returned. Further, links to savings accounts or lines of credit to cover overdrafts should be offered with no fee (although interest charges on a credit line are permissible) and with clear disclosure and consumer consent.

- ***Monthly maintenance fees.*** The FDIC should specify what it means by “low fee” in order to be as clear as possible in these guidelines. CFE proposes limiting monthly maintenance fees for transactional accounts to no more than $5. In addition, monthly fees should be waived if direct deposit is established.

- ***Check clearing.*** Many consumers who turn to check cashers do so for quick access to funds. The template should specify that accounts provide timely clearing of checks, within 48 hours. Consumers should be able to reasonably expect to have access to their funds within two days of making a deposit.

<u>Access to Accounts</u>

- ***Remove reference to LMI.*** While it is appropriate to focus on designing safe, affordable products with the financial realties of low to moderate income households in mind, the inclusion of a specific reference to this population may unnecessarily imply a limitation on the usefulness of the account and could potentially inhibit implementation. Efforts to promote these accounts will undoubtedly focus upon lower-income populations and communities but income levels should not be formally established for the account. Further, these accounts are great basic starter accounts for young adults from families across the income spectrum.

- ***Expand upon identification guidelines to ensure broad access to accounts.*** To clear up any confusion about the types of identification permitted and ensure eligible consumers are not denied access to these accounts, the FDIC should provide written guidance on the Patriot Act/Know Your Customer requirements. The written guidance should also cover acceptable forms of alternative identification, including the use of ITINs and whether such tax identification numbers should be required to open non-interest bearing accounts.

- ***Expand upon eligibility guidelines for formerly banked customers to ensure broad access to accounts.*** The FDIC should specify standards for opening accounts for consumers with ChexSystems records. CFE recommends that financial institutions be expected to open accounts if an incident on ChexSystems in question occurred more than six months prior to the account application. Applicable fraud and restitution policies could still apply.

- ***Promote accounts to check-cashing customers.*** Financial institutions should be instructed to establish specific strategies to market depository accounts to their unbanked customers that use their check-cashing services.

Account Features and Additional Services

- ***Unlimited withdrawals per month and free electronic banking.*** CFE strongly supports unlimited electronic withdrawals and free electronic banking as important account features. Consumers also should be permitted to write unlimited checks at no cost, aside from reasonable printing charges for additional paper checks.

- ***Money orders.*** Despite accessing financial services, many low-income people find themselves unable to engage in certain basic transactions through their accounts (such as paying rent by check). CFE proposes that financial institutions be instructed to offer accountholders one free money order per month. Additional money orders for customers and money orders for non-customers should be reasonably priced from $0 - $2.50.

- ***Domestic wire transfer and international remittance fees.*** Fringe financial service providers are often relied upon by potential accountholders for money transfers. To better serve this population and provide additional opportunities to cross-selling the accounts, CFE supports requiring competitive rates for domestic wire transfers and international remittances, which should be specified in the template. The FDIC should also require that such fees are clearly disclosed, including exchange rates that may apply.

Other Features to Consider

- ***Alternative waiver of monthly maintenance fees.*** Monthly maintenance fees could be waived if a consumer purchases a specific number of money orders. CFE recommends a fee waiver when four money orders are purchased in a given month.

- ***Limited immediate check clearing.*** Clearing the first $100 of each check immediately could attract those living paycheck to paycheck.

Recommendations for Template Implementation

Setting an unambiguous template for safe accounts is a critical step in promoting access to appropriate mainstream financial services to those currently un-served or under-served. Once the template is finalized, the FDIC should work with a range of federal and state regulators to provide powerful incentives for the final template to be widely available to consumer at all insured financial institutions. Some implementation strategies could include:

- ***Use local and national campaigns to encourage participation.*** The Access to Banking initiative created by the regulatory reform bill and/or the Bank on USA program proposed in President Obama's FY 2011 budget should expressly promote the template accounts as a minimum expectation for any funded initiative. CFE cities are uniquely positioned to help ensure that unbanked and underbanked residents are aware of this opportunity once it is ubiquitously available.

- ***Provide recognition to those offering accounts.*** Financial institutions that successfully offer, market and sell the account could be provided with a special FDIC rating or seal of approval.

- ***Use the CRA service test to monitor marketing.*** Through CRA exams or other mechanisms, bank regulators review marketing materials associated with starter accounts and require reports on the number of those accounts actually opened.

- ***Use federal payments to leverage account opening.*** Through the FLEC, the federal government could coordinate that federal programs with cash outlay use this count as the default account, rewarding institutions that offer these accounts with access to significant deposits of federal funds

Conclusion

The CFE coalition strongly supports the FDIC's efforts to clearly define standards for safe, affordable accounts. Encouraging financial institutions to offer safe accounts completely free of fee-based overdraft charges is an important step in connecting the unbanked to the financial mainstream.

By implementing multipronged approaches to financial empowerments, CFE cities have learned many important lessons about the financial behaviors of our citizens. The CFE coalition encourages the FDIC to set the strongest possible standards for safe, affordable accounts by adopting the proposed recommendations crafted based upon our real-world experience implementing empowerment initiatives across the country.

Respectfully,

Jonathan Mintz
Commissioner
NYC Department of Consumer Affairs
Co-Chair, CFE Coalition

José Cisneros
Treasurer
City and County of San Francisco
Co-Chair, CFE Coalition

Appendix G: Scale of Economic Abuse

From Adams et al. 2008

Directions: I'm going to go through a list of things some men do to hurt their partner or ex-partner financially. Could you tell me, to the best of your recollection, how frequently your partner or ex-partner has done any of the following things since your relationship began?
1 = never, 2 = hardly ever, 3 = sometimes, 4 = often, 5 = quite often, 8 = not applicable, 9 = prefer not to answer
1. Steal the car keys or take the car so you couldn't go look for a job or go to a job interview.
2. Do things to keep you from going to your job.
3. Beat you up if you said you needed to go to work.
4. Threaten you to make you leave work.
5. Demand that you quit your job.
6. Make you ask him for money.
7. Take money from your purse, wallet, or bank account without your permission and/or knowledge.
8. Force you to give him money or let him use your checkbook, ATM card, or credit card.
9. Steal your property.
10. Do things to keep you from having money of your own.
11. Take your paycheck, financial aid check, tax refund check, disability payment, or other support payments from you.
12. Decide how you could spend money rather than letting you spend it how you saw fit.
13. Demand to know how money was spent.
14. Demand that you give him receipts and/or change when you spent money.
15. Keep you from having the money you needed to buy food, clothes, or other necessities.
16. Hide money so that you could not find it.
17. Gamble with your money or your shared money.
18. Have you ask your family or friends for money but not let you pay them back.
19. Convince you to lend him money but not pay it back.
20. Keep you from having access to your bank accounts.
21. Keep financial information from you.
22. Make important financial decisions without talking with you about it first.
23. Threaten you or beat you up for paying the bills or buying things that were needed.
24. Spend the money you needed for rent or other bills.
25. Pay bills late or not pay bills that were in your name or in both of your names.
26. Build up debt under your name by doing things like use your credit card or run up the phone bill.
27. Refuse to get a job so you had to support your family alone.
28. Pawn your property or your shared property.

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