



CFPB Outline of Debt Collection Proposals

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On July 28th, the Consumer Financial Protection Bureau (CFPB) released a 71 page “[outline](#)”¹ of proposals under consideration for its debt collector and debt buyer rulemaking. The outline was released in conjunction with the agency’s debt collection field hearing in Sacramento, California and will be evaluated by a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel prior to the release of the CFPB’s official notice of proposed rulemaking.

The CFPB reports that it has handled nearly 250,000 debt collection complaints since 2011, making it the most complained about financial product. According to CFPB Director Richard Cordray, this rulemaking “is about bringing better accuracy and accountability to a market that desperately needs it.” The proposals released today apply to third-party debt collectors and those covered by the Fair Debt Collection Practices Act (FDCPA), which include debt buyers, collection agencies, collection law firms, and loan servicers. The CFPB plans to address first party debt collectors, creditors, and those covered by the Dodd-Frank Act in a separate proceeding.

Specifically, the CFPB is considering proposals to reform the third-party debt collection market that would:

- Require debt collectors to substantiate a debt based on a “specific list of fundamental information that a collector could obtain and review to look for ‘warning signs’- or indications that the information associated with the debt is inaccurate or inadequate- before commencing collections activity.”
- Limit the number of communications attempts to six calls a week through a single communication channel.
- Add a “tear-off” portion to validation notices that consumers could complete and mail back to the collector to more easily dispute the debt or to actually pay the debt.
- Prohibit collectors from attempting to collect on a disputed debt until proper documentation verifying the debt is obtained. If the disputed debt is sold, the subsequent collector “could not make claims of indebtedness until it had addressed the dispute.”
- Require collectors to provide a disclosure in the validation notice when attempting to collect an out-of-statute debt informing the consumer that, based on the age of the debt, the collector cannot sue to recover it. Subsequent collectors would also be prohibited from suing on a debt when the previous collector provided the consumer with such a disclosure.
- Prohibit the collection of an out-of-statute debt that can be revived under state law unless the collector waives its right to sue on the debt.
- Require collectors to provide a “litigation disclosure” in all communications informing the consumer of (1) its intent to sue; (2) that a court could rule against the consumer in a lawsuit; and (3) how to access additional information about debt collection litigation on the CFPB’s website.
- Prohibit collectors from transferring debts to entities that (1) are forbidden from purchasing or collecting debts in the state where the consumer lives or (2) do not have the proper licenses to collect debts in the state where the consumer lives.

Many consumer advocacy groups have already questioned whether the proposals provide strong enough protections. However, Encore Capital, a major debt collector and debt buyer, spoke favorably about the proposals, saying, “We believe that the rule-making will provide important clarity around key issues for our industry.”

¹ http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf

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