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CFPB Considers Debt Collection Rules

Bureau Also Releases 5,000 Debt Collection Complaints

Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) today took the first step toward considering consumer protection rules for the debt collection market. Through its Advance Notice of Proposed Rulemaking (ANPR), the Bureau is collecting information on a wide array of issues, including the accuracy of information used by debt collectors, how to ensure consumers know their rights, and the communication tactics collectors employ to recover debts. The Bureau also announced today that it will begin adding consumer complaints about debt collections to its public Consumer Complaint Database.

“For decades, many consumers have reported various unacceptable practices in the debt collection industry. Today’s action will allow us to hear from the public as we consider what rules are needed,” said CFPB Director Richard Cordray. “We want to ensure that all players in the industry are working with correct information, that consumers are fully informed, and that consumers are treated fairly and with dignity.”

The Advance Notice of Proposed Rulemaking can be found at:

http://files.consumerfinance.gov/f/201311_cfpb_anpr_debtcollection.pdf 

There are many businesses in the multi-billion dollar debt collection market. Banks and other original creditors may collect their own debts or hire third-party debt collectors. Original creditors and other owners of debts also may sell their debts to debt buyers, who may collect on the purchased debts or hire third-party debt collectors to recover them. It is estimated that there are more than 4,500 debt collection firms in the U.S.

The main law that governs the industry and protects consumers is the 1977 Fair Debt Collection Practices Act (FDCPA). In 2010, the Dodd-Frank Wall Street Reform and



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Consumer Protection Act revised the FDCPA, making the Bureau the first agency with the power to issue substantive rules under the statute.

Debt Collection Consumer Protections

Debt collection has long been one of the most complained about subject areas to government regulators, including the Federal Trade Commission. In July 2013, the CFPB began accepting debt collection complaints and it has quickly become one of the highest categories of grievances. Consumers say that some collectors harass them, demand amounts they do not owe, and threaten dire circumstances if they don't pay, such as jail. Today's ANPR seeks a wide array of feedback on debt collection issues.

Information Accuracy

The CFPB is concerned about the transfer of information from an original creditor to third-party debt collection firms and debt buyers, and from those parties to other debt collectors and credit bureaus. The CFPB wants to know how documents and records are currently transferred and how to improve the accuracy of that information. The Bureau believes that ensuring the integrity of information within the debt collection system is critically important. Among the questions the ANPR raises is how federal rules could better ensure that debt collectors have the:

- **Correct person:** The CFPB is concerned that debt collectors may try to collect money for debts from the wrong consumers. Debt collectors have been known to send a notice of debt to the wrong address and, in some cases, to incorrectly furnish information to credit bureaus on the wrong person. The ANPR asks for feedback on how debt collectors identify account holders, how they make sure they are pursuing the correct person, what means they use to verify someone's identity, and how they respond when a consumer says they have the wrong person.
- **Correct amount:** The CFPB is concerned that debt collectors may try to collect more than what the consumer owes on a debt. The CFPB has heard reports that sometimes the consumer already paid off the debt in part or in whole, but the collector's records do not accurately reflect the consumer's payments. The CFPB is interested in knowing more about how debt collectors ensure they are seeking to recoup accurate sums.
- **Correct documentation:** The CFPB is concerned that debt collectors do not always have adequate or accurate paperwork or data to support their claims about a consumer's indebtedness. This lack of information can make it harder for the debt collector to provide the consumer with information to identify the debt or resolve disputes. The ANPR asks for feedback on what documents get sold with a debt, what documents consumers should have access to, and what documents

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collectors should be required to provide to a consumer.

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Informed Consumers

The CFPB wants to ensure that consumers have a clear understanding of their rights in the debt collection process. The Bureau is concerned that the disclosures and information that are currently provided to consumers may be confusing or incomplete. Among the questions the ANPR raises is whether federal rules can better ensure that consumers receive:

- ▶ 2012
- ▶ 2011
- ▶ 2010

- **Clear information about the debts:** The CFPB is concerned that debt collectors may try to collect money for debts that consumers do not recognize or understand. When a debt collector collects a name that is unfamiliar to the consumer or for an amount that the consumer does not recognize, the consumer may not be able to respond effectively. The ANPR asks for feedback on the quality of the information consumers receive regarding the debt that is being collected and whether new rules could improve those disclosures.
- **Adequate information about legal rights:** The FDCPA provides consumers with a set of rights, including the right to dispute a debt or to limit certain types of communications from collectors. The CFPB is concerned that consumers may not be receiving adequate information to make informed decisions about whether to exercise these rights. The ANPR seeks feedback on how legal rights are being disclosed to consumers and whether new rules could improve those disclosures.

Communication Tactics

The CFPB wants to make sure that consumers are treated fairly and with respect by all debt collectors, regardless of whether the collector is the creditor, a collector working on behalf of the creditor, or a debt buyer or third-party debt collector. Debt buyers and third-party debt collectors are already, generally, prohibited from engaging in acts that annoy, abuse, or harass consumers under the FDCPA. In today's ANPR, the CFPB is asking for feedback on whether harmful communication tactics are happening that are not specifically addressed in the FDCPA. Among the issues the ANPR raises is how federal rules can better regulate:

- **Contact frequency:** The CFPB is concerned about some debt collectors continuously calling consumers. Consumers have also complained about calling hours and collectors reaching them at their workplace. The ANPR asks for feedback on whether new federal rules should limit debt collector contact, and, if so, how to do so appropriately.
- **Contact methods:** When Congress passed the FDCPA in 1977, the means of reaching a consumer were limited. Today, debt collectors can communicate with

consumers by using email, smartphones, fax machines, and social media. The ANPR seeks feedback on the potential harms or benefits from a debt collector using these modern technologies.

- **Contact claims:** The CFPB is concerned about some debt collectors falsely threatening to initiate a lawsuit or criminal prosecution, garnish wages, damage or ruin a consumer's credit rating, seize property, get the consumer fired from their job, or have a consumer jailed. The ANPR seeks feedback on the prevalence of such false threats and their impact on consumers.

Consumer-Friendly Comment Process

The CFPB is working with the Cornell University e-Rulemaking Initiative to make it easier for the public to comment through a project called Regulation Room. Regulation Room provides an online environment for people and groups to easily learn about, discuss, and react to proposed rules or ANPRs by federal agencies. Individual contributions about the CFPB's ANPR will be incorporated into a report prepared by Cornell researchers and submitted to the Bureau. Consumers can go to www.regulationroom.org on Wednesday to begin participating.

Consumers, consumer groups, debt collectors, industry representatives, and other stakeholders can also comment on the ANPR by following the instructions on www.regulations.gov. The public will have 90 days from when the ANPR is published in the Federal Register to review and provide comments.

Public Debt Collection Complaints

The CFPB today is also adding approximately 5,000 consumer debt collection complaints to its Consumer Complaint Database. These are complaints that the CFPB has received and that companies have responded to since the CFPB began accepting debt collection complaints on July 10, 2013. Currently, debt collection is on par with mortgages in terms of daily complaint volume, with both accounting for approximately 30 percent of consumer grievances. Among the topics consumers are contacting the CFPB about:

- **Collection activities:** Consumers are complaining about harassing or unwanted phone calls; the frequency of collection activities, including the number of phone calls and other contacts; not receiving a notice of the debt; and where the notice of the debt was sent.
- **The underlying debt:** Consumers are complaining about collectors not providing verification of the debt, and being contacted about debt that has already been paid off or debt that doesn't belong to them.

Credit reporting: Consumers are complaining about only becoming aware of a collection account when they find it on their credit report, and being unable to remove a collection item from their credit report.

The Consumer Complaint Database allows the public to see: what consumers complained about; why, how, and when the company in question responded; and whether the response was timely. A consumer's identity and other personal information are not included. The database currently contains more than 155,000 complaints on a wide variety of financial consumer issues, including mortgages, student loans, and credit cards.

The expanded Consumer Complaint Database will be updated Wednesday at 9 a.m.:

consumerfinance.gov/complaintdatabase

The CFPB has taken a number of steps to improve the marketplace for the collection of consumer debts, including supervision efforts. In October 2012, the CFPB issued a Larger Participant rule establishing CFPB supervisory authority over nonbank debt collectors with more than \$10 million in annual receipts. This covers approximately 175 debt collectors accounting for more than 60 percent of the industry's annual receipts.

The Bureau has also issued [bulletins](#) clarifying consumer protections under existing federal laws. The Bureau has issued [sample letters](#) consumers can use in dealing with debt collectors. And the Bureau's interactive online tool, Ask CFPB, contains more than 80 questions and answers related to the topic of [debt collection](#).

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.



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