Consumer Financial Protection Bureau Considers Proposal to Overhaul Debt Collection Market

New Protections Would Limit Collector Contact and Help Ensure the Correct Debt is Collected

JUL 28, 2016

Washington, D.C. – Today the Consumer Financial Protection Bureau (CFPB) outlined proposals under consideration that would overhaul the debt collection market by capping collector contact attempts and by helping to ensure that companies collect the correct debt. Under the proposals being considered, debt collectors would be required to have more and better information about the debt before they collect. As they are collecting, companies would be required to limit communications, clearly disclose debt details, and make it easier to dispute the debt. When responding to disputes, collectors would be prohibited from continuing to pursue debt without sufficient evidence. These requirements and restrictions would follow the debt if it were sold or transferred.

"Today we are considering proposals that would drastically overhaul the debt collection market," said CFPB Director Richard Cordray. "This is about bringing better accuracy and accountability to a market that desperately needs it."

The outline of the proposals under consideration can be found at: http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf

Debt collection is a multi-billion dollar industry and affects about 70 million consumers who have debt in collection, some of whom may be wrongly contacted by debt collectors. Banks and other original creditors may collect their own debts or hire third-party debt collectors. Original creditors also often sell their consumers' debts to debt buyers that may collect on the purchased debts or hire third-party debt collectors to recover them. It is estimated that there are more than 6,000 debt collection firms in the United States.

According to a recent CFPB study, about one-in-three consumers had been contacted by a creditor or collector trying to collect a debt within the past year. Most consumers who had been contacted reported attempts to collect payment on between two and four debts. And one-third of consumers who had been contacted about a debt in the last year reported an attempt to collect in the wrong amount.

Debt collection generates more complaints to the CFPB than any other financial product or service. The most common complaints are about collectors seeking to collect debt from the wrong consumer, for the wrong amount, or debt that could not legally be enforced. When consumers are contacted by collectors for debt they do not recognize, they often do not know what to do next. They may feel pressure to resolve the debt but do not have a clear understanding of their rights. Sometimes consumers pay a debt they don't believe is accurate to make the collector stop contacting them. Other times, consumers spend significant time and money to dispute the debt. They may have to dig through old records to prove information to the collector or retain a lawyer.

Problems with the information that collectors receive when they are hired or they purchase debt, combined with the lack of information provided by collectors to consumers during collections, can cause substantial consumer harm. These factors also drive up costs to collectors, which hurts the industry at large. When an account is sold or placed with a new collector, the information that transfers is often only to the benefit of the collector. It usually includes how to contact the consumer and how much money they supposedly owe. The Bureau's proposals under consideration would overhaul debt collections from when third-party collectors first examine their portfolios of debt to their last attempts to collect.

Debt Collection Protections

Debt collectors are already prohibited by federal law from harassing, oppressing, or abusing consumers. The main law that governs the industry and protects consumers is the 1977 Fair Debt Collection Practices Act. In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act revised that law, making the Bureau the first agency with the power to issue substantive rules under the statute.

Today's proposals under consideration would increase protections pertaining to third-party debt collectors and others covered by the Fair Debt Collection Practices Act, including many debt buyers. As part of its overhaul of the debt collection marketplace, the CFPB plans to address consumer protection issues involving first-party debt collectors and creditors on a separate track. Specifically, the new protections are aimed at ensuring that debt collectors:

- **Collect the correct debt:** Collectors would have to scrub their files and substantiate the debt before contacting consumers. For example, collectors would have to confirm that they have sufficient information to start collection, such as the full name, last known address, last known telephone number, account number, date of default, amount owed at default, and the date and amount of any payment or credit applied after default.
- **Limit excessive or disruptive communications:** Collectors would be limited to six communication attempts per week through any point of contact before they have reached the consumer. In addition, if a consumer wants to stop specific ways collectors are contacting them, for example on a particular phone line, while they are at work, or during certain hours, it would be easier for a consumer to do that. The CFPB is also considering proposing a 30-day waiting period after a consumer has passed away during which collectors would be prohibited from communicating with certain parties, like surviving spouses.
- **Make debt details clear and disputes easy:** Collectors would be required to include more specific information about the debt in the initial collection notices sent to consumers. This information would include the consumer's federal rights. They would have to disclose to consumers, when applicable, that the debt is too old for a lawsuit. The proposal under consideration would also add a "tear-off" portion to the notice that

consumers could send back to the collector to easily dispute the debt, with options for why the consumer thinks the collector's demand is wrong. The tear-off would also allow consumers to pay the debt. The consumer could also verbally question the debt's validity at any time, and prompt the collector to have to check its files again.

- **Document debt on demand for disputes:** If the tear-off sheet or any written notice is sent back within 30 days of the initial collection notice, the collector would have to provide a debt report – written information substantiating the debt – back to the consumer. The collector could not continue to pursue the debt until that report and verification is sent.
- **Stop collecting or suing for debt without proper documentation:** If a consumer disputes – in any way – the validity of the debt, collectors would have to stop collections until the necessary documentation is checked. Collecting on debt that lacks sufficient evidence would be prohibited. In addition, collectors that come across any specific warning signs that the information is inaccurate or incomplete would not be able to collect until they resolve the problem. Warning signs could include a portfolio with a high rate of disputes or the inability to obtain underlying documents to respond to specific disputes. Collectors also would be required to check documentation of a debt before pursuing action against a consumer in court. For example, collectors would have to review evidence of the amount of principal, interest, or fees billed, and the date and amount of each payment made after default.
- **Stop burying the dispute:** If debt collectors transfer debt without responding to disputes, the next collector could not try to collect until the dispute is resolved. The proposals under consideration also outline information that collectors would have to send when they transfer the debt to another collector so that a consumer does not have to resubmit this information to the new collector.

Today's outline of the proposals under consideration is in preparation for convening a Small Business Review Panel to gather feedback from small industry players, which is the next step in the rulemaking process. In addition to consulting with small business representatives, the Bureau will continue to seek input from the public, consumer groups, industry, and other stakeholders before continuing the rulemaking process. When the Bureau issues proposed regulations, the public is invited to submit written comments which will be carefully considered before final regulations are issued.

As part of the review process, the CFPB is also releasing a report, "Study of Third-Party Debt Collection Operations," which is available at: http://files.consumerfinance.gov/f/documents/20160727_cfpb_Third_Party_Debt_Collection_Operations_Study.pdf

To date, the CFPB has taken a number of steps to improve the debt collection marketplace and study the industry. In October 2012, the CFPB issued a Larger Participant rule establishing supervisory authority over nonbank debt collectors with more than $10 million in annual receipts resulting from consumer debt collection. This covers approximately 175 debt collectors accounting for more than 60 percent of the industry's annual receipts. The Bureau has ordered creditors and debt collectors to stop collecting on debt based on bad information, and to refund hundreds of millions of dollars for unlawful 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 .