

CFPB Debt Collection Rule a Mixed Bag for Consumers

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One-Third of U.S. Adults with a Credit Report Have Debt in Collection

Washington, D.C. – The National Consumer Law Center, on behalf of its low income clients, Americans for Financial Reform Education Fund, Center for Responsible Lending, Consumer Federation of America, and the National Association of Consumer Advocates, expressed relief that the Consumer Financial Protection Bureau’s final debt collection rule drops or punts on some of the most harmful parts of its proposal, but advocates still opposed the high call cap that will permit telephone harassment and noted with concern that the rule could lead to a large increase in unwelcome electronic communications.

In a victory for consumers, the final rule drops some of the more outrageous elements of the proposed rule that advocates had criticized, including a free pass for collection attorneys who make false, deceptive, or misleading representations. The CFPB also delayed until December the portions of the rule governing time-barred or “zombie” debt.

The portion of the rule finalized today is focused on telephone calls and electronic communications. Concerning parts of the rule will allow debt collectors to:

- harass consumers with a call every day of the week, and several calls a day for consumers who owe multiple debts,
- use emails, text messages, and social media private messages without consumer consent, which could lead to more electronic harassment or to missed communications if sent to old email addresses.

The 653-page rule is quite complicated and will take some time to decipher to assess the full impact.

The Bureau will also allow collectors to leave voicemails for consumers, which could potentially be heard by third parties, but the final rule omits permission to leave messages with third parties or on postcards and also now forbids the message to include the consumer’s name or to mention “an account.”

The final rule gives consumers more control in some respects, by allowing them to tell a collector to “stop calling” and by requiring every electronic message to include information about how to opt out.

The CFPB will finalize a second part of its debt collection rulemaking in December that will include time-barred debt collection, parking debts on credit reports, model notices to consumers about validating the debt, and language access provisions.

The Urban Institute has documented that, even before the COVID-19 pandemic, 31% of adults in the United States with credit reports have debt in collection. That number goes up to 42% for those residing in communities of color.

“We appreciate that the CFPB has modified many aspects of the rule in response to our concerns, but with millions of Americans scraping by amid the economic fallout from a global pandemic, the

rule still allows debt collectors to make excessive, harassing calls,” **said National Consumer Law Center attorney April Kuehnhoff**. “The last thing struggling families need right now is to be harassed by a debt collector.”

“We applaud the CFPB for dropping the safe harbor that would have widened the door for collectors to use state courts to sue consumers on wrong or incomplete information,” **said Center for Responsible Lending policy counsel Kiran Sidhu**. “But, the CFPB’s final rule does not do enough to protect communities of color, especially during COVID-19, who are still struggling to recover from the Great Recession because of discriminatory exclusion from the financial mainstream and predatory inclusion into high-cost loan products.”

“Vulnerable consumers are facing unprecedented financial challenges in the wake of the pandemic,” **said Rachel Gittleman, financial services outreach manager with the Consumer Federation of America**. “Although the CFPB dropped or delayed some of the most harmful parts of the proposed rule, it has fallen short to protect consumers, especially consumers of color who have a drastically larger share of debt in collections than white communities, from harassing calls and electronic communication.”

“The devil is in the details, and we will have to scour this complicated rule to make sure that it does not open up new fronts for debt collectors’ pervasive and abusive treatment of consumers,” said **Christine Hines, legislative director at National Association of Consumer Advocates**. “Through the guise of modernization, the debt collection rule could open the gate for collectors to aggravate vulnerable consumers with even more harassment and a flood of electronic communications.”

“As we face a dire and worsening economic crisis, we will be keeping a close eye on the ‘zombie debt’ rule, coming in December, which could leave consumers more vulnerable to deception and harassment,” said **Linda Jun, senior policy counsel at Americans for Financial Reform Education Fund**. “Collectors should not be allowed to bring expired debt back to life by luring people into making a small payment that revives a debt that would otherwise be past the timeline for a lawsuit.”

The debt collection rule will impact at least 68 million people in the United States. More than 233 consumer, civil rights, community, and civil legal aid organizations in all 50 states and the District of Columbia submitted comments opposing the proposed rule, noting that it would lead to more harassment of consumers by abusive debt collection and obscure consumer rights under the federal Fair Debt Collection Practices Act. The final rule addresses some, but not all, of those concerns.

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