



# CFPB Finalizes Two New Debt Collection Regulations

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The [Consumer Financial Protection Bureau \(CFPB\)](#) recently finalized two new regulations to implement the [Fair Debt Collection Practices Act](#) (FDCPA; 15 U.S.C. §§ 1692-1692f), which seeks to “eliminate abusive debt collection practices by debt collectors.” On November 30, 2020, the CFPB issued a [final rule](#) on how debt collectors may communicate with consumers. On January 19, 2020, the CFPB published a [second rule](#) clarifying what information debt collectors must disclose to consumers.

This Insight provides an overview of the debt collection market and its regulation and analyzes major parts of the CFPB’s two new rules. For more information about debt collection, see CRS Report R46477, *The Debt Collection Market and Selected Policy Issues*, by Cheryl R. Cooper.

## Debt Collection Market and Regulation

When a consumer defaults on a debt, a third-party debt collector often collects the debt obligation rather than the original lender. Lenders contract with debt collectors to collect their debts. The U.S. debt collection market is large and impacts many consumers. According to a [CFPB survey](#), approximately one-third of consumers with a credit bureau file reported being contacted by at least one lender or assigned debt collector trying to collect on a debt in the previous year.

Debt collectors generally expect to collect only a fraction of the total value of any particular debt, knowing that some consumers will not pay back their debts in full. Therefore, both parties can negotiate the amount and payment schedule of the debt. If a consumer does not settle a debt, the debt owner often has several options, such as taking the collateral for secured loans (e.g., car, house) or garnishing a consumer’s wages after obtaining a court order. Debt collectors have the option, but are not required, to furnish information about the debt to [credit bureaus](#).

Consumers do not choose the debt collectors with whom they engage. Therefore, consumer protection laws and regulations may be particularly consequential in this market. According to the CFPB, debt collection is the consumer finance market with the [second-most complaints](#), accounting for 21% of the total complaints received in 2019.

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The FDCPA is the primary federal statute regulating the consumer debt collection market. It generally applies only to debt collectors, not the original lenders. The FDCPA prohibits debt collectors from engaging in certain types of conduct (such as misrepresentation or harassment) when seeking to collect certain personal, family, or household debts from consumers and grants consumers the right to dispute or stop some communications about an alleged debt. In addition, the FDCPA requires debt collectors to send consumers notification that discloses certain information about their debts. The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) granted the CFPB authority over the FDCPA, and it became the first federal agency empowered to write regulations to implement the FDCPA.

## CFPB's Two FDCPA Regulations

In recent years, the CFPB has been actively engaged in rulemaking intended to clarify and update FDCPA provisions. The following describes selected provisions of the CFPB's two finalized rules, which have received significant attention from stakeholders.

### First Rule: Communication

The CFPB's first regulation generally seeks to clarify appropriate communication tactics for debt collectors. The rule generally limits debt collector phone calls to seven times in a seven-day period and prohibits debt collectors from making calls within a week after speaking by phone to a consumer. [A CFPB survey](#), however, noted that most consumers considered four or more calls per week too much contact. [Some consumer advocates](#) take this as evidence that the phone call limit should be lower, while [industry groups](#) argue that a lower limit would be too restrictive, making it more difficult for them to contact consumers.

The rule also clarifies that debt collectors can use newer technologies, such as email and text messages, to communicate with consumers. Debt collectors are able to use these communication tools without limit; however, the rule requires a reasonable and simple method for consumers to opt out of these types of messages. Although [some commentators](#) believe that these new technologies could be convenient for consumers and reduce debt collection costs, [others argue](#) that allowing debt collectors to send unlimited emails and text messages could lead to consumer abuse.

### Second Rule: Disclosure

The CFPB's second regulation clarifies the information a debt collector must include in the disclosure it sends to consumers at the onset of communication. It requires disclosure of certain information about the debt and consumers' rights in the debt collection process, such as how to dispute a debt. The regulation also allows a debt collector to obtain a "safe harbor" from liability by using a [model validation notice](#). Furthermore, the rule bars debt collectors from furnishing information about a debt to a credit bureau before communicating with the consumer about the debt by phone or mail.

In addition, debt collectors are prohibited from suing or threatening to sue consumers in the case of *time-barred debts*. Many states limit the length of time consumers can be sued on a debt after it goes into collection. Generally, the statute of limitations is between three and six years. Even though consumers are no longer able to be sued on time-barred debts after this period elapses, in most states, debt collectors can continue to collect on these debts using other means (e.g., letters, phone calls). Under certain conditions, these debts can be revived. For example, in some states, if a consumer makes a partial payment on a debt or acknowledges it in writing, a debt collector can sue on the debt after the statute of limitations has expired. Some consumers may not be aware of these laws and therefore may unintentionally revive their time-barred debts. The CFPB considered mandating a time-barred debt disclosure and found in [its research](#) that disclosures can reduce the potential for deception for many consumers. However, the

CFPB decided not to finalize a time-barred debt disclosure due to concerns about (1) debt collector compliance costs incurred to determine whether a debt is time-barred and (2) whether the proposed disclosure would effectively communicate a debt's legal status to consumers.

## Author Information

Cheryl R. Cooper  
Analyst in Financial Economics

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