

December 19, 2018

Director Kathleen Kraninger
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Ongoing Rulemaking on Debt Collection

Dear Director Kraninger,

As we approach the fifth year anniversary of the proposed rulemaking on debt collection, and the regulatory process appears to be moving forward, the 74 undersigned consumer, community, civil rights, faith, labor and legal services groups write to urge the Consumer Financial Protection Bureau (“Consumer Bureau”) to focus on protecting consumers from abusive debt collection practices in any rule that it issues. Many of our groups have submitted previous comments regarding debt collection, including responses to the November 2013 Advanced Notice of Proposed Rulemaking and more recently to the Request for Information on the Consumer Bureau’s Adopted Regulations in June 2018. We reiterate our concerns about widespread debt collection abuses that we have raised in the past and the ongoing need for better protection against these abuses.

In 2017, approximately 71 million adults in the United States had debt in collections, including medical debt, credit card debt, municipal tickets, and utility bills.¹ Households with debt in collections too often are harassed by unscrupulous debt collectors. Over 40 years since the enactment of the Fair Debt Collection practices Act (“FDCPA”), debt collection abuses remain pervasive. Debt collection problems are a leading source of consumer complaints to the Consumer Bureau, which received approximately 84,500 complaints about debt collection in 2017.² The Consumer Bureau’s 2017 survey found that one in four consumers contacted by debt collectors felt threatened.³

Through the Dodd-Frank Act, Congress delegated new authority to the Consumer Bureau to write regulations to implement the protections required by the FDCPA. The statutory purposes of the FDCPA are to “eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.” Any regulation on debt collection must stay aligned to these purposes.

We particularly ask the Consumer Bureau to focus on preventing harassment, increasing consumer privacy, stopping the collection of time-barred debt, and improving the clarity and accuracy of debt collection notices.

¹ 71 Million US Adults have Debt in Collections, Urban Wire: Income and Wealth, Hannah Hassani, Signe-Mary McKernan, July 19, 2018. <https://urbn.is/2rKG4Fx>

² Fair Debt Collection Practices Act, CFPB Annual Report 2018, Pg. 14, March 2018. <http://bit.ly/2Bv8kjX>

³ CFPB Survey Finds Over One-In Four Consumers Contacted by Debt Collectors Feel Threatened, Jan. 12, 2017. <http://bit.ly/2T0rhCy>

Stop Telephone Harassment and Respect Consumer Privacy

One of the most prevalent problems with debt collection is harassing communications from debt collectors that violate consumers' privacy and can cause serious harm to individuals and their families. In the Consumer Bureau's survey on debt collection experiences, 42% of consumers who had been contacted by a collector in the past year reported that they had asked the collector to stop contacting them. More than a third of consumers were called four or more times a week and nearly one in five were contacted eight or more times a week. Even worse, 75% of consumers who asked to stop receiving calls reported that creditors and debt collectors did not comply. Continued harassing phone calls from debt collectors are intended to push consumers to pay debts just to stop the harassment. And this is exactly the type of behavior the FDCPA is designed to prevent. Consumers have too often used money they needed for rent, housing or medical attention to pay debt collectors, even for debts they do not owe, just to stop the harassment.

Collectors should be limited to one live conversation per week, with up to three attempted calls.

Collectors should be required to respect a consumer's verbal request that the collector stop calling.

The CFPB should not exempt any collector contacts, including "limited content" calls or messages requesting a call back, from the FDCPA.

Text and email communications should only be allowed if a consumer agrees to communicate with the debt collector electronically. These communications should be made only to the phone number or email address designated by the consumer, and in full compliance with the federal E-Sign Act. The consent the consumer provides should be limited to the current creditor or debt collector receiving that consent, and all subsequent debt collectors must be required to obtain their own consent from the consumer to communicate by text or email.

Debt collection phone calls and emails to the consumer's work phone number and email, unless in response to a consumer's request, should be expressly prohibited to protect the consumer's privacy in their workplace.

Prohibit Collection of Time-Barred Debt

Debt collectors should be banned from attempting to collect any debt that is beyond the statute of limitations. This ban should apply to collection efforts through the courts, and outside of the judicial context. Collectors should simply be prohibited from communicating with consumers about any time-barred debt. Attempts to collect time-barred debt mislead consumers who generally do not understand the statute of limitations and believe the debt collector still has a right to enforce collection of the debt. Furthermore, debt collectors may take advantage of a consumer's lack of understanding that a payment on time-barred debt may revive the collector's ability to sue the consumer for the debt.

We strongly urge the Consumer Bureau to prohibit entirely the collection and communications around time-barred debt. But if the Consumer Bureau allows such communications, they should be in writing only, and every communication must have a clear, prominent and consumer-tested disclosure that the consumer cannot be sued because the debt is time-barred. Current and subsequent collectors should be prohibited from bringing lawsuits to collect any debt that is “revived” under state law as the result of these collection efforts.

Improve Accuracy and Clarity of Debt Collection Notices

The Consumer Bureau should create a model validation notice and statement of rights that provides comprehensive, clear and accurate information about the alleged debt and the consumer’s debt collection rights. Once created, this model validation notice should undergo consumer testing to confirm that it is comprehensible to the least sophisticated consumers.

Each debt collector should be required to send a validation notice and statement of rights even if other collectors previously sent notices. This ensures that consumers are notified of the name of the collectors currently trying to collect their debt and how much this collector believes is owed.

* * *

Thank you for your consideration of these recommendations. Our organizations welcome the opportunity to discuss our recommendations and further engage with your office as you develop a rule on debt collection.

Sincerely,

Americans for Financial Reform Education Fund
Affordable Homeownership Foundation Inc.
Allied Progress
Arkansans Against Abusive Payday Lending
Arkansas Community Institute
Arkansas Community Organizations
California Reinvestment Coalition
Center for Civil Justice
Center for Economic Integrity
Center for Responsible Lending
Charlotte Center for Legal Advocacy
Colorado Cross Disability Coalition
Communications Workers of America
Connecticut Legal Services, Inc.
Consumer Action
Consumer Advocacy and Protection Society (CAPS)
Consumer Federation of America
Consumer Reports

Covenant House
Demos
East Bay Community Law Center
Empire Justice Center
Financial Protection Law Center
Florida Alliance for Consumer Protection
Florida Consumer Action Network
Georgia Watch
Greater Boston Legal Services, on behalf of its low-income clients
Green Forest CDC
Heartland Alliance
Housing and Economic Rights Advocates
Interfaith Alliance of Colorado
Interfaith Center on Corporate Responsibility
Kentucky Equal Justice Center
Legal Aid Service of Broward County
Legal Aid Society of Palm Beach County, Inc.
Legal Aid Society of the District of Columbia
Maryland Consumer Rights Coalition
Mississippi Center for Justice
Mobilization for Justice
Mountain State Justice, Inc.
NAACP
NAACP COMTWY State Conference
National Association for Latino Community Asset Builders
National Association of Consumer Advocates
National Association of Consumer Bankruptcy Attorneys (NACBA)
National Association of Social Workers West Virginia Chapter
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low income clients)
National Consumers League
National Fair Housing Alliance
National Health Law Program
National Legal Aid & Defender Association
National Rural Social Work Caucus
Neighborhood Housing Services of Greater Cleveland, Inc.
North Carolina Justice Center
Prosperity Now
Public Citizen
Public Counsel
Public Good Law Center
Public Justice Center
Public Law Center
Reinvestment Partners
SC Appleseed
Statewide Poverty Action Network (WA)

Texas Appleseed
Texas Legal Services Center
The Bell Policy Center
Tzedek DC
U.S. PIRG
Virginia Citizens Consumer Council
Virginia Poverty Law Center
West Virginia Center on Budget and Policy
Woodstock Institute
WV Citizen Action Group