



May 18, 2021

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Senior Counsels, Office of Regulations  
Consumer Financial Protection Bureau  
1700 G St. NW  
Washington, DC 20552

**RE: Debt Collection Practices (Regulation F) - Docket No. CFPB-2021-0007 or RIN 3170-AA41**

Dear Senior Counsels:

Consumer Reports<sup>1</sup> writes today in support of delaying the implementation date for the final rules to revise Regulation F, 12 CFR part 1006, which implements the Fair Debt Collection Practices Act (together, the Debt Collection Final Rules). We are also submitting additional comments about the substance of the Rules themselves. Specifically, we urge the Bureau to revise the Debt Collection Final Rules to ban attempts to collect time-barred debt, to require debt collectors to substantiate debts they are trying to collect, to issue a bright line rule with a specific limit on the number of times a debt collector is allowed to contact a consumer over the phone, and to bar contact by debt collectors of consumers via social media. These revisions to the Final Rules are necessary to protect consumers from common debt collection abuses.

**Time-barred debts should be uncollectible**

CFPB research shows that consumers do not understand how attempts to collect time-barred debt works,<sup>2</sup> a misunderstanding which gives debt collectors an intimidating advantage when they contact people. Under current law, consumers can only be sued

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<sup>1</sup> Consumer Reports is an expert, independent, non-profit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. Consumer Reports works for pro-consumer policies in the areas of financial services, as well as telecommunications, health care, food and product safety, energy, telecommunications, privacy and data security, and competition and consumer choice, among other issues, in Washington, DC, in the states, and in the marketplace. Consumer Reports is the world's largest independent product-testing organization, using its dozens of labs, auto test center, and survey research department to rate thousands of products and services annually. Founded in 1936, Consumer Reports has 6 million subscribers to its magazine, website, and other publications.

<sup>2</sup> Per CFPB research, for example, 35 percent of those given a disclosure notice on time-barred debt incorrectly thought they could be sued on the debt. In addition, about 30 percent of participants reported incorrectly that the debtor cannot be sued after making a partial payment and about 42 percent reported incorrectly that the debtor cannot be sued after writing the debt collector and acknowledging the debt.

[https://files.consumerfinance.gov/f/documents/cfpb\\_debt-collection-quantitative-disclosure-testing\\_report.pdf](https://files.consumerfinance.gov/f/documents/cfpb_debt-collection-quantitative-disclosure-testing_report.pdf)

over an unpaid debt for a certain period of time after it was incurred. The statute of limitation varies from state to state and depends on the type of debt involved. However, even though the debt may be too old to be collected in court, debt collectors may still contact consumers to convince them to pay it. If the consumer makes a partial payment or acknowledges the debt, the statute of limitation is reset, meaning the debt is now owed in full and can be enforced in court. The revival of a time-barred debt is an inherently unfair practice that entices consumers to acknowledge or make partial payment on a debt without fully understanding the consequences—it renews both the obligation to pay the debt in full and the collector’s right to sue for the debt.

In issuing the Final Rules, the Bureau abandoned an earlier proposal to require debt collectors to use a model disclosure form when attempting to pursue time-barred debt. CR and other consumer groups argued that those notices were insufficient to prevent consumer harm. Instead, CR and others proposed a simple and clear approach: the Bureau should expressly prohibit all collection attempts on time-barred debt. This includes collection practices in and out of court. We stand by this recommendation, and urge the Bureau to revise the Final Rules to include a complete ban on attempts to collect time-barred debts, and prohibiting debt collectors from treating consumer payments or other acknowledgements as a revival of debt.

### **The Bureau Should Require Debt Collectors to Document that a Debt Is Actually Owed when Trying to Collect**

Under the Final Rules, debt collectors are not required to substantiate the debt before attempting to collect it. Debt collectors are notorious for hounding consumers and filing lawsuits about debts that have already been paid off or never owed in the first place. We urge the Bureau to stop these practices by requiring debt collectors to document the name of the original creditor and an itemized record of the total principal, interest, fees, and other charges that have been added to the debt, when they sue over a debt. In short, debt collectors should be required to prove that money is actually owed by the person they are trying to collect from, and that the debt collector has the legal right to pursue the debt. Doing so will fix a central problem with our broken debt collection system, and end the most egregious of debt collection practices.

### **The Bureau Should Bar Direct Messages On Social Media To Consumers and Limit Phone Calls to Three Per Week for Each Debt**

Under the Final Rules, debt collectors will now be able to send unlimited text messages, emails, and direct messages on social media to consumers. While the CFPB rule gives consumers the right to opt-out of these electronic communications, that is insufficient to protect consumers from the potential harassment of unlimited electronic contacts. The Bureau’s own research showed that only 25% of consumers who asked debt collectors to stop calling had their request honored. There is no reason to think requests to cease electronic contact will be honored more frequently than requests to cease calling were

in 2017.<sup>3</sup> The Bureau should ban contacts of consumers on social media platforms by debt collectors.

Consumers are deeply concerned about the debt collection rule. Nearly 180,000 consumers signed CR's petition urging the CFPB to rescind this rule and prevent debt collectors from harassing people on their social media accounts. Social media is a venue for sharing stories and memories with friends and family. Consumers do not want their social media spaces invaded by unlimited direct messages from debt collectors on debts they may not even owe.

The Final Rules also allow debt collectors to contact consumers by phone up to seven times a week about each debt. Most consumers with debts in collection have more than one, which means some consumers could potentially get dozens of debt collection calls each week. The Bureau should cap the allowable number of collections calls at three per week.

## **Conclusion**

With the coronavirus pandemic continuing to impact the economic security of consumers, it is necessary and appropriate for the Bureau to delay the implementation of the rule. We urge further action: a reevaluation of the rule itself, and adding the additional safeguards discussed here to address consumer harms caused by the current debt collection system.

Sincerely,



Syed Ejaz  
Policy Analyst

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<sup>3</sup> [https://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_Debt-Collection-Survey-Report.pdf](https://files.consumerfinance.gov/f/documents/201701_cfpb_Debt-Collection-Survey-Report.pdf) at 34.