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The Debt Collection Market and Selected Policy Issues

Updated June 22, 2021

Congressional Research Service
https://crsreports.congress.gov
R46477

CRS REPORT
Prepared for Members and
Committees of Congress

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SUMMARY

R46477

June 22, 2021

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The Debt Collection Market and Selected Policy Issues

When a consumer defaults on a debt, a third-party debt collector often collects the debt obligation rather than the lender to whom the debt is originally owed. The debt collection market helps lenders recoup their losses when a consumer defaults, generally making consumer credit and other related markets more efficient. When lenders can effectively recoup their losses, they may be more willing to lend to consumers at lower initial loan costs, leading to more access to credit for consumers.

The U.S. debt collection market is large, and the debt collection process impacts many American consumers. As of 2020, there are nearly 7,000 collection agencies in the United States, and the industry's annual revenue is about $13.4 billion. According to a Consumer Financial Protection Bureau (CFPB) survey, approximately one-third of consumers with a credit bureau file reported being contacted by at least one creditor or debt collector trying to collect on one or more debts in the previous year.

Lenders make contracts with debt collectors to collect their debts, and consumers may not choose the debt collector with whom they engage. Therefore, consumers cannot take their business elsewhere if abuses occur. For this reason, consumer protection laws and regulations may be particularly consequential. According to the CFPB, debt collection is the consumer finance market with the second most complaints, accounting for 15% of the total complaints the agency received in 2020. Consumers' most common debt collector complaints assert that a debt collector attempted to collect a debt the consumer did not believe was owed (49%), or a consumer received insufficient written notification about a debt (20%).

The Fair Debt Collection Practices Act (FDCPA; 15 U.S.C. §§1692-1692p) is the primary federal statute regulating the consumer debt collection market. It generally applies only to debt collectors, not the original lender. 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 that a debt collector must send to a consumer a validation notice disclosing certain information about the debt.

Recently, the CFPB finalized two new regulations intended to clarify and update provisions in the FDCPA. On November 30, 2020, the CFPB issued a final rule on how debt collectors may communicate with consumers. 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. 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. On January 19, 2021, the CFPB published a second final rule clarifying what information debt collectors must disclose 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.

Appropriate regulation of the debt collection market has been a focus of congressional attention in the 117th Congress. Ongoing concerns about debt collection include communication frequency; time-barred and obsolete debt; validation issues; medical debt and credit reporting; and federal, state, and local government debt. On May 13, 2021, the House passed the Comprehensive Debt Collection Improvement Act (H.R. 2547; H.Rept. 117-23), which addresses many of these policy issues. Among other things, the bill would limit debt collectors' email and text messages to consumers, prohibit consumer reporting agencies from including certain medical debts related to medically necessary procedures in consumer credit reports, and make all federal and state government debts subject to the FDCPA. It would also provide military servicemembers additional debt collection protections.

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Introduction

When a consumer defaults on a debt, a third-party debt collector or buyer (hereinafter referred to as "debt collector") often collects the debt obligation, rather than the first-party creditor or lender to whom the debt is originally owed. The debt collection market helps lenders recoup their losses when a consumer defaults, facilitating the resolution of delinquencies and defaults and making consumer credit and other related markets more efficient.

The U.S. debt collection market is large, and it impacts many consumers. As of 2020, there were nearly 7,000 collection agencies in the United States, and the industry's annual revenue was about $13.4 billion.[1] According to a Consumer Financial Protection Bureau (CFPB) survey, approximately one-third of consumers with a credit bureau file reported being contacted by at least one creditor or debt collector trying to collect on one or more debts in the previous year.[2]

Lenders make contracts with debt collectors to collect their debts, and consumers may not choose the debt collector with whom they engage. Therefore, consumers cannot take their business elsewhere if abuses occur. For this reason, consumer protection laws and regulations are particularly important.[3] According to the CFPB, debt collection is the consumer finance market with the second most complaints, accounting for 15% of the total complaints the agency received in 2020.[4]

The Fair Debt Collection Practices Act (FDCPA; 15 U.S.C. §§1692-1692p) is the primary federal statute regulating the consumer debt collection market. It generally applies only to debt collectors, not the original lender. Recently, the CFPB finalized two new regulations intended to clarify and update provisions in the FDCPA, including how debt collectors may communicate with consumers and what information debt collectors must disclose to consumers.

Appropriate regulation of the debt collection market has been a focus of congressional attention in the 117th Congress. On May 13, 2021, the House passed the Comprehensive Debt Collection Improvement Act (H.R. 2547; H.Rept. 117-23), which, among other things, would limit debt collectors' email and text messages to consumers, prohibit consumer reporting agencies from including certain medical debts related to medically necessary procedures in consumer credit reports, and make all federal and state government debts subject to the FDCPA. It would also provide military servicemembers additional debt collection protections. For more information, see CRS Insight IN11678, *House Passes the Comprehensive Debt Collection Improvement Act (H.R. 2547)*, by Cheryl R. Cooper.

This report first provides an overview of the debt collection market, including consumer experiences during the debt collection process. It then discusses the FDCPA, including the CFPB's recently finalized regulations. Lastly, the report discusses selected policy issues pertaining to debt collection: communication frequency; time-barred and obsolete debt; validation issues; medical debt and credit reporting; and federal, state, and local government debt.

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[1] Gabriel Schulman, *Debt Collection Agencies in the US*, IBIS World, Industry Report 56144, December 2020, p. 7 (hereinafter Schulman, *Debt Collection Agencies in the US*, IBIS World, 2020).

[2] Consumer Financial Protection Bureau (CFPB), *Consumer Experiences with Debt Collection: Findings from the CFPB's Survey of Consumer Views on Debt*, January 2017, p. 5, at https://files.consumerfinance.gov/f/documents/201701_cfpb_Debt-Collection-Survey-Report.pdf (hereinafter CFPB, *Consumer Experiences with Debt Collection*).

[3] For an overview of consumer financial markets, see CRS Report R45813, *An Overview of Consumer Finance and Policy Issues*, by Cheryl R. Cooper.

[4] CFPB, *Consumer Response Annual Report: January 1-December 31, 2020*, March 2020, p. 9, at https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf (hereinafter CFPB, *Consumer Response Annual Report*).

Overview of Debt Collection Market

This section provides an overview of the debt collection market. It describes the market between creditors and debt collectors and discusses debt collector operations in detail. It also addresses consumer experiences in the market, including the CFPB's consumer complaints about the industry.

The Market Between Creditors and Debt Collectors

Creditors generally want to recoup their losses to the maximum extent possible after a consumer defaults on a loan or debt. When creditors can effectively recoup their losses, they may be more willing to lend to consumers at lower initial loan costs, leading to more access to credit for consumers.[5] Some creditors may choose to collect their debts themselves. However, some may choose to contract with a debt collector because they do not want to be associated with aggressive collection practices,[6] because debt collectors might have a competitive advantage in collecting debt, or both.[7] Although creditors have the right to use the court system to recoup their losses by obtaining judgments against defaulting consumers, such as wage garnishment, these legal options may be more costly to creditors than the debt collection process.

Many types of industries use the debt collection market. In 2019, debt from unpaid loans or other financial services accounted for close to 40% of debt collection revenue.[8] The other 60% of debt collection revenue included nonfinancial services debt, such as telecommunications, utility, medical, retail, and government debts (see **Figure 1**).[9] In 2020, financial services debts decreased significantly, while medical and government debts grew significantly as a proportion of revenue due to the COVID-19 pandemic. It is unclear if these market trends will continue after the pandemic ends.[10]

[5] Robert M. Hunt, *Collecting Consumer Debt in America*, Federal Reserve Bank of Philadelphia, Business Review, February 2007, at https://www.philadelphiafed.org/-/media/research-and-data/publications/business-review/2007/q2/hunt_collecting-consumer-debt.pdf (hereinafter Hunt, *Collecting Consumer Debt in America*, Federal Reserve Bank of Philadelphia, 2007).

[6] Viktar Fedaseyeu and Robert M. Hunt, *The Economics of Debt Collection: Enforcement of Consumer Credit Contracts*, Federal Reserve Bank of Philadelphia, Working Paper no. 18-04, October 1, 2018, at https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2018/wp18-04r.pdf.

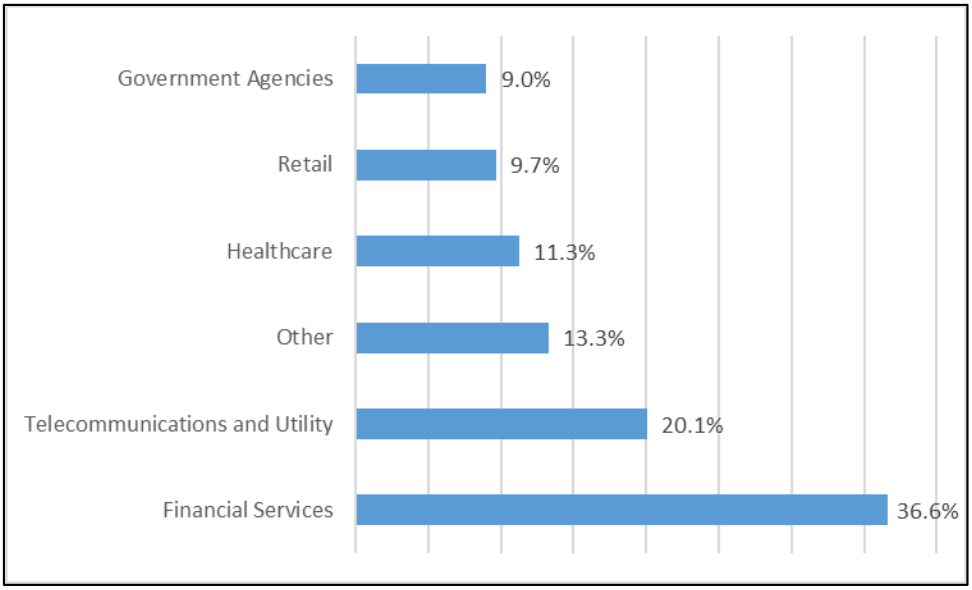
[7] For more information on why a creditor might use a debt collector, see Conference of State Bank Supervisors, "Chapter Five: Overview of Debt Collection," *Reengineering NonBank Supervisors*, January 2020, p. 5, at https://www.csbs.org/system/files/2020-02/Chapter%20Five%20-%20Overview%20of%20Debt%20Collection%20FINAL4.pdf (hereinafter Conference of State Bank Supervisors, "Chapter Five: Overview of Debt Collection," 2020).

[8] Rohan Jaura, *Debt Collection Agencies in the US*, IBIS World, Industry Report 56144, December 2019, p.16 (hereinafter Jaura, *Debt Collection Agencies in the US*, IBIS World, 2019).

[9] Jaura, *Debt Collection Agencies in the US*, IBIS World, 2019, p. 16.

[10] Schulman, *Debt Collection Agencies in the US*, IBIS World, 2020, pp. 19-21.

Figure 1. Debt Collection Major Market Segmentation by 2019 Share of Revenue



Source: Rohan Jaura, *Debt Collection Agencies in the US*, IBIS World, Industry Report 56144, December 2019, p. 16.

Debt collectors typically either contract with the original creditor to receive a share of any amount collected on behalf of the original lender or buy the debt obligation in full.[11] CFPB research suggests that buying the debt obligation in full has declined in the past decade,[12] and most debt collectors now operate by receiving a share of the amount collected on behalf of the original lender.[13] Creditors may choose among thousands of debt collector companies to contract with to collect or sell their consumer debts.[14] The CFPB estimates that about 95% of companies operating in this market are small businesses.[15] However, in the past few decades, the debt collection market has experienced consolidation due to new technologies, such as automated call center systems, which have made this industry more efficient and led to greater economies of scale.[16] Larger debt collection companies may be better positioned to handle higher volumes from larger companies and increased regulatory compliance burdens.[17]

Debt collectors can call, send letters, and use other methods to contact consumers to collect an alleged debt. In general, debt collectors expect to collect only a fraction of the face value of any particular debt, knowing that some consumers will never pay back their debts in full. Therefore,

[11] CFPB, *Fair Debt Collection Practices Act*, March 2021, pp. 14-15, at https://files.consumerfinance.gov/f/documents/cfpb_fdcpa_annual-report-congress_03-2021.pdf (hereinafter CFPB, *Fair Debt Collection Practices Act*). Some states have debt collection licensing requirements, although there is no licensing requirement at the federal level. See Conference of State Bank Supervisors, "Chapter Five: Overview of Debt Collection," 2020, pp. 4-16, 18-19.

[12] CFPB, *Market Snapshot: Third-Party Debt Collections Tradeline Reporting*, July 2019, p. 10, at https://files.consumerfinance.gov/f/documents/201907_cfpb_third-party-debt-collections_report.pdf (hereinafter CFPB, *Market Snapshot: Third-Party Debt Collections Tradeline Reporting*).

[13] CFPB, *Fair Debt Collection Practices Act*, pp. 14-15.

[14] Jaura, *Debt Collection Agencies in the US*, IBIS World, 2019, p. 4.

[15] CFPB, "Debt Collection Practices (Regulation F)," 84 *Federal Register* 23392-23393, May 21, 2019.

[16] Hunt, *Collecting Consumer Debt in America*, Federal Reserve Bank of Philadelphia, 2007.

[17] Jaura, *Debt Collection Agencies in the US*, IBIS World, 2019, p. 11.

when a debt collector contacts a consumer, both parties can negotiate the amount and payment schedule of the debt.[18]

If a consumer does not settle a debt, the debt owner often has several options, such as seizing the collateral for secured loans (e.g., car, home)[19] or garnishing a consumer's wages after obtaining a court order. According to CFPB research, "the cost of filing a claim plays a large role in litigation decisions and varies significantly across jurisdictions based on differences in factors such as filing fees and what types of collections claims can be brought in small claims court."[20] More than half of filed suits lead to default judgments in favor of the debt owner, often because consumers fail to appear in court.[21] According to a CFPB consumer survey, about 15% of those contacted about a debt were sued in the past year.[22] Of those sued, a fraction—about a quarter—of consumers reported attending the court hearing.[23]

[18] CFPB, "What is the Best Way to Negotiate a Settlement With a Debt Collector?" March 29, 2019, at https://www.consumerfinance.gov/ask-cfpb/what-is-the-best-way-to-negotiate-a-settlement-with-a-debt-collector-en-1447/.

[19] Legal processes are in place to seize collateral for secured loans, such as foreclosure or car repossession.

[20] CFPB, *Study of Third-Party Debt Collection Operations*, July 2016, p. 18, at https://files.consumerfinance.gov/f/documents/20160727_cfpb_Third_Party_Debt_Collection_Operations_Study.pdf (hereinafter CFPB, *Study of Third-Party Debt Collection Operations*).

[21] CFPB, *Study of Third-Party Debt Collection Operations*, p. 18.

[22] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

[23] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

Debt Collection and Credit Reporting

Many financial institutions furnish information about their customers' payment histories to credit bureaus.[24] Credit bureaus (or credit reporting agencies) collect and subsequently provide consumer information to firms, which use this information to screen for consumer risks. For example, lenders rely on credit reports and scores to determine the likelihood that prospective borrowers will repay their loans before entering into a financial relationship with those consumers.

Debt collectors are not required (but they may choose) to furnish information about debts to credit bureaus. For financial services debts, lenders may have already reported to the credit bureaus that a consumer defaulted on the debt before debt collection begins. For nonfinancial debts, creditors are often less likely to report this information. According to the Consumer Financial Protection Bureau (CFPB), debt collectors frequently choose not to furnish information to credit bureaus due to costs and potential legal liability, but most debt collectors furnish information occasionally.[25] Generally, debt buyers who buy debt obligations in full are more likely to report debts to credit bureaus.[26] Debts can generally be reported in a consumer's credit record for seven years. A debt is considered *obsolete* when it can no longer be included in a consumer's credit report.

Over one-fourth of consumers have a debt collection on their credit report.[27] Past-due medical bills, credit cards, and student loans were the most common types of debts on credit records.[28] According to the CFPB, those contacted about credit card and student loan debts differed more across demographic characteristics and credit scores than those contacted about medical debt.[29] Some debt collectors engage in *passive collections*—reporting a debt to a credit reporting agency and waiting for the consumer to discover and pay back the debt—rather than spending resources actively collecting the debt from consumers. The practice of passive collections is controversial, and the CFPB suggests that it may not affect many consumers.[30]

Debt collections are disputed with credit bureaus at a greater rate than other types of credit report information.[31] This could be for many reasons. For example, debt collection information is more likely to negatively affect a consumer's credit record. In addition, this information may tend to be less accurate than other credit report information. According to a CFPB survey, more than half of consumers who had been contacted about a debt in collection reported an error relating to at least one such debt,[32] and about a quarter disputed the debt with the debt collector.[33] Although consumers' demographics were not correlated with citing an issue with an alleged debt, older, wealthier, and higher credit quality consumers were more likely to report disputing the debt.[34]

Consumer Experiences

Many consumers in the United States experience the debt collection process.[35] According to a 2014-2015 CFPB survey, about one-third of consumers with a credit bureau file reported being contacted in the last year by at least one creditor or collector trying to collect on one or more

[24] For more information on the credit reporting system, see CRS Report R44125, *Consumer Credit Reporting, Credit Bureaus, Credit Scoring, and Related Policy Issues*, by Cheryl R. Cooper and Darryl E. Getter.

[25] CFPB, *Study of Third-Party Debt Collection Operations*, p. 19.

[26] CFPB, *Market Snapshot: Third-Party Debt Collections Tradeline Reporting*, p. 5.

[27] CFPB, *Market Snapshot: Third-Party Debt Collections Tradeline Reporting*, pp. 5-7. For more information about the geography of consumers with delinquent debt across the United States, see Urban Institute, "Debt in America: An Interactive Map," last updated December 17, 2019, at https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct_debt_collections.

[28] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

[29] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

[30] CFPB, *Consumer Experiences with Debt Collection*, pp. 14-15.

[31] CFPB, *Market Snapshot: Third-Party Debt Collections Tradeline Reporting*, p. 14.

[32] CFPB, *Consumer Experiences with Debt Collection*, p. 24.

[33] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

[34] CFPB, *Consumer Experiences with Debt Collection*, p. 25.

[35] For resources for consumers having trouble paying their debts, see CFPB, "Debt Collection: Consumer Tools," at https://www.consumerfinance.gov/consumer-tools/debt-collection/.

debts.[36] Consumers with lower incomes and nonprime credit scores were more likely to report experiences with debt collection than consumers with higher incomes and prime credit scores.[37] In addition, over 40% of consumers reported telling a collector to stop contacting them, and of those consumers, about a quarter reported that the contact stopped after their request.[38]

According to the CFPB, consumer complaints about debt collection accounted for 15% of the total complaints it received in 2020.[39] The most common such complaints asserted that a debt collector attempted to collect a debt the consumer did not believe was owed (49%), or a consumer received insufficient written notification about a debt (20%) (see **Table 1**).[40]

Table 1. Types of Debt Collection Complaints Reported by Consumers in 2020

Types of Complaints	% of Debt Collection Complaints
Attempts to collect debt not owed	49%
Complaints about written notification about the debt	20%
Negative or legal actions or threats to take such actions	10%
False statements or representations	10%
Complaints about communication tactics	8%
Threats to contact someone or share information improperly	2%

Source: Consumer Financial Protection Bureau, *Fair Debt Collection Practices Act*, March 2021, p. 19, at https://files.consumerfinance.gov/f/documents/cfpb_fdcpa_annual-report-congress_03-2021.pdf.

Consumers who cannot pay their debts may turn to the federal bankruptcy process, which is generally governed by the Bankruptcy Code.[41] In general, the bankruptcy process allows a consumer to enter a court-administered proceeding to discharge certain debts and obtain a fresh start. However, consumers may face negative repercussions by choosing bankruptcy (e.g., a lower credit score and reduced access to credit for several years afterward). In 2005, Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA; P.L. 109-8) in response to what some perceived as a high number of consumer bankruptcy filings and concerns about some consumers abusing the system. BAPCPA made numerous amendments to the Bankruptcy Code. One change was to impose a "means test" to determine when consumers have the financial ability to pay their debts in installments over several years, rather than receiving more immediate relief from their debts.[42]

[36] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

[37] CFPB, *Consumer Experiences with Debt Collection*, pp. 15-16.

[38] CFPB, *Consumer Experiences with Debt Collection*, p. 5.

[39] CFPB, *Consumer Response Annual Report*, p. 9. Debt collection was the eighth most complained about industry to the Federal Trade Commission (FTC), accounting for 2.55% of all complaints in 2020. See FTC, *Consumer Sentinel Network: Data Book 2020*, February 2020, p. 7, at https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf.

[40] CFPB, *Fair Debt Collection Practices Act*, p. 19. The "The Fair Debt Collection Practices Act" section of this report discusses written notification requirements in detail.

[41] 11 U.S.C. §§101-1532. For more information on the bankruptcy process, see CRS Report R45137, *Bankruptcy Basics: A Primer*, by Kevin M. Lewis.

[42] 11 U.S.C. §707(b) provides the following:

> After notice and a hearing, the court, on its own motion or on a motion by the United States trustee, trustee (or bankruptcy administrator, if any), or any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts, or, with the debtor's

In addition to the federal bankruptcy process, many states limit the length of time consumers can be sued on a debt, called *time-barred debt*.[43] Different states have different time-barred debt rules, but generally, most fall between three and six years.[44] Therefore, some consumers may have their debts age past the statute of limitations, even if they do not go through the bankruptcy process.[45] This result is sometimes referred to as *informal bankruptcy*. Even though consumers are no longer able to be sued on time-barred debts, debt collectors in most states can continue to collect on these debts. In addition, in many states, debts can be revived if certain conditions are met. 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.

Debt Relief Companies and Credit Counseling Agencies

Debt relief companies and credit counseling agencies provide services to help consumers manage unsecured debt.[46] These organizations can be nonprofit or for-profit companies. Two common types of debt relief services are *debt consolidation* (consolidating debts into one larger consumer loan) and *debt management plans* (working with creditors to gain concessions, such as waiving fees and lowering interest rates, to make it easier for consumers to pay back creditors). Related services, such as financial education, are often offered by these types of organizations.

Debt settlements are agreements between the creditor and consumer to resolve the debt for less than the full balance owed. These settlements are sometimes arranged directly between creditors and consumers and are sometimes managed by debt relief companies. Consumer Financial Protection Bureau data suggest a growth in debt settlements in recent years.[47]

A consumer protection concern in this market is whether consumers understand their options and the services they are paying for. In recent years, the federal government has implemented new regulations on these organizations. In 2006, Congress created standards for nonprofit credit counseling agencies, such as reasonable fees, bans on the provision of loans, and limits on the ability to financially gain from services provided to consumers.[48] In 2010, the Federal Trade Commission issued a final rule that bans for-profit debt relief companies from charging a fee before providing their services to consumers.[49] It also requires disclosures and prohibits misrepresentations when telemarketing debt relief services to consumers. Given the industry's growth in recent years, debate continues around its appropriate regulation.[50]

The Fair Debt Collection Practices Act[51]

Robust debt collection markets may benefit consumers by expanding access to credit, but they could also harm consumers. Creditors who rely on relationships with consumers for future

consent, convert such a case to a case under chapter 11 or 13 of this title, if it finds that the granting of relief would be an abuse of the provisions of this chapter.

[43] FTC, "Time-Barred Debts," July 2013, at https://www.consumer.ftc.gov/articles/0117-time-barred-debts.

[44] FTC, *The Structure and Practices of the Debt Buying Industry*, January 2013, p. 42, at https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf.

[45] The debtor remains legally obligated to pay the debt, however, the debt collector can no longer resort to legally enforceable actions. See Midland Funding, LLC v. Johnson, 137 1407 1411-1420 (S.Ct. 2017).

[46] Conference of State Bank Supervisors, "Chapter Five: Overview of Debt Collection," 2020, pp. 3, 6.

[47] Christa Gibbs et al., *Recent Trends in Debt Settlement and Credit Counseling*, CFPB, Quarterly Consumer Credit Trends, July 2020, at https://files.consumerfinance.gov/f/documents/cfpb_quarterly-consumer-credit-trends_debt-settlement-credit-counseling_2020-07.pdf.

[48] P.L. 109-280, §1220.

[49] FTC, "Telemarketing Sales Rule," 75 *Federal Register* 48458-48523, August 10, 2010.

[50] CFPB, "Evolutions in Consumer Debt Relief," March 10, 2020, at https://www.consumerfinance.gov/about-us/events/archive-past-events/evolutions-in-consumer-debt-relief-event/.

[51] For more information about the Fair Debt Collection Practices Act (FDCPA), see CRS In Focus IF11247, *The Fair*

business may care more about maintaining their reputations when collecting on a debt than debt collectors who contract with creditors rather than consumers. Consumers do not have the ability to choose the debt collector with whom they engage and are unable to take their business elsewhere if abuses occur. In this way, the debt collection market does not provide an economic incentive to provide good service to consumers, as in other consumer markets. For this reason, consumer protection laws and regulations may be particularly consequential.

The FDCPA is the primary federal statute regulating the consumer debt collection market.[52] Congress passed the FDCPA in 1977 to "eliminate abusive debt collection practices by debt collectors."[53] The law generally applies only to debt collectors, not the original creditors.[54] It prohibits debt collectors from engaging in certain types of conduct when seeking to collect certain debts from consumers, such as engaging in harassment or abuse[55] or making false or misleading representations.[56] The FDCPA limits when and how a debt collector communicates with a consumer, such as limits on communications at "unusual time[s] or place[s],"[57] and grants consumers the right to dispute[58] or stop certain communications about an alleged debt.[59] Moreover, the FDCPA requires that a debt collector must send a consumer a validation notice, which is to disclose certain information about the debt to the consumer, within five days of the initial communication.[60]

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act; P.L. 111-203) granted the CFPB authority over the FDCPA and became the first federal agency to be able to write regulations to implement the FDCPA.[61] It also grants the CFPB authority over those who collect debt related to a consumer financial product service, as defined in the Dodd-Frank Act. The rest of this section discusses the CFPB's supervision and enforcement of the FDCPA. This section also discusses the CFPB's active proposed rulemaking related to the debt collection market, including its intention to clarify and update provisions in the FDCPA.

Supervision and Enforcement

The federal government supervises and enforces the debt collection market for compliance with relevant laws, such as the FDCPA. The CFPB has supervisory authority, or the authority to conduct examinations, over nonbank firms with more than $10 million in annual receipts from consumer debt collection activities. Both the Federal Trade Commission (FTC) and the CFPB can

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Debt Collection Practices Act: Legal Framework, by Kevin M. Lewis.

[52] 15 U.S.C. §1692a. The law only includes consumer debts "primarily for personal, family, or household purposes."

[53] 15 U.S.C. §1692.

[54] 15 U.S.C. §1692a. The FDCPA can apply to a creditor collecting its own debts using a different name. Some creditors audit their debt collectors in terms of compliance with federal and state law. For more information on auditing practices of debt collectors, see CFPB, *Study of Third-Party Debt Collection Operations*, pp. 20-21.

[55] 15 U.S.C. §1692d.

[56] 15 U.S.C. §1692e.

[57] 15 U.S.C. §1692c(a)(1).

[58] 15 U.S.C. §1692g(b).

[59] 15 U.S.C. §1692c(c). For exceptions to this rule, see 15 U.S.C. §1692c(c)(1)-(3).

[60] 15 U.S.C. §1692g(a).

[61] See P.L. 111-203, §1002 and §1011. For more information on the CFPB's authorities, see CRS In Focus IF10031, *Introduction to Financial Services: The Consumer Financial Protection Bureau (CFPB)*, by Cheryl R. Cooper and David H. Carpenter.

enforce FDCPA provisions.[62] The FDCPA also establishes a private right of action for consumers to sue on their own behalf.[63]

Recently, the debt collection market has been an active area for the CFPB and the FTC. The CFPB is required to report annually on the "administration of its functions" relating to the FDCPA. In FY2020, the CFPB found three patterns in its supervisory activities: (1) false litigation threats and misrepresentations regarding litigation, (2) the false implication that a debt could be reported to credit reporting agencies, and (3) a false representation that a debt collector is a credit reporting agency.[64] In FY2020, the CFPB and the FTC also announced, filed, or resolved 11 debt collection enforcement actions.[65] In addition, the CFPB and the FTC conducted education and outreach to the public about consumer rights and responsibilities in the debt collection market under relevant laws.[66]

Consumer Financial Protection Bureau Rulemaking

The CFPB recently finalized two new regulations to regulate the debt collection market.[67] On November 30, 2020, the CFPB issued a final rule on how debt collectors may communicate with consumers.[68] On January 19, 2021, the CFPB published a second rule clarifying what information debt collectors must disclose to consumers.[69] The following sections describe selected provisions of the CFPB's two regulations.

First Rule: Communication

The CFPB's first regulation generally seeks to clarify appropriate communication tactics for debt collectors. The rule sets standards on contact frequency, generally limiting debt collector phone calls to seven times in a seven-day period. It would also prohibit debt collectors from making calls within a week after speaking by phone to a consumer. 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.

Second Rule: Disclosure

The CFPB's second regulation clarifies the information a debt collector must include in the validation notice it sends to a consumer 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.[70] In addition, the rule bars debt collectors from

[62] 15 U.S.C. §1692l(a)-(b).

[63] 15 U.S.C. §1692k.

[64] CFPB, *Fair Debt Collection Practices Act*, pp. 23-24.

[65] CFPB, *Fair Debt Collection Practices Act*, pp. 29-37.

[66] CFPB, *Fair Debt Collection Practices Act*, pp. 38-45.

[67] For an overview of the CFPB's two new debt collection regulations, see CRS Insight IN11590, *CFPB Finalizes Two New Debt Collection Regulations*, by Cheryl R. Cooper.

[68] CFPB, "Debt Collection Practices (Regulation F)," 85 *Federal Register* 76734, November 30, 2020.

[69] CFPB, "Debt Collection Practices (Regulation F)," 86 *Federal Register* 5766, January 19, 2021.

[70] The model disclosure form can be found at https://files.consumerfinance.gov/f/documents/cfpb_model-validation-notice_2020-12.pdf. To learn more about the CFPB's disclosure testing, see Fors Marsh Group, *Debt Collection*

furnishing information about a debt to a credit bureau before communicating with the consumer about the debt by phone or mail.[71] In addition, debt collectors are prohibited from suing or threatening to sue consumers in the case of time-barred debts.[72]

Policy Issues

Research suggests that policymakers face a trade-off in the debt collection market between consumer protection benefits and the cost of reduced credit availability for consumers. Some economic research suggests that stricter debt collection regulations may lead to lower recovery rates on past debts, causing a reduction in credit (or higher cost of credit) for some consumers—however, the magnitude of this effect is debated.[73]

Appropriate regulation of the debt collection market has been a focus of congressional attention in the 117th Congress. On May 13, 2021, the House passed H.R. 2547, the Comprehensive Debt Collection Improvement Act.[74] This would, among other things, limit debt collectors' email and text messages to consumers, prohibit consumer reporting agencies from including certain medical debts related to medically necessary procedures in consumer credit reports, and make federal and state government debts subject to the FDCPA. It would also provide military servicemembers additional debt collection protections.[75] This section highlights five significant policy issues in the debt collection market: (1) communication frequency; (2) time-barred and obsolete debt; (3) validation issues; (4) medical debt and credit reporting; and (5) federal, state, and local government debt. When relevant, each section discusses how H.R. 2547 addresses these policy issues.

Validation Notice Research: Summary of Focus Groups, Cognitive Interviews, and User Experience Testing, February 2016, at https://files.consumerfinance.gov/f/documents/cfpb_debt-collection_fmg-summary-report.pdf (hereinafter Fors Marsh Group, *Debt Collection Validation Notice Research: Summary*, 2016); and ICF, *Quantitative Survey Testing of Model Disclosure Clauses and Forms for Debt Collection: Methodology Report*, January 21, 2020, at https://files.consumerfinance.gov/f/documents/cfpb_icf_debt-survey_methodology-report.pdf (hereinafter ICF, *Methodology Report*, 2020).

[71] For more information on debt collection and credit reporting, see the "Debt Collection and Credit Reporting" text box in "The Market Between Creditors and Debt Collectors."

[72] To learn more about the CFPB's disclosure testing relating to time-barred debt and revival, see CFPB, *Disclosure of Time-Barred Debt and Revival: Findings from the CFPB's Quantitative Disclosure Testing*, February 2020, at https://files.consumerfinance.gov/f/documents/cfpb_debt-collection-quantitative-disclosure-testing_report.pdf (hereinafter CFPB, *Disclosure of Time-Barred Debt and Revival: Findings*, 2020); and ICF, *Methodology Report*, 2020.

[73] Ryan Sandler and Charles J. Romeo, *The Effect of Debt Collection Laws on Access to Credit*, CFPB, Office of Research, Working Paper no. 2018-01, February 12, 2018, at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3124954; Viktar Fedaseyeu, *Debt Collection Agencies and the Supply of Consumer Credit*, Federal Reserve Bank of Philadelphia, Working Paper no. 20-06, February 2020, at https://www.philadelphiafed.org/consumer-finance/consumer-credit/debt-collection-agencies-and-the-supply-of-consumer-credit; and Julia Fonseca, Katherine Strair, and Basit Zafar, *Access to Credit and Financial Health: Evaluating the Impact of Debt Collection*, Federal Reserve Bank of New York, Staff Report no. 814, May 2017, at https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr814.pdf?la=en.

[74] For more information on H.R. 2547, see CRS Insight IN11678, *House Passes the Comprehensive Debt Collection Improvement Act (H.R. 2547)*, by Cheryl R. Cooper.

[75] H.R. 2547 would prohibit a debt collector from threatening the member's rank or security clearance or having the member prosecuted under the Uniform Code of Military Justice, among other things.

The COVID-19 Pandemic and Debt Collection

The economic impact of the COVID-19 pandemic caused many Americans to lose income and face financial hardship. While federal laws to respond to the COVID-19 pandemic provided some relief options for consumers having trouble paying their loans, the debt collection industry was generally not directly impacted by these laws.[76] Controversially, during the pandemic, some debt collectors have continued to collect on consumer debts and sue consumers in court.[77] Some states have instituted new measures that impacted the debt collection industry, such as prohibitions on wage garnishments or bank attachments.[78]

Due to government policy responses to the pandemic—such as loan forbearance options, enhanced unemployment insurance, and relief checks—consumers have generally not become more delinquent on their loan obligations as of spring 2021.[79] However, as these relief measures expire, some consumers may fall delinquent on their loans, possibly impacting the debt collection market and the economic recovery generally.

Communication Frequency

The communication frequency standards in the CFPB's rule continue to be a contentious issue. As mentioned in the "First Rule: Communication" section, the CFPB's regulation 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. In addition, debt collectors could use technologies such as email or text message without limit, unless consumers were to opt out. The proposal would set standards on contact frequency, which could reduce lawsuits relating to legal uncertainty, benefitting both debt collectors and consumers.[80]

Some observers disagree about whether the CFPB's proposed communication frequency standards would be at the right levels. Some industry representatives argue that call frequency limits may make it more difficult to reach and follow up with consumers, increasing the cost and length of time to resolve debts.[81] Some consumer groups argue that call frequency limits should be lowered.[82] A CFPB survey found that most consumers considered four or more calls a week to

[76] During the COVID-19 pandemic, some consumer relief options have been available for consumers having trouble paying their loans. For example, *loan forbearance* has become a common form of consumer relief during the COVID-19 pandemic. Loan forbearance plans are agreements allowing borrowers to reduce or suspend payments for a short period of time, providing extended time for consumers to become current on their payments and repay the amounts owed. These plans do not forgive unpaid loan payments. For more information on consumer loan forbearance during the COVID-19 pandemic, including the impact of the CARES Act (P.L. 116-136) and other federal regulatory efforts, see CRS Report R46356, *COVID-19: Consumer Loan Forbearance and Other Relief Options*, coordinated by Cheryl R. Cooper. For resources for consumers having trouble paying their debts during the COVID-19 pandemic, see Kristin Dohn, *Dealing with Debt During the Coronavirus Pandemic: Tips to Help Ease the Impact*, CFPB, June 17, 2020, at https://www.consumerfinance.gov/about-us/blog/coronavirus-and-dealing-debt-tips-help-ease-impact/.

[77] Paul Kiel and Jeff Ernsthausen, "Debt Collectors Have Made a Fortune This Year. Now They're Coming for More," *ProPublica*, October 5, 2020, at https://www.propublica.org/article/debt-collectors-have-made-a-fortune-this-year-now-theyre-coming-for-more; and Shane Shifflett and Justin Scheck, "Most Big Debt Collectors Backed Off During the Pandemic. One Pressed Ahead," *Wall Street Journal*, April 7, 2020, at https://www.wsj.com/articles/most-big-debt-collectors-backed-off-during-the-pandemic-one-pressed-ahead-11617804180.

[78] CFPB, *Fair Debt Collection Practices Act*, pp. 16-17.

[79] See CRS Report R46578, *COVID-19: Household Debt During the Pandemic*, coordinated by Cheryl R. Cooper.

[80] CFPB, "Debt Collection Practices (Regulation F)," 84 *Federal Register* 23370-23371, May 21, 2019.

[81] Letter from ACA International, the Association of Credit & Collection Professionals, to CFPB Comment Intake—Debt Collection, September 17, 2019, pp. 73-79, at https://www.acainternational.org/assets/advocacy-resources/aca-comment-cfpb-reg-f-9.17.19.pdf.

[82] National Consumer Law Center (NCLC), *CFPB Debt Collection Rule Must Protect Consumers, Not Abusive Collectors*, May 2019, at https://www.nclc.org/images/pdf/debt_collection/cfpb-debt-collection-rule-summary-2019.pdf (hereinafter NCLC, *CFPB Debt Collection Rule Must Protect Consumers*, 2019).

be too much contact, and some take this as evidence that the phone call limit should be lower.[83] In addition, although some commentators believe that allowing debt collectors to send unlimited emails and text messages could lead to consumer abuse, others argue that these new technologies could be convenient for consumers and reduce debt collection costs. The CFPB's survey suggested that most consumers preferred email over other types of communication methods.[84] Some argue that because texts or emails may cost money for consumers to receive, these should be opt-in communications.[85] H.R. 2547 would prohibit a debt collector from contacting a consumer by email or text message without a consumer's opt-in consent for those communication methods, in contrast with the CFPB's proposal.

Time-Barred and Obsolete Debt

The proposed treatment of time-barred and obsolete debt in the CFPB's rule is a contentious issue. Consumers are not always aware of statute of limitation rules and might not know that a debt is no longer legally owed. This ignorance can cause consumer harm in a few different ways. First, consumers may pay debts that they would choose not to pay or not prioritize paying if they knew they could no longer be sued on the debt. In addition, as mentioned in the "Consumer Experiences" section, time-barred debts can sometimes be revived if a borrower makes a payment or acknowledges the debt in writing. In these cases, consumers can again be sued for this debt, and the statute of limitations is restarted. A debt is considered obsolete when it can no longer be included in a consumer's credit report, generally after seven years. Consumers may not be aware of when debts can no longer be included on credit reports.

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.[86] The time-barred and revival disclosures developed by the CFPB led to more consumer comprehension of these concepts.[87] However, the CFPB's qualitative testing suggested some consumers were confused about time-barred debt, obsolete debt, and revival, even with disclosures provided.[88] In addition, the CFPB found that although a majority of respondents answered comprehension questions correctly when viewing these disclosures, the comprehension gains were more pronounced for those with higher education and income levels.[89] For these reasons, some argue that the collection of time-barred debts should be banned.[90] H.R. 2547 would prohibit debt collectors from collecting or attempting to collect time-barred debts.

[83] CFPB, *Consumer Experiences with Debt Collection*, p. 31.

[84] CFPB, *Consumer Experiences with Debt Collection*, p. 37.

[85] NCLC, *CFPB Debt Collection Rule Must Protect Consumers*, 2019.

[86] CFPB, "Debt Collection Practices (Regulation F)," 86 *Federal Register* 5783, January 19, 2021.

[87] CFPB, *Disclosure of Time-Barred Debt and Revival: Findings*, 2020, p. 25.

[88] Fors Marsh Group, *Debt Collection Validation Notice Research: Summary*, 2016, pp. 35-39.

[89] CFPB, *Disclosure of Time-Barred Debt and Revival: Findings*, 2020, pp. 25-27.

[90] NCLC, *CFPB Debt Collection Rule Must Protect Consumers*, 2019.

Validation Issues

Debt validation is another significant policy issue in this market, where debt collectors may contact the wrong consumer or collect for the wrong amount. If a consumer receives a debt collection validation notice from a debt collector, no debt collector database or other resource currently exists to help the consumer verify that the debt collector owns the debt or that the information about the debt is accurate. The consumer would need to recognize the debt in order to believe that they owe it.

Some of these verification issues may exist because debt collectors are not required to obtain a debt's full files from the original lender.[91] Sometimes, the original lender conveys only basic information to the debt collector—unless a consumer disputes the debt—due to expense and technical complications between systems.[92] For example, creditors sometimes do not provide copies of underlying account documentation to debt collectors, such as account statements or agreements.[93] In these cases, debt collectors would obtain these documents from creditors only when needed (e.g., if a consumer files an FDCPA dispute).[94] This practice reduces costs for debt collectors, but it may lead to debt transfer information issues between creditors and debt collectors.

According to the CFPB, "there are often substantial deficiencies in the quality and quantity of information collectors receive at placement or sale of the debt that frequently result in collectors contacting the wrong consumer, for the wrong amount, or for debts that the collector is not entitled to collect."[95] CFPB research suggests that many debt collectors might undergo little review of creditor data to check for potential inaccuracies or unreliability.[96] In addition, lenders often do not make representations as to the accuracy of the transferred information that the debt collector receives.[97] Moreover, debt collectors may not receive much information about whether a consumer has disputed the same debt in the past, and as a debt gets older and possibly resold, information may decay. Some debt collectors also may file litigation against a consumer without the underlying documentation[98] as creditors often obtain default judgments because many consumers do not attend their court hearings.[99]

Inaccurate information about debts can harm consumers. For example, a consumer might pay debts they are not obligated to pay. In addition, validation issues can lead to more disputes and

[91] CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking: Outline of Proposals Under Consideration and Alternatives Considered*, July 27, 2016, pp. 6-7, at https://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf (hereinafter CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*).

[92] CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, pp. 6-7.

[93] CFPB, *Study of Third-Party Debt Collection Operations*, pp. 22-23.

[94] CFPB, *Study of Third-Party Debt Collection Operations*, pp. 23-24.

[95] CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, p. 6.

[96] CFPB, *Study of Third-Party Debt Collection Operations*, p. 22.

[97] CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, p. 8.

[98] For this reason, the CFPB also was considering a requirement that debt collectors have "reasonable support" legally (e.g., necessary documentation) before filing litigation against consumers. This requirement was not included in the CFPB's final rule. See CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, p. 12.

[99] For this reason, the CFPB considered creating a requirement that debt collectors disclose to consumers that a court could rule against them if consumers do not defend themselves in court. This requirement was not included in the CFPB's final rule. See CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, pp. 18-19.

complaints, requiring consumers and debt collectors to spend time disputing debts or invalid lawsuits.

Part of the reason that many consumers report inaccuracies with their debts in collections may be due to limited information on debt validation notices. Currently, most validation notices do not include some elements, such as the original creditor or original amount owed. The information in the notice might be insufficient for some consumers to recognize their debts.[100] To address some of these concerns, the CFPB's final rule clarifies additional information debt collectors should disclose to consumers in the validation notice. However, some argue that validation errors will not be reduced without mandating that debt collectors improve the quality and transparency of their information and recordkeeping prior to taking action to collect the debt. Others argue that this type of regulation could be prohibitively expensive and overly burdensome for debt collectors.[101]

The CFPB has announced enforcement actions regarding inaccurate or unverifiable information used during the debt collection process.[102] Although the CFPB has considered debt information validation proposals, the CFPB did not include any requirements relating to debt information transfer or validation in its final rule.[103]

Medical Debt and Credit Reporting

Medical debt collection raises specific policy issues relating to inconsistent billing and reporting practices. According to a 2014 CFPB study, consumers are unlikely to know how much various medical services cost in advance, particularly those associated with accidents and emergencies.[104] People often have difficulty understanding co-pays and health insurance deductibles, and medical debts are often transferred to debt collectors after different periods of time, depending on the medical provider. Therefore, medical debts can appear on people's credit reports inconsistently.

To address inconsistency concerns, the Internal Revenue Service (IRS) announced on December 31, 2014, a final rule requiring the separation of billing and collection policies of nonprofit hospitals.[105] Under the rule, hospitals that have or are pursuing tax-exempt status are required to make reasonable efforts to determine whether their patients are eligible for financial assistance before engaging in "extraordinary collection actions," which may include turning a debt over to a

[100] CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, pp. 6-7.

[101] For example, during the small business review panel process, the public discussion outline discussed how the option of transferring all account-level documentation during the debt transfer process would be an overly burdensome requirement. See CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, p. 9.

[102] For example, CFPB, *Consent Order: Portfolio Recovery Associates, LLC*, File no. 2015-CFPB-0023, September 9, 2015, at https://files.consumerfinance.gov/f/201509_cfpb_consent-order-portfolio-recovery-associates-llc.pdf; and CFPB, *Consent Order: Encore Capital Group, Inc., Midland Funding, LLC, Midland Credit Management, Inc. and Asset Acceptance Capital Corp.*, File no. 2015-CFPB-0022, September 9, 2019, at https://files.consumerfinance.gov/f/201509_cfpb_consent-order-encore-capital-group.pdf.

[103] For example, during the small business review panel process, the public discussion outline included proposals around the integrity of information, including the transfer of debts and recordkeeping; the acquisition and transfer of accounts; and the process for obtaining information and reviews of information at various stages of the debt collection process. See CFPB, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, pp. 4-8.

[104] See CFPB, *Consumer Credit Reports: A Study of Medical and Non-Medical Collections*, December 2014, at http://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf.

[105] Department of the Treasury, Internal Revenue Service (IRS), *New Requirements for 501(c)(3) Hospitals Under the Affordable Care Act*, at https://www.irs.gov/charities-non-profits/charitable-organizations/requirements-for-501c3-hospitals-under-the-affordable-care-act-section-501r (hereinafter IRS, *New Requirements for 501(c)(3) Hospitals Under the Affordable Care Act*).

collection agency or garnishing wages. In short, tax-exempt hospitals must allow patients 120 days from the date of the first billing statement to pay the obligation before initiating collection procedures.[106] The IRS rule impacts only nonprofit hospitals, but on September 15, 2017, the three major credit reporting agencies—Experian, Equifax, and TransUnion[107]—established a 180-day (six-month) waiting period after the date of first delinquency before posting a medical collection of any type on a consumer credit report.[108]

Concerns about the impact of medical debts on credit reports continue. Some observers may believe it is unfair for medical debts to appear on credit reports because these debts are generally incurred for medically necessary reasons and are less likely to indicate whether someone is financially responsible. For example, the CFPB found that medical debts may be less reliable predictors of creditworthiness or credit performance than other types of debts.[109] H.R. 2547 would prohibit consumer reporting agencies from including medical debts related to medically necessary procedures in consumer credit reports and also from including other medical debts that are less than a year old or paid.

Federal, State, and Local Government Debt Exemptions

Currently, government fines and fees are often exempt from the FDCPA.[110] Therefore, if a government fine or fee, such as a municipal utility bill, traffic ticket, or court debt, creates a debt that is transferred to a debt collector, that collector is not always required to comply with the FDCPA. Recently, as more government debts have been outsourced to debt collectors, reports of aggressive debt collection practices for these types of debt have grown.[111] Some federal government programs, such as the federal student loan program, by statute have flexible repayment terms (e.g., income-driven repayment plans);[112] however, when these types of debts go into default and are transferred to a debt collector, the consumer loses some of these consumer protections. H.R. 2547 would make federal and state government debts—including court debts—that are sold to third-party debt collectors subject to the FDCPA and other rules. It would also limit when the federal government can sell or transfer consumer debts to debt collectors and limit fees charged by debt collectors on federal government debts.

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[106] See IRS, *New Requirements for 501(c)(3) Hospitals Under the Affordable Care Act*.

[107] See Experian, "Medical Debt and Your Credit Score: Here's What You Need to Know," press release, August 8, 2017, at https://www.experian.com/blogs/ask-experian/medical-debt-and-your-credit-score/.

[108] P.L. 115-174, §302 amends the Fair Credit Reporting Act to provide veterans with credit reporting protections relating to medical debt, extend the waiting period for medical debts to be included in credit reports to one year, and remove paid or settled medical debts from veterans' credit reports.

[109] See Kenneth P. Brevoort and Michelle Kambara, *Data Point: Medical Debt and Credit Scores*, CFPB, May 2014, at http://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

[110] The FDCPA defines a *debt* as money consumers must pay "arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes." See 15 U.S.C. §1692a(5).

[111] For example, Blake Ellis and Melanie Hicken, "The Secret World of Government Debt Collection," *CNN Money*, February 17, 2015; and Blake Ellis and Melanie Hicken, "Threatening Letters from a Government Debt Collector," *CNN Money*, February 17, 2015.

[112] For more information on the federal student loan program and income-driven repayment plans, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

Conclusion

The debt collection market continues to be an important part of ensuring that consumers have access to a robust consumer credit market; however, the potential for consumer harm may make consumer protection laws and regulations particularly important. The regulation of the debt collection market may continue to be an active policy issue because it impacts many consumers going through the debt collection process and the efficiency of consumer credit markets in the United States. As the CFPB implements its debt collection rules, stakeholders may be able to see how new regulations could impact the market. For these reasons, the debt collection market may continue to be the subject of congressional interest and legislative proposals.

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