



September 6, 2019

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

Re: Debt Collection Practices (Regulation F)
Docket No. CFPB-2019-0022 or RIN 3170-AA41

Dear Director Kraninger,

The Local Initiatives Support Corporation (LISC) appreciates the opportunity to offer comments in response to the Consumer Financial Protection Bureau's (CFPB) proposed rule governing third-party debt collections.

LISC is a non-profit housing and community organization and certified Community Development Financial Institution (CDFI) with offices in over 30 cities throughout the country and a rural network encompassing 89 partners serving 45 different states. LISC's work supports a wide range of activities including affordable housing, economic development, building family wealth and incomes, education, community safety, and community health. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; technical assistance; and policy support.

As part of our efforts to improve low-income families' financial well-being, LISC provides community organizations financial support and technical assistance to operate Financial Opportunity Centers (FOCs). Through LISC's FOCs, clients receive three bundled services – financial counseling, employment services and benefits counseling – which is frequently enhanced with low-cost financial products that help build credit, savings and assets. FOCs' mutually reinforcing program components have proven to help people stay motivated, as evidenced by improved job retention; and to improve their economic prospects, as evidenced by improvements in credit scores and in credit building behavior.

Debt collection weighs heavily on our communities. The Bureau's research finds that more than one-in-four consumers (28 percent) with a credit report in 2018 has at least one third-party collections trade line on their file. A survey of LISC FOC clients' baseline credit reports from 2018 through present illustrate that half show accounts in collection or charge-off. With this proportion of our population being affected by the proposed rule, we would like to provide brief comments and concerns that the Bureau's clarifications may be counterproductive to consumer protections.

Individual Case Study: Rebuilding After Debt

An FOC client, Charles, in Indianapolis started working with Southeast Community Services in 2013. He was caught in the economic downturn after taking a year off from regular employment to care for an elderly relative. Before returning back to the workforce, Charles had accumulated large amounts of debt, making it difficult to find and keep a good job.

Charles continued to work with employment and financial and income coaches. They helped him improve his financial situation. With the help of the FOC's Barrier Busting Fund, which provides help with transportation, childcare and education costs, Charles was able to pay off a debt collector that could have jeopardized progress towards new and stable employment. By working with his financial coach, Charles was able to negotiate paying back a percentage of what he owed on the debt.

Stories like Charles' are not uncommon, but the road back to financial independence takes time. Charles underwent eighteen months of working one-on-one with coaches and completing career seminars. Unfortunately, many individuals do not have access to coaching services to help them get jobs or manage their personal finances to rebuild one's financial history. Overcoming debt is a major hurdle for our clients, and we hope that changes to the debt collection rule will not exacerbate the burden of indebtedness.

Proposals Require Additional Consideration

Upon quick evaluation of the proposals, we would like to comment on the following provisions.

i. High Volume of Calls or Attempted Calls

The notice allows collectors to make up to seven attempted calls per debt. A consumer with six medical debts could receive up to 42 calls per week. By allowing multiple calls per debt, the Bureau undermines the FDCPA's goal of preventing harassment or abuse.

Recommendation: Limit collectors to one conversation and three attempts per week per consumer.

Recommendation: Consumers should be able to make "stop calling" or "cease communication" requests orally, which can be applied to other forms of communication.

ii. Other Forms of Communication

There is no specified limit on the number of text messages, emails or direct messages on social media. The lack of consent in opting in electronic communications poses a burden on a consumer's time and money. We would like to ensure that any method of communication does not incur a cost for the consumer.

Recommendation: Ensure the consumer first opt-in prior to receiving messages in this other form of communication. For example, if a consumer has a limited data plan for his or her mobile phone, the cost per text is incurred by the consumer. Since the CFPB is not requiring debt collectors to use free-to-end-user text messaging, the CFPB is placing the cost burden on the consumer.

Recommendation: We discourage the use of messaging on social media as a form of communication. Even through limited contact messages, the collector may convey messages that are viewable or audible to others. Social media messages may allow for harassment, oppression or abuse.

iii. Information Authentication and Time Limits

In the proposed rule, there is no requirement that a debt collector have original documentation or other information to substantiate that the debt they are attempting to collect is legitimately owed by the consumer. The Federal Register notice states recording keeping requirements vary for debt collectors with some participants retaining some information for a shorter time period such as one year. The Bureau gives leeway to collectors by not enforcing time limitations on debt. If a consumer is deceived into a partial payment of an unenforceable debt, the payment can restart the clock and make the consumer liable in court for the entire amount.

We urge responsible oversight of third-party collectors and debt buyers in an attempt to treat borrowers fairly. We are extremely concerned with the increase in debt purchased in the last three decades. The face value of defaulted consumer debt purchased by debt buyers increased from \$6 billion in 1993 to \$98 billion in 2013.

Recommendation: Information by collectors should be accurate, and a validation notice should be provided to the consumer in a disclosure of his or her debt. Original account documents must be reviewed to ensure the correct person is being contacted for collection. The proposal by the Bureau protects collections agencies and attorneys that use false, deceptive or misleading practices instead of putting the onus on the collection attorney to review account-level information and make an independent determination that a lawsuit is being filed against the right person for the right amount.

Recommendation: Bureau should ban the collection of time-barred “zombie” debt. Debt buyers and sellers also fail to ensure accuracy of the information they are transmitting, and old debt files may contain errors. By not banning this type of collection or not enforcing accountability on the debt collector, borrowers may be misled to accept the liability of these debts.

iv. Consumer Disclosures and Language Access

The FDCPA requires notice to consumers about alleged debts and consumer rights. The CFPB should require validation notices to be provided by mail unless the consumer opts for electronic delivery. In addition, collectors are not required to provide notice in Spanish or other languages. We urge CFPB ensure language accessibility for those who may not fully comprehend the action being taken against them.

v. Application of FDCPA Related to Consumer Privacy

The Bureau should not exempt any forms of communication from the FDCPA and must require collectors to respect privacy in all communications. The rule may allow increased directed contact with employers and gives collectors the ability to leave “limited content messages” in the workplace. Courts have held that public exposure of debt violates FDCPA, and we fear that the disclosure of alleged debts may also have impact employability of individuals.

Conclusion

There are 70 million consumers who are contacted by debt collectors annually. We believe that populations that LISC and other community based organizations serve will be disproportionately impacted by the changes to the Fair Debt Collections Practice Act. We do not believe there has been sufficient consideration to consumer concerns, especially as it relates to low income individuals, the elderly, Native populations and others. We hope to build the financial stability of families by empowering them to take control of their financial future. We are concerned about the unintended consequences that would make it harder for us to reach clients as they changes their phone numbers or stop answering their phone to avoid incessant calls from collection agencies.

Individuals who may be prone to financial instability are also the most vulnerable. Unfounded collections or tactics to attempted collections may contribute to an increased number of personal bankruptcies, marital instability, the loss of jobs, and an invasion of privacy. Our partners deliver services to help remediate these forms of instability by addressing clients' needs in a culturally competent and trustworthy manner. We appreciate the opportunity to weigh in on behalf of clients seeking help in relieving their financial complications.

LISC welcomes the opportunity to serve as a resource. If you would additional information about our work, please contact Seung Kim, Vice President of Family Income and Wealth Building at LISC, at skim@lisc.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt d. Josephs", with a long horizontal flourish extending to the right.

Matt Josephs
Senior Vice President for Policy