September 18, 2019

Director Kathleen L. Kraninger
Attn: Comment Intake
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Proposed Rulemaking on Debt Collection Practices (Regulation F) [Docket No. CFPB-2019-0022, RIN 3170-AA41]

Dear Director Kraniger,

Prosperity Now\(^1\) and the undersigned are pleased to submit comments to the Consumer Financial Protection Bureau (CFPB) regarding the Proposed Rulemaking on Debt Collection Practices (Regulation F). While we are thankful that the Bureau recognizes the need for the third-party\(^2\) debt collection industry to be properly regulated and find some of aspects of its debt collection proposal to be positive, we do not think the regulations proposed as a whole are strong enough to adequately protect consumers from financial harm.

In fact, given that more than one in every four consumers (21.2\%) has at least one account in collections\(^3\) and that 15\% of consumers\(^4\) and student borrowers\(^5\) are carrying debts that are severely delinquent, we find it particularly unfortunate that the CFPB did not propose rules that would help improve the financial security of distressed borrowers. This includes those carrying medical debt, which can be significant and brought about unexpectedly, as well as borrowers of color who are not only more likely than White borrowers to have debt in collections, but also less likely to have the resources to deal with collectors.

Debt collection is a $12 billion industry in this country. Practices include collectors purchasing debt for rock bottom prices, which they then collect on fully without establishing the validity of the debt beforehand or returning any of the collected debt to the original creditor. It is critically important to have strong regulations in place that will put a stop to the worst abuses in this marketplace, improve financial security, and help working families survive and thrive.

Our comment letter provides further background on the debt collection industry and outlines a set of recommendations that we believe will make the Bureau’s third-party debt collection rule more effective and keep consumers safe.
Specifically, we will be discussing the following in this letter:

**Background on the Debt Collection Industry**

- The prevalence of troublesome debt in the United States
  - Among all consumers
  - Among low-income consumers and consumers of color
- Debt collection industry profits, questionable practices and regulatory enforcement actions

**Recommendations**

- Attempts to contact consumers by phone or various forms of electronic communications
  - Phone calls
  - Electronic communications
  - Limited content messages (LCMs)
  - Acquisition of location information
- Litigation issues
  - The attorney “safe harbor”
  - Time-barred debt
- Notifications
  - Validation information communicated orally
  - Validation information communicated electronically
  - Statement of rights

We appreciate the opportunity to share our thoughts on how to improve what the Bureau has proposed in its third-party debt collection proposal.

**Background on the Debt Collection Industry**

**The Prevalence of Troublesome Debt in the United States**

**Among All Consumers**

Debt is a pervasive issue in this country, with approximately 71 million Americans having some form of debt in collections. A nearly equal amount of consumers and student loan borrowers—approximately 50 million—have debts that are considered to be severely delinquent, meaning they are 30 to 90 days (or more) past due.

While most consumer debt is due to mortgages, auto loans, student loans and medical debt play significant roles in household debt and debt in collections. In fact, according to recent research conducted by the Bureau, medical debt accounts for nearly 60% of debt in third-party debt collection.

In addition, according to CFPB research, one out of every three consumers are contacted by a debt collector over the course of a year, and in most of these instances, they are contacted for more than one debt.
Among Low-Income Consumers and Consumers of Color

In terms of income, the CFPB has found that half the consumers who make less than $20,000 annually are contacted by debt collectors, which is more than three times as frequently as those who make $70,000 or more. In addition to having limited resources to deal with troublesome debt and debt collectors, lower income consumers are also more likely to report being sued for outstanding debt.11

In terms of race, research by Urban Institute has found that consumers of color are 66% more likely to have debts in collections, compared to White consumers.12 Broken out by issue, the Urban Institute also found consumers of color had higher rates of auto,13 medical14 and student debt15 that is either delinquent or in collections, compared to White consumers.

This is particularly problematic considering that communities of color have fewer liquid assets and wealth compared to White households. According to Prosperity Now’s 2019 Scorecard, 60% of communities of color do not have the liquid assets to subsist at the federal poverty level for three months if faced with an unexpected loss of income.16 By comparison, just over 30% of White households are in such a financial position.

When it comes to wealth—which is the capital that fuels long-term economic prosperity—research from the most recent Federal Reserve Bank Survey of Consumer Finances shows that when durable goods, such as the family car, are removed, Black and Latino households have just a fraction of the wealth owned by White households—$3,400 and $6,300 respectively, compared to $140,500.17 Faced with fewer resources, the prospects of dealing with troublesome debt and debt collectors is even more difficult for communities of color.

In terms of interactions with the debt collection industry, more than 40% of non-White consumers are contacted by debt collectors compared to only 29% of White households.18 Making matters worse, consumers of color also deal with the court system more than their White counterparts. An investigation by ProPublica found that court judgments to collect on debts were twice as likely in mostly Black neighborhoods than White ones.19

In addition, research by Prosperity Now with African American consumers in Baltimore, New York and Ft. Lauderdale has found the stresses and strains caused by debt can take an emotional toll on communities of color.20 For example, in surveys completed during interviews, 58% of participants indicated that the statement “Because of my situation, I feel like I will never have the things I want in life” is a good description of how they feel. As one interviewee put it, “I’m not going to say I lose sleep at night, but it is something that weighs down on your conscience because...sometimes you might want to apply for other things or try your hand at other stuff, and...[debt] haunts you when you try.”

Beyond the basic anxiety created by debt, this type of sentiment underscores the fears people have about the impact their debt burden could have on their futures. And while our focus in this report was on the Black community, the fact is, anyone overwhelmed with debt experiences similar feelings and the consequences go well beyond emotional stress. As the proposal states, Congress found that “abusive, deceptive, and unfair debt collection practices...contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.” (P 23278)

We are emphasizing the consequences of debt—especially for consumers of color—to underscore the importance of getting the debt collection rules right. There is simply too much at stake. Real lives will be impacted by the result of this proposal and we want that result to lead to greater financial security.
and an opportunity to thrive. The right rules are going to be strong regulations that put a stop to the worst abuses of the industry and meaningfully protect consumers. We think if the recommendations included in this letter are incorporated into the rule, we can reach that goal.

Debt Collection Industry Profits, Questionable Industry Practices and Regulatory Enforcement Actions

Debt Collection Industry Profits

The debt collection industry is a profitable market for the collectors and purchasers who specialize in getting people to pay debt. In fact, in 2018 there were more than 8,000 debt collection agencies in business and the industry generated approximately $12 billion in revenues.21

Questionable Industry Practices and Regulatory Enforcement Actions

At the same time, this is a market rife with problems. It is consistently one of the leading drivers of consumer complaints about unfair and abusive financial practices. In 2018, the CFPB22 and the Federal Trade Commission (FTC)23 received more than 550,000 complaints (in total) about the debt collection industry, outpacing complaints about credit cards, student loans and mortgages. The CFPB’s Debt Collection Survey found that more than half the consumers contacted by at least one creditor felt an error was made, including that they did not owe the debt, or the amount owed was incorrect.24

The sheer volume of logged complaints—where a consumer took the time and effort to file a report—is quite telling and is supported by the type of debt that is most commonly disputed by consumers with the credit reporting agencies. The Bureau finds that the debt reported by collection agencies has the highest dispute rates, accounting for more than 40% of those handled on average.25 This report was followed by an accuracy study conducted by the Federal Trade Commission (FTC) that found similar results, with debt reported by collections agencies accounting for 41% of all disputes as well as 40% of modifications to debt following the filing of these disputes.26

This type of data also complements investigative reports that have documented harmful communication tactics as being common practice within the industry with consumers accusing collectors of using offensive language, calling outside convenient times or intimidating consumers by threatening to sue to induce payment.27 For example, an alarming piece published by the New York Times uncovered an industry willing to use strong-arm tactics to induce payments by people with criminal histories, the preference for purchasing older and often less-reliable debt to collect on, and outright fraud, including owners of debt selling the same package of debt to multiple purchasers.28

Over time, unfair, deceptive and abusive acts or practices within the industry has led to numerous enforcement actions by state and federal agencies (P 23277), most recently by the Bureau and the New York Attorney General against debt collectors based in Buffalo, NY that resulted in a $60 million dollar fine. In this case, abuses included threats to sue consumers and collectors impersonating government officials.29

A core reason why so many complaints, disputes and shady practices exist in the debt collection space is because there is no requirement by original creditors or sellers to authenticate the debt before attempting to collect and there is no mandate to track the debt over time. In most cases, the only thing that exists is a spreadsheet with a list of debts that only provides basic information about what is allegedly owed, which is passed along to collectors or purchasers. They are then legally
allowed to pursue satisfaction of this debt without consulting original underlying documentation to prove the debt is real and accurate. As the Times article points out, it is not uncommon for banks or other debt owners to explicitly state that they cannot verify the debt information before collection or purchase.

Moreover, this spreadsheet can be purchased and repurchased multiple times without any limits. In fact, according to Bureau research concerning online debt sales revealed that more than 75% of portfolios were in the hands of at least two collectors before ending up on the online marketplace. The study also that found that debts are purchased for less than a penny per dollar of debt on average, where the older the debt, the less expensive. Purchasers then turn around and collect on the face value of the debt plus interest. In other words, these collectors are pocketing the full value and more of debt after paying a pittance of this value and they are not even the original creditors who provided the service or product that gave rise to the debt in the first place.

This is a key problem with the way this industry currently does business and is why Prosperity Now supports requiring that original documentation is consulted and verified before any attempts are made to collect or sell debt. In addition, this substantiated documentation should travel with the debt each time it is referred and sold.

As we will discuss further in the recommendation section that applies to litigation, the same consideration of underlying account-level documentation that validates the debt should be required before suing to collect on the debt in court.

**Recommendations**

**Attempts to Contact Consumers by Phone or Various Forms of Electronic Communications**

**Phone Calls**

In the proposal, the CFPB recommends an explicit limit on the number of attempts to contact consumers by phone about a debt to no more than seven (7) attempts and one (1) conversation per debt each week. These limits also apply to attempts to contact neighbors or coworkers to help locate an alleged debtor. While having a bright line rule is a simple and clear approach, we think the number of attempts to contact by phone each week are too high, particularly because the limits are per debt rather than per consumer. Instead, we are recommending the Bureau limit the number of calls that can be attempted to three (3) and the number of conversations to one (1), per week, per consumer.

As the proposal points out, “frequent telephone calls are a consistent source of consumer-initiated litigation” (P 23310) and a consumer with “four or five debts in collection could receive up to two or three dozen telephone calls each week.” (P 23313) Considering the Bureau’s survey research reveals that more than 70% of consumers who are contacted about debt have more than one debt in collections, several dozen attempts to contact a consumer every week is not far-fetched, particularly with a bright line rule. A codified limit could encourage collectors to maximize the number of times they attempt to contact a consumer, perhaps more than they would without any rule, because they understand that if they stay within these limits, their behavior will not be deemed abusive and they will not be sued. Yet we believe a reasonable person would think that three or four dozen attempts each week is excessive.
Consumers themselves are also very sensitive to the amount of weekly contacts. The Bureau survey indicates that approximately 20% of consumers think being contacted less than once a week is too often. This shoots up to more than 70% when between one and three contacts are attempted or made and keeps going up the greater the frequency.33 Limiting the number to three (3) per consumer each week would not only address the excessiveness, it would be more in line with consumer preferences.

Finally, the proposal allows consumers to request that collectors stop calling them about debt, at which time the collector must cease communications. However, the proposal describes the request to stop as being conveyed “in writing.” We think the Bureau should make it clear that consumers are able to halt these communications by orally requesting that collectors stop communicating with them about the debt.

*Electronic Communications*

Unlike with phone calls—where the Bureau is calling for some limits—there are no limits on the number of attempts to contact a consumer about debt using an electronic medium like emails, text messages and social media platforms that are not public. As with phone calls, this also applies to third parties a collector is contacting to locate an alleged debtor. We think this approach is extremely excessive and call for the CFPB to require explicit consent from the consumer that it is acceptable for collectors to contact them about debt via electronic communications.

The liability issues discussed above with respect to phone calls come into play in this context as well. During a pre-proposal feedback period, industry leaders expressed an interest in using email and text messages to communicate with consumers, but they failed to do so out of fear of violating regulations that prohibit disclosures of these communications to unauthorized third parties. As the proposal notes, “several industry stakeholders” stated that the uncertainty that comes from the potential “liability for third-party disclosures, discourages the use of electronic communications in debt collection.” (P 23300)

This is reflected in the Bureau’s Consumer Survey, where only 8% of participants indicated they were contacted by email, despite how widespread and less costly this form of communication is. The proposal addresses the uncertainty by suggesting a “reason to anticipate” standard, wherein a collector would be free from liability if they could not reasonably foresee a third-party disclosure taking place (P 23300). Much like with the bright line rule for phone calls, the clarity that comes from this standard could encourage the use of electronic communications to the maximum amount legally allowed. Since there are no limits, this creates an environment that could encourage an excessive level of attempted communications from emails and texts without a clear sense of when a line is crossed into prohibited unfair or abusive territory.

Requiring explicit consent from consumers could help avoid this outcome. If such a requirement is unfeasible, consumers should be provided with the ability to easily and clearly opt-out of this kind of communication, such as by replying “STOP” to an electronic message. Indeed, it would be ideal if the Bureau could more explicitly define how a consumer can opt-out of unwanted messages, whether by phone or electronic communications. Right now, the wording in the proposal is too vague.

At the same time, there are no limits for those who do consent. As such, in addition to providing consumers with the ability to easily and clearly opt-out of these communications, we think that after a reasonable interval the Bureau should examine how often consumers who consent to being contacted by email or text are actually contacted by collectors and assess consumer preferences for
how many weekly attempts by email and text is too much. There is not enough data at this juncture to support a specific limit for emails and texts, but this information could be collected after the rule is implemented.

Given that the section-by-section analysis of the rule repeatedly refers to the lack of evidence on this issue, such a proposal would essentially be a study that complements the survey research done by the Bureau on frequency and consumer preferences but would be specific to electronic communications. If the study suggests consumers who consented to these communications are being contacted too often, the Bureau should consider modifying the final debt collection rule or passing an amendment with explicit limits to curb excessive communications. We believe this is necessary to make sure that those who consent are not inundated with messages due to the lack of explicit limits.

*Limited Content Messages (LCMs)*

The proposal would also allow debt collectors to leave what the Bureau is calling “limited content messages” with consumers. These are messages asking consumers to contact particular individuals without referencing that collecting on a debt is the reason for the request. This is an example of such a message provided in Supplement I of the proposal (P 23410):

> “Hi, this message is for Sam Jones. Sam, this is Robin Smith. I’m calling to discuss an account. It is 4:15 pm on Wednesday, September 1. You can reach me or, Jordan Johnson, at 1-800-555-1212 today until 6:00 p.m. eastern, or weekdays from 8:00 a.m. to 6:00 p.m. eastern.”

These messages are meant to allow collectors to leave messages about debts without having to also disclose specific information about the debt as well as rights that consumers have with respect to disputing debt and other protections (more below). The reasoning is such messages are vague enough that they would not disclose the existence of debt unlawfully. Like the above example, references to an account or similar language could be used, but they could not state the call back concerns a debt obligation.

We think these types of messages should be subject to the three attempts per consumer limits for phone calls and the prior consent for electronic communications that we propose above. Although debt is not mentioned, a consumer or a third party that reads or hears the message could infer that it concerns debt. In our opinion, the word account or a similar term sounds like it could relate to a financial product or transaction, which would be an invasion of consumer privacy. Alternatively, the message could only be a request to call someone back without mentioning an account, but it is unclear how many collectors would choose a more generic message (they have the discretion to choose). Even a paired down message requesting no more than a call back is problematic if it is sent too often.

In addition, the proposal allows a collector to leave a limited contact message with a third party who answers a consumer’s landline or mobile phone. We think that once a collector establishes that they are not speaking with the person who allegedly owes the debt, they should be required to end the conversation for the reasons outlined above. It is not unreasonable to assume a person will think an account concerns debt, which is an invasion of privacy.

*Acquisition of Location Information*

Under the proposal, individuals other than the consumer can be contacted to determine a consumer’s location, which is defined as their “place of abode and telephone number at such place” or “place of
employment.” While the collector is not allowed to state that they are contacting them about a debt, the collector must state who their employer is if the person they are contacting expressly asks for this information. It seems reasonable to assume that it would not be uncommon for a person to ask why or who exactly is asking for this information.

Ideally, collectors should not be allowed to ask third parties where a consumer works. The workplace is a particularly sensitive location because it is where a person makes their living. If word got back to superiors or colleagues with control over income or benefits that an employee had outstanding debt, this could have a negative impact on their present and future earning potential along with being an invasion of privacy. For example, consumer debt can deeply impact the career of military personnel or civilians who work for the government, including leading to revocations of security clearances.

Indeed, the proposal rightfully prohibits a collector from contacting consumers via workplace phone numbers or emails if they know or should know the consumer’s employer prohibits the consumer from receiving them.

If an outright prohibition on asking third parties about a consumer’s place of employment is not legally feasible, we think the CFPB should explicitly clarify that once a collector obtains a consumer’s home address and phone number or their work address, they are no longer allowed to communicate with third parties.

Litigation Issues

The Attorney “Safe Harbor”

Under the proposal, an attorney is safe from charges (“safe harbor”) of false, deceptive or misleading representations if they “review information” and “determine, to the best of the attorney’s knowledge” that any debt-related claims are defensible (P 23402-23403). In our opinion, this approach is too vague and not strong enough to meaningfully protect consumers. Exactly what constitutes information to be reviewed is not defined which provides no clear benchmarks and gives too much discretion to a debt collection attorney who has a motive to find claims valid.

Instead, the rule should rely on actual documented evidence to assess whether there are grounds to bring a suit. Under this approach, an attorney would be required to examine original account-level documents rather than “review” unspecified “information” to determine whether the debt is real and to make sure the right person is being sued for the proper amount. This documentation would also have to be present for a court to make a judgment on the merits of the case. This is a much more objective approach that relies on evidence rather than opinion or expediency.

A more diligent and objective standard matters because of the way our court system currently operates. It is an extremely common practice for debt collectors to use the courts to induce payment. Hundreds of thousands of these types of suits are filed each year across the country and the courts work against the consumer on several fronts.

The information required to bring a suit is often minimal, debtors are usually not represented by their own counsel if they appear in court and must defend themselves against seasoned plaintiff’s attorneys. Moreover, courts will virtually always find in favor of the collector when debtors do not appear in court by ruling the judgment is in default without considering any corroborating evidence before making this determination. A recent study by the Center for Responsible Lending (CRL) on debt collection practices in the state of Washington reflects what happens in many instances across
the country. They examined more than 20,000 collection cases filed in the state between 2012-2016 and found that more than 80% of cases resulted in default judgments that favored collectors. Furthermore, only 1.2% of defendants were represented by an attorney.\textsuperscript{35}

It is also important to keep in mind that collectors are not just trying to recoup the debt principal. They also collect interest at rates that are often higher than 25% as well as related attorney’s fees.\textsuperscript{36} An analysis of 4,400 lawsuits filed by debt buyers in Maryland illustrates just how costly these additional expenses can be. The average amount of the judgment principal in Maryland was for $2,811.66, and the data indicates an average of $512.10 in additional fees, mostly from prejudgment interest.\textsuperscript{37} This means the average defendant in Maryland was out more than $3,000 for one judgment. This is a lot to ask any household to pay but is a potentially catastrophic amount for those barely making ends meet who are too often on the receiving end of these judgments. A court judgment also allows the collector to garnish wages, freeze bank accounts or put a lien on property to satisfy debt obligations, all of which are extremely powerful enforcement tools.

Given this, moving forward with the proposed “safe harbor” for attorneys filing suit is not the right course of action. While it is understandable that courts would want to avoid clogging the system with these types of suits, it should not be at the expense of basic due process, especially when so many families living on the margins are the ones who end up paying and there is a good deal of legitimate concern about the validity and accuracy of the debt in question. Due process issues arise when courts do not require the filing of authenticated evidence. As the analysis of lawsuits from Maryland puts it, these suits have “proliferated because courts have not insisted on [due process], preferring to wield the rubber stamp rather than engage in the more demanding job of acting as guardians to the gate.” This is why—as was mentioned earlier—Prosperity Now thinks that underlying documentation that is substantiated should always be associated with a debt and should travel with the debt when passed along to other entities.

\textit{Time-Barred Debt}

The proposal would not allow debt collectors to sue or threaten to sue a consumer for the payment of time-barred debt if they “know or should know” the debt is time-barred. When debt is time-barred, it is so old that the legal time limit to sue for payment (the “statute of limitations”) has expired. While a prohibition of this kind is needed, we do not think it goes far enough. We think the rule should go further than this and not allow collectors to pursue payment of this debt.

One of the justifications given in the proposal for a ban on suing or threatening to sue is that such statements “may explicitly or implicitly misrepresent to the consumer that the debt is legally enforceable (P 23328).” The proposal also mentions testing by the Bureau that shows consumers are uncertain about their rights when it comes to time-barred debt, and quotes court cases that acknowledge the passage of time “dulls the consumer’s memory of the circumstances and validity of the debt” and “heightens the probability that [the consumer] will no longer have personal records detailing the status of the debt.” Finally, it also goes on to detail harms that could come from threats to sue, including the prioritization of time-barred debt over other obligations and judgments against consumers even when they have legitimate defenses (P 23328).

We think this evidence and reasoning justifies not only a prohibition on suing or threatening to sue, but an outright ban on the collection of time-barred debt. We think a request for payment without threats to bring the courts into play also suggests something is enforceable, particularly given a consumer’s ignorance or uncertainty about how to handle expired debt, as well as the dulling of
memory that takes place over time. Furthermore, if they are taken to court, they must mount an affirmative defense to prevent payment, which rarely happens.

As we mentioned in the above section about the attorney “safe harbor,” very few consumers actually appear in court with an attorney to contest debt—time-barred or otherwise—and many of these suits end up as default judgments without the court conducting an independent examination of the underlying facts or documentation to establish the legitimacy of the suit. Instead, they rely on what is stated in the collector’s complaint. Courts should not make it easy for collectors to win a suit that is not binding by law. It legitimizes the filing of judgments without due diligence.

Notifications

Validation Information Communicated Orally

Under the proposal, certain information about the debt must be communicated to the consumer and a period of time must pass following the sharing of this information before a collector can pursue payment. This information includes the debt collectors and consumers name and address, account numbers, merchant names, the amount of the debt broken down by principal, interest and fees, the right to dispute the debt, and the right to request the name and address of the original creditor. Along with allowing this information to be sent by mail or electronic communications, the proposal would allow the collector to provide the information orally during an initial communication about the debt.

We think the Bureau should not allow this information to be shared only through an oral communication. Instead, though a collector could share some or all of this information during the initial communication if they wish, they should be required to communicate the information in written form by mail or through an electronic communication that the consumer affirmatively consents to receive.

We agree with the comments made in footnote 423 of the proposal (P 23334) that providing validation information may be impractical to provide orally, since a significant amount of information is required to be shared. But we also think an oral communication could create challenges in the event of a disagreement. A situation could arise where a consumer accuses a collector of not sharing critical information which the collector disputes and there is no recorded evidence to cleanly resolve the issue.

Moreover, as we have mentioned repeatedly, consumers rarely bring such issues up in court, and a collector could take advantage of this and provide insufficient information, understanding the likelihood of them being held accountable for it is low. There are also times that collectors might unintentionally leave important information out simply through human error and consumers could also forget or mishear information. Requiring a written version would help avoid these issues. As such, we do not think validation information should be exclusively provided orally.

Validation Information Communicated Electronically

With respect to sending validation information electronically, our recommendations concerning attempts to communicate by electronic channels applies in this context as well. That is, a collector should not share validation information with a consumer electronically unless the consumer has affirmatively consented to receive such notifications through an electronic medium.

The proposal would also allow such communications to be accessed by clicking on a hyperlink embedded in the body of an email or text message. As the proposal itself points out, to avoid being
the victim of phishing or malware scams, federal agencies have advised consumers to not click on hyperlinks provided by “unfamiliar senders.” It also highlights scams where fake debt collection emails were sent out to entice consumers to click on unsafe hyperlinks. (P 23363). To avoid these harms, the proposal recommends requiring that notice be sent beforehand with some basic information about the debt and an option to opt-out of receiving validation information by hyperlink. While this is more effective than simply sending the link without earlier notice, we are not convinced this would solve the problem. As the Bureau knows online and email financial scams are extremely prevalent, and consumers are rightfully cautious.

Moreover, it is not advisable for a federal agency to allow such sensitive and critical information to be communicated using a tool that other federal agencies are concerned enough about that they have released advisories asking consumers to proceed with caution. We think a better approach is to allow the validation information to be provided in the main body of an email or text and not via hyperlink, provided the consumer has given their consent.

Statement of Rights

While certain consumer rights are required to be shared with a consumer, like the right to dispute debt and request original creditor contact information, other protections like the right to have a collector stop contacting you, do not have to be explicitly provided to you as a mandatory disclosure. Instead, the Bureau is proposing that if the debt concerns a “consumer financial product or service” like a mortgage or credit cards, the collector would need to provide a statement that additional information regarding consumer protections is available on the Bureau’s website along with providing the web address.

As the proposal highlights, consumer testing reveals an inadequate understanding of rights on the part of consumers, as well as a favorable response to disclosures of additional rights. This is backed up by consumer advocates, State agencies and State attorneys general (P 23342). Given this, we think the regulation should go further and require that collectors provide a statement of rights along with the validation information (in the form of a notice) for any form of debt as a separate sheet if mailed or in the body of an email or text if sent electronically.

Conclusion

Unscrupulous debt collectors are willing to resort to threatening and deceitful conduct to collect on debts that they do not know are legitimate, that have been sold and resold countless times and are sometimes so old that consumers no longer owe them. They are helped by the absence of meaningful regulations that curb some of the worst practices taking place in this marketplace. This includes conducting business in an environment without reasonable restrictions on how often a collector can attempt to contact a consumer about debt, no requirements to validate debt by examining underlying documentation before pursuing repayment or filing suit, no prohibitions on collecting expired debt and inadequate debt notification regulations.

What’s at stake is the financial stability and future opportunities of the tens of millions of people with debts in collections.

The consequences are even more dire for low-income consumers and consumers of color that are living on the edge and have little or no cushion to weather even a moderate financial setback. Ultimately, the racial wealth divide will only get larger without action. The CFPB can protect these working families by passing stronger debt collection regulations than the Bureau’s current proposal.
These are regulations that allow no more than three (3) debt-related phone calls and one (1) conversation per week per consumer, that require explicit consent from consumers to receive notifications about debt through electronic channels, that provide clear ways to opt-out of such communication, that do not give attorneys unnecessary safeguards, that prohibit collection of time-barred debt, and that ensure consumers are properly notified about any debt they might owe and about the rights they have to protect themselves.

We thank the Bureau for considering our recommendations.

Sincerely,

Prosperity Now

AARP
Arkansas Community Organizations
Baltimore City Public Schools
BCL of Texas
CAFE Montgomery MD
Casa of Oregon
Cash Campaign of Maryland
Citizenbridge (NC)
City of Saint Paul (MN)
Colorado Center on Law and Policy
Community Development Corporation of Brownsville (TX)
Community Economic Development Association of Michigan
Community Financial Resources (CA)
Cornucopia Community Advocates (AZ)
Delaware Community Reinvestment Action Council, Inc.
State Treasurer Colleen Davis, Delaware
Denver Asset Building Coalition
District Council 37 (NY)
Family Housing Advisory Services (NE)
Family Houston
The Financial Clinic (NY)
Florida Alliance of Community Development Corporations, Inc.
Freedom First Credit Union (VA)
Gateway EITC Community Coalition (MO)
Georgia Watch
Green River Asset Building Coalition, Inc. (KY)
Highland Center Ministries (LA)
Housing Options & Planning Enterprises, Inc. (MD)
The Houston Area Urban League
Homeowners Rehab, Inc. (MA)
Huff Real Estate Team (CO)
Illinois Asset Building Group
J. Christian International, LLC (GA)
JP Credit Education & Consulting, LLC (IL)
LHOME (KY)
Prosperity Now is a national nonprofit organization based in Washington, DC that works to expand economic opportunity for millions of people, especially people of color and those of limited incomes, to achieve financial security, stability and, ultimately, prosperity. We offer a unique combination of scalable practical solutions, in-depth research and proven policy solutions, all aimed at building wealth for those who need it most. In addition, Prosperity Now is committed to partnerships with our movement of committed advocates and practitioners seeking to create a clear path to financial stability, wealth and prosperity. Today, the Prosperity Now Community brings together more than 24,000 practitioners, advocates and researchers across all 50 states and DC to forge strong connections between those in our Community and mobilize action to create lasting social change. The Community includes Networks that bring together peers and other experts to share information, alerts and promising practices around financial coaching, adult matched savings, community tax preparation, racial wealth equity, affordable homeownership and more.

1 Prosperity Now is a national nonprofit organization based in Washington, DC that works to expand economic opportunity for millions of people, especially people of color and those of limited incomes, to achieve financial security, stability and, ultimately, prosperity. We offer a unique combination of scalable practical solutions, in-depth research and proven policy solutions, all aimed at building wealth for those who need it most. In addition, Prosperity Now is committed to partnerships with our movement of committed advocates and practitioners seeking to create a clear path to financial stability, wealth and prosperity. Today, the Prosperity Now Community brings together more than 24,000 practitioners, advocates and researchers across all 50 states and DC to forge strong connections between those in our Community and mobilize action to create lasting social change. The Community includes Networks that bring together peers and other experts to share information, alerts and promising practices around financial coaching, adult matched savings, community tax preparation, racial wealth equity, affordable homeownership and more.

2 The proposed rulemaking concerns third party debt collectors, not the creditor that originated the debt.


6 Hannah Hassani and Signe-Mary McKernan, “71 million US adults have debt in collections,” Urban Institute, July 2018, https://www.urban.org/urban-wire/71-million-us-adults-have-debt-collections


