



Collections after compliance:

The changing landscape



An Experian perspective

The changing digital landscape

The collections industry has undergone major transformations over the past decade. In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), producing the most reform to financial regulation since the Great Depression and authorizing the creation of the Consumer Financial Protection Bureau (CFPB), a regulatory agency charged with overseeing financial products and services offered to consumers. The collections landscape has since continued to evolve, with consumers beginning to make a dramatic shift in how they interact with their financial service providers, moving away from phone and mail, and communicating online instead. Debt collection departments and agencies, large and small, have adopted new technologies to ensure that they comply with consumer demands and changing regulations. But challenges remain in the fast-moving regulatory landscape.



Debt collection complaints and cases

In January 2013, in addition to large financial institutions, the CFPB began supervision and enforcement over several non-banking industries, including debt collection, consumer reporting and payday lending markets (about 175 debt collectors and buyers), accounting for more than 60 percent of the annual receipts in the consumer debt collection market. From January 2017 to June 2017, the CFPB's supervisory activities resulted in more than \$14 million in remediation to more than 104,000 consumers.¹

The percentage of consumers in collections has increased over the past several years. Moreover, about 71 million consumers have at least one debt in collections.² Though repaying debt is a presumed obligation and more debt collectors are conducting their work properly, it is inevitable to have complaints given the sheer number of debt holders.

Debt collection complaints to the CFPB are increasing, with consumers citing continued attempts to collect debt not owed, improper contact or sharing of information, false statements or representation and taking threatening/illegal action.

It's clear that these complaints are a priority and a focus for the CFPB based on many of its recent rulings surrounding Unfair Deceptive and Abusive Acts or Practices (UDAAP). Violations ranged from deceptive marketing tactics, including unfair telemarketing acts, to misleading practices, such as promoting features unavailable to customers, charging fees not clearly disclosed, misrepresentation of cost and coverage of add-on products and incorrectly billing for products. In addition, a financial institution is potentially liable and subject to penalties and fines for the conduct of its service providers if the CFPB believes them to be unlawful.

With increasing scrutiny on the financial services industry and ever-changing technology and data, compliance for



the collection industry should not only be top of priority for financial institutions but also a part of their standard operating procedure carried across the consumer life cycle.

CFPB's focus on consumers

Earlier this year, the CFPB issued a Notice of Proposed Rulemaking (NPRM) to implement the Fair Debt Collection Practices Act (FDCPA). The proposal, which could go into effect by the end of 2020, would provide consumers with clear-cut protections against disturbance by debt collectors and straightforward options to address or dispute debts. Moreover, the NPRM would set strict limits on the number of calls debt collectors may place to reach consumers weekly, as well as clarify how collectors may communicate lawfully using technologies developed after the FDCPA's passage in 1977.

Additionally, in an ongoing effort to make sure consumers are informed and treated fairly, the CFPB's Consumer Complaint Database also raises concerns on the accuracy of data. Economic challenges and strict lending processes have cultivated more educated, empowered and financially aware consumers. They want more insights into their credit

data and how they can improve creditworthiness, further increasing the demand for accurate credit reports. Data considerations implemented include:

- **Is the data used to pursue and communicate to consumers accurate?** Original creditors should provide an adequate amount of information about the debt being collected or ensure it is available. Of the total number of complaints, only 81,500 are related to first-party and third-party collections.³
- **Consumers should be able to dispute debts they find and believe to be incorrect.** Debt collectors may have a duty beyond reporting information to investigate disputes and provide further information on their findings.

It's critical to capture accurate consumer information, as well as to implement processes that continually evaluate the validity of the data. Applying such methods will help reduce the risk of receiving incomplete or imprecise data throughout the consumer life cycle. The investment made into quality assurance will maximize target and marketing efforts, ensure effective cross-sell and drive a higher return of quality consumer data.

The dynamic nature of data | US vital statistics

Consumer data is both always changing and growing, and people are becoming more difficult to track. Collectors need certain safeguards in place to ensure regulatory compliance with the accuracy, security and delivery of their data.



3.8M
Births⁴



2.8M
Deaths⁵



2.2M
Marriages⁶



40%
Divorce rate⁷



53%
Wireless homes⁸



14%
Household moves⁹

Consumer information noted on an annual basis.

¹<https://www.consumerfinance.gov/about-us/newsroom/cfpb-supervision-recovers-14-million-first-half-2017-over-100000-consumers-harmed-illegal-practices/>

²<https://www.urban.org/urban-wire/71-million-us-adults-have-debt-collections>

³<https://www.consumerfinance.gov/about-us/newsroom/bureau-releases-report-2018-administration-fair-debt-collection-practices-act/>

⁴<https://www.bloomberg.com/news/articles/2019-05-15/u-s-2018-births-fall-to-lowest-level-in-32-years-cdc-data>

⁵<https://www.cdc.gov/nchs/fastats/deaths.htm>

⁶<https://www.cdc.gov/nchs/fastats/marriage-divorce.htm>

⁷<https://www.michaelagardner.net/blog/2018/10/09/divorce-statistics-in-the-united-193973>

⁸<https://www.textrequest.com/blog/how-many-people-still-use-landline-phone/>

⁹<https://www.northamerican.com/migration-map>

CFPB's debt collection examination objectives

Conducting examinations is one of the CFPB's key tools to ensure that supervised entities comply with federal consumer financial laws. Examination objectives include:

- Assessing the quality of the regulated entity's compliance management systems, including its internal controls and policies and procedures, for its debt collection business.
- Identifying acts or practices that materially increase the risk of violations of federal consumer financial laws in connection with debt collection.
- Gathering facts that help to determine whether a regulated entity engages in acts or practices that violate the requirements of federal consumer financial laws.
- Determining, per CFPB internal consultation requirements, whether a violation of a federal consumer financial law has occurred and whether further supervisory or enforcement actions are appropriate.

Benefits of compliance

Aside from not being subject to large monetary consequences via penalties and fines, taking a proactive approach toward regulatory compliance has many other positive effects — most notably, avoiding punitive damages and public scrutiny. Not only do regulatory bodies publicly announce any regulatory violations next to company names, but the CFPB publishes an online Consumer Complaint Database (www.consumerfinance.gov/complaintdatabase) and an annual Consumer Response Report analyzing and discussing such complaints.

Collections lifecycle

Throughout the collections lifecycle it's imperative to continuously focus on accounts that will respond to collection efforts, identify and implement the most effective strategies and test these strategies for improvement. A "triage" approach based on the probability of repayment qualifies accounts worth pursuing to maximize the amount of debt collected utilizing the least amount of effort, time and cost.

- **Evaluate** — First, accounts are evaluated by being scrubbed and flagged for bankruptcy, deceased, military status and litigious consumers to mitigate risks under the Servicemembers Civil Relief Act (SCRA), the Telephone Consumer Protection Act (TCPA) and the Federal Fair Debt Collection Practice Act (FDCPA) regulations. These accounts are noted for other departments either not to pursue or to send for special handling.
- **Prioritize** — Accounts then are prioritized by scoring to determine the highest probability of repayment and return.
- **Locate** — Those accounts prioritized to be the most collectible obtain the best contact information.
- **Review** — The remaining accounts are reviewed, and a collection trigger is placed to monitor them.
- **Monitor** — Accounts are monitored for changes in their credit profile and contact information. Upon notification of any occurrence, accounts are queued and put back into the collection process. Filters and triggers into one database support single tract and shared information to utilize throughout the consumer life cycle.

From an organizational standpoint, this helps reduce costs, increase right party contact, encourage best practice and provide a path to achieve a consistent workflow that is both efficient and compliant.

The Experian difference

In an era where consumers can conduct virtually all financial transactions on their computers or cell phones, debt collection agencies are finally beginning to catch up. Those who take a digital-first approach to collections can improve their customers' experience, quality assurance and violation prevention.

A preemptive solution to ensure compliance and innovation is to work with a proven partner, experienced in collection activities, that possesses the knowledge and awareness of market changes and regulations across all business lines, with products and software for a compliance management system (CMS). An effective CMS has a formalized internal audit program around CFPB examination guidelines that also supports operational efficiency and compliance.

Experian's industry-leading credit and marketing information upholds the highest standards for data hygiene and accuracy for increasing right party contact and reducing wrong party contact.

Our breadth of product and software makes Experian the only service provider with a strategic end-to-end collection's solution that includes embedded compliance protectors, a debt evaluator, prioritization scoring, monitoring services for collection triggers, customized credit profiles for collections and more.

Contact us to learn how Experian can set up a compliance process while managing your accounts and workflow to strengthen practices and bring your business into the digital age.

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