

The Consumer Financial Protection Bureau (CFPB) issued [debt collection regulations](#) at the end of 2020. These rules enacted some provisions to benefit consumers, such as requiring collectors to comply with oral “stop calling” request and prohibiting credit reporting without first giving notice of the alleged debt to the consumer.

Unfortunately, many of the practices authorized by the rules will harm consumers unless changes are made before the rules take effect. The list below highlights harmful conduct that will be permitted under the new rules and recommends revisions to protect consumers.

## PHONE CALLS

Collectors can harass consumers by making up to seven attempted calls per week *per debt*, either to the consumer or to friends and family to ask for the consumer’s contact information. A consumer with 5 medical accounts in collection could receive 35 attempted calls per week.

- **Recommendation:** Limit collectors to three attempts per week *per consumer*. Make the limit of one conversation per week apply *per consumer* rather than per debt.

## ELECTRONIC COMMUNICATIONS

### Electronic Validation Notices

The CFPB has said that collectors can provide required validation notices electronically in initial communications without complying with the federal E-SIGN Act. This will make it more likely that consumers will not receive these notices and more difficult for those whose primary internet access is a smartphone to read, understand, print, and save notices if they do receive them.

- **Recommendation:** Require collectors to obtain E-SIGN Act consent from consumers before providing validation notices electronically.

### Consumer Consent

Collectors can use electronic communications to contact consumers unless the consumer opts out. Requiring an opt-out rather than requiring collectors to obtain consumer consent is more likely to result in missed messages, i.e., if collectors use old contact information or communications are sent to spam. Privacy may also be violated if messages are viewed by others, including employers. Procedures to reduce third-party disclosures are optional.

- **Recommendation:** Require collectors to obtain consumer consent to use the specific type of electronic communication (e.g. text, email, direct messages).

### Replying to Electronic Messages

Collectors can use no-reply emails or one-way text messages, directing opt-outs or responses to portals that require consumer login and may be difficult to navigate on mobile phones.

- **Recommendation:** Require collectors that use a particular channel of communications to contact consumers to accept opt-outs and to receive messages via that channel.

## TIME-BARRED DEBT COLLECTION

Collectors can still pressure consumers to pay debts that are beyond the statute of limitations. They are prohibited from suing or threatening to sue on time-barred consumer debts, but they can still sue if a consumer inadvertently revives the statute of limitations through a partial payment or acknowledgment made after pressure from collectors.

- **Recommendation:** Prohibit collectors from collecting time-barred debt in and out of court because these debts are so old that they cannot be collected without mistakes or deception. At a minimum, add prohibitions on lawsuits on revived debt and sale of time-barred debts.

## DECEDENT DEBT

Collectors can communicate with a wide variety of grieving people about debts owed by the deceased and, in most cases, won't have to provide validation notices or respond to disputes.

- **Recommendation:** Limit collection contacts to estate administrators and executors. Require collectors to provide validation notices and accept disputes on decedent debt. Require a 60-day waiting period before attempting to collect decedent debt.

## VALIDATION NOTICES

### Oral Notices

Collectors can provide validation information orally despite the volume of information required.

- **Recommendation:** Require collectors to provide validation information in writing.

### Language Access

Collectors are not required to provide validation notices in Spanish or other languages.

- **Recommendation:** Require collectors to include a description in Spanish of what the validation notice is and how to get a translation. The CFPB should, before the rule's effective date, translate the model validation notice into the top 8 languages used by consumers with limited English proficiency. Require collectors to send translated validation notices in certain circumstances and to track and transfer language preference information.

### Consumer Confusion

Validation information in the model validation notice is likely to be unclear to many consumers.

- **Recommendation:** Continue to test and refine the model validation notice to ensure comprehension by unsophisticated consumers.

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