

Ahead: CFPB Regulations of Creditors Collecting Own Consumer Debts?

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The Federal Fair Debt Collection Practices Act (FDCPA or the Act) was enacted in 1977 to end abusive consumer debt collection practices by debt collectors, while insuring that collectors who don't engage in such practices were not competitively disadvantaged. The Act prohibits debt collectors from engaging in abusive, deceptive, or unfair practices and regulates their communications with consumers and others. Creditors that collect their own debts (excluding debt purchased after default) have always enjoyed a statutory exclusion from the FDCPA's restrictions. But the Consumer Financial Protection Bureau (CFPB or the Bureau) has indicated it may introduce new consumer debt collection regulations applicable to creditors that collect their own debts. Dodd-Frank empowered the CFPB to issue substantive rules under the FDCPA and to supervise larger participants in the debt collection market. It also authorized the CFPB to issue regulations intended to identify and prevent unlawful, unfair, deceptive, or abusive acts or practices in any transactions with consumers involving consumer financial products or services. Although the CFPB only began accepting consumers' debt collection complaints in 2013, it reports that debt collection complaints have quickly grown to make up the largest percentage of complaints that it, or any other federal agency, receives. (The FTC also receives complaints on, and enforces, the FDCPA). In late 2013, the CFPB issued an Advanced Notice of Proposed Rulemaking (ANPR) seeking information on a wide range of debt collection practices and issues in order to explore potential debt collection rulemaking. In the ANPR, the CFPB stated that significant problems regarding debt collection persist despite vigorous government enforcement supervision and educational efforts, making it appropriate for the Bureau to explore whether it can use its rulemaking authority to address some longstanding problems, including the need to examine rules covering creditors that collect consumer debt in their own names. According to the CFPB, creditors were excluded from the FDCPA because Congress believed the risk of reputational harm would sufficiently deter them from engaging in harmful debt collection practices. However, since its enactment, first-party debt collectors have themselves been the subject of tens of thousands of complaints to the FTC and the CFPB. In addition, the Bureau noted that many states (including Florida) have consumer collection practice statutes that apply to

creditors, many of which were enacted after Congress excluded creditors in the FDCPA, indicating a recognition that the FDCPA alone may not sufficiently address debt collection practice abuses.

Related Practices

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