

REPORT

The CFPB's Consent Orders Regulating the ARM Industry

COMPLIANCE
PROFESSIONALS FORUM

iA insideARM

Complimentary Preview

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Introduction

Since its inception, the CFPB has penalized a wide variety of entities for violating federal consumer financial protection laws. The CFPB most often issues penalties through the use of consent orders settled in federal court. The penalized parties agree to the consent orders through a “stipulation” that allows them to resolve the dispute and agree to the penalty without admitting guilt.

The CFPB intends for its consent orders to set industry-wide precedents. In March 2016, CFPB Director Richard Cordray [referred to consent orders](#) as a guide “to all participants in the marketplace to avoid similar violations and make an immediate effort to correct any such improper practices,” telling the Consumer Bankers Association that any company not following the precedents set by the CFPB’s consent orders is committing “compliance malpractice.”

The Bureau has the authority to issue penalties for violations of a range of laws, but they focus most often on violations of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. In relation to this, the main thing Account Receivables Management (ARM) companies are penalized for are so-called “unfair, deceptive, or abusive acts and practices” (UDAAPs), which are prohibited by Sections 1031 and 1036 of Dodd-Frank.

What is a UDAAP? Detailed definitions can be found in this [CFPB bulletin published on July 10, 2013](#).

- An act or practice is considered **unfair** if it causes or is likely to cause substantial injury to consumers, the injury is not reasonably avoidable by consumers, and the injury is not outweighed by countervailing benefits to consumers or competition.
- An act or practice is considered **deceptive** if it is material, if it is likely to mislead a consumer, and if the consumer’s interpretation is reasonable under the circumstances.
- An act or practice is considered **abusive** if it materially interferes with a consumer’s understanding of or ability to understand a product/service; or takes unreasonable advantage of a consumer.

When the CFPB penalizes a company or individual, the Bureau’s order stipulates that the penalized party act differently in some way. Additionally, most consent