


OVERVIEW

CFPB's Advice to Consumers

Answers to Frequently Asked Questions

 **COMPLIANCE**
PROFESSIONALS FORUM

GENEROUSLY UNDERWRITTEN BY  TransUnion

 **iA** insideARM

Complimentary Preview



Published by insideARM LLC
6110 Executive Blvd, Suite 1040, Rockville, Maryland, 20850
editor@insideARM.com | 240.499.3834 | www.insideARM.com

Copyright © insideARM LLC and Compliance Professionals Forum
All rights reserved
Printed in the United States of America

This publication is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, resold, hired out, or otherwise circulated without the publisher's prior consent.

Reprint licenses are available for an additional fee.

The scanning, uploading, and distribution of this publication via the Internet or via any other means without the permission of the publisher is illegal and punishable by law. Please purchase only authorized editions.

Legal Disclaimer

This information is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure this information is up-to-date. It is not intended to be a full and exhaustive explanation of the law in any area, however, nor should it be used to replace the advice of your own legal counsel.

The views and opinions expressed herein are solely those of the Compliance Professionals Forum. The information and any materials provided “as is” and the CPF along with its parent organization expressly disclaim all warranties, conditions, representations, indemnities and guarantees whether express or implied, arising by law or custom. In no event will the CPF be held liable for any claim or action arising from or related to your failure to comply with any laws or regulations. Your use of the materials constitutes full and sufficient consideration for, and acceptance by you, of the above terms.

Complimentary Preview

Table of Contents

Introduction	8
Understanding Debt Collection.....	9
What should I do when a debt collector contacts me?	9
Are there laws that limit what debt collectors can say or do?	10
What information does a debt collector have to give me about the debt?	13
How can I verify whether or not a debt collector is legitimate?	14
What is a statute of limitations on a debt?	16
2014 Updates: CFPB's Advice to the Consumer	21
The Basics	22
What is a debt collector?	22
Why is a debt collector trying to contact me?	22
What is an original creditor and what is the difference between an original creditor and a debt collector?	23
Does a debt collector have to verify for me how much I owe?	23
What is a garnishment?	24
What is a paid collection?	24
What is a judgment?	25
What information does a debt collector have to give me about the debt?	25
Why is the name of the debt collector different than the name of the company I owe money to?	26
What is a statute of limitations on a debt?	27
What does a debt collector need to verify that I owe the debt?	28
What can I do if I believe a debt collector has violated the law?	28
What Can/Can't Debt Collectors Do?	30
Are there laws that limit what debt collectors can say or do?	30
Tip: Contact your state attorney general's office to learn more about the laws in your state.	32
What is harassment by a debt collector?	32
Can a debt collector call me if I am listed on the Federal Trade Commission's National Do Not Call Registry?.....	33
Does a creditor have to inform you of the debt before turning it over to collections?	33
Is there a limit to how many times a debt collector can call me?	35
Can debt collectors call me anytime they want, day or night, about my debt?	35

What constitutes an "unfair" practice by a debt collector?	36
What if I have an attorney? Can a debt collector keep calling me?	37
Can my account be referred to a collection agency before my debt is due?	37
Can a debt collection agency try to have me arrested over a debt collection?	38
Can a debt collector increase the interest rate on a debt I owe?	38
If I tell a debt collector to stop contacting me, can it still report my debt to the credit reporting bureaus?	38
My debt is several years old. Can debt collectors still collect?.....	39
Can a debt collector try to collect on a debt that was discharged in bankruptcy?	39
If I dispute a debt that is being collected, can a debt collector still try to collect the debt from me?...40	
Can a debt collector try to deceive me to collect on a debt?.....	41
Can debt collectors tell other people about my debt?.....	42
Can debt collectors call my employer and tell them they are calling about my debts?.....	42
Can a debt collector garnish my bank account or my wages?.....	44
Can a creditor or debt collector sue me if I am making regular payments, but not paying the full amount or not paying on time?	45
Can a debt collector garnish my federal benefits?.....	45
Can a debt collector put a lien on my house if I am not paying my debt?	46
I am divorced and getting calls about a credit card that is no longer my responsibility under our divorce decree. Can a debt collector try to collect this debt from me?	46
My Rights, and Communicating with Debt Collectors:	47
How can I verify whether or not a debt collector is legitimate?	47
I've been contacted by a debt collector. How do I reply?	48
What is the best way to negotiate a settlement with a debt collector?	49
What should I do if a creditor or debt collector sues me?	50
A debt collector called my employer looking for me. What can I do?	51
How do I get a debt collector to stop calling me if it's not my debt?	52
If a debt collector violates the Fair Debt Collection Practices Act while trying to collect a debt from me, does that mean I do not have to pay the debt?	53
What may happen if I ignore or avoid a debt collector?	53
What if I believe I do not owe the debt or I want proof of the debt?	54
A debt collector contacted me about a debt I already paid. What should I do?	55

I have been sued over a debt that I think is past the statute of limitations in my state. Should I still go to court?.....	56
A debt collector has contacted me regarding multiple accounts currently in collections. Do I have any control over which debt my payments are applied to?.....	56
How can I stop debt collectors from contacting me?.....	57
Do I have a right to dispute the debt if a creditor or debt collector sues me?	58
How do I find a lawyer or attorney to represent me in a lawsuit by a creditor or debt collector?.....	58
Will I have to pay an up-front fee to hire a lawyer to represent me in a suit involving a creditor or debt collector?	59
What questions should I ask before I hire an attorney to represent me?	60
Debt Collection and Student Loans:	61
What are my options when dealing with a collection agency working for the U.S. Department of Education?	61
If I co-signed for a student loan and it has gone into default, what happens?	62
What are the main advantages of the rehabilitation option when dealing with a collection agency?..	62
Is there a minimum payment required for rehabilitation?.....	63
What happens if I default on a private student loan?	63
What are my options when dealing with my private student lender's collection agency?.....	63
What are the main advantages of the federal loan consolidation option when dealing with a collection agency?	64
Debt Collection and the Military:	65
My parent got a notice from a debt collector to pay a debt that I took out after joining the military. It's already been paid in full and it was in my name only. Where can I get help to stop them from harassing my family?	65
I'm a servicemember and I'm being harassed by a debt collector about a debt that I do not think I owe. Should I just pay up to make the debt collector go away. What are my rights and where can I get help?.....	66
I'm getting called day and night by a debt collector who is threatening to call my military chain of command, too. What can I do about this?	67
I'm a servicemember and I'm being sued by a debt collector. What can I do if I can't make it to court to defend myself or a default judgment is awarded to the debt collector because I didn't show up to court?	68
A debt collector has told me it is going to have my security clearance revoked because of being delinquent on my credit card bill. Can they do that?	69

Can a debt collector call my military supervisor or Commander if I am delinquent in paying my credit card or other debt?	69
I am a few months behind in paying my credit card debt. A debt collector called and said that if I didn't pay off my credit card debt in full he would have me prosecuted under the Uniform Code of Military Justice (UCMJ). Can he do this?	69
Debt Collection and the Deceased:	71
Can I tell a debt collector to stop contacting me about the debts of my deceased relative?	71
If someone dies owing a debt, does the debt go away when they die?	71
I was an authorized user on my deceased relative's credit card account. Am I liable to repay the debt?	72
Who is responsible to pay my spouse's credit card debt after he or she has passed away?	72
If I don't pay my deceased spouse's debts using my own funds, will it affect my credit?	73
My spouse died leaving debts. My relative is the executor of the estate. Can a debt collector contact me about the debt?	73
My spouse died leaving debts but no assets and we are not filing any probate papers. Can a debt collector contact me about the debts?	74
I am the executor/administrator of my deceased relative's estate. Can a debt collector contact me about my deceased relative's debts?	74
Am I responsible to pay off the debts of my deceased spouse?	74
A few days after my relative's obituary appeared in the papers, I got a call from someone who said they were a debt collector and that my relative had owed money. They are telling me I have to pay and asking me for my bank account information so they can withdraw the funds. How do I know if this is a scam? What can I do?	75
I already told a debt collector who called about my deceased relative to talk to the executor or administrator of the estate, but they keep calling me at all hours of the day and night and leaving threatening messages. What can I do?	75
Can a debt collector contact me about a deceased person's debt when it was in that person's name only?	76
Even if I am the executor or administrator authorized to pay a deceased person's debt from his or her estate, can I stop a debt collector from contacting me about the debt?	76
Credit Counseling:	78
What is credit counseling?	78
How do I find a credit counselor?	78
What's the difference between a credit counselor and a debt settlement company?	79
How do I choose which credit counselor is right for me?	81

Debt Settlement/Relief/Consolidation Services:	82
What are debt settlement/debt relief services?	82
Are all debt settlement services legitimate?	82
Should I use a debt settlement service to help me deal with my debt and debt collectors?	83
How can I safely consolidate my credit card debt?	84
I've seen a lot of ads for companies that consolidate credit card debt. Are these legitimate?	86

Complimentary Preview

Introduction

The CFPB offers guidance to consumers to help them protect themselves in financial dealings with a variety of financial entities.

There is opportunity for those in the debt industry to use this advice to consumers as guideposts for their own compliance programs.

The questions are arranged by category:

- Understanding debt collection
- Getting information from a debt collector
- Disputing a debt in collection
- Harassment by a debt collector
- Lawsuit or garnishment by a debt collector
- Harassment about someone else's debt
- Debt settlement
- Credit counseling
- Student loan debt collection
- Protections for servicemembers

We've included a previous edition of this report. It contains questions/answers the CFPB no longer tracks, but may be of historical interest and value.

Sincerely,

The Compliance Professional Forum Team

Understanding Debt Collection

What should I do when a debt collector contacts me?

Answer: There are different ways to respond appropriately to debt collectors. Depending on your situation, we have sample letters you can use if you're experiencing common problems.

When contacted, find out the following:

- Identity of the debt collector, including name, address, and phone number
- The amount of the debt, including any fees such as interest or collection costs
- What the debt is for and when the debt was incurred
- The name of the original creditor
- Information about whether you or someone else may owe the debt

When a debt collector first contacts you in writing regarding a debt, it must provide you a written notice that has certain, legally-required information. If the collection agency first contacts you by phone, insist that they contact you in writing. **Do not give personal or financial information to the caller until you have confirmed it is a legitimate debt collector.**

The following sample letters will help if you're experiencing common problems that may come up with debt collectors.

- [I do not owe this debt.](#)
- [I need more information about this debt.](#)
- [I want the debt collector to stop contacting me.](#)
- [I want the debt collector to only contact me through my lawyer.](#)
- [I want to specify how the debt collector can contact me.](#)

If you use any of these letters, it's important to do so as soon as possible after you're first contacted, and to keep copies of any letters you send. In certain situations, you **only have 30 days** after you're contacted to ask for certain information, but even if more than 30 days pass, it's still a good idea to ask for what you need.

WARNING

These sample letters are not legal advice.

TIP

If you're being sued or think you'll be sued, [contact a lawyer](#).
