

Collections After Compliance

The Changing Landscape

An Experian Perspective



The current financial situation

is a result of many factors, including the actions of both large and small financial institutions, their consumers and the relationships between them. As a response, 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 with it a new regulatory body was formed. The Consumer Financial Protection Bureau (CFPB) was created to administer rulings protecting consumer interests from abusive financial services practices. Since then came an increasing awareness and accountability of financial institutions to operate responsibly in dealing with collections.



DEBT COLLECTION COMPLAINTS & CASES

In addition to large financial institutions, in January 2013 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 November 2013 to February 2014, the CFPB's supervisory activities resulted in more than \$70 million in remediation to approximately 775,000 consumers.¹ Though the CFPB began to accept debt collections complaints in June 2013, it only began to add such complaints to its Consumer Complaint Database in November 2013.

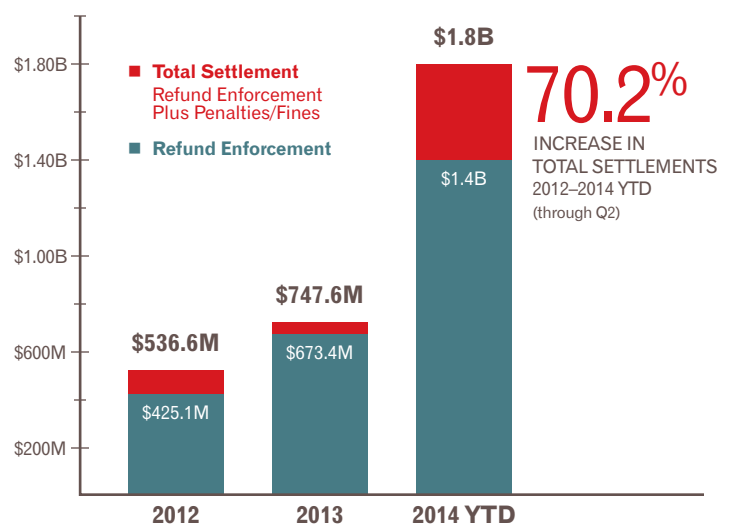
The percentage of consumers in collections has increased over the past 10 years at a relatively constant rate of 14 percent over the past four years.² Moreover, nearly one out of every 10 Americans, about 30 million consumers, has at least one debt in collections averaging \$1,500.³ Though repaying debt is an assumed obligation and most debt collectors are conducting their work properly, it is inevitable to have complaints just given the sheer volume of debt holders. Debt collection complaints to the CFPB are increasing, with consumers citing continued attempts to collect debt not owed, communication tactics, improper contact or sharing of information, false statements or representation, and taking/threatening illegal action.

It is clear that these complaints are a priority and a focus for the CFPB based on many of its recent rulings falling under what is Unfair, Deceptive and Abusive Acts or Practices (UDAAP). Violations ranged from deceptive marketing tactics including unfair telemarketing acts to deceptive and unfair practices such as promoting features unavailable to customers, charging fees not clearly

disclosed, misrepresentation of cost and coverage of add-on products, and unfairly billing for products. In addition, a financial institution is potentially liable and subject to penalties and fines for the conduct of its service providers relating to consumer financial products or services if the CFPB believes them to be unlawful.

With increasing scrutiny on the financial services industry and ever-changing data, compliance for the collection industry with the growing number of regulations and new regulators should not only be a top priority for financial institutions, but also a part of their standard operating procedures carried across the Customer Life Cycle.

CFPB TOTAL YEAR-OVER-YEAR ENFORCEMENTS



Penalties/Fines were paid to several federal regulatory bodies, including the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the U.S. Treasury and the Federal Reserve System.

Collected from <http://www.consumerfinance.gov/newsroom> and <http://dev.webrecon.com/category/ftdcpa-case-statistics>

¹ <http://www.consumerfinance.gov/newsroom/steve-antonakes-remarks-at-life-of-a-debt-data-integrity-in-debt-collection>
² <http://www.acainternational.org/files.aspx?p=/images/31369/0314-cfpb-complaint-analysis.pdf>
³ <http://www.consumerfinance.gov/newsroom/steve-antonakes-remarks-at-life-of-a-debt-data-integrity-in-debt-collection>

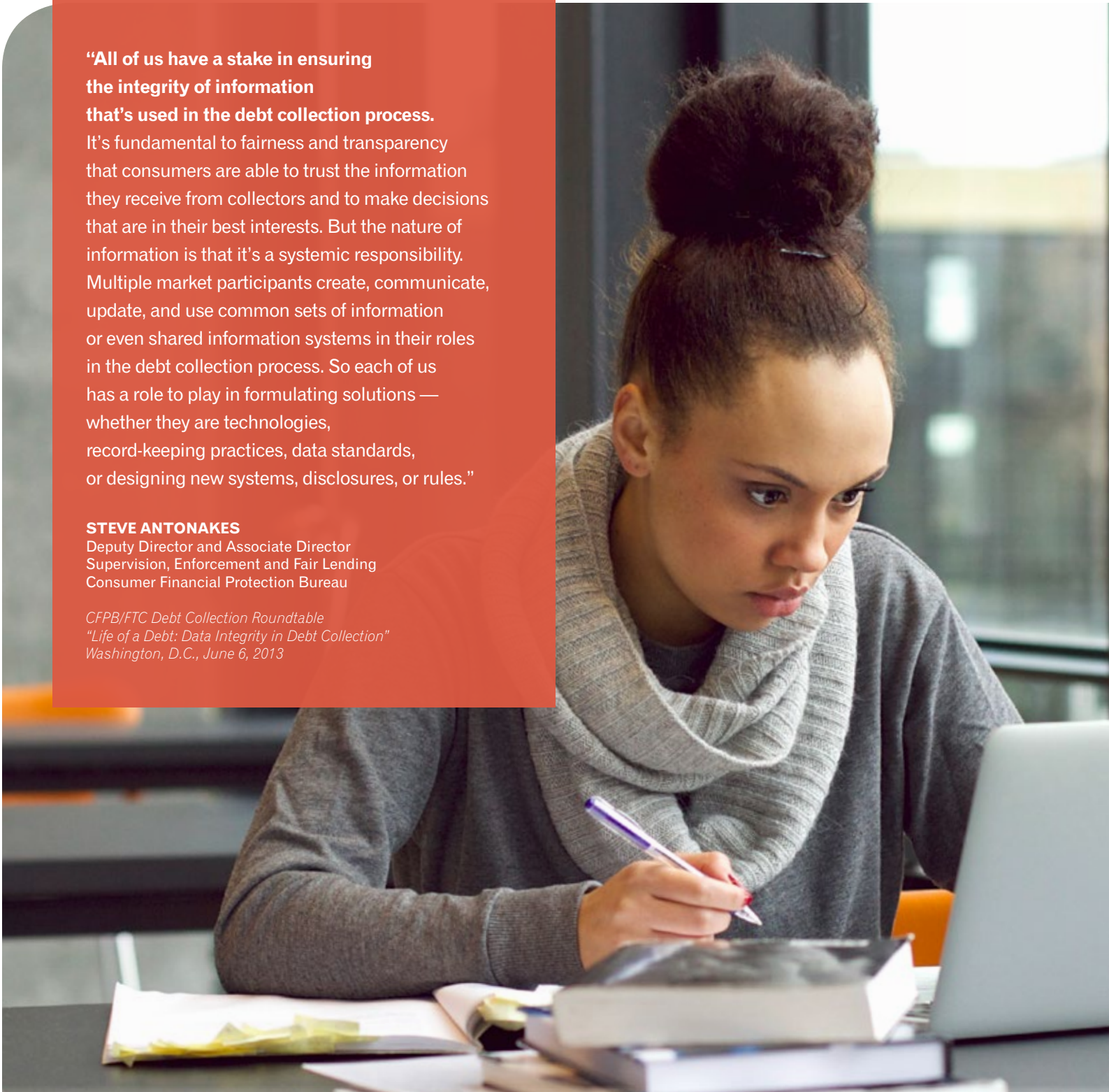
“All of us have a stake in ensuring the integrity of information that’s used in the debt collection process.

It’s fundamental to fairness and transparency that consumers are able to trust the information they receive from collectors and to make decisions that are in their best interests. But the nature of information is that it’s a systemic responsibility. Multiple market participants create, communicate, update, and use common sets of information or even shared information systems in their roles in the debt collection process. So each of us has a role to play in formulating solutions — whether they are technologies, record-keeping practices, data standards, or designing new systems, disclosures, or rules.”

STEVE ANTONAKES

Deputy Director and Associate Director
Supervision, Enforcement and Fair Lending
Consumer Financial Protection Bureau

*CFPB/FTC Debt Collection Roundtable
“Life of a Debt: Data Integrity in Debt Collection”
Washington, D.C., June 6, 2013*



U.S. VITAL STATISTICS

The Dynamic Nature of Data

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

Consumer information noted on an annual basis.



4M
BIRTHS⁴



2.5M
DEATHS⁵



4M
MARRIAGES⁶

THE CFPB'S FOCUS ON DATA

The CFPB's Consumer Complaint Database also raises concerns on the accuracy of data. Economic challenges and strict lending practices have cultivated more educated, empowered and financially aware consumers. They want more insight into their credit data and on how they can improve creditworthiness, further increasing the demand for accurate credit reports.

To ensure federal consumer financial law is observed, the CFPB along with the Federal Trade Commission (FTC) held a round table in June 2013 to evaluate solutions to overall challenges in the debt collection market. The focus of this meeting was to address the integrity of the record-keeping processes and the data used to collect on a debt.

- **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 approximately 20 percent were made against first-party collections.
- **How much of the information deteriorates as it is passed along?** Third-party debt collectors make approximately 1 billion contacts with consumers per year.⁸ Is it the correct consumer for the correct amount? Debt can become unrecognizable if any fact about the original debt was not passed down accurately.

- **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.

Regulators appear less likely to accept small subset data samples, or proxy samples, to satisfy their data assessments; they are often looking for larger data sets, from the originating data systems (or systems of record). It can be said they may take the largest possible data samples in order to assert credibility and viability of complex data systems and platforms.

It is 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 Customer Life Cycle. The investment made into quality assurance will maximize targeting and marketing efforts, ensure effective cross-sell and drive a higher return of quality consumer data.



1M
DIVORCES⁷



45M
MOVES⁹



12
MOVES
OVER A LIFE SPAN¹⁰



39.4%
WIRELESS
HOMES¹¹



5M+
NO SERVICE
AT ALL¹²

8 <http://www.acainternational.org/files.aspx?p=/images/31369/0314-cfpb-complaint-analysis.pdf>
9 <http://pe.usps.com/businessmail101/addressing/checkingaccuracy.htm>
10,12 <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201312.pdf>
11 <http://www.pewinternet.org/fact-sheets/mobile-technology-fact-sheet>



THE CFPB'S DEBT COLLECTION EXAMINATION OBJECTIVES

- To assess the quality of the regulated entity's compliance management systems, including its internal controls and policies and procedures, for its debt collection business
- To identify acts or practices that materially increase the risk of violations of federal consumer financial laws in connection with debt collection
- To gather facts that help to determine whether a regulated entity engages in acts or practices that violate the requirements of federal consumer financial laws
- To determine, in accordance with 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 TRIAGE

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.

F **FOCUS** on accounts that will respond to collection efforts

I **IDENTIFY** and implement the most effective strategies

T **TEST** these strategies for improvement (continuously)

EVALUATE — First, accounts are evaluated by being scrubbed and flagged for bankruptcy, deceased, military status and litigious consumers to mitigate regulatory risks under the Servicemembers Civil Relief Act (SCRA), the Telephone Consumer Protection Act (TCPA) and the Federal Fair Debt Collection Practice Act (FDCPA) regulations right away. 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 collections process. Filters and triggers into one database support single trace and shared information to utilize throughout the Customer 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.



FEDERAL FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

FDCPA is an amendment to the Consumer Credit Protection Act to prohibit abusive debt collection practices by third-party debt collectors. FDCPA guidelines include how debt collectors may conduct business and rights of consumers, and outline penalties and remedies for violations. It is sometimes used in conjunction with the Fair Credit Reporting Act (FCRA) in that consumers should have a method of disputing information contained in a credit report used by a debt collector and received by the original creditor.

Lawsuits/Year	2014 YTD	2013	2012	2011	2010
FDCPA	5,701	1,862	1,101	825	345
FCRA	1,376	2,276	2,249	1,930	1,422

While creditors or first-party collectors may be exempt from the definition of a debt collector under the FDCPA, they may still be subject to the prohibitions against unfair, deceptive or abusive acts or practices (UDAAP) set forth in the Dodd-Frank Act. Though the old unfair and deceptive acts or practices (UDAP) standards have been in place for several years, UDAAP potentially broadens the scope of prohibited conduct with respect to products and services directed toward consumers. The additional “A” refers to acts or practices that may be deemed “abusive” and that may interfere with the ability of a consumer to understand a term or condition of a financial product or service or take unreasonable advantage of a consumer’s lack of understanding, inability to protect his or her interests and reasonable reliance on a covered person to act in his or her best interest. The FDCPA and UDAAP continue to be a significant focus of the CFPB, as many of its actions are for deceptive selling and marketing practices.



SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

The SCRA provides a range of protections in civil matters for servicemembers to allow them to devote their attention to the defense needs of the nation and to help relieve stress on the family members of those deployed. Provisions in the SCRA may postpone or suspend certain obligations, such as outstanding credit card debt, mortgage payments, pending trials, taxes, and terminations of leases for certain servicemembers.

Since its inception in July 2011, the CFPB has received more than 14,000 complaints from servicemembers, veterans, and their families about mortgages and debt collection for credit cards and student loans. The CFPB has demonstrated concern over tactics such as contacting servicemembers’ military chain of command, threatening punishment, a reduction in rank or revocation of security clearances; making misrepresentations about the applicability of SCRA protections to student loans and incorrectly asking for additional documentation as proof for recertification of active-duty status; charging excessive interest rates on certain types of loans; and mortgage servicers’ lack of knowledge about military-specific programs.¹⁴



TELEPHONE CONSUMER PROTECTION ACT (TCPA)

An amendment to the Communications Act of 1934, the TCPA regulates and restricts telephone solicitations and the use of automated telephone equipment for telemarketing calls, autodialed calls, pre-recorded calls, text messages and unsolicited faxes.

TCPA Lawsuits/Year	2014 YTD	2013	2012	2011	2010
	1,525	1,862	1,101	825	345

Under Federal Communications Commission regulations concerning the TCPA, autodialed or pre-recorded debt collection calls might not be considered telemarketing calls if they do not contain a telemarketing message. Certain autodialed or pre-recorded debt collection calls to a residential landline might not require the consumer’s permission while permission may be required for such calls made to a wireless number. Giving a wireless number to a creditor for use in normal business communications, such as in a credit application, could potentially be considered prior consent.

2014 YTD is calendar year 2014 through July 31, 2014, the one-year mark for complaint reporting by the CFPB.

If you have any questions about the applicability of these statutes to you or your business, please contact your attorney.

¹³ <http://dev.webrecon.com/category/fdcpa-case-statistics>

¹⁴ <http://www.consumerfinance.gov/newsroom/cfpb-recovers-more-than-1-million-for-servicemembers-veterans-and-their-families>



WE KNOW MORE THAN JUST COLLECTIONS

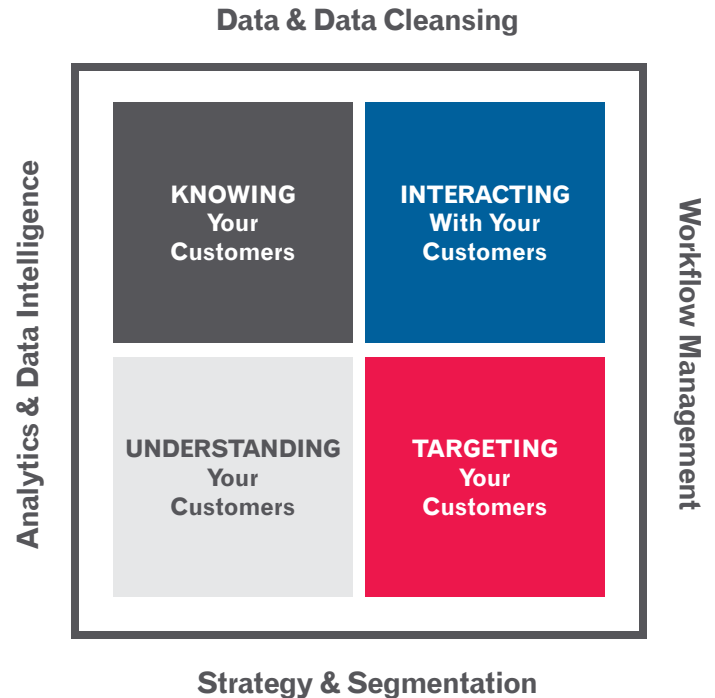
The Experian Difference

A preemptive solution to ensure compliance is to work with a proven partner, experienced in collection activities, that possesses the knowledge and awareness of 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 should support an exceptional customer experience, quality assurance and violation prevention. With these areas in mind, a streamlined procedure promotes adherence to regulations throughout daily operations across all departments for 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. It maintains credit profiles for more than 220 million credit-active consumers in the United States with the only database that pulls together all of a single consumer's credit information in one file. With changes made daily in real time, Experian® makes more than 1.3 billion updates each month, including new phone numbers, addresses, employment and payment history.

Its breadth of products and software is what makes Experian the only place with a strategic, end-to-end collections solution with embedded compliance protectors that include compliance scrubs, 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 business practices across your company.



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