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The New York Times

## Collection and Credit Firms Facing Broad New Oversight

BY BEN PROTESS

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Debt collectors and credit reporting companies are bracing for intense scrutiny after the government's consumer finance watchdog unveiled a broad plan to regulate financial firms that have largely evaded federal oversight.

# Are You Ready For the CFPB?

## CFPB Examinations for Debt Collectors and Debt Buyers – Are You Prepared?

“Debt collection remains one of the top sources of consumer complaints on the state and federal levels.”

“While debtors need to pay back their creditors, the methods used by some debt collectors are just unconscionable.”

“[A]ll too often (debt collectors) have insufficient and inaccurate information about the debts they are supposed to collect.”

~ Richard Cordray, CFPB Director

As the above quotes make clear, debt collectors are in the cross-hairs of the Consumer Financial Protection Bureau. Director Cordray, in public comments, has contended that the practices of some debt collectors are “downright illegal,” and that “when I was Ohio Attorney General, we had numerous headaches over debt collection.”

Now that the “larger participant” rule is in effect, the CFPB is beginning examinations, as it has already done regarding other non-bank lenders such as mortgage companies and payday lenders. Even companies that are not considered “larger participants” are subject to enforcement actions and potentially to examinations if they are service providers to other CFPB-supervised entities (such as large banks or non-bank mortgage companies) or if the CFPB concludes that they pose risks to consumers. When the CFPB comes knocking, it will take a comprehensive look at your operations, policies and procedures, state examinations, and complaint handling process.

Use the following checklist to see if you are ready for an examination.

*\*The full New York Times article is available at <http://dealbook.nytimes.com/2012/02/16/consumer-bureau-proposes-first-crackdown/>.*

Do you have written policies and procedures covering:

- Federal laws under the CFPB's authority (e.g., FDCPA, ECOA, FCRA, EFTA, GLBA, SCRA)?
- Practices the CFPB may consider unfair, deceptive, or abusive?
- Collection practices, including written communications, telephone calls, and visits to borrowers?
- Oversight of third-party service providers?
- Have you conducted, directly or through a third party, a recent compliance audit?
- Have your governing body and senior management demonstrated in a documented way their commitment to, and involvement in, consumer compliance?
- Does your employee training program adequately address compliance issues?
- Have you reviewed the CFPB's Examination Manual?
- Are your electronic systems ready to interface with the CFPB's e-examination system?
- Do you have the capability to run reports and analyses from your data in the same manner that the CFPB can, using its e-examination system?

## We Can Help

Ballard Spahr has unrivaled experience concerning the debt collection and debt buying industries and the CFPB. Our blog, *CFPB Monitor*, provides the most relevant and up-to-date information about developments at the CFPB. Additionally, we are helping numerous clients deal with the CFPB by:

- Designing and overseeing self-assessments
- Drafting, reviewing, and revising policies and procedures
- Conducting compliance audits
- Handling responses to civil investigative demands

For more information, contact:

**Alan S. Kaplinsky, Practice Leader**

Consumer Financial Services Group  
215.864.8544  
kaplinsky@ballardspahr.com

**John L. Culhane, Jr., Partner**

Consumer Financial Services Group  
215.864.8535  
culhane@ballardspahr.com

**Christopher J. Willis, Chair**

Collection Documentation Task Force  
Consumer Financial Services Group  
678.420.9436  
willisc@ballardspahr.com

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