

# CFPB Policy Considerations and Near Term Priority Goals

NACARA Annual Conference and Training Event  
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# Four industry-wide problems have been our focus

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Problem	Description
<b>1</b> <b>Deception</b>	Situations where the <b>costs and risks of a financial decision are obscured or opaque.</b>
<b>2</b> <b>Debt Traps</b>	Practices that trigger a <b>cycle of debt</b> where consumers rack up <b>substantial costs over time.</b>
<b>3</b> <b>Dead Ends</b>	Situations where <b>people cannot “vote with their feet”</b> when they are treated unfairly.
<b>4</b> <b>Discrimination</b>	<b>Unequal treatment</b> based on characteristics such as race or gender or other biases prohibited by law.



# To identify near-term priority goals for delivering tangible value, we launched the One Bureau Planning Process

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## One Bureau Planning Process

Ground-up, Bureau-wide prioritization process to shape our strategy for continuing to deliver tangible value.

### Objective:

Bureau-wide goals that identify the key problems we are going to work together to solve over the next two years.

### Implications for the Bureau:

- Shifting our mindset to identify outcomes we want to achieve.
- Taking an interdisciplinary approach to achieving the goals.
- Budgeting and allocating cross-Bureau resources accordingly.
- Creating common vocabulary and framework to help staff prioritize.

# These priority goals do not capture the totality of important work being done here at the Bureau

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*The Bureau cannot achieve the outcomes it wants without maintaining...*



## **Operational Excellence**

Achieving excellence within Operations means teams must be coordinated, our processes are efficient, our service levels and decisions are transparent, our controls and risk management are solid, and each of us is driven to continuously improve.



## **Supervisory and Enforcement Presence in all Markets**

The Bureau will continue to fulfill its mandate under the Dodd-Frank Act to police all markets within its jurisdiction for compliance with consumer law and regulations.



## **Robust Research and Market-monitoring Efforts**

Research and market-monitoring are important parts of making sure that the CFPB is a data-driven, 21<sup>st</sup> century agency.



## **Consumer Complaints Data**

Monitoring Consumer Complaints helps us keep an eye on emerging issues and market trends to help us better prioritize for protecting consumers.



There are nine priority goals

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## Near-Term Priority Areas



Arbitration



Consumer Reporting



Debt Collection



Demand-Side Consumer Behavior



Household Balance Sheets



Mortgages



Open-Use Credit



Small Business Lending



Student Loans

There are nine goals

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## Near-Term Priority Areas



Arbitration



Consumer  
Reporting



Debt  
Collection



Demand-Side  
Consumer  
Behavior

The CFPB envisions a consumer financial marketplace where consumers have the **ability to effectuate their rights** and **hold institutions accountable** for unlawful conduct.

# There are nine priority goals

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## Near-Term Priority Areas



Arbitration



Consumer  
Reporting



Debt  
Collection



Demand-Side  
Consumer  
Behavior

The CFPB envisions a consumer reporting system where **furnishers provide and consumer reporting companies maintain and distribute data that are accurate and inclusive** of more consumers. This should be supplemented by **effective and efficient dispute management and resolution processes** for consumers.

# There are nine priority goals

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## Near-Term Priority Areas



Arbitration



Consumer  
Reporting



Debt  
Collection



Demand-Side  
Consumer  
Behavior

The CFPB envisions a debt collection market where everyone who collects debts **substantiates the debts** they are collecting, **accurately identifies debtors**, **provides debtors with appropriate information**, and **communicates with debtors about their debts in a respectful, lawful, consumer-oriented way**.

# Rulemaking & SBREFA

Debt Collection Research, SBREFA Outline and  
Proposals Under Consideration

# Rulemaking process

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- 1. *Advanced Notice of Proposed Rulemaking (ANPRM)*:** The CFPB announced in November 2013 that it was considering regulations in debt collection, and solicited comment on a series of questions.
- 2. *Small Business Regulatory Enforcement Fairness Act process (SBREFA)*:** The Bureau is required to solicit the opinions of small businesses when it is considering a proposed rule that could have a significant economic impact on a substantial number of small entities. The Bureau convened a group of “Small Entity Representatives” (or “SERs”) on August 25, 2016, and will write a report on the input received from the SERs. The Bureau plans to convene a second panel at a later date.
- 3. *Notice of Proposed Rulemaking (NPRM)*:** After considering the SBREFA report, the CFPB will determine whether to go forward with a rulemaking. If it does so, the CFPB will publish a proposed rule in the Federal Register and invite public comment.
- 4. *Final rule*:** After reviewing comments, the CFPB will determine whether to go forward with a final rule and what the contents of the final rule should be.
- 5. *Implementation*:** Any final rule will be published in the *Federal Register* and allow for an implementation period.

# SBREFA Process

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- 1. *Outline:*** The CFPB releases an outline of proposals it is considering. These are not proposed or final rules, nor do they contain draft rule language
- 2. *Panel meeting:*** The CFPB convenes a group of Small Entity Representatives (SERs). CFPB serves as a member of the SBREFA panel alongside the Small Business Administration and Office of Management and Budget.
- 3. *Report:*** Within 60 days of convening, the panel completes a report on the impact of proposals under consideration on small businesses
- 4. *Feedback:*** The Bureau will consider the feedback as it decides whether to move forward with a rule, and if it does will consider the feedback as it develops a proposed rule

# Debt Substantiation

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- ***Debt Substantiation:*** The CFPB is considering addressing substantiation of debts. Under the proposals under consideration, a debt collector would be required to possess a reasonable basis for claims of indebtedness. Specifically, in order to possess a reasonable basis, a collector could take the following steps at three distinct times in the collection lifecycle:
  - *Before making initial claims:*
    - Obtain and review a list of fundamental information
    - Obtain a representation from the debt seller or owner about the integrity of the information
    - Check the information received for “warning signs”
  - *After receipt of a dispute:*
    - Review certain specified documents related to the type of dispute
  - *Before making claims in a litigation filing:*
    - Review certain specified documents

# Information Transfer and Forwarding

- ***Information Transfer:*** The CFPB is considering a requirement to pass on certain information when returning a debt to the debt owner or selling the debt to a subsequent debt buyer. That would include:
  - FDCPA information, such as dispute status, confirmed consumer contact status, and inconvenient time, place, manner information
  - Other federal law information, such as interest rate limitations under the SCRA and certain federal student loan discharge or rehabilitation information
  - Whether the consumer has communicated a language preference or asserted a cease communication request
  
- ***Information Forwarding:*** The CFPB is considering a requirement to forward information after the collector returns or sells a debt. That would include:
  - Payments submitted by the consumer
  - Bankruptcy discharge notices
  - Identity theft reports
  - Disputes
  - Any assertion or implication by the consumer that his or her income and assets are exempt under federal or state laws from a judgment creditor seeking garnishment.

# Consumer Awareness

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- ***Validation Notice:*** The CFPB is considering requiring validation notices to include enhanced and clarified information, including:
  - Information about the debt, including: Name of creditor at time of default, name of the current creditor, amount owed at default, amount owed currently, as well as an itemization of interest, fees, payments, and credits since default
  - Information about the consumer's rights, including the right to dispute the debt
  - A “tear-off” to facilitate the exercise of consumer rights, with options like “this is not my debt” or “the amount is wrong”
- ***Statement of Rights:*** The CFPB is considering requiring collectors to provide a Statement of Rights with plain-language explanations of certain consumer rights, including:
  - The right to dispute a debt
  - The right to stop communications, or determine how and when they occur
  - The right not to be harassed or abused, or to have one's privacy violated
- The CFPB plans to issue model documents that would satisfy the rule's content requirements. Use of these would not be mandatory, however.

# Potential Validation Notice

North South Group  
P.O. Box 121212  
Pasadena, CA 91111-2222  
(800) 123-4567 from 8am to 8pm EST, Monday to Saturday  
[www.nsgroup.com](http://www.nsgroup.com)

December 12, 2015

To: Ms. Mary Smith  
2323 Park Street  
Apartment 342  
Arlington, VA 22201

Reference: 564-345

**North South Group is a debt collector. We are trying to collect a debt that you owe to ABC Credit. We will use any information you give us to help collect the debt.**

#### Our information shows:

You had a Main Street Store credit card from Bank of Rockville with account number 123-456-789. ABC Credit now owns that account, so now you owe ABC Credit.

As of January 2, 2013, you owed:	\$	1,234.56
Between January 2, 2013 and today:		
You were charged this amount in interest:	+ \$	75.00
You were charged this amount in fees:	+ \$	25.00
You paid this amount toward the debt:	- \$	50.00
<b>Total amount of the debt now:</b>	<b>\$</b>	<b>1,284.56</b>

#### How can you dispute the debt?

- Write to us by January 11, 2016 to dispute all or part of the debt. We must stop collection on any amount you dispute until we send you information that shows you owe the debt. If you write AFTER January 11, we are not required to send that information to you, but we must stop collection until we confirm that our information is correct. For ease, you may use the form below or you may write to us without the form. You may also include supporting documents.
- Call us to dispute. But if you do call, we are not required to send you information that shows you owe the debt. We must stop collection on any amount you dispute until we confirm that our information is correct.

If we do not hear from you, we will assume that our information is correct.

#### What else can you do?

- Ask us to send you the name and address of the original creditor. Write by January 11, 2016 and we will stop collection until we send you that information. For ease, you may use the form below or you may write to us without the form.
- Learn more about your rights under federal law. For more information, see the enclosed *Know your debt collection rights* document or go to the Consumer Financial Protection Bureau's website at [www.consumerfinance.gov](http://www.consumerfinance.gov).
- Contact us about your payment options.

#### Mall this form to:

North South Group  
P.O. Box 121212  
Pasadena, CA 91111-2222

Ms. Mary Smith  
2323 Park Street  
Apartment 342  
Arlington, VA 22201

#### How do you want to respond to this notice?

Check all that apply:

##### I want to dispute the debt because I think:

- This is not my debt.
- The amount is wrong.
- I already paid this debt in full or I settled it.
- You are not the right person to pay.
- Other or more detail: \_\_\_\_\_

##### I want you to send me the name and address of the original creditor.

I enclosed this amount: \$

Make your check payable to North South Group.  
Include the reference number 564-345.

# Potential Statement of Rights

## Know your debt collection rights

This form explains some of your rights under the Fair Debt Collection Practices Act and other laws. You may want to keep this form for reference.

### What you can do

- **You can decide how and when debt collectors can contact you.**  
A debt collector cannot contact you before 8 am or after 9 pm except in limited circumstances. Also, if you tell a debt collector verbally or in writing that a certain time or place is inconvenient, such as while you are at work, the collector cannot contact you at that time or place.
- **You can stop communications.**  
If you write the debt collector and instruct them to stop all contact with you, the collector must stop. This does not make the debt go away, and in limited circumstances the collector may follow up with you.
- **You can dispute the debt at any time.**  
You can find further details about how to dispute your debt on the notice describing your debt.
- **You can obtain a credit report and dispute any item on it.**  
Under the Fair Credit Reporting Act, you may obtain a free copy of your credit report at [annualcreditreport.com](http://annualcreditreport.com). If a debt appears on your credit report, you can dispute it if you believe the information is inaccurate.

### What debt collectors cannot do

- **They cannot harass or be abusive to you.**  
For example, a debt collector cannot threaten you with violence or harass you with obscene language. A collector also cannot claim that you have committed a crime by not paying a debt. A collector cannot contact you more than a certain number of times each week.
- **They cannot deceive you.**  
A debt collector cannot make a false or misleading statement about what you owe.
- **They cannot discuss your debt with others.**  
A debt collector generally cannot communicate about your debt with other people (such as your neighbors, friends, and relatives) unless you give the collector permission. However, a collector is allowed to contact others to find out how to reach you.
- **They cannot garnish certain types of assets or income.**  
Federal and state laws may prevent a debt collector from taking certain assets and income to pay the debt. For example, collectors may not be able to take SSI, Social Security, public assistance, veterans', disability, unemployment, and workers' compensation benefits.

### Need help?

The Consumer Financial Protection Bureau (CFPB) is a federal government agency built to protect consumers. Visit our website at [consumerfinance.gov/debtcollection](http://consumerfinance.gov/debtcollection) or call 855-411-CFPB (2372) to learn more about your rights and what you can do next.

Para obtener una copia de este documento en español, visite [consumerfinance.gov/es](http://consumerfinance.gov/es) o comuníquese con el cobrador de deudas.

# Other disclosures: Litigation and Time-barred Debt

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- ***Litigation disclosure:*** Collectors could be required to provide, in all communications in which they represent an intent to sue, a litigation disclosure informing the consumer that:
  - The collection agency intends to sue
  - A court could rule against the consumer if he or she fails to defend the suit
  - Additional information about litigation as well as contacts for legal services programs is available on the Bureau's website
  
- ***Time-barred debt:*** Collectors seeking to collect time-barred debt could be required to:
  - Disclose that the collector cannot sue to recover it and that if the debt is obsolete then it cannot appear on a credit report
  - Waive the right to sue on revived debt
  - Subsequent collectors would be prohibited from suing on a debt for which an earlier collector provided a time-barred debt disclosure.

# Communication Practices

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- **Contact frequency:** The CFPB is considering a limit on contacts and attempts to contact per week per account
  - Before the collector has confirmed consumer contact, the limit would be 3 attempts per method of contact (e.g., address, phone number) and 6 total attempts for the week
  - After the collector has confirmed consumer contact, the limit would be 2 attempts per method of contact (e.g., address, phone number), 3 total attempts, and 1 live conversation for the week
  
- **Voicemail and other messages:** The CFPB is considering permitting certain limited-content voicemail and other messages for consumers. Such messages would not communicate information about the debt or constitute FDCPA “communications” if they conveyed only:
  - The individual debt collector’s name
  - The consumer’s name
  - A toll-free method that the consumer can use to reply to the collector
  
- **Decedent debt:** The CFPB is considering a waiting period after a consumer’s death for communication about the collection of decedent debt.

# Time, place, and manner

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- ***Communications using newer technologies:*** The CFPB is considering clarifying that whether a communication is sent at an unusual or inconvenient time is determined by the time at which the communication generally is available for the consumer to receive it. For emails and text messages, this generally would mean the time that the message is sent, not when the consumer sees or opens it
- ***Presumptively inconvenient places:*** The CFPB is considering a presumption that medical facilities, places of worship, places of burial/grieving, and childcare facilities are inconvenient for debt collection communications
- ***Employer email:*** The CFPB is considering prohibiting collectors from using an email address that they know or should know is the consumer's workplace email for debt collection communications, unless the consumer consents directly to the debt collector

# Consumer Consent

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- The CFPB is considering clarifying the parameters of obtaining consent from consumers for communications that otherwise would be restricted by the FDCPA
- ***Direct consent:*** A requirement that consent be obtained directly from a consumer by the collector, whether orally or in writing
- ***Disclosure:*** A requirement to clearly disclose to the consumer, orally or in writing, what the consumer is consenting to
- ***Memorialization:*** A requirement to memorialize consent
  - For consent in writing, it could include preserving the written consent in the account file
  - For oral consent, it could include a recording or notation in the account file

# Prohibition on transfer in certain cases

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- ***Prohibition on sale/placement:*** The CFPB is considering a proposal to prohibit debt buyers from placing debt with or selling debt to:
  - ***Those subject to judgement/orders:*** Those subject to a judgment, order, or similar restriction prohibiting them from purchasing or collecting debt in the state in which the consumer resides
  - ***Unlicensed collectors:*** Those that lack any license required to purchase or collect debt in the state in which the consumer resides
- This proposal is intended to keep debt out of the hands of those who cannot lawfully collect it

# Recordkeeping

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- **Records:** The CFPB is considering a proposal to require a debt collector to keep records documenting the actions it took with respect to a debt
- **Retention:** Collectors would be required to retain these records for three years
- **Recording calls:** Collectors that record calls would be required to keep calls in their records, but those that do not would not be required to start doing so

# There are nine priority goals

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## Near-Term Priority Areas



Arbitration



Consumer  
Reporting



Debt  
Collection



Demand-Side  
Consumer  
Behavior

The CFPB envisions a marketplace where **community and public service providers integrate financial capability skill-building into their educational and service programs**, and consumers are **aware of and have access to trusted tools and resources** to make and act on critical financial decisions.

There are nine priority goals

## Near-Term Priority Areas

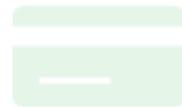
The CFPB envisions policymaking and consumer education **based on a deep understanding of the evolution of households' balance sheets** and how **households' use of financial products changes over time.**



Household  
Balance  
Sheets



Mortgages



Open-Use  
Credit



Small  
Business  
Lending



Student  
Loans

# There are nine priority goals

## Near-Term Priority Areas

The CFPB envisions a mortgage market where **lenders serve the entire array of credit-worthy borrowers fairly and in a non-discriminatory manner**, servicers' processes result in **fair and efficient outcomes for consumers**, and new mortgage rules are implemented in a manner that **supports a sustainable mortgage market**.



Household  
Balance  
Sheets



Mortgages



Open-Use  
Credit



Small  
Business  
Lending



Student  
Loans

# There are nine priority goals

## Near-Term Priority Areas

The CFPB envisions an open-use credit market where **lenders rely on business models that succeed when consumers use credit when needed and are able to repay their debts when due.**



Household  
Balance  
Sheets



Mortgages



Open-Use  
Credit



Small  
Business  
Lending



Student  
Loans

# There are nine priority goals

## Near-Term Priority Areas

The CFPB envisions a small business lending market where **fair lending laws are enforced** and where communities, governmental entities, and creditors have **access to the data needed** to identify the business and community development needs and opportunities of **women-owned, minority-owned, and small businesses.**



Household  
Balance  
Sheets



Mortgages



Open-Use  
Credit



Small  
Business  
Lending



Student  
Loans

There are nine priority goals

## Near-Term Priority Areas

The CFPB envisions a student lending market where servicers **facilitate repayment of student debt in a manner that is consistent with consumer interests, transparent, and fair, and incentives encourage these outcomes.**



Household  
Balance  
Sheets



Mortgages



Open-Use  
Credit



Small  
Business  
Lending



Student  
Loans

# Questions?

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