

Call Review

Entity Name:

Prepared by:

NMLS/License Number:

Date:

Examiners should use this template to evaluate the entity's compliance with FDCPA, UDAAP, and state specific requirements. The review should cover voice recordings o telephone communications and live call monitoring.

- I. Call Review [#]
- A. Disclosing the debt collector's identity and the purpose/nature of the communcation..... [#]
- B. Time and place of communications and communications with represented consumers [#]
- C. Harrasing, oppressive, or abusive communications [#]
- D. False, deceptive, or misleading communications..... [#]
- E. Limits on communications with third parties [#]
- F. Other risks to conumsers regarding communications..... [#]
- G. State specific subset - record retention..... [#]

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I. Examination Procedures – Call Review	
<i>To evaluate compliance with Federal and State regulations.</i>	<i>Comments</i>
Disclosing the Debt Collector's Identity and the Purpose/Nature of the Communication	
1. Determine whether the debt collector places telephone calls without meaningful disclosure of its identity (except for calls placed for the sole purpose of acquiring location information). (15 U.S.C. 1692d(6)).	[Click&type]
2. Determine whether the debt collector discloses in its first communication with the consumer, if the initial communication is oral, that it is attempting to collect a debt and that any information obtained will be used for that purpose. (15 U.S.C. 1692e(11)).	[Click&type]
3. Determine whether the debt collector discloses in subsequent communications that the communication is from a debt collector. (15 U.S.C. 1692e(11)).	[Click&type]
4. Determine whether the debt collector misrepresents its identity or authorization by: <ul style="list-style-type: none"> a. Using any business, company, or organization name other than the true name of the debt collector's business, company, or organization (15 U.S.C. 1692e(14)); b. Misrepresenting that it is vouched for, bonded by, or affiliated with the United States or any State, including by using any badge, uniform, or facsimile thereof (15 U.S.C. 1692e(1)); c. Falsely representing or implying that an individual debt collector is an attorney or that any communication 	[Click&type]

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<p>is from an attorney (15 U.S.C. 1692e(3));</p> <p>d. Falsely representing or implying that it operates or is employed by a consumer reporting agency (15 U.S.C. 1692e(16));</p> <p>e. Using or distributing any written communication that creates a false impression as to its source, authorization, or approval, or that simulates or is falsely represented to be a government document (15 U.S.C. 1692e(9)); or</p> <p>f. Using any forms that falsely imply that someone other than the creditor is participating in the collection activities. If so, determine the source of the forms. (15 U.S.C. 1692j).</p>	
<p>5. Determine whether the debt collector makes any false representations regarding the nature of the communications, for example by:</p> <p>a. Falsely representing or implying that documents are legal process (15 U.S.C. 1692e(13)); or</p> <p>b. Falsely representing that documents are not legal process forms, or that documents do not require action by the consumer (15 U.S.C. 1692e(15)).</p>	[Click&type]
<p>6. Determine whether the debt collector causes any person to incur charges for communications by concealing the true purpose of the communications (e.g., by making collect calls or sending telegrams). (15 U.S.C. 1692f(5)).</p>	[Click&type]
Time and Place of Communications and Communications with Represented Consumers	
<p>7. Determine whether the debt collector communicates with</p>	[Click&type]

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the consumer without obtaining prior consent directly from the consumer or the express permission of a court of competent jurisdiction in any of the following situations. (15 U.S.C. 1692c). For purposes of this step only, "consumer" is defined to include the borrower's spouse, parent (if the borrower is a minor), guardian, executor or administrator. (15 U.S.C. 1692c(d)).

a. Determine whether the debt collector communicates with any consumer at an unusual time or place or at a time or place that is known or should be known to be inconvenient. Absent information to the contrary, debt collectors are to assume that calls between 9:00 p.m. and 8:00 a.m. in the consumer's local time are inconvenient. (15 U.S.C. 1692c(a)(1)).

b. Determine whether the debt collector communicates with any consumer at work if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving communications of that nature. (15 U.S.C. 1692c(a)(3)).

c. Determine whether the debt collector has engaged in any communications with any consumer after learning that the consumer was represented by an attorney with respect to the debt. If so, determine whether the contact was permissible because:

i. The debt collector did not know the attorney's name and address and could not readily ascertain that

Call Review

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NMLS/License Number:

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<p>information;</p> <p>ii. The attorney had failed to respond within a reasonable period of time to a communication from the debt collector; or</p> <p>iii. The attorney had consented to the debt collector's direct communication with the consumer. (15 U.S.C. 1692c(a)(2)).</p>	
<p>Harassing, Oppressive, or Abusive Communications</p>	
<p>8. Determine whether the debt collector engages in any conduct the natural consequence of which is to harass, oppress, or abuse any person. (15 U.S.C. 1692d). This would include:</p> <p>a. Using or threatening to use violence to physically harm a person or his or her reputation or property (15 U.S.C. 1692d(1));</p> <p>b. Using obscene or profane language or other language the natural consequence of which is to abuse the hearer or reader (15 U.S.C. 1692d(2));</p> <p>c. Publishing a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of Section 603(f) or 604(a)(3) of the FCRA (15 U.S.C. 1681a(f) or 1681b(a)(3)) (15 U.S.C. 1692d(3));</p> <p>d. Advertising a debt for sale to coerce payment (15 U.S.C. 1692d(4));</p>	<p>[Click&type]</p>

Call Review

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<p>e. Causing a person’s telephone to ring or engaging any person in telephone conversations repeatedly or continuously with intent to annoy, abuse, or harass (15 U.S.C. 1692d(5)); or</p> <p>f. Communicating with a person in any other harassing, oppressive or abusive manner not identified above.</p>	
False, Deceptive, or Misleading Communications	
<p>9. Determine whether the debt collector uses any false, deceptive or misleading representations in connection with the collection of any debt. (15 U.S.C. 1692e). This would include:</p> <p>a. Misrepresenting the character, amount, or legal status of the debt (15 U.S.C. 1692e(2)(A));</p> <p>b. Falsely representing or implying that nonpayment will result in the arrest of any person or the seizure, garnishment, attachment or sale of any person’s property or wages, unless such action is lawful and the debt collector intends to take such action (15 U.S.C. 1692e(4));</p> <p>c. Threatening to take any action that cannot legally be taken or that is not intended to be taken, such as threatening to make third-party disclosures about the existence of a debt as prohibited by 15 U.S.C. 1692c(b) or threatening to furnish information to a consumer reporting agency that the debt collector does not actually intend to furnish (15 U.S.C. 1692e(5));</p>	<p>[Click&type]</p>

Call Review

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<p>d. Falsely representing or implying that the sale, referral, or transfer of any interest in the debt will cause the consumer either to lose any claim or defense to payment or become subject to any practice prohibited by the FDCPA (15 U.S.C. 1692e(6));</p> <p>e. Falsely representing or implying that the consumer has committed a crime or other conduct to disgrace the consumer (15 U.S.C. 1692e(7));</p> <p>f. Threatening to communicate or communicating to any person credit information which is known or which should be known to be false, including not communicating disputed debts as such (15 U.S.C. 1692e(8));</p> <p>g. Falsely representing or implying that accounts have been sold to innocent purchasers for value (15 U.S.C. 1692e(12)); or</p> <p>h. Using any other false representation or deceptive means to collect or attempt to collect any debt or obtain information concerning a consumer (15 U.S.C. 1692e(10)).</p>	
Limits on Communications with Third Parties	
<p>10. Determine whether the debt collector communicates with any third parties to obtain location information, which is defined as the consumer's home address and telephone number or place of employment. If so:</p>	<p>[Click&type]</p>

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<p>a. Determine whether the debt collector refrains from making statements that:</p> <ul style="list-style-type: none"> i. Reveal the debt collection company's name, unless specifically asked (15 U.S.C. 1692b(1)), or ii. Indicate that the consumer owes a debt (15 U.S.C. 1692b(2)). <p>b. Determine whether the debt collector contacts any third parties more than once. If so, determine whether the contact is permissible because:</p> <ul style="list-style-type: none"> i. The third party specifically requested additional contact; or ii. The debt collector reasonably believes that the information from the first contact was wrong or incomplete and that the third party has since received better location information. (15 U.S.C. 1692b(3)). <p>d. Determine whether the debt collector knows the consumer is represented by an attorney and has knowledge of, or can readily ascertain, such attorney's name and address. If so, determine whether the debt collector communicates only with the attorney, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector. (15 U.S.C. 1692b(6)).</p>	
<p>11. Determine if the debt collector communicates with any</p>	<p>[Click&type]</p>

Call Review

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<p>third party in connection with the collection of any debt for reasons not related to obtaining location information. If so, determine whether the contact is permissible because:</p> <ul style="list-style-type: none"> a. The debt collector received: <ul style="list-style-type: none"> i. Prior consent directly from the consumer; or ii. Express permission from a court of competent jurisdiction (15 U.S.C. 1692c(b)); or b. The communication was reasonably necessary to effectuate a post-judgment judicial remedy. (15 U.S.C. 1692c(b)). 	
Other Risks to Consumers	
<p>12. Determine whether the entity makes calls to consumers' mobile phones, sends emails or text messages to consumers, or uses any other newer technology in contacting consumers. If so:</p> <ul style="list-style-type: none"> a. Review the circumstances of such contacts including (to the extent applicable) how the entity identifies itself in making these contacts (e.g., information provided via caller identification or its email address). b. If predictive dialers are used, determine: <ul style="list-style-type: none"> i. Whether the entity has any policies and procedures governing the use of predictive dialers, and ii. How frequently such calls: <ul style="list-style-type: none"> A. Are made to the same number and B. Result in hang-ups or dead-air calls. (If 	<p>[Click&type]</p>

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collection activities cause a person's telephone to ring repeatedly or continuously, see step 10e above).	
14. Determine if the calls are retained for the specified time as required by state statute:	[Click&type]
Call Review	
G. State specific subset	
<i>To determine compliance with state specific requirements relating to collection calls.</i>	<i>Comments</i>
1. Arizona (anything specific)?	[Click&type]
2. Connecticut (anything specific)?	[Click&type]
3. Idaho (anything specific)?	[Click&type]
4. Maine (anything specific)?	[Click&type]
5. Massachusetts (anything else specific)? a. Is the call frequency found in the notes in compliance with MA statute?	[Click&type]
6. North Dakota (anything specific)?	[Click&type]
7. Wisconsin (anything specific)?	[Click&type]