

CONSUMER FINANCIAL PROTECTION BUREAU | MARCH 2022

Fair Debt Collection Practices Act

CFPB Annual Report 2022



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1. Introduction

The Consumer Financial Protection Bureau (Bureau or CFPB) is pleased to submit to Congress its annual report summarizing activities to administer the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.*

The CFPB is the primary regulator of the debt collection industry. Congress has granted the CFPB several tools to protect consumers in the debt collection context. Specifically, those tools are: supervision, enforcement, regulation and guidance, and education. The CFPB has a number of functions that support the use of these tools, including research, market monitoring, and the consumer complaints database. Other federal agencies share enforcement authority for a subset of market participants covered by the FDCPA.¹

This report provides background on the debt collection market, activities by federal agencies relating to debt collection, and other observations and recommendations.

¹ Memorandum of Understanding between the Consumer Financial Protection Bureau and the Federal Trade Commission (Feb. 2019), available at <https://www.consumerfinance.gov/policy-compliance/guidance/supervisory-guidance/memorandum-understanding-federal-trade-commission/>.

2. Consumer Debt and Collections

2.1 Consumer Debt

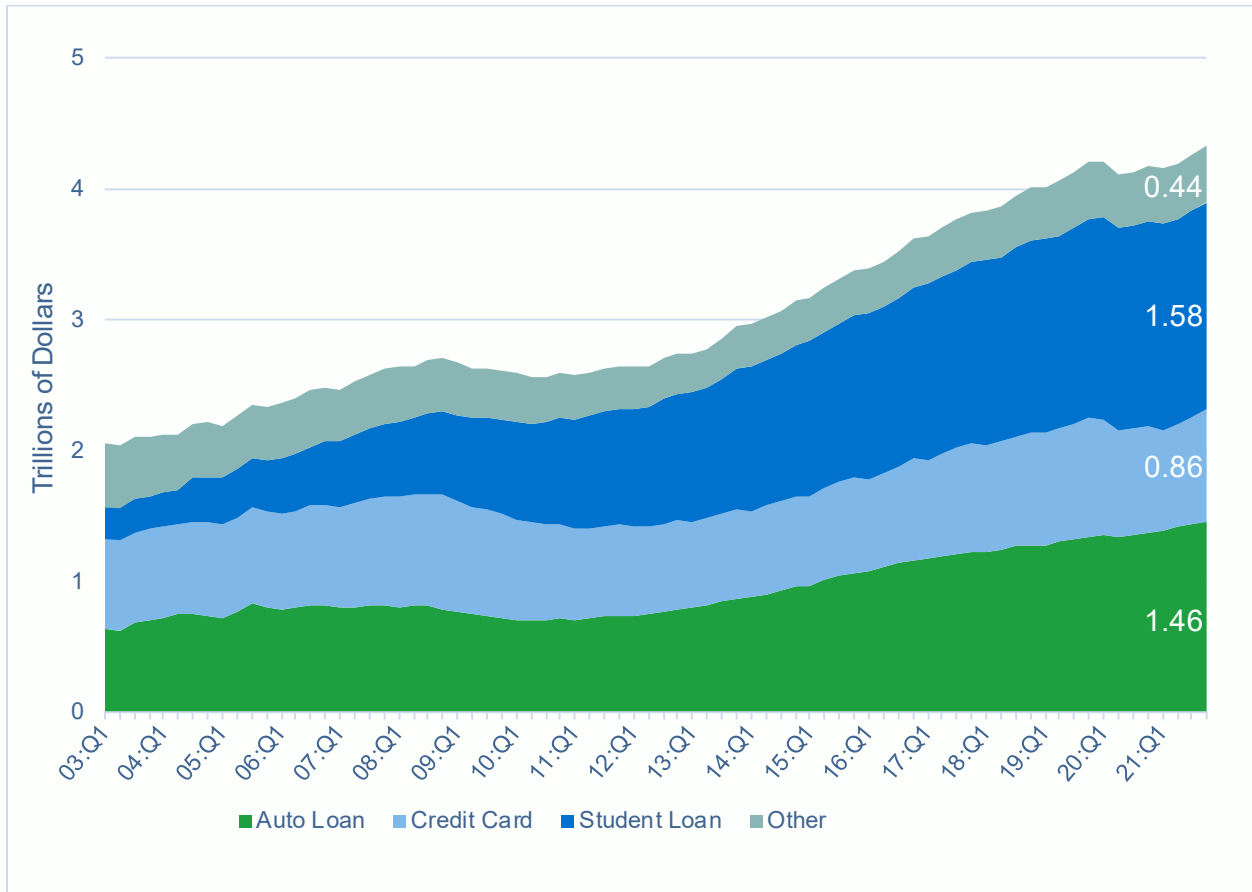
The debt collection industry is substantially influenced by the credit cycle, which determines how much debt is available to collect. Both delinquencies on consumer debt and collection recovery rates (the percentage of the debt that a collection agency can recover) are generally influenced by macroeconomic conditions, such as household disposable income.

Over the course of 2021, consumer debt rose rapidly, from \$14.33 trillion in the first quarter to a new high of \$15.58 trillion in the last quarter of 2021.² Non-housing debt also rose to a new high of \$4.33 trillion in the last quarter of 2021. This strong growth was primarily driven by a \$90 billion increase in credit card debt and a \$80 billion increase in auto loan debt from Q1 2021 to Q4 2021. However, credit card balances remained \$71 billion lower than at the end of 2019. Student loan debt held roughly flat and other types of non-housing debt saw relatively modest increases during 2021. These consumer debt figures are in nominal dollars and are unadjusted for inflation and population growth, which have both increased over time. They do not include emerging consumer loan products, such as income share agreements (ISAs) and buy-now-pay-later (BNPL). One market observer estimated U.S. BNPL lending at \$39 billion in 2020.³

² Center for Microeconomic Data, “Household Debt And Credit Report: Q4 2021” (Feb. 2022), Federal Reserve Bank of New York, available at <https://www.newyorkfed.org/microeconomics/hhdc.html>.

³ Brian Riley, “Buy Now, Pay Later: Gaining Scale and the Disrupting Status Quo in Lending” (May 2021), Mercator Advisory Grp., available at <https://www.mercatoradvisorygroup.com/Reports/Buy-Now--Pay-Later--Gaining-Scale-andthe-Disrupting-Status-Quo-in-Lending/>.

FIGURE 1: NON-HOUSING CONSUMER DEBT BALANCES (IN TRILLIONS), 2003-2021 (FRNY CONSUMER CREDIT PANEL/EQUIFAX)

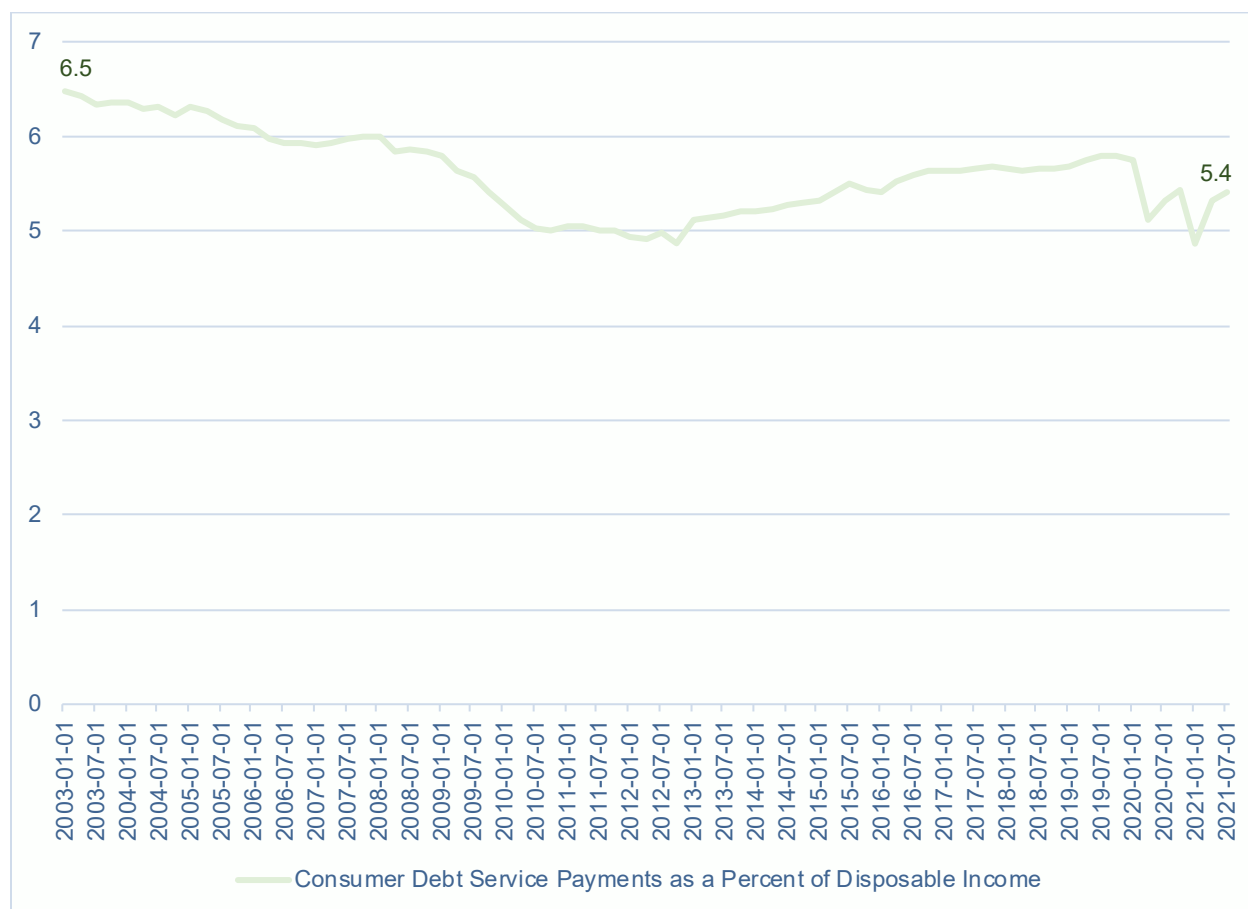


The consumer debt service ratio is another measure that helps place the overall amount of consumer debt in the economy into context. The consumer debt service ratio measures the cost consumers pay to service non-housing debt (i.e., payments due on outstanding loans) as a fraction of disposable personal income. After increasing consistently since 2012, the consumer debt service ratio decreased significantly from 5.7 percent to 5.1 percent during Q2 2020. The consumer debt service ratio fluctuated significantly during the remainder of 2020 and 2021 but remained well below the pre-pandemic level of 5.7, finishing out the year at 5.4 in Q4 2021. This decline likely results from some consumers’ greater liquidity due to stimulus funds, enhanced unemployment benefits, payment accommodations, and reduced spending during the pandemic.⁴ CFPB research has found that many consumers’ financial situations improved

⁴ The following J.P. Morgan study suggests that unemployment benefits increased consumers’ spending and saving. The TrueAccord study found that consumers engaged with debt collectors and paid back their debts after receipt of

during the early months of the pandemic, largely due to pandemic assistance policies such as expanded unemployment insurance and loan flexibilities.⁵ However, the financial status of some consumers worsened, even as the average consumer was more financially secure.⁶

FIGURE 2: NON-HOUSING CONSUMER DEBT SERVICE PAYMENTS AS A PERCENT OF DISPOSABLE INCOME, 2003-2021 (FRSTL)



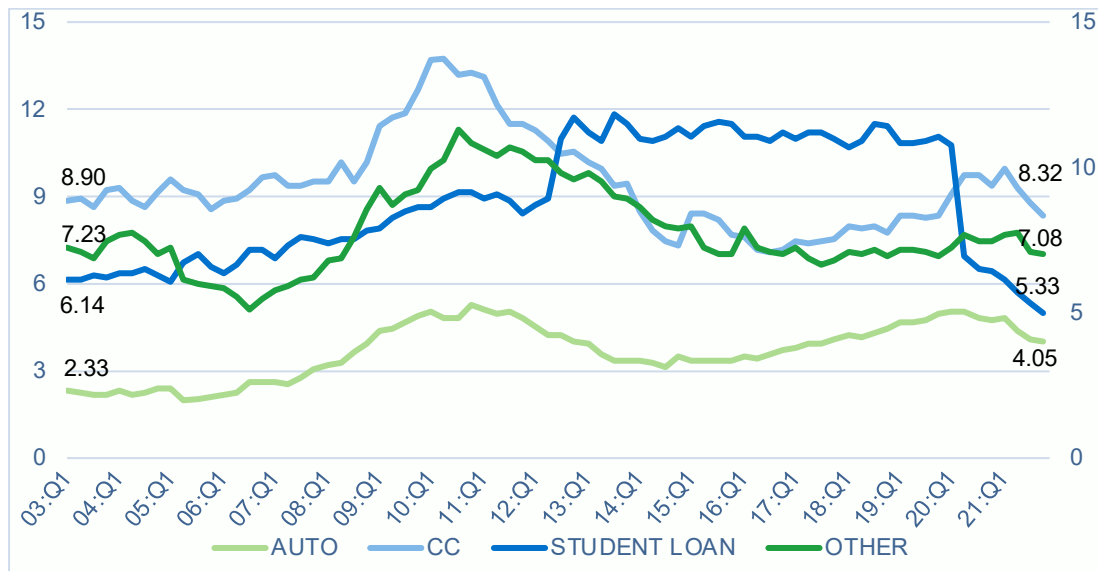
CARES Act benefits at much higher rates than before the pandemic. Farrell, D., Ganong, P., Greig, F., Liebeskind, M., Noel, P., Sullivan, D., & Vavra, J., “The unemployment benefit boost: Initial trends in spending and saving when the \$600 supplement ended” (Oct. 2020), available at <https://www.jpmorganchase.com/institute/research/labor-markets/the-unemployment-benefit-boost>; “Consumer Debt in the Age of COVID-19” (July 2020), available at <http://blog.trueaccord.com/wp-content/uploads/2020/07/TrueAccord-Consumer-Debt-in-the-Age-of-COVID-19.pdf>.

⁵ Bureau of Consumer Fin. Prot., “Consumer Finances During the Pandemic: Insights from the Making Ends Meet Survey” (Dec. 2021), available at https://files.consumerfinance.gov/f/documents/cfbp_making-ends-meet-survey-insights_report_2021-12.pdf.

⁶ Bureau of Consumer Fin. Prot., “Changes in Consumer Financial Status During the Early Months of the Pandemic: Evidence from the Second Wave of the Making Ends Meet Survey” (Apr. 2021), available at https://files.consumerfinance.gov/f/documents/cfbp_making-ends-meet-wave-2_report_2021-04.pdf.

The average share of balances considered “seriously delinquent” (90+ days past due) on each category of non-housing consumer debt decreased over the past year. Student loans with seriously delinquent status decreased significantly from 6.45 percent in Q4 2020 to 4.99 in Q4 2021, largely due to the federal government’s continuing suspension of payments. Student loans in suspended payment status are reported as current to credit reporting companies. Over the same time period, the 90+ day delinquency rate on credit cards and auto loans decreased moderately, from 9.36 to 8.32 for credit cards and from 4.77 to 3.98 for auto loans. Serious delinquency rates for other consumer debts declined slightly, from 7.46 to 7.02. Charge-off rates for credit card debts remained historically low throughout 2021, starting the year at 2.95 percent and ending at 1.57 percent, potentially decreasing the number of new charged-off accounts that issuers may place for collection or sell to debt buyers.⁷ However, these population-level averages may hide disparities in performance across groups of consumers, some of whom have been more negatively impacted by the pandemic.⁸

FIGURE 3: PERCENT OF NON-HOUSING BALANCES 90+ DAYS DELINQUENT, 2003-2021 (FRNY CONSUMER CREDIT PANEL/EQUIFAX)



⁷ Board of Governors of the Federal Reserve System (US), “Charge-Off and Delinquency Rates on Loans and Leases at Commercial Banks” (2022), available at <https://www.federalreserve.gov/releases/chargeoff/chgallnsa.htm>.

⁸ Bureau of Consumer Fin. Prot., “Changes in Consumer Financial Status During the Early Months of the Pandemic: Evidence from the Second Wave of the Making Ends Meet Survey” (Apr. 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_making-ends-meet-wave-2_report_2021-04.pdf.

2.2 Debt Collection Industry

The debt collection industry affects millions of Americans. According to the latest available estimates, the third-party debt collection market is a \$18.6 billion industry that employs about 138,000 people across more than 7,000 collection agencies in the United States.⁹ More than one in four people with a credit report had at least one collections tradeline on their credit report as of Q2 2018, according to the CFPB's Consumer Credit Panel (CCP), a national sample of approximately five million de-identified credit records maintained by one of the three nationwide consumer reporting agencies.¹⁰ Additionally, a 2016 CFPB survey on consumers' experiences with debt collection found that about one-in-three, or over 70 million consumers with a credit file, indicated that they had been contacted by at least one creditor or collector trying to collect one or more debts during the year prior to the survey.¹¹

Most consumers with collection tradelines on their credit files have medical debt, followed by telecommunications, retail, or banking and financial services debt.¹² As of 2021, medical debt made up 58 percent of third-party collections tradelines in the CFPB's CCP.¹³ Several debt types may be underreported because they are furnished by the creditor and hence do not appear as collections tradelines. In particular, bank and financial debt, as well as student loans, likely account for a larger share of accounts in third-party collections than the below figure suggests.

⁹ Gabriel Schulman, "Debt Collection Agencies in the US" (Aug. 2021), IBIS World.

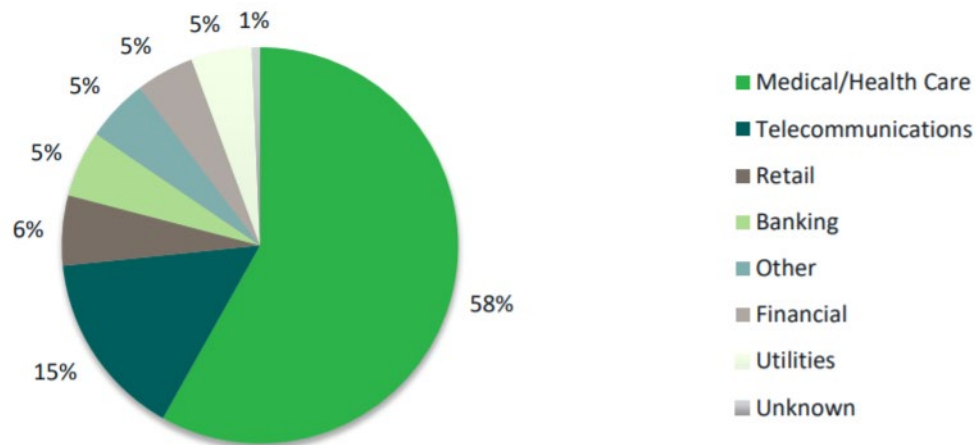
¹⁰ Bureau of Consumer Fin. Prot., "Market Snapshot: Third Party Debt Collections Tradeline Reporting" (July 2019), available at https://files.consumerfinance.gov/f/documents/201907_cfpb_third-party-debt-collections_report.pdf.

¹¹ Bureau of Consumer Fin. Prot., "Consumer Experiences with Debt Collections: Findings from the CFPB's Survey of Consumer Views on Debt" (Jan 2017), available at https://www.consumerfinance.gov/documents/2251/201701_cfpb_Debt-Collection-Survey-Report.pdf.

¹² Bureau of Consumer Fin. Prot., "Medical Debt Burden in the United States" (Feb 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

¹³ *Id.*

FIGURE 4: DISTRIBUTION OF ORIGINAL CREDITOR TYPE AMONG THIRD-PARTY COLLECTIONS TRADELINES IN Q2 2018 (SOURCE: CONSUMER CREDIT PANEL)¹⁴



A large majority of the industry’s revenue is generated by firms contracting with creditors and debt buyers to collect their debts on a contingency fee basis. The CFPB’s survey of mass market credit card issuers for the 2021 *Consumer Credit Card Market Report* found that in 2019 and 2020, the surveyed issuers placed 18 percent of post charge-off inventory with third-party collectors on average, with the majority of these third-party debt collectors employing a contingency fee model.¹⁵ In contingency fee collections, the creditor and the collector each receive a share of the amount collected. In contrast, a small share of collectors are paid a fixed fee to collect.

A significant source of industry revenue comes from debt buyers, who purchase accounts (usually contained in portfolios) from the original creditor or other debt buyers and then generally seek to collect on the debt, either by themselves or through third-party debt collectors. The CFPB has found that portfolios of charged-off debt are available to purchase through online debt marketplaces, as well as through more traditional channels.¹⁶ The price of the debt depends on the age of the debt and other factors. Whereas third-party contingency collectors receive only a percentage share of recoveries, debt buyers purchase the debt at a fraction of the account

¹⁴ Bureau of Consumer Fin. Prot., “Market Snapshot: Third Party Debt Collections Tradeline Reporting” (July 2019), available at https://files.consumerfinance.gov/f/documents/201907_cfpb_third-party-debt-collections_report.pdf.

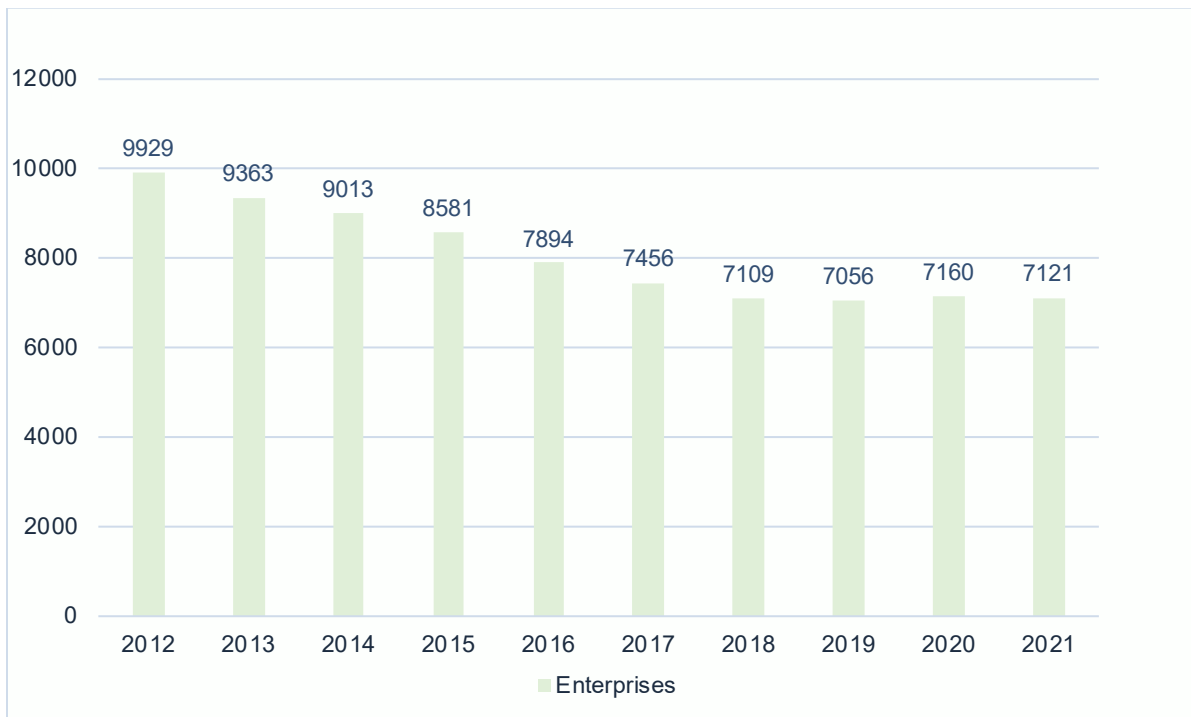
¹⁵ Bureau of Consumer Fin. Prot., “Consumer Credit Card Market Report” (Sep. 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2021.pdf.

¹⁶ Bureau of Consumer Fin. Prot., “Market Snapshot: Online Debt Sales” (Jan. 2017), available at https://www.consumerfinance.gov/documents/2249/201701_cfpb_Online-Debt-Sales-Report.pdf/.

balance, and their revenue consists of the total amount recovered. If debt buyers use third-party debt collectors to recover for them, the debt buyers typically pay a share of the amount collected to the third-party debt collectors. According to the CFPB’s Consumer Credit Panel, debt buyers furnished 12.5 percent of third-party collections tradelines.¹⁷

The estimated number of collections agencies increased slightly from 2019-2020, growing from 6,969 to 7,121 businesses.¹⁸ However, the number of agencies remained well below the 2012 high of 10,550.¹⁹

FIGURE 5: NUMBER OF THIRD-PARTY DEBT COLLECTION ENTERPRISES BY YEAR, 2011-2021 (SOURCE: IBISWORLD)



¹⁷ The Bureau’s Consumer Credit Panel is a longitudinal, nationally representative sample of approximately five million de-identified credit records maintained by one of the three nationwide credit reporting companies.

¹⁸ Gabriel Schulman, “Debt Collection Agencies in the US” (Aug. 2021), IBIS World.

¹⁹ *Id.*

2.3 Collections During the COVID-19 Pandemic

During the COVID-19 pandemic, some supervised debt collection entities have reported an increase in consumer contacts and payments. Several of these entities attributed the increased performance to more consumers being at home, reduced spending, and increased liquidity provided by pandemic assistance programs.²⁰

The CFPB’s market monitoring and supervisory prioritized assessments (PAs) suggest that debt collectors initially altered their work practices in response to the pandemic to comply with state orders and reduce their employees’ risk of infection. The CFPB’s market monitoring discussions indicate that most entities continue to use hybrid work models, which combine remote and on-site work. Other workplace changes were reported, including the implementation of remote call monitoring tools and modifications to telework policies.

In 2020, some states instituted pandemic measures that impacted the debt collection industry and consumers. As of the end of 2021, these pandemic-related restrictions to collections—including moratoriums, court closures, and prohibitions on garnishment—have largely subsided and, for the most part, regular collections have resumed. This includes an uptick in collections litigation relative to 2020.

2.4 The FDCPA

In the course of attempting to collect debts, debt collectors must adhere to a number of laws and regulations, which govern topics as diverse as telephone communications (*e.g.*, the Telephone Consumer Protection Act, or TCPA) and furnishing information to credit reporting agencies (*e.g.*, the Fair Credit Reporting Act, or FCRA) as well as various state statutes. Debt collectors are also subject to the Dodd-Frank Act and its provisions against unfair, deceptive, or abusive acts and practices. Additionally, debt collectors are subject to the FTC Act’s prohibition on unfair methods of competition and unfair or deceptive acts or practices.²¹

²⁰ Bureau of Consumer Fin. Prot., “Supervisory Highlights: COVID-19 Prioritized Assessments Special Edition Issue 23” (Winter 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-23_2021-01.pdf.

²¹ 15 U.S.C. § 45 (a) (1).

The FDCPA, however, is the primary federal law that governs the conduct of debt collectors.²² The FDCPA establishes consumer protections in the debt collection process, including a consumer’s rights to dispute an alleged debt. The FDCPA prohibits debt collectors from engaging in certain types of conduct in connection with the collection of a debt. Among its provisions, the FDCPA prohibits collectors from: (1) harassing, oppressing, or abusing consumers; (2) utilizing false, deceptive, or misleading representations or means when collecting or attempting to collect; and (3) using unfair or unconscionable means to collect a debt.

The FDCPA empowers the CFPB and other agencies to enforce its provisions and establishes a private right of action against any debt collector who fails to comply with the FDCPA. The FDCPA also requires the CFPB to submit this annual report on “the administration of its functions” under the FDCPA and enables it to “obtain ... the views” of other agencies that enforce the FDCPA.²³

2.5 Small Business Debt Collection

Although the FDCPA generally does not cover the collection of small business debt, the CFPB is concerned about abuses pertaining to collections and servicing practices associated with financing for small business. It is in the public interest, especially in light of the increased vulnerabilities of small business owners during the pandemic, that they receive adequate protections. Of the estimated 31.7 million business enterprises in the country, small businesses constituted about 99.9% of all firms. Nearly 81% of those small businesses do not have paid employees. Of the business establishments with employees, the Census Bureau has identified 72.5% with 9 or fewer employees and more than half (54.4%) with fewer than 5. That suggests a level of resources and expertise for most small businesses on par with consumer borrowers rather than what may be the general perception of commercial enterprises with readily available financial resources and expertise. The result is the potential for exploitation comparative to what is encountered by consumers, without any of the protections granted to consumers by the FDCPA.

The CFPB is aware of complaints and monitors legal actions of the Federal Trade Commission and state agencies regarding abusive practices of some financial institutions towards small businesses.

²² 15 U.S.C. § 1692 et seq.

²³ 15 U.S.C. § 1692m.

3. Consumer complaints

Collecting, investigating, and responding to consumer complaints is one of the six statutory “primary functions” of the CFPB.²⁴ The CFPB facilitates the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services and maintains procedures to provide timely responses to consumer complaints and inquiries.²⁵ Complaints help the CFPB in its work to regulate consumer financial products and services under existing federal consumer financial laws, enforce those laws judiciously, and educate and empower consumers to make better-informed financial decisions to reach their own life goals.

The CFPB began taking consumer complaints about debt collection in July 2013. Consumers can submit complaints about creditors collecting their own debts (i.e., first-party collectors) or companies collecting debt on behalf of others, such as creditors or businesses (i.e., third-party collectors). When the CFPB receives debt collection complaints about companies where it is not the primary federal regulator (e.g., a mobile phone or Internet service provider) or about depository institutions with less than \$10 billion in assets, for example, it refers the complaints to other regulatory agencies (e.g., FTC) or a prudential regulator.

The FTC accepts reports from consumers about problems they experience in the marketplace. These complaints are stored in the Consumer Sentinel Network (Sentinel), a secure online database available only to law enforcement. The CFPB shares complaint information with the FTC’s Consumer Sentinel system.

3.1 Number and types of complaints handled

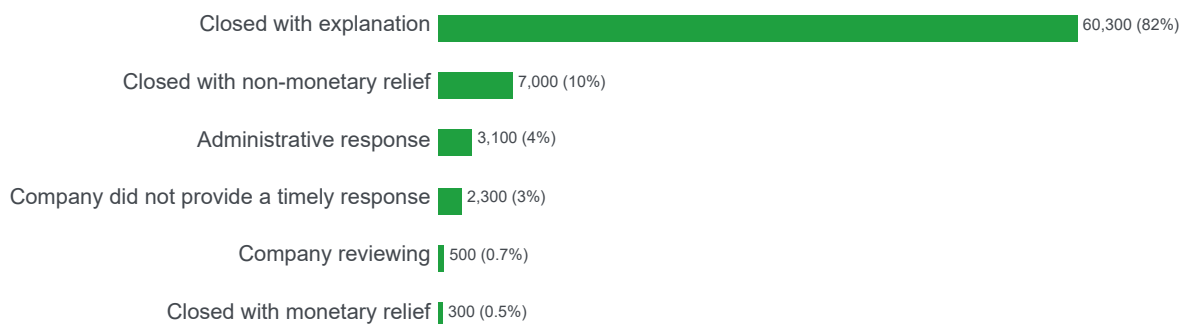
The CFPB received approximately 121,700 debt collection complaints in 2021. Of these, the CFPB sent approximately 73,600 (or 60%) to companies for their review and response. In 2021, the CFPB referred approximately 29,400 (or 24%) to other regulatory agencies. Approximately 15% of complaints were not actionable. As of February 1, 2022, 0.4% of debt collection complaints were pending with the consumer and 0.2% were pending with the CFPB.

²⁴ 12 U.S.C. § 5511(c).

²⁵ 12 U.S.C. § 5493(b)(3).

Companies responded to approximately 97% of debt collection complaints sent to them for review and response.²⁶ Companies closed 82% of complaints with an explanation, 10% with non-monetary relief, and 0.5% with monetary relief (see Figure 1). Companies provided an administrative response for 4% of complaints. As of February 1, 2022, 0.7% of complaints were pending review by the company. Companies did not provide a timely response for 3% of complaints.

FIGURE 6: DEBT COLLECTION COMPLAINTS BY COMPANY RESPONSE



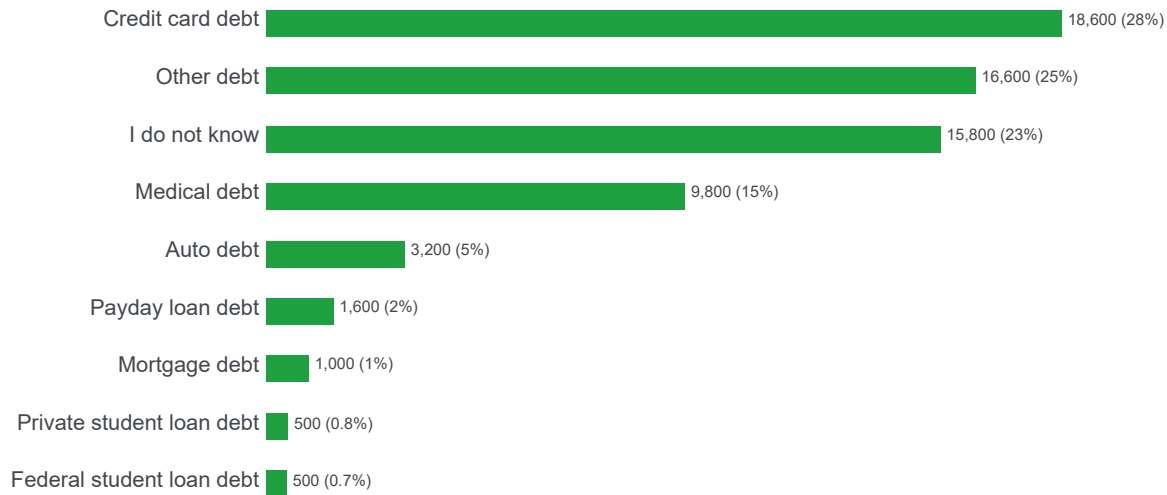
The remainder of this analysis focuses only on those debt collection complaints for which the company confirmed a commercial relationship with the consumer and responded with an explanation or relief (i.e., complaints closed with explanation, closed with non-monetary relief, and closed with monetary relief). This analysis excludes multiple complaints submitted by a given consumer on the same issue (i.e., duplicates) and whistleblower tips.

When submitting debt collection complaints, consumers specify the type of debt.²⁷ In 2021, credit card debt was the most complained about debt type in complaints that received a company response (see Figure 7).

²⁶ Company responses generally include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and categorization of the response. Response category options include “closed with monetary relief,” “closed with non-monetary relief,” “closed with explanation,” and other administrative options. *See generally* Consumer Fin. Prot. Bureau, “Consumer Response Annual Report” at pgs. 16-17 (Mar. 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf.

²⁷ The types of debt consumers can select from are: auto debt, credit card debt, federal student loan debt, medical debt, mortgage debt, payday loan debt, private student loan debt, other debt (e.g., phone bill, health club membership, utilities), and debt that is not known.

FIGURE 7: DEBT COLLECTION COMPLAINTS BY TYPE OF DEBT



3.2 Consumer issues in debt collection complaints

When submitting complaints, consumers identify the issue that best describes the problem they experienced. Attempts to collect a debt that the consumer reports is not owed has been the number one issue selected by consumers since the CFPB began accepting debt collection complaints in 2013.

FIGURE 8: DEBT COLLECTION COMPLAINTS BY ISSUES



Most consumers who claimed the debt is not owed report that the debt is not their debt (48 percent). In these complaints, consumers described a range of topics, such as being called about debts they do not recognize, attempts to collect a debt that belongs to someone else, and being in collections for services or products they did not receive. Consumers also reported that the debt

resulted from identity theft (36 percent). In these complaints, consumers often reported that they learned about the debt after reviewing their credit report. Many of these consumers described completing an identity theft report and contacting the collectors listed on their credit report in an attempt to remove the debt. In addition to these issues, consumers also complained that their debt was paid (14 percent) or was discharged in bankruptcy and is no longer owed (3 percent).

Complaints involving written notifications about debt were the second-most common issue selected by consumers. The FDCPA requires collectors within five days after the initial communication with a consumer, to provide the consumer with a written notice informing them, among other things, of their right to dispute, unless this information is contained in the initial communication or the consumer has paid the debt. Most consumers who complained about written notifications reported they had not received enough information to verify the debt (74 percent). These consumers often complained of notices being vague and not having sufficient information to identify the account in question; therefore, in their complaints, consumers often asked for additional information, including supporting documentation.

In complaints about medical debt, consumers reported both receiving too little information (e.g., statements that do not include sufficient information to identify their medical provider), as well as collectors having access to personal medical information. For example, some consumers have reported that third-party collectors have been provided with medical documents, such as the types of procedures they received or medications they have been prescribed.

Additionally, similar to complaints about identity theft, many consumers reported first learning of the debt after reviewing their credit report. These consumers often stated that the limited amount of information furnished on their credit report made it difficult to understand details about the source of the debt. Some consumers complained that they did not receive a notice of their right to dispute (25 percent), while others reported that the notification did not disclose that it was an attempt to collect a debt (3 percent).

Complaints about taking or threatening to take a negative or legal action were the third-most common issue complained about in 2021. Most of these complaints were about threats or suggestions that consumers' credit histories would be damaged (52 percent), threats to sue on a debt that is old (17 percent) or being sued without proper notification of the lawsuit (11 percent). Other complaints related to seizures or attempts to seize property (9 percent), threats to arrest or jail consumers if they did not pay (5 percent), collection of or attempts to collect exempt funds such as child support or unemployment benefits (5 percent), being sued in a different state from where the consumer lives or where the consumer signed the contract (2 percent), or threats of deportation or turning the consumer over to immigration (less than 1 percent).

The majority of complaints about false statements or representations were about attempts to collect the wrong amount from the consumer (81 percent). In addition, consumers reported that companies impersonated an attorney or a law enforcement or government official (13 percent), indicated the consumer committed a crime by not paying debt (5 percent), or indicated that the consumer should not respond to a lawsuit (2 percent).

Consumers submitted complaints describing companies' communication tactics used when collecting debts with many of these types of complaints concerning communications held over the phone. The majority of complaints about communication tactics were about frequent or repeated calls (51 percent). Complaints of continued contact attempts despite requests to stop contact were also common (30 percent). Other communication tactics complaints related to reports of companies using obscene, profane, or abusive language (15 percent), or calling outside of the FDCPA's assumed convenient calling hours from 8:00 a.m. to 9:00 p.m. at the consumer's location (4 percent).

As in 2020, complaints about threatening to contact someone or sharing information improperly were the least complained about debt collection issue in 2020. In these complaints, consumers most often reported that the collector talked to a third party about the debt (54 percent), contacted an employer (19 percent), contacted the consumer after being asked not to do so (25 percent), or contacted the consumer directly, instead of contacting their attorney (2 percent).

4. Bureau supervision of debt collection activities

Under the Consumer Financial Protection Act of 2010 (CFPA), the CFPB has the authority to supervise certain entities that engage in consumer debt collection activities. These include non-bank entities that are larger participants in the consumer debt collection market. Under the CFPB's large participant rule for the debt collection market, the CFPB has supervisory authority over certain non-bank entities with more than \$10 million in annual receipts from consumer debt collection activities. Collection of bills for medical services and commercial debt are generally not used in this calculation. The CFPB publishes Supervisory Highlights to help institutions and the general public better understand how we examine institutions for compliance with Federal consumer financial laws. Supervisory Highlights summarizes existing legal requirements and violations identified in the course of the CFPB's exercise of supervisory and enforcement authority.

4.1 Supervisory highlights from examinations

Recent examinations of larger participant debt collectors identified several violations of the Fair Debt Collections Practices Act (FDCPA). The findings discussed in this section are from exam results publicly reported in 2021, which could include exam findings reached prior to 2021. Specifically, reported findings cover CFPB's examinations that were completed from January 1, 2020 to June 30, 2021. Additionally, a summary of recent developments in the CFPB's supervision program and remedial actions related to debt collections can be found in the Supervisory Highlights published in 2021.^{28, 29}

4.1.1 Prohibited calls to consumer's workplace

Section 805(a)(3) of the FDCPA prohibits a debt collector from communicating with a consumer in connection with the collection of a debt at the consumer's workplace if the debt collector

²⁸ Bureau of Consumer Fin. Prot., "Supervisory Highlights Issue 24" (Summer 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-24_2021-06.pdf

²⁹ Bureau of Consumer Fin. Prot., "Supervisory Highlight Issue 25" (Fall 2021), available at <https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-issue-25-fall-2021/>.

knows or has reason to know that the consumer’s employer prohibits such communications.³⁰ Examiners determined that debt collectors communicated with consumers at their workplaces after they knew or should have known that the consumers’ employers prohibit such communications, in violation of Section 805(a)(3). In response to these findings, the collectors are improving their training and monitoring.

In addition, Section 805(a) of the FDCPA restricts the circumstances under which a debt collector may contact a consumer.³¹ Specifically, Section 805(a)(1) prohibits a debt collector from communicating with a consumer in connection with the collection of any debt at a time or place that the collector knows or should know is inconvenient to the consumer.³² Examiners found that debt collectors communicated with consumers at their places of employment during work hours when the debt collectors knew or should have known that calls during work hours were inconvenient to the consumers, in violation of Section 805(a)(1). For example, one debt collector called a consumer during work hours at a time the consumer had previously specified as inconvenient. Another debt collector called a consumer on a workplace phone number after being informed by the consumer that calls to the workplace number were inconvenient. In response to these findings, the collectors are improving their training and monitoring.

4.1.2 Communication with third parties

Section 805(b) of the FDCPA prohibits a debt collector from communicating in connection with the collection of a debt with any person other than the consumer and certain other parties.³³ Exceptions to this prohibition are set out in Sections 804 and 805(b).³⁴

Examiners found that debt collectors communicated with third parties in violation of Section 805(b). The communications were not within an exception listed in Sections 804 or 805(b). This violation of the FDCPA resulted from inadequate compliance controls to verify right-party contact during efforts to locate the consumer. In several instances, the third party had a name

³⁰ 15 U.S.C. § 1692c(a)(3).

³¹ 15 U.S.C. § 1692c(a).

³² 15 U.S.C. § 1692c(a)(1).

³³ 15 U.S.C. § 1692c(b).

³⁴ 15 U.S.C. §§ 1692b, c(b).

similar to the consumer's name. In response to this finding, the collectors are improving various aspects of their compliance management systems (CMS).

In addition, Section 804(1) of the FDCPA states that, when communicating with third parties for the purpose of acquiring location information for the consumer, a debt collector may only disclose the name of their employer if expressly requested.³⁵ Examiners observed that debt collectors identified their employers when communicating with third parties who had not expressly requested it, in violation of Section 804(1). In response to these findings, the collectors are improving their training and monitoring.

4.1.3 Failure to cease communication upon written request or refusal to pay

Section 805(c) of the FDCPA provides that if a consumer notifies a debt collector in writing that the consumer wishes the collector to cease further communication or that the consumer refuses to pay the debt, the collector must cease further communication with the consumer, with certain exceptions.³⁶ Examiners found that a consumer used a model form to mail a written statement to a debt collector stating that the debt was the result of identity theft, requesting that the collector cease further communication, and requesting that the collector provide confirmation along with information concerning the disputed account. After receiving this form, the collector continued attempts to collect the debt from the consumer in violation of FDCPA Section 805(c). These attempts were not efforts to respond to the consumer's request for information about the identity theft claim. In response to these findings, the collector is improving board and management oversight and monitoring.

4.1.4 Harassment regarding inability to pay

Section 806 of the FDCPA prohibits a debt collector from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.³⁷ Examiners found when consumers stated they were unable to make or complete payment arrangements, debt collectors emphasized two or more times to each of the consumers that the collector would place a note in the account system stating that the consumer was refusing to make a payment. The natural consequence of these inaccurate statements was to

³⁵ 15 U.S.C. § 1692b(1).

³⁶ 15 U.S.C. § 1692c(c).

³⁷ 15 U.S.C. § 1692d.

harass or oppress the consumers, in violation of Section 806. In response to these findings, the collectors are improving their training and monitoring.

4.1.5 Communicating, and threatening to communicate, false credit information

Section 807 of the FDCPA prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.³⁸ Section 807(8) specifically prohibits communicating or threatening to communicate credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.³⁹ Examiners found that debt collectors knew or should have known that debts were disputed, resulted from identity theft, and were not owed by the relevant consumers. Nonetheless, in these circumstances, the collectors threatened to report to Credit Reporting Companies (CRCs) that the consumer owed the debt if it was not paid. The collectors then reported the debt to CRCs and failed to report that the consumer disputed the debt. This course of action violated Section 807(8) of the FDCPA. In response to these findings, the collectors are improving their training.

4.1.6 False representations or deceptive means of collection

Section 807(10) of the FDCPA prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt or obtain information concerning a consumer.⁴⁰

Examiners found that several debt collectors falsely represented to consumers the impact that paying off their debts would have on their credit profiles, in violation of Section 807(10).⁴¹ For example, one debt collector told a consumer the debt would no longer “impact” her credit profile once paid, which was false. Another debt collector told a consumer that making a payment would help to “fix” the consumer’s credit. In response to this finding, the collectors are improving various aspects of their CMS.

³⁸ 15 U.S.C. § 1692e.

³⁹ 15 U.S.C. § 1692e(8).

⁴⁰ 15 U.S.C. § 1692e.

⁴¹ See CFPB Bulletin 2013-08, “Representations Regarding Effect of Debt Payments on Credit Reports and Scores” (July 2013), available at https://files.consumerfinance.gov/f/201307_cfpb_bulletin_collections-consumer-credit.pdf.

Examiners also found that debt collectors discussed restarting a payment plan with consumers and represented that improvements to the consumers' creditworthiness would occur upon final payment under the plan and deletion of the tradeline.⁴² However, numerous factors influence an individual consumer's creditworthiness, including potential tradelines previously furnished by prior owners of the same debt. As a result, such payment may not improve the credit score of the consumers to whom the representation is made. Examiners found that such representations could lead the least sophisticated consumer to conclude that deleting derogatory information would result in improved creditworthiness, thereby creating the risk of a false representation or deceptive means to collect or attempt to collect a debt in violation of Section 807(10). In response to these findings, the collectors revised their FDCPA policies and procedures. They also enhanced training and monitoring systems to prevent, identify, and address risks to consumers that may arise from deceptive statements by collection agents and third-party service providers about the effects of payment or non-payment on consumer credit, credit reporting, or credit scoring.

4.1.7 Incorrect systemic implementation of state interest rate cap

Section 808 of the FDCPA states that a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.⁴³ Section 808(1) specifically designates "the collection of any amount . . . unless such amount is expressly authorized by the agreement creating the debt or permitted by law" as an unfair practice.⁴⁴ Examiners found that debt collectors entered inaccurate information regarding state interest rate caps into an automated system, resulting in some consumers being overcharged, in violation of Section 808(1). In response to these findings, the collectors remediated impacted consumers and are improving their training and monitoring.

⁴²Bureau of Consumer Fin. Prot., "Supervisory Highlights Issue 25" (Fall 2021), *available at* https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-25_2021-12.pdf

⁴³ 15 U.S.C. § 1692f.

⁴⁴ 15 U.S.C. § 1692f(1).

4.1.8 Unlawful initiation of administrative wage garnishment during consolidation process

Section 808 of the FDCPA states that a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.⁴⁵ Examiners found that debt collectors sent administrative wage garnishment orders to consumers' employers by mistake despite having received completed applications from the consumers to consolidate the debt, which should have stopped the wage garnishment process based on standard procedures, in violation of Section 808. In response to these findings, the collectors are improving their training and monitoring.

4.1.9 Failure to send complete validation notices

Section 809(a) of the FDCPA requires a debt collector to send a notice containing certain information (commonly called a "validation notice") to the consumer within five days after the initial communication with the consumer, with certain exceptions.⁴⁶ Examiners found that debt collectors violated Section 809(a) by sending validation notices that lacked some of the required information. Examiners found that the issue resulted from template changes that had not been reviewed by compliance personnel. In response to these findings, the collectors are improving their board and management oversight of new letter templates.

⁴⁵ 15 U.S.C. § 1692f.

⁴⁶ 15 U.S.C. § 1692g(a).

5. Debt collection *amicus* briefs

In 2021, the CFPB filed one new *amicus curiae* (friend of the court) brief in a case involving the FDCPA. Additionally, one FDCPA-related case in which the CFPB had filed a brief in 2020 was decided in 2021.

Itemization of Charges by Debt Collector: The *Collecto* *amicus* brief

On October 15, 2020, the CFPB filed an *amicus* brief in the Third Circuit in *Hopkins v. Collecto, Inc.*, arguing that a debt collector did not violate the FDCPA when it included in a collection letter an itemization that accurately stated that “\$0.00” in interest and fees had been added to the debt at issue.⁴⁷ The CFPB’s *amicus* brief argued that such an itemization does not misleadingly imply that such interest or fees could be added if the debtor did not promptly repay the debt. In a decision issued April 12, 2021, the Third Circuit agreed. Citing the Seventh Circuit’s 2020 decision in *Degroot v. Client Services, Inc.*,⁴⁸—which agreed with the reasoning from the CFPB’s *amicus* brief in that case—the Third Circuit held that the “debt collection letter spoke only about the past and thus was not misleading about the future when it listed a debt as including \$0.00 in interest and fees. Merely raising an open question about future assessment of other charges, as the \$0.00 itemization did, does not mislead the unsophisticated consumer.”⁴⁹

Charging pay-to-pay (or “convenience”) fees: The *Thomas-Lawson* *amicus* brief

On October 21, 2021, the CFPB filed an *amicus* brief in the Ninth Circuit in *Thomas-Lawson et al. v. Carrington Mortgage Services, LLC*, addressing when debt collectors are permitted to collect pay-to-pay or “convenience” fees—fees imposed for making a payment online or by phone.⁵⁰ Section 1692f(1) of the FDCPA prohibits debt collectors from collecting “any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.”⁵¹

⁴⁷ CFPB, “Brief of Amicus Curiae Consumer Financial Protection Bureau in Support of Appellee and Affirmance, *Hopkins v. Collecto, Inc.*, No. 20-1955” (Oct. 2020), available at https://files.consumerfinance.gov/f/documents/cfpb_amicus-brief_hopkins-v-collecto-inc-et-al_2020-10.pdf.

⁴⁸ *Degroot v. Client Servs., Inc.*, 977 F.3d 656 (7th Cir. 2020).

⁴⁹ *Hopkins v. Collecto, Inc.*, 994 F.3d 117, 121 (3d Cir. 2021).

⁵⁰ CFPB, “Brief of Amicus Curiae Consumer Financial Protection Bureau in Support of Plaintiffs-Appellants and Reversal, *Thomas-Lawson et al. v. Carrington Mortgage Services, LLC*, No. 21-55459” (Oct. 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_thomas-lawson-v-carrington-mortgage-services-llc_amicus-brief_2021-10.pdf.

⁵¹ 15 U.S.C. § 1692f(1).

The CFPB’s amicus brief argues that this provision prohibits debt collectors from collecting pay-to-pay fees unless the agreement creating the debt expressly authorizes the collection of pay-to-pay fees, or a law expressly or affirmatively authorizes them. The CFPB argued that the district court erred in finding the FDCPA permitted pay-to-pay fees simply because there may have been a separate agreement for such fees. The district court’s interpretation, the CFPB reasoned, is inconsistent with Section 1692f(1)’s plain meaning, which explicitly permits debt collectors to collect fees pursuant to only one type of agreement—the agreement creating the debt. Finally, the CFPB argued that pay-to-pay fees do not need to be “incidental to the principal obligation” to be covered under Section 1692f(1), but that pay-to-pay fees are nevertheless incidental to the underlying principal obligation. The appeal remains pending.

6. Enforcement

In 2021, the CFPB brought and continued enforcement actions addressing harmful debt collection activity in violation of the FDCPA and other applicable laws. Of the other federal agencies with enforcement authority over subsets of market participants, the Federal Trade Commission was the only agency to exercise this authority through enforcement actions.

The CFPB announced one new public enforcement action in 2021 related to unlawful debt collection conduct in violation of the Fair Debt Collections Practices Act (FDCPA). The CFPB resolved two pending lawsuits with FDCPA claims. It also filed an action to recover a fraudulent transfer to enforce a prior judgment that penalized a defendant's FDCPA violations. These actions resulted in judgments for \$2,260,000 in consumer redress, which were suspended due to defendants' demonstrated inability to pay, \$882,200 in civil monetary penalties, and – as detailed below – permanent bans from the collections industry. At the end of 2021, the CFPB had three FDCPA enforcement actions pending in federal court. The CFPB is also conducting a number of non-public investigations of companies to determine whether they engaged in collection practices that violate the FDCPA or the Consumer Financial Protection Act of 2010 (CFPA).

Both the FDCPA and the FTC Act⁵² authorize the Commission to investigate and take law enforcement action against debt collectors that violate those statutes.⁵³ From January 1 through December 31, 2021, the FTC resolved three FDCPA cases. The FTC also continued litigation in two enforcement actions addressing unlawful debt collection practices against small businesses. Finally, the FTC issued refunds totaling about \$4.86 million to consumers in three FDCPA matters.⁵⁴

⁵² FDCPA, 15 U.S.C. § 1692–1692p; FTC Act, 15 U.S.C. §§ 41–58.

⁵³ The FDCPA authorizes the Commission to investigate and take law enforcement action against debt collectors that engage in unfair, deceptive, abusive, or other practices that violate the statute. FDCPA § 814, 15 U.S.C. § 1692l. Under the FTC Act, the FTC may investigate and take law enforcement action against entities that, in connection with collecting on debts, engage in unfair or deceptive acts and practices. FTC Act § 5, 15 U.S.C. § 45.

⁵⁴ Press Release, Operation Corrupt Collector cracks down on illegal debt collection tactics (Sept. 29, 2020), *available at* <https://www.ftc.gov/news-events/press-releases/2020/09/ftc-state-federal-law-enforcement-partners-announcenationwide>.

6.1 Bureau law enforcement actions

Yorba Capital Management, LLC and Daniel Portilla, Jr.⁵⁵ (No. 2021-CFPB-0001) (consent order filed April 6, 2021)

On April 6, 2021, the CFPB issued a consent order against Yorba Capital Management, LLC (Yorba) and its former sole owner and managing member, Daniel Portilla, Jr. (Portilla). The CFPB found that from January 2017 until at least April 2020, Yorba and Portilla engaged in deceptive acts or practices in violation of the CFPA and that Yorba violated the FDCPA by mailing notices that falsely represented that consumers would be sued and that there would be further legal action if the consumers did not pay the debt amount on the notices. The consent order permanently banned both Yorba and Portilla from participating, or assisting others, in the collection of a consumer debt. The consent order assessed \$860,000 in redress, which was suspended based on Yorba's and Portilla's demonstrated inability to pay and conditioned on their payment of a \$2,200 civil money penalty. Consumers harmed by these violations are eligible for redress through the CFPB's civil penalty fund.

Consumer Financial Protection Bureau & State of New York v. Douglas MacKinnon, Amy MacKinnon, Mary-Kate MacKinnon, and Matthew MacKinnon⁵⁶ (W.D.N.Y. No. 1:21-cv-00537) (complaint filed April 22, 2021)

On April 22, 2021, the CFPB and New York Attorney General's Office filed a complaint to unwind an alleged fraudulent transfer by defendant Douglas MacKinnon and seize a \$1.6 million home transferred to his wife and daughter for a dollar. In 2019, the CFPB and New York Attorney General's Office reached a settlement with Douglas MacKinnon and his companies to resolve a public enforcement action brought to stop MacKinnon and his companies from harassing, threatening, and deceiving millions of consumers across the nation into paying inflated debts or amounts they did not owe. MacKinnon and his companies were permanently banned from the debt collection industry and ordered to pay \$60 million in consumer redress and penalties. The CFPB brought this action to recover some of what Mackinnon owes for bilking consumers through his illegal debt-collection scheme.

⁵⁵ Bureau of Consumer Fin. Prot., "Yorba Capital Management, LLC and Daniel Portilla, Jr." (Apr. 2021), available at <https://www.consumerfinance.gov/enforcement/actions/yorba-capital-management-llc-and-daniel-portilla-jr>.

⁵⁶ Bureau of Consumer Fin. Prot., "CFPB and New York Attorney General File Suit to Seize Hidden Assets from Operator of Shuttered Debt Collection Scheme" (Apr. 2021), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-new-york-attorney-general-file-suit-to-seize-hidden-assets-from-operator-of-shuttered-debt-collection-scheme/>.

Bureau of Consumer Financial Protection v. Fair Collections & Outsourcing, et al.⁵⁷ (D. Md. No.: 8:19-cv-02817) (judgment entered October 27, 2021)

On October 27, 2021, the district court entered a stipulated final judgment resolving the CFPB's lawsuit against Fair Collections & Outsourcing (FCO), its related firms and their owner, Michael Sobota. In its 2019 complaint the CFPB alleged that defendants violated the FDCPA by representing that consumers owed certain debts when, in fact, they did not have a reasonable basis to assert that the consumers owed those debts. The CFPB also alleged that defendants violated FCRA and the CFPB by failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information it furnished to credit reporting agencies and failed to conduct reasonable investigations of indirect consumer disputes, resulting in inaccurate information remaining on consumers' credit reports. The stipulated final judgment and order requires defendants to: implement reasonable furnishing policies and procedures; properly review identity theft reports; evaluate the completeness and accuracy of defendants' collection accounts; and retain an independent consultant review defendants' furnishing and debt collection activities and to make recommendations on policies and procedures. The judgment also requires defendants to pay an \$850,000 penalty to be deposited into the CFPB's civil penalty fund.

Consumer Financial Protection Bureau v. BounceBack, Inc.⁵⁸ (W.D. Mo. No. 5:20-CV-06179) (complaint filed December 9, 2020)

On November 1, 2021, the district court entered a stipulated final judgment and order resolving the CFPB's lawsuit against BounceBack, Inc. and its president and majority owner, Gale Krieg. Defendants operated bad-check pretrial-diversion programs on behalf of more than 90 district attorneys' offices throughout the United States. The CFPB's investigation found that since at least 2015, BounceBack used district-attorney letterheads to threaten more than 19,000 consumers with prosecution if they did not pay the amount of the check, enroll and pay for a financial-education course, and pay various other fees. BounceBack did not reveal to consumers that BounceBack—and not district attorneys—sent the letters, or that district attorneys almost never prosecuted these cases, even against consumers who ignored BounceBack's threats. In fact, in most cases, BounceBack did not refer cases for prosecution at all. BounceBack's letters also failed to include disclosures required under the FDCPA. The CFPB alleged that

⁵⁷ Bureau of Consumer Fin. Prot., "FCO Holding, Inc., Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., FCO Worldwide, Inc., and Michael E. Sobota" (Sep 2019), available at <https://www.consumerfinance.gov/enforcement/actions/fco-and-sobota>.

⁵⁸ Bureau of Consumer Fin. Prot., "BounceBack, Inc. and Gale Krieg" (Dec. 2020), available at <https://www.consumerfinance.gov/enforcement/actions/bounceback-inc/>.

BounceBack’s conduct violated the FDCPA, was deceptive under both the FDCPA and the CFPA, and that its violations of the FDCPA constituted violations of the CFPA. The judgment permanently bans defendants from engaging in debt collection related to any consumer financial product or service. The judgment orders about \$1.4 million in to redress consumers, which was suspended based upon defendants’ demonstrated inability to pay more and conditioned on defendants’ payment of a \$30,000 penalty. Consumers harmed by these violations are eligible for redress through the CFPB’s civil penalty fund.

6.2 Law enforcement activities by other federal agencies

While the CFPB is authorized by the FDCPA to bring enforcement actions against any person subject to the Act, the statute also provides other agencies enforcement authority for certain subsets of market participants. The U.S. Department of Transportation, the U.S. Department of Agriculture, the Federal Reserve Board of Governors, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Trade Commission are eligible to exercise this enforcement authority.⁵⁹

The Federal Trade Commission has provided certain information about their law enforcement activities, which is listed below. Notably, the FTC has also pursued law enforcement actions against debt collection abuses targeting small businesses.

6.2.1 Operation Corrupt Collector

As part of its Operation Corrupt Collector,⁶⁰ the FTC initiated three law enforcement actions that were resolved in 2021: (1) *National Landmark Logistics*, (2) *Absolute Financial Services*, and (3) *Critical Resolution Mediation*.

In 2021, the FTC resolved the *National Landmark Logistics* matter after securing a temporary restraining order in July 2020 that immediately halted defendants’ illegal practices and

⁵⁹ FDCPA, 15 U.S.C. 1692 § 814

⁶⁰ Press Release, “Operation Corrupt Collector cracks down on illegal debt collection tactics” (Sept. 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/09/ftc-state-federal-law-enforcement-partners-announce-nationwide>.

appointed a receiver.⁶¹ The complaint alleged that National Landmark Logistics, four related companies, and three individuals were involved in an illegal debt collection scheme, which included pressuring consumers to pay debts they did not actually owe or that the defendants had no right to collect.⁶² The FTC negotiated two settlement orders to resolve the matter against all eight defendants, including permanently banning the companies and individuals from the debt collection industry. The February⁶³ and September⁶⁴ 2021 orders included joint and several monetary judgments of \$16,418,306 and \$12,098,760, respectively, which were partially suspended due to inability to pay. The defendants are required to turn over the contents of numerous bank accounts to the FTC.

The FTC also resolved a companion action, *Absolute Financial Services, LLC*, in which the FTC similarly obtained a temporary restraining order and receivership appointment.⁶⁵ The complaint charges that Absolute Financial Services, two related companies, and two individuals collected millions from consumers, using National Landmark Logistics to place deceptive robocalls on their behalf.⁶⁶ As with *National Landmark Services*, all five defendants are permanently banned from playing any role in the debt collection industry.⁶⁷ Moreover, the March 2021 settlement imposed a monetary judgment of \$11,281,993, which was partially suspended due to inability to pay.⁶⁸

A September 2021 settlement resolved the *Critical Resolution Mediation* action, in which the FTC alleged that defendants' agents threatened consumers with arrest and imprisonment and

⁶¹ *FTC v. National Landmark Logistics LLC et al.*, 0:20-cv-02592-JMC (D.S.C. July 17, 2020) (Order).

⁶² *FTC v. National Landmark Logistics LLC et al.*, 0:20-cv-02592-JMC (D.S.C. July 13, 2020) (Complaint); *FTC v. National Landmark Logistics LLC et al.*, 0:20-cv-02592-JMC (D.S.C. July 13, 2020) (Memo ISO Motion for TRO).

⁶³ Federal Trade Commission, Press Release, "Defendants in Two Phantom Debt Cases Will Be Banned from Debt Collection Industry In FTC Settlement" (Mar. 2021), <https://www.ftc.gov/news-events/press-releases/2021/03/defendants-two-phantom-debt-cases-will-be-banned-debt-collection>; *FTC v. National Landmark Logistics LLC et al.*, 0:20-cv-02592-JMC (D.S.C. Feb. 9, 2021) (Order).

⁶⁴ Press Release, Phantom Debt Collectors Permanently Banned from Industry in FTC Settlement (Dec. 13, 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/12/phantom-debt-collectors-permanently-banned-industry-ftc>; *FTC v. National Landmark Logistics LLC et al.*, 0:20-cv-02592-JMC (D.S.C. Sep. 30, 2021) (Order).

⁶⁵ *FTC v. Absolute Financial Services, LLC et al.*, 0:20-cv-02596-JMC (D.S.C. July 17, 2020) (Order).

⁶⁶ *FTC v. Absolute Financial Services, LLC et al.*, 0:20-cv-02596-JMC (D.S.C. July 13, 2020) (Complaint); *FTC v. Absolute Financial Services, LLC et al.*, 0:20-cv-02596-JMC (D.S.C. July 13, 2020) (Memo ISO Motion for TRO).

⁶⁷ Press Release, Defendants in Two Phantom Debt Cases Will Be Banned from Debt Collection Industry In FTC Settlement (Mar. 15, 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/03/defendants-two-phantom-debt-cases-will-be-banned-debt-collection>; *FTC v. Absolute Financial Services, LLC et al.*, 0:20-cv-02596-JMC (D.S.C. Mar. 17, 2021) (Orders).

⁶⁸ Because of her limited role in the operation, no monetary judgment was imposed against the other individual defendant.

tried to collect debts that consumers did not actually owe.^{69, 70} The final order bans all defendants from the debt collection industry and imposes a monetary judgment of \$3,010,123.65, which was partially suspended based on inability to pay.⁷¹ Defendants were required to pay more than \$266,258.95.⁷²

6.2.2 Small Businesses

Protecting small businesses, in addition to individual consumers, is a high priority for the FTC.⁷³ Though generally outside the scope of the FDCPA, the FTC brings enforcement actions to address debt collection issues affecting small businesses under other statutory authority, including the FTC Act.

For example, in *RCG Advances*, the FTC sued two New York-based companies engaged in small business financing, along with several of their owners and officers. The June 2020 complaint alleged that the defendants deceived small businesses and other organizations by misrepresenting the terms of merchant cash advances they provided, and then used unfair collection practices, including sometimes threatening physical violence, to compel consumers to pay.⁷⁴ The FTC also alleged that the defendants required businesses and their owners to sign confessions of judgment as part of their contracts, which allowed the defendants to go immediately to court and obtain an uncontested judgment in case of an alleged default.

⁶⁹ Federal Trade Commission, Press Release, “FTC Acts to Shut Down Unlawful Debt Collection Operation” (Oct. 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/10/ftc-acts-shut-down-unlawful-debt-collection-operation>; *FTC v. Critical Resolution Mediation LLC et al.*, 1:20-cv-3932-JPB (N.D. Ga. Sept. 30, 2020) (Order).

⁷⁰ *FTC v. Critical Resolution Mediation LLC et al.*, 1:20-cv-3932-JPB (N.D. Ga. Sept. 2020) (Complaint).

⁷¹ Federal Trade Commission, Press Release, Bogus Debt Collectors Permanently Banned from Collections in FTC Settlement (Sept. 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/09/bogus-debt-collectors-permanently-banned-collections-ftc>; *FTC v. Critical Resolution Mediation LLC et al.*, 1:20-cv-3932-JPB (N.D. Ga. Aug. 2021) (Order).

⁷² Federal Trade Commission, Press Release, Bogus Debt Collectors Permanently Banned from Collections in FTC Settlement (Sep. 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/09/bogus-debt-collectors-permanently-banned-collections-ftc>; *FTC v. Critical Resolution Mediation LLC et al.*, 1:20-cv-3932-JPB (N.D. Ga. Aug. 2021) (Order).

⁷³ In *Yellowstone Capital*, for example, a provider of merchant cash advances was ordered to pay more than \$9.8 million to settle charges that it took money from small businesses’ bank accounts without permission and deceived them about the amount of financing business owners would receive and other features of its financing products. See Federal Trade Commission, Press Release, “Cash Advance Firm to Pay \$9.8M to Settle FTC Complaint It Overcharged Small Businesses” (Apr. 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/04/cash-advance-firm-pay-98m-settle-ftccomplaint-it-overcharged>.

⁷⁴ Federal Trade Commission, Press Release, “New York-Based Finance Companies Deceived Small Businesses, Non-Profits and Seized Their Personal and Business Assets, FTC Alleges” (June 2020), available at <https://www.ftc.gov/news-events/pressreleases/2020/06/new-york-based-finance-companies-deceived-small-businesses>.

Defendants unlawfully and unfairly used these confessions of judgment to seize consumer personal and business assets in circumstances not expected by consumers and not permitted by the defendants' financing contracts. In June 2021, the FTC filed an amended complaint further alleging that defendants made multiple unauthorized withdrawals from small businesses' bank accounts, sometimes taking thousands of dollars more than the agreed repayment amount.⁷⁵ The amended complaint also alleged that defendants violated the Gramm-Leach-Bliley Act by making false statements to induce consumers to provide their bank account information. The amended complaint seeks both monetary relief and civil penalties.⁷⁶

In another enforcement action pertaining to small businesses, *American Future Systems* (AFS), the FTC sued the operators of a Pennsylvania-based telemarketing scheme and a New York-based debt collection operation.⁷⁷ The May 2020 complaint alleged that the AFS telemarketers billed organizations such as businesses, schools, fire and police departments, and non-profits for books and newsletter subscriptions they never ordered. The telemarketers typically claimed that they would send two issues of a newsletter at "no risk," while enrolling the organization in a negative option program without its consent under which it was automatically invoiced for annual subscriptions to the newsletters. After six months, AFS forwarded unpaid bills for unwanted and unordered subscriptions to a debt collection firm, International Credit Recovery, Inc. (ICR). According to the complaint, ICR illegally threatened those organizations if they failed to pay for the unordered merchandise. ICR made representations during the collection process that failure to pay the debt would impact their credit rating or would result in legal action or referral to collections. In addition to AFS and ICR, the FTC's complaint names the sole owner of AFS, as well as ICR's two principals. In a January 2021 amended complaint, the Commonwealth of Pennsylvania joined the litigation as a co-plaintiff, adding claims under state law similar to those brought by the FTC in the original complaint.⁷⁸ The Court denied the defendants' motions to dismiss and for judgment on the pleadings, and rejected the debt collectors' argument that

⁷⁵ Federal Trade Commission, Press Release, "FTC Files Amended Complaint Seeking Civil Penalties Against Small Business Financing Providers" (June 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/06/ftc-files-amended-complaint-seeking-civil-penalties-against-small>.

⁷⁶ *FTC v. RCG Advances, LLC et al.*, 20-cv-4432 (S.D.N.Y. June 2021) (Amended Complaint).

⁷⁷ Federal Trade Commission, Press Release, "FTC Files Complaint Alleging Telemarketers and Debt Collectors Worked Together To Bilk Organizations for Subscriptions and Books They Never Ordered" (May 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-files-complaint-alleging-telemarketers-debt-collectors-worked>; *FTC v. American Future Systems, Inc. et al.*, 2:20-cv-02266 (E.D. Pa. May 2020) (Complaint).

⁷⁸ *FTC v. American Future Systems, Inc. et al.*, 2:20-cv-02266 (E.D. Pa. Jan. 2021) (Amended Complaint).

the FTC Act is limited to the collection of noncommercial debt.⁷⁹ Litigation is ongoing in this matter.

6.3 Recommendation regarding FTC's remedial authority

A 2021 Supreme Court ruling in *AMG Capital Management v. FTC*, 141 S.Ct. 1341 (2021) eliminated the FTC's ability to obtain monetary relief directly in federal court pursuant to Section 13(b) of the FTC Act. Post-*AMG*, although the FTC retains the ability to obtain monetary relief for violations of the FDCPA pursuant to Section 19 of the FTC Act, the ruling has made it much more difficult for the FTC to obtain monetary relief for unfair or deceptive debt collection practices that fall outside the scope of the FDCPA. The FTC has asked Congress to amend the FTC Act to restore the FTC's ability to obtain monetary relief under Section 13(b).⁸⁰ Such amendment will ensure, among other things, that the FTC can continue to efficiently and effectively pursue unlawful debt collection acts or practices that fall outside the scope of the FDCPA.

⁷⁹ *FTC v. American Future Systems, Inc. et al.*, 2:20-cv-02266 (E.D. Pa. Apr. 2021) (Order); *FTC v. American Future Systems, Inc. et al.*, 2:20-cv-02266 (E.D. Pa. July 2021) (Order).

⁸⁰ Federal Trade Commission, Testimony, "Prepared Statement of the Federal Trade Commission: The Urgent Need to Fix Section 13(b) of the FTC Act" (Apr. 2021), available at <https://www.ftc.gov/public-statements/2021/04/prepared-statement-federal-trade-commission-urgent-need-fix-section-13b>.

7. Education and outreach initiatives

The CFPB provides consumers with a range of financial education resources to ensure that wherever they are in their financial journey, they are informed of their rights when interacting with financial providers and can prepare themselves to make informed financial decisions. This educational information is available via the CFPB’s website and includes hundreds of financial questions and answers featured in the “Ask CFPB” interactive online tool. It also includes web tools and portals on specific money topics, including debt collection, along with details on how to submit experiences and complaints if consumers’ rights have been infringed upon. The CFPB also makes it more convenient for people to access financial education in their local communities and to foster a lasting local financial education infrastructure by integrating financial education into established community partners that consumers may trust, such as workplaces, social service organizations, military services, and government agencies.

The CFPB provides consumers with information about specific financial topics, including those relating to debt collection. In March 2020, the CFPB began publishing content to help consumers financially navigate the COVID-19 pandemic, including questions and answers on the topic of debt collection.⁸¹ This content continues to be updated and now additionally covers the debt collection rule which became effective on November 30, 2021. The COVID-related content, including blogs, web pages, and videos, was accessed by users approximately 10.8 million times in 2021.

A major CFPB consumer facing product is “Ask CFPB,” an online tool that helps consumers find clear answers to a wide variety of financial questions. In October 2012, the CFPB began publishing “Ask CFPB” content, including questions and answers on the topic of debt collection. From inception through December 31, 2021, “Ask CFPB” had been viewed more than 36.7 million times. Debt collection is consistently one of the two most-viewed categories. “Ask CFPB” includes practical tips to consumers regarding steps they can take when faced with debt collection as well as steps to take to manage debts in a way that may prevent the debts from ending up in collection.⁸²

⁸¹ Bureau of Consumer Fin. Prot., “Protecting your finances during the coronavirus pandemic,” *available at* <https://www.consumerfinance.gov/coronavirus/>.

⁸² Bureau of Consumer Fin. Prot., “Ask CFPB”, Debt Collection, *available at* <http://www.consumerfinance.gov/consumer-tools/debt-collection/>.

In July 2013, the CFPB added five sample letters to “Ask CFPB” that consumers may use when they interact with debt collectors. The five letters are intended for consumers who: (1) need more information about a debt; (2) want to dispute their debt; (3) want to restrict how and when a collector can contact them; (4) want to stop all communication from the debt collector; and (5) want to direct further communications with respect to the debt matter to an attorney.⁸³ These letters are available in English and Spanish.

These letters were downloaded more than 971,000 times from June 2014 to the end of December 2021. The two most downloaded letters are “I need more information about this debt” and “I do not owe this debt.”

TABLE 1: DOWNLOADS OF THE CFPB’S COLLECTION-RELATED LETTERS (2021)

Letter	% total downloads
“I do not owe this debt”	35%
“I need more information about this debt”	30%
“I want the debt collector to stop contacting me”	27%
“I want to specify how the debt collector can contact me”	5%
“I want the debt collector to only contact me through my lawyer”	3%

In addition to online resources for consumers, the CFPB offers print publications on financial topics including debt collection. For example, the CFPB’s brochure titled “Planning to become debt-free?” is available in both English and Spanish. Consumers and organizations can download or order these print publications in bulk, free of charge, via the CFPB website. One development in 2019, that continued in 2021, was the interest by some state and federal correctional facilities in two of the CFPB’s publications. In 2021, the CFPB provided 18,930 copies of its *Behind on Bills* and *Debt Getting in Your Way* publications to correctional facilities, up from 14,380 copies in 2020.

Debt collection, including debt management strategies to avoid entering collections, is covered in the CFPB’s *Your Money, Your Goals* financial empowerment toolkit. As of the end of 2021,

⁸³ Bureau of Consumer Fin. Prot., “What Should I Do When a Debt Collector Contacts Me?” (Feb. 2017), available at <https://www.consumerfinance.gov/ask-cfpb/what-should-i-do-when-a-debt-collector-contacts-me-en-1695/>.

more than 36,500 staff and volunteers in social services organizations had been trained on *Your Money, Your Goals*. In 2021, as part of the Your Money, Your Goals program, the CFPB released a free printable and downloadable guide, “Focus on Reentry: Criminal Justice”⁸⁴. The guide is designed to help frontline staff – such as those working at nonprofits or government agencies – address the unique financial challenges of individuals involved in the criminal justice system. There are specific sections or “modules” in the guide about debt as well as managing both consumer and criminal obligations. Tools such as the “reentry debt log” help users to track debts and develop strategies to manage debts.

A related resource focused on helping consumers address problems surrounding debt is the CFPB’s booklet “Debt getting in your way?” This is a colorful, compact booklet that includes a selection of simplified paper tools from the *Your Money, Your Goals* toolkit.⁸⁵ The tools in this booklet can help consumers get a full picture of existing debt, order a credit report, prioritize debts, and set future repayment goals. Since the booklet’s release in 2017 through the end of December 2021, 403,478 copies have been distributed throughout the United States.

The CFPB is now in the fifth year of operating the *Get a Handle on Debt Boot Camp*.⁸⁶ This is a 21-day email course that allows consumers to sign up for periodic messages about steps to manage their debt effectively and meet their financial goals. The program includes tools and resources from *Your Money, Your Goals*. By the end of December 2021, the *Debt Boot Camp* had attracted over 45,000 sign-ups.

In November 2019, the CFPB released a video⁸⁷ with useful tips on spotting debt collection scams and steps that consumers can take to protect themselves from scammers. Since its launch in November 2019, the video has been viewed more than 6,000 times. To help consumers tell the difference between possible scammers and legitimate debt collectors, the CFPB also

⁸⁴ Bureau of Consumer Fin. Prot., “Focus on Reentry: Criminal Justice” (July 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_ymsg_reentry_supplement.pdf.

⁸⁵ Bureau of Consumer Fin. Prot., “Your Money, Your Goals,” available at <https://www.consumerfinance.gov/your-money-your-goals/>.

⁸⁶ Bureau of Consumer Fin. Prot., “Sign-up for our Email Course and Get Your Finances in Shape” (Feb. 2019), available at <https://www.consumerfinance.gov/about-us/blog/sign-our-email-course-and-get-your-finances-shape/>.

⁸⁷ Bureau of Consumer Fin. Prot., “How to spot a debt collection scam” (Nov. 2019), available at https://www.youtube.com/watch?v=wcQ1a_Gg8tI.

developed two new “Ask CFPB” questions on making initial contact with a debt collector⁸⁸ and what to consider when sharing personal information with a debt collector.⁸⁹

On May 3, 2021, the CFPB’s interim final rule relating to the Centers for Disease Control and Prevention (CDC) eviction moratorium became effective. This necessitated the creation of additional consumer materials in support of the rule for consumers. For example, the unified housing website⁹⁰ had information about the CDC moratorium, as well as information on “Your Tenant and Debt Collection Rights.”⁹¹ This debt collection information had 44,712 page views through December 31, 2021.

On November 30, 2021, the CFPB’s debt collection rule became effective. New “Ask CFPB” questions were created as well as updates to a number of existing questions and other resources. For example, a blog and new “Ask CFPB” questions were added, including information on the debt collection validation notice, how often a debt collector can call, use of social media by debt collectors, the limited -content message, and the reporting of debts to credit reporting companies.⁹² Interest in the debt collection rule and the new validation notice was demonstrated by the amount of traffic to the CFPB’s Debt Collection portal page.⁹³ Visits to that page tripled from November 30 to December 31, 2021 with more than 24,000 views compared to 8,772 over the same timeframe in 2020.

Older Americans also experience problems in debt collection. The Office of Financial Protection for Older Americans is about to publish a new consumer guide: “What to do if a loved one dies and debt collectors come calling.” The guide helps surviving spouses, relatives, and friends understand their rights when a debt collector contacts them about a debt belonging to the

⁸⁸ Bureau of Consumer Fin. Prot., “Should I talk to a debt collector?” (Sept. 2019), available at <https://www.consumerfinance.gov/ask-cfpb/should-i-talk-debt-collector-en-2097/>.

⁸⁹ Bureau of Consumer Fin. Prot., “Should I share my personal information, including birth date and Social Security number, with a debt collector?” (Sept. 2019), available at <https://www.consumerfinance.gov/ask-cfpb/should-i-share-my-personal-information-including-birth-date-and-social-security-number-debt-collector-en-2098/>.

⁹⁰ The unified housing website is hosted by the Bureau in collaboration with the U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, U.S. Department of Treasury, U.S. Department of Veterans Affairs, and Federal Housing Finance Agency. Available at <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>.

⁹¹ Bureau of Consumer Fin. Prot., “Help for renters,” available at <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/>.

⁹² Bureau of Consumer Fin. Prot., “Understand how the CFPB’s Debt Collection Rule impacts you” (Nov. 2021), available at <https://www.consumerfinance.gov/about-us/blog/understand-how-cfpb-debt-collection-rule-impacts-you/>.

⁹³ Bureau of Consumer Fin. Prot., “Debt Collection,” available at <https://www.consumerfinance.gov/consumer-tools/debt-collection/>.

person who died. These rights concerning decedent debt were also clarified by the CFPB's new debt collection rule.

Debt collection is also a significant issue facing servicemembers, veterans, and their families (military consumers). In October 2017, the CFPB's Office of Servicemember Affairs (OSA) issued a spotlight report about state-by-state complaint information from military consumers.⁹⁴ Military consumers indicated that debt collection was the top category of complaints in each of the 50 states. This report was updated in April 2018 and debt collection was again listed as the highest category of complaints, comprising 37 percent of almost 110,000 complaints.⁹⁵ In March of 2019, the CFPB released another complaint snapshot focused on 2018 complaints from military consumers by state.⁹⁶ This release was an update of the earlier snapshots from 2017 and 2018. In calendar year 2020, debt collection remained relatively high at 22 percent of all servicemember complaints versus 15 percent of the non-servicemember community⁹⁷ and continues to be an important issue for military consumers.⁹⁸

The CFPB's OSA released its annual report in May 2021 highlighting complaint data from calendar year 2020.⁹⁹ In 2020, the CFPB received approximately 8,900 complaints from servicemembers regarding debt collection, which is the second-most frequently mentioned product among servicemembers.¹⁰⁰ One of the areas of concern that the report noted was that the debt collector "took or threatened to take negative or legal action," which remains the third largest debt collection complaint category. The CFPB also received complaints about collector calls to third parties or servicemembers' chain of command. OSA previously documented how debt collectors have threatened servicemembers with legal action under the Uniform Code of

⁹⁴ Bureau of Consumer Fin. Prot., "50 State Snapshot of Servicemember Complaints" (Oct. 2017), available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_monthly-complaint-report_50-state-snapshot-servicemembers_102017.pdf.

⁹⁵ Bureau of Consumer Fin. Prot., "Complaints Submitted by Servicemembers, Veterans, and their Families" (April 2018), available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp_servicemember-complaints-50-states_snapshot_201804.pdf.

⁹⁶ Bureau of Consumer Fin. Prot., "Complaints snapshot: Servicemembers, Veterans, and Military Families 50 State Report" (Mar. 2019), available at consumerfinance.gov/documents/7326/cfpb_complaint-snapshot-servicemembers-50-state_report.pdf.

⁹⁷ Bureau of Consumer Fin. Prot., "Office of Servicemember Affairs Annual Report for Calendar Year 2020" (May 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2020.pdf.

⁹⁸ For 2018, credit or consumer reporting received the largest number of complaints from military consumers, but on a cumulative basis debt collection remains the product for which military consumers have submitted the most complaints to the Bureau.

⁹⁹ See fn. 97.

¹⁰⁰ *Id.*

Military Justice (UCMJ).¹⁰¹ The problems associated with unpaid debts, either real or perceived, can greatly affect military careers and may lead to administrative or criminal proceedings by servicemembers' chain of command.¹⁰² In response to these complaints, the CFPB created a factsheet that explains to servicemembers and their families how to respond to debt collectors who are either contacting their chain-of-command or threatening them with UCMJ prosecution or other actions that might jeopardize their military security clearance.¹⁰³ In 2021, OSA also updated its flagship Misadventures in Money Management (MiMM) program. MiMM contains sections dedicated to teaching servicemembers as well as their families how debt can affect a military career and some of the protections they may have if facing a debt collector.

The CARES Act provided certain student loan borrowers with a range of protections. It temporarily reduced interest rates to zero and suspended monthly payments for all federal loans owned by the U.S. Department of Education (ED). In addition, ED stopped the collection of defaulted or delinquent federally held student loans. The CARES Act benefits did not extend to federal student loans held by commercial lenders or private student loans.

After passage of the CARES Act, the CFPB's Section for Students and Young Consumers released advice and guidance on commonly asked questions related to the CARES Act benefits, repayment or forbearance options for non-federally held loans, and steps to take to avoid student loan default.¹⁰⁴ The CFPB also provided information to help consumers protect themselves from potential student loan scammers.

To further assist student loan borrowers who were delinquent or in default, the CFPB published information about the cessation of debt collection activity for federally held student loans and additional debt collection related material for borrowers with non-federally held loans.¹⁰⁵

A partial list of the Bureau's consumer education materials relating to debt collection and information on the extent of their distribution is set forth in Appendix A.

¹⁰¹ Bureau of Consumer Fin. Prot., "Servicemembers 2015: A Year in Review" (Mar. 2016), available at <https://www.consumerfinance.gov/data-research/research-reports/servicemembers-2015-a-year-in-review-3/>.

¹⁰² Bureau of Consumer Fin. Prot., "Are unpaid debts a military career-killer?" (January 2015), available at <https://www.consumerfinance.gov/about-us/blog/are-unpaid-debts-a-military-career-killer/>.

¹⁰³ Bureau of Consumer Fin. Prot., "Servicemembers: Know your rights when a debt collector calls" (Dec. 2019), available at files.consumerfinance.gov/f/documents/cfpb_servicemembers_know-your-rights-when-a-debt-collector-calls.pdf.

¹⁰⁴ Bureau of Consumer Fin. Prot., "Information for student loan borrowers", available at <https://www.consumerfinance.gov/coronavirus/student-loans/>.

¹⁰⁵ *Id.*

The Federal Trade Commission also engages in education and outreach. For example, four business and consumer videos that address debt collection in English and Spanish on the FTC's YouTube channel were viewed a combined 37,283 times in 2021. The FTC also distributed 10,625 copies of the *Cobradores de deuda* (Debt Collectors)¹⁰⁶ fotonovela in 2021. A list of the FTC's consumer education materials relating to debt collection and information on the extent of their distribution is set forth in Appendix B.

¹⁰⁶ Available at www.bulkorder.ftc.gov/system/files/publications/spdf-0198-cobradores-de-dueda.pdf.

8. CFPB rulemaking, research, and policy initiatives

8.1 CFPB research projects

The CFPB is engaged in research to better understand the debt collection market and its impact on consumers and credit markets. One purpose of this research is to help the CFPB identify potential harms to consumers. Another is to better understand the benefits, costs, and impacts of potential rules. The CFPB's debt collection research relies on various data sources, including publicly and commercially available data as well as information obtained through industry outreach and other efforts.

In 2021 the CFPB developed a new survey, as part of its Making Ends Meet program, which included a battery of questions about debt collection experiences of consumers, particularly in areas that may be affected by the CFPB's final debt collection rules that took effect on November 30, 2021. The CFPB expects to receive data from this survey during 2022 and to use those data to better understand how debt collection affects consumers.

Also in 2021, CFPB economists published an independent research paper that analyzes the effect of changes in state debt collection laws.¹⁰⁷ Using detailed data on new credit card accounts, the authors study the effects of recent laws and regulations in four states that instituted debt collection conduct restrictions. They find that such restrictions reduce access to credit card accounts and raise interest rates, but that this effect is very small.

8.2 FDCPA regulatory actions

On April 7, 2021, the CFPB proposed to extend the effective date of two final debt collection rules issued under the FDCPA in October and December 2020, respectively (together, the debt collection final rule). The debt collection final rule was scheduled to take effect on November 30, 2021; the proposed 60-day extension would have allowed stakeholders affected by the pandemic additional time to review and implement the rule. After determining that the proposed

¹⁰⁷ Charles Romeo and Ryan Sandler, "The effect of debt collection laws on access to credit" (2021), *Journal of Public Economics*, vol. 195(C), available at <https://ideas.repec.org/a/eee/pubeco/v195y2021ics0047272720301845.html>.

extension was unnecessary, the CFPB announced on July 30, 2021 that the debt collection final rule would take effect on November 30, 2021 as planned. The CFPB subsequently withdrew the April 7, 2021 proposal.

On April 19, 2021, the CFPB issued an interim final rule to address certain debt collector conduct associated with an eviction moratorium issued by the CDC. This interim final rule, which is no longer in effect, applied to debt collectors, as that term is defined in the FDCPA, and amended Regulation F, which implements the FDCPA, to require debt collectors to provide written notice to certain consumers of their protections under the CDC Order's eviction moratorium and to clarify that certain misrepresentations are prohibited. The CFPB subsequently issued compliance materials to support implementation of this interim final rule.

On November 30, 2021, the CFPB's debt collection final rule went into effect. The final rule addresses, among other things, communications in connection with debt collection and prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection. Throughout 2021, the CFPB engaged in formal and informal guidance to facilitate implementation of the debt collection final rule, including releasing a number of compliance aids on the CFPB's website. In January 2021, the CFPB released the first version of the Small Entity Compliance Guide, covering the October 2020 portion of the rule; in April 2021, the CFPB released an updated version of the Small Entity Compliance Guide that included discussion of the December 2020 portion of the rule. On October 1, 2021, the CFPB released frequently asked questions addressing the debt collection final rule's limited-content message and call frequency provisions. On October 18, 2021, the CFPB released a Spanish translation of the debt collection final rule's model validation notice. And on October 29, 2021, the CFPB released a guidance document addressing how debt collectors who use the model validation notice can disclose required information about the debt. At the same time, the CFPB released frequently asked questions on the debt collection rule's validation information provisions related to mortgage servicing.

8.3 Market monitoring and outreach

The CFPB continues to monitor the debt collection industry to improve its understanding of the market and to develop informed policies and regulations that will protect consumers.

Most in-person industry conferences were canceled throughout 2021 due to the on-going pandemic. Therefore, in 2021, CFPB staff spoke at virtual regional and national debt collection industry events. The CFPB also held conference calls with consumer advocates, industry groups, vendors, the CFPB's Consumer Advisory Board, and government officials to better understand consumers' experiences with debt collection as well as how the market and industry function.

The CFPB held several conference calls with market participants and consumer advocates about the new debt collection rules (Regulation F) and its rule implementation. These market outreach activities helped the CFPB gather detailed information related to the potential impacts of the final rules, which in turn, helped inform the CFPB's rule implementation and guidance efforts.

As part of the biennial Congressional Credit Card Market Report issued in Sep 2021, the CFPB expanded its survey into card issuers' and their third-party collector's debt collection practices related to digital communication, debt settlement, and response to the COVID-19 pandemic. Working collaboratively with the FTC, the CFPB also published its joint annual report to the Congress in March 2021 that summarizes all the activities by both federal agencies in administering the FDCPA.

The CFPB held market outreach meetings with industry stakeholders such as law firms, debt collectors and apartment associations to shed light on the rental eviction process and rental debt collections during the pandemic. These activities helped provide necessary market intelligence to the rulemaking team in issuing its interim final rule to address certain debt collector conduct associated with an eviction moratorium issued by the Centers for Disease Control. The CFPB continued to monitor for consumer harm from developments in debt collections during the pandemic, including several state-level restrictions on garnishments and bank levies on stimulus funds. The CFPB's market monitoring efforts included examining justice-involved individuals' interaction with the debt collection market; the findings of this project are included in the CFPB's report, "Justice-Involved Individuals and the Consumer Financial Marketplace."¹⁰⁸

The CFPB also launched a medical debt market monitoring project in 2021, culminating in the release of a report on medical debt collections and reporting on March 1, 2022. The report, "Medical Debt Burden in the U.S.," highlighted the burdensome nature of medical debt in the United States. Medical debt, while common, is also complex because it is often incurred through unexpected and emergency events, is subject to opaque pricing, and involves complicated insurance coverage and pricing rules. The repercussions of medical debt in collections are far-

¹⁰⁸ Bureau of Consumer Fin. Prot, "Justice-Involved Individuals and the Consumer Financial Marketplace" (Jan. 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_jic_report_2022-01.pdf.

ranging, including reduced access to credit, increased risk of bankruptcy, avoidance of medical care, and difficulty securing employment. These repercussions are especially acute for individuals from Black and Hispanic communities, people with low incomes, veterans, seniors, older adults, and young adults.

9. Conclusion

Throughout 2021, the CFPB took action to eliminate illegal debt collection practices, ensure that ethical debt collectors were not competitively disadvantaged, and protect consumers against debt collection abuses. In the coming year, the CFPB will continue its work to uphold the Fair Debt Collection Practices Act through all the tools at its disposal. These include supervision and enforcement actions, regulatory and legal action, research and market monitoring activities, and consumer education.

As Congress and other policymakers consider issues in the debt collection market, the CFPB believes that closer attention should be paid to collections issues facing small businesses.

During the pandemic, many American went to great lengths to save their small businesses. Unscrupulous small business financing entities may also employ improper practices with respect to debt collection. While such conduct might violate the Federal Trade Commission Act,¹⁰⁹ it is worthwhile for policymakers to determine whether additional protections would be warranted under the FDCPA to ensure there is adequate enforcement and sufficient remedies for wrongdoing.

As the debt collection industry's primary regulator, the CFPB recognizes the important role that responsible debt collection plays in the consumer finance ecosystem. The CFPB, in coordination with its partner agencies, is committed to protecting both consumers and honest businesses from those that violate the law.

¹⁰⁹ The CFPB recognizes the important work the FTC has played to address small business debt collection abuses. However, the FTC faces challenges with its remedial powers, particularly with respect to its Section 13(b) authority. The FTC submitted information for this report outlining the challenges to its remedial authority and has asked Congress to take action to restore its longstanding ability to seek monetary relief from law violators.

APPENDIX A: CFPB DEBT COLLECTION INFORMATION, 2021

Consumer information	Page views or downloads in English	Page views or downloads in Spanish	Print distribution in English	Print distribution in Spanish
All Ask CFPB debt collection questions.	1,984,222	399,579		
How to negotiate a settlement with a debt collector.	532,421	27,430		
What should I do when a debt collector contacts me? Sample letters	369,865	13,405		
What should I do if a creditor or debt collector sues me?	44,343	21,957		
My debt is several years old. Can debt collectors still collect?	35,461	37,523		
Can I be responsible to pay off the debts of my deceased spouse?	100,202	15,648		
Are there laws that limit what debt collectors can say or do?	74,880	14,419		
Know Your Rights When a Debt Collector Calls (also available as audio file in English and Spanish)	8,957	1,574	18,936	11,321
Behind on bills?	4,964		54,783	13,735
Behind on bills? (correctional facilities edition)	49		9,260	2,100
Planning to become debt free? (also available as audio file in English and Spanish)	12,792	2,953	19,002	11,347
Debt getting in your way? Get a handle on it.	1,849		45,655	
Debt getting in your way? Get a handle on it. (correctional facilities edition)	175		7,570	
Servicemembers: Know your rights when a debt collector calls	1,107		3,123	

2021 FDCPA Consumer blog posts

- [Understand how the CFPB's Debt Collection Rule impacts you](#)
- [Know your \(FDCPA\) rights as a renter facing eviction \(English and Spanish\)](#)
- [CDC Eviction Moratorium Extended by One Month](#)

APPENDIX B: FTC DEBT COLLECTION INFORMATION, 2021

Consumer Information	Views (English)	Views (Spanish)	Print Orders (English)	Print Orders (Spanish)
Articles				
Coping with Debt	67,008	6,973		
Debt Collection FAQs	274,063	16,941	64,158	11,650
Debt Collectors (Fotonovela)				10,300
Debts and Deceased Relatives	99,568	98,590		
Fake and Abusive Debt Collectors	45,295	7,130		
Gamishing Federal Benefits *	18,446	3,063		
Getting Out of Debt	11,232	13	72,800	12,225
Identity Theft Letter to a Debt Collector	19,434	276		
Managing Debt (online)	996	10,506		
Managing Debt (print)			67,425	11,700
Settling Credit Card Debt	89,638	51,203		
Time-Barred Debts *	36,147	107,820		
What To Do if a Debt Collector Sues You	16,292	63		
Videos				
Dealing with Debt Collectors	2,508	3,772		
Debt Collection: Know Your Rights	19,473	2,984		
Fraud Affects Every Community: Debt Collection	3,960			

*The contents of these articles were added to [Debt Collection FAQs](#) and the articles were discontinued in May 2021.

Business Information	Views (English)	Views (Spanish)
Article		
The Fair Debt Collection Practices Act	14,014	
Video		
Debt Collection	353	4,233

The views of a page indicates how many times a page was viewed on an FTC website. A person who views an article page may also download, re-post, or copy and share content from a page, which increases the number of people who see the article, but doesn't increase the number of views.