

Bureau Update: Debt Collection

2019 National Credit Union Collections Alliance Conference

Las Vegas, NV

April 17, 2019



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This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein.

Bureau of Consumer Financial Protection

Mission

To **regulate** the offering and provision of consumer financial products or services under the Federal consumer financial laws and to **educate and empower** consumers to make better informed financial decisions.

Vision

Free, innovative, competitive, and transparent consumer finance markets where the **rights of all parties are protected by the rule of law** and where consumers are free to choose the products and services that best fit their individual needs.

FY 2018-2022 Strategic Plan

- **Goal 1**

- Ensure that all consumers have access to markets for consumer financial products and services.

- **Goal 2**

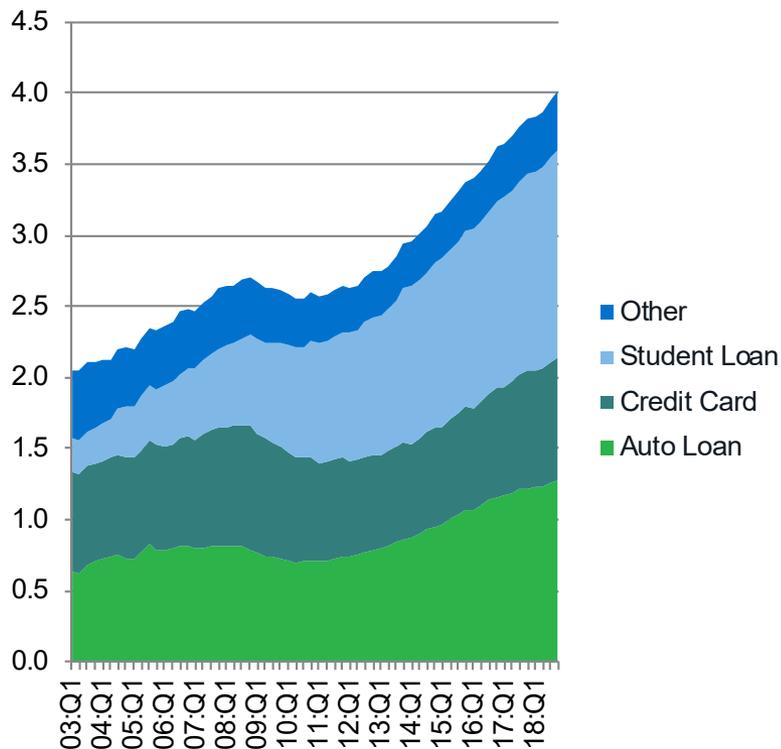
- Implement and enforce the law consistently to ensure that markets for consumer financial products and services are fair, transparent, and competitive.

- **Goal 3**

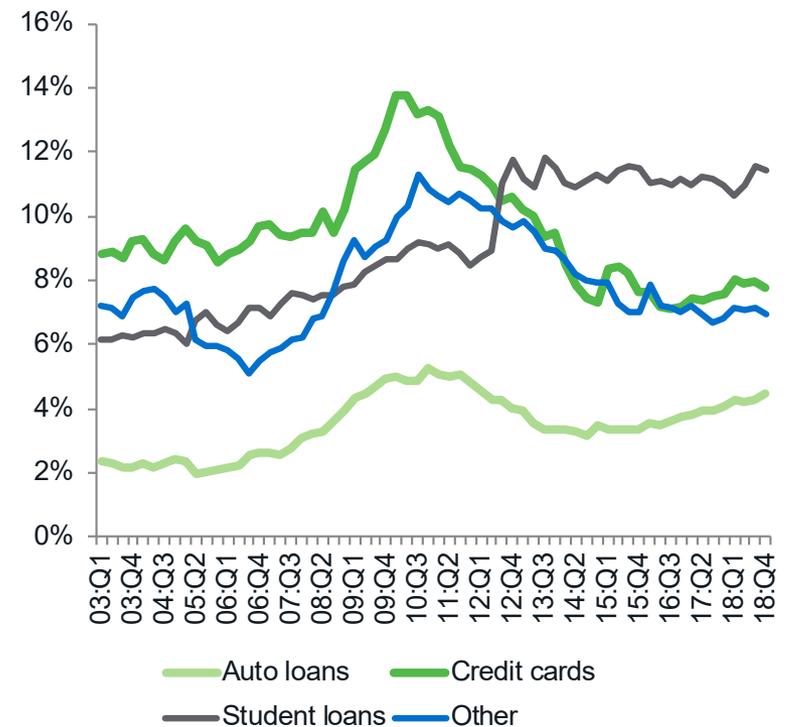
- Foster operational excellence through efficient and effective processes, governance, and security of resources and information.

Levels of consumer debt and delinquency rates (90 + DPD) are rising

NON-HOUSING CONSUMER DEBT BALANCES (IN TRILLIONS), 2003–2018 Q4



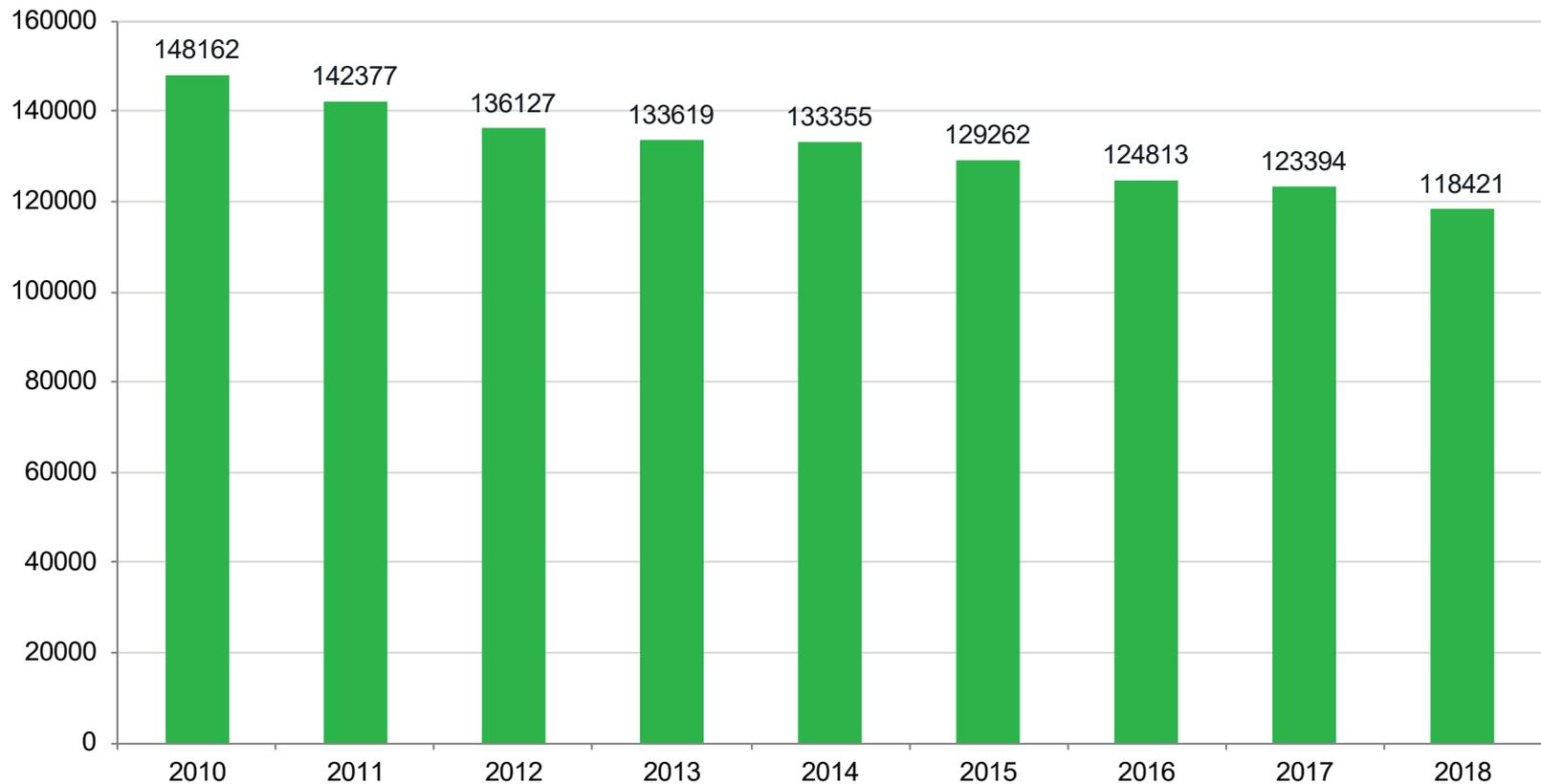
PERCENT OF NON-HOUSING BALANCES 90+ DAYS DELINQUENT, 2003-2018 Q2



Source: FRBNY Consumer Credit Panel/Equifax.

Industry-wide decrease in number of employees and collection agencies reflects market consolidation and labor efficiencies

Debt Collection Employment (FTE)



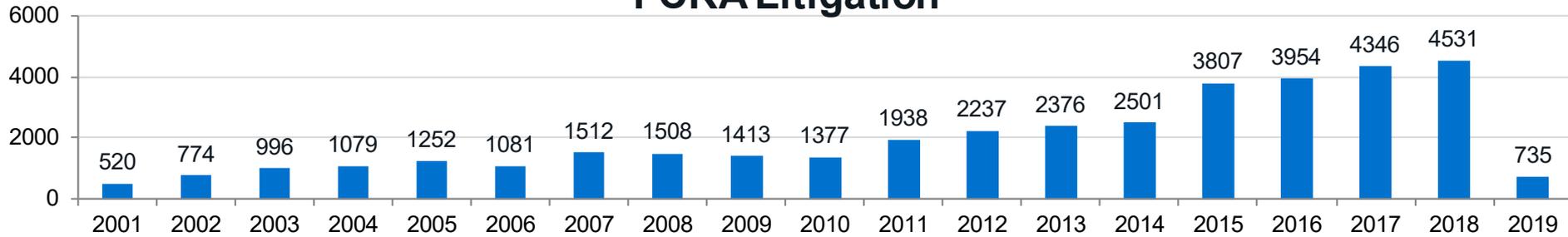
Source: IBISWorld Industry Report (Dec 2018).

FDCPA, FCRA, and TCPA Litigation

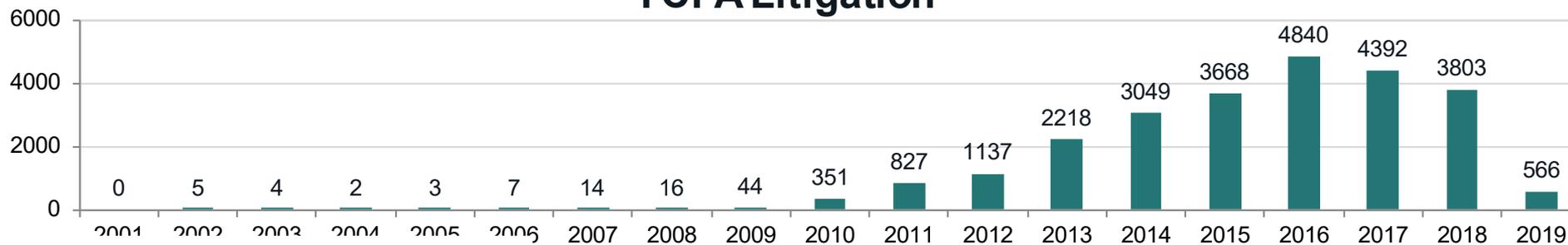
FDCPA Litigation



FCRA Litigation



TCPA Litigation



Data Source: WebRecon (Feb 2019).
2019 totals are as of the end of February.

Requests for Information

The Bureau had launched a *Call for Evidence* initiative.

Request for information	
1	Civil investigative demands (CIDs)
2	Rules of practice for adjudication proceedings
3	Enforcement
4	Supervision
5	External engagements
6	Public reporting of consumer complaint information
7	<i>Rulemaking process</i>
8	<i>Adopted rules and new rulemaking authorities</i>
9	Inherited regulations and inherited rulemaking authorities
10	Guidance and implementation Support
11	Consumer education
12	Consumer complaint and inquiries

Debt Collection Industry's RFI Comments

- Industry commenters included: ACA International, ABA, NCBA, RMA, CRC, Encore, and PRA
- Comments related to debt collection:
 - Effective dates and retroactivity
 - Clear rules including clear definitions and model forms
 - Rules based on cost-benefit analysis
 - Request that practice of law be exempted
 - Clear guidance on the use of digital communication
 - More context in complaint data analysis and reporting
 - Less “regulation by enforcement”

Debt Collection – Recent Exam Findings

- Impermissible communications with third parties.
- Deceptively implying that authorized users are responsible for a debt.
- False representations regarding credit score impact of full payment vs. a settlement.
- Communicating with consumers at a time known to be inconvenient.
- Debt collectors forwarding consumer's debt validation requests to original creditors who in turn communicated directly with these consumers

Student Loan Servicing Examination Issues

- The Spring 2017 Supervisory Highlights noted student loan servicing issues related to:
 - ❑ Deceptive statements about interest capitalization during successive deferments
 - ❑ Failure to reverse adverse consequences of erroneous deferment terminations

Supervisory Highlights: Web resource

- Visit our Research & Reports webpage for our Supervisory Highlights Reports.
- Stay up-to-date on the Bureau's examination activities.



Filter reports Hide filters

Item name
Search for a specific word in item title

Category

- Consumer complaint
- Supervisory Highlights
- Data point
- Industry and markets
- Consumer education and empowerment
- To Congress

Topic
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Supervisory Highlights | PUBLISHED FEB 28, 2019

Supervisory Highlights, Issue No. 18 (Winter 2019)

In this issue of *Supervisory Highlights*, we report examination findings in the areas of automobile loan servicing, deposits, mortgage servicing, and remittances that were generally completed between June 2018 and November 2018. The report does not impose any new or different legal requirements, and all violations described in the report are based only on those specific facts and circumstances noted during those examinations. As in past editions, this report includes information about recent public enforcement actions that were a result, at least in part, of our supervisory work.

• ENFORCEMENT • SUPERVISION • DEPOSITS • UDAAAPS • SMALL-DOLLAR LOANS • HMDA
• AUTO LOANS • REMITTANCES • MORTGAGE SERVICING

Source: <http://www.consumerfinance.gov/data-research/research-reports>.

Recent Debt Collection Enforcement Actions

- ***Security National Automotive Acceptance Company, LLC:*** The Bureau issued a consent order against SNAAC, an auto lender specializing in loans to service members, for violating a Bureau consent order by failing to provide more than \$1 million in refunds and credits, affecting more than 1,000 consumers. The consent order requires SNAAC to make good on the redress it owes to those consumers and pay an additional \$1.25 million penalty.

Recent Debt Collection Enforcement Actions

- ***Northern Resolution Group, LLC, et al:*** The Bureau in partnership with the New York Attorney General, filed a lawsuit in a federal district court against the leaders of a massive debt collection scheme based out of Buffalo, N.Y.
- ***Universal Debt:*** The Bureau filed a complaint against a group of seven debt collection agencies, six individual debt collectors, four payment processors, and a telephone marketing service provider, alleging that they used threats and harassment to collect “phantom” debt from consumers. The Bureau alleged their misconduct was facilitated by the substantial assistance of the payment processors and the telephone service provider. The court dismissed the Bureau’s claims against the payment processors. The Bureau and two remaining defendants moved for summary judgment, and the case remains pending.

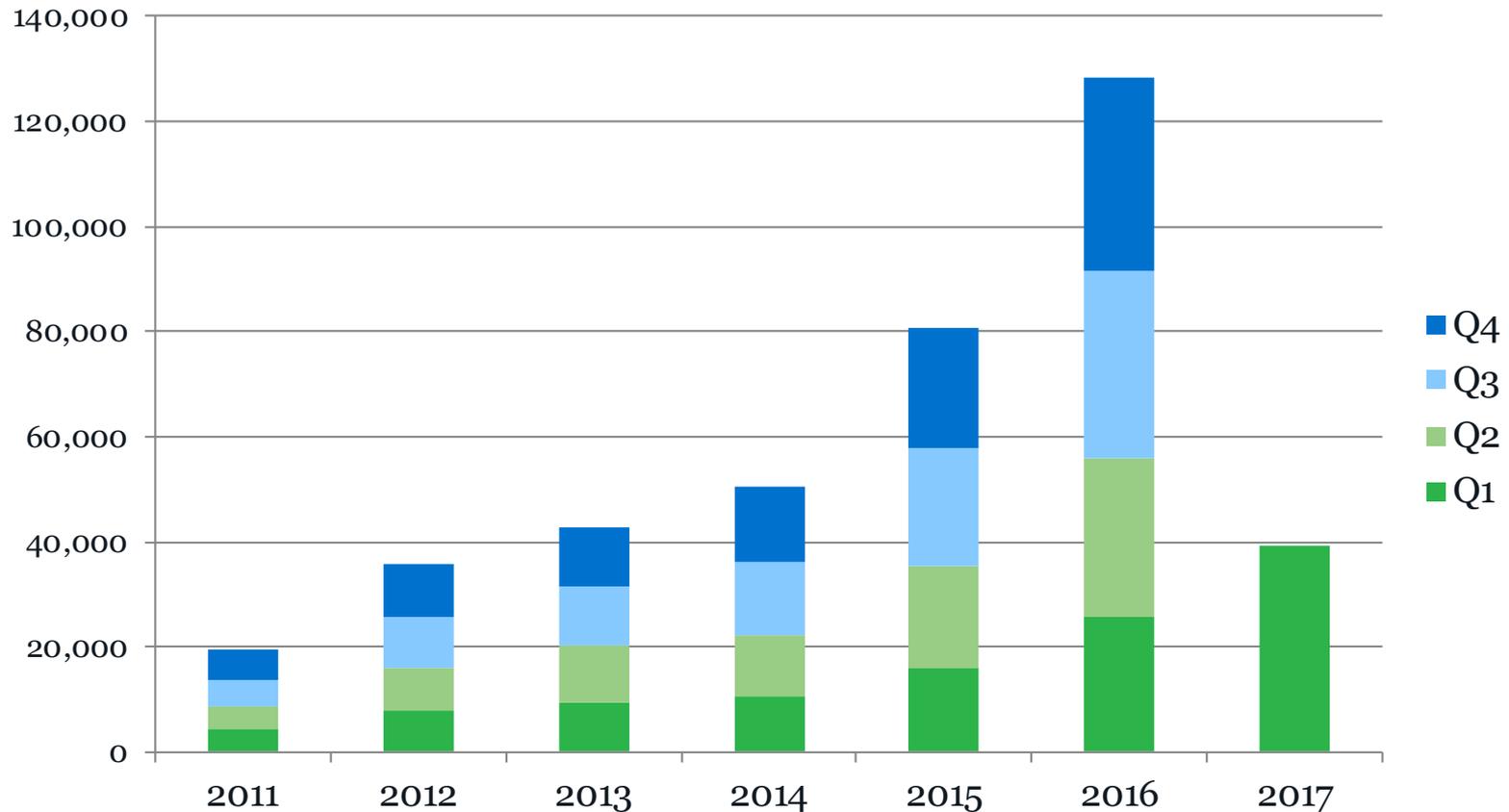
Recent Debt Collection Enforcement Actions

- ***Weltman, Weinberg & Reis Co., L.P.A.*** The BCFP filed a suit in April 2017 alleging WWR violated FDCPA by misrepresenting the amount of attorney involvement in letters and calls made to individuals with unpaid debts. After a trial, the Federal judge, under the specific facts of this case, ruled that the BCFP had not proven its allegations that lawyers were not meaningfully involved in the process pointing out that there is no “specific test” for what constitutes meaningful involvement by an attorney.

- ***National Credit Adjusters-*** Under the consent order by the BCFP, National Credit Adjusters will pay \$500,000 of a \$3 million fine, and the former chief executive Hochstein will pay \$300,000 of a \$3 million fine. Hochstein has been permanently banned from the collection industry and National Credit Adjusters has been barred from engaging in certain collection practices including misrepresenting the amount owed, threatening to take legal actions etc. Full payment is suspended contingent on the truthfulness of NCA/Hochstein's representations concerning their financial condition.

Debt Settlement

Debt Settlement: Estimated New Client Growth



Data Source: Regan, Greg. *Options for Consumers in Crisis: An Updated Economic Analysis of the Debt Settlement Industry*. February 5, 2018

BCFP Debt Settlement Enforcement Authority

Dodd-Frank Act (DFA)

- Debt settlement is considered a financial product/service under the DFA
- Unfair, Deceptive, or Abusive Acts or Practices (UDAAPs) Prohibited
- Scope of Covered Debt Settlement
 - All methods of communications in offering debt settlement services
 - Secured and unsecured debts
- Scope of Entities Covered:
 - Debt settlement firms and their service providers
 - Others who knowingly or recklessly provide substantial assistance to covered persons who engage in UDAAP violations

BCFP Debt Settlement Enforcement Authority

Telemarketing Sales Rule (TSR)

- Main Entities/Activities Covered
 - Debt settlement firms and companies that provide substantial assistance to them knowing or consciously avoiding knowing of their law violations
 - Out-bound and in-bound interstate telemarketing calls
 - Unsecured debts
- Primary Restrictions
 - Advance fee ban and other fee restrictions
 - Prohibition of material misrepresentations
 - Requirement of specific disclosures

Mortgage Assistant Relief Services (MARS) Rule/Reg. O

- Main Entities/Activities
 - Any person that provides, offers to provide, or *arranges for others to provide*, any mortgage assistance relief service, including activities to:
 - Stop, prevent, or postpone foreclosure;
 - Negotiate, obtain, or arrange a mortgage loan modification (amount of interest, principal balance, monthly payments or fees); and
 - Obtain any forbearance or modification in the timing of payments from the home owner.
- Primary Restrictions
 - Restriction on accepting fees prior to obtaining a modification on behalf of the consumer;
 - Prohibition on material misrepresentations or omissions;
 - Requirement of Reg. O disclosures

Debt Settlement – Law and Regulation

Who enforces?

- FTC and the BCFP overlap jurisdiction
- DOJ has been active in this area
- States are also active in this area and are often a good resource
- Because debt relief often involves criminal activity, criminal law enforcement authorities may also enforce.

How does BCFP get tips and leads?

- Complaints
- Tips and leads from the whistleblower mailbox
- Other law enforcement or regulatory agencies
- Consumer groups (e.g., legal aid)
- Banks and servicers

Bureau Enforcement Activities – Debt Settlement

- Enforcement actions against debt settlement/mortgage modification firms that violate TSR, DFA, and/or Reg. O through conduct such as:
 - Charging advance fees
 - Material misrepresentations about services, fees, or results
 - Failing to make required disclosures

Debt Collection Rulemaking

Evolution of Debt Collection Rulemaking

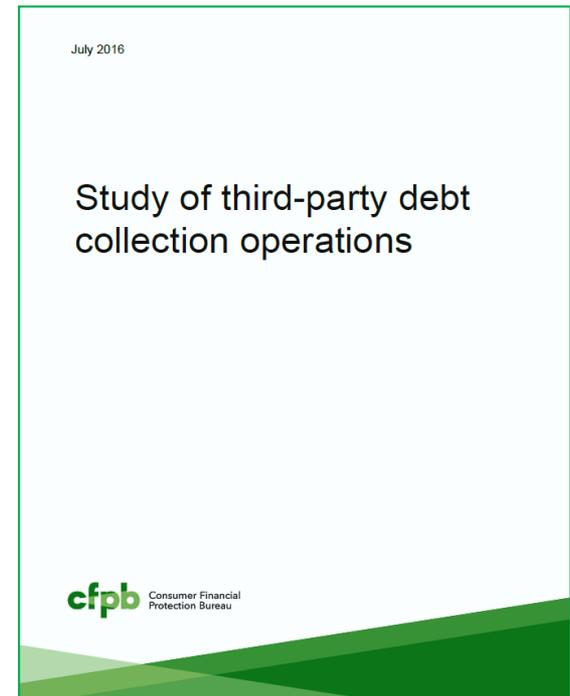
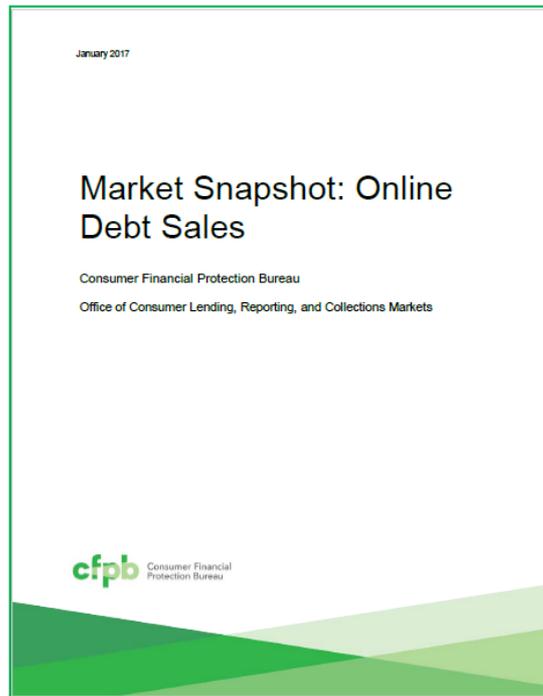
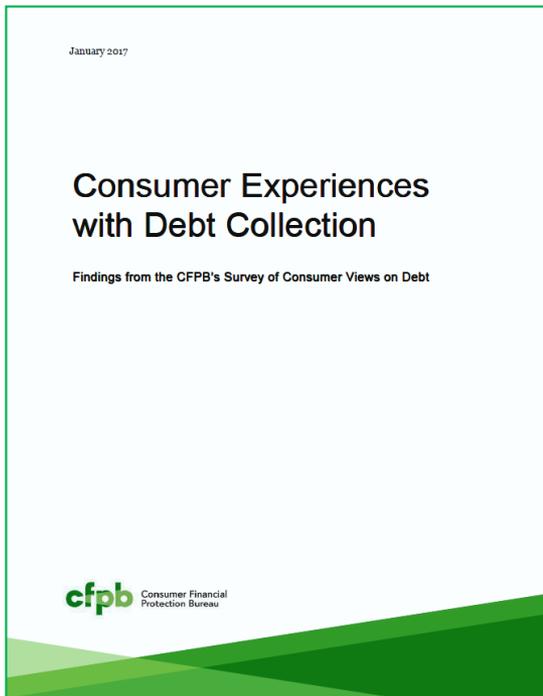
- The Bureau was originally considering a debt collection rulemaking for third-party debt collectors that would focus on three primary goals:
 - Make sure collectors are contacting the right consumer and collecting the right amount.
 - Make sure that consumers understand the debt collection process and their rights.
 - Make sure consumers are treated with dignity and respect.
- After considering feedback, the Bureau determined that the “right consumer, right amount” issues would be best pursued in a later rulemaking that included requirements for creditors and third-party collectors.
 - But, those collecting on the debts do need to have correct and accurate information
- The Bureau is now moving forward with a rulemaking covering third-party debt collectors that will address the latter two issues.

Rulemaking Process

1. *Advanced Notice of Proposed Rulemaking (ANPRM)*: Issued November 2013
2. *Small Business Regulatory Enforcement Fairness Act process (SBREFA)*: Panel of “Small Entity Representatives” (or “SERs”) convened on August 25, 2016
 - Outline
 - Panel meeting
 - Report
 - Feedback
3. Notice of Proposed Rulemaking (NPRM) –Spring 2019
4. Final rule
5. Implementation

Research and Market Monitoring Activities

Debt Collection Research



Debt Collection Research

August 2018

QUARTERLY CONSUMER CREDIT TRENDS

Collection of Telecommunication Debt



The Effect of Debt Collection Laws on Access to Credit

Charles Romeo
Ryan Sandler

Consumer Financial Protection Bureau

October 18, 2017

Market Monitoring

December 2017

The Consumer Credit Card Market

cfpb Consumer Financial Protection Bureau

BUREAU OF CONSUMER FINANCIAL PROTECTION | MARCH 2019

Fair Debt Collection Practices Act

BCFP Annual Report 2019



Consumer Education & Engagement

Complaints Received in 2018

Between January 1, 2018 and December 31, 2018, the Bureau received approximately 81,500 consumer complaints about debt collection .

TYPES OF DEBT COLLECTION COMPLAINT REPORTED BY CONSUMERS IN 2018



* Percentages may not sum to 100% due to rounding

Consumer Education & Engagement: Debt Collection

consumerfinance.gov/consumer-tools/debt-collection/

Debt collection

Debt collection issues can be challenging. You don't have to face them alone. Our resources can help you understand how debt collection works and what your rights are.



FEATURED

5 sample letters to send debt collectors

Wondering how to respond to a debt collector? Our sample letters can help if you:

- [Need more information](#)

About us

We're the Consumer Financial Protection Bureau (CFPB), a U.S. government agency that makes sure banks, lenders, and other financial companies treat you fairly.

Ask CFPB

consumerfinance.gov/askcfpb

Ask CFPB

We offer clear, impartial answers to hundreds of financial questions. Find the information you need to make more informed choices about your money.



Auto loans

- What effect will shopping for an auto loan have on my credit? [Read answer](#)
- I owe more on my current loan than my current vehicle is worth. What do I need to know if I buy a new vehicle? [Read answer](#)

Bank accounts and services

- How quickly can I get money after I deposit a check? [Read answer](#)
- I would like to be able to have my friend or family member help with my bill-paying and banking. What are my options? [Read answer](#)

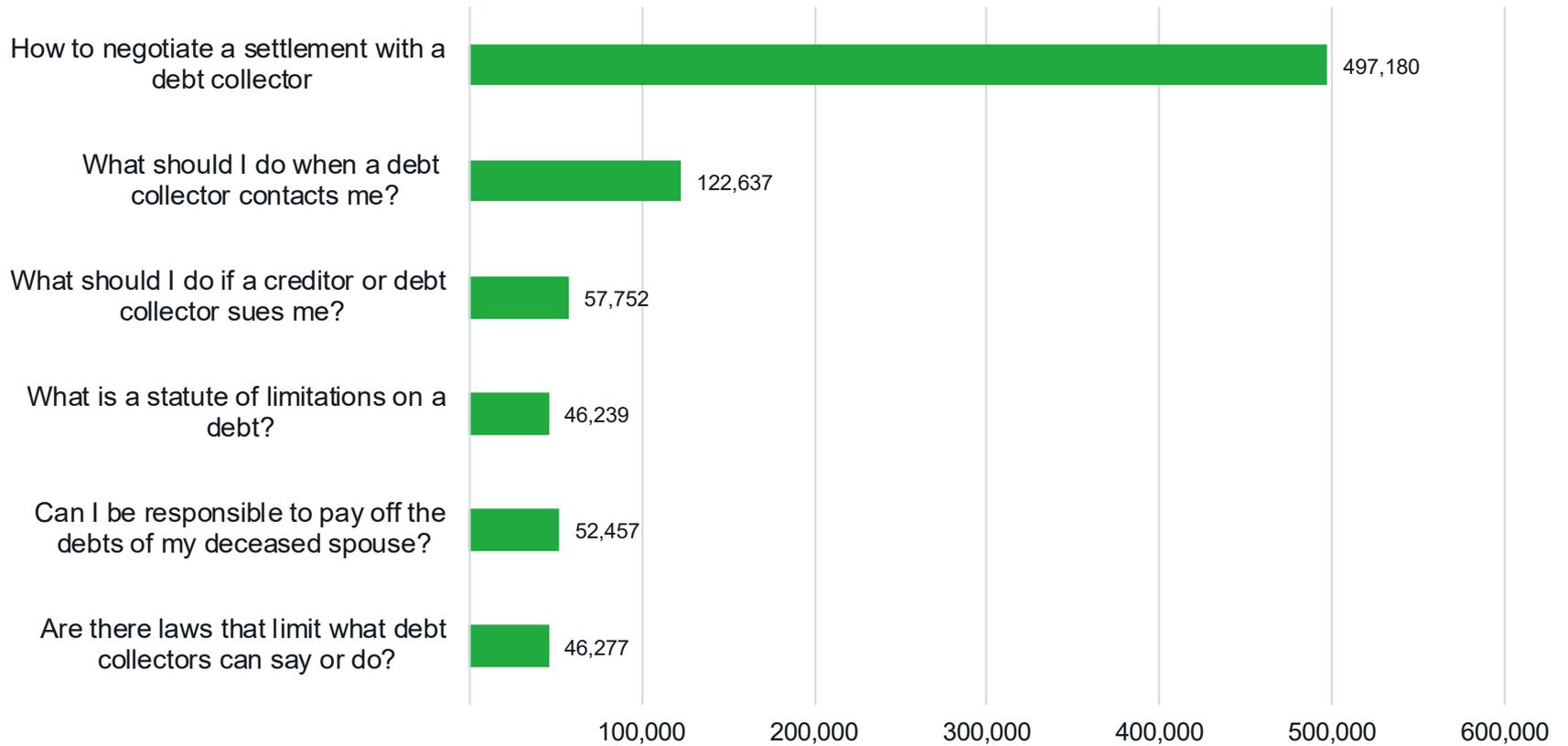
Credit cards

- What is a credit card interest rate? What does APR mean? [Read answer](#)
- How do I dispute a charge on my credit card bill? [Read answer](#)

[See all credit cards questions](#)

Ask CFPB Popular Debt Collection Page Views

ASKCFPB DEBT COLLECTION PAGEVIEWS/DOWNLOADS (IN ENGLISH) IN 2018



Credit Reports and Scores

consumerfinance.gov/consumer-tools/credit-reports-and-scores/

Credit reports and scores

Your credit reports and scores have a major impact on your financial opportunities. Our resources can help you better understand your credit reports and scores, learn how to correct inaccuracies, and improve your credit record over time.

★ Featured

Does your credit card come with a free credit score?

Lenders use credit scores to make decisions like whether to approve a mortgage at a certain rate or issue you a credit card. Some companies offer free credit scores to



About the CFPB

The CFPB is an independent federal agency built to protect consumers. We write and enforce rules that keep banks and other financial companies operating fairly. We also educate and empower consumers, helping people make more informed choices to achieve their financial goals.

STILL HAVE A QUESTION?

Call us if you still can't find what you're looking for. You can also submit a complaint about an issue with credit reporting or scores over the

Advancing Policy: **Open Score Initiative**

All three major credit reporting agencies now allow nonprofit counselors to share credit reports and scores with the consumer



- Consumers can receive credit scores and credit reports through nonprofit counselors
- Consumers are empowered to take more control of managing their credit
- Counselors can do their jobs more effectively

Get a Handle on Debt Boot Camp

- 21-Day email course (1 each month – with on demand access coming soon)
- 9 emails
- 6 downloadable and fillable tools



Get a Handle on Debt Boot Camp – Sample

In this session, you will focus on strategies to help you reduce your debt.

To get started, refer back to the bill calendar you filled out in Session 2. You should also gather information you have about any of your bills that include interest.

[There are two basic strategies that can help you reduce debt:](#) the highest interest rate method and the snowball method. Read more about each method.

Highest interest rate method

This approach focuses on your unsecured debts like credit card, medical, and student loan debts with the highest rate of interest. The goal is to pay off the highest interest rate debt as quickly as possible, because it is costing you the most. While it may not feel like you're making progress, this method will help you eliminate your costliest debts first—which can save you money in the long run.

Snowball method

This approach focuses on your smallest debt. The goal is to get rid of it as soon as possible. You keep on making the minimum payments on all of your debts, and you put any extra funds you have toward paying off the smallest debt. This will help you pay it off sooner.

Once you've paid one smaller debt in full, dedicate that freed up money to the next smallest debt. This way, you create a "snowball" of payments as you eliminate each debt. Unlike the higher interest rate method, you'll see progress quickly as you pay off smaller debts. However, you may end up paying more in the long run, as you won't be focusing on the larger or more costly debts.

Now it's time for you to pick the debt reduction strategy that's right for you. [You can download this debt reduction worksheet to help you put your plan into place.](#)

Get a Handle on Debt Boot Camp – Sign-up

**Ready to sign-up or share this
boot camp with others?**

<https://go.usa.gov/xn6sH>

BCFP FinEx: Access to tools and resources

CFPB AUTO LOAN SHOPPING SHEET
Comparing auto loans

Directions: Bring this sheet with you or show you are serious about getting the best loan. The factors you can negotiate are indicated with an icon.

Determine your upfront costs

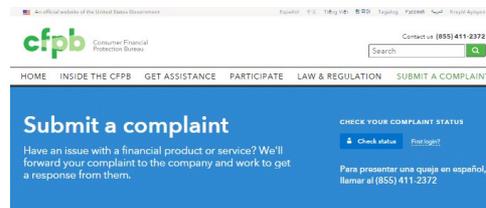
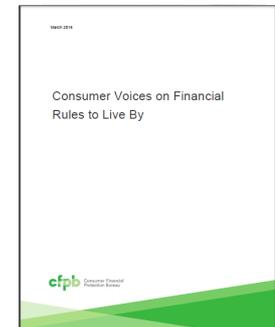
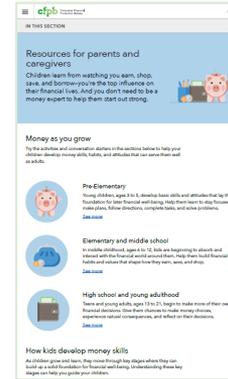
Example	Choice 1	Choice 2
A. Price of the vehicle	\$35,000	
B. Additional features, services or add-ons These are optional and will increase the total cost of the loan.	+ \$300	*
C. Taxes, title and non-negotiable fees State and local taxes, and title fees	+ \$1,400	*
D. Negotiable fees Include negotiable fees such as delivery charges, registration fees, document fees, and preparation fees.	+ \$100	*
E. Cost of the vehicle before interest (add rows A, B, C, & D)	+ \$37,800	*

Calculate how much you will need to borrow

F. Down payment A larger down payment will lower the total cost of your loan.	- \$3,000	-
G. Trade-in value If you already have a vehicle, a higher trade-in value will lower the total cost of your loan.	- \$3,000	-
H. Total amount to finance (subtract rows F & G from row E)	+ \$31,800	-

CFPB Consumer Financial Protection Bureau

Check heading for total cost on page 2



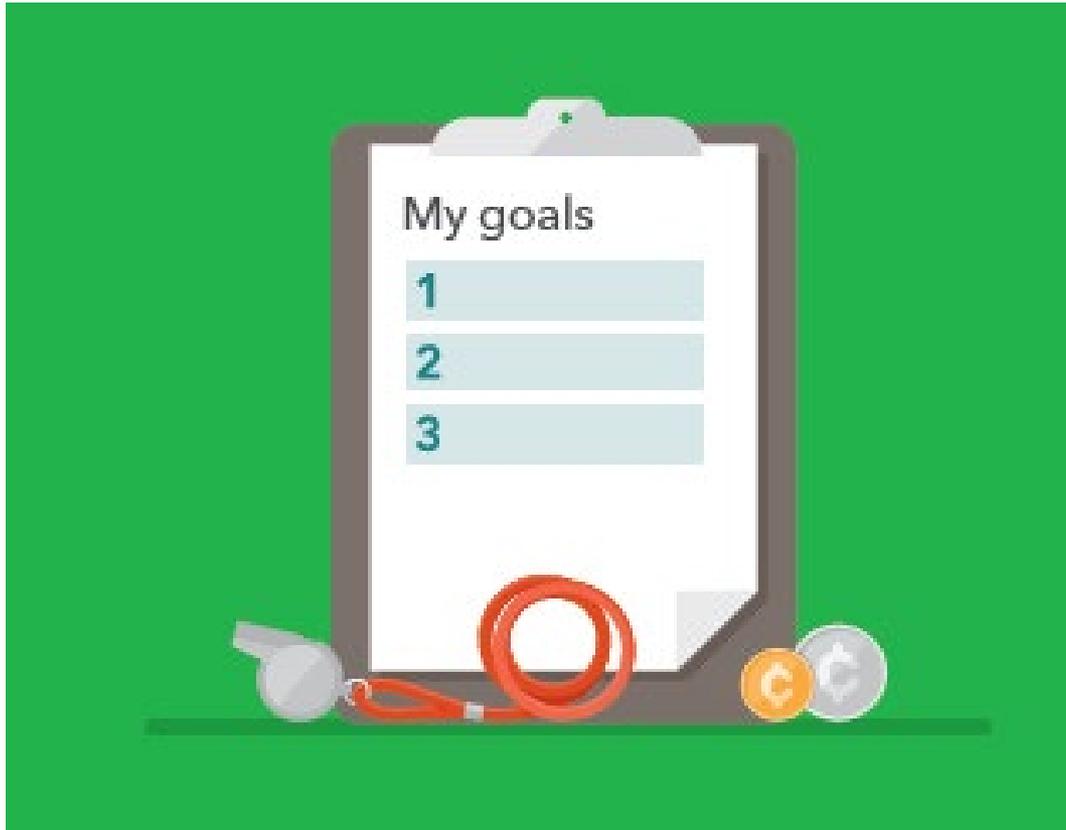
Resources

BCFP's Resources for Financial Educators webpage:
www.consumerfinance.gov/adult-financial-education

To sign up for the BCFP Financial Education Exchange, email:
CFPB_FinEx@cfpb.gov

To sign up for the BCFP Financial Education Discussion Group:
www.linkedin.com/groups/CFPB-Financial-Education-Discussion-Group-5056623

The BCFP's Financial Coaching Initiative



Learn More About Financial Coaching

- Access BCFP Financial Coaches and learn more about the field on our website:
<https://www.consumerfinance.gov/practitioner-resources/financial-coaching/>
- Reach a BCFP Financial Coach using our Tele-coaching line: 1-844-90-GOALS.
- Questions? Contact us at cfpb_financialcoaching@cfpb.gov.

Resource for Financial Educators webpage

Financial education for adults

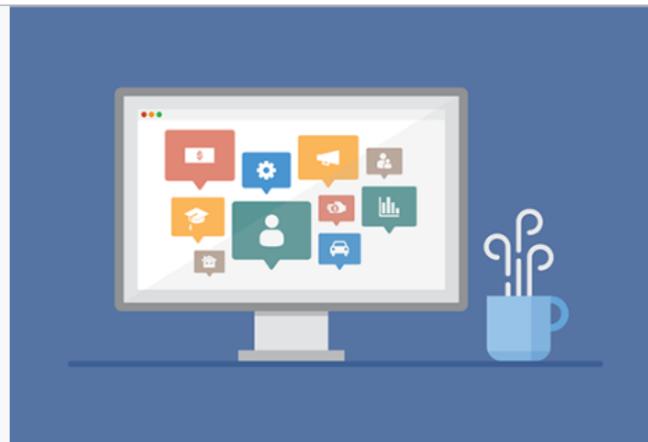
We help you help the people you serve. For adult financial educators, the tools here show our latest thinking on consumer financial behavior and effective financial education practices.

Featured event

Free webinar about fraud prevention for older adults

Thursday, Feb. 22, 2018, from 3-4 p.m. ET

[View details and enroll](#)



About us

We're the Consumer Financial Protection Bureau (CFPB), a U.S. government agency that makes sure banks, lenders, and other financial companies treat you fairly.

[Learn how the CFPB can help you](#)

CONNECT WITH US

Join the CFPB Financial Education Exchange (CFPB FinEx) to get the latest news, invitations to webinars, and to learn from your peers.

Email address

The information you provide will permit the Consumer Financial Protection Bureau to process your request or inquiry.

[View Privacy Act statement](#)

Find it at consumerfinance.gov/adult-financial-education

Credit Repair: Consumer Education

Info for consumers

How to avoid credit repair service scams

By [Desmond Brown](#) - SEP 23, 2016

SHARE THIS [f](#) [t](#) [in](#) [✉](#)

Repairing your credit history after a setback can feel overwhelming. Unfortunately, that's why some credit repair companies use confusing and misleading messaging to target anxious consumers who are just trying to get their financial lives back on track.

Over the past several months, more than half of people who submitted complaints with the CFPB about credit repair chose the issue "fraud or scam" to describe their complaints.

Many people don't know the full set of protections they have or understand the laws that govern credit repair companies. These companies must follow numerous federal laws, including the Credit Repair Organizations Act and often the Telemarketing Sales Rule, both of which forbid credit repair organizations from using deceptive practices and from accepting up-front fees.

If you see advertisements or receive offers to fix your credit, look out for these example red flags:

- **They demand payment upfront:** The company wants you to pay before it provides any services. Under the Credit Repair Organizations Act, credit repair companies can't request or receive payment until they've completed the services they've promised. Some companies will structure monthly payment plans to avoid this requirement, and

Ask CFPB / Credit reports and scores

A credit repair firm sent me an offer outlining their credit repair program. Should I enroll?

Answer: Credit repair companies often promise to help you remove bad information from your credit report for a fee that you pay to them. Before enrolling, know your rights - as well as what credit repair companies can and cannot do for you.

Before you enroll with a credit repair firm, consider two very important facts:

- Disputing errors in your credit reports is a free legal right available to you under the Credit Reporting Act; you don't need to pay a credit repair organization to do it for you.

Credit repair firms cannot remove accurate and current negative information from your credit report. No one can do that.

Many credit repair ads make promises that don't measure up. Before signing up for these services, find out how to spot a credit repair [scam](#).

If you have a problem with credit reporting, you can submit a complaint with the CFPB via phone at 855-411-2372. You can also submit a dispute letter to either a [credit reporting company](#) or a [credit repair company](#) via one of our templates.

When you send your issue to the company, give you a tracking number, and keep you updated on the status of your complaint.

SAMPLE LETTER

Credit report dispute

This guide provides information and tools you can use if you believe that your credit report contains information that is inaccurate or incomplete, and you would like to submit a dispute of that information to the credit reporting company.

It is important to dispute inaccurate information with both the credit reporting company that created the report and the company that first reported the inaccurate information, often called the furnishing company. While this packet provides information about disputing inaccurate information with a credit reporting company, you can find information about disputing inaccurate information with a furnishing company at http://files.consumerfinance.gov/f/documents/092016_cfpb_FurnisherSampleLetter.pdf.

Background

You can contact the nationwide credit reporting companies online, by mail, or by phone. When disputing, refer to your credit report so that you can correctly and fully identify the information that you are disputing. Your report contains a consumer identification or report number that should be included with your dispute to allow the credit reporting company to identify you. There is no charge for submitting a dispute. Ensure the error has been removed by requesting confirmation from the consumer reporting company.

Online and phone disputes

EQUIFAX

Online: www.ai.equifax.com/CreditInvestigation
By phone: Phone number provided on credit report or (800) 864-2978

EXPERIAN

Online: www.experian.com/disputes/main.html
By phone: Phone number provided on credit report or (888) 397-3742

TRANSUNION

Online: www.transunion.com/personal-credit/credit-disputes-alerts-freezes.page
By phone: (800) 916-8800

Disputes by mail:

You can download each company's dispute form or use the [letter included in this guide](#), which provides the credit reporting company with enough information to identify you and the specific accounts or tradelines that you are disputing. To make it easier to identify the items that you are disputing, consider including a copy of your credit report with these items marked or circled. You may also wish to include copies of any supporting documentation, such as a statement from your lender, which demonstrates the incorrect information you are disputing.



Consumer Financial
Protection Bureau

Learn more at consumerfinance.gov

1 of 3

Source: <http://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-credit-repair-company-misleading-consumers-and-charging-illegal-fees>, <http://www.consumerfinance.gov/about-us/blog/how-avoid-credit-repair-service-scams>, and http://files.consumerfinance.gov/f/documents/092016_cfpb_CreditReportingSampleLetter.pdf.

Consumer Education – Credit Counseling

The Consumer Financial Protection Bureau is a government agency built to protect consumers. Our free resources help you have the information you need to make informed financial decisions.

[← Ask CFPB / Debt collection](#)

What is credit counseling?

Credit counseling organizations can do many things. Here are some examples of things that credit counselors might do:

- Advise you on managing your money and debts
- Help you develop a budget
- Usually offer free educational materials and workshops

Typically, their [counselors](#) are certified and trained in the areas of consumer credit, money and debt management, and budgeting. Counselors discuss your entire financial situation with you, and help you develop a personalized plan to solve your money problems.

NOTE:

Credit counseling organizations are usually non-profit organizations. Although most of them are non-profits, credit counselors may charge fees for their services that they take out of the payments you make to them. An initial counseling session typically lasts an hour, with an offer of follow-up sessions.

Next steps

We'll forward your issue to the company, give you a tracking number, and keep you updated on the status of your complaint.

[Submit a Debt Collection complaint](#)

Other ways to find answers

Related debt collection subjects

[Debt settlement](#)

[Credit counseling](#)

Thank you!