



February 18, 2014

Ms. Monica Jackson  
Office of the Executive Secretary  
Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, D. C. 20552

**Re: Advanced Notice of Proposed Rulemaking, Debt Collection (Regulation F), Docket No. CFPB-2013-0033-0001, RIN 3170-AA41**

Dear Ms. Jackson:

The Community Bankers Association of Illinois (CBAI), which proudly represents approximately 380 Illinois community banks, appreciates the opportunity to provide our observations and recommendations on debt collection practices. We appreciate the Consumer Financial Protection Bureau's (CFPB or Bureau) interest in learning through responses to the Advance Notice of Proposed Rulemaking (ANPR or Notice) about the debt collection system, consumer experiences with debt collection, and how rules for debt collectors might protect consumers without unnecessary burdens on the industry.

At the outset it is important to note that community banks have not participated in the harmful debt collection practices which are enumerated in the ANPR. Community bankers live in the same towns as their customers, have children in the same schools, and see them when they are grocery shopping. They are strong believers in reasonable debtors' rights and follow reasonable debt collection practices in order to protect their customers. **Their long track record of fair dealing warrants, and the CBAI strongly recommends, the CFPB unconditionally**

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**exempt community banks from any new fair debt collection practices regulation under the Fair Debt Collection Practices Act (FDCPA) and the Dodd-Frank Act - Title X.**

In reviewing the ANPR, it is obvious that potential new regulations should not be directed at community banks. The examples in the Notice of the most frequent debts on which collectors seek to recover include: medical and other health-related debt (36%), credit cards (20%), telecom (13%), and student loans (12%). These services where the CFPB has received the most complaints are either not offered by community banks or community banks are not significant participants in those industries.

Community banks are also generally first-party debt collectors in that they use their own collectors (or others) to recover on defaulted debt in their own names. To a lesser degree community banks utilize the services of law firms, with little reliance on third-party collectors and debt buyers. The estimated industry revenue from collecting the debts noted above clearly indicate that the focus of the CFPB's efforts should be on third-party collectors (with revenue of \$11.7 billion in 2011), versus first party collectors (with revenue of \$2 billion), and collection law firms (with \$2.4 billion in revenue).

If community banks are not abusing consumers, not participants in the largest segments of debt collection where the most abuse occurs, and predominantly collect debts in their own names, or use law firms to assist in their collection efforts, why is the CBAI interested in commenting on this Notice? Unfortunately community banks have learned that regulation aimed at protecting consumers from abuse (ironically not caused by community banks) will "trickle down" causing them additional regulatory burden. Therefore, it is not enough for the CFPB to be silent about exempting community banks from new proposed rules and regulations, community banks must be explicitly exempted. An explicit exemption provides clear and unambiguous direction to other regulators and the courts. And when the prudential regulators do begin applying the new rules to community banks it provides them with the ability to confront their regulators with the clear direction of the CFPB to exempt them from the law or regulation.

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It is important to remember that debtors have voluntarily entered into legal and binding agreements or obligations where creditors extended money/products/services in exchange for an absolute promise to pay. In a debtor/creditor relationship each party has rights and responsibilities. Creditors have the responsibility to act legally in collecting debt and it is the debtors' legal responsibility to pay their obligation according to the terms of their agreements. The origin of a collection call is the fact that the debtor did not uphold his or her responsibility.

The CBAI appreciates the Bureau's recognition that some consumers are "unwilling to pay their debts at the time when payment is required" and their unwillingness to do so place the creditor in an unreasonable and unjust position. Particularly when debtors are ignoring collection letters, not answering collection calls, and actively avoiding service of process, debt collectors should be entitled to employ the most aggressive legal collection practices.

The CBAI agrees with statements made in the Notice that the collection of consumer debt serves an important role in the functioning of the credit markets by reducing the costs of creditors, supports responsible borrowing by underscoring the obligation of consumers to pay their debts, and by recognizing that everyone playing by the same rules will level the playing field and not disadvantage reputable debt collectors which are playing by the rules.

There are several statements in the Notice of how the numbers of complaints and private actions have been increasing as consumers allege that debt collectors are violating FDCPA by inadequate service of process or insufficient evidence accompanying complaints. These actions and others are already violations of FDCPA and new regulations on top of the old are not what are needed. The CBAI recommends a more rigorous enforcement of the existing rules targeted at wrongdoers and then tracking progress on reduced complaints for an extended period of time before subjecting everyone in the industry to any additional regulatory burden. Perhaps the Bureau's October of 2012 Large Participant Rule, where the Bureau established supervisory authority over approximately 175 debt collectors representing over 60% of the industry's annual receipts, was the reason for the leveling off of actions in 2012. This trend in actions should be

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closely monitored to conclusively determine if new rules are truly warranted.

If the CFPB conclusively determines new FDCPA or Dodd-Frank rules are required, then the CBAI recommends that several rule writers from the CFPB work for a period of time at consumer debt collectors in a variety of industries, to experience the challenges, frustrations, and at times abuse in trying to collect legitimate amounts owed to creditors by debtors. A broad range of first-hand real-world consumer debt collection experiences will inform the CFPB rulemaking process in a way that no comment letter could ever possibly accomplish.

CBAI also encourages working within the existing framework of FDCPA versus scrapping it and starting anew. To completely redraft these regulations would represent an additional and unnecessary regulatory burden. Rather, the CFPB should selectively update and refine the Act to the extent necessary to get directly at the wrongdoers without adding to the regulatory burden for everyone else. Please do not do not punish the innocent in your pursuit of the wrongdoers.

**In summary, the CBAI urges the Bureau to recognize that community banks do not abuse consumers with unfair debt collection practices. While the debtor has a right not to be harassed or abused, the creditor has the right to be paid - and the initial aggrieved party in a default is the creditor and not the debtor.**

**Regulations already exist regarding fair debt collection practices. The CFPB should clearly demonstrate that these rules are insufficient before proposing new rules. More rigorous enforcement of the existing rules against those who are breaking the existing rules is clearly what is needed. If warranted, the Bureau should work to refine existing regulations versus starting over from scratch.**

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**Finally, an explicit exemption is needed in recognition of the fact that community banks are not abusing their customers and do not require or deserve any additional regulatory burden. Also, please unequivocally ensure that unwanted additional regulations do not “trickle down” and are applied to community banks by their prudential regulators.**

Thank you for your consideration of these observations and recommendations. If you have any questions or need additional information, please contact me at 847-909-8341 or by e-mail at [davids@cbai.com](mailto:davids@cbai.com).

Sincerely,

/s/

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