

January 20, 2014

CFPB: Information Request on Debt Collection (Reg F)

Overview of ANPR

The CFPB has issued an advance notice of proposed rulemaking (ANPR) as the agency considers adopting regulations to govern debt collection and debt sales. The ANPR seeks feedback on a variety of debt collection issues to assist the CFPB in developing proposed rules or in taking other actions, such as recommending statutory initiatives or issuing guidance.

Under the Dodd-Frank Act, the CFPB became the first federal agency with authority to issue substantive rules under the Fair Debt Collection Practices Act (FDCPA). Credit unions that collect their own debts have never been subject to the FDCPA; credit unions that collect debts for others—and CUSOs that offer debt collection services—are subject to the FDCPA. The Dodd-Frank Act also authorized the CFPB to prescribe rules prohibiting “unfair, deceptive, or abusive” acts or practices (UDAAPs). To enact regulations, the CFPB is proposing to rely on not only its FDCPA and UDAAP authority, but also on its more general Dodd-Frank rulemaking authority.

The ANPR contains 162 questions that address a wide range of debt collection issues. The ANPR is organized in the following nine parts:

- (1) Provides a general overview of debt collection, consumer protection problems in debt collection, and government authority and activities to address these problems.
- (2) Solicits information on the transfer of information and access to information upon sale or placement of debts.
- (3) Seeks information regarding validation notices, disputes, investigations, and verification of disputes.
- (4) Requests information about collector communications seeking location information about consumers, interacting with consumers themselves, disclosing debts to third parties, and newer technologies.
- (5) Asks for information about unfair, deceptive, and abusive acts and practices.
- (6) Addresses issues relating to the collection of debts that are beyond the statute of limitations.
- (7) Requests information about debt collection litigation, most of which occurs in state courts.
- (8) Raises questions about exemptions under federal law for state debt collection systems under the FDCPA, as well as for private entities that operate bad check diversion programs.
- (9) Solicits information concerning recordkeeping, monitoring, and compliance.

Comments are due to the CFPB by February 28; please [submit comments to CUNA by February 14](#).

Please provide CUNA with input on the following questions from Parts 2, 3, 4, 5, and 9. Answers to the related questions as well as any other comments or questions you may have will be most helpful as we develop our comment letter to the CFPB.

Part 2: Transfer and Accessibility of Information upon Sale and Placement of Debts

This Part addresses transfers of information related to debt when debts are sold or placed for collection with third parties. This Part seeks information to assist in the development of proposed rules for creditors, debt buyers, and third-party collectors to create a comprehensive and coherent system for information about debts. Incentives in the marketplace may not be sufficient in some circumstances to result in

collectors having adequate information. A comprehensive and coherent system for information about debts would make it more likely that those who demand that consumers pay debts have accurate and complete information bearing on claims of indebtedness. Having accurate and complete information, in turn, would facilitate disclosing information to consumers through validation notices and other methods, as well as assist in preventing false or misleading claims as to who owes debts and how much is owed.

A. Information Transferred Between Debt Owners and Debt Buyers or Third-Party Collectors

Debt owners, collectors, consumer advocates, and the FTC have all raised concerns about the adequacy of information transferred with debts when debts are placed with a collector or sold to a debt buyer. With respect to the placement of debts with third-party collectors, participants at a joint June 2013 FTC-CFPB roundtable on debt collection stated that the amount of information provided by a debt owner placing a debt with a collector may vary significantly depending on the sophistication of the debt owner and the collector. More sophisticated debt owners and collectors typically share information through electronic interfaces that allow both parties to access data maintained or submitted by either party.

With respect to debt sales, the FTC noted in its 2013 Debt Buyer Report that in addition to the information the FDCPA currently requires debt collectors to include with the validation notices, debt buyers typically receive or are aware of the name of the original creditor, as well as other information such as the original creditor's account number, the debtor's Social Security number, the date of last payment, and the date of charge-off. The FTC's report also examined the transfer and availability of debt-related documents (sometimes referred to as "media") when debts are purchased. According to the report, debt buyers obtain few, if any, underlying documents about a debt at the time of purchase. Debt buyers are sometimes able to obtain account documentation for the debts they purchase, but debt sellers often limit or charge for access to those documents. In the absence of this information, debt buyers may try to collect from the wrong consumer or collect the wrong amount.

In sum, it is widely recognized that problems with the flow of information in the debt collection system is a significant consumer protection concern. At the Roundtable, many participants expressed support for national standards related to what information should be transferred with a debt. However, various participants expressed different ideas about what specific information should be transferred. The CFPB is considering using its rulemaking authority to develop requirements related to the transfer of specified information or documents as part of the sale of a debt or placement of a debt with a third-party collector.

Q1: What data are available regarding the information that is transferred during the sale of debt or the placement of debt with a third-party collector and does the information transferred vary by type of debt (e.g., credit card, mortgage, student loan)? What data are available regarding the information that third-party debt collectors acquire during their collection activities and provide to debt owners?

Information Related to FDCPA Provisions

Q5: To what extent do debt owners transfer or make available to debt buyers or third-party collectors information relating to: Disputes (e.g., that a debt had been disputed, the nature of the dispute, whether the debt had or had not been verified, the manner in which it was verified, and any information or documentation provided by the consumer with the dispute); unusual or inconvenient places or times for communications with the consumer (e.g., at the consumer's place of employment); cease communications requests; or attorney representation? What would be the benefits and costs of debt buyers and third-party collectors obtaining or obtaining access to this information upon sale or placement of the debt? To what extent do third-party debt collectors provide this information to debt owners?

Documentation (Media)

Q8: Please describe debt collectors' access rights to documentation such as account statements, terms and conditions, account applications, payment history documents, etc. What restrictions are most commonly placed on these access rights? Do these restrictions prevent or hinder debt collectors from accessing documentation?

Q11: What privacy and data security concerns should the CFPB consider when owners of debts provide or debt buyers and third-party collectors obtain or obtain access to documentation and information when a debt is sold or placed for collection?

Technological Advances

In the 2009 FTC Modernization Report, the FTC noted that increases in data storage capacity can enable document sharing between creditors and collection agencies, or between creditors and debt buyers. A number of commenters at the recent FTC–CFPB Roundtable also pointed to technological advances as a means to better enable creditors, debt collectors, and debt buyers to share information and documentation. At the same time, centralizing such consumer data raises potential data privacy and security risks, as well as the costs of transferring documents and other information.

Q12: Would sharing documentation and information about debts through a centralized repository be useful and cost effective for industry participants? If repositories are used, what would be the costs and benefits of allowing consumers access to the documentation and information about their debts in the repository and of creating unique identifiers for each debt to assist in the process of tracking information related to a debt? What privacy and data security concerns would be raised by the use of data repositories and by permitting consumer and debt collector access? Would such concerns be mitigated by requiring that repositories meet certain privacy and security standards or register with the CFPB?

B. Information Debt Owner, Debt Buyer, or Third-Party Collector Provides to Consumer upon Sale or Placement of Debt

The FDCPA does not currently require any notification to consumers at the time that a consumer's debt is sold or placed with a third party for collection. Instead, consumers often become aware that their debts have been sold or placed with a third party for collection because they receive a communication to collect the debt or a written validation notice from the debt buyer or third-party collector. Consumers may have difficulty recognizing a debt or knowing whom to pay because a debt may be sold and resold multiple times or placed for collection multiple times with different third-party collectors, with the result that a consumer may receive communications from several debt collectors, possibly naming several debt owners, over a period of several years. Some commenters have suggested that one way to mitigate that confusion would be to require notification to the consumer when a debt is sold or placed for collection.

Q13: Do debt owners, buyers of debt, or third-party collectors currently notify consumers upon sale or placement of a debt, other than through the statutorily-required validation notices or through required mortgage transfer notices?

Q14: What would be the costs and benefits of requiring notification to a consumer when a debt has been sold or placed with a third party for collection? If such a notice were required, what additional information should be provided to the consumer and what would be the costs and benefits of providing such additional information?

Part 3: Validation Notices, Disputes, and Verifications (Section 809 of the FDCPA)

This Part seeks information related to the validation notices provided to consumers and the obligations of debt collectors with respect to consumer disputes. Part III.A discusses the content, form, and delivery of validation notices under the FDCPA. Part III.B solicits comment on the FDCPA dispute process, including the process to submit disputes, the requirements of investigations, and the processes used to verify debts.

A. Validation Notices

FDCPA section 809(a) generally requires a debt collector, within five days of the first communication with a consumer in connection with the collection of any debt, to provide a "validation notice," which includes

information such as the amount of debt, name of creditor, etc. Under FDCPA section 809(a), a debt collector is not required to provide this validation notice in writing within five days of the first communication with a consumer in connection with the collection of any debt if (1) the debt collector provided the information that is required in the validation notice in the initial communication to the consumer; or (2) the consumer has paid the debt.

The legislative history of FDCPA section 809 indicates that the principal purpose for the validation notice and related dispute rights was to “eliminate the recurring problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid.” Through FDCPA section 809, Congress intended to provide consumers with a means of addressing such mistakes by requiring collectors to provide debtors with some basic information about the alleged debt and about the consumer’s right to dispute it.

1. Information in Validation Notices Related to Recognizing the Debt

Debt collectors must disclose two pieces of information about the specific debt in validation notices: (1) The name of the creditor to whom the debt is owed, and (2) the amount of the debt. Concerns have been raised by the FTC and consumer groups that this information is not sufficient in many cases to allow consumers to recognize whether the debts being collected are their own because consumers may not recognize the name of the debt buyer that currently owns the debt. In addition, the amount of the debt shown on the validation notice may not be recognizable to consumers because it may differ from the amount of debt that was disclosed on the last periodic statement or billing statement sent by the original creditor because original creditors, debt collectors, and debt buyers sometimes add fees and interest to the amount of the debt that appeared on the last periodic statement, billing statement, or other documentation that consumers received.

Q16: Where the current owner of the debt is not the original creditor, should additional information about the current owner, such as the current owner’s address or other contact information, be disclosed in the validation notice or upon request? Would this information be helpful to consumers so that they may contact the current owner directly about the debt, or about the conduct of its third-party collector?

As discussed above, the amount of the debt shown on the validation notice may not be recognizable to consumers because original creditors, debt collectors, and debt buyers sometimes add fees and interest to the amount of the debt that appeared on the last periodic statement, billing statement, or other documentation that consumers received. In its 2009 Modernization Report, the FTC recommended that debt collectors be required to include in all validation notices an itemization of the total debt using the following categories: (1) Principal; (2) total of all interest; and (3) total of all fees and other charges added. The FTC concluded that this itemization would benefit consumers and debt collectors, insofar as consumers would be more likely to recognize debts they have incurred and to identify debts that are not theirs. Once they recognize a debt, consumers might be more willing to discuss payment arrangements.

For certain types of debts, such as closed-end mortgage loans, the amount of outstanding principal is disclosed on periodic statements for those loans. For other types of debts, such as credit card debts, consumers may not understand the term “principal” and how it relates to amounts shown on periodic statements or billing statements provided by the original creditor.

The CFPB specifically solicits comments on the alternatives discussed below for itemizing the total amount of debt. The CFPB also solicits comments on whether there are other alternatives it should consider. For each alternative, the CFPB solicits comment on the benefits and costs of providing each itemization, including the costs for creditors and debt collectors in tracking or collecting data and in providing this itemization on the validation notice. The CFPB also solicits comment on: (1) The types of debts for which or situation in which each alternative would be most useful to consumers and (2) how should relevant terms for each alternative should be defined.

- *Alternative 1:* (1) Principal; (2) interest; and (3) fees and other charges?
- *Alternative 2:* (1) The amount of debt at the date of charge-off or default; (2) total of interest added after the date of charge-off or default; (3) total of all fees or other charges added or credits

posted after the date of charge-off or default; and (4) any payments or credits received after the date of charge-off or default.

- *Alternative 3:* (1) The amount due shown on the last periodic statement given for the account; (2) any additional outstanding balance that became due after the closing date of such periodic statement; (3) any interest imposed after the closing date of such periodic statement; (4) any fees or other charges imposed after the closing date of such periodic statement; and (5) any payments or credits received after the closing date of such periodic statement.

Q17: Are there other approaches to itemization of the total amount of debt on validation notices that the CFPB should consider, and if so, for what type of debts should this itemization apply? For example, the CFPB recognizes that the three alternatives described above might work best for credit-based debt. Are there other approaches that might work better for other types of debts? Are there advantages to consistency in itemization across different types of debt or would it be more helpful, for consumers and collectors alike, to require different itemizations standards depending on the type of debt? Or could a standard set of information be required, with certain augmentation for specific types of debt?

Q18: What additional information should be included in the validation notice to help consumers recognize whether the debts being collected are owed by them or respond to collection activity?

2. Statements of Consumers' Rights Set Forth in the FDCPA

Under FDCPA section 809(a), debt collectors must disclose in the validation notice two statements regarding the consumer's right to dispute the debt. Specifically, the validation notice must include a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion of it, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and will mail a copy of such verification or judgment to the consumer. The validation notice must also include a statement that unless the consumer disputes the validity of the debt or any portion of it within 30 days after receipt of the notice, the debt collector will consider the debt valid.

Q19: Are the statements currently provided to consumers regarding these FDCPA rights understandable to consumers? If consumers do not understand the statements that collectors currently include on validation notices as to their FDCPA rights, please provide suggested language for how these statements should be changed to make them easier to understand.

3. Format and Delivery of Validation Notices

FDCPA section 809(a) does not impose formatting requirements for validation notices, such as form, sequence, location, grouping, segregation, or type-size requirements for the information in the notice. In addition, FDCPA section 809(a) does not expressly prohibit debt collectors from adding language to the written validation notice with the mandatory disclosures. Nevertheless, FDCPA section 809(b) expressly states that "[a]ny collection activities and communication during the 30-day period [to dispute the debt] may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor."

Debt collectors typically add language to the written validation notice along with the mandatory disclosures, such as a demand for payment.

Q23: What additional information do debt collectors typically include on or with validation notices beyond the mandatory disclosures? Do debt collectors typically include state law disclosures on the validation notices? If so, do debt collectors typically use a validation notice that contains the state law disclosures from multiple states, or do debt collectors typically tailor validation notices for each state?

B. Disputes and Verification

The adoption of standards for transferring information about debts and for compiling and presenting clarified and enhanced validation notices may make it more likely that collectors will try to collect the

correct amounts from the correct consumers. Currently, there are many circumstances in which consumers deny or question that they are the debtor, that they owe the debt, or that the amount sought is accurate, as evidenced by the significant volume of these complaints to the FTC and the CFPB.

The FDCPA provides consumers with the right to dispute and receive verification of the debts that collectors attempt to collect and many consumers exercise this right. Section 809(b) of the FDCPA provides that if a consumer disputes a debt in writing within 30 days of receiving the validation notice, a debt collector must stop collection of the debt until the collector obtains verification of the debt or a copy of a judgment against the consumer and mails it to the consumer. The FDCPA does not elaborate on the standards for investigating a dispute, nor does it expressly define “verification of the debt.”

The CFPB is interested in information bearing on the adequacy of current practices to investigate collection disputes and verify the debt under the FDCPA. According to the 2009 FTC Modernization Report, “many collectors currently do little more to verify debts than confirm that their information accurately reflects what they received from the creditor,” which is unlikely to reveal whether collectors are trying to collect from the wrong consumer, collect the wrong amount, or otherwise misrepresent the debt. The FTC further noted that to verify a debt, some debt collectors only provide consumers with a written statement that the amount being demanded is what the creditor claims is owed. To address these concerns, the FTC recommended that if a consumer disputes a debt, the debt collector should be required to undertake a “reasonable” investigation that is responsive to the specific dispute raised by the consumer. At the recent FTC–CFPB Roundtable, a number of participants raised similar concerns about the limited investigations collectors conduct when consumers dispute debts.

Q31: What types of consumer inquiries do debt collectors currently treat as “disputes” under the FDCPA? What standards do debt collectors currently apply in distinguishing disputes from other types of consumer communications?

Q34: Should the CFPB define or set standards for what communications must be treated as “disputes” under the FDCPA and, if so, how? What are the advantages and disadvantages of the definition recommended?

Regulation V sets standards for the consumer’s direct dispute notice under the FCRA. This notice must include: (1) Sufficient information to identify the account or other relationship that is in dispute; (2) the specific information that the consumer is disputing and an explanation of the basis for the dispute; and (3) all supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute.

Q35: Should consumers be required to provide particular information or documentation as part of their disputes to debt collectors to trigger an investigation requirement under the FDCPA? Should a consumer’s obligation to provide this information about the basis for their disputes be contingent on having received a validation notice with requisite information? Why or why not?

Under section 809(b) of the FDCPA, after receiving a consumer dispute, a debt collector may either cease collection efforts without investigation or may investigate the dispute with the intent of providing verification to the consumer. The FDCPA does not detail how a collector must investigate a dispute. Several commenters have raised concerns that some debt collectors state that they have verified the debt to the extent the FDCPA requires when, in fact, the collector has done little or nothing to investigate the disputes and verify the debts.

The FTC has recommended that debt collectors be required to conduct “reasonable” investigations under the FDCPA, noting that such a standard would be consistent with the FCRA. In the FTC’s view, adopting a “reasonable investigation” standard would decrease consumer concerns about mistaken collection attempts, but also respond to collection industry requests for flexible standards.

Q40: What steps should debt collectors be required to take to investigate a dispute? Would a “reasonableness” standard benefit consumers and debt collectors? Would more specific standards or guidance be useful to help effectuate such a standard?

Q41: How should the investigation required vary depending on the type of dispute? For example, if a consumer states the balance on a debt is incorrect, what information should a debt collector review for its investigation? If a consumer states that she is not the alleged debtor, what information should a debt collector be required to obtain or review? If a consumer disputes the debt by stating that she does not recognize it, what information should a debt collector obtain or review? If the consumer claims prior payment of the debt, what information should a debt collector obtain or review? Please comment on other common dispute scenarios that may require review of specific types of information.

Part 4: Debt Collection Communications (Sections 804 and 805 of the FDCPA)

Many provisions of the FDCPA regulate debt collectors’ communications with consumers and third parties. For example, debt collectors are generally prohibited from contacting consumers at unusual times or places, from disclosing collection-related information to third parties, and from communicating with consumers that have asked the collector to cease communications. The FDCPA also governs communications in which a debt collector seeks location information about a consumer from a third-party. These provisions focus on preventing consumer harm in debt collection communications.

Despite the FDCPA’s protections, consumers still consistently report abuses focusing on debt collection communications. For example, the FDCPA prohibits collectors from calling consumers “repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.” Nevertheless, the most frequent debt collection-related complaint in the FTC’s Consumer Sentinel database is that a collector is calling repeatedly or continuously, conduct in which collectors may be engaged to annoy, abuse, or harass the recipients of these calls. A 2009 survey conducted by Ohio University similarly found that approximately one-third of survey respondents had received multiple calls from a debt collector in a pattern that seemed to them to be harassment. Other communications-related concerns include calling hours, communications at the workplace, and inappropriate communications with friends and family. Consumers also file many lawsuits alleging that collectors have engaged in communication practices that are prohibited by the FDCPA.

Q54: The CFPB seeks comment on how rulemaking with respect to communications in debt collections could help both consumers and the industry.

Part 5: Unfair, Deceptive, and Abusive Acts and Practices (Sections 806, 807, 808, 810, and 812 of the FDCPA)

Congress enacted the FDCPA in response to the “abundant evidence of the use of abusive, deceptive, and unfair practices by many debt collectors.” A main purpose of the FDCPA’s provisions, therefore, is to prohibit the use of such practices. FDCPA section 806 prohibits “any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.” FDCPA section 807 also bars the use of any “false, deceptive, or misleading representation or means in connection with the collection of any debt.” FDCPA section 808 further prohibits the use of “unfair or unconscionable means to collect or attempt to collect any debt.”

The Dodd-Frank Act authorizes the CFPB to prescribe rules that identify as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service or the offering of a consumer financial product or service, including collecting debt related to and delivered in connection with a consumer financial product or service.

Unfair, deceptive, or abusive conduct that violates the FDCPA or the Dodd-Frank Act has been and will remain a focus of CFPB supervision and enforcement activity. Indeed, the CFPB recently issued two supervisory bulletins providing guidance to promote compliance with these laws. Although such conduct is unlawful under these statutes, incorporating debt collection provisions into rules relating to unfair,

deceptive, or abusive conduct could provide greater clarity and specificity. Greater clarity and specificity as to prohibited conduct could make it easier for collectors and others to know what they must do to comply with the law. Rules that provide greater clarity and specificity as to prohibited conduct also could simplify law enforcement actions against those who do not comply.

A. Abusive Conduct (Section 806 of the FDCPA)

A stated purpose of the FDCPA is “to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.” Although the FDCPA does not define the term “abusive,” FDCPA section 806 prohibits debt collectors from engaging in any conduct “the natural consequence of which is to harass, oppress, or abuse any person in collection of a debt.” The FDCPA also sets forth six specific examples of conduct that is harassing, oppressive, or abusive. The Dodd-Frank Act does not expressly prohibit conduct that is harassing or oppressive, but it does authorize the CFPB to prescribe rules barring “abusive” acts or practices in specified circumstances.

1. General Abusive Conduct Questions

Q93: Should the CFPB include in proposed rules prohibitions on first-party debt collectors engaging in the same conduct that such rules would bar as abusive conduct by third-party debt collectors?

C. Unfair Conduct (Section 808 of the FDCPA)

As discussed above, FDCPA section 808 prohibits any “unfair or unconscionable means to collect or attempt to collect any debt.” Without limiting the application of this general prohibition, section 808 sets forth eight examples of such prohibited behavior. Unfairness is not defined in the FDCPA. The Dodd-Frank Act also prohibits unfairness, and it authorizes the CFPB to identify through rulemaking acts or practices as unfair so long as “the CFPB has a reasonable basis to conclude that—(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and (B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.” The CFPB may consider established public policies as evidence in its analysis of whether acts and practices are unfair. This Dodd-Frank Act approach to “unfairness” is very similar to the approach to unfairness in section 5(n) of the FTC Act, and the CFPB has stated that its views on unfairness under the Dodd-Frank Act are informed by the FTC’s application of the unfairness standard in the FTC Act.

Q113: Should the CFPB include in proposed rules prohibitions on first-party debt collectors engaging in the same conduct that such rules would bar as unfair or unconscionable by third-party debt collectors? What information or data support or do not support the conclusion that this conduct is “unfair” under the Dodd-Frank Act? What information or data support or do not support the conclusion that this conduct is “abusive” or “deceptive” conduct under the Dodd-Frank Act?

Part 9: Recordkeeping, Monitoring, and Compliance Requirements

A. Federal Registration of Debt Collectors

A number of states require the licensing or registration of debt collectors that operate in their state. Although the procedures in each state differ, many states require that the collector file a certificate with the state that includes the name of the collection business, as well as the mailing and physical address of the business. States may also require a listing of individual branch offices, and all employees who operate in the state.

In 2010, there were more than 4,000 third-party debt collection firms that employed more than 140,000 people. Given the sheer number of debt collectors, the fact that not all states have licensing or registration programs, and that registration information may not be shared among states, debt collection

firms or individuals engaged in debt collection may commit an unlawful act in one state, leave the jurisdiction, and then commence operations in another state.

Section 1022(c)(7) of the Dodd-Frank Act provides the CFPB with the authority to “prescribe rules regarding the registration requirements applicable to a covered person,” subject to limited exceptions. Such a registration system could apply to many collection firms and individual collectors.

Q159: Should the CFPB propose rules to require debt collectors to register? Should any such registration system be used to register individual debt collectors, debt collection firms, or both?

Q160: The Nationwide Mortgage Licensing System and Registry (“NMLSR”), which was originally used by state regulators for the registry of mortgage loan originators, is increasingly being used as a broader licensing platform, including for the registration of debt collectors. Would it be desirable for NMLSR to expand or for some other existing platform to be used to create a nationwide system for registering debt collectors rather than having the CFPB create such a system? What could the CFPB do to facilitate the sharing of information among regulators who are part of the NMLSR or other nationwide system to safeguard confidentiality and protect privileged information?

B. Recordkeeping Requirements

At the FTC–CFPB Roundtable, several panelists stated that recordkeeping requirements should be added to the FDCPA. The FDCPA does not currently contain specific record retention requirements, though debt owners, who also function as creditors or mortgage originators, may be subject to record retention requirements under other statutes and regulations, such as TILA or the Equal Credit Opportunity Act and the CFPB’s implementing rules. Some Roundtable participants proposed that an FDCPA recordkeeping requirement should be coextensive with the length of time a debt can appear on a consumer report before it must be deleted as obsolete under the FCRA (generally seven years, with some exceptions). Others have suggested that a recordkeeping requirement should be coextensive with the one-year statute of limitations for private actions under the FDCPA, which begins to run from the time of the FDCPA violation. Another alternative would be to use the longer of these two periods.

Q161: What records do creditors and collectors currently retain relating to debts in collection? Should proposed rules impose record retention requirements in connection with debt collection activities? If so, what requirements should be imposed and who should have to comply with them? What would be the costs and benefits of these requirements?

Q162: How long do creditors and debt collectors currently retain records, and how does it differ based on the type of debt or type of record? Should the length of time that debt collection records are retained relate to how long a debt may generally be reported in a consumer report, how long a collector may collect upon the debt, or how long a consumer has to bring private action under the FDCPA? Or is another time period more appropriate?

Please send comments to Senior Assistant General Counsel [Luke Martone](#).

Click [here](#) for the ANPR in the *Federal Register*.