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May 19, 2021

Comment Intake—Debt Collection Effective Date

Consumer Financial Protection Bureau

1700 G Street, NW

Washington, DC 20552

Re: Debt Collection Practices (Regulation F); Delay of Effective Date; Docket No. CFPB-2021-0007;
RIN: 3170-AA41

Dear Sir or Madam:

The Credit Union National Association (CUNA) represents America’s credit unions and their more than 120 million members. On behalf of our members, we are writing regarding the Consumer Financial Protection Bureau’s (CFPB or Bureau) proposed delay of effective dates for the Fair Debt Collection Practices Act (FDCPA) rulemaking under Regulation F.¹

The Bureau has proposed to delay by 60 days the effective dates of the Debt Collection Final Rules (the rules) from November 30, 2021, to January 29, 2022. The Bureau is attempting to justify the delay as providing covered entities more time to “review” the rules “[i]n light of the ongoing societal disruption caused by the global COVID-19 pandemic”.² However, the Bureau has contradicted this justification in other contexts asserting, without the benefit of stakeholder feedback, that regulated entities have had sufficient time to adapt to the COVID-19 environment.³ This inconsistent handling of pandemic flexibilities coupled with the Acting Director’s stated intention to “preserv[e] the status quo with respect to QM and debt collection rules”⁴ has created needless confusion regarding the Bureau’s plans for regulating collections and how covered entities should best prepare for compliance.

While the relatively brief extension is unlikely to materially assist covered entities, it's possible the additional time may be desired by some. As a result, we are neutral on the merits of the 60-day delay. However, should the Bureau choose to adopt a delay, we believe it should retain the November 30, 2021 effective date for the rules’ safe harbor provisions. That said, we strongly recommend the Bureau announce its intention to implement the debt collection rules *as finalized* last year. After a reasonable period post-implementation, the CFPB can then analyze the rules’ effects and, with stakeholder input, consider whether additional resources would be beneficial, or amendments needed. The debt collection rules, while imperfect, reflected considerable input from a wide variety of stakeholders. Given the long and thorough development

¹ Debt Collection Practices (Regulation F); Delay of Effective Date, 86 Fed. Reg. 20334 (Apr. 19, 2021).

² *Id.*

³ CFPB Rescinds Series of Policy Statements, *available at* <https://www.consumerfinance.gov/aboutus/newsroom/cfpb-rescinds-series-of-policy-statements-to-ensure-industry-complies-with-consumer-protectionlaws/>.

⁴ CFPB Blog post from Acting Director David Ueijo, *available at* <https://www.consumerfinance.gov/aboutus/blog/the-bureau-is-working-hard-to-address-housing-insecurity-promote-racial-equity-and-protect-smallbusinesses-access-to-credit/> (Feb. 4, 2021).

process, these rules should be implemented as finalized to provide the benefit of certainty for both consumers and FDCPA-covered entities alike.

As the recent *Hunstein*⁵ decision from the 11th Circuit Court of Appeals demonstrates, the debt collection space is already rife with frequent litigation and the attendant unpredictability of judicial interpretation. The Bureau need not invite more uncertainty than already exists.

On behalf of America's credit unions, thank you for your consideration. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 508-3629 or amonterrubio@cuna.coop.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Monterrubio', with a horizontal line extending to the right.

Alexander Monterrubio
Senior Director of Advocacy & Counsel

⁵ *Hunstein v. Preferred Collection & Mgmt. Servs.*, 2021 U.S. App. LEXIS 11648, No. 19014434 (Apr. 21, 2021).