

September 18, 2019

Director Kathleen L. Kraninger
Attn: Comment Intake
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Proposed Rulemaking on Debt Collection Practices (Regulation F) [Docket No. CFPB-2019-0022, RIN 3170-AA41]

Dear Director Kraninger,

On behalf of the Asset Building Policy Network,* we write to comment on the Consumer Financial Protection Bureau (CFPB)'s proposed amendments to Regulation F, as outlined in a Notice of Proposed Rulemaking (NPRM) published on May 21, 2019 in the Federal Register (CFPB-2019-0022), that would establish rules governing third-party debt collection practices and participants.

As a coalition of civil rights, community development and policy organizations, including a financial institution, the Asset Building Policy Network (ABPN) is committed to coordinating savings and asset building policy and advocacy efforts at a national level; developing a shared communications agenda and strategy; and building the capacity of our affiliates members and their networks. In doing so, the ABPN seeks to improve the opportunity for economic progress for low-income individuals and families—especially communities of color—by increasing local access to responsible and appropriate financial products and services that can enable families to save, invest, preserve and build financial assets.

It is in this respect that we are thankful the Bureau recognizes the need for rules to govern the third-party debt collection industry.¹ However, while some of aspects of its debt collection proposal are positive, the rules put forward as a whole leave consumer exposed to financial harm and harassment.

More specifically, as a collective of organizations who work to generate savings and strengthen household financial resiliency within communities of color, the rule put forward by the Bureau is particularly concerning given that research by the Urban Institute has found that consumers of color are 66% more likely to have debts in collections² and that these consumers have higher rates of auto,³ medical⁴ and student debt⁵ that is either delinquent or in collections, compared to White consumers. Moreover, recent research by the Bureau itself has found that consumers of color are more likely to interact with the debt collection industry, finding that more than 40% of non-White consumers are contacted by debt collectors compared to 29% of White households.⁶ Making matters worse, an investigation by ProPublica has found that consumers of color also deal with the court system more than their White counterparts when it comes to debt, finding that court judgments to collect on debts were twice as likely in mostly Black neighborhoods than White ones.⁷

* The comments and recommendations within this letter are reflective of the Asset Building Policy Network as a body and not necessarily the position of any individual member.

Beyond these issues, the CFPB's proposed rule is particularly problematic considering that communities of color have fewer liquid assets and wealth compared to White households. On their own, these issues make the prospects of dealing with troublesome debt and debt collectors even more difficult for these consumers, but it becomes especially so in the absence of strong debt collection rules.

According to Prosperity Now's 2019 *Scorecard*, 60% of communities of color do not have the liquid assets to subsist at the federal poverty level for three months if faced with an unexpected loss of income.⁸ By comparison, just over 30% of White households are in such a financial position. When it comes to wealth—which is the capital that fuels long-term economic prosperity—data from the Census Bureau's Survey of Income and Program Participation shows that Black, Latino and Asian households have just a fraction of the wealth owned by White households.⁹ Given that debt makes up one half of our wealth, it should be noted that this issue plays a critical role in the ever-growing racial wealth gap. In fact, the rise in Asian American wealth inequality is correlated with faster rising debt and increased indebtedness in the community, particularly in student loan debt and car purchases.¹⁰

Beyond these issues, research by Prosperity Now has found that the issue of debt in communities of color is compounded further by stresses and strains that take an emotional toll on these consumers.¹¹ In fact, as the proposal itself states, Congress found that “abusive, deceptive, and unfair debt collection practices ... contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy,”

Emphasizing this point, in surveys with African American consumers in Baltimore, New York and Ft. Lauderdale, Prosperity Now found that 58% of participants indicated that the statement “Because of my situation, I feel like I will never have the things I want in life” is a good description of how they feel. As one interviewee put it, “I'm not going to say I lose sleep at night, but it is something that weighs down on your conscience because ... sometimes you might want to apply for other things or try your hand at other stuff, and ... [debt] haunts you when you try.” Beyond the basic anxiety created by debt, this type of sentiment underscores the fears people have about the impact their debt burden could have on their futures.

The reason we are emphasizing the consequences of debt – especially for consumers of color – is to underscore the importance of getting the debt collection rules right. Given that approximately 71 million Americans have some form of debt in collections,¹² while a nearly equal number of consumers¹³ and student loan borrowers¹⁴— approximately 50 million—have debts that are severely delinquent, there is simply too much at stake. Real lives will be impacted by the result of this proposal, and we want that result to lead to greater financial security and an opportunity to thrive for all consumers, but especially for consumers of color.

The right rules are going to be strong rules that put a stop to the worst abuses of the industry and meaningfully protect consumers. It is with this context and framing in mind that we offer the following recommendations:

- **Attempts to Contact Consumers about Debt by Phone or Electronic Communications Should be Limited Further.** Under the proposal, debt collectors can attempt to contact consumers about debt by phone up to seven (7) times each week per debt and there are no limits on the number of attempts by an electronic medium like email or text messaging. Given the industry's documented

use of strong arm, questionable and harassing practices,¹⁵ the number of attempts by phone should be limited further, the contact limits should be tied to the consumer rather than the debt, and consumers must expressly consent to receive communications electronically.

- **Collectors Should be Prohibited from Collecting Time-Barred Debt.** There are debts that are so old that a consumer is no longer legally required to pay them, but collectors can still make a request for payment. The Bureau is proposing a prohibition on suing or threatening to sue a consumer for expired debt, but the rule should go further and prohibit the collection of this time-barred debt outright.
- **Notices of Important Information about Debt Should be Sent Clearly and Safely.** Important information that must be shared with a consumer about debt, such as the amount owed broken down by principal, interest, and fees and a consumer's right to dispute the debt should also be shared in written form, not just orally.
- **A Statement of Consumer Rights Should Accompany the Required Notification of Information Regarding Debt.** Consumers have rights beyond the ability to dispute a debt and the right to ask for the name and address of the original creditor. A more thorough list of consumer rights should be provided in written form along with the notice that contains information about the debt for every consumer contacted by a collector.

Given the size of the debt collection industry, along with the reality that communities of color are nearly twice as likely as White households to be one financial emergency away from economic ruin,¹⁶ and that these communities own just a fraction of the wealth owned by White households,¹⁷ thus leading them to be less financially prepared to deal with troublesome debt, we had hoped the Bureau would have provided these and other consumers with the protections needed to deal with third-party debt collectors in ways that support their financial well-being. Although the current proposal does not achieve this goal, we believe that if the changes outlined above are made to the rule, consumers will be safer and more financially secure.

We thank the Bureau for considering our recommendations.

Sincerely,

The Asset Building Policy Network

¹ The proposed rulemaking concerns third party debt collectors, not the creditor that originated the debt.

² *Debt in America: An Interactive Map* (Washington, DC: Urban Institute, December 2018),

<https://apps.urban.org/features/debt-interactive-map/>

³ "Auto Loan Debt," *Debt in America: An Interactive Map*, https://apps.urban.org/features/debt-interactive-map/?type=auto&variable=autoopen_pct

⁴ "Medical Debt," *Debt in America: An Interactive Map*, https://apps.urban.org/features/debt-interactive-map/?type=medical&variable=perc_debt_collect

⁵ "Student Loan Debt," *Debt in America: An Interactive Map*, https://apps.urban.org/features/debt-interactive-map/?type=student&variable=perc_stud_debt

⁶ CFPB Survey on Consumer Experiences with Debt

⁷ Paul Kiel and Annie Waldman, "The Color of Debt: How Collection Suits Squeeze Black Neighborhoods," *ProPublica*, October 2015, <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods>

⁸ "Liquid Asset Poverty Rate," *Debt in America: An Interactive Map*, <https://scorecard.prosperitynow.org/data-by-issue#finance/outcome/liquid-asset-poverty-rate>

⁹ <https://scorecard.prosperitynow.org/data-by-issue#finance/outcome/net-worth>

¹⁰ Christian E. Weller and Jeffrey Thompson, "Wealth Inequality Among Asian Americans Greater Than Among Whites" (Washington, DC: Center for American Progress, 2018)

¹¹ Spectra Myers and Pamela Chan, "Overdue: Addressing Debt in Black Communities" (Washington, DC: Prosperity Now, August, 2018), https://prosperitynow.org/sites/default/files/resources/Addressing_Debt_in_Black_Communities_1.pdf

¹² Hannah Hassani and Signe-Mary McKernan, "71 million US adults have debt in collections," *Urban Institute*, July 2018, <https://www.urban.org/urban-wire/71-million-us-adults-have-debt-collections>

¹³ <https://scorecard.prosperitynow.org/data-by-issue#finance/outcome/severely-delinquent-borrowers>

¹⁴ <https://scorecard.prosperitynow.org/data-by-issue#education/outcome/severely-delinquent-student-loan-debt>

¹⁵ Jake Halpern, "Paper Boys: Inside the Dark, Labyrinthine, and Extremely Lucrative World of Consumer Debt Collection," *New York Times*, August 2014, <https://www.nytimes.com/interactive/2014/08/15/magazine/bad-paper-debt-collector.html>

¹⁶ "Liquid Asset Poverty Rate," *Debt in America: An Interactive Map*, <https://scorecard.prosperitynow.org/data-by-issue#finance/outcome/liquid-asset-poverty-rate>

¹⁷ Emanuel Nieves and Dedrick Asante-Muhammad, "Running in Place: Why the Racial Wealth Divide Keeps Black and Latino Families From Achieving Economic Security" (Washington, DC: Prosperity Now, 2018), https://prosperitynow.org/sites/default/files/resources/Running_in_Place_FINAL_3.2018.pdf.