

The Consumer Financial Protection Bureau issues a proposed rule to increase federal supervision over debt collectors and consumer reporting agencies

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On February 16, 2012, the Consumer Financial Protection Bureau ("CFPB") issued a proposed rule that would have a dramatic impact on debt collectors and consumer credit reporting agencies. The regulation is significant for a number of reasons. Up until now, the federal government's powers over debt collectors and consumer reporting agencies has been extremely limited; the Federal Trade Commission ("FTC") can sanction debt collectors for violating consumer protection laws, but the FTC cannot actually monitor or supervise them.

The proposed CFPB regulation, 12 C.F.R. Part 1090, would significantly increase the federal government's oversight powers. As an initial matter, it would subject the debt collectors and consumer reporting agencies to CFPB scrutiny under its broad powers to investigate and regulate the practices of non-bank "larger participants" in the market for consumer financial products or services. Accordingly, the proposed rule will allow the CFPB to conduct examinations of these entities, and require them to submit reports for the purpose of: (1) assessing compliance with federal consumer financial law; (2) obtaining information about such persons' activities and compliance systems or procedures; and (3) detecting and assessing risks to consumers and to the consumer financial markets. With this new oversight, new compliance plans will need to be developed and put into place so that when an examination is conducted, the examinee will be ready. The CFPB states that the proposal is only the "first in a series of rule-makings to define larger participants."

While the proposed rule does not cover all debt collectors and consumer reporting agencies, it covers *most* of them. The proposed rule would cover debt collectors (along with debt buyers and collection law firms) with more than \$10 million in annual receipts from debt collection activities. This covers about 175 firms, or two-thirds of the debt collection market. The proposed rule would also cover consumer reporting agencies that earn more than \$7 million annually. This covers about 30 firms, which accounts for more than 90 percent of the consumer credit reporting market.

The proposal now enters a 60-day comment period. The CFPB expects to complete the rule by July 2012.

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