

CFPB Examination Checklist: *A Primer*



insideARM.com
accounts receivable management

CFPB EXAMINATION



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Introduction

The Consumer Financial Protection Bureau was formed in 2011 to oversee banks, credit unions, securities firms, payday lenders, mortgage-servicing operations, foreclosure relief services, and, most importantly for this industry, debt collectors.

As [covered on insideARM.com](#), “The CFPB is the first regulator to be given direct supervisory authority over collection agencies and debt buyers, including onsite examinations and business audits for larger companies.”

Currently, Large Market Participants – collection agencies with more than \$10 million in annual receipts¹ – are under direct supervision of the CFPB.

Supervision, in this instance, means several things:

- 1) Overseeing consumer complaints about debt collection.
- 2) Providing regulation of the debt collection industry – as opposed to the previous relationship the industry had with the Federal Trade Commission.
- 3) Implementing, regulating, and overseeing laws and regulations affecting the debt collection industry (as well as other industries, like banking, lending, and credit cards).
- 4) Auditing and examining debt collection companies that fall under the Large Market Participant distinction.

This report is best used by *all* agencies -- whether Large Market Participants under the direct purview of the CFPB, or business partners of a Large Market Participant, or even a collection agency who, at this point in time, may not necessarily be on the CFPB's radar -- as a way to make sure that they are CFPB-ready.

This report will not keep your agency from being examined. It will, however, make the examination process easier for you and your company.

¹ [“Test to define larger participants](#). A nonbank covered person is a larger participant of the consumer debt collection market if the nonbank covered person's annual receipts resulting from consumer debt collection are more than \$10 million.”

The CFPB states four objectives for its examination of large market participants in the debt collection industry:

- To assess the quality of the regulated entity's compliance management systems, including its internal controls and policies and procedures, for its debt collection business.
- To identify acts or practices that materially increase the risk of violations of Federal consumer financial laws in connection with debt collection.
- To gather facts that help to determine whether a regulated entity engages in acts or practices that violate the requirements of Federal consumer financial laws.
- To determine, in accordance with CFPB internal consultation requirements, whether a violation of a Federal consumer financial law has occurred and whether further supervisory or enforcement actions are appropriate.

Depending on the scope, and in conjunction with the compliance management system review procedures, each examination will cover one or more of the following modules:

- Entity Business Model
- Communications in Connection with Debt Collection
- Information Sharing, Privacy, and Interactions With Consumer Reporting Agencies
- Consumer Complaints, Dispute Resolution, and Debt Validation
- Payment Processing and Account Maintenance
- Equal Credit Opportunity Act
- Litigation Practices, Repossession, and Time-Barred Debt

What to Expect (When You're Expecting)

Once a collection agency receives a letter from the CFPB, stating its intent to examine that agency, the company will have approximately 60 days.

The following is a list of the initial items a CFPB Examiner will look at when beginning an examination. We recommend building a series of binders (for smaller agencies) or computer folders, updated regularly, that you can review on a quarterly basis. These binders can be used as initial documents for a CFPB investigation.

KEY REMINDER REGARDING POLICIES & PROCEDURES

- The CFPB Examiners will not only want to see your Policies & Procedures manuals; they will also check those documents against your day-to-day processes.
- While it is important that your Policies & Procedures spell out compliance best practices, if they are not living documents, proven to guide day-to-day practices, you will be putting your company at risk -- not just during the examination, but in the event of a law suit.
- Policies and procedures that are not implemented are worse than having no policies and procedures at all. (But not by much!)

However, a common warning that we will share throughout this report is: **IT IS NOT ENOUGH TO SIMPLY HAVE POLICIES IN PLACE.** These policies and procedures must be demonstrable as common business practices for your organization. Just because you have a document that lays out your company's policies for call volume, complaint management, dispute resolution, etc. -- if you are not also following those procedures, you are putting your organization at grave risk. In its examinations, the CFPB is looking to make sure the compliance is an everyday part of your business; if you have simply collected what you think are the Best Practices, but have not implemented those, thinking that being able to point to them is policy enough, you are in for a rude, and costly, awakening.