TrueAccord

# Debt Collection Compliance 101

A Primer to Rules, Pitfalls and Solutions

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## What's TrueAccord?

TrueAccord is turning your losses into opportunities with data science and expert treatment.

Our system allows you to stop handling late payments, get paid faster, and retain more customers you thought you lost.

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# Introduction

Debt collection is a highly regulated business activity, having to take several laws and regulatory bodies into consideration, at the Federal and State levels. Rightfully so: we constantly hear about scammers and unscrupulous debt collectors who make a quick buck by blatantly breaking the rules.

This short ebook is meant to serve as a starter guide to regulation in debt collection. What are the rules to follow? Who are the regulators? What are the common pitfalls, and how can you prevent them?

# Who Regulates Debt Collectors?

## Who Regulates Debt Collectors?

Debt collection is regulated both at the Federal and State level. State attorney generals often handle consumer complaints against debt collection agencies in the state.

The Consumer Financial Protection Bureau (CFPB) was started after the enactment of the Dodd-Frank Act in 2010 and is currently the Federal regulator for the debt collection industry. The CFPB focuses on larger market participants: those with more than $10m in annual receipts from consumer debt.

FDCPA

TCPA

UDAAP

FCRA

# Which Laws Should Debt Collectors Adhere To?

# Which Laws Should Debt Collectors Adhere To?

Almost every aspect of a debt collector's work is regulated, and since debt collection is inherently a litigious practice, every violation is expected to create exposure.

**FDCPA**

The Fair Debt Collection Practices Act (FDCPA) and its state-level corresponding laws

**TCPA**

The Telephone Consumer Protection Act (TCPA)

**UDAAP**

Unfair, Deceptive and Abusive Acts or Practices (UDAAP)

**FCRA**

The Fair Credit Reporting Act (FCRA)

Which laws should debt collectors adhere to?

## The Fair Debt Collection Practices Act

The FDCPA is a Federal law governing debt collection practices, and it's accompanied by State-level laws in many states. The FDCPA defines forbidden behaviors by debt collectors: times to call, language and style, and more.

FDCPA

The law defines compensation for every violation and is a strict liability law: the consumer doesn't need to prove any damage to demand compensation.

Which laws should debt collectors adhere to?

# The Telephone Consumer Protection Act

The TCPA was enacted in 1991 to limit unwanted solicitation from telemarketers, but has been interpreted to include phone communication from debt collectors. The law requires express prior consent to contact consumers via cell phone or text message, or with automated calling equipment.

TCPA

The TCPA has been a source of a growing number of lawsuits, especially around of express consent.

Which laws should debt collectors adhere to?

## The Fair Credit Reporting Act

FCRA

The FCRA regulates proper uses for consumer information in the US. It defines the way that data can be collected, provided and used by Credit Reporting Agencies and other entities to make credit decisions.

Debt collectors often use reporting to credit agencies as a tool to get consumers to pay. Data integrity in debt collection is in a poor condition and that leads to FCRA lawsuits due to wrongful reporting of credit data.

Which laws should debt collectors adhere to?

## Unfair, Deceptive and Abusive Acts or Practices (UDAAP)

UDAAP

The Dodd-Frank Act includes a provision that empowers the CFPB to prevent UDAAP. The definition of “deception” under this provision is broad and includes every case where a consumer might reasonably be misled even by a minor omission.

Coupled with the FDCPA’s standard looking at the least sophisticated consumer and not the average one, it is very easy to mislead consumers, even unintentionally

# Common Pitfalls in the Debt Collection Process

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The CFPB launched its online complaints portal in 2013, and since then, has accumulated tens of thousands of complaints. We'll review the top three most common complaints in the CFPB's database from November 2014, and discuss how each can be prevented by using simple processes and tools.

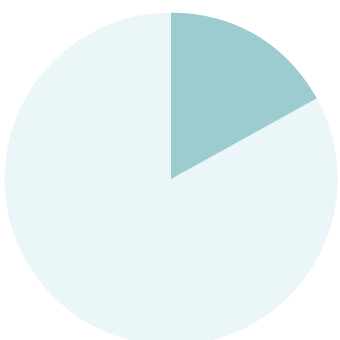
The top complaints are:



Continued attempts to collect debt that is not owed (43%)



Communication tactics (19%)



Disclosure of verification of debt (17%)

Common Pitfalls in the Debt Collection Process

## Continued Attempts to Collect Debt That Is Not Owed

Imagine being hounded for a payment you already made, or for a debt that you incurred as a victim of fraud, or for someone else's debt. Coupled with a hard to comprehend dispute process, consumers end up complaining and suing instead of resolving these issues.

Collectors can prevent this situation in several ways:

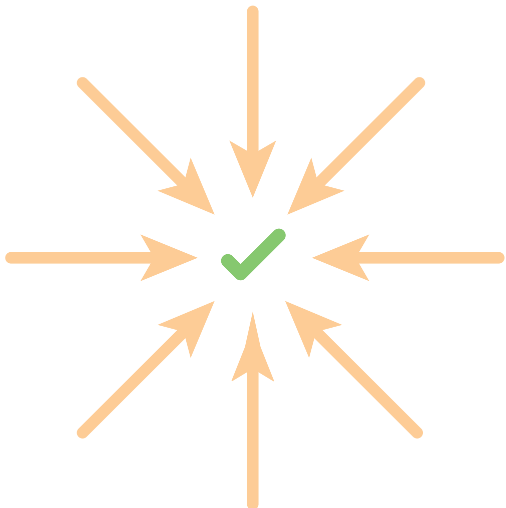
The first preventative measure is improving their standard for record keeping and information received when a case is moved from one collector to another, reducing the cases of undocumented disputes.

Common Pitfalls in the Debt Collection Process

# Continued Attempts to Collect Debt That is Not Owed

The second measure is adopting a real-time, easy to understand and automated dispute process. TrueAccord's dispute process completes in under 3 minutes and doesn't require mailing letters.

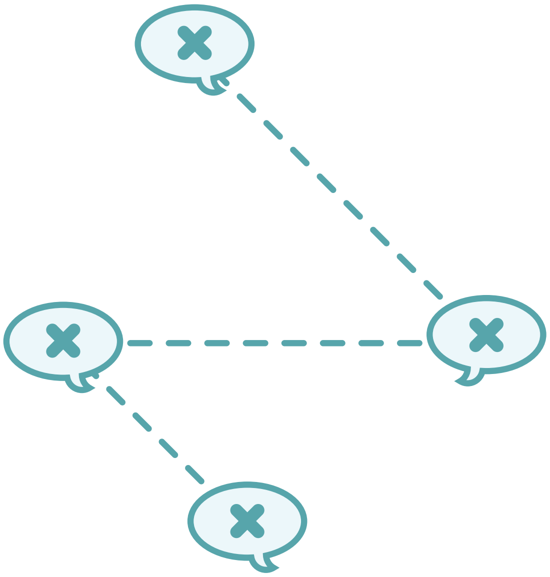
Last, collectors should be using up to date technology, one with real time payment processing and channel integration. If a consumer dispute on a call or pays, they cannot be contacted about the debt because reconciliation was too slow.



Common Pitfalls in the Debt Collection Process

## Communication Tactics

“Harassment” is a vague term for a behavior forbidden by the FDCPA but not well defined. Still, collectors often are cited for harassing and abusive behavior – calls outside of the permitted time window, calls to the workplace, repeated calls and so on.



Common Pitfalls in the Debt Collection Process

## Disclosure Verification of Debt

This cryptic title encompasses all collection actions that are carried without providing the consumer with enough information about their right and the process – not telling them that they have the right to dispute, and in some cases not identifying as a debt collector.

Controlling what disclosures are given during a call is almost impossible. In addition, most collectors view a request to verify a debt as an attempt to avoid paying it, since they are measured by the time it takes them to collect - and providing vital information to the consumer is a hindrance.

The key to prevention is having the required information delivered automatically upon request and code-controlling all disclosures. A free flow of information enables greater trust, and better recovery.

# Bottom Line

We covered several topics in this Compliance 101 book: basic terms, most common complaints, and prevention tips. We hope that you'll use this to get acquainted with the different aspects of keeping your collection operation compliant, and how technology can help.

Interested to learn more? Check our the compliance corner on the TrueAccord blog.

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