September 10, 2019

Ms. Kristin McPartland
Office of Regulations
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

(Comments submitted electronically via Regulations.gov)

Dear Ms. McPartland:

Thank you for the opportunity to comment on the Consumer Financial Protection Bureau’s (the Bureau) proposed regulations governing the activities of debt collectors, as that term is defined in the Fair Debt Collection Practices Act (FDCPA). We submit these comments on behalf of The Institute for College Access & Success (TICAS), a trusted source of research, design, and advocacy for student-centered public policies that promote affordability, accountability, and equity in higher education.

As long-time experts on student loan debt and repayment, we are particularly concerned with the provisions in the proposed rulemaking that would impact student loan borrowers. We urge the Bureau to ensure that its final rules protect individuals’ privacy and prevent harassment and unscrupulous practices. Any proposal to modify debt collection regulations should be most responsive to the needs of consumers, including student loan borrowers, rather than to the needs of the debt collection industry.

With this perspective, we offer the following recommendations for modifying the proposed rules:

- The Bureau should not exempt any forms of communication from the FDCPA and must require collectors to respect privacy in all communications.

- Debt collectors should be limited to one conversation and three attempts per week per consumer. Limits should be set per customer, not per debt as currently proposed. In a recent pilot program focused on servicing defaulted student loans, the Bureau of the Fiscal Service (Fiscal) at the U.S. Department of the Treasury placed more than 21,000 calls in an attempt to initiate a dialogue regarding the borrower’s debt. Borrowers answered Fiscal’s calls less than two percent of the time — illustrating the ineffectiveness of repeated phone calls in engaging a student loan borrower.¹

While we appreciate the Bureau’s proposal to allow consumers to stop phone calls or other types of communication without stopping all communications, the Bureau should clarify that “stop calling” requests can be made orally and should apply to all calls from the collector, unless the consumer asks to stop calls to one number only.

Collectors should be required to obtain consumer consent before contacting consumers via electronic communications. Collectors should also be required to allow opt-out via any communication channel used by the collector and must comply with the E-Sign Act before sending key notices electronically.

The Bureau should require collection attorneys to review original account-level documentation of alleged indebtedness and make independent determinations that they are filing a lawsuit against the right person, for the right amount, and that their client has the legal authority to do so.

The Bureau should ban collection of time-barred debt in and out of court because these debts are so old that records are lost, the collector may have the wrong person or wrong amount, and the debt cannot be collected without mistakes or deception.

The Bureau should require validation notices to be provided by mail unless the consumer opts in to electronic delivery, improve the model notice, require collectors to include a statement of rights, and improve language access.

Unless consumers opt in to electronic communications, the Bureau should require notice by mail before reporting to a credit agency.

In addition to the Bureau’s proposal prohibiting collectors from selling accounts that were paid, discharged in bankruptcy, or where an identity theft report was filed, the Bureau should also prohibit the sale of time-barred or disputed debts.

In addition to prohibiting communications on public social media platforms, the Bureau should only allow private direct message communications through social media platforms if the consumer gives the collector consent.

We appreciate the opportunity to provide these comments and urge the Bureau to modify its regulations to ensure that the needs and rights of consumers, including student loan borrowers, are appropriately protected.

Sincerely,

Michele Streeter
External Affairs & Policy Analyst