Consumer Financial Protection Bureau

1700 G Street NW, Washington, DC 20552

MEMORANDUM

DOCKET:	Federal Register Citation: 12 CFR Part 1006 Docket No.: CFPB-2019-0022 or RIN 3170-AA41
DATE OF EX PARTE COMMUNICATION:	July 10, 2019
SUBJECT:	Email from Lauren Saunders, National Consumer Law Center, to Brenda Muniz, CFPB, regarding the Debt Collection Practices Notice of Proposed Rulemaking (NPRM)
SENDER:	Lauren Saunders, National Consumer Law Center
MEMO PREPARED BY:	Brenda Muniz, Office of Public Engagement and Community Liaison, CFPB

On July 10, 2019, Brenda Muniz, CFPB, received an email from Lauren Saunders, National Consumer Law Center, with the subject line, "Letter requesting delay of debt collection comment deadline," regarding the debt collection NPRM. Lauren Saunders also provided an attachment entitled, "Delay Request for Debt Collection Rule."

ATTACHMENT:	Letter to Director Kraninger requesting a delay in the Debt Collection NPRM comment period, July 9, 2019.

1700 G Street NW, Washington, DC 20552

July 9, 2019

Kathy Kraninger, Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Request for delay of deadline for debt collection comments

Dear Director Kraninger:

Americans for Financial Reform (on behalf of its 200 plus members), Center for Responsible Lending, Consumer Federation of American, National Association of Consumer Advocates, National Consumer Law Center (on behalf of its low income clients), Public Citizen and U.S PIRG respectfully request a twomonth extension to October 21, 2019 of the deadline to respond to the Consumer Financial Protection Bureau's (CFPB or Bureau) proposed debt collection rule.

We appreciate the initial 90-day comment deadline that the Bureau provided and are working diligently to attempt to meet it. But it is becoming increasingly apparent that it will be difficult to impossible to do an adequate job responding to the lengthy and complicated proposal by the current August 19 deadline. The additional time will also enhance efforts to seek input from the broad and diverse members of the public impacted by the proposal – virtually every American in one way or another –to ensure that all ramifications are consider and that as many people as possible will learn about the proposal and be able to contribute their views. Additional time is needed for several reasons.

The proposal is very long and complicated. The 538 pages cover numerous topics including telephone calls, emails (personal and work), text messages to both basic and smartphones, use of social media, exemptions from the E-Sign Act, use of hyperlinks that could impact cybersecurity, litigation and threats of litigation on debts beyond the statute of limitations, treatment of court documents containing false, deceptive or misleading information, the interplay of burdens of proof, defenses and safe harbors, a new set of limited content messages sent through various media, and a new model validation notice containing numerous pieces of information that may potentially be conveyed both orally and in writing. Each of these topics is intricate and complicated in its own right, and many of the proposals also have potential implications for topics not directly addressed in the proposal. In addition, the Bureau has proposed provisions covering the full breadth of the FDCPA's provisions, including ones the Bureau is not proposing to add to or interpret. While many of those provisions mirror statutory language, many have changes that, while apparently small and technical, must be analyzed closely to consider how they will be interpreted.

The proposal will be the first ever set of regulations implementing a 52-year old law. The Bureau is not merely proposing to amend an existing regulation. Definitions and other aspects of the regulations will impact the entire law.

This regulation is being implemented on the base of 52 years of caselaw with tens of thousands of cases as well as numerous interpretive letters, enforcement actions and other activity from the FTC, CFPB, and other federal and state authorities. It is essential to consider how the proposals fit with and will impact settled as well as unsettled law.

There are very few organizations that represent the interests of people subject to debt collection that have the expertise and capacity to analyze the complex proposal and to respond with detailed analyses in light of the current state of the law and practice and of the impacts of the proposed changes on consumers. We are small nonprofit organizations with limited resources and with many other obligations. In order to ensure that the record is robust and that the Bureau's actions are fully considered, it should consider the impact of the rulemaking process on small entities like us just as it considers the impact of its proposed rules on small businesses.

The proposal's broad potential impact – on virtually every person in this country – adds to the complexity of analyzing and commenting on the implications for different constituencies. The proposal has different impacts on older consumers, low income consumers, rural consumers, people with limited English proficiency, communities of color, individuals with disabilities, victims of domestic violence, low wage workers, people with mental illnesses or suffering with stress or depression, people with medical debt, student debt, and other types of debt, small businesses, employers and other constituencies.

The proposal also impacts a wide variety of people who do not owe debts. It will impact friends, family, caregivers, small businesses, and employers (who themselves are diverse, including health care providers, emergency responders, retail stores, and many others). The proposal could impact virtually anyone who may mistakenly be the subject of debt collection communications and litigation against the wrong person, at the wrong phone number or email address, or for debts paid long ago. The proposal may also impact people who are targeted by scammers and purveyors of malware and spyware who masquerade as debt collectors.

Consideration of all of these ramifications, and outreach to multiple constituencies, adds to the complexity of responding adequately. Yet it is critical to the Bureau's fulfillment of its statutory mandate that the impacts on and input from stakeholders on all sides be considered in order to be able to adequately balance the needs of those stakeholders.

Moreover, despite the broad impacts of the proposal, there has been little publicity encouraging comments from the public beyond the activities during the week of the proposal's release. The task of publicizing the proposal and encouraging comments has been left to the same resource-strapped organizations that are attempting to respond to the proposed regulation.

The Bureau's own activities in other areas have also consumed much of the resources of our organizations. During the same time period that the proposal has been pending, our organizations and members have analyzed and in most cases responded to the Bureau's:

- proposal to rescind much of the payday loan rule;
- request for information on the remittance market;
- forum on abusiveness;
- request for comments on the overdraft fee opt-in rules;
- proposal regarding the review of rules under the Regulatory Flexibility Act;
- its proposed rule under the Home Mortgage Disclosure Act;
- its advanced notice of proposed rulemaking on further regulations implementing the Home Mortgage Disclosure Act.

We also devoted considerable resources to responding to several other Bureau requests immediately before the publication of the proposed debt collection rule, which tapped resources that could have been used preparing for the debt collection rule or doing other organizational work that can no longer be delayed. These include requests for comments on Property Assessed Clean Energy loans, the credit card market, and the availability of funds and collection of checks, among others.

These are just a few of the time demands generated by the CFPB. Our organizations have also been dealing with requests for input by other agencies as well as Congress.

The time period for developing and submitting comments also falls over the summer when many people will be on long-planned family vacations. That not only cuts into the time available, but makes it more difficult to seek input from and coordinate with various constituencies who may be on vacation during different time periods.

We believe that a mere two additional months to comment will provide the Bureau the enhanced feedback from the public that it needs to finalize a rule that meets its statutory mandates. It has been 52 years since the passage of the FDPCA, nearly 6 years since the Bureau's 2013 advance notice of proposed rulemaking, and 3 years since the CFPB's outline of proposals under consideration for a rule. Yet the proposed rule varies significantly from the outline, and thus considerable additional work is needed beyond the work that organizations put into analyzing and responding to that outline.

The Bureau has taken several years to get to the stage of a proposed rule because of the complexity of the issues. There is no urgency that mitigates against giving the public two more months to respond to that proposal.

Thank you for your consideration of this request. We would appreciate prompt consideration so that we may plan accordingly.

Yours very truly,

Americans for Financial Reform Education Fund
Center for Responsible Lending
Consumer Federation of America
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
Public Citizen
U.S. PIRG