cfpb Consumer Financial Protection Bureau

Change is Here:

An In-Depth Guide to the New CFPB Rules

The new requirements from the CFPB are designed to address concerns about debt collection communications. These rules apply to calling customers, but now for the first time ever, the CFPB has also issued rules around email and SMS. To help gain a better understanding of the new rules, and to help you best determine how to comply, we'll take a broad look at each one. We'll also cover how the new regulations impact you, what you need to do about them, **and how LiveVox can help you strategize and execute for success.**

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What are the new CFPB rules?

Before we can talk about how the new CFPB rules impact you, first it's important to have a broad understanding of the regulations. And it's important to note that the final ruling comes in two parts. The first part, published on October 30th, 2020, addresses a wide range of requirements and is available to read in its entirety at **https://bit.ly/3lxb0n8**. The second part, specifically covering validation notices and certain disclosures to customers, and published on December 18th, 2020, can be found at **https://bit.ly/2LoPHqO**.

If you have specific questions about how to operationalize the CFPB's new rules, please don't hesitate to reach out to us.

1. **Time and place:**
   Clarifies the times and places, when and where, a debt collector may communicate with a customer.
2. **Channel restrictions:**
   A customer is allowed to restrict the channel a debt collector uses to communicate with them.
3. **Frequency restrictions:**
   Imposes limits on the number of calls that can be made about a particular debt.
4. **Email and SMS:**
   Clarifies the use of email and text messages in debt collection, with certain limitations and requirements, such as providing explicit opt-out messaging.
5. **Managing consent:**
   A debt collector must obtain consent before sending texts or emails to customers.
6. **Validating contacts:**
   Prescribes requirements for obtaining a valid email address.
7. **Limited-content messages:**
   Describes what a limited-content message needs to look like.
8. **Call recordings:**
   Debt collectors must retain call recordings for 3 years following the date of the last communication.
9. **Time-barred debt:**
   Prohibits debt collectors from making threats to sue, or from suing, customers on time-barred debt
10. **Debt parking:**
    Customers must be informed of their debt—orally, in writing, or electronically—before that debt can be reported to a consumer reporting agency.
11. **Validation notice:**
    Detailed disclosures about the debt and rights in debt collection must be provided at the outset of collection communications with a customer.

How do the new CFPB rules impact my operations?

Limiting calling attempts to a customer to seven in a seven-day period about a particular debt requires you to be more strategic with your calls. It also means you need to have the ability to ensure you don't break the new rules. How? By having technology in place that can count all attempts to any phone number when you call customers.

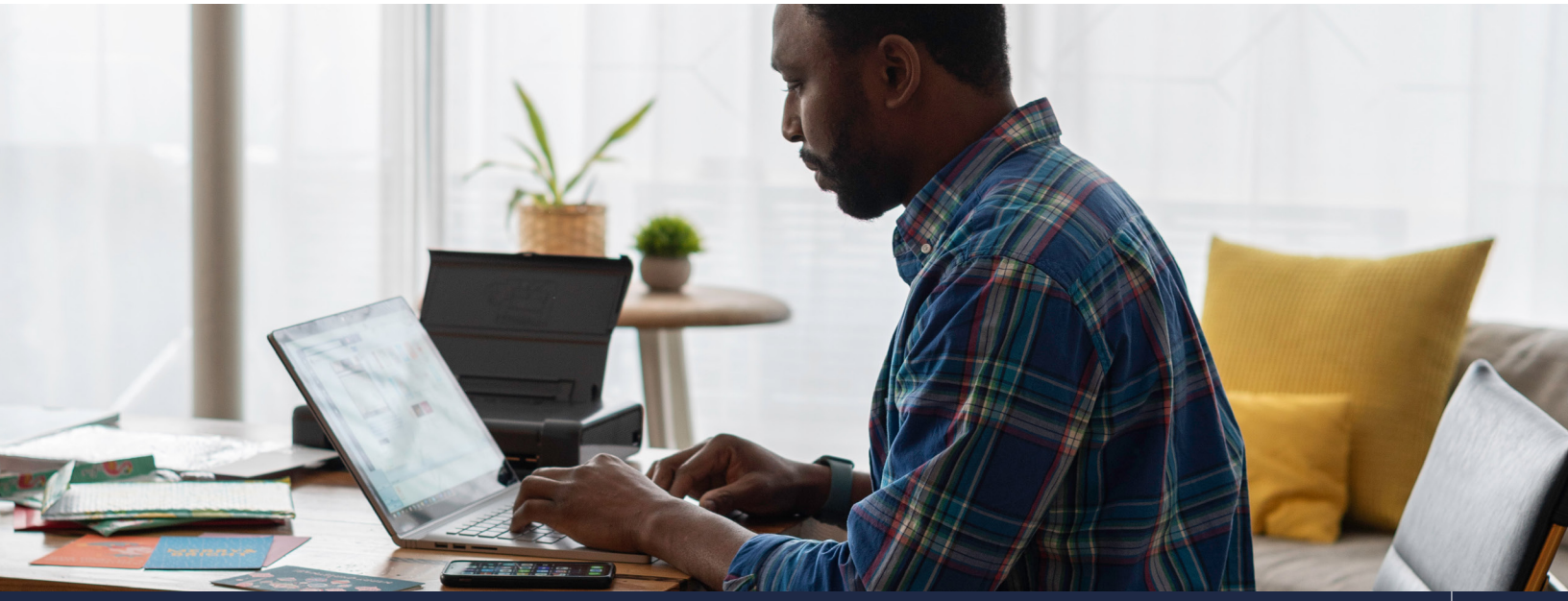
Right now, you may have some restrictions in place based on specific clients, or some rules that you follow internally, but now you are given government mandates—and they'll be penalties if you don't adhere—so you have to more closely watch your overall dialer operations. It becomes crucial to ensure that any types of calls you're making are counted so you don't exceed the prescribed amounts.

This isn't just about reaching the customer at home, either. It applies to reaching the customer on any number. You need to be much more cognizant of what you're doing with your dialing now that there's going to be a hard federal guideline from the CFPB. And for extra peace of mind, you ideally want to have the right technology to make sure you don't break the new rules.

When it comes to time-barred debt, the CFPB in effect has codified what courts have been saying for years: suing on time-barred debt is a violation of the Fair Debt Collection Practices Act (FDCPA). The Bureau did not finalize any federally mandated disclosures required of collectors for time-barred debt, but many states do require those disclosures and they remain in effect. It's possible that more and more states will adopt time-barred debt disclosures moving forward.

As for the rule about informing customers about their debt prior to credit reporting, this requirement should not be a difficult one to deal with. This will, however, more specifically impact agencies that collect on small-dollar balances and debt buyers. If you find that this rule could be a problem point for your business, you'll want to make sure you have an omnichannel communications strategy in place since you're permitted to send the disclosure via email.

Adhering to the Model Form is the most significant aspect of the CFPB's final rule to implement FDCPA requirements regarding certain disclosures for consumers. While the CFPB states that debt collectors can use either the Model Form or a different one, any departure from the Model Form could expose you to greater liability.



What do I need to do about the new CFPB rules?

Be proactive:

Above all else, you can't be reactive. The only way to be proactive is to have the right technology in place to ensure you follow the new rules. In some cases, you might not need to do anything at all. You might already be staying within the new confines. But you might not be. Do you already have specific rules in place? You need to find out for sure. And even if you are complying with the requirements now, you need to ensure that you will continue to comply in the future.

Evaluate your operations:

You need to start planning. You need to start making sure that you have the ability—both internally and externally—to make sure that you don't violate these new rules. The first question to ask yourself is: are you currently operating within the new CFPB requirements? If not, it's crucial you start putting a plan into place now that prioritizes compliance.

Create a strategy:

It comes down to process or product. Are you going to use a process to comply with the new rules? Or are you going to use a product? Think about this: processes break more often than products do. So choosing the product route is a good start. But a product can't ensure you have a strategy for your dialing.

Use digital channels:

If you're not already using email and SMS in your communications, it's time to start. Officially, as the ruling is written, emails and text messages will not count against the limit of seven communications to a customer about a particular debt in a seven-day period.

Supplementing your calls with digital channels is a key way to more effectively reach customers, although you need to be sure you're including clear opt-outs in your messages.

In addition, using email in your operations is more important than ever, since electronic messages fulfill the requirement to inform customers about their debt before credit reporting. You can also use email to send validation notices—a more cost-effective and streamlined method than traditional mail.

Monitor, monitor, monitor:

Run exception reporting and see how many attempts you're making to customers in a seven-day period. Did you have exceptions or not? Did you not have exceptions because that's what you planned? Or did you not have exceptions by happenstance? With the right technology powering your operations, the insights you gain from your exception reporting will be that much easier to understand.

Capture consent:

Before, it was important to capture consent from customers. Now, it's more critical than ever. But with so many calls—and ideally emails and text messages—happening with customers, how can you possibly manage the capture and revocation of consent across all interactions? The answer is a robust consent management tool, further powered by speech analytics.

What will happen if I don't do anything about the new CFPB rules?

Maybe nothing. Maybe something. Rolling the dice isn't worth it, though. If you're not complying with the new rules by the time the enforcement deadline hits, it could lead to fines from the CFPB and litigation from customers.

By operating outside the lines, there's always a possibility you could be sued, or worse. Your company's reputation could also take a hit. Why even take the chance? Not following the new CFPB standards is not an option. You'd be putting your contact center at risk—and that risk could have a very real cost to your bottom line.

How can LiveVox help me with the new CFPB rules?

Consideration #1

It starts with the right technology. At LiveVox, we offer Attempt Supervisor, which drastically simplifies how you manage your contact attempts to meet compliance and customer preference requirements. With Attempt Supervisor, you can configure voice attempt controls across all of your campaigns, regardless of whether your agents are in-house, working remotely, or you are outsourcing your operation. Especially with the new requirements around making seven calls in a seven-day period about a particular debt, along with the seven-day hiatus after talking to a customer, Attempt Supervisor can be that much more effective.

Attempt Supervisor will enable you to start setting your calling rules. You need to have the right technology in place and make sure it's working long before the new regulations are enforceable. Don't wait. Be proactive, secure the right product, and start working on your processes now. Get Attempt Supervisor in place to start enforcing your current calling rules and to get used to the product, and you'll be ready to comply with the new CFPB requirements when they go live. And see below for added improvements coming to Attempt Supervisor in 2021.

Consideration #2

As we've talked about before, with the new rules, managing consent will be more crucial than ever. It's not even really a consideration—it's a necessity. You need to empower your agents to capture consent and initiate omnichannel customer engagement. Consent revocation is often the most difficult compliance element to track and manage. LiveVox makes it easier with unified profiles that automatically update changes as they are made. In keeping with the new CFPB rules, our Consent Management tool lets you easily capture and track customer opt-ins and opt-outs across all channels, simplifying how you manage consent and preferences.

Customer profiles are embedded across channels, making it easier to engage with them as needed. And you can create hyper-targeted messaging campaigns, giving you a unified solution to manage all communications with customers. When you're equipped to track consent in such a powerful way, it unlocks new opportunities, such as the ability to use disclosures to customers as an opportunity to promote digital channels.

Consideration #3

The new regulations permit emails and text messages to customers, albeit with certain limitations. The use of email is now permitted for sending Validation Notices and disclosures before credit reporting. This means you need to start figuring out how to best implement email and SMS in your operations, because these channels will be more valuable now than ever before. We strongly recommend—especially in light of these new rules—using a multichannel strategy to most effectively engage with your customers while still keeping compliance top of mind. At LiveVox, we offer omnichannel solutions to help you do exactly this.

Consideration #4

The new CFPB provision requiring three years of call retention can feel like a daunting one. But with the right speech analytics technology in place, not only can you retain your call recordings, you can also mine them for data and insights. At LiveVox, we offer SpeechIQ®, our speech analytics tool that ensures 100% of interactions in your contact center are automatically monitored, analyzed, and scored by advanced AI. With SpeechIQ®, you can get promptly notified of regulatory risk, customer dissatisfaction, or anything else crucial to your business. Specifically, we recommend using SpeechIQ® to track if your agents are 1) including the Mini-Miranda during conversations and 2) not threatening to sue customers over time-barred debt, among other uses.

Consideration #5

Ask us about multichannel contact controls available as part of Attempt Supervisor, because you need to be able to count your emails and text messages too, not just your calls. It's crucial that you make sure these are flagged as part of the overall picture, and that you set some type of limit, even though the CFPB hasn't done so yet. You might even want to consider folding the number of emails and text messages you send into the maximum seven contact attempts per week count discussed in this brief. Replacing a call with an email or SMS would be the safest approach to compliance.

Wrap Up

The November 30, 2021 enforcement deadline for the new CFPB rules will be here before you know it. That's why it's crucial you be proactive now to prevent any last-minute need for changes—or worse, to avoid being in a position where you're doing nothing at all.

Reach out to us with any questions or concerns surrounding the new rules. If you want to discuss the regulations in-depth, our experts have the answers you're looking for. If you want to talk through your communications strategy, our business consultants are available to review it with you. And if you want the right technology in place to get your operations in line with the new CFPB rules, contact us for a demo of Attempt Supervisor, Consent Management, digital messaging channels, or SpeechIQ®. We're here to help.

About LiveVox: LiveVox is a next-generation cloud contact center platform that powers more than 14 billion interactions a year. By seamlessly integrating omnichannel communications, CRM, and WFO, LiveVox delivers exceptional agent and customer experiences, while helping to reduce compliance risk. LiveVox's reliable, easy-to-use technology enables effective engagement strategies on channels of choice to drive performance in the contact center. Founded in 2000, LiveVox is headquartered in San Francisco with offices in Atlanta, Columbus, Denver, St. Louis, Colombia, and Bangalore. To learn more, visit www.livevox.com.