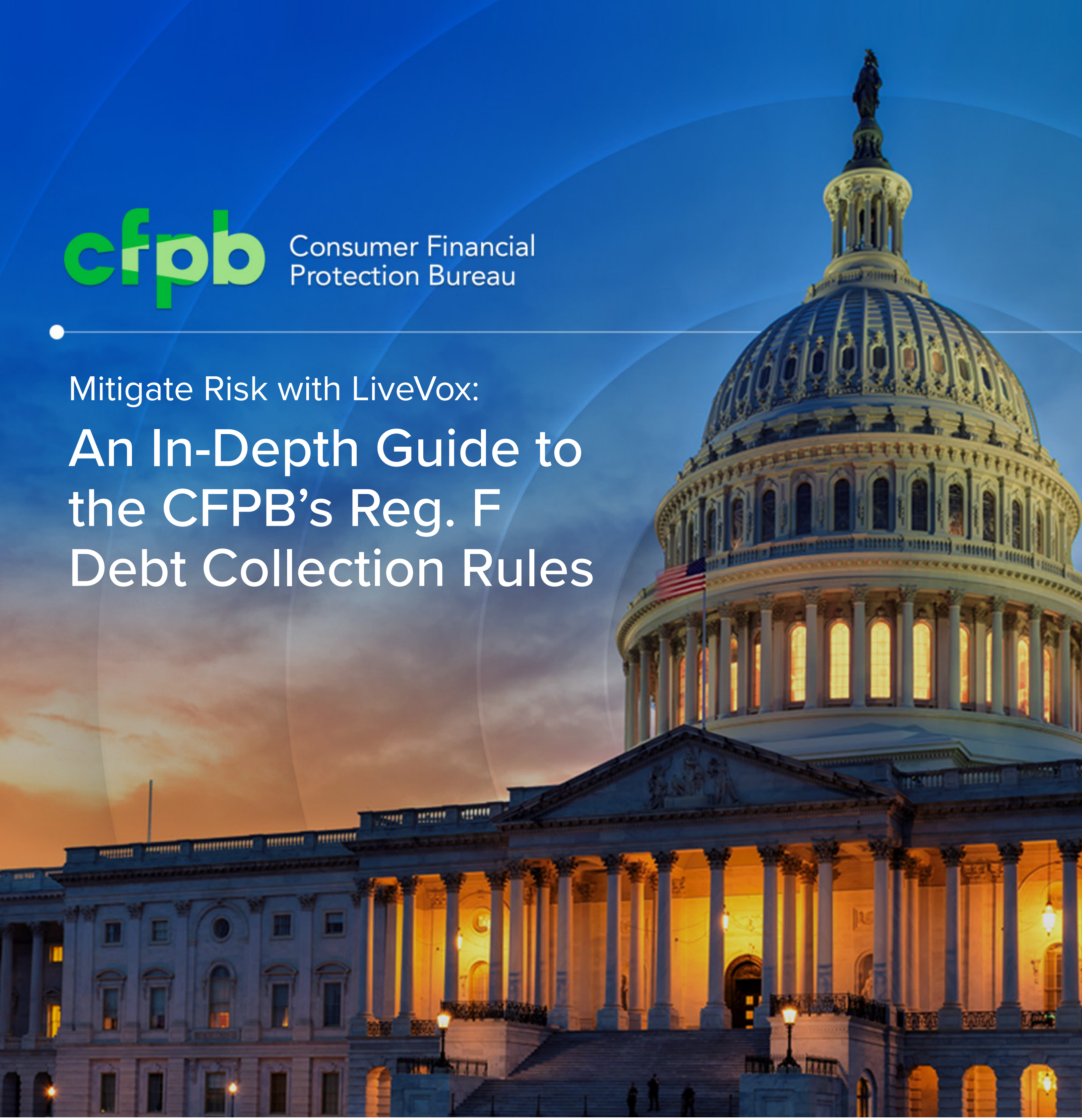

Consumer Financial Protection Bureau

Mitigate Risk with LiveVox:

An In-Depth Guide to the CFPB's Reg. F Debt Collection Rules

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

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Breaking Down the CFPB's Reg. F Rules

Before we can talk about how the CFPB's Reg. F impacts 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 for consumer engagement and is available to read in its entirety at **https://bit.ly/3lxb0n8**. The second part, specifically covering validation notices and certain disclosures to consumers, published on December 18th, 2020, can be found at **https://bit.ly/2LoPHqO**. The effective date for both parts of the final ruling was November 30, 2021.

If you have specific questions about how to operationalize the CFPB's Reg. F, 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 consumer.
2. **Channel restrictions:**
   A consumer is allowed to restrict the channel a debt collector uses to communicate with him or her.
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. **Validating contacts:**
   Prescribes requirements for obtaining a valid email address.
6. **Limited-content messages:**
   Describes what a limited-content message needs to look like.
7. **Call recordings:**
   A debt collector must retain call recordings for 3 years following the date of the last communication.
8. **Time-barred debt:**
   Prohibits a debt collector from making threats to sue, or from suing, a consumer on time-barred debt.
9. **Debt parking:**
   A consumer must be informed of his or her debt—orally, in writing, or electronically—before that debt can be sent to a consumer reporting agency.
10. **Validation notice:**
    Detailed disclosures about a consumer's debt and rights in debt collection must be provided at the outset of collection communications.

How Reg. F Impacts Contact Centers

Limiting calling attempts to a consumer 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 consumers.

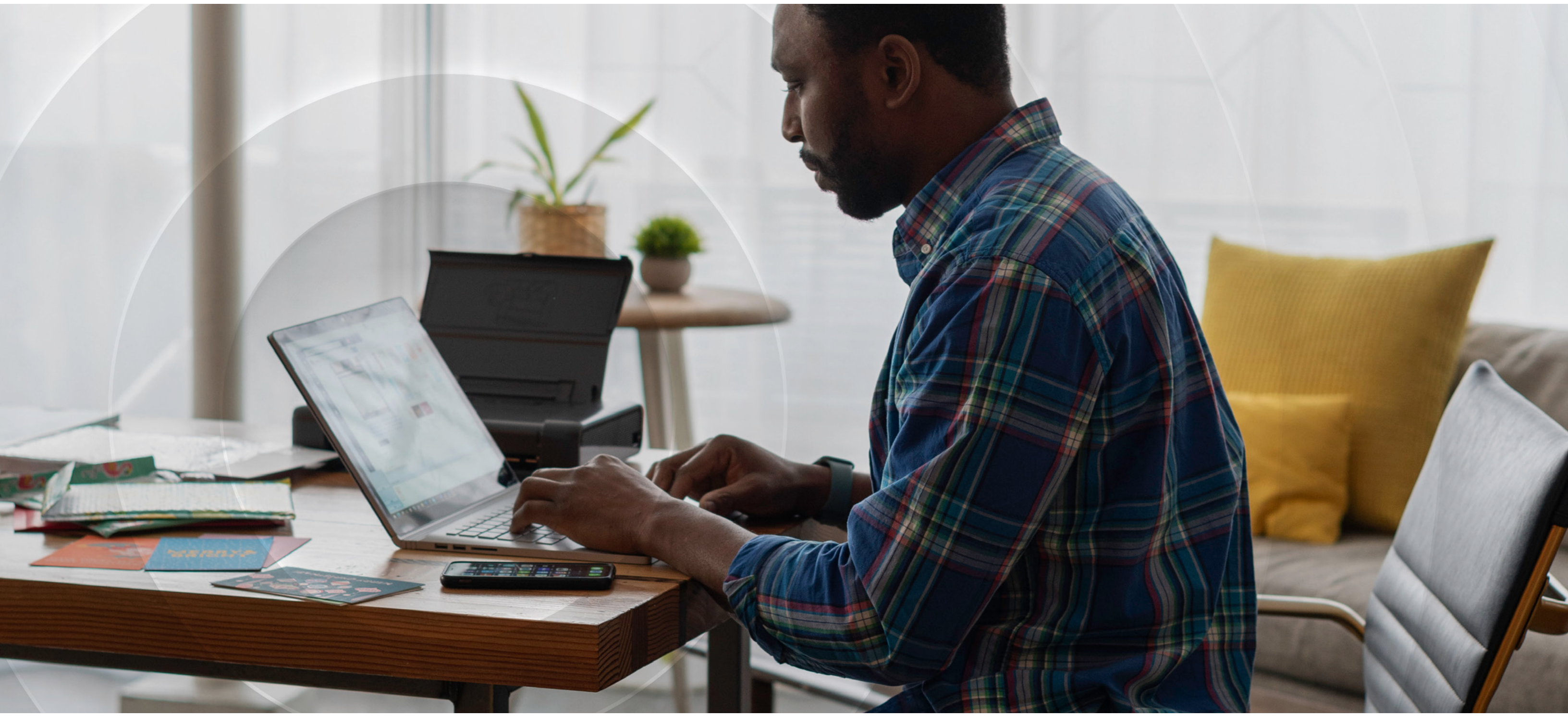
Right now, you may have some restrictions in place based on specific clients, or some rules that you follow internally, but now you are given government mandates—and there could be legal exposure if you don't adhere—so you have to more closely watch your overall dialer operations. It becomes crucial 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 consumer at home, either. It applies to reaching the consumer on any number. You need to be much more cognizant of what you're doing with your dialing now that there's a hard federal limit from the CFPB. And for extra peace of mind, you want to have the right technology to make sure you don't break the 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 consumers about their debt prior to credit reporting, this requirement should not be a difficult one to deal with. This will, however, more specifically impact debt buyers, as well as agencies that collect on small-dollar balances. 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.



Make CFPB Reg. F Compliance a Top Priority

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 rules. In some cases, you might not need to do anything at all. You might already be staying within the confines of the regulations. 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:

Confirm that you have the ability—both internally and externally—to make Reg. F compliance a top focus. The first question to ask yourself is: are you currently operating within the specific 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 alone 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 do not count against the limit of seven communications to a consumer about a particular debt within a seven-day period.

Supplementing your calls with digital channels is a key way to more effectively reach consumers, 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 consumers 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 consumers in a seven-day period. Did you have exceptions? If there were no exceptions, is that what you planned for? Or did you not have exceptions by chance? 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 consumers. Under Reg. F, it's more critical than ever. But with so many calls—and ideally emails and text messages—happening, how can you possibly manage capturing and revoking consent across all channels? The answer is a robust consent management tool, further powered by speech analytics with quality management.

What happens if I don't do anything about Reg. F?

Maybe nothing. Maybe something. Rolling the dice isn't worth it, though. If you're not complying with the rules, it could lead to lawsuits from consumers and fines from the CFPB.

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 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 CFPB requirements, consumer preferences, and your own operational parameters. With Attempt Supervisor, you can configure multichannel attempt controls across all of your voice, email, and SMS campaigns, regardless of whether your agents are in-house, working remotely, or you are outsourcing your operation. Especially with the limits around making seven telephone calls in a seven-day period about a particular debt, along with the seven-day hiatus after talking to a consumer about that debt, Attempt Supervisor is a crucial tool to help you set and manage attempt caps over a configurable duration of time.

Don't leave it up to your agents to comply with the "7 in 7" rule—the risk of human error is too high. And don't wait until after you've run afoul of the rule to implement the right solution—the penalties for non-compliance are all too real. Instead, be proactive. The sooner you get Attempt Supervisor in place, the sooner you can start enforcing contact limits that can't be overridden by your agents. The peace of mind is worth the investment when you can worry less about CFPB compliance and focus more on getting the most out of each consumer interaction.

Consideration #2

Attempt Supervisor isn't just for phone calls, either. It works for SMS and email campaigns, too, so you have maximum control and flexibility across a multichannel environment.

Per the CFPB, texts and emails do not count toward the "7 in 7" rule, which makes digital channels more important then ever. For example, consider shifting consumers to SMS or email if they're on an ongoing payment plan or cadence.

Consideration #3

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 consumer 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 CFPB's rules, our **Consent Management** tool lets you easily capture and track consumer opt-ins and opt-outs across all channels, simplifying how you manage consent and preferences.

Consumer 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 consumers. When you're equipped to track consent in such a powerful way, it unlocks new opportunities, such as the ability to use disclosures to consumers as an opportunity to promote digital channels.

Consideration #4

The new regulations permit emails and text messages to consumers, 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 consumers while still keeping compliance top of mind. At LiveVox, we offer **omnichannel solutions** to help you do exactly this, including **Human Text Initiator (HTI®)**, our industry-leading solution for doing outbound SMS engagement that mitigates risk and increases productivity at the same time.

Consideration #5

The 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**® with Quality Managment, our speech analytics tool that ensures 100% of interactions in your contact center are automatically monitored, analyzed, and scored by advanced AI. with SpeechIQ® promptly notifies you of regulatory risk, consumer dissatisfaction, and other insights 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 consumers over time-barred debt, among other uses.

Wrap Up

November 30, 2021 was the effective date for the CFPB's Regulation F debt collection rules. It's crucial to take a compliance-focused approach, which means evaluating your processes to ensure you're operating within the limits imposed by the requirements. Crossing your fingers and hoping for the best is not a viable strategy if you want to avoid costly litigation, fines, and other penalties.

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 CFPB's Reg. F, contact us for a demo of Attempt Supervisor, Consent Management, Two-Way Messaging, or SpeechIQ® with Quality Management. We're here to help.