

FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

EXAMINATION PROCEDURES

Examination Objectives

- To determine the adequacy of the institution's internal procedures and controls to assure consistent compliance with FDCPA.
- To determine if the institution complies with the requirements of the FDCPA in collecting or attempting to collect third-party consumer debts.

Examination Procedures

The following procedures are to be completed through interviews with personnel knowledgeable about and directly engaged in the institution's collection activities and through reviews of any written collection procedures, reciprocal collection agreements, collection letters, dunning notices, envelopes, scripts used by collection personnel, validation notices, individual collection files, complaint files, and other relevant records.

1. Determine if the institution is a debt collector under FDCPA.
2. Determine if the institution has established internal procedures and controls to ensure compliance with the FDCPA These
3. If the institution has acted or is acting as a debt collector under the FDCPA, determine if the institution has:
 - a. Communicated with the consumer or third parties in any prohibited manner (15 U.S.C. 1692b and c);
 - b. Furnished the written validation notice within the required time period and otherwise complied with applicable validation requirements (15 U.S.C. 1692g);
 - c. Used any harassing, abusive, unfair, or deceptive collection practice prohibited by FDCPA (15 U.S.C. 1692d, 1692e, 1692f, and 1692j);
 - d. Collected any amount not expressly authorized by the debt instrument creating the debt or by state law (15 U.S.C. 1692f(1));
 - e. Applied all payments received as instructed and, where no instruction was given, applied payments only to undisputed debts (15 U.S.C. 1692h);
 - f. Filed suit in an authorized forum if the institution sued to collect the debt (15 U.S.C. 1692i).

REFERENCE: 2012 CFPB Examination Manual