

[COMPANY]

Fair Debt Collection Practices Act

■ FDCPA ■

POLICY MANUAL

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SAMPLE

FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA")

1. Introduction

[Company] is committed to achieving full compliance with all applicable federal consumer financial laws and regulations and strives to maintain the highest standards of compliance.

OPTION 1: [Company] is not a debt collector under the Fair Debt Collection Practices Act ("FDCPA") because we collect only debts owed to us, our affiliates, persons to whom we have transferred loans we originated, or persons for whom we service loans.

Although [Company] is not a debt collector, we recognize that it is important to be knowledgeable with regard to the FDCPA's requirements because they provide guidance on acceptable collections practices. Furthermore, we recognize that the Dodd-Frank Act's prohibition on unfair, deceptive, or abusive acts or practices (collectively, "UDAAPs") applies to both first-party and third-party debt collectors.]

OPTION 2: [Company] is a debt collector under the Fair Debt Collection Practices Act ("FDCPA") because we collect debts owed or due or asserted to be owed or due to other persons.]

As such, [Company] establishes this policy in an effort to comply with the provisions of the FDCPA and requires that all management, employees, and service providers adhere to the standards set forth in this policy.

1.1. Purpose

Financial institutions that are subject to FDCPA requirements are expected to adopt and follow written policies and procedures to carry out their FDCPA responsibilities. As such, [Company] has implemented this policy for the purpose of establishing minimum requirements and standards and to ensure compliance with the FDCPA. [Company] sets forth these standards in an effort to prevent [Company], its employees, and service providers from violating applicable federal laws and regulations related to debt collection practices and the standards set forth in the FDCPA.

To the extent that state or local laws impose requirements that exceed those contained in this policy, the stricter law will apply. If any applicable laws are in conflict with this policy, [Company] will seek guidance from qualified legal counsel to resolve the conflict and to revise [Company]'s policies and procedures as necessary.

1.2. Scope and Application

The FDCPA primarily governs collection activities conducted by entities that meet the definition of "debt collectors" under the Act, which generally includes: (1) third-parties such as collection agencies and collection attorneys collecting on behalf of creditors; (2) creditors collecting their own debts using an assumed name; and (3) any collection agency that acquires debt at a time when it is already in default. The FDCPA applies to debts incurred primarily for the consumer's personal, family or household purposes.

A creditor may attempt to collect a debt by directly engaging in collection activities on its own behalf, by assigning collection activity to a third-party for a fee, or by selling defaulted debts to a third-party. While the FDCPA does not apply to a creditor collecting its own debts under its own name, practices that would otherwise violate the FDCPA may be problematic under the Dodd-Frank Act's prohibition against unfair,