



NYDFS' NEW AMENDMENTS TO THE DEBT COLLECTION RULE

**AND TIPS FOR ADAPTING THESE BEFORE
JUNE 2023**

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WHAT ARE THE PROPOSED NYDFS' AMENDMENTS

New York is making changes to its regulations for third-party debt collection. The New York Department of Financial Services (NYDFS) released amendments to its “Debt Collection by Third-Party Debt Collectors and Debt Buyers” rule in late 2022, which are set to take effect in June 2023. The changes aim to align with regulations set by the Consumer Financial Protection Bureau (CFPB) but are stricter than the federal regulations. The proposed amendment aims to improve consumer protection by providing clearer disclosures, reducing the chances of debt collectors deceiving consumers, and preventing excessive communication that may cause harassment. The proposed changes will:

- Minimize the risk of abusive debt collection practices by addressing specific actors and harms;
- Oblige debt collectors to supply the consumer with crucial information about the claimed debt and keep relevant records for the consumer to verify the debt or challenge the claim;
- Decrease the likelihood of debt collectors misleading consumers about the nature of the debt and their payment responsibilities through mandatory written disclosures; and
- Restrict debt collectors from making excessive phone calls or other forms of communication that may cause harassment.

The most significant proposed amendments by NYDFS include:

Ban on communication after the Statute of Limitations has expired:

The proposed amendment prohibits oral communication regarding a debt whose statute of limitations has passed. The only exception is if the debt collector has prior written consent or court permission to contact the debtor.

More clarity on charge-off date: Debt collectors shall not be permitted to use the charge-off date as the itemization date for the debt in question, except if the account is a revolving or open-end credit account.

Close watch on excessive agency-consumer communication:

Under the upcoming collection regime, debt collectors will be restricted to one successful, and three attempted phone calls per week for each debt in question. Additional phone calls beyond these limits may only be allowed by federal or state law or at the consumer's request and only in the manner specified by the consumer.

Awareness around language access services: Consumers will have to be informed of available language access services, such as a translation of communications into a language other than English, and be asked for their preferred language if it is not English. Debt collectors must then record the consumer's preferred language if it is not English.

More restrictions on electronic communications: The amendments limit electronic communications to only those cases where the consumer has voluntarily provided contact information and given written consent to receive electronic communications. This is stricter than the regulations under Regulation F, which does not require consent for text messages regarding debts.

To read all these amendments (and other minor proposed amendments not mentioned above) in detail, [click here](#).

TIPS FOR ADAPTING TO THESE AMENDMENTS BEFORE JUNE 2023

Third-party debt collectors in New York must adapt to the abovementioned changes without disrupting their existing workflows, given that creditors will soon make sure that their vendors comply with these amendments. Here are some important priority items and best practices to follow.

Internal compliance audit: Internal audits are necessary to identify and correct amendment non-compliance before they are discovered during an external audit. By establishing a disciplined, integrated approach to Regulation F regulations, policies, risks, controls, and issues, your agency can demonstrate that it has a firm grasp on new obligations from Jan 30 onward.

Best Practice Tips:

- Identify areas such as call operations, compliance, IT, etc., that need a new amendments audit.
- Notify departments of scheduled audits so they can prepare the necessary documents and materials for the auditor.
- Document internal controls to identify any risks associated with the new Debt Collection Rules.
- Review your existing policies, procedures, and other documentation to check if they comply with proposed amendments.
- Perform a comprehensive gap analysis to help ensure internal policies, procedures, and controls are in place to avoid violations of the new amendments.

Documented recommendation: Prepare an assessment report based on the audit, documenting recommendations for modifications to existing internal controls to mitigate transactional, credit, compliance, strategic, legal, vendor concentration, and IT risks under the upcoming new debt collection rules.

Best Practice Tips:

- As per recommendations, update your auditing rules to check for call attempts, email permissible purposes, and opt-out tracking.
- Make sure you do not miss this critical recommendation in the report – “Before texting or emailing, gain consent from the consumer. Remember, consent cannot be passed from the creditor.”

Employee training: good training program can help your agency follow the upcoming rules, reduce liability risks, and operate effectively. The best way to ensure and demonstrate that your agents understand NYDFS amendments and other CFPB regulations is to train and test them.

Best Practice Tips:

- Sketch out a plan to train your QA staff and collectors on amendments.
- Retrain all consumer-facing agents to actively listen and learn new probing questions.
- Encourage collaboration between compliance and training departments to work on online training modules to make them accessible to your agents.
- Actively track the completion of agent certifications.
- Create a schedule to inspect and test if all the agents are prepared to comply with revised policies from June onward.
- Switch to a centralized compliance management platform that can help you automate the key tasks mentioned above.

Centralized documents: Managing newly amended documents and tracking compliance activity can be time-consuming and complex processes. Centralized documents on NYDFS' upcoming amendments can enable you to make changes to policies and procedures and have them disseminated within your business instantly.

Best Practice Tips:

- Consider leveraging technology to help you enforce new policies and centralize key amendments compliance documents.
- Automate and centralize essential compliance tasks, helping you optimize the workforce and operation costs that would otherwise go into the manual compliance management of the upcoming rule.

Vendor compliance: Vendors are an extension of your team and mostly have access to your data or tools. Consider auditing them months before June, based on their preparedness for upcoming amendments.

Best Practice Tips:

- Divide a vendor compliance audit into stages, giving each stage about a week to complete.
- Collect documentation from the vendor for the initial review. Review all material, templates, and material guidance on the new amendments thoroughly with the vendor.
- If needed, meet vendor personnel remotely or in person to discuss their policies, procedures, and internal controls on the upcoming amendments.

TOOLS YOU NEED TO ADAPT TO THESE AMENDMENTS PROACTIVELY

An advanced compliance management system like IPACS can help you stay on top of tasks such as updating procedures and policies with new changes, managing (vendor and internal) audit documents and timelines, sending notifications for employee certifications on new amendments, etc. regardless of whether your workforce is remote, on-site, outsourced, or a combination of the three. If you're having trouble keeping up with the latest announcements from NYDFS and other state regulatory bodies, IPACS can help with its latest "Regulation Management & Client Requirements" module. It centralizes all the regulatory changes that affect your industry in one place.

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