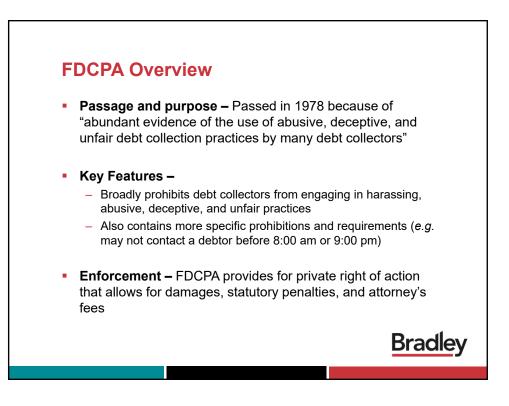
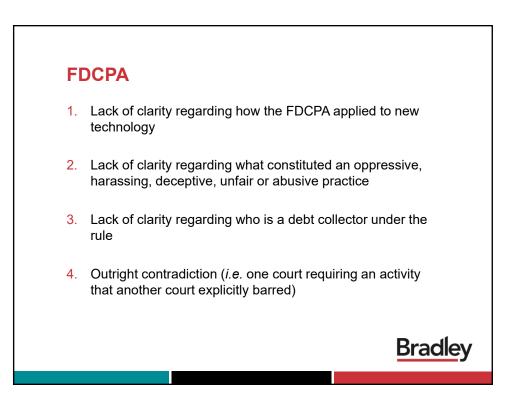


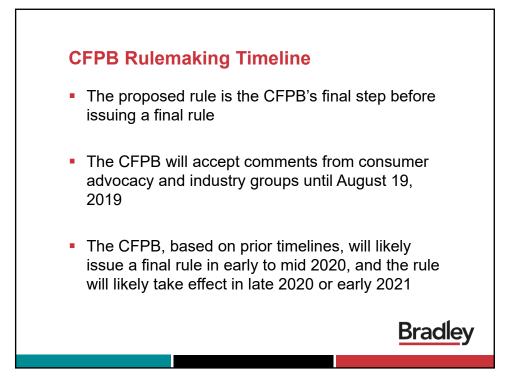
FDCPA and Proposed Rule Overview

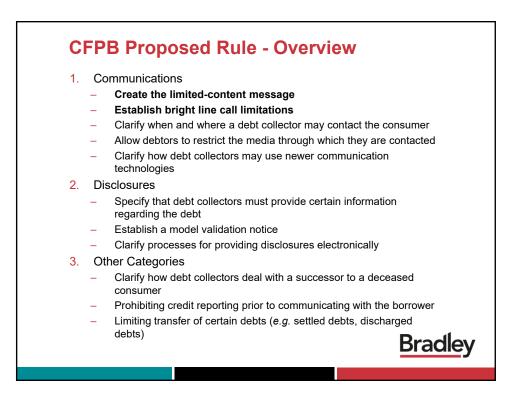


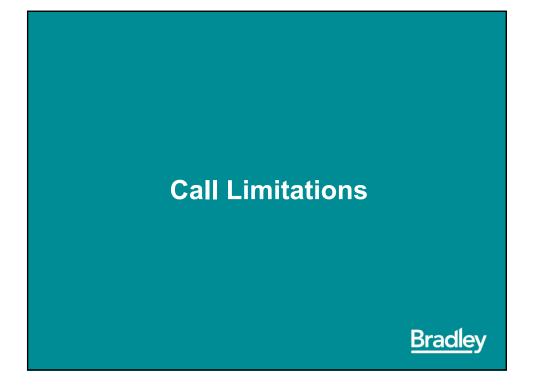
FDCPA Overview

- Rulemaking
 - Prior to the passage of Dodd-Frank in 2010, no one had the authority to issue rules under the FDCPA
 - Dodd Frank gave the CFPB rulemaking authority under the FDCPA, and the proposed rules are one of the last steps to exercising that authority
 - CFPB relied on its authority under the FDCPA and its UDAAP authority in issuing the rules
- Courts as rule makers
 - Without a rulemaking authority, the United States court system became the de facto authority for determining how the 40 year old statute applied in today's world
 - This resulted in a patchwork of case specific rules that varied from jurisdiction to jurisdiction
 Bradley







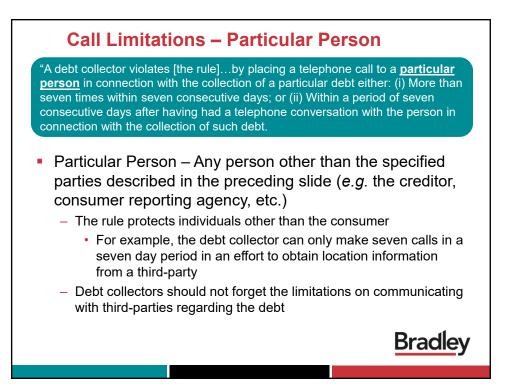


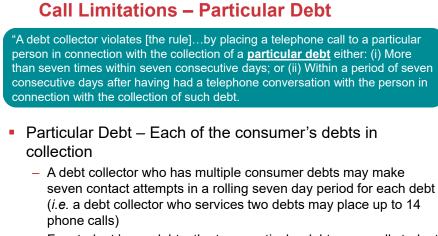
	Current Law	Proposed Rule
Statute	15 U.S.C. 1692d(5) - Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.	15 U.S.C. 1692d(5) - Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
Authority	FDCPA	FDCPA UDAAP (Dodd-Frank)
Regulation	None	12 C.F.R. 1006.14(b)
Number of Calls Allowed – No Live Contact	Case-by-case analysis that can range from a handful of calls to hundreds of calls	Seven calls in a rolling seven day period, unless additional calls fall into a specified exception
Number of Calls Allowed – Live Contact	Case-by-case analysis that can range greatly	One live contact in a rolling seven day period unless additional calls fall into a specified exception

Call Limitations – Telephone Call

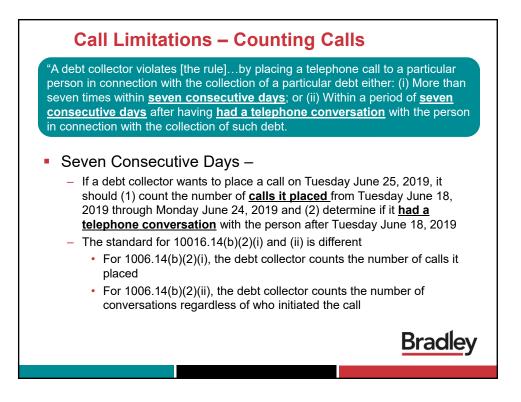
"A debt collector violates [the rule]...by placing a <u>telephone call</u> to a particular person in connection with the collection of a particular debt either: (i) More than seven times within seven consecutive days; or (ii) Within a period of seven consecutive days after having had a telephone conversation with the person in connection with the collection of such debt.

- Telephone Call Any time the debt collector dials the consumer unless one of the following applies
 - Misdirected call Applies when the debt collector learns that a telephone number does not belong to the particular person who it believed it was calling
 - Responsive calls Calls made to respond to a person's request for information
 - Consent calls Calls made with the person's prior consent given directly to the debt collector
 - Unconnected calls Calls with indication that the number is disconnected (*i.e.* a busy signal or error message)
 - Calls made to specified parties Calls made to (1) the consumer's attorney; (2) a consumer reporting agency; (3) the creditor; (4) the creditor's attorney or (5) the debt collector's attorney





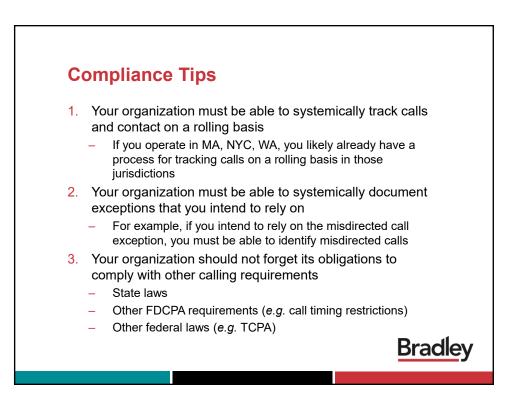
 For student loans debts, the term particular debt means all student loan debts that a consumer owes or allegedly owes that were serviced under a single account number at the time the debts were obtained by the debt collector



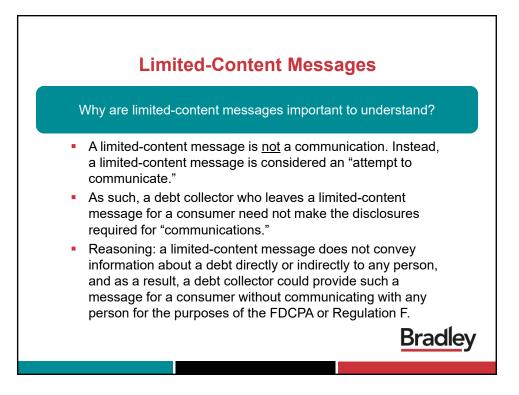
Call Limitations – Safe Harbor

"Effect of complying with frequency limits. A debt collector who does not exceed the frequency limits in paragraph (b)(2) of this section complies with paragraph (b)(1) of this section and section 806(5) of the FDCPA (15 U.S.C. 1692d(5)), and does not, based on the frequency of its telephone calls, violate paragraph (a) of this section, section 806 of the FDCPA (15 U.S.C. 1692d), or sections 1031 or 1036(a)(1)(B) of the Dodd-Frank Act (12 U.S.C. 5531 or 5536(a)(1)(B))."

- Safe Harbor
 - 1006.14(b)(4) establishes a safe harbor for debt collectors who comply with the call frequency limitations
 - This safe harbor applies to alleged violations of the FDCPA and or Dodd-Frank's UDAAP standard
 - The safe harbor should effectively limit nuisance FDCPA lawsuits in circumstances where the debt collector did not call in excess of seven times



Limited-Content Messages



Limited-Content Messages - Definition

Under the Proposed Rule, a limited-content message "means a message for a consumer that includes all of the content described in paragraph (j)(1) of this section, that may include any of the content described in paragraph (j)(2) of this section, and that includes no other content."

- Paragraph (j)(1) Required content.
 - The consumer's name;
 - A request that the consumer reply to the message;
 - The name or names of one or more natural persons whom the consumer can contact to reply to the debt collector;
 - A telephone number that the consumer can use to reply to the debt collector; and
 If applicable, the disclosure required by § 1006.6(e).

- Paragraph (j)(2) Optional content.
 - A salutation;
 - The date and time of the message;
 - A generic statement that the message relates to an account; and
 - Suggested dates and times for the consumer to reply to the message.

