



EXECUTIVE SUMMARY

Not since 1977, the year of the Fair Debt Collection Practices Act's enactment, has our nation had an important opportunity to rewrite the rules for debt buying and debt collection. Preserving the ability of companies to collect out-of-statute debt (OSD) with appropriate protections without a lawsuit (referred to as "non-adjudicative collection of OSD") will improve the consumer credit economy and enhance protections for consumers.

What is out-of-statute debt?

OSD is a debt which can no longer be collected through the courts because the time period (the statute of limitations) during which that type of legal claim can be litigated has expired. These time periods are set by state, not federal, law. For consumer debt, OSD time limits vary from three to 10 years, depending upon the state and the type of consumer debt (credit card, auto, medical, etc.). The national average statute of limitation period is 5.1 years.

The OSD Market Benefits Consumers

The OSD market provides an important opportunity for consumers to pay their debts, especially for consumers who, due to economic hardship, need more time to do so. Additionally, because OSD paper is by definition "older," OSD paper is customarily priced at a discount. This discount gives debt buyers an opportunity to settle the debt with the consumer for an amount that is very attractive to the consumer.

RMAI estimates that annually, tens of billions of dollars are collected on OSD. That substantial return helps to keep the price of credit affordable for consumers. It also promotes the availability of credit to lower-income consumers.

Proposals to ban OSD have unintended consequences impacting consumers

Some states have adopted OSD statute-of-limitation periods that are limited to three years or fewer. However, an outright ban on OSD collection would have the following unintended and adverse consequences for consumers.

- Prohibition of non-litigation-related collection on OSD increases the number of lawsuits brought against consumers resulting in a judgment rather than working out a payment plan.
- An outright OSD collection ban would increase the interest rate offered to most consumers, even those who pay their bills on time.
- Consumers who have defaulted and passed the applicable statutory period would no longer be able to repair their credit score by making voluntary payments on their obligations because the creditor's right to receive payments cease to exist.
- Low-income consumers would be disproportionately harmed as lenders would almost inevitably restrict the availability of consumer credit for those consumers who pose the highest default risk.
- Consumers would face potential tax increases. Debt buyers and lenders are required to issue 1099-c statements to consumers, arising from the cancellation of the OSD. Consumers will, in many circumstances, owe taxes on the difference between the amount of the now uncollectable debt and the minimum amount for which the 1099-c must be provided (\$600.00).

Appropriate OSD Reforms

RMAI supports appropriate and reasonable CFPB reforms to implement both an effective OSD notice regime and a prohibition on re-tolling OSD.



- RMAI supports a policy that once a consumer debt is OSD, it is always OSD.
- RMAI supports providing consumers with effective notices about all material elements of their loan or debt.
- RMAI also strongly advocates that a valid debt should continue to be collectible after the running of a statute of limitations, although not collectible through litigation.

What is not needed

RMAI is also clear about what is not needed. The law is explicit and comprehensive that out-of-statute debt cannot be sued upon. The CFPB, the FTC, and various State Attorneys General conclude that attempting to sue on OSD is a violation of existing law. RMAI's self-regulatory certification standards prohibit suing on out-of-stat-ute debt.