STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

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VIA ELECTRONIC SUBMISSION AT REGULATIONS.GOV

Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, D.C. 20552

Re: Advance Notice of Proposed Rulemaking and Request for Comment Concerning Larger Participant Rule for the Consumer Debt Collection Market (Docket No. CFPB-2025-0030)

Dear Acting Director Vought:

We, the undersigned attorneys general for eighteen states and the District of Columbia (the "States"), write in response to the Consumer Financial Protection Bureau's ("CFPB") advance notice of proposed rulemaking and request for comment titled "Defining Larger Participants of the Consumer Debt Collection Market," concerning whether to amend the CFPB's test for determining which consumer debt collectors are "larger participants" in the market and subject to CFPB supervision ("ANPR").[1] The CFPB is considering reducing the number of consumer debt collectors under its supervision authority by raising the larger participant threshold. For the reasons discussed in detail below, the CFPB should not do so.

American consumers have the right to be free from abusive and predatory debt collection practices. Yet illegal debt collection practices are prevalent throughout the country. In 2024, debt collection related consumer complaints constituted the second highest category of complaints made by consumers to the CFPB.[2] And the volume of debt collection related complaints is skyrocketing. From 2023 to 2024, debt collection complaints to the CFPB rose by a staggering

[1] *See Defining Larger Participants of the Consumer Debt Collection Market, Advance Notice of Proposed Rulemaking*, 90 Fed. Reg. 38418 (proposed Aug. 8, 2025) (to be codified at 12 C.F.R. 1090) ("ANPR").

[2] *See* CFPB, *Consumer Response Annual Report January 1 – December 31, 2024*, May 1, 2025, at 11, *available at* https://www.consumerfinance.gov/data-research/research-reports/2024-consumer-response-annual-report. The highest volume of complaints pertained to consumer reporting issues, which also arise in the debt collection context.

89%; from 98,000 complaints in 2023 to 207,800 in 2024.[3] In the face of the significant and rising levels of consumer injury from illegal debt collection practices, the CFPB would flout its statutory obligation to maintain a risk-based supervision program if it significantly reduces the number of debt collectors under its supervision, as contemplated in the ANPR.

I. Summary of the ANPR

The CFPB issued the ANPR seeking information as to whether to propose a rule amending the test to define "larger participants" in the consumer debt collection market to reduce the number of entities under CFPB supervision. Currently, a debt collector is a larger participant subject to CFPB supervision if it has "annual receipts resulting from consumer debt collection are more than $10 million."[4] As justification for the potential change, the CFPB states that it "is concerned that the benefits of the current threshold may not justify the compliance burdens" for some supervised entities, and that "the current threshold may be diverting limited Bureau resources to determine whom among the universe of providers may be subject to the Bureau's supervisory authority and whether these providers should be examined in a particular year."[5] The CFPB asserts that some larger participant debt collectors may qualify as small businesses under the Small Business Administration's (SBA) standards and that the debt collection market has consolidated in recent years.[6] The CFPB solicits input regarding the appropriateness and calculation of the current threshold and how changing the threshold would impact the CFPB's capabilities, affect consumers, and alter the compliance costs and behavior of debt collectors.[7]

II. The States' Objections to the ANPR Proposal

A. Reducing Consumer Debt Collection Supervision is Inconsistent with the CFPB's Statutory Obligation to Maintain a Risk-Based Supervision Program

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 11-203, 124 Stat. 1376 (2010) ("Dodd-Frank") provides that the CFPB *"shall"* maintain a supervision program that is "based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets."[8] To aid the CFPB in fulfilling its obligation to supervise the riskiest entities the Dodd-Frank Act provides the CFPB supervision authority over participants in certain enumerated markets, as well as entities in other markets that the CFPB defines as "larger participants."[9]

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[3] *Id.*
[4] 12 C.F.R. 1090.105(b).
[5] *Id.*
[6] *Id.*
[7] *Id.* at 38415
[8] 12 U.S.C. § 5514(b)(1) (emphasis added).
[9] 12 U.S.C. § 5514(a)(1)(B), 12 U.S.C. § 5514(a)(2).

Substantially reducing the number of supervised debt collection entities would be an abdication of the CFPB's statutory obligation to maintain a risk-based supervision program. Consumers will be harmed if the CFPB does so.

First, as noted above, the high and rapidly rising number of debt-collection related consumer complaints underscores the need for effective supervision of the industry. But the changes contemplated in the ANPR would undercut the CFPB's ability to supervise the industry and will result in significant injury to consumers. The highest new larger participant threshold contemplated by the CFPB – $100 million in annual receipts -- would result, by one CFPB estimate, in only 11 debt collectors, out of the 2,500 to 3,000 currently engaged in debt collection, being subject to CFPB supervision.[10] This would constitute only 18% of the debt collection market by revenue.[11] If the CFPB enacts the changes contemplated in the ANPR the vast majority of debt collectors would operate with no supervision at all. The CFPB's ability to respond to incidents of consumer harm and market failures would be crippled.

Second, reducing the CFPB's supervision of the debt collection industry shortly after the CFPB promulgated Regulation F in 2022, to set out rules to implement the Fair Debt Collection Practices Act's (FDCPA) prohibitions on abusive and illegal debt collection conduct, ignores the risks associated with debt collectors failing to implement measures to comply with the new rule.[12] Smaller debt collectors with fewer compliance resources may be particularly likely to violate Regulation F. And the CFPB's supervision program has already identified significant violations of Regulation F in the marketplace.[13] Eliminating CFPB supervision over those market participants is inconsistent with a risk-based approach to supervision.

Third, the CFPB's supervision and enforcement record reflects heightened risk in the consumer debt collection market that necessitates robust supervision across the market. The CFPB has recently reported on exam findings of significant and persistent violations of the FDCPA, Regulation F, and the Dodd-Frank Act by debt collectors. These include debt collectors abusing and harassing consumers, attempting to collect amounts that consumers do not owe, hounding consumers at work and other inconvenient locations, and making false threats to sue.[14] Similarly, the CFPB has regularly brought enforcement actions against debt collectors of all sizes regarding serious and persistent legal violations involving consumer injury.[15] Some actions were brought

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[10] *ANPR, supra* n.1 at 38420.
[11] *Id.*
[12] *See* Fair Debt Collections Practices Act, 15 U.S.C. 1692, *et seq*; Regulation F, 12 C.F.R. 1006 *et seq.*
[13] *See e.g.,* CFPB, *Supervisory Highlights: Servicing and Collection of Consumer Debt*, Issue 34, Summer 2024, Jul. 2, 2024 at 7-11, *available at* https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-34_2024-07.pdf.
[14] *See e.g.*, *id.*; CFPB, *Supervisory Highlights*, Issue 30, Summer 2023, Jul. 26, 2023 , at 12-13, *available at* https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-30_2023-07.pdf; CFPB, *Supervisory Highlights*, Issue 28, Fall 2022, Nov. 16, 2022 , at 16-17, *available at* https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-28_2022-11.pdf; CFPB, *Supervisory Highlights*, Issue 22, Summer 2020, Sept. 4, 2020 at 5-6, *available at* https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-22_2020-09.pdf;
[15] *See e.g.*, Consent Order, *In the Matter of Performant Recovery, Inc.*, No. 2024-CFPB-0016, Dec. 9. 2024, *available at* https://www.consumerfinance.gov/enforcement/actions/performant-recovery-inc (debt collector ran scheme to delay borrower repayments to drive up fees); Consent Order, *In the Matter of Commonwealth Fin. Syn. Inc.*, No. 2023-CFPB-0018, Dec. 15, 2023, *available at* https://www.consumerfinance.gov/enforcement/actions/commonwealth-financial-systems-inc/ (debt

against companies that likely would have fallen outside of CFPB supervision under the new larger participant thresholds contemplated in the ANPR.[16]

Fourth, a robust supervision program is required to maintain an even playing field by ensuring that all marketplace participants play by the same rules. The proposal contemplated in the ANPR would distort the market by subjecting only a small number of debt collectors to supervision while allowing bad actors in the rest of the industry to gain a competitive advantage by underinvesting in consumer compliance programs and engaging in unlawful practices. This will distort the market by incentivizing unlawful behavior that causes consumer harm.

B. Costs to Industry from the Current Threshold are not Unduly Burdensome

The CFPB's asserted concern that the current $10 million larger participant revenue threshold is unduly burdensome to industry is without merit.

First, industry legal compliance obligations, and the associated costs to consumer debt collectors, arise from the substantive consumer protection statutes passed by Congress and the regulations promulgated to implement those statutes; not whether the entity is supervised by the CFPB. A debt collector is obligated to comply with its obligations under the FDCPA, Regulation F, the Dodd-Frank Act, and other applicable laws, regardless of its larger participant status. As a result, compliance costs unrelated to responding to specific examination activities are not affected by a covered person's status as a larger participant.

Second, examination costs are not unduly burdensome for supervised participants in the consumer debt collection market under the current larger participant threshold. The CFPB has estimated the cost of compliance with an average supervisory examination at approximately $27,000.[17] The possibility of incurring an examination compliance cost of approximately $27,000 over a period of several years is not unduly burdensome for companies that make more than $10 million annual debt collection related revenue. This is particularly true when balanced against the significant levels of consumer injury and legal noncompliance in the market.

Third, debt collectors do not incur significant costs associated with "monitoring larger participant status."[18] The $10 million revenue threshold test sets a clear standard, and entities have records sufficient to show whether they meet that threshold.

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collector failed to verify consumers debts before collecting and violated the Fair Credit Reporting Act); Consent Order, *In the Matter of Phoenix Fin. Svs*., No. 2023-CFPB-0004, Jun. 6, 2023, *available at* https://www.consumerfinance.gov/enforcement/actions/phoenix-financial-services-llc (medical debt collector attempted to collect on disputed and unsubstantiated debts).

[16] *See, e.g.*, Amended Complaint, *Bureau of Consumer Financial Protection and the People of the State of New York v. JPL Recovery Solutions, LLC, et al.*, 20 cv 1217 (W.D.N.Y.), Dec, 20, 2021, *available at* https://www.consumerfinance.gov/enforcement/actions/jpl-recovery-solutions-llc-et-al (illegal debt collection operation run by interrelated companies that ran smear campaigns against consumers "generated gross revenues of approximately $93 million" over the period between 2015 and 2020,).

[17] *See Legal Standard Applicable to Supervisory Designation Proceedings, Proposed Rule*, 90 Fed. Reg. 41520 (proposed Aug. 26, 2025) (to be codified at 12 C.F.R. 1091).

[18] *ANPR supra* n.1 at 38421.

C. <u>The Other Justifications in the ANPR are Without Merit</u>

The other potential justifications for raising the larger participant threshold set out in the ANPR are without merit. *First*, the asserted concern that a higher number of supervised entities unduly diverts CFPB resources to determine which entities to examine is baseless. It is not credible that determining which entities should be examined each year is burdensome to the CFPB. In any event, making risk-based examination scheduling decisions, and understanding which entities are under the CFPB's supervisory jurisdiction, is a basic part of the CFPB's statutory mandate. *Second*, whether a company is classified as a small business by the SBA has no bearing on whether the company's activities present risk to consumers. The considerations driving a company's categorization as a small business are inapposite to those relevant to whether the company's activities present risk to consumers. *Third*, the CFPB's assertion that the market for consumer debt collection has consolidated does just justify reducing the number of debt collectors under CFPB supervision. The CFPB concedes that even under the purportedly consolidated current market only a very small fraction – seven to ten percent, according to the CFPB – of consumer debt collectors are larger participants under the current threshold.[19] There is no risk-based justification for lowering that percentage even further and leaving consumers more vulnerable to harm.

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For the foregoing reasons, the CFPB should not modify the larger participant threshold for consumer debt collectors as contemplated in the ANPR.

Respectfully submitted,

LETITIA JAMES
ATTORNEY GENERAL
STATE OF NEW YORK

KRISTIN K. MAYES
ATTORNEY GENERAL
STATE OF ARIZONA

ROB BONTA
CALIFORNIA ATTORNEY GENERAL

PHILIP J. WEISER
ATTORNEY GENERAL
STATE OF COLORADO

[19] *Id.* at 38420.

WILLIAM TONG
ATTORNEY GENERAL OF CONNECTICUT

KATHLEEN JENNINGS
ATTORNEY GENERAL OF THE STATE OF DELAWARE

BRIAN L. SCHWALB
ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA

ANNE E. LOPEZ
ATTORNEY GENERAL
STATE OF HAWAII

KWAME RAOUL
ILLINOIS ATTORNEY GENERAL

AARON M. FREY
ATTORNEY GENERAL OF MAINE

ANTHONY G. BROWN
ATTORNEY GENERAL
STATE OF MARYLAND

ANDREA JOY CAMPBELL
ATTORNEY GENERAL OF MASSACHUSETTS

DANA NESSEL
MICHIGAN ATTORNEY GENERAL

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

RAÚL TORREZ
ATTORNEY GENERAL OF NEW MEXICO

DAN RAYFIELD
OREGON ATTORNEY GENERAL

NICK BROWN
ATTORNEY GENERAL
STATE OF WASHINGTON

JEFF JACKSON
NORTH CAROLINA ATTORNEY GENERAL

PETER F. NERONHA
ATTORNEY GENERAL
STATE OF RHODE ISLAND