Some creditors hire collection agencies to do “first-party” collection—collecting in the creditor’s name soon after an account first becomes delinquent.\footnote{186}

First-party collection is attractive to collection agencies seeking to argue that they are exempt from FDCPA coverage.\footnote{187} The exemption claims are based on an informal staff letter issued by the FTC in 2000 and later revised in 2002.\footnote{188} Key considerations according to the FTC’s informal staff letter are whether the debt is in default when it is acquired and, for debts that are in default when acquired, whether the first-party collector is a “de facto” employee of the creditor.\footnote{189} As discussed in § 4.3.10.5 \[1\], infra, the determination of when a debt is in default can be complicated.\footnote{189} De facto employees are discussed in § 4.3.2 \[2\], infra. Moreover, even if there is no coverage under the FDCPA, first-party collectors may be covered under state laws as discussed in Chapter 16 \[3\], infra.

The CFPB described typical compensation for first-party collectors in the credit card industry as follows:

First-party collection companies, unlike contingency collectors, are typically paid on an FTE basis. That means their compensation is based on the number of FTEs used per month in collection efforts. The credit card issuers provided the price per FTE per month for onshore and offshore FTEs. Issuers reported that the average price for an onshore FTE was $4,915 per month. Offshore, it was $2,285 per month. Offshore locations include India and the Philippines.\footnote{191}

First-party collection has been the subject of its own collection industry conference since 2015.\footnote{192}

Footnotes


187 See Rozanne Anderson, Corporate Compliance Week Trivia Quiz for your Staff (Ontario Systems, Nov. 9, 2017), available at www.insidearm.com (listing as true the statement that “one way for a third-party collector to avoid liability under the Fair Debt Collection Practices Act is to operate invisibly as a first party collector”).

188 DeMayo, FTC Informal Staff Letter (May 23, 2002); DeMayo, FTC Informal Staff Letter (May 1, 2000).

189 Id.

190 See also National Consumer Law Center, Collection Actions § 9.2.2.2 \[4\] (4th ed. 2017), updated at www.nclc.org/library (discussing default in the context of medical debt).


1.3.5.1 First-Party Collection

Links
[1] https://library.nclc.org/nclc/link/FDC.04.03.10.05
[2] https://library.nclc.org/nclc/link/FDC.04.03.02
[4] https://library.nclc.org/nclc/link/CA.09.02.02.02