



# Commercial Collections Best Practices and Global Considerations

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# Learning Objectives

## Establishing an Internal Collections Process

- Steps to take Before the Due Date
- In-house Collections Best Practices

## Global Considerations in Commercial Debt Collection

- Global Sensitivity
- Tips for Collecting in the Americas, Europe and Asia

# Establishing an Internal Credit & Collections Process

Presented by Jeff Tharnish

# Steps to Take Before the Due Date

## Maintain Customer Contact

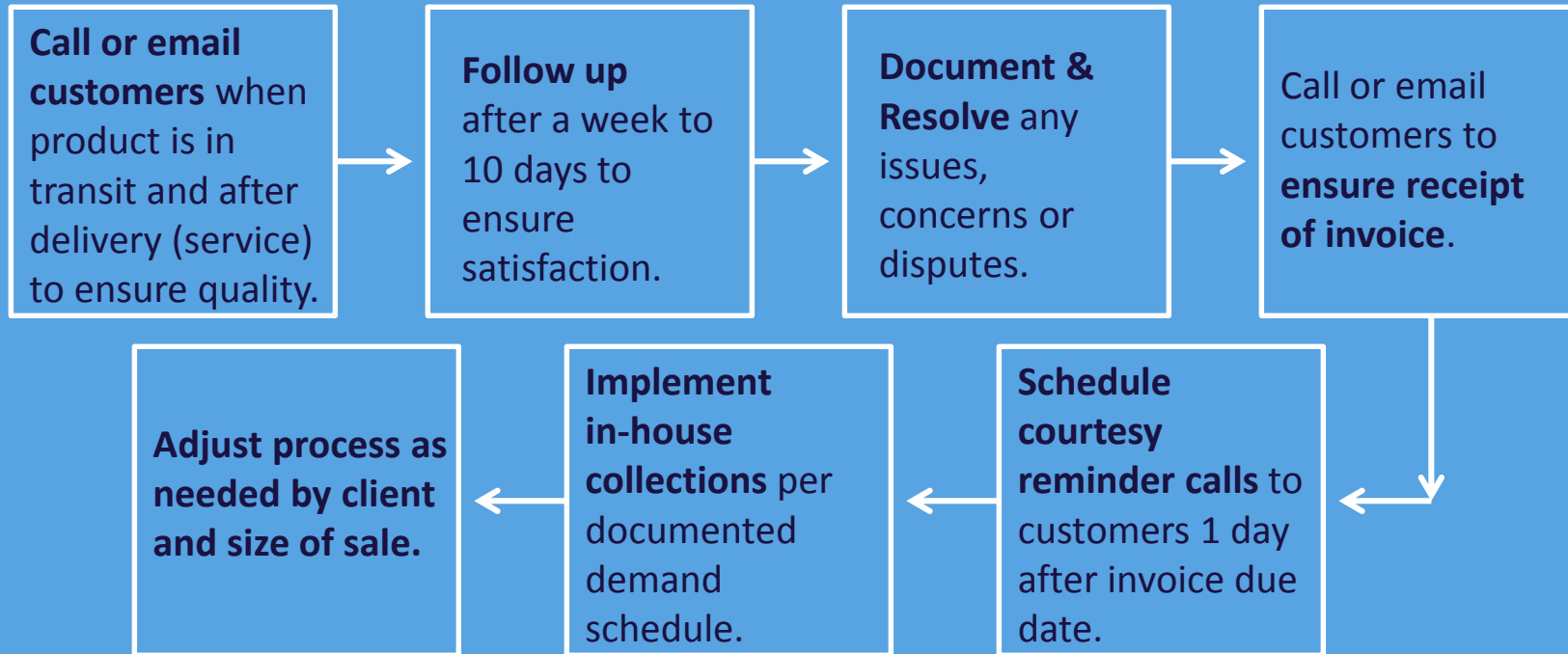
- Ensure product was received and service was satisfactory
- Call/email to verify invoice was received before due date
- Call/email shortly after due date to ensure payment was sent

## Rectify Issues Promptly

- Ensure there are no reasons for non-payment



# Build a Treatment Plan into your Credit & Collections Policy



# After the Due Date

## Take the following steps


**Develop a process and stick to it!**

### Determine Escalation Plan

- Categorize past-due customers
  - Value of invoice(s), scale of account
- Determine demand schedule

### In-house Collections

- Sample Demand Schedule:
  - Written reminder at 1 week past due
  - Follow up phone call
  - 2<sup>nd</sup> written reminder after 2 weeks/Follow up with phone calls & letters
  - Final demand letter
- Check local laws – notification in writing may be mandated
- Email may be used; letters are best if customer is not responding



# After the Due Date

## Collection Call Preparation

### Review customer account information

- Gather documents
- Review account history

### Confirm amount due and balance age

### Establish rapport with main contact

### Review consequences of non-payment

- Credit hold
- 3<sup>rd</sup> party collection intervention
- Legal action



# After the Due Date

## Best Practices

### Repayment Agreements

- Always have the **debtor state** how much they can repay and how often (it may be more than you would have asked for)
- Get confirmation in writing
- Ask for surety
  - < 6 months: generally okay to accept
    - It could take longer to sue or obtain judgment, even on an undisputed claim
  - 6 – 12 months: secure such plans with a signed Promissory Note
  - > 12 months: determine on a case-by-case basis and if any surety should be obtained
- i.e. Promissory Note, Stipulation to Judgment if default occurs (if already in suit)





# After the Due Date

## Best Practices

### Accept Post-dated Checks

- Accepting a series of post-dated checks from Debtor eliminates reminders
- Strong evidence if litigation is initiated
- Best used when currencies match, or when you have a bank account in the debtor's country

### Promissory Notes

- Critical to have clause highlighted in yellow on documents
- It will be legal foundation for suing debtor – default of the promissory note, not for failure to pay invoices
- Be aware of legal considerations around the world

# In-house Collections Best Practices

# Telephone Personality

## Attitude

- You can influence your environment with your attitude
- Maintain positive expectations of your customers
- Exercise positive thoughts to keep an positive attitude



# Telephone Personality

## Voice: 45% / 55% Rule

- Pitch
- Accent
- Volume
- Clarity (diction)
- Tone and inflection
- Pace



## Approach

- Win – Win
- Get personal
- Establish rapport with A/P
- Be direct
- LISTEN, Listen, listen

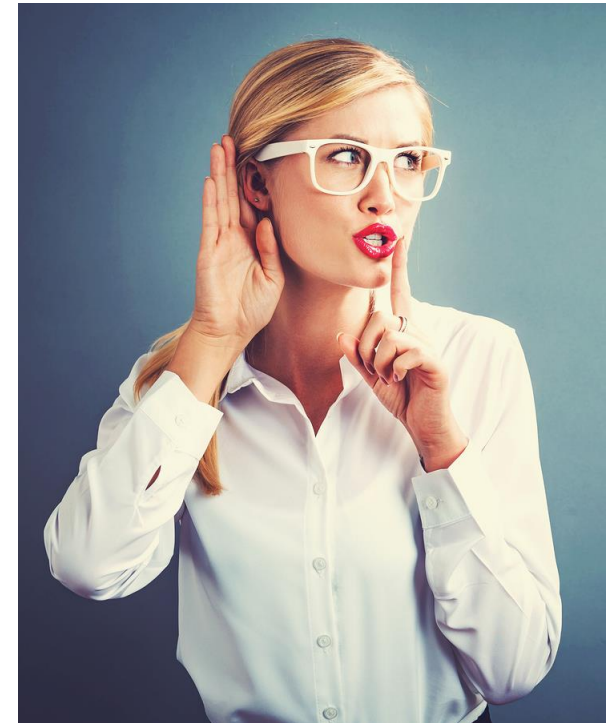
# Telephone Personality

## Listening Skills

### Prepare for the call

- Ask questions
- Concentrate
- Limit your own talking
- React to words, not to the person
- Don't jump to conclusions
- Listen between the lines

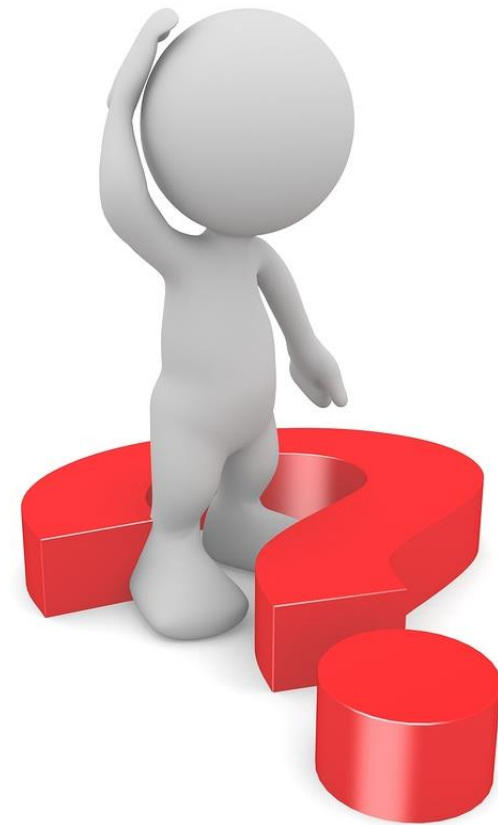
### Take notes!



# Telephone Call Preparation

## Account review

- Gather documentation
- Determine balance and age
- Organize your thoughts
- Determine who to ask for



## Reaching the right person

- Chief Financial Officer (CFO), Owner or General Manager
- If unavailable, ask for name, number and when he/she will be back
- Leave message with name, number and sense of urgency

# Telephone Call Process

## 7-Step Collection Call

1. Identify yourself and the person you're calling
2. State the purpose of your call
- 3. Strategic pause**
4. Gather details to determine payment delay
5. Develop resolution
6. Confirm arrangements
7. Record results



## Follow up

- Send confirming letters
- Make reminder calls
- Call back when you said you would
- Be direct
- Intensify demand
- Final demand

# Telephone DOs and DON'Ts

## DO:

- Know the details of the account
- Have a positive expectation
- Identify the customer
- Stay calm and professional
- Insist on payment in full
- Follow the “Golden Rule”
- Everyone is right until proven otherwise
- Get full details of a dispute
- Arrange a follow-up date
- Maintain good customer relations



# Telephone DOs and DON'Ts

## DON'T:

- Threaten the customer
- Shout or curse
- Antagonize the customer
- Interrupt the customer
- Consider all delinquent customers as “credit criminals”
- Accuse a customer of being dishonest
- Consent to small payments without knowing all the facts
- Overlook possibility of obtaining payment through alternate resources
- Hang up on a customer



# Telephone DOs and DON'Ts

## Additional Tips

- When you encounter a good phrase or statement that works, write it down
- Be ready for any excuse, even absurd ones
- Always try for ways to get immediate payment

## Addressing Objections

- Acknowledge the objection
- Learn the exact reasons for the objection
- Gain customer's agreement on what he/she **doesn't** object to
- Work on a solution
- Stay positive
- Remain flexible in your approach

# Overcoming Objections

## Excuses

- Responsible party not in
- “Cash flow” problem
- Dispute involving product or service
- Computer down
- Going out of business
- Bankruptcy
- Ownership change
- “The check’s in the mail”
- Can’t pay in full
- Won’t pay



# Overcoming Objections

## Argumentative (irate) customer

- Hold your temper
- Take a break
- Repeat customer's name



## Benefits of paying on time

- Avoiding interest payments and late charges
- Maintaining a good credit rating
- Continuing service/shipments
- Maintaining a good reputation
- Feeling good about self/company

# Global Considerations in Commercial Debt Collection

Presented by Jennifer Tirré-Daniels

# Cultural Sensitivity

## Customary Business Practices

- Learn from your partners

## Relationships are Key

- Develop rapport

## Language

- Facilitate communication



# The Americas

## Mexico

Maintain a Paper Trail:

- Personal Guarantee
  - Prenda (non promissory pledge)
  - Pagaré (promissory note)
- Credit Application
- Purchase Order
- Signed Delivery Receipt/  
Bill of Lading
- Credit Report
- Good buyer status
- Assets and Liens investigation



- Resources:
  - Mexican Credit Bureau: [www.burodecredito.com.mx](http://www.burodecredito.com.mx)
  - Mexican Enterprise Information System: [www.siem.gob.mx](http://www.siem.gob.mx)
  - Public Registry for Property and Commerce: obtained through local attorney

# The Americas

## Brazil

- Due Diligence is Key
  - Check validity of credit information provided
  - Credit reports/Audited annual financial statements
  - Legal public registry
  - Personal visits
  - Background checks
- Protest Notes
- Settlements and Payment Agreements
- Settle out of court



- Resources:
  - Sao Paulo public registry:  
[www.tjsp.gov.br](http://www.tjsp.gov.br)



# The Americas

## Argentina

- Carta Documento
- Settlements and Payment Agreements
- Recommendations:
  - Opt for Mediation whenever possible
  - Set up a bank account in Argentina



# The Americas

## Venezuela

- Lima Group's Declaration
- Avoid Litigation
  - Document translation by native, certified translator (\$\$\$\$)
- Award Judgment must be paid in Bolivares = approx. 1/3 market rate
  - Recommend debtor pay 1/3 of amount due
- Government regulations
  - Forex is heavily regulated
  - Government may confiscate up to 60% of international payments



- Resources:
  - U.S. – Venezuela Trade Sanctions: [www.treasury.gov/resource-center/sanctions/Programs/pages/venezuela.aspx](http://www.treasury.gov/resource-center/sanctions/Programs/pages/venezuela.aspx)
  - March 19, 2018 Executive Order: [www.treasury.gov/resource-center/sanctions/Programs/Documents/13827.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/13827.pdf)

# Europe

## European Union

- EU General Data Protection Regulation (GDPR) compliance effective May 25, 2018
- Order for payment procedure
- Late payment regulations
- Cross-border acknowledgments and enforcement of judgments



- Resources:
  - EU General Data Protection Regulation (GDPR):  
[www.eugdpr.org](http://www.eugdpr.org)

# Europe

## Russia & Former CIS Countries

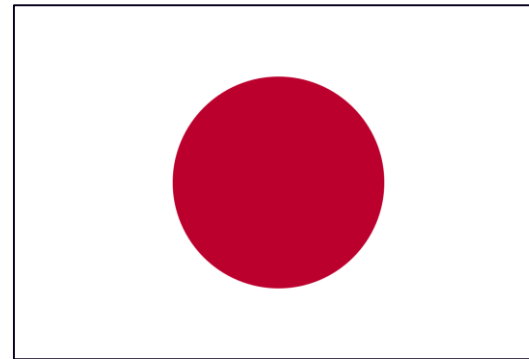
- Exhaust amicable efforts
- Use local contacts
- Inconsistent judicial framework
- Have sales contract



# Asia

## China, Japan & Korea

- Multiple Credit Sources
  - Documents in both languages
  - Credit Application
  - Company Registration and Credit Reports
  - Work with experienced, native language-speaking partners
- Consider advance payments, letters of credit, international non-recourse factoring
- Meet with Customers
  - Ensure they understand terms
  - Maintain open communication



# Asia

## China

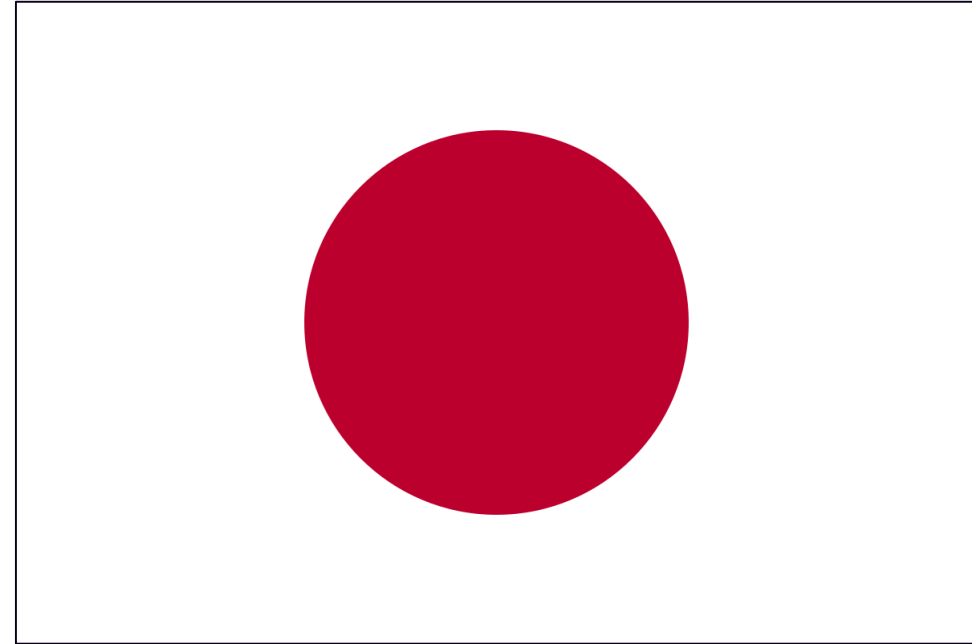
- Statutory period for debt collection activities is 2 years after due date
- Only attorneys can *legally* perform debt collection
  - Various collection phases from investigation to judgment are expensive
  - Enforcement can be ineffective
- Arbitration (CIETAC) or Litigation?
- Consider developing China-based team of collectors



# Asia

## Japan

- Article 72 of the Attorney Act
  - All foreign lawyers must be registered in Japan
  - Partnership-based collection agencies
- Servicer Act
  - Private companies' exemption from the Attorney Act
  - Very costly and difficult process
  - Only 120 Servicers to date
- Pakuriya – credit fraud

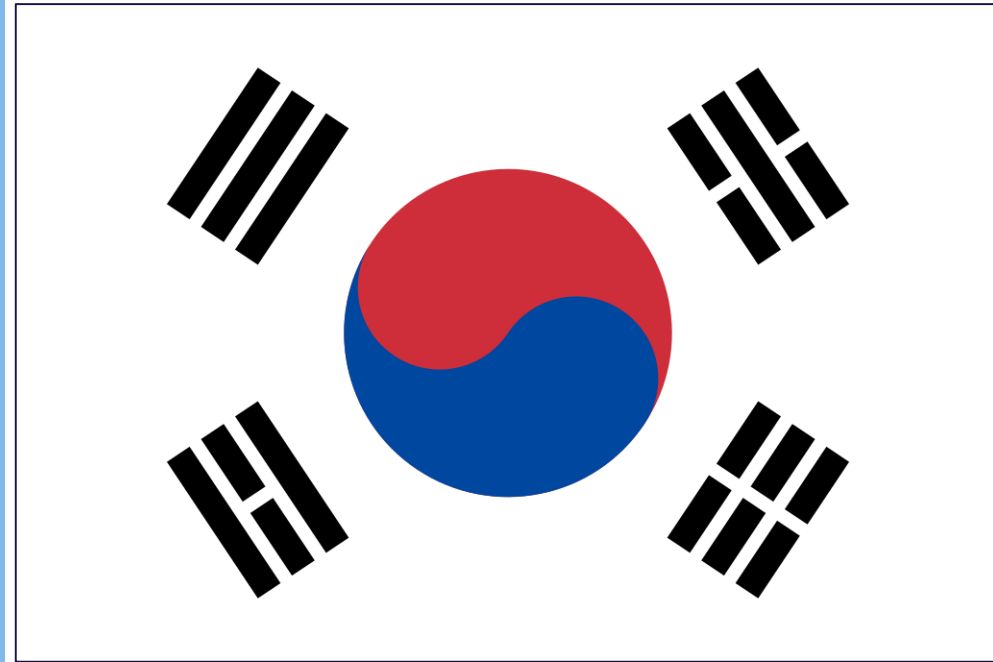


- Resources:
  - Article 72 of the Attorney Act:  
[www.law.com/almID/1202428161789/Japanese-Crack-Down-on-Unregistered-Foreign-Associates/?slreturn=20180310154751](http://www.law.com/almID/1202428161789/Japanese-Crack-Down-on-Unregistered-Foreign-Associates/?slreturn=20180310154751)
  - Servicer Act:  
[www.servicer.or.jp/en/servicer/](http://www.servicer.or.jp/en/servicer/)

# Asia

## Korea

- Similar legal structure to Japan
  - Former colony of Japan from 1900's until end of WWII
- Korean attorneys are only collection entities in country
  - Expensive and ineffective
  - Only 40 Servicers to date





# Asia

## India

- Winding Up procedures and Litigation
  - Lawsuits can take 7+ years
  - Ad Valorem (suit fee) may be up to 7.5%
- Currency and withholding taxes



# Collections Around the World

## Summary

- Know your customer
- Safeguard original documents
- Implement effective collection techniques
- Seek experienced international partners
- Work to resolve out of court



# Questions?

## Contact:

Jeff Tharnish

[jeff.tharnish@abc-amega.com](mailto:jeff.tharnish@abc-amega.com)

DIRECT: 716.878.0447



Jennifer Tirré-Daniels

[jennifer.tire-daniels@abc-amega.com](mailto:jennifer.tire-daniels@abc-amega.com)

DIRECT: 716.878.2822



More Information:

[ABC-AMEGA.COM](http://ABC-AMEGA.COM)

Thank You

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