

BILLING CODE: 4810-AM-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1006

[Docket No. CFPB-2019-0022]

RIN 3170-AA41

Debt Collection Practices (Regulation F); Corrections

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation; correcting amendments.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) published “Debt Collection Practices (Regulation F)” on January 19, 2021, to revise Regulation F, which implements the Fair Debt Collection Practices Act. Omissions in that document resulted in certain paragraphs in the Official Interpretations (Commentary) not being incorporated into the Code of Federal Regulations (CFR). This document corrects the Official Interpretations to Regulation F by adding the missing paragraphs to the CFR.

DATES: The corrections are effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER.*]

FOR FURTHER INFORMATION CONTACT: Courtney Jean or Kristin McPartland, Senior Counsel, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The CFPB is issuing this document to correct two comments in the CFPB’s Commentary to Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA).¹ In the final rule titled, “Debt Collection Practices (Regulation F)” (January 2021 Final Rule), published in the *Federal Register* on January 19, 2021 (86 FR 5766), the CFPB included paragraph 3 under heading *30(a)(1) In general* and paragraph 3 under heading *38—Disputes and Requests for Original-Creditor Information* in its commentary text for the rule, but omitted the related amendatory instruction to add those specific paragraphs to the Commentary. In addition, paragraph 2 under heading 38 was unintentionally omitted.² These omissions were a scrivener’s error. The CFPB is issuing this correction to ensure that these paragraphs are incorporated into the Commentary published in the CFR and to correct several typographical errors in the comments themselves. To comply with Office of the Federal Register requirements for amending commentary, this document re-prints in their entirety both subsections of commentary in which the missing paragraphs should have appeared.

II. Regulatory Requirements

The CFPB finds that public comment on this correction is unnecessary because the CFPB is correcting inadvertent, technical errors, about which there is no basis for substantive disagreement. Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. The CFPB has determined that these corrections do not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of

¹ 15 U.S.C. 1692 *et seq.*

² Paragraph 2 under heading *38—Disputes and Requests for Original-Creditor Information* was included in the final rule titled, “Debt Collection Practices (Regulation F),” published in the *Federal Register* on November 30, 2020 (85 FR 76734). To comply with Office of Federal Register requirements for a mending commentary, that paragraph also should have been included in the commentary text for the January 2021 Final Rule.

information requiring Office of Management and Budget approval under the Paperwork Reduction Act.

List of Subjects in 12 CFR Part 1006

Administrative practice and procedure, Consumer protection, Credit, Debt collection, Intergovernmental relations.

Authority and Issuance

For the reasons set forth in the preamble, the CFPB amends Regulation F, 12 CFR part 1006, as set forth below:

PART 1006—DEBT COLLECTION PRACTICES (REGULATION F)

1. The authority citation for part 1006 continues to read as follows:

Authority: 12 U.S.C. 5512, 5514(b), 5532; 15 U.S.C. 1692l(d), 1692o, 7004.

2. In Supplement I to Part 1006—Official Interpretations:

- a. Under *Section 1006.30—Other Prohibited Practices, 30(a) Required actions prior to furnishing information, 30(a)(1) In general* is revised.

- b. Under *Section 1006.38—Disputes and Requests for Original-Creditor Information*, the introductory text before *38(a) Definitions* is revised.

The revisions read as follows:

Supplement I to Part 1006—Official Interpretations

* * * *

Subpart B—Rules for FDCPA Debt Collectors

* * * *

Section 1006.30—Other Prohibited Practices

30(a) Required actions prior to furnishing information.

30(a)(1) In general.

1. About the debt. Section 1006.30(a)(1) provides, in relevant part, that a debt collector must not furnish to a consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), information about a debt before taking one of the actions described in § 1006.30(a)(1)(i) or (ii). Each of the actions includes conveying information “about the debt” to the consumer. The validation information required by § 1006.34(c), including such information if provided in a validation notice, is information “about the debt.”

2. Reasonable period of time. Section 1006.30(a)(1)(ii) provides, in relevant part, that a debt collector who places a letter about a debt in the mail, or who sends an electronic message about a debt to the consumer, must wait a reasonable period of time to receive a notice of undeliverability before furnishing information about the debt to a consumer reporting agency. The reasonable period of time begins on the date that the debt collector places the letter in the mail or sends the electronic message. A period of 14 consecutive days after the date that the debt collector places a letter in the mail or sends an electronic message is a reasonable period of time.

3. Notices of undeliverability. Section 1006.30(a)(1)(ii) provides, in relevant part, that, if a debt collector who places a letter about a debt in the mail, or who sends an electronic message about a debt to the consumer, receives a notice of undeliverability during the reasonable period of time, the debt collector must not furnish information about the debt to a consumer reporting agency until the debt collector otherwise satisfies § 1006.30(a)(1). A debt collector who does not receive a notice of undeliverability during the reasonable period and who thereafter furnishes information about the debt to a consumer reporting agency does not violate § 1006.30(a)(1) even

if the debt collector subsequently receives a notice of undeliverability. The following examples illustrate the rule:

i. Assume that, on May 1, a debt collector mails the consumer a validation notice as described in § 1006.34(a)(1)(i)(A). On May 10, the debt collector receives a notice of undeliverability and, without taking any additional action described in § 1006.30(a)(1), subsequently furnishes information about the debt to a consumer reporting agency. The debt collector has violated § 1006.30(a)(1).

ii. Assume that, on May 1, a debt collector mails the consumer a validation notice as described in § 1006.34(a)(1)(i)(A). On May 10, the debt collector receives a notice of undeliverability. On May 11, the debt collector mails the consumer another validation notice as described in § 1006.34(a)(1)(i)(A). From May 11 to May 24, the debt collector permits receipt of, monitors for, and does not receive, a notice of undeliverability and thereafter furnishes information about the debt to a consumer reporting agency. The debt collector has not violated § 1006.30(a)(1).

iii. Assume that, on May 1, a debt collector mails the consumer a validation notice as described in § 1006.34(a)(1)(i)(A). From May 1 to May 14, the debt collector permits receipt of, monitors for, and does not receive, a notice of undeliverability and thereafter furnishes information about the debt to a consumer reporting agency. After furnishing the information, the debt collector receives a notice of undeliverability. The debt collector has not violated § 1006.30(a)(1) and, without taking any further action, may furnish additional information about the debt to a consumer reporting agency.

* * * *

Section 1006.38—Disputes and Requests for Original-Creditor Information

1. In writing. Section 1006.38 contains requirements related to a dispute or request for the name and address of the original creditor timely submitted in writing by the consumer. A consumer has disputed the debt or requested the name and address of the original creditor in writing for purposes of § 1006.38(c) or (d)(2) if the consumer, for example:

- i. Mails the written dispute or request to the debt collector;
- ii. Returns to the debt collector the consumer-response form that § 1006.34(c)(4) requires to appear on the validation notice and indicates on the form the dispute or request;
- iii. Provides the dispute or request to the debt collector using a medium of electronic communication through which the debt collector accepts electronic communications from consumers, such as an email address or a website portal; or
- iv. Delivers the written dispute or request in person or by courier to the debt collector.

2. Interpretation of the E-SIGN Act. Comment 38-1.iii constitutes the Bureau’s interpretation of section 101 of the E-SIGN Act as applied to section 809(b) of the FDCPA. Under this interpretation, section 101(a) of the E-SIGN Act enables a consumer to satisfy through an electronic request the requirement in section 809(b) of the FDCPA that the consumer’s notification of the debt collector be “in writing.” Further, because the consumer may only use a medium of electronic communication through which a debt collector accepts electronic communications from consumers, section 101(b) of the E-SIGN Act is not contravened.

3. Deceased consumers. If the debt collector knows or should know that the consumer is deceased, and if the consumer has not previously disputed the debt or requested the name and address of the original creditor, a person who is authorized to act on behalf of the deceased

consumer's estate operates as the consumer for purposes of § 1006.38. In such circumstances, to comply with § 1006.38(c) or (d)(2), respectively, a debt collector must respond to a request for the name and address of the original creditor or to a dispute timely submitted in writing by a person who is authorized to act on behalf of the deceased consumer's estate.

* * * *

/s/ Dani Zylberberg

Dani Zylberberg,

Counsel and Federal Register Liaison, Consumer Financial Protection Bureau.