

Fast Facts: 2021 Debt Collection COVID-19 Interim Final Rule

Interim Final Rule: The Bureau's Interim Final Rule (IFR) amends Regulation F to require that debt collectors provide written notice to certain consumers about temporary eviction protections under the Centers for Disease Control and Prevention (CDC)'s eviction moratorium and prohibit a debt collector from misrepresenting that a consumer is ineligible for eviction protection under the moratorium.

Effective date: May 3, 2021

Comments due: 15 days after the date of publication in the Federal Register. Detailed information on how to submit comments can be found in the IFR.

Available at: <https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-global-covid-19-pandemic-regulation-f/>

About this document: The Bureau has issued an IFR to amend Regulation F at 12 CFR 1006. This document generally provides a high-level overview of the topics covered in the IFR. Note that the Bureau's 2020 Debt Collection Rules will not yet be in effect by the IFR's effective date and accordingly, the IFR revises Regulation F as it currently exists.

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

Coverage

Entity or article	Description in IFR	Location in Regulation F and FDCPA
Debt Collectors	<p>The IFR applies to debt collectors as defined in the Fair Debt Collection Practices Act (FDCPA).</p> <p>The term debt collector is generally defined in the FDCPA as any person who uses any instrumentality of interstate commerce or mail in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, to another.</p>	<p>1006.9(a)</p> <p>FDCPA section 803(6)</p>
Consumer	<p>The IFR applies to consumers as defined in the FDCPA.</p> <p>A consumer is defined in the FDCPA as any natural person obligated or allegedly obligated to pay any debt.</p>	<p>1006.9(b)(1)</p> <p>FDCPA section 803(3)</p>
Debt	<p>The IFR applies to debt as defined in the FDCPA.</p> <p>Debt is defined in the FDCPA as any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of the transaction are primarily for personal, family, or household purposes, whether or not the obligation has been reduced to judgment.</p>	<p>1006.9(b)(1)</p> <p>FDCPA section 803(5)</p>
CDC Order	<p>The IFR added a definition of CDC Order to Regulation F.</p> <p>As defined, the CDC Order means the order issued by the Centers for Disease Control and Prevention titled <u>Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19</u> (86 FR 16731 (Mar. 31, 2021)).¹</p>	<p>1006.9(b)(2)</p>
	<p>The CDC Order generally prohibits a landlord, owner of a residential property, or other person with a legal right to pursue</p>	

¹The CDC Order will remain in effect until June 30, 2021, unless extended, modified, or rescinded. In the event the CDC further extends the CDC Order, the Bureau expects the IFR will continue to be in effect until the expiration of any such extension.

eviction (including an agent or attorney acting on behalf of a landlord or owner) from evicting any covered person from any residential property for non-payment of rent in any jurisdiction in which the Order applies during the effective period of the Order.

The IFR added a definition of eviction notice to Regulation F.

Eviction Notice	The term eviction notice is defined as the earliest written notice that the laws of any State, locality, territory, or tribal area require to be provided to a consumer before an eviction action against the consumer may be filed.	1006.9(b)(3)
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Conduct

Topic	Required, prohibited, or optional conduct	Location in Regulation F
Prohibition against misrepresentations about the CDC Order	A debt collector must not falsely represent or imply to a consumer that the consumer is ineligible for temporary protection from eviction under the CDC Order. This requirement is applicable: <ul style="list-style-type: none">▪ During the effective period of the CDC Order;▪ In any jurisdiction in which the CDC Order applies; and▪ In connection with the collection of a debt.	1006.9(c)(2)
Requirement to disclose the CDC Order	Before filing an eviction action for non-payment of rent against a consumer, if the CDC Order might reasonably apply to that consumer, a debt collector must disclose that the consumer may be eligible for temporary protection from eviction under the CDC Order. The disclosure must be clear and conspicuous and in writing. A debt collector must provide the disclosure on the date the debt collector provides the consumer with an eviction notice or, if no eviction notice is required by law, on the date that the eviction action is filed. This requirement is applicable: <ul style="list-style-type: none">▪ During the effective period of the CDC Order;▪ In any jurisdiction in which the CDC Order applies; and▪ In connection with the collection of a debt.	1006.9(c)(1)

Option to provide the CDC Order disclosure at the same time as the eviction notice	<p>A debt collector may satisfy the requirement to provide the disclosure on the same date as the eviction notice or eviction action by providing the disclosure at the same time that the debt collector provides the consumer with any eviction notice or serves the consumer with any eviction action. For example, a debt collector may provide the disclosure in the same mailing as the eviction action and does not need to provide the disclosure separately on the same date.</p>	Comment 1006.9(c)(1)-3
Option to include the CDC Order disclosure in all consumer eviction notices	<p>A debt collector may provide the disclosure to a consumer even if the consumer might not be covered by the CDC Order. Therefore, a debt collector may provide the disclosure to every consumer in every eviction action for non-payment of rent.</p>	Comment 1006.9(c)(1)-2
Option to provide the CDC Order disclosure more than once	<p>A debt collector may provide the disclosure more than once to a consumer, such as in each subsequent communication with the consumer.</p>	Comment 1006.9(c)(1)-4

Sample Disclosure Language

Sample Disclosure Language	Location in Regulation F
<p>The following is sample language a debt collector may use, but is not required to use, to comply with the IFR's disclosure requirement:</p> <p>"Because of the global COVID-19 pandemic, you may be eligible for temporary protection from eviction under Federal law. Learn the steps you should take now: visit www.cfpb.gov/eviction or call a housing counselor at 800-569-4287."</p>	Comment 1006.9(c)(1)-5.i
<p>The following is another option for sample language a debt collector may use, but is not required to use, to comply with the IFR's disclosure requirement:</p> <p>"Because of the global COVID-19 pandemic, you may be eligible for temporary protection from eviction under the laws of your State, territory, locality, or tribal area, or under Federal law. Learn the steps you should take now: visit www.cfpb.gov/eviction or call a housing counselor at 800-569-4287."</p>	Comment 1006.9(c)(1)-5.ii

Additional resources

Find more implementation information and sign up for updates about debt collection rule implementation at <https://www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/debt-collection/>.