

Authority and Issuance

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

PART 1006—FAIR DEBT COLLECTION PRACTICES ACT (REGULATION F)

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

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

2. Subpart B, consisting of § 1006.9, is added to read as follows:

Subpart B—Rules for Debt Collectors Subject to the Fair Debt Collection Practices Act **§ 1006.9 Debt Collection Practices in Connection with the Global COVID-19 Pandemic.**

(a) *Purpose and coverage.* The purpose of this subpart is to eliminate certain abusive debt collection practices by debt collectors related to the global COVID-19 pandemic, to ensure that debt collectors who refrain from using such abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against such debt collection abuses. This subpart applies to debt collectors, as defined in FDCPA section 803(6), 15 U.S.C. 1692(a)(6), other than a person excluded from coverage by section 1029(a) of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Act, 12 U.S.C. 5519(a).

(b) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) The terms *consumer*, *debt*, and *debt collector* have the same meaning given to them in FDCPA section 803, 15 U.S.C. 1692a.

(2) The term *CDC Order* means the order issued by the Centers for Disease Control and Prevention titled *Temporary Halt in Residential Evictions to Prevent the Further Spread of*

COVID–19 (86 FR 16731 (Mar. 31, 2021)), as extended by the Centers for Disease Control and Prevention.

(3) The term *eviction notice* means the earliest of any 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.

(c) *Prohibitions.* During the effective period of the CDC Order, a debt collector collecting a debt in any jurisdiction in which the CDC Order applies must not, in connection with the collection of that debt:

(1) File an eviction action for non-payment of rent against a consumer to whom the CDC Order reasonably might apply without disclosing to that consumer clearly and conspicuously in writing, on the date that the debt collector provides the consumer with an eviction notice or, if no eviction notice is required by applicable law, on the date that the eviction action is filed, that the consumer may be eligible for temporary protection from eviction under the CDC Order; or

(2) Falsely represent or imply to a consumer that the consumer is ineligible for temporary protection from eviction under the CDC Order.

3. Supplement I to part 1006 is added to read as follows:

Supplement I to Part 1006—Official Interpretations

INTRODUCTION

1. *Official status.* This commentary is the vehicle by which the Bureau of Consumer Financial Protection supplements Regulation F, 12 CFR part 1006. The provisions of the commentary are issued under the same authorities as the corresponding provisions of Regulation F and have been adopted in accordance with the notice-and-comment procedures of the Administrative Procedure Act (5 U.S.C. 553). Unless specified otherwise, references in this

commentary are to sections of Regulation F or the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. 1692 *et seq.*). No commentary is expected to be issued other than by means of this Supplement I.

Subpart B—Rules for Debt Collectors Subject to the Fair Debt Collection Practices Act

Section 1006.9—Debt Collection Practices in Connection with the Global COVID-19 Pandemic

9(b) Definitions.

9(b)(3).

1. *Examples.* Section 1006.9(b)(3) defines eviction notice as the earliest of any 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. The term *eviction notice* includes, for example, notices to quit, notices to pay rent or quit, and notices to terminate tenancy.

9(c) Prohibitions.

9(c)(1).

1. *Eviction action for non-payment of rent.* Section 1006.9(c)(1) provides that, during the effective period of the CDC Order, a debt collector collecting a debt in any jurisdiction in which the CDC Order applies must not file an eviction action for non-payment of rent against a consumer to whom the CDC Order reasonably might apply without making the disclosure described in § 1006.9(c)(1). A debt collector does not file an eviction action for non-payment of rent if the debt collector files the eviction action based solely on the consumer engaging in one or more of the following actions: criminal activity while on the premises; threatening the health or safety of other residents; damaging or posing an immediate and significant risk of damage to property; violating any applicable building code, health ordinance, or similar regulation relating

to health and safety; or violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

2. *Reasonably might apply.* Section 1006.9(c)(1) requires a debt collector to provide the disclosure described in § 1006.9(c)(1) to any consumer to whom the CDC Order reasonably might apply. A consumer to whom the CDC Order reasonably might apply is a consumer who reasonably might be eligible to be a covered person as defined in the CDC Order. A consumer is not reasonably eligible to be a covered person if the debt collector has knowledge that a consumer is not eligible for protection under the CDC Order. However, nothing in § 1006.9(c)(1) prohibits a debt collector from providing the disclosure to a consumer even if the consumer might not reasonably be eligible to be a covered person. A debt collector therefore may comply with the requirement to provide the disclosure to any consumer to whom the CDC Order reasonably might apply by, for example, providing the disclosure to each consumer against whom the debt collector files an eviction action for non-payment of rent. A debt collector does not violate FDCPA sections 807 (15 U.S.C. 1692e) or 808 (15 U.S.C. 1692f) merely because the debt collector provides the disclosure to consumers as described in this comment 9(c)(1)–2 even if the consumer is not reasonably eligible to be a covered person.

3. *Provision of disclosure.* Section 1006.9(c)(1) requires a debt collector to disclose to the consumer, on the date that the debt collector provides the consumer with an eviction notice or, if no eviction notice is required by applicable law, on the date that the eviction action is filed, that the consumer may be eligible for temporary protection from eviction under the CDC Order. A debt collector may satisfy this requirement by, for example, delivering the disclosure to the address that is the subject of eviction proceedings; the debt collector is not required to ensure that

the consumer actually receives the disclosure. A debt collector may, but is not required to, provide 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, but is not required to, include the disclosure in an envelope either on or with the eviction notice or in the same mailing in which the debt collector serves the consumer with an eviction action.

4. *Frequency of disclosure.* Section 1006.9(c)(1) does not require a debt collector to provide the disclosure described in § 1006.9(c)(1) more than once. However, nothing in § 1006.9(c)(1) prohibits a debt collector from providing the disclosure more than once, such as in each subsequent communication with the consumer. In addition, a debt collector does not violate FDCPA sections 807 (15 U.S.C. 1692e) or 808 (15 U.S.C. 1692f) merely because the debt collector provides the disclosure more than once.

5. *Sample language.* Section 1006.9(c)(1) requires a debt collector to disclose that the consumer may be eligible for temporary protection from eviction under the CDC Order.

i. A debt collector may use, but is not required to use, the following language to satisfy § 1006.9(c)(1): “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.” A debt collector does not violate FDCPA sections 807 (15 U.S.C. 1692e) or 808 (15 U.S.C. 1692f) merely because the debt collector provides the sample language in this comment 9(c)(1)–5.i to a consumer in a jurisdiction in which the CDC Order does not apply.

ii. Alternatively, a debt collector may use, but is not required to use, the following language to satisfy § 1006.9(c)(1): “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.” A debt collector does not violate FDCPA sections 807 (15 U.S.C. 1692e) or 808 (15 U.S.C. 1692f) merely because the debt collector provides the sample language in this comment 9(c)(1)–5.ii to a consumer in a jurisdiction in which only the CDC Order applies or in which the CDC Order does not apply.

6. *Clear and conspicuous.* A debt collector must provide the disclosure described in § 1006.9(c)(1) clearly and conspicuously in writing. Clear and conspicuous means readily understandable. The location and type size also must be readily noticeable and legible to consumers, although no minimum type size is mandated.

Dated: April 16, 2021.

/s/ Laura Galban

Laura Galban,

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