



May 17, 2021

Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Sent via E-Mail: 2021-NPRM-DCEffectiveDate@cfpb.gov

Re: Debt Collection Practices (Regulation F); Delay of Effective Date
Docket No. CFPB-2021-0007 RIN 3170-AA41

Dear Acting Director Uejio:

We submit this comment on behalf of the National Creditors Bar Association (“NCBA”) in response to the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) proposal to extend the effective date of the Final Rule on Debt Collection Practices, Regulation F, by sixty (60) days, until January 29, 2022. The NCBA is the only bar association in the country dedicated to promoting and protecting all creditors’ rights attorneys, including attorneys who collect consumer debt. NCBA member firms practice law in a manner consistent with their responsibilities as officers of the court and must adhere to rules of state civil procedure, state bar association licensing, certification requirements, and the rules of professional conduct of each state in which they practice. NCBA’s values are: Professional, Ethical, Responsible.

Important facts about NCBA member firms are as follows:

- Over 2,500 creditors’ rights attorneys in over 400 law firms and other creditors’ rights practices in all 50 states, Canada, Puerto Rico, and the United Kingdom;
- The majority of NCBA law firms are considered small businesses pursuant to the Small Business Administration classification;
- 45% practice creditors’ right law across multiple state jurisdictions;
- NCBA member law firms are subject to audits on a regular basis by their clients, many of whom are national banks, and devote significant time and resources on compliance and preparing for those audits; and
- NCBA member firms practice various subsets of creditors’ rights law

Creditors’ rights attorneys, like lenders and consumers, are a necessary part of the “credit ecosystem.” More than half of NCBA members represent local, small businesses including retail establishments, small or regional banks, credit unions, and small medical providers. These are long-term attorney-client relationships that have existed, on average, for over two decades. These small business clients do not have vast legal departments or even in-house attorneys and

rely on their local attorneys to ensure that outstanding receivables are paid so that their businesses can continue to operate.

Attorneys who are members of NCBA law firms understand that they are officers of the court and work diligently to ensure that consumers, especially those that appear *pro se* in court, are treated fairly and with dignity and respect. Although our legal system is complex, NCBA attorneys make every effort to work with consumers throughout the legal process including efforts to help resolve their debts in a reasonable manner.

Regulation F offers clarity for both consumers and industry

NCBA members appreciate the clarity that comes with Regulation F. NCBA has engaged with the CFPB on the Debt Collection Rule since 2013. We responded to the CFPB's Advanced Notice of Proposed Rulemaking, had four (4) attorney members act as small entity representatives (SERs) during the Small Business Regulatory Enforcement Fairness Act (SBREFA) process, and filed robust comments in response to both the CFPB's Notice of Proposed Rulemaking and Notice of Supplemental Rulemaking.

NCBA members are currently working to implement Regulation F, as published in the Federal Register. NCBA Law Firm members and industry stakeholders appreciate the regulatory certainty afforded by the Administrative Procedures Act. Any changes to the final rule as released would particularly burden the smallest Law Firms.

A 60-day extension will not make a material difference for NCBA Members; instead NCBA requests a gradual implementation period followed by a grace period for enforcement.

The majority of NCBA Law Firm Members are small businesses; in fact almost half of our 400 members have less than 4 attorneys. We request that, just as the CFPB was sensitive to the progress made by entities making good-faith efforts to come into compliance with the TILA-RESPA Integrated Disclosure Rule and Title XIV mortgage rules, the CFPB offer similar accommodations to entities as they implement Regulation F. A grace period prior to any attempts by the CFPB to institute related enforcement actions would significantly assist NCBA Law Firm members as they work through implementation challenges. Some of these challenges will not even be known until after they have been implemented and tested in live environments.

The implementation of Regulation F has required NCBA Member Firms to significantly modify or change technology platforms within a relatively short amount of time and during a period when America is recovering from the COVID-19 pandemic. As there are limited technology vendors in the creditors rights legal space, some firms have encountered bottlenecks during this process. Gradual implementation and delayed enforcement of Regulation F will help address these challenges and afford law firms a grace period to correct and remediate technology issues.

Conclusion

The NCBA respectfully requests that the CFPB consider the issues outlined above.

Thank you for the opportunity to submit our views on this issue. If you have any questions regarding the NCBA's comments on the proposal to extend the Rules' effective date, please contact NCBA Government Affairs Officer Nathan Willner at (410) 382-7588 or nathan@creditorsbar.org

Sincerely,

A handwritten signature in black ink, appearing to read "Liz Terry". The signature is fluid and cursive, with a large initial "L" and "T".

Liz Terry

Executive Director

National Creditors Bar Association