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May 4, 2021

The Honorable Sherrod Brown
Chairman
The Honorable Patrick J. Toomey
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Bureau of Consumer Financial Protection: Debt Collection Practices in Connection with the Global COVID-19 Pandemic (Regulation F)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Bureau of Consumer Financial Protection (Bureau) entitled “Debt Collection Practices in Connection with the Global COVID-19 Pandemic (Regulation F)” (RIN: 3170-AA41). We received the rule on April 19, 2021. It was published in the *Federal Register* as an interim final rule; request for public comment on April 22, 2021. 86 Fed. Reg. 21163. The effective date is May 3, 2021.

According to the Bureau, it issued this interim final rule to address certain debt collector conduct associated with an eviction moratorium issued by the Centers for Disease Control (CDC). See *generally* 86 Fed. Reg. 8020 (Feb. 3, 2021). The Bureau stated that this interim final rule applies to debt collectors, as that term is defined in the Fair Debt Collection Practices Act (FDCPA). See *generally* 15 U.S.C. §§ 1692–1692p. The Bureau also stated that FDCPA establishes broad consumer protections and prohibits debt collectors from engaging in harassment or abuse, making false or misleading representations, or engaging in unfair practices in debt collection.

The Bureau notes that this interim final rule amends Regulation F, which implements FDCPA, to require debt collectors to provide written notice to certain consumers of their protections under the CDC Order’s eviction moratorium and to clarify that certain misrepresentations are prohibited. See *generally* 12 C.F.R. pt. 1006 (Regulation F). According to the Bureau, 12 C.F.R. § 1006.9 prohibits certain acts by debt collectors that undermine the purpose and effectiveness of the CDC Order’s eviction moratorium to prevent the further spread of Coronavirus Disease 2019 (COVID-19). The Bureau stated that sections 1006.9(a) and (b) set forth the purpose and coverage of subpart B and define certain terms used in the subpart, and section 1006.9(c) identifies the prohibited acts. The Bureau also stated that it is adopting

section 1006.9 pursuant to its authority under FDCPA section 814(d) to write rules with respect to the collection of debts by debt collectors and, with respect to section 1006.9(c), pursuant to its authority to interpret FDCPA sections 807 and 808.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. §§ 553(b)(3)(B), 808(2). Here, although the Bureau did not specifically mention CRA's 60-day delay in effective date requirement, it found good cause to waive notice and comment procedures and incorporated a brief statement of reasons. Specifically, the Bureau stated it found that prior notice and public comment were impracticable and contrary to the public interest in consideration of the public health emergency caused by the COVID-19 pandemic and its effects on consumers. According to the Bureau, the interim final rule is necessary to avoid harm to consumers and to address the lack of clarity for debt collectors that would result if the interim final rule did not take effect a short time after issuance. The Bureau stated, by identifying a practice that violates FDCPA and identifying the means by which a debt collector may comply with FDCPA while engaging in certain actions related to residential evictions, the interim final rule will benefit consumers while minimizing the burden on debt collectors.

Enclosed is our assessment of the Bureau's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.



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Enclosure

cc: Edward J. Lovett, Jr.
Senior Congressional Liaison
Bureau of Consumer Financial Protection

REPORT UNDER 5 U.S.C. § 801(a) (2) (A) ON A MAJOR RULE
ISSUED BY THE
BUREAU OF CONSUMER FINANCIAL PROTECTION
ENTITLED
“DEBT COLLECTION PRACTICES IN CONNECTION
WITH THE GLOBAL COVID-19 PANDEMIC”
(RIN: 3170-AA41)

(i) Cost-benefit analysis

The Bureau of Consumer Financial Protection (Bureau) conducted an analysis of the potential benefits, costs, and impacts of this interim final rule (IFR). This analysis included a description of the data and evidence used and the establishment of a baseline against which the changes imposed by this IFR could be measured for (1) benefits to consumers; (2) benefits and costs to landlords; (3) benefits and costs to covered persons; (4) potential impact on depository institutions and credit unions with \$10 billion or less in total assets; and (5) potential impact on consumers in rural areas and on access by consumers to consumer financial products or services.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

The Bureau stated RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply to this IFR because the RFA does not apply to a rulemaking where general notice of proposed rulemaking is not required.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, the Bureau is not subject to the Act. See 2 U.S.C. §§ 658(1), 1502(1); 44 U.S.C. § 3502.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

According to the Bureau, prior notice and public comment for the regulations would be impracticable and contrary to the public interest in consideration of the public health emergency caused by the Coronavirus Disease 2019 (COVID-19) pandemic and its effects on consumers. The Bureau asserts that this IFR is necessary to avoid harm to consumers and to address the lack of clarity for debt collectors that would result if the IFR did not take effect a short time after issuance. The Bureau stated, by identifying a practice that violates the Fair Debt Collection Practices Act (FDCPA) and identifying the means by which a debt collector may comply with FDCPA while engaging in certain actions related to residential evictions, the IFR will benefit consumers while minimizing the burden on debt collectors. See *generally* 15 U.S.C. §§ 1692–1692p (FDCPA).

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

The Bureau determined that this IFR imposes a new disclosure requirement under FDCA. The Bureau has submitted this requirement to the Office of Management and Budget (OMB) for review and it has requested a new control number for this requirement. This requirement is entitled “Debt Collection Practices in Connection with the Global COVID-19 Pandemic (Regulation F)” (OMB Control Number 3170-00xx). The Bureau estimated the total annual burden hours of this collection to be 3,000.

Statutory authorization for the rule

The Bureau promulgated this IFR pursuant to section 5512 of title 12, and sections 1692f(d) and 1692o of title 15, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, the Bureau is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, the Bureau is not subject to the Order.