



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION
SINGLE FAMILY HOUSING



FHA's COVID-19 Loss Mitigation Options

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OFFICE OF SINGLE FAMILY HOUSING



Summary of Changes

Key Changes to HUD's Loss Mitigation Options for Borrowers Affected by the COVID-19 National Emergency include:

- **COVID-19 Home Retention Options:**
 - COVID-19 Owner-Occupant Loan Modification
 - COVID-19 Combination Partial Claim and Loan Modification
 - COVID-19 FHA-HAMP Loan Modification and Partial Claim with Reduced Documentation
 - COVID-19 Non-Occupant Loan Modification
- **COVID-19 National Emergency Home Disposition Options:**
 - COVID-19 Pre-Foreclosure Sale, and
 - COVID-19 Deed-in-Lieu of Foreclosure

COVID-19 Forbearance



COVID-19 Forbearance

- If a Borrower is experiencing a financial hardship negatively impacting their ability to make on-time Mortgage Payments due to COVID-19 and makes a request for a COVID-19 Forbearance, the Mortgagee must offer the Borrower a COVID-19 Forbearance.
- The COVID-19 Forbearance allows for one or more periods of reduced or suspended payments without specific terms of repayment.
- All Borrowers are eligible for a COVID-19 Forbearance, regardless of the delinquency status of the Mortgage.
- Mortgagees may approve the initial COVID-19 Forward Forbearance no later than March 31, 2021.



COVID-19 Home Retention Options



COVID-19 Home Retention Options Overview

- **Owner-Occupant Borrowers** who were current or less than 30 Days past due as of March 1, 2020 must be reviewed for the following COVID-19 Home Retention Options:
 - COVID-19 Standalone Partial Claim,
 - COVID-19 Owner-Occupant Loan Modification,
 - COVID-19 Combination Partial Claim and Loan Modification, and
 - COVID-19 FHA-HAMP Combination Loan Modification and Partial Claim Reduced Documentation Option.
- **Non-Occupant Borrowers** who were current or less than 30 Days past due as of March 1, 2020 must be reviewed for the COVID-19 Non-Occupant Loan Modification.



COVID-19 Standalone Partial Claim



COVID-19 Standalone Partial Claim

For any **Owner-Occupant Borrowers** who receive the COVID-19 Forbearance, the Mortgagee must evaluate the Borrower for the COVID-19 Standalone Partial Claim no later than the end of the forbearance period(s).

- The COVID-19 Standalone Partial Claim must not exceed the 30% maximum statutory value of all Partial Claims for an FHA-insured Mortgage.
- The Borrower must indicate they have the ability to resume making on-time Mortgage Payments.
 - The Borrower can communicate this either verbally, or in writing. No verification of income is required.

COVID-19 Owner-Occupant Loan Modification



COVID-19 Owner-Occupant Loan Modification

For eligible **Owner-Occupant Borrowers** who do not qualify for the COVID-19 Standalone Partial Claim, the Mortgagee must review the Borrower for a COVID-19 Owner-Occupant Loan Modification, which modifies the rate and term of the Mortgage at the end of the COVID-19 Forbearance period.

- The Borrower must indicate they have the ability to resume making the modified Mortgage Payments.
 - The Borrower can communicate this either verbally, or in writing. No verification of income is required.
- The Borrower's P&I may not increase under the COVID-19 Owner-Occupant Loan Modification unless:
 - The Borrower has exhausted the maximum 30 percent maximum statutory value of all Partial Claims for an FHA-insured Mortgage.



COVID-19 Combination Partial Claim and Loan Modification



COVID-19 Combination Partial Claim and Loan Modification

Eligible **Owner-Occupant Borrowers** must be reviewed for the COVID-19 Combination Partial Claim and Loan Modifications when:

- The modified monthly Mortgage Payment will increase utilizing the COVID-19 Owner-Occupant Loan Modification, and the Borrower is unable to bring the Mortgage current through the COVID-19 Standalone Partial Claim because the total arrearage exceeds the available portion of the statutory maximum for Partial Claims and the available portion of the statutory maximum for the Mortgage has not been fully exhausted, or
- The Borrower cannot resume their existing monthly Mortgage Payments with a COVID-19 Standalone Partial Claim.

The Borrower's monthly Mortgage Payment may increase if the Borrower confirms they can make the increased modified Mortgage Payment.



COVID-19 FHA-HAMP Combination Loan Modification and Partial Claim



COVID-19 FHA-HAMP Combination Loan Modification and Partial Claim

- Borrowers may provide income documentation to be reviewed for an affordable monthly payment under a COVID-19 FHA-HAMP Combination Loan Modification and Partial Claim with Reduced Documentation, which may include a Principal Deferment.
 - The Mortgagee must review the Borrower for an affordable monthly Mortgage Payment using the FHA-HAMP calculations in Step 5 of the Loss Mitigation Home Retention Waterfall Options (III.A.2.j.iii).
 - If required, a principal deferment may be utilized. No portion of the Partial Claim may be used to bring the modified PITI monthly payment below the targeted payment.



COVID-19 Non-Occupant Loan Modification



COVID-19 Non-Occupant Loan Modification

At the expiration of the COVID-19 Forbearance period, the Mortgagee must review Non-Occupant Borrowers for a COVID-19 Non-Occupant Loan Modification, which modifies the rate and term of the Mortgage.

- The Borrower's total monthly Mortgage Payment may increase.
- The Property can be used as a Rental Property, Secondary Residence, or Vacation Home for the Borrower.

Required Documentation for the COVID-19 Non-Occupant Loan Modification

The Mortgagee must document the following in the Claim Review File for the COVID-19 Non-Occupant Loan Modification:

- A copy of the rental agreement for each rental unit, if applicable; and
- A written statement from the Borrower stating:
 - They are the landlord of the Property and their renter is impacted, directly or indirectly, by the COVID-19 pandemic and is either unable to make rent payments or has vacated the Property; or
 - The Property is used as a Secondary Residence or a Vacation Home for the Borrower.

COVID-19 Home Disposition Options



COVID-19 Home Disposition Options

- COVID-19 Home Disposition Options provide options for the disposition of a Property if the Borrower is unable to reinstate the Mortgage using the COVID-19 Home Retention Options. They are:
 - COVID-19 Pre-Foreclosure Sale, and
 - COVID-19 Deed-In-Lieu of Foreclosure
- Mortgagees must review Borrowers that are impacted, directly or indirectly, by COVID-19, that do not qualify for a COVID-19 Home Retention Option or indicate that they cannot resume making the monthly or modified monthly Mortgage Payment, for the COVID-19 Home Disposition Options.
- COVID-19 Home Disposition Options are available to Owner-Occupant and Non-Occupant Borrowers.

COVID-19 Pre-Foreclosure Sale



COVID-19 Pre-Foreclosure Sale

- A COVID-19 Pre-Foreclosure Sale (COVID-19 PFS) option is available for Borrowers who are experiencing a hardship affecting their ability to sustain the Mortgage due to COVID-19 and do not qualify for any COVID-19 Home Retention Options.
- .To evaluate Borrowers for the COVID-19 PFS option, Mortgagees must follow the Streamlined PFS requirements (III.A.2.I.ii), except as noted in ML 2020-22.

COVID-19 Deed-in-Lieu of Foreclosure



COVID-19 Deed-In-Lieu of Foreclosure

- A COVID-19 Deed-in-Lieu (DIL) of Foreclosure (COVID-19 DIL) is a COVID-19 Home Disposition Option in which a Borrower voluntarily offers the deed as collateral Property to HUD in exchange for a release from all obligations under the Mortgage.
- A COVID-19 DIL option is available for Borrowers who are experiencing a hardship affecting their ability to sustain the Mortgage due to the COVID-19 pandemic, and who were unable to complete a COVID-19 PFS transaction at the expiration of the PFS marketing period.
- The Mortgagee must ensure that the Borrower and the eligible FHA-insured Mortgages meet the eligibility and program requirements.
 - To evaluate Borrowers for the COVID-19 DIL, Mortgagees must follow the Streamlined DIL requirements in Deed-in-Lieu of Foreclosure (III.A.2.I.iii), except as noted in ML 2020-22.



Required Financial Evaluation for other Loss Mitigation Home Retention Options

- The Mortgagee must evaluate any Borrower who is not eligible for a COVID-19 Home Retention or Disposition Option, because the Mortgage was not current or less than 30 Days past due as of March 1, 2020, for HUD's standard Loss Mitigation Home Retention Options (III.A.2.k) and Home Disposition Options (III.A.2.l).

Online Loss Mitigation Resources

- [COVID-19 Questions and Answers](#)
- [HUD COVID-19 Resources and Fact Sheets](#)
- [4000.1 Single Family Housing Handbook](#)
- [Single Family Handbook Supplemental Documents](#)
- [HUD Approved Counseling Agencies](#)
- [Extension and Variance Automated Requests System \(EVARS\)](#)
- [FHA Info Announcements Archives](#)
- [Single Family Default Monitoring System \(SFDMS\) Reporting Codes](#)



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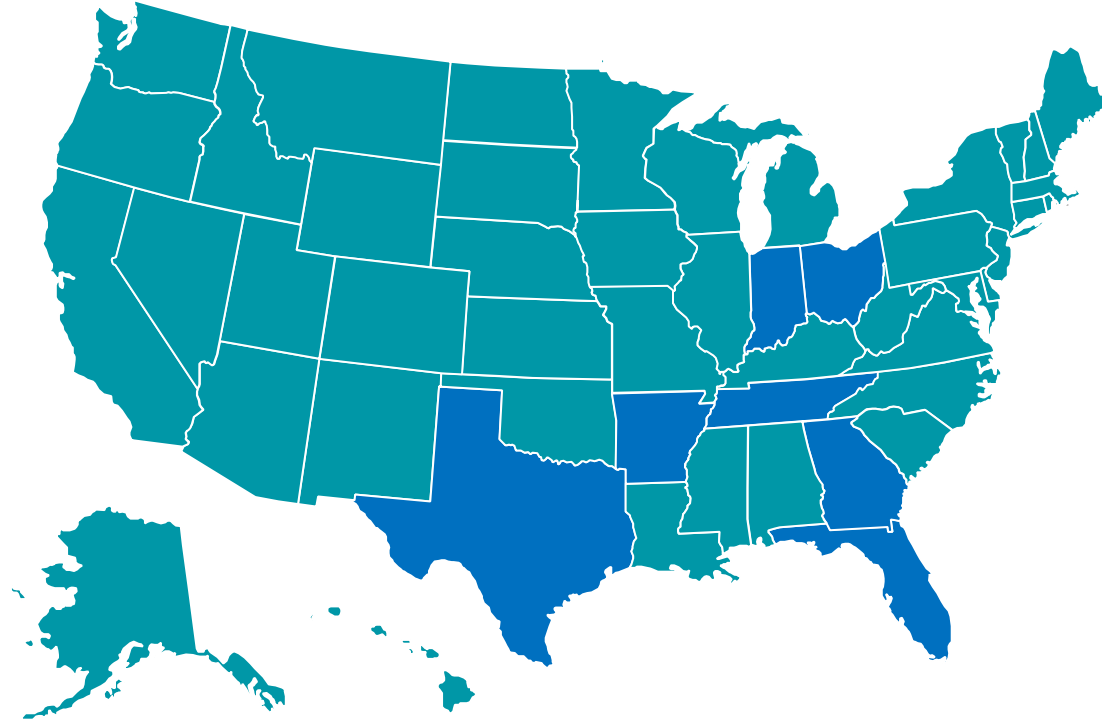
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HIGHLIGHT OVERVIEW

Loss Mitigation under the CFPB, COVID-19 Policies, CFPB Debt Collection Rule

OVERVIEW

12 CFR Part 1024 - Real Estate Settlement Procedures Act (Regulation X)

Loss Mitigation Compliance

Under the CFPB 12 CFR 1024.41:



- **What is Considered a COMPLETE Loss Mitigation Application?**
 - **Complete loss mitigation application.** A complete loss mitigation application means an application in connection with which a servicer has received all the information that the servicer requires from a borrower in evaluating applications for the loss mitigation options available to the borrower. A servicer shall exercise reasonable diligence in obtaining documents and information to complete a loss mitigation application.
 - **Official interpretation of 41(b)(1) Complete loss mitigation application:**
 - In general. A servicer has flexibility to establish its own application requirements and to decide the type and amount of information it will require from borrowers applying for loss mitigation options. In the course of gathering documents and information from a borrower to complete a loss mitigation application, a servicer may stop collecting documents and information for a particular loss mitigation option after receiving information confirming that, pursuant to any requirements established by the owner or assignee of the borrower's mortgage loan, the borrower is ineligible for that option.

Loss Mitigation Compliance

Under the CFPB 12 CFR 1024.41 cont



A servicer may not stop collecting documents and information for any loss mitigation option based solely upon the borrower's stated preference but may stop collecting documents and information for any loss mitigation option based on the borrower's stated preference in conjunction with other information, as prescribed by any requirements established by the owner or assignee. A servicer must continue to exercise reasonable diligence to obtain documents and information from the borrower that the servicer requires to evaluate the borrower as to all other loss mitigation options available to the borrower.

Loss Mitigation Compliance

Under the CFPB 12 CFR 1024.41:



- **Time Period Disclosure:**

- The notice required pursuant to paragraph (b)(2)(i)(B) of this section must include a reasonable date by which the borrower should submit the documents and information necessary to make the loss mitigation application complete.
 - Official interpretation of 41(b)(2)(ii) Time period disclosure.
 1. Thirty days is generally reasonable. In general and subject to the restrictions described in comments 41(b)(2)(ii)-2 and -3, a servicer complies with the requirement to include a reasonable date in the written notice required under § 1024.41(b)(2)(i)(B) by including a date that is 30 days after the date the servicer provides the written notice.
 2. No later than the next milestone. For purposes of § 1024.41(b)(2)(ii), subject to the restriction described in comment 41(b)(2)(ii)-3, the reasonable date must be no later than the earliest of:
 - The date by which any document or information submitted by a borrower will be considered stale or invalid pursuant to any requirements applicable to any loss mitigation option available to the borrower;
 - The date that is the 120th day of the borrower's delinquency;
 - The date that is 90 days before a foreclosure sale;
 - The date that is 38 days before a foreclosure sale.
 3. Seven-day minimum. A reasonable date for purposes of § 1024.41(b)(2)(ii) must never be less than seven days from the date on which the servicer provides the written notice pursuant to § 1024.41(b)(2)(i)(B).

Loss Mitigation Compliance

Under the CFPB 12 CFR 1024.41:



Reasonable Time:

- Notwithstanding paragraph (c)(2)(i) of this section, if a servicer has exercised reasonable diligence in obtaining documents and information to complete a loss mitigation application, but a loss mitigation application remains incomplete for a significant period of time under the circumstances without further progress by a borrower to make the loss mitigation application complete, a servicer may, in its discretion, evaluate an incomplete loss mitigation application and offer a borrower a loss mitigation option. Any such evaluation and offer is not subject to the requirements of this section and shall not constitute an evaluation of a single complete loss mitigation application for purposes of paragraph (i) of this section.

Official interpretation of 41(c)(2)(ii) Reasonable time:

Significant period of time. A significant period of time under the circumstances may include consideration of the timing of the foreclosure process. For example, if a borrower is less than 50 days before a foreclosure sale, an application remaining incomplete for 15 days may be a more significant period of time under the circumstances than if the borrower is still less than 120 days delinquent on a mortgage loan obligation.



Loss Mitigation Compliance Under the CFPB 12 CFR 1024.41:

PROHIBITION OF A FORECLOSURE REFERRAL:

(1) Pre-foreclosure review period. A servicer shall not make the first notice or filing required by applicable law for any judicial or non-judicial foreclosure process unless:

- (i) A borrower's mortgage loan obligation is more than 120 days delinquent.
- (ii) The foreclosure is based on a borrower's violation of a due-on-sale clause; or
- (iii) The servicer is joining the foreclosure action of a superior or subordinate lienholder.

DUPLICATIVE REQUESTS:

Duplicative requests. A servicer must comply with the requirements of this section for a borrower's loss mitigation application, unless the servicer has previously complied with the requirements of this section for a complete loss mitigation application submitted by the borrower and the borrower has been delinquent at all times since submitting the prior complete application.



Covid-19 Loss Mitigation Options -interim Rule:

Effective Date: July 1, 2020

Summary of the Interim Final Rule:

Title [12 CFR part 1024](#) (Regulation X) generally requires servicers to obtain a complete loss-mitigation application before evaluating a mortgage borrower for a loss-mitigation option, such as a loan modification or short sale. Regulation X provides an exception from this requirement for certain short-term loss mitigation options. Due to the particular needs of mortgage servicers and borrowers during the novel coronavirus disease (COVID-19) pandemic emergency (COVID-19 emergency), the Bureau amended Regulation X to temporarily permit mortgage servicers to offer certain loss mitigation options without obtaining a complete loss mitigation application. Servicers may offer eligible loss mitigation options to a borrower who has received a payment forbearance program made available to borrowers experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency, including one offered pursuant to section 4022 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), or who has had other principal and interest payments that are due and unpaid as a result of a financial hardship due, directly or indirectly, to the COVID-19 emergency.

The interim final rule also excludes servicers from certain regulatory requirements if a borrower accepts an option offered pursuant to the new exception. Specifically, the interim final rule provides that the servicer is not required to continue the reasonable diligence efforts § 1024.41(b)(1) otherwise requires or send the acknowledgement notice § 1024.41(b)(2) otherwise requires.



Covid-19 Loss Mitigation Options -interim Rule:

Interim Final Rule to Regulation X that became effective as of July 1, 2020:

(A) Notwithstanding paragraph (c)(2)(i) of this section, a servicer may offer a borrower a loss mitigation option based upon evaluation of an incomplete application, provided that all of the following criteria are met:

1) The loss mitigation option permits the borrower to delay paying covered amounts:

Until the mortgage loan is refinanced, the mortgaged property is sold, the term of the mortgage loan ends, or, for a mortgage loan insured by the Federal Housing Administration, the mortgage insurance terminates.

For purposes of this paragraph (c)(2)(v)(A)(1), “covered amounts” includes, without limitation, all ***principal and interest payments forborne under a payment forbearance program made available to borrowers experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency, including a payment forbearance program made pursuant to the Coronavirus Economic Stabilization Act, section 4022 (15 U.S.C. 9056); it also includes, without limitation, all other principal and interest payments that are due and unpaid by a borrower experiencing financial hardship due, directly or indirectly, to the COVID-19 emergency.*** For purposes of this paragraph (c)(2)(v)(A)(1), “COVID-19 emergency” has the same meaning as under the Coronavirus Economic Stabilization Act, section 4022(a)(1) (15 U.S.C. 9056(a)(1)). For purposes of this paragraph (c)(2)(v)(A)(1), “the term of the mortgage loan” means the term of the mortgage loan according to the obligation between the parties in effect when the borrower is offered the loss mitigation option.



Covid-19

Loss Mitigation Options -interim Rule:

Interim Final Rule to Regulation X that became effective as of July 1, 2020:

- **(2)** Any amounts that the borrower may delay paying as described in paragraph (c)(2)(v)(A)(1) of this section do not accrue interest; *the servicer does not charge any fee in connection with the loss mitigation option; and the servicer waives all existing late charges, penalties, stop payment fees, or similar charges promptly upon the borrower's acceptance of the loss mitigation option.*
- **(3)** The borrower's acceptance of an offer made pursuant to paragraph (c)(2)(v)(A) of this section ends any preexisting delinquency on the mortgage loan. Once the borrower accepts an offer made pursuant to paragraph (c)(2)(v)(A) of this section, the servicer is not required to comply with paragraph (b)(1) or (2) of this section with regard to any loss mitigation application the borrower submitted prior to the servicer's offer of the loss mitigation option described in paragraph (c)(2)(v)(A) of this section.



Covid-19 Loss Mitigation Options - Cares Act 2020

Section 4022:

FORBEARANCE. — (1) IN GENERAL.:

During the covered period, a borrower with a Federally backed mortgage loan experiencing a financial hardship due, directly or indirectly, to the COVID–19 emergency may request forbearance on the Federally backed mortgage loan, regardless of delinquency status, by—

- submitting a request to the borrower’s servicer; and
- affirming that the borrower is experiencing a financial hardship during the COVID–19 emergency.

DURATION OF FORBEARANCE. —Upon a request by a borrower for forbearance under paragraph (1), such forbearance shall be granted for up to 180 days, and shall be extended for an additional period of up to 180 days at the request of the borrower, provided that, at the borrower’s request, either the initial or extended period of forbearance may be shortened.

ACCRUAL OF INTEREST OR FEES. —During a period of forbearance described in this subsection, no fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract, shall accrue on the borrower’s account.



Covid-19 Loss Mitigation Options - Cares Act 2020

Section 4022:

REQUIREMENTS FOR SERVICERS. —

(1) IN GENERAL. —Upon receiving a request for forbearance from a borrower under subsection (b), the servicer shall with no additional documentation required other than the borrower's attestation to a financial hardship caused by the COVID-19 emergency and with no fees, penalties, or interest (beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract) charged to the borrower in connection with the forbearance, provide the forbearance for up to 180 days, which may be extended for an additional period of up to 180 days at the request of the borrower, provided that, the borrower's request for an extension is made during the covered period, and, at the borrower's request, either the initial or extended period of forbearance may be shortened



COVID-19 LOSS MITIGATION OPTIONS: VA Loans

- **Loss Mitigation:**
 - **Circular 26-20-33-** Released on 09/14/2020:
 - Relevant Language from Circular:
 - VA understands that some servicers are considering whether they may offer borrowers exiting a CARES Act forbearance a deferment as a loss mitigation option, in which the servicer defers payment of the total amount of forborne payments (principal, interest, taxes, and insurance), to the loan maturity date or until a borrower refinances the loan, transfers the property, or otherwise pays off of the loan, whichever occurs first, and with no added cost, fees, or interest to the borrower, including no penalty for early payment of the deferred amount.
 - The deferment as a COVID-19 loss mitigation alternative may be used in cases when the veteran is able to resume making the monthly payment as scheduled under the loan contract.
 - For VA's purposes, the servicer does not need and should not enter into a modification agreement that alters the terms of the existing loan for the purpose of applying a deferment. To ensure compliance with servicing laws more generally, servicers should seek specific advice from their legal counsel.



COVID-19 LOSS MITIGATION OPTIONS: VA Loans

- **Loss Mitigation:**
 - **Circular 26-20-33-** Released on 09/14/2020:
 - Relevant Language from Circular:
 - In consideration of the COVID-19 national emergency, the CARES Act, Executive Order 13924, Regulatory Relief to Support Economic Recovery (85 FR 31353), and VA's regulatory authority under 38 C.F.R. § 36.4338(a) to relieve undue prejudice to a debtor, holder, or other person, VA is temporarily waiving the requirement that the final installment on any loan shall not be in excess of two times the average of the preceding installments. (LOCAL REPRODUCTION AUTHORIZED) Circular 26-20-33 September 14, 2020 b. This temporary waiver applies only in the case of a servicer offering a deferment as a COVID-19 loss mitigation option to a borrower who requested a CARES Act forbearance, as described above. Furthermore, VA notes that the servicer must ensure that deferment will not adversely affect the Government's interests in the VA-guaranteed loan and/or impair the vested rights of any other person. See 38 C.F.R. § 36.4338(a).



COVID-19 LOSS MITIGATION OPTIONS: VA Loans

- **Loss Mitigation:**
 - **Circular 26-20-12-** Released April 12, 2020:
 - Relevant Language:
 - Eligibility:
 - A borrower with a VA-guaranteed or VA-held loan, including a Native American Direct Loan or a vendee loan, who is experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request a loan forbearance, regardless of delinquency status, by
 - a. submitting a request to the borrower's servicer; and
 - b. attesting that the borrower is experiencing a financial hardship due to the COVID-19 emergency.
 - Forbearance:
 - The borrower may request an initial forbearance period of up to 180-days, regardless of the borrower's delinquency status. If the borrower makes the attestation discussed above, the servicer must grant the forbearance request, with no additional documentation. This forbearance must be extended, at the borrower's request, for an additional period of up to 180 days. When a borrower contacts the servicer, VA expects the servicer to inform the borrower of the borrower's forbearance rights. The borrower, not the servicer, is entitled to determine the period of the forbearance, subject to the statutory limit of up to 360 days.



COVID-19 LOSS MITIGATION OPTIONS: VA Loans

- **Loss Mitigation:**

- **Circular 26-20-12-** Released April 12, 2020:

- **Accrual of Fees, Penalties, and Interest / Credit Reporting.**

- During a period of forbearance described above, servicers shall not charge fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract. When reporting credit information to credit bureaus, servicers must follow the CARES Act requirements for reporting a borrower's account as current or delinquent.

- **Exiting Forbearance**

- Servicers should consider all the loss mitigation options described by Chapter 5 of the VA Servicer Handbook M26-4 (including those related to disasters) in determining how to account for payments that were subject to a CARES Act forbearance. Such loss mitigation options include, but are not limited to:
 1. Repayment plans,
 2. Loan modifications,
 3. Streamline modifications,
 4. VA Affordable modifications,
 5. VA Disaster modifications, and
 6. Disaster Extend modifications.



COVID-19 LOSS MITIGATION OPTIONS: VA Loans

- **Loss Mitigation:**
 - **Circular 26-20-12-** Released April 12, 2020:
 - Servicers are not to require a borrower who receives a CARES Act forbearance to make a lump sum payment, equating to what would have been due if a forbearance was not in effect, after the forbearance period ends. However, a lump sum is acceptable if it is to be paid back at the end of the loan or if a borrower opts to make a lump sum payment instead of pursuing the options discussed above.
 - Servicers should review loan files for all possible loss mitigation options no later than 30 days before the forbearance period is scheduled to end. Servicers should document such reviews in their loan servicing systems. If no loss mitigation options are possible, in cases where the home has equity, servicers must refer the file to the relevant Regional Loan Center for VA's consideration of a loan refunding. Where a such a refunding is not possible, servicers should consider alternatives to foreclosure including compromise sales (short sales) and deeds in lieu of foreclosure

COVID-19 LOSS MITIGATION OPTIONS:USDA Loans



COVID-19 Relief- Forbearance Requirements:

- Lenders should continue to provide impacted borrowers relief in accordance with the CARES Act by offering forbearance of the borrower guaranteed loan payment for up to 180 days. In addition, the initial forbearance period may be extended up to an additional 180 days at the borrower's request. Lenders should outline potential solutions that may be available at the end of the forbearance payment and explain to borrowers that a lump sum payment of the arrearage will not be required.
- During the forbearance options outlined above, no accrual of fees, penalties or interest may be charged to the borrower beyond the amounts calculated as if the borrower had made all contractual payments in a timely fashion.
- Upon completion of the forbearance, the lender shall communicate with the borrower and determine if the borrower is able to resume making regular contractual payments. If so, the lender shall offer the borrower a written re-payment plan to resolve any amount due or at the borrower's request, extend the loan term for a period that is at least the length of the forbearance.
- If the lender determines the borrower is financially unable to resume making contractual payments at the end of the forbearance, the borrower shall be evaluated for all available options presented in the Loss Mitigation Guide which is found at Attachment 18-A in Chapter 18 of the 3555 Technical Handbook: <https://www.rd.usda.gov/sites/default/files/3555-1chapter18.pdf>.
- **Effective period:** Lenders may approve the initial 180-day COVID-19 Forbearance no later than March 31, 2021.



COVID-19 LOSS MITIGATION OPTIONS: USDA Loans

COVID-19 Relief- Reporting:

- For COVID-19 forbearances, the Status Code 06 - Formal Forbearance should continue to be used. If any other Status or Reason Code was previously used to report the forbearance status of borrowers affected by the COVID-19 national emergency, please discontinue using that Status Code and begin reporting with Status Code 06 – Formal Forbearance.
- The same default status date should be used as the date the borrower was approved for the forbearance if changing the Status Code.
- If the loan was not previously in default, the Status Code 42 – Delinquent must be reported first to open the default event and then Status Code 06 – Formal Forbearance should be reported in the following months.

Resources for COVID Forbearance:



CFPB:

- [Mortgage forbearance during COVID-19: What to know and what to do | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)
- [Interactive Version of Regulation X:](#)
 - [12 CFR Part 1024 - Real Estate Settlement Procedures Act \(Regulation X\) | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

USDA:

- <https://www.rd.usda.gov/coronavirus>

VA:

- [Circulars: Calendar Year 2020 - VA Home Loans](#)

CFPB FINAL RULE ON THE FDCPA:

12 CFR 1006 (Regulation F)

The Rulemaking Process:



- On May 21, 2019, the Bureau published a proposed rule (the proposal) in the Federal Register to amend Regulation F, which implements the FDCPA.
 - The proposal provided a 90-day comment period that would have closed on August 19, 2019. To allow interested persons more time to consider and submit comments, the Bureau issued an extension of the comment period until September 18, 2019.
- In response to the proposal, the Bureau received more than 14,000 comments from consumers, consumer groups, members of Congress, other government agencies, creditors, debt collectors, industry trade associations, and others.
 - All of these comments were considered, when the Bureau adopted the final rule.
- The Bureau also conducted a variety of consumer testing and surveys beginning in 2014. These surveys encompassed all type of interested parties, including law firms.

Legal Authority



- The Bureau has the authority to issue the final rule primarily pursuant to its authority under the FDCPA and Dodd-Frank Act. As amended by the Dodd-Frank Act, FDCPA section 814(d) provides that the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in the FDCPA. Section 1022(a) of the Dodd-Frank Act provides that the Bureau is authorized to exercise its authorities under the Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

Fun Facts

- New rule becomes effective one year after publication in the Federal Register- published 11/30/2020 in the Federal Register, so will become effective 11/30/2021
- The final rule restates nearly all of the FDCPA's substantive provisions largely in the order that they appear in the statute;
- Debt Collection is estimated to be a 12.7 billion dollar industry employing nearly 123,000 people across approximately 7,800 collection agencies in the United States.
- In determining whether acts violate FDCPA sections 806 through 808, the Bureau interprets those sections to incorporate an objective standard that is designed to protect consumers who are of below average sophistication or intelligence or who are especially vulnerable to fraudulent schemes.



The Final Rule Broken Down

- The Final Rule has Four Subparts:
 - Subpart A contains generally applicable provisions, such as definitions that apply throughout the regulation;
 - Subpart B contains rules for FDCPA debt collectors;
 - Subpart C is reserved for any future debt collection rulemakings;
 - Subpart D contains certain miscellaneous provisions.

Overview of the Changes-The Final Rule in General:

1. Clarifies restrictions on the times and places at which a debt collector may communicate with a consumer, including by clarifying that a consumer need not use specific words to assert that a time or place is inconvenient for debt collection communications;
2. Clarifies that a consumer may restrict the media through which a debt collector communicates by designating a particular medium, such as email, as one that cannot be used for debt collection communications;
3. Clarifies that a debt collector is presumed to violate the FDCPA's prohibition on repeated or continuous telephone calls if the debt collector places a telephone call to a person more than seven times within a seven-day period or within seven days after engaging in a telephone conversation with the person.

Overview of the Changes-The Final Rule in General:



4. It also clarifies that a Debt Collector is presumed to comply with that prohibition if the debt collector places a telephone call not in excess of either of those call telephone call frequencies. The final rule also provides non-exhaustive lists of factors that may be used to rebut the presumption of compliance or of a violation.
5. Clarifies that newer communication technologies, such as emails and text messages, may be used in debt collection, with certain limitations to protect consumer privacy and to protect consumers from harassment or abuse, false or misleading representations, or unfair practices. For example, the final rule requires that each of a debt collector's emails and text messages must include instructions for a reasonable and simple method by which a consumer can opt out of receiving further emails or text messages.
6. The final rule also provides that a debt collector may obtain safe harbor from civil liability for an unintentional third-party disclosure if the debt collector follows the procedures identified in the final rule.
7. Defines a new term related to debt collection communications: limited content message. This definition identifies what information a debt collector must and may include in a voicemail message for the message to be deemed not to be a communication under the FDPCA. This definition permits a debt collector to leave a voicemail message for a consumer that is not a communication under the FDCPA or the final rule and therefore is not subject to certain requirement or restrictions.
8. The final rule clarifies the standards a debt collector must meet when the required disclosures in writing or electronically.
9. The final rule includes provisions clarifying debt collectors' obligation to retain records evidencing compliance or noncompliance with the FDCPA and Regulation F;
10. The Final Rule also clarifies that the personal representative of a deceased consumer's estate is a consumer for purposes of 1006.6 which addresses communications in connection with debt collection.

TAKING A CLOSER LOOK AT THE CHANGES

Section by Section Analysis



Taking a Closer Look

On October 30, 2020, issued a final rule to restate and clarify prohibitions on harassment and abuse, false or misleading representations, and unfair practices by debt collectors when collecting consumer debt. The rule focuses on debt collection communications and gives consumers more control over how often and through what means debt collectors can communicate with them regarding their debts. The rule also clarifies how the protections of the Fair Debt Collection Practices Act (FDCPA), which was passed in 1977, apply to newer communication technologies, such as email and text messages.

Taking a Closer Look New Terminology

Attempt to Communicate:

Means any act to initiate a communication or other contact about a debt with any person through any medium, including by soliciting a response from such person. An attempt to communicate includes leaving a limited-content message.

- **Interpretation:**

An act to initiate a communication or other contact about a debt is an attempt to communicate regardless of whether the attempt, if successful, would be a communication that conveys information regarding a debt directly or indirectly to any person.

Expansion of the Definition of Consumer:

Now includes a confirmed successor in interest, as defined in Regulation X, 12 CFR 1024.31, or Regulation Z, 12 CFR 1026.2(a)(27)(ii).

Taking a Closer Look New Terminology



Limited-Content Message:

A “limited-content message” is defined under the Rule as a voicemail message for a consumer that includes: (1) a business name for the debt collector (that does not indicate that the debt collector is in the debt collection business); (2) a request that the consumer reply to the message; (3) the name 3 EXECUTIVE SUMMARY OF THE OCTOBER 2020 DEBT COLLECTION RULE (or names) of one or more person(s) whom the consumer can contact to reply to the debt collector; and (4) a phone number (or numbers) that the consumer can use to reply to the debt collector. A limited-content message also may include: (1) a salutation; (2) the date and time of the message; (3) suggested dates and times for the consumer to reply to the message; and (4) a statement that if the consumer replies, the consumer may speak to any of the company’s representatives or associates. An example of a limited-content voicemail message is: “This is Robin Smith calling from ABC Inc. Please contact me or Jim Johnson at 1-800-555-1212.”

A limited-content message may only include the required and optional information above. Because a limited-content message must be “for a consumer,” a message knowingly left for a third party is not a limited-content message.

Debt Collector:

Debt collector means 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. Notwithstanding paragraph (i)(2)(vi) of this section, the term debt collector includes any creditor that, in the process of collecting its own debts, uses any name other than its own that would indicate that a third person is collecting or attempting to collect such debts. For purposes of § [1006.22\(e\)](#), the term also includes any person who uses any instrumentality of interstate commerce or mail in any business the principal purpose of which is the enforcement of security interests.

Taking a Closer Look New Terminology



The term debt collector excludes:

- **i)** Any officer or employee of a creditor while the officer or employee is collecting debts for the creditor in the creditor's name;
- **(ii)** Any person while acting as a debt collector for another person if:
 - **(A)** The person acting as a debt collector does so only for persons with whom the person acting as a debt collector is related by common ownership or affiliated by corporate control; and
 - **(B)** The principal business of the person acting as a debt collector is not the collection of debts;
- **(iii)** Any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of the officer's or employee's official duties;
- **(iv)** Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;
- **(v)** Any nonprofit organization that, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in liquidating their debts by receiving payment from such consumers and distributing such amounts to creditors;
- **(vi)** Any person collecting or attempting to collect any debt owed or due, or asserted to be owed or due to another, to the extent such debt collection activity:
 - **(A)** Is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;
 - **(B)** Concerns a debt that such person originated;
 - **(C)** Concerns a debt that was not in default at the time such person obtained it; or
 - **(D)** Concerns a debt that such person obtained as a secured party in a commercial credit transaction involving the creditor; and
- **(vii)** A private entity, to the extent such private entity is operating a bad check enforcement program that complies with section 818 of the Act.

Taking a Closer Look Communication



Clarification on Prohibitions Regarding Unusual or Inconvenient Time or Places:

- A debt collector knows or should know that a time or place is inconvenient to a consumer if the consumer uses the word “inconvenient” to notify the debt collector. In addition, depending on the facts and circumstances, the debt collector knows or should know that a time or place is inconvenient even if the consumer does not specifically state to the debt collector that a time or place is “inconvenient.” The debt collector may ask follow-up questions regarding whether a time or place is convenient to clarify statements by the consumer.
- **Consumer-initiated communication:**
 - If a consumer initiates a communication with a debt collector at a time or from a place that the consumer previously designated as inconvenient, the debt collector may respond once at that time or place through the same medium of communication used by the consumer

Clarification on Communications with a consumer—after refusal to pay or cease communication notice:

If a consumer notifies a debt collector in writing or electronically using a medium of electronic communication through which a debt collector accepts electronic communications from consumers that the consumer either refuses to pay a debt or wants the debt collector to cease further communication with the consumer, notification is complete upon the debt collector’s receipt of that information.

Taking a Closer Look Communication



- **E-Sign Act:**

- Interpretation of the E-SIGN Act. Under this interpretation, section 101(a) of the E-SIGN Act enables a consumer to satisfy the requirement in FDCPA section 805(c) that the consumer's notification of the debt collector be "in writing" through an electronic request. Further, because the consumer may only satisfy the writing requirement using 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.

Exceptions:

- **Written early intervention notice for mortgage servicers.** The Bureau has interpreted the written early intervention notice required by 12 CFR 1024.39(d)(3) to fall within the exceptions to the cease communication provision in FDCPA section 805(c)(2) and (3).
- **Other mortgage servicing rule provisions.** Notwithstanding a consumer's cease communication request pursuant to § 1006.6(c)(1), a mortgage servicer who is subject to the FDCPA with respect to a mortgage loan is not liable under the FDCPA for complying with certain servicing rule provisions, including requirements to provide a consumer with disclosures regarding the forced placement of hazard insurance as required by 12 CFR 1024.37, a disclosure regarding an adjustable-rate mortgage's initial interest rate adjustment as required by 12 CFR 1026.20(d), and a periodic statement for each billing cycle as required by 12 CFR 1026.41.

Taking a Closer Look Communication



- **Opt-out of electronic communications:**
 - The Debt Collection Rule requires a debt collector who communicates or attempts to communicate electronically with a consumer to include in each communication or attempt to communicate a reasonable and simple method that the consumer can use to opt out of additional communications and attempts to communicate (for example, “Reply STOP to stop texts to this telephone number”). This requirement applies to a specific email address, telephone number, or other electronic medium address (such as a social media name or account). If a consumer opts out of receiving electronic communications from a debt collector, a debt collector may respond once, confirming the consumer’s request to opt out and stating that the debt collector will honor it.

Taking a Closer Look New Technologies



Reasonable procedures for email and text message communications- Communications with Third Parties:

- A debt collector maintains procedures that are reasonably adapted, for purposes of FDCPA section 813(c) (that the violation was not intentional), to avoid a bona fide error in sending an email or text message communication that would result in a violation of paragraph (d)(1) of this section if those procedures include steps to reasonably confirm and document that:
 - **(i)** The debt collector communicated with the consumer by sending an email to an email address described in paragraph (d)(4) of this section or a text message to a telephone number described in paragraph (d)(5) of this section; and
 - **(ii)** The debt collector did not communicate with the consumer by sending an email to an email address or a text message to a telephone number that the debt collector knows has led to a disclosure prohibited by paragraph (d)(1) of this section.
- **Knowledge of prohibited disclosure.**
- A debt collector knows that sending an email to an email address or a text message to a telephone number has led to a disclosure that is prohibited if any person has informed the debt collector of that fact.

Taking a Closer Look New Technologies



Procedures for email addresses. A debt collector may send an email to an email address if:

- (i) **Procedures based on communication between the consumer and the debt collector.**
 - (A) The consumer used the email address to communicate with the debt collector about the debt and the consumer has not since opted out of communications to that email address; or
 - (B) The debt collector has received directly from the consumer prior consent to use the email address to communicate with the consumer about the debt and the consumer has not withdrawn that consent; or
- **Interpretations by the CFPB:**
 - **1. Prior consent—in general.** A debt collector may send an email to an email address if, among other things, the debt collector has received directly from the consumer prior consent to use the email address to communicate with the consumer about the debt. A consumer may provide consent directly to a debt collector through any medium of communication, such as in writing, electronically, or orally.
 - **2. Prior consent—consumer-provided email address.** If a consumer provides an email address to a debt collector (including on the debt collector’s website or online portal), the debt collector may treat the consumer as having consented directly to the debt collector’s use of the email address to communicate with the consumer about the debt for purposes of § 1006.6(d)(4)(i)(B) if the debt collector discloses clearly and conspicuously that the debt collector may use the email address to communicate with the consumer about the debt.

Taking a Closer Look New Technologies



Procedures for telephone numbers for text messages.

A debt collector may send a text message to a telephone number if:

- **1. Complete and accurate database.** The debt collector confirms, using a complete and accurate database, that the telephone number has not been reassigned from the consumer to another user. For purposes of § 1006.6(d)(5)(i) and (ii), the database established by the FCC in *In re Advanced Methods to Target & Eliminate Unlawful Robocalls* (33 FCC Rcd. 12024 (Dec. 12, 2018)) qualifies as a complete and accurate database, as does any commercially available database that is substantially similar in terms of completeness and accuracy to the FCC's database.
 - **(i)** The consumer used the telephone number to communicate with the debt collector about the debt by text message, the consumer has not since opted out of text message communications to that telephone number, and within the past 60 days either:
 - **(A)** The consumer sent the text message described in paragraph (d)(5)(i) of this section or a new text message to the debt collector from that telephone number; or

Taking a Closer Look New Technologies



Procedures for telephone numbers for text messages.

A debt collector may send a text message to a telephone number if:

(B) The debt collector confirmed, using a complete and accurate database, that the telephone number has not been reassigned from the consumer to another user since the date of the consumer's most recent text message to the debt collector from that telephone number; or

The debt collector received directly from the consumer prior consent to use the telephone number to communicate with the consumer about the debt by text message, the consumer has not since withdrawn that consent, and within the past 60 days the debt collector either:

- **(A)** Obtained the prior consent described in paragraph (d)(5)(ii) of this section or renewed consent from the consumer; or
- **(B)** Confirmed, using a complete and accurate database, that the telephone number has not been reassigned from the consumer to another user since the date of the consumer's most recent consent to use that telephone number to communicate about the debt by text message.

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Taking a Closer Look

Harassing, oppressive, or abusive conduct

In general:

- A debt collector must not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt, including, but not limited to, the conduct described in paragraphs (b) through (h) of this section.

Telephone call frequencies; presumptions of compliance and violation.

A debt collector is presumed to comply with this section and FDCPA section 806(5) (15 U.S.C. 1692d(5)) if the debt collector places a telephone call to a particular person in connection with the collection of a particular debt neither:

- (A) More than seven times within seven consecutive days; nor
- (B) Within a period of seven consecutive days after having had a telephone conversation with the person in connection with the collection of such debt. The date of the telephone conversation is the first day of the seven-consecutive-day period.
 - (ii) Subject to the exclusions in paragraph (b)(3) of this section, a debt collector is presumed to violate paragraph (b)(1) of this section and FDCPA section 806(5) if the debt collector places a telephone call to a particular person in connection with the collection of a particular debt in excess of either of the telephone call frequencies described in paragraph (b)(2)(i) of this section.



Taking a Closer Look

Harassing, oppressive, or abusive conduct

Certain telephone calls excluded from the telephone call frequencies.

- Telephone calls placed to a person do not count toward the telephone call frequencies described in paragraph (b)(2)(i) of this section if they are:
 - **(i)** Placed with such person's prior consent given directly to the debt collector and within a period no longer than seven consecutive days after receiving the prior consent, with the date the debt collector receives prior consent counting as the first day of the seven-consecutive-day period;
 - **(ii)** Not connected to the dialed number; or
 - **(iii)** Placed to the persons described in below:
 - **(i)** The consumer;
 - **(ii)** The consumer's attorney;
 - **(iii)** A consumer reporting agency, if otherwise permitted by law;
 - **(iv)** The creditor;
 - **(v)** The creditor's attorney; or
 - **(vi)** The debt collector's attorney.



Taking a Closer Look Unfair or Unconscionable Means

In General:

- A debt collector must not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, the conduct described below (abbreviated below without the definitions):
- Collection of unauthorized amounts;
- Postdated payment instruments;
- Charges resulting from concealment of purpose;
- Nonjudicial action regarding property;
- Restrictions on use of certain media.

A debt collector must not:

1. Communicate with a consumer regarding a debt by postcard.
2. Use any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by mail, except that a debt collector may use the debt collector's business name on an envelope if such name does not indicate that the debt collector is in the debt collection business.
3. Communicate or attempt to communicate with a consumer by sending an email to an email address that the debt collector knows is provided to the consumer by the consumer's employer, unless the email address is one described in § 1006.6(d)(4)(i) or (iii).
4. Communicate or attempt to communicate with a person in connection with the collection of a debt through a social media platform if the communication or attempt to communicate is viewable by the general public or the person's social media contacts.



Taking a Closer Look Unfair or Unconscionable Means

Social media.

Section 1006.22(f)(4) prohibits a debt collector from communicating or attempting to communicate with a person in connection with the collection of a debt through a social media platform if the communication or attempt to communicate is viewable by the general public or the person's social media contacts.

- For example, § 1006.22(f)(4) prohibits a debt collector from posting, in connection with the collection of a debt, any message for a person on a social media webpage if that webpage is viewable by the general public or the person's social media contacts. Section 1006.22(f)(4) does not prohibit a debt collector from sending a message to a person if the message is not viewable by the general public or the person's social media contacts. Section 1006.6(b) or § 1006.14(h) nonetheless may prohibit the debt collector from sending such a message, and a debt collector who communicates by sending such a message about the debt to the wrong person violates § 1006.6(d)(1). See also comment 18(d)-1 with respect to communications and attempts to communicate with consumers and third parties on social media platforms.

Safe harbor:

For certain emails and text messages relating to the collection of a debt. A debt collector who communicates with a consumer by sending an email or text message in accordance with the procedures described in § 1006.6(d)(3) does not violate paragraph (a) of this section by revealing in the email or text message the debt collector's name or other information indicating that the communication relates to the collection of a debt.

Taking a Closer Look Disclosures for Consumers/Time Barred Debt



On December 18, 2020, the CFPB issued the final rule to implement FDCPA requirements regarding certain disclosures for consumers. The final rule clarifies the information that a debt collector must provide to a consumer at the outset of debt collection communications, prohibits debt collectors from bringing or threatening to bring a legal action against a consumer to collect a time-barred debt, and requires debt collectors to take certain actions before furnishing information about a consumer's debt to a consumer reporting agency.

Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- New Terminology



Consumer: The December 2020 Rule revises the definition of consumer used in the October 2020 Rule. “Consumer” now includes both living and deceased consumers. As a result, the debt collector must provide the validation notice either to the living consumer, or, if the debt collector knows or should know the consumer is deceased prior to providing the validation notice, to the person authorized to act on behalf of the deceased consumer’s estate (e.g., an executor, administrator, or personal representative).

Statute of limitations: Means the period prescribed by applicable law for bringing a legal action against the consumer to collect a debt.

Time-barred debt means a debt for which the applicable statute of limitations has expired. A debt collector is prohibited from bringing or threatening to bring a legal action against a consumer to collect a time-barred debt. Proofs of claim filed in connection with a bankruptcy proceeding are not included in this prohibition.

Legal actions and threats of legal actions prohibited: A debt collector must not bring or threaten to bring a legal action against a consumer to collect a time-barred debt. This paragraph (b) does not apply to proofs of claim filed in connection with a bankruptcy proceeding



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Reporting to Consumer Reporting Agencies

In general. Except as provided the special rule below, 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 the debt collector:

- (i) Speaks to the consumer about the debt in person or by telephone; or
- (ii) (ii) Places a letter in the mail or sends an electronic message to the consumer about the debt and waits a reasonable period of time to receive a notice of undeliverability. During the reasonable period, the debt collector must permit receipt of, and monitor for, notifications of undeliverability from communications providers. If the debt collector receives such a notification during the reasonable period, the debt collector must not furnish information about the debt to a consumer reporting agency until the debt collector otherwise satisfies paragraph (a)(1) of this section.

•Special rule—information furnished to certain specialty consumer reporting agencies. The above paragraph does not apply to a debt collector’s furnishing of information about a debt to a nationwide specialty consumer reporting agency that compiles and maintains information on a consumer’s check writing history, as described in section 603(x)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681a(x)(3)).



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Notice of Validation of Debts:

Validation information required.

Except as provided in the exception below, a debt collector must provide a consumer with the validation information required by paragraph (c) of this section either:

- (i) By sending the consumer a validation notice in the manner required by § 1006.42:
 - a. In the initial communication, as defined; or
 - b. Within five days of that initial communication; or
 - c. By providing the validation information orally in the initial communication.
- **Exception.** A debt collector who otherwise would be required to send a validation notice pursuant to paragraph (a)(1)(i)(B) of this section is not required to do so if the consumer has paid the debt prior to the time that paragraph (a)(1)(i)(B) of this section would require the validation notice to be sent.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Notice of Validation of Debts:

Important Definitions Under this Section:

- **Clear and conspicuous:** means readily understandable. In the case of written and electronic disclosures, the location and type size also must be readily noticeable and legible to consumers, although no minimum type size is mandated. In the case of oral disclosures, the disclosures also must be given at a volume and speed sufficient for the consumer to hear and comprehend them.
- **Initial communication** means the first time that, in connection with the collection of a debt, a debt collector conveys information, directly or indirectly, regarding the debt to the consumer, other than a communication in the form of a formal pleading in a civil action, or any form or notice that does not relate to the collection of the debt and is expressly required by:
 - (i) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.);
 - (ii) Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827); or
 - (iii) Any provision of Federal or State law or regulation mandating notice of a data security breach or privacy risk.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt - Notice of Validation of Debts:

Important Definitions Under this Section:

- **Itemization date** means any one of the following five reference dates for which a debt collector can ascertain the amount of the debt:
 - (i) The last statement date, which is the date of the last periodic statement or written account statement or invoice provided to the consumer by a creditor;
 - (ii) The charge-off date, which is the date the debt was charged off;
 - (iii) The last payment date, which is the date the last payment was applied to the debt;
 - (iv) The transaction date, which is the date of the transaction that gave rise to the debt; or
 - (v) The judgment date, which is the date of a final court judgment that determines the amount of the debt owed by the consumer.
- **Validation period** means the period starting on the date that a debt collector provides the validation information required by paragraph (c) of this section and ending 30 days after the consumer receives or is assumed to receive the validation information. For purposes of determining the end of the validation period, the debt collector may assume that a consumer receives the validation information on any date that is at least five days (excluding legal public holidays identified in 5 U.S.C. 6103(a), Saturdays, and Sundays) after the debt collector provides it.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Notice of Validation of Debts:

Important Definitions Under this Section:

Validation information. A debt collector must provide the following validation information:

1. **Debt collector communication disclosure.** The statement required by § 1006.18(e).
2. **Information about the debt.** Except as provided in paragraph (c)(5) of this section:
 - a. The debt collector's name and the mailing address at which the debt collector accepts disputes and requests for original-creditor information.
 - b. The consumer's name and mailing address.
 - c. If the debt collector is collecting a debt related to a consumer financial product or service as defined in § 1006.2(f), the name of the creditor to whom the debt was owed on the itemization date.
 - d. The account number, if any, associated with the debt on the itemization date, or a truncated version of that number.
 - e. The name of the creditor to whom the debt currently is owed.
 - f. The itemization date.
 - g. The amount of the debt on the itemization date.
 - h. An itemization of the current amount of the debt reflecting interest, fees, payments, and credits since the itemization date. A debt collector may disclose the itemization on a separate page provided in the same communication with a validation notice, if the debt collector includes on the validation notice, where the itemization would have appeared, a statement referring to that separate page.
 - i. The current amount of the debt.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt - Notice of Validation of Debts:

Important Definitions Under this Section:

Validation information. A debt collector must provide the following validation information:

Information about consumer protections.

- a. The date that the debt collector will consider the end date of the validation period and a statement that, if the consumer notifies the debt collector in writing on or before that date that the debt, or any portion of the debt, is disputed, the debt collector must cease collection of the debt, or the disputed portion of the debt, until the debt collector sends the consumer either verification of the debt or a copy of a judgment.
- b. The date that the debt collector will consider the end date of the validation period and a statement that, if the consumer requests in writing on or before that date the name and address of the original creditor, the debt collector must cease collection of the debt until the debt collector sends the consumer the name and address of the original creditor, if different from the current creditor.
- c. The date that the debt collector will consider the end date of the validation period and a statement that, unless the consumer contacts the debt collector to dispute the validity of the debt, or any portion of the debt, on or before that date, the debt collector will assume that the debt is valid.
- d. If the debt collector is collecting debt related to a consumer financial product or service as defined in § 1006.2(f), a statement that informs the consumer that additional information regarding consumer protections in debt collection is available on the Bureau's website at www.cfpb.gov/debt-collection.
- e. If the debt collector sends the validation notice electronically, a statement explaining how a consumer can, as described in paragraphs (c)(4)(i) and (ii) of this section, dispute the debt or request original-creditor information electronically.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt - Notice of Validation of Debts:

Important Definitions Under this Section:

Validation information. A debt collector must provide the following validation information:

Consumer-response information. The following information, segregated from the validation information required by paragraphs (c)(1) through (3) of this section and from any optional information included pursuant to paragraphs (d)(3)(i), (ii), (iii)(A), (iv), (v), (vi)(A), (vii), and (viii) of this section, and, if provided on a validation notice, located at the bottom of the notice under the headings, “How do you want to respond?” and “Check all that apply:”:

- a. (i) Dispute prompts. The following statements, listed in the following order, and using the following phrasing or substantially similar phrasing, each next to a prompt:
 - i. (A) “I want to dispute the debt because I think:”;
 - ii. (B) “This is not my debt.”;
 - iii. (C) “The amount is wrong.”; and
 - iv. (D) “Other (please describe on reverse or attach additional information).”
- (ii) Original-creditor information prompt. The statement, “I want you to send me the name and address of the original creditor.”, using that phrase or a substantially similar phrase, next to a prompt.
- (iii) Mailing addresses. Mailing addresses for the consumer and the debt collector, which are the debt collector’s and the consumer’s names and mailing addresses as disclosed pursuant to § 1006.34(c)(2)(i) and (ii).



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt - Notice of Validation of Debts:

Important Definitions Under this Section:

Validation information. A debt collector must provide the following validation information:

Special rule for certain residential mortgage debt.

- For residential mortgage debt, if a periodic statement is required under Regulation Z, 12 CFR 1026.41, at the time a debt collector provides the validation notice, a debt collector need not provide the validation information required by paragraphs (c)(2)(vi) through (viii) of this section if the debt collector:
 - (i) Provides the consumer, in the same communication with the validation notice, a copy of the most recent periodic statement provided to the consumer under Regulation Z, 12 CFR 1026.41(b); and
 - (ii) Includes on the validation notice, where the validation information required by paragraphs (c)(2)(vi) through (viii) of this section would have appeared, a statement referring to that periodic statement.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Notice of Validation of Debts:

Safe harbor.

Model Form B-1 in appendix B to this part contains the validation information required by paragraph (c) of this section and certain optional disclosures permitted by paragraph (d)(3) of this section. A debt collector who uses Model Form B-1 complies with the information and form requirements of paragraphs (c) and (d)(1) of this section, including if the debt collector:

- (A) Omits any or all of the optional disclosures shown on Model Form B-1; or
- (B) Adds any or all of the optional disclosures described in paragraph (d)(3) of this section that are not shown on Model Form B-1, provided that any such optional disclosures are no more prominent than any of the validation information required by paragraph (c) of this section.

•Certain disclosures on a separate page.

A debt collector who uses Model Form B-1 as described in paragraph (d)(2)(i) of this section and who, pursuant to paragraphs (c)(2)(viii) or (5) of this section, includes certain disclosures on a separate page in the same communication with the validation notice and, on the notice, the required statement referring to those disclosures, receives a safe harbor for compliance with the information and form requirements of paragraphs (c) and (d)(1) of this section except with respect to the disclosures on the separate page.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Notice of Validation of Debts:

Substantially similar form.

A debt collector who uses Model Form B-1 as described in paragraphs (d)(2)(i) or (ii) of this section may make changes to the form and retain a safe harbor for compliance with the information and form requirements of paragraphs (c) and (d)(1) of this section provided that the form remains substantially similar to Model Form B-1.



Taking a Closer Look

Disclosures for Consumers/Time Barred Debt- Disputes and requests for original-creditor information

Prohibition.

During the validation period, a debt collector must not engage in any collection activities or communications that overshadow or are inconsistent with the disclosure of the consumer's rights to dispute the debt and to request the name and address of the original creditor.

Safe harbor.

A debt collector who uses Model Form B-1 in appendix B to this part in a manner described in § 1006.34(d)(2) has not thereby violated paragraph (b)(1) of this section.

Requests for original-creditor information.

Upon receipt of a request for the name and address of the original creditor submitted by the consumer in writing within the validation period, a debt collector must cease collection of the debt until the debt collector:

- a. **In general.** Sends the name and address of the original creditor to the consumer in writing or electronically in the manner required by § 1006.42; or
- b. **Special rule if the current creditor and the original creditor are the same.** In lieu of taking the actions described in paragraph (c)(1) of this section, reasonably determines that the original creditor is the same as the current creditor, notifies the consumer of that fact in writing or electronically in the manner required by § 1006.42, and refers the consumer to the validation information previously provided pursuant to § 1006.34(a)(1)

Important Links

- **For an Interactive Version of Regulation F**

- [Interactive Bureau Regulations | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://www.consumerfinance.gov/interactive-regulations)

Resources on the Debt Collection Rule:

- [Debt Collection \(FDCPA\) | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://www.consumerfinance.gov/debt-collection)
 - Small Entity Compliance Guide released on January 15, 2021 for Part One of the Rule:
 - [Small Entity Compliance Guide: Debt Collection Rule \(consumerfinance.gov\)](https://www.consumerfinance.gov/small-entity-compliance-guide)

Q&A



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