

appendix whose site parameters are within those specified in the technical support document.

\* \* \* \* \*

E. The NRC will specify at an appropriate time the procedures to be used by an interested person who wishes to review portions of the design certification or references containing safeguards information or sensitive unclassified non-safeguards information (including proprietary information, such as trade secrets and commercial or financial information obtained from a person that are privileged or confidential (10 CFR 2.390 and 10 CFR part 9)), for the purpose of participating in the hearing required by 10 CFR 52.85, the hearing provided under 10 CFR 52.103, or in any other proceeding relating to this appendix in which interested persons have a right to request an adjudicatory hearing.

#### VIII. Processes for Changes and Departures

\* \* \* \* \*

B. \* \* \*

5. \* \* \*

b. A proposed departure from Tier 2, other than one affecting resolution of a severe accident issue identified in the plant-specific DCD or one affecting information required by 10 CFR 52.47(a)(28) to address 10 CFR 50.150, requires a license amendment if it would:

\* \* \* \* \*

d. If an applicant or licensee proposes to depart from the information required by 10 CFR 52.47(a)(28) to be included in the FSAR for the standard design certification, then the applicant or licensee shall consider the effect of the changed feature or capability on the original assessment required by 10 CFR 50.150(a). The applicant or licensee must also document how the modified design features and functional capabilities continue to meet the assessment requirements in 10 CFR 50.150(a)(1) in accordance with section X of this appendix.

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#### X. Records and Reporting

A. \* \* \*

1. The applicants for this appendix shall maintain a copy of the applicable generic DCD that includes all generic changes to Tier 1, Tier 2, and the generic technical specifications and other operational requirements. The applicants shall maintain the sensitive unclassified non-safeguards information (including proprietary information) and safeguards information referenced in the applicable generic DCD for the period that this appendix may be referenced, as specified in Section VII of this appendix.

\* \* \* \* \*

4.a. The applicant for the amendment to the U.S. ABWR design to address the requirements in 10 CFR 50.150, "Aircraft impact assessment," shall maintain a copy of the aircraft impact assessment performed to comply with the requirements of 10 CFR 50.150(a) for the term of the certification (including any period of renewal).

b. An applicant or licensee who references this appendix to include both the GE DCD

and the STPNOC DCD shall maintain a copy of the aircraft impact assessment performed to comply with the requirements of 10 CFR 50.150(a) throughout the pendency of the application and for the term of the license (including any period of renewal).

\* \* \* \* \*

Dated at Rockville, Maryland, this 7th day of December 2011.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2011-31906 Filed 12-15-11; 8:45 am]

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1006

[Docket No. CFPB-2011-0022]

RIN 3170-AA06

### Fair Debt Collection Practices Act (Regulation F)

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Interim final rule with request for public comment.

**SUMMARY:** Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws from seven Federal agencies to the Bureau of Consumer Financial Protection (Bureau) as of July 21, 2011. The Bureau is in the process of republishing the regulations implementing those laws with technical and conforming changes to reflect the transfer of authority and certain other changes made by the Dodd-Frank Act. In light of the transfer of the Federal Trade Commission's (Commission's) rulemaking authority for the Fair Debt Collection Practices Act (FDCPA) to the Bureau, the Bureau is publishing for public comment an interim final rule establishing a new Regulation F (Fair Debt Collection Practices Act). This interim final rule does not impose any new substantive obligations on persons subject to the existing regulations, previously published by the Commission.

**DATES:** This interim final rule is effective December 30, 2011. Comments must be received on or before February 14, 2012.

**ADDRESSES:** You may submit comments, identified by Docket No. CFPB-2011-0022 or RIN 3170-AA06, by any of the following methods:

• **Electronic:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

• **Mail:** Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1500 Pennsylvania Avenue NW. (Attn: 1801 L Street), Washington, DC 20220.

• **Hand Delivery/Courier in Lieu of Mail:** Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20006.

All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Krista Ayoub or Jane Gao, Office of Regulations, at (202) 435-7700.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The Fair Debt Collection Practices Act (FDCPA) was enacted to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent state action to protect consumers against debt collection abuses.<sup>1</sup> Prior to July 21, 2011, the FDCPA provided that the Federal Trade Commission (Commission) must by regulation exempt from the FDCPA requirements any class of debt collection practices within any state if the Commission determines that under the law of that state that class of debt collection practices is subject to requirements substantially similar to those imposed by the FDCPA, and that there is adequate provision for enforcement.<sup>2</sup>

<sup>1</sup> 15 U.S.C. 1692 *et seq.*

<sup>2</sup> 15 U.S.C. 16992o.

Historically, procedures that states may use to apply for this exemption have been implemented by the Commission in 16 CFR Part 901. Under the FDCPA, the Commission did not have general authority to promulgate trade regulations or other regulations with respect to the collection of debts by debt collectors as defined in the FDCPA.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)<sup>3</sup> amended a number of consumer financial protection laws, including the FDCPA. The Dodd-Frank Act transferred rulemaking authority related to the state exemptions under the FDCPA to the Bureau of Consumer Financial Protection (Bureau), effective July 21, 2011.<sup>4</sup> See sections 1061 and 1089 of the Dodd-Frank Act.<sup>5</sup> Pursuant to the Dodd-Frank Act and the FDCPA, as amended, the Bureau is publishing for public comment an interim final rule establishing a new Regulation F (Fair Debt Collection Practices Act), 12 CFR Part 1006, implementing the FDCPA.

## II. Summary of the Interim Final Rule

### A. General

The interim final rule substantially duplicates the Commission's rule related to state exemptions under the FDCPA as the Bureau's new Regulation F, 12 CFR Part 1006, making only certain non-substantive, technical, formatting, and stylistic changes. Subpart A of Regulation F contains the rule related to state exemptions under the FDCPA. Subpart B is reserved for any future rulemaking by the Bureau under the FDCPA. To minimize any potential confusion, other than republishing the Commission's rule in 16 CFR Part 901 with the Bureau's part number, the Bureau is preserving where possible the numbering the Commission used in 16 CFR Part 901. Additionally, while this interim final rule generally incorporates the Commission's existing regulatory text, the rule has been edited as necessary to reflect nomenclature and other technical amendments required by the Dodd-Frank Act. Notably, this interim final rule does not impose any new substantive obligations on regulated entities.

### B. Specific Changes

Footnotes 1 and 2 in the Commission's rule (16 CFR 901.2) that provide guidance on the meaning of "state law" and "class of debt collection practices" respectively were moved to a newly-created subsection for definitions in § 1006.1. Footnote 3 in the Commission's rule (16 CFR 901.4) was moved to newly-created paragraph (a)(2) in § 1006.4, and other text in that section was renumbered accordingly. In § 1006.5, an address in the Commission's rule (16 CFR 901.5) is replaced with an address for the Bureau, indicating where interested parties may go to review applications submitted by states for exemptions from the FDCPA. In addition, the Commission's rule (16 CFR 901.6) indicated that the Commission would inform the appropriate official of any state that receives such an exemption of any subsequent amendments of the FDCPA (including the Commission's formal advisory opinions, and informal staff interpretations issued by an authorized official or employee of the Commission). In § 1006.6, the Bureau indicates that it will inform the appropriate official of any state that receives such an exemption of any subsequent amendments to the FDCPA or Regulation F. The Bureau anticipates that it will adopt any additional guidance on the FDCPA as part of Regulation F, instead of through formal advisory opinions or informal staff interpretations. In addition, references to the Commission and its administrative structure have been replaced with references to the Bureau. Conforming edits have been made to internal cross-references. Conforming edits have also been made to reflect the scope of the Bureau's authority pursuant to the FDCPA, as amended by the Dodd-Frank Act.

## III. Legal Authority

### A. Rulemaking Authority

The Bureau is issuing this interim final rule pursuant to its authority under the FDCPA and the Dodd-Frank Act. Effective July 21, 2011, section 1061 of the Dodd-Frank Act transferred to the Bureau all of the Commission's authority under an enumerated consumer law to prescribe rules, issue guidelines, conduct studies, or issue reports.<sup>6</sup> The FDCPA is an enumerated consumer law.<sup>7</sup> Accordingly, effective July 21, 2011, the authority of the Commission to issue regulations related

to state exemptions under the FDCPA transferred to the Bureau.<sup>8</sup>

The FDCPA, as amended, requires that the Bureau by regulation exempt from the requirements of the FDCPA any class of debt collection practices within any state if the Bureau determines that under the law of that state that class of debt collection practices is subject to requirements substantially similar to those imposed by the FDCPA, and that there is adequate provision for enforcement.<sup>9</sup>

### B. Authority To Issue an Interim Final Rule Without Prior Notice and Comment

The Administrative Procedure Act (APA)<sup>10</sup> generally requires public notice and an opportunity to comment before promulgation of substantive regulations.<sup>11</sup> The APA provides exceptions to notice-and-comment procedures, however, where an agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest or when a rulemaking relates to agency organization, procedure, and practice.<sup>12</sup> The Bureau finds that there is good cause to conclude that providing notice and opportunity for comment would be unnecessary and contrary to the public interest under these circumstances. In addition, substantially all the changes made by this interim final rule, which were necessitated by the Dodd-Frank Act's transfer of FDCPA authority from the Commission to the Bureau, relate to agency organization, procedure, and practice and are thus exempt from the APA's notice-and-comment requirements.

The Bureau's good cause findings are based on the following considerations. As an initial matter, the Commission's existing regulation was a result of notice-and-comment rulemaking to the extent required. Moreover, the interim final rule published today does not impose any new, substantive obligations on regulated entities. Rather, the interim final rule makes only non-substantive, technical changes to the existing text of the regulation, such as changing internal cross-references, replacing appropriate

<sup>8</sup> Section 1066 of the Dodd-Frank Act grants the Secretary of the Treasury interim authority to perform certain functions of the Bureau. Pursuant to that authority, Treasury is publishing this interim final rule on behalf of the Bureau. Until this and other interim final rules take effect, existing regulations for which rulemaking authority transferred to the Bureau continue to govern persons covered by this rule. See 76 FR 43569 (July 21, 2011).

<sup>9</sup> Public Law 111–203, section 1089(1); 15 U.S.C. 1692o.

<sup>10</sup> 5 U.S.C. 551 *et seq.*

<sup>11</sup> 5 U.S.C. 553(b), (c).

<sup>12</sup> 5 U.S.C. 553(b)(3)(A), (B).

<sup>3</sup> Public Law 111–203, 124 Stat. 1376 (2010).

<sup>4</sup> Dodd-Frank section 1029 generally excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

<sup>5</sup> In addition, the Dodd-Frank Act granted the Bureau rulemaking authority to prescribe regulations with respect to the collection of debts by debt collectors, as defined in the FDCPA, except as provided for in section 1029 of the Consumer Financial Protection Act of 2010. Public Law 111–203, section 1089(4); 15 U.S.C. 1692(d).

<sup>6</sup> Public Law 111–203, section 1061(b)(5).

<sup>7</sup> *Id.* Section 1002(12)(H) (defining "enumerated consumer laws" to include the FDCPA).

nomenclature to reflect the transfer of authority to the Bureau, and changing the address for reviewing applications submitted by state officials and notices. Given the technical nature of these changes, and the fact that the interim final rule does not impose any additional substantive requirements on covered entities, an opportunity for prior public comment is unnecessary. In addition, recodifying the Commission's regulation to reflect the transfer of authority to the Bureau will help facilitate compliance with FDCPA and its implementing regulations, and the new regulations will help reduce uncertainty the applicable regulatory framework. Using notice-and-comment procedures would delay this process and thus be contrary to the public interest.

The APA generally requires that rules be published not less than 30 days before their effective dates. *See* 5 U.S.C. 553(d). As with the notice and comment requirement, however, the APA allows an exception when "otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The Bureau finds that there is good cause for providing less than 30 days notice here. A delayed effective date would harm consumers and regulated entities by needlessly perpetuating discrepancies between the amended statutory text and the implementing regulation, thereby hindering compliance and prolonging uncertainty regarding the applicable regulatory framework.<sup>13</sup>

In addition, delaying the effective date of the interim final rule for 30 days would provide no practical benefit to regulated entities in this context and in fact could operate to their detriment. As discussed above, the interim final rule published today does not impose any new, substantive obligations on regulated entities. Instead, the rule makes only non-substantive, technical changes to the existing text of the regulation. Thus, regulated entities that are already in compliance with the existing rules will not need to modify business practices as a result of this rule.

<sup>13</sup> This interim final rule is one of 14 companion rulemakings that together restate and recodify the implementing regulations under 14 existing consumer financial laws (part IIC, below, lists the 14 laws involved). In the interest of proper coordination of this overall regulatory framework, which includes numerous cross-references among some of the regulations, the Bureau is establishing the same effective date of December 30, 2011 for those rules published on or before that date and making those published thereafter (if any) effective immediately.

### *C. Section 1022(b)(2) of the Dodd-Frank Act*

In developing the interim final rule, the Bureau has conducted an analysis of potential benefits, costs, and impacts.<sup>14</sup> The Bureau believes that the interim final rule will benefit consumers and covered persons by updating and recodifying the Commission's rules in 16 CFR Part 901 to reflect the transfer of authority to the Bureau and certain other changes mandated by the Dodd-Frank Act. This will help reduce any uncertainty regarding the applicable regulatory framework. The interim final rule will not impose any new substantive obligations on consumers or covered persons and is not expected to have any impact on consumers' access to consumer financial products and services.

The interim final rule will have no unique impact on depository institutions or credit unions with \$10 billion or less in assets as described in section 1026(a) of the Dodd-Frank Act. Also, the interim final rule will have no unique impact on rural consumers.

In undertaking the process of recodifying the Commission's rules in 16 CFR Part 901, as well as regulations implementing thirteen other existing consumer financial laws,<sup>15</sup> the Bureau consulted the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the

<sup>14</sup> Section 1022(b)(2)(A) of the Dodd-Frank Act addresses the consideration of the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) requires that the Bureau "consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies." The manner and extent to which these provisions apply to interim final rules and to costs, benefits, and impacts that are compelled by statutory changes rather than discretionary Bureau action is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the described analyses and consultations.

<sup>15</sup> The fourteen laws implemented by this and its companion rulemakings are: The Consumer Leasing Act, the Electronic Fund Transfer Act (except with respect to section 920 of that Act), the Equal Credit Opportunity Act, the Fair Credit Reporting Act (except with respect to sections 615(e) and 628 of that act), the Fair Debt Collection Practices Act, Subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act, sections 502 through 509 of the Gramm-Leach-Bliley Act (except for section 505 as it applies to section 501(b)), the Home Mortgage Disclosure Act, the Real Estate Settlement Procedures Act, the S.A.F.E. Mortgage Licensing Act, the Truth in Lending Act, the Truth in Savings Act, section 626 of the Omnibus Appropriations Act, 2009, and the Interstate Land Sales Full Disclosure Act.

National Credit Union Administration, the Board of Governors of the Federal Reserve System, the Federal Trade Commission, and the Department of Housing and Urban Development, including with respect to consistency with any prudential, market or systemic objectives that may be administered by such agencies.<sup>16</sup> The Bureau also has consulted with the Office of Management and Budget for technical assistance. The Bureau expects to have further consultations with the appropriate Federal agencies during the comment period.

### **IV. Request for Comment**

Although notice and comment rulemaking procedures are not required, the Bureau invites comments on this notice. Commenters are specifically encouraged to identify any technical issues raised by the rule. The Bureau is also seeking comment in response to a notice published at 76 FR 75825 (Dec. 5, 2011) concerning its efforts to identify priorities for streamlining regulations that it has inherited from other Federal agencies to address provisions that are outdated, unduly burdensome, or unnecessary.

### **V. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.<sup>17</sup> The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.<sup>18</sup> The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.<sup>19</sup>

The IRFA and FRFA requirements described above apply only where a notice of proposed rulemaking is

<sup>16</sup> In light of the technical but voluminous nature of this recodification project, the Bureau focused the consultation process on a representative sample of the recodified regulations, while making information on the other regulations available. The Bureau expects to conduct differently its future consultations regarding substantive rulemakings.

<sup>17</sup> 5 U.S.C. 601 *et seq.*

<sup>18</sup> 5 U.S.C. 603, 604.

<sup>19</sup> 5 U.S.C. 609.

required,<sup>20</sup> and the panel requirement applies only when a rulemaking requires an IRFA.<sup>21</sup> As discussed above in part III, a notice of proposed rulemaking is not required for this rulemaking.

In addition, as discussed above, the rule imposes no new, substantive obligations on entities subject to Regulation F. Accordingly, the undersigned certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities.

## VI. Paperwork Reduction Act

The Bureau has determined that this interim final rule does not impose any new recordkeeping or reporting requirements on covered entities or members of the public that would be collections of information requiring approval under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 12 CFR Part 1006

Administrative practice and procedure, Consumer protection, Credit, Intergovernmental relations.

### Authority and Issuance

For the reasons set forth above, the Bureau of Consumer Financial Protection adds part 1006 to Chapter X in Title 12 of the Code of Federal Regulations to read as follows:

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

### Subpart A—Procedures for State Application for Exemption From the Provisions of the Act

Sec.

- 1006.1 Purpose and definitions.
- 1006.2 Application.
- 1006.3 Supporting documents.
- 1006.4 Criteria for determination.
- 1006.5 Public notice of filing.
- 1006.6 Exemption from requirements.
- 1006.7 Adverse determination.
- 1006.8 Revocation of exemption.

### Subpart B—[Reserved]

**Authority:** 12 U.S.C. 5512, 5581; 15 U.S.C. 1692o.

### Subpart A—Procedures for State Application for Exemption From the Provisions of the Act

#### § 1006.1 Purpose and definitions.

(a) *Purpose.* This part, known as Regulation F, is issued by the Bureau of Consumer Financial Protection (Bureau). This subpart establishes procedures and criteria whereby states may apply to the Bureau for exemption of a class of debt collection practices

within the applying state from the provisions of the Fair Debt Collection Practices Act (the Act) as provided in section 817 of the Act, 15 U.S.C. 1692o.

(b) *Definitions.* For purposes of this subpart:

*Class of debt collection practices* includes one or more such classes of debt collection practices.

*State law* includes any regulations that implement state law and formal interpretations thereof by a court of competent jurisdiction or duly authorized agency of that state.

#### § 1006.2 Application.

Any state may apply to the Bureau pursuant to the terms of this part for a determination that, under the laws of that state, any class of debt collection practices within that state is subject to requirements that are substantially similar to, or provide greater protection for consumers than, those imposed under sections 803 through 812 of the Act, and that there is adequate provision for state enforcement of such requirements. The application shall be in writing, addressed to the Bureau, signed by the Governor, Attorney General or state official having primary enforcement or responsibility under the state law which is applicable to the class of debt collection practices, and shall be supported by the documents specified in this subpart.

#### § 1006.3 Supporting documents.

The application shall be accompanied by the following, which may be submitted in paper or electronic form:

(a) A copy of the full text of the state law that is claimed to contain requirements substantially similar to those imposed under sections 803 through 812 of the Act, or to provide greater protection to consumers than sections 803 through 812 of the Act, regarding the class of debt collection practices within that state.

(b) A comparison of each provision of sections 803 through 812 of the Act with the corresponding provision of the state law, together with reasons supporting the claim that the corresponding provisions of the state law are substantially similar to or provide greater protection to consumers than provisions of sections 803 through 812 of the Act and an explanation as to why any differences between the state and Federal law are not inconsistent with the provisions of sections 803 through 812 of the Act and do not result in a diminution in the protection otherwise afforded consumers; and a statement that no other state laws (including administrative or judicial interpretations) are related to, or would

have an effect upon, the state law that is being considered by the Bureau in making its determination.

(c) A copy of the full text of the state law that provides for enforcement of the state law referred to in paragraph (a) of this section.

(d) A comparison of the provisions of the state law that provides for enforcement with the provisions of section 814 of the Act, together with reasons supporting the claim that such state law provides for administrative enforcement of the state law referred to in paragraph (a) of this section that is substantially similar to, or more extensive than, the enforcement provided under section 814 of the Act.

(e) A statement identifying the office designated or to be designated to administer the state law referred to in paragraph (a) of this section, together with complete information regarding the fiscal arrangements for administrative enforcement (including the amount of funds available or to be provided), the number and qualifications of personnel engaged or to be engaged in enforcement, and a description of the procedures under which such state law is to be administratively enforced. The statement should also include reasons to support the claim that there is adequate provision for enforcement of such state law.

#### § 1006.4 Criteria for determination.

The Bureau will consider the criteria set forth below, and any other relevant information, in determining whether the law of a state is substantially similar to, or provides greater protection to consumers than, the provisions of sections 803 through 812 of the Act regarding the class of debt collection practices within that state, and whether there is adequate provision for state enforcement of such law. In making that determination, the Bureau primarily will consider each provision of the state law in comparison with each corresponding provision in sections 803 through 812 of the Act, and not the state law as a whole in comparison with the Act as a whole.

(a)(1) In order for provisions of state law to be substantially similar to, or provide greater protection to consumers than the provisions of sections 803 through 812 of the Act, the provisions of state law at least shall provide that:

(i) Definitions and rules of construction, as applicable, import the same meaning and have the same application as those prescribed by sections 803 through 812 of the Act.

(ii) Debt collectors provide all of the applicable notifications required by the provisions of sections 803 through 812

<sup>20</sup> 5 U.S.C. 603(a), 604(a); 5 U.S.C. 553(b)(B).

<sup>21</sup> 5 U.S.C. 609(b).

of the Act, with the content and in the terminology, form, and time periods prescribed by this part pursuant to sections 803 through 812; however, required references to state law may be substituted for the references to Federal law required in this part. Notification requirements under state law in additional circumstances or with additional detail that do not frustrate any of the purposes of the Act may be determined by the Bureau to be consistent with sections 803 through 812 of the Act;

(iii) Debt collectors take all affirmative actions and abide by obligations substantially similar to, or more extensive than, those prescribed by sections 803 through 812 of the Act under substantially similar or more stringent conditions and within the same or more stringent time periods as are prescribed in sections 803 through 812 of the Act;

(iv) Debt collectors abide by the same or more stringent prohibitions as are prescribed by sections 803 through 812 of the Act;

(v) Obligations or responsibilities imposed on consumers are no more costly, lengthy, or burdensome relative to consumers exercising any of the rights or gaining the benefits of the protections provided in the state law than corresponding obligations or responsibilities imposed on consumers in sections 803 through 812 of the Act.

(vi) Consumers' rights and protections are substantially similar to, or more favorable than, those provided by sections 803 through 812 of the Act under conditions or within time periods that are substantially similar to, or more favorable to consumers than, those prescribed by sections 803 through 812 of the Act.

(2) Paragraph (a)(1) of this section is not to be construed as indicating that the Bureau would consider adversely any additional requirements of state law that are not inconsistent with the purpose of the Act or the requirements imposed under sections 803 through 812 of the Act.

(b) In determining whether provisions for enforcement of the state law referred to in § 1006.3(a) of this part are adequate, consideration will be given to the extent to which, under state law, provision is made for administrative enforcement, including necessary facilities, personnel, and funding.

#### § 1006.5 Public notice of filing.

In connection with any application that has been filed in accordance with the requirements of §§ 1006.2 and 1006.3 of this part and following initial review of the application, a notice of

such filing shall be published by the Bureau in the **Federal Register**, and a copy of such application shall be made available for examination by interested persons during business hours at the Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20006. A period of time shall be allowed from the date of such publication for interested parties to submit written comments to the Bureau regarding that application.

#### § 1006.6 Exemption from requirements.

If the Bureau determines on the basis of the information before it that, under the law of a state, a class of debt collection practices is subject to requirements substantially similar to, or that provide greater protection to consumers than, those imposed under sections 803 through 812 and section 814 of the Act, and that there is adequate provision for state enforcement, the Bureau will exempt the class of debt collection practices in that state from the requirements of sections 803 through 812 and section 814 of the Act in the following manner and subject to the following conditions:

(a) Notice of the exemption shall be published in the **Federal Register**, and the Bureau shall furnish a copy of such notice to the state official who made application for such exemption, to each Federal authority responsible for administrative enforcement of the requirements of sections 803 through 812 of the Act, and to the Attorney General of the United States. Any exemption granted shall be effective 90 days after the date of publication of such notice in the **Federal Register**.

(b) The appropriate official of any state that receives an exemption shall inform the Bureau in writing within 30 days of any change in the state laws referred to in § 1006.3(a) and (c) of this part. The report of any such change shall contain copies of the full text of that change, together with statements setting forth the information and opinions regarding that change that are specified in § 1006.3(b) and (d). The appropriate official of any state that has received such an exemption also shall file with the Bureau from time to time such reports as the Bureau may require.

(c) The Bureau shall inform the appropriate official of any state that receives such an exemption of any subsequent amendments of the Act or this part that might necessitate the amendment of state law for the exemption to continue.

(d) No exemption shall extend to the civil liability provisions of section 813 of the Act. After an exemption is granted, the requirements of the

applicable state law shall constitute the requirements of sections 803 through 812 of the Act, except to the extent such state law imposes requirements not imposed by the Act or this part.

#### § 1006.7 Adverse determination.

(a) If, after publication of a notice in the **Federal Register** as provided under § 1006.5 of this part, the Bureau finds on the basis of the information before it that it cannot make a favorable determination in connection with the application, the Bureau shall notify the appropriate state official of the facts upon which such findings are based and shall afford that state authority a reasonable opportunity to demonstrate or achieve compliance.

(b) If, after having afforded the state authority such opportunity to demonstrate or achieve compliance, the Bureau finds on the basis of the information before it that it still cannot make a favorable determination in connection with the application, the Bureau shall publish in the **Federal Register** a notice of its determination regarding the application and shall furnish a copy of such notice to the state official who made application for such exemption.

#### § 1006.8 Revocation of exemption.

(a) The Bureau reserves the right to revoke any exemption granted under the provisions of this part, if at any time it determines that the state law does not, in fact, impose requirements that are substantially similar to, or that provide greater protection to applicants than, those imposed under sections 803 through 812 of the Act or that there is not, in fact, adequate provision for state enforcement.

(b) Before revoking any such exemption, the Bureau shall notify the appropriate state official of the facts or conduct that, in the Bureau's opinion, warrant such revocation, and shall afford that state such opportunity as the Bureau deems appropriate in the circumstances to demonstrate or achieve compliance.

(c) If, after having been afforded the opportunity to demonstrate or achieve compliance, the Bureau determines that the state has not done so, notice of the Bureau's intention to revoke such exemption shall be published in the **Federal Register**. A period of time shall be allowed from the date of such publication for interested persons to submit written comments to the Bureau regarding the intention to revoke.

(d) If such exemption is revoked, notice of such revocation shall be published by the Bureau in the **Federal Register**, and a copy of such notice shall

be furnished to the appropriate state official, to the Federal authorities responsible for enforcement of the requirements of the Act, and to the Attorney General of the United States. The revocation shall become effective, and the class of debt collection practices affected within that state shall become subject to the requirements of sections 803 through 812 of the Act, 90 days after the date of publication of the notice in the **Federal Register**.

#### Subpart B—[Reserved]

Dated: October 24, 2011.

**Alastair M. Fitzpayne,**

*Deputy Chief of Staff and Executive Secretary,  
Department of the Treasury.*

[FR Doc. 2011–31733 Filed 12–15–11; 8:45 am]

**BILLING CODE 4810-AM-P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1009

[Docket No. CFPB–2011–0024]

RIN 3170–AA06

#### Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance (Regulation I)

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Interim final rule with request for public comment.

**SUMMARY:** Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws from seven Federal agencies to the Bureau of Consumer Financial Protection (Bureau) as of July 21, 2011. The Bureau is in the process of republishing the regulations implementing those laws with technical and conforming changes to reflect the transfer of authority and certain other changes made by the Dodd-Frank Act. In light of the transfer of the Federal Trade Commission's (Commission's) rulemaking authority for section 43(b)–(f) of the Federal Deposit Insurance Act (FDIA) to the Bureau, the Bureau is publishing for public comment an interim final rule establishing a new Regulation I (Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance). This interim final rule does not impose any new substantive obligations on persons subject to the existing regulations, previously published by the Commission.

**DATES:** This interim final rule is effective December 30, 2011. Comments must be received on or before February 14, 2012.

**ADDRESSES:** You may submit comments, identified by Docket No. CFPB–2011–0024 or RIN 3170–AA06, by any of the following methods:

- *Electronic:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1500 Pennsylvania Avenue NW., (Attn: 1801 L Street), Washington, DC 20220.
- *Hand Delivery/Courier in Lieu of Mail:* Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20006.

All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Krista Ayoub or Jane Gao, Office of Regulations, at (202) 435–7700.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Federal Deposit Insurance Act (FDIA),<sup>1</sup> among other things, establishes the Federal Deposit Insurance Corporation which must insure the deposits of banks and savings associations entitled to the benefits of insurance under the FDIA. Not all depository institutions are required to maintain Federal deposit insurance. The FDIA requires that depository institutions lacking Federal deposit insurance make certain insurance-related disclosures in periodic statements, account records, locations where deposits are normally received,

and advertising.<sup>2</sup> The FDIA also requires such depository institutions to obtain a written acknowledgment from depositors regarding the institution's lack of Federal deposit insurance.<sup>3</sup> Prior to July 21, 2011, the FDIA required that the Federal Trade Commission (Commission), by regulation or order, prescribe the manner and content of these disclosures.

Historically, the disclosure requirements required by the FDIA for depository institutions lacking Federal deposit insurance have been implemented by the Commission in 16 CFR Part 320. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)<sup>4</sup> amended a number of consumer financial protection laws, including the FDIA. In addition to various substantive amendments, the Dodd-Frank Act transferred rulemaking authority for implementing the disclosure requirements for depository institutions lacking Federal deposit insurance, as described above, to the Bureau of Consumer Financial Protection (Bureau), effective July 21, 2011.<sup>5</sup> See sections 1061 and 1090 of the Dodd-Frank Act. Pursuant to the Dodd-Frank Act and the FDIA, as amended, the Bureau is publishing for public comment an interim final rule establishing a new Regulation I (Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance), 12 CFR Part 1009, implementing the disclosure requirements in the FDIA for depository institutions lacking Federal deposit insurance.

## II. Summary of the Interim Final Rule

### A. General

The interim final rule substantially duplicates the Commission's rule in 16 CFR Part 320 as the Bureau's new Regulation I, 12 CFR Part 1009, making only certain non-substantive, technical, formatting, and stylistic changes. To minimize any potential confusion, other than republishing the Commission's existing rule in 16 CFR Part 320 with the Bureau's part number, the Bureau is preserving where possible the numbering the Commission used in its existing rule. Additionally, while this interim final rule generally incorporates the Commission's existing regulatory

<sup>2</sup> 12 U.S.C. 1831t.

<sup>3</sup> *Id.*

<sup>4</sup> Public Law 111–203, 124 Stat. 1376 (2010).

<sup>5</sup> Dodd-Frank section 1029 generally excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

<sup>1</sup> 12 U.S.C. 1811 *et seq.*