

# Creditor Responsibilities Under Regulation F

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The rules contained in Regulation F, known in the legal field as the amendments to 12 CFR part 1006, become effective November 30, 2021. The purpose of this new regulation is to provide greater clarity for creditors and collection agencies like Stark in navigating the federal laws surrounding debt collection. However, with greater clarity comes increased responsibility for a creditor to carefully ensure that the data being transmitted to its collection agency is accurate and complete. Incomplete and inaccurate data leave the collection agency and creditor at risk that the clearer rules of Regulation F will expose them to claims that they violated the FDCPA. Violations of the FDCPA subject creditors and agencies to paying actual and statutory damages as well as the attorney fees of the customer's attorney. This article briefly explains some of the areas where creditors must closely assist collection agencies once Regulation F is in effect.

A significant component of Regulation F is the streamlining of the initial notice to debtors. The new model notice requires clear communication between a creditor and its collection agency. For example, the new notice must include the balance due as of the itemization date, which can be any one of the following: last statement date, charge off date, last payment date, transaction date, or judgment date. It will be critical that the creditor

identify what the itemization date represents during its onboarding of the file with the collection agency.

Additionally, the new model notice requires the debtor be provided with specific information that goes beyond what creditors have traditionally provided to their collection agencies for the initial notice. For example, the initial notice must now contain an explanation about how an account balance has changed since the itemization date by itemizing interest, fees, payments, and credits. Creditors will need to provide this additional data so their collection agencies have the information required by law for the new model notice.

Regulation F contains clear prohibitions on attempting to collect debt that is past the statute of limitations. There are several account events that may commence the running of the statute of limitations. It is therefore important that a creditor maintain accurate and complete account histories so its collection agency can confidently calculate the statute of limitations and ensure that no collection activities occur on an account balance which is beyond the statute of limitations.

Finally, Regulation F provides guidelines for communicating with consumers through emails and texts. Before such communications can occur, steps must be taken to ensure the accuracy of the email address or telephone number. Specifically, the safe harbor procedures of Regulation F mandate that a consumer's email address or telephone number be verified using approved methods. For one of the methods of verification, a creditor must send advance notice to the customer regarding the collection agency's future communications by email.

In summary, Regulation F requires collection agencies to make adjustments to their current operations. To comply with these new regulations, Stark will require additional information and clear communication from its creditor clients. Importantly, this increased communication will provide the creditor's customers with a clearer understanding of their unpaid balances and will present a better opportunity for a successful collection. Additionally, it will ensure collection activities stay squarely within the safe harbor provisions of Regulation F which protect both the agency and the creditor from claims by consumer attorneys for violations of the FDCPA or other federal laws.

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