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DIVISION OF BANKS

NOTICE OF PUBLIC HEARING

1000 WASHINGTON STREET, ROOM 1-D AND VIRTUAL

AMENDMENTS TO 209 CMR 18.00: CONDUCT OF THE BUSINESS OF DEBT COLLECTORS, STUDENT LOAN SERVICERS, AND THIRD PARTY LOAN SERVICERS

AND

209 CMR 48.00 LICENSEE RECORD KEEPING

Monday, November 4, 2024 at 10:30 a.m., 1000 Washington Street, Room 1-D and Virtual

Pursuant to the provisions of M.G.L. chapter 93, section 24A and M.G.L. chapter 93L, sections 1-9, and in accordance with the provisions of M.G.L. chapter 30A, section 2, a public hearing will be held on Monday, November 4, 2024 at 10:30 a.m. at which comments will be received by the Division of Banks (Division) relative to amendments to 209 CMR 18.00 *et seq.* and 209 CMR 48.00 *et seq.*

A hybrid public hearing will be given to all interested parties on the petition before the Board on Monday, November 4, 2024 at 10:30 a.m., 1000 Washington Street, First Floor, Hearing Room 1-D, Boston, Massachusetts. The link providing information regarding the hearing will be posted by Friday, November 1, 2024 by 12:00 noon, and will be available at www.mass.gov/dob/. While it is not necessary to pre-register to provide oral testimony, anyone who emails their intention to provide oral testimony at the hearing in advance will receive preference in the order of testimony provided. Such optional notice must include the person's name, telephone number, and email address and should be sent to dob.comments@mass.gov via email.

209 CMR 18.00: Conduct of the Business of Debt Collectors, Student Loan Servicers, and Third Party Loan Servicers

The purpose of 209 CMR 18.00: *Conduct of the Business of Debt Collectors, Student Loan Servicers, and Third Party Loan Servicers* is to establish standards, by defining unfair or deceptive acts or practices, for the servicing of loans and collection of debts from persons within the Commonwealth of Massachusetts by debt collectors, third party loan servicers, student loan servicers, and automatic federal student loan servicers; to establish procedures and requirements for the licensing and supervision of debt collectors and student loan servicers; and for the registration and supervision of third party loan servicers. The Division of Banks (Division) licenses debt collectors, student loan servicers, and automatic federal

student loan servicers (collectively referred to herein as licensees). Third party loan servicers are required to register with the Division.

The Bureau of Consumer Financial Protection (CFPB) amended Regulation F, 12 CFR Part 1006, which implements the Fair Debt Collection Practices Act (FDCPA), to prescribe federal rules governing the activities of debt collectors covered by the FDCPA. The amendments, among other things, addressed communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The amendments to Regulation F became effective on 11/30/21.

The proposed revision of 209 CMR 18.00 adopts the majority of the newly revised CFPB regulation 12 CFR 1006 to 209 CMR 18.00 to better align it with modern practices.

209 CMR 48.00: Licensee Record Keeping

The purpose of 209 CMR 48.00: *Licensee Record Keeping* is to establish procedures and requirements for record keeping by the Division's licensees.

The proposed amendments to 209 CMR 48.03 increase consistency with Regulation F to increase the record retention timeframe and related clarifications for debt collectors licensed by the Division; and to make the retention of telephone recordings to be consistent with Regulation F.

There are other technical updates to the regulation as well.

Other amendments to the regulation may be made based on testimony at the public hearing or received during the comment period.

If there are any questions, please contact the Division's Legal Unit at 617-956-1520.

Written comments may be submitted to the Division on the proposed amendments until Tuesday, November 12, 2024 at 5:00 p.m. to dob.comments@mass.gov. Copies of the amendments are available at, and copies may be obtained from, the Massachusetts Division of Banks, at www.mass.gov/dob/.

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No.: 209 CMR 18.00: Conduct of the Business of Debt Collectors, Student Loan Servicers, and Third Party Loan Servicers

Estimate of the Number of Small Businesses Impacted by the Regulation: As of 9/16/24, the Division of Banks (Division) licenses 381 debt collectors, 31 student loan servicers, and 6 automatic federal student loan servicers. In addition, 124 third-party loan servicers are registered with the Division. All of these entities are subject to the proposed amendments. While it is difficult to estimate what percentage may be small businesses, it is possible that there could be some that are.

Select Yes or No and Briefly Explain

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| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Will small businesses have to create, file, or issue additional reports? Debt collectors, student loan servicers, and third-party loan servicers (collectively hereinafter referred to as licensees and registrants) will not be required to create, file, or issue additional reports as a result of the proposed amendments. |
| Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Will small businesses have to implement additional recordkeeping procedures? Debt collectors are already required to maintain records for two years after final remittance is made on any account placed with the debt collector for collection or after any account has been returned to the creditor whether or not payments have been made. The proposed amendments increase the two year timeframe to a three year timeframe and will also include recordings of telephone calls. This proposed amendment will make this provision of 209 CMR 18.00 consistent with federal Regulation F. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Will small businesses have to provide additional administrative oversight? Licensees and registrants will not have to provide additional administrative oversight. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Will small businesses have to hire additional employees in order to comply with the proposed regulation? Licensees and registrants will not have to hire additional employees in order to comply with the proposed amendments. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Licensees and registrants will not have to hire other professionals for compliance as a result of the proposed amendments. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? Licensees and registrants will not have to purchase any products or make any other capital investments in order to comply with the proposed amendments. |

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| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>The purpose of the proposed amendments to 209 CMR 18.00 is to streamline and restructure parts of the regulation for more consistency with the Consumer Financial Protection Bureau's (CFPB) Regulation F to help make compliance easier and reduce regulatory burden for licensees and registrants.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>No other regulations duplicate or conflict with the proposed amendments to the regulation.</p> |
| Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | <p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>All licensees are subject to examination and regulatory oversight by the Division. Registrants are also subject to regulatory oversight by the Division.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>These proposed amendments do not require additional educational services.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>The decision to become a licensee or registrant is based on many economic factors. The amendment of this regulation would not likely encourage or discourage an individual from seeking licensure or becoming a registrant.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>As noted above, the decision to become a licensee or registrant is based on many economic factors. The amendment of this regulation would not likely encourage or discourage an individual from seeking licensure or becoming a registrant.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>No less stringent requirements can be established in the regulation based on the size of the entity.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>No less stringent requirements can be established for individuals by regulation.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>The compliance requirements cannot be consolidated or simplified for individuals by regulation.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>As noted above, the purpose of the proposed amendments to 209 CMR 18.00 is to streamline and restructure parts of the regulation for more consistency with the CFPB's Regulation F to help make compliance easier and reduce regulatory burden for licensees and registrants.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>There are no alternative regulatory methods available.</p> |

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No.: 209 CMR 48.00: Licensee Record Keeping

Estimate of the Number of Small Businesses Impacted by the Regulation: As of 9/16/24, the Division of Banks (Division) licenses 381 debt collectors. While it is difficult to estimate what percentage may be small businesses, it is possible that there could be some that are.

Select Yes or No and Briefly Explain

| | | |
|---------------------------------|---|--|
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Will small businesses have to create, file, or issue additional reports?</p> <p>The Division already maintains record keeping requirements for all of its licensees, including debt collectors.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>As noted above, the Division already maintains record keeping requirements for all of its licensees, including debt collectors. The proposed amendments also clarify that if a debt collector records telephone calls made in the collection of debt, the debt collector shall retain the recording for three years after the date of the call.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Will small businesses have to provide additional administrative oversight?</p> <p>Debt collectors will not have to provide additional oversight as a result of the proposed amendments.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>Debt collectors will not have to hire additional employees in order to comply with the proposed amendments.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>Debt collectors will not have to hire other professionals for compliance as a result of the proposed amendments.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>Debt collectors will not have to purchase any products or make any other capital investments in order to comply with the proposed amendments.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>The purpose of the proposed amendments to 209 CMR 48.00 is to increase the record retention requirement for debt collectors, as well as to clarify the retention requirements and that telephone records are included in the record keeping requirements for licensees.</p> |

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| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>No other regulations duplicate or conflict with the proposed amendments to the regulation.</p> |
| Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | <p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>All licensed debt collectors are subject to examination and regulatory oversight by the Division.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>These proposed amendments do not require additional educational services.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>The decision to seek licensure as a debt collector is based on many economic factors. The amendment of this regulation would not likely encourage or discourage an individual from seeking licensure as a debt collectors.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>As noted above, the decision to seek licensure as a debt collector is based on many economic factors. The amendment of this regulation would not likely encourage or discourage an individual from seeking licensure as a debt collector.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>No less stringent requirements can be established in the regulation based on the size of the entity.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>No less stringent requirements can be established for individuals by regulation.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>The compliance requirements cannot be consolidated or simplified for individuals by regulation.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>The purpose of the proposed amendments to 209 CMR 48.00 is to increase the record retention requirement for debt collectors, as well as to clarify the retention requirements and that telephone records are included in the record keeping requirements for licensees.</p> |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>There are no alternative regulatory methods available.</p> |