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June 8, 2021

Department of Financial Protection and Innovation
Attention: Sandra Sandoval
300 S. Spring Street, Suite 15513
Los Angeles, California 90013

Submitted via email to: regulations@dfpi.ca.gov

**Encore Capital Group's Comments to Proposed Regulations Under the Debt
Collection Licensing Act**

On behalf of Encore Capital Group, Inc. and its subsidiaries, including Midland Credit Management, Inc. ("MCM") (collectively, "Encore" or the "Company"), we appreciate the opportunity to submit comments to the Department of Financial Protection and Innovation (the "DFPI") on its proposed regulations under the Debt Collection Licensing Act. The DFPI's work to develop strong licensing regulations for our industry, using NMLS, is extremely important, and we believe the proposed regulations provide clarity and a robust framework for our industry as it becomes licensed in California. There are, however, several items we would like to provide our specific comments and suggestions on.

§ 1850 - Definitions

We ask that the definition under subsection (c) for "Branch office" be clarified to exclude employees working from home. Working from home has become more commonplace during the pandemic in order to protect the health and safety of our industry's employees, while maintaining the highest standards of quality, compliance and customer service, and numerous states allow for collectors to work from home. The reasoning underlying other states' decision to exclude work-from-home employees from the definition of "branch office" is sensible, especially given the global trend towards regularly permitting such work. As an initial matter, employees working from home bear no logical resemblance to the traditional definition of a business's "branch office." Moreover, requiring licensees to list employee home locations would not only be a huge administrative burden to debt collection companies with hundreds or even thousands of employees, but it would also create privacy concerns for employees whose private residential addresses would be disclosed during the licensing process.



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§ 1850.7 – License Application for a Debt Collector

Under Section 1850.7(a)(6), there is a proposed requirement that we identify “[i]ndividuals responsible for the conduct of the applicant’s debt collection activities in this state.” While the other categories of people we identify, including applicants, principal officers, general partners, and trustees are clear and discrete, the category of “individuals responsible for the conduct of the applicant’s debt collection activities in this state” is extremely vague. For our company, we have larger call center locations in Arizona, Michigan, Minnesota, Virginia, Costa Rica and India, with additional smaller offices located throughout the U.S. Our collection professionals from all of these locations communicate with California consumers. “Individuals responsible for the conduct of the applicant’s debt collection activities” in California could include hundreds of collections managers, senior managers, directors, senior directors, vice presidents and executives at our company, including our entire compliance and quality assurance teams (which consist of many dozens of employees). Given how vague and potentially broad this language is, we would ask that the category of “[i]ndividuals responsible for the conduct of the applicant’s debt collection activities in this state” be removed. The information about applicants, principal officers, general partners, trustees, and directors is comprehensive enough to provide the DFPI with thorough information about the people responsible for running our company and our debt collection activities.

In addition, Section 1850.7(a)(16) requires separate branch office registration, which appears to be essentially the same as separate branch office licensing. However, Senate Bill 908 as enacted provides that “A separate license is not required for each individual branch office.” With companies that have multiple branch locations, separate registration is burdensome and should not be required, per Senate Bill 908.

§ 1850.8 - Appointment of Commissioner as Agent for Service of Process

This proposed section makes little practical sense to us, and to our knowledge, no other state requires a similar provision. It would place the DFPI in a massive administrative role and subject the agency to liability for no reason. No other state, to our knowledge, has such a provision, and we do not understand what appointing the Commissioner as agent for service of process would accomplish.

Additionally, the legislative intent of Senate Bill 908 shows that this language, while it appeared in the initial version of the bill introduced on February 3, 2020, was deleted from all subsequent versions of the bill. This language was removed from the legislation, and was not added back into the final version that passed into law. It would be inappropriate to add back in language that had been removed during the legislative process.



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§ 1850.10. Information Regarding Individuals who are not Residents of the United States.

In subsection (a)(4) of Section 1850.10, there is a requirement that investigative reports of individuals must be in English. As we have several thousand employees in Costa Rica and India, we would ask that this be clarified to allow reports to also be the report to be translated to English if in another language.

In subsection (b)(7), the language seeking “Regulatory history, particularly in connection with debt collection activities” may not be available. Employees in other countries, as our employees in India and Costa Rica, may not have credit reporting information or other “regulatory history” as is the case in the U.S. We would ask that this language either be removed or clarified that it is required only if available.

§ 1850.30. Notice of Changes.

Under Subsection (d) of Section 1850.30, “A licensee shall, upon any change in the information contained in its application for a license, including any change in its policies and procedures, file the changed information.” Given the highly regulated nature of our industry, many licensees likely have dozens or even hundreds of policies and procedures, which can include policies regarding Information Technology, Human Resources, Compliance, Operations and a host of other policies and procedures that are maintained and regularly updated. We routinely review and update our many policies and procedures, and often times the updates contain non-substantive changes and relate to topics unrelated to licensing. The proposed language that a licensee shall notify the DFPI upon “any change in its policies and procedures” is overly broad, would capture significant non-substantive policy and procedure changes, and would be burdensome to licensees.

Under Subsection (d) of Section 1850.30, “A change in the principal place of business identified in a license application to a different street address must be filed at least ten (10) calendar days before the date of the change. The notice to the Commissioner of the change in the principal place of business shall include the licensee’s name, street address of the new location and date of change, and describe any other existing business being conducted at the new location.” We ask for clarification on whether this notice must be sent solely to NMLS or to the DFPI Commissioner as well.



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Thank you for your efforts to solicit feedback on these important proposed regulations under the Debt Collection Licensing Act. Should you have any questions about our comments, please don't hesitate to contact us at tamar.yudenfrend@mcmcg.com.

Respectfully submitted,

/s/ Tamar Yudenfrend

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