



June 12, 2021

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

Via Email (regulations@dfpi.ca.gov)

Re: Comment on Modifications to Proposed Regulations Under Debt Collection Licensing Act (PRO 02/20)

Dear Ms. Sandoval:

I am writing on behalf of the California Credit Union League (League), one of the largest state trade associations for credit unions in the United States, representing the interests of approximately 230 California credit unions and their more than 11.6 million members.

On April 23, 2021, the California Department of Financial Protection and Innovation (DFPI) proposed to adopt new regulations pertaining to the license application form and procedures for applying for a debt collection license under the Debt Collection Licensing Act (DCLA) (Sen. Bill No. 908 (Chap.163, Stats. 2020; Cal. Fin. Code, § 100000, et seq.). On June 23, 2021, the DFPI proposed further amendments to the proposed regulations based on the initial comments received.

The League previously provided comments on June 8, 2021, wherein the League expressed concern about two areas of potential confusion related to the exemption language found in §100001(b). We strongly reiterate our position that urges the DFPI to resolve these ambiguities by addressing them in the draft regulations. Once again, we wish to draw your attention to these areas of concern:

a. Individual Employees of Exempt Depository Institutions

The class of persons subject to the DCLA and its licensure obligation broadly reaches “any person” who engages in consumer debt collection. Although a depository institution is itself clearly exempt, §100001(b)(1) does not specifically address persons employed by or acting on behalf of an exempt depository institution. As such, it could still be interpreted under the definition that an individual employee would not be excluded and therefore must also comply with the licensure and other requirements of the DCLA.

While it may be argued that an employee of the depository institution is not personally in the business of collecting debts but merely acting as the agent of the depository institution, this is not expressly stated in either the statute or the draft regulations.

b. DFPI Enforcement Authority Over Federal Credit Unions

§100001(b)(2) preserves the DFPI’s enforcement authority to address violations of the California Rosenthal Fair Debt Collection Practices Act or the Fair Debt Buying Practices Act. However, because this enforcement authority is preserved as to otherwise exempt “depository institutions,” which are defined in

§100001(b)(1) to include both state and federally chartered credit unions, the implication is that this enforcement authority could extend to federal credit unions as well.

While the DFPI is authorized to license and regulate California state-chartered credit unions, the National Credit Union Administration (NCUA) regulates federal credit unions. As a result, such an interpretation would be inconsistent with both state and federal credit union law. While it may be argued that this inconsistency alone is sufficient, it remains that the issue is not addressed in either the statute or the draft regulations.

c. Proposed Additional Language for Draft Regulations

In our previous letter, we proposed the following language to be included in the draft regulations:

1. Article 1. Definitions.

§ 1850.1 Requirements for Licensure.

(a) The exemption for a depository institution from the provisions of the Debt Collection Licensing Act pursuant to Section 100001(b)(1) of the Financial Code shall also include any employee of the depository institution engaging in the business of debt collection on behalf of the depository institution.

(b) Nothing in Section 100001(b)(2) or 100005(b) of the Financial Code shall be construed to confer enforcement authority with regard to any depository institution not otherwise licensed by the Commissioner.

We continue to call on the DFPI to include such language in the draft regulations to help clarify and address the points indicated above.

Final Comments

Thank you for the opportunity to comment on the proposal. We strongly reiterate our position that further clarity is needed in order to avoid any potential misinterpretations regarding the exemption in §100001(b). If you have any questions regarding our comments, please do not hesitate to contact me.

Sincerely,



Diana R. Dykstra
President and CEO
California Credit Union League

cc: Christopher Shultz, Acting Commissioner
Edgar Gill, Senior Deputy Commissioner, Corporations and Financial Institutions Division