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December 2, 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 (PRO 02/20 – Modifications to 45-Day Text)**

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 additional proposed modifications to its regulations under the Debt Collection Licensing Act. The DFPI has attempted to further modify the definition of branch office, and while we appreciate this effort, we continue to have concerns with the DFPI creating a separate registration or filing requirement for branch offices or affiliates, as this is the equivalent of requiring branch office licensing that is expressly not required under Senate Bill 908.

Under the proposed language, even if an office is a call center and is generally not public-facing, if a consumer is able to walk into a call center and drop off a payment, then separate registration would appear to be required. ***We urge the DFPI to modify this language such that a business location that serves only as a call center and is not intended to be public-facing does not require a branch office registration.***

Additionally, the DFPI’s proposal defines the term “holding a location out to the public,” as “...including the location on business cards, letterhead, or any other correspondence...,” among others. This portion of the definition is too broad because business cards and letterhead are primarily used for business purposes and not to communicate with consumers or the general public. Similarly, the term “any other correspondence” would inevitably include correspondence by a business with third parties who are not consumers nor considered members of the general public. Therefore, designating a location as being held out to the public solely because said location utilizes business cards or letterhead that includes its address would be over-encompassing. As such, we urge the DFPI to modify its definition of the term “holding a location out to the public,” by removing the language “...including the location on business cards, letterhead, or any other correspondence...”



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As we have previously stated in our comments to the DFPI, separate branch office licensing and affiliate licensing is duplicative and burdensome to licensees. For licensees that have multiple branch locations or affiliates, separate registration is onerous and difficult to comply with from an administrative and cost perspective. To avoid unnecessary burden to licensees, licensing should be done for the main entity as a whole, not for individual branch offices or affiliates.

Notably, separate branch licensing is not required under the legislation granting the DFPI the authority to license debt collectors. Senate Bill 908 as enacted explicitly states that “[a] separate license is not required for each individual branch office.”¹ However, Section 1850.7(a)(16) in the DFPI’s proposed rules provides that “An applicant shall register its branch offices by filing with the NMLS [Nationwide Multistate Licensing System & Registry] a Form MU3 for each branch office.”

Similarly, affiliated companies are not required to have separate licenses under the law. Senate Bill 908 states “The commissioner shall administer this division and may adopt rules and regulations, and issue orders, consistent with that authority...To allow affiliated companies to be under a single license. The commissioner shall adopt regulations specifying what constitutes an affiliated company for these purposes.”² However, Section 1850.7(a) in the DFPI’s proposed rules provides that “[f]or affiliates seeking to be licensed under a single license, each affiliate must file a Form MU1 and comply with all licensing requirements.”

Requiring Forms MU1 and MU3 to be filed for each branch office or affiliate would effectively require separate branch office licensing and separate affiliate licensing. This is in clear contradiction to SB 908’s provisions cited above, which clearly state that a separate license is *not* required for each individual branch office nor affiliate.

The DFPI has publicly agreed that separate licenses for branch offices are not required (“Please note that a separate license is not required for each individual branch office”).³ To require “registration” for branch offices and separate filings for each affiliate, however, creates a licensing requirement by another name, and is inconsistent with SB 908. For the reasons addressed above, it is imperative that the MU3 and MU1 requirements for branch licenses and affiliate licenses be eliminated.

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Thank you for your efforts to solicit feedback on these important proposed modifications to the DFPI’s regulations under the Debt Collection Licensing Act. Should

¹ CA Senate Bill 908 (2019-2020), Article 2, Section 100001(a).

² CA Senate Bill 908 (2019-2020), Article 2, Section 100003(a)(3).

³ <https://dfpi.ca.gov/debt-collectors-faq/>.



you have any questions about our comments, please don't hesitate to contact me at tamar.yudenfreund@mcmcg.com.

Respectfully submitted,

/s/ Tamar Yudenfreund
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