



July 5, 2022

VIA EMAIL TO regulations@dfpi.ca.gov

California Department of Financial Protection and Innovation

Attn: Sandra Navarro

300 S. Spring Street, Suite 15513

Los Angeles, CA 90013

Re: PRO 03-21

Ladies and Gentlemen:

I represent Unifund CCR, LLC, and its affiliates (collectively, “Unifund”) and write to provide the following comments on the proposed regulations to implement under the California Consumer Financial Protection Law (“CCFPL”) regarding consumer complaints and inquiries. Unifund appreciates the opportunity to provide comments:

- 1) Section 1071(e): How does an inquiry differ from a dispute?
- 2) Section 1072(a)(1)(A): Please clarify what is meant by “a description of the complaint process.”
- 3) Section 1072(a)(2): The proposed language states that the covered person cannot “request additional personal identifying information beyond what is described in subdivisions (a)(1)(B)-(E) of this Section ...” There are two additional pieces of information that a covered person should be permitted to request: an account number and the last four digits of a consumer’s Social Security number. The reason is simple: covered persons often have multiple consumers system with the same or a substantially similar name. Consumers often move and we do not always have a current address or phone number. Names also change. The most effective way for us to confirm that we have identified the correct consumer often is by matching the account number or the last four digits of the Social Security number. Mary Smith, who we believe lives at 123 Main Street, may now be Mary Jones, at 567 Elm Street, and the account number or SSN may be critical to our identifying the correct consumer.

Please note that Unifund’s website does not require that consumers provide that information with complaints, but they have the option and, when they do, we find it very helpful for expediting resolution of consumer complaints.

- 4) Section 1072(a)(5): Any return call to a consumer should be within one business day, not 24 hours. If a consumer leaves a message at 11 PM on a Friday night or a holiday, for example, they likely will not receive a call back until the next business day. For many businesses, this will be Monday. Not all covered persons have staff available 7 days a week.

Additionally, the representative should take the same information that is required by the form, but not have to actually complete the form.

- 5) Section 1072(b): Our complaint process does not create unique tracking numbers, and this requirement would not provide any additional benefit to consumers. We track our complaints in the consumer's computer file. When we receive complaints from regulators such as the CFPB, state attorneys general, or the Better Business Bureau, they provide their own number. An internal tracking number would not provide any additional benefit to consumers so long as we have a way of tracking the complaint and locating it in our system.
- 6) Section 1702(c)(1): The Regulation requires that the complaint be reviewed by the staff responsible for the services and operations which are the subject of the complaint. This section should include an option for compliance or legal staff to perform the review. For many complaints, the most appropriate person to handle the review is going to be a compliance or legal team member.
- 7) Section 1702(c)(3): Many companies have very few officers. This section should be expanded to permit, for example, compliance or an attorney to oversee the complaint process. While those individuals may ultimately report to an officer of the company, they may be closer to the complaint process and better able to identify patterns and fine-tune the complaint process than an officer who is more removed from day-to-day activities.
- 8) Section 1702(d)(3): We often have a difficult time reaching consumers via telephone. If a consumer calls for an update, we should be able to respond in writing (mail or email) if the consumer is not reachable by telephone. As a debt collector, we cannot leave this information in a voicemail message. Additionally, if the consumer calls to request an update and receives the update in the same call, there should be no requirement of additional follow-up.
- 9) Section 1702(e)(2): The regulation should be less specific as to the contents of the response to the complainant. In particular, we should not be required to provide details about corrective actions with respect to employees. A significant percentage of the complaints we receive are about specific communications, such as that a representative was rude or unhelpful. It is neither appropriate nor constructive to detail how a personnel issue ultimately was handled. Further, many of these complaints are unfounded, and it simply is not productive to tell a consumer that the representative was not rude, which often is the outcome. A less specific, but empathetic, response often is more effective in these situations.

- 10) Section 1702(h): The quarterly report requested is unduly burdensome. Additionally, several of the requirements are unclear. For example:
- a. (8) requires us to identify “[t]he total number of complaints denied.” Often, complaints are neither accepted nor denied; we investigate and respond to them, but often there is not a clear answer and the complainant and we simply do not agree (whether a representative was rude being a perfect example of this).
 - b. In (9), does “a partial refund or account adjustment” include the scenario in which we agree to resolve an account for less than the full amount owed? It may not be that there was a balance issue with the account but simply that we chose to accept less than the full amount due.
 - c. The complaint types set forth in (13) would require that we set up a completely separate tracking system for California for several reasons, not the least of which is that these complaint types do not correspond with the Consumer Financial Protection Bureau’s complaint types.
 - d. (14) and (15) fundamentally require a covered person to identify and admit to wrongdoing and expose itself to liability, particularly given that this report will be available to the public.
- 11) Section 1073 creates a manual process that will be incredibly burdensome for covered persons. Debt buyers and debt collectors should be permitted to continue handling these requests as disputes and be exempted from this regulation because these regulations are not consistent with existing legal obligations. As a debt collector, what this regulation refers to as an “inquiry” is something that we would treat as a dispute under the Fair Debt Collection Practices Act and the Rosenthal Act. As a debt buyer, we also have obligations under the California Fair Debt Buying Practices Act.
- 12) Section 1073(a): Any return call to a consumer should be within one business day, not 24 hours. If a consumer leaves a message at 11 PM on a Friday night, they likely will not receive a call back until the next business day. For many businesses, this will be Monday. Not all covered persons have staff available 7 days a week.
- 13) Section 1073(c)(1): We should be able to respond to all inquiries in writing. It is, for example, not possible to provide copies of documents via telephone. Often, document files are too large to send via email and must go via mail. Further, our company has strict limitations on who can email a consumer and what information can be sent via email. These limitations serve multiple purposes, including avoiding sending personally identifiable information via what could be an insecure method of communication.

Additionally, it is not reasonable to require that we respond to “all” issues raised by an inquiry. For example, we often receive requests from consumers for documents that are not available, such as copies of credit card slips or a signed application for an account that was opened online. California consumers for many years have requested copies of

July 5, 2022

Page 4

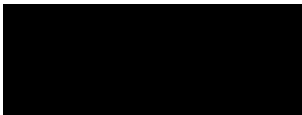
our debt collection license, despite California not having a debt collection license until recently. There needs to be some type of reasonableness standard to what we are required to provide.

14) Section 1073(d): These categories are not relevant to all covered persons. As a debt collector, only (2) might be relevant. (6) is extremely broad.

15) The 15-day response period set forth for the initial response to complaints, both in 1072 and 1074, is too short. We often have to gather information from third parties and review it in order to respond, and that often takes more than 15 days. We recommend a 30-day response period.

We appreciate your attention to our comments and would be happy to discuss any of these items further at your convenience.

Sincerely,

A black rectangular redaction box covering the signature of Susan D. Appel.

Susan D. Appel
Legal Counsel

cc: @dfpi.ca.gov