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August 29, 2022

Department of Financial Protection and Innovation
Legal Division
Attn: Sandra Navarro, Legal Assistant
2102 Arena Blvd
Sacramento, CA 95834

RE: Proposed Second Rulemaking Under the Debt Collection Licensing Act
(PRO 05–21)

Dear Commissioner Hewlett:

Thank you for the opportunity to provide the Department of Financial Protection and Innovation (the “Department”) comments on proposed regulations implementing the Debt Collection Licensing Act (the “Law”). As the Department revises and finalizes regulations implementing the Law, PayPal believes there are additional clarifications the Department should consider and address in its regulations and has provided its suggestions below.

I. ISSUES TO CONSIDER IN THE REVISED PROPOSED REGULATIONS

A. Creditors Should Be Excluded from Debt Collection Licensure

PayPal believes the Department should provide additional clarity and certainty that creditors need not obtain a debt collection license. Like the Fair Debt Collection Practices Act (the “FDCPA”), the proposed regulation defines “Original Creditor” (and therefore excludes from licensure) as a creditor seeking repayment in its own name of consumer debt arising from credit the creditor extended. Unlike the FDCPA, though, the Law excludes creditors from the definition based upon certain criteria unrelated to the nature of the businesses’ operations.

For example, the proposed section 1850.1(c)(3), excluded from the definition of “Original Creditor” a creditor where “[t]he creditor has a monthly average over the last 12 months of twenty-five percent or more of the gross amounts of its account receivables ninety or more days past due.” Thus, traditional creditors may or may not be an “Original Creditor” under the Law in any given year, and therefore may or may not need to be licensed as a debt collector, depending upon whether its gross account receivables happen to reach a certain threshold, notwithstanding it is in the business of extending credit to consumers. To provide greater consistency and certainty, PayPal requests the

Department consider removing all exceptions to the definition of “Original Creditor” proposed in section 1850.1(c)(1)-(3).

B. The Department Should Clarify the Requirement That California Debtor Accounts Be Counted by “Transaction”

The annual report required by Financial Code section 100021 mandates the reporting of information based upon the total number of debtor accounts, and proposed section 1850.70(c), in turn, requires “[t]he total number of California debtor accounts should be counted by transaction, not by debtor. If a single debtor has multiple accounts, each account should be counted separately.” (emphasis supplied). Because a single debt on an account can arise from multiple transactions, reporting account information at a transactional level can be unwieldy and potentially confusing. PayPal respectfully suggests the Department revise the proposed regulation so that information is reported at the account level – e.g., “[t]he total number of California debtor accounts should be counted by account, not by debtor. If a single debtor has multiple accounts, each account should be counted separately.”

Thank you for considering PayPal’s comments as the Department finalizes its regulations implementing the Law. We would be happy to continue a dialogue with the Department and answer any questions you may have.

Sincerely,

Lauren Kimzey
Senior Manager, Government Relations, Western Region