



August 29, 2022

VIA EMAIL TO regulations@dfpi.ca.gov

California Department of Financial Protection and Innovation

Legal Division

Attn: Sandra Navarro

2101 Arena Blvd.

Sacramento, CA 95834

Re: PRO 05-21

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 Debt Collection Licensing Act. Unifund appreciates the opportunity to provide comments.

The regulations would require that licensees maintain certain enumerated documents and records (including call recordings) for seven (7) years from the latest of: (1) the date the account has been settled, (2) the date the account has been returned to the creditor, or (3) the date the account sold or all collection attempts have ceased.

A seven-year record retention requirement is inconsistent with existing state record retention laws, which range from one to six years, depending upon the state. Further, the regulations seek to create a record retention requirement that could well be substantially longer than seven years because it is measured not from the date of the activity but from the date of closure of the account. This creates a significant burden for licensees, particularly with respect to call recordings, which are more costly and difficult to store than other types of records. We note that the Consumer Financial Protection Bureau imposed a three-year call recording retention requirement in Regulation F. 12 CFR Part 1006.100.

We urge the DFPI to consider bifurcating the record retention requirement to create (1) a three-year requirement for call recordings, consistent with Regulation F, and (2) a six-year requirement for all other account records.

Additionally, the record retention requirement includes “[a]ll employee records.” The regulations do not define what type of employee records are covered. “Employee records” covers a myriad of information that is not relevant to debt collection or the DFPI’s purpose, such as Family and

August 29, 2022

Page 2

Medical Leave Act information that could include medical records. The DFPI's regulations should be limited to those employee records relevant to debt collection, such as training logs, corrective actions, and employment dates.

Finally, § 1850(o) defines "net proceeds generated by California debtor accounts" based, in part, on "cost of goods sold." For debt collectors, "cost of goods sold" is not a meaningful term. We suggest that "net proceeds" should be based upon net income of the licensee attributable to California debtor accounts.

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

Sincerely,

A large black rectangular redaction box covering the signature area.

Susan D. Appel
Legal Counsel