

July 3, 2024



By Electronic Submission to regulations@dfpi.ca.gov with a copy to marv.tome@dfpi.ca.gov

Department of Financial Protection & Innovation
Attn: DeEtte Phelps, Regulations Coordinator
2101 Arena Blvd
Sacramento, CA 95834

Re: Comments on Proposed Rulemaking re Information Required in Debt Collection Licensing Annual Report (PRO 01/23)

Dear Commissioner Hewlett:

The Receivables Management Association International (RMAI) is pleased to submit our comments to the Department of Financial Protection & Innovation (DFPI or Department) on its proposed rulemaking concerning items being requested in annual reports as requested in DFPI’s invitation for comments issued on June 17, 2024.

As background, RMAI is a nonprofit trade association that represents more than 600 businesses that purchase or support the purchase of performing and nonperforming receivables on the secondary market. RMAI member companies work in a variety of financial service fields, including debt buying companies, collection agencies, collection law firms, originating creditors, brokers, international members, and industry-related product and service providers. RMAI’s Receivables Management Certification Program (also referred to as RMCP)¹ and its Code of Ethics² set the “gold standard” within the receivables management industry due to their rigorous uniform industry standards of best practice which focuses on protecting consumers.

¹ Receivables Management Association International, *Receivables Management Certification Program* (February 3, 2022), publicly available at <https://rmaintl.org/GovernanceDocument> (last accessed July 3, 2024).

² Receivables Management Association International, *Code of Ethics* (August 13, 2015), publicly available at <https://rmaintl.org/about-rmai/code-of-ethics/> (last accessed July 3, 2024).

Rolled out in 2013, RMAI's Certification Program sets high and robust industry standards that seek to go above and beyond the requirements of state and federal law for the protection of consumers.³ While the program was first designed to certify debt buying companies, it has expanded to include certifications for law firms, collection agencies, and vendors (e.g., brokers and process servers). Currently, over 500 businesses and individuals hold these internationally respected certifications. Presently, all the largest debt buying companies in the United States are RMAI certified, and we estimate that approximately 80 to 90 percent of all charged-off receivables that have been sold on the secondary market are owned by an RMAI certified company.

In addition to required self-compliance attestations as part of the initial and recertification application, the RMAI Certification Program has three types of audits performed by independent third-party auditors: the Pre-Certification Audit, the Full Compliance Audit (this is an automatic recurring audit), and the Limited Compliance Audit. The audits are reviewed by an Audit Committee which has consumer representation. Beginning March 1, 2024, BBB National Programs is administering RMAI's Remediation Committee which is the committee that handles any unresolved audit deficiencies.

RMAI'S Comments on Proposed Regulation 01-23

RMAI was an active and supportive participant in the introduction and negotiation of SB 908 in 2019 and 2020. RMAI was supportive of state licensing for debt collectors in California and worked closely with the sponsor in the development of the statutory requirements contained in the Debt Collection Licensing Act.

The requirements for the annual report were developed and negotiated based upon the potential value of the statistics as well as the ability of the business community to produce the statistics required. While the contents of section 100021 of the Financial Code, as negotiated, were broader than similar requirements in other states that maintain annual reports, RMAI felt that the business community could be compliant provided the reports were not further expanded, except for absolute necessity and for reasons the parties at the time could not anticipate.

Section 100021(a)(1) of the Financial Code states that annual reports shall include the "total number of California debtor accounts purchased or collected on in the preceding year" which DFPI is defining in section 1850.70 (d) of the rule to mean the "sum" total of accounts (1) collected in full, (2) resolved for less than the full amount of the debt, and (3) where payments were made but a balance remains due. If DFPI is asking for the number comprising the "sum" total of these three data sets to be inserted into the DFPI annual report form, RMAI is fine with the proposed rule and how it will be implemented.

³ RMCP's Mission Statement reads in part, the certification program "is an industry self-regulatory program administered by RMAI that is designed to provide enhanced consumer protections through rigorous and uniform industry standards of best practice."

However, if DFPI plans to have separate fields in the annual report form, where the licensee inserts the number associated with each of the three data sets that comprises the “sum” total, RMAI has some serious concerns. First and foremost, this level of detail is not maintained or easily accessed by all debt collectors. Many small businesses do not maintain sophisticated systems of record that can easily parse through account records based on this criterion. In fact, there are some small businesses that still operate with paper records.

Second, this level of detail, combined with other details being requested in the annual report, would expose confidential and proprietary information to the public. For example, how many accounts are resolved for less than the full balance is a business decision that can be based on proprietary algorithms. When taken together with the total dollar amount of accounts purchased and the face value dollar amount of accounts purchased, this information would give competitors a roadmap of how much collection activity is conducted on California accounts, the discounts a collector is offering to consumers to resolve accounts, and a company’s profit margin when collecting on California accounts.

RMAI would respectfully request that if DFPI plans on collecting the number associated with each of the three data sets as part of the “sum” total on its annual report form, that the Department keep the three individual components of the “sum” total confidential and not make it available to the public for inspection and only publish the “sum” total in the annual report. This would be consistent with the intent of section 100021(a)(1) of the Financial Code. However, given the challenges that small businesses might experience in compiling this information, RMAI would prefer that DFPI simply collect the “sum” total and not the individual components of the sum.

Conclusion

RMAI respectfully requests that DFPI be use caution and judgment when requesting additional data in the annual report that is not statutorily mandated. Such data should be sought only for important and identifiable reasons and should be protected by DFPI when it could expose confidential and proprietary content. RMAI will reiterate from our prior comment on March 27, 2024, the vast majority of debt collectors in California and within the United States are small businesses who do not have the resources or employee depth to produce data that will never be used.

RMAI sincerely appreciates the opportunity to comment on the proposed regulations. Please do not hesitate to contact me at [redacted] or at [redacted] if you require further clarification or have questions on RMAI’s comments.

Sincerely,

David Reid
RMAI General Counsel