



Mid-Atlantic Collectors Association

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Gordon M. Cooley
Commissioner of Financial Regulation
State of Maryland
Department of Labor, Licensing and Regulation
500 N. Calvert Street, Suite 402
Baltimore, MD 21202

Re: Written comments of the Mid Atlantic Collectors Association before the
Commissioner's Forum for Maryland Collection Agency Licensees

Dear Commissioner Cooley:

The Mid Atlantic Collectors Association (MACA) files this comment on behalf of its approximately 130 members including 40 in the State of Maryland in response to the Maryland Collection Agency Licensees Forum held on September 22, 2016.

MACA appreciates the opportunity to participate in this forum and to work with the Office of Financial Regulation on issues impacting the debt collection industry. While advances in technology and changes in consumer preferences often require an adjustment to our member's collection practices, the only way to do so without creating enormous exposure to massive liability risk is if the regulations governing the industry are also updated. In order to appropriately address these changes, it is important to have an open dialogue between the industry and regulators.

MACA brings together third-party collection agencies, law firms, asset buying companies, and creditors in Maryland, Delaware, Pennsylvania and the District of Columbia to promote lawful consumer debt collection. We serve our member companies by providing educational materials, training and promoting ethical professional conduct. We work closely with regulators and legislators to find practical solutions that meet the needs of consumers and the industry while holding bad actors accountable.

A majority of our association member companies are small businesses that provide services to other small businesses. A recent survey conducted by our national trade association, ACA International, found that 48% of their members nationwide have less than 9 employees and 86% have fewer than 50 employees. The survey also found that 44% of ACA members report that 50 - 100% of their clients are small businesses. This data

demonstrates that debt collectors, the overwhelming majority of which are small businesses, are often providing essential collection services to other small businesses. As a result, given the greater challenges new rules pose for small businesses due to their size, MACA urges the Office of Financial Regulation to take the unique makeup of the debt collection industry into consideration when developing and implementing any new regulations to ensure there is not a disproportionate, negative impact on small businesses in Maryland.

MACA members also serve a wide variety of clients including: hospitals, libraries, lawn services, local governments, utilities, retail, nonprofits, financial institutions and many others small and large entities. In considering new regulations, it is important to recognize that rules which will impact the credit and collections industry will in turn also impact these diverse clients who rely on the services of debt collectors and consumers overall. In fact, an economic impact study by be Ernst and Young found the industry annually returns more than \$55 billion to the national economy including more than \$615 million to the Maryland economy. The industry contributes nationally over 136,000 jobs with \$6.4 billion in payroll and when taking into account indirect jobs the number nearly doubles to 231,000 jobs with a \$12.4 billion in payroll. In Maryland this amounts to more than 2,600 jobs with a total payroll of \$178 million.¹

The industry strongly desires increased clarity, uniformity, bright line standards and workable safe harbors to avoid needless litigation for technical issues that do not impact consumers. MACA is hopeful that much of this can be accomplished by the federal Consumer Financial Protection Bureau (CFPB) and its highly anticipated debt collection rulemaking.

Before embarking on any major regulatory changes, we would urge the Office of Financial Regulation to consider holding off until the CFPB has an opportunity to implement its rulemaking.²

This federal rulemaking is widely expected to be the most significant legal change to how debt collection is conducted in the United States since enactment of the federal Fair Debt Collection Practices Act in 1977.

¹ See Ernst & Young, *The Impact of Third-Party Debt Collection on the U.S. National and State Economies in 2013* at 18 (July 2014), available at <http://www.acainternational.org/files.aspx?p=/images/21594/theimpactofthird-partydebtcollectiononthenationalandstateeconomies2014.pdf>

² See CFPB, *Advance Notice of Proposed Rulemaking*, Debt Collection (Regulation F), 78 Fed. Reg. 67848 (Nov. 12, 2013) (“CFPB ANPRM”).

In November 2013, the CFPB issued an Advance Notice of Proposed Rulemaking (ANPRM) on debt collection which consisted of 162 questions covering a broad range of issues, including transfer of documentation and information, consumer disclosures, call frequency, and litigation practices. In February 2014, the CFPB concluded the ANPRM and has since publicly announced its intention to move forward imminently with a comprehensive proposed rule to regulate the entire debt collection industry.

Earlier this summer, on July 28, 2016 the CFPB took another major step forward in this rulemaking process when it released its Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking Outline of Proposals under Consideration and Alternatives Considered.³

This 117 page outline of proposals is wide ranging in scope covering four major areas:

1. **Information Integrity** (Substantiation, Review and Transfer of Information, Purchased Debt, Validation Notices)
2. **Consumer Understanding** (Disclosures regarding litigation and time barred debt)
3. **Collector Communication Practices** (Messages, Content, Contact Frequency)
4. **Additional Proposals** (Debt transfer prohibitions, recordkeeping)

MACA joins with ACA International and others in the industry in urging the CFPB to consider 6 key components that should be addressed in the rulemaking. MACA encourages the Office of Financial Regulation to consider the same issues when reviewing current or future Maryland regulations.

1. A balance must be struck between protecting consumers and ensuring a vibrant debt collection market.

It is critical to strike an appropriate balance between protecting consumers from harmful practices and ensuring that the consumer debt collection market functions in a fair, transparent, and competitive manner without undue burden on legitimate debt collection businesses.

³ See Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking Outline of Proposals under Consideration and Alternatives Considered. July 28, 2016
http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf

2. Legitimate and effective two-way communication must be fostered, not hindered.

Respectful, two-way communication between the debt collector and consumer is necessary for transparency, mutually-agreeable resolution of the debt, and any related disputes. Attempts to overly restrict communication between collectors and consumer ultimately hurt the consumer. If a consumer does not hear or have the opportunity to hear about a debt it does not go away. The issue likely escalates resulting in credit reporting, added fees or legal action.

3. Embrace emerging technology and recognize changing consumer preferences

If expressly authorized by regulation, MACA would welcome using technology to communicate with consumers, including the use of email, text messages, web portals, social media, instant messaging, wireless telephones and other modern means.

4. Rules must reflect the interaction between various players in the collection and credit cycle.

Any rules created should also recognize the interaction between and among various entities in the collection and credit cycle, including consumer reporting agencies, creditors, account owners, and debt collectors, with each entity in the chain responsible for those matters in which they have the most control and influence.

5. A flexible framework is crucial to accommodate differences in the debt collection market.

The debt collection market is extremely varied in the types of debts being collected and that the nature and size of our nation's debt collectors encompass a broad scope. The differences inherent to each type of debt require a thoughtful and nuanced regulatory approach in order to minimize harmful unintended consequences. New rules must also accommodate the differences and roles of market participants and provide a flexible framework in which legitimate debt collectors can maintain their vital role in the credit cycle.

6. Maximum clarity in new debt collection rules is essential.

To avoid any ambiguity, it is critical that the rules make regulatory compliance obligations of industry participants certain, and include model language, disclosures, forms, and examples of compliant behavior, whenever practicable, in order to create appropriate "safe harbors" from regulatory enforcement and private civil litigation that seeks to exploit legal and regulatory uncertainty.

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The CFPB rulemaking provides a unique opportunity to deliver much needed clarity and uniformity in the federal and state regulations and to begin modernizing the current regulations to meet consumer's changing wants and needs. MACA looks forward to working with the CFPB and the state of Maryland as these and other regulations are developed and implemented.

Given the sheer magnitude of the anticipated rulemaking, MACA respectfully requests that the State of Maryland hold off on any major regulatory initiatives until the CFPB implements its final rule on debt collection. If the state decides to initiate any regulatory changes, MACA would request the Office of Financial Regulation strongly contemplate two pitfalls that could have unintended consequences for consumers and businesses in Maryland.

1. How would this impact small business, both collection agencies and their clients? Would increase costs impact consumers?
2. How would new federal regulations from the CFPB rulemaking impact this area? Would duplicative or redundant requirements in Maryland confuse consumers and collectors?

Thank you for the opportunity to participate in this forum. If you have any questions, please contact me by telephoning (570) 387-6470 Ext. 202, or by E-mailing harry@remitcorp.com.

Respectfully submitted,



Harry A. Strausser III
President

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