May 1, 2020

The Honorable Eric Garcetti
City of Los Angeles
200 N. Spring St.
Los Angeles, CA 90012

Re: City Council Motion 20-0418 – relating to Safer at Home and debt collection

Dear Mayor Garcetti:

I write on behalf of the American Financial Services Association (AFSA)[1] regarding City Council Motion 20-0418, which requests that you amend the Safer at Home emergency order to declare debt collection agencies and credit agencies as non-essential businesses and impose a moratorium on debt collection efforts during the duration of the emergency order. AFSA members share the city's goal of providing relief to borrowers facing financial hardship due to the spread of COVID-19 and continue to take steps to work with borrowers to help them stay current on their accounts and keep their vehicles and homes during this emergency. If implemented, the Council's proposed requirements will likely make it more difficult for consumers to access relief available to them and create significant compliance challenges for creditors at a time when resources must be focused on providing direct consumer relief.

The Essential Role of Financial Services

First, the Council motion requests that you amend your Safer at Home order to classify "credit agencies" as non-essential businesses. The federal Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA) considers the financial services sector to be one of sixteen vital components of the nation's critical infrastructure, and this sector is not limited to financial institutions that hold deposits. According to CISA, "the Financial Services Sector includes thousands of depository institutions, providers of investment products, insurance companies, <u>other credit and financing organizations</u>, and the providers of the critical financial utilities and services that support these functions." (emphasis added) [2]

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[1] Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

[2] See CISA *Financial Services Sector-Specific Plan 2015* at https://www.cisa.gov/sites/default/files/publications/nipp-ssp-financial-services-2015-508.pdf.

At a time of national crisis and economic turmoil such as the COVID-19 pandemic, it is critical that all sections of society have access to emergency credit if widespread hardship is to be avoided, and both banks and non-depository financial institutions are a vital source of emergency credit. Installment loans are increasingly acknowledged as one of the safest and most affordable forms of credit and allow easy access to small sums at short notice. Payment cards provide borrowers with open-end credit lines immediately accessible as needed. Refinancing a mortgage or vehicle loan to lower monthly payments frees up money that can be put toward emergency expenses. Each of these credit options allows a consumer to access sums of money that help them to deal with unforeseen circumstances.

In addition to emergency credit, it is also essential that consumers have access to banks and non-depository financial institutions with which they have existing relationships in order to service those accounts. While some financial institutions are set up to perform some functions from home, others need personnel in place in offices or local branches to ensure customer needs are met.

Moratorium on Debt Collection Efforts

Second, the Council calls for a moratorium on "debt collection efforts" for the duration of the emergency. A blanket moratorium on collections efforts, like the one called for by the Council, would, in many cases, prevent creditors from proactively reaching out to consumers to offer relief and provide information on programs available. Such outreach is in the consumer's interest and includes: inbound and outbound customer service and collections calls and correspondence with customers for the purposes of providing customer account support; monthly payment reminders; late payment reminders; making payment arrangements; and otherwise working with customers to resolve past due accounts, understand reasons for delinquency, the potential duration, and what assistance or remedies creditors/lessors may be able to offer to assist the customer. Any moratorium on collection efforts that prohibits these types of communications would not be in the best of interest of Los Angeles consumers.

In addition, certain existing state and federal laws require creditors contact borrowers or send specific notices in the course of servicing accounts, actions that could be deemed "debt collection efforts" under a broad prohibition. For example, the federal Real Estate Settlement Procedures Act (RESPA) requires mortgage servicers send early intervention letters and make other attempts to contact the borrower in the midst of a delinquency. It is not feasible for creditors to implement a collections moratorium that prevents them from complying with their obligations under existing state and federal laws.

For these reasons, we urge you not to implement the Council's recommendations, so that AFSA's members may continue to focus on providing direct relief to those consumers facing hardship without significant disruption to credit markets. Thank you for your attention to this matter. If you have any questions or if AFSA can be of any further assistance to you as you move forward, please do not hesitate to contact me at 202-469-3181 or mkownacki@afsamail.org.

Sincerely,

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cc:
Los Angeles City Attorney Mike Feuer