

AFCC Best Practices Checklist
Revision 12 (July 2022)

Company & Location _____

SMO _____

Date _____

General/AFCC Administrative Requirements – ALL		NCR
<p>1) Collect and check against the affidavit provided to AFCC</p> <ul style="list-style-type: none"> • all of the registered and dba names of all the companies operating under the name of your company • the official address and phone number. <p><i>Auditor to get signed attachments and upload</i></p>		
<p>2) Obtain an affidavit by the Member that in the past 3 years, the member has not been the subject of any action by a governmental body or governmental unit which resulted in the imposition of any civil or criminal penalty, whether by settlement, judgment or order, under any debt adjusting, debt pooling, prorating, credit service organization, unfair and deceptive trade practices, false advertising, consumer deception law or regulation or any other law or regulation of similar definition or words of similar import that was based on admission of guilt by the Member. Accreditation may be denied or revoked for violations of the Telemarketing Sales Rules or UDAAP based on admission of guilt.</p> <p><i>Auditor to get signed attachments and upload</i></p>		

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<p>3) Confirm the number of active clients for back-end/full service members or the number of active sales agents employed. Member shall show how this number is calculated (generally proven by viewing reports generated by their operations software). This shall be emailed to admin@americanfaircreditcouncil.org after every audit by the auditor.</p>		
<p>Basic Requirements – ALL</p>		
<p>1) All Members shall make available on their websites a street address for their headquarters, a main telephone number, an email contact address and the AFCC Disclosures Document. <i>For all d/b/a's, check all websites</i></p>		
<p>2) All Members shall be open for business a minimum of 40 daytime business hours Monday through Friday and will post their hours of operation clearly on their website.</p>		
<p>3) All Members shall have formal and continual training for each of its applicable staff in Marketing, Sales, Operations, Negotiations and Customer Service, which will include applicable areas of the Fair Debt Collection Practices Act, the Telemarketing Sales Rules, the Telephone Consumer Protection Act, the Fair Credit Reporting Act, Unfair, Deceptive, Abusive Acts and Practices, and relevant state or federal data privacy standards and laws. Example of state law – CCPA in California <i>Auditor to review training records as evidence of each relevant employee being trained on the specific requirement and the date of training.</i></p>		
<p>4) All Members shall have regularly updated business continuity plan in place that address the company's operations in the event of emergency or natural disaster. Evidence of annual review of plan shall be maintained.</p>		
<p>5) All Members shall not discriminate – and shall make available to prospective customers notice that they do not discriminate – on the basis of race, color, religion, sex, marital status, national origin or ancestry. This information must be clearly visible on the Member's website.</p>		

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Client Agreements – SALES		
<p>1) Ensure that retention of client agreements is as follow:</p> <ul style="list-style-type: none"> a) Copies of written agreements with current Clients are accessible at all times until the clients either completes or terminates the program. b) Copies of non-current clients and pass through clients are kept for at least 4 years 		
<p>2) All Members shall provide the client a copy of the Client Agreement at enrollment and shall maintain and make available to the client upon request a copy of the agreement for a period of 4 years after the client either completes or terminates the program.</p>		
<p>3) Review all current versions of client agreements to confirm that company specifies in the agreement that they are not billing consumers any fees for debt relief services before:</p> <ul style="list-style-type: none"> a) the debt relief service successfully settles or changes the terms of at least one of the consumer’s debts; b) there is a settlement agreement or other agreement between the consumer and the creditor that the consumer has agreed to; and c) the consumer has made at least one payment to the creditor as a result of the agreement negotiated by the debt relief provider. 		
<p>4) Discuss with sales representatives and review sales collateral to confirm evidence that company is not charging fees in contradiction to #3 (above).</p>		

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<p>5) All Client Agreements shall include:</p> <ul style="list-style-type: none"> a) The AFCC Disclosure Document. b) The AFCC Personal Cash Flow Assessment Form (PCFA) (or equivalent that has every matching item, including a signature spot if negative cash flow). c) A comprehensive list of every debt at the time of enrollment including the Creditors' names and identifying information. d) The approximate total of all such debts. e) The total amount of all fees, or the method for calculating such fees, to be paid by the Client to the Member or to any other person, over the term of the agreement. f) Disclosure that the Client has the ability to leave the debt settlement program at any time with no penalty. g) Disclosure regarding the potential impact of debt settlement on a client's creditworthiness. h) Guidance that creditors may continue to attempt to contact Client for payment of enrolled debts, including, potentially, through litigation. i) Disclosure that enrolled accounts may accrete due to interest and creditor fees. j) Disclosure of potential tax impact of discharged debt. k) The estimated amount of money needed to fund settlements. All such estimates must be based on actual settlement results delivered to clients historically by the Member for each creditor. l) The estimated number of deposits necessary to fund the Program. m) The name, physical address and telephone number of the Member. n) A description of the services to be provided by the Member. 		
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<ul style="list-style-type: none"> o) Clearly defined cancellation policies and procedures that comply with all federal and state laws, including most prominently the TSR requirements. Ability of consumer to withdraw from program at any time with no penalties. p) A clear and conspicuous rescission statement in the contract with the heading 'Notice of Cancellation'. Upon client request, a form must be provided that contains instructions on how to communicate with ease the client's decision to rescind the agreement. 		
<p>Marketing Standards - SALES (#1 FOR BACK END IF THEY HAVE A WEBSITE)</p>		
<p>1) Verify AFCC affiliation by verifying that all websites owned by the Member and which displays the AFCC logo has the link to the published AFCC disclosure.</p>		
<p>2) Verify that Member is not engaged in any sales or marketing that uses any unfair or deceptive representations or practices that violate the AFCC's marketing best practice by checking that performance statements are supported by past performance.</p> <p>NOTE: General savings claims (e.g. "reduce debts by 50%") are discouraged. To the extent that general savings are used, the company must provide its backup methodology for calculating the savings claims used in marketing. The methodology must base savings claims off enrolled balance, it must incorporate fees charged, and it must factor in dropouts as having received no savings.</p> <p>For example, take a scenario in which \$1,000 of consumer debt was enrolled in 2007, and looking back 3 years later, \$500 of the original enrolled debt was settled for \$250, the other \$500 was not settled because the client dropped out or removed the account. Assume there were fees paid of \$100. The total savings on the \$1,000 after fees would have been \$150, or a savings of 15% of the original \$1,000. The only permissible general savings claim in this scenario would be 15%.</p>		

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<p>3) Review the requirements of the Add-On Product Attestation and confirm conformance.</p> <p>This applies to any service beyond debt settlement that is in addition to the fees the Member is charging.</p> <p>This excludes banks where the clients sign up to have their dedicated accounts.</p> <p>Any debt settlement provider enrolling clients in optional, third-party product of services must:</p> <ul style="list-style-type: none"> a) Collect a signed copy of the Third Party Add-On Product Attestation and upload with the other signed disclosures (at the end of this document). b) Attest that the third-party add-on product/services offered to applicants and/or clients improve the client experience, improve client retention rates and/or improve settlement outcomes in the debt settlement program. c) Clearly disclose to applicants/clients that enrollment in the debt settlement program is not contingent on the purchase of the third-party product/service. <p><i>Audit Note - Any add on services is voluntary and does not preclude the consumer from receiving settlement services if they decline. These must be verbally disclosed and confirmed prior to contract. BSI will be listening for two areas on calls:</i></p> <ul style="list-style-type: none"> a. <i>Explanation that the client can still enroll without joining the additional services</i> b. <i>A clear response from the client that they want to enroll</i> <ul style="list-style-type: none"> d) Not charge a fee or receive any compensation for third-party products/services offered to an applicant at time of enrollment or at any point before 90 days following the first successful program draft. e) Be independent of, and unaffiliated with, the provider of the third-party products/services and, to the best of the debt settlement provider’s knowledge, comply with all applicable federal and state laws. f) Attest that the fee for any third-party product/service offered to a client is set independently by the third-party product/service provider. 		
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<p><i>Auditor will reach out to BSI Scheme Manager if unsure during the visit to work with AFCC to determine conformance.</i></p>		
<p>4) All Members shall disclose verbally or through recorded message to a prospective client all the prescribed AFCC disclosures, including adherence to the fee collection requirements of the Telemarketing Sales Rules, prior to any signing of a Client Agreement.</p>		
<p>5) All Members shall conduct an initial review of a consumer’s debts and his/her monthly budget (to cover all items listed in the AFCC Personal Cash Flow Assessment).</p>		
<p>6) All Members shall describe the methodology of the debt settlement program to each potential client so that he/she can make an informed decision as to whether or not the program is a viable and affordable option.</p>		
<p>7) All Member advertising content (and data supporting the claims made) shall be saved for a minimum of four years and be accessible for review.</p>		
<p>Pre-Contract (SALES)</p>		
<p>1) Verify that:</p> <ul style="list-style-type: none"> a) all sales reps have the AFCC disclosures available physically or digitally. b) the training for new sales reps includes a section that requires that sales reps cover the AFCC disclosures prior a customer executing a debt settlement agreement. <i>Auditors shall look at training material or training records to explicitly indicate this</i> 		
<p>2) Check randomly client files to verify that Member’s employees conduct a formal in-depth review of the debts of a consumer by verifying the information through third party information e.g. credit reports, statements</p>		

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<p>3) Check Random client agreements to be sure that the Monthly Remaining Amount on the PCFA is not negative. If negative, exception must be well documented.</p>		
<p>Post-Contract (BACK END)</p>		
<p>Obtain a copy of the policy and observe that an underwriting process is taking place to establish if a debt settlement program is a viable option for each potential client.</p>		
<p>Servicing the Clients and Service Delivery Procedures (ALL)</p>		
<p>Members shall have written policies and procedures that include the following elements:</p> <ul style="list-style-type: none"> a) Job descriptions for all hourly and supervisory personnel b) Methods of communication with Clients c) Guidelines for timeliness and accuracy of service d) The maintenance of records in a retrievable format e) The documentation of communications with Clients and actions taken on their behalf f) An internal Client dispute resolution policies and process that provides for prompt resolution of any Client dispute g) The process and metrics to be used to measure the performance of the service and service delivery and the acceptable benchmarks for each. h) The feedback communication of the above performance to staff and managers i) The establishment of a performance improvement review process to improve on above performance. j) Procedures to prevent unauthorized access to or misuse of a Client’s confidential information 		

Negotiation of Clients Debts (BACK END)		
<p>Members shall have in place written documentation of:</p> <ul style="list-style-type: none"> a) A process to obtain a Client’s approval of each settlement before any fees are charged on that settlement. b) An internal procedure for the periodic review of a Client’s progress through its Program. c) The procedure to obtain written settlement agreements that contains language of final debt forgiveness or satisfaction before payment is made to the Creditor. d) A written procedure describing the necessary steps for handling an account in which the creditor is represented by an attorney. e) The process to notify the Client or to ensure Creditors are paid on or before the due date(s) set forth in the settlement terms. f) The internal procedure to provide Clients with copies or access to copies of each settlement agreement achieved and if applicable, proof of payment. 		
Creditors (BACK END)		
<p>1) Establish Creditor Policies and Procedures and adhere to their own set of systems of communications with creditors. This system shall include standards for response time to communications from various creditor inquiries and may not include the use of cease and desist notices sent to creditors or advising customers to notify creditors of changes of address or phone numbers meant to divert communication from the creditor to the debt settlement provider rather than the customer.</p> <p><i>Clients whose addresses were updated prior to January 1, 2021 do not have to be modified.</i></p>		

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<p>2) Be open to creditor inquiries and have readily available by phone and in writing an explanation on how debt settlement works. <i>Member should have something in writing prepared to send upon request.</i></p>		
<p>Client Funds (ALL)</p>		
<p>No Principal Member shall receive money directly from a client or exercise direct control over funds of a client for the purpose of distributing payments to or among one or more creditors of the client in full or partial payment of the client's obligations.</p>		
<p>Reseller and Subcontracting Requirements (ALL)</p>		
<p>Members shall adopt policies and procedures to ensure that subcontractors, with whom they contract, comply with all applicable standards and take appropriate action to remedy any non-compliance. <i>Examples include banks, lead providers, advertising partners, back end or front end providers.</i></p>		

Record Keeping (ALL)	
<p>All Members shall:</p> <ul style="list-style-type: none"> a) follow a record retention policy that ensures records of all Client contracts and transactions including those stored electronically are preserved for a minimum of 4 years from the date the Client completes or otherwise terminates the Member’s Program; b) maintain a record keeping system to account for all client contacts and transactions; c) prevent records from being altered or destroyed; d) provide policies and procedures for correcting erroneous information in records; e) safeguard records from damage or deterioration; f) recover or reconstruct damaged or deteriorated records; and g) protect records from unauthorized access. 	

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DECLARATION

In connection with the certification process of _____
(the "Member") for certification with The American Fair Credit Council
("AFCC"), the undersigned, _____ certifies as follows:

- 1) The information set out in this Declaration is truthful, complete and accurate in all respects.
- 2) Before executing this Declaration, the undersigned has completed a thorough investigation to ensure that the information set out in this Declaration is truthful complete and accurate in all respects.
- 3) The undersigned holds the position of _____ for Member and is authorized on behalf of Member to complete this Declaration.
- 4) Exhibit A to this Declaration contains all of the registered names of the companies operating under Member. For this purpose, a registered name is any name registered with the Secretary of State in any State where Member is legally authorized to do business or any name for which a fictitious name statement has been filed with a county recorder's office in any jurisdiction where Member is legally authorized to do business.
- 5) Exhibit B to this Declaration lists the official address and phone number of Member.
- 6) In the past 3 years, Member has not the subject of any action by a governmental body or governmental unit which resulted in the imposition of any civil or criminal penalty, whether by settlement, judgment or order, under any debt adjusting, debt pooling, prorating, credit service organization, unfair and deceptive trade practices, false advertising, consumer deception law or regulation or any other law or regulation of similar definition or words of similar import that was based on admission of guilt by the Member.
- 7) Member does not discriminate on the basis of race, color, religion, sex, marital status, national origin or ancestry.

Signature

Date

Print Name

EXHIBIT A

All of the registered names of the companies operating under Member:

EXHIBIT B

The official address and phone number of Member:



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American Fair Credit Council BSI Accreditation Third-Party Add-On Product Attestation

_____ (*Company Name*) provides to its applicants and/or clients the opportunity to enroll in the following optional third-party products/services, either at the time of enrollment in its debt settlement program or at any point after a client has enrolled in a debt settlement program:

LIST OF THIRD-PARTY PRODUCTS/SERVICES AND NAMES OF PROVIDERS:

_____ (*Company Name*) hereby attests:

1. The third-party add-on product/services offered to applicants and/or clients improve the client experience, improve client retention rates and/or improve settlement outcomes in the debt settlement program.
2. Enrollment by an applicant and/or client in any third-party product/service offering is completely voluntary. It is clearly disclosed to applicants/clients that enrollment in the debt settlement program is not contingent on the purchase of a third-party product/service.
3. The debt settlement provider does not charge a fee or receive any compensation for third-party products/services offered to an applicant at time of enrollment or at any point before 90 days following the first successful program draft.
4. All third-party products/services offered at the time of enrollment are offered by providers that are independent of, and unaffiliated with, the debt settlement provider and, to the best of the debt settlement provider’s knowledge, comply with all applicable federal and state laws.
5. The fee for any third-party product/service offered to a client 90 days following the first successful program draft is set independently by the third-party product/service provider.

_____ [SIGNATURE] _____ [DATE]

_____ [TITLE]

_____ [COMPANY]

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Revision History

Rev No	Revision Date	Author (Initial & Surname)	Approved by (Initial & Surname)	Brief Description of Change
0	8/1/06	Tim Green	Jazmina Blandon	Original Issue
1	10/6/06	Tim Green	Jazmina Blandon	-Client Agreements 1 – removed required to have <u>hard copies</u> of agreements available -Client Agreements 4 – removed countersign requirements -Marketing Stds 2 – changed wording to say must disclose if claims of savings do not include fees -Marketing Stds 4 – removed word “comprehensive”
2	4/6/07	Tim Green	Jazmina Blandon	-Client Agreements 3 j, revised requirement to send the cancellation notice with the contract
3	1/21/08	Tim Green	Jazmina Blandon	-Client Agreements 3k removed - The full legal name and legal address of the Services Provider.
4	6/15/08	Tim Green	Jazmina Blandon	- Changed record retention time of contracts to 4 years - Indicated what applies to sales offices vs back end providers - Added affidavit as attachment
5	3/30/09	Tim Green	Jazmina Blandon	- Added requirement to check client count - Marketing Standards – 1 b, clarified - updated AFCC logo
6	8/4/09	Tim Green	Jazmina Blandon	Updated email address for AFCC contact in section 1
7	7/1/11	Jennifer Coon	Jazmina Blandon	Change all references from AFCC to AFCC, changed references from Debt Settlement to Credit Advocacy, Amended General 3, Marketing Standards 2 and 6, Client Agreements 3 and 4, Negotiations 1a, Client Funds, Reseller 1,
8	7/1/16	J Coon	Jazmina Blandon	Updated email address in #3
9	10/22/18	J Coon	Jazmina Blandon	Updated General section, #3, new information to report to AFCC
10	1/1/21	J Coon	Jazmina Blandon	Significant rewrite for additional AFCC Requirements
11	8/25/21	J Coon	Jazmina Blandon	Added requirement for new Personal Cash Flow Assessment form to contract, ensure all items are part of budget, and to check for negative cash flow signatures/reasons.
12	7/1/202	J Coon	Jazmina Blandon	Added Add-on Attestation and audit requirements around that into Marketing Standards section