B Lab Controversial Issues Statement - Debt Collection Agencies in Emerging Markets

B Lab's Approach to Controversial Issues and B Corp Certification

As for-profit companies that meet the most rigorous standards of overall social and environmental performance, accountability, and transparency, Certified B Corporations are leaders in the movement to use business as a force for good.

Whether through information a company provides in its Disclosure Questionnaire, an issue raised by a third-party through B Lab's formal Complaints Process, or public discourse on B Corp certification requirements and standards, difficult and complex questions regularly arise as to how controversial issues in the world of business should affect a company's eligibility for B Corp certification. Judgments on these issues are then determined by B Lab's independent Standards Advisory Council as part of a disclosure review process.

B Lab's Disclosure Questionnaire forms the basis of the disclosure review process, which covers sensitive industries, practices, outcomes, and penalties and is based on third party screenings and standards like the IFC Excluded Industries List and International Labor Organization Conventions. Recognizing that any list of sensitive issues may be incomplete, however, B Lab also reserves the right to conduct similar reviews on issues that are not currently featured in the Disclosure Questionnaire, but are deemed subject to material stakeholder concern and a potential violation of the B Corp movement's Declaration of Interdependence.

When new industries or issues where a decision making model has not already been developed arise, B Lab conducts research into the issue in order to guide the Standards Advisory Council's decision. Research is based on secondary sources compiled by B Lab staff, with the overall intent of identifying and understanding the different concerns related to the industry or issue and the different perspectives of stakeholders. This includes a review of press related to the industry and its impact, how the issue is covered by other standards, existing public policy and public policy recommendations from non-profit organizations and other topical experts, examples - potentially both good and bad - of actors within the industry, and other public commentary and perspectives. This content is in turn used to develop the framework for Standards Advisory Council review, and determines the types of questions that individual companies are required to answer as part of their review.

Particularly when it comes to industries that are controversial, there is a natural and healthy tension between the inclination to exclude all companies in those industries from eligibility for B Corp Certification, and *the need for leadership* that has the potential to transform the culture, behavior, and impact of those industries. While B Lab and it's Standards Advisory Council may determine that an industry as a whole is ineligible for certification because of its negative impacts or practices, they also recognize that in controversial industries it may be possible for companies to be meaningfully managing those potential negative impacts or controversies. In these circumstances, the need may be greatest to distinguish between good and bad actors, as well as good, better, and best performance by using rigorous standards of verified social and environmental performance, legal accountability, and public transparency. All stakeholders are best served by the existence of credible and transparent standards that facilitate improved policy, investment, purchasing, and employment decisions.

Along with the recognition that there are many diverse and reasonable perspectives as to what contributes to a shared and durable prosperity for all, B Lab and its Standards Advisory Council will make determinations regarding eligibility for B Corp Certification and, if eligible, will require companies in controversial industries, with controversial policies, or engaged in controversial practices to be transparent about their practices and how they work to manage and mitigate concerns. B Lab will also document and share these positions publicly in order to enable all stakeholders, including citizens and policymakers, to make their own judgments about a company's performance, as well as further thoughtful, constructive public discussion about important issues. Existing B Lab statements and frameworks on controversial issues are available here.

These frameworks, like B Lab's standards generally, are works in progress, and we look forward to improving upon them in the future. B Lab invites other perspectives as it continues to refine its views and, hopefully, contribute to a constructive conversation about the role of business in society.

Independent of eligibility for B Corp Certification, all companies in any industry are able to use the B Impact Assessment as an internal impact management tool to assess and improve their overall practices, and/or adopt a stakeholder governance legal structure (such as benefit corporation) appropriate to the company's current corporate structure and jurisdiction.

If you have questions or comments about B Lab's approach to the below issues, please email B Lab's Director of Standards Dan Osusky at dosusky@bcorporation.net.

Companies in the Debt Collection Industry in Emerging Markets and B Corp Certification

Debt collection agencies are controversial because of claims about unethical treatment of borrowers and concerns over accuracy, privacy, and security of borrowers' data.

In response to these controversies, B Lab and its independent Standards Advisory Council have rendered the following decision regarding eligibility for B Corp Certification:

> *Companies in the debt collection industry in emerging markets are eligible for B Corp Certification with additional review by the Standards Advisory Council to ensure they are proactively managing and demonstrating leadership on the material sensitive issues in the industry as outlined below, AND, if determined to be eligible, incremental disclosure on their B Corp Profile about how they do so.*

About Debt Collection Industry

Debt collection agencies are organizations hired by creditors (mostly banks) to provide specialized services to recover debts that are due. Services involve contacting and engaging indebted individuals to improve the likelihood that they repay the debt, which may be carried out in person or through the use of telecommunication methods such as calling, emailing, texting borrowers, etc. Less evolved markets tend to make more use of field (door-to-door) collections than call centers whereas more advanced markets use negligible field contact and usually focus on phone collections and letters.[1]

While many creditors have their own departments that conduct debt collection services, specialized debt collection agencies exist with an aim to efficiently supplement or fill gaps in specific skills for collection without increasing overhead for the creditor. There are generally two different business models that debt collection agencies might operate within. In one model, creditors hire collection agencies for only recovering the debt, thereby making the collection agency just a service provider to the creditor. In the other model, debt collection agencies actually purchase the debt of borrowers from creditors, thereby making the collection agency the final recipient of the recovered debt.

Despite the controversies outlined below, it is also commonly acknowledged that since lending systems cannot exist without repayment, and repayment requires collection, debt collection practices are integral to a responsibly functioning financial system[2].

Controversies Related to the Debt Collection Industry

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[1] International Finance Corporation (2012), *Responsible Debt Collection in Emerging Markets*, Retrieved from <https://www.ifc.org/wps/wcm/connect/587d25004a9f117795ebfdeec99f439e/Responsible+debt+collection-Final.pdf?MOD=AJPERES>

[2] See note 1

There are two primary and interrelated controversies associated with the debt collection industry - the unethical treatment of borrowers, and concerns about the accuracy, privacy and security of borrowers' data. They are each described in more detail below.

Unethical Treatment of Borrowers: Because of the services debt collection agencies provide, they are tasked with engaging with individuals who have been unable to repay their debts on a timely basis, which may be the result of a number of factors including financial emergencies, economic downturns, or by simply having agreed to a loan that ultimately was not in their best interest. These issues predominantly affect individuals that are lower income, and as a result of that and the direct circumstances that may cause their inability to repay, individuals who are engaged with debt collectors are in a heightened position of vulnerability. Furthermore, they may or may not have a high degree of financial literacy or awareness, which could have also been a contributing factor to their circumstances, and makes them more prone to harassment or threats in the debt collection process.

There is therefore an inherent conflict of interest between the two groups - on the one hand, debt collectors are tasked with ensuring, or maximizing, repayments of debt, either to themselves or to creditors that they have been hired by. The individuals that they need to engage with, however, are vulnerable as a result of their financial situation, and debt repayment on the schedule desired by the debt collector might not be possible or in their own best interest. As a result, many collections agencies prioritise the maximisation of collections over ethical treatment of borrowers, which drives them to engage in unethical and potentially harmful collections practices like excessive contact (including at odd hours), contacting borrowers despite being requested to not, aggressive or impolite conduct, suing borrowers, etc. In the case of debt collections in the United States where data is available, for instance, a survey[3] conducted by the Consumer Financial Protection Bureau (CFPB, USA) indicates that 37% of borrowers indicated that the creditor or debt collector had usually tried to reach them at least four times per week, and 32% of borrowers said that contact had not stopped in spite of them requesting the creditor or collector to stop contacting them. Given the lack of data and potentially weaker regulatory enforcement in emerging markets, the risk of such practices is at least just as relevant.

In emerging markets where a strong, credible threat of legal repercussions for failure to repay debts may not be present, the perceived "need" for intensive customer contact is greatly increased and, with it, the risk of customer abuse[4]. This risk is coupled with other challenges such as the existence of weak borrower protection frameworks, lack of financial awareness amongst borrowers, poor availability of reliable credit information from credit bureaus, and underinvestment in collections capabilities by creditors.[5]

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[3] Consumer Financial Protection Bureau (2017), *Consumer Experiences with Debt Collection*, Retrieved from <https://files.consumerfinance.gov/f/documents/201701_cfpb_Debt-Collection-Survey-Report.pdf>
[4] See note 1
[5] See note 1

Data Accuracy, Privacy and Security: Like the concerns outlined above, another issue inherent to the services of debt collection agencies rests around the fact that they own or have access to high amount of sensitive personal information, including personal identification, contact details and financial liabilities. Access to this type of data, especially across what might be complex organizations and multiple departments, means there is the risk of either breaches of confidential data or misuse.

In cases where a debt collection agency's business model is designed around purchasing the debt of individuals, it is not uncommon for collection agencies to purchase that debt after it has already been sold and resold multiple times. The complexity of these transactions may result in poor quality data being acquired by the collection agencies, leading to incorrect information about an individual and their loan. In the survey by CFPB in the United States, 53% who were contacted by a debt collector indicated that the debt was not theirs, was owed by a family member, or was for the wrong amount. Roughly 27% of borrowers who were contacted reported having disputed a debt with their creditor or collector in the past year.[6]

Best Practices in Debt Collections

As described above, B Corporations operating in the debt collection industry in emerging markets are required to demonstrate that they are engaged in best practices to sufficiently manage the material sensitive issues in the industry.

However, there are no global standards or universal best practices for the debt collection industry despite the controversial nature of their services, and industry practices typically vary by country or region. In 2012, the International Finance Corporation commissioned a study of Debt Collection Practices in emerging markets with the objective of documenting control mechanisms currently employed by collection agencies to promote ethical practices. Based on this, the study attempts to formulate recommendations for control mechanisms that collectors and lenders can use to ensure that actual practices align to their expected conduct.

While determining the eligibility of collections agencies in emerging markets for B Corp Certification, B Lab will utilize the following practices as a reference to assess the company's performance on issues material to the industry as outlined in the IFC report[7] :

1. **Senior Management Oversight of Collection Practices**: Involvement of senior management in setting and overseeing collections practices, rather than the collections department alone, helps to ensure that customer relationships and corporate social responsibility are considered in the company's strategy and collection processes.

[6] See note 3
[7] See note 1

2. **Virtual Contact with Debtors**: Utilization of centralized voice channels in the form of call centers instead of field collection.
3. **Human Resource Management:** Hiring of qualified staff with regular training on ethical collection, including a balanced scorecard for performance evaluation that emphasizes adherence to process as much as the amount of collection.
4. **Monitoring and Complaint Handling Systems**: Call monitoring with advanced tools such as detection of foul language, random follow up contact with customers, formalized complaint handling systems such as hotlines, and advertising of these mechanisms to borrowers. Also included are effective whistleblowing channels and an independent internal audit team to evaluate processes for their impact on customers.
5. **Process Innovation**: Utilization of systematic and analytical tools that help collectors assess borrowers' circumstances and choose approaches aligned to the customers' likely ability and willingness to repay in order to maximize recoveries and minimize the chance of mistreatment.

	Leading	**Typical**
COLLECTIONS POLICY - Policy coverage	Corporate social responsibility, reputational risks and customer relationship are viewed on par with collections efficiency	Collections efficiency is primary while recognizing the importance of reputational risk and customer relationship
COLLECTIONS POLICY - Top management involvement	Board committee approves collections policy	Executive committee approves policy
PROCESS MANAGEMENT - Field collections	• Low reliance on field • No cash handling • Field used mostly for skip tracing and asset recovery	• Mix of field and phone • Cash is handled to a certain extent
PROCESS MANAGEMENT - Phone collections	• High reliance on phone • All calls scripted, call termination protocol • Predictive dialling • Training using call records	• Mix of phone and field • Most calls scripted • No predictive dialling • Limited training using call records
EMPLOYEE SKILL MANAGEMENT - Average experience	• 5+ years	• 1-3 years
EMPLOYEE SKILL	• 80 - 100 hours	• 15 hours

MANAGEMENT - Hours of training a year		
EMPLOYEE SKILL MANAGEMENT - Training on ethical collections	● 30-100 hours, quarterly refresher courses	● 10-30 hours, annual refresher courses
EMPLOYEE SKILL MANAGEMENT - Performance evaluation	● Balanced scorecards with financial and process elements ● Severe penalties for transgressions	● Field collectors evaluated on financial performance ● Voice collectors on multiple criteria
MONITORING SYSTEMS - Phone Collections	● All calls recorded and monitored ● Software to detect tones of voice, use of abusive language ● Centralized open floor call centers with tight supervision	● Some calls recorded, reviewed in case of complaints only ● No software to monitor quality of interaction ● Branch calling as well as call centers, adequate supervision of call centers
MONITORING SYSTEMS - Third-Party Collections	● In-house staff embedded in agency operations ● Strong checks and balances (random in-house calling/ visits, clearly defined complaint handling process, no cash handling)	● In-house staff embedded in agency operations ● Checks and balances in place

Certified B Corporations operating in the debt collections industry in emerging markets are required, based on the judgment of B Lab and its Standards Advisory Council, to have at least a majority of the above mentioned control mechanisms considered “leading”.[8]

Standards Advisory Council Review and Disclosure:

[8] Annex C of the IFC report benchmarks collection practices in emerging markets, while grading them as Leading, Typical, Minimum. While, the table listed highlights control mechanism for collection agencies that use telecommunication methods as the primary medium for debt collection, the IFC report also mentions control mechanisms for field collections.

Given the key role that loan repayments and consequently collections play for ensuring the responsible finance landscape, and general agreement that debt collection is a necessary activity as part of the healthy functioning of the broader financial services sector, the Standards Advisory Council determined it is appropriate to certify debt collection agencies in emerging markets that can demonstrate “leading” and proactive practices for reducing the risk of producing harm from potential unscrupulous practices as outlined in the table above.

All companies involved in the debt collections industry in emerging markets pursuing B Corp Certification will be required to submit information on how they are addressing the issues material to the industry, including their control mechanisms during the collections process, and will also be subject to a background check.

This information will then be reviewed by the Standards Advisory Council to determine if the company is sufficiently mitigating the concerns highlighted above and proactively addressing challenges in the industry. This will include, at least, in investigation and judgment related to the following questions:

1. Is the company’s collections policy document framed by a team that is distinct from the collections team and does this policy have the board committee’s sign off?
2. Does the company have policies and practices specifically aimed at ethical treatment of borrowers? What are they?
3. Does the company have policies and practices to impart financial education to borrowers and make them aware of consumer protection laws and frameworks that exist in their country of operation?
4. Does the company have a feedback process and a complaints resolution mechanism for borrowers that may be treated unethically?
5. Does the company have a legacy of suing borrowers that it has worked with?
6. Does the company have data verification processes prior to starting the process of collection (especially when the debt is purchased second-hand by the company)?
7. If during your collection process, data inaccuracies are detected, does the company have processes to fix it?
8. Does the company focus on regular training of its staff with a focus on ethical treatment of borrowers and adherence to processes outlined? How many hours of training are provided to new and existing employees?
9. While conducting performance evaluation of its staff, does the company utilize a balanced scorecard approach that factors both financial and process elements?
10. Does the company utilize technology solutions while designing control mechanisms during the collections process?
11. Does the company engage in political advocacy for improving borrower protection and data security frameworks?
12. Are there public indications that the company engages in unethical or aggressive practices related to the industry?

Companies that have not sufficiently managed these issues in the opinion of the Standards Advisory Council will not be eligible for B Corp Certification. Those companies in emerging markets that are, in the judgment of the Standards Advisory Council, actively mitigating the concerns of the industry and addressing issues like unethical treatment of borrowers, will be eligible for B Corp Certification and will be required to disclose their specific industry-relevant management practices on their B Corp profile page. Further, specific and material complaints about debt collection agencies in emerging markets will be investigated through B Lab's formal Complaints Process.

This disclosure is intended to recognize that reasonable people may disagree with the position outlined by the Standards Advisory Council and should have the relevant information to make their own judgment regarding the company's social and environmental performance.

This Standards Management recommendation applies to all prospective B Corps in the debt collections industry in emerging markets, and establishes the precedent that B Lab will review the debt management practices of companies in the collections industry in comparison to reputable third party guidance, including the IFC's report on responsible collections. In cases where B Lab is unable to determine whether a company is meeting those requirements, the company case will be presented to the Standards Advisory Council for a decision. For developed markets, should the issue arise the Standards Advisory Council will review the case to determine if this position should be applied or if it should be adjusted.

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The decision of the Standards Advisory Council has been informed by independent research conducted by B Lab and stakeholder consultations including industry experts and practitioners.

This disclosure requirement in cases where a company is eligible is intended to recognize that reasonable people may disagree with the position outlined by the Standards Advisory Council and should have the relevant information to make their own judgment regarding the company's social and environmental performance.

This statement is effective as of May 2019 until further judgment from the Standards Advisory Council.

Please send your feedback or questions to B Lab's Standards Management team at standardsmanagement@bcorporation.net.