

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Department of Banking

(2) Agency Number: 3

Identification Number: 50

2925  
IRRC Number:

2011 NOV 18 P 3:08  
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IRRC

(3) PA Code Cite: 10 Pa. Code Chapter 91

(4) Short Title: Debt Management Services Act Continuing Education Requirements

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Lauren A. Sassani, Assistant Counsel, 717-787-1471, lsassani@pa.gov

Secondary Contact: Carter D. Frantz, Chief Counsel, 717-787-1471, cafrantz@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

On October 9, 2008, the Debt Management Services Act, 63 P.S. § 2401 *et seq.* ("DMSA"), was enacted. Section 9(c) of the DMSA requires licensees to demonstrate to the department that its credit counselors, supervisors and managers completed the required continuing education. *See* 63 P.S. § 2409(c). Section 9(c) also requires the department to set forth those continuing education requirements within three years of the effective date of the DMSA, which is February 6, 2012. Based on these statutory requirements, this proposed regulation sets forth the continuing education requirements for DMSA.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Sections 9(c) and 17(4) of the Debt Management Services Act. 63 P.S. §§ 2409(c) and 2417(4).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes. Section 9(c) of the Debt Management Services Act. 63 P.S. § 2409(c).

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This regulation is needed because DMSA requires the department to delineate the requirements for continuing education through regulation for credit counselors, supervisors and managers of DMSA licensees within three years of DMSA's enactment.

The debt management industry is comprised of both for-profit and non-profit organizations. These companies advise individuals on credit card debt, budgeting, debt prioritization, housing counseling, bankruptcy counseling and pre-bankruptcy education. Ensuring that the credit counselors who interact directly with Pennsylvania consumers and the supervisors and managers who oversee those credit counselors obtain the requisite knowledge, training and credentials to interact with those in need of credit counseling is the compelling public interest that justifies this regulation.

Given the financial climate today, the citizens of the commonwealth will benefit from this regulation. It is important for those companies and individuals providing financial advice to Pennsylvania consumers to obtain the required knowledge, training and credentials that can only be obtained through continuing education.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable. Data is not the basis for this regulation.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

The department can ascertain no person or persons who will be adversely affected by the regulation. As of June 29, 2011, the department licensed 43 companies that employ over 1,000 credit counselors, managers and supervisors at over 400 office locations. Section 5(11) of DMSA provides that a debt management license applicant must ensure that all credit counselors, supervisors and managers are certified within six months of the issuance of a license. See 63 P.S. § 2405(11). In order to obtain certification from an independent certifying organization and maintain that certification as required for

licensure, the credit counselors, managers and supervisors typically must take continuing education as required by the certifying organization. Therefore, most licensees should already be incurring expenses related to obtaining continuing education.

However, the promulgation of this regulation may potentially cause licensees to track the certification of its credit counselors, supervisors and managers in a manner that the licensee may not currently be doing.

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

All DMSA licensees will be required to comply with this regulation. As of June 29, 2011, the department licensed 43 debt management companies that employ approximately 1,088 credit counselors, managers and supervisors at over 400 office locations.

This number changes constantly as companies and employees move into and out of the debt management industry.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

In order to obtain a license and renew that license, debt management companies must ensure that credit counselors, supervisors and managers are certified and that the certification is maintained each year. In order to obtain certification from an independent certifying organization and maintain that certification as required for licensure, the credit counselors, managers and supervisors must take continuing education. The regulation merely sets for the information that licensees must provide to the department to demonstrate that the credit counselors, managers and supervisors are properly certified. Therefore, there should not be any added cost to the regulated community associated with compliance of this regulation.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs/savings to local governments associated with this regulation.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no additional costs/savings to state government associated with this regulation.

(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$N/A	\$	\$	\$	\$	\$
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
<b>Total Savings</b>	N/A					
<b>COSTS:</b>	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
<b>Total Costs</b>	N/A					
<b>REVENUE LOSSES:</b>	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
<b>Total Revenue Losses</b>	N/A					

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				


(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The debt management industry is comprised of both for-profit and non-profit organizations. These companies advise individuals on credit card debt, budgeting, debt prioritization, housing counseling, bankruptcy counseling and pre-bankruptcy education. Ensuring that the credit counselors who interact directly with Pennsylvania consumers and the supervisors and managers who oversee those credit counselors obtain the requisite knowledge, training and credentials to interact with those in need of credit counseling is the compelling public interest that justifies this regulation.

Given the financial climate today, the citizens of the commonwealth will benefit from this regulation. It is important for those companies and individuals providing financial advice to Pennsylvania consumers to obtain the required knowledge, training and credentials that can only be obtained through continuing education.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

Per Executive Order 1996-1, the department sought input on the proposed regulation from the regulated community, trade associations and legislators. Specifically, the following persons and groups were sent the proposed draft in order to provide comments:

Senator Donald White  
 Senator Michael Stack  
 Representative Richard Hess  
 Representative Peter Daley  
 Association of Credit Counseling Professionals (ACCPros)  
 National Policy Group  
 3C Incorporated  
 A New Horizon Credit Counseling Services, Inc.  
 Advantage Credit Counseling Service, Inc.  
 American Consumer Credit Counseling, Inc.  
 American Credit Alliance, Inc.  
 American Debt Counseling, Inc.  
 Amerix Corporation  
 Ascend One Corporation  
 Cambridge Credit Counseling Corp.  
 CareOne Services, Inc.  
 Christian Credit Counselors, Inc.  
 ClearPoint Financial Solutions, Inc.

Consolidated Credit Counseling Services, Inc.  
Consumer Credit and Budget Counseling, Inc.  
Consumer Credit Counseling Service of Delaware Valley  
Consumer Credit Counseling Service of Greater Atlanta, Inc.  
Consumer Credit Counseling Service of Maryland & Delaware, Inc.  
Consumer Credit Counseling Service of Northeastern PA, Inc.  
Consumer Credit Counseling Service of San Francisco  
Consumer Credit Counseling Service of the Midwest, Inc.  
Consumer Education Services, Inc.  
Consumers Alliance Processing Corporation  
Credit Advisors Foundation  
Credit Card Management Services, Inc.  
Credit Counseling Center  
Credit Guard of American, Inc.  
Debt Counseling Corp.  
Debt Management Credit Counseling Corp.  
Debt Reduction Services, Inc.  
Family Credit Counseling Service, Inc.  
Family Financial Education Foundation  
Freedom Debt Management, Inc.  
Garden State Consumer Credit Counseling, Inc.  
GreenPath, Inc.  
InCharge Debt Solutions  
iPayDebt Financial Services, Inc.  
Lutheran Social Service of Minnesota  
Money Management International, Inc.  
North Seattle Community College Foundation  
SafeGuard Credit Counseling Services, Inc.  
Tabor Community Services, Inc.  
Take Charge America, Inc.  
Trinity Credit Counseling, Inc.

No comments were received from the trade associations or the legislators. The department received six comments from the regulated community regarding the proposed regulation. Section 91.3 of the proposed regulation included as part of the list of information a licensee must maintain of the credit counselors, managers and supervisors the social security numbers and dates of birth for those individuals. All six commentators requested that this information be removed for security reasons. The department complied with that request.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No comments were received from the trade associations or the legislators. The department received six comments from the regulated community regarding the proposed regulation. Four of these commentators requested that requirements on supervisors and managers to complete continuing education

certification be removed for the following reasons:

1. The company's certifying organization does not allow for individuals who do not counsel clients to be certified; and
2. Some trade associations do not allow supervisors and managers to be members.

The department has considered these comments, but will not be changing the regulation. Section 5(11) of DMSA provides that a debt management license applicant must ensure that all credit counselors, supervisors and managers are certified within six months of the issuance of a license. *See* 63 P.S. § 2405(11). Section 9(c) of DMSA provides that a licensee must demonstrate that all credit counselors, supervisors and managers participate in continuing education in order for a license to be renewed. *See* 63 P.S. § 2409(c). Since the statute requires that supervisors and managers complete certification and continuing education, the Department has no choice but to require continuing education for supervisors and managers in this proposed regulation.

(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions of the regulation that are more stringent than federal standards. There are no federal requirements for continuing education.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The proposed regulation will not affect Pennsylvania's ability to compete with other states.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. This regulation will not affect any other department regulation or regulations from other state agencies.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Not applicable.

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and

farmers.

Not applicable.

(26) Include a schedule for review of the regulation including:

- |   |   |
|---|---|
| A. The date by which the agency must receive public comments:                               | <u>September 2011.</u>  |
| B. The date or dates on which public meetings or hearings will be held:                     | No public meetings are anticipated at this <u>time.</u>           |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>November 2011.</u>   |
| D. The expected effective date of the final-form regulation:                                | Immediately upon publication in the <u>Pennsylvania Bulletin.</u> |
| E. The date by which compliance with the final-form regulation will be required:            | The first license renewal period following <u>promulgation.</u>   |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>  |

(27) Provide the schedule for continual review of the regulation.

The Department shall review the regulation on an ongoing basis.



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

2011 NOV 08

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Copy below is hereby approved as to form and legality. Attorney General

BY: [Signature]  
(Deputy Attorney General)

NOV 02 2011

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Department of Banking  
(Agency)

DOCUMENT/FISCAL NOTE NO. 3-50

DATE OF ADOPTION: \_\_\_\_\_

BY: [Signature]

TITLE: Secretary of Banking  
(Exec. Officer, Chairman or Secretary)

Check if applicable.  
Copy not approved. Objections attached.

Copy below is hereby approved as to form and legality. Executive or Independent Agencies:

BY: [Signature]

OCT 06 2011

DATE OF APPROVAL  
Andrew C. Clark  
(Deputy General Counsel)  
~~(Chief Counsel, Independent Agency)~~

(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

PROPOSED REGULATION  
DEPARTMENT OF BANKING  
BUREAU OF CONSUMER CREDIT AGENCIES  
DEBT MANAGEMENT SERVICES ACT CONTINUING EDUCATION REQUIREMENTS  
[10 PA. CODE CH. 91]

**PROPOSED RULEMAKING**  
**DEPARTMENT OF BANKING**  
**TITLE 10 – BANKS AND BANKING**  
**DEPARTMENT OF BANKING**  
**[10 PA. CODE CH. 91]**

**Notice of Proposed Rulemaking; Debt Management Services Act  
Continuing Education Requirements**

The Commonwealth of Pennsylvania Department of Banking (the “Department”), is publishing this notice to solicit input regarding the Department’s proposed rulemaking regarding the continuing education requirements of debt management service company licensees pursuant to the Debt Management Services Act (“DMSA”), 63 P.S. § 2401 *et seq.*

*Purpose of Proposed Rulemaking*

The Department is promulgating this regulation pursuant to the mandate in Section 9(c) of DMSA. Section 9(c) of DMSA requires that “[i]n order to maintain its license, a licensee shall demonstrate to the satisfaction of the department that its credit counselors, supervisors and managers participate in continuing education as required by the department by regulation. The department shall delineate the requirements for such continuing education by regulation within three years after the effective date of [DMSA].” 63 P.S. § 2409(c).

*Explanation of Proposed Regulatory Requirements*

This proposed rulemaking provides that licensees must ensure that their credit counselors, supervisors and managers have completed the continuing education requirements necessary to maintain certification. The proposed rulemaking also provides the type of information a licensee must provide to the Department at time of license renewal to demonstrate that the credit counselors, supervisors and managers have completed the requisite continuing education to maintain certification.

*Entities Affected*

Existing and future licensees under DMSA will be affected by the proposed rulemaking.

*Costs and Paperwork Requirements*

The proposed rulemaking will have no fiscal impact on the Department, the Commonwealth and its political subdivisions. The proposed rulemaking should not fiscally impact licensees under DMSA because DMSA provides that a licensee must

demonstrate at the time of license renewal that all credit counselors, managers and supervisors are certified by an independent certifying organization. In order to obtain certification from an independent certifying organization and maintain that certification as required for licensure, the credit counselors, managers and supervisors typically must take continuing education as required by the certifying organization. Therefore, most licensees should already be incurring expenses related to obtaining continuing education.

#### *Effectiveness / Sunset Date*

All provisions of the final approved regulation will be effective immediately upon publication *Pennsylvania Bulletin*.

#### *Regulatory Review*

Pursuant to section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 18, 2011, the Department submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission ("IRRC") and the Chairmen of the House Committee on Commerce and the Senate Committee on Banking and Insurance. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit the General Assembly and the Governor to review IRRC's comments, recommendations or objections prior to final adoption of the proposed rulemaking.

#### *Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after publication in the *Pennsylvania Bulletin* to the Office of Chief Counsel, Department of Banking, Attention: Public Comment on Regulation 3-50, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101-2290, Telephone No.: 717 787-1471, Fax No.: 717-783-8427, email [pabankreg@pa.gov](mailto:pabankreg@pa.gov).

GLENN E. MOYER,  
*Secretary*

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**DEPARTMENT OF BANKING**  
**[10 PA. CODE CH. 91]**

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demonstrate at the time of license renewal that all credit counselors, managers and supervisors are certified by an independent certifying organization. In order to obtain certification from an independent certifying organization and maintain that certification as required for licensure, the credit counselors, managers and supervisors typically must take continuing education as required by the certifying organization. Therefore, most licensees should already be incurring expenses related to obtaining continuing education.

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GLENN E. MOYER,  
*Secretary*

Annex A

TITLE 10. BANKS AND BANKING

PART VII. BUREAU OF CONSUMER CREDIT AGENCIES

CHAPTER 91. DEBT MANAGEMENT SERVICES ACT CONTINUING EDUCATION  
REQUIREMENTS

Sec.

- 91.1. Definitions.
- 91.2. Continuing education requirements.
- 91.3. Reporting, verification and record keeping.
- 91.4. Enforcement.

Authority

The provisions of this Chapter 91 are issued under sections 9(c) and 17(4) of the Debt Management Services Act (63 P.S. §§ 2409(c) and 2417(4)), unless otherwise noted.

Source

The provisions of this Chapter 91 adopted \_\_\_\_\_, effective \_\_\_\_\_, Pa.B. \_\_\_\_, unless otherwise noted.

**§ 91.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act* – The Debt Management Services Act, 63 P.S. § 2401 *et seq.*

*Certifying organization* – An independent certifying organization acceptable to the department which certifies credit counselors, supervisors and managers as described in section 5(11) of the act (63 P.S. § 2405(11)).

*Continuing education unit* – A continuing education unit as defined by the applicable certifying organization.

*Consumer education program* – A consumer education program as defined in section two of the act (63 P.S. § 2402).

*Credit counselor* – An individual who, on behalf of a licensee, meets, interacts, corresponds or otherwise communicates with a consumer for the purpose of discussing, developing, implementing and/or maintaining a consumer education program for a consumer.

*Licensee* – A debt management service provider licensed under the act.

*Manager* -- An individual with direct supervisory authority over one or more credit counselors.

*Supervisor*– An individual with direct supervisory authority over one or more credit counselors.

### **§ 91.2. Continuing education requirements.**

In order to be eligible to renew a license under the act, a licensee must demonstrate to the satisfaction of the department that all certified credit counselors, supervisors and managers employed by the licensee have completed the continuing education requirements necessary to maintain certification.

### **§ 91.3 Reporting, verification and record keeping.**

(a) A licensee, when applying for a license renewal, shall include as part of its renewal application a statement that the requirements of this chapter have been satisfactorily completed. The statement shall include a list of the credit counselors, supervisors and managers. For each credit counselor, supervisor or manager the list shall contain the:

- (1) Name;
- (2) Job title;
- (3) Work address;
- (4) Certification number;
- (5) Hire date;
- (6) Certification effective date;
- (7) Certification expiration date; and

(8) Name of the certifying organization that approved the continuing education for the licensee's credit counselor, supervisor, or manager.

(b) The department may verify satisfactory completion of the requirements of this chapter, on a random or periodic basis, by methods including examination of the licensee and obtaining information from the certifying organization. The department may assess examination costs for such examinations consistent with section 17(1) of the act (63 P.S. § 2417(1)).

(c) A licensee shall retain all documents relating to the satisfactory completion of the requirements of this chapter for a period of at least four annual license renewal periods.

### **§ 91.4 Enforcement.**

Violations of the provisions of this chapter shall be violations of the act.

# RAF SUPPLEMENTAL PAGE

(This page valid for use through November 1, 2011)

## Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(1) Agency:

Department of Banking

RECEIVED  
IRRC  
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Identification Number: 50

IRRC Number:

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(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Lauren A. Sassani, Assistant Counsel, 717-787-1471

Secondary Contact: Carter D. Frantz, Chief Counsel, 717-787-1471

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Certification by the Governor

Certification by the Attorney General

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Not applicable. Data was not the basis for this regulation.



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

LD. NUMBER: 3-50  
 SUBJECT: Debt Management Services Act Continuing Education Requirements  
 AGENCY: DEPARTMENT OF BANKING

**TYPE OF REGULATION**

<p>X</p>	<p>Proposed Regulation</p> <p>Final Regulation</p> <p>Final Regulation with Notice of Proposed Rulemaking Omitted</p> <p>120-day Emergency Certification of the Attorney General</p> <p>120-day Emergency Certification of the Governor</p> <p>Delivery of Tolled Regulation</p> <p>a. With Revisions</p>	<p>b. Without Revisions</p>
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RECEIVED  
 IRRC  
 2011 NOV 18 P 3:09

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMERCE COMMITTEE
	<i>Dick L. Hess</i> PR	MAJORITY CHAIRMAN HONORABLE DICK L. HESS
	<i>Peter J. Daley</i> SA	DEMOCRATIC CHAIRMAN HONORABLE PETER J. DALEY
		SENATE COMMITTEE ON BANKING & INSURANCE
	<i>Donald White</i> aa	MAJORITY CHAIRMAN HONORABLE DONALD C. WHITE
	<i>Michael J. Stack</i> MS	DEMOCRATIC CHAIRMAN HONORABLE MICHAEL J. STACK
	<i>Cheryl Yoka</i> 11/18/11	INDEPENDENT REGULATORY REVIEW COMMISSION
11/18/11	<i>n. m. m. m. s.</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)