



February 26, 2026

Ms. Diana Pha
Regulations Coordinator
Department of Financial Protection and Innovation
651 Bannon Street, Suite 300
Sacramento, CA 95811

Re: Testimony of the Consumer Protection Policy Center – Registration and Reporting of Covered Persons – PRO 07-24

Dear Ms. Pha,

On behalf of the Consumer Protection Policy Center (CPPC) at the University of San Diego School of Law, I am pleased to submit the following memorandum to the Department of Financial Protection and Innovation (DFPI) in response to the second invitation for comments regarding the registration and reporting of covered persons under PRO 07-24. CPPC urges DFPI to include (1) colleges and universities that extend or collect institutional debt from their students and (2) providers of home equity investment (HEI) products as covered persons required to register under any registration and reporting framework adopted in the PRO 07-24 rulemaking.

CPPC Expertise in Regulation Under Financial Code § 90005

CPPC is a nonprofit, nonpartisan academic and advocacy center based at the University of San Diego School of Law. Since 1980, CPPC publishes the California Regulatory Law Reporter, which monitors and reports on the activities of California’s major regulatory agencies, including DFPI. We are similarly familiar with all executive branch agencies that license and regulate other professions and trades in California.

Background

On September 25, 2020, AB 1864 (Limón) amended the Financial Code to add Division 24, the California Consumer Financial Protection Law (CCFPL), including § 90005. This section defines the “covered person[s],” or businesses and industries covered by the CCFPL’s enhanced consumer protection regime. This PRO 07-24 rulemaking specifies and implements which new industries will be regulated by DFPI under the CCFPL’s enhanced consumer protection law.

Recommendation Regarding Postsecondary Institutional Debt

Postsecondary institutional debt refers to credit obligations that students owe directly to their institution through its own billing system, rather than through external lenders. A significant source of postsecondary institutional debt arises when students withdraw in the middle of a school term. The student starts the term with federal financial aid applied to their account. If they withdraw, the school calculates how much aid the student “earned” based on how much of the term they completed. Any “unearned” portion is sent back to the federal government. This results in a new, unpaid institutional balance for tuition and fees.

These scenarios pose a distinct risk category because the consequences may be catastrophic for students who are already vulnerable. Withdrawal in the middle of a school term is often the result of health, family, or other circumstances outside the student’s control. In addition, schools often use transcript holds, enrollment blocks, or collections actions against the student. These acts further limit the student’s ability to re-enroll or improve their financial position. Institutional debt disproportionately affects low-income students and students of color. As of the 2022 academic year, the amount of institutional debt held by California postsecondary institutions is nearly \$400 million.

DFPI should regulate this practice because these students are a vulnerable population. They leave with no degree, and potentially enormous amounts of institutional debt that are unevenly regulated. Institutional debt is not regulated like a federal loan, even though it functionally arose from a federal loan. As a particularly vulnerable population, students should be afforded enhanced consumer protections under the CCFPL. Accordingly, institutional debt providers should be treated as a category of covered persons subject to registration by DFPI under PRO 07-24.

Recommendation Regarding Home Equity Investment (HEI) Products

Home Equity Investment (HEI) products give homeowners a lump sum of cash today in exchange for a contractual share of their home’s future value or appreciation. The homeowner receives a relatively small lump sum immediately. In exchange, the HEI provider gets a fixed percentage of the home’s future value or appreciation. Upon a trigger event such as sale, refinance or death, the homeowner must make a single, large payoff to clear the lien. The payoff is tied to a future value, not a fixed interest schedule, so the homeowner can end up paying many times the original lump sum if the property has appreciated. This poses catastrophic risk to the consumer.

HEI products target elderly, cash-poor homeowners, and homeowners who do not qualify for traditional mortgage products. HEI contracts are economically complex and opaque. Yet they are marketed in simple terms of “fast cash” and “no monthly payments.”

The consumer does not reasonably assume that if they receive a lump sum payment today, they may be required to pay back several multiples of that lump sum in the future. If the homeowner cannot pay their obligation, the HEI provider has leverage to force a sale or foreclosure on the home.

These products are functionally riskier to consumers, yet less regulated than the closest analog: the second-lien mortgage. HEI providers deliberately structure their agreements to skirt the legal definition of a “mortgage.” As a result, HEI borrowers are not clearly protected by California’s Homeowner Bill of Rights safeguards for mortgage borrowers, codified at Civil Code sections 2923.4 et seq.

DFPI should regulate the HEI industry because it disproportionately targets a vulnerable population that is not otherwise uniformly protected. HEI products are functionally riskier to consumers than traditional second-lien mortgages, yet they are far less regulated precisely because they are deliberately structured to avoid consumer mortgage protections. HEI consumers should receive enhanced protections under the CCFPL. Therefore, HEI providers should be treated as a category of covered persons subject to registration by DFPI under PRO 07-24.

Current estimates suggest that roughly \$1 billion of California homeowner equity is locked into HEI products. Yet reliable statistics on the size and consumer impact of this industry are limited, precisely because HEI providers are not subject to uniform regulatory requirements for registration, reporting, and disclosures. Treating HEI providers as “covered” under CCFPL and requiring them to register under any PRO 07-24 registration framework would give DFPI much-needed transparent oversight into this growing industry and its effects on California consumers.

Sincerely,



Marcus Friedman
Administrative Director
Consumer Protection Policy Center



Irene Lau
Student Intern
Consumer Protection Policy Center