

April 8, 2026

California Department of Financial Protection and Innovation

Attn: Regulations Coordinator

2101 Arena Boulevard

Sacramento, CA 95834

Via email: regulations@dfpi.ca.gov

Re: PRO 05-17 — Modified Text of Proposed Regulations Under Corporations Code Section 25238

Dear Commissioner and Staff:

I write as an industry practitioner and pro se representative in a related federal proceeding to identify a systemic flaw in the CRD disclosure infrastructure that the proposed modifications may inadvertently deepen. What follows is not hypothetical. It is drawn from an actual matter involving an elderly California resident whose rights under Civil Code Section 1542 are being overridden by the regulatory system the Department oversees. I respectfully request that the Department evaluate this interaction before finalizing the proposed removal of Section 260.238(u).

The Flaw. The CRD system has no mechanism for reflecting a customer’s rescission of allegations. When a customer files a complaint, the employing firm reports it to the CRD. When that customer subsequently executes a California Civil Code Section 1542 mutual release—rescinding all claims, known and unknown—nothing in the CRD changes. There is no Form U4 field for “customer rescinded.” There is no data element for “mutual release executed.” The system records the complaint’s birth but has no mechanism for recording its legal death. The disclosure persists on BrokerCheck, IAPD, and every downstream compliance, licensing, and employment screening system that treats CRD data as authoritative—carrying the practical weight of an adjudicated finding without any of the due process the law requires before imposing consequences of that magnitude.

Currently, expungement through FINRA arbitration is the only mechanism that approximates a review pathway—even where the customer’s own rescission should, under Section 1542, have

resolved the matter without a separate adversarial proceeding. FINRA has recently taken the categorical position that this pathway is unavailable for disclosures arising from investment adviser representative activity at dually-registered member firms. The sole approximation of a correction mechanism is now closed for this category.

The Example. An elderly California resident filed elder financial abuse allegations under Welfare and Institutions Code Section 15610 through FINRA’s arbitration process. The matter settled. With the advice of counsel, the customer executed a Section 1542 mutual release rescinding all claims. The customer has subsequently confirmed that she views continued CRD maintenance of the rescinded allegation as inconsistent with her executed release, and has stated that the Department did not consult her before intervening in a FINRA proceeding to request dismissal of the only mechanism that could have corrected the record. The system designed to protect this elderly customer from exploitation is now the system that overrides her informed, counseled legal act—preserving an elder abuse allegation she has legally declared should not persist.

The Interaction. The Department’s proposed amendments to Section 260.210 appropriately strengthen CRD accuracy obligations. But the concurrent removal of Section 260.238(u) eliminates the only enumerated provision broad enough to potentially address a firm’s failure to maintain accurate CRD records after a customer rescinds. The Department is tightening accuracy duties at the input stage while closing the last theoretical pathway for correction downstream. No individual recourse, no customer update mechanism, and no regulatory verification process exists to reflect changed legal circumstances. The individual bearing these disclosures—who has covered disabilities under the Americans with Disabilities Act and whose accommodation requests were pending at the time of the forum denial—faces permanent consequences from allegations the complainant herself has extinguished.

The Department’s 2024-2026 Strategic Plan, recent legislation including AB 83 and SB 278, and the Department’s expanded CCFPL authority all reflect a commitment to protecting elderly Californians and filling gaps left by federal regulatory retreat. I support the Department’s strengthening of CRD accuracy obligations under Section 260.210 and the codification of fiduciary duties under Section 260.238(t). I respectfully urge the Department, however, to reconsider the concurrent removal of Section 260.238(u) in light of its interaction with the

federal developments described above—or, at minimum, to address this interaction in its Final Statement of Reasons. The removal of a residual provision, intended to reduce definitional confusion, may carry consequences disproportionate to that objective for elderly customers, for the individuals who bear CRD disclosures, and for the accuracy of the regulatory infrastructure on which the Department relies.

I respectfully request that the Department address this interaction in its Final Statement of Reasons, acknowledging the intersection with the evolving federal SRO framework and indicating whether the Department intends to monitor the combined effect on California residents whose executed legal instruments the CRD system is failing to honor.

Thank you for your consideration.

Respectfully submitted,

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