

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

DEPARTMENT OF BUSINESS OVERSIGHT
1515 K STREET, SUITE 200
SACRAMENTO, CA 95814

NOTICE OF MODIFICATIONS TO PROPOSED REGULATIONS UNDER THE
CALIFORNIA FINANCE LENDERS LAW AND
THE CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT

To Interested Persons:

On October 24, 2014, the Commissioner of Business Oversight published a Notice of Rulemaking Action to adopt section 1422.3 within article 1 of subchapter 5, and section 950.122.4.2 within article 2 of subchapter 11.5, of title 10, chapter 3 of the California Code of Regulations (see California Regulatory Notice Register 2014, No. 43-Z). The proposed sections relate to the exemption for certain financial institutions under the California Finance Lenders Law and the California Residential Mortgage Lending Act. On July 24, 2015, the Commissioner issued revised text for comment.

After receiving comments that the revised text is unclear, the Commissioner is again proposing additional changes to the text. The proposed revisions are being made available to the public in accordance with the requirements of subdivision (c) of Government Code section 11346.8. The text proposed to be added by this rulemaking action that is not proposed to be changed at this time is shown by single underline. The changes proposed by this notice are shown by double underlining of additions and double strike-out of deletions. The public may submit comments on the proposed changes, as described more fully below.

DESCRIPTION OF CHANGES

As amended on July 24, 2015, the proposed regulations intended to clarify that the rules were not applicable to commercial loans and to specifically identify the types of entities that may not rely on the statutory exemptions for depository institutions. However, the arrangement of the text and description of the depository institutions resulted in a lack of clarity of which loans and which activities were subject to licensure. The September 4, 2015 revisions accompanying this notice are intended to clarify that the proposed rules are applicable to lenders, brokers, and servicers engaged in the business of making, brokering, or servicing consumer loans. The lender, broker or servicer may not rely on the exemptions in the licensing laws for depository institutions, unless that lender, broker or servicer is a depository institution, or is otherwise expressly

1515 K Street, Suite 200
Sacramento, CA 95814-4052
(916) 445-7205

One Sansome Street, Suite 600
San Francisco, CA 94104-4428
(415) 972-8565

320 West 4th Street, Suite 750
Los Angeles, CA 90013-2344
(213) 576-7500

1350 Front Street, Room 2034
San Diego, CA 92101-3697
(619) 525-4233

45 Fremont Street, Suite 1700
San Francisco, CA 94105
(415) 263-8500

300 S. Spring Street, Suite 15513
Los Angeles, CA 90013
(213) 897-2085

7575 Metropolitan Drive, Suite 108
San Diego, CA 92108
(619) 682-7227

exempt from licensure as another type of entity named in the respective statutory exemption.¹

The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available on the Department of Business Oversight's website at www.dbo.ca.gov, and from the Legal Division of the Department of Business Oversight. As required by the Administrative Procedure Act, the Legal Division maintains a hearing file containing all the information upon which the proposal is based. The rulemaking file is available for public inspection during regular business hours. Comments or inquiries concerning these proposed regulation changes may be directed to Dan Warren at (916) 322-3553.

15-DAY COMMENT PERIOD

Any interested person may submit written comments regarding the changes from the originally proposed amendments by written communication addressed as follows:

Commissioner of Business Oversight
Attn: Dan Warren, Regulations Coordinator, Legal Division
1515 K Street, Suite 200
Sacramento, CA 95814

Comments must be received by September 21, 2015. Written comments may also be sent to Dan Warren via electronic mail at regulations@dbo.ca.gov or via fax at (916) 322-5875.

The proposed changes to the Commissioner's rules in the text accompanying this notice are not yet effective, and will not be effective until approved by the Office of Administrative Law and filed with the Secretary of State in accordance with Government Code Section 11349.3. Questions regarding the content of this notice may be directed to Dan Warren at (916) 322-3553.

Dated: September 4, 2015
Sacramento, California

¹ Subdivision (a) of section 22050 for lenders and brokers under the California Finance Lenders Law (Fin. Code, § 22000 et seq.), and subdivision (c) of section 50002 for lenders and servicers under the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.).