

March 8, 2021

Email to: regulations@dfpi.ca.gov and copy to Charles Carriere at charles.carriere@dfpi.ca.gov.

Subject: PRO 01-21

Dear Commissioner Gonzales:

The Online Lenders Alliance (OLA) represents the online lending industry and companies that provide services to online lenders. We appreciate the invitation to provide comments on forthcoming regulations to implement the California Consumer Financial Protection Law (CCFPL) under Division 24 of the Financial Code.

In 2020, the Department of Homeland Security declared lending businesses, like the businesses OLA represents, an essential service during the COVID-19 pandemic. Research as well as basic demand of small-dollar credit continually indicate the need and importance of access to such credit. We trust that the Department of Financial Protection and Innovation (DFPI) will interpret the CCFPL in that light and promulgate regulations with caution as recommended by the Consumer Financial Protection Bureau's (CFPB) Taskforce on Federal Financial Law.¹ The Taskforce specifically recommended that "[s]tates should carefully consider the negative impact on credit availability when considering further regulations."

With such careful consideration in mind, we suggest the DFPI use caution in promulgating rules implementing the CCFPL. OLA is particularly concerned with rulemaking concerning the following issues:

- DFPI seeking to regulate entities and their products that are either subject to federal preemption or otherwise not subject to the DFPI's licensing and/or regulatory authority.
- Properly clarifying overly broad definitions such as "covered borrower," "servicer provider," and "consumer financial product or service" consistent with the DFPI's limited authority over certain entities and their products (e.g. banks, etc.).
- Expansive rulemaking attempting to regulate entities and their products indirectly that the DFPI has no authority to license or regulate directly.
- Redundant and inconsistent rulemaking with respect to unfair, deceptive and abusive acts or practices.
- Overreaching regulations that improperly affect the business of interstate banking.

We look forward to further engaging and working with the DFPI to promulgate reasonable and cautious rules that are consistent with applicable laws and allow California residents access to small-dollar credit.

Thank you very much for your consideration,

Mary Jackson
President and CEO
Online Lenders Alliance

¹ "Consumer Financial Protection Bureau's Taskforce on Federal Consumer Financial Law Releases Its Report," Consumer Financial Protection Bureau, January 5, 2021. Available at: <https://www.consumerfinance.gov/aboutus/newsroom/consumer-financial-protection-bureau-taskforce-on-federal-consumer-financial-law-releases-itsreport/>.