

September 17, 2021

By e-mail to regulations@dfpi.ca.gov

Department of Financial Protection and Innovation
Attn: Sandra Sandoval
300 S. Spring Street, Suite 15513
Los Angeles, California 90013

**Re: Comments on Proposed Rulemaking Under the California Consumer Financial Protection Law:
Consumer Complaints (FILE NO: PRO 03-21)**

Dear Ms. Sandoval:

This letter is submitted on behalf of INFiN, A Financial Services Alliance (“INFiN”¹), the leading national trade association representing the diverse and innovative consumer financial services industry, in response to the Invitation for Comments on Proposed Rulemaking Under the California Consumer Financial Protection Law: Consumer Complaints issued by the Department of Financial Protection and Innovation (the “Department”) on August 18, 2021 (the “Proposal”).

INFiN’s primary concern in responding to this proposal is to remind the Department of the original goal of the state legislature in creating the California Consumer Financial Protection Law which was to create a state version of the federal Consumer Financial Protection Bureau (CFPB). With that goal in mind, we feel it is important to try to keep the California requirements under the consumer complaint process as similar as possible to those in place at the CFPB. The Bureau has established a complaint process that works for resolving customer complaints without putting too many burdens upon the industry. While there are some requirements of the federal system that are unpopular with the industry, e.g., making complaint information public, overall the process seems to work. We ask the Department to reconsider their proposal and attempt to follow as closely as possible the system put in place at the CFPB.

As highlighted above, INFiN objects to allowing the contents of consumer complaint reports being made available to the public because, among other issues, often consumer complaints are inaccurate or incorrectly name the party against whom the complaint is being asserted. California has no statutory authority for this provision, and we believe it is neither necessary nor appropriate. And, to the extent that this reporting includes information identifying any specific employee of the covered person, we believe that public disclosure of that information would violate that employee’s right to privacy under the California Constitution. Based on these considerations we submit that the Department should reconsider this part of the rule and prohibit consumer complaint information from becoming public.

The CFPB has determined that a company complaint system should ensure that: an institution is responsive and responsible in handling consumer complaints and inquiries; intelligence gathered from consumer contacts should be organized and retained by the institution; and the institution makes a deliberate, good faith effort toward resolution of each consumer complaint. When conducting examinations, the CFPB considers consumer complaints to determine the responsiveness and effectiveness of the consumer complaint resolution process. Examiners assess whether:

1. Processes and procedures for addressing consumer complaints are appropriate;
2. Consumer complaint investigations and responses are reasonable;

¹ About INFiN, infinalliance.org.

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3. Consumer complaints and inquiries, regardless of the channel through which they are submitted, are appropriately recorded and categorized;
4. Consumer complaints and inquiries, whether regarding the entity or its service providers, are addressed and resolved promptly;
5. Consumer complaints that raise legal issues involving potential consumer harm from unfair treatment or discrimination, unauthorized product enrollment, account openings or upgrades (including the addition of ancillary products), improper sales practices, imminent foreclosures, or other regulatory compliance issues, are appropriately categorized and escalated;
6. Management monitors consumer complaints to identify risks of potential consumer harm and deficiencies and takes appropriate prospective and retrospective corrective action;
7. Consumer complaints result in retrospective corrective action to correct the effects of the supervised entity's actions when appropriate; and
8. The nature or number of substantive complaints from consumers indicates that potential weaknesses in the CMS exist.

Companies have already spent enormous resources complying with the complaint model of the CFPB and the model appears to be working. Accordingly, it does not appear necessary to go above and beyond what is already working in the marketplace.

INFiN appreciates the ability to comment on this proposal.

Respectfully submitted,



Edward D'Alessio
Executive Director

cc: David Bae (via e-mail to )