



September 17, 2021

VIA EMAIL: regulations@dfpi.ca.gov; [REDACTED]

Department of Financial Protection & Innovation
Attn: Sandra Sandoval, Legal Division
300 S. Spring Street, Suite 15513
Los Angeles, CA 90013

RE: Invitation for Comments on Proposed Rulemaking – PRO 03-21 “Consumer Complaints”

Dear Ms. Sandoval:

Payday Money Centers (“PMC”) is a neighborhood retail financial service provider located in Southern California. Since 1997, PMC has been offering consumers deferred deposit transactions, check cashing services, money wire transfers, money orders, bill payments, debit cards and other ancillary products and services. We are a licensed Deferred Deposit Originator, CFL Lender & Broker, and DOJ permitted Check Cashier subject to the statutes and rules for consumer protection both at the federal and state level. Prior to the COVID pandemic, PMC operated 23 retail facilities but due to the economic impact of this pandemic we were forced to downsize and now operate 14 locations.

We appreciate the opportunity to comment on the Department’s proposed rule implementing section 90008 of the CCFPL related to consumer complaints. We understand the Department has been directed by statute to promulgate regulations for ensuring timely responses to consumer complaints and, in general, we support efforts to standardize consumer protections throughout the financial services community. However, we do have concerns with implementing some of the proposed procedures. As a member of the California Financial Services Providers trade association, we second their comments submitted to the Department and will not duplicate all their concerns. We have limited our comments to the following provisions:

90008.3(a)(2) Disclosure of Complaint Process. This provision requires “all written communications” to each consumer include the procedures to file a complaint, both orally and in writing, along with the Department’s contact information for filing complaints. This is operationally difficult. For many covered persons, the complaint disclosures can be included in the customer’s initial written disclosures or service/loan agreement. Further written communications may be sent using electronic methods such as text messaging which precludes lengthy messages making it not possible to comply with this requirement. We suggest simply requiring a statement be placed on any initial paperwork delivered to the consumer which directs all complaints to the covered person’s website or complaint phone number (just like the Department) where more information can be provided to the consumer.

90008.3(a)(4) Toll-Free Complaint Phonenumber. Requiring a toll-free telephone number places additional costs on small businesses with little benefit to consumers. Given the almost universal adoption of cellular phones, “800” numbers are less and less relevant. Also, we would ask the Department to strike the provision “with a live representative during regular business hours.” This can be interpreted that covered

businesses must specifically staff employees for complaint purposes during all business hours. If a number of calls go to voicemail for a period of time, a business may be deemed out of compliance. This is unrealistic given the limited resources of smaller businesses to ensure a live employee always answers the phone.

90008.3(b) Providing Acknowledgment of Complaint Receipt. Under existing processes and the timelines for ultimate response to a complaint, requiring a covered business to issue an acknowledgement along with a tracking number at the time of receiving a complaint is overly burdensome for most small businesses. Most minor complaints are handled quickly with the majority resolved and responded to within days. Adding another form or communication increases the workload and cost to the covered business with little consumer benefit since the resolution is received relatively fast. Is the Department aware of slew of lost or unanswered complaints?

90008.3(c) Complaint Review Process Requirements. The restriction not to allow a covered business to hire an outside firm to review and investigate complaints is without justification. Many business functions are outsourced due to cost and/or expertise but ultimate responsibility for compliance still rests with the business. It may be in the interest of the customer that an independent review be made. Regardless, this should be left to company management to decide how best to staff this requirement. Furthermore, subdivision (c) requires an “officer” to have primary responsibility over the complaint process. This is overly burdensome and impractical for many businesses. The compliance officer is not always an appointed officer of a corporation or LLC. Lastly, the requirement to mandate monthly reviews by this officer of the complaint process seems like a one-size-fits-all requirement. Smaller covered borrowers may not have the volume of complaints warranting this frequency. Once again, this should be determined by company management.

90008.3 (h) Quarterly Complaint Reports. Given the relatively low level of complaints and the limited resources available to small businesses, it seems onerous to mandate submissions every quarter. Many covered businesses currently submit annual reports to the Department. Processes, time and resources are already allocated for this annual reporting effort. Therefore, we suggest this requirement be annual, not quarterly.

PMC IS VERY CONCERNED WITH RULE PROPOSAL 90008.4 AND STRONGLY URGES THE DEPARTMENT STRIKE IT IN ITS ENTIRETY FOR THE FOLLOWING REASONS:

Rule 90008.4: “Inquiry” Processes and Procedures Lack Foundation in the CCFPL. It appears that the Department, by proposing “Inquiry” handling processes, has created a concept not found in the CCFPL. Although the terms “complaint” and “inquiry” are not specifically defined by the CCFPL, the statute language in subdivisions (a) and (b) of section 90008 uses these terms interchangeably and not as separate concepts. Complaints and inquires refer to the same thing, not two separate consumer acts needing separate handling and reporting processes. This is further supported by the language used in section 90018(b) that mandates the Department’s annual public reporting requirements. This provision only lists “consumer complaints and resolutions” with no mention of inquiries. Is it the Department’s position that the CA Legislature believes the public should only be made aware of how covered persons handle complaints but not to concern itself with how “inquires” are processed too? The absence of inquires as a separate concept in this subdivision provides further evidence that these are not separate distinct activities but one - consumer complaints.

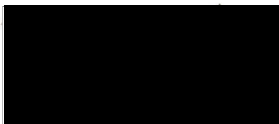
Rule 90008.4: Inquiry Process is Unprecedented, Overly Burdensome, and Operationally Unworkable.

Not only does PMC object to the concept of a separate inquiry handling process on the basis of a lack of legislative authority, we strongly object on the grounds that it establishes a radically new untested compliance concept and an undue burden on covered persons, specifically small businesses like ours. As provided in Rule 90008.2(e), an “Inquiry” is so broadly defined, it covers any “question”, “interpretation”, or “clarification” about any of our products or about us as “a covered person”. As written, a request for a product brochure or even a question about PMC’s operating hours would require us to collect the consumer’s contact information including mailing address. We would then have to document and track this inquiry like a complaint. Does the Department really expect us to obtain the name, address and email from any caller asking about our prices or even requesting driving directions (that would be covered as an “inquiry”)? This is clearly not possible. No other business in this state is subject to this kind requirement. Furthermore, no company could remain in business subjecting its customers to such intrusive data requests in response to their simple requests. PMC would have to scrutinize all customer interactions, spending incalculable man hours and dollars trying to comply (and it couldn’t). This is simply impractical and obviously not intended by statute.

We believe the California Legislature, the Department, and our industry share a common goal in timely addressing consumers concerns if they have issues accessing or utilizing financial services. That is why many regulated businesses have current complaint processes in place. We stand ready to assist the Department in understanding what is already working and how best to establish uniform standards to achieve satisfied protected consumers without placing unrealistic or overly costly mandates on their financial services providers.

Thank you for your consideration of our comments.

Respectfully,



Dan Gwafney
CEO