

Student Loan Servicing Alliance
2210 Mt. Vernon Avenue, Suite 207
Alexandria, VA 22301



September 16, 2021

VIA ELECTRONIC SUBMISSION
regulations@dfpi.ca.gov

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

RE: Draft Regulations Implementing Section 90008, subdivisions (a), (b), and (d) of the CCFPL (PRO 03-21)

Dear Commissioner,

The Student Loan Servicing Alliance (“SLSA”) appreciates the opportunity to provide further comments on draft language implementing section 90008, subdivisions (a), (b), and (d) of the CCFPL. SLSA is a non-profit trade association that represents federal and private student loan servicers, who collectively service nearly all student loans in the country. Our membership includes every federal loan servicer that is contracted by the US Department of Education to administer the federal student loan program, in addition to nearly all servicers of FFEL and private education loans in the country.

Several recent laws have passed in California that directly impact student loan servicers and create potential conflict with this draft regulation. Sections 1788.100-1788.105 of the California Civil Code reflect those recent changes to law and already include extensive and specific requirements for student loan servicers on how to handle both inquiries and complaints, many of which in the statute differ from this proposed regulation. As we have long argued on this kind of topic or others, it is critical that we not have conflicting requirements where we cannot comply with both. Therefore since there is an existing California framework for complaints process in statute specifically for student loan servicers – just as there is for credit reporting agencies at the federal level – we would request that student loan servicers be exempt from this potentially conflicting regulation in order to allow us to comply with the existing code that is applicable.

As such we recommend the following change:

Rule 90008.1: Exemption

Rules 90008.3, 90008.4, and 90008.5 of this Article shall not apply to a consumer reporting agency as defined by the Fair Credit Reporting Act (15 U.S.C. Sec.

1681a(f) nor to student loan servicers as defined by Section 1788.100 of the Civil Code.

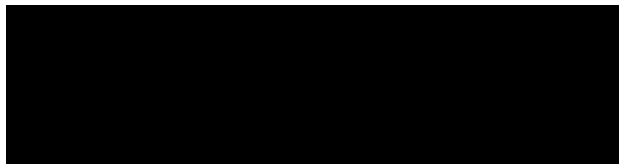
There are several specific examples of conflict that this regulation would create. The Civil Code requires that student loan servicers “Respond to a qualified written request by acknowledging receipt of the request within 10 business days and within 30 business days, provide information relating to the request and, if applicable, either the action the student loan servicer will take to correct the account or an explanation for the position that the borrower’s account is correct.” The draft regulation has an entirely different set of timelines that would conflict with the specific and detailed guidance of the code which the legislature constructed to be unique and specific to student loan servicers.

Further, the Civil Code has legislated distinction between a qualified written request and a qualified request, and has different specified work flows and processes that the Code requires for each. The draft regulation does not have the same treatment or distinctions and would therefore be in conflict with the Code and it would be unclear how a servicer could reconcile both the Code and this draft regulation.

While these are just some of the examples, the overarching point is that - perhaps unlike many other covered persons this regulation is intended to cover - student loan servicers have today a clear and specific complaint process that was just put in place by the legislature which addresses the same regulatory goal of this draft: creating a transparent, defined, and accessible complaint process for consumers. Regulation is useful to bring clarity or further specific guidance on how to comply with the Code, but in this case the regulation would run directly counter to the specific process enumerated in the Code. As such we request the clarification mentioned above to ensure that we can comply with the process specified in the code.

We thank you for the opportunity to provide our industry expertise and are happy to discuss any clarifications that may be helpful. If you would like to discuss the comments provided, please contact me at (202)955-6055 or scott.buchanan@slsa.net.

Respectfully submitted,

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C. Tapscott Buchanan
Executive Director