



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • ACTING COMMISSIONER **Christopher S. Shultz**

IN REPLY REFER TO
FILE NO: PRO 01-21

November 17, 2021

**INVITATION FOR COMMENTS ON PROPOSED RULEMAKING
UNDER THE CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW
(PRO 01-21)**

BACKGROUND

The California Consumer Financial Protection Law (CCFPL) allows the Department of Financial Protection and Innovation (DFPI) to require providers of financial products and services to California consumers to register with the DFPI. In connection with registration, the DFPI can require registrants to generate and provide records to facilitate oversight of registrants and detect risks to California consumers.

The draft rules included with this Invitation for Comments propose requiring registration for four industries that provide the following financial products and services to California consumers:

- 1) Debt settlement services;
- 2) Student debt relief services;
- 3) Education financing; and
- 4) Wage-based advances.

You can review the draft rules [here](#).

With respect to education financing, the draft rules cover providers of any form of credit where the purpose of the credit is to fund postsecondary education. The draft rules would cover credit regardless of whether the provider labels the credit a loan, retail installment contract, or income share agreement, and regardless of whether the credit recipient's payment obligation is absolute, contingent, or fixed. With respect to education financing with income-based payments, including contracts sometimes referred to as income share agreements, the DFPI is proposing reporting requirements that in some cases diverge from the reporting requirements for education financing with fixed payments.

With respect to wage-based advances, the draft rules cover providers who often refer to themselves as earned wage access providers.¹

By issuing registration regulations for the products described above, the DFPI aims to strengthen its ability to protect California consumers through compliance examinations of registrants and regular reporting. The DFPI may also better detect risks to California consumers and understand emerging markets for consumer financial products and services. The DFPI's proposal to register the providers of certain products or services described above does not represent a determination that other laws, including other licensing laws under the Commissioner's jurisdiction, do not apply. For this reason, the draft rules do not limit the DFPI's ability to make later determinations concerning the scope of the DFPI's licensing laws.

INVITATION FOR COMMENTS

The DFPI seeks input from stakeholders on the draft rules. Interested parties may submit comments related to the draft text. The DFPI also invites stakeholders to provide example revised language when a stakeholder proposes changes to the draft rules. The DFPI further invites stakeholders to comment on the following:

1. Proposals to streamline the registration process while preserving the DFPI's access to data necessary to detect risks to California consumers and develop risk-based examinations.
2. Proposals that will improve transparency in connection with the registration process and the data collected from registrants.
3. Proposals that will clarify what information collected in connection with registration is and is not subject to public disclosure.
3. Proposals to clarify the annual reporting requirements to improve the ease and consistency of reporting across providers.
4. Proposals for annual reporting requirements that were not included in the draft rules that would help the DFPI better understand the risks and benefits of the covered products for California consumers.
5. Proposals to clarify whether and when the registration requirements apply to Department licensees and licensees and registrants of other state agencies. For

¹ Earned wage access providers who are licensed under the California Financing Law and acting under the authority of that license are not subject to the CCFPL and therefore not subject to registration. (Fin. Code, § 90002, subd. (b)(2).)

example, if a DFPI licensee originates bona fide retail installment contracts (RIC) that meet the definition of education financing, should the licensee be required to register in connection with its RIC origination practices?

Economic Impact

The DFPI also invites stakeholders to provide input on the economic impact of the draft rules on California businesses and consumers. The DFPI further invites input on the economic impact of any recommendations related to the draft rules. As guidance in connection with this request, the DFPI invites stakeholders to comment on the following:

1. Explain the impact of the draft rules on the ability of California businesses to compete with businesses in other states.
2. Explain the economic impact of the draft rules.
3. Explain whether and to what extent the draft rules would create or eliminate jobs within the state.
4. Explain whether and to what extent the draft rules would create new businesses or eliminate existing businesses within the state.
5. Explain whether and to what extent the draft rules would affect the competitive advantages or disadvantages for businesses currently doing business within the state.
6. Explain whether and to what extent the draft rules would affect the expansion of businesses currently doing business within the state.
7. Explain whether and to what extent the draft rules would increase or decrease investment in the state.
8. Explain whether and to what extent the draft rules would affect the incentives for innovation in products, materials, or processes.
9. Explain whether and to what extent the draft rules would benefit the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits.
10. Explain whether there is a more cost-effective way that is equally effective in achieving the purpose of the draft rules.

11. Describe any reasonable alternatives to the draft rules that would lessen any adverse impact on small business.

TIME FOR COMMENTS

The Commissioner invites interested parties to submit comments by December 20.

WHERE TO SUBMIT COMMENTS

You may submit comments by any of the following means:

Electronic

Comments may be submitted electronically to regulations@dfpi.ca.gov. Include "PRO 01-21" in the subject line and copy Charles Carriere at charles.carriere@dfpi.ca.gov.

Mail

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

CONTACT PERSONS

Questions regarding this invitation for comments may be directed to Charles Carriere, Senior Counsel for the Commissioner, at (415) 722-9655.