

From: Berrios, Ariel
To: [DFPI Regulations](#)
Cc: [REDACTED]@DFPI; [REDACTED]@DFPI
Subject: Comments on Proposed Regulations Under Division 9.5 of the California Financial Code
Date: Monday, November 22, 2021 2:22:29 PM

Messrs. Carriere and Mattson:

Our firm represents parties interested in the above reference proposed regulation. Therefore, on their behalf, we submit the following comments to such proposed regulation:

We respectfully request your consideration of the definition of “term” with respect to factoring transactions under Section 22802 subdivision (b)(3) of the code. For the calculation of APR under Section 940 of the regulation, Section 900(a)(26)(A) defines term as “the length of time between when the recipient receives payment from the financier for the legally enforceable claim and the date the legally enforceable claim becomes due and payable.” This provision assumes that when the recipient receives payment from the financier, the legally enforceable claim is not yet due and payable. The provision does not address factoring transactions whereby a recipient receives payment from the financier on a legally enforceable claim that is already past due, e.g., invoices due on receipt or circumstances where the due date may be unknown.

Thank you for considering our comments. Please do not hesitate to contact me if you would like to discuss the comments set forth above.

Best,

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