

**TITLE 10. DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
CHAPTER 3. COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION
SUBCHAPTER 4. CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW
ARTICLE 5. CONSUMER COMPLAINTS AND INQUIRIES**

**PROPOSED REGULATIONS
(Additions shown by underline)**

1. Chapter 3, Subchapter 4, Article 5, Section 1070 is adopted to read:

Subchapter 4. California Consumer Financial Protection Law

Article 5. Consumer Complaints and Inquiries

Section 1070: Exemption

Sections 1072, 1073, and 1074 of this Article shall not apply to:

- (a) a consumer reporting agency as defined by the Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(f)), or
- (b) a student loan servicer as defined by Section 1788.100 of the Civil Code.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

2. Section 1071 is adopted to read:

Section 1071: Definitions.

The terms defined in Section 90005 of the Financial Code, when used in this Article, shall have the same meanings set forth in that section. In addition, the following definitions shall apply to terms when used in this Article:

(a) "Complaint" means an expression of dissatisfaction from a complainant regarding a financial product or service, including the acts, omissions, decisions, conditions, or policies of a covered person or service provider related to the financial product or service.

(b) "Complainant" means the consumer who submitted a complaint to a covered person and is contracted with, has applied to be contracted with, or has had a debt or other obligation assigned to, the covered person. A

“complainant” includes a representative or other individual with authority to act on the consumer’s behalf.

(c) “Denied complaint” means a complaint for which the covered person has made a final decision to not take any corrective action.

(d) “Final decision” means the conclusion that the covered person, after due consideration and any necessary investigation, has reached regarding the complaint and has communicated to the complainant.

(e) “Inquiry” means a question or request for information, interpretation, or clarification submitted by an inquirer regarding a specific issue or problem with a financial product or service.

(f) “Inquirer” means the consumer who submitted an inquiry to a covered person and is contracted with, has applied to be contracted with, or has had a debt or other obligation assigned to, the covered person. An “inquirer” includes a representative or other individual with authority to act on the consumer’s behalf.

(g) “Officer” has the same meaning as the definition of that term in California Financial Code section 190.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

3. Section 1072 is adopted to read:

Section 1072: Complaint Processes and Procedures.

A covered person shall respond to consumer complaints and shall develop and implement written policies and procedures for responding to complaints, including a process through which a complainant may submit an oral or written complaint to the covered person and receive a final decision. Service providers and affiliates of the covered person shall not be responsible for responding to these complaints or developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service.

The Department may review the complaint process, including records of each complaint received, to assess the effectiveness of the policies and procedures and the actions taken in responding to complaints.

(a) The complaint process shall include the following procedures regarding the initiation of a complaint.

(1) The covered person shall prepare a complaint form for its consumers to use in submitting written complaints. The complaint form shall be available in electronic format on the covered person's website and, upon request, in paper format at each physical location of the covered person accessible to its consumers. The complaint form shall include, at a minimum, the following:

(A) A description of the complaint process,

(B) A field for the complainant's name,

(C) A field for the complainant's telephone number,

(D) A field for the complainant's mailing address,

(E) A field for the complainant's e-mail address,

(F) A field for the complainant to explain the nature and details of the complaint, and

(G) An opportunity for the complainant to attach supporting documentation.

(2) The covered person shall not request additional personal identifying information beyond what is described in subdivisions (a)(1)(B) - (E) of this Section and shall not request financial information unrelated to the specific complaint of the consumer. This obligation shall continue throughout the entire complaint process.

(3) All written communications, except electronic text messages such as iMessage, Short Message Service ("SMS"), and Multimedia Messaging Service ("MMS"), to each consumer of a financial product or service shall in at least 12-point font disclose the procedures for filing both oral and written complaints with the covered person. The disclosure shall also inform consumers they may submit to the Department a complaint at any time, including any complaints not resolved to their satisfaction, using the form available at <https://dfpi.ca.gov/file-a-complaint/> and contact the Department with questions at 866-275-2677.

(4) The main page of the website for the covered person shall prominently display, at or near the top of the page, a link to the complaint form and to

instructions on how complainants may submit their oral and written complaints, including the telephone number, e-mail address, mailing address, and website for filing a complaint.

(5) The covered person shall maintain a telephone number, which complainants can use to file complaints orally with a live representative during regular business hours. If a live representative is unavailable to take the call, the covered person shall provide complainants with the option to leave a voicemail message with their telephone number for a call back from a live representative within 24 hours of the voicemail message. The live representative shall document the details of each oral complaint by completing all fields on the complaint form required by subdivision (a)(1) of this section.

(6) The covered person who negotiates a contract with a consumer primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, shall make the complaint process available to the complainant in English and in the language in which the contract was negotiated, including translations of all written communications required by this section and, upon request by the complainant, the provision of interpretation and translation services to assist with the complaint.

(7) The covered person shall not impose a time limit for filing a complaint shorter than four (4) years from the occurrence of the complained of act, omission, decision, condition, or policy.

(8) The covered person shall not treat a complaint as incomplete if the complainant is reasonably identifiable from the information provided and any missing information is available in the covered person's customer records.

(b) For each complaint, the procedures for the complaint process shall require the covered person to provide the complainant with a written acknowledgement of receipt. The written acknowledgement of receipt shall advise that the complaint has been received and shall include the date of receipt, a unique tracking number to identify the complaint in subsequent communications, and the telephone number and e-mail address that can be used to contact the appropriate representatives of the covered person who have been designated to handle the complaint.

(1) For complaints received via e-mail or the internet, the covered person shall provide to the complainant, within one (1) calendar day after receiving

the complaint, an e-mail message confirming that the electronic submission of the complaint was successful and, within five (5) calendar days after receiving the complaint, an e-mail message with the written acknowledgement of receipt required by subdivision (b) of this section. Both e-mail messages shall be sent from the e-mail address provided to the complainant pursuant to subdivision (b) of this section and may be combined if provided within one (1) calendar day after receiving the complaint.

(2) For complaints received via postal mail, the covered person shall provide the written acknowledgement of receipt required by subdivision (b) of this section via postal mail within seven (7) calendar days of receiving the complaint.

(3) For complaints received via telephone, the covered person shall orally provide the complainant with a unique tracking number to identify the complaint, and, within seven (7) calendar days of receiving the complaint, provide via postal mail the written acknowledgement of receipt required by subdivision (b) of this section.

(4) The written acknowledgement required by subdivision (b) of this section may be combined with the issuance of a final decision required by subdivision (e) of this section if the final decision is issued within the required time period for the acknowledgement.

(c) The complaint process shall include the following procedures for a covered person to review and evaluate complaints:

(1) Each complaint, including the allegations in the complaint form and all supporting materials submitted by the complainant, shall be reviewed by staff of the covered person who are responsible for the services and operations which are the subject of the complaint.

(A) For complaints that do not require further investigation, the covered person shall document the names of all individuals who decided not to investigate and the reason an investigation was not needed to resolve the complaint, including the specific provisions in the covered person's policies and procedures supporting the decision not to investigate. An investigation shall not be necessary if the covered person makes a full and prompt refund to the complainant of the amount at issue or a full and prompt cancellation or adjustment of the debt at issue.

(B) For complaints that require further investigation, the covered person shall ascertain the cause of the issue by conducting a thorough review of all relevant documents and the individuals who may have committed, or been responsible for, the complained of acts, omissions, decisions, conditions, or policies.

(C) If corrective action is needed to resolve the complaint, the covered person shall provide an appropriate remedy to the complainant, including but not limited to an account adjustment, credit, or refund, and shall also take appropriate steps to prevent recurrence of the issue, which may include policy changes and employee training.

(2) For complaints involving the conduct of a third party who has been contracted to provide a good or service in connection with the financial product or service being complained about, the covered person shall, in addition to performing its own investigation of the alleged conduct, require the third party to investigate each complaint using the procedure set forth in subdivision (c)(1)(B) of this section and to forward all relevant documents and findings to the covered person. The covered person shall include in its contracts with third parties clear expectations about the third parties' responsibilities under this section, as well as appropriate and enforceable consequences for violating these responsibilities.

(3) An officer of the covered person shall be designated as having primary responsibility for the complaint process.

(A) The officer shall, at least once each month, review the operation of the complaint process to identify any emerging patterns of complaints, provide appropriate remedies to consumers that experience similar issues, and take appropriate steps, which may include policy changes and employee training, to prevent recurring problems that adversely affect consumers, including problems that have been addressed with a full and prompt refund.

(B) The officer shall, at least once each month, review all complaints regarding the conduct of third party contractors to determine whether the covered person's standards for vetting and monitoring third party contractors were met and whether those standards should be revised to improve the vetting and monitoring of third parties.

(d) The complaint process shall include a procedure for the covered person to track complaints and communicate with the complainant regarding the status of the complaint.

(1) The procedure must include a process for recording the status of a complaint and all target dates for further actions regarding the complaint, including the issuance of a final decision.

(2) The tracking shall be provided to the Department upon request and in any electronic format requested by the Department.

(3) If a complainant requests a status update using the telephone number or email address provided pursuant to subdivisions (a)(4) and (b)(1) of this section, along with sufficient information for the covered person to identify the complaint, the covered person shall respond with a status update to the complainant within five (5) calendar days in the same format as the complainant's request.

(e) The complaint process shall include the following procedures for a covered person to respond to a complaint:

(1) The covered person shall respond in writing with a final decision on all issues within fifteen (15) calendar days of receiving the complaint.

(A) If the covered person needs additional time to respond, the covered person shall, within three (3) calendar days after the initial 15-day period ends, provide the complainant with a written update regarding the status of the complaint, the reason for the delay, and an estimate of the additional time needed to issue a final decision, which shall not be more than forty-five (45) calendar days after the initial 15-day period ends.

(2) The written response shall contain a clear explanation of the covered person's decision in plain language, including the specific reasons for the final decision, a summary of the steps taken to respond to the complaint, any corrective action that will be taken, and the effective date of the corrective action. In at least 12-point boldface font, the response shall also inform complainants they may submit to the Department any complaints not resolved to their satisfaction using the form available at <https://dfpi.ca.gov/file-a-complaint/> and contact the Department with questions at 866-275-2677.

(3) The covered person shall not take adverse action against a complainant, including cancellation of the contract, in retaliation to the filing of a complaint.

(4) Once a covered person has provided a written response to a complainant pursuant to subdivisions (e)(1) and (e)(2) of this section, the covered person may respond to subsequent, duplicative complaints from the same complainant with a written notice stating there will be no response because the complainant previously submitted the same complaint, received a response, and provided no new information in the subsequent, duplicative complaint regarding the same act, omission, decision, condition, or policy.

(f) The complaint process shall require a covered person to maintain a written record of each complaint for at least five (5) years from the time the complaint was initially filed. The written record shall include the following:

(1) The unique tracking number associated with the complaint,

(2) The name, phone number, mailing address, and e-mail address of the complainant, if provided,

(3) The name of the financial service or product involved,

(4) The name of the covered person or third party identified as the subject of the complaint,

(5) For oral complaints, the name of the representative who documented the complaint,

(6) The date the complaint was received by the covered person,

(7) The date the covered person provided the acknowledgement of receipt,

(8) The dates of any investigation by the covered person,

(9) The dates of all responses to the complainant, and

(10) The nature and details of the complaint,

(11) If no investigation was performed, the names of all persons who decided not to investigate and the reason an investigation was not needed,

(12) The results of any investigation,

(13) Any corrective action taken in response to the complaint,

(14) A copy of, or an electronic link to, all contracts, correspondence, and other relevant information upon which the covered person relied in reaching its final decision, and

(15) A copy of all written responses and summaries of all oral responses, including an explanation of the final decision regarding the complaint.

(g) The complaint process shall be administered without discriminating on the basis of the complainant's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, veteran or military status, or any other basis prohibited by law.

(h) The covered person shall submit to the Department a quarterly complaint report, which shall be made available to the public. The report shall include information regarding all complaints received by the covered person, including complaints forwarded by the Department. The report shall be prepared for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year, verified by an officer authorized to act on behalf of the covered person, and filed with the Consumer Financial Protection Division no later than thirty (30) calendar days after the end of each quarter. The report shall include for each quarter:

(1) The covered person's name, the date, and the reporting quarter,

(2) The covered person's designated e-mail address for receiving requests from the Department regarding consumer complaints. This e-mail address shall be accessible by the officer of the covered person with primary responsibility for the complaint process. In the event of a change to this e-mail address, the covered person shall, within five (5) calendar days of the change, provide the Consumer Financial Protection Division with the new e-mail address.

(3) The total number of complaints received,

(4) The total number of complaints for which a final decision was issued within fifteen (15) calendar days after receiving the complaint,

(5) The total number of complaints for which a final decision was issued between sixteen (16) and sixty (60) calendar days after receiving the complaint,

(6) The total number of complaints for which a final decision was issued more than sixty (60) calendar days after receiving the complaint,

(7) The total number of complaints for which a final decision was not issued,

(8) The total number of complaints denied,

(9) The total number of complaints resulting in a partial refund or account adjustment,

(10) The total number of complaints resulting in a full refund or account adjustment,

(11) Regarding each complaint for which a final decision was issued more than fifteen (15) calendar days after receipt, an explanation of why the final decision was not issued within fifteen (15) calendar days,

(12) Regarding each complaint for which a final decision was not issued, an explanation of why the final decision was not issued,

(13) The number of complaints received for each complaint type. Complaint types shall include the following:

(A) Dissatisfaction with the covered person,

(B) Dissatisfaction with a service provider,

(C) Dissatisfaction with a third party, other than a service provider, to whom the covered person referred the consumer,

(D) Dissatisfaction with a third party who brought the consumer to the covered person through lead generation,

(E) Attempts to collect debt or other funds not owed,

(F) Trouble making a payment,

(G) Dissatisfaction with the taking of, or threat of taking, negative legal action,

(H) Complaints of false statements or representations,

(I) Problems closing an account,

(J) Improper fees or interest,

(K) Unauthorized transactions,

(L) Confusing or missing disclosures,

(M) Problems with customer service,

(N) Complaints about denial of access to a product or service,

(O) Any other complaint types for which the covered person received at least twenty-five (25) complaints from different complainants during the immediately preceding calendar year. These other complaint types shall only be required in reports due after the covered person's first full calendar year of reporting,

(P) Repeat, duplicative complaints from the same complainant regarding the same act, omission, decision, condition, or policy (these complaints should not be included in the counts for Items A through O), and

(Q) Complaints submitted by individuals without authority to act on the consumer's behalf (these complaints should not be included in the counts for Items A through O).

(14) Any patterns of complaints identified by the officer responsible for the complaint process and a summary of all corrective action taken by that officer to provide appropriate remedies to consumers and to prevent recurring problems, and

(15) A summary of any steps taken by the covered person to address discrimination that may have occurred during the complaint process on the basis of the complainant's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

4. Section 1073 is adopted to read:

Section 1073: Inquiry Processes and Procedures.

A covered person shall respond to oral and written inquiries from consumers and shall develop and implement written policies and procedures for responding to inquiries. Service providers and affiliates of the covered person shall not be responsible for responding to these inquiries or developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service. The procedures shall include the following:

(a) The covered person shall maintain a telephone number, which inquirers can use to file inquiries orally with a live representative during regular business hours. If a live representative is unavailable to take the call, the covered person shall provide inquirers with the option to leave a voicemail message with their telephone number for a call back from a live representative within 24 hours of the voicemail message.

(b) The covered person shall review and evaluate each inquiry to determine whether the inquiry should be handled as a complaint. If the inquirer indicates any dissatisfaction with a financial product or service or alleges any mistake or wrongdoing by the covered person or a third party, the inquiry shall be handled as a complaint using the process described in Section 1072.

(c) For each inquiry, the procedures shall include the following:

(1) The covered person shall respond to all issues raised by the inquiry within fifteen (15) calendar days after receiving the inquiry. The response shall be in the same format in which the inquiry was made.

(2) Once a covered person has provided a response to an inquiry pursuant to subdivision (c)(1) of this section, the covered person may respond to subsequent, duplicative inquiries from the same inquirer with a notice stating there will be no response because the inquirer previously submitted the same inquiry regarding the same issue, received a response, and provided no new information in the subsequent, duplicative inquiry.

(3) The covered person shall retain copies of all written inquiries and all written responses for at least five (5) years from the date the inquiry was received.

(d) The covered person shall track the number of inquiries received for each of the following categories to help determine if there are issues or problems with a financial product or service that may result in customer confusion:

(1) Specific questions regarding the cost of the product or service to the inquirer, other than fees and surcharges,

(2) Specific questions regarding fees and surcharges imposed on the inquirer,

(3) Specific questions regarding how the inquirer may use the product or service, other than how to access funds,

(4) Specific questions regarding how the inquirer can access funds,

(5) Specific questions regarding how the inquirer may obtain or qualify for a product or service, and

(6) Any other categories for which the covered person received at least twenty-five (25) inquiries from different inquirers regarding the same issue or problem during the immediately preceding calendar year (specify additional categories as needed). These other categories shall only be required in reports due after the covered person's first full calendar year of reporting.

(e) The process for responding to inquiries shall be administered without discriminating on the basis of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of the inquirer or any other basis prohibited by law.

(f) All covered persons shall submit to the Department an annual report regarding inquiries. The report shall include information regarding all inquiries received by the covered person, including inquiries forwarded by the Department. The report shall be prepared for each calendar year, verified by an officer authorized to act on behalf of the covered person, and filed with the Consumer Financial Protection Division, no later than thirty (30) days after the end of each calendar year. The report shall include:

(1) The covered person's name, the date, and the reporting year,

(2) The total number of inquiries received,

(3) The total number of inquiries for which a response was provided within fifteen (15) calendar days after receiving the inquiry,

(4) The total number of inquiries for which a response was provided more than fifteen (15) calendar days after receiving the inquiry,

(5) The total number of inquiries for which a response was not provided,

(6) Regarding each inquiry for which a response was provided more than fifteen (15) calendar days after receipt, a brief explanation of why the response was not provided within fifteen (15) calendar days,

(7) Regarding each inquiry for which a response was not provided, a brief explanation of why a response was not provided, and

(8) The number of inquiries received for each tracked category, as required by subdivision (d) of this section.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

5. Section 1074 is adopted to read:

Section 1074: Processes and procedures for covered persons to provide a timely response to the Department.

(a) A covered person shall develop and implement written policies and procedures for responding to requests from the Department regarding a consumer complaint. Service providers and affiliates of the covered person shall not be responsible for developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service. The procedures shall include the following:

(1) A covered person shall, within fifteen (15) calendar days after receiving the Department's request regarding a complaint, review and evaluate the complaint using the procedures set forth in Section 1072(c) and, subject to the obligations in Section 1072(e)(3), (f), and (g), provide a written response to the Department with:

(A) A clear explanation of the final decision in plain language, including the specific reasons for the decision and a summary of the steps taken to respond to the complaint,

(B) The items required in Section 1072(f) for the written record, and

(C) Any follow-up actions or planned follow-up actions by the covered person to respond to the complaint.

(D) If the covered person needs additional time to respond, the covered person shall, within three (3) calendar days after the initial 15-day period ends, provide the Department with a written update regarding the status

of the response, the reason for the delay, and an estimate of the additional time needed to respond, which shall not be more than forty-five (45) calendar days after the initial 15-day period ends.

(2) The Department may send follow-up requests for information from the covered person after receiving the initial written response required by subdivision (a)(1) of this section. The covered person shall, within ten (10) calendar days after each follow-up request, provide a written response to the Department with all requested information.

(b) Every covered person shall develop and implement written policies and procedures for responding to requests from the Department regarding an inquiry. Service providers and affiliates of the covered person shall not be responsible for developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service. The procedures shall include the following:

(1) A covered person shall, within fifteen (15) calendar days after receiving the Department's request regarding an inquiry, review and evaluate the inquiry and, subject to the obligations in Section 1073, subdivisions (d) and (e), provide a written response to the Department addressing all issues raised by the inquiry. The written response shall include:

(A) A summary of the steps taken by the covered person to respond to the inquiry,

(B) Responses received by the covered person from the consumer, and

(C) Any follow-up actions or planned follow-up actions by the covered person to respond to the inquiry.

(2) The Department may send follow-up requests for information from the covered person after receiving the initial written response required by subdivision (b)(1) of this section. The covered person shall, within ten (10) calendar days after each follow-up request, provide a written response to the Department with all requested information.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

6. Section 1075 is adopted to read:

Section 1075: Consumer requests for nonpublic or confidential information – Definitions.

For purposes of subdivision (d)(2)(D) of Financial Code section 90008,

(a) “Nonpublic or confidential information” means:

(1) confidential supervisory information,

(2) proprietary information confidentially maintained by the covered person or service provider, including trade secrets, of which the release would be damaging or prejudicial to the business concern, or

(3) personal information not publicly available regarding a consumer other than the one making the request for information.

(b) “Nonpublic or confidential information” does not include information contained in records made publicly available by the Department or information that has otherwise been publicly disclosed by an employee or agent of the Department with the authority to do so.

(c) “Confidential supervisory information” means:

(1) any documents, materials, or records, including reports of examination, prepared by, on behalf of, or for the use of the Department or any other federal, state, or foreign government agency in the exercise of regulatory oversight of a covered person or service provider, and any information derived from such documents, materials, or records,

(2) any communications between the Department and a covered person or service provider related to the Department’s regulatory oversight of the covered person or service provider, and

(3) any information provided to the Department by a covered person or service provider for purposes of detecting and assessing risks to consumers and to markets for consumer financial products or services, or to assess whether an entity should be considered a covered person or is subject to the Department’s regulatory oversight.

(d) “Personal information” means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked,

directly or indirectly, with a particular consumer or household. "Personal information" does not include consumer information that is deidentified or aggregated.

(e) "Publicly available information" means information lawfully made available to the public from federal, state, or local government records.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.