

July 5, 2022

Via Electronic Mail: regulations@dfpi.ca.gov

PRO 03-21

Department of Financial Protection and Innovation

Attn: Sandra Navarro and David Bae

300 S. Spring Street, Suite 15513

Los Angeles, California 90013

**Re: Affirm Comment on “NOTICE OF PROPOSED RULEMAKING - UNDER
THE CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW:
CONSUMER COMPLAINTS AND INQUIRIES (PRO 03-21)”**

To Whom it May Concern:

Affirm, Inc.,¹ submits this letter in response to the request for comment by the California Department of Financial Protection and Innovation, in adopting new rules to implement, interpret, and make specific section 90008, subdivisions (a), (b), and (d)(2)(D) of the CCFPL pertaining to consumer complaints and inquiries.² Affirm welcomes the DFPI's prioritization of consumer health by promulgating rules to ensure companies implement responsible practices and fair lending in handling consumer complaints and respectfully provides these comments in the spirit of effective collaboration.

¹ Affirm was founded in 2012 with a vision of creating a modern financial services company and network based on trust and transparency. Affirm first developed and launched a no-fee Point of Sale (POS) installment loan product in August 2014. Since then, Affirm has improved access to these loans through increasing its merchant base, continuously innovating underwriting and fraud identification models, and providing multiple channels of delivery. Affirm's technology-driven approach to underwriting has also allowed for increased credit access to consumers whose FICO scores may not fully represent their creditworthiness. For example, Affirm is able to approve 75% of applicants with a FICO score between 620-650, and 46% of applicants with a FICO score <620 (date range Jan 2022 - Mar 2022)

² NOTICE OF PROPOSED RULEMAKING UNDER THE CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW: CONSUMER COMPLAINTS AND INQUIRIES (PRO 03-21)

I. About Affirm

Affirm empowers consumers by offering a transparent and flexible way to pay over time with no late or hidden fees. We provide consumers with increased purchasing power, and greater control over managing their finances. We enable consumers to pay at their own pace in biweekly or monthly payments, rather than entirely up front. Unlike many credit cards and other Buy Now, Pay Later options, Affirm does not charge any hidden fees, not even late fees. The interest-bearing transactions we facilitate only include simple interest. This means that the interest is based upon a fixed percentage the consumer agrees to up front at checkout and it never compounds. Consumers who choose Affirm never owe a penny more than what they agree to at checkout, even if they are late or miss a payment. On the other side of the transaction, Affirm helps merchants of all sizes drive growth and better serve their customers. We've proven that we can increase sales and introduce new consumers to our merchant partners. We have lent a total of \$4.9B in the state (\$1.9B in the last 12 months), in partnership with 44,700 California merchants. Across our entire national merchant network, we have 2,100 diverse owned businesses.

Affirm believes that obsessing over consumer experience is an essential strategy for growing and sustaining a successful enterprise. A critical component of our mission to deliver honest financial products that improve lives, is **"People come first"**. We consider our impact on people's lives before we think about our own interests. We also embed another principle, **"It's on us"** into how we do business and treat our customers. We take full accountability for our actions, never shirking responsibility or passing the buck. Customer feedback and satisfaction drives our product innovation, customer service, and investments in transparency. Affirm considers customer success and satisfaction a core priority, and strongly believes "obsessing over user experience compounds",³ and the results from the trust we are building with consumers are clear: in the last quarter, 81% of all transactions were from repeat Affirm users.⁴

³Affirm Holdings, Inc. Fiscal Year 2022 Third Quarter Earnings Conference Call May 12, 2022
<https://investors.affirm.com/static-files/710fed05-00b8-48b2-a866-ef5355724903>

⁴ Id.

- II. Affirm supports transparent regulatory frameworks that promote responsible innovation in the banking industry, while avoiding the unintentional stifling of the efficiencies and advancements that responsible lenders and platforms are able to provide.

Consumer complaints are essential for increasing customer satisfaction, improving business practices and efficiencies, and identifying systemic issues. The proposed rulemaking presents an important opportunity for the DFPI to promote consumer protections that are necessary and timely in the wake of the COVID 19 pandemic, and with increasing macroeconomic headwinds. Affirm supports the DFPI's concern in ensuring that customers are treated fairly, businesses taking accountability for their customers' experience, and how their complaints are addressed. Our response to the request for comment aims to provide feedback to help the DFPI achieve its stated objectives.⁵

We respectfully recommend DFPI to 1) refine and provide greater clarity for key definitions and procedural investigative requirements; and (2) consider the comprehensive impact the current rule can have on the industry at large, businesses, and, especially, consumers.

1. Affirm strongly recommends DFPI clarify aspects of the processes and requirements to mitigate the impacts of ambiguity. First, the proffered complaint submission form should require additional identifying information from customers submitting a complaint, so that a proper investigation and response are in compliance with CA and Federal privacy requirements. Additionally, the effective date should be determined so as to allow for sufficient time to refine and adjust processes to bring them into compliance. The effective date of the proposed regulation, if adopted, was missing in the proposal. Lastly, the proposed regulation requires the filing of annual and quarterly reports, yet it does not specify where to

⁵ CA DFPI stated objectives were published by the DFPI, in its "[Initial Statement of Reasons](#)"

send the reports to. We request the Department provide a contact person to receive the required reports.

2. Affirm supports the goal of creating robust consumer protections derived from improving consumer complaint processes. At Affirm, we take pride in the customer-centric processes we have successfully developed, and we strongly urge the DFPI to consider the potential impact of any forthcoming rules to both industry and consumers. The rule could force businesses to supplant, and possibly recreate, their pre-existing fair and well-established systems with new and untested processes. Potentially burdensome requirements reduce efficiency and delay complaint resolutions and key feedback loops. Affirm has long established policies and procedures to resolve and address complaints. The proposed regulation is both overbroad in its reach and potentially unduly burdensome. With the biggest potential consequence of disrupting a well-established and proven system for resolving consumer complaints that Affirm has built up over almost a decade. Strengthening consumer protections would be best achieved by allowing companies with established and effective complaint-management programs to continue refining and improving their products and services through established feedback systems and programs, which can be assessed in the supervision process. Our customers can submit complaints via telephone, mail, chat, email, and through social media. Customers are also able to submit complaints to the CFPB, and other banking regulators. An overly broad, and proscriptive rule would disrupt existing complaint management systems specifically developed over years of listening, anticipating, and addressing consumer complaints.

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Affirm respectfully submits the above comments and welcomes the opportunity to provide input and engage with DFPI to promote regulatory guidance that fosters innovation that is inextricably tied to consumer fairness.