



July 5, 2022

Ms. Sandra Navarro
Department of Financial Protection and Innovation
300 S. Spring Street, Suite 15513
Los Angeles, CA 90013

Via Email regulations@dfpi.ca.gov
_____@dfpi.ca.gov

RE: PRO 03-21

Dear Ms. Navarro:

The California Chamber of Commerce (CalChamber) appreciates the opportunity to comment on the Department of Financial Protection and Innovation's (Department) proposed rulemaking number PRO 03-21, governing "Consumer Complaints and Inquiries" within the California Consumer Financial Protection Law (Proposed Regulations).

CalChamber is the largest broad-based business advocate to California government. Our membership represents one-quarter of the private sector jobs in California and includes firms of all sizes and companies from every industry within the state. CalChamber is committed to helping California businesses thrive while complying with complex laws and regulations.

The Proposed Regulations would apply to businesses offering financial services and products, with some exceptions for entities governed by federal law, such as student loan servicers and credit consumer reporting agencies. CalChamber is concerned that the Proposed Regulations are overly prescriptive, burdensome, and may not represent the most efficient way to serve consumers. In addition, we are concerned that the Proposed Regulations fail to exempt certain types of disputes that are otherwise covered by federal credit reporting laws. We fully understand the Department's intention and interest in the Proposed Regulations but believe that they would lead to several unintended consequences as currently drafted.

A. The Live Operator Requirement is Burdensome and Inefficient

As written, the Proposed Regulations do not provide sufficient flexibility for businesses to address consumer complaints and inquiries associated with financial products and services. Rather, they would require covered businesses to maintain a dedicated telephone line to be staffed by a live representative. This requirement, with no alternatives, does not reflect best practices and neither does it reflect how customers currently engage with businesses. For example, webform technologies and other options more effectively address consumer complaints. These options also often provide cost savings for businesses.

There are also unique risks and challenges associated with taking consumer complaints over the phone, such as misinterpretations or miscommunications. A website form or a text-based chat system allows a customer to provide their information and contemporaneously generate a written record. The requirement to have a dedicated phone line and representative for a "live" entry call is also duplicative of existing practices for many businesses that use a call center to address consumer complaints. The expansion of phone services would redirect resources from other efforts to address complaints.

We understand that the Proposed Regulations are aimed at ensuring timely responses to consumer complaints and inquiries and we agree with proposed timeframes for responses. However, the existence of a live representative does not guarantee timely responses; rather, it can inadvertently lead to backlogs when large numbers of consumers call in at the same time. Webforms and other programs allow consumers to describe their grievances nearly instantaneously, and thus allows both the consumer and business to move toward a resolution more quickly.

We also understand that the state and Department has an interest in ensuring consumers have contact with a person during the complaint process. The requirement to provide consumers with a contact person upon receipt of a complaint, which is already included in the Proposed Regulations, addresses this interest. We request that the Department remove the requirement for a “live representative” and instead allow businesses to choose the method by which consumers can submit complaints and inquiries that is more tailored to the ways consumers currently engage with the business.

B. Homepage Disclosure Requirements are Confusing and Overly Prescriptive

The Proposed Regulations include a requirement that covered businesses place a disclosure related to consumer credit complaints and inquiries on the business’ home page. Companies often have multiple lines of business that link from the same home page, including some to which these Proposed Regulations do not apply. By requiring companies to include disclosures at the top of the home page, the Department risks confusing consumers about what rights they may have while inadvertently obscuring other information on the home page that would be relevant to consumers.

In addition, many covered businesses operate nationally, meaning that they serve consumers who are not California residents. Homepage disclosures, specifically California-only contact information, could generate confusion for customers who do not reside in California, and may cause delays in response and action on complaints. In other contexts, businesses are required to provide certain state-specific disclosures, there is flexibility on where links are located and where further details can be provided. To address this, we recommend that the Department narrow this requirement to give businesses the flexibility to place disclosures in appropriate locations on their websites, such as a contact page or another page with relevant information.

C. Written Communication Requirements Are Overbroad

Similarly, the Proposed Regulations are overly burdensome when it comes to disclosures on other written communications. Specifically, the Proposed Regulations would require covered businesses to disclose certain filing procedures on all written communications to each consumer of a financial product or service. The Proposed Regulations do not define “communications,” which means it could be interpreted very broadly. This breadth is very burdensome and does not advance consumer interest. A narrowing of this requirement would assist in both decreasing the burdens on companies and ensuring that the consumer interest is served more efficiently.

In addition, for companies that maintain multiple lines of business (not all of which are financial products or services), communications that are unrelated to a financial product or service could still be required to include disclosures whenever such communications are sent to a “consumer of a financial product or service” that is using one of the company’s other products or services. Such a disclosure would be confusing to consumers as it would appear they have rights to a complaint or inquiry for products or services that they do not. We request that the Department limit the written communication requirement only to communications related to the particular financial product or service that the consumer uses.

D. The Proposed Regulations Should Exclude Other Disputes Covered by the Federal Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) imposes significant and detailed oversight requirements on regulated entities. We understand California’s interest in ensuring that consumers have the ability to inquire

about the financial products and services they are using. However, the significant federal dispute requirements imposed on entities regulated by FCRA already adequately protect consumers.

FCRA requirements apply to more entities than just the consumer reporting agencies currently exempt from the Proposed Regulations. The complaint and inquiry process may then be duplicative of obligations already imposed on such entities and could lead to confusion for consumers. We encourage the Department to exempt all entities regulated by FCRA from these rules. In the alternative, the Department should state that compliance with FCRA means compliance with these rules.

Thank you for considering our comments on the Proposed Regulations. Please contact me if you have any questions.

Sincerely,

Brenda Bass
Policy Advocate

cc: Mr. David Bae

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