



By e-mail to regulations@dfpi.ca.gov

June 24, 2022

Commissioner of Financial Protection and Innovation
Attn: Sandra Sandoval, Regulations Coordinator
300 South Spring Street, 15th Floor
Los Angeles, CA 90013

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Re: Invitation for Comments on Proposed Rulemaking Under the California Consumer Financial Protection Law: Consumer Complaints (Pro 03-21)

Dear Ms. Sandoval:

I write on behalf of the California Financial Service Providers Association (CFSP) regarding DFPI PRO 03-21. Specifically, the proposed regulation (“Proposal”), if adopted, would have a significant negative impact on my members, particularly smaller entities. The Proposal is focused on complaints. We understand that this regulation is intended to capture consumer “complaints” that are not made directly to the DFPI (and we note, registered complaints to volume of activity is statistically minimal); the Proposal, however, will result in unreasonable interference with the ordinary operations of Covered Persons (as defined) and an unnecessary burden to the DFPI, but with no corresponding benefit to the consumer.

Listed below are some bullet points that members have voiced in concern regarding the Proposal:

- The proposal is largely duplicative of CFPL complaint procedure requirements and the “specifically prescribed procedures” are extremely burdensome and will be expensive for small entities to implement;
- The definitions of “inquiry” and “complaint” largely overlap so virtually all communications from customers will arguably need to be treated as a “complaint” and potentially subject to an escalation process (as an example, as written, if a customer is assessed a late fee consistent with the terms of his or her contract but calls and requests that it be waived (an “expression of dissatisfaction”) and the Covered Person agrees to waive such fee, that still would arguably trigger the complaint process described in the Proposal. Similarly, if a customer calls and “complains” about a late fee imposed consistent with the terms of the applicable agreement, that contact would also need to “escalate” to the complaint process described in the Proposal even though this is simply the enforcement of a contact). In the same vein, we have members who are “furnishers” of credit reporting information and who receive inquiries as defined by the Fair Credit Reporting Act (“FCRA”) and are subject to FCRA requirements – it would be unnecessary and unduly burdensome for Covered Persons to treat those communications as “inquiries” or even “Complaints” under the Proposal.
- Annual reports defined in statute have asked for Complaints, never inquiries.
- The time frames for responses to “inquiries” and “complaints” are too short, imposing an unreasonable burden on businesses and requiring an initial



acknowledgment, followed by a substantive response serves no legitimate purpose.

- Internal report compilation requirements (every 30 days) and DFPI reporting requirements (quarterly) are unnecessarily frequent and too burdensome for businesses and appears to be an arbitrary requirement given the DFPI's resources (we note that the NMLS transition requirement and the Debt Collection Licensing processes were (unnecessarily) subjected to accelerated time frames which the DFPI could not manage.
- It will likely require significant software upgrades to monitor and report requirements of the Proposal. Accomplishing these upgrades in timelines promoted are impossible for many and unduly burdensome for all.
- Fourteen (14) categories of complaints: some are duplicative and many lack clarity. This could necessitate a single consumer complaint being described using multiple complaint types. That is likely to confusion for Covered Persons and lead the DFPI to improperly inflate complaint data. We would suggest that the DPFPI meet with industry to establish complaint categories (with subcategories as applicable) to properly capture consumer contacts that need to be reported and to ensure accuracy when the DFPI issues reports.

We ask the Proposal be delayed and an Advisory meeting or panel convened to further discuss objectives and reach conclusions that are less burdensome to the industry and frankly, to the DFPI but still will result in a process that will benefit and protect California consumers. In challenging times created by COVID and inflationary monetary restrictions all parties can benefit by regulations that are appropriately vetted and take into account the needs/positions of all stakeholders.

We note that our industry, and the CFSP Director and Officers, have been very helpful in the past when past Commissioners and staff have worked cooperatively together on these type of issues. We note further that we have many members with complaint management processes that are designed to address consumer complaints (that require escalation internally in the organization as appropriate). We would request that we have those members provide information regarding such processes so the DFPI can consider and implement a process that is appropriate to the goal of addressing consumer complaints (not currently captured by the DFPI complaint process) without unnecessarily interfering with the operations of Covered Persons.

Our industry has consistently demonstrated regulatory adherence substantiated by very minimal complaints from consumers, edicts from legislators, and leadership that appreciates being part of the solution. The Proposal appears to be a "solution" to a problem that does not exist but that being said, CFSP requests the opportunity to participate in any rulemaking so as to accomplish the goal of the Proposal

Respectfully,



Thomas Leonard
Executive Director
California Financial Service Providers