



To Whom It May Concern:

Thank you for the opportunity to comment again regarding PRO 03-21. Earnin is encouraged that the Department has incorporated some of our suggestions from the last comment period in the latest draft text. We look forward to continuing to collaborate with you in CCFPL's rulemaking process by providing insight on what we believe is the most consumer friendly and viable. Earnin's suggestions are the following in green:

Section 1071: Definitions.

“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.

Earnin takes consumer complaints very seriously as well as its responsibility to prevent Unfair or Deceptive Acts or Practices (UDAP) as defined under Section 5 of the Federal Trade Commission Act, and Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) as enforced by the CFPB pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We recommend categorizing complaints into two buckets:

1) Complaints in which covered persons are required to respond with a final decision within specified time frames.

Business As Usual Complaint - 15 days or less

A “Business As Usual Complaint” is defined as:

- A direct request to file a complaint;
- A direct request to speak with or be referred to a manager or supervisor;
- A statement that a consumer has made multiple attempts to resolve an issue and has not received resolution to his/her satisfaction;
- A statement that a process has taken too long without resolution

High Profile Complaint - 15 days to 30 days

- A “high profile complaint” is defined as:
 - Any complaint that alleges discrimination or another legal violation;

- Any complaint that could hurt the company's reputation, bottom line or ability to do business; and
- A formal complaint filed with the following:
 - Local, state or federal law or regulatory agencies,
 - A member of Congress or a Congressional committee,
 - A member of a State Legislature or State Legislative Committee
 - A state or federal Attorney General or other state or federal law enforcement agencies, and
 - Better Business Bureau (BBB).

2) Complaints in which Earnin will not be required to respond.

Nuisance Complaint:

- Profanity
- Threats
- Complaints with no intent for resolution, including repeats of such complaints

Section 1072: Complaint Processes and Procedures.

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 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.

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.

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.

Our mobile platform is our main method of service and communication with consumers (website is our secondary method). Because our product is digital and all our interactions, including customer support happen digitally, we do not have brick and mortar locations to serve consumers. We believe our consumers would prefer and find it easier to interact with us via their normal method of interaction with us. Even if we had a physical location in California, for example, accessibility would be unequal for consumers across the country. Our mobile platform services all consumers equally.

We propose throughout this draft that complaints, inquiries, and communication with consumers be via each covered person's primary means of communication with its customer, without requiring a specific method as long as consumers are serviced adequately; this includes granting the covered person the option to service customers via phone and/or postal mail. It would be extremely expensive to establish a phone and postal mail support infrastructure when our customers are currently already adequately serviced with our live chat infrastructure.

In practice, a covered person can use its already established primary method of service, which for Earnin means digitally through live chat (primary), web form, or email, as long as each covered person 1) has a channel to file complaints / inquiries (can be the same channel); 2) sends customers an acknowledgment of receipt within one calendar day if the complaint / inquiry is submitted digitally; 3) assigns a tracking number; 4) delivers the first response within seven calendar days.

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.**

We suggest removing the bold, so that any qualified support agent may assist a complainant at any time with a tracking number to increase efficiency.

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.

It would be far less burdensome on covered persons and equally as helpful for consumers if covered persons were required to provide the time period within which the covered person is required to issue the consumer an initial response and any subsequent responses, rather than the specific date(s) by which the responses are required.

We suggest revising the language, as follows: "The procedure must include a process for recording the status of a complaint and the time period within which the covered person is required to issue the consumer an initial response and any subsequent responses."

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

We would like to add the concept of reasonableness to this requirement as follows: "The tracking shall be provided to the Department upon request and in a reasonable electronic format that the Department and covered person deem as the most efficient and secure method."

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...

We suggest an annual report instead of quarterly. Not only is a quarterly reporting requirement burdensome on covered persons, it will likely result in significant costs for the Department to review what are likely to be tens of thousands of submissions every quarter.

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

We suggest that for each complaint, covered persons shall assign one category that best describes the complaint, so that data is not inflated if an issue can fall into multiple categories.

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

We suggest that 1) the Department clarify that it does not consider a covered person's failure to satisfy the demands of a consumer who submits a complaint as an adverse action. Covered persons should be free to act on complaints as they see fit, after investigating those complaints. 2) We suggest clarifying that the prohibition against adverse action refers to adverse action by the covered person. Failure to make this clarification may make the covered person liable for the acts of others outside its control.

The following changes would implement the suggestions above: "A covered person shall not take adverse action against a complainant in retaliation for the filing of a complaint, provided, however, that failure of a covered person to resolve a complaint to the complainant's full satisfaction shall not represent an adverse action for purposes of this paragraph."

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

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.

To reduce significant burden on covered persons, we suggest that the Department simplify the process by requesting one of two responses from covered persons when it requests the status of a complaint or inquiry:

1) For complaints in which the covered person has already issued a final decision to the consumer and for inquiries for which the covered person has already responded to the consumer, the covered person shall provide a copy of its decision or response to the Department.

2) For complaints and inquiries the covered person is still investigating, the covered person should be required to tell the Department it is still investigating and should be required to provide the Department with its final decision or its response to the inquiry within the same time period described in paragraph (1), after it provides a response to the consumer.

Requiring any additional information from a covered person while that covered person is still investigating a complaint or inquiry is likely to require the covered person to redirect resources away from its investigation into the complaint or

inquiry and into a Department response. Only if a complaint has gone unresolved or an inquiry has gone unanswered for an unreasonably long period of time (perhaps 45 business days for a complaint and 30 business days for an inquiry) should a covered person be required to provide more detail to the Department regarding why the issue remains open.

Earnin values our relationship with the Department and is committed to working together towards our shared vision of doing what is best for consumers. We hope that you find our feedback insightful and know that they were drafted with the consumers' best interest in mind. Please do not hesitate to contact us with any questions or further clarification. Please email me at yvonne.chao@earnin.com.

Sincerely,

Yvonne Chao

Sr. Manager, Public Policy

Earnin