

From: George Uberti <[REDACTED]>
Sent: Saturday, May 21, 2022 3:16 PM
To: DFPI Regulations
Subject: PRO 3-21: Input on proposed regulations Re: Consumer Complaint process

The following suggestions concern proposed regulations for which the deadline of submission is July 5, 2022, under:

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

Section 1072: Complaint Processes and Procedures, states:

"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."

SUGGESTION 1:

I disagree strongly that the principal party offering the financial product or service should be vested with the responsibility for responding to complaints about the financial products and services they offer under any circumstances.

Consumers are already at a significant legal disadvantage in the complaint process and removing any kind of outside authority to check and balance the legal authority of financial service providers to behave irresponsibly with the finances entrusted to them by consumers fails to align with the consumer facing purposes of these regulations.

This is a loophole written into the law which empowers financial service providers to manipulate the complaint process to their favor. Consumers of financial services are generally not financial professionals, and complaints create an oppositional posture between parties. As non-professionals, consumers are already at a disadvantage in opposing financial service providers and that disadvantage is increased by entrusting the management of consumer complaints to the financial service providers that oppose them. Financial service providers will eventually learn to exploit this loophole to their advantage unless the department has the regulatory foresight to close it now.

The DFPI should be the entity that receives and reviews consumer complaints

SUGGESTION 2:

Under section 1072 (a) (1) the following prerequisites are listed for a complaint form:

"(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. "

Virtually all of this information is about the consumer complaining. Complaint forms should be supplied by the DFPI and they should contain, at a minimum:

- (A) A field containing the financial service provider's name, business license number and any other certification identifiers relevant to the conduct of their business in the state of California, such as a SEC registration number and securities license.
- (C) A field for the provider's telephone number,
- (D) A field for the provider's mailing address,
- (E) A field for the provider's e-mail address,
- (F) A field for the provider to describe the services they provide and what laws they are governed under

The online version of this document can easily be made to populate these fields automatically upon complainant's supply of the relevant provider's identifying information.

SUGGESTION 3:

Further, protective measures for the information that complainant's provide very much need to be put in place here. The Department needs to provide for an anonymous complaint process and one in which complainant information is kept confidential in the interest of preventing retaliation from financial service providers. Consumer protection is the purpose of these regulations, that means protecting consumer information and supplying financial service provider information to correct the legal vulnerability of consumers to their providers in the complaint process.

The DFPI must provide an anonymous option of complaint to the DFPI directly together with a privacy protected option, to ensure consumer confidence against retaliation.

Respectfully submitted,

George Uberti, Consumer advocate

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