



July 5, 2022

Emailed to: regulations@dfpi.ca.gov

Subject line: PRO 03-21

Dear [Commissioner Hewlett]:

The Online Lenders Alliance (OLA) represents the online lending industry and companies that provide services to those online lenders. We appreciate the invitation to provide comments on rulemaking under the California Consumer Financial Protection Law: Consumer Complaints and Inquiries (PRO 03-21).

The Department proposes to add sections 1070, 1071, 1072, 1073, 1074, and 1075 to Title 10 of the California Code of Regulations in order to implement, interpret, and make specific Financial Code section 90008, subdivisions (a), (b), and (d)(2)(D) of the California Consumer Financial Protection Law. OLA thinks that detailed comments regarding the processes and procedures are premature until the overall requirements regarding “complaints” and “inquiries” are addressed.

I. Definition of “Complaint” and “Inquiry”

The proposed rules define a “complaint” as follows:

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.

This definition of a “complaint” is so vague and broad that no covered person could ever know what may or may not constitute a complaint and could be interpreted in such a manner as to encompass most consumer communications. Given the proposed recording and reporting requirements of such “complaints,” this definition would create an extremely time-consuming and resource draining task, if not altogether an impossible task. OLA recommends that the definition of “complaint” be much more limited to only cover communications from consumer regarding suspicion of unlawful conduct with respect to the financial product offered by the covered entity. Limiting the definition in this manner would not only be reasonable but more effective in addressing the DFPI’s regulatory oversight.

Furthermore, this definition does not stipulate that a “complaint” is connected to a consumer’s direct experience with the covered entity’s product or service. The Consumer Financial Protection Bureau’s definition of “complaint” for their handling process does make this stipulation, and without it, the proposed definition could seemingly allow individuals to submit “complaints” that are actually comments regarding the decisions or the policies of a covered entity rather than their personal experience with a product or service offering.



The proposed rules define an “Inquiry” as follows:

A question or request for information, interpretation, or clarification submitted by an inquirer regarding a specific issue or problem with a financial product or service.

“Inquiry” should be better defined to provide guidance to a covered person to differentiate an “inquiry” from a “complaint.” There should be minimal obligations on a covered person as to “inquiries.” Whether, when, and how a business responds to a consumer inquiry (i.e. information, interpretation, or clarification about a financial product) should primarily be a matter of customer service and competition within the marketplace. The processes and procedures proposed by the DFPI as to inquiries would require every covered person to record, obtain information about, categorize, respond to, and report to the DFPI on too broad of an array of consumer communications. The sheer volume and complexity would be overwhelming to any covered person as well as the DFPI.

The detailed information the DFPI is proposing covered persons obtain related to an “inquiry” creates unnecessary privacy and data security issues for California consumers. The timing requirements for responses would be impossible for many, if not all, covered persons to meet. As indicated, responding to consumer inquiries are part of customer service. Customer service is not within the purview of the DFPI.

II. Proposed Complaint Processes and Procedures

The proposed complaint processes and procedures are generally too complex, impractical, vague, unduly burdensome, and in many respects unnecessary.¹ Almost all proposed processes and procedures need clarity and/or should be limited in timing and scope.

A. Complaint process and timelines

The proposed complaint form needs clarification, including but not limited to by whom and how the form is to be completed in certain scenarios. Requiring covered persons to track complaints through numerous vehicles (mail, email, and phone) will be extremely complicated and burdensome especially

for online providers. Much of the information required to be retained and reported about “complaints” is unnecessary, not useful to the DFPI’s regulatory authority, and is unclear as to how it would need to be categorized.

As it currently stands, the short deadlines for sending acknowledgements (1-7 calendar days depending on if received by phone, email, or mail) are impractical. With so many people working remotely, it would be challenging, if not impossible, for companies to meet this acknowledgement deadline when the acknowledgement must be sent via regular mail.

¹ As indicated herein, OLA recommends that there be minimal rules requiring the retention, responding to, and reporting of an “inquiry.”



Lastly, we respectfully suggest that timeframes be changed to reflect business days rather than calendar days. By using calendar days, “covered persons” may be required to respond to complaints over a holiday weekend without a single business day passing.

B. Oversight, tracking, and reporting

The number of data points and information to track and categorize are overwhelming, unnecessary, and not useful to the DFPI’s regulatory authority.

C. Record Keeping

Requiring a covered person to maintain these records for five (5) years is unnecessary and unduly burdensome. It is also not consistent with existing record retention requirements and poses heightened data security risk.

D. Inquiries Procedure

As mentioned, there should be minimal requirements for covered person with respect to an “inquiry.” This should be a matter of customer service and competition in the marketplace. We are not aware of any similar regulatory requirement at either the state or federal level.

E. DFPI Requests

The proposed process with respect to “complaints” needs clarity and the timing requirements need to be lengthened. As discussed, there should be no requirements on covered persons with respect to an “inquiry.”

Finally, we find the DFPI’s stated assumptions that this rule will have no adverse economic impact on business, and the stated cost of compliance (\$2,500 initially and \$4,000 to comply annually) to be incorrect based on the reporting requirements alone. We believe the DFPI should reevaluate these questions.

We look forward to further engaging and working with the DFPI to promulgate reasonable and cautious rules that are consistent with the CCFPL, other applicable laws, as well a competitive marketplace.

Thank you for your consideration,



Andrew Duke
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Online Lenders Alliance