



Payactiv, Inc.
4880 Stevens Creek Blvd.
San Jose, CA 95148

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

Sent: *By e-mail to regulations@dfpi.ca.gov*

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

Dear Ms. Sandoval,

Payactiv, Inc. ("Payactiv") is a California-based Public Benefit Corporation and the first provider of EWA as part of a financial wellness app. In addition to EWA, our app includes budgeting and savings tools, bill pay, prescription discounts and financial counseling among other features. Payactiv processes billions in EWA payments every year to employees in all 50 states and Puerto Rico.

Payactiv appreciates this opportunity to comment on the Department of Financial Protection and Innovation's (the "Department") Proposed Rulemaking Under the California Consumer Financial Protection Law: Consumer Complaints issued on May 20, 2022 (the "Proposed Rule").

While Payactiv supports the intent behind the Proposed Rule, as currently formulated, it would take an inordinate amount of internal and external resources for the company to implement effectively, and correctly. Indeed, Payactiv and other EWA companies are already required to report complaints pursuant to the Memorandums of Understanding (MOUs) that were agreed to in late 2020 and early 2021.¹ As part of its MOU with the DFPI, Payactiv agreed to provide quarterly data about written consumer complaints including the identity of the complainants, the numbers and nature of the complaints, and the resolutions thereof.²

The proposed rule's definition of "complaints" – "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

¹ California Dept. of Fin. Prot. and Innovation, *Memorandum of Understanding* (Jan. 14, 2021), available at <https://dfpi.ca.gov/wp-content/uploads/sites/337/2021/01/Admin.-Action-Payactiv-Inc.-Memorandum-of-Understanding.pdf>

² *Id.* at 3.

financial product or service” – is so broad that covered persons may be forced to classify as complaints even minor inquiries, technical glitches, or user error.

This is not only inefficient for the Covered Person, but it is also likely to inflate the number of “complaints” reported to the Department, and would dramatically increase the amount of work required by the Department to correspondingly process them.

As the letters of Paul Soter and Eileen Newhall explain, “Covered Persons address, on a daily basis, numerous communications from and with their customers that are really customer service issues that are solved by the Covered Persons in the normal course of business and do not need escalation. Those communications are generally not ‘complaints’ in the normal sense of that work.”³ This potentially leads to an inaccurate and inflated count of complaints in the reports and may require many minor issues to be escalated unnecessarily.

Payactiv generally agrees with the comments submitted to the Department by Mr. Soter and Ms. Newhall, and therefore joins in their proposals.

Sincerely,

A solid black rectangular redaction box covering the signature area.

Candice P. Shih
Vice President and Deputy General Counsel, Payactiv, Inc.

³Law Offices of Paul Soter, *Response to Invitation for Comments on Proposed Rulemaking Under the California Consumer Financial Protection Law: Consumer Complaints (Pro 03-21)*, p. 5, June 28, 2022, <https://dfpi.ca.gov/wp-content/uploads/sites/337/2021/10/Law-Offices-of-Paul-Soter-9.17.21.pdf>.