



June 30, 2022

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

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

**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 Wheels Financial Group, LLC dba LoanMart (“LoanMart”) regarding DFPI PRO 03-21 (the “Proposal”). The Proposal is focused on complaints and, based on my reading, primarily focuses on capturing consumer “complaints” that are not made directly to the DFPI (which are already subject to a specific process).

LoanMart is aware that several other individuals and companies have provided comments with respect to the Proposal¹, and we will endeavor to not repeat such comments verbatim; but as noted by many, the Proposal is simply not reasonable in its current form and therefore is not consistent with Financial Code §90008(a).

First, and most significantly, the Proposal as written conflates “inquiries” with “complaints” with the potential outcome that virtually every customer interaction could be characterized as a matter that requires some form of escalation (since the definitions in the Proposal are grossly overbroad). This would be an absurd result but is the only logical interpretation of the Proposal in its current form.

As an example, as the Proposal is written, if a customer is assessed a late fee consistent with the terms of his or her contract but calls and requests that said fee be waived because the mailed payment was delayed (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 contract. It should be noted that the DFPI’s own website includes “Important Information on DFPI Complaint Process” and states, “We do not resolve factual disputes or disagreements over the interpretation of contracts” – yet the Proposal purports to do just that.

Second, and along the same lines, the Proposal fails to account that certain communications/complaints made by a consumer/customer are already subject to other statutory and/or regulatory requirements, and the Proposal fails to contain exclusions for the same. Those statutes/regulations that already include a

¹ As many have noted, the Proposal appears to be a “solution” to a problem that does not exist. Perhaps this is overly cynical, but as currently written the Proposal appears to be designed with the primary goal of inflating the number of complaints to justify an unnecessary regulatory process.



process for managing inquiries/disputes include, but are not limited to, Regulation Z, Regulation E, Regulation B, the Fair Credit Reporting Act, and the privacy inquiry rules of Regulation P and the CCPA. As just one example², LoanMart is a “furnisher” of credit reporting information as defined by the Fair Credit Reporting Act (“FCRA”) and is subject to FCRA requirements as it relates to credit reporting disputes. It would be unnecessary and unduly burdensome for LoanMart (or any other Covered Person) to treat communications made in connection with credit reporting as “inquiries” or even “Complaints” under the Proposal, and moreover, it would be impracticable if not impossible for the DFPI to administer this level of communication.

Third, the Proposal includes fourteen (14) categories of complaints, some of which are duplicative and many of which lack clarity is another reason that the Proposal requires significant revision. As written, the Proposal could necessitate a single consumer complaint treated as multiple complaints. That will certainly cause confusion to both LoanMart and other Covered Persons (and lead the DFPI to improperly inflate complaint data). We suggest that the DPFI work with industry to establish complaint categories (with subcategories as applicable) to properly capture consumer complaints that need to be reported and ensure accuracy when the DFPI issues reports.

We request that the Proposal be delayed and that the Department meet with representatives of Covered Persons and/or form an Advisory Panel to collaborate and develop a workable complaint reporting structure that will address how to capture and respond to complaints that **actually require** escalation. LoanMart has had a minimal number of complaints from California consumers, whether made to the DFPI, another regulatory agency (including the CFPB or the FDIC), a third party (i.e., the Better Business Bureau), or to LoanMart directly, but generally follows the same process regardless of complaint channel. We are prepared to meet with the DFPI and provide information about LoanMart’s complaint handling process (related to escalation requirements, the complaint review and response process (including required response times) and participate further in any rulemaking so as to accomplish the goal of the Proposal.

Very truly yours,

A solid black rectangular box redacting the signature of Susan L. Germaise.

Susan L. Germaise
General Counsel

² There are a multitude of additional customer communications regarding applications, made pursuant to ECOA and the CCPA, which have standard responses consistent with the requirements of those statutes, but which would arguably require escalation under the Proposal.