



VIA E-MAIL

August 8, 2022

State of California
Commissioner of Financial Protection and Innovation
Attn: Sandra Sandoval, Regulations Coordinator
21 Arena Boulevard
Sacramento, CA 95834

Attention: Commissioner Cloey Hewlett
Email: regulations@dfpi.ca.gov

Cc: Samuel Park, Senior Counsel
Email: Samuel.Park@dfpi.ca.gov

Cc: Charles Carriere
Email: charles.carriere@dbo.ca.gov

STATE OF CALIFORNIA
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
California Consumer Financial Protection Law: Commercial Financial Products and Services
(PRO 02-21)

Equipment Leasing and Finance Association Comments On
Proposed Rulemaking

Scott Riehl
Vice President, State Government Relations
Equipment Leasing and Finance Association

Dear Ms. Sandoval:

On behalf of the Equipment Leasing and Finance Association (“ELFA”), please find below our comments in response to the referenced proposed rulemaking PRO 02-21. We appreciate the opportunity to provide comments to the DFPI concerning these proposed rules and look forward to continuing the productive dialogue on matters that we believe will add clarity, result in better

disclosures to equipment finance and leasing customers, and facilitate more uniform disclosures across the equipment finance and leasing industry. We appreciate very much your consideration of our prior input and hope you find these comments helpful as well.

Our specific comments to the proposed rule making are as follows:

1. Please consider specifically identifying the time frames for when the data collection must commence and when the first reports will be due. It will take businesses a substantial amount of time to create software, programs, and procedures to gather the data that is being sought, and to put it in the detailed reporting format that is being mandated. Therefore, what would appear to be a logical time frame, in light of the first draft of the proposed regulations coming out in 2022, would be to have the required data collection begin no sooner than January 1st, 2024, with the first report being due no sooner than March 15th, 2025 (for data collected during 2024).
2. The current definitions for “small business,” “nonprofit” and “family farm” are complex and that data generally is not captured by dealers and finance companies today. Please consider simplifying the definitions and permitting covered providers to rely on a customer’s representation that they are a small business, nonprofit or family farm. Also the definition of “covered provider” appears to be much broader than the “covered person” definition in Section 90005(f) of the statute, particularly when read in conjunction with the exemptions contained in Section 90002. We request that the regulations conform the definition of “covered provider” to the definition for “covered person” and incorporate by reference the exemptions.
3. The terms and definitions used in the proposed regulation and the data being gathered under them, should generally be consistent with the California Commercial Financing Disclosure Regulations. For example, the proposed regulations refer to the term “total cost of financing,” which is not a term referenced or used in the Commercial Financing Disclosure Regulations.
4. The proposed regulations would require dealers or finance companies to collect and report information for transactions over \$500,000 and for other categories of transactions that are expressly exempt from the disclosure obligations of the Commercial Financing Disclosure Regulations, such as transactions secured by real property and auto dealer finance transactions. We believe that the if a category of transactions is subject to an express exemption under the statute and related regulations, those exemptions should also apply to the reporting requirements.

Also, we understand the intent of §1062(c) to be that if a covered provider is already complying with its reporting requirements as a licensed finance lender or broker under Financial Code Section 22159, then reporting is not required under §1062(c). We would therefore request that this Section simply state that compliance by a licensed finance lender or broker with the reporting requirements of Financial Code Section 22159 will constitute compliance with §1062(c).

We appreciate the continued opportunity to provide guidance and **ELFA's** input on these proposed rulemakings as we have throughout the legislative process and look forward to discussing these matters with you. If you have further questions, please do not hesitate to contact us.

Respectfully,

/s/ Scott Riehl

Scott Riehl
Vice President
State Government Relations
Equipment Leasing and Finance Association