



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • COMMISSIONER **Clothilde V. Hewlett**

**NOTICE OF MODIFICATION TO PROPOSED RULEMAKING
UNDER THE CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW:
CONSUMER COMPLAINTS AND INQUIRIES
(PRO 03-21)**

TITLE 10. CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

To Interested Persons:

On May 20, 2022, the Commissioner of Financial Protection and Innovation published a Notice of Proposed Rulemaking to adopt Article 5, including sections 1070, 1071, 1072, 1073, 1074, and 1075 of Title 10, Chapter 3, Subchapter 4 of the California Code of Regulations, to implement, interpret, and make specific Financial Code section 90008 of the California Consumer Financial Protection Law (“CCFPL”)¹ administered by the Department.

After considering written comments, the Commissioner is modifying the proposed regulations. A copy of the proposed modifications is being made available to the public in accordance with the requirements of Government Code section 11346.8, subdivision (c). The text, showing proposed modifications to the rules as originally noticed on May 20, 2022, is attached; additions are shown in single underline, and deletions are shown in single strikethrough. The public may submit, and the Department will consider, comments on the proposed modifications.

In addition, the Department seeks comments from the public regarding the economic impact of the revised rules.

The initial Notice of Proposed Rulemaking estimated a representative covered person could incur initial costs of \$2,500 and annual costs thereafter of \$4,000 to comply with this regulatory action. The Notice set forth the assumptions underlying this estimate. Written comments received during the initial, 45-day comment period suggest that the cost of the rulemaking may be higher than the Department initially estimated. In consideration of these comments, the Department is proposing modifications intended to reduce the regulatory costs on businesses subject to this action, while preserving important consumer protections. The Department requests stakeholders impacted by this action submit comments on the economic impact of the revised rules.

¹ Fin. Code, § 90000 et seq.

Please provide:

- 1) The specific categories of covered persons who would be affected by the revised rules, including:
 - a. The number and percentage of affected covered persons in each identified category who would be able to fully implement the revised rules using existing resources,
 - b. the number and percentage of affected covered persons in each identified category who would not be able to fully implement the revised rules using existing resources,
 - c. the average number of complaints, as defined in the revised rules, received by an affected covered person in each identified category from January 1, 2021 to December 31, 2021,
 - d. the average economic impact the revised rules would have on an affected covered person in each identified category, including any underlying assumptions and the rationale and basis for those assumptions,
 - e. all anticipated costs resulting from the revised rules on an affected covered person in each identified category, expressed in monetary terms to the extent feasible and appropriate, both initially and for each 12-month period thereafter, and
 - f. all anticipated benefits resulting from the revised rules on an affected covered person in each identified category, expressed in monetary terms to the extent feasible and appropriate, both initially and for each 12-month period thereafter.
- 2) For affected covered persons who would not be able to fully implement the revised rules using existing resources, explain:
 - a. how those covered persons currently accept, acknowledge receipt of, review, evaluate, investigate, resolve, respond to, monitor, and maintain records regarding consumer complaints and inquiries,
 - b. how the revised rules would change existing processes, and
 - c. the extent to which any costs or benefits due to the revised rules would be retained by the covered person or passed on to others.
- 3) Explain any regulatory alternatives the Department could pursue to ensure affected covered persons have appropriate procedures regarding consumer complaints and inquiries, and describe:
 - a. the economic impact of each regulatory alternative on affected covered persons, including any underlying assumptions and the rationale and basis for those assumptions, and
 - b. all costs and benefits of each regulatory alternative on affected covered persons.

- 4) Explain whether, and quantify the extent to which, the revised rules will affect the following:
 - a. The creation or elimination of jobs within the state,
 - b. The creation of new businesses or the elimination of existing businesses within the state,
 - c. The competitive advantages or disadvantages for businesses currently doing business within the state,
 - d. The increase or decrease of investment in the state,
 - e. The incentives for innovation in products, materials, or processes,
 - f. The expansion of businesses currently doing business within the state,
 - g. The benefits of the regulations including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life.

THE RULEMAKING FILE

The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available on the Department of Financial Protection and Innovation's website at www.dfpi.ca.gov, and from the Legal Division of the Department of Financial Protection and Innovation. As required by the Administrative Procedure Act, the Legal Division maintains a rulemaking file containing all the information upon which the proposal is based. The rulemaking file is available for public inspection during regular business hours.

15-DAY COMMENT PERIOD

Any interested person or authorized representative may submit written comments regarding the proposed changes to the regulations and their economic impact, by postal or electronic mail:

By Postal Mail

Department of Financial Protection and Innovation
Attn: Araceli Dyson
2101 Arena Blvd.
Sacramento, CA 95834

By Electronic Mail

Comments may be submitted electronically to regulations@dfpi.ca.gov with a copy to David.Bae@dfpi.ca.gov. Please identify the comments as PRO 03-21 in the subject line.

Written comments may be submitted through **January 13, 2023**.

The proposed changes to the Commissioner's rules in the text accompanying this notice are not yet effective and will not be effective until approved by the Office of Administrative Law and filed with the Secretary of State in accordance with Government Code Section 11349.3.

Questions regarding the content of this notice may be directed to David.Bae@dfpi.ca.gov.

Dated: December 22, 2022