

January 20, 2023

Mr. David Bae and Ms. Araceli Dyson
Department of Financial Protection and Innovation
2101 Arena Blvd.
Sacramento, CA 95834

Email: regulations@dfpi.ca.gov
David.Bae@dfpi.ca.gov

SUBJECT: Comments on Proposed Rulemaking PRO 03-21

Dear Mr. Bae:

The California Chamber of Commerce (CalChamber) appreciate the opportunity to comment on the Department of Financial Protection and Innovation's (Department) proposed rulemaking number PRO 03-21, governing "Consumer Complaints and Inquiries" within the California Consumer Financial Protection Law (Proposed Regulations).

CalChamber is the largest broad-based business advocate to California government. Our membership represents one-quarter of the private sector jobs in California and includes firms of all sizes and companies from every industry within the state. CalChamber is committed to helping California businesses thrive while complying with complex laws and regulations.

We appreciate the Department's revisions of the Proposed Regulations, particularly where the changes address issues we identified in our previous comments. However, several issues remain where CalChamber believes that the Proposed Regulations create an undue burden on businesses.

A. The Live Operator Requirement is Burdensome and Inefficient

As we stated in our previous comments, the live operator requirement remains overly burdensome and inefficient. The Proposed Regulations do not provide sufficient flexibility for businesses to address consumer complaints and inquiries associated with financial products and services. Rather, they would require covered businesses to maintain a dedicated telephone line to be staffed by a live representative. This requirement, with no alternatives, does not reflect best practices and neither does it reflect how customers currently engage with businesses. For example, webform technologies and other options more effectively address consumer complaints. These options also often provide cost savings for businesses.

There are also unique risks and challenges associated with taking consumer complaints over the phone, such as misinterpretations or miscommunications. A website form or a text-based chat system allows a customer to provide their information and contemporaneously generate a written record. The requirement to have a dedicated phone line and representative for a "live" entry call is also duplicative of existing practices for many businesses that use a call center to address consumer complaints. The expansion of phone services would redirect resources from other efforts to address complaints. These costs would far exceed the Department's \$4,000 compliance cost estimate. If even one person must be hired in order to comply, that would cost far more than \$4,000 annually. A functioning voicemail system to accompany this would also incur costs much greater than the Department's estimates.

We understand that the Proposed Regulations are aimed at ensuring timely responses to consumer complaints and inquiries and we agree with proposed timeframes for responses. However, the existence of a live representative does not guarantee timely responses; rather, it can inadvertently lead to backlogs when large numbers of consumers call in at the same time. Webforms and other programs allow consumers to describe their grievances nearly instantaneously, and thus allows both the consumer and business to move toward a resolution more quickly.

We also understand that the state and Department has an interest in ensuring consumers have contact with a person during the complaint process. The requirement to provide consumers with a contact person upon receipt of a complaint, which is already included in the Proposed Regulations, addresses this interest. We renew our request that the Department remove the requirement for a “live representative” and instead allow businesses to choose the method by which consumers can submit complaints and inquiries that is more tailored to the ways consumers currently engage with the business.

B. Website Disclosure Requirements are Beyond That Required in Other Law

The Proposed Regulations include a requirement that covered businesses place a disclosure banner link related to consumer credit complaints and inquiries on any web page that has information relating to a financial product. This is burdensome and is out of sync with other California-required notices.

In addition, many covered businesses operate nationally, meaning that they serve consumers who are not California residents. These disclosures could generate confusion for customers who do not reside in California and may cause delays in response and action on complaints. In other contexts, businesses are required to provide certain state-specific disclosures, there is flexibility in where links are located and where further details can be provided.

The requirement for including this disclosure on every web page that relates to the financial product is far beyond what other California law requires. For example, the California Privacy Right Act (CPRA) only requires disclosure of specified information through a link on a single page, not multiple pages. To address this, we recommend that the Department narrow this requirement so that businesses are required to place disclosures in only one appropriate location on their websites, such as a contact page or another single page with relevant information.

C. Potential Impacts on Innovation

CalChamber is also concerned that the Proposed Regulations will have an inadvertent impact on innovation and new participants in the financial services market. Specifically, the expensive and prescriptive complaint process raises hurdles faced by new businesses or existing businesses that wish to expand into providing financial services. This may reduce the ability for these companies to provide online services that are potentially free or very low cost for consumers. The Department should ensure that the Proposed Regulations do not operate as a bar to innovation within the financial services industry.

D. Sufficient Time Should Be Allotted for Businesses to Come into Compliance

Due to the novel nature of the Proposed Regulations, businesses will need time to ensure that all disclosures and procedures are in place. Accordingly, we request that the Department include an extended compliance period following the effective date of the regulations. Stated another way, the Department should state that businesses must comply with the Proposed Regulations within a time certain of the effective date of the regulations. CalChamber would recommend one calendar year. This will help businesses educate themselves on the new requirements and prepare for the new requirements while avoiding the risk of noncompliance due to timing.

Thank you for considering our comments on the Proposed Regulations. Please contact me if you have any questions.

Sincerely,



Brenda Bass
Policy Advocate
California Chamber of Commerce