

January 20, 2023

Commissioner Clothilde V. Hewlett
California Department of Financial Protection & Innovation
Attn: Regulations Coordinator
300 South Spring Street, 15th Floor
Los Angeles, CA 90013

Via Electronic Mail to: regulations@dfpi.ca.gov

Re: Comments on Modified Rulemaking for Consumer Complaints and Inquiries under California Consumer Financial Protection Law (CCFPL) – PRO 3-21

Dear Regulations Coordinator,

On behalf of the Electronic Transactions Association (“ETA”), the leading trade association for the payments industry, we appreciate the opportunity to provide comments on the Department of Financial Protection and Innovation’s (DFPI) draft rulemaking on consumer complaints and inquiries under the California Consumer Financial Protection Law (CCFPL).

COMMENTS

- 1) ETA appreciates DFPI’s efforts to address concerns around overly broad or duplicative reporting and other requirements, but ETA remains highly concerned about additional cost, required headcount, operational challenges, and the significant additional digital infrastructure requirements these proposed regulations would impose on covered persons.
- 2) DFPI should include an "appeal for exemption" process for certain requirements based on alternate or similar practices already in place. Many licensees have already implemented a form of the proposed requirements with distinct methodologies that they believe align best with their consumers or other licenses that they hold. It would be extremely beneficial if licensees had a formal process to submit requests for exemption and the opportunity to endorse why their model is sufficient and similar enough to the proposed rules to be compliant. Requests could be submitted for approval in multi-year intervals, and in the event an exemption was not renewed the licensee would have a grace period to allow adjustment for standard compliance.
- 3) In Section 1071, ETA recommends the addition of Section 1693o-1 be added to the definitions of complaint exclusions because the exclusion should reasonably apply to notices of error applicable to international fund transfers (remittances) and not just domestic transfers. **Section 1070(a)(1)(F)**
- 4) ETA recognizes the improvements to the section regarding telephone call complaints towards greater feasibility of response turnaround but continues to strongly recommend that a chat function be permitted as an option in lieu of a telephone number. Recent consumer research indicates that live chat availability is increasingly preferred by a large majority of consumers compared to any other channels of communication. Licensees should be permitted to invest resources most efficiently into the most preferred consumer communication channels to deliver the best possible consumer experience. **Section 1072(c)(3)**
- 5) When responding to a consumer complaint in Section 1072(g)(2) the proposed regulation requires “a summary of the steps taken to respond to the complaint.” ETA strongly recommends striking this



language due to significant concerns over disputes-gaming and friendly fraud related risks. **Section 1072(g)(2)**

- 6) Section 1072(i) requires that “for each financial product or service offered or provided, the covered person shall submit to the Department an annual complaint report.” ETA proposes if DFPI includes CFL licensees in this overall rulemaking that CFL licensees be excluded from this reporting section. DFPI should include any exiting CFL complaint reporting to avoid additional burden and duplicative data from being reported. **Section 1072(j)**
- 7) ETA recommends the removal of Section 1072(j)(16). This section requires “a summary of any steps taken to address discrimination that may have occurred during the complaint process on the basis of the complainant’s race, religious creed, color, national origin, ancestry, physical ability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, ages, sexual orientation, or veteran or military status.” This section has significant feasibility challenges and a lack of clarity for how these instances would be identified and proven without specific standards and training. **Section 1072(j)(16)**
- 8) ETA suggests more information be included in the definitions of “confidential supervisory information.” Any confidential communications between a covered person or service provider and any other federal, state, or foreign government agency related to its regulatory oversight of the covered person or service provider should also be included in this section. **Section 1075(c)**
- 9) Due to the overwhelming technical buildout and number of digital infrastructural changes required due to the proposed regulations, ETA suggests that a six-to-twelve-month timeline be allowed for covered persons to implement all the requirements proposed by the regulation.

We appreciate you taking the time to consider these important issues. If you have any questions or wish to discuss any aspect of our comments, please contact me or ETA Senior Vice President of Government Affairs Scott Talbott at [REDACTED].

Respectfully Submitted,

[REDACTED]

Brian Yates
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Electronic Transactions Association
[REDACTED] | [REDACTED]

