

**TITLE 10. DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
CHAPTER 3. COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION
SUBCHAPTER 4. CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW
ARTICLE 5. CONSUMER COMPLAINTS AND INQUIRIES**

PROPOSED REGULATIONS

(Additions to the rules originally noticed on May 20, 2022 are shown in single underline, and deletions to the rules originally noticed on May 20, 2022 are shown in single strikethrough.)

1. Chapter 3, Subchapter 4, Article 5, Section 1070 is adopted to read:

Subchapter 4. California Consumer Financial Protection Law

Article 5. Consumer Complaints and Inquiries

Section 1070: Exemption

Sections 1072, 1073, and 1074 of this Article shall not apply to:

(a) A person or entity identified in Section 90002 of the Financial Code, to the extent that person or entity is exempt from the California Consumer Financial Protection Law, unless otherwise specified in another law.

~~(a)~~(b) a consumer reporting agency as defined by the Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(f)), or

~~(b)~~(c) a student loan servicer as defined by Section 1788.100 of the Civil Code.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

2. Section 1071 is adopted to read:

Section 1071: Definitions.

The terms defined in Section 90005 of the Financial Code, when used in this Article, shall have the same meanings set forth in that section. In addition, the following definitions shall apply to terms when used in this Article:

(a) "Complaint" means an oral or written expression of dissatisfaction from a complainant regarding a specific issue or problem with a financial product or service, including the acts, omissions, decisions, conditions, or policies of a covered person or service provider related to the financial product or service.

(1) A "complaint" does not include:

(A) An oral complaint directly filed by the complainant with the covered person, but only if the complainant has verbally confirmed during initial contact with the covered person that the matter has been fully resolved to the complainant's satisfaction,

(B) A billing error notice filed pursuant to 15 U.S.C. Sec. 1666,

(C) A dispute filed with a furnisher of information pursuant to 15 U.S.C. Sec. 1681s-2(a)(8),

(D) A request filed with a creditor for a statement of reasons underlying a decision to deny credit pursuant to 15 U.S.C. Sec. 1691,

(E) A notification filed by a consumer with a debt collector pursuant to 15 U.S.C. Sec. 1692g to dispute the validity of the debt or any portion thereof,

(F) A notification of error filed with a financial institution pursuant to 15 U.S.C. Sec. 1693f,

(G) Any matter under litigation, including documents filed with a court and discovery requests, or

(H) A dispute submitted to the covered person by a governmental entity other than the California Department of Financial Protection and Innovation.

(b) "Complainant" means the consumer, as defined in Financial Code section 90005(c), who has submitted a complaint to a covered person and is contracted with, has applied to be contracted with, or has had a debt or other obligation assigned to, the covered person. A "complainant" includes a representative or other individual with authority to act on the consumer's behalf. For this Article, an individual consumer, whether submitting the complaint to the covered person directly or through an agent, trustee, representative, estate, trust, or joint trust, must have been a resident of California at the time of the act, omission, decision, condition, or policy giving rise to the complaint.

(c) "Denied complaint" means a complaint for which the covered person has made a final decision to not take any corrective action.

(d) "Final decision" means the conclusion that the covered person, after due consideration and any necessary investigation, has reached regarding the complaint and has communicated to the complainant.

(e) "Inquiry" means a question or request for information, ~~interpretation, or clarification~~ submitted by an inquirer regarding a specific issue, account, or problem with a financial product or service. An "inquiry" does not include:

(1) Any matter resolved to the inquirer's satisfaction during the initial contact between the inquirer and the covered person regarding that matter,

(2) A request made pursuant to Title 1.81.5 of Part 4 of Division 3 of the Civil Code regarding personal information collected by a business,

(3) A request for information or documents identified in Civil Code section 1788.14.5(a) and (b), or

(4) A notification filed by a consumer with a debt collector pursuant to 15 U.S.C. Sec. 1692g to request the name and address of the original creditor.

(f) "Inquirer" means the consumer, as defined in Financial Code section 90005(c), who submitted an inquiry to a covered person and is contracted with, has applied to be contracted with, or has had a debt or other obligation assigned to, the covered person. ~~An "inquirer" includes a representative or other individual with authority to act on the consumer's behalf.~~ For this Article, an individual consumer, whether submitting the inquiry to the covered person directly or through an agent, trustee, representative, estate, trust, or joint trust, must be a resident of California at the time of the inquiry.

(g) "Officer" ~~has~~ means an individual designated by the same meaning as covered person with primary authority to monitor the definition of that term in California Financial Code section 190 ~~complaint process and resolve complaints.~~

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

3. Section 1072 is adopted to read:

Section 1072: Complaint Processes and Procedures.

~~(a) A covered person shall respond to consumer complaints and shall develop and implement written policies and procedures for responding to complaints, including a process through which a complainant may submit an oral or written complaint to effectuate the covered person and receive a final decision requirements of this section. Service providers and affiliates of the covered person shall not be responsible for responding to these complaints or developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service.~~

~~The Department may review the complaint process, including records of each complaint received, to assess the effectiveness of the policies and procedures and the actions taken in responding to complaints.~~

~~(a) The complaint process shall include the following procedures regarding the initiation of a complaint.~~

~~(1) (b) The covered person shall prepare a complaint form for its make the following disclosures to consumers to use in submitting written complaints. The complaint form shall be available in electronic format on the covered person's website and, upon request, in paper format at each physical location of the covered person accessible to its consumers. The complaint form shall include, at a minimum, the following:~~

~~(A) A description of the complaint process,~~

~~(B) A field for the complainant's name,~~

~~(C) A field for the complainant's telephone number,~~

~~(D) A field for the complainant's mailing address,~~

~~(E) A field for the complainant's e-mail address,~~

~~(F) A field for the complainant to explain the nature and details of the complaint, and~~

~~(G) An opportunity for the complainant to attach supporting documentation.~~

~~(2) The covered person shall not request additional personal identifying information beyond what is described in subdivisions (a)(1)(B) - (E) of this Section and shall not request of its financial information unrelated to the specific~~

~~complaint of the consumer. This obligation shall continue throughout the entire complaint process.~~products and services:

~~(3) All written communications to a consumer that are related to a particular financial product or service used by the consumer, except documents related to a lawsuit such as court pleadings and motions and electronic text messages such as iMessage, Short Message Service ("SMS"), and Multimedia Messaging Service ("MMS"), to each consumer of a financial product or service shall in at least 12-point font disclose the procedures for filing both oral and written complaints with the covered person. The disclosure shall also inform consumers they may submit to the Department a complaint at any time, including any complaints not resolved to their satisfaction, using the form available at <https://dfpi.ca.gov/file-a-complaint/> and contact the Department with questions at 866-275-2677.~~shall in at least 12-point font disclose:

~~(4A) The main page~~procedures for filing complaints with the covered person, both orally and in writing,

~~(B) A description of the~~any time limits imposed by the covered person for the filing of a complaint, and

~~(C) The following statement: "You may submit your complaint to the California Department of Financial Protection and Innovation at any time, including complaints not resolved to your satisfaction and any complaints rejected by the covered person for not being timely filed, using the form available at <https://dfpi.ca.gov/file-a-complaint/>. You may also contact the Department with questions at 866-275-2677."~~

~~(2) The website for the covered person shall prominently display, at on any web pages with information related to a financial product or near the top of the page~~service, a clearly indicated link to the complaint form and in at least 12-point font that states, "California Residents: Click here for information about submitting a complaint to [insert covered person's name] or to the California Department of Financial Protection and Innovation." The link shall be to instructions on how complainants may submit their oral and written complaints, including the telephone number, e-mail address, mailing address, and website web address for filing a complaint with the covered person and with the Department.

~~(5)(c) The complaint process shall include the following regarding the initiation of a complaint:~~

(1) The covered person shall:

(A) Accept all complaints, whether written or oral, so long as the complaint includes a reason for filing the complaint and sufficient information to identify the complainant; this provision does not preclude a covered person from validating the identity of a complainant prior to accepting a complaint.

(B) Allow the complainant to submit information and supporting documentation to the extent necessary to fully explain the nature and details of the complaint.

(2) Throughout the entire complaint process, the covered person shall not:

(A) Request personal identifying information beyond what is reasonably necessary to identify the complainant and to send correspondence, or

(B) Request financial information unrelated to the specific complaint of the consumer.

(3) The covered person shall maintain a telephone number, which complainants can use to file complaints orally with a live representative during regular business hours. If a live representative is unavailable to take the call, the covered person shall provide complainants with the option to leave a voicemail message with their telephone number ~~for~~ and to authorize a call back from a live representative within ~~24 hours~~ two (2) business days of the voicemail message. The live representative shall document the identity of the complainant and the nature and details of each oral complaint by completing all fields on the complaint form required by subdivision (a)(1) of this section filed orally.

(4) The covered person who negotiates a contract with a consumer primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, ~~orally or in writing~~, shall make the complaint process available to the complainant in English and accept written complaints submitted in the language in which the contract was negotiated, including translations of all written communications and, for those complaints, issue in that language the final decision required by subdivision (g) of this section and, upon request by the complainant, the provision of interpretation and translation services to assist with the complaint.

(5) The covered person shall not impose a time limit for filing a complaint shorter than ~~four (4) years~~ one (1) year from the ~~occurrence of~~ time the

~~complained of complainant discovers the act, omission, decision, condition, or policy;~~

~~(8) The that is the subject of the complaint. If the covered person shall not treat imposes a complaint as incomplete if the complainant is reasonably identifiable from the information provided and any missing information is available time limit to file a complaint, the disclosure in the covered person's customer records.~~

subdivision (b)(1) of this section shall state the time limit.

~~(d) For each complaint, the procedures for the complaint process shall require the covered person to provide~~ shall send the complainant with a written acknowledgement of receipt, postmarked or with other proof to show the acknowledgement was sent within five (5) business days after receiving the complaint.

(1) The written acknowledgement of receipt may be provided electronically if the consumer has agreed to receive electronic correspondence from the covered person.

~~(2) The written acknowledgement of receipt shall advise that the complaint has been received and shall include the date of receipt, a unique tracking number to identify the complaint in subsequent communications, and~~ and provide the telephone number and e-mail address that can be used to contact the appropriate representatives of the covered person who have been designated to handle the complaint.

~~(1) For complaints received via e-mail or the internet, the covered person shall provide to the complainant, within one (1) calendar day after receiving the complaint, an e-mail message confirming that the electronic submission of the complaint was successful and, within five (5) calendar days after receiving the complaint, an e-mail message with the written acknowledgement of receipt required by subdivision (b) of this section. Both e-mail messages shall be sent from the e-mail address provided to the complainant pursuant to subdivision (b) of this section and may be combined if provided within one (1) calendar day after receiving the complaint.~~

~~(2) For complaints received via postal mail, the covered person shall provide the written acknowledgement of receipt required by subdivision (b) of this~~

section via postal mail within seven (7) calendar days of receiving the complaint.

~~(3) For complaints received via telephone, the covered person shall orally provide the complainant with a unique tracking number to identify the complaint, and, within seven (7) calendar days of receiving the complaint, provide via postal mail the written acknowledgement of receipt required by subdivision (b) of this section.~~

~~(4) The written acknowledgement required by subdivision (b) of this section may be combined with the issuance of a final decision required by subdivision (e) of this section if the final decision is issued within the required time period for the acknowledgement.~~

~~(e3) The complaint process shall include the following procedures for a covered person to review and evaluate shall not be required to send a written acknowledgement of receipt for subsequent, duplicative complaints:~~

~~(1) Each complaint, including the allegations in the complaint form and all supporting materials submitted by the received from the same complainant, shall be reviewed by staff of the covered person who are responsible for the services and operations which are the subject of the complaint.~~

~~(A) For complaints that do not require further investigation, the covered person shall document the names of all individuals who decided not to investigate and the reason an investigation was not needed to resolve the complaint, including the specific provisions in the covered person's policies and procedures supporting the regarding the identical act, omission, decision not to investigate. An investigation shall not be necessary if the covered person makes a full and prompt refund to the complainant of the amount at issue, condition, or a full and prompt cancellation or adjustment of the debt at issue.~~

~~(B) For complaints that require further investigation, the covered person shall ascertain the cause of the issue by conducting a thorough review of all relevant documents and the individuals who may have committed, or been responsible for, the complained of acts, omissions, decisions, conditions, or policies.~~

~~(C) If corrective action is needed to resolve the complaint, the covered person shall provide an appropriate remedy to the complainant, including but not limited to an account adjustment, credit, or refund, and shall also~~

~~take appropriate steps to prevent recurrence of the issue, which may include policy changes and employee training. This provision does not apply to repeat instances of the same act, omission, decision, condition, or policy.~~

~~(2) For complaints involving the conduct of a third party who has been contracted to provide a good or service in connection with the financial product or service being complained about, the covered person shall, in addition to performing its own investigation of the alleged conduct, require the third party to investigate each complaint using the procedure set forth in subdivision (c)(1)(B) of this section and to forward all relevant documents and findings to the covered person. The covered person shall include in its contracts with third parties clear expectations about the third parties' responsibilities under this section, as well as appropriate and enforceable consequences for violating these responsibilities.~~

~~(3) An(e) The covered person shall review, evaluate, investigate, and resolve complaints.~~

~~(f) The covered person shall designate an officer of the covered person shall be designated as having primary responsibility for to monitor the complaint process.~~

~~(A1) The officer or the officer's designee shall, at least once each month every three (3) months, review the operation of the complaint process and shall identify any emerging patterns of complaints, provide appropriate remedies to consumers that experience similar issues, and take appropriate steps, which may include policy changes and employee training, to prevent recurring problems that adversely affect consumers, including problems that have been addressed with a full and prompt refund.~~

~~(B2) The officer or the officer's designee shall, at least once each month every three (3) months, review all complaints regarding the conduct of third-party contractors to determine whether the covered person's standards for vetting and monitoring third party contractors were met and whether those standards should be revised to improve the vetting and monitoring of third parties.~~

~~(dg) The covered person shall respond to a complaint process shall include a procedure for the covered person to track complaints and communicate with the complainant regarding the status of the as follows:~~

~~(1) Within fifteen (15) business days after receiving a complaint.~~

~~(1) The procedure must include a process for recording the status of a complaint and all target dates for further actions regarding the complaint, including the issuance of a final decision.~~

~~(2) The tracking shall be provided to the Department upon request and in any electronic format requested by the Department.~~

~~(3) If a complainant requests a status update using the telephone number or email address provided pursuant to subdivisions (a)(4) and (b)(1) of this section, along with sufficient information for the covered person to identify the complaint, the covered person shall respond with a status update to the complainant within five (5) calendar days in the same format as the complainant's request.~~

~~(e) The complaint process shall include the following procedures for a covered person to respond to a complaint:~~

~~(1) The covered person shall respond in writing with a final decision on all issues within fifteen (15) calendar days of receiving the raised by the complaint.~~

~~(A) If the covered person needs additional time to respond, the covered person shall, within three (3) calendarbusiness days after the initial 15-business day period ends, provide the complainant with a written update regarding the status of the complaint, the reason for the delay, and an estimate of the additional time needed to issue a final decision, which shall not be more than ~~forty five (45) calendar~~ thirty (30) business days after the initial 15-business day period ends.~~

~~(B) The written response and the written update may be provided electronically if the consumer has agreed to receive electronic correspondence from the covered person.~~

~~(2) The written response shall contain a clear explanation of the covered ~~person's~~person's decision in plain language, including the specific reasons for the final decision, a summary of the steps taken to respond to the complaint, any corrective action that will be taken, and the effective date of the corrective action. In at least 12-point boldface font, the response shall also ~~inform complainants they~~ include the following statement, "You may submit your complaint to the California Department of Financial Protection and Innovation at any time, including complaints not resolved to ~~their~~ your satisfaction and any complaints rejected by the covered person for not~~

being timely filed, using the form available at <https://dfpi.ca.gov/file-a-complaint/> and/. You may also contact the Department with questions at 866-275-2677."

(3) The covered person shall not take adverse action against a complainant, including cancellation of the contract, in retaliation to the filing of a complaint. This provision does not prevent the covered person from taking appropriate action to respond to threats of violence and other illegal conduct by the complainant.

(4) Once a covered person has provided a written response to a complainant pursuant to subdivisions (e)(1) and (e)(2) of this section, the covered person may respond to subsequent, duplicative complaints from the same complainant with a written notice stating there will be no response because the complainant previously submitted the same complaint, received a response, and provided no new information in the subsequent, duplicative complaint regarding the identical act, omission, decision, condition, or policy. This provision does not apply to repeat instances of the same act, omission, decision, condition, or policy.

~~(f)~~ The complaint process shall require a covered person to shall maintain a written record of each complaint for at least five (5) ~~three (3)~~ years from the time the complaint was initially filed. final decision is issued. The written record shall include the following:

~~(1) The unique tracking number associated with the complaint,~~

~~(2)~~ (1) The name, phone number, mailing address, and e-mail address of the complainant, if provided,

(2) If the covered person requires validation that an agent, trustee, representative, estate, trust, or joint trust is authorized to submit the complaint on behalf of an individual, any proof of this validation,

(3) The name of the financial service or product involved,

(4) The name of the covered person or third party identified as the subject of the complaint,

~~(5) For oral complaints, the name of the representative who documented the complaint,~~

~~(6) The date the complaint was received by the covered person,~~

~~(76)~~ The date the covered person ~~provided~~sent the acknowledgement of receipt,

~~(87)~~ The dates of any investigation by the covered person,

~~(98)~~ The dates of all responses to the complainant, and

~~(109)~~ The nature and details of the complaint,

~~(1110)~~ If no investigation was performed, the ~~names of all persons who decided not to investigate and the~~ reason an investigation was not needed,

~~(1211)~~ The results of any investigation,

~~(1312)~~ Any corrective action taken in response to the complaint,

~~(1413)~~ A copy of, ~~or an electronic link to,~~ or reference to where copies can be found for, all contracts, correspondence, and other relevant information upon which the covered person relied in reaching its final decision, and

~~(1514)~~ A copy of all written responses and summaries of all oral responses, including an explanation of the final decision regarding the complaint.

~~(g)~~ The complaint process shall be administered without discriminating on the basis of the complainant's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, veteran or military status, or any other basis prohibited by law.

~~(h)~~ ~~The~~ j For each financial product or service offered or provided, the covered person shall submit to the Department ~~a quarterly~~an annual complaint report, which shall, except for items (15) and (16) below, be made available to the public. ~~The~~Each report shall include information regarding all complaints received by the covered person during the reporting period, including complaints forwarded by the Department. ~~The~~Each report shall be prepared for the ~~quarters~~twelve-month period ending ~~March 31, June 30, September 30, and December 31~~ of each calendar year, verified by an officer authorized to act on behalf of the covered person, and filed electronically with the Consumer Financial Protection Division no later than ~~thirty (30) calendar~~ sixty (60) business days after the end of each ~~quarter~~. The calendar year in accordance with instructions provided on the Department's website at <https://dfpi.ca.gov>. However, the covered person shall not be required to file an annual report for any calendar year prior to [insert effective year of the regulations] and shall not

be required to submit information regarding complaints received prior to [insert effective date of the regulations]. Each report shall include ~~for each quarter~~:

(1) The covered ~~person's~~person's name, the date, ~~and the reporting quarter~~, the report was submitted to the Department, the reporting period, and the name of the financial product or service offered or provided.

(2) The covered person's designated e-mail address for receiving requests from the Department regarding consumer complaints. This e-mail address shall be accessible by the officer of the covered person with primary responsibility for the complaint process. In the event of a change to this e-mail address, the covered person shall, within five (5) ~~calendar~~business days of the change, provide the Consumer Financial Protection Division with the new e-mail address.

(3) The total number of complaints received~~7~~. If this number is zero, the covered person shall not be required to provide responses for items (4) through (16) below.

(4) The total number of complaints for which a final decision was issued within fifteen (15) ~~calendar~~business days after receiving the complaint,

(5) The total number of complaints for which a final decision was issued ~~between sixteen (16) and sixty (60) calendar~~to forty-five (45) business days after receiving the complaint,

(6) The total number of complaints for which a final decision was issued more than ~~sixty (60) calendar~~forty-five (45) business days after receiving the complaint,

(7) The total number of complaints for which a final decision was not issued,

(8) The total number of complaints denied, either partially or fully,

(9) The total number of complaints resulting in a partial refund or account adjustment,

(10) The total number of complaints resulting in a full refund or account adjustment,

(11) Regarding each complaint for which a final decision was issued more than fifteen (15) ~~calendar~~business days after receipt, an explanation of why the final decision was not issued within fifteen (15) ~~calendar~~business days,

(12) Regarding each complaint for which a final decision was not issued, an explanation of why the final decision was not issued,

(13) The number of complaints received for each ~~complaint type~~. ~~Complaint types shall include~~ of the following ~~categories~~:

~~(A) Dissatisfaction~~ Complaints expressing dissatisfaction with the covered person,

~~(B) Dissatisfaction~~ Complaints expressing dissatisfaction with a service provider,

~~(C) Dissatisfaction~~ (C) Complaints expressing dissatisfaction with a third party, other than a service provider, to whom the covered person referred the consumer, and

~~(D) Dissatisfaction~~ (D) Complaints expressing dissatisfaction with a third party who brought the consumer to the covered person through lead generation,

~~(E)~~ (14) The number of complaints received for each complaint type (a single complaint can include more than one complaint type). Complaint types shall include the following:

(A) Attempts to collect debt or other funds not owed,

~~(F) Trouble~~ (B) Payment issues - trouble making a payment,

~~(G) Dissatisfaction with~~ (C) Harassment or intimidation - including the taking of, or threat of taking, negative legal action,

~~(H) Complaints of false~~ (D) False statements or representations,

~~(I) Problems~~ (E) Account issues - problems with establishing, maintaining, accessing, or closing an account,

~~(J) Improper~~ (F) Fee issues - improper or inaccurate fees or interest,

~~(K) Unauthorized~~ (G) Mishandled transactions, - including unauthorized transactions,

~~(L) Confusing~~ (H) Agreement, contract, or disclosure issues - confusing or missing disclosures,

~~(M) Problems~~(I) Customer service issues - problems with customer service,

~~(N) Complaints about~~(J) Unethical behavior or tactics - including denial of access to a financial product or service,

(~~Q~~K) Any other complaint types for which the covered person received at least twenty-five (25) complaints from different complainants during the immediately preceding calendar year. These other complaint types shall only be required in reports due after the covered person's first full calendar year of reporting,

(~~P~~L) Repeat, duplicative complaints from the same complainant regarding the ~~same~~identical act, omission, decision, condition, or policy (these complaints should not be included in the counts for Items A through ~~Q~~K), and

(~~Q~~M) Complaints submitted by individuals without authority to act on the consumer's behalf (these complaints should not be included in the counts for Items A through ~~Q~~K).

~~(1415)~~ Any patterns of complaints identified by the officer responsible for the complaint process and a summary of all corrective action taken by that officer to provide appropriate remedies to consumers and to prevent recurring problems, and

~~(1516)~~ A summary of any steps taken by the covered person 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 disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status.

Authority cited: ~~Section~~Sections 90008 and 90009, Financial Code. Reference: Section 90008, Financial Code.

4. Section 1073 is adopted to read:

Section 1073: Inquiry Processes and Procedures.

(a) A covered person shall respond to oral and written inquiries from consumers and shall develop and implement written policies and procedures for responding to inquiries. to effectuate the requirements of this section. Service providers and affiliates of the covered person shall not be responsible for

~~responding to these inquiries or developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service. The procedures shall include the following:~~

~~(a) The covered person shall maintain a telephone number, which inquirers can use to file inquiries orally with a live representative during regular business hours. If a live representative is unavailable to take the call, the covered person shall provide inquirers with the option to leave a voicemail message with their telephone number for a call back from a live representative within 24 hours of the voicemail message.~~

(b) The covered person shall review and evaluate each inquiry to determine whether the inquiry should be handled as a complaint. If the inquirer indicates any dissatisfaction with a financial product or service or alleges any mistake or wrongdoing by the covered person or a third party, the inquiry shall be handled as a complaint using the process described in Section 1072.

~~(c) For each inquiry, the procedures shall include the following:~~

~~(1) The covered person shall respond to all issues raised by the inquiry within fifteen (15) calendar ten (10) business days after receiving the inquiry. The if the covered person does not possess and cannot access the information needed to respond to an inquiry or is prohibited by law from communicating with the inquirer, the response shall be in the same format in which the inquiry was made include this explanation instead of the information requested.~~

(2) Once a covered person has provided a response to an inquiry pursuant to subdivision (c)(1) of this section, the covered person may respond to subsequent, duplicative inquiries from the same inquirer with a notice stating there will be no response because the inquirer previously submitted the same inquiry regarding the same/identical issue, received a response, and provided no new information in the subsequent, duplicative inquiry.

(3) The covered person shall retain copies of all written inquiries and all written responses for at least five (5) three (3) years from the date time the inquiry written response was received issued.

~~(d) The covered person shall track the number of inquiries received for each of the following categories to help determine if there are issues or problems with a financial product or service that may result in customer confusion:~~

~~(1) Specific questions regarding the cost of the product or service to the inquirer, other than fees and surcharges,~~

~~(2) Specific questions regarding fees and surcharges imposed on the inquirer,~~

~~(3) Specific questions regarding how the inquirer may use the product or service, other than how to access funds,~~

~~(4) Specific questions regarding how the inquirer can access funds,~~

~~(5) Specific questions regarding how the inquirer may obtain or qualify for a product or service, and~~

~~(6) Any other categories for which the covered person received at least twenty five (25) inquiries from different inquirers regarding the same issue or problem during the immediately preceding calendar year (specify additional categories as needed). These other categories shall only be required in reports due after the covered person's first full calendar year of reporting.~~

~~(e)(d)~~ The process for responding to inquiries shall be administered without discriminating on the basis of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of the inquirer or any other basis prohibited by law.

~~(f) All covered persons shall submit to the Department an annual report regarding inquiries. The report shall include information regarding all inquiries received by the covered person, including inquiries forwarded by the Department. The report shall be prepared for each calendar year, verified by an officer authorized to act on behalf of the covered person, and filed with the Consumer Financial Protection Division, no later than thirty (30) days after the end of each calendar year. The report shall include:~~

~~(1) The covered person's name, the date, and the reporting year,~~

~~(2) The total number of inquiries received,~~

~~(3) The total number of inquiries for which a response was provided within fifteen (15) calendar days after receiving the inquiry,~~

~~(4) The total number of inquiries for which a response was provided more than fifteen (15) calendar days after receiving the inquiry,~~

~~(5) The total number of inquiries for which a response was not provided,~~

~~(6) Regarding each inquiry for which a response was provided more than fifteen (15) calendar days after receipt, a brief explanation of why the response was not provided within fifteen (15) calendar days,~~

~~(7) Regarding each inquiry for which a response was not provided, a brief explanation of why a response was not provided, and~~

~~(8) The number of inquiries received for each tracked category, as required by subdivision (d) of this section.~~

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

5. Section 1074 is adopted to read:

Section 1074: Processes and procedures for covered persons to provide a timely response to the Department.

(a) A covered person shall develop and implement written policies and procedures ~~for responding to requests from~~ effectuate the Department regarding a consumer complaint requirements of this section. Service providers and affiliates of the covered person shall not be responsible for developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service. ~~The procedures shall include the following:~~

(b) A covered person shall respond to a request from the Department regarding a consumer complaint as follows:

(1) A covered person shall, within fifteen (15) ~~calendar~~ business days after receiving the Department's request regarding a complaint, review and evaluate the complaint using the procedures ~~set forth in~~ required by Section 1072(~~ea~~) and (~~e~~) and, subject to the obligations in Section 1072(~~eg~~) (3), (~~fh~~), and (~~gj~~), provide a written response to the Department with:

(A) A clear explanation of the final decision in plain language, including the specific reasons for the decision and a summary of the steps taken to respond to the complaint,

(B) The items required in Section 1072(~~fh~~) for the written record, and

(C) Any follow-up actions or planned follow-up actions by the covered person to respond to the complaint.

(D) If the covered person needs additional time to respond, the covered person shall, within three (3) ~~calendar~~business days after the initial 15-business day period ends, provide the Department with a written update regarding the status of the response, the reason for the delay, and an estimate of the additional time needed to respond, which shall not be more than ~~forty-five (45) calendar~~thirty (30) business days after the initial 15-business day period ends.

(2) The Department may send follow-up requests for information from the covered person after receiving the initial written response required by subdivision ~~(a)~~(b)(1) of this section. The covered person shall, within ten (10) ~~calendar~~business days after each follow-up request, provide a written response to the Department with all requested information.

~~(b) Every~~(c) A covered person shall ~~develop and implement written policies and procedures for responding~~respond to requests~~a request~~ from the Department regarding ~~and consumer~~ inquiry. ~~Service providers and affiliates of the covered person shall not be responsible for developing and implementing these policies and procedures, unless directed by the principal party offering the financial product or service. The procedures shall include the following as follows:~~

(1) A covered person shall, within ~~fifteen (15) calendar~~ten (10) business days after receiving the Department's request regarding an inquiry, review and evaluate the inquiry and, subject to the obligations in Section 1073, ~~subdivisions (d)(a) and (e)~~, provide a written response to the Department addressing all issues raised by the inquiry. The written response shall include:

- (A) A summary of the steps taken by the covered person to respond to the inquiry,
- (B) Responses received by the covered person from the consumer, and
- (C) Any follow-up actions or planned follow-up actions by the covered person to respond to the inquiry.

(2) The Department may send follow-up requests for information from the covered person after receiving the initial written response required by subdivision ~~(b)~~(c)(1) of this section. The covered person shall, within ten (10) ~~calendar~~business days after each follow-up request, provide a written response to the Department with all requested information.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.

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6. Section 1075 is adopted to read:

Section 1075: Consumer requests for nonpublic or confidential information – Definitions.

For purposes of subdivision (d)(2)(D) of Financial Code section 90008,

(a) “Nonpublic or confidential information” means:

(1) Information protected from disclosure by law,

(2) confidential supervisory information,

~~(23)~~ proprietary information confidentially maintained by the covered person or service provider, including trade secrets, of which the release would be damaging or prejudicial to the business concern, or

~~(34)~~ personal information not publicly available regarding a consumer other than the one making the request for information.

(b) “Nonpublic or confidential information” does not include information contained in records made publicly available by the Department or information that has otherwise been publicly disclosed by an employee or agent of the Department with the authority to do so.

(c) “Confidential supervisory information” means:

(1) any confidential documents, materials, or records, including reports of examination, prepared by, on behalf of, or for the use of the Department or any other federal, state, or foreign government agency in the exercise of regulatory oversight of a covered person or service provider, and any information derived from such documents, materials, or records,

(2) any confidential communications between the Department and a covered person or service provider related to the Department’s regulatory oversight of the covered person or service provider, and

(3) any confidential information provided to the Department by a covered person or service provider for purposes of detecting and assessing risks to consumers and to markets for consumer financial products or services, or to assess whether an entity should be considered a covered person or is subject to the Department’s regulatory oversight.

(d) "Personal information" means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. "Personal information" does not include consumer information that is deidentified or aggregated.

(e) "Publicly available information" means information lawfully made available to the public from federal, state, or local government records.

Authority cited: Section 90008, Financial Code. Reference: Section 90008, Financial Code.