

**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 noticed on March 23, 2023 are shown in single underline,
and deletions to the rules noticed on March 23, 2023 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: Applicability of the rules and Exemptions.

(a) Sections 1072, 1073, and 1074 of this Article shall apply only to the following:

(1) A covered person required to be registered with the Department pursuant to Financial Code sections 90009 and 90009.5, including any rules promulgated thereunder, and

(2) A covered person required to be licensed with the Department.

(b) Notwithstanding subdivision (a) of this section, Sections 1072, 1073, and 1074 of this Article shall not apply to the following:

(1) 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.

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

(3) 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) A notice of error filed with a remittance transfer provider pursuant to 12 C.F.R. Sec. 1005.33,

(H) Any matter at issue in litigation filed by the complainant against the covered person, including documents filed with a court and discovery requests, or

(I) 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. "Complainant" does not include an individual consumer, whether submitting the complaint to the covered person directly or through an agent, trustee, representative, estate, trust, or joint trust, who is not a resident of California at the time the act, omission, decision, condition, or policy giving rise to the complaint was applied to the consumer.

(c) "Complaint officer" means an individual designated by the covered person with primary authority and responsibility for the effective operation and governance of the complaint process, including the authority and responsibility to monitor the complaint process and resolve complaints.

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

(~~e~~e) "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~~f) "Inquiry" means a question or request for information, submitted by an inquirer regarding a specific account or 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~~g) "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. 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" means an individual designated by the covered person with primary authority to monitor the 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 develop and implement written policies and procedures to effectuate the 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 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.

(b) The covered person shall make the following disclosures to consumers of its financial products and services who reside in California:

~~(1) In an annual notice issued to consumers at least once each calendar year and in the initial written communication to each consumer related to a particular financial product or service used by the consumer, the covered person shall disclose the procedures for filing a complaint. These disclosures may be provided electronically if the consumer has agreed to receive electronic correspondence from the covered person and shall, in a clear and conspicuous manner, provide the following information, ~~in a legible font at least as large as the largest text in the notice:~~~~

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

(B) A description of 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 main homepage or the main contact page of the website for the covered person shall ~~prominently display, in a legible font at least as large as the largest text on that page~~ clear and conspicuous, a clearly indicated link that states, titled, “California Residents: Click here for information about submitting on how to submit a complaint to [insert covered person's name] or to the California Department of Financial Protection and Innovation.” The link shall be to instructions, ~~in a legible font at least as large as the largest text on that page, on that,~~ in a clear and conspicuous manner, disclose how complainants may submit their oral and written complaints, including the telephone number, mailing address, and web address for filing a complaint with the covered person and with the Department. The instructions shall also include the set hours each week a live representative for the covered person is normally available to accept oral complaints excluding holidays.

(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. The

live representative shall be available to accept oral complaints at least twenty (20) set hours each week, between 8 a.m. to 8 p.m. Pacific Time, Monday through Friday. The live representative shall document the identity of the complainant and the nature and details of each complaint filed orally.

(4) The covered person who negotiates a contract with a consumer primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean shall accept written complaints submitted in the language in which the contract was negotiated and, for those complaints, issue in that language all written communications related to the complaint.

(5) The covered person shall not impose a time limit for filing a complaint shorter than one (1) year from the time the complainant discovers the act, omission, decision, condition, or policy that is the subject of the complaint. If the covered person imposes a time limit to file a complaint, the disclosure in subdivision (b)(1) of this section shall state the time limit.

(d) For each complaint, the covered person shall send the complainant 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, include the date of receipt, 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. The written acknowledgement may be combined with the issuance of a final decision required by subdivision (g) of this section if the final decision is issued within the required time period for the acknowledgement.

(3) The covered person shall not be required to send a written acknowledgement of receipt for subsequent, duplicative complaints received from the same complainant 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.

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

(f) The covered person shall designate ~~an~~ a complaint officer with primary authority and responsibility for the effective operation and governance of the complaint process, including the authority and responsibility to monitor the complaint process and resolve complaints ~~to monitor the complaint process who shall be ultimately accountable for the effective operation and governance of the complaint process.~~ The complaint officer and any of the complaint officer's designees shall have the authority to change, amend, or rescind the acts, omissions, decisions, conditions, or policies of the covered person or service provider related to the financial product or service that is the subject of a complaint ~~and to forgive or extinguish any debt, charge, or obligation of a consumer.~~

(1) The complaint officer or the complaint officer's designee shall, at least once 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.

(2) The complaint officer or the complaint officer's designee shall, at least once 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.

(g) The covered person shall respond to a complaint as follows:

(1) Within fifteen (15) business days after receiving a complaint, the covered person shall respond in writing with a final decision on all issues raised by the complaint.

(A) If the covered person has objective, good cause for and needs additional time to respond, the covered person shall, no later than the end of the third business day 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 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 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 legible boldface font at least as large as the font size used for the required explanation, the~~The response shall also disclose, in a clear and conspicuous manner, ~~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 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."

(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, other illegal conduct by the complainant, and instances where the covered person has a legal obligation to report suspected illegal conduct.

(4) Once a covered person has provided a written response to a complainant pursuant to subdivisions (g)(1) and (g)(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 further written decision from the covered person regarding that matter 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.

(h) The covered person shall maintain a written record of each complaint for at least three (3) years from the time the final decision is issued. The written record shall include the following:

- (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) The date the complaint was received by the covered person,
 - (6) The date the covered person sent the acknowledgement of receipt,
 - (7) The dates of any investigation by the covered person,
 - (8) The dates of all responses to the complainant, and
 - (9) The nature and details of the complaint,
 - (10) If no investigation was performed, the reason an investigation was not needed,
 - (11) The results of any investigation,
 - (12) Any corrective action taken in response to the complaint,
 - (13) A copy of, 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
 - (14) A copy of all written responses and summaries of all oral responses, including an explanation of the final decision regarding the complaint.
- (i) 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.
 - (j) For each financial product or service offered or provided, the covered person shall submit to the Department an annual complaint report which shall, except

for items (15) and (16) below, be made available to the public. Each complaint report shall include information regarding all complaints received by the covered person during the reporting period, including complaints forwarded by the Department. Each complaint report shall be prepared for the twelve-month period ending December 31 of the immediately preceding calendar year and verified by ~~an~~ a complaint officer authorized to act on behalf of the covered person. Each complaint report shall be filed electronically with the Consumer Financial Protection Division no later than sixty (60) business days after the end of each calendar year in accordance with instructions provided on the Department's website at <https://dfpi.ca.gov>; the complaint report may be filed separately or as part of any other report to the Department required during that time. The covered person shall not be required to file a complaint report for any calendar year prior to [insert effective year of the regulations] or with information regarding complaints received prior to [insert effective date of the regulations]. Each complaint report shall include:

(1) The covered person's name, the date 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 complaint 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) business days of the change, provide the Consumer Financial Protection Division with the new e-mail address.

(3) The total number of complaints received. 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) business days after receiving the complaint,

(5) The total number of complaints for which a final decision was issued sixteen (16) 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 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) business days after receipt, the reason why there was insufficient time to issue the final decision within fifteen (15) 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 of the following categories (a single complaint can span more than one category):
- (A) Complaints expressing dissatisfaction with the covered person,
 - (B) Complaints expressing dissatisfaction with a service provider,
 - (C) Complaints expressing dissatisfaction with a third party, other than a service provider, to whom the covered person referred the consumer, and
 - (D) Complaints expressing dissatisfaction with a third party who brought the consumer to the covered person through lead generation.
- (14) The number of complaints received for each complaint type (a single complaint can span more than one complaint type). Complaint types shall include the following:
- (A) Attempts to collect debt or other funds not owed,
 - (B) Payment issues - trouble making a payment,
 - (C) Harassment or intimidation - including the taking of, or threat of taking, negative legal action,
 - (D) False statements or representations,
 - (E) Account issues - problems with establishing, maintaining, accessing, or closing an account,

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

(G) Mishandled transactions - including unauthorized transactions,

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

(I) Customer service issues - problems with customer service, including any problems contacting customer service by telephone to submit an oral complaint,

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

(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,

(L) Nuisance complaints - complaints made for fraudulent, frivolous, or abusive purposes (nuisance complaints should not be included in the counts for Items A through K),

(M) Complaints that only pertain to entities not involved in offering or providing the financial product or service reported on (these complaints should not be included in the counts for Items A through K).

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

~~(NO)~~ 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 K).

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

(16) 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: 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 develop and implement written policies and procedures to effectuate the 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.

(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~~ regarding a specific issue or problem 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:

(1) The covered person shall respond to all issues raised by the inquiry within ten (10) business days after receiving the inquiry. 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 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 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 three (3) years from the time the written response was issued.

(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.

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 to effectuate the 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.

(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) business days after receiving the Department's request regarding a complaint, review and evaluate the complaint using the procedures required by Section 1072(a) and (e) and, subject to the obligations in Section 1072(g)(3), (h), and (i), 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(h) 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, no later than the end of the third business day 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 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 (b)(1) of this section. The covered person shall, within ten (10) business days after each follow-up request, provide a written response to the Department with all requested information.

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

(1) A covered person shall, within 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(a) and (d), 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 (c)(1) of this section. The covered person shall, within ten (10) 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.

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,
- (3) 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
- (4) 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.