



April 29, 2023

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

Dear Ms. Dyson,

The Online Lenders Alliance (OLA) represents the online lending industry and companies that provide services to those online lenders. We appreciate the invitation to provide comments on the Department's third modification to the Rulemaking under the California Consumer Financial Protection Law: Consumer Complaints and Inquiries (PRO 03-21).

Further, we appreciate the Department's consideration of comments submitted by OLA to the initial proposed Rulemaking last year. However, there doesn't appear to have been much thought given to the comments submitted on April 7, which was only 5 business days before DFPI released its most recent modified version of the proposed rule. In addition, DFPI claims in the latest notice that it relied on two annual reports from the Consumer Financial Protection Bureau for this rulemaking. However, the Department does not stipulate how they relied on these reports or to what extent. These reports were not referenced in previous iterations of this rulemaking, and it is not clear how they impacted the latest modification to the rulemaking. We encourage the DFPI to clarify the ways in which this rulemaking relied on these two reports.

Nonetheless, OLA acknowledges that the Department made some positive changes to the initial proposal from last year, including changing "calendar days" to "business days," providing for exemptions to the definitions of "complaint" and "inquiry," and the exemption for complaints and inquiries governed by applicable federal law. However, the Department's latest revisions do not go far enough, and we strongly believe the items below warrant attention and modifications are needed to craft this Rule into an effective and workable tool for consumers and the industries that serve them.

Many of the modified Rule's requirements remain burdensome and unnecessary. The rule will ultimately serve to increase costs for consumers due to the significant costs in retooling products and business operations to bring them into compliance with the new Rule. Also, we continue to find the DFPI's stated assumptions that this rule will have no adverse economic impact on business, and the stated cost of compliance (\$2,500 initially and \$4,000 to comply annually) to be incorrect based on the reporting requirements alone. We believe the DFPI should reevaluate the estimated cost of compliance to reflect the true financial burden on the business community.



I. "Inquiry" and Section 1073

Due to the fundamental nature of an inquiry – defined by Merriam-Webster's Dictionary as: "seek for information by questioning" – we believe there should be no affirmative mandate on businesses with respect to inquiries. The Rule as modified would require extensive tracking and recordkeeping of requests that should otherwise be dealt with at the discretion of the business on a case-by-case basis.

Our recommendation is to strike the entirety of Section 1073. However, if Section 1073 remains, then we request that the definition of "inquiry" be narrowed to include only those questions materially affecting a consumer's understanding of a financial product or service. Further, there should be minimal obligations on a covered person as to "inquiries." Whether, when, and how a business responds to a consumer inquiry (i.e. information, interpretation, or clarification about a financial product) should primarily be a matter of customer service and competition within the marketplace. The processes and procedures proposed by the DFPI as to inquiries would require every covered person to record, obtain information about, categorize, respond to, and report to the DFPI on too broad of an array of consumer communications. The sheer volume and complexity will be high and could be overwhelming to any covered person as well as the DFPI.

The detailed information the DFPI is proposing covered persons to obtain related to an "inquiry" creates unnecessary privacy and data security issues and risk for California consumers and the entities collecting this information. The timing requirements for responses would be impossible for many, if not all, covered persons to meet. As indicated, responding to consumer inquiries is part of customer service. Customer service is not within the purview of the DFPI.

II. Proposed Complaint Processes and Procedures; Section 1072

The proposed complaint processes and procedures are generally too complex, impractical, vague, unduly burdensome, and in many respects unnecessary.

A. Complaint process and timelines

The proposed complaint form needs clarification, including but not limited to by whom and how the form is to be completed in certain scenarios. Requiring covered persons to track complaints through numerous vehicles (mail, email, and phone) will be extremely complicated and burdensome especially for online providers. Much of the information required to be retained and reported about "complaints" is unnecessary, not useful to the DFPI's regulatory authority, and is unclear as to how it would need to be categorized.

B. Oversight, tracking, and reporting

The number of data points and information to track and categorize are overwhelming, unnecessary, and not useful to the DFPI's regulatory authority.



C. Inquiries Procedure

As mentioned, there should be minimal requirements for covered person with respect to an "inquiry." This should be a matter of customer service and competition in the marketplace. We are not aware of any similar regulatory requirement at either the state or federal level.

We look forward to further engaging and working with the DFPI to promulgate reasonable and cautious rules that are consistent with the CCFPL, other applicable laws, as well a competitive marketplace.

Thank you for your consideration,



Andrew Duke
Executive Director
Online Lenders Alliance