

**California Department of  
Financial Protection and Innovation**

**Commissioner's Report on the Offer or Sale of  
Securities by Permit under Corporations Code Section  
25113 for 2021**

**PROTECTING CONSUMERS**  
FOSTERING TRUST & INNOVATION

**DFPI**   
DEPARTMENT OF FINANCIAL  
PROTECTION & INNOVATION



DEPARTMENT OF FINANCIAL  
PROTECTION & INNOVATION

## TABLE OF CONTENTS

|   |   |
|---|---|
| Department of Financial Protection & Innovation Leadership..... | 1 |
| Letter from Commissioner Clothilde V. Hewlett.....              | 2 |
| Introduction .....  | 3 |
| 2021 Summary.....   | 3 |
| General Categories of Investment.....                           | 3 |
| Permits Issued by Investment Type .....                         | 4 |
| Suitability Standards by Investment Type .....                  | 4 |
| Category Standards .....  | 4 |
| Standards for Issuers or Sponsors.....                          | 6 |
| Experience Requirements .....                                   | 6 |
| Net Worth Requirements .....                                    | 6 |
| Net Worth by Investment Type.....                               | 7 |
| Yearly Trends.....  | 8 |
| Enforcement Actions.....  | 9 |



DEPARTMENT OF FINANCIAL  
PROTECTION & INNOVATION

## DEPARTMENT OF FINANCIAL PROTECTION & INNOVATION LEADERSHIP

### **Clothilde V. Hewlett, Commissioner**

Department of Financial Protection and Innovation

### **Avy Mallik, General Counsel**

Department of Financial Protection and Innovation

### **Colleen Monahan, Deputy Commissioner**

Legal Division

Department of Financial Protection and Innovation

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Dear External Partners:

At the DFPI, our mission is to advance a regulatory framework that encourages economic development and responsible innovation in California while balancing the need for consumer and investor protection.

For 2023, the DFPI has identified our work in securities oversight as a key priority. We will be working to effectively regulate emerging and complex securities products and services so that the DFPI is responsive to the rapidly changing securities landscape.

We also want to ensure our oversight balances the risks to investors with the need to promote raising capital and responsible innovation. To support that goal, we'll be launching a robust engagement with stakeholders to guide recommendations for updated securities regulations.

And finally, we want to help Californians, particularly the most vulnerable, to build generational wealth. We will begin to develop educational materials and programs for prospective investors to ensure California consumers understand both the risks and benefits of investing in securities. We will also continue rigorous enforcement to hold individuals accountable when they have violated the law.

I hope you find the following report informative and useful. This report represents securities permits issued in 2021. Please do not hesitate to contact our Acting Deputy Commissioner of Legal, Colleen Monahan, with questions or concerns. She can be reached at (916) 477-4062 or at [Colleen.Monahan@dfpi.ca.gov](mailto:Colleen.Monahan@dfpi.ca.gov). The report also can be found on the DFPI website at [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

Sincerely,

Clothilde V. Hewlett  
Commissioner  
Department of Financial Protection and Innovation

## INTRODUCTION

Under California law, only securities that are qualified by the Department of Financial Protection and Innovation (DFPI) or exempt from qualification may be offered or sold in this state.<sup>1</sup> To qualify a security, a prospective securities issuer must submit application documents to the DFPI for review before money may be raised from investors. Securities that are exempt under state law need not be qualified by the DFPI provided that issuers adhere to the rules which apply to the exemption under which they are operating.<sup>2</sup>

In accordance with Corporations Code section 25113, subdivision (d), this report summarizes data for the previous calendar year and contains the following information:

- The general categories of investments for which permits were approved.
- The experience and net worth requirements imposed on issuers or sponsors.
- The total amount of money sought to be raised per category.
- Enforcement actions taken against permit holders.
- Any other information deemed relevant.

## 2021 SUMMARY

### General Categories of Investment

In 2021, the DFPI issued 82 permits under Corporations Code section 25113 in the following categories of investment: agriculture, banking, church debt, church extension funds, cooperatives,<sup>3</sup> country clubs, educational services, financing,<sup>4</sup> food and drink, hard money lenders,<sup>5</sup> manufacturing, mobile home parks, mutual water companies, pharmaceuticals, real estate investment trusts (REITs), retail, and sports and recreation.

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<sup>1</sup> See the Corporate Securities Law of 1968 (Corp. Code, § 25000 *et seq.*; Cal. Code Regs., tit. 10, § 260.140 *et seq.*).

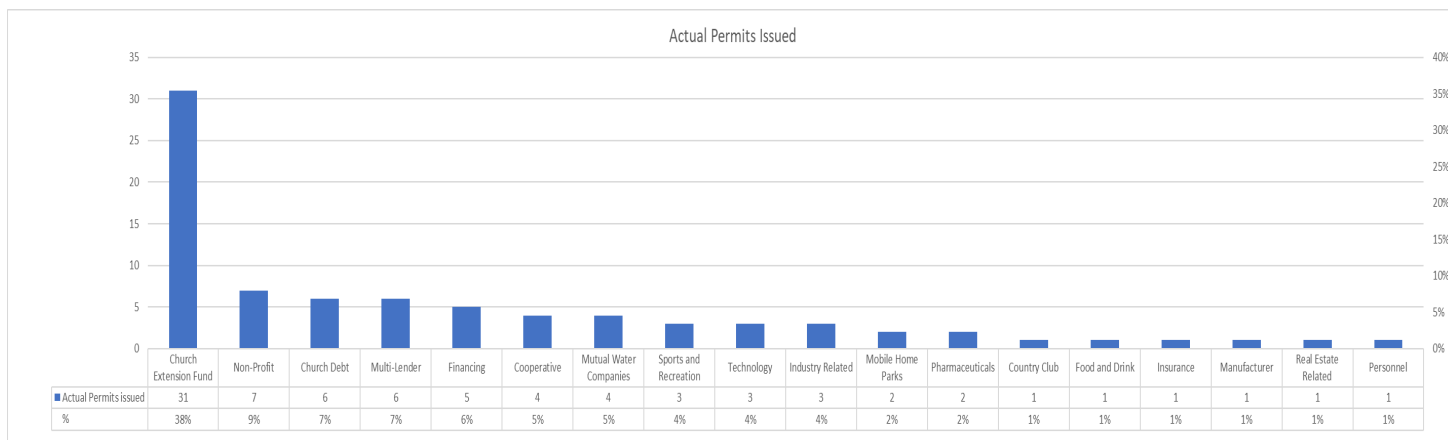
<sup>2</sup> *Id.*

<sup>3</sup> Cooperatives include hardware retailers, grocers, and professional services providers.

<sup>4</sup> Financing includes non-profit 501(c)(3) and for-profit companies financing through debt.

<sup>5</sup> Hard money lenders include mortgage pools and fractional interest investments.

## PERMITS ISSUED BY INVESTMENT TYPE



Data shown in chart: Investment type, actual permits issued by investment type, percent of actual permits issued

## INVESTOR SUITABILITY STANDARDS

To better protect consumers and foster trust in the market, the Commissioner has broad discretion to set standards for the offer and sale of securities.<sup>6</sup> The Commissioner may require investors to meet specific qualifications related to experience, level of financial responsibility, tax status, or any other criteria the Commissioner deems necessary.<sup>7</sup> These “investor suitability” standards are imposed as deemed necessary during legal review and can depend upon the securities issued. As reflected in the table below, both the least stringent and most stringent standards varied by category of investment in 2021. For some investment categories, the suitability standard imposed was limited to California residents.<sup>8</sup> In most cases, however, the Commissioner restricted the offer and sale of the securities to persons having a minimum gross income and minimum net worth or limited the percent of net worth a person could invest.

### Suitability Standards by Investment Type

| Type of Investment     | Least Stringent Standard      | Most Stringent Standard  |
|------------------------|-------------------------------|--|
| Church Extension Funds | None                          | Church Members Only  |
| Financing              | None                          | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth |
| Mobile Home Parks      | Residents of the park         | Residents of the park  |
| Retail                 | North American employees only | North American employees only  |

<sup>6</sup> See Corp. Code, § 25000 *et seq.*; Cal. Code Regs., tit. 10, § 260.140 *et seq.*

<sup>7</sup> Cal. Code Regs., tit. 10, § 260.140.01.

<sup>8</sup> Cal. Code Regs., tit. 10, § 260.001, subd. (e).

|                               |   |   |
|-------------------------------|---|---|
| Cemetery and Mortuary Service | Congregates of Jewish faith   | Congregates of Jewish faith   |
| Fractional Interest           | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth with an investment cap of 10% of net worth | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth, with an investment cap of 10% of net worth  |
| Mutual Water Companies        | None  | Residents of limited dwellings only   |
| Non-Profit                    | None  | \$250,000 net worth<br>Or<br>\$70,000 gross income and \$70,000 net worth, with an investment cap of 10% of net worth   |
| Cooperatives                  | None  | Only farmers, producers of agricultural products or associations of producers of agricultural products<br>and<br>Only retailers of hardware, lumber and building materials. |
| Other-Real Estate Related     | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth  | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth, with an investment cap of 10% of net worth  |
| Personnel                     | Employees of the issuer only  | Employees of the issuer only  |
| Multi-lender                  | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth with an investment cap of 10% of net worth | \$1,000,000 net worth<br>or<br>\$200,000 individual/\$300,000 joint annual income; plus an investment cap of 10% of net worth   |
| Church Debt                   | None  | \$250,00 net worth<br>or<br>\$70,000 gross income and \$70,000 net worth, with an investment cap of 10% of net worth  |
| Manufacturing                 | Employees only  | Employees only  |
| Country Clubs                 | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth  | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth  |
| Sports and Recreation         | Individuals over 21 years old; legally married couples; entities; and registered domestic partners                    | \$500,000 net worth<br>or<br>\$65,000 gross income and \$250,000 net worth with, an investment cap of 10% of net worth  |
| Food and Drink                | None  | None  |
| Insurance                     | None  | None  |
| Technology                    | None  | None  |
| Pharmaceuticals               | Employees of the issuer only  | Employees of the issuer only  |

# STANDARDS FOR ISSUERS OR SPONSORS

## Experience Requirements

The securities permit application requires an issuer to explain the applicant's business experience. The DFPI evaluates the issuer's explanation along with other information provided in the application. There is no experience requirement that applies to all issuers. However, regulations promulgated by the DFPI set experience standards for issuers or sponsors in a real estate program<sup>9</sup> and oil and gas offerings.<sup>10</sup>

In a real estate program, the general partner of the sponsor must have at least two years of real estate experience or other experience relevant to acquiring and managing the types of properties sought by the program.<sup>11</sup> Additionally, any affiliate providing service to the program must have no less than four years of experience or otherwise demonstrate knowledge and experience to render the proposed services.<sup>12</sup>

In an oil and gas offering, the general partner or its chief operating officers must have at least three years of relevant oil and gas experience needed to successfully manage operations.<sup>13</sup> Additionally, the general partner or any affiliate providing services to the program must have at least four years of relevant experience in the services being rendered or otherwise demonstrate sufficient knowledge and experience to perform the proposed services.<sup>14</sup>

## Net Worth Requirements

Corporations Code section 25113, subdivision (d), mandates that the DFPI report on the "minimum, maximum, and average net worth required of those persons to whom permits are issued for each category." The DFPI, however, generally does not require specific net worth or minimum capital requirements for the issuer or sponsor unless required to do so by rule. As such, regulations governing REITs,<sup>15</sup> real estate programs,<sup>16</sup> and oil and gas interests<sup>17</sup> specify net worth requirements.

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<sup>9</sup> Cal. Code Regs., tit. 10, § 260.140.111.1.

<sup>10</sup> Cal. Code Regs., tit. 10, § 260.140.122.1.

<sup>11</sup> Cal. Code Regs., tit. 10, § 260.140.111.1.

<sup>12</sup> *Id.*

<sup>13</sup> Cal. Code Regs., tit. 10, § 260.140.122.1.

<sup>14</sup> *Id.*

<sup>15</sup> Cal. Code Regs., tit. 10, § 260.140.91.

<sup>16</sup> Cal. Code Regs., tit. 10, § 260.111.2.

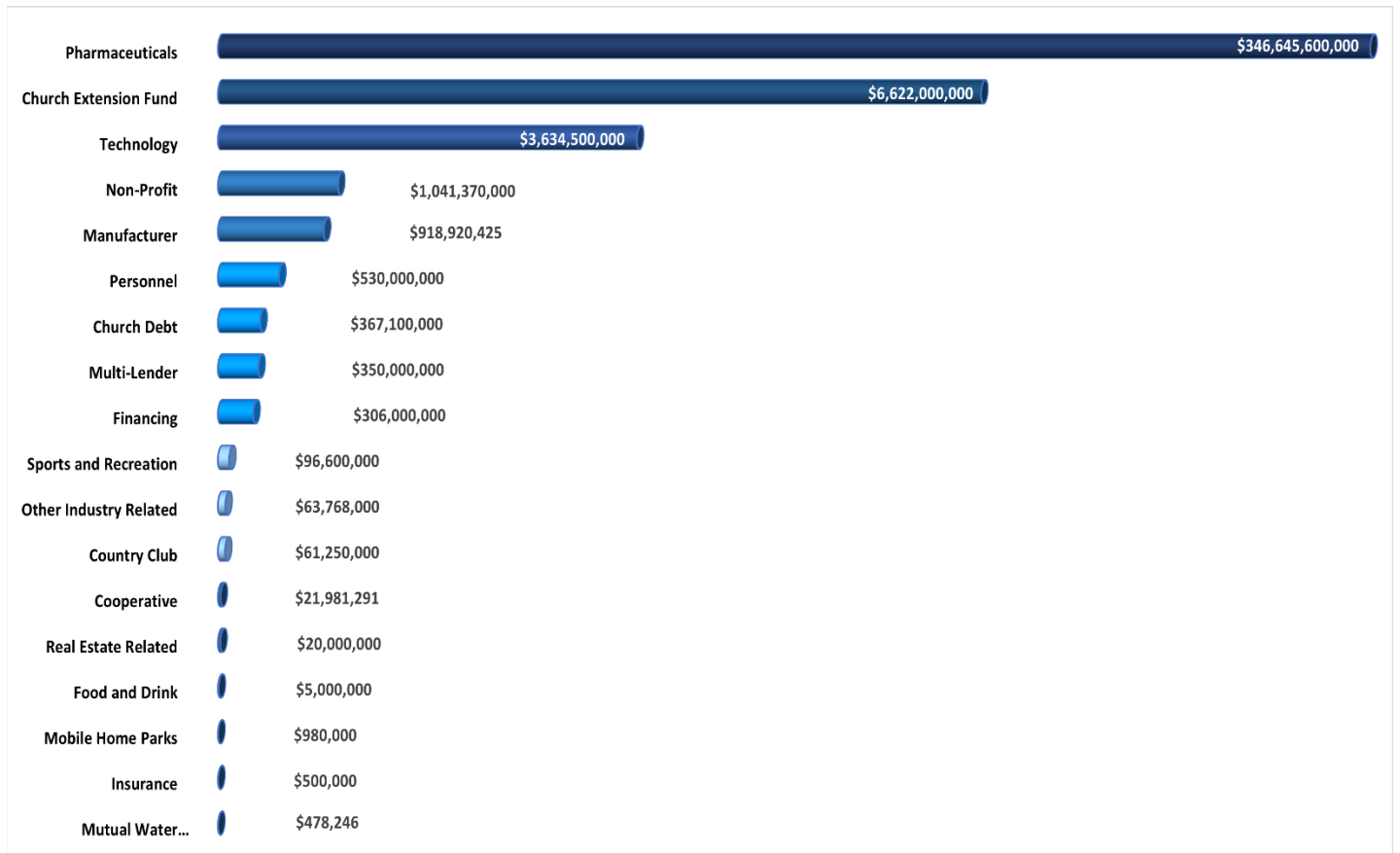
<sup>17</sup> Cal. Code Regs., tit. 10, § 260.140.122.2.



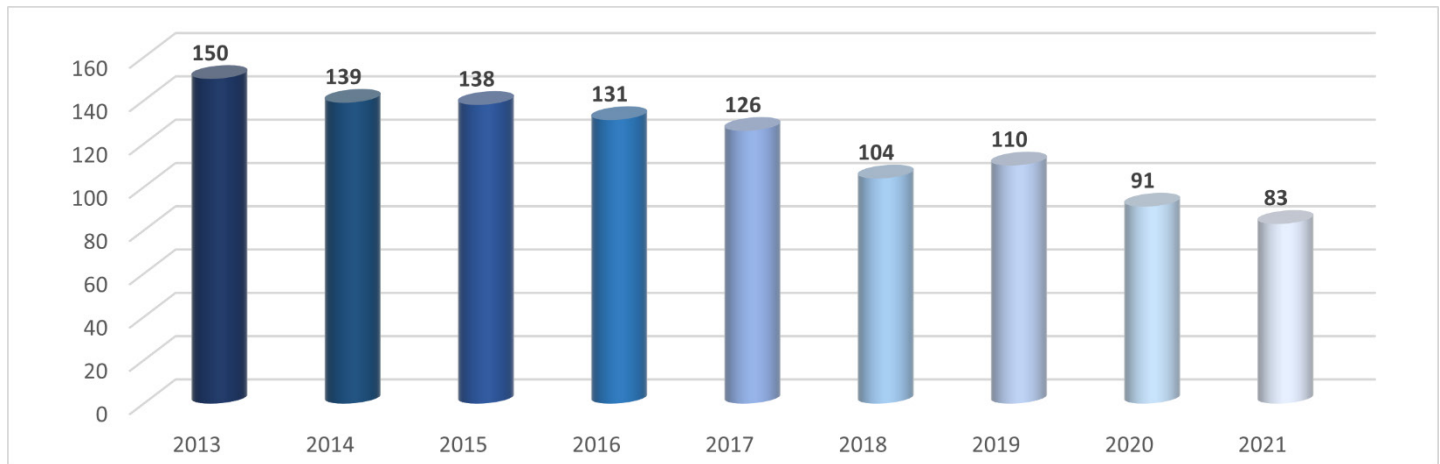
## ISSUERS' NET WORTH BY INVESTMENT TYPE 2021

| Category of Investment | Minimum Net Worth | Maximum Net Worth | Average Net Worth |
|------------------------|-------------------|-------------------|-------------------|
| Church Debt            | \$483,712         | \$39,043,545      | \$39,043,545      |
| Church Extension Funds | \$1,945,385       | \$300,738,246     | \$57,283,627      |
| Cooperative            | \$12,820,786      | \$689,000,000     | \$258,863,173     |
| Country Club           | \$2,271,236       | \$2,271,236       | \$2,271,236       |
| Financing              | \$97,651          | \$49,419,420      | \$16,096,637      |
| Food and Drink         | \$3,301,702       | \$3,301,702       | \$3,301,702       |
| Insurance              | \$32,450,000      | \$32,450,000      | \$32,450,000      |
| Manufacturer           | \$1,572,584,000   | \$1,572,854,000   | \$1,572,854,000   |
| Mobile Home Parks      | \$746,239         | \$25,455,119      | \$13,100,679      |
| Multi-Lender           | \$372,873         | \$31,240,636      | \$9,419,565       |
| Mutual Water Companies | \$87,290          | \$28,397,751      | \$8,918,463       |
| Non-Profit             | \$787,613         | \$175,610,316     | \$61,077,808      |
| Personnel              | \$9,219,842,000   | \$9,219,842,000   | \$9,219,842,000   |
| Pharmaceuticals        | \$30,524,000,000  | \$30,524,000,000  | \$30,524,000,000  |
| Sports and Recreation  | -\$4,716,077      | \$40,407,870      | \$7,187,616       |
| Technology             | \$1,465,000       | \$619,661,000     | \$413,595,667     |
| Other Industry Related | \$18,655,199      | \$19,331,929,313  | \$6,488,919,284   |

## TOTAL AMOUNT SOUGHT TO BE RAISED BY CATEGORY



## YEARLY TRENDS



The table above shows the number of permits issued under Corporations Code section 25113 by year. In 2021, the number of permits issued under Corporations Code section 25113 decreased by 9 percent from the prior year and has declined 45 percent over the past nine years.

## **ENFORCEMENT ACTIONS**

In 2021, the DFPI issued 17 enforcement actions against 51 entities and individuals for violations related to the offer or sale of securities. The types of actions included consent orders, desist and refrain orders, requests for penalties, and requests for ancillary relief. The majority of the actions also included allegations of the offer or sale of securities by means of an untrue statement of material fact. None of these actions involved securities permit holders.