



California DFPI Proposes Regulations Governing Providers of Small Business Finance

August 31st, 2021 | [Catherine M. “Cathy” Brennan](#) and [Katherine C. Fisher](#)

On August 18, 2021, the California Department of Financial Protection and Innovation (“DFPI”) released [draft regulations](#) and an [invitation for comments](#) under the California Consumer Financial Protection Law (“CCPL”). The CCPL gives the DFPI authority to define and enforce a new “abusive” standard against providers of small business finance.

The proposed regulations would require providers of small business finance to annually report the cost of financing to the DFPI. Section 90009.2(b) of the proposed regulations states:

(b) Each person engaged in the business of offering or providing commercial financing or other financial products or services to a small business, nonprofit, or family farm shall report the following information regarding activity within this state for the calendar year preceding the due date of the report.

(1) The person’s contact and organization identification information.

(2) By type of commercial financing or other financial products or services, the person’s total number and total dollar amount of transactions in this state for the prior calendar year with small businesses, nonprofits, and family farms.

(3) By type of commercial financing or other financial products or services, the person’s total number transactions in this state for the prior calendar year with small businesses, nonprofits, and family farms for financing over \$100,000, over \$50,000 but under \$100,000, over \$25,000 but under \$50,000, over \$10,000 but under \$25,000, and at or less than \$10,000.

(4) On or after the operative date for the regulations under Financial Code section 22804, for the commercial financing data reported under paragraph (3) of this subdivision, the minimum, maximum, average, and median total dollar cost of the financing at each interval set forth in paragraph (3).

Because commercial loans made by a CFL licensed lender and revenue based finance transactions have no statutory interest rate limit, the DFPI may be gearing up to make the argument that high-cost financing products are “abusive.”

We will continue to monitor developments. Comments on the proposed regulations are due by September 17, 2021.

