

DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

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The Department of Financial Protection and Innovation (DFPI) serves as California’s primary regulator of financial service providers and products. DFPI was previously known as the Department of Business Oversight (DBO) until September 29, 2020, when Governor Newsom signed [AB 1864 \(Limón\) \(Chapter 157, Statutes of 2020\)](#), which renamed the Department of Business Oversight to the Department of Financial Protection and Innovation. The bill allowed DFPI to retain all the powers, duties, responsibilities, and functions of DBO. [[26:1 CRLR 213–215](#)]

As part of Governor Brown’s 2012 “Governor’s Reorganization Plan (GRP),” DBO (now DFPI) was formed by merging the Department of Corporations (DOC) and the Department of Financial Institutions (DFI). DFPI operates within the Business, Consumer Services, and Housing Agency. DFPI’s executive officer, the “Commissioner of Financial Protection and Innovation,” oversees the Department. DOC and DFI continue to operate as individual divisions within DFPI and are led by a Senior Deputy Commissioner of Corporations and Financial Institutions.

DFPI, as a whole, seeks to provide services to businesses and protect consumers involved in financial transactions. The rules promulgated by DFPI are outlined in Division 3, Title 10 of the California Code of Regulations (CCR). Its statutory jurisdiction includes the Corporate Securities Law of 1968 (Corporations Code section 25000 et seq.), which requires the “qualification” of all securities offered and/or sold in California. “Securities” are broadly defined and may include various business opportunities in addition to traditional stocks and bonds. Many securities may be

qualified through compliance with the federal Securities Acts of 1933, 1934, and 1940. If the securities are not under federal qualification, the Commissioner may issue a permit for their sale in California.

The Commissioner also enforces a group of more specific statutes involving other business transactions: the California Financing Law (Financial Code section 22000 et seq.); the California Residential Mortgage Lending Act (Financial Code section 50000 et seq.); the Franchise Investment Law (Corporations Code section 31000 et seq.); the Security Owners Protection Law (Corporations Code section 27000 et seq.); the California Commodity Law of 1990 (Corporations Code section 29500 et seq.); the Escrow Law (Financial Code section 17000 et seq.); the Check Sellers, Bill Payers and Pro-raters Law (Financial Code section 12000 et seq.); the Securities Depository Law (Financial Code section 30000 et seq.); the Capital Access Company Law (Corporations Code section 28000 et seq.); the California Consumer Financial Protection Law (CCFPL) (Financial Code section 90000 et seq.) and Student Loan Servicing Act (Financial Code section 28100 et seq.).

As of Sept. 30, 2022, DFPI maintained oversight of 24 financial service industries and licensees, including, but not limited to: 44 student loan servicers, 107 premium finance companies, 118 state and 154 federal credit unions, eight trust companies, and as of January 2022, 578 registered broker-dealer firms, and the 3,734 registered investment adviser firms.

DFPI consists of the following divisions: (1) the Administrative Division, which provides DFPI with administrative support services; (2) the Consumer Services Division, which develops public affairs strategies; (3) the Division of Consumer Financial Protection, which supervises financial services not now regulated by the Department; (4) the Division of Corporations and Financial Institutions; (5) the Enforcement Division, which enforces the laws administered by

DFPI; (6) Executive Office; (7) the Information Technology Office, which is responsible for technical support services; (8) the Legal Division, which includes all in-house legal counsel; (9) the Legislation Division, which monitors and tracks all bills related to DFPI and provides guidance on legislative issues; and (10) the Communications Division, which offers strategic messaging, media relations, and digital communications support.

On June 22, 2022, Governor Newsom [announced](#) the appointment of Jeanette Quick as Deputy Commissioner of Investor Protection for DFPI. Quick, who previously served as Head of Compliance and Public Policy and Head of Financial Services Legal at Gusto, earned a J.D. from Georgetown University Law Center.

On July 27, 2022, Governor Newsom [announced](#) the appointment of J. Elizabeth Smith as Deputy Commissioner of Communications for DFPI. Smith, who most recently served as Communications Manager for the City of Santa Cruz, earned an M.S. in integrated Marketing Communications from Northwestern University and an M.P.A. from the University of California, Berkeley.

On August 26, 2022, the California Senate unanimously confirmed Clothilde V. Hewlett as DFPI Commissioner. Commissioner Hewlett, who had been appointed to the position by Governor Newsom in September 2021, received a B.A. in Political Science from the University of California, Berkeley, and a J.D. from the UC Berkeley School of Law.

On September 2, 2022, Avyark “Avy” Mallik was [appointed](#) by Governor Newsom to serve as DFPI General Counsel. Mallik, who most recently served as Director of Fintech Policy for the Financial Services Committee at the U.S. House of Representatives, earned a J.D. from Georgetown University Law Center.

HIGHLIGHTS

DFPI Seeks Input on the Regulation/Supervision of Covered Persons and Service Providers Offering Crypto Asset-Related Financial Products and Services in California

On May 4, 2022, Governor Gavin Newsom issued [Executive Order N-9-22](#) (Executive Order) to foster responsible innovation, bolster California’s innovation economy, and protect consumers. It aims to create a transparent regulatory and business environment for web3 companies that harmonize federal and California approaches, balances the benefits and risks to consumers, and incorporates California values such as equity, inclusivity, and environmental protection. In accordance with the Executive Order, DFPI issued an [Invitation for Comment](#) on June 1, 2022, seeking input from stakeholders and the public in developing guidance and, as appropriate, regulatory clarity and supervision of covered persons and service providers involved in the offering and provision of crypto asset-related financial products and services in California.

Among other things, DFPI’s Invitation for Comments asked for input on the following questions:

- What steps should DFPI take to better protect consumers from scams and frauds associated with crypto asset-related financial products and services?
- What steps should DFPI take to improve consumer education and outreach for crypto asset-related financial products and services?
- What steps should DFPI take to better ensure consumer protection in the offering and provision of crypto asset-related financial products and services?

- What steps should DFPI take to better ensure investor protection in the offering and provision of crypto asset-related financial products and services?
- What steps should DFPI take to better ensure financial stability in the market from risks posed in the offering and provision of crypto asset-related financial products and services?
- What steps should DFPI take to address climate risks posed in the offering and provision of crypto asset-related financial products and services?
- How should DFPI strive to harmonize its regulatory approach to crypto asset-related financial products and services with federal authorities?
- In developing a comprehensive regulatory approach to crypto asset-related financial products and services, how should DFPI work with other state financial regulators to promote a common approach that increases the reach of DFPI’s consumer protection efforts and reduces unnecessary burdens, if any, on companies seeking to operate nationwide?
- How can DFPI make California the most desirable home state for responsible companies when developing guidance and, as appropriate, regulatory clarity and supervision of persons involved in the offering and provision of crypto asset-related financial products and services in California?
- How should DFPI ensure that California values of inclusive innovation and equity-focused consumer protection are core components of crypto asset-related financial products and services as it develops guidance and, as appropriate, regulatory clarity and supervision of those persons involved in the offering and provision of crypto asset related financial products and services in California?

- What factors should be considered in determining whether the offer or provision of a crypto asset-related financial product or service should trigger registration?
- Are regulations needed to specify crypto asset-related financial products and services that should be included in the definition of a “financial product or service” subject to CCFPL authority?
- Are regulations needed to identify any unlawful, unfair, deceptive, or abusive acts or practices in connection with the offering of crypto asset-related financial products and services?
- Are regulations needed to ensure that features of crypto asset-related financial products and services are fully, accurately, and effectively disclosed?
- Are regulations needed to require the filing of reports in connection with the offering of crypto asset-related financial products and services?
- Should DFPI adopt rules requiring covered persons to file reports related to the offering and provision of crypto asset-related financial products and services? If so, what should such reports contain, and which report responses should be made publicly available?
- Should DFPI adopt rules requiring service providers to file reports related to the offering and provision of crypto asset-related financial products and services? If so, what should such reports contain, and which report responses should be made publicly available?

By the August 5, 2022 deadline, 33 organizations had submitted [public comments](#) to DFPI in response to these questions. According to [Towards Responsible Innovation](#), a joint report issued in December 2022 by the Governor’s Office of Business and Economic Development, the Business

Consumer Services and Housing Agency, DFPI, and the Government Operations Agency, commenters suggested that California:

- Provide regulatory clarity—including by basing regulations on specific types of activities, products, and services (rather than specific entities).
- Harmonize with federal guidelines—including by modeling key terms and requirements on those used by federal regulators.
- Avoid over-regulation—including by minimizing compliance costs.
- Prioritize consumer protection by leveraging existing laws and creating disclosure requirements, consumer education, and enforcement.
- Establish cybersecurity standards—including raising existing standards.
- Address environmental risks—including by acknowledging existing risks posed by blockchain industries and incentivizing clean energy usage.

The Governor’s Executive Order also called on DFPI to issue crypto-related guidance to banks and credit unions. DFPI conducted a survey between late July and early September 2022, collecting responses from nearly 200 financial institutions. Preliminary findings from the survey indicated that roughly 20% percent of respondents offer or plan to offer crypto asset-related products or services and that credit unions are the type of licensee most likely to offer such products or services. DFPI is expected to issue guidance to state-licensed banks and credit unions in March 2023.

In a related matter, on September 23, 2022, Governor Newsom vetoed [AB 2269 \(Grayson\)](#), legislation that would have established a licensing and regulatory framework administered by DFPI for digital financial asset business activity—in other words, the measure would have set up a system to license and regulate businesses that help Californians buy and sell cryptocurrencies.

In his veto message, Governor Newsom stated that he “share[s] the author’s intent to protect Californians from potential financial harm while providing clear rules for crypto-businesses operating in this state.” However, he referred to his May 4, 2022, Executive Order (discussed above), and noted that his Administration has been conducting “extensive research and outreach to gather input on approaches that balance the benefits and risk to consumers, harmonize with federal rules, and incorporate California values such as equity, inclusivity, and environmental protection. It is premature to lock a licensing structure in statute without considering both this work and forthcoming federal actions. A more flexible approach is needed to ensure regulatory oversight can keep up with rapidly evolving technology and use cases and is tailored with the proper tools to address trends and mitigate consumer harm. Additionally, standing up a new regulatory program is a costly undertaking, and this bill would require a loan from the general fund in the tens of millions of dollars for the first several years. Such a significant commitment of general fund resources should be considered and accounted for in the annual budget process.” In closing, the Governor “committed to working collaboratively with the Legislature to achieve the appropriate regulatory clarity once federal regulations come into sharper focus for digital financial assets, while ensuring California remains a competitive place for companies to invest and innovate.”

DFPI Is Actively Investigating Multiple Companies Offering “Crypto-Interest Accounts”

On July 12, 2022, DFPI [announced](#) that it is investigating multiple companies nationwide that offer customers interest-bearing crypto asset accounts (commonly referred to as “crypto-interest accounts”). A crypto-interest account allows customers to lend crypto assets to the company and, in exchange, receive interest paid in crypto assets. According to DFPI, due to market

conditions, some of these companies are preventing customers from withdrawing from and transferring between their accounts.

DFPI has warned California consumers and investors that many crypto-interest account providers may not have adequately disclosed the risks customers face when they deposit crypto assets onto these platforms. Crypto-interest account providers are not governed by the same rules and protections as banks and credit unions, which are required to have deposit insurance.

In recent actions against BlockFi and Voyager Digital, DFPI found that certain crypto-interest accounts were unregistered securities. The purpose of securities registration, in part, is to ensure that investors receive all material information needed to evaluate whether to enter into these crypto-interest account arrangements, such as risks being taken with deposited funds. On November 11, 2022, DFPI issued a notice to suspend BlockFi Lending LLC's CFL lender license for 30 days, pending the Department's investigation into BlockFi's recent announcement to limit its platform activity, including pausing client withdrawals. According to DFPI, BlockFi's announcement, made on November 10, 2022, from its Twitter account, acknowledged that it cannot "operate business as usual" given the "lack of clarity on the status of FTX.com, FTX US and Alameda." The DFPI is investigating BlockFi's compliance with the laws within the Commissioner's jurisdiction, including the CFL. According to DFPI, it is also investigating FTX, and BlockFi reported to DFPI that it has ceased offering loans in California and asked clients not to deposit to the BlockFi Wallet or its interest accounts.

DFPI is investigating whether other crypto-interest account providers are violating laws under its jurisdiction. For example, on September 26, 2022, DFPI issued a desist and refrain order to Nexo Group in connection with its Earn Interest Product accounts. According to DFPI, Nexo

offered its Earn Interest Product accounts to California residents without first qualifying these accounts as securities.

DFPI is encouraging consumers to exercise extreme caution before responding to any solicitation offering investment or financial services and advising California customers of crypto-interest account providers that have slowed or paused withdrawals or transfers of crypto assets to contact DFPI.

DFPI Launches Crackdown on Crypto Asset-Fueled Ponzi and Pyramid Schemes

In another action seeking to protect California consumers and investors from crypto scams and frauds, on September 27, 2022, DFPI [announced](#) that it issued desist and refrain orders against 11 different entities for violations of California securities laws. According to DFPI, each of the 11 entities allegedly offered and sold unqualified securities, and ten of them also made material misrepresentations and omissions to investors; nine of these entities solicited funds from investors to purportedly trade crypto assets on behalf of the investors; and one of the entities solicited crypto assets to develop metaverse software, and one entity claimed to be a decentralized finance, or DeFi, platform.

DFPI alleges that the entities used investor funds to pay purported profits to other investors in the manner of a Ponzi scheme and that each of the entities had a referral program that operated in the manner of a pyramid scheme. Specifically, DFPI contends that the entities promised to pay investors commissions if they recruited new investors and additional commissions if the investors that they recruited, in turn, recruited new investors; the referral programs achieved their desired effect, incentivizing investors to create and post content to social media websites, such as YouTube, to entice others to invest in these entities.

For a list of the entities that were the subjects of DFPI’s desist and refrain orders, view [DFPI’s September 27, 2022, press release](#).

MAJOR PUBLICATIONS

The following reports/studies/guidelines have been conducted by or about DFPI during this reporting period:

- [*Towards Responsible Innovation*](#), An interagency blockchain progress report released by the Governor’s Office of Business and Economic Development, the Business Consumer Services and Housing Agency, DFPI, and the Government Operations Agency, December 2022 (pursuant to the Governor’s Executive Order N-9-22 (EO), reflects the Administration’s work to implement the Executive Order in the seven months since its issuance, and provides six recommendations for future consideration and/or implementation).
- [*Office of the Ombuds, FY 2021–22 Report*](#), DFPI Office of the Ombuds, December 2022 (Pursuant to AB 1864 (Limon, Chapter 157, Statutes of 2020) reports on actions taken in furtherance of the Office’s primary function to ensure DFPI provides the highest level of customer service to the public including consumers, consumer groups, licensees, prospective licensees, and trade groups. The report highlights specific accomplishments, discusses issues and trends, and provides recommendations to improve DFPI’s functions and efficiencies.)
- [*Annual Report of Operation of Finance Lenders, Brokers, and PACE Administrators Licensed Under the California Financing Law Report*](#), DFPI, August 2022 (Pursuant to Financial Code sections 22160 and 22692, reports on data submitted by finance lenders, brokers, and program administrators licensed under the CFL. The data collected covers two types of loan categories: consumer loans intended primarily for personal, family, or household

purposes, such as paying utility and medical bills, and for the purchase or repair of personal vehicles (the law also treats commercial loans with a principal amount of \$5,000 or less as consumer loans and they are reported as such; and commercial loans, not intended for personal, family or household purposes). Among other findings, the report notes that finance lenders originated over 27 million consumer loans in 2021, a 132.7% increase over 2020. The total principal amount of loans made in 2021 increased by 29.7% in comparison to 2020 (to \$145.4 billion from \$112.2 billion). The number of “buy now, pay later” unsecured consumer loans (26.5 million loans) made up 96.6% of the total consumer loans originated in 2021; the total principal amount of those loans was \$3.4 billion.).

- [*Annual Report of Activity under the California Residential Mortgage Lending Act Report*](#), DFPI, July 2022) (Pursuant to Financial Code section 50307, provides detailed information on residential mortgage lending loans, rates, consumer complaints, foreclosures, and other data elements for calendar year 2021. According to the report, favorable real estate markets and conditions continued, with more Californians refinancing and obtaining new residential mortgage loans in response to continued lower interest rates in 2021. Foreclosure numbers slightly increased due in part to the lifting of the COVID-19 foreclosure moratorium on September 1, 2021. There was not a sharp rise in foreclosures due to the roll-out of the California Mortgage Relief Program.).

- [*Annual Report of Payday Lending Activity Under the California Deferred Deposit Transaction Law*](#), DFPI, July 2022 (Pursuant to Financial Code section 23026, reports on DFPI’s licensing and regulation of deferred deposit originators, better known as payday lenders. Among other things, the report states that the COVID-19 pandemic had a significant impact on the state and national economy and likely played a role in the decline in payday lending activity in

California. There is evidence that the decrease in payday activity correlates with COVID-19 relief efforts. While there are a number of factors in the decrease, they likely include the distribution of stimulus checks, loan forbearances, and growth in alternative financing options. The annual report and survey data in this report are unaudited and cover licensees' activities in calendar year 2021. The report also provides historical data back to 2012.).

- [*Annual Report of Activity Under Small Dollar Loan Pilot Program Report*](#), DFPI July 2022 (pursuant to Financial Code section 22380, provides an update on the Pilot Program, which was designed to increase consumers' access to capital by encouraging more robust small-dollar lending in California; the minimum loan amount is \$300 and the maximum loan amount is \$7,4990).

- [*Annual Report of Non-Profits Providing Zero-Interest Consumer Loans Report*](#), DFPI, July 2022 (pursuant to Financial Code section 22067, reports on nonprofit organizations facilitating zero-interest, low-cost loans intended to allow consumers to establish and build credit histories or improve their credit scores; such loans range from \$250 to \$2,499. This report contains unaudited data provided by exempt organizations for the calendar year ending December 31, 2021).

RULEMAKING

The following is a status update on recent rulemaking proceedings that DFPI has initiated:

- **PRO 01/22 – CCFPL Crypto Asset-Related Financial Products and Services:**
On June 1, 2022, and in response to Governor Gavin Newsom's Executive Order discussed above, DFPI published an [invitation for comments](#) to seek input from stakeholders and the public in developing guidance and, as appropriate, regulatory clarity and supervision of covered persons and

service providers involved in the offering and provision of crypto asset-related financial products and services in California. By the August 5, 2022 deadline, 33 organizations and/or individuals submitted [public comments](#) to DFPI in response to its invitation (see HIGHLIGHTS).

- **PRO 02/21 – CCFPL Commercial Financial Products and Services:** On June 24, 2022, DFPI [published notice](#) of its intent to rename subchapter 4 and adopt article 4, consisting of sections 1060, 1061, and 1062, in Title 10, Chapter 3 of the CCR. The proposed regulations would implement provisions of the CCFPL related to the offering and provision of commercial financing and other financial products and services to small businesses, nonprofits, and family farms. Among other things, this proposed regulation would make it unlawful for covered providers, as defined, to engage in unfair, deceptive, or abusive acts or practices; provide standards for determining whether an act or practice is unfair, deceptive, or abusive; define small business, nonprofit, and family farm, among other terms; clarify DFPI’s ability to enforce the regulation’s provisions; require covered providers, as defined, to submit annual reports containing information about their provision of commercial financing or other financial products and services to small businesses, nonprofits, and family farms; identify persons excluded from the reporting requirement; specify the information required in the reports, as well as provide guidance on calculating or determining certain information; and clarify the obligations of those also submitting annual reports to DFPI as licensees under the CFL. By the August 8, 2022, deadline, 14 organizations and/or individuals submitted [public comments](#) on the initial proposed text. At this writing, this regulatory package is still pending review by DFPI.

- **PRO 06/21 – Student Loan Servicing Act and the Student Loans: Borrower Rights Law:** On September 9, 2022, DFPI published [notice](#) of its intent to amend sections 2032, 2033.5, 2034.5, 2035, 2036.5, 2040, 2040.5, 2041, 2042, 2042.5, and 2043, and adopt sections

2033.75, 2042.65, and 2042.75 to Title 10 of the CCR. Among other things, according to the [Initial Statement of Reasons](#), the proposed changes would clarify that all education financing products are student loans within the definition of student loan in the Student Loan Servicing Act and the Student Loans: Borrower Rights law; clarify that servicers of all education financing products must be licensed as student loan servicers under the Student Loan Servicing Act; clarify that servicers of all education financing products are subject to and must comply with all laws applicable to student loan servicers; define terms used in the rules relating to education financing products; specify that servicers of all education financing products must submit an annual report to DFPI regarding the volume and dollar amount of all education financing products serviced during the previous year, on the form specified by DFPI; and revise certain existing regulations to remove requirements deemed unnecessary, based on DFPI's experience administering the Student Loan Servicing Act, to reduce regulatory burden. By the October 28, 2022, deadline, five organizations and/or individuals submitted [public comments](#) on the initial proposed text. At this writing, this regulatory package is still pending review by DFPI.

- **PRO 03/21 – CCFPL Complaints and Inquiries:** On May 20, 2022, DFPI [published notice](#) of its intent to adopt Article 5, including sections 1070, 1071, 1072, 1073, 1074, and 1075, to Title 10, Chapter 3 of the CCR. These regulations would implement, interpret, and make specific Financial Code section 90008(a), (b), and (d)(2)(D), to set forth written policies and procedures regarding the handling of complaints and inquiries. By the July 5, 2022 deadline, 35 individuals and/or organizations had submitted [public comments](#). At this writing, this regulatory package is still pending review by DFPI.

- **PRO 04/21 – Pilot Program for Increased Access to Responsible Small Dollar Loans (RSDL):** On May 10, 2022, OAL [approved](#) DFPI's amendment of sections 1602, 1603,

1606, 1613, 1614, 1615, and 1616, Title 10 of the CCR. The changes include increasing the upper dollar limit for the RSDL Program from \$2,500 to \$7,500, requiring applicants to submit policies and procedures they must maintain to address customer complaints and respond to questions from loan applicants and borrowers, requiring lenders to report additional information about the finders they use, and allows for the use of qualified finders to disburse loan proceeds, collect loan payments, and issue notices and disclosures to borrowers. OAL approved this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action became effective on July 1, 2022.

- **PRO 01/18 – Commercial Financing Disclosures:** On June 24, 2022, OAL [approved](#) DFPI’s amended sections 900, 901, 910– 917, 920–922, 930, 931, 940–943, and 950–956, to Title 10, Chapter 3 of the CCR. These regulations, which implement [SB 1235 \(Glazer\) \(Chapter 1011, Statutes of 2018\)](#), require a “provider,” defined as a person who extends a specific offer of “commercial financing” to a recipient, to give the recipient certain disclosures at the time the provider extends the offer. [[27:2 CRLR 239](#); [27:1 CRLR 295](#); [26:1 CRLR 221–222](#)] The regulations will take effect on December 9, 2022.

LEGISLATION

- [AB 1837 \(M. Bonta\)](#), as amended August 11, 2022, amends sections 2924f, 2924g, 2924h, and 2924m of, amend, repeal, and add section 2924d, and adds and repeal section 2924o of the Civil Code to close loopholes for investor corporations who often outbid homebuyers in the foreclosure auction process by requiring eligible tenant buyers to disclose certain information; narrowing definitions of an eligible bidder; and changing bid filing procedures to prevent companies from submitting successive and last-day bids. The bill explicitly allows the Attorney

General and public attorneys to pursue legal action to enforce this law. The bill also requires private entities that buy property at a foreclosure auction to sell the property at an affordable housing cost or rent it out as an affordable rent for 30 years or more. This bill extends the sunset date on the foreclosure auction process and related processes from January 1, 2026, to January 1, 2031. Governor Newsom signed AB 1837 on September 28, 2022 (Chapter 642, Statutes of 2022).

- [AB 1904 \(Grayson\)](#), as amended August 11, 2022, amended section 1770 of the Civil Code to require direct marketing disclosures by entities regulated under the California Consumer Financial Protection Law (CCFPL). Specifically, this bill requires a covered person under CCFPL, or an entity acting on behalf of that person, to include in a solicitation the name of the covered person, contact information, and a disclosure that a consumer need not make a payment in response to the offer. Governor Newsom signed AB 1904 on September 15, 2022 (Chapter 324, Statutes of 2022).

- [AB 2269 \(Grayson\)](#), as amended August 22, 2022, would have amended section 4052 of and added Division 1.25 to the Financial Code to establish a licensing and regulatory framework, administered by DFPI, for digital financial asset business activity—in other words, the measure would have set up a system to license and regulate businesses that help Californians buy and sell cryptocurrencies. On September 23, 2022, Governor Newsom vetoed AB 2269; for excerpts of the Governor’s veto message (see HIGHLIGHTS).

- [AB 2424 \(Blanca Rubio\)](#), as amended June 30, 2022, amends the Credit Services Act to impose new requirements and restrictions on credit services organizations. Governor Newsom signed AB 2424 on September 30, 2022 (Chapter 965, Statutes of 2022).

- [SB 577 \(Limón\)](#), as amended January 12, 2022, amends sections 2105, 17202.1, 17414.1, and 80001, adds section 22050.5, and repeals section 80002 of the Financial Code to

reinstate the de minimus CFL exemption, (Financial Code section 22000 et seq.). This bill also repeals the requirement that DFPI provides a BankOn Annual Report and would correct some obsolete references in current escrow law. Governor Newsom signed SB 577 on April 28, 2022 (Chapter 16, Statutes of 2022).

- [SB 975 \(Min\)](#), as amended August 24, 2022, adds Title 1.81.35 to Part 4 of Division 3 of the Civil Code to define coerced debt as a debt incurred in the name of a debtor through duress, intimidation, threat, force, or fraud. The bill also provides a path for victims of abuse who have been coerced into taking on debt to seek relief from those debts while allowing the creditor to go after the abuser to collect the debt. Governor Newsom signed SB 975 on September 30, 2022 (Chapter 989, Statutes of 2022).

- [SB 1099 \(Wieckowski\)](#), as amended August 18, 2022, amends various codes within the Financial Code to make various changes to the debtor's rights in a bankruptcy petition. Among other things, the bill allows a bankrupt debtor to exempt more asset categories from distribution to creditors; and increases the exemption dollar value amount for cars. Governor Newsom signed SB 1099 on September 28, 2022 (Chapter 716, Statutes of 2022).

- [SB 1202 \(Limón\)](#), as amended August 18, 2022, corrects the California Corporations Code by changing the Department of Financial Protection and Innovation's name from the previous name of the Department of Business Oversight. Governor Newsom signed SB 1202 on September 27, 2022 (Chapter 617, Statutes of 2022).

- [SB 1348 \(Bradford\)](#), as amended April 7, 2022, amends section 17414.1 of the Financial Code to remove an offense involving controlled substances from the list of offenses that disqualify a person from serving in any capacity as an officer, director, stockholder, trustee, agent,

or employee of an escrow agent, or in any position involving any duties with an escrow agent. Governor Newsom signed SB 1348 on September 29, 2022 (Chapter 846, Statutes of 2022).

- [SB 1396 \(Bradford\)](#), as amended June 15, 2022, amends section 1954.06 of the Civil Code to instruct DFPI, upon appropriation of the necessary funding, to select an independent evaluator to evaluate the impact of a state program that requires landlords of assisted housing developments to offer their tenants the option of having their rental payments reported to at least one consumer reporting agency. Governor Newsom signed SB 1396 on September 28, 2022 (Chapter 670, Statutes of 2022).

- [SB 1415 \(Limón\)](#), as amended June 1, 2022, adds section 521 to the Financial Code to require banks and credit unions subject to the examination authority of DFPI Commissioner to report annually the revenue earned from overdraft fees, as specified and requires the Commissioner to publish that information in a publicly available report. Governor Newsom signed SB 1415 on September 29, 2022 (Chapter 847, Statutes of 2022).

- [SB 1477 \(Wieckowski\)](#), as amended August 25, 2022, amended, repealed, and added section 706.050 of the Code of Civil Procedure to provide that the maximum amount of disposable earnings of a judgment debtor for any workweek that is subject to levy must not exceed the lesser of 20% of the individual's disposable earnings for that week or 40% of the amount by which the individual's disposable earnings for that week exceed 48 times the state minimum hourly wage. The bill reduces the multipliers used to determine the maximum amount of earnings subject to levy for any pay period other than a weekly pay period. The bill will make these provisions operative on September 1, 2023. Governor Newsom signed SB 1477 on September 29, 2022 (Chapter 849, Statutes of 2022).

- [SB 1498 \(Limón\)](#), as amended August 18, 2022, as it related to DFPI, amends various sections of the Financial Code to make assorted technical and clarifying changes to reflect the newly renamed Department of Financial Protection and Innovation and to clarify the scope of the Money Transmission Act (MTA). Governor Newsom signed SB 1498 on September 19, 2022 (Chapter 452, Statutes of 2022).
- [AB 2001 \(Grayson\)](#), as amended June 9, 2022, amends sections 22154 and 22155 of and adds section 22157.1 to the Financial Code to authorize a California Financing Law licensee to designate an employee to work remotely on the lender’s behalf if the finance lender complies with specified privacy, record-keeping, and consumer safety requirements. Governor Newsom signed AB 2001 on August 26, 2022 (Chapter 181, Statutes of 2022).
- [AB 2433 \(Grayson\)](#), as amended March 11, 2022, amends various sections of the Corporations Code and the Financial Code relating to unlawful practices of broker-dealers and investment advisors. The bill gives DFPI’s Commissioner the authority to act if, after examination and investigation, the Commissioner has reasonable grounds to believe that a broker-dealer or investment advisor is violating a law or rule, conducting business in an unsafe or injurious manner. Specifically, this bill allows the Commissioner to also issue a citation or discontinuance to a person in these circumstances when the commission has cause to believe that a person has violated that law or any rule or order promulgated pursuant to that law. This bill expands the authority of DFPI’s Commissioner to pursue disciplinary actions against broker-dealers, investment advisors, licensed escrow agents, and others if the Commissioner has reasonable grounds to believe the individual in question had broken the law under DFPI’s authority. Governor Newsom signed AB 2433 on August 26, 2022 (Chapter 188, Statutes of 2022).

- The following bills, reported in [Volume 27, No. 2 \(Spring 2022\)](#), died in committee or otherwise failed to be enacted during the 2021–2022 legislative session: [AB 1754 \(Chen\)](#), which would have expanded the definition of a collection agency; [AB 1841 \(Grayson\)](#), which would have launched an online training program for officers and employees of financial institutions regarding the economic abuse of victims of domestic violence; [SB 1324 \(Durazo\)](#), which would have refined the term “consumer debt” to include past due rental debt from on or after January 1, 2019; [SB 1465 \(Allen\)](#), which would have made non-substantive changes to the Financial Institutions Law; [AB 2215 \(Blanca Rubio\)](#), which would have established a public-private partnership to seek out and determine the best methods of instructing pupils in personal finance; [AB 2191 \(Mathis\)](#), which would have included the total number of elder financial abuse reports filed with broker-dealers and investment advisers in the annual California Consumer Financial Protection Law report; [AB 2308 \(Kiley\)](#), which would have defined “commercial purpose” to mean any purpose that has financial gain as an objective; [AB 2839 \(Villapudua\)](#), which would have required DFPI to provide a list of approved credit education programs and providers on its website; [SB 909 \(Bogh\)](#), which would have made nonsubstantive changes to the CFL; [SB 1176 \(Limón\)](#), which would have required DFPI to conduct and publish a peer group analysis of the mortgage-related activities of each licensee as reflected in data provided pursuant to the Home Mortgage Disclosure Act; and [SB 1323 \(Archuleta\)](#), which would have required that an equity sale of property under a power of sale of a mortgage or deed of trust be made by a licensed realtor and by publicly listing the property for sale on the California Multiple Listing Service with an initial listing price at the property’s appraised value.

LITIGATION

- *Federal Trade Commission and California Department of Financial Protection and Innovation v. Green Equitable Solutions, dba Academy Home Services, et al.*, Case No. 2:22-cv-6499-FLA-MAR (C.D. Cal.). On September 12, 2022, the FTC and DFPI filed a [joint complaint](#) alleging that the defendants, doing business through multiple entities located in the Los Angeles area since 2018, deceived hundreds of homeowners nationwide into paying for fraudulent mortgage modification services. The complaint alleges that in exchange for unlawful and high up-front monthly fees, the defendants promised financially distressed homeowners that they would negotiate with mortgage companies to lower their interest rates, monthly payments, or principal amounts; instead, defendants pocketed the borrowers' payments, which the complaint estimates total at least \$6.3 million.

This filing marked the first joint FTC and DFPI action that relies in part on the enforcement powers of the CCFPL, enacted in 2020. The joint complaint alleges that the defendants and their companies violated the CCFPL, as well as the Federal Trade Commission Act, the FTC's Mortgage Assistance Relief Services Rule (the MARS Rule or Regulation O), the Telemarketing Sales Rule, and the Covid-19 Consumer Protection Act.

On September 29, 2022, the court issued a [temporary restraining order](#) to halt the scheme and freeze assets and appointed a receiver to assist with taking over the defendants' businesses and administer any potential relief for victims. At this writing, this matter is still pending.

- *Commodities Future Trading Commission, and California Department of Financial Protection and Innovation, et al. v. Safeguard Metals LLC and Jeffrey Santulan a/k/a Jeffrey Hill*, Case No. 2:22-cv-00691 (C.D. Cal.). On May 25, 2022, plaintiffs filed a [First](#)

[Amended Complaint](#), asserting 55 additional causes of action, four new parties, and new factual allegations. On August 24, 2022, the court denied defendants’ Motion to Dismiss First Amended Complaint, and defendants filed their [Answer to the First Amended Complaint](#) on September 7, 2022.

As previously reported [*see* [27:2 CRLR 230](#)], on February 1, 2022, DFPI announced its participation with the federal CFTC and 26 other state regulators in a federal lawsuit in the United States District Court for the Central District of California against Safeguard Metals LLC and its principal and owner, Jeffrey Santulan, for perpetrating a \$68 million fraud scheme that targeted the elderly population. At this writing, the lawsuit is still pending.

- ***Opportunity Financial LLC v Commissioner of Department of Financial Protection and Innovation, Case No. 22STCV08163 (Super. Ct., Los Angeles County)***. On April 8, 2022, DFPI filed a cross-complaint against OppFi for violation of the CFL and CCFPL. The cross-complaint alleges that “OppFi is the true lender of [the Program Loans]” based on the “substance of the transaction” and the “totality of the circumstances,” with the central consideration being “which entity— bank or non-bank— has the predominant economic interest in the transaction.” DFPI sought to block OppFi from charging the higher rates and make the lender compensate affiliated consumers and pay \$100 million in fines.

As previously reported [*see* [27:2 CRLR 249](#)], on March 7, 2022, Opportunity Financial LLC (OppFi) filed a complaint for declaratory and injunctive relief in Los Angeles County Superior Court, asking the court to block DFPI’s enforcement of a 36% interest rate cap against the company’s branded loans and seeking to block DFPI from enforcing California usury laws. The fintech lender argues they are exempt from the maximum rates under CFL, [AB 539 \(Limón\)](#)

[\(Chapter 708, Statutes of 2019\)](#), as the loans originate from an out-of-state bank partner, FinWise Bank of Utah. The complaint alleges that DFPI was threatening immediate enforcement action.

On May 10, 2022, OppFi filed a demurrer to DFPI’s cross-complaint. On July 7, 2022, DFPI filed its opposition to the demurrer, and on July 8, 2022, the Center for Responsible Lending; California Reinvestment Coalition; Consumer Federation of California; National Consumer Law Center; Public Law Center; UC Berkeley Center for Consumer Law & Economic Justice filed an Amici Curiae Brief in Opposition to the Demurrer. On September 30, 2022, the Los Angeles Superior Court [overruled the demurrer](#). In so ruling, the court noted that “[a]s alleged, the Commissioner is not attempting to regulate the transfer of loans in a secondary market. Rather, the focus here is on the identity of the lender in the primary market....[O]n demurrer, OppFi fails to persuade that the loans as a matter of law are immune from scrutiny under California law. OppFi’s demurrer does not present a question about a modern statutory exemption; just a question regarding the identity of the actual lender under the usury laws that cannot be resolved on demurrer.”

On October 17, 2022, OppFi filed its [Answer](#) to DFPI’s cross-complaint, as well as a [Cross-Complaint and Cross-Petition for Writ of Mandate](#). At this writing, the lawsuit is still pending.