

# DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

---

Commissioner: Clothilde Hewlett ♦ (866) 275-2677 ♦ [www.dfpi.ca.gov](http://www.dfpi.ca.gov) ♦ E-mail: [ASK.DFPI@dfpi.ca.gov](mailto:ASK.DFPI@dfpi.ca.gov)

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 Banking Law (Financial Code section 1000 et seq.); 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.).

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 and regulates financial activities not previously overseen by the Department, such as debt collection, debt relief, private post-secondary education finance, and newly emerging financial products or services; (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 October 18, 2023, Governor Newsom [announced](#) the appointment of Khalil “KC” Mohseni as Chief Deputy Commissioner at DFPI. Mohseni was previously a project director at the California Business, Consumer Services and Housing Agency from 2018 to 2019, deputy director of administration at the California Department of Housing and Community Development from 2020 to 2022, and chief operating officer at the State Controller’s Office since 2022. Mohseni will oversee the protection of consumers, regulate financial services, and foster responsible innovation in his new role.

## **HIGHLIGHTS**

### **DFPI Concludes Investigation into Silicon Valley Bank Failure**

On May 8, 2023, DFPI issued a [report](#) on the Review of DFPI’s Oversight and Regulation of Silicon Valley Bank. The report details DFPI’s supervision of Silicon Valley Bank and what led to the bank’s failure. DFPI concludes four key findings in the report: (1) Silicon Valley Bank responded slowly to regulator-identified deficiencies and regulators failed to ensure the problems were resolved as fast as possible; (2) DFPI did not sufficiently account for the bank’s unusual rapid growth in its risk assessment; (3) the bank had a high level of uninsured deposits; and (4) digital banking technology, along with social media, accelerated the growth and speed at which the bank operated. DFPI further provided suggestions in the report to assess such problems in the future to avoid state-chartered bank failures.

As previously reported [*see* [28:2 CRLR 88-89](#)], on March 10, 2023, DFPI [announced](#) that pursuant to California Financial Code section 592, it took possession of Silicon Valley Bank, citing

inadequate liquidity and insolvency. DFPI appointed the Federal Deposit Insurance Corporation (FDIC) as receiver of Silicon Valley Bank.

On March 12, the FDIC announced actions to complete its resolution of Silicon Valley Bank “in a manner that fully protects all depositors. Depositors will have access to all of their money starting Monday, March 13. No losses associated with the resolution of Silicon Valley Bank will be borne by the taxpayer.” Also, on March 12, the Federal Reserve Board announced it would make available additional funding to eligible depository institutions to help assure banks have the ability to meet the needs of all their depositors.

Silicon Valley Bank is a state-chartered commercial bank based in Santa Clara and a member of the Federal Reserve System, with total assets of approximately \$209 billion and total deposits of approximately \$175.4 billion as of December 31, 2022. Its deposits are federally insured by the FDIC and are subject to applicable limits.

## **DFPI Takes Possession of First Republic Bank**

On May 1, 2023, DFPI [announced](#) the possession of First Republic Bank and [appointed](#) the FDIC as a receiver of the bank. According to a DFPI [order](#), the First Republic Bank conducted its business in an unsafe or unsound manner due to its financial condition at the time, and it was unsafe or unsound for the bank to continue its business.

Governor Newsom [issued](#) a statement on First Republic Bank: “[i]n close partnership and coordination with the FDIC, California DFPI took decisive and critical action to stabilize the situation, avert layoffs, and protect Californians. The swift action by FDIC to secure a purchaser for the bank will protect depositors, including uninsured depositors.”

On the same day of DFPI’s announcement, JPMorgan Chase [announced](#) it acquired a substantial majority of First Republic Bank assets and assumed certain liabilities of the bank.

According to JPMorgan Chase, the substantial assets include approximately \$173 billion of loans and \$30 billion of securities; assume approximately \$92 billion of deposits, including \$30 billion of large bank deposits; the FDIC to provide loss share agreements which covers single-family residential mortgage loans and commercial loans, as well as \$50 billion of five-year, fixed-rate term financing; and JPMorgan Chase to not assume First Republic Bank's corporate debt or preferred stock.

## **DFPI Continues Voluntary Liquidation of Silvergate Bank**

On June 1, 2023, DFPI issued a [joint consent order](#) with the Federal Reserve Board of Governors to continue voluntary liquidation plan of Silvergate Capital Corporation and Silvergate Bank. The order ensures the voluntary liquidation is completed in a safe and sound manner, and in compliance with all applicable federal and state laws, rules, and regulations, according to DFPI. Silvergate Bank is required to submit a plan to DFPI within ten days to orderly shut-down its operations.

As previously reported [*see* [28:2 CRLR 95](#)], on March 8, 2023, DFPI [announced](#) that Silvergate Bank, a state-chartered bank under the supervision of DFPI, voluntarily began the process of liquidation. Silvergate Bank is based in La Jolla, California and served as one of the major banks for the crypto industry. In a statement, DFPI Commissioner Clothilde V. Hewlett said “the Department of Financial Protection and Innovation is monitoring the situation closely to facilitate the safe and expeditious voluntary liquidation of Silvergate Bank. The Department is evaluating compliance with all financial laws, as well as safety and soundness obligations, and is working closely with relevant Federal counterparts.”

## **DFPI Launches Sweep of Investment Fraud with Ties to Artificial Intelligence**

On April 19, 2023, DFPI [announced](#) its sweep of investment fraud claims against scammers that use fake CEOs, false algorithms, and Ponzi schemes to trick investors. DFPI issued a desist and refrain order against five entities tied to artificial intelligence (AI) fraudulent investment schemes. The entities use multi-level marketing schemes to reward investors for recruiting new investors and solicit funds from investors by claiming to offer high yield investment programs (HYIP) that could generate large returns using AI to trade crypto assets. Below are the five entities and descriptions of the unlawful conduct:

- **Maxpread Technologies and Jan Gregory Cerato:** offered unqualified securities and made misrepresentations and omissions to prospective investors. This entity allegedly used AI to trade crypto assets and promised daily minimum returns of 0.6%. The entity used a Ponzi scheme structure to mislead investors about the danger of the investments. Further, the entity used AI to trick investors of the CEO's identity with an AI-generated avatar to recite a script.
- **Harvest Keeper:** offered unqualified securities to gather investors and claimed to trade crypto assets using AI. The entity promised a daily 4.81% fixed rate of return. This entity further falsely represented the danger of investment to consumers, and falsely guaranteed access to funds. Further, the entity hired an actor to play the role of its CEO.
- **Visque Capital:** offered unqualified securities and mislead investors by using AI to trade crypto assets and promised a minimum daily return of 2%. This entity misled investors on the investment risk and used investor funds to pay the profits to other investors. Further, this entity falsely represented it belonged and was operated by another company that it had no affiliation with the entity.

- **Coinbot:** offered unqualified securities and misled investors by using AI to trade crypto assets to falsely claim a minimum daily investor return of 1.5%. The entity used the investor funds to pay other investors.
- **QuantFund:** offered unqualified securities and misled investors using AI to trade crypto assets and promised a minimum daily return of 1% on investment. The entity falsely claimed to create an insurance fund to prevent investor losses.

DFPI states each entity took advantage of the increased popularity and prospect of AI use in crypto trading. While the schemes appear legitimate to investors at the beginning due to the HYIPs withdrawal requests to gain investors' trust, the investors would suffer from the schemes in the long run when the entity would disappear with the investments. DFPI further states HYIPs use social media and influencers to quickly raise popularity with promised returns and low risks. DFPI commissioner Clothilde Hewlett stated the "enforcement actions continue the DFPI's crack down on investor fraud. Scammers are taking advantage of the recent buzz around artificial intelligence to entice investors into bogus schemes[.] . . . We will continue our efforts to protect California consumers and investors by going after these unscrupulous actors."

## **DFPI Continues Crackdown on Debt Collection Scams**

As previously reported [[28:2 CRLR 96](#)], DFPI has opened multiple investigations in connection with debt collection scam companies. On June 5, 2023, DFPI [announced](#) enforcement actions against three entities for unlicensed debt collection activity under the Debt Collection Licensing Act (DCLA) and violations of the CCFPL. The three entities were Allen and Associates, Blackrock Legal Group, and RM Legal. Each entity was ordered to desist and refrain from wrongful practices, including: (1) engaging in debt collection in California without a DFPI issued

license; (2) make unlawful threats to sue on debts; (3) make false claims about alleged debt; (4) falsely present themselves as attorneys or someone in the legal profession or department; (5) make false claims of lawsuits or legal procedures; (6) make false claims about authority to collect a debt; (7) attempt to collect time-barred debt without notice to the consumer that the debt is time-barred; and (8) fail to provide a “validation notice” as required by federal law. All three entities were ordered to pay penalties as well.

Further, on October 23, 2023, DFPI announced enforcement action against four more entities: Centennial Services, Bellgate Associates, Moss Westinghouse and Associates, and Prodigy Portfolio Management. The entities were ordered to desist and refrain from conducting unlawful and deceptive practices, including: (1) failure to identify themselves as debt collectors; (2) make false and misleading statements about payment requirements; (3) threaten unlawful action for nonpayment; (4) contact a consumer at a prohibited time of day; (5) make false claims of lawsuits or legal procedures; (6) make false claims about the character, amount, or legal status of a debt; (7) fail to provide “validation notice” required by federal law; and (8) threaten to sue on time-barred debt in violation of federal regulations. All four entities were ordered to pay penalties as well.

DFPI also provided guidance to consumers to protect themselves from unlawful debt collectors. DFPI states consumers should look up debt collectors in the Nationwide Multistate Licensing System’s consumer access database, and check if the debt collectors have conditional license or pending applications within California via the DFPI’s debt collector lookup webpage.

## **MAJOR PUBLICATIONS**

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



- [\*Annual Report of the Student Loan Ombudsman\*](#), Department of Financial Protection and Innovation, July 2023 (Pursuant to California Civil Code section 1788,104(g)(6), reports activities to implement the Student Borrower Bill of Rights, established in [AB 376 \(Stone\) \(Chapter 154, Statutes of 2020\)](#)). The report covers student loan complaints, borrower inquiries, and other DFPI oversight activities in 2022, including the Back on Track outreach campaign to support Californians with student loans).
- [\*Annual Report of Payday Lending Activity Under the California Deferred Deposit Transaction Law\*](#), Department of Financial Protection and Innovation, July 2023 (Pursuant to Financial Code Section 23026, report covers licensees' activities in the calendar year 2022 and provides historical data back to 2013. Specifically, the report highlights the increase in payday loans following a decrease due to COVID-19 relief efforts in 2020 and 2021. The California Deferred Deposit Transaction Law grants DFPI authority to license and regulate payday lenders, more formally known as deferred deposit originators. In 2005, DFPI began regulating payday loans to provide necessary disclosures to consumers to make informed decisions and provide greater oversight on payday loan transactions).
- [\*Annual Report of Non-Profits Providing Zero-Interest Consumer Loans\*](#), Department of Financial Protection and Innovation, July 2023 (Pursuant to Financial Code section 22067, report on data provided by nonprofit organizations in 2022 that are exempt under [SB 896 \(Correa\) \(Chapter 190, Statutes of 2014\)](#) to facilitate zero-interest, low-cost loans to help consumers access affordable, credit-building small dollar loans. The law intends for the small dollar loans to help consumers build credit histories or improve credit scores. The report highlights a 76 percent increase in applications from the previous year, with 48 percent of applicants receiving loans).

- [\*Annual Report of Activity Under Small Dollar Loan Pilot Program\*](#), Department of Financial Protection and Innovation, July 2023 (Pursuant to Financial Code section 22380, report on the Pilot Program for Increased Access to Responsible Small Dollar Loans (pilot program), which was designed to encourage more small-dollar lending in California to increase consumers' access to capital. The pilot program allows finders (either individuals or companies) to connect a licensee and a prospective borrower to negotiate a loan contract. The report overall shows decreases in approved loans, total principal amount of loans made, and number of borrower applicants received in 2022 compared to the previous year. Further, there were 31 consumer complaints filed from 2020 to 2022, most regarding payment disputes against the pilot program lenders and finders).

## **RULEMAKING**

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

**PRO 01/21 – CCFPL/CFL/CDDTL/SLSA Registration Requirements under the CCFPL:** On November 6, 2023, DFPI published a [first modified text of proposed regulations](#) and a [notice of first modification to proposed action](#). DFPI previously published notice of proposed rulemaking to adopt numerous sections to Title 10 of the CCR. The proposed regulations clarify registration requirements for covered persons under the CCFPL, as well as the requirements for regulation exemption for licensees under the California Financing Law, California Deferred Deposit Transaction Law, and Student Loan Servicing Act. Public comments are due by November 27, 2023. [*see* [28:2 CRLR 98–99](#)]

**PRO 02/21 – CCFPL Commercial Financial Products and Services:** On August 2, 2023, the Office of Administrative Law (OAL) [approved](#) PRO 02/21 to become effective on

October 1, 2023. The approval stated the regulation defines and prohibits unfair, deceptive, and abusive acts and practices during offers or provisions of commercial finances to small businesses, nonprofits, and family farms, as well as establish data collection and reporting requirements. DFPI released the [approved final text](#) sometime after OAL’s approval. [see [28:2 CRLR 99–100](#)]

**PRO 06/21 – Student Loan Servicing Act and the Student Loans: Borrower Rights**

**Law:** On October 4, 2023, OAL [approved](#) PRO 06/21 to become effective on January 1, 2024. According to DFPI’s [text of final rules](#) and [final statement of reasons](#), this regulation adds all education financing products to finance student’s higher education in the definition of “student loans” under the Student Loan Servicing Act and Student Loans: Borrower Rights Law, as well as include servicers of the products in the definition of “student loan servicers.” DFPI states the regulation includes protective benefits to student loan borrowers, improves oversight of the servicer industry, and strengthens enforcement under existing regulations. DFPI previously released two modified texts with public comment periods for this rulemaking procedure. [see [28:2 CRLR 100–101](#)]

**PRO 05/21 – Debt Collection Regulations: Scope, Annual Reports, and Records**

**Retention:** On November 8, 2023, DFPI published a [second draft text of proposed regulations](#) and [invitation for public comment](#) to end January 15, 2024. In September 2020, the California legislature granted authority to the Commissioner of DFPI to license, investigate, and examine debt collectors with the DCLA. Before the DCLA, there was no requirement for debt collectors to be licensed. Previous drafts under this rulemaking proceeding related to the scope, annual report, document retention, and bond amount increase provisions of the DCLA. This second round of drafted text and public comment concerns only the scope and document retention requirements of the DCLA. The annual report requirements would be adopted through separate rulemaking. The

public comment period for the second drafted text is due by January 15, 2024. On April 23, 2021, DFPI previously published its first notice of proposed rulemaking. [[see 27:1 CRLR 280–281](#)]

## LEGISLATION

- [AB 39 \(Grayson\)](#), as amended September 8, 2023, adds Division 1.25, commencing with section 3101 to the Financial Code. This bill enacts the Digital Financial Assets Law. Sponsored by the Consumer Federation of California (CFC), the bill prohibits a person from engaging in digital financial asset business activity or holding itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident unless any of certain criteria are met, including the person is licensed with DFPI. The bill defines “digital financial asset” to mean a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender, except as specified. The bill, among other things, authorizes DFPI to conduct examinations of a licensee, as prescribed, and requires a licensee to maintain, for all digital financial asset business activity with, or on behalf of, a resident for five years after the date of the activity, certain records, including a general ledger posted at least monthly that lists all assets, liabilities, capital, income, and expenses of the licensee. This bill also authorizes DFPI to take an enforcement measure against a licensee or person that is not a licensee but is engaging in digital financial asset business activity with, or on behalf of, a resident in any of certain instances, including the licensee or person materially violates the provisions of the bill, a rule adopted or order issued under the bill, or a law of this state other than the bill that applies to digital financial asset business activity of the violator with, or on behalf of, a resident. The bill prescribes certain civil penalties for violations of its provisions. This bill also requires a covered person, before engaging in digital financial asset business activity with a resident, to make certain disclosures to the resident, including a schedule of fees and charges the

covered may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges. The bill defines “covered person” to mean a person required to obtain a license under the Digital Financial Assets Law. And finally, the bill requires an applicant, before submitting an application, to create and, during licensure, maintain in a record policies and procedures for, among other things, an information security program and an operational security program. Governor Newsom signed AB 39 on October 13, 2023 (Chapter 792, Statutes of 2023).

According to CFC, this bill would require the cryptocurrency industry to follow common sense consumer protections by requiring the licensure and regulation of digital financial assets such as cryptocurrency companies. CFC contends that AB 39 is generally similar to the approach taken by 2022’s bipartisan AB 2269, also authored by Grayson, which was vetoed in 2022 by Governor Newsom. [\[28:1 CRLR 105\]](#) CFC notes that the 2023 legislation includes some modifications meant to ensure a timely and efficient ramping up of DFPI’s licensing activity while accounting for certain efficiencies to make DFPI’s activities clear and transparent.

- [AB 1116 \(Grayson\)](#), as amended August 17, 2023, amends sections 2002, 2003, 2010, 2039, 2082, 2083, and 2084, and adds sections 2125 and 2127, and repeals section 2040, of the Financial Code. The Commissioner of DFPI defines the regulation of money transmission under the Money Transmission Act. The act allows certain exemptions. This bill creates a new exemption for any person that acts as an intermediary by processing money transmission between an entity that has directly incurred an outstanding money transmission obligation to a sender and the sender’s designated recipient if the entity meets certain criteria. The bill also requires a licensee to file a report that contains certain information of the licensee to the Nationwide Multistate Licensing System and Registry within 45 days instead of the previous requirement to the

Commissioner. Governor Newsom signed AB 1116 on October 8, 2023 (Chapter 463, Statutes of 2023).

- [AB 1312 \(Committee on Banking and Finance\)](#), as introduced February 16, 2023, amends section 1788.18 of the Civil Code and sections 1674 and 22169 of the Financial Code. This bill makes technical, non-substantive changes to Financial Code sections 1674 (the Banking Law) and 22169 (the California Financing Law), as well as Civil Code section 1788.18. Governor Newsom signed AB 1312 on July 21, 2023 (Chapter 100, Statutes of 2023).

- [SB 33 \(Glazer\)](#), as amended September 5, 2023, amends section 22804, and amends and repeals sections 22802 and 22803, and adds section 22806, of the Financial Code. This bill removes the January 1, 2024, sunset date for the requirement that a commercial financing provider include “total cost of financing expressed as an annualized rate” in its required disclosure to financing recipients. Further, the bill makes conforming changes to the provisions describing the regulations adopted by the Commissioner of DFPI governing these disclosure requirements. Governor Newsom signed SB 33 on October 7, 2023 (Chapter 376, Statutes of 2023).

- [SB 401 \(Limón\)](#), as amended September 8, 2023, adds Chapter 9 (commencing with section 3901) to Division 1.25 of the Financial Code. This bill requires DFPI to regulate digital financial asset transaction kiosks by (1) prohibiting an operator from accepting or dispensing more than \$1,000 in a day from or to a customer via a digital financial asset transaction kiosk; (2) requiring an operator to provide a written disclosure to advertise, solicit, or negotiate with a customer containing the terms and conditions of the transaction; (3) requiring an operator to provide a receipt for any transaction made to the customer, which includes certain information of the customer; and (4) requiring the operator to provide a list of all locations of digital financial asset transaction kiosks either owned, operated, or managed by the operator to the department, and

require the department to make a list of each operator available to the public via the department's website. Governor Newsom signed SB 401 on October 13, 2023 (Chapter 871, Statutes of 2023).

- [SB 666 \(Min\)](#), as amended June 14, 2023, adds Title 1.90, commencing with section 1799.300, to Part 4 of Division 3 of the Civil Code. This bill prohibits a covered entity from charging specified fees in connection with a commercial financing transaction with a small business, including, among others, a fee for accepting or processing a payment required by the terms of the commercial financing contract as an automated clearinghouse transfer debit, a fee for providing a small business with documentation prepared by the covered entity that contains a statement of the amount due to satisfy the remaining debt, as specified, and a fee in addition to a loan origination fee that does not have a clear corresponding service provided for the fee, as specified. If a covered entity violates these provisions, the bill will entitle a recipient to specified relief, including actual damages, statutory damages, and attorney's fees and costs. The bill makes a waiver of these provisions contrary to public policy and void and unenforceable. The bill defines various terms for these purposes. Governor Newsom signed SB 666 on October 13, 2023 (Chapter 881, Statutes of 2023).

- The following bills reported in [Volume 28, No. 2 \(Spring 2023\)](#), died in committee or otherwise failed to be enacted during the 2022–2023 legislative session: [AB 1103 \(Weber\)](#), relating to deferred interest financing; [AB 1296 \(Grayson\)](#), relating to California Consumer Financial Protection Law annual reporting; [SB 484 \(Newman\)](#), relating to customer contact centers for escrow agents; and [SB 869 \(Glazer\)](#), relating to commercial financing.

# 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 20, 2023, in a chambers conference, the Court ruled DFPI’s motion for default judgement does not need oral argument on September 22, 2023, and thus the hearing was vacated. The Court urged all parties to continue litigating diligently while awaiting the Court’s ruling on the motion.

Beginning in November 2022, defendants filed their answers [[1](#), [2](#), [3](#), [4](#), [5](#)] to plaintiffs’ First Amended Complaint, a court-ordered mediation proceeding was scheduled for April 19, 2023, and the court set a jury trial for February 13, 2024. [*see* [28:2 CRLR 106-107](#)]

As previously reported [*see* [28:1 CRLR 120](#)], 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, and 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.

- *Commodities Future Trading Commission, and California Department of Financial Protection and Innovation, et al. v. Safeguard Metals LLC and Jeffrey Ikahn (a/k/a Jeffrey Santulan and Jeff Hill)*, Case No. 2:22-cv-00691 (C.D. Cal.). On October 20, 2023, DFPI, Commodities Future Trading Commission, and 29 other state regulators reached a [settlement](#) with Safeguard Metals LLC and Jeffrey Ikahn (a/k/a Jeffrey S. Santulan and Jeff Hill). The defendants agreed to a permanent injunction that enjoins them from violating many federal



and state laws. Ikahn agreed to an order barring him from any involvement as an investment adviser, broker-dealer, or commodity adviser in California, as well as any securities industry in other states and to a federal commodity trading ban. Customer restitution and civil monetary penalties will be determined in the next phase of litigation.

On April 5, 2023, the court ordered that the last day to conduct a Settlement Conference/Mediation is June 30, 2023, and the last day to file the Joint Report regarding the Results of the Settlement Conference/Mediation is July 5, 2023. [*see* [28:2 CRLR 107](#)]

As previously reported [*see* [28:1 CRLR 120](#) and [27:2 CRLR 230](#)], 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; and 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.

- ***Opportunity Financial LLC v Commissioner of Department of Financial Protection and Innovation, Case No. 22STCV08163 (Super. Ct., Los Angeles County)***. On October 30, 2023, the Court [denied](#) DFPI commissioner's preliminary injunction to halt new lending in California under plaintiff's consumer loan brand. The preliminary injunction would have prevented the plaintiff from participating in new consumer loans that had interest rates exceeding California's legal maximums of up to thirty-six percent to California borrowers. The

Court denied the preliminary injunction because the motion did not properly show a reasonable probability of prevailing on the merits.

On November 18, 2022, DFPI filed a Demurrer with Motion to Strike, and on January 30, 2023, DFPI filed a Motion for Preliminary Injunction. The Motion asks the court to bar OppFi from offering California consumers new loans with interest rates that exceed the interest rate caps defined in the CFL and the state usury law. At this writing, the court was scheduled to hold a hearing on DFPI's Motion for Preliminary Injunction on May 9, 2023. [[28:2 CRLR 107–108](#)]

As previously reported, 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. [[27:2 CRLR 249](#) and [28:1 CRLR 122](#)]