

2021

**California Department of
Financial Protection and Innovation**

Annual Report of Activity Under the California Consumer Financial Protection Law

Report Required by Financial Code Section 90018

PROTECTING CONSUMERS
FOSTERING TRUST & INNOVATION

DFPI 
DEPARTMENT OF FINANCIAL
PROTECTION & INNOVATION



DEPARTMENT OF FINANCIAL
PROTECTION & INNOVATION

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March 8, 2022

The Department of Financial Protection and Innovation (DFPI) is pleased to publish its 2021 Annual Report of Activity Under the California Consumer Financial Protection Law (CCFPL) as required by Financial Code Section 90018. The DFPI is required to prepare and publish to its website an annual report detailing actions taken during the prior year under the CCFPL, including but not limited to rulemaking, enforcement, oversight, consumer complaints and resolutions, education and research, and the activities of the Office of Financial Technology Innovation.

The CCFPL gives the DFPI expanded authority and resources to advance its dual mission to protect consumers and foster responsible innovation. The CCFPL enables the DFPI to stop predatory business practices, spur responsible innovation by clarifying regulatory expectations for emerging financial products and services, oversee financial activity previously unregulated by the Department, keep up with emerging financial trends, and increase public outreach and education to vulnerable populations.

The law created a new Consumer Financial Protection Division, Office of Financial Technology Innovation, and an Office of the Ombuds. The new Consumer Financial Protection Division now has the authority to supervise and register financial service providers previously unregulated by the DFPI, help conduct targeted outreach to communities historically underserved throughout the state and have a market monitoring and research arm to keep up with consumer trends. The Office of Financial Technology Innovation provides early guidance to entrepreneurs developing financial products and services in California to spur job creation and safeguard consumers. The Office of the Ombuds provides an impartial review of complaints and resolutions with a goal to improve and streamline department operations.

The CCFPL was signed by Governor Gavin Newsom in September 2020 and the first implementation funds were released in October 2020. The law was enacted in Assembly Bill 1864, which was authored by Assemblywoman Monique Limón, D-Santa Barbara. This report includes CCFPL-related implementation activities by the Department since the law's inception. Data and statistics provided in this report are based on the January 1, 2021, through December 31, 2021, calendar year reporting cycle.

I hope you find the report informative and useful. Please do not hesitate to contact our Deputy Commissioner of Legislation, Nicole Hisatomi, with questions or concerns. She can be reached at (916) 539-0181 or at Nicole.Hisatomi@dfpi.ca.gov. The report also can be found on the DFPI website at www.dfpi.ca.gov.

Sincerely,

Clothilde V. Hewlett
Commissioner
Department of Financial Protection and Innovation

EXECUTIVE SUMMARY

The Department of Financial Protection and Innovation (DFPI), formerly the Department of Business Oversight, protects consumers and fosters trust by regulating companies and individuals offering financial products. In 2020, the Legislature passed AB 1864 (Limón), the California Consumer Financial Protection Law (CCFPL). Identifying gaps in consumer protection due to strict definitions in existing licensing laws, this new law provides the DFPI with the appropriate authority to oversee financial products and services previously unregulated by the DFPI. The annual report and data presented in this report is unaudited and covers activities related to the CCFPL in the calendar year 2021.

The CCFPL was a major reform to the former Department of Business Oversight, changing the Department's name to better characterize its mission. The new consumer protection law expanded the DFPI's oversight of financial services and products in California and clearly established its authority to investigate and sanction unlawful, unfair, deceptive, or abusive acts and practices (UDAAP) in the financial services marketplace.

The DFPI takes its new regulatory mandate seriously and will build on the successes of its first year by continuing to take enforcement action against companies violating the CCFPL, growing its targeted outreach to historically underserved communities, increasing consumer awareness through statewide communications, handling and resolving increased consumer complaint volume, regularly engaging with external stakeholders, and increasing regulatory efforts that better protect consumers and foster financial responsible innovation.

KEY ACCOMPLISHMENTS

The CCFPL provides the Department with the appropriate authority to oversee financial products and services previously unregulated by the Department, including debt collectors, credit repair and debt relief companies, private postsecondary education financing, rent-to-own services, and certain financial technology or “fintech” service providers.

One year after implementing one of the most expansive consumer protection laws in the country, the DFPI has collected close to \$1 million in restitution for consumers from enforcement actions, initiated three significant rulemaking packages, fielded hundreds of additional complaints related to the law, and held dozens of meetings with community, industry, and governmental stakeholders to raise awareness of the new law and the DFPI’s expanded authorities.

Related implementation activities are highlighted below.

Regulatory Activities

In 2021, the DFPI issued four invitations for comments to solicit stakeholder feedback on various aspects of implementation of the CCFPL. DFPI received 76 comment letters. The top categories of interest to external stakeholders were:

- Process and procedures that covered persons must follow in responding to consumer inquiries, as distinguished from consumer complaints.
- The definitions of “unfair” and “deceptive” practices by providers of products and services to small businesses.
- Whether products such as income share agreements, earned wage access, and bail bond premium financing should be licensed under other laws such as the California Financing Law (CFL), the California Deferred Deposit Transaction Law (CDDTL), and Debt Collection Licensing Act (DCLA) rather than registered under the CCFPL.

As of the end of 2021, the DFPI had three pending regulation packages pursuant to the CCFPL:

Complaint procedures: This proposed rulemaking covers procedures for a covered person or service provider to respond to consumer complaints and inquiries. The DFPI anticipates filing the package with the Office of Administrative Law (OAL) in the second quarter of 2022 with a target OAL approval date of March 2023.

Commercial Financing UDAAP: This proposed rulemaking covers definitions of and prohibition against unfair, deceptive, and abusive acts and practices (UDAAP) in connection with the offering or providing of commercial financing or other financial products and services to small business recipients, nonprofits, and family farms. The DFPI anticipates filing the package with OAL in the second quarter of 2022 with a target approval date of April 2023.

Registration Categories, Phase 1: This proposed rulemaking covers requirements related to registration of covered persons, record retention, and reporting. Four proposed initial registrant categories are:

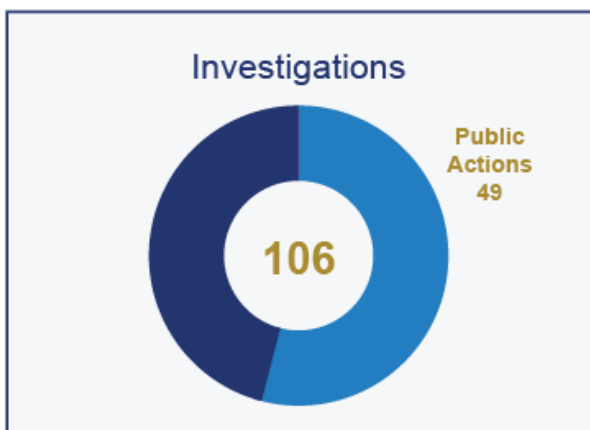
- Debt settlement services
- Student debt relief services
- Postsecondary education financing
- Wage-based advances

The DFPI anticipates filing the package with the OAL in the third quarter of 2022, with a target OAL approval date of June 2023.

Enforcement Activities

With its expanded authority, the DFPI gained jurisdiction over providers of financial products and services it had previously not regulated. In preparation for this expanded jurisdiction, the DFPI began to carefully study the products in new markets by collaborating with regulators, consumer groups, and industry to identify business sectors with egregious consumer harm.

During its first year with authority under the CCFPL, the DFPI proactively identified enforcement targets and opened 106 total investigations that resulted in 49 public actions under the new law. At the outset of 2021, there were 35 open investigations into new market areas and by the end of 2021 there were 106 open investigations. Enforcement reviewed 30 percent more complaints in 2021 than in 2020, an increase attributed to the new areas of oversight covered by the CCFPL.



The DFPI investigations resulted in 49 public enforcement actions, \$975,000 in restitution to consumers, and \$547,500 in penalties and included several “first of its kind” actions for the DFPI in areas such as:

Debt Collection: In September 2021, the DFPI issued its first action against a debt collection company, ordering it to stop violating state and federal laws and assessing \$375,000 in penalties.

Student Debt Relief: Between January and August 2021, the DFPI took five actions against separate student loan debt-relief companies for false advertising and collecting illegal fees, resulting in penalties and refunds of more than \$1.37 million.

Earned Wage Access: From January through August 2021, the DFPI investigated “earned wage access products” which resulted in 11 Memoranda of Understanding (MOUs) with market participants providing quarterly data reporting to the DFPI to inform future oversight efforts.

Private Post-Secondary Education Financing: In April 2021, the DFPI entered into an agreement with coding “boot camp” Lambda, Inc. to remove deceptive language from its contracts regarding students’ ability to discharge certain types of financing through bankruptcy.

Research and Market Monitoring

In September 2021, the DFPI created a research team to help the DFPI identify emerging financial activities, scout for unlawful, unfair, deceptive, and abusive practices, and make policy

recommendations based on consumer impact. The research team is in the process of evaluating DFPI’s consumer complaint data to identify broader market trends that may pose risks to consumers.

Office of Financial Technology Innovation

The Office of Financial Technology Innovation (OFTI) was created by the CCFPL to foster early dialogue with external stakeholders interested in responsible innovation in financial services. In 2021, OFTI met with dozens of companies, venture capitalists, lawyers, industry advocacy groups, federal and state financial regulators, consumer advocacy groups, and academics to better understand stakeholder perspectives on what constitutes responsible innovation in financial services. OFTI also participated in more than a dozen public events to publicize OFTI’s activities and extend the invitation to meet. In addition to these meetings, OFTI held weekly virtual “office hours” open to all external stakeholders.

Consumer Complaint Handling and Resolutions

In 2021, the Consumer Services Office (CSO) received 638 complaints regarding products and services subject to the CCFPL. The CSO processed complaints against 18 different types of new CCFPL-regulated services and produced responsive replies for consumers in 85 percent of complaints fully processed. Complaints submitted under the new law, which covered debt collection activities in the first year, increased each quarter, with a dramatic surge in the second half of the year when CCFPL complaints increased nearly 140 percent.



The top categories of complaints included debt collection, cryptocurrency, and “neo banks” (fintech companies partnering with banks to offer deposit account services). The top complaints appeared to be driven by communications efforts to raise awareness about the DFPI’s expanded authority and mission. The CSO received

294 complaints involving debt collectors in 2021, with complaint volume spiking in the third quarter of the year. Of the total debt collector complaints, 124 were specifically related to F&F Management, Inc., a debt collection agency that was the subject of a Desist & Refrain order issued in September 2021. A third and fourth quarter spike in total CCFPL complaints is likely due to actions that the Department took to publicize its enforcement work, with a high number of complaints involving two specific companies, Chime Financial, Inc. and F & F Management. In Chime’s case, an influx of complaints were received after the DFPI participated in a San Diego television story about the company. Complaints about the debt collection company spiked after the Department publicized its enforcement action.

Communications and Outreach

In 2021, the DFPI held three roundtables with community groups on the CCFPL and held dozens of external stakeholder meetings on specific topics covered under the law. DFPI executives presented on the CCFPL at several events and conferences, for both industry trade groups and consumer advocates, and participated in media interviews to raise awareness about the new law and how it has expanded the DFPI's authority to regulate the financial services marketplace. DFPI also met with other government agencies at the state and federal level to brief them on CCFPL authorities and share information about pending actions.

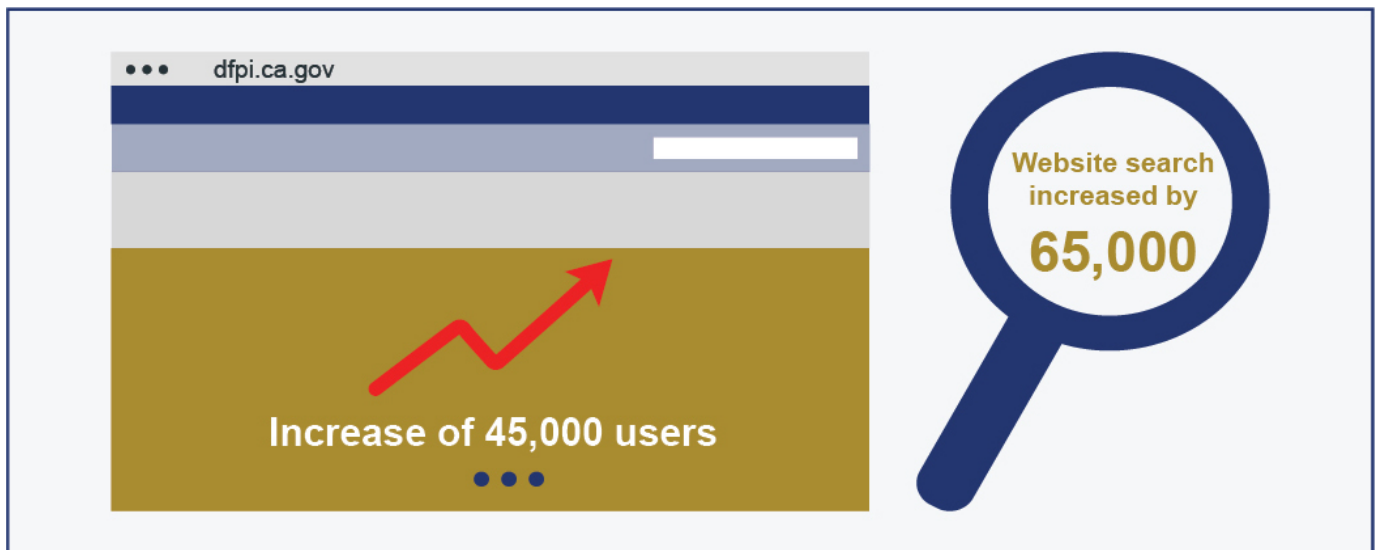
In June 2021, the DFPI selected a vendor to run a statewide communications campaign authorized under the CCFPL. The vendor conducted four multilingual focus group discussions to assess familiarity with the DFPI, its services, and solicit feedback on prospective messaging. Multilingual marketing materials were created for digital, social media, print, radio, and outdoor media advertisements. A multilingual statewide communications campaign launched in February 2022 to familiarize consumers with how the Department can assist them with issues pertaining to financial service providers regulated under the new law.

The DFPI website team launched several new or updated website sections, including landing pages for the Consumer Financial Protection Division, Office of Financial Technology Innovation, and Office of the Ombuds.

The Communications and Outreach Division published more than a dozen CCFPL-related press releases in 2021, garnering coverage in local, state, and national news publications and outlets such as *The Sacramento Bee*, *Bloomberg News*, the *Los Angeles Times*, *ABC10 San Diego*, the *New York Times*, *Univision Sacramento*, and *Yahoo Finance*. The Division updated printed materials available in multiple languages.

Targeted Outreach: The CCFPL established a Targeted Outreach Team to focus on communities that have been historically underserved by the financial industry. Outreach specialists were hired to work with Military and Veterans, Students, Elderly and Seniors, and New Americans/Immigrants. The DFPI Targeted Outreach Team spent much of 2021 establishing networking connections with targeted demographics while continuing its mission of education and outreach. For 2021, most events the Targeted Outreach Team participated in or hosted were virtual, as the COVID-19 pandemic was still prevalent, and partners and attendees were reluctant to engage in in-person events. Regardless, the team was still able to participate in 141 events, with an estimated total attendance of more than 9,700, distributing more than 96,400 pieces of promotional and educational material.

In May, the Targeted Outreach team launched *Consumer Connection*, a monthly email newsletter which has gained over 640 subscribers. The team has also hosted over 44 presentations to seniors, military/veterans, new Americans, and students, including two *Zoom* webinars with participation from CalVet, the VFW, and the U.S. Department of Veterans Affairs.



Website: The DFPI website saw an increase of approximately 45,000 users (8.2%) from 2020 to 2021, and an increase of nearly 240,000 (66.9%) annual users since 2017.

In 2020, nearly the same number of users reached the site via organic search and directly, approximately 240,000. In 2021, the number of users who found DFPI’s website via search went up significantly, approximately 65,000 users (25.9%), while direct users stayed relatively the same. Users who found their way to the DFPI website via search has increased by about 10,000 annual users (46.0%) since 2017. Users finding their way to the DFPI website via social media nearly tripled (from approximately 5,000 users to more than 15,000 users) from 2020 to 2021 and has increased by more than 20 times (2084.1%) since 2017.

While there is a natural volatility to the website for the state’s financial regulator, which serves three distinct audiences: the Department’s licensees, California consumers, and the news media, each of these trends can be attributed at least in part to the rollout of the CCFPL, including a new Department name as well as subsequent communications and outreach efforts.

Social Media: The DFPI’s digital strategy has focused on providing education and awareness of the CCFPL through continuous communication of enforcement actions/orders, policies, and services and what they mean for consumers. The DFPI has implemented tools for deep social listening to track online conversations about new financial products and services the Department regulates and created streamlined methods for content creation. The DFPI has added capability to follow mentions on social media and respond to them in real-time. Additionally, the Department continues to analyze statistics to make messaging site-specific and increase engagement.

Many of the DFPI’s most successful social media posts were CCFPL-related, specifically enforcement/administrative actions and those providing additional information about financial technology or fintech products. There was an increase in followers from industry users with verified accounts on Twitter. There has been a significant increase in “tags” on Twitter, where consumers created posts using the @ feature to include the Department in conversations where they are seeking resolutions with service providers.

CONCLUSION

The DFPI made substantial progress in its first year of CCFPL implementation and is grateful to all stakeholders, including the Newsom Administration and the Legislature, for their continued input and support.

The DFPI continues to implement the CCFPL through rulemaking, enforcement, complaint handling, market research, proactive stakeholder outreach and communications, recruitment and hiring, and working with the Legislature and the Governor's Office on statutory and budgetary changes to enhance the operations and authority of the DFPI.

The development of formal regulations in the coming months for the oversight of new covered persons will allow the Department to fulfill the mandate of effective oversight of additional sectors of the state's financial services marketplace.

The market research functionality of the DFPI will expand as it hires additional staff and begins in-house and collaborative research projects into new financial services and products.

The Office of Financial Technology Innovation will continue to reach out to entrepreneurs, business innovators, and academics to facilitate the Department's monitoring and response to breakthroughs in financial services.

The DFPI has made significant strides in successful implementation of the CCFPL in its first year. The Department expects continued success as progress is made in effectively carrying out the mandate of the CCFPL.



DEPARTMENT OF FINANCIAL
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