



EQUIPMENT LEASING AND FINANCE ASSOCIATION
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October 27, 2021

VIA E-MAIL

Commissioner of Financial Protection and Innovation
Attn: Sandra Sandoval, Regulations Coordinator
300 South Spring Street, 15th Floor
Los Angeles, CA 90013

Via: regulations@dfpi.ca.gov

Attention: Acting Commissioner Christopher S. Shultz
Email: regulations@dfpi.ca.gov

Cc: Jesse Mattson
Email: jesse.mattson@dfpi.ca.gov

Cc: Charles Carriere
Email: charles.carriere@dbo.ca.gov

Re: NOTICE OF THIRD MODIFICATIONS TO PROPOSED REGULATIONS UNDER DIVISION 9.5 OF THE CALIFORNIA FINANCIAL CODE PRO 01/18

Dear Acting Commissioner Shultz,

Please find below and attached for the DFPI's consideration the Equipment Leasing and Finance Association's comments along with targeted interlined edits to the current draft regulations. As you review, please note the following overarching themes that impact equipment finance companies in particular:

- **Timing and Frequency of Disclosures** – The fluidity of commercial leasing negotiations, inclusive of the frequent back-and-forth between and among the provider, financier, broker, and recipient, will make the timing and frequency of the disclosures set forth in the regulations especially challenging. Contrary to our understanding of the primary intent of the statute to provide timely, accurate information in writing prior to consummation of a commercial financing, we fear this type of repeated disclosure during the course of negotiations is likely to be more confusing to customers than helpful. In that vein, we have provided a few suggested edits to the revised/new definitions of “at the time of extending a specific commercial financing offer” and “specific commercial financing offer” presented in the latest draft of the regulations. These suggested edits are designed to simplify and clarify the proposed regulations for the benefit of finance companies and their customers.

- **Clarification of Broker and Financer Responsibilities and Definitions** – In light of the recent updates to Section 952 of the regulations related responsibilities of financers and brokers, we have sought to further avoid the potential for overlapping definitions and responsibilities given the discrete roles each party plays in a typical commercial financing transaction. To that end, we are also suggesting clarifications in the definition of “broker” to avoid the potential application of disclosure obligations to various third parties involved in these types of transactions, such as attorneys and document preparation and delivery companies.
- **System Updates and Enforcement** – Although ELFA members have been preparing for the implementation of this disclosure for many months, they will need time to update their systems to reflect the precise requirements set forth in the regulations. In order to avoid foot faults while companies do their best to implement these disclosures where applicable, we would appreciate if the DFPI would issue guidance indicating that enforcement will be tolled for a minimum of six months to allow companies to update their systems to account for the disclosures. We note that the New York Department of Financial Services has similarly indicated that there would be a six-month grace period after the regulations are final prior to enforcement for California transactions.

As always, the ELFA is grateful for this opportunity to assist the DFPI in issuing clear and meaningful commercial financing disclosure regulations that will help many small businesses.

Sincerely,

Scott Riehl
Vice President
State Government Relations
Equipment Leasing and Finance Association