

California DFPI Issues Final Rules on Commercial Financing UDAAP and Annual APR Reporting

August 31, 2023 | [Katherine C. Fisher](#) and [Eric D. Mulligan](#)

The California Department of Financial Protection and Innovation became the nation's first regulator with authority to police "abusive" acts and practices in commercial financing when it recently adopted final regulations to implement the California Consumer Financial Protection Law's provisions governing commercial financing. The new regulations define "unfair," "deceptive," and "abusive" in relation to commercial financing and require unlicensed commercial financing providers to annually report the cost of their financing products to the DFPI.

The regulations adopt the definitions of "unfair," "deceptive," and "abusive" from the Dodd-Frank Act, modifying those definitions so that the protections apply to entities rather than individuals. However, the definitions of "unfair" and "deceptive" also provide that anything unfair or deceptive under California's Unfair Competition Law and caselaw interpreting the UCL is also unfair or deceptive (as appropriate) under the new regulations.

Additionally, providers of commercial financing that make more than one commercial financing transaction to a covered entity (a small business, nonprofit, or family farm) in a 12-month period must file an annual report with the DFPI. The report covering an entity's commercial financing transactions in 2024 is due on March 15, 2025. The annual report must include:

- The financing provider's identifying and contact information, including name, any fictitious business names, entity type, mailing address, phone number, email address, website address, and designated contact person.
- The number of commercial financing transactions that the provider made that year by type (e.g., accounts receivable purchase transaction).
- For each type of transaction, the provider must report the number of transactions grouped by the following categories of amount financed:
 - \$10,000 or less,
 - over \$10,000 but not over \$25,000,
 - over \$25,000 but not over \$50,000,

- over \$50,000 but not over \$100,000,
 - over \$100,000 but not over \$250,000, and
 - over \$250,000 but not over \$500,000.
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- For each category of amount financed, the minimum, maximum, average (arithmetic mean), and median annual percentage rate.

Any provider licensed under the California Financing Law must report its activities under the CFL separately, not as part of the report on commercial financing transactions.

The regulations define "small business" as a for-profit entity with annual gross receipts of no more than \$16 million, a dollar threshold subject to biennial adjustment. The regulations do not apply to transactions with an amount financed greater than \$500,000.

The regulations take effect October 1, 2023. A copy of the final regulations is available [here](#).

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7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

hudsoncook.com

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