VIII. The DFPI: California's New Consumer Protection Watchdog

A. Introduction

Signed into law by California Governor Gavin Newsom on September 25, 2020, the California Consumer Financial Protection Law (CCFPL) went into effect on January 1, 2021.[1] The CCFPL renamed and reorganized the Department of Business Oversight (DBO) into the newly created Department of Financial Protection and Innovation (DFPI).[2] The DFPI's purpose is to regulate financial services and products in order to protect California consumers in financial transactions.[3] Under the authority provided by the CCFPL, the DFPI assumes the reserved powers carved out for state regulators by the Dodd-Frank Act to protect consumers against unfair, deceptive, or abusive acts and practices of entities that had been previously unregulated by the DBO.[4] These previously unregulated entities included debt collectors, rent-to-own contractors, consumer credit reporting agencies, credit repair agencies, and fintechs.[5]

This article discusses the DFPI within the context of the CCFPL and its potential impact on the financial industry. Part B explains what influenced the California legislature's decision to enact the CCFPL and create the DFPI. Part C provides an overview of the entities that are within the regulatory and enforcement jurisdiction of the DFPI. Part D discusses the strengths of the DFPI and its potential

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1 Antonio F. Dias et al., *California Passes Legislation to Create Mini-CFPB*, JONES DAY (Oct. 2020), https://www.jonesday.com/en/insights/2020/10/california-passes-legislation-to-create-minicfpb [https://perma.cc/6MXY-WMSN].

2 DEP'T OF CONSUMER PROT. & INNOVATION, *California Consumer Protection Law* (Jan. 12, 2021, 11:24 AM), https://dfpi.ca.gov/california-consumer-financial-protection-law/ [https://perma.cc/96HW-GB4K].]

3 DEP'T OF FIN. PROT. AND INNOVATION, *About*, https://dfpi.ca.gov/about/ [https://perma.cc/96HW-GB4K] (discussing the various institutions that the DFPI regulates).

4 *See* CAL. FIN. CODE §§ 90012(a), 90009(c) (West 2021); 12 U.S.C.A. § 5531 (Westlaw through P.L. 116–259).

5 DEP'T OF FIN. PROT. AND INNOVATION, *California Consumer Protection Law for Businesses* (Feb. 5, 2021, 11:35 AM), https://dfpi.ca.gov/california-consumer-financial-protection-law/ccfpl-for-businesses/ [https://perma.cc/F2MX-KE97] (discussing the CCFPL's expanded authority to regulate financial products).

significance. Part E provides a sense of DFPI's general direction and priorities for 2021. Part F concludes the article.

B. Causes of the California Consumer Financial Protection Law and the Creation of the Department of Financial Protection and Innovation

The year 2020 presented unique challenges for consumer protection which prompted California lawmakers to enact the CCFPL, and reorganize the DBO into the DFPI, a consumer protection-focused agency. The COVID-19 pandemic created serious vulnerabilities for many consumers, evidenced by the more than forty percent increase in California consumer complaints to the DFPI since the pandemic began.[6] The language of the CCFPL acknowledged that the COVID-19 pandemic and associated recession have not only exacerbated the problem of vulnerable consumers being preyed upon by unscrupulous California businesses but also have strained social safety net programs.[7] These issues led the legislature to enact statutory measures within the CCFPL to protect California residents using financial products and services from potential abuse.[8]

In early 2020, the future of the Consumer Financial Protection Bureau (CFPB) was uncertain given the unknown presidential election outcome, and even in the case of a Democratic victory, the CFPB would have lots of ground to make up in terms of consumer protection at the federal level. The Trump administration effectively gutted the federal CFPB during its first term, creating uncertainty about the future of consumer protection regulation.[9] Mick Mulvaney, the first acting

[6] Press Release, Dep't of Fin. Prot. and Innovation, California DFPI Continues to Expand Consumer Protection Efforts During the COVID-19 Pandemic (Mar. 11, 2021), https://dfpi.ca.gov/wp-content/uploads/sites/337/ 2021/03/Press-Release_Helping-Consumers-During-COVID-19.pdf [https://perma.cc/8D93-WN6Y0] [hereinafter COVID-19 Pandemic] (recognizing an increase in consumer complaints concerning mortgages, student loans, personal loans, and other apparent fraudulent schemes).

[7] § 90000 ("These problems become even more acute in times of crisis, including the global Covid-19 pandemic and economic fallout").

[8] *Id.* ("Consequently, where feasible, the Legislature should enact statutory measures to protect California residents from financial abuses in the marketplace for financial products and services").

[9] Robert Schmidt & Jesse Hamilton, *Wall Street Frets Over a Revived CFPB Trump Left Toothless*, BLOOMBERG (Dec. 8, 2020, 3:07 PM), https://www.bloomberg.com/news/articles/2020-12-08/wall-street-frets-over-a-revival-of-

director of the CFPB under the Trump administration, had been widely known as an active critic of the agency before his appointment—calling the CFPB "a joke," and even advocating for the Bureau to be dissolved.[10] When the CFPB's 25-member advisory board of industry experts criticized Mulvaney for ignoring its advice and canceling its legally mandated meetings, Mulvaney fired all of the board members.[11] The next Trump-appointed CFPB director, Kathy Kraninger, was more neutral in her directorship, generally prioritizing clear violations of smaller industry actors like scammers and debt buyers,[12] and collecting a fraction of the civil fines collected under the directorship of Obama-appointed Richard Corday.[13] A void had formed within the realm of consumer protection regulation.

It is no coincidence that the "I" in DFPI stands for "Innovation"—the CCFPL bill explicitly points out that the emergence of fintech was an impetus for its enactment, stating that "[t]echnological innovation offers great promise to the more effective and efficient provision of consumer financial products and services … and also poses risks to consumers and challenges to law enforcement in addressing those risks."[14] The recession, a decrease in federal enforce-

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cfpb-left-toothless-by-trump ("The Trump administration has done its best to neuter the Consumer Financial Protection Bureau, giving large banks a reprieve from aggressive enforcement and new rules.").

[10] Rachel Siegel & Yeganeh Torbati, *Biden Taps Proponents of Stricter Wall Street Rules for His Agency Review Teams during Transition*, WASH. POST (Nov. 11, 2020, 6:24 AM), https://www.washingtonpost.com/business/2020/11/10/biden-transition-wall-street-regulation [https://perma.cc/4ZJ3-RNH8].

[11] Renae Merle, *Mick Mulvaney Fires All 25 Members of Consumer Watchdog's Advisory Board*, WASH. POST (June 6, 2018, 5:32 PM), https://www.washingtonpost.com/news/business/wp/2018/06/06/mick-mulvaney-fires-members-of-cfpb-advisory-board/ [https://perma.cc/N5UF-6UWB] (recognizing that "the dismissal of the members is likely to exacerbate concerns among Democrats that Mulvaney is weakening the consumer watchdog").

[12] Evan Weinberger, *CFPB Penalties Decline as Enforcement Actions Go Small*, BLOOMBERG L. (Aug. 14, 2020, 6:30 AM), https://www.bloomberglaw.com/document/X6OTDRPS000000?bna_news_filter=bankinglaw&jcsearch=BNA%252000000173dec5d735a37fdef5b5f70001#jcite (noting that "[t]he bureau's enforcement actions, under Director Kathy Kraninger, have slowed down compared to former Director Richard Cordray's tenure").

[13] Weinberger, *supra* note 11; CONSUMER FIN. PROT. BUREAU, CFO UPDATE FOR THE THIRD QUARTER OF FISCAL YEAR 2020 (Sept. 8, 2020), https://files.consumerfinance.gov/f/documents/cfpb_cfo-update_report_fy-2020_q3.pdf [https://perma.cc/C8KQ-56GU].

[14] *See* § 90000.

ment, and the rapid growth of under-regulated fintech likely all brought about action from the California legislature.

C. Who Is Covered by the CCFPL and Some Notable Exemptions

The DFPI's expanded regulatory jurisdiction now includes fintechs, entities that were not covered under the former DBO's jurisdiction.[15] The CCFPL gives the DFPI jurisdiction over fintechs providing consumer credit, online banking, and digital wallets, as well as entities providing such services to consumer-facing companies.[16] Although the CCFPL grants the DFPI discretion in determining what counts as a covered fintech, and banks are out of the CCFPL's regulatory scope, the DFPI can choose whether to pursue bank-fintech partnerships in enforcement actions.[17]

Notably, the CCFPL does not apply to "a bank, bank holding company, trust company, savings and loan association, savings and loan holding company, credit union … when acting under the authority of a license, certificate, or charter under federal law or the laws of another state."[18] On its face, the language seems to exempt many major banks from CCFPL enforcement. The language was inserted into the bill during the Senate Amendments stage as a result of the lobbyist efforts of the California Bankers Association.[19] After this exemption was added in the Senate, the California Bankers Association stated that it was "neutral" on the bill.[20] The CCFPL's scope is further limited by exempting persons licensed under Cali-

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[15] *See* Dias, *supra* note 1; *see also* § 90002(a).

[16] *See* Alexis, *supra* note 14 ("This ultimately means that the DFPI has jurisdiction over most consumer-facing fintech companies, including companies offering consumer credit, digital banking services, and digital wallets, and fintechs that provide services to such companies, such as payment processors").

[17] *See id.* (noting that small business lenders and fintech companies should be "actively preparing for the rollout of the new law and should expect to be subject to more comprehensive oversight and regulation in California. And the banks and financial institutions that partner with [fintech companies] should get ready to feel some effects as well"]).

[18] *See* § 90002(c).

[19] CAL. SEN. RULES COM., OFF. OF SEN. FLOOR ANALYSES, Third Reading, 2019 CA A.B. No. 1864 (Aug. 25, 2020.)

[20] Dias, *supra* note 1 ("The California Bankers Association—which successfully lobbied for the exemption—said it is 'neutral' on the bill due to the exemption being included").

fornia law administered by agencies other than the DFPI.[21] Additionally, most entities previously licensed under the DBO, including California banks, with the exception of payday lenders and student loan servicers, are not subject to the CCFPL.[22] These exemptions effectively narrow the CCFPL's regulatory scope to mostly small lenders, fintech, and other entities that were previously not licensed by the DBO.[23] This is a major claw-back in scope from the originally proposed bill, as it takes banks out of the CCFPL's definition of a "covered person" in policing unfair, deceptive, and abusive practices towards consumers.[24]

D. The Significance of the CCFPL and the DFPI

The CCFPL grants the DFPI significant enforcement power spanning twenty federal consumer protection statutes and more than fifty California consumer finance statutes.[25] The DFPI can assess fines for non-compliance in any civil or administrative action brought under the CCFPL.[26] The penalties are the greater of either $5,000 per day of violation or $2,500 for each act or omission for any violation, increasing to $25,000 and $10,000 for reckless violations, and $1,000,000 or 1% of assets and $25,000 for knowing violations.[27] By creating its

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[21] *See* § 90002(a).

[22] *See* § 90002; Nancy R. Thomas & Joseph Gabai, *CFPB California Style: The California Consumer Financial Protection Law Brings More Providers of Consumer Financial Products and Services Into the Regulatory Tent*, MORRISON & FOERSTER (Sept. 1, 2020), https://www.mofo.com/resources/insights/200901-cfpb-california-consumer-financial-protection-law.html [https://perma.cc/8G5W-UG8D] (noting that "[t]he CCFPL will expand the DFPI's jurisdiction to cover previously unlicensed entities. Although banks and most other current DBO licensees are exempt from the CCFPL").

[23] *See* Dias, *supra* note 1 (acknowledging that "[w]hile California's mini-CFPB will be a powerful force in consumer financial protections, the CCFPL is limited due to the exemptions carved out under the law"); *see also* § 90002(a).

[24] *See* Dias, *supra* note 1 (noting that the CCFPL is "limited in a very important way" as it is "carved back by a long list of exempted entities" including banks).

[25] Alexis, *supra* note 14.

[26] *See id.* ("The DFPI will have broad regulatory and enforcement power, including the ability to conduct investigations, issue subpoenas, levy fines, bring civil and administrative actions, and declare acts as 'abusive'"); § 90012(c).

[27] *See* § 90012(c)(1)(A).

own "mini-CFPB," California follows the lead of other states, including New York, New Jersey, and Pennsylvania to supplement its federal counterpart, the CFPB.[28] However, unlike New Jersey and Pennsylvania, the DFPI is independent of the Attorney General and thus can bring its own civil suits and assess significant fines.[29] According to Governor Newsom's 2021–22 fiscal year proposed budget, the DFPI's funding is set to increase DFPI positions in the department by 12.5% overall compared with the previous fiscal year while creating forty-four new positions to enforce the provisions of the Debt Collections Licensing Act.[30] The proposed allocation would increase the DFPI's overall funds by twenty-seven million dollars from $115.5 million in the fiscal year 2020–21 to $142.5 million for the year 2021–22.[31] For scale, the proposed DFPI budget allocation is nearly one-quarter of the amount of the CFPB's 2020 budget.[32]

The DFPI has the opportunity to take up what the CFPB was never equipped to do particularly well: regulating fintech. Many of the financial reforms of the Dodd-Frank Act, which created the CFPB, designed structural and reporting requirements for large traditional financial institutions with the purpose of preventing them from once again becoming "too big to fail."[33] By contrast, the fintech industry is

[28] *See* Dias, *supra* note 1 ("[T]he DFPI will operate as an independent agency, with a dedicated staff and budget").
[29] *See id.*
[30] *See* Keith Bishop & Allen Matkins, *Governor Proposes Large Increase in DFPI Budget*, JD SUPRA (Jan. 11, 2021), https://www.jdsupra.com/legalnews/governor-proposes-large-increase-in-7526433/ (noting that "[t]he Governor's proposed budget for the 2021–2022 fiscal year includes a nearly 24% increase in the budget of the Department of Financial Protection and Innovation"); *see also* CAL. DEP'T OF FIN., 2021–22 GOVERNOR'S BUDGET, at 1701 Department of Financial Protection and Innovation (2021), http://www.ebudget.ca gov/2021-22/pdf/GovernorsBudget/1000/1701.pdf [https://perma.cc/B6PK-2K V5].
[31] DEP'T OF FIN., *supra* note 28.
[32] DAVID H. CARPENTER & CHERYL R. COOPER, CONG. RESEARCH SERV., IF10031, INTRODUCTION TO FINANCIAL SERVICES: THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB) (2021), https://crsreports.congress.gov/product/pdf/IF/IF10031/8 (reporting that the CFPB's budget for fiscal year 2020 was $580 million).
[33] *See* William Magnuson, *Regulating Fintech*, 71 VAND. L. REV. 1167, 1195 (2018) (noting that "the [Dodd-Frank] Act addressed nearly every conceivable aspect of modern finance—from the creation of new regulators, to greater consumer protections, to new laws on the behavior of credit rating agencies—many of the reforms, and many of the related resources, were devoted to resolving the 'too big to fail' problem").

highly decentralized and includes many small actors.[34] The fintech industry poses unique regulatory challenges compared with traditional banks because of the dispersed nature of fintech firms, the opacity of its operations, and the comparative lack of by reputational concerns.[35] The new challenges of fintech regulation may be best addressed by a new regulator.

The year before the CCFPL was enacted, Kathy Kraninger, Trump-appointed CFPB Director, unveiled the fintech-friendly legal safe harbors of "no-action" letters, which are assurances that the CFPB will not bring a supervisory or enforcement action against the inquiring company for a certain set of facts and circumstances, as well as instituting a program permitting companies to test their consumer disclosures directly on their customers with a lessened risk of liability from the CFPB.[36] Although the Biden administration is on track to bring the CFPB's aggressive regulatory stance back, its top priorities are likely to be issues such as the impact of the COVID-19 pandemic, racial equity, student loans, and reoccurring consumer issues of payday loans, debt collection, overdraft fees, and mandatory arbitration.[37] Only about 1,600 employees worked for the CFPB, and only 39% of the CFPB's 2021 fiscal budget goes to supervision and enforcement under

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[34] *See id.* at 1199.
[35] *See id.*
[36] Kate Berry, *CFPB Moves to Ease Fintechs' Regulatory Fears; The Bureau Issued Three Policies Removing the Threat of Legal Liability for Approved Companies That Test New Products*, NAT'L MORTGAGE NEWS (Oct. 1, 2019) (noting that "the CFPB is changing the name of what was proposed as a 'product sandbox.' Instead, the agency is calling it a 'compliance assistance sandbox.' It will enable testing of a financial product or service where there is some regulatory uncertainty"); Press Release, Dep't of Fin. Prot. and Innovation, Consumer Financial Protection Bureau Issues No Action Letter to Facilitate Consumer Access to Small-Dollar Loans (Nov. 5, 2020), https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-no-action-letter-facilitate-consumer-access-small-dollar-loans/ [https://perma.cc/E8XD-8YGY].
[37] Greg Iacurci & Annie Nova, *Covid, Payday Loans, Student Debt—Here Are the Issues Biden's Consumer Bureau May Tackle*, CNBC (Jan. 30, 2021, 9:45 AM), https://www.cnbc.com/2021/01/30/bidens-cfpb-priorities-covid-payday-loans-and-student-debt.html [https://perma.cc/SST9-65Z5] (discussing how the CFPB is expected to become more aggressive with its enforcement power under the Biden administration and its primary focus areas).

consumer protection law.[38] Furthermore, the CFPB is tasked with regulating all actors offering a financial product to consumers, ranging from many individual payday lenders to massive banks, so the CFPB may be too consumed with its responsibilities to fully pursue oversight of fintech industry actors.[39] Additionally, though fintechs fall within the CFPB's enforcement authority under Dodd-Frank, its supervision authority requires formal rulemaking to add any new entities.[40]

Although the DFPI's regulatory jurisdiction is limited to California, the state is the world's fifth-largest economy and home to forty million consumers,[41] so its vast market share will likely affect financial service providers' actions across the United States.[42] Additionally, other states will likely use the CCFPL as a model to create their own consumer protection regulatory agencies.[43] The DFPI could be a highly significant player in consumer financial protection if it prioritizes fintech regulation while the CFPB is still getting itself restarted under the Biden Administration.

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[38] Bureau of Consumer Financial Protection, Annual Performance Plan and Report, (2021), 11, 109, https://files.consumerfinance.gov/f/documents/cfpb_performance-plan-and-report_fy21.pdf [https://perma.cc/U4N2-Y7WG].

[39] *See* Rory Van Loo, *Technology Regulation by Default: Platforms, Privacy, and the CFPB*, 2 GEO. L. TECH. REV. 531, 545 (2018) (noting that "[t]hese responsibilities may simply have left the agency with insufficient capacity to push further in digital oversight").

[40] *Id.* at 543.

[41] Consumer Financial Services and Fintech Enforcement Trends in California, BRIAN CAVE LEIGHTON PAISNER (Mar. 5, 2020), https://www.bclplaw.com/en-US/insights/consumer-financial-services-and-fintech-enforcement-trends-in-california.html [https://perma.cc/QG6W-23VN].

[42] Barbara S. Mishkin, *Expansive Scope of California's New Consumer Protection Regime Highlighted in Ballard Spahr Webinar*, BALLARD SPAHR (Oct. 1, 2020), https://www.consumerfinancemonitor.com/2020/10/01/expansive-scope-of-californias-new-consumer-protection-regime-highlighted-in-ballard-spahr-webinar/ [https://perma.cc/QSU4-5EHK] (quoting webinar panelist Richard Cordray, former CFPB director who worked with California legislators to draft the CCFPL).

[43] *Id.* (noting that "other states would likely use [the CCFPL] as a template for creating agencies focused on consumer protection").

E. Early Days of the DFPI: Prioritizing Fintech Regulation

During the DFPI's first month, it had already signed memoranda of understanding with five earned wage access companies, which are similar to payday lenders in that they provide wages to employees before their payday, to provide the DFPI with quarterly information reports which may be the first of their kind between fintechs and a state regulatory agency.[44] DFPI Commissioner Manuel P. Alvarez said about the agreements, "We are grateful for our early dialogue with these fintechs and expect more MOUs to be signed in the coming weeks." [45] The participating companies have also agreed to follow industry best practices and disclose any fees they assess their customers as it is likely that they will need to register with the DFPI under the expanded jurisdiction of the CCFPL.[46] This was one of the DFPI's first actions, so it is likely that the agency will continue to prioritize fintechs in its regulatory scheme.

The first few months of 2021 also included the DFPI's first formal enforcement action, which was against a student-loan debt-relief company for making false guarantees to consumers that it could get their student loans dismissed.[47] In February 2021, the DFPI announced that it had launched a wider investigation into similar companies operating in California under both the CCFPL and the Student Loan

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[44] *See* Press Release, Dep't of Fin. Prot. and Innovation, The DFPI Signs MOUs Believed to be Among the Nation's First with Earned Wage Access Companies (Jan. 27, 2021), https://dfpi.ca.gov/wp-content/uploads/sites/337/2021/01/DFPI-Press-Release_Earned-Wage-Access-MOUs.pdf [https://perma.cc/5RFG-HLQW] ("The MOUs pave a path so earned wage access companies can continue operating in California, in advance of possible registration under the California Consumer Financial Protection law").

[45] *Id.*

[46] *Id.* (acknowledging that "[t]he companies also agreed to follow industry best practices and disclose any potential fees with the earned wage access companies assess").

[47] *See* Press Release, Dep't of Fin. Prot. and Innovation, DFPI Launches Investigation Into Student-Loan Debt-Relief Companies and Takes Action Against Optima Advocates (Feb. 3, 2021), https://dfpi.ca.gov/wp-content/uploads/sites/337/2021/02/DFPI-Debt-Relief-Press-Release.pdf [https://perma.cc/559K-ZHMX] ("[t]he [] DFPI today launched an investigation into whether student-loan debt-relief companies operating in California are engaging in illegal conduct under the new California Consumer Protection Law").

Servicing Act.[48] In its first month, the DFPI issued a dozen subpoenas to some of the largest debt collectors in the United States for documents on the companies' methods of collecting debts in response to consumer complaints about frequent calls from the collectors and threats to sue consumers for debts they do not even owe—both of which are illegal under federal law and California state law.[49]

Under the Debt Collection Licensing Act, debt collectors need not register with the DFPI until January 1, 2022, and yet the DFPI has not given the debt collectors reprieve from enforcement in the meantime.[50] This may indicate that fintechs are not safe from enforcement before are officially licensed by the DFPI either. Thus, fintechs ought to be immediately cognizant of the new regulator's expectations of them.

F. Conclusion

The regulatory scope of the former DBO has expanded to include debt collectors, rent-to-own contracts, consumer credit

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48 *See id.*; *see also* Kelly Grosshuesch, *California DFPI Files First Enforcement Action Against Student Debt Relief Company*, GOODWIN PROCTER (Feb. 5, 2021), https://www.goodwinlaw.com/publications/2021/02/california-dfpi-files-first-enforcement-action-aga [https://perma.cc/CTN6-P8EU] (discussing the DFPI's enforcement action against Optima Advocates, Inc., an Irvine-based student debt relief company).

49 Several of the dozen debt collectors issued subpoenas by the DFPI in January 2021 were Encore Capital Group and its subsidiaries (which collected $1.2 billion from Americans in 2018) and Portfolio Recovery Associates. Encore and Portfolio Recovery Associates are the two largest debt buyers in the United States. NAT'L CONSUMER L. CENTER, Collection Actions (5th ed. 2020) at 1.5.2, https://library.nclc.org/ca/010502 [https://perma.cc/8J9C-M2ZD] ("The DFPI today announced an investigation into multiple debt collectors potentially engaged in unlawful, unfair, deceptive, or abusive debt collection practices in California based on consumer complaints"); Press Release, Dep't of Fin. Prot. and Innovation, Under Expanded Consumer Protection Authority, the DFPI Launches Investigation into Multiple Debt Collectors (Jan. 19, 2021), https://dfpi.ca.gov/2021/01/19/under-expanded-consumer-protection-authority-the-dfpi-launches-investigation-into-multiple-debt-collectors/ [https://perma.cc/6LPW-5LB5] ("The DFPI is issuing subpoenas to a dozen companies with significant California customer bases, representing the first major action to be taken under the expanded oversight and enforcement authority of the CCFPL").

50 *See* CAL. FIN. CODE §100000.5 (West 2021); DFPI Launches Investigation, *supra* note 38.

reporting agencies, credit repair agencies, and, most notably, fintech.[51] This reorganization into the newly formed DFPI came in the wake of a claw-back of federal consumer financial protection, the economic fallout of a global pandemic, and the expansion of consumer financial technologies.[52]Although banks are excluded from regulation by CCFPL, the banks who partner with fintech firms may still be impacted by the DFPI's regulatory oversight.[53] The CCFPL can be a trailblazer in the realm of fintech regulation and can provide an example of how the state regulators can work in conjunction with federal regulators.[54]

California's DFPI is undoubtedly an entity to watch in state-level consumer protection as California's large market share will likely facilitate a nationwide effect on financial service providers and the CCFPL acts as a model for other states to enact their own consumer protection legislation.

Jenny Eldred[55]

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[51] *See* COVID-19 Pandemic, *supra* note 6.

[52] § 90000 ("These problems become even more acute in times of crisis, including the global Covid-19 pandemic and economic fallout").

[53] Dias, *supra* note 1 (noting that "[t]he end result is that mostly nonbank small business lenders and fintech companies are subject to the CCFPL. These entities should be actively preparing for the rollout of the new law and should expect to be subject to more comprehensive oversight and regulation in California, and the banks and financial institutions that partner with these entities should get ready to feel some effects as well"); Alexis, *supra* note 14 (noting that "the DFPI has jurisdiction over most consumer-facing fintech companies, including companies offering consumer credit, digital banking services, and digital wallets, and fintechs that provide services to such companies, such as payment processors").

[54] *See* Kate Berry, *CFPB, OCC on Collision Course over Who Regulates Fintechs*, AM. BANKER (Jan. 13, 2021), https://www.americanbanker.com/news/cfpb-occ-on-collision-course-over-who-regulates-fintechs ("A CFPB taskforce last week recommended that Congress give the CFPB—not the OCC—the authority to issue federal charters to financial technology companies engaged in lending, payments or remittances … [b]ut state regulators hope that, should Congress decide to give the CFPB authority over fintechs, the consumer bureau would work in coordination with the states and not undermine them.").

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