



February 25, 2020

Lisa B. Kim, Privacy Regulations Coordinator  
California Office of the Attorney General  
300 South Spring Street, First Floor  
Los Angeles, CA 90013

**Re: CCPA revised proposed regulations**

Dear Ms. Kim:

On behalf of the American Financial Services Association (“AFSA”),<sup>1</sup> thank you for the opportunity to provide comments on the Office of the Attorney General’s (“OAG”) revised regulations to implement the California Consumer Privacy Act (“CCPA”). We also appreciate your consideration of our comments regarding the previous version of the proposed regulation and the significant changes reflected in the revised proposal.

AFSA members share the state’s goal of protecting the privacy of consumers, promoting understanding by consumers of the personal information about them that is collected, sold, and shared for a business purpose, and guarding personal information from unauthorized access. While the revised proposal does include positive changes that address concerns we raised in our previous comments, we believe the revisions did not go far enough and reiterate our previous concerns about vague terms, requirements that lack basis in the underlying statute, and the substantial burdens these regulations place on covered entities.

**§ 999.317. Training; Record-keeping**

Section 999.317(e) stipulates that information maintained for record-keeping generally may not be used for any purpose except as necessary for compliance with the CCPA and that it may not be shared with any third party. As there are situations in which it may be necessary to share such information to comply with legal obligations other than just those in the CCPA, we suggest revising 999.317(e). to read:

999.317(e) Information maintained for record-keeping purposes shall not be used for any other purpose except as reasonably necessary for the business to review and modify its processes for compliance with the CCPA and these regulations. Information maintained for record-keeping purposes shall not be shared with any third party except to comply with a legal obligation.

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<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

We believe this change would be consistent with the statute, specifically Section 1798.105(d)(8) of the CCPA.

### **Enforcement Delay**

Although the effective date and issues of enforcement are not addressed directly in the revised regulations, we continue to believe that clarity in this area is warranted. The CCPA was largely effective on September 23, 2018, and operative on January 1, 2020, and it will be enforceable by the OAG on July 1, 2020. We appreciate the OAG's clear commitment to draft comprehensive regulations that reflect the significant volume of feedback received throughout the process. Recognizing that such a process takes time, it is not clear that final regulations could be made effective and enforceable by July 1, 2020. Accordingly, we request a delayed enforcement date, which would give affected businesses the opportunity to evaluate the specific requirements set forth in the regulations and implement the new systems and processes needed to be fully in compliance with the law.

In addition, we request that the OAG include in the final regulations a statement to the effect that any enforcement actions will be based on conduct that takes place after the statutory enforcement date of July 1, 2020, or such later date as the regulations may become enforceable. In making this request, we note that the proposed regulations address all the major aspects of the CCPA: how to provide notices, content of the privacy policy, the process for handling submitted requests, verification, and calculating the value of consumer data. While businesses continue to take steps to meet regulatory requirements, without having final regulations in place to govern compliance, businesses lack clarity that the solutions they are readying will, in fact, meet the final regulatory requirements. We request that businesses have all the applicable rules and requirements, in final form, with a reasonable timeframe to achieve compliance, before their actions can be determined to be unlawful. When drafting the CCPA, the legislature recognized the need for delayed enforcement to ensure businesses have to adequate time to comply with regulations, and we believe that the outlined enforcement delay would be consistent with the legislature's intent.

Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 202-469-3181 or [mkownacki@afsamail.org](mailto:mkownacki@afsamail.org).

Sincerely,



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