

Date of Hearing: April 24, 2023

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Timothy Grayson, Chair

AB 1296 (Grayson) – As Amended April 11, 2023

SUBJECT: California Consumer Financial Protection Law: annual report

SUMMARY: This bill requires, until 2028, the Department of Financial Protection and Innovation (DFPI) to include in its annual California Consumer Financial Protection Law (CCFPL) report specified standalone information related to crypto assets.

EXISTING LAW:

- 1) Pursuant to the CCFPL, authorizes DFPI to require covered persons to register with the department (Financial Code Section 90009).
- 2) Defines “covered person” as a person that engages in offering or providing a consumer financial product or service to a resident of this state and affiliates or service providers, as specified (Financial Code Section 90005(f)).
- 3) Requires DFPI to publish an annual report on the following activities of the department pursuant to the CCFPL (Financial Code Section 90018):
 - a) Rulemaking, enforcement, oversight, consumer complaints, and resolutions, education, and research.
 - b) The activities of the Financial Technology Innovation Office.

FISCAL EFFECT: Unknown. This bill is keyed Fiscal by Legislative Counsel.

COMMENTS:

- 1) Purpose.

According to the author:

AB 1296 will help policymakers better understand the state’s oversight activities over the crypto asset industry, a volatile and quickly evolving area of finance. In May 2022, Governor Newsom issued an executive order that tasked DFPI to exercise its consumer protection authority to develop guidance, regulatory clarity, and supervision of private entities offering crypto asset-related financial products and services. This bill modifies an existing report requirement to include standalone information on this activity so that policymakers can better understand DFPI’s ongoing work in this area.

- 2) CCFPL and the annual report

DFPI is the new name of the department previously known as the Department of Business Oversight (DBO). In 2020 the Governor proposed the name change and a budget enhancement beginning in Fiscal Year (FY) 2020-21, along with trailer bill language that

expanded the department's oversight authority to include financial services companies that were previously not required to be licensed under laws administered by DBO.

Pursuant to the CCFPL, the department will increase its activity in several areas, including:

- Oversight of financial services companies, including the establishment of registration programs.
- Consumer research, outreach, education, and market monitoring.
- Market research and outreach to emerging financial services companies through the Financial Technology Innovation Office.

One of the primary purposes of the CCFPL is to authorize DFPI to oversee providers of consumer financial products or services that are not licensed by the department. DFPI will conduct this oversight using a range of tools familiar to the department: reviewing applications for registration and investigating backgrounds of key officers of the applicant, examining books and records of the company on a routine or ad hoc basis, and bringing enforcement actions when consumer protection laws have been violated.

As part of the department's reorganization and implantation of the CCFPL, DFPI must produce an annual report detailing DFPI's CCFPL-related activities.

3) Crypto assets and the Newsom executive order (EO).

The term "crypto asset," often defined as a "digital financial asset" in legislative proposals, describes a range of money-like, digital representations of value that are not considered legal tender and are not issued by a central bank of a sovereign nation. Similar terms used to describe this concept are cryptocurrencies, digital currencies, virtual currencies, and digital assets, among others.

Since its inception, the crypto industry has operated primarily outside of state and federal regulatory frameworks that apply to similar products and services in the traditional financial system. Until 2022, the state of California had not taken a proactive stance on regulating crypto, but the activities in the crypto market last year sparked action from the Newsom Administration and Legislature.

On May 4, 2022, Governor Newsom issued EO N-9-22 with the aim of "creat[ing] a transparent regulatory and business environment for web3 companies which harmonizes federal and California approaches, balances the benefits and risks to consumers, and incorporates California values such as equity, inclusivity, and environmental protection."

Among other provisions, the EO tasked DFPI with the following:

- Engage with federal agencies and work with other state regulators to promote a common regulatory approach.
- Develop guidance and, as appropriate, regulatory clarity and supervision of crypto companies based on public comments and information provided voluntarily by such companies.

- Provide guidance to state banks and credit unions regarding crypto assets.
- Initiate enforcement actions as appropriate and enhance complaint-handling efforts.

In December 2022, the Governor's Office released an interagency report reflecting the Administration's work to implement the executive order. ¹The report summarizes DFPI's work aimed at creating clear and responsible regulatory frameworks. The department met with a variety of federal regulatory agencies and other states' financial regulators to align with government agencies beyond California. DFPI also solicited public comments for feedback on how California should regulate the crypto industry.

4) What comes next?

It is unclear what comes next with regards to DFPI's crypto-related work under the CCFPL. The interagency report cited above calls for DFPI to generate and publish data on consumer complaints and to engage with the Legislature on an ongoing basis to share regulatory insights and DFPI's crypto-asset related resource needs.

AB 1296 formalizes this ongoing conversation between the executive branch and the legislative branch by requiring DFPI, in its annual CCFPL report, to include standalone information related to crypto assets, including consumer complaint information, oversight actions, rulemaking, and education and outreach. This bill's report modification sunsets after the 2027 version of the report, which would reflect data for calendar year 2026.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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¹ https://dfpi.ca.gov/wp-content/uploads/sites/337/2022/12/TowardsResponsibleInnovation_221202.pdf