



Monthly Bulletin



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Banks Must Submit Lists of Offices by December 31

Pursuant to Financial Code section 1077, all commercial banks, industrial banks and trust companies are required to file a list of all offices that are currently maintained and operated by the bank. The report shall designate the type of each office that is being maintained and operated, and the complete address of each office. Please note: This requirement does not apply to other licensee types, e.g., credit unions, money transmitters, etc.

For the purposes of section 1077, please provide to the Department of Financial Institutions (DFI) the following information on or before Monday, December 31, 2012:

- Name of bank
- Popular name of branch offices and facilities
- Office type (include the head office, branch and facility locations; do not include free-standing ATM facilities)
- Street address
- City
- State
- Country
- ZIP

Responses may be made by email to Licensing@dfi.ca.gov or by postal mail to Department of Financial Institutions, 45 Fremont Street, #1700, San Francisco, CA 94105-2219 Attn: Strategic Support Section.

For questions please contact Patrick Carroll at Patrick.Carroll@dfi.ca.gov or call (415) 263-8559.

45 Fremont Street, Suite 1700, San Francisco, CA 94105-2219
300 South Spring Street, Suite 15513, Los Angeles, CA 90013-1204
1810—13th Street, Sacramento, CA 95811
7575 Metropolitan Drive, Suite 108, San Diego, CA 92108-4421
Consumer Compliance

(415) 263-8500
(213) 897-2085
(916) 322-5966
(619) 682-7227
(800) 622-0620

Financial Institutions to Designate Central Locations for Service of Legal Process

[AB 2364](#) (Wagner) was signed into law by Governor Edmund G. Brown Jr. and becomes law on January 1, 2013. The new statute requires financial institutions to file with the DFI at one or more central locations within California that are designated for service of notices of levy or attachment against deposit accounts, the contents of safe deposit boxes, and other property held by institutions. This new law applies to all banks, credit unions, and corporations engaged in safe deposit businesses with branches or offices in California, whether they are licensed by the DFI, federally chartered, or headquartered in another state.

Financial institutions with more than nine California branches or offices are required to designate one or more central locations within California for service of legal process. Failure by an institution to designate a central location for service of legal process with the DFI will result in all the institution's branches and offices in California being deemed central locations for service of legal process.

Financial institutions with nine or fewer California branches or offices have the option to designate one or more central locations within California for service of legal process.

The statute requires that the DFI maintain the information and make it accessible to the public by providing it to any person who requests it and by posting the information online. To facilitate compliance, the DFI is in the process of developing an electronic form for collecting the designated location information to publish on its website. The electronic form will request the following information:

- Institution Name
- Institution ID Number (DFI, FDIC, NCUA, or other)
- Designated location address(es)
- Hours of operation at each location
- Whether or not there are limitations to service of process at each location and a brief description of the limitation(s). For information on limitations, please reference [Code of Civil Procedure, Section 7, Subdivision 684.115\(a\)\(3\)](#).

Accessing the Electronic Form - Available: Late December 2012

- The DFI licensees will receive an email to their designated email address in late December 2012 with a link to the secure web form where they can input their designated locations.
- Banks and credit unions that are not licensed by the DFI can receive an email in late December 2012 with the link to the electronic form by subscribing to the "AB2364" email topic on our [Subscription Manager](#).

If you have questions about this law, please consult your legal counsel. If you have questions about filing designated location information with the DFI, please contact the DFI Licensing Section at (415) 263-8559 or licensing@dfi.ca.gov.

California's Homeowners Bill of Rights

Major mortgage-reform legislation sponsored by the California Attorney General takes effect on January 1, 2013. AB 278 (Eng) and SB 900 (Leno) make major changes to certain provisions of the Civil Code governing mortgage servicing and foreclosure procedures for loans secured by first-lien mortgages or deeds of trust covering owner-occupied, 1-4 single-family residences.

Below is a list of certain new requirements on mortgage servicers under the Homeowners Bill of Rights:

1. Prohibition from “dual tracking”—once a borrower submits a complete application for a foreclosure prevention alternative, the servicer may not proceed with a notice of default or a notice of sale, nor conduct a trustee’s sale unless and until a borrower has been given a written determination that the borrower is not eligible for a foreclosure prevention alternative or the borrower has defaulted on the approved foreclosure prevention alternative. Foreclosure prevention alternatives include (but are not limited to) first lien loan modifications, short sales and deeds in lieu of foreclosure. Written approval by a servicer of a foreclosure prevention alternative must be honored by a subsequent servicer. Servicers are not required to offer foreclosure prevention alternatives if they do not participate in such programs and nothing in this statute is intended to require a particular result for a borrower.
2. Single point of contact requirement—a mortgage servicer must provide a single point of contact for borrowers who are “potentially eligible” for a federal, state or proprietary foreclosure prevention alternative offered by or through the mortgage servicer. The single point of contact may be an individual or team with the ability and authority to perform specified responsibilities. Mortgage servicers that foreclosed on 175 or fewer owner-occupied, 1-4 single family residential real properties during the preceding annual reporting period are exempt from this provision.
3. Document verification requirement—before recording or filing a required declaration, a notice of default, notice of sale, assignment of a deed of trust, or substitution of a trustee in connection with a foreclosure, a mortgage servicer is required to ensure that it has relied on competent and reliable evidence to substantiate the borrower’s default and the right to foreclose. Until January 1, 2018, an entity that engages in “multiple and repeated” violations of this requirement may be subject to a civil penalty of up to \$7,500 per mortgage or deed of trust.
4. Legal remedies for homeowners—applies only to material violations of certain key provisions related to dual tracking, single point of contact and false or incomplete documents. A homeowner may seek injunctive relief until the date the trustee’s deed is recorded after a foreclosure sale. No injunctive relief may be awarded unless the homeowner can show a likelihood of prevailing on the merits and actual harm if the violations are not cured or corrected. After a foreclosure sale, an action for damages ordinarily is limited to actual economic damages sustained. If a violation is intentional, reckless or willful, the statute provides for treble damages or a statutory minimum of \$50,000. No violation will invalidate a sale in favor of a bona fide purchaser.
5. “Mortgage servicer” is defined as a person or entity who directly services a loan, or who is responsible for interacting with the borrower, managing the loan account on a daily basis including collecting and crediting periodic loan payments, managing any escrow account, or

enforcing the note and security instrument, either as the current owner of the promissory note or as the current owner's authorized agent.

Please consult your legal counsel for an understanding of all requirements imposed by the Homeowners Bill of Rights on your institution. After January 1, 2013 the DFI examination procedures will include licensees' compliance with the Homeowners Bill of Rights. The annual Commissioner's Residential Mortgage Survey detailed below will be the process for reporting the number of foreclosures completed by each DFI licensee.

Financial Code Section 583 – Publication of Enforcement Actions

Beginning January 1, 2013, the DFI is required to make public and publish all final enforcement actions on its website. All licensees are potentially affected by this new legislation. Final enforcement actions include:

- All final orders;
- All decisions to modify or rescind an order;
- All decisions to revoke or suspend a license;
- All decisions to revoke or suspend the designation of an agent;
- All decisions to approve resumption of business;
- All decisions to take possession of the property and business of a licensee.

The full text of the law may be found [here](#).

Derivative Exposure and the California Lending Limit

Effective January 21, 2013, section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides that an insured state chartered bank may engage in derivative transactions only if "the law with respect to lending limits of the State in which the insured State bank is chartered takes into consideration credit exposure to derivative transactions." Under the Dodd-Frank Act, a derivative transaction "includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets."

California Law

The California Financial Code (FC), Division 1.1, Chapter 14, Article 3, takes into consideration credit exposure to derivative transactions in section 1480 and 1481. While section 1480 and 1481 fall under Article 3, which is entitled "Loan Limits," the FC does not restrict the meaning of "obligations" to loan products. Section 1480(a) defines "Obligations" to mean the total sums for the payment of which a person is obligated, primarily or secondarily, to a commercial bank. Section 1481 limits the total

amount of obligations that any one person may owe to a bank at any one time. Therefore, “obligations” as defined and used in section 1480 encompasses “credit exposure to derivative transactions” and are subject to the limit imposed by section 1481(a).

Survey Results

On October 5, 2012, the DFI surveyed its licensed banks for comments on the Office of the Comptroller of the Currency’s proposed methodologies to determine credit exposure for derivative transactions. The results of that survey indicated the preferred methodology to determine credit exposure for derivative transactions is the Conversion Factor Matrix Method.

DFI’s Determined Measurement Method

The DFI proposes that effective January 21, 2013; California state chartered banks shall use the Conversion Factor Matrix Method to measure credit exposure for derivative transactions only for purposes of determining compliance with California’s unsecured lending limit (FC 1481(a)). California state chartered banks may continue to use other methods to measure credit exposure for derivative transactions for other purposes (i.e. for compliance with Federal capital rules).

Conversion Factor Matrix Method

The credit exposure arising from a derivative transaction as determined by the Conversion Factor Matrix Method is the derivative’s potential future credit exposure (PFE). The PFE is determined at the execution of the transaction and remains fixed during the life of the transaction. The PFE is the product of the notional amount of the transaction multiplied by a fixed factor determined by reference to the look-up table below.

The DFI believes this method will be much less burdensome because it will not require advanced statistical simulations for the calculation of PFE or determination of the current mark-to-market value. The DFI understands that under the Conversion Factor Matrix Method, the actual mark-to-market value at some point in the life of a derivative contract, may exceed the fixed PFE and thus could exceed the unsecured lending limit (since that limit is measured using the fixed PFE). Should this situation arise, the DFI will use the concept of “legal when made” and will not cite a violation of FC 1481(a). The risk of such a situation will be addressed through the normal supervisory process by examiners appropriately responding to concentrations that pose a risk to safety and soundness.

If you have any questions, please contact Scott Cameron at (916) 322-5962 or by e-mail at Scott.Cameron@dfi.ca.gov.

Conversion Factor Matrix for Calculating Potential Future Credit Exposure ¹

Original maturity ²	Interest rate	Foreign exchange rate and gold	Equity	Other ³ (includes commodities and precious metals except gold)
1 year or less	0.015	0.015	0.20	0.06
Over 1 to 3 years	0.03	0.03	0.20	0.18
Over 3 to 5 years	0.06	0.06	0.20	0.30
Over 5 to 10 years	0.12	0.12	0.20	0.60
Over ten years	0.30	0.30	0.20	1.00

¹ For an OTC derivative contract with multiple exchanges of principal, the conversion factor is multiplied by the number of remaining payments in the derivative contract.

² For an OTC derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the market value of the contract is zero, the remaining maturity equals the time until the next reset date. For an interest rate derivative contract with a remaining maturity of greater than one year that meets these criteria, the minimum conversion factor is 0.005.

³ Transactions not explicitly covered by any other column in the Table are to be treated as “Other.”

Commissioner’s Residential Mortgage Survey

It is important the DFI maintain complete, accurate, and up-to-date information on the real estate loan portfolios of licensees to determine current risk and assess the potential effect of any proposed regulatory or statutory changes at the federal and/or state level on our licensees. The Commissioner of Financial Institutions directs all banks and credit union licensees to complete and submit the 2012 Commissioner’s Residential Mortgage Survey as a special report, pursuant to California Financial Code section 455. The annual Commissioner’s Mortgage Survey will collect 2012 data on residential mortgage loans secured by 1- 4 unit Family Residential Property.

Bank and credit union licensees will receive a DFI email notification to their designated emails in early January 2013 with information on how to access the Survey. Completed surveys will be due in early February 2013.

Note: Survey notifications are emailed to each institution’s designated email address for communications with the DFI in accordance with the [July 2010 Commissioner Order on Electronic Communications](#).

Please direct questions about the Commissioner’s Residential Mortgage Survey to survey@dfi.ca.gov.

Results of Transactional Account Guarantee (TAG) Program Questionnaire

On November 1, 2012 the DFI licensed banks and credit unions were invited to provide input on the pending expiration of the TAG Program. Invitations were emailed to the DFI licensed banks and credit unions and responses were submitted to the DFI by November 15, 2012. The response rate was 61% with 194 responses.

Results of the Questionnaire show that 44% of respondents believe the expiration of the TAG Program will have an effect on their institution, while 56% of respondents believe the expiration of the TAG Program will *not* have an effect on their institution. Bank responses more than credit union responses indicate concern about the effects of the TAG Program expiring. Institutions were asked to indicate their preference between three options for the future of the TAG Program: (1) allow it to expire as planned, (2) extend it indefinitely, and (3) gradually phase it out. Respondents' preferences include, 38% indicating they would prefer the TAG Program to expire as planned, with the majority of this percentage represented by credit unions. Additionally, 36% indicated they would prefer the TAG Program extended indefinitely and 26% indicated they would prefer the TAG Program to be gradually phased out, with the majority of this percentage represented by banks.

Thank you to all institutions who responded to the TAG Questionnaire.

Premium Finance Company Assessment

In accordance with Financial Code Sections 18350, 18351, and 18352, the Commissioner of Financial Institutions assessed all California insurance premium finance companies in order to fund the operations of the Department of Financial Institutions in administering the laws relating to insurance premium finance companies. Invoices for the assessment will be mailed on December 1, 2012. The assessment must be paid in full by December 20, 2012.

For the purposes of this assessment, the base rate is set at 0.009127312 percent of each insurance premium finance company's total assets. The amount of the assessment on each insurance premium finance company is calculated in accordance with Financial Code Sections 18350 and 18351. The minimum amount for any institution is \$250. For purposes of calculating the assessment, the total assets of each insurance premium finance company have been determined as of December 31, 2011.

DFI Launches Redesigned Website on December 1

The redesigned DFI Website uses the current award-winning State of California template. The Homepage tabs, including the Licensee and Consumer tabs, have remained the same as the tabs on the previous Website, so visitors can easily find the areas they frequently use. The Homepage conveniently features a list of Popular Links based on analytics and a list of Quick Links to help our customers find what they need.

Please email [Website Staff](#) if you need assistance locating information on DFI's redesigned Website.

We welcome your feedback. Let us know what you think about our Website. Email your comments or suggestions to [Website Staff](#).

Commercial Bank Activity

Merger

California Community Bank, Escondido, merged with and into Regents Bank, N.A., La Jolla
Effected: 11/30/12

Purchase of Partial Business Unit

Heritage Oaks Bank, Paso Robles, request the DFI's approval to acquire the Morro Bay branch of Coast National Bank, N.A., Morro Bay
Filed: 10/11/12

Industrial Bank Activity

Merger

Circle Bank, Novato, California merged with and into Umpqua Bank, Roseburg, Oregon
Effected: 11/14/12

Premium Finance Company Activity

New Premium Finance Company Application

Allied Premium Finance, Inc.
500 East E Street, Ontario, San Bernardino County
Approved: 11/28/12

Voluntary Surrender of License

Cananwill Incorporated
Effected: 3/12/12

Coronado Premium Finance Company, Inc.
Effected: 3/27/12

Standard Funding of California, Inc.
Effected: 10/20/11

Credit Union Activity

Merger

Community First Credit Union, Santa Rosa, request the DFI's approval to merge with Health Care Professionals of Napa FCU, Napa

Approved: 10/11/12

Valley First Credit Union, Modesto, request the DFI's approval to merge with State Center Credit Union, Fresno

Approved: 11/5/12

Bylaw Amendment

Three credit unions received approval from the DFI for three bylaw amendments during October 2012.

Field of Membership

Two credit unions received approval from the DFI to add two new fields of membership during October 2012.

Variance

One credit union received approval from the DFI for request for variance to sections of the California Code of Regulations during October 2012.

Money Transmitter Activity

New Money Transmitter Application for License

Ace Payment Services, Inc.

Approved: 11/15/12

Beamit, Inc.

Approved: 11/7/12

License issued: 11/16/12

ITC Financial Licenses, Inc.

License issued: 11/7/12

Kwik Dollar, LLC

License issued: 11/6/12

NetSpend Corporation

Approved: 11/7/12

New Money Transmitter Application for License (Continued)

PayNearMe MT, Inc.
Filed: 11/14/12

TouchPay Holdings, LP
Approved: 11/8/12

TEVEIA R. BARNES
Commissioner of Financial Institutions

Bulletin for Month ended
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to Financial Code section 376



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