

NOTICE OF RULEMAKING ACTION
TITLE 10. CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT

NOTICE IS HEREBY GIVEN [Government Code Section 11346.5, Subdivision (a)(1)]

The Commissioner of Business Oversight (Commissioner) proposes to adopt rules under the Revised Banking Law relating to credit exposure to derivative transactions. The Commissioner proposes to adopt Sections 10.190500 and 10.190501 of Title 10 of the California Code of Regulations.

On July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight. The Department of Business Oversight (Department) has all of the powers, authority, enforcement, jurisdiction, laws and regulations that were under the former Department of Corporations and former Department of Financial Institutions.

AUTHORITY [Government Code Section 11346.5, Subdivision (a)(2)]

Sections 326 and 332, Financial Code.

REFERENCE [Government Code Section 11346.5, Subdivision (a)(2)]

Sections 1480 and 1481, Financial Code.

PUBLIC COMMENTS [Government Code Section 11346.5, Subdivision (a)(17)]

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Business Oversight's (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD [Government Code Section 11346.5, Subdivision (a)(15)]

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed as follows:

Regular Mail

Department of Business Oversight
Attn: Karen Fong, Legal Division
1515 K Street, Suite 200
Sacramento, CA 95814

Electronic Mail

regulations@dbo.ca.gov

Facsimile
(916) 322-5875

Comments may be submitted until 5:00 p.m., May 5, 2014. If the final day for the acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close at 5:00 p.m. on the next business day.

INFORMATIVE DIGEST [Government Code Section 11346.5, Subdivision (a)(3)]

Policy Statement and Specific Benefits Anticipated from Regulatory Action [Government Code Section 11346.5, Subdivision (a)(3)(C)]

The benefits anticipated from this regulatory action include providing nonmonetary benefits to California, protecting general welfare and promoting fairness and equity, protecting the public, and increasing transparency in government.

Summary of Existing Laws and Regulations, and Effect of Proposed Action [Government Code Section 11346.5, Subdivision (a)(3)(A)]

Beginning January 21, 2013, state chartered banks and savings associations may not engage in derivative transactions unless the lending limits of the banks' or savings associations' state law takes into consideration credit exposure to derivative transactions. This prohibition is set forth in Section 611 of the Dodd-Frank Act. In June 2012, the Office of the Comptroller of the Currency adopted a final rule setting forth these requirements for national banks and savings associations in Title 12 code of Federal Regulations Part 32.9. Neither the Financial Code nor Title 10 of the California Code of Regulations contains similar lending-limit restrictions. This rulemaking action is necessary to comply with the Dodd-Frank Act.

Existing Federal Regulation or Statute [Government Code Section, Subdivision (a)(3)(B)]

Federal regulation 12 C.F.R. Part 32.9 provides several methods of measurement for credit exposure to derivative transactions. By contrast, the Financial Code permits state chartered banks and savings associations to engage in derivative transactions but provides no method to measure their credit exposure. Rather than adopt duplicate methods of measurement, the proposed regulations would instead require state chartered banks and savings associations to comply with that federal regulation.

Existing State Regulations [Government Code Section 11346.5, Subdivision (a)(3)(D)]

The proposed regulation is consistent with existing banking regulations, the Revised Banking Law and other Department regulations that set forth requirements for banks and savings associations. These proposed rules allow state chartered banks and savings associations to use the same method of measurement that is provided by federal regulations. It is consistent with the intent of the Revised Banking Law to provide California state chartered financial institutions parity with federally chartered financial institutions.

FORMS INCORPORATED BY REFERENCE [Title 1, California Code of Regulations, Section 20, Subdivision (c)(3)]

This proposed regulatory action does not incorporate any forms by reference.

DISCLOSURES REGARDING THE PROPOSED ACTION [Government Code Section 11346.5, Subdivision (a)(5) and (6), and (12)(A)]

- Mandate on local agencies and school districts: none.
- Cost or savings to any state agency: none.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.
- Cost or savings in federal funding to the state: none.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: none.
- Significant effect on housing costs: none.

ECONOMIC IMPACT ON BUSINESS [Government Code Section 11346.5, Subdivision (a)(8)]

The Commissioner has made an initial determination that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has not relied upon any facts, evidence, documents, testimony or other evidence to support the initial determination that the regulation will not have a significant adverse economic impact on business.

EFFECT ON SMALL BUSINESS [Title 1, California Code of Regulations, Section 4]

The proposed regulations will not affect small business because state chartered banks and savings associations are not a small business within the meaning of Government Code section 11342.610.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS [Government Code Section 11346.5, Subdivision (a)(9)]

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS [Government Code Section 11346.52 Subdivision (a)(10)]

The Department has determined that:

- The proposed action will not create or eliminate jobs within California;
- The proposed action will not create new businesses or eliminate existing businesses within this state;
- The proposed action will not affect the expansion of businesses currently doing business within California; and
- No benefits or adverse impacts to worker safety or to the state's environment are anticipated from this regulatory action.

CONSIDERATION OF ALTERNATIVES [Government Code Section 11346.5, Subdivision (a)(13)]

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF THE NOTICE, STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE [Government Code Section 11346.5, Subdivision (a)(16) and (20), and (b)]

As of the date this notice is published, the rulemaking file consists of this notice, the initial statement of reasons and the proposed text of the regulation. The proposed text may be obtained at any of the below Department of Business Oversight's Front Counters. The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available by requesting Document PRO 19/13 - C from the contact person designated below.

Los Angeles Office:
300 S. Spring Street, Suite 15513
Los Angeles, CA 90013-1259

Sacramento Office:
1515 K Street, Suite 200
Sacramento, CA 95814-4052

San Diego Office:
7575 Metropolitan Drive, Suite 108
San Diego, CA 92108

San Francisco Office:
45 Fremont Street, Suite 1700
San Francisco, CA 94105-2219

The notice, initial statement of reasons and proposed text are also available on the Department's Web site at www.dbo.ca.gov, at the top of the page click the "Laws and Regs" index tab, under Division of Financial Institutions click on the "Rulemaking" link.

As required by the Administrative Procedure Act, the Legal Division maintains the rulemaking file. The rulemaking file is available for public inspection and copying

throughout the rulemaking process at the Department of Business Oversight, Legal Division, 1515 K Street, Suite 200, Sacramento, California 95814.

AVAILABILITY OF CHANGED OR MODIFIED TEXT [Government Code Section 11346.5, Subdivision (a)(18)]

If the Department makes changes which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS [Government Code Section 11346.5, Subdivision (a)(19)]

Upon its completion, copies of the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed below.

CONTACT PERSON [Government Code Section 11346.5, Subdivision (a)(14)]

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to:

Karen Fong
Rulemaking Coordinator
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-3553
e-mail: Karen.Fong@dbo.ca.gov

Inquiries regarding the substance of the proposed regulation may be directed to:

Manuela Rumsey
Senior Counsel
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, CA 95814-4052
Telephone: (916) 322-5983
e-mail: Manuela.Rumsey@dbo.ca.gov

Dated: March 6, 2014
Sacramento, California