

Monthly Bulletin

California Department of Business Oversight



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DBO Enters Settlement with Advance America

The DBO on March 12 finalized a [consent order](#) with Advance America's California subsidiary that continues a broader DBO crackdown on lender avoidance of interest rate limits on small-dollar consumer loans.

The \$160,000 settlement requires the subsidiary – Advance America, Cash Advance Centers of California, LLC (AA LLC) – to refund \$82,000 to 519 borrowers and pay an administrative penalty of \$78,000.

Advance America is one of the nation's largest payday lenders, and AA LLC offers that product in California. The settled enforcement case involves conduct under the subsidiary's license to make installment loans in the state.

The settlement resolves allegations AA LLC improperly added Department of Motor Vehicle fees to the amount of installment loans, which brought the loans' total to more than \$2,500. That meant the affected loans were not subject to the California Finance Law's (CFL) interest rate caps, which only apply to loans under \$2,500.

1515 K Street, Suite 200
Sacramento, CA 95814-4052
(916) 445-7205

One Sansome Street, Suite 600
San Francisco, CA 94104-4428
(415) 972-8565

320 West 4th Street, Suite 750
Los Angeles, CA 90013-2344
(213) 576-7500

300 S. Spring Street, Suite 15513
Los Angeles, CA 90013
(213) 897-2085

1350 Front Street, Room 2034
San Diego, CA 92101-3697
(619) 525-4233

7575 Metropolitan Drive, Suite 108
San Diego, CA 92108
(619) 682-7227



Franchise Registration and Renewal Applications

Commissioner of Business Oversight Jan Lynn Owen would like to remind franchisors that a registration or renewal application will be considered filed on the day the Department receives a complete application (California Corporations Code sections [31116](#) and [31121](#)). The DBO will not accept applications submitted on thumb drives or CDs. Only complete applications are assigned to counsel for review.

A complete application includes:

- Appropriate filing fee
- Application Facing Page
- Customer authorization
- Consent to Service of Process (for non-California entities)
- Corporate/LLC acknowledgement
- Verification/Certification
- Franchisor's Costs and Source of Funds or Supplemental Information Form
- Sales Agent Disclosure Form (redacted and clean copy) or Franchise Seller Form (as applicable). Only include franchise sellers for California
- Auditor's consent
- Financial statements – audited or, if eligible, reviewed. (California does accept the FTC “phase-in” compiled financial statements.)
- Internet Ad Exemption Notice
- The full Franchise Disclosure Document(s), complete with all exhibits applicable to your franchise. For renewals, please include one clean copy, and one redlined copy.

The renewal filing fee is \$450. A filing fee of \$675 will be assessed to applications not completed by or received after 5 p.m. PST on the registration expiration date (for a calendar fiscal year end: April 20, 2018) whether submitted online or by mail (California Corporations Code sections [31121](#) and [31500](#)).

The DBO website has [instructions and forms](#) for franchise registrations and renewals. Questions may be directed to Ask.DBO@dbo.ca.gov or to the DBO's toll-free number at (866) 275-2677.



Credit Union

State-Chartered Credit Unions No Longer Need DBO Approval For Most Bylaw Changes

State-chartered credit unions no longer must obtain DBO approval for most bylaw changes approved by their boards of directors.

The change, which took effect April 1, results from Commissioner Owen's repeal of section 30.105 of Title 10 of the California Code of Regulations (CCR) and amendment to section 30.60 of Title 10 to delete the reference to section 30.105 in subsection (d)(2).

Boards of directors will remain responsible for ensuring bylaws are maintained in accordance with California Financial Code section 14103, and California Corporations Code sections [7150](#) and [7151](#). Additionally, boards still must obtain the approval of the credit union's membership when bylaw amendments affect members' rights.

The DBO will continue to approve field of membership changes for state-chartered credit unions pursuant to California Financial Code section [14155](#) and CCR sections [30.60](#) and [30.61](#). A copy of the [approved DBO regulations](#) is available on the DBO website.



Credit Union

Credit Union Exam Findings To Be Delivered Sooner; Official Email Accounts Encouraged

The DBO has announced two important changes to the credit union regulatory program.

The DBO will now issue final Reports of Examination independent of credit union board meetings. The aim is to deliver findings to credit unions more quickly and efficiently.

DBO staff may still attend credit union board meetings to present the Report of Examination findings. Note that going forward, the Board of Directors also may receive the final report ahead of the board meeting.

Another key regulatory change will encourage credit unions to establish designated email addresses for electronic communications from the DBO.

Due to security concerns with personal email providers, the DBO will now send official electronic communications containing confidential or sensitive information only to a credit union's designated email account. The DBO will no longer send sensitive communications to third-party email addresses.

It is important that credit unions provide the DBO with a designated email address for official communications, and that they regularly monitor this email account. The DBO will send confidential communications to this email account and will include distribution instructions so communications can be shared securely with the Board of Directors, Supervisory Committee and Audit Committee.

Any questions should be directed to Caitlin Sanford, Deputy Commissioner for Credit Unions, at caitlin.sanford@dbo.ca.gov or (415) 263-8570.



Student Loan Servicing License – Background Checks

A criminal background check is required outside of the Nationwide Multistate Licensing System and Registry (NMLS) for a DBO license under the Student Loan Servicing Act. The DBO has temporarily suspended the collection of fingerprints due to system changes in progress. Nonetheless, license applicants must complete and submit MU-1, MU-2 and MU-3 Applications, together with all other documents, uploads and information required. The DBO will review complete applications (except for fingerprints) and notify applicants of their status.

Applicants that meet DBO licensing requirements (except for fingerprints) will appear with an “Approved-Conditional” status in NMLS. For applicants with an

Approved-Conditional status, the DBO will send instructions on how to comply with the requirement to provide fingerprints for a criminal background check.

Applicants will have 30 calendar days from the date instructions are sent to submit fingerprints. An applicant's status will change to "Approved" if and when the DBO receives a satisfactory criminal history report for all MU-2 individuals required to be fingerprinted.



Money Transmitter Licensee Information

Money transmitter licensees are reminded that, effective March 30, all examination reports will be issued electronically.

Money transmitter licensees are also encouraged to review operating systems, email and firewall settings to allow the receipt of DBO correspondence.

Licensees should reach out to their portfolio manager if acceptance of DBO-encrypted email is not possible by April 23, 2018.



DBO Completes Consolidation of San Francisco Offices

The DBO office at 45 Fremont Street was consolidated into the DBO office at One Sansome Street, San Francisco, on March 16.

Please send all San Francisco postal mail to:

Department of Business Oversight
One Sansome Street, Suite 600
San Francisco, CA 94104-4428

Telephone numbers for affected DBO staff members will remain unchanged.



FinCEN Guidance For Due Diligence Requirements

On April 3, the Financial Crimes Enforcement Network (FinCEN) issued a "[Frequently Asked Questions](#)" document regarding the [Customer Due Diligence Requirements for Financial Institutions](#), published on May 11, 2016, and amended on Sep. 29, 2017. The FinCEN issued the FAQs to help financial institutions understand the scope of the due diligence rule.

The rule takes effect May 11, requiring financial institutions to report the "beneficial owners" of a legal entity opening an account or applying for certain credit. The reporting requirement applies to anyone with a controlling interest or at least a 25 percent ownership stake.

The FinCEN's mission is to safeguard the financial system from illicit use, combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

Commercial Bank Activity

Merger

Pacific Commerce Bank, Los Angeles, to merge with and into First Choice Bank, Cerritos
Filed: 3/15/18

Scott Valley Bank, Yreka, to merge with and into Mechanics Bank, Walnut Creek
Filed: 3/6/18

Tri-Valley Bank, San Ramon, to merge with and into Heritage Bank of Commerce, San Jose
Approved: 3/13/18

United American Bank, San Mateo, to merge with and into Heritage Bank of Commerce, San Jose
Filed: 2/16/18

Conversion to State Charter

South County Bank, N.A., to convert to state-chartered bank under the name CalWest Bank

Effected: 3/30/18

Application for Trust Powers

Premier Valley Bank
255 East River Park Circle, Fresno
Filed: 3/9/18

Sale of Partial Business Unit

East West Bank to sell the banking business of the Desert Community Bank division of East West Bank to Flagstar Bank, FSB

Effected: 3/17/18

Purchase of Partial Business Unit

Bank of the Sierra to acquire the banking business of the following branch office of Community Bank of Santa Maria: Lompoc Community Bank, a division of Community Bank of Santa Maria branch

Filed: 2/6/18

Change of Name

Commerce Bank of Temecula Valley to change its name to Nano Banc

Notified: 3/14/18

Premium Finance Company Activity**New Premium Finance Company**

KSJT Premium Finance, Inc.
660 Newport Center Drive, Newport Beach
Opened: 3/2/18

Service Payment Plan of California, Inc.
818 West Seventh Street, Los Angeles
Opened: 3/7/18

Sale of Whole Business Unit

Royal Premium Budget of California to purchase the whole business unit of Stonemark, Inc.

Filed: 3/8/18

Credit Union Activity**Merger**

Allied Trades Credit Union, Stockton, to merge with and into Uncle Credit Union, Livermore

Effectuated: 3/31/18

Foreign (Other State) Bank Activity**New Facility**

State Street Global Advisors Trust Company
Steuart Tower, One Market Street, San Francisco (Facility – Uninsured Trust Company)

Effectuated: 3/9/18

Money Transmitter Activity**New Money Transmitter**

DFS GSD Corp.

Approved: 3/13/18

JAN LYNN OWEN

Commissioner of Business Oversight

