

CCPA FAQs

Are financial institutions exempted from compliance under the CCPA?

The CCPA and its implementing regulations apply to all businesses, including sole proprietorships, partnerships, limited liability companies, corporations, associations, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners.¹ As a result, financial institutions fall within the definition of "business;" the CCPA does not otherwise exempt financial institutions from compliance if the other CCPA threshold requirements have been met.

We do not have branch locations in California, and we do not offer products or services in California, but we have customers that are California residents. Are we subject to the CCPA?

This depends. Financial institutions that have customers that are California residents but that do not have a brick and mortar location in California or do not offer an online account opening service to California customers may not be subject to the CCPA. Financial institutions, like all other businesses, that meet the following requirements are subject to the CCPA:

1. Collects a California resident's personal information;
2. Does business in California; and
3. Satisfies one or more of the following thresholds
 - a. Have over \$25 million in annual gross revenue;
 - b. Buy, receive, sell, or share for commercial purposes the personal information of 50,000 or more consumers, households, or devices; or
 - c. Derive 50% or more of their revenue from the sale of consumers' personal information.²

The CCPA does not define the phrase "doing business" in California. We may look to California's Code of Federal Regulations as a basis for our definition here, which defines "doing business" as "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit."³ The CCPA does indicate that financial institutions are exempt from CCPA compliance if a financial institution collects or sells a consumer's (California resident) personal information if every aspect of that commercial conduct takes place wholly outside of California. California conduct takes place wholly outside of California if the financial institution collected that personal information while the consumer was outside of California, no part of the sale of the consumer's personal information occurred in California, and no personal information collected while the consumer was in California is sold.

Is all personal information subject to the CCPA?

No. For purposes of financial institutions, personal information collected, processed, sold, or disclosed pursuant to the federal Gramm-Leach-Bliley Act or the California Financial Information Privacy Act is excluded from the CCPA.⁴

Does the CCPA apply to commercial transactions?

The CCPA covers information related to "consumers⁵," which includes all natural persons (that are California residents) and not just personal information collected from individuals during a consumer transaction. Therefore, the CCPA applies to information collected from natural persons during a commercial transaction. The CCPA requires financial institutions to provide a Notice at Collection at or before the point personal information is collected from a consumer, and therefore, Compliance Systems supports the Privacy Notice as part of a commercial transaction to ensure the CCPA requirements are met.

When are Compliance Systems' State Privacy Policy and Privacy Notice documents to be provided to consumers and what are the documents' purposes?

The State Privacy Policy must be given by every financial institution that must comply with the CCPA and its implementing regulations. Its purpose is to provide consumers with a description of the financial institution's online and offline practices regarding collection, use, disclosure, and sale of personal information and the rights of the consumer regarding their personal information. Financial institutions are not required to return a privacy policy for commercial

transactions; however, Compliance Systems provides financial institutions with the option to do so based on the financial institution's policy.

The Privacy Notice must be given to a consumer at or before the point of collection. That includes temporal proximity, such as notices delivered online regarding online collection or orally when information is collected by telephone, and physical proximity, such as notices delivered in branch. Its purpose is to provide consumers with timely notice about the categories of personal information to be collected from them and the purpose for which the personal information will be used. A Privacy Notice must also be given to those consumers whose personal information is sold by the financial institution. Its purpose is to inform consumers of their right to direct a financial institution to stop selling their personal information. Financial institutions are required to disclose the contents of the Privacy Notice for all transactions; Compliance Systems provides financial institutions with the option to display this required information in a separate document from the State Privacy Policy or within the State Privacy Policy.

When is the CCPA's enforcement date?

There is much uncertainty as to the enforcement date of the CCPA. However, in a press release by the OCAG, the agency has stated they are committed to enforcing it starting on July 1, 2020 since businesses have had since January 1, 2020 to comply.

¹ CA CIVIL § 1798.140(c)

² CA CIVIL § 1798.140(c)

³ 18 CA ADC § 23101

⁴ CA CIVIL § 1798.145(e)

⁵ CA CIVIL § 1798.140(g)