

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians***NOTICE OF RULEMAKING ACTION
TITLE 10. CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT****NOTICE IS HEREBY GIVEN** [Government Code Section 11346.5, Subdivision (a)(1)]

The Department of Business Oversight (“Department”) licenses and regulates financial institutions and financial services in California.

This proposed regulatory action would amend section 260.607 of title 10 of the California Code of Regulations, which sets out rules regarding conflict of interest and incompatible activities for Department employees. (The Department’s Conflict of Interest Code is contained in section 250.30 of title 10 of the California Code of Regulations, which is not being amended.) This proposed action would also adopt section 260.607.5 of title 10 of the California Code of Regulations.

The Department is updating 260.607 to make necessary technical changes. The changes are designed to be more consistent with Form 700 reporting requirements under the Political Reform Act and eliminate confusion caused by multiple reporting schemes. The proposed rule also limits the types of securities holdings that employees must report, enhances reporting standards for non-exempt securities, and revises outside employment requirements pertaining to parents and children.

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

Section 25610, Corporations Code; Section 50304, Financial Code

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

Section 25607, Corporations Code; Section 50303, 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, subdivision (a), of the Government Code. The request for hearing must be received by the Department’s contact person designated below no later than 15 days prior to the close of the written comment period.

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

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

45 Fremont Street, Suite 1700
San Francisco, CA 94105
(415) 263-8500

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

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

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

Where to Submit Comments

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, by any of these means:

Postal Mail

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

Electronic Mail

Comments may be submitted electronically to regulations@dbo.ca.gov. Please identify the comments as PRO 03/17 in the subject line.

Fax

(916) 322-1559

Time for Comments

Comments may be submitted from December 22, 2017 until 5:00 p.m., February 28, 2018. If the final day for the acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close at 5 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 Department seeks to update section 260.607 of title 10 of the California Code of Regulations to make necessary technical changes, updating obsolete references to reflect the newly formed Department of Business Oversight, and substituting “official or employee” for outdated references to “assistant, clerk or deputy,” where applicable.

To be more consistent with Form 700 reporting requirements under the Political Reform Act¹ and section 250.30 of title 10 of the California Code of Regulations, the proposed rule also limits the types of securities holdings that employees must report to the Department by exempting mutual fund shares (unless a banking or financial services

¹ See Gov. Code Section 81000 *et seq.*

fund) and securities issued by the federal government, among other types of securities not relevant to a conflict determination.

The proposed rule enhances reporting by requiring employee annual reports to include a fair market value range for each non-exempt security to be more consistent with Form 700 reporting requirements. The rule revises outside employment requirements to remove restrictions regarding the concurrent employment of parents and children, also consistent with Form 700 reporting requirements.

The Department believes these proposed changes represent a common sense and balanced approach to reporting that helps eliminate confusion caused by different reporting requirements. The revisions promote public confidence in government by making it easier for the Department to identify potential conflicts of interest between an employee's personal financial interests and the employee's duties to the Department, while limiting compelled disclosure of confidential personal financial information that is irrelevant to the conflict determination.

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

Section 260.607 of title 10 of the California Code of Regulations sets out rules regarding conflict of interest and incompatible activities for Department employees. (The Department's Conflict of Interest Code is contained in section 250.30 of title 10 of the California Code of Regulations, which is not being amended.)

Amendments to section 260.607 would update obsolete references to reflect the newly formed Department of Business Oversight and revise requirements related to outside employment and securities holdings disclosures. Section 260.607.5 would be adopted to include restrictions on appearances by former officials and employees that are currently in section 206.607.

Existing Federal Regulation or Statute [Government Code Section 11346.5, Subdivision (a)(3)(B)]

The proposed regulation does not differ substantially from an existing comparable federal regulation or statute.

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

The Department has evaluated whether the proposed regulations are consistent with existing state regulations and has concluded that they are consistent and compatible with those regulations.

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 or 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 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.

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

The proposed regulations will not affect small business because Department employees 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 11346.5, Subdivision (a)(10)]

The Department has determined that:

- The proposed action will not create or eliminate jobs within the state;
- The proposed action will not create new businesses or eliminate existing businesses within this state;
- The proposed action will not expand businesses currently doing business within

California;

- As stated under the Informative Digest above, the benefits of the regulation will be the promotion of public confidence in government by making it easier to identify potential conflicts of interest and the disclosures of employees' relevant personal financial information. No benefits or adverse impacts to worker safety or to the state's environment are anticipated from this regulatory action.

BUSINESS REPORTING REQUIREMENT [Government Code Section 11346.5, Subdivision (a)(11)]

The regulatory action does not require businesses to file a report with the Department.

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.

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, which contains all the information upon which the proposal is based; and the proposed text of the regulation. The notice, initial statement of reasons, and proposed text is available by contacting the person designated below.

The notice, initial statement of reasons and proposed text are also available on the Department's website at www.dbo.ca.gov. To access the documents from the Department's website, click on the "Laws & Regs" tab at the top of the home page, click on "Rulemaking," and then click on "Conflict of Interest." (Note that the link to "Conflict of Interest Code" refers to a separate rulemaking file.)

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 changes clearly indicated) available to the public for at least 15 days before the Department adopts, amends or repeals 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 FINAL STATEMENT OF REASONS [Government Code Section 11346.5, Subdivision (a)(19)]

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named below or may be accessed on the Department's website listed above.

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

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

Bret Ladine
Assistant General Counsel
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-5858
e-mail: bret.ladine@dbo.ca.gov

Non-substantive 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 the backup contact person:

Mark Dyer
Legal Division
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-1977
e-mail: regulations@dbo.ca.gov