Cooley

Update on California's VC Diversity Reporting Law: DFPI Comment Period and Legal Challenge

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Two notable developments have recently emerged under California's Fair Investment Practices by Venture Capital Companies Law (FIPVCC). While neither such development requires action by covered entities, as the 2026 compliance deadlines for FIPVCC remain suspended, both developments are worth monitoring closely. First, on May 26, 2026, the California Department of Financial Protection and Innovation (DFPI) opened a public comment period, closing July 17, 2026, seeking input on the law's interpretation and implementation. Second, on May 28, 2026, a Colorado-based venture capital firm filed a lawsuit alleging that the law is unconstitutional and seeking an injunction blocking enforcement of the law against the plaintiffs.

DFPI opens comment period with deadline of July 17, 2026

Following its March 2026 suspension of the FIPVCC, the DFPI on May 26, 2026, issued an invitation for comments on the law's registration, survey and reporting requirements. In issuing this invitation, the DFPI is soliciting feedback prior to publication of a formal Notice of Proposed Rulemaking. Such feedback will shape how the law is ultimately interpreted and implemented.

The DFPI is seeking stakeholder input on a range of open questions, including:

- Who qualifies as a "covered entity" (and what counts as a "significant presence" in California).
- Whether covered entities that made no venture capital investments in the prior calendar year should still be required to register with the DFPI.
- Whether covered entities' reporting should be limited to new, first-time investments in the relevant calendar year or whether follow-on investments should also be included.
- Whether consolidated reporting by a controlling entity is permitted, and under what conditions.
- The scope of the survey distribution obligation and related privacy considerations.
- What information covered entities should be required to report, including which formulas to use in making certain calculations.
- Fees requirements, including whether there are factors the DFPI should consider in determining the fee charged per report.
- Records retention requirements, including what records must be kept and how to best protect the privacy and anonymization of the founding team member's demographic data.
- Any additional matters related to the FIPVCC that the DFPI should consider when proposing regulations.

Comments are due July 17, 2026, and may be submitted electronically. The DFPI notes that for comments recommending rules, "commentors are encouraged to propose specific rule language and provide an estimate, with justification, of the potential economic impact on business and individuals that would be affected by the language." Further, the agency notes that all comments should include information about "economic impacts, metrics, or quantitative analysis to support comments."

The DFPI's solicitation for comments is a meaningful opportunity to influence the regulations that will govern FIPVCC compliance in the future. Several of the DFPI's open questions on key interpretive issues were noted in Cooley's March 2026 letter to the agency.

Legal challenge filed

On May 28, 2026, venture capital firm 1517 Fund (through its management company and four associated funds) filed a complaint in the US District Court for the Eastern District of California (*1517 Management Company, LLC, et al. v. Mohseni*, No. 2:26-cv-01957) challenging the FIPVCC on constitutional grounds. The complaint asserts four claims:

1. Violation of the First Amendment, on the basis that the law compels speech and imposes a content-based restriction by requiring use of a state-prescribed form.
2. Violation of the equal protection clause, on the basis that the law "requires venture capital companies to consider race" and exerts pressure on the plaintiffs to alter their investment decisions to favor founders of particular races.
3. Violation of the dormant commerce clause, on the basis that the law purports to regulate transactions occurring outside California and involving persons having no connection with California.
4. Violation of the due process clause, on the same extraterritorial grounds.

Notably, plaintiffs seek a declaration that the FIPVCC, on its face and as applied, to the plaintiffs, is unconstitutional and seek a permanent injunction against its enforcement only as to the plaintiffs. Though any injunctive relief would thus be limited to the plaintiffs to this lawsuit, any merits-based ruling by the court (including a declaration or other order finding that the FIPVCC is unconstitutional) may have significant implications for the law's future viability.

Next steps

Notwithstanding ongoing litigation, the DFPI appears to be pressing ahead with rulemaking, and the outcome of that process will shape compliance obligations if the law survives legal scrutiny.

Cooley is monitoring developments and is available to assist clients navigating this evolving landscape. **Please reach out to us if you would like to discuss submitting comments to the DFPI or would like to assess your organization's obligations under FIPVCC.**

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