

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

November 27,
2024

2. Department

FINANCIAL PROTECTION AND INNOVATION

3. Organizational Placement (Division/Branch/Office Name)

DIGITAL FINANCIAL ASSETS LAW (DFAL) PROGRAM

4. CEA Position Title

DFAL Southern Regional Deputy Commissioner

5. Summary of proposed position description and how it relates to the program's mission or purpose.
(2-3 sentences)

Under the general direction of the Deputy Commissioner (CEA B) the DFAL Southern Region Deputy Commissioner is responsible for planning, organizing, directing, coordinating, and reviewing professional program staff working on the implementation of the Digital Financial Assets Law as it pertains to examinations and licensing as it relates to Cryptocurrency and crypto assets.

6. Reports to: (Class Title/Level)

Deputy Commissioner

7. Relationship with Department Director (Select one)

- ☐ Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- ☒ Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- ☐ 1st ☐ 2nd ☐ 3rd ☒ 4th ☐ 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The Southern Regional Deputy Commissioner (SRDC) is responsible for overseeing licensing and examinations revolving around Digital Financial Assets Law (DFAL).

This includes working with the Deputy Commissioner of DFAL in planning, organizing, directing, coordinating, and reviewing the work of staff implementing DFAL. Acts as an advisor on digital financial assets. Works in partnership with DFPI Legal and other Department divisions working on digital policy.

The SRDC will create policies to set capital and liquidity requirements and standards for licensees, ensuring financial stability and compliance with operational requirements. Develops policies requiring licensees to increase capital or liquidity levels to meet risk-based assessments and financial stability requirements, including timelines for compliance.

SRDC will formulate policy requirements for surety bonds or trust accounts that licensees must maintain and set conditions of levels required and duration of security in order to protect consumers involved in digital financial activities.

SRDC will develop policies that allow flexibility in the type and amount of security deposits required from licensees, ensuring these deposits are adjusted based on assessed risks and requirements.

Works with the legal team to promulgate rule making. Develops comprehensive management plans to address the Department's short and long-term business needs related to implementation of DFAL.

Acts as a subject matter expert regarding DFAL. Conducts meetings around the approval/denial of digital financial asset companies applications subject to DFAL. Serves as a liaison with key constituencies to identify concerns that may require changes in the Department's regulation of digital financial assets. Represents the Department as a member of various boards, task forces, and committees and before other State, local, or federal governmental agencies in matters relating to DFAL.

Works under the Deputy Commissioner of DFAL to plan, organize, direct and provide managerial review of the work performed by staff in the DFAL Program. Provides regular and timely written performance appraisals to DFAL Program staff. Recruits, hires, trains, develops and provides leadership to staff. Complies with state and federal laws, rules, regulations, bargaining unit contracts, and policies in all personnel practices, including, but not limited to: hiring, employee development and management. Identifies appropriate long-range plans and goals to address succession planning and knowledge transfer.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- ☒ Program is directly related to department's primary mission and is critical to achieving the department's goals.
- ☐ Program is indirectly related to department's primary mission.
- ☐ Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: Digital Financial Assets Law (DFAL) Program is directly related to the Department's primary mission of regulating financial services in California, promoting innovation, and consumer protection.

General Statement: - The Digital Financial Assets Law (DFAL) Program is dedicated to implementing AB 39 and SB 401, collectively known as the Digital Financial Assets Law. This Program oversees regulatory compliance over digital financial assets (also known as cryptocurrency or crypto assets), provides consumer and investor protection, and fosters innovation in the digital financial assets sector. Key functions include reviewing, approving, and declining DFAL license applications, supervising existing DFAL licensees, working with DFPI legal on developing and enforcing regulations, and conducting research on emerging trends. The Program also collaborates with digital financial assets stakeholders on policy development, and working with DFPI's Enforcement Division to take appropriate enforcement actions to ensure a fair and transparent market. Through these efforts, the Program protects the public, supports the integrity of the digital financial assets industry, and maintains the stability of our financial system. The DFAL Program oversees this critical DFAL program. This requires DFAL staff to review new applications by digital financial assets companies.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

On October 13, 2023, Governor Newsom signed into law Assembly Bill 39 and Senate Bill 401, together called the Digital Financial Assets Law (DFAL).

The DFAL provides the DFPI with rulemaking authority to ensure the regulatory framework is thoughtfully tailored to provide investor and consumer protections and address the digital financial assets industry.

When the AB 39 portion of DFAL becomes effective, digital financial asset companies must be licensed by the DFPI or have applied for a license with the DFPI to operate in California. The DFAL prohibits an entity from engaging in digital financial asset business activity unless the entity holds a license from the DFPI. Digital financial business activity includes activities such as exchanging, storing, or transferring a digital financial asset. The new law promotes consumer and investor protection by creating a robust regulatory framework, including supervision and enforcement authority, for certain digital financial asset activities.

The Digital Financial Assets Law requires a digital financial asset transaction kiosk operator ("kiosk operator") to comply with certain requirements in California.

Beginning January 1, 2024, a kiosk operator must provide the Department a list of all kiosk locations that an operator owns, operates, or manages in the state. An operator is defined as a person who owns, operates, or manages a digital financial asset transaction kiosk located in this state. Additionally, by January 1, 2024, an operator (1) may not dispense or accept more than \$1,000 in a day to or from a customer via kiosks and (2) must provide a customer with a receipt with specified information for any transaction made at the operator's kiosk.

Beginning January 1, 2025, kiosk operators must provide pre-transaction disclosures to customers and are prohibited from collecting from customers in any single transaction the greater of \$5 or 15% of the U.S. dollar equivalent of digital financial assets involved in the transaction.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The CEA or Southern Regional Deputy Commissioner (SRDC) will be responsible for policy and program direction for the DFAL Program. The CEA will help put into place the process for approving, denying, or resolving questions on applications/licensees for digital financial assets companies operating in California and subject to DFAL.

The SRDC will create policies to set capital and liquidity requirements and standards for licensees, ensuring financial stability and compliance with operational requirements. Develops policies requiring licensees to increase capital or liquidity levels to meet risk-based assessments and financial stability requirements, including timelines for compliance.

SRDC will formulate policy requirements for surety bonds or trust accounts that licensees must maintain and set conditions of levels required and duration of security in order to protect consumers involved in digital financial activities.

SRDC will develop policies that allow flexibility in the type and amount of security deposits required from licensees, ensuring these deposits are adjusted based on assessed risks and requirements.

The SRDC will be responsible for implementing procedures on all work handled by staff under supervision.

The SRDC will be responsible for establishing and maintaining relationships with market participants on digital financial assets, and coordinating with them on the oversight of digital financial assets.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

Conducts meetings to deny or resolve questions on applications/licensees.

Develops comprehensive management plans to address the Department's short and long-term business needs related to the DFAL Program.

Represents the Deputy Commissioner as a member of various boards, task forces, and committees and in Department meetings

Participate in the development and implementation of departmental policy including strategic planning for the Department and identifying needed legislation and regulations related to DFAL.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

Yes, the CEA will be in charge of helping to develop, implement, and execute the requirements under DFAL. DFAL, which comes from AB 39 and SB 401, will oversee regulatory compliance over digital financial assets (also known as cryptocurrency or crypto assets), provide consumer and investor protection, and foster innovation in the digital financial assets sector. This will occur by reviewing licensees, working with DFPI Legal on promulgating rule making as needed over digital financial assets, and working with DFPI Enforcement as needed on investigative work over non-compliant digital financial asset companies.