ATTACHMENT A

Abbreviations

AB 488: Assembly Bill AB 488 (2021, codified in Gov. Code §§ 12599.9 & 12599.10)

Act: Supervision of Trustees and Fundraisers for Charitable Purposes Act (Gov. Code §§ 12580 to 12599.10)

CCPA: California Consumer Privacy Act

CFP: charitable fundraising platform

CO: charitable organization

DOJ: California Department of Justice Office of the Attorney General

Donation: donation, recommended donation, or donated funds

FTB: California Franchise Tax Board

IRS: Internal Revenue Service

ISOR: Initial Statement of Reasons

PC: platform charity

MNOS List: May Not Operate or Solicit for Charitable Purposes List

PPF: person engaged in peer-to-peer charitable fundraising

Platform user: person who uses a CFP and makes a purchase or performs other activity that causes a donation to be made

Identification of Commenters from 45-Day Period

Members of the public submitting written comments during the 45-day comment period, November 17, 2023 – January 2, 2024, identified in numbered order of receipt by DOJ:

Written Commenter #	Name of Commenter	Affiliation
1	Edward Chansky	Greenberg Traurig, LLP
2	Karen Wu	Perlman & Perlman, LLP
3	Robert Wexler	Adler & Colvin
4	Natalie Chaudhury	Goodwin Procter LLP
5	Margaret Johnson	Benevity, Inc.

6	Shayland Moise	N/A
7	Martin Radosevich	Candid
8	Karen Wu, Tracy Boak	Perlman & Perlman, LLP
9	Katie Jeffrey	Davis Wright Tremaine LLP
10	Katie Jeffrey	Davis Wright Tremaine LLP
11	Sierra Taylor Horton	GoFundMe, GoFundMe.org, Classy.org
12	Nick Aldridge	PayPal, Inc., PayPal Charitable Giving Fund
13	Dwaritha Madhavan	GlobalGiving Foundation
14	Stefanie Goldfine	Network for Good, Inc.
15	Yael Fuchs	Sedreddine & Whoriskey, LLP
16	Yael Fuchs	Sedreddine & Whoriskey, LLP

Comment Summaries and Responses - 45-day Comment Period

The specific comments that are represented in the comment summary statement are listed after each comment summary by the commenter number as identified above followed by a dash and numbered comment when a commenter submitted more than one comment.

General (including certain comments about more than one regulation)

1. **Summary**: Comment asks when the regulations and/or the CFP registration requirement (filing of Form PL-1) will become effective. (1-1, 2-1, 3, 5, 7-1, 9-1)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded to the question when it was asked. DOJ referenced an anticipated effective date in the first quarter of 2024, and an exact date could not be predicted because the Office of Administrative Law must approve the regulatory package before the regulations or any forms become effective. Once Form PL-1 is adopted, DOJ will notify its stakeholders.

2. **Summary**: Delay the effective date for the regulations for a certain time period, with the time period varying between comments: January 1, 2025, or such later January 1st date that is at least 6 months from the date the regulations are final; at least 6 to 12 months from the date the regulations are final; at least 9 to 12 months from the date the regulations are final; at least 12 months after the date the regulations are final; or at least 24 to 36 months from the date the regulations are final. Reasons include: CFPs and PCs cannot reasonably begin to undertake compliance with regulations until they are final, and when the regulations are final is not within their control; it is asking too much for CFPs and PCs to build systems based on the current draft

of regulations given the history of significant changes being made, and time is needed in 2024 for DOJ to review public comments and the Office of Administrative Law to review and approve the regulations; CFPs need time to digest finalized regulations and to craft, test and implement the complex changes required for compliance; AB 488 became effective January 1, 2023, more than a year later than AB 488 was passed, and it is reasonable for CFPs and PCs to have at least as much time to come into compliance with the regulations, which are significantly broader, deeper, and require more work to operationalize; a reasonable implementation date is needed given the myriad of changes required to implement the incredibly complex regulations (changes to technical systems, processes and procedures, donor-facing and CO-facing disclosures and communications, developing new sections of "the donor portal" to comply with the requirements of 320(a)(3) & 322(a), technical changes regarding coordinating and signing agreements with recipient COs and commercial co-venture partners, developing new data captures that feed into tax receipts and anticipated reporting, redesigning work involving replacing the categories of CFPs with categories based on solicitation types and undoing adjustments with separating back out the commercial coventurer-type solicitation activities, setting up systems based on the new definitions in the regulations and the types of data required by reporting forms); it is nearly impossible or impossible to comply with the regulations with an effective date in 2024; if there is not enough time to plan for and make necessary changes to comply, CFPs and PCs will have to choose between operating non-compliantly, or shutting down operations for the many months required to come into compliance; unless delayed, many CFPs and PCs "may have to discontinue providing services to donors and charities in California for that period of time. For some smaller charities that will be subject to these regulations or rely on platforms subject to these regulations for charitable donations and grants, this may make it impossible to stay in business;" "the complicated build will also serve as a huge barrier to future innovation in digital giving – an outcome that has serious long-term implications given the direction future individual philanthropy is likely to take." (8-1, 10-1, 11-1, 12-1, 13-4, 14-5)

Response: Accept in Part. The effective date for sections 318 to 322 is January 1, 2025. The proposed time for other sections, and for sections 318 to 322 beyond January 1, 2025, would unreasonably delay the effective date beyond what is necessary (e.g., given the critical nature of registration and reporting requirements), and the delay is not equally effective in implementing the statutory policy. DOJ has made every effort to limit the burden of the regulations while implementing AB 488. The reference to agreements with "commercial co-venture partners" is unclear. DOJ disagrees that additional time is needed to come into compliance with the regulations (but for sections 318 to 322 until January 1, 2025), that CFPs and PCs may have to temporarily discontinue their services, and with other predicted outcomes (e.g., some smaller COs may not stay in business, barriers to innovation).

3. **Summary**: Comment asks for a compare version of the Text of Proposed Regulations against what was published in prior related rulemaking, or a clean version of the Text of Proposed Regulations that does not contain underlining, highlighting, etc. (4)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded

to the question when it was asked, by stating the regulatory package was new. Therefore, the Text of Proposed Regulations indicates additions to, and deletions from, the California Code of Regulations, as required by Gov. Code § 11346.2.

4. **Summary**: Comment asks whether DOJ would accept comments after the January 2, 2024 deadline. Several platforms would like to submit comments but are not ready to do so by the deadline. (15, 16)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded to the question when it was asked. DOJ referenced the Notice of Proposed Rulemaking published on November 17, 2023, which stated the comment period closes on January 2, 2024.

5. **Summary**: Comment asks whether the regulations apply to donations that are not received through an online platform, e.g., donations received through postal mail, bequests, donations of property such as securities. Amend the regulations to state that they only apply to donations made through a platform, and not to donors who donate outside a platform and donations received outside of a platform. (13-1)

Response: No change has been made in response to this comment. AB 488 and the regulations are reasonably clear as to whether they only apply to donations made or received through CFPs. For example, see Gov. Code §§ 12599.9(a)(1)(A) & (E), (a)(5)(A), (h) and 12599.10(a)(4)(A)(i), which reference donations being made by donors who use a platform and donations made or received through a platform. Section 315(k) also defines "platform user" to include a donor who makes a donation through a CFP, and Form PL-4 questions 15 to 19 in Part C only request information on donations made by platform user donors and donations made based on platform user purchases or other activity. Thus, at this time, other than when donations are made in response to platform user purchases or other activity (which may involve solicitation types C or D and donations made by a CFP or other third party per § 314(o) and (p)), the regulations only apply to donations made or received through CFPs.

6. **Summary**: Comment asks whether the requirements regarding how CFPs and PCs "interact" with recipient COs apply only to recipient COs organized in or doing business in California. Commenter supports many "small community foreign organizations" that are not organized or operating in California, and concludes the requirements do not apply to these organization pursuant to Gov. Code §§ 12582, 12582.1, and 12599.9(a)(7). (13-2)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a specific recommendation to change the regulations. The regulations provide general guidance for compliance and are meant to be applicable to a wide variety of entities, persons, and factual situations. To the extent the comment seeks guidance for a specific factual circumstance, it is not necessary to address that circumstance in a regulation at this time, and commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. The comment is unclear regarding "interacting" with recipient COs. For general guidance on whether recipient COs must be organized in or doing business in California, see Gov. Code §§ 12582, 12582.1 and 12599.9(a)(7). The MNOS List references

foreign COs doing business in California or voluntarily registered with DOJ, and also includes COs that are subject to cease and desist orders for not being registered with DOJ in violation of California law.

7. **Summary**: Comment asks how DOJ came up with the estimate in Form STD 399 that the total number of businesses impacted is approximately 1,500 businesses (50 PCs and 1,000 CFPs). (7-2)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a specific recommendation to change the regulations. DOJ estimated that approximately 50 PCs and 1,000 CFPs would be required to register and file reports annually. This was based on DOJ's online market research and analysis, given the lack of empirical data on this topic. This included reviewing the websites of actual PCs and CFPs, and Registry Search Tool data.

8. **Summary**: "Overall, we remain concerned with the complexity and unequal burden that this regulation will place on online charitable giving. While we support the goal of transparency, and ensuring money is delivered, in a timely manner, to communities where donors request; the overly prescriptive, costly and difficult to implement nature of the proposed regulation will have a further chilling effect on online giving. This impact will likely be particularly acute for small and medium sized organizations and the platforms that support online giving. In the current environment, where small dollar giving is already declining at an alarming rate, the potential of making it more confusing, costly and challenging for donors to get donations to organizations in their community should be taken seriously. We continue to urge the Attorney General's office to address these concerns before this regulation becomes effective to ensure that all nonprofits, not just large ones, continue to have access to efficient, low-cost online donations.

Our comments will mirror some previously made, as we believe that the changes made to date have not: sufficiently simplified the regulation, provided reasonable time frames for incorporating requirements of addressing good standing and removal requests; addressed the ability of platform charities to appropriately address fraud concerns; or provided the time it will take to build the complex infrastructure that will be necessary to address the back and forth communication that will be now be necessary. We believe such changes will enable the market transparency you seek while fostering an efficient, compliant market that ensures the future viability of digital philanthropy for California donors and nonprofits." (14-1)

Response: No change has been made in response to this comment. The comment is interpreted to be an observation, and does not provide sufficient specificity for DOJ to make modifications to the regulations. DOJ has made every effort to limit the burden of the regulations while implementing AB 488. Regarding good standing, see response 30. Regarding removal requests, see response 46. Regarding an ability to address fraud concerns, see response 53. Regarding time to build an infrastructure, see response 2.

9. **Summary**: Exclude individual round-up donations that are less than $1 from compliance with the regulations. Such donors do not take or expect a tax deduction, and it is not manageable to maintain records on these donations. (14-17)

Response: No change has been made in response to this comment. AB 488 applies to all donation amounts. DOJ cannot implement regulations that alter or amend AB 488, or enlarge or impair its scope. DOJ disagrees that these donors do not take or expect a tax deduction (e.g., aggregated donations can justify a tax deduction). Maintaining records is feasible; failure to do so justifies the need for the regulations and law enforcement actions.

10. **Summary**: "The disclosure of fees continues to be too complex and unnecessarily burdensome. The primary issue that donors and nonprofits care about is what percentage or amount of the original contribution is going to go to the recipient charity. If the nonprofit objects to the overall fee structure they can opt-out of a platform. Comparisons are made by looking at total fee amounts, not the breakdown of individual fees that are not open for negotiation with the donor. Further, the breakdown of fees over which a donor has no say in paying will create unnecessary confusion and reduce the overall transparency of information provided to donors. For organizations with multiple platform relationships, managing disclosures on this micro of a level is overly burdensome, for little to no benefit to any participant. We are not aware of any instance where a business is required to break down and publicly share non-negotiable fees and to have this burden placed on nonprofits is not appropriate. Further, the Supreme Court in the Riley line of cases has said it is unconstitutional, indeed a direct violation of the First Amendment, to require fundraisers to have to disclose fees unless they are directly asked. The fee breakdown provision here is outside the scope of the Supreme Court decisions and well exceeds the intent of the legislation." (14-16)

Response: No change has been made in response to this comment. It is unclear whether the comment is directed at Gov. Code § 12599.9(e)(4) or (h), or any proposed regulation that references fees. If Gov. Code § 12599.9, the comment objects to AB 488, not the proposed regulations. DOJ cannot implement regulations that alter or amend AB 488, or enlarge or impair its scope. Gov. Code § 12599.9(e)(4) requires the disclosure to donors of fees or other amounts deducted from or added to donations that are charged or retained by the CFP, PC, or any other partnering vendor, other than digital payment processing fees. Gov. Code § 12599.9(h) requires CFPs and PCs to provide an accounting of fees. If the comment is directed at § 314(b) and (d), § 317(f), § 318(a)(4), and/or § 321(a)(5), (b)(2), and (c)(1), these sections implement Gov. Code § 12599.9(e)(4) & (h), and are necessary for the reasons stated in the ISOR. It is unclear what are the "Riley line of cases." If the commenter means *Riley v. National Federation of the Blind of North Carolina, Inc*., 487 US 781 (1988), *Riley* is inapposite. The statute in *Riley* involved disclosing the percentage of prior year donations a fundraising professional gave to a CO before commencing a solicitation on a telephone call. Meanwhile Gov. Code § 12599.9(e)(4) involves a different type of disclosure concerning online solicitations through CFPs, and is narrowly tailored (e.g., disclosures only need to occur before a donation can be completed or a recipient CO selected, § 317(f) permits the disclosure required by Gov. Code § 12599.9(e)(4) to be provided through a conspicuous hyperlink (with selecting a hyperlink the effective equivalent of disclosure upon request)). Also see responses 23, 41, 60, 61, 63, 64.

11. **Summary**: Commenter, which currently registers as a "charitable trust," asks how an organization that is both a CFP and PC should register, after reviewing Gov. Code § 12599.9(b)(1) and §§ 306(a), 314(g), 315(a) & (c). (13-5)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a specific recommendation to change the regulations. The regulations provide general guidance for compliance and are meant to be applicable to a wide variety of entities, persons, and factual situations. To the extent the comment seeks guidance for a specific factual circumstance, it is not necessary to address that circumstance in a regulation at this time, and commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. For general guidance on how a person or entity that meets the definition of both a PC and CFP should register, see Gov. Code, 12599.9(b)(1), which would require registration as a CFP. A person or entity that meets the definition of a trustee or charitable corporation under Gov. Code §§ 12582 or 12582.1 is required to register as a trustee or charitable corporation per Gov. Code § 12585. If a person or entity meets the definition of both a CFP and either a trustee or charitable corporation, then the person or entity should register as both.

12. **Summary**: Remove the definitions for the solicitation types in § 314. Only for-profit entities that meet the definition of a CFP in Gov. Code § 12599.9(a)(1) should be considered CFPs. Nonprofit entities that meet the definition of a CFP and PC should only be considered PCs. All CFPs should have the same filing requirements, reporting requirements, disclosure requirements, and the timeframe for sending donations. Reasons include: complexity; creating different rules based on solicitation types "will not result in meaningful market or regulatory benefit;" avoiding confusion when an organization meets both the definition of a PC and CFP regarding §§ 314(g) and 315; the proposed change "will enable reporting to be consistent, compliant and meaningful to all participants in the charitable giving process." (14-6)

Response: No change has been made in response to this comment. Comment objects to AB 488, and DOJ cannot implement regulations that alter or amend AB 488, or enlarge or impair its scope. CFPs are broadly defined in Gov. Code § 12599.9(a)(1) to include any corporation or other legal entity, regardless of whether they are operated by COs or for-profits. Gov. Code § 12599.9(b)(1) requires those that meet the definition of a both a PC and CFP to register as a CFP. The definitions for the solicitation types are necessary for the reasons stated in the ISOR p. 10. For instance, a CFP is subject to different requirements in AB 488 and the regulations based on the solicitation types performed, permitted, or enabled, which impacts the information provided in reports. For Forms PL-1 and PL-2, DOJ disagrees that CFPs have different filing requirements. For Form PL-4, the reporting requirements are necessary and vary based on solicitation types for the reasons stated in the ISOR pp. 10, 15-18. For disclosures, Gov. Code § 12599.9(e) & (f)(2) and section 317 require different disclosures based on the solicitation types performed, permitted, or enabled. DOJ cannot implement regulations that alter or amend Gov. Code § 12599.9(e) & (f)(2), or enlarge or impair its scope, and section 317 is necessary for the reasons stated in the ISOR pp. 21-24, 40. More than one time period for sending donations is necessary for the reasons stated in the ISOR pp. 27-30, 41. The definition for a partner in §

314(g) is necessary for the reasons stated in the ISOR p. 9, and is reasonably clear. The Form PL-3 filing requirement in § 315(d) implements Gov. Code § 12599.9(b)(3), which is specific to PCs. Thus, only PCs will file Form PL-3. Form PL-3 is reasonably clear and necessary for the reasons stated in the ISOR pp. 10, 13-14. DOJ disagrees that the rules based on solicitation types do not create meaningful benefits.

13. **Summary**: "317(a) & 318(a)(7). It would be preferable not to require offering donors the option of sharing contact information" with recipient COs. Alternately, amend §§ 317(a) and 318(a)(7) so "that the option is required only of donors resident [sic] in California and for recipient charitable organizations registered in California." Reasons include: for many privacy laws, providing donor contact information to a third party requires "explicit opt-in consent to use personal information for marketing purposes," "detailed disclosures about how the information will be used," and "that the provider organization have agreements in place with the downstream organization that include passing-down privacy requirements;" commenter was about to implement a policy of not sharing donor contact information with recipient COs, which is not necessary as commenter facilitates recipient COs acknowledging platform user donors with thank you notes; many donors do not want to be contacted by the recipient COs; commenter may have to adopt different policies for different jurisdictions, which is difficult to implement, maintain (e.g., based on where donors reside) and explain (e.g., to recipient COs). "It also bears considering whether the regulation's rationale holds for sending donor contact information to small community organizations in remote countries." (13-6)

Response: No change has been made in response to this comment. Sections 317(a) and 318(a)(7) are necessary and consistent with the CCPA for the reasons stated in the ISOR pp. 21, 24-26, 40. The proposed change is not more effective in carrying out the purpose and intent of AB 488. For instance, if a California platform user donor supports recipient COs not registered in California, §§ 317(a) and 318(a)(7) are still necessary as the donor may appreciate an acknowledgement from the recipient COs, which confirms the donations were sent to their selected recipient COs and that their gifts were valued. This remains the case even if a CFP somehow facilitates an indirect acknowledgement for donations made through its platform. When donors do not want to be contacted by recipient COs they have the option of not sharing their contact information with recipient COs. Regarding the references to "many privacy laws," the comment does not provide sufficient specificity so that a meaningful response or a modification to the sections can be made. However, if those laws are consistent with the CCPA, §§ 317(a) and 318(a)(7) would be consistent with them as well. DOJ has made every effort to limit the burden of the regulations while implementing AB 488. For general guidance on whether AB 488 applies only to platform users in California, see Gov. Code § 12599.9(a)(1), which references providing a platform to "persons in this state." Regarding recipient COs, see response 6.

14. **Summary**: Amend § 318(a)(9) (re: consent agreements permitting a CFP to send a tax donation receipt on behalf of a recipient CO) to state it is not required for donations made on a CFP that go directly to a recipient CO where the CFP has clearly informed recipient COs (in terms of use or similar) that it will not be handling receipting. Also, amend § 319 (re: tax

donation receipts) to state CFPs must obtain authorization from the recipient CO if the CFP sends a tax donation receipt on behalf of the CO. Reasons include preserving choice for CFPs and recipient COs, recipient COs can issue the receipts and may prefer to retain direct control over that. (12-12)

Response: No change has been made in response to this comment. Comment objects to AB 488, as Gov. Code § 12599.9(g) requires CFPs or PCs that engage in solicitation types A or B to promptly provide a receipt after donations are made in accordance with Bus. & Prof. Code §§ 17510.3 and 17510.4. Accordingly, when a PC is not involved and CFPs cannot issue tax receipts because they do not have tax-exempt status under Internal Revenue Code § 501(c)(3), § 319 reasonably requires them to obtain authorization from recipient COs to send receipts on their behalf. Also, § 318(a)(9) reasonably provides for this authorization in written consent agreements between CFPs and recipient COs. The comment's proposed change is not more effective in carrying out the purpose and intent of AB 488 when donors choose to not to share their information with recipient COs, and thus recipient COs do not know who to issue a receipt to. Recipient COs can still issue receipts even if CFPs have previously done so. Sections 318(a)(9) and 319 are necessary for the reasons stated in the ISOR pp. 24-27.

15. **Summary**: Clarify that the deadlines in §§ 320(a)(3) and 322(a) only apply to donations made through a platform. Alternately, if the regulations do apply to donations made outside a platform, amend the regulations so that a CFP is only required to "contact donors without undue delay in those cases and is not required to do so if no contact information has been provided." Commenter cannot meet the timeframes when donors have donated through postal mail. Some donations may have been made anonymously, which can occur through "employee giving campaigns sponsored by corporate partners and from distributions by donor-advised funds." (13-11)

Response: No change has been made in response to this comment. The regulations, including §§ 320(a)(3) and 322(a), are already reasonably clear as to whether they only apply to donations made or received through CFPs. See response 5. Regarding anonymous donations made through a CFP, the comment does not provide sufficient specificity for DOJ to make modifications to the regulations. For instance, if donor advised fund account holder has recommended that a donor advised fund sponsor make a donation to a CO through a CFP, and the donation is made by a donor advised fund sponsor, then the donor advised fund sponsor would be the donor and could be contacted or notified.

§ 312 Registrant Must Be In Good Standing to Operate or Solicit

16. **Summary**: As § 312 references a person or entity subject to a cease and desist order is not in good standing, comment asks whether DOJ keeps a public list available to help the commenter know if a CO is under a cease and desist order. (7-4)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded to the question when it was asked, by referring to its website to access the information using the MNOS List or Registry Search Tool.

17. **Summary**: COs with delinquent status should be considered in good standing. Reasons include unfairness when there are administrative delays at DOJ in processing efforts by COs to correct the status, and when delinquent COs are paying for a "fundraising service." (14-9)

Response: No change has been made in response to this comment. The comment is not directed at the proposed regulations or the rulemaking procedures followed. Rather, the comment is directed to existing language in § 999.9.4 (renumbered to § 312). Pursuant to Gov. Code § 11346.9(a)(3), DOJ need not respond to a comment submitted if it does not specifically relate to the changes to the regulation text announced in the Notice of Proposed Rulemaking published on November 17, 2023. DOJ has made every effort to promptly process filings from COs that seek to cure their delinquent status, including filings requiring follow-up from COs.

§ 314 Definitions Regarding Charitable Fundraising Platforms and Platform Charities

18. **Summary**: Comment asks for descriptions of solicitation types A through E, which the forms reference. (6)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded to the question when it was asked, by referring to its website and referencing the definitions for the solicitation types in § 314(m) to (q).

§ 315 Registration and Filing Requirements for Charitable Fundraising Platforms and Platform Charities

19. **Summary**: Comment asks whether forms were incorporated into the regulations, and if so, whether they were different from forms published in prior related rulemaking. (1-2, 2-2)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded to the question when it was asked, by referring to its website to access the forms.

20. **Summary**: Comment asks whether the deadline for annual reports (Form PL-4) will be July 15, 2025, and whether the reporting period will be the 2024 calendar year. (9-2)

Response: No change has been made in response to this comment, which was interpreted to be a question rather than a specific recommendation to change the regulations. DOJ responded to the question when it was asked. DOJ stated it expected it would be due July 15, 2025, and would cover the 2024 calendar year. An exact date could not be predicted because the Office of Administrative Law must approve the regulatory package before the regulations or any forms become effective.

21. **Summary**: Annual reporting (Form PL-4) should only be required from the start of the year after the regulations are final, and for the first reporting year, reporting should only be required from the date the regulations are final. Reasons include: to roll out registration and reporting mid-year will result in inconsistent adoption, confusion, and an unhelpful stub year when reporting on transactions; this gives platforms time to "fully understand the regulatory

requirements, devise systems for compliance, be prepared to register by January 15th, and be ready to collect necessary data at the top of the year." (10-2, 12-2)

Response: No change has been made in response to this comment. The proposed change would unreasonably delay the effective date of the reporting requirements beyond what is necessary (given the critical nature of the reporting requirements), and the delay is not equally effective in implementing the statutory policy. The plain text of section 315 and Form PL-4 is reasonably clear. For example, if registration occurs in 2024, a CFP's Form PL-4 would be due July 15, 2025, and would cover 2024 from the date section 315 becomes effective. Form PL-4 is necessary for the reasons stated in the ISOR pp. 15-18 regardless of whether reporting covers from the date section 315 becomes effective or a full calendar year.

22. **Summary**: Amend § 315(d) so that the filing related to new partnerships (Form PL-3) occurs once a year, and not on a rolling basis. (14-7)

Response: No change has been made in response to this comment. Section 315(d) implements Gov. Code § 12599.9(b)(3), which requires PCs to promptly notify DOJ of new partnerships with CFPs. Accordingly, § 315(d) requires PCs to file "Form PL-3: Notification from Platform Charities" no later than 30 days after entering into a partnership with a CFP (unless notification was previously provided through registration of a PC or CFP). An annual filing requirement for Form PL-3 would be inconsistent with the language, structure, and intent of Gov. Code § 12599.9(b)(3), and would not be more effective in carrying out the purpose and intent of Gov. Code § 12599.9(b)(3). If Form PL-3 were to be filed one year after entering into a new partnership, this would not be prompt and would interfere with DOJ's ability to supervise new partnerships and the solicitations that occur through them.

23. **Summary**: Amend § 315(g) to include any information, including fee information, that CFPs or PCs consider confidential or a trade secret. Reasons include: types of information other than fee information might legitimately comprise, or could be considered, confidential or a trade secret; limiting the information to fee information is inconsistent with Gov. Code § 12599.10(a)(2)(B). (8-2, 11-2, 12-3)

Response: No change has been made in response to this comment. The comment's proposed change would unreasonably impede AB 488's intent and purpose in promoting transparency to the public. It is also not necessary, and not more effective in carrying out the purpose and intent of AB 488. Form PL-4 does not ask registrants to provide confidential or trade secret information in response to any questions, other than possibly the fee questions (C5 and D3) where confidential answers are permitted. For instance, questions on solicitation types, platform types, disclosures, and COs inherently involve publicly available information. Consistent with the Act and forms for other registration categories (e.g., commercial fundraisers and trustees that act similarly to CFPs or PCs), questions on distributions, misuse of donations, and statutory and regulatory compliance are made publicly available, and there is no reason to treat differently the same type of information received from CFPs or PCs. Section 315(g) complies with Gov. Code § 12599.10(a)(2)(B).

24. **Summary**: Amend § 315(g) to allow for an administrative appeal if a CFP or PC submitting confidential or trade secret information disagrees with DOJ's finding that the information is not confidential or a trade secret. Section 315(g) should provide that DOJ's finding "be issued in a form that is appealable pursuant to Article 3 of the regulations, during which time, the information remains confidential and that the 45-day period in which to amend a filing after the Attorney General has notified the platform of its disagreement with a characterization of information as confidential shall include the option not just to amend, but to file an administrative appeal pursuant to Article 3, which also would include a right of judicial appeal thereafter if the company continues to disagree with the result of the administrative appeal. The absence of such a process could result in an inappropriate disclosure of confidential information prior to full due process to determine the correct characterization of the information. In the case of an actual trade secret, such disclosure would destroy the value of the trade secret and thereby work as an unconstitutional taking or destruction of private intellectual property without due process." "Providing for such an appeal process and for protecting confidential information is consistent with other portions of California law, including but not limited to Food & Agriculture Code section 78925, Financial Code section 459, Government Code sections 13293.1 and 7924.305, and Labor Code section 6396. At a bare minimum, the right for an internal appeal should be acknowledged consistent with Cal. Code Regs. Tit. 11 § 999.6." (8-3, 11-3)

Response: No change has been made in response to this comment. Any judicial review available to the registrant is not affected by the regulation, and administrative review of the Attorney General's determination is neither required nor necessary. See ISOR pp. 10, 18-19, 39-40.

25. **Summary**: Form PL-4 is very complex. (8-9, 11-10)

Response: No change has been made in response to this comment. Comment does not provide sufficient specificity so that a meaningful response or a modification to Form PL-4 can be made.

26. **Summary**: Form PL-4 questions 6 to 14 of Part C seek "extraordinarily long, complex, and burdensome amount of information that will not necessarily provide any additional assurance that funds reach the correct recipient in a timely manner—which should be the primary regulatory concern—and could prove costly, time consuming and difficult for platforms and platform charities to complete." (8-10, 11-11)

Response: No change has been made in response to this comment. The questions are necessary for the reasons stated in the ISOR pp. 15-17. DOJ has made every effort to limit the burden of completing Form PL-4 while implementing AB 488.

27. **Summary**: Form PL-4 question 3 of Part C "refers in the third and fourth checkboxes to 'charitable organization' where the intent appears to be to refer to 'recipient charitable organization'; accordingly, it is suggested to insert the word 'recipient' in each place to distinguish from platform charities which also are 'charitable organizations.' The same issue on

'recipient' charitable organizations arises in the introductory portion of Questions 15 and 16, as well as the checkboxes at the end of each of those sections." (8-11, 11-12)

Response: No change has been made in response to this comment. Form PL-4 questions 3, 15, and 16 of Part C are already reasonably clear regarding the references to CO. These questions cover donations made in response to solicitation type E. When CFPs engage in solicitation type E, a CO uses the CFP to solicit or receive donations for itself. (Gov. Code § 12599.9(a)(1)(E).) The CO is not a recipient CO. Additionally, Question 3's second checkbox "Partner(s) of registrant, and not directly to charitable organization(s)" indicates a PC is not considered a CO given the definition of a partner in § 314(g) means a PC (or a CFP that acts similarly to a PC). Questions 15 and 16 also reference donations being made "directly" to COs, while questions 17 and 18 clearly request information on donations made to partners. Given the nature of these questions, it is clear that information on donations made to partners would not be included in response to question 3's third and fourth checkboxes, and questions 15 and 16.

§ 316 Good Standing of Charitable Organizations

28. **Summary**: Commenter is pleased to learn the MNOS list will be made available twice in a month instead of monthly. Comment asks when this change will be made. (7-3)

Response: DOJ appreciates this comment of support. No change has been made in response to this comment, which was interpreted to be a procedural question rather than a specific recommendation to change the regulations. The MNOS List will be made available on the 1st and 3rd Wednesdays of the month once the regulations become effective.

29. **Summary**: Section 316 clarifies the timing for publication of the MNOS List as the first and third Wednesday of each month. (8-4, 11-4, 14-8)

Response: DOJ appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response in required. Section 316(c) indicates when the MNOS List is made available for purposes of a grace period, not when it is published.

30. **Summary**: Amend § 316 so that the MNOS List is published once a month and the grace period is 30 days. Reasons include: burden; the Federal Communications Commission publishes its "do not call" list once a month with a 30-day grace period; unworkable when one partner in a PC/CFP relationship downloads the list, ingests it, and then makes the information available to the other party. (14-2)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out AB 488's good standing requirement in Gov. Code § 12599.9(a)(3) & (d)(2). DOJ increased the availability of a new MNOS List from once a month to twice a month for the reasons stated in the ISOR p. 20, and in response to stakeholder feedback. See also response 28. The five business day grace period is necessary for the reasons stated in the ISOR p. 20. The proposed change would cause unreasonable delays in removing COs from solicitations on CFPs when they are not in good standing with DOJ. DOJ has made every effort to limit the burden of this regulation while implementing AB 488.

31. **Summary**: Amend § 316 so that the grace period is at least 10 business days, or preferably a longer period such as the 30-day period used by the Federal Communications Commission for compliance with updates to the federal "do not call" list. (8-5, 11-5)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out AB 488's good standing requirement in Gov. Code § 12599.9(a)(3) & (d)(2). The five business day grace period is necessary for the reasons stated in the ISOR pp. 19-20. The proposed change would cause unreasonable delays in removing COs from solicitations on CFPs when they are not in good standing with DOJ, and would create confusion for DOJ, CFPs, PCs, and COs as grace periods would overlap with the date when a new MNOS List is available. For instance, for an MNOS List made available on November 6, 2024, a 10 business day grace period would end November 25, 2024, but a new MNOS List would become available November 20, 2024.

32. **Summary**: "Please confirm our reading of 316(b). We read the paragraph to permit GGF to send funds to any recipient charity that is not on the May Not Operate or Solicit for Charitable Purposes List even if that charity is not on a good standing list. GGF sends donated funds to many small community charities abroad and in the U.S. that do not have the wherewithal to apply for standing. If we could not support those charities, we could not continue to carry on the largest part of our work." (13-3)

Response: No change has been made in response to this comment. It is unclear what the comment is saying regarding "even if that charity is not on a good standing list" and "to apply for standing." If the comment is seeking clarification on the MNOS List or the Registry Search Tool, those terms are defined in § 314(e) & (*l*). The Registry Search Tool is not a list, but an online search tool that enables a query of the Registry of Charities and Fundraisers database to determine whether a CO is in good standing with the Attorney General. If the Registry Search Tool does not contain information on a CO, including an international CO, then the Registry Search Tool would not indicate whether the CO was in good standing or not. The comment does not provide sufficient specificity for DOJ to make modifications to the regulations.

33. **Summary**: "Since AB 488's effective date in January 2023, its 'good standing' requirements have caused huge concern for charities, charitable fundraising platforms, and platform charities, placing important fundraising activity on hold or at risk. The consequences of not being in good standing may be very severe in certain circumstances, and likely to damage public confidence in charities and their fundraising. We do not dispute that the FTB and Attorney General requirements are important, but the mere circumstance of a charity being on a blocklist - particularly the FTB blocklist and the delinquent statuses on the Attorney General's May Not Operate or Solicit list - does not reliably indicate that the charity is a bad actor, yet it currently forces platforms and platform charities to pause vital fundraising campaigns while the charity remedies omissions of paperwork.

The impact on charities in the United States of the AB 488 good standing requirement on charities on the FTB blocklist and with delinquent status on the May Not Operate or Solicit for Charitable Purposes List is significant - the consequences of being on a blocklist affects, and will

continue to affect, meaningful numbers of otherwise upstanding charities. We understand it is common for a charity to be surprised to discover itself on the FTB blocklist or May Not Operate or Solicit for Charitable Purposes List, since many such charities do not realize they are in jeopardy of falling into delinquent status until it happens, particularly when caused by an inadvertent error with a filing. We understand that some of the United States' largest and best-known charities, including those that retain specialist firms to make their submissions, have been on the FTB's blocklist and the May Not Operate or Solicit for Charitable Purposes List.

Once a charity is on the FTB blocklist or May Not Operate or Solicit for Charitable Purposes List, it can take months to be reinstated, even for those charities that act quickly to submit missing/required information and make minor corrections. The charity may need to inquire with the agency to understand what is needed to correct the issue, and it may take the charity several weeks to gather and prepare the required paperwork and information for a reinstatement submission. From the time a reinstatement submission is filed, it can take 90 days for the Attorney General or FTB to process the filing, after which there can be additional questions requiring further submissions until the agency has the information it needs to reinstate the charity. We know that some charities have taken the approach of going in person or paying a filing service to deliver papers over the counter to the Attorney General's Sacramento office to clear a delinquency more quickly, which is not a sustainable or realistic option for most charities.

Once a charity is on the FTB's blocklist and the May Not Operate or Solicit for Charitable Purposes List, under AB 488 all charitable fundraising platforms and platform charities must remove the charity from their directories, preventing active new solicitations, and preventing the receipt of donations or grants. As described above, these charities may not be bad actors; indeed, it is possible that some charities may find themselves on a blocklist due to no fault of their own or due to an inadvertent administrative error. Regardless, they will be sidelined for months on charitable fundraising platforms and by platform charities, causing them to miss out on critical sources of future fundraising and, what is worse, missing out on grants of funds already raised to benefit the charity.

While these consequences will no doubt motivate charities to do their best to comply with the FTB and Attorney General's requirements, they will do so at a potentially enormous cost to charities and the vital work they do, and even a charity's best efforts may not prevent them from finding themselves on a blocklist. This is not merely hypothetical; this happened to a prominent international charity earlier this year, which had been attempting in good faith to quickly resolve a blocklist issue but, even after many months, had not been able to do so. To comply with the proposed regulations regarding the good standing requirements, PPGF would have had to reassign a significant sum of money intended for urgent disaster relief to a charity the donors had not intended to support.

As a result of the role played by charitable fundraising platforms and platform charities in enforcing these consequences for charities on the blocklists, there is a significant amount of disruption to charity participation with charitable fundraising platforms and platform charities: many charities may not understand why they have been inactivated until the platform or platform charity explains it. This will lead to a reduction in charity willingness to participate in online

charitable fundraising efforts, negative publicity for charitable fundraising platforms and platform charities and their programs, and a reduction in trust in online giving by donors and charities alike." (12-4)

Response: No change has been made in response to this comment. The comment is not directed at the proposed regulations or the rulemaking procedures followed. Rather, the comment is directed to AB 488, existing language in § 999.9.4 (renumbered to § 312), and existing California law. DOJ cannot implement regulations that alter or amend AB 488, or enlarge or impair its scope. DOJ disagrees regarding the impact of the good standing requirement, and the proposed regulations will not impose a new good standing requirement. The requirement that a CO be in good standing to solicit funds predates AB 488 and the proposed regulations. (See Gov. Code § 12599.6(f)(1); Cal. Code Regs. tit. 11, § 999.9.4 (renumbered to § 312).) Existing California law prohibits a corporation that has been suspended by the FTB from operating or soliciting. (Rev. & Tax. Code § 23302; Corp. Code § 5008.6(c); *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 136 Cal.App.4th 212, 217 (2006) [suspended corporation cannot "exercise the powers and privileges of a corporation in good standing"].) The comment's claim that "it is common for a charity to be surprised to discover itself on the FTB blocklist or May Not Operate or Solicit for Charitable Purposes List, since many such charities do not realize they are in jeopardy of falling into delinquent status until it happens, particularly when caused by an inadvertent error with a filing," is inconsistent with a CO's responsibility and ability to check its status and filings online, in real time, with each agency. It is further inconsistent with the fact that a CO has almost a year to file after the reporting period before its registration status will become delinquent because the DOJ Registry filing timeline matches that of the IRS, and the Registry honors IRS extensions. (Cal. Code Regs. tit. 11, § 305.) For example, an organization whose fiscal year ends December 31, 2023, would not be reported as delinquent if it filed its annual registration and renewal filing any time before November 15, 2024. DOJ has made every effort to promptly process filings from COs that seek to cure their delinquent status, including filings requiring follow-up from COs.

34. **Summary**: Sections 316 and 320 will have a negative effect on donors and COs who find themselves temporarily not in good standing. CFPs and PCs, which have otherwise been able to use their judgment to hold onto funds for a reasonable period of time while a CO works to restore its good standing status, will have no choice but to speedily reassign those funds, no matter the intent of the donor, no matter the amount, and no matter if the CO is able to (relatively) quickly reinstate its good standing, running contrary to donor intent. Amend § 316 to allow a "grace period of one payment cycle (45 or 75 days) to pay out the funds already raised on behalf of the charity that is not in good standing, from the day the charitable fundraising platform or platform charity are alerted to the change in status; and/or, a grace period of 180 days to hold funds for charities that are not in good standing, to allow such charities a reasonable period of time to resolve their issues before such funds are reassigned." This will allow COs to receive funds donated to benefit them before they lost good standing status, and donor intent will be fulfilled without an unreasonable delay. (12-5)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out AB 488's good standing requirement in Gov. Code § 12599.9(a)(3) & (d)(2). The proposed change is inconsistent with the language, structure, and intent of AB 488's good standing requirement and existing California law. The comment objects to Gov. Code § 12599.9(d)(2). To the extent the comment is concerned that funds raised while a CO was in good standing cannot be distributed to that CO, the comment is incorrect. When a CO is in good standing, a CFP or PC may solicit, permit, or otherwise enable solicitations, or receive, hold, control, or send funds from donations or recommended donations for the CO. The commenter's concerns about transferring funds to a CO that was in good standing at the time the funds were received, but subsequently lost good standing status would only occur if the CFP or PC does not transfer the funds in a timely manner. Funds that are transferred in a timely manner would not be affected. The proposed change would allow distribution of charitable assets to COs that are currently prohibited under California law from soliciting or receiving charitable assets. Pursuant to AB 488, "[a] charitable fundraising platform or platform charity shall only solicit, permit, or otherwise enable solicitations, or receive, control, or distribute funds from donations for recipient charitable organizations or other charitable organizations in good standing," and "good standing" means "that a platform charity, recipient charitable organization, or other charitable organization's tax-exempt status has not been revoked by the Internal Revenue Service, or the Franchise Tax Board, or is not prohibited from soliciting or operating in the state by the Attorney General." (Gov. Code § 12599.9(a)(3) and (d)(2); see also Gov. Code, § 12599.6(f)(1); Cal. Code Regs. tit. 11, § 999.9.4 (renumbered to § 312).) The proposed change would allow CFPs and PCs to distribute funds to COs whose registration is subject to a cease and desist order, or was permanently revoked and will not be able to resume operations. A corporation suspended by the FTB cannot legally operate in California. (See, e.g., Rev. & Tax. Code § 23302; Corp. Code § 5008.6(c); *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 136 Cal.App.4th 212, 217 (2006) [suspended corporation cannot "exercise the powers and privileges of a corporation in good standing"].) Also see the ISOR pp. 19-21, and responses 33 and 51.

35. **Summary**: Amend § 316(c) to increase the five business day grace period to at least 10 business days for the MNOS List. Amend § 316 to establish a grace period of at least 10 business days for a FTB good standing list. Reasons include providing time to match and process the list data with a database of more than 1.4 million COs. (12-6)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out AB 488's good standing requirement in Gov. Code § 12599.9(a)(3) & (d)(2). The five business day grace period is necessary for the reasons stated in the ISOR p. 20. The change would cause unreasonable delays in removing COs from solicitations on CFPs when they are not in good standing with DOJ, and would create confusion for DOJ, CFPs, PCs, and COs as grace periods would overlap with the date when a new MNOS List is available. For instance, for an MNOS List made available on November 6, 2024, a 10 business day grace period would end November 25, 2024, but a new MNOS List would become available November 20, 2024. With respect to the FTB good standing list, the proposed change is inconsistent with existing California law. The proposed change would allow

CFPs and PCs to distribute funds to corporations suspended by the FTB that cannot legally operate in California. (See, e.g., Rev. & Tax. Code § 23302; Corp. Code § 5008.6(c); *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 136 Cal.App.4th 212, 217 (2006) [suspended corporation cannot "exercise the powers and privileges of a corporation in good standing"].)

36. **Summary**: Remove the references to the Registry Search Tool in § 316 and the regulations. Section 316(d) requires CFPs and PCs to check both the MNOS List and Registry Search Tool to determine whether a CO is in good standing. This violates the requirement in Gov. Code § 12599.9(d)(2) that the lists determining good standing be machine readable. (12-7)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out AB 488's good standing requirement in Gov. Code § 12599.9(a)(3) & (d)(2). The references to the Registry Search Tool in the regulations are necessary for the reasons stated in the ISOR pp. 7, 9-10, 19-21. The comment's interpretations of § 316(d) and Gov. Code § 12599.9(d)(2) are incorrect. There is no requirement in Gov. Code § 12599.9(d)(2) or § 316(d) to check the MNOS list or the Registry Search Tool, nor is there such a requirement elsewhere in the proposed regulations. Gov. Code § 12599.9(d)(2) states, "[t]o determine good standing of recipient charitable organizations or other charitable organizations, a charitable fundraising platform or platform charity *may* rely on electronic lists periodically published by the Internal Revenue Service, the Franchise Tax Board, and the Attorney General's Registry of Charities and Fundraisers provided that the lists are in a machine-readable structured data format." (Emphasis added.) The MNOS list is machine readable and may be used for this purpose. The option for CFPs and PCs to solicit, permit, or otherwise enable solicitations for, or receive, hold, control, or send funds from donations to a charity that is in good standing, as verified by the Registry Search Tool, was added in response to stakeholder feedback that requested the ability to transfer funds to an organization that was on the most recent MNOS list but had resolved the good standing issue before the subsequent MNOS list was published. See response 32.

37. **Summary**: Amend § 316 so that "the machine-readable list be updated more frequently, for instance on a weekly or even daily basis so that platforms and platform charities to ingest more up-to-date data." (12-8)

Response: No change has been made in response to this comment. For CFPs or PCs that choose to use the MNOS list, the proposed regulations provide the dates on which the platforms can access the list for purposes of calculating the grace period. (See § 316(c).) The proposed change is also inconsistent with the concerns raised by the commenter regarding the amount of time needed to process such lists, and the commenter's request that DOJ allow "a grace period of at least 10 business days before they must remove a charity from their directories. This amount of time is necessary due to the quantity of data that needs to be matched and processed (i.e., downloading and processing the data, and identifying and updating charity records in a database of more than 1.4 million US charitable organizations)." See response 32.

§ 317 Solicitation Information for Charitable Fundraising Platforms and Platform Charities

38. **Summary**: Amend § 317(c) so that "where charitable fundraising platforms have dedicated charity fundraising channels [where funds go to a PC to benefit a recipient CO] and also individual peer-to-peer fundraising experiences (where funds go to the individual), and where the user experience requires the fundraiser creator to choose whether they want to fundraise for charity or for an individual or other group, such charitable fundraising platforms be explicitly exempted from the requirements of Section 317(c) [re: disclosing the requirements of § 323], provided that they capture a clear representation that the fundraiser creator is not fundraising to benefit a charity." Reasons include "it would be a confusing and contradictory experience for the charitable fundraising platform to conspicuously disclose the requirements of Section 323. These requirements would undermine the purpose of having a dedicated 'fundraiser for charity' option and efforts to direct users to use that dedicated charity campaign option whenever the user wants to support a charity." (12-9)

Response: No change has been made in response to this comment. The proposed change does not fall within any enumerated exception provided for by the Act, and is not more effective in carrying out the purpose and intent of the Act. Section 317(c) is necessary for the reasons stated in the ISOR pp. 21-22. Capturing representations from PPFs that they are not soliciting for a CO when donations are sent to them does not prevent PPFs from doing so, which DOJ understands happens on CFPs that engage in solicitation type B. DOJ disagrees that § 317(c) undermines having a fundraising option where donations solicited by a PPF are sent to a PC or recipient CO, and § 317(c) could encourage PPFs to choose that option. A disclosure concerning § 323 could also be communicated in a way to minimize confusion.

39. **Summary**: Amend § 317(d) to state it does not intend to derogate a "501(c)(3) charitable intermediary's obligations under the Internal Revenue Code and regulations to exercise discretion and control over the regranting of funds to recommended recipient COs." Reasons include: "IRS regulations require that 501(c)(3) charitable intermediaries exercise discretion and control over funds donated to the intermediary with the intention that the funds will be regranted to other entities. Especially when the regrantees are not qualified charitable organizations, donations are tax deductible only when they are made to the charitable intermediary, which must retain complete discretion over how the funds are used. In the context of regrants to foreign recipient organizations, the IRS has emphasized the requirements of discretion and control in Revenue Rulings 63-252, 66-79, and 75-65. Thus the acceptable reasons to be disclosed by GGF will need to include a determination by GGF in its sole discretion that that recipient charitable organization no longer serves the charitable purposes of GGF. Also, from time to time GGF places internal holds on disbursements to certain recipient charitable organizations. For example, pending investigation of any concern that has been raised about an organization or when an organization has failed to adhere to a requirement of its grant agreement (thus raising concerns about GGF's control of regranted funds.) That will also need to be an acceptable reason disclosed to donors." (13-7)

Response: No change has been made in response to this comment. The regulation is reasonably clear. Section 317(d) does not prevent a CFP or PC from identifying or establishing a policy or standard under which a CO's receipt of donated funds is precluded, such as those referenced in the comment or in the ISOR p. 22, if any. Section 317(d) only requires the disclosure of those policies or standards. It is not necessary to specify examples of policies and standards in § 317(d), which by their reference, could encourage their adoption.

§ 318 Consent from Recipient Charitable Organizations for Charitable Fundraising Platforms and Platform Charities

40. **Summary**: Clarify whether § 318(a) generally applies to consent agreements with foreign recipient COs. Some of its requirements are not appropriate for "small foreign community organizations." Regarding § 318(a)(9), a CFP or PC would not send a tax donation receipt on behalf of small foreign community organizations, but on behalf of itself. (13-8)

Response: No change has been made in response to this comment. The proposed change is not more effective in carrying out the purpose and intent of AB 488. If a platform user donor can make a recommended donation for a consenting recipient CO on a CFP, § 318(a) should apply. Regarding whether a recipient CO includes "foreign community organizations" see response 6. The regulation is reasonably clear. For instance, § 318(a)(9) states that a consent agreement is not required to permit a CFP to send a tax donation receipt on behalf of a recipient CO when donations are made to a PC or CFP that is tax-exempt under Internal Revenue Code § 501(c)(3). When this is the case, a CFP does not need to send a tax donation receipt on behalf of a recipient CO. This is because when donations are made to a tax-exempt PC or CFP, the basis for a donation's tax deductibility can come from the tax-exempt status of the PC or CFP, instead of from the recipient CO. See ISOR p. 27.

41. **Summary**: Amend § 318(a)(4) so that digital payment processing fees are excluded from the total amount of fees to be specified in a consent agreement for each CFP. Commenter understands this is in accordance with AB 488. (12-10)

Response: No change has been made in response to this comment. Digital payment processing fees are fees, as defined in § 314(d). The proposed change is not more effective in carrying out the purpose and intent of AB 488. Section 318(a)(4) is in accordance with AB 488, as a digital payment processing fee is only not required to be disclosed in certain solicitations. (Compare Gov. Code § 12599.9(e)(4).) AB 488 does not exempt digital payment processing fees from being specified in consent agreements. Section 318(a)(4) is necessary for the reasons stated in the ISOR pp. 24-25, 40-41.

42. **Summary**: Amend § 318(a)(5) so that the time period for sending donated funds specified in a consent agreement for each CFP, in the case of PCs, "refers to the timetable for distribution of funds to a Recipient Charity once they have been donated to the Platform Charity." (12-11)

Response: No change has been made in response to this comment. Section 318(a)(5) only requires the time period for sending donated funds for each CFP to be specified in a consent

agreement. To the extent a CFP partners with a PC and donations from platform user donors are made to a PC, the time period for sending donated funds for a CFP should begin at the same time as to when donations "have been donated to the" CFP's partnering PC. Thus, it is not necessary for a consent agreement to specify the time period for sending donated funds for a PC, when that time period is already covered by each CFP a PC partners with. If the comment means something else, the comment does not provide sufficient specificity so that a meaningful response or a modification to the section can be made.

43. **Summary**: Section 318 and 320's requirements associated with engaging consenting recipient COs in the digital giving process seem to dis-incentivize gaining consent. Amend § 318 (likely 318(a)(2) and (3)) and possibly § 320 so that CFPs can provide consenting recipient COs "an annual notification of partners and the ability to opt out." Reasons include burden to obtain consent from recipient COs. (14-11)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out the purpose and intent of AB 488's prior written consent requirement in Gov. Code § 12599.9(f)(1). Notification does not necessarily indicate an agreement, and the change could result in recipient COs providing uninformed consent for CFPs before they knew who the CFPs were, along with other material terms concerning those CFPs. DOJ has made every effort to limit the burden of this regulation while implementing AB 488. Also see reasons stated in the ISOR pp. 24-26, 40-41.

44. **Summary**: Amend § 318 so that it is clear a CFP does not need to reach out to a consenting recipient CO each time the CFP formulates a solicitation as long as it limits the information to that which was provided in advance by the recipient CO. (14-12)

Response: No change has been made in response to this comment. Section 318(a)(6) is reasonably clear that a consent agreement does not need to allow a recipient CO to review and approve information in a solicitation about the recipient CO when the information was provided by the recipient CO.

45. **Summary**: Amend § 318 so that it is clear CFPs are not required to obtain consent from recipient COs, and that CFPs may treat consenting recipient COs as if they are non-consenting recipient COs (so that CFPs may follow the rules for non-consenting recipient COs for consenting recipient COs). Requirements for a consent agreement are so burdensome that many CFPs will not seek to obtain consent. (14-13)

Response: No change has been made in response to this comment. The comment objects to AB 488, not the proposed regulations. DOJ cannot implement regulations that alter or amend AB 488, or enlarge or impair its scope. AB 488 is already reasonably clear regarding when CFPs are required to obtain consent from recipient COs. (Gov. Code § 12599.9(f).) DOJ has made every effort to limit the burden of this regulation while implementing AB 488.

46. **Summary**: Amend § 318(b) so that the time period for verifying removal requests from non-consenting recipient COs is more than three business days after the written request for removal is made. Reasons include the verification process "may involve back and forth" between

partners and it is unreasonable to expect notification to partners and for partners to remove non-consenting recipient COs within three business days. (14-3)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out the purpose and intent of AB 488. The three business day time period is necessary and reasonable for the reasons stated in the ISOR pp. 24, 26, 41.

47. **Summary**: Amend § 318(b) so that the time period for verifying removal requests from non-consenting recipient COs is no later than three business days after the written request for removal is received (instead of made). A postal request, misdirected email or other type of request might not even be received before the time a CFP is obliged to verify the request and/or act upon it. (8-6, 11-6)

Response: No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out the purpose and intent of AB 488. The three business day time period that begins after a CO makes a written request is necessary and reasonable for the reasons stated in the ISOR pp. 24, 26, 41. The proposed change could delay honoring removal requests, and removal requests should be implemented quickly because the requesting recipient COs, which are obligated to control fundraising conducted for their benefit, never consented to the solicitation. (Gov. Code § 12599.6(b).) If postal or email requests are not delivered, a non-consenting recipient CO should be on notice to resubmit the request. If requests are made via real-time (e.g., chat), the time a request is made and received should be the same.

§ 319 Tax Donation Receipts from Charitable Fundraising Platforms and Platform Charities

48. **Summary**: Confirm that § 319 only applies to donations made through a platform. Commenter cannot meet the five business day timeframe for sending tax donation receipts for donations not received through its platform, e.g., through postal mail, which require manual processes and are extraordinary. (13-9)

Response: No change has been made in response to this comment. The regulations, including § 319, are already reasonably clear as to whether they only apply to donations made or received through CFPs. See response 5.

§ 320 Lengths of Time for Sending Donations by Charitable Fundraising Platforms and Platform Charities; Selection of Alternate Charitable Organizations

49. **Summary**: Amend § 320(a)(1) and (2) so that the timeframe to send donated funds, for solicitation types A or B, can be longer if requested by a PPF. Reasons include PPFs may wish for funds to be shared among a number of recipient COs and for distribution to occur only after enough has been raised for meaningful donations to recipient COs. (11-7)

Response: No change has been made in response to this comment. The proposed change is inconsistent with the language, structure, and intent of Gov. Code § 12599.9(h), and would not be more effective in carrying out the purpose and intent of Gov. Code § 12599.9(h), which

requires donations to be sent "promptly." This is particularly the case when the additional time period is open-ended. Compliance with the timeframes in § 320 does not prevent distributions to more than one recipient CO specified in solicitations from PPFs.

50. **Summary**: Amend § 320(a)(1) and (2) so that the timeframe to send donated funds, for solicitation types A or B, is 75 days from the date of donation for both consenting and non-consenting recipient COs. Reasons include: clarity; simplicity; the regulation would require payouts in the middle of the month for non-consenting recipient COs. (12-13)

Response: No change has been made in response to this comment. More than one time period in § 320(a)(1) and (2) is necessary for the reasons stated in the ISOR pp. 27-28, 41. CFPs or PCs can send all donations subject to one time period if they choose to comply with the shortest applicable time period. One time period for all donations is inappropriate when some donations can reasonably and efficiently be sent within a shorter time period. The proposed change is inconsistent with the language, structure, and intent of Gov. Code § 12599.9(h).

51. **Summary**: Amend § 320(a)(1) and (2) to provide an additional 180 days to send donated funds, for solicitation types A or B, when CFPs or PCs determine an investigation into possible fraud or wrongdoing by a recipient CO is necessary, or when a recipient CO has delinquent registration status with the Attorney General. The additional time helps ensure donor's original intent is fulfilled. (12-15)

Response: No change has been made in response to this comment. The time periods in § 320(a)(1) and (2) are necessary for the reasons stated in the ISOR pp. 27-28, 41. Section 320(a)(1) and (2) provide reasonable time periods for handling these situations, and if the situations cannot be resolved by then, the alternate CO requirements are appropriate. If additional time was permitted for these situations, donations would not be sent promptly to recipient COs, which would be inconsistent with the language, structure, and intent of Gov. Code § 12599.9(h), and would not be more effective in carrying out the purpose and intent of Gov. Code § 12599.9(h). See response 34.

52. **Summary**: Remove § 320, as it should not matter how long it takes to send donations as long as the time period is adequately disclosed. Alternately, amend § 320(a)(1) and (2) so that the timeframe to send donated funds, for solicitation types A or B, is 75 days from the date of donation for both consenting and non-consenting recipient COs. Reasons include: complexity; time period needs to be reasonable and practical; CFPs need 30 days to send donations to PCs, and PCs need 45 days to "ingest, review and distribute;" the disbursement date can change between months when there are holidays or other office closures. Also, provide an exception to the disbursement timing when needed to investigate possible fraud, a mistake, and to provide time for recipient COs to correct filing deficiencies. (14-4)

Response: No change has been made in response to this comment. Section 320 is necessary for the reasons stated in the ISOR pp. 27-30, 41. The proposed longer time periods are inconsistent with the language, structure, and intent of Gov. Code § 12599.9(h). This is particularly the case when the time period is open-ended. See responses 50, 51. DOJ disagrees

regarding the disbursement date changing between months due to holidays or office closures, as the time periods in § 320(a) are for calendar days, not business days.

53. **Summary**: "320(a) & 320(c). Clarify that in general the requirements do not apply to recipient charitable organizations that are not registered or operating in California and that the timing requirements of these specific paragraphs do not apply to recommended donations to foreign organizations. Alternatively, permit charitable fundraising platforms to apply a reasonable minimum disbursement threshold with notice of the threshold to donors and organizations. Also, permit charitable fundraising platforms to exercise discretion over timing of disbursements with the consent of the recipient charitable organization when necessary to exercise control over the proper use of regranted funds." Also, the comment "requests that the disclosure required by Govt Code 12599.9(e)(3) of the maximum time for sending recommended donations be interpreted to be met by disclosing the threshold (e.g. when the threshold has been met.)" Reasons include: "320(a) Requiring that small donation amounts be sent monthly to foreign charitable organizations will make it financially unfeasible for GGF to continue to support small foreign organizations;" commenter has a $250 minimum disbursement threshold that it discloses to donors that must be met before sending donated funds to "small foreign organizations" given remittance expenses (e.g., bank wire fees of $18.50 minimum paid by commenter, "less favorable foreign exchange rates for small amounts," a recipient CO might bear "intermediary bank charges" of $15 to $30, a recipient CO might bear similar costs for using a non-bank provider for minor currencies embedded in a foreign exchange rate applied to a transaction, commenter "applies a threshold of $8.50 for ACH transfers to U.S. organizations"); many recipient COs have balances that are beneath the minimum disbursement threshold; commenter's "obligation to exercise adequate control over the use of regranted funds" could be threatened in some cases when commenter wants to space out disbursements (e.g. disaster giving happens almost immediately after a disaster, while spending needs can continue for long periods and "small community organizations" cannot effectively spend large amounts immediately). (13-10)

Response: No change has been made in response to this comment. The comment objects to AB 488, not the proposed regulations. DOJ cannot implement regulations that alter or amend AB 488, or enlarge or impair its scope. AB 488 requires CFPs or PCs to promptly send donated funds to recipient COs, and the only exception for donated funds not being sent promptly is when a minimum threshold amount (of up to $10) for solicitation types C or D is not met. (Gov. Code §§ 12599.9(h), 12599.10(a)(4)(A)(ii).) Thus, it would be inconsistent with AB 488 for a CFP to disclose to platform user donors a minimum threshold amount for solicitation types A or B that would cause donated funds to not be sent promptly to recipient COs. If additional time was permitted to send donated funds for the situations indicated in the comment, this would mean applicable donations would not be sent promptly to recipient COs, which would be inconsistent with the language, structure, and intent of Gov. Code § 12599.9(h), and would not be more effective in carrying out the purpose and intent of Gov. Code § 12599.9(h). Section 320(a) is necessary for the reasons stated in the ISOR pp. 27-29, 41. Regarding whether AB 488 and the regulations apply to recipient COs not registered or operating in California, see response 6. The comment is unclear as to whether an amendment to section 320(c), which involves

solicitation type E, is requested given the reasons for this comment appear limited to solicitation types A or B. Thus, the comment does not provide sufficient specificity for DOJ to make modifications to § 320(c).

54. **Summary**: Amend § 320(a)(3) so that the timeframe to send donated funds to alternate recipient COs, for solicitation types A or B, is 75 or 45 days from the last date donor could timely recommend an alternate. Reasons include the due diligence and pay processes required for alternates is the same for originally selected recipient COs, if not more complex. (12-14)

Response: No change has been made in response to this comment. A 75-day or 45-day timeframe is not more effective in carrying out the purpose and intent of Gov. Code § 12599.9(h), which requires donations to be sent "promptly." Thirty days provides a reasonable amount of time to send donations to alternate COs, particularly given the number of donations for alternate COs should be significantly less than the number of donations for recipient COs.

55. **Summary**: The concept of seeking donor instructions in § 320(a)(3) is not inherently unreasonable. (8-7, 11-8)

Response: DOJ appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response in required.

56. **Summary**: Remove § 320(a)(3). Instead require CFPs and PCs, for solicitation types A or B, to explain in a hyperlinked article or other clear means the circumstances in which donations may not be fulfilled and how such donations will be handled. Reasons include: burden; contradicts federal tax law regarding donor advised funds and variance power (discretion and control); concerns with sharing personal information between CFPs and PCs (which is outside the scope of most privacy policies and unnecessarily risks donor's information); may not always be possible to contact donors of round up donations; may be confusing to contact donors who donate in response to a PPF instead of contacting the PPF. (14-10)

Response: No change has been made in response to this comment. Section 320(a)(3) is necessary for the reasons stated in the ISOR pp. 27-28, 41. The comment's proposed change is not more effective in carrying out the purpose and intent of AB 488. Even though solicitation disclosures may indicate recipient COs may not receive donations, that disclosure alone does not address what specifically happened when distributing a donor's donation. If COs are unable to receive a donation, donors should be notified given the recipient CO was a material reason for making the donation. DOJ has made every effort to limit the burden of this regulation while implementing AB 488. The section does not conflict with federal tax law regarding donor advised funds and variance power. It does not prevent CFPs or PCs organized as donor advised fund sponsors from stating their variance power is a reason for determining recipient COs as ineligible to be sent donations, and from exercising their variance power (see "unless" clause in § 320(a)(3)). Such CFPs or PCs can exercise their variance power after seeking alternate CO feedback from donors. This feedback reasonably informs their decision on what alternate CO could be sent the donations, and they can send the donations to another CO. Regarding privacy concerns, CFPs can enter into agreements with partners to protect donor information for the

purposes shared consistent with the CCPA, and CFPs and PCs can reasonably update privacy policies as needed. Regarding the identity of donors of round up donations, the comment does not provide sufficient specificity for DOJ to make modifications to the regulations. DOJ disagrees that it may be confusing to contact donors who donate in response to a PPF. Compliance with § 320(a)(3) does not prevent CFPs or PCs from contacting a PPF if they would like to do so.

57. **Summary**: Amend § 320(a)(3), for solicitation types A or B, to allow "(a) refunding the donated funds to the donors, where the recipient charitable organization directly consented to that platform's facilitation of donations made to the organization through the platform; and/or (b) in the case where a platform charity that has reserved certain variance powers, as a matter of tax-exempt compliance and/or its policies, which variance power has been disclosed to donors, holds the donated funds, the platform charity can notify each donor of a proposed redirection to an alternate charitable organization with a similar mission as determined by the platform charity under its customary variance power." Also, "Donors would have 30 days from the date of written notification to approve the proposed redirection, or recommend an alternate charitable organization. The remainder of the proposed process would remain the same," and/or if the PC's proposal is not acceptable to the donor, the PC's exercise of variance power "should be deemed allowable if coupled with an option for the donor to request a refund within 30 days after the notification has been sent." Reasons include "to provide flexibility and to avoid situations where a single intended grant to a single recipient charitable organization might need to be divided and redirected to hundreds, if not thousands, of other charitable organizations, possibly in very small amounts that will become needlessly burdensome and time-consuming for the platform and/or platform charity." (8-8, 11-9)

Response: No change has been made in response to this comment. Regarding refunds for donations made directly to consenting recipient COs or refunds after a PC exercises its variance power, see ISOR pp. 27-28, 41. Section 320(a)(3) also does not prevent CFPs or PCs organized as donor advised fund sponsors from exercising their variance power (see "unless" clause in § 320(a)(3)). Regarding whether a PC can propose an alternate CO to a donor, it is not necessary to specify this in a regulation at this time. A PC can propose an alternate CO to a donor and still comply with § 320(a)(3). For example, if a PC requests a donor to recommend an alternate CO in a timely written notification, that same notification can also propose an alternate CO for the donor's consideration. DOJ has made every effort to limit the burden of this regulation while implementing AB 488.

58. **Summary**: Amend § 320(b)(3) so that CFPs or PCs, for solicitation types C or D, are allowed to consult with "customers or other stakeholders" prior to selecting alternate COs within the same timeframe provided by § 320(a)(3). (12-16)

Response: No change has been made in response to this comment. It is not necessary to specify this in a regulation at this time. CFPs and PCs may consult with third parties and still comply with § 320(b)(3).

§ 321 Information for Charitable Organizations Regarding Donations Sent by Charitable Fundraising Platforms and Platform Charities

59. **Summary**: Section 321 is too complex, burdensome, cumbersome (e.g., ability for recipient COs to request a detailed breakdown of information at any point). Do not underestimate the difficult and time-consuming process to build and maintain the required functionality. (14-15)

Response: No change has been made in response to this comment. Comment does not provide sufficient specificity for DOJ to make modifications to the regulation, and is interpreted to be an observation rather than a specific recommendation to the change the regulation. DOJ has made every effort to limit the burden of this regulation while implementing AB 488.

60. **Summary**: Remove § 321, or alternately amend § 321 to require only an accounting of fees imposed for processing the funds. Reasons include: there is no discernable legal basis for the section other than Gov. Code § 12599.9(h); it is outside the intent of AB 488; it is an overreach of DOJ's authority; it is ripe for and likely to attract litigation; it may very likely cause CFPs and PCs to cease solicitations for non-consenting recipient COs and drive CFPs and PCs out of business (particularly "coventuring charitable platforms"); it is the most onerous and problematic regulation. (12-17)

Response: No change has been made in response to this comment. DOJ has authority to impose the requirements in § 321. Gov. Code §§ 12587 and 12599.10 allow DOJ to promulgate rules for the implementation of the Act and AB 488, and Gov. Code § 12599.9(h) requires donations to be "sent to recipient charitable organizations with an accounting of any fees imposed for processing the funds, and in accordance with any rules and regulations established under Section 12599.10." Gov. Code § 12599.10(a) provides a non-exhaustive list of topics for rulemaking (e.g., "The Attorney General shall establish rules and regulations necessary for the administrative of Section 12599.9, which shall include, but are not limited to, all of the following:"), and Gov. Code § 12599.10(a)(4) & (a)(4)(C) reference the requirements for distributing donations and providing donor or personal information as topics. Accordingly, § 321 implements Gov. Code §§ 12599(h) and 12599.10(a)(4) & (a)(4)(C) by interpreting what should be "sent to recipient charitable organizations with an accounting of any fees imposed for processing the funds," and "the circumstances when donor or personal information may be provided to recipient charitable organizations." It is unclear what the comment is saying. If the comment is saying only fee information should be provided as part of an accounting to COs, this proposed change is not more effective in carrying out the purpose and intent of AB 488. All of § 321's requirements are necessary for the reasons stated in the ISOR pp. 30-31, 42. DOJ disagrees with the comment's predicted outcome of this regulation.

61. **Summary**: Amend § 321 to require only an accounting of fees imposed for processing the donated funds to be provided to non-consenting COs. Also, clarify that the accounting of fees for non-consenting COs "can be provided through a secure website that authenticates the recipient charitable organization, so long as the organization is made aware of the website and is not charged a fee to access the website." Reasons include the impracticalities of safely and

efficiently sending usable data to non-consenting recipient COs and AB 488 only requires an accounting of fees imposed for processing the funds sent to recipient COs. Additionally, while commenter states their current model is compliant in its delivery of the information required by § 321(a) electronically, "it would not be practicable for a charitable fundraising platform or a platform charity to create a separate 'shadow' system of authenticating a nonconsenting charity and having those charities agree to reasonable data privacy obligations, in order to deliver the information required by Section 321(a) electronically. Such a program would be so resource-intensive that charitable fundraising platforms and platform charities would simply cease to list nonconsenting charities, which would result in fewer funds raised for California charities, and would eviscerate Section 12599.(f) of the California Government Code, which explicitly allows this activity, and is one of the main reasons many industry participants supported AB 488. As well, as we have previously discussed in detail in our July and December 2022 comments, sending nonconsenting charities such data non-electronically, in paper format, would be excessively resource-intensive, involve unnecessary and unmanageable privacy risks, and be impracticable for charities to receive and use." (12-18)

Response: No change has been made in response to this comment. The proposed change is not more effective in carrying out the purpose and intent of AB 488. Providing the information required by § 321 to all non-consenting recipient COs, as applicable, is necessary for the reasons stated in the ISOR pp. 30-31, 42. Whether a recipient CO has provided consent, § 321(a) and (b) is clear that the required information can be provided with the donated funds or through a secure platform that authenticates the recipient CO, as long as the recipient CO is made aware of the platform and not financially charged for platform access. It is unclear what the comment is saying. If the comment is saying that a non-consenting recipient CO must provide consent in order to obtain the information through a platform, this is inconsistent with the language, structure, and intent of AB 488 and the Act. For instance, Gov. Code § 12599.9(f)(2)(D) states that a recipient CO shall not be required to provide consent for a solicitation to accept a donation. This would include learning more about the solicitation and whether the fees imposed by a CFP or PC were proper, consistent with a recipient CO's fiduciary duty to learn donor intent and ensure donations were not misspent. This remains the case if a non-consenting recipient CO must provide consent in order to obtain the information through a platform, and then can opt-out of future solicitations. A second platform for providing the information is not required (e.g., the information can be provided in writing with the funds). DOJ has made every effort to limit the burden of this regulation while implementing AB 488. Regarding privacy risks in sending information to non-consenting recipient CO in paper format, the comment does not provide sufficient specificity for DOJ to make modifications to the regulations. Section 321(a)(6) & (7) make clear that donor or PPF information is not required to be provided to non-consenting recipient COs.

62. **Summary**: Amend § 321(a)(1) so that the information provided is the trade name of a CFP, versus its legal name. Also, allow a hyperlink to a CFP's legal name on a website available to recipient COs. Reasons include recipient COs may not recognize the legal name, work would be required to provide the legal name. (12-19)

Response: No change has been made in response to this comment. The comment's proposed change is not more cost effective to affected private persons and equally effective in implementing the statutory policy. The legal name is the official name of the CFP, which explains to a recipient CO who is soliciting for a CFP, and can be used for research purposes. The regulation does not prohibit the CFP from providing a trade name and a hyperlink to the legal name, in addition to providing the legal name as required by the regulation.

63. **Summary**: Amend § 321(a)(5) to not require "the provision of the total fees charged; if the fee information is included with each donation transaction, the total fee amount is unnecessary. PayPal Giving Fund provides this information to enrolled charities already in a downloadable format, so charities can easily calculate totals for whatever program or time period they wish." (12-20)

Response: No change has been made in response to this comment. The proposed change is not more effective in carrying out the purpose and intent of Gov. Code § 12599.9(h), which requires CFPs or PCs to send donations to recipient COs with an accounting of any fees imposed for processing the funds, and in accordance with regulations established under Gov. Code § 12599.10. Total fee information is relevant to an accounting, and thus should be provided to recipient COs. Also see the ISOR pp. 30-31, 42.

64. **Summary**: Remove § 321(b). Alternately, require CFPs and PCs to provide similar information to § 321(a), i.e., the CFP "through which the donation was made, amount and date of each donation, and fees deducted (for consenting charities only)." Reasons include: complexity; commercial coventurers are not subject to similar requirements; burden; § 321(b) will drive "coventuring" CFPs out of business. (12-21)

Response: No change has been made in response to this comment. Section 321(b) is necessary for the reasons stated in the ISOR pp. 30-31, 42, and applicable to both consenting and non-consenting recipient COs (as recipient COs can be non-consenting for solicitation type C). The proposed change is not as effective and actually more burdensome to affected persons than the regulation because providing dates can be more burdensome than providing the information required by § 321(b). DOJ has made every effort to limit the burden of this regulation while implementing AB 488. The purpose of the regulations is to implement AB 488, which concerns CFPs and PCs, not commercial coventurers. It is not necessary to modify the requirements for commercial coventurers at this time. Regardless, the accounting requirements for commercial coventurers are conceptually similar (e.g., Gov. Code § 12599.2(b) requires a written accounting that allows a CO to prepare an annual report to DOJ, and to determine that the solicitations made on behalf of a CO were adhered to accurately and completely). DOJ disagrees with the comment's predicted outcome of this regulation.

§ 322 Information for Donors or Persons Regarding Donations Sent by Charitable Fundraising Platforms and Platform Charities

65. **Summary**: Amend § 322 to provide more than 15 days to provide information to donors, and the information should not be required "for donors who have exercised a general privacy opt-out with an organization and for those that do not affirmatively consent to have their

information shared for this purpose." There are "privacy restrictions or other legal limitations in place for various institutions [that] may prohibit sharing such information." (14-14)

Response: No change has been made in response to this comment. The comment's proposed change is not more cost effective to affected private persons and equally effective in implementing the statutory policy. Fifteen days provides a reasonable amount of time to provide the information, including when there are many donors and when donors use different CFPs. Regarding privacy concerns and legal limitations, the comment does not provide sufficient specificity for DOJ to make modifications to the regulations. Section 322 is consistent with the CCPA. For example, CFPs subject to the CCPA can enter into agreements with partnering PCs to protect donor information for the purposes shared consistent with the CCPA, and CFPs and PCs can reasonably update privacy policies as needed.

66. **Summary**: Remove § 322(b). Reasons include: "there is absolutely no basis in existing commercial coventure law or regulations for Purchasers to be informed about the status of donations made by a third party;" inappropriate and unfair when commercial coventurers (e.g., in-person solicitations) are not subject to the same requirement; existing commercial coventurer laws provide regulators sufficient ability to oversee commercial coventuring; platform users do not expect this information; § 322(b) does not solve an existing issue; burden; § 322(b) could drive "coventuring" CFPs out of business. (12-22)

Response: No change has been made in response to this comment. Section 322(b) is necessary for the reasons stated in the ISOR pp. 31-32, 42. DOJ has made every effort to limit the burden of this regulation while implementing AB 488. The purpose of the regulations is to implement AB 488, which concerns CFPs and PCs, not commercial coventurers. CFPs and PCs are governed by AB 488, not commercial coventurer law. Although it is not necessary to modify the requirements for commercial coventurers at this time, DOJ would encourage commercial coventurers to provide persons who made purchases or performed other activity that caused donated funds to be sent, an ability to find out that the total amount of donated funds sent to a CO included funds based on their purchases or other activity. DOJ disagrees that platform users do not expect this information, that the regulation does not solve an issue, and with the comment's predicted outcome of this regulation.