

# California Fair Investment Practices by Venture Capital Companies Law

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## Introduction

The California Fair Investment Practices by Venture Capital Companies Law (the “[FIPVCC](#)”), enacted through California Senate Bill 54 (2023) and subsequently amended by California Senate Bill 164 (2024), establishes a new registration and annual reporting regime applicable to certain *venture capital companies* with a nexus to California. The stated purpose of the FIPVCC is to gather data about founder diversity in venture-backed companies to address the perceived lack of funding for venture-backed companies owned by diverse founders. The FIPVCC is administered by the California Department of Financial Protection and Innovation (the “[DFPI](#)”).

Registration under the FIPVCC will commence on **March 1, 2026**, and the first annual reporting deadline is **April 1, 2026**. However, as of the time of publication, while the DFPI has published the template FIPVCC survey and reporting form, it has not yet made available the online portal via which *venture capital companies* will register with the DFPI and submit their reports.

## Scope of Application

The FIPVCC imposes certain registration and reporting obligations only on (i) *venture capital companies* (ii) that are primarily engaged in the business of investing in, or providing financing to, startup, early-stage, or emerging growth companies and (iii) that maintain a specified California nexus (each, a “Covered Entity”).<sup>1</sup>

- “Venture capital company” is defined by Cal. Code Regs. Tit. 10, § 260.204.9 to include any entity that satisfies any of the following conditions: (i) on at least one occasion during the annual period beginning with the date of its initial capitalization, and on at least one occasion during each annual period thereafter, at least 50% of such entity’s assets (other than short-term investments pending long-term commitment or distribution to investors), valued at cost, are *venture capital investments*<sup>2</sup> or *derivative investments*,<sup>3</sup> in each case, as defined under Cal. Code Regs. Tit. 10, § 260.204.9(a)(6); (ii) such entity is a *venture capital fund*,<sup>4</sup> as defined under the Investment Advisers Act of 1940, as amended (17 C.F.R. 275.203(l)-(1)); or (iii) such entity is a *venture capital operating company*,<sup>5</sup> as defined under the Employee Retirement Income Security Act of 1974 (29 C.F.R. § 2510.3-101(d)).

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<sup>1</sup> Cal. Corp. Code § 27500 et seq. (FIPVCC), enacted by S.B. 54, Leg. Ch. 594 (Cal. 2023) and amended by S.B. 164, Leg. Ch. 41 (Cal. 2024).

<sup>2</sup> Under Cal. Code Regs. Tit. 10, § 260.204.9, a “venture capital investment” means an acquisition of securities in an operating company as to which the investment adviser, the entity advised by the investment adviser, or an affiliated person of either has or obtains *management rights*. “Management rights” are defined as the right, obtained contractually or through ownership of securities, either through one person alone or in conjunction with one or more persons acting together or through an affiliated person, to substantially participate in, to substantially influence the conduct of, or to provide (or to offer to provide) significant guidance and counsel concerning, the management, operations or business objectives of the operating company in which the *venture capital investment* is made.

<sup>3</sup> Under Cal. Code Regs. Tit. 10, § 260.204.9, a “derivative investment” means an acquisition of securities by a *venture capital company* in the ordinary course of its business in exchange for an existing *venture capital investment* either (i) upon the exercise or conversion of the existing *venture capital investment* or (ii) in connection with a public offering of securities or the merger or reorganization of the operating company to which the existing *venture capital investment* relates.

<sup>4</sup> A “venture capital fund” is defined under 17 C.F.R. § 275.203(l)–1 promulgated under the Investment Advisers Act of 1940, as amended, as a private fund that: (i) represents to investors and potential investors that it pursues a venture capital strategy; (ii) immediately after the acquisition of any asset (other than qualifying investments or short-term holdings), holds no more than 20% of the fund’s aggregate capital contributions and uncalled committed capital in non-qualifying assets; (iii) does not borrow, issue debt obligations, provide guarantees, or otherwise incur leverage in excess of 15% of the fund’s aggregate capital contributions and uncalled committed capital, and any such leverage must be for a non-renewable term of no longer than 120 calendar days (subject to certain exceptions for guarantees of qualifying portfolio company obligations); (iv) only issues securities that do not provide holders with any right, except in extraordinary circumstances, to withdraw, redeem, or require repurchase of such securities (though holders may receive pro rata distributions); and (v) is not registered under the Investment Company Act of 1940 (15 U.S.C. 80a-8), and has not elected to be treated as a business development company pursuant to section 54 of that Act (15 U.S.C. 80a-53). A “qualifying portfolio company” generally means a company that, at the time of the fund’s investment, is not publicly traded or controlled by a publicly traded company, does not borrow or issue debt in connection with the fund’s investment to distribute proceeds back to the fund, and is not itself an investment company, private fund, or commodity pool.

<sup>5</sup> A “venture capital operating company” or “VCOC” is defined under 29 CFR § 2510.3-101 as an entity that (i) on its initial valuation date or on at least one day during each subsequent annual valuation period, has at least 50% of its assets (other than short-term investments pending long-term commitment or distribution to investors), valued at cost, invested in *venture capital investments* and (ii) in the ordinary course of its business, actually exercises *management rights* with respect to at least one such operating company during each applicable period. For purposes of the definition of a VCOC, “venture capital investments” are defined as investments in operating companies, other than other VCOCs, as to which the entity has or obtains *management rights* or *derivative investments*; and “management rights” means contractual rights directly between the investor and an operating company to substantially participate in, or substantially influence the conduct of, the management of the operating company.

- The *venture capital company* must be primarily engaged in the business of investing in, or providing financing to, startup, early-stage, or emerging growth companies, which are not defined terms under the FIPVCC.
- A *venture capital company* is considered to have the requisite California nexus under the FIPVCC if it meets any of the following conditions: (i) it is headquartered in California; (ii) it maintains a significant presence or operational office in California; (iii) it makes *venture capital investments* in businesses located in, or with significant operations in, California; or (iv) it solicits or receives investments from a person who is a resident of California.

Entities that are not otherwise Covered Entities are not subject to the FIPVCC.

### Registration Obligation

Beginning on March 1, 2026, each Covered Entity must register with the DFPI by submitting the following identifying information: (i) the Covered Entity's name; (ii) the name, title, and email address of the Covered Entity's designated point of contact; and (iii) the Covered Entity's designated email address, telephone number, physical address and website address. As previously noted, as of the date of this alert, the DFPI has not yet made its online registration portal or any other way to register available, and so Covered Entities should continue to monitor the DFPI's website for further developments, including by subscribing via the DFPI's website to receive email updates.<sup>6</sup>

Covered Entities must keep their registered identifying information updated by submitting any updates as needed when filing their annual reports with the DFPI under the FIPVCC.

### Annual Reporting Requirements

By April 1, 2026, and each April 1 thereafter, each Covered Entity must report the following information regarding its *venture capital investments* made during the immediately preceding calendar year:

- *Founding Team Member Aggregated Demographic Data*. The following demographic information for each *founding team member*<sup>7</sup> of each business in which the Covered Entity made a *venture capital investment* during the prior calendar year presented on an aggregated basis, but only to the extent that any such demographic information was voluntarily disclosed by the *founding team member*: (i) gender identity (including nonbinary and gender-fluid identities); (ii) race; (iii) ethnicity; (iv) disability status; (v) LGBTQ+ identification; (vi) veteran or disabled veteran status; (vii) status as a California resident; and (viii) whether the founding team member declined to provide the demographic information described in clauses (i) through (vii) above;

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<sup>6</sup> VCC Reporting Program – Venture Capital Companies, 2026 State of California Department of Financial Protection & Innovation, <https://dfpi.ca.gov/regulated-industries/vcc-reporting-program> (last visited Feb. 19, 2026).

<sup>7</sup> A “founding team member” is defined by the FIPVCC as either of the following: (i) a person who satisfies all of the following conditions: (A) the person owned initial shares or similar ownership interests of the business; (B) the person contributed to the concept of, research for, development of, or work performed by the business before initial shares were issued; and (C) the person was not a passive investor in the business; or (ii) a person who has been designated as the chief executive officer or president.

- Data on Venture Capital Investments in Businesses Primarily Founded by Diverse Founding Team Members. For the prior calendar year, (i) the total number of *venture capital investments* made by the Covered Entity in businesses *primarily founded by diverse founding team members*,<sup>8</sup> expressed as a percentage of the total number of *venture capital investments* made by the Covered Entity and broken down into the categories of demographic information for *founding team members* listed above (any information provided under this clause (i) must be anonymized to the extent possible) and (ii) the total amount of *venture capital investments* made by the Covered Entity in businesses *primarily founded by diverse founding team members*, expressed as a percentage of the *venture capital investments* made by the Covered Entity and broken down into the categories of demographic information for *founding team members* listed above; and
- Venture Capital Investment Data. The total amount of money invested by the Covered Entity in *venture capital investments* in each business and the principal place of business of each company in which such Covered Entity made a *venture capital investment*, in each case, during the prior calendar year.

Each Covered Entity must obtain the requisite reporting information relating to the *founding team members* as described above by distributing the template survey published by the DFPI (the “FIPVCC Survey”)<sup>9</sup> to all *founding team members* of businesses in which the Covered Entity made *venture capital investments* during the preceding calendar year, and participation by such *founding team members* must be voluntary, i.e., the FIPVCC Survey must include a “decline to state” option for each question. Each Covered Entity must also provide written disclosures to each such *founding team member* prior to, or concurrently with, the distribution of the FIPVCC Survey which states each of the following: (i) that such *founding team member’s* decision to disclose their demographic information is voluntary; (ii) that no adverse action will be taken against such *founding team member* if they decline to participate; and (iii) that the aggregate data collected for each demographic category will be reported to the DFPI (the “FIPVCC Survey Disclosures”). No Covered Entity may provide the FIPVCC Survey or the FIPVCC Survey Disclosures to any *founding team member* until the Covered Entity has executed an investment agreement with the business with which such *founding team member* is associated and has made the first transfer of funds to such business.

Covered Entities must report the reporting information required by the FIPVCC via the template reporting form published by the DFPI (each, a “FIPVCC Report”).<sup>10</sup> Covered Entities that are commonly controlled can satisfy their reporting obligations under the FIPVCC by providing a combined report, including the requisite reporting information for all such Covered Entities that is prepared by the business that controls each such Covered Entity.

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<sup>8</sup> Under the FIPVCC, (i) “diverse founding team member” means a *founding team member* who self-identifies as a woman, nonbinary, Black, African American, Hispanic, Latino-Latina, Asian, Pacific Islander, Native American, Native Hawaiian, Alaskan Native, disabled, veteran or disabled veteran, lesbian, gay, bisexual, transgender, or queer, and (ii) “primarily founded by diverse founding team members” means a founding team for which more than one-half of the *founding team members* responded to the survey described in the FIPVCC and at least one-half of the *founding team members* are *diverse founding team members*.

<sup>9</sup> Venture Capital Demographic Data Survey, 2026 STATE OF CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION & INNOVATION, <https://dfpi.ca.gov/wp-content/uploads/2026/01/VCC-Demographic-Data-Survey.pdf> (last visited Feb. 19, 2026).

<sup>10</sup> Venture Capital Demographic Data Report, 2026 STATE OF CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION & INNOVATION, <https://dfpi.ca.gov/wp-content/uploads/2026/01/VCC-Report-Remediated.pdf> (last visited Feb. 19, 2026).

The Covered Entities must collect and report FIPVCC Survey response data from the applicable *founding team members* in a manner that does not associate any such data with any individual *founding team member*.

The DFPI is required to make the FIPVCC Reports submitted by Covered Entities readily accessible, easily searchable and easily downloadable on its website, and may publish aggregate results or aggregate information acquired from FIPVCC Reports submitted by Covered Entities.

Covered Entities must maintain records related to their obligations under the FIPVCC for at least five years after the delivery of the corresponding FIPVCC Report to the DFPI. Such records may be examined by the DFPI for the applicable Covered Entity's compliance with the FIPVCC.

### **Fees and Penalties**

The fee for submitting each FIPVCC Report will be at least \$175. If a Covered Entity fails to file a FIPVCC Report by April 1 of any calendar year, the DFPI will issue a written notice to such Covered Entity which allows such Covered Entity to file the FIPVCC Report within 60 days of its receipt of such written notice from the DFPI without penalty; provided that any Covered Entity's continued noncompliance with the FIPVCC may result in enforcement actions, cease and desist orders, recovery of costs and attorney's fees and daily monetary penalties of up to \$5,000 per day.

### **Compliance Considerations**

To prepare for the FIPVCC's upcoming registration and filing deadlines, clients should:

- Confirm which of their entities are Covered Entities;
- Monitor the FIPVCC Reporting Program page on the DFPI's website for registration portal availability;
- Register with the DFPI;
- Identify all *founding team members* of portfolio companies in which any of their Covered Entities made a *venture capital investment* in 2025;
- Distribute the FIPVCC Survey to each such *founding team member*, along with the FIPVCC Survey Disclosures;
- Identify all portfolio companies in which their Covered Entities made *venture capital investments* in 2025, the amounts invested per each such portfolio company and each such portfolio company's principal place of business;
- Complete the FIPVCC Report for 2025 and submit via the DFPI's online portal; and
- Retain records relating to such FIPVCC Report for at least five years.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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