

U.S. VENTURE CAPITAL FIRMS SHOULD PREPARE FOR NEW CALIFORNIA DEMOGRAPHIC REPORTING REQUIREMENTS

A new California law – the Fair Investment Practices by Venture Capital Companies Law – will require many U.S. venture capital and growth-oriented firms to register with California’s Department of Financial Protection and Innovation (“DFPI”) by March 1, 2026, and to provide detailed demographic reporting by April 1, 2026, and annually thereafter.

- | |
|---|
| <ul style="list-style-type: none">• A new California law subjects certain venture capital-focused firms to additional demographic reporting in Q1 2026. |
| <ul style="list-style-type: none">• ALL US-based venture capital and growth-oriented investment firms should consider whether the new California law’s demographic reporting requirements apply given its breadth. |
| <ul style="list-style-type: none">• If applicable, covered entities must register with California’s Department of Financial Protection and Innovation by March 1, with the first demographic survey reporting due on April 1. |

Despite delays following its initial passage in October 2023, California’s Senate Bill 54 (as subsequently amended by SB 164¹ (“SB 54”)) establishes a venture capital demographic reporting regime that takes effect for the first time in 2026. As enacted, the new law will require certain “covered entities” with a California nexus to:

- register with DFPI by March 1;
- survey founding team members using a DFPI-developed voluntary survey; and
- file an annual report by April 1 containing aggregated, anonymized demographic data and specified investment metrics (including information regarding investments made in 2025) with reports to be posted publicly on the DFPI website.

The legislation casts a broad net. The definition of “covered entity” may capture a significantly larger group of private capital firms than what most sponsors traditionally consider “venture capital,” while the nexus requirement extends well beyond firms headquartered in California.

DFPI launched a new Venture Capital Company Reporting Program [website](#) on January 23, which includes [initial guidance](#) on who must register and report, a [PDF version](#) of the required demographic survey, and additional details regarding the reporting framework.

¹ Among other changes, SB 164 amended and re-enacted SB 54 by delaying the effective reporting deadlines until 2026, transferring regulatory oversight from California’s Civil Rights Department to DFPI, and clarifying that only venture capital companies that are primarily engaged in investing in, or providing financing to, startup, early-stage, or emerging growth companies are treated as covered entities.

The reporting forms and the VCC Registration Portal are currently listed on the website as “coming soon.”

Although the law is framed as applying to venture capital firms, it may apply to venture, growth equity, and certain private equity strategies with portfolio companies, offices, or investors in California. Accordingly, U.S.-based venture capital and growth-oriented private capital firms should carefully review the definitions to determine applicability. Firms that believe they may be covered should prepare now for registration on March 1 and for completion of the demographic report in advance of the April 1 deadline.

I. Who is covered

Under the law, a “covered entity” means any venture capital company that (1) primarily engages in the business of investing in, or providing financing to, startup, early-stage or emerging growth companies and (2) meets any of the following California nexus criteria:

- a. is headquartered in California;
- b. has a “significant presence” or “operational office” in California;
- c. makes venture capital investments in businesses that are located in, or have significant operations in, California; or
- d. solicits or receives investments from a person who is a resident of California.

Neither SB 54 nor the DFPI guidance defines “significant presence” or “operational office,” and additional regulatory clarification may be required. As a result, the law applies far beyond venture capital firms based in California. Firms with satellite offices, California-based portfolio companies or California investors may be required to register and complete DFPI reporting.

The law adopts the definition of “venture capital company” from California’s state-level venture capital investment advisory exemption,² which includes any entity that:

- a. on at least one occasion during the annual period commencing with the date of its initial capitalization, and on at least one occasion during each annual period thereafter, at least fifty percent (50%) of its assets (other than short-term

² Cal. Code Regs. tit. 10, § 260.204.9(a)(4).

investments pending long-term commitment or distribution to investors), valued at cost, are “venture capital investments”³ or “derivative investments”⁴;

- b. a “venture capital fund” as defined in Rule 203(l)-1 by the U.S. Securities and Exchange Commission under the U.S. Investment Advisers Act of 1940 (the “Advisers Act”);⁵ or
- c. a “venture capital operating company” (“VCOC”) as defined in rule 2510.3-101(d) adopted by the U.S. Department of Labor under the Employee Retirement Income Security Act of 1974 (“ERISA”).⁶

While the definition of “venture capital company” is substantially broader than what the market traditionally considers venture capital, the additional requirement that a covered entity be primarily engaged in the business of investing in, or providing financing to, startup, early-stage or emerging growth companies is intended to limit the law’s applicability. In

³ Cal. Code Regs. tit. 10, § 260.204.9(a)(5). California defines “venture capital investment” as 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,” which are further defined in subsection (a)(7) 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.

⁴ Cal. Code Regs. tit. 10, § 260.204.9(a)(6). California defines “derivative investment” as 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.

⁵ 17 C.F.R. § 275.203(l)-1. Under the Advisers Act, a “venture capital fund” means a private fund that, among other requirements, represents to investors that it pursues a venture capital strategy, invests primarily in qualifying portfolio companies, does not borrow or incur leverage beyond limited short-term borrowing, does not provide investors with redemption rights, and is not registered under the U.S. Investment Company Act of 1940.

⁶ 29 C.F.R. § 2510.3-101(d). Under ERISA, for purposes of the ERISA plan asset regulations, a VCOC means an entity that, on its initial long-form valuation date and on at least one day during each annual valuation period thereafter, holds at least 50% of its assets in “venture capital investments” and, in the ordinary course, actually exercises management rights with respect to such investments. For ERISA purposes, a “venture capital investment” generally includes an equity investment in an operating company (other than a publicly traded company) with respect to which the investor obtains management rights, such as board representation, observer rights, or contractual rights to participate in management or significant corporate decisions. “Management rights” are broadly construed and are typically satisfied by standard private equity governance rights.

practice, however, this standard remains broad and may still capture certain growth equity and private equity strategies that focus on emerging or high-growth operating companies.

II. Required reporting

Registration

As of March 1, covered entities must register with DFPI through the VCC Registration Portal that DFPI plans to provide on its newly established website. Covered entities will be required to provide:

- the covered entity's name;
- the name, title and email address of the designated contact person; and
- the covered entity's designated email address, telephone number, physical address and internet website.

Demographic Surveys

On an annual basis, covered entities must provide to each founding team member of each business in which the covered entity invested during the prior calendar year the DFPI-developed [demographic survey](#) for voluntary completion. This requirement applies to all investments, not only investments in California-based companies.

The survey is designed to capture demographic information regarding founding team's members, including race, ethnicity, disability status, LGBTQ+ status, veteran/disabled veteran status and California residency.

Covered entities should consider building the SB 54 survey into the investment workflow as a routine post-closing compliance step.

For purposes of the law, "founding team members" generally include individuals who (i) owned initial shares of the business, (ii) contributed to the business concept, research, development, or work before initial shares were issued and (iii) are not passive investors.

Annual Report

By April 1 of each year, covered entities must aggregate the demographic information voluntarily returned by founding team members and submit anonymized data and other statutorily required information in a report to DFPI. The initial 2026 report will include information from investments made in 2025.

Accordingly, firms that fall within the definition of "covered entity" should begin distributing the survey in connection with current portfolio investments.

DFPI will make submitted reports publicly available on its website. The filing fee for each annual report is \$175.

In addition to aggregated anonymized diversity information provided, each covered entity must also report:

- a. the number of venture capital investments to businesses primarily founded by diverse founding team members, as a percentage of the total number of venture capital investments the covered entity made, both in the aggregate and broken down into the various diversity categories;
- b. the total amount of venture capital investments to businesses primarily founded by diverse founding team members, as a percentage of venture capital investments made by the covered entity, both in the aggregate and broken down into the various diversity categories;
- c. the total amount of money in venture capital investments the covered entity invested in each business during the prior calendar year; and
- d. the principal place of business of each company in which the covered entity made a venture capital investment during the prior calendar year.

III. Additional obligations

Covered entities are subject to recordkeeping requirements and must retain all records related to the report (including the original survey responses) for at least five years and make them available to DFPI upon request.

DFPI will notify non-compliant firms after April 1 and will permit a 60-day cure period. If a non-compliant covered entity fails to register and submit its report within the 60-day period, however, it may face severe monetary penalties, including a fine of up to \$5,000 per day and/or injunctive relief.

IV. Conclusion

As the March 1 registration deadline approaches, venture capital and growth-oriented private capital firms should determine whether they fall within the definition of “covered entity.” If so, firms should immediately begin distributing the demographic survey to applicable portfolio company founding teams and begin preparing the reports that will be due on April 1.

While it is possible that SB 54 could face legal challenges under the First Amendment and/or other constitutional theories, firms should proceed on the assumption that the law will take effect on March 1 as planned.

We will continue to monitor the DFPI website, as several submission mechanics remain under development, and will provide additional updates as they become available.

Please reach out to [Scott Museles](#), [Anthony Millin](#), [Lawrence Bard](#), [Kimberly Mann](#), or [Kevin Lees](#) at Shulman Rogers if you have any questions.

DISCLAIMER: The contents of this Alert are for informational purposes only and do not constitute legal advice. If you have any questions about this Alert, please contact the Shulman Rogers attorney with whom you regularly work.