

NEW RULES SUBCOMMITTEE

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NEW RULES SUBCOMMITTEE: CURRENT ASSIGNMENT

Draft new rules on the following topics:

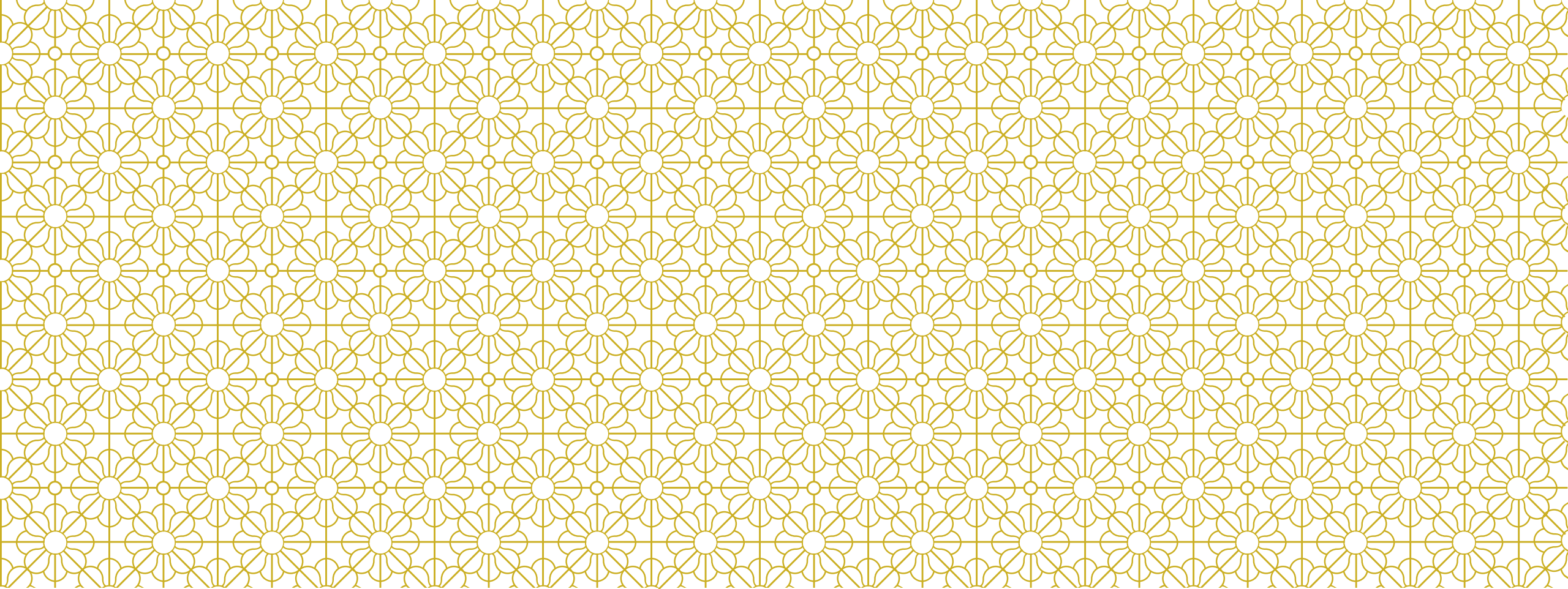
Topic	Rulemaking
Risk Assessments §1798.185(a)(15)(B)	Regulations requiring businesses whose processing of consumers' personal information presents significant risk to consumers' privacy or security to "[s]ubmit to the California Privacy Protection Agency on a regular basis a risk assessment with respect to their processing of personal information, including whether the processing involves sensitive personal information, and identifying and weighing the benefits resulting from the processing to the business, the consumer, other stakeholders, and the public, against the potential risks to the rights of the consumer associated with that processing, with the goal of restricting or prohibiting the processing if the risks to privacy of the consumer outweigh the benefits resulting from processing to the consumer, the business, other stakeholders, and the public."
Cybersecurity Audits §1798.185(a)(15)(A)	Regulations requiring businesses whose processing of consumers' personal information presents significant risk to consumers' privacy or security to "[p]erform a cybersecurity audit on an annual basis, including defining the scope of the audit and establishing a process to ensure that audits are thorough and independent. The factors to be considered in determining when processing may result in significant risk to the security of personal information shall include the size and complexity of the business and the nature and scope of processing activities."
Automated Decisionmaking §§1798.185(a)(16), 1798.140(z)	Regulations "governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology, including profiling and requiring businesses' response to access requests to include meaningful information about the logic involved in those decisionmaking processes, as well as a description of the likely outcome of the process with respect to the consumer."



STATUS UPDATE AND NEXT STEPS

- **Current Status:** In drafting proposed rules for the Board's consideration, the Subcommittee has identified topics regarding risk assessments, cybersecurity audits, and automated decisionmaking that may benefit from additional public input.
 - For reference, the Agency previously conducted preliminary rulemaking activities in September 2021 (Invitation for Written Public Comments) and March 2022 and May 2022 (Informational Hearings).
- **Goal of Today's Presentation:** Solicit Board feedback on proposed next steps, including additions to proposed topics and sample questions for preliminary rulemaking.
- **Proposed Next Steps:**
 - Finalize proposed topics and questions for public input.
 - Conduct additional preliminary rulemaking in early 2023, including an invitation for written public comment and other preliminary activity (e.g., potential stakeholder sessions on specific topics or proposed language).
 - After additional public input, Board discussion of proposed regulatory frameworks for risk assessments, cybersecurity audits, and automated decisionmaking.





TOPICS FOR PRELIMINARY RULEMAKING



RISK ASSESSMENTS

- Existing laws or other requirements for risk assessments;
- Considerations regarding communities or individuals that are more susceptible to harm from data processing practices;
- Relevant factors for determining when processing presents significant risk to consumers' privacy or security, and whether the factors should be different, or assessed differently, for risk assessments versus cybersecurity audits;
- Risk assessment requirements for automated decisionmaking, including profiling;
- Submission models for risk assessments; and
- Considerations for businesses that have less than \$25 million in annual gross revenues.



CYBERSECURITY AUDITS

- Existing laws, other cybersecurity audits, assessments, and evaluations, and best practices; and
- Processes that help to ensure that cybersecurity audits, assessments, or evaluations are thorough and independent.



AUTOMATED DECISIONMAKING

- Existing laws, other requirements, frameworks, and/or best practices;
- Prevalence of algorithmic discrimination and how access and opt-out rights can address this issue;
- Implementing automated decisionmaking access and opt-out rights in different sectors and industries; and
- Providing more specificity regarding “meaningful information” about the logic involved in automated decisionmaking.

