INITIAL STATEMENT OF REASONS

Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary.

Problem this Rulemaking is Intended to Address:

This rulemaking will make emergency regulations amendments permanent. The amendments are primarily related to employer eligibility and their registration deadlines, with some additional amendments to improve clarity and correct a typographical error.

Specifically, these regulations amendments will:

- Improve employer access to the CalSavers Retirement Savings Program ("CalSavers" or "the Program") by allowing employers to participate if they have only one quarter of employment data available, instead of the prior requirement for four consecutive quarters of data (Section 10001(a));
- Correct multiple typographical errors (Sections 10000(q) and 10002(a)(3));
- Improve clarity regarding the registration deadline for newly eligible employers and improve employee access to the Program (Section 10002(b)); and
- Simplify the employer registration process (Section 10002(e)).

ECONOMIC IMPACT ANALYSIS

Program staff analyzed the economic impacts caused as a result of this rulemaking package. Staff determined the regulations amendments are major regulations and completed a Standardized Regulatory Impact Analysis on September 2, 2022, which further detail these impacts, the methodology used to estimate the impacts, and quantification of any macroeconomic impacts related to the amendments.

These regulations amendments include some changes that are expected to increase saving by California employees, which are expected to create economic impacts due to some reduced consumption and new investment in California companies.

The creation or elimination of jobs within the state
The amendments will have no direct impacts on the creation or elimination of jobs within the state. However, the amendments could have indirect impacts, as they will lead to increased new savings by Californians, which will lead to reduced consumption. The reduced consumption is expected to result in reduced demand, which could lead to reduction of 303 jobs in 2023. The amendments will also lead to new investment in California companies and are expected to create 90 jobs in 2023 due to the new investment.

The creation of new businesses or the elimination of existing businesses within the state
Similar to the reasons stated in the paragraph above, these regulations amendments should have no impact on the creation of new businesses or the elimination of existing businesses within the state. These regulations amendments make no impact on whether existing businesses should be eliminated, nor do they give cause for the creation of new businesses.

The operation of the Program in general may create incentives for retirement plan providers to create or market products in the state. The operation of the Program in general may also create an incentive for payroll providers or third-party human resource vendors to create or market products within the state. However, these regulations do not include any material impacts that would bolster or lessen those incentives.

The expansion of businesses currently doing business within the state

These amendments are not expected to have any impact on the expansion of businesses currently doing business within the state. The operation of the Program in general may create benefits for smaller employers to recruit and retain employees by providing them an easy, no-fee way to help their employees save for retirement. As noted above, the Program in general may also create an incentive for payroll providers or third-party human resource vendors to create or market products within the state. However, these regulations do not include any material impacts that would cause an expansion of those businesses.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment

These regulations amendments will benefit the welfare of California residents by ensuring that some portion of California employees gain earlier access to the CalSavers program and, therefore, improve their ability to accrue meaningful retirement savings over their career and improve their long-term financial security. CalSavers staff estimate nearly 150,000 California employees will gain earlier access to the Program and predict over 56,000 will begin to participate as a result of these amendments.

While any associated impacts to the health of California residents would be indirect, better financial security may result in better health outcomes for the population of California residents who participate in the Program.

These regulations amendments should have no effect on worker safety or the state's environment.

Overall Benefit of this Rulemaking:

Nearly half of California workers are on track to experience significant economic hardship in retirement age. Without the ease and simplicity of regular payroll contributions to a retirement savings account at work, many simply do not save for retirement. Research shows that people are 15 times more likely to save when they have access to a payroll deduction savings vehicle at work.

CalSavers ensures about 7 million California workers have access to a retirement savings program at their job, and self-employed individuals will also be able to save via the Program.
As more Californians join the workforce in the decades to come, the Program will ensure the next generation of working Californians has the ability to begin saving for retirement throughout their careers. The Program will be self-sustaining by participant fees, with no direct cost to employers or taxpayers, and, over time, should provide a net benefit to taxpayers as fewer elder citizens will require taxpayer-funded public assistance.

The Program provides some indirect benefits for participating employers by providing a retirement savings option that is simple and requires no direct costs or annual reporting with no fiduciary liability. By having an easy way to provide a popular employee benefit, the Program should help some smaller employers improve their value in the labor market and help to recruit and retain employees.

These regulations amendments will benefit employers by simplifying the registration process and allowing some employers to register earlier than they had previously been allowed.

These regulations amendments will benefit individuals by reducing the time by which some individuals would gain access to the CalSavers program and, therefore, improve their ability to save for retirement and improve their future financial security.

The regulations amendments will benefit California-based companies through increased investment due to the increases in savings expected to result from these amendments. Specifically, the new investments are expected to predominate in the information technology, health care, and discretionary consumer sectors. Macroeconomic impacts in each sector are detailed in the SRIA.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business:

Based on the Economic Impact Analysis stated above, CalSavers concludes that the proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including ability to compete with businesses in other states.

Reasonable Alternatives to the Regulations and the Agency's Reasons for Rejecting those Alternatives:

Alternative 1: Maintain Registration Deadline for Newly Mandated Employers in Section 10002(b)

The Board declined this alternative because it has caused a delay in when employers would join the Program and, therefore, delay when employees could participate in the Program and begin to save for retirement.

Additionally, the Board declined this alternative because the former regulation lacked the clarity of the amended regulation. The former regulation did not specify the event that would provide an employer with certainty of when they became an Eligible Employer. Additionally, the former regulation established a deadline that was 24 months past the date when an employer would become exempt.

Alternative 2: Maintain Requirement that Employers Have Entire Calendar Year of Employee Data to Register

The Board rejected this alternative because it prolonged the wait time for an employer to register for the Program. The Program has received calls and emails from employers who wished to register but were unable due to this regulation. In many of the circumstances, the employers expressed confusion due to the fact they had currently employed five or more employees and did not sponsor a retirement plan, and therefore would otherwise be eligible for the Program.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT ON WHICH THE AGENCY RELIES

Some considerations for the development of these regulations were based, in part, on the market analysis, program design, and financial feasibility study commissioned by the Board and completed by Overture Financial LLC and its subcontractors in 2016. The report is available on the following webpage:

https://www.treasurer.ca.gov/calsavers/report.pdf

The Board considered the findings from additional studies and reports to make decisions about the content of the proposed regulations, included below:

1. Allegretto, S.A., Rhee, N., et. al., (2011), California Workers' Retirement Prospects in N. Rhee's Meeting California's Retirement Security Challenge, U.C. Berkeley Center for Labor Research and Education

2. Baki, M., Rhee, N., et. al., (2016), Final Report to the California Secure Choice Retirement Savings Investment Board, *Overture Financial LLC*

3. Belbase, A. and Sanzenbacher, G., (December 2015) Report on the Design of Connecticut's Retirement Security Program, Center for Retirement Research at Boston College

4. Beshears, J., Choi, J., et. al., (September 2010) Defined Contributions Savings Plans in the Public Sector: Lessons from Behavioral Economics, National Bureau of Economic Research

5. Beshears, J., Benartzi, S. et. al., (October 7, 2017) How Do Consumers Respond When Default Options Push the Envelope?, Voya Behavioral Finance Institute for Innovation

6. Beshears, J., Choi, J., et. al., (December 7, 2017) Borrowing to Save? The Impact of Automatic Enrollment on Debt, Harvard University/Yale University/United States Military Academy

7. Choi, J., Laibson, D., et. al., (December 2001) For Better or For Worse: Default Effects and 401(k) Savings Behavior, National Bureau of Economic Research

8. Dushi, I., Iams, H.M., Lichtenstein, J., (2015), Retirement Plan Coverage by Firm Size: An Update, Social Security Administration Office of Retirement and Disability Policy

9. Helman, R., Greenwald, M., et. al., (April 2007) The Retirement System in Transition: The 2007 Retirement Confidence Survey, Employee Benefit Research Institute

10. John, D. and Koenig, G. (2015), Workplace Retirement Plans Will Help Workers Build Economic Security, AARP Public Policy Institute

11. Madrian, B. and Shea, D., (May 2000) The Power of Suggestion: Inertia in 401(k) Participation and Savings Behavior, National Bureau of Economic Research

12. McInerney, M., Rutledge, M. S., King, S. E., (October 2017), How Much Does Out-of-Pocket Medical Spending Eat Away at Retirement Income?, Center for Retirement Research at Boston College

13. Munnell, A. H., Belbase, A., Sanzenbacher, G.T., (March 2018), An Analysis of Retirement Models to Improve Portability and Coverage, Center for Retirement Research at Boston College in conjunction with Summit Consulting, LLC

14. Pew Charitable Trusts (January 2016), Employer-based Retirement Plan Access and Participation across the 50 states (California)

15. Pew Charitable Trusts, (June 2017), Employer Barriers to and Motivations for Offering Retirement Benefits

16. Pew Charitable Trusts, (July 2017) Employer Reactions to Leading Retirement Policy Ideas

17. Pew Charitable Trusts, (March 2018) Auto-IRAs could help retirees boost Social Security Payments

18. Scott, J., Blevins, A., et. al. (January 2016) Who's in, who's out *Pew Charitable Trusts*

19. Semega, J., and Welniak, Jr., E., (2015) The Effects of the Changes to the Current Population Survey Annual Social and Economic Supplement on Estimates of Income, Proceedings of the 2015 Allied Social Science Association (ASSA) Research Conference

20. U.S. Government Accountability Office, (May 2016), Low defined contribution savings may pose challenges

21. Investment Policy Statement adopted by the CalSavers Retirement Savings Board December 1, 2018, and Revised December 7, 2020

22. Employee Benefit Research Institute and Greenwald & Associates, (2014), 2014 Retirement Confidence Survey Fact Sheet #6, PREPARING FOR RETIREMENT IN AMERICA

23. Guzoto, T., Hines, M., and Shelton, A., (July 2022), State Auto-IRAs Continue to Complement Private Market for Retirement Plans, *Pew Charitable Trusts*

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STATEMENT OF NECESSITY

The section of the regulations proposed for amendment is identified below including a description of the objectives and necessity for the amendment.

Section 10000. Definitions, subsection (q)

Specific Purpose:

The definition of "Exempt Employer" further defines and clarifies a term established in statute.

Factual Basis:

This regulation amendment is necessary to correct a typographical error. The change in these amendments is necessary to make the regulations consistent with statute, which defines an Eligible Employer as a business that employs five or more employees. However, due to a typographical error, the current definition in regulations included a reference to employers with "more than five" employees, which is in conflict with both statute and the definition of "Eligible Employer" established in Section 10000(m).

Section 10001. Definitions, subsection (a)

Specific Purpose:

The regulation defines the criteria by which the Program will determine employer eligibility.

Factual Basis:

This regulation amendment is necessary allow employers to participate in the Program if they have only one quarter of employment data available and otherwise meet the definition of an Eligible Employer.

Section 10002. Eligible Employers, subsection (a)

Specific Purpose:

This regulation establishes registration deadlines for Eligible Employers.

Factual Basis:

This regulation amendment is a non-substantive technical amendment necessary to clarify the regulation and has no economic or fiscal impact. The amendment is necessary to further clarify which businesses are required to register for CalSavers by the June 30, 2022, deadline. Employee counts may fluctuate between one calendar year and the next, causing an employer to move between defined employer size tranches, referred to as "waves," from one calendar year to the next. This amendment would ensure employers that move from wave 3 (five or more employees) to either wave 1 (more than 100 employees) or wave 2 (51 to 100 employees) continue to be subject to the wave 3 deadline – rather than be subject to a retroactive registration deadline for their new wave assignment. This amendment conforms the rules for wave 3 employers that grew to employ more than 50 employees to the treatment of wave 2 employers with similar employee growth.

Section 10002. Employer Registration (b)

Specific Purpose:

Government Code Section 100032(b)-(d) provides deadlines for employer registration that vary according to an employer's number of employees. Government Code Section 100032(e) authorizes the Board to extend those time limits. This regulation establishes the deadline for newly eligible employers.

Factual Basis:

This regulation amendment is necessary to adjust the deadline for which newly eligible businesses must register for the CalSavers program and further clarify how employer eligibility will be determined and reported to eligible employers.

Section 10002. Employer Registration, subsection (f)

Specific Purpose:

This regulation identifies the information employers need to provide the Program to maintain each employer's account.

Factual Basis:

This amendment is necessary to remove the necessity for employers to provide their California Employer Payroll Tax Account Number if they provide their Federal Employer Identification Number. This lessens the number of data fields required for Eligible Employers to register, making it easier for employers to participate in the Program.

Section 10004. Employee Enrollment, subsection (a)

Specific Purpose:

This regulation establishes the deadline by which the Program shall deliver the Employee Information Packet to Eligible Employees.

Factual Basis:

This regulations amendment is necessary to update the number of days the Program must provide a Participating Employer with the Employee Information Packet. This change is required to account for delays in mail delivery times. It is possible this amendment will have no actual impact on participants, as most employee information packets are delivered before the prior 7-day requirement.

# # #

APPENDIX

- Standardized Regulatory Impact Analysis (submitted September 9, 2022)
- Department of Finance Comments (provided September 30, 2022)
- Response to Department of Finance Comments (submitted October 24, 2022)