

TITLE 10. INVESTMENT
PROPOSED REGULATIONS UNDER THE
CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW

PRO 01-21

Subchapter TBD. California Consumer Financial Protection Law.

Article I. Definitions.

1. Section 1 is adopted to read:

§ 1. Definitions.

The following terms used in subchapter ___ of title 10 shall have the following meanings:

- (a) “Applicant” means any person who applies for registration under the California Consumer Financial Protection Law.
- (b) “Branch office” means a location of the applicant other than the applicant’s principal place of business identified in a registration application or an amended application.
- (c) “Charges” mean:
 - (1) With respect to wage-based advances and education financing, any interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a person in connection with the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing a wage-based advance or education financing.

- (A) For purposes of subdivision (c)(1), amounts received are not excluded from the definition of “charges” because payment of the amount received is discretionary, such as a gratuity or tip.
- (2) For all subject products other than wage-based advances and education financing, all amounts contracted for or received by a person, as consideration for, or in recognition of, the person’s provision of a product or service.
- (d) “Commissioner” means the Commissioner of Financial Protection and Innovation.
- (e) “Control” means possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. A person who, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the then outstanding voting securities issued by another person is presumed to control such other person. For purposes of this subchapter, the commissioner may determine whether a person in fact controls another person.
- (f) “Debt settlement services” means any of the following:
- (1) Providing advice, or offering to act or acting as an intermediary, including, but not limited to, offering debt negotiation, debt reduction, or debt relief services between a consumer and one or more of the consumer’s creditors, if the primary purpose of that advice or action is to obtain a settlement for

less than the full amount of the debt, or a reduction in the balance or fees owed, interest rate, or payment amount;

- (2) Advising, encouraging, assisting, or counseling a consumer to accumulate funds in an account for future payment of a reduced amount of debt to one or more of the consumer's creditors.
- (g) "Education financing" means credit (as defined by Financial Code section 90005, subdivision (g)) extended for the purpose of funding postsecondary education and costs of attendance at a postsecondary institution, including, but not limited to, tuition, fees, books and supplies, room and board, transportation, and miscellaneous personal expenses.
- (h) "Education forbearance" means a period during which an education financing recipient's obligation to make payments under the education financing is suspended, in whole or in part, because the recipient is enrolled in a postsecondary educational institution.
- (i) "Form MU1" means the uniform licensing form, entitled "NMLS Company Form", developed by the Nationwide Multistate Licensing System & Registry and used to provide information on a company or sole proprietor registration applicant. NMLS Company Form, Version 11.0, dated September 12, 2015, is hereby incorporated by reference in its entirety.
- (j) "Form MU2" means the uniform licensing form, entitled "NMLS Individual Form," developed by the Nationwide Multistate Licensing System & Registry and used to provide information on an individual who directly or indirectly owns or controls the activities of the applicant or branch office, including principal

officers, directors, and other individuals specified on Form MU1 or Form MU3. NMLS Individual Form, Version 9, dated September 12, 2016, is hereby incorporated by reference in its entirety.

- (k) “Form MU3” means the uniform licensing form, entitled “NMLS Branch Form,” developed by the Nationwide Multistate Licensing System & Registry and used to provide information on branch offices. NMLS Branch Form, Version 10, dated March 31, 2014, is hereby incorporated by reference in its entirety.
- (l) “Grace period” means a period during which an education financing recipient’s obligation to make payments under the education financing is suspended because the recipient has recently completed a postsecondary education program.
- (m) “Income-based repayment” mean a period during which an education financing recipient’s payment obligation is based upon the recipient’s income or employment status.
- (n) “Individual” means a natural person.
- (o) “Registrant” means any person who is registered under the California Consumer Financial Protection Law.
- (p) “Student debt” means any debt arising from education financing.
- (q) “Student debt relief services” means:
 - (1) Any debt settlement service where the underlying debt is student debt; or
 - (2) In connection with, or in contemplation of, an attempt to secure a revised payment plan or schedule, forbearance, consolidation, or forgiveness, in connection with student debt:
 - (A) Assessing suitability or providing advice;

- (B) Preparing documents to be submitted by a consumer or on the consumer's behalf; or
 - (C) Acting as an intermediary between a consumer and the servicer or owner of the consumer's student debt.
- (r) "Subject product" means:
 - (1) Debt settlement services.
 - (2) Student debt relief services.
 - (3) Education financing.
 - (4) Wage-based advances.
- (s) "Maximum amount due" means, with respect to education financing with income-based repayment provisions, the maximum amount that a recipient may be required to repay under the contract, excluding charges relating to default.
- (t) "NMLS" means the Nationwide Multistate Licensing System & Registry.
- (u) (1) "Obligor" means, with respect to wage-based advances, either of the following:
 - (A) An employer.
 - (B) A person who is not an employer, but who is contractually obligated to pay a worker a sum of money on an hourly, project-based, piecework, or other basis for labor or services provided by the worker or consumer to or on behalf of the person.
- (2) "Obligor," with respect to wage-based advances, does not include a customer of an obligor or other third party whose obligation to make a payment to a worker is based solely on the worker's agency relationship with the obligor.

- (v) “Principal officers” means the president, chief executive officer, treasurer, chief financial officer, and any other officer with direct responsibility for the conduct of the applicant’s activities in this state.
- (w) “Repayment” or “in repayment” means, with respect to education financing, any period in which the financing contract is in effect other than during an education forbearance or grace period.
- (x) “Wage-based advances” mean funds paid to workers by a provider other than an obligor that are based on wages or compensation that a worker or the worker’s obligor has represented, and that a provider has reasonably determined, have been earned but have not, at the time of the advance, been paid to the worker for work performed for or on behalf of an obligor or obligors.
- (y) “Worker” means, with respect to wage-based advances, a natural person who has earned wages or compensation in this state as an employee or an independent contractor.

Authority cited: Section 90009, Financial Code. Reference: Sections 90003, 90005, 90009, Financial Code.

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Article 2. Persons Required to Register and Related Matters.

Section 10 is adopted to read:

§ 10. Persons Required to Register.

- (a) No person shall engage in the business of offering or providing a subject product to California residents without first registering with the commissioner pursuant to this subchapter.
- (b) Subdivision (a) shall not apply to persons engaged in providing debt settlement services who are licensees as defined by Financial Code section 12004 and providing debt settlement services under the authority of that license, or persons who have provided an audit report under subdivision (i) of section 12104 within the previous 12 months and are providing debt settlement services solely in accordance with the requirements of that section.

Authority cited: Section 90009, Financial Code. Reference: Sections 90003, 90005, 90009, Financial Code.

§ 11. Effect of Registration.

- (a) The commissioner's determination that persons engaged in the business of offering or providing a subject product must register with the commissioner does not constitute a determination that other laws, including other licensing laws under the commissioner's jurisdiction, do not apply.
- (b) The act of granting registration to an applicant does not constitute a determination that the applicant's acts, practices, or business model complies with any law or regulation.

Authority cited: Section 90009, Financial Code. Reference: Section 90009, Financial Code.

§ 12. Representations Concerning Registration.

It is a deceptive practice under Financial Code section 90003, subdivision (a)(1), for a registrant to represent, directly or indirectly, that its acts, practices or business model have been approved by the commissioner or the Department of Financial Protection and Innovation.

Authority cited: Section 90009, Financial Code. Reference: Sections 90003, 90005, 90009, Financial Code.

Article 3. Registration Application.

Section 20 is adopted to read:

§ 20. Application for Registration and Related Forms.

- (a) DESIGNATION: The commissioner designates NMLS to receive and store filings and collect related fees and assessments from applicants and registrants on behalf of the commissioner.
- (b) USE OF NMLS: All applications, amendments, notices, related filings, supporting documents, renewals, authorizations, assessments and fees required to be filed with the commissioner shall be filed electronically with and transmitted through NMLS, except as otherwise indicated in this subchapter. The following conditions relate to electronic filings:
 - (1) Electronic Signature: When a signature or signatures are required by the instructions of any filing, including any attestation to be made through

NMLS, a duly authorized officer or proper delegate of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate field and submitting the filing to the commissioner through NMLS. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual making the filing.

- (2) When filed: Solely for purposes of a filing made through NMLS, unless otherwise specified, a document is considered filed with the commissioner when all fees are received and the filing is transmitted by NMLS to the commissioner.
- (3) Any document required to be filed with the commissioner that is not permitted to be filed with or cannot be filed with NMLS shall be filed directly with the commissioner.

Authority cited: Section 90009, Financial Code. Reference: Sections 90003, 90005, 90009, Financial Code.

§ 21. Registration Application.

The procedures set forth in this section are applicable to a person who is required to be registered pursuant this subchapter. The application for a registration shall be filed as follows:

- (a) INITIAL APPLICATION: The applicant shall complete and file Form MU1 in accordance with the instructions of NMLS and this subchapter for transmission to the commissioner. Unless otherwise specified below, an applicant shall complete

all sections of the Form MU1. All exhibits and supporting documents related to the application or amendment required by NMLS or identified in this section shall also be filed with NMLS, in accordance with the instructions of NMLS and this subchapter for transmission to the commissioner. An applicant shall provide the following information, exhibits and documentation in the manner provided below.

- (1) **SECTIONS NOT REQUIRED.** Applicants are not required to complete the Section 10 (“Bank Account Information”) or Section 17 (“Qualifying Individuals”) of Form MU1.
- (2) **BUSINESS ACTIVITIES.** On Item Number 1 of Form MU1 (“Business Activities”), an applicant shall indicate that it will offer or provide a subject product according to the following instructions.
 - (A) For debt settlement services, the applicant shall select “Debt settlement/debt adjuster” under the Debt section of the form.
 - (B) For student debt relief services, the applicant shall select “Other - debt” under the Debt section of the form.
 - (C) For education financing, the applicant shall select “Private student loan lending” under the Consumer Finance section of the form.
 - (D) For wage-based advances, an applicant shall select “Other – consumer finance” under the Consumer Finance section of the form.
 - (E) The provider shall select all other applicable business activities related to products or services that it offers or provides to California residents.

- (3) OTHER TRADE NAMES: An applicant shall provide all fictitious business names on Form MU1. Every applicant and registrant shall comply with the laws governing the filing of a fictitious business name set forth in Business and Professions Code sections 17900 through 17930.
- (4) ADDITIONAL CONTACT EMPLOYEES: An applicant shall provide the names of the contact employees for consumer complaints received from the public or the Department on Item Number 7 of Form MU1.
- (5) ORGANIZATIONAL CHART: An applicant shall file an organizational chart identifying, by individual or company name:
 - (A) Direct owners (total direct ownership percentage must equal 100 percent (100%)); and
 - (B) Indirect owners.
- (6) DIRECT OWNERS, EXECUTIVE OFFICERS AND INDIRECT OWNERS:
 - (A) In Sections 15 and 16 of Form MU1, as applicable, an applicant shall identify the following individuals, and provide all responsive information relating to those individuals on Form MU2:
 - (i) Applicant (if an individual);
 - (ii) Principal officers;
 - (iii) Directors;
 - (iv) Managing members (if the applicant is a limited liability company);
 - (v) General partners (if the applicant is a partnership);

- (vi) Trustees (if the applicant is a trust);
 - (vii) Individuals owning or controlling, directly or indirectly, ten percent (10%) or more of the applicant; and
 - (viii) Individuals responsible for the conduct of the applicant's activities in this state.
- (B) The applicant shall complete all Form MU2s in accordance with the instructions of NMLS and this Subchapter for transmission to the commissioner. An applicant shall complete all sections of Form MU2 except Section 1, items J and K (Passport Issuing Country and Passport Number) and Section 7 (Fingerprint Information).
- (7) **MANAGEMENT CHART:** An applicant shall file with NMLS a management chart identifying by individual name and title, the applicant's:
- (A) Directors;
 - (B) Principal officers;
 - (C) Any manager or other individual responsible for the applicant's offer or provision of a subject product in California;
 - (D) General and managing partners;
 - (E) Managing members; and
 - (F) Trustees.
- (8) **DESCRIPTION OF BUSINESS:** In addition to the identification of business activities required on Form MU1, an applicant shall file with

NMLS a detailed description of the applicant's business activities relating to the offer or provision of subject products in California that includes the following information:

- (A) A description of all products or services provided to California residents (including, but not limited to, subject products).
- (B) A detailed schedule of the charges associated with the products and services provided to California residents (including, but not limited to, subject products). Where charges vary based upon the type of the transaction or other factors, the applicant shall provide a description of how charges are set or determined.
- (C) A description of how California residents pay the charges described in subparagraph (a)(8)(B) (e.g., by ACH, credit card, etc.) and the manner in which payment is collected (e.g., single payment or installments).
- (D) A description of how the applicant markets to California residents, including identification of any websites, social media accounts, and third-party brokers or lead generators that the applicant uses to identify potential California residents for its products or services.
- (E) Whether the applicant offers or provides its products or services for California residents through a mobile application.
- (F) For providers of education financing, how the applicant funds the education financing provided to California residents, including identification of any third-party partners that provide funding for

the education financing, or purchase any interest in the education financing or income streams derived from the education financing.

(G) Any additional activities that the applicant intends to engage in that are not specified in Item Number 1 of Form MU1 (“Business Activities”).

(9) **BRANCH OFFICE:** An applicant shall register its branch offices by filing with NMLS a Form MU3 for each branch office. The applicant shall complete all Form MU3s in accordance with the instructions of NMLS and this Subchapter for transmission to the commissioner. Unless otherwise specified below, an applicant shall complete all sections of the Form MU3. An applicant shall identify each branch manager on Form MU3 and file with NMLS a Form MU2 for each branch manager.

(10) **ATTESTATION:** The individual attesting to the filing of the Form MU1 must be a duly authorized individual who has submitted a Form MU2 or has been delegated to attest to the filing by an individual who has submitted a Form MU2.

(b) **FEES:**

(1) An application fee of [TBD] per applicant shall be paid through NMLS for transmission to the commissioner.

(2) NMLS fees shall be paid by applicants and registrants to NMLS through NMLS.

(3) Fees are not refundable.

- (c) **COMPLETION OF FILING and ISSUANCE OF REGISTRATION:** An application for registration is not deemed complete until all required fees and all required submissions are received by the commissioner. The filing of Form MU1 with NMLS does not constitute automatic approval of a registration. An application is approved when the commissioner determines that the application is complete and notifies the applicant through NMLS that the application is approved.
- (d) **FILING AN AMENDMENT:** In the event of a change to the information in the application, or the exhibits or supporting documents, the applicant shall file an amendment to the Form MU1, MU2, or MU3 through NMLS in accordance with the procedures in Sections 40, 41 and 42 of these rules. Any amendment to an application shall be filed by an applicant within ten (10) calendar days of the event requiring the amendment.
- (e) **REFERENCES TO LICENSE, LICENSEE AND LICENSING:** For the purposes of these rules, the terms license, licensee, and licensing as they appear on Form MU1, MU2, and MU3, shall be read to mean registration, registrant, and registration, respectively.

Authority cited: Section 90009, 90010. Financial Code. Reference: Sections 90003, 90006, 90009, 90009.5, 90010, 90018, Financial Code.

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Section 22 is adopted to read:

§ 22. Supplemental Information.

An applicant for registration shall submit the following information as part of the registration application by mail directly to the commissioner at Department of Financial Protection and Innovation, DCFP Registration Applications, 2101 Arena Boulevard, Sacramento, CA 95834:

- (a) A report containing the information required under Section 51 of these rules for the full calendar year preceding the date of application.
- (b) Images documenting the standard enrollment or application process California residents may use to request or receive the subject product from the applicant through any mobile applications and websites.
- (c) Any standard enrollment materials or applications the applicant provides to California residents in connection with the offer or sale of the subject product.
- (d) If the applicant will offer or provide debt settlement services under the registration: Copies of representative contracts, disclosures, and periodic statements used by the applicant to provide debt settlement services to California residents.
- (e) If the applicant will offer or provide student debt relief services under the registration: Copies of representative contracts, disclosures, and periodic statements used by the applicant to provide student debt relief services to California residents.
- (f) If the applicant will offer or provide education financing under the registration:

- (1) For applicants that originate education financing for California residents for postsecondary education to be provided by a third party, all contracts in effect between the applicant and such third parties.
 - (2) All agreements in effect between the applicant and third-party servicers of the education debt of California residents.
 - (3) All investor prospectuses or other marketing materials distributed by the applicant during the twelve months preceding the date the application is submitted to prospective purchasers of (A) education financing originated by the applicant and (B) any interest in the income streams arising from education financing originated by the applicant.
 - (4) Copies of representative contracts and disclosures used by the applicant to provide education financing to California residents.
- (g) If the applicant will offer or provide wage-based advances under the registration:
- (1) Copies of representative contracts and disclosures used by the applicant to provide wage-based advances to California residents.
 - (2) Images documenting the process by which California residents request and repay wage-based advances (as applicable), and any standard notifications provided to the California residents during the request and repayment process.

Authority cited: Section 90009, 90010. Financial Code. Reference: Sections 90003, 90006, 90009, 90009.5, 90010, 90018, Financial Code.

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Section 23 is adopted to read:

§ 23. Notices Included with Application.

The following notices required by state law are hereby provided to those completing an application for registration under these rules:

INFORMATION PRACTICES ACT OF 1977 (California Civil Code Section 1798.17)

- (a) The Department of Financial Protection and Innovation of the State of California, Consumer Financial Protection Division, is requesting the information specified in the application for registration under the California Consumer Financial Protection Law.
- (b) The Deputy Commissioner for Administration, Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834, telephone number (916) 445-5541, is responsible for the system of records and shall, upon request, inform individuals regarding the location of the Department of Financial Protection and Innovation's records and the categories of persons who use the information in the records.
- (c) The records are maintained pursuant to the Consumer Financial Protection Law (Financial Code Section 90000 et seq.).
- (d) The submission of all items of information is mandatory.
- (e) Failure to provide all or any part of the information requested may preclude the Department of Financial Protection and Innovation from approving the registration application.

- (f) The Department of Financial Protection and Innovation collects personal information from individuals to facilitate oversight of covered persons under the California Consumer Financial Protection Law and to assess and detect risks to consumers.
- (g) Any known or foreseeable disclosures of the information pursuant to subdivision (e) or (f) of Civil Code section 1798.24 may include transfers to other federal, state, or local law enforcement and regulatory agencies, including NMLS as a channeling agent to, from, or on behalf of those federal, state, and local law enforcement and regulatory agencies, as authorized by law.
- (h) Subject to certain exceptions or exemptions, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual that is maintained by the Department of Financial Protection and Innovation.

NOTICE REGARDING TAXPAYER INFORMATION

- (i) The California Department of Tax and Fee Administration and the California Franchise Tax Board are authorized to share taxpayer information with the Department of Financial Protection and Innovation. In the event the state tax obligation is not paid by a registrant, the Department of Financial Protection and Innovation may be required to suspend the registration.

Authority cited: Section 90009, Financial Code. Reference: Section 90009, Financial Code; Section 1798 et seq., Civil Code; Section 494.5, Business and Professions Code.

Section 24 is adopted to read:

§ 24. Designated Email Address.

Within five business days of an applicant receiving a registration application approval under Section 21, subdivision (c), an applicant shall establish a designated email address by registering for a Department of Financial Protection and Innovation Self-Service Portal Account through the Department of Financial Protection and Innovation's website at www.dfpi.ca.gov. By registering the designated email address, the registrant consents to receive information from the commissioner at that email address including but not limited to assessment notices.

Note: Authority cited: Section 90009, Financial Code. Reference: Section 90009, Financial Code.

Section 25 is adopted to read:

§ 25. Notices to Registrants.

The commissioner may provide any notice required by law or regulation, including but not limited to the assessment notice required by Section 50, subdivision (b), by emailing a copy of the notice to the designated email address provided pursuant to Section 24.

Note: Authority cited: Section 90009, Financial Code. Reference: Section 90009, Financial Code.

Section 26 is adopted to read:

§ 26. False or Misleading Statements.

An applicant or registrant shall not make or cause to be made in any application or any report filed with the commissioner under the Financial Code or Corporations Code, or in any proceeding before the commissioner, any statement which is at the time and in the light of the circumstances under which it is made false or misleading with respect to any material fact, or omit to state in the application or report any material fact which is required to be stated therein.

Note: Authority cited: Section 90009, Financial Code. Reference: Section 90009, Financial Code.

Article 5. Changes to Application Filing.

Section 40 is adopted to read:

§ 40. Notice of Changes.

- (a) A registrant shall, upon any change in the information contained in its application for registration, file the changed information with the commissioner through NMLS.
- (b) A registrant shall file the changed information on Forms MU1, MU2, and MU3 as applicable, and any exhibits and supporting documents thereto, and pay the fees, if any, to file the changed information through NMLS in accordance with the procedures for transmission to the commissioner. Any change that cannot be filed with NMLS or fee that cannot be paid through NMLS shall be filed with or paid

directly to the commissioner. NMLS fees shall be paid by the registrant to NMLS through NMLS.

- (c) Except as provided in subsection (d) of this section, all changes to the information in the registration application shall be filed within thirty (30) calendar days of the date of the occurrence of the event that results in the information becoming inaccurate or incomplete.

Authority cited: Section 90009, 90010. Financial Code. Reference: Sections 90003, 90006, 90009, 90009.5, 90010, 90018, Financial Code.

Section 41 is adopted to read:

§ Section 41. Officers, Directors, Partners, and Other Persons: Maintenance of Current List with Commissioner: Information Required.

- (a) A registrant must at all times maintain on NMLS, in accordance with the procedures for transmission to the commissioner, a current MU2 form for each principal officer, director, partner in the case of a partnership, and other persons named on Forms MU1, MU2, and MU3, as applicable.
- (b) In the event of any change in the principal officers, directors, partners, or other persons named in the application, a registrant shall, within thirty (30) calendar days of the date of the change, file an amendment to the application containing the same information regarding the new person(s) as is required on Forms MU1, MU2, and MU3 and pay the fees, if any, to file the changed information through NMLS. Any fees that cannot be paid through NMLS shall be paid directly to the

commissioner. NMLS fees shall be paid by the registrant to NMLS through NMLS. Fees are not refundable.

Authority cited: Section 90009. Financial Code. Reference: Sections 90003, 90009, Financial Code.

Section 42 is adopted to read:

§ 42. New Branch Office Registration or Change in Location of Existing Branch Office.

- (a) A registrant that seeks to engage in business at a new branch office or at a new location for an existing branch office must register the new branch office by filing a Form MU3 in accordance with the instructions of NMLS for transmission to the commissioner within thirty (30) calendar days of the date of engaging in business at the new branch office or new location.
- (b) If a registrant intends to conduct business at a branch office under a fictitious business name not already reported to the commissioner, the registrant shall provide each additional fictitious business name the applicant intends to use on form MU1.
- (c) A registrant shall comply with the laws governing the filing of a fictitious business name set forth in Business and Professions code Sections 17900 through 17930.
- (d) A registrant shall indicate the branch manager as a branch manager on Form MU3 and submit with NMLS a Form MU2 for the branch manager.

- (e) A registrant shall provide on Form MU3 the full web address for the new branch office and any separate website(s) for the fictitious business names and indicate whether the applicant transacts business through the website(s).
- (f) Any NMLS fees shall be paid by the registrant to NMLS through NMLS. Fees are not refundable.
- (g) The commissioner may request other information, documentation or detail pertaining to the branch office that cannot be filed through NMLS to be filed directly with the commissioner.

Authority cited: Section 90009, Financial Code. Reference: 90009, Financial Code.

Article 6. Annual Requirements.

Section 50 is adopted to read:

§ 50. Annual Assessment.

- (a) Each registrant shall pay to the commissioner its pro rata share of all costs and expenses, including the costs and expenses associated with registration, reasonably incurred in the administration of the California Consumer Financial Protection Law as it relates to registrants, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion that a registrant's gross income from subject products provided to residents of this state bears to the aggregate gross income

from subject products provided to residents of this state of all registrants as shown by the annual reports to the commissioner.

- (b) On or before November 30 in each year, the commissioner shall notify each registrant of the amount assessed and levied against it and that amount shall be paid by December 31. A registrant shall pay the amount assessed through NMLS.
- (c) If a registrant fails to pay the assessment on or before December 31, the commissioner may by order summarily revoke the registration. If, after an order is made, a request for a hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the commissioner has all powers granted therein. During any period when its registration is revoked, the former registrant shall not offer or provide a subject product to California residents except as may be permitted by order of the commissioner.

Authority cited: Section 90009. Financial Code. Reference: 90009, Financial Code.

Section 51 is adopted to read:

§ 51. Annual Reporting.

- (a) On or before March 15 of each year, every registrant shall file through NMLS an annual report containing the information set forth in this section.

- (b) If the registrant offers or provides debt settlement services under its registration, a report containing the following information relating to the debt settlement services provided to California residents in the last calendar year:
- (1) The number of California residents who contracted with the registrant for debt settlement services or who had an existing contract in effect.
 - (2) For the residents identified in subdivision (b)(1), the average number of debts each resident contracted for settlement with the applicant.
 - (3) For the residents identified in subdivision (b)(1), the total dollar amount and average dollar amount of debt per resident contracted for settlement with the registrant (based upon total balances upon execution of the contracts with the registrant).
 - (4) For the residents identified in subdivision (b)(1), the total dollar amount and average dollar amount per resident of charges paid over the contract term.
 - (5) The total number of debts and average number of debts per person that the population identified in subdivision (b)(1) contracted for resolution with the applicant in which the person, over the contract term, has accepted a settlement with their creditor and made at least one payment pursuant to that settlement.
 - (6) For the debts in which a person identified in subdivision (b)(1) has accepted a settlement at any time with their creditor and made at least one payment pursuant to that settlement, the average amount owed upon

execution of the contract with the applicant, and the average settlement amount based upon the total of all payments due under each settlement.

- (7) For the debts in which a person identified in subdivision (b)(1) has accepted a settlement with their creditor and made at least one payment pursuant to that settlement over the contract term, the average amount of time between execution of the contract between a person and the applicant, and the first payment under each settlement.

- (c) If the registrant offers or provides student debt relief services under its registration, a report containing the following information relating to the student debt relief services provided to California residents in the last calendar year:

- (1) The number of California residents who contracted with the applicant for student debt relief services or who had an existing contract in effect.
- (2) The average number of debts per person that the population identified in subdivision (c)(1) have contracted for resolution with the applicant.
- (3) The total dollar amount and average dollar amount of federal student loans per person that the population identified in subdivision (c)(1) contracted for resolution with the applicant (based upon total balances upon execution of the contracts with the applicant).
- (4) The total dollar amount and average dollar amount of private student debt per person that the population identified in subdivision (c)(1) contracted for resolution with the applicant (based upon total balances upon execution of the contracts with the applicant).

- (5) The total dollar amount and average dollar amount of charges per person paid by the population identified in subdivision (c)(1) over their contract term.
- (6) For federal student loans for which the population identified in subdivision (c)(1) contracted for resolution with the applicant, the number of federal student loans in which the resolution specified in the contract has been reached, and the average amount of time between execution of the contract and the resolution.
- (7) For federal student loans for which the population identified in subdivision (c)(1) contracted for resolution with the applicant, the number of federal student loans in which the resolution specified in the contract has not been reached, and the average amount of time between execution of the contract and the date the report is generated.
- (8) For private student debts in which the population identified in subdivision (c)(1) contracted for resolution with the applicant, the number of private student debts for which the resolution specified in the contract has been reached, and the average amount of time between execution of the contract and the resolution.
- (9) For private student debts for which the persons identified in subdivision (c)(1) contracted for resolution with the applicant, the number of private student debts in which the resolution specified in the contract has not been reached, and the average amount of time between execution of the contract and the date the report is generated.

- (d) If the applicant offers or provides education financing under its registration, a report containing the following information relating to all education financing by the applicant with amounts due from California residents in the last calendar year:
- (1) The number of education financing contracts executed with California residents during the calendar year, and, of those contracts, the number of contracts with income-based repayment provisions.
 - (2) For the education financing contracts without income-based repayment provisions executed with California residents during the calendar year:
 - (A) The total amount advanced under those contracts.
 - (B) The total amount owed under those contracts at origination.
 - (C) A distribution of the annual percentage rates disclosed for the contracts pursuant to Regulation Z promulgated by the Consumer Financial Protection Bureau.
 - (3) For education financing contracts with income-based repayment provisions executed with California residents during the calendar year:
 - (A) The total amount advanced by the applicant under those contracts.
For the purposes of calculating the amount advanced where the financing provider is also the provider of the education program(s) to the student, the provider shall add the cash value of the education program(s) for which financing is provided to the payments made directly to recipients under the financing contract for books and supplies purchased from third parties, room and board, transportation, and miscellaneous personal expenses. The

provider shall subtract from the resulting amount any payments made or to be made by recipients for the educational program(s) that are not required payments under the financing contract. For the purposes of calculating the cash value of an education program provided remotely, the applicant shall use the lowest available cash price for the program offered in any United States jurisdiction, regardless of whether that cash price is available to California residents.

- (B) The total maximum amount due under the contracts.
- (C) If any of the contracts have an income threshold below which no payments are required, a distribution showing the amount of the income threshold(s) and the number of contracts to which each income threshold applies.
- (D) If any of the contracts have a time threshold above which no payments are required, a distribution showing the length of the time threshold(s) and the number of contracts to which each time threshold applies. The registrant shall also include a description of any contract provisions that result in an extension of a contractual time threshold, and a distribution showing the number of contracts to which each contractual provision applies.
- (E) A distribution showing the percentage(s) of income that recipients must pay under the contracts and the number of contracts to which each percentage applies.

- (F) A distribution showing the maximum number(s) of payments required under the education financing contracts and the number of contracts to which each maximum number applies.
- (e) If the registrant offers or provides wage-based advances under its registration, a report containing the following information relating to the wage-based advances provided by the registrant to California workers in the last calendar year:
- (1) The number of California workers who did not receive at least one wage-based advance, but who paid a charge to the applicant, and the total amount of charges paid by those workers.
 - (2) The number of California workers who received at least one wage-based advance during the calendar year, and, with respect to those California workers:
 - (A) The total dollar amount and number of advances made.
 - (B) The average length of time between when the advances were made and when they were fully repaid.
 - (C) The average length of time between when the advances were made and when they were fully repaid, excluding advances in which the amount collected on the original date scheduled for collection was less than the amount originally advanced.
 - (D) The number of advances in which the amount collected on the original date scheduled for collection was less than the amount originally advanced.

- (E) Total amount of charges paid by workers and total amount of charges paid by obligors.
- (3) For each month and each quarter of the calendar year:
- (A) The number of California workers who received no advances but who paid a charge to the registrant during that month or quarter, and the total amount of charges paid by those California workers.
 - (B) The number of California workers who received just one advance, and the total amount advanced to and total amount of charges paid by those California workers.
 - (C) The number of California workers who received two advances, and the total amount advanced to and total amount of charges paid by those California workers.
 - (D) The number of California workers who received three advances, and the total amount advanced to and total amount of charges paid by those California workers.
 - (E) The number of California workers who received four advances, and the total amount advanced to and total amount of charges paid by those California workers.
 - (F) The number of California workers who received five advances, and the total amount advanced to and total amount of charges paid by those California workers.
 - (G) The number of California workers who received six or more advances, and the total number of advances made, the total amount

advanced to and total amount of charges paid by those California workers.

- (f) Each registrant shall provide its gross income for the last calendar year from subject products provided to residents of this state.
- (g) The commissioner may by order summarily revoke the registration of any registrant if that person fails to file the report required by this Section within 10 days after notice by the commissioner that the report is due and not filed. If, after an order is issued, a request for hearing is filed in writing within 30 days and the hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the commissioner has all powers granted therein. During any period when its registration is revoked, the former registrant shall not offer or provide a subject product to California residents except as may be permitted by order of the commissioner.

Authority cited: Section 90009, 90010. Financial Code. Reference: Sections 90003, 90005, 90006, 90009, 90009.5, 90010, 90018, Financial Code.

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Section 52 is adopted to read:

§ 52. Rescission of Summary Revocation Order.

- (a) The commissioner shall rescind a summary revocation order issued under section 50, subdivision (c) and section 51, subdivision (g), if the former registrant submits a written request for reinstatement to the commissioner, pays any annual assessment required by section 50, files any report required by section 51, subdivision (g) (including reports that would have become due if the registration had not been revoked), and, if the request is received by the commissioner:
- (1) 1-14 days after the date of revocation, pays an administrative fine equal to \$100;
 - (2) 15-30 days after the date of revocation, pays an administrative fine equal to \$200;
 - (3) 31-60 days after the date of revocation, pays an administrative fine equal to \$300;
 - (4) 61-90 days after the date of revocation, pays an administrative fine equal to \$500; and
 - (5) 91 or more days after revocation, pays an administrative fine equal to \$500 plus \$10 per day for each day after 90 days.
- (b) Rescission of the summary revocation order under subdivision (b) shall be effective as of the date of revocation, such that there will be no lapse in the registration required by Section 10.
- (c) Nothing in this section shall be construed to preclude the commissioner for bringing an action under Chapter 8 of the Division 24 of the Financial Code

against a person for failure to maintain a registration as required under Section 10 of these rules.

Authority cited: Sections 90009 and 90010, Financial Code. Reference: Sections 90003, 90005, 90006, 90009, 90009.5, 90010, 90018, Financial Code.

Article 7. Effectiveness of Registration; Surrender; and Revocation.

Section 60 is adopted to read:

§ 60. Effectiveness of Registration.

A registration issued under this subchapter is effective until it is revoked by the commissioner, is surrendered by the registrant, or becomes inoperative under subdivision (b) of Financial Code section 90009.5.

Authority cited: Section 90009, Financial Code. Reference: Sections 90009 and 90009.5, Financial Code.

Section 61 is adopted to read:

§ 61. Surrender of Registration.

- (a) A request to surrender a registration shall be filed on Form MU1, MU2, and MU3, as applicable, with NMLS in accordance with the procedures for transmission to the commissioner.
- (b) A request to surrender a registration becomes effective upon submission.

- (c) Surrender of a registration does not affect the registrant's liability for acts committed prior to surrender of their registration.
- (d) Surrender of a registration and does not relieve the registrant of the obligation to pay any fee, fine, or other amount due to the Commissioner and does not relieve the registrant of the obligation to submit any report required to be submitted to the Commissioner.

Authority cited: Section 90009, Financial Code. Reference: Section 90009, Financial Code.

Section 62 is adopted to read:

§ 62. Revocation of Registration.

- (a) The commissioner may revoke any registration, upon notice and reasonable opportunity to be heard, if the commissioner finds that the registrant is engaging, has engaged, or proposes to engage in an activity, act, practice, or course of business that violates a law, rule, order, or any condition imposed in writing on the person by the department. This subdivision covers a registrant's conduct before and after registration.
- (b) A proceeding under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the commissioner has all powers granted therein. During any period when its registration is revoked, a former registrant shall not offer or provide a subject product to California residents except as may be permitted by order of the commissioner.

Authority cited: Section 90009. Financial Code. Reference: Sections 90003, 90009, 90015
Financial Code.