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Via Email to Regulations@dbo.ca.gov
California Department of Financial Protection and Innovation
Attn: Sandra Navarro
2101 Arena Blvd.
Sacramento, California 95834

RE: PRO 06-21
Notice of Rulemaking Action—Student Loan Servicing Act and the *Student Loans: Borrower Rights Law*

Dear Ms. Navarro,

Please allow this letter to serve as a follow up to my previous submission to the California Department of Financial Protection and Innovation ("**DFPI**"). Following my initial submission, I received a letter from Assistant Director Eric Halperin of the Consumer Financial Protection Bureau ("**CFPB**"). In that letter, the CFPB expressed concerns regarding the interpretation of a statement in the letter, particularly footnote 3 that I included in the submission.

Following my discussions with the CFPB, I want to ensure that nothing I included in the initial letter, particularly the footnote, is misconstrued or misunderstood. I want to emphasize that:

- The CFPB took no position on any questions of state law and did not provide any guidance on whether an income share agreement has an "interest rate" in a particular jurisdiction or under any state regime. In speaking to the CFPB, the CFPB clarified that it is their position that an ISA provider is obligated to analyze and apply state law, including state authorities bearing on interest rate, in populating its disclosures.

- The reference to the "negative APR" is a reference to a procedure that was developed to disclose an APR in those circumstances where a student pays BFF less than the amount that was funded. (Such as in the example under "Estimated Repayment Schedule & Terms" in Form H-19). No reference to the negative APR calculation mechanism is intended to imply that all ISAs or the BFF ISA have a negative, estimated or projected APR. This calculation mechanism is only a tool for calculating an APR and does not dictate the substantive results when an ISA funder provides estimated APRs in the federal disclosures. This statement references a procedure for calculating an APR figure when a student pays less than the amount received and fully discharges all obligations under the ISA. *Appendix J* to Regulation Z does not provide a calculation mechanism for this type of scenario and, therefore, a mechanism was developed to assign an APR "figure" when describing this scenario.

Thank you again for the DFPI's ongoing work to create a regulatory system for the ISA industry. I welcome any questions you may have regarding this submission.

With kind regards, I remain,

Very truly yours,

[redacted]

Dowse B. "Brad" Rustin IV