

SECOND MODIFIED TEXT OF PROPOSED REGULATIONS
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
TITLE 10. INVESTMENT
CHAPTER 3. COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION
PRO 01-21

(This version is provided as a courtesy to the public and shows the first modified text without underline. The second modifications to the text are shown with underline for additions and strikethrough for deletions. Please also review the version provided in accordance with Government Code section 11346.8, subdivision (c), and California Code of Regulations, title 1, sections 44 and 46.)

Subchapter 4. California Consumer Financial Protection Law

Article 1. Registration

§ 1000. General Definitions.

In articles 1, 2, and 3 of this subchapter:

- (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 where the applicant offers or provides financial products or services to California residents.
- (c) “California resident” shall have the same meaning as “resident” as that term is defined in Revenue and Taxation Code section 17014, subdivision (a). However, for any application or reporting requirement imposed under this subchapter, a provider of an income-based advance to a consumer may assume that the consumer is a resident of the state where they work if the provider knows the consumer’s work location but not the consumer’s residence.
- (d) “Commissioner” means the Commissioner of Financial Protection and Innovation.
- (e) “Control” as used in subdivision (h) of this section and in section 1021, subdivision (a)(13)(A), means possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person with respect to the offering or provision of subject products, whether through the ownership of voting securities, by contract, or otherwise.
- (f) “Credit” as defined in Financial Code section 90005, subdivision (g), includes, without limitation, any credit obligation where the related debt involves an obligation to pay money, regardless of whether the obligation is absolute, contingent, fixed, or variable.
- (g) “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 09/12/2015, is hereby incorporated by reference in its entirety.
- (h) “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, including principal officers, directors, and other individuals specified on Form MU1.

NMLS Individual Form, Version 9, dated 9/12/2016, is hereby incorporated by reference in its entirety.

(i) “Individual” means a natural person.

(j) “Registrant” means any person who is registered under the California Consumer Financial Protection Law.

(k) “Subject product” means any product or service listed below:

(1) Debt settlement services as defined in section 1001.

(2) Student debt relief services as defined in section 1002.

(3) Education financing as defined in section 1003.

(4) Income-based advances as defined in section 1004.

(l) “NMLS” means the Nationwide Multistate Licensing System & Registry.

(m) “Principal officers” means the individuals performing the functions of the president, chief executive officer, treasurer, chief financial officer, and the chief operating officer, and the officer primarily responsible for the conduct of the applicant’s activities with respect to subject products in California.

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

§ 1001. Definitions – Debt Settlement Services.

With respect to debt settlement services, these terms shall have the following meanings:

(a) “Charges” mean all amounts contracted for or received by a person in connection with the person’s provision of debt settlement services to a consumer.

(b) “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 in connection with a consumer’s non-mortgage debt, 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 interest rate or payment amount associated with a consumer’s debts; or

(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.

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

§ 1002. Definitions – Student Debt Relief Services.

With respect to student debt relief services, these terms shall have the following meanings:

(a) “Charges” mean all amounts contracted for or received by a person in connection with the person’s provision of student debt relief services to a consumer.

(b) “Federal student debt” means education financing as defined in section 1003, subdivision (b), that is made or guaranteed pursuant to the federal student aid provisions of the Higher Education Act of 1965 (20 U.S.C. § 1070 et seq.).

(c) “Private student debt” means any education financing as defined in section 1003, subdivision (b), that is not federal student debt.

(d) “Student debt” means any debt arising from education financing as defined in section 1003, subdivision (b).

(e) “Student debt relief services” means:

(1) Any debt settlement service, as that term is defined by section 1001, subdivision (b), where the underlying debt is student debt; or

(2) Any of the following acts performed 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 of the consumer’s student debt.

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

§ 1003. Definitions – Education Financing.

With respect to education financing, these terms shall have the following meanings:

(a) “Charges” mean any interest, fees, bonuses, commissions, gratuities, 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 of an education financing agreement, or any other service rendered. For purposes of this definition, “charges” include amounts received by a person from a consumer for payment of optional or discretionary services elected by the consumer in connection with education financing.

(b) “Education financing” means credit extended for the purpose of funding postsecondary education and the cost of attendance at a postsecondary institution, including, but not limited to, tuition, fees, books and supplies, room and board, transportation, and miscellaneous personal expenses.

(c) “Gratuity” means an optional payment made by a consumer to a person providing education financing to the consumer that does not affect the service rendered by the provider to the consumer.

(d) “Income-driven repayment” means any arrangement in which the consumer’s periodic payment obligation is based upon the consumer’s income or employment status. Income-driven repayment does not include arrangements in which the consumer’s payment obligation is deferred during certain periods specified by the education financing agreement, such as when the consumer is unemployed or pursuing education, unless the agreement provides that after the

completion of a deferment period the amount of the consumer's periodic payment obligation can vary based upon the consumer's income.

(e) "Postsecondary education" means an educational program that primarily serves or whose instruction is designed for students who have completed or terminated their secondary education or are beyond the compulsory age of secondary education, including a program whose purpose is academic, vocational, or continuing professional education. Postsecondary education is not limited to programs where a student receives a degree or certificate upon completion of the program.

(f) "Postsecondary institution" means any person that provides postsecondary education to California residents.

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

§ 1004. Definitions – Income-Based Advances.

With respect to income-based advances, these terms shall have the following meanings:

(a) "Amount due" means the amount to be paid by the consumer of an income-based advance on the collection date.

(b) "Account transfer fee" means a fee imposed to move an income-based advance from an account designated or required by the provider to other accounts owned or controlled by the consumer. For purposes of annual reporting account transfer fees pursuant to section 1045, a registrant should only report known account transfer fees assessed by the registrant for funds received from income-based advances.

(c) "Charges" mean 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 of an income-based advance, or otherwise in connection with an income-based advance, ~~or any other service rendered~~. Charges include, without limitation, subscription fees, expedited funds fees, account transfer fees, and gratuities. For purposes of this definition, "charges" include amounts received by a person from a consumer for payment of optional or discretionary services elected by the consumer in connection with income-based advances.

(d) "Collection date" means the date a provider plans to collect all previous unpaid income-based advances made during a particular period. This date may be a consumer's payday or the date when the provider anticipates that amounts that have accrued to the benefit of the consumer will be paid to the consumer.

(e) "Expedited funds fee" means any amount paid by a consumer to accelerate the receipt of an income-based advance.

(f) "Gratuity" means an optional payment made by a consumer in connection with the provider's provision of an income-based advance to the consumer that does not affect the service rendered by the provider to the consumer.

(g) "Income-based advance" means an advance made to a consumer by a provider and that has all of the following characteristics:

- (1) The advance is based on income the provider has reasonably determined to have accrued

to the benefit of the consumer but has not, at the time of the advance, been paid to the consumer;

(2) When the advance is made, the advance is scheduled for collection in a single payment on a date within ~~34 thirty-one (31)~~ days, and that date corresponds to the date that the provider anticipates the income described in paragraph (1) of this subdivision will be paid to the consumer; and

(3) The provider warrants to the consumer as part of the contract between the parties on behalf of the provider and, if applicable, any business partners that:

(A) The provider and any business partners have no legal or contractual claim or remedy against the consumer based on the consumer's failure to repay in full the amount due; and

(B) If the amount due is not repaid on the collection date, the provider and any business partners will not engage in any debt collection activities, place the amount due as a debt with or sell it to a third party, or report to a consumer reporting agency concerning the amount due. In this paragraph, "debt collection activities" do not include initiating with the consumer's authorization an electronic fund transfer or payroll deduction to collect any outstanding amount due.

(h) "Obligor" means:

(1) A consumer's employer, or

(2) A person other than a consumer's employer who is contractually obligated to pay a consumer a sum of money on an hourly, project-based, piecework, or other basis for labor or services provided by the consumer to or for the benefit of the person.

(i) "Obligor-based advance" means any income-based advance where the provider intends to collect the amounts that have accrued to the benefit of the consumer directly from the consumer's obligor on the collection date.

(j) "Provider" means a person other than an obligor that engages in the business of providing income-based advances.

(k) "Subscription fee" means any periodic fee paid by a consumer under an agreement that includes any right, whether absolute or conditioned, to receive an income-based advance.

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

§ 1010. Persons Required to Register.

(a) No person shall engage in the business of offering to provide or providing subject products to California residents without first registering with the Commissioner pursuant to this subchapter.

(b) Subdivision (a) of this section shall not apply to:

(1) Persons engaged in providing debt settlement services who are licensees as defined by Financial Code section 12004 and providing debt settlement services within the scope of that license, or persons who have provided an audit report under section 12104, subdivision (i), within the previous 12 months and are providing debt settlement services solely in accordance with the requirements of that section.

(2) A public postsecondary institution or a private nonprofit postsecondary institution, when offering or providing education financing for the purpose of obtaining postsecondary education

at that institution. If such education financing is offered or provided through a partnership with a third party, the third party must be a registrant.

(3) A licensee under the California Financing Law (division 9 (commencing with section 22000) of the Financial Code) when offering or providing education financing or income-based advances, if the licensee meets the requirements of California Code of Regulations, title 10, section 1430.1.

(4) A licensee under the California Deferred Deposit Transaction Law (division 10 (commencing with section 23000) of the Financial Code) when offering or providing income-based advances, if the licensee meets the requirements of California Code of Regulations, title 10, section 2030.5.

(5) A licensee under the Student Loan Servicing Act (division 12.5 (commencing with section 28100) of the Financial Code) when offering or providing education financing to be serviced by the licensee after origination, if the licensee has complied with California Code of Regulations, title 10, section 2044.1.

(6) A payroll service provider when verifying available earnings or performing other related facilitation activities on behalf of an obligor or provider in connection with income-based advances, provided that the payroll service provider does not provide the funds for the income-based advances or control the activities of the provider.

(7) A nonprofit organization that is exempt from federal taxation when providing debt settlement services or student debt relief services to consumers free of charge.

(c) Notwithstanding subdivision (a) of this section, an applicant for registration who has filed Forms MU1 and MU2 and paid all required registration fees before the effective date of these regulations shall be permitted to offer and provide the subject product for which the applicant has sought registration until the applicant's application is approved or abandoned.

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

§ 1011. Effect of Registration.

(a) The Commissioner's determination that a person 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 to that person.

(b) The act of granting registration to an applicant does not constitute a determination that the applicant's acts, practices, or business model comply with any law or regulation.

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

§ 1012. Representations Concerning Registration.

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

(b) If a registrant operates a website that describes its subject products, the registrant shall

disclose on that website that the registrant is registered with the California Department of Financial Protection and Innovation, which may be abbreviated as “DFPI,” under the California Consumer Financial Protection Law, which may be abbreviated as “CCFPL,” and provide the registrant’s Department registration number.

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

§ 1020. 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, if the applicant is an individual, as required, shall affix their electronic signature to the filing by typing their 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 by NMLS 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.

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

§ 1021. Registration Application.

The procedures set forth in this section are applicable to a person who is required to be registered pursuant to this subchapter. If an applicant is offering or providing more than one subject product, separate registration is required for each subject product. The application for 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 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 (unless otherwise specified), 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) ITEMS NOT REQUIRED: Applicants are not required to complete Item Number 9

(Approvals and Designations), Item Number 10 (Bank Account Information), or Item Number 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,” “Debt management/credit counseling,” and/or “Debt Negotiation” as applicable under the Debt section of the form.

(B) For student debt relief services, the applicant shall select “Debt settlement/debt adjuster,” “Debt management/credit counseling,” and/or “Debt Negotiation” as applicable 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 income-based advances, an applicant shall select the applicable “Earned Wage Access” business activity ~~“Consumer loan lending”~~ under the Consumer Finance section of the form.

(3) IDENTIFYING INFORMATION: An applicant shall provide all identifying information on Item Number 2 of Form MU1, i.e., the entity’s name, IRS employee identification number or social security number, legal name amendment, main address (not a P.O. Box), business phone number, toll-free number for consumers, fax line, email address, mailing address, and a statement as to whether the entity conducts business with consumers through branch offices or other business locations.

(4) OTHER TRADE NAMES: An applicant shall provide all fictitious business names on Item Number 3 of 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.

(5) RESIDENT/REGISTERED AGENT: An applicant shall list the contact information for its agent for service of process on Item Number 4 of Form MU1.

(6) WEB ADDRESSES: An applicant shall list the full web addresses and any separate website addresses for fictitious business names it uses to offer or provide consumer financial products and services to California residents and indicate whether the applicant transacts business through the websites on Item Number 5 of Form MU1.

(7) CONTACT EMPLOYEES: An applicant shall provide the name, title, physical address, email address, and phone and fax number of the contact employee to serve as the primary contact for compliance and licensing matters and the contact employee for consumer complaints (regulator) on Item Number 6 of Form MU1. The applicant may add additional contact employees for licensing and consumer complaints (regulator) on Item Number 7 of Form MU1.

(8) BOOKS AND RECORDS INFORMATION: An applicant shall provide the name, address, phone number, fax number, and email address of the custodian of records for the entity on Item Number 8 of Form MU1. This address may be the same as the entity’s main address.

(9) LEGAL STATUS: An applicant shall provide information on its legal status on Item

Number 11 of Form MU1, i.e., the entity's fiscal year end, the date and place the entity obtained its legal status, stock symbol if the entity is publicly traded, and the entity's legal status, e.g., corporation, limited liability company, etc.

(10) AFFILIATES/SUBSIDIARIES: An applicant shall provide information on each entity under common ownership (affiliates) and each entity under the applicant's control (subsidiaries) that provides consumer financial products or services to California residents on Item Number 12 of Form MU1, i.e., the name, address, and description of each affiliate and subsidiary and an organization chart or document describing the relationship and percentage of ownership.

(11) FINANCIAL INSTITUTIONS: An applicant shall provide information on whether it is controlled by certain financial institutions on Item Number 13 of Form MU1, i.e., the name, address, and the type of institution, and relationship of the institution to the applicant.

(12) DISCLOSURE QUESTIONS: An applicant shall disclose and provide complete information on its criminal history, regulatory actions, civil actions, and financial history, including complete details where the applicant answers "YES" to any disclosure question listed on Item Number 14 of Form MU1.

(13) DIRECT OWNERS, EXECUTIVE OFFICERS, AND INDIRECT OWNERS:

(A) An applicant shall provide the name and title, percentage of ownership of the applicant, NMLS identification number, and federal identification number or social security number of the following individuals on Item Numbers 15 and 16 of Form MU1:

- i. Applicant (if an individual);
- ii. Principal officers;
- iii. Directors;
- iv. Managing members (if the applicant is a limited liability company);
- v. General and managing partners (if the applicant is a partnership);
- vi. Trustees (if the applicant is a trust);
- vii. Any other individual who, directly or indirectly, owns, manages, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the outstanding voting securities issued by the applicant and controls that applicant; and
- viii. Any individual primarily responsible for the applicant's offering or provision of subject products in California.

(B) For each individual, the applicant shall complete Form MU2 in accordance with the instructions of NMLS and this subchapter for transmission to the Commissioner. The applicant shall complete Form MU2 except for J and K of Item Number 1 (Passport Issuing Country and Passport Number), Item Number 7 (Fingerprint Information), and Item Number 8 (Credit Report). The applicant must disclose and provide complete details where the applicant answers "YES" to any disclosure question listed on the individual's criminal history, regulatory actions, civil actions, and financial history in Item Number 6.

(14) MANAGEMENT CHART: An applicant shall file with NMLS a management chart identifying the following individuals by name and title:

- (A) Directors;

(B) Principal officers;

(C) Any manager or other individual primarily responsible for the applicant's offering or provision of a subject product in California;

(D) General and managing partners;

(E) Managing members; and

(F) Trustees.

(15) DESCRIPTION OF BUSINESS: An applicant shall file with NMLS a detailed description of the applicant's business activities relating to the offering or provision of subject products in California that includes the following information:

(A) A description of all products or services offered or 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 the applicant markets to California residents who may be consumers of subject products, including identifying any websites, social media accounts, and third-party brokers or lead generators that the applicant uses to acquire potential California consumers for its products or services.

(D) Whether the applicant offers or provides subject products to California residents through a mobile application.

(16) 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 \$350 per applicant shall be paid through NMLS for transmission to the Commissioner.

(2) An annual NMLS renewal fee of \$100 shall be paid by registrants to NMLS through NMLS.

(3) Fees are not refundable.

(c) COMPLETION OF FILING and ISSUANCE OF REGISTRATION: An application for registration is complete when all required fees and all information required by this section are received by the Commissioner. The filing of Forms MU1 and MU2(s) with NMLS does not constitute automatic approval of a registration. Within thirty (30) days of an applicant filing Forms MU1 and MU2(s) and other information, and paying all required fees, the Commissioner shall either:

(1) Inform the applicant in writing that the registration application has been approved; or

(2) Inform the applicant in writing that the applicant has not fully completed part(s) of the application, identify the part(s) that has not been fully completed, and state that the application

will be considered abandoned if the applicant does not respond within sixty (60) days.

(d) INCOMPLETE INFORMATION: If an applicant submits additional information after receiving a notice of deficiency under paragraph (2) of subdivision (c) of this section, the Commissioner shall, within thirty (30) days:

(1) Inform the applicant in writing that the registration application has been approved; or

(2) Inform the applicant in writing that the applicant has not fully completed part(s) of the application, identify the part(s) that has not been fully completed, and state that the application will be considered abandoned if the applicant does not respond within sixty (60) days.

(e) ABANDONMENT FOR FAILURE TO RESPOND: If an applicant fails to respond to the notice of deficiency provided under paragraph (2) of subdivision (c) or paragraph (2) of subdivision (d) of this section within sixty (60) days, the Commissioner shall deem the application for registration abandoned.

(f) ABANDONMENT FOR INCOMPLETE APPLICATION: If the applicant fails to submit a complete application within 60 days after the third notice of deficiency under paragraph (2) of subdivision (c) or paragraph (2) of subdivision (d) of this section, the Commissioner shall deem the application for registration abandoned.

(g) An application fee paid in connection with an abandoned application shall not be refunded. Abandonment of an application shall not preclude the applicant from submitting a new application and fee for a registration.

(h) The provisions in subdivisions (c) and (d) of this section apply to applicants for registration who have submitted Forms MU1 and MU2(s) and paid the application fee before the effective date of these regulations, except that the Commissioner is not required to respond to a filing within thirty (30) days.

(i) REFERENCES TO LICENSE AND LICENSEE: Any reference to the terms “license” and “licensee” on Forms MU1 and MU2 or other NMLS information means “registration” and “registrant” for purposes of this subchapter.

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

§ 1022. Supplemental Information – General.

An applicant for registration shall as part of the registration application submit directly to the Commissioner at CCFPL.Applications@dfpi.ca.gov the following information and the information required by sections 1023 through 1026, as applicable:

(a) Images documenting the standard enrollment or application process California residents use to request or receive the subject product from the applicant through any mobile applications and websites;

(b) Any documentation of the standard enrollment or application process California residents use to request or receive the subject product from the applicant over the phone;

(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) Copies of representative contracts and disclosures used by the applicant to provide

subject products to California residents;

(e) A list of addresses of all branch locations, if any, from which the applicant will offer or provide subject products to California residents; and

(f) The applicant's gross income for the prior calendar year from subject products provided to California residents. For income-based advances that were provided as part of a bundle of services for which a periodic subscription fee was charged, gross income must include the subscription fees paid to the provider for all periods in which the provider provided an income-based advance to a California resident.

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

§ 1023. Supplemental Information – Debt Settlement Services.

If the applicant will offer or provide debt settlement services under the registration, the applicant shall as part of the registration application submit directly to the Commissioner at CCFPL.Applications@dfpi.ca.gov copies of sample periodic account or activity statements used by the applicant to provide debt settlement services to California residents, if the applicant provides statements to California residents.

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

§ 1024. Supplemental Information – Student Debt Relief Services.

If the applicant will offer or provide student debt relief services under the registration, the applicant shall as part of the registration application submit directly to the Commissioner at CCFPL.Applications@dfpi.ca.gov copies of sample periodic account or activity statements used by the applicant to provide student debt relief services to California residents, if the applicant provides statements to California residents.

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

§ 1025. Supplemental Information – Education Financing.

If the applicant will offer or provide education financing under the registration, the applicant shall as part of the registration application submit directly to the Commissioner at CCFPL.Applications@dfpi.ca.gov the following information:

(a) A description of how the applicant funds the education financing provided to California residents, including identifying any third-party partners that provide funding for the education financing or purchase any interest in the education financing or income streams from the education financing;

(b) 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 those third parties;

(c) All agreements in effect between the applicant and third-party servicers of the education financing provided to California residents; and

(d) All investor prospectuses or other marketing materials distributed by the applicant during

the twelve (12) months preceding submission to prospective purchasers of education financing originated by the applicant and any interest in the income streams from the education financing originated by the applicant.

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

§ 1026. Supplemental Information – Income-Based Advances.

If the applicant will offer or provide income-based advances under the registration, the applicant shall as part of the registration application submit directly to the Commissioner at CCFPL.Applications@dfpi.ca.gov documenting the process by which California residents request and repay income-based advances and any standard notifications provided to California residents during the request and repayment process.

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

§ 1030. Confidentiality of Application Materials.

With respect solely to requests submitted pursuant to the California Public Records Act (division 10 (commencing with section 7920.000) of title 1 of the Government Code) the Commissioner shall treat applications submitted pursuant to section 1021 of this subchapter as not subject to disclosure under Government Code section 7929.000, subdivisions (a) and (d).

NOTE: Authority cited: Sections 90009 and 90010, Financial Code; Section 7929.000, Government Code. Reference: Sections 90006, 90009, 90009.5, 90010, and 90018, Financial Code; Section 7929.000, Government Code.

§ 1031. Designated Email Address.

Within five (5) days of receiving a registration application approval under section 1021, subdivisions (c)(1) or (d)(1), a registrant 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. A registrant is responsible for ensuring that its designated email address is current and functional.

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

§ 1032. 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 1040, subdivision (c), by emailing a copy of the notice to the designated email address provided pursuant to section 1031 or by sending a copy of the notice to the registrant through NMLS.

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

§ 1033. 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 regulations, 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 in the application or report.

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

§ 1034. Notice of Changes.

(a) A registrant shall, upon any change to the application information contained in Form MU1, Item Numbers 2, 4, and 6, file the changed information with the Commissioner. The registrant shall file this information within thirty (30) days of the date of the occurrence of the event that results in the information becoming inaccurate or incomplete.

(b) Between December 1 and December 31 of each calendar year, a registrant shall file with the Commissioner any changes to its application information that occurred since October 31 of the prior calendar year contained in Forms MU1 (other than Item Numbers 2, 4, and 6) and MU2 and any other exhibits and supporting documents submitted with its application. An education financing registrant shall submit any changes since October 31 of the prior calendar year to October 31 of the current calendar year to the investor prospectuses and other marketing materials filed with the application pursuant to section 1025, subdivision (d).

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

Article 2. Annual Assessment and Annual Reporting

§ 1040. 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 California residents bears to the aggregate gross income from subject products provided to California residents by all registrants as shown by the annual reports to the Commissioner.

(b) Any registrant who reports in its annual report no gross income from subject products during the year or whose reported gross income from subject products results in an assessment amount of less than five hundred dollars (\$500) as calculated under subdivision (a) of this section shall pay an assessment of five hundred dollars (\$500) for that year.

(c) On or before November 30 of each year, beginning on November 30, 2024, 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 to the Commissioner through NMLS.

(d) 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 thirty (30) days of the date of the order and a hearing is not held within sixty (60) days of the date of the order, 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, a former registrant shall not offer or provide a subject product to California residents except as may be permitted by order of the Commissioner.

NOTE: Authority cited: Sections 90007 and 90009, Financial Code. Reference: Sections 90007 and 90009, Financial Code.

§ 1041. Annual Reporting – General.

(a) Every registrant who is registered as of December 31 shall file with the Commissioner by March 15 of each year, beginning on March 15, 2025, an annual report containing the information set forth in this section and sections 1042 through 1045, as applicable. An annual report is required each year even if the registrant did not provide any subject products or did not engage in any activities under the registration in the calendar year.

(b) Each registrant shall provide its gross income for the prior calendar year from subject products provided to California residents. For income-based advances that were provided as part of a bundle of services for which a periodic subscription fee was charged, gross income must include the subscription fees paid to the provider for all periods in which the provider provided an income-based advance to a California resident.

(c) The Commissioner may by order summarily revoke the registration of any registrant if the registrant fails to file the report required by this section within ten (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 thirty (30) days of the date of the order and the hearing is not held within sixty (60) days of the date of the order, 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, a former registrant shall not offer or provide a subject product to California residents except as may be permitted by order of the Commissioner.

(d) With respect solely to requests submitted pursuant to the California Public Records Act (division 10 (commencing with section 7920.000) of title 1 of the Government Code), the Commissioner shall treat the reports submitted pursuant to subdivision (a) of this section as not subject to disclosure under Government Code section 7929.000, subdivisions (b) and (d).

NOTE: Authority cited: Sections 90009 and 90010, Financial Code; Section 7929.000, Government Code. Reference: Sections 90003, 90005, 90006, 90009, 90009.5, 90010, and 90018, Financial Code; Section 7929.000, Government Code.

§ 1042. Annual Reporting – Debt Settlement Services.

If the registrant offers or provides debt settlement services under its registration, the registrant's annual report shall include the following information relating to the debt settlement services provided to California residents in the prior calendar year:

(a) The number of California residents who had an existing contract for debt settlement services

in effect at any time during the prior calendar year.

(b) For the residents identified in subdivision (a) of this section, the total number of debts residents contracted for debt settlement services with the registrant.

(c) For the residents and debts identified in subdivisions (a) and (b) of this section, respectively, the total dollar amount of debt of all residents who contracted for services with the registrant based on the total debt balances upon execution of the contracts with the registrant.

(d) For the residents identified in subdivision (a) of this section, the total dollar amount of charges paid by all residents during their contract terms.

(e) For the residents identified in subdivision (a) of this section, the total number of debts for all residents who contracted for services with the registrant in which the resident, over the contract term, has accepted a settlement with a creditor and made at least one payment pursuant to that settlement.

(f) For the debts for which a resident identified in subdivision (a) of this section has accepted a settlement at any time with a creditor and made at least one payment pursuant to that settlement, the average amount owed upon execution of the contract with the registrant for the settled debts, and the average settlement amount based upon the total of all payments due for the settled debts under the settlement agreements.

(g) For the debts for which a resident identified in subdivision (a) of this section has accepted a settlement with a 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 and the first payment under each settlement.

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

§ 1043. Annual Reporting – Student Debt Relief Services.

If the registrant offers or provides student debt relief services under its registration, the registrant's annual report shall include the following information relating to the student debt relief services provided to California residents in the prior calendar year:

(a) The number of California residents who had an existing contract for student debt relief services in effect at any time during the prior calendar year.

(b) For the residents identified in subdivision (a) of this section, the total number of debts residents contracted for student debt relief services with the registrant.

(c) For the residents identified in subdivision (a) of this section, the average dollar amount of federal student debt per resident and the total dollar amount of federal student debt contracted for services with the registrant based on the total debt balances upon execution of the contracts with the registrant.

(d) For the residents and debts identified in subdivisions (a) and (b) of this section, respectively, the total dollar amount of private student debt contracted for services with the registrant based on the total debt balances upon execution of the contracts with the registrant.

(e) For the residents identified in subdivision (a) of this section, the total dollar amount of charges paid by all residents during their contract terms.

(f) For the residents identified in subdivision (a) of this section who have federal student debts contracted for services with the registrant, the number of federal student debts for which the relief specified in the contract has been obtained and the average amount of time between execution of the contract and the obtaining of the relief.

(g) For the residents identified in subdivision (a) of this section who have federal student debts contracted for services with the registrant, the number of federal student debts for which the relief specified in the contract has not been obtained and the average amount of time between execution of the contract and the date of the registrant's annual report.

(h) For the residents identified in subdivision (a) of this section who have private student debts contracted for services with the registrant, the number of private student debts for which the relief specified in the contract has been obtained and the average amount of time between execution of the contract and the obtaining of the relief.

(i) For the residents identified in subdivision (a) of this section who have private student debts contracted for services with the registrant, the number of private student debts for which the relief specified in the contract has not been obtained and the average amount of time between execution of the contract and the date of the registrant's annual report.

(j) The number of California residents who received student debt relief services from the registrant without a written contract and compensated the registrant for providing the services.

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

§ 1044. Annual Reporting – Education Financing.

If the registrant offers or provides education financing under its registration, the registrant's annual report shall include the following information relating to education financing contracts entered into with California residents in the prior calendar year:

(a) The number of education financing contracts entered into with California residents during the prior calendar year, and, of those contracts, the number of contracts with income-driven repayment provisions.

(b) For the education financing contracts without income-driven repayment provisions entered into with California residents in the prior calendar year:

(1) The total dollar amount advanced under those contracts.

(2) The total dollar amount that would be required to pay off those contracts at origination.

(3) A frequency distribution table of the annual percentage rates disclosed for the contracts pursuant to Regulation Z (12 C.F.R. § 1026.18) promulgated by the Consumer Financial Protection Bureau.

(c) For education financing contracts with income-driven repayment provisions entered into with California residents in the prior calendar year:

(1) The total dollar amount advanced by the registrant under those contracts. For the purposes of calculating the dollar amount advanced where the registrant is also the provider of the education program(s) to the resident, the registrant shall add the cash price of the education program(s) for which financing is provided to the payments made directly to residents under the

financing contract for books and supplies purchased from third parties, room and board, transportation, and miscellaneous personal expenses. The registrant shall subtract from the resulting amount any payments made or to be made by residents for the educational program(s) that are not required payments under the financing contract. For the purposes of calculating the cash price of an education program provided remotely, the registrant shall use the lowest available cash price for the remote program offered by the registrant in any United States jurisdiction, regardless of whether that cash price is available to California residents.

(2) A frequency distribution table of the annual percentage rates disclosed for the contracts pursuant to Regulation Z (12 C.F.R. § 1026.18) promulgated by the Consumer Financial Protection Bureau (if applicable).

(3) The total dollar amount that would be required to pay off the contracts at origination.

(4) If any of the contracts have an income threshold below which no payments are required, a frequency distribution table showing the amount of the income threshold(s) and the number of contracts to which each income threshold applies.

(5) If any of the contracts have a time threshold above which no payments are required, a frequency distribution table 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 frequency distribution table showing the number of contracts to which each contractual provision applies.

(6) A frequency distribution table showing the percentage(s) of income that residents must pay under the contracts and the number of contracts to which each percentage applies.

(7) A frequency distribution table showing the maximum number of payments required under the education financing contracts and the number of contracts to which each maximum number applies. The registrant shall also include a description of any contract provisions that result in an increase in the maximum number of payments required and a frequency distribution table showing the number of contracts to which each contractual provision applies.

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

§ 1045. Annual Reporting – Income-Based Advances.

If the registrant offers or provides income-based advances under its registration, the registrant's annual report shall include the following information relating to the income-based advances provided to California residents in the prior calendar year. Multiple income-based advances with the same scheduled collection date are separate income-based advances and registrants shall report each one separately for the purposes of reporting the following information:

(a) The total dollar amount of charges paid by obligors.

(b) The number of California residents who did not receive at least one income-based advance, but who paid a subscription fee to the registrant, and the total dollar amount of subscription fees paid by those California residents.

(c) The number of California residents who received at least one income-based advance in the prior calendar year, and, with respect to all the advances made to those California residents:

(1) The total dollar amount and the total number of income-based advances made, and the

total dollar amount of subscription fees, gratuities, expedited funds fees, and account transfer fees paid (each reported separately), and all other charges paid.

(2) The average length of time between when each income-based advance was made and each advance's collection date.

(3) The average length of time between when income-based advances were made and when the amounts due associated with the advances were fully repaid, excluding income-based advances that have not been fully repaid. For the purposes of crediting collections from a resident on a particular collection date where a registrant has made multiple outstanding income-based advances to that consumer, a registrant shall credit collections to the oldest advances first.

(4) For all non-obligor-based advances, the number of times that the dollar amount collected on a collection date was less than the total dollar amount due in connection with past unpaid advances made to that resident and, for these advances, the number of times the registrant collected nothing on the collection date, the total dollar amount due and total dollar amount collected on the original collection dates, the number of times the registrant attempted to collect from the resident's bank account on the collection date, the number of times the registrant made additional attempts to collect from the resident's bank account after the collection date, and the total dollar amount collected after the collection date.

(5) For all obligor-based advances, the number of times that the dollar amount collected on a collection date from the resident's obligor was less than the total dollar amount due in connection with past unpaid advances made to that resident and, for these advances, the number of times the registrant collected nothing on the collection date, the total dollar amount due and total dollar amount collected on the original collection dates, the number of times the registrant attempted to collect from the resident's bank account on the collection date, the number of times the registrant made additional attempts to collect from the resident's bank account after the collection date, and the total dollar amount collected after the collection date.

(6) For reporting of bank account collections under paragraphs (4) and (5) of this subdivision, a registrant may report Automated Clearing House transactions and debit card transactions separately.

(d) For each month and each quarter of the prior calendar year:

(1) The number of California residents who received no income-based advances but paid a charge to the registrant during that month or quarter and the total dollar amount of charges paid by those residents.

(2) The number of California residents who received one income-based advance, and the total dollar amount advanced to and total dollar amount of charges paid by those California residents.

(3) The number of California residents who received two income-based advances, and the total dollar amount advanced to and total dollar amount of charges paid by those California residents.

(4) The number of California residents who received three advances, and the total dollar amount advanced to and total dollar amount of charges paid by those California residents.

(5) The number of California residents who received four advances, and the total dollar amount advanced to and total dollar amount of charges paid by those California residents.

(6) The number of California residents who received five advances, and the total dollar amount advanced to and total dollar amount of charges paid by those California residents.

(7) The number of California residents who received six or more advances, and the total number of advances made, the total dollar amount advanced to and total dollar amount of charges paid by those California residents.

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

Article 3. Revocation and Surrender

§ 1048. Rescission of Summary Revocation Order.

(a) The Commissioner shall rescind a summary revocation order issued under section 1040, subdivision (d), or section 1041, subdivision (c), if the former registrant submits a written request for reinstatement to the Commissioner at CCFPL.Applications@dfpi.ca.gov no later than one hundred eighty (180) days after the date of revocation, pays any annual assessment required by section 1040, files any report required by section 1041, including reports that would have become due if the registration had not been revoked, and pays the following administrative fine:

(1) \$100 if the reinstatement request is received by the Commissioner up to fourteen (14) days after the date of revocation;

(2) \$200 if the reinstatement request is received by the Commissioner fifteen (15) days to thirty (30) days after the date of revocation;

(3) \$400 if the reinstatement request is received by the Commissioner thirty-one (31) days to sixty (60) days after the date of revocation;

(4) \$600 if the reinstatement request is received by the Commissioner sixty-one (61) days to ninety (90) days after the date of revocation; and

(5) \$600 plus \$10 per day for each day after ninety (90) days if the reinstatement request is received by the Commissioner ninety-one (91) days to one hundred eighty (180) days after the date of revocation.

(b) Rescission of the summary revocation order under subdivision (a) of this section shall be effective as of the date of revocation, such that there will be no lapse in the registration required by section 1010 of these rules, provided that reinstatement was not used by the registrant to evade the registration requirements.

(c) Nothing in this section shall be construed to preclude the Commissioner from bringing an action under chapter 8 (commencing with section 90011) of division 24 of the Financial Code against a person for failure to maintain a registration as required under section 1010 of this subchapter.

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

§ 1050. 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 Financial Code section 90009.5, subdivision (b).

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

§ 1051. Surrender of Registration.

(a) An application to surrender a registration shall be filed on Form MU1 with NMLS in accordance with the procedures for transmission to the Commissioner.

(b) Surrender of a registration becomes effective when the Commissioner approves the application for surrender.

(c) Surrender of a registration does not affect a registrant's liability for acts committed prior to the surrender.

(d) Surrender of a registration does not relieve a registrant of any obligation to pay a fee, fine, or other amount due to the Commissioner or to file any required report.

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

§ 1052. Revocation of Registration.

A proceeding to revoke a registration under Financial Code section 90015, subdivision (f), 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.

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

§ 1053. Severability.

The provisions of this subchapter are severable. If any provision or its application is held invalid, illegal, or unenforceable, then that invalidity, illegality, or unenforceability shall not affect other provisions or applications that can be given effect without the invalid, illegal, or unenforceable provision or application.

NOTE: Authority cited: Sections 90009 and 90019, Financial Code. Reference: Sections 90009 and 90019, Financial Code.

Subchapter 6. California Financing Law

Article 3. Books, Records and Examinations

§ 1430.1. California Consumer Financial Protection Law Registration Exemption: Reporting.

(a) Pursuant to Financial Code section 90009, subdivision (a)(2)(A), and California Code of Regulations, title 10, section 1010, subdivision (b)(3), a licensee under the California Financing Law (division 9 (commencing with section 22000) of the Financial Code) is exempt from the registration requirement in California Code of Regulations, title 10, section 1010, subdivision (a), to the extent the licensee offers or provides education financing or income-based advances as defined in sections 1003 or 1004, respectively, to California residents within the scope of its license. "Within the scope of its license" means:

(1) Offered or provided in a manner that complies with the requirements for consumer loans in the California Financing Law;

(2) Offered or provided pursuant to the authority to engage in the business of a finance lender under a California Financing Law lender license; and

(3) Reported as loans made under the California Financing Law in the licensee's annual report pursuant to Financial Code section 22159.

(b) By March 15 of each calendar year, as part of a special report required by Financial Code section 22159, subdivision (b), a licensee who is exempt from registration pursuant to subdivision (a) of this section shall submit a report containing the information required by California Code of Regulations, title 10, section 1041, and, as applicable, sections 1044 and 1045.

(c) With respect solely to requests submitted pursuant to the California Public Records Act (division 10 (commencing with section 7920.000) of title 1 of the Government Code), the Commissioner shall treat the reports submitted pursuant to subdivision (b) of this section as not subject to disclosure under Government Code section 7929.000, subdivisions (b) and (d).

NOTE: Authority cited: Sections 22150, 22159, and 90009, Financial Code. Reference: Sections 22159 and 90009, Financial Code.

Article 4. Loans.

§ 1461. Advances Under the California Financing Law.

(a) Any advance of funds to be repaid in whole or in part by the receipt of a consumer's wages, salary, commissions, or other compensation for services is a sale or assignment of wages and a loan subject to the California Financing Law, regardless of the funding provider's means of collection, whether the provider has legal recourse if the provider is unable to collect the amount it advanced, or whether the consumer has the right to cancel collection of the amount advanced. This section does not apply to obligors as defined by California Code of Regulations, title 10, section 1004, subdivision (h), who advance from their own funds only income that has accrued to the benefit of a consumer but has not, at the time of the advance, been paid to the consumer.

(b) A consumer who receives an advance under subdivision (a) of this section is a borrower and a provider who makes an advance is a finance lender within the meaning of the California Financing Law.

(c) For the purposes of determining whether an advance of funds to a California consumer is to be repaid in whole or in part by the receipt of wages, salary, commissions, or other compensation for services, the source of funds from which the lender ordinarily collects its advances in similar transactions may be considered.

(d) This section shall not be read to interpret what is considered a wage assignment under the Labor Code, consumer credit or debt under federal law, including the ~~under the federal~~ Truth in Lending Act (15 U.S.C. § 1601 et seq.), or a loan or forbearance of money under the California Constitution, article XV, section 1.

(e) A provider of an advance of funds as described in subdivision (a) does not require a license under the California Financing Law if:

(1) The advance of funds is an income-based advance as defined by California Code of

Regulations, title 10, section 1004, subdivision (g), and

(2) The provider is registered with the Department to offer income-based advances under California Code of Regulations, title 10, section 1010. This paragraph shall expire when the registration requirements for income-based advance providers under section 1010 expire.

(f) Income-based advances under California Code of Regulations, title 10, section 1004, subdivision (g), are loans under subdivision (a) of this section.

NOTE: Authority cited: Sections 326, 334, 22150, and 90009, Financial Code; Stats. 1994, ch. 1115, § 7. Reference: Sections 22100, 22203, and 22335, and 90009.5, Financial Code.

§ 1462. Licensure of Advance Providers — Income Based Advances.

~~(a) A provider of an advance of funds as described in section 1461 is not “in the business” of a finance lender or broker for purposes of licensure under Financial Code section 22100 of the California Financing Law (divisions 9 (commencing with section 22000) of the Financial Code) if:~~

~~(1) The advance of funds is an income based advance as defined by California Code of Regulations, title 10, section 1004, subdivision (g), and~~

~~(2) The provider is registered with the Department to offer income based advances under California Code of Regulations, title 10, section 1010. This paragraph shall expire when the registration requirements for income based advance providers under section 1010 expire.~~

~~NOTE: Authority cited: Sections 22150 and 90009, Financial Code. Reference: Sections 22100 and 22335, Financial Code.~~

§ 1462.5. Licensure of Advance Providers – Education Financing.

(a) A provider of an advance of funds as described in section 1461 is not “in the business” of a finance lender or broker for purposes of licensure under Financial Code section 22100 of the California Financing Law (division 9 (commencing with section 22000) of the Financial Code) if:

(1) The advance of funds is education financing with income-driven repayment provisions, as those terms are defined in California Code of Regulations, title 10, section 1003, subdivisions (b) and (d);

(2) The provider is registered with the Department to offer education financing under California Code of Regulations, title 10, section 1010, or is licensed under the Student Loan Servicing Act (division 12.5 (commencing with section 28100) of the Financial Code) and exempt from registration under California Code of Regulations, title 10, section 2044.1; and

(3) The charges collected by the provider in connection with the education financing do not exceed charges that would be permitted under the California Financing Law if the provider were licensed under that law and the financing were provided under the authority of that law.

(b) This section shall expire when the registration requirements for education financing providers under California Code of Regulations, title 10, section 1010, expire.

NOTE: Authority cited: Sections 326, 334, 22150, and 90009, Financial Code; Stats. 1994, ch. 1115, § 7. Reference: Sections 22100, and 22335, and 90009.5, Financial Code.

§ 1465. Voluntary or Optional Payments.

A voluntary or optional payment, including, without limitation, a tip or gratuity, paid by a borrower to a licensee or any other person in connection with the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing of a loan or otherwise in connection with a loan, or any other service rendered, is a charge under Financial Code section 22200.

NOTE: Authority cited: Sections 22150 and 90009, Financial Code. Reference: Section 22200, Financial Code.

§ 1466. Loans with Income-Driven Repayment Options; Education Financing.

(a) A loan contract with income-driven repayment provisions that provides the borrower with the option of making payments based upon a fixed percentage of the borrower's income complies with the requirement in Financial Code section 22307, subdivision (b), that a loan contract “provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments,” if the contract provides the borrower with a predefined formula for calculating each payment during the term of the contract where the only unknown variable as of the effective date of each such contract is the income of the borrower at the point of calculation ~~calculating~~ of each payment. For a contract described in this subdivision, a payment calculated under income-driven repayment based upon a fixed percentage of a borrower's income shall not be considered a balloon payment under section 1453 of this subchapter.

(b) A loan contract that does not require a borrower to make payments while the borrower is obtaining a postsecondary education or for a predefined fixed grace period after completion or termination of a postsecondary education, as that term is defined in California Code of Regulations, title 10, section 1003, subdivision (f), complies with the requirement in Financial Code section 22307, subdivision (b), that the first payment be made not “more than one month and 15 days from the date the loan is made,” if the loan contract does not accrue charges during the period in which the borrower is not required to make payments. In this subdivision, accrued charges are additional amounts that a borrower is required to repay because of the passage or occurrence of the period described in this subdivision.

NOTE: Authority cited: Sections 22150 and 90009, Financial Code. Reference: Section 22200, Financial Code.

§ 1467. Severability.

The provisions of this subchapter are severable. If any provision or its application is held invalid, illegal, or unenforceable, then that invalidity, illegality, or unenforceability shall not affect other provisions or applications that can be given effect without the invalid, illegal, or unenforceable provision or application.

NOTE: Authority cited: Sections 22150, 90009, and 90019, Financial Code. Reference: Sections 22150, 90009, and 90019, Financial Code.

Subchapter 13. Deferred Deposit Transaction Law

Article 3. Reports to the Commissioner

§ 2030.5. California Consumer Financial Protection Law Registration Exemption:

Reporting.

(a) Pursuant to Financial Code section 90009, subdivision (a)(2)(A), and California Code of Regulations, title 10, section 1010, subdivision (b)(4), a licensee under the California Deferred Deposit Transaction Law (division 10 (commencing with section 23000) of the Financial Code) is exempt from the registration requirement in California Code of Regulations, title 10, section 1010, subdivision (a), to the extent the licensee offers or provides income-based advances as defined in section 1004 to California residents within the scope of its license. “Within the scope of its license” means:

(1) Offered and provided in a manner that complies with the requirements for deferred deposit transactions under the California Deferred Deposit Transaction Law;

(2) Offered and provided pursuant to the authority to engage in the business of a deferred deposit originator under a California Deferred Deposit Transaction Law license; and

(3) Reported in the licensee’s annual report as deferred deposit transactions made under the California Deferred Deposit Transaction Law pursuant to Financial Code section 23026.

(b) By March 15 of each calendar year, as part of the annual report required by Financial Code section 23026, a licensee who is exempt from registration pursuant to subdivision (a) of this section shall submit a report containing the information required for income-based advances by California Code of Regulations, title 10, sections 1041 and 1045.

NOTE: Authority cited: Sections 23015, 23026, and 90009, Financial Code. Reference: Sections 23026 and 90009, Financial Code.

Subchapter 15. Student Loan Servicing Act

Article 6. Examination, Books and Records

§ 2044.1. California Consumer Financial Protection Law Registration Exemption: Notice; Reporting.

(a) Pursuant to Financial Code section 90009, subdivision (a)(2)(A), and California Code of Regulations, title 10, section 1010, subdivision (b)(5), a licensee under the Student Loan Servicing Act (division 12.5 (commencing with section 28100) of the Financial Code) is exempt from the registration requirement in California Code of Regulations, title 10, section 1010, subdivision (a), to the extent the licensee offers or provides education financing as defined in section 1003 to California residents to be serviced by the licensee after origination, if the licensee complies with all of the following requirements:

On or before the effective date of these regulations or before offering or providing education financing to California residents, whichever comes later, the licensee provides the following notice to the Commissioner at CCFPL.Applications@dfpi.ca.gov:

(1) If notice is submitted on or before the effective date of these regulations: “[Licensee name], [License No.], is offering education financing to California residents.”

(2) If notice is submitted after the effective date of these regulations: “[Licensee name], [License No.], intends to offer education financing to California residents.”

(b) On or before March 15 of each calendar year, as part of a special report required by Financial Code section 28146, subdivision (b), a licensee who is exempt from registration pursuant to

subdivision (a) of this section shall submit a report containing all of the following information:

(1) A description of how the licensee funded education financing provided to California residents during the prior calendar year, including the names of any third-party partners that provided funding for the education financing or purchased any interest in the education financing or income streams derived from the education financing;

(2) For licensees that originated education financing for California residents for postsecondary education to be provided by a third party, all agreements in effect between the licensee and those third parties;

(3) All agreements in effect between the licensee and third-party servicers of the education financing provided to California residents;

(4) All investor prospectuses or other marketing materials distributed by the licensee during the prior calendar year to prospective purchasers of any interest in the education financing originated by the licensee or in the income streams arising from education financing originated by the licensee; and

(5) The information required for education financing by California Code of Regulations, title 10, sections 1041 and 1044.

(c) With respect solely to requests submitted pursuant to the California Public Records Act (division 10 (commencing with section 7920.000) of title 1 of the Government Code), the Commissioner shall treat the reports submitted pursuant to subdivision (b) of this section as not subject to disclosure under Government Code section 7929.000, subdivisions (b) and (d).

NOTE: Authority cited: Sections 28106 and 28146, Financial Code. Reference: Section 28146, Financial Code.