



November 25, 2024

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, Illinois 62786

Re: Proposed Amendments to the Sales Finance Agency Act Regulations

Dear Mr. Cellini,

On behalf of the American Financial Services Association (AFSA)¹ and Illinois Financial Services Association (“IFSA”), we thank you for the opportunity to provide comments on the proposed amendments to the Department of Financial and Professional Regulation’s (“DFPR”) Illinois Sales Finance Agency Act, specifically Section 160.170 regarding debt cancellation product refunds (Illinois Register, page 14434). We believe in rules that clearly consider existing laws to benefit consumers and financial institutions alike.

AFSA and IFSA appreciate the Department’s efforts to update these regulations and promote clarity within the industry. However, we respectfully request further clarification and consideration of the following points.

Clarification of "Ensure" Requirement

The proposed regulation requires that licensees "ensure" that obligors receive a refund of unearned premiums for debt cancellation or other credit ancillary products under certain circumstances (e.g., prepayment, cancellation, refinancing, or reduction to judgment prior to maturity). The use of the term "ensure" creates operational ambiguity for licensees.

We would like to request that the DFPR provide further clarification on how a licensee is expected to "ensure" that the obligor receives a refund of any unearned premium, as referenced in Section 160.170. In the current form, the term "ensure" is unclear and could lead to varying interpretations regarding the responsibilities and actions required by the licensee.

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

Specifically, we request clarification on whether it is the licensee's responsibility to proactively initiate the refund process with an ancillary product provider when a qualifying event occurs, or if it suffices for the licensee to have procedures in place to process the refund from the ancillary product provider and apply the refund to the account after a qualifying event occurs. Clear guidance on the specific procedures or standards that licensees must follow to fulfill this requirement would help ensure compliance and avoid potential operational confusion.

The proposed regulation requires that the obligor receive the refund. We seek clarification that an obligor would have been deemed to have received the refund if the refund were applied to the outstanding balance on the account at issue. Although the concern does not arise when an account is paid in full, often in cases involving a repossession and sale of collateral or total loss, there can be a deficiency balance still owed by the customer.

Refund Timing and Process

The proposed regulation does not specify the timing for issuing refunds of unearned premiums or whether there are any requirements regarding how quickly the refund must be issued after an event such as a prepayment, cancellation, or refinancing. Given the operational impact on licensees, we request that the Department provide additional details on the timeline for issuing refunds after such events occur.

Additionally, further guidance from DFPR would be helpful to understand whether there are any specific documentation or record-keeping requirements that licensees must adhere to in order to demonstrate that refunds were processed properly and promptly. This will help ensure that the refund process is carried out efficiently and in compliance with the regulations.

Refund Calculation

The proposed regulations require the amount of the refund of the unearned premium to be calculated using the actuarial method. Given that some ancillary product contracts require creditors use a pro rata method, we suggest language that would allow a calculation method no less favorable to the consumer as the actuarial method.

Conclusion

AFSA and IFSA commend the Department's efforts to enhance consumer protections and provide clearer guidance regarding the handling of debt cancellation product refunds. We believe that additional clarifications are necessary to ensure that these regulations are practical and operationally feasible for licensees.



Thank you for your consideration of our comments. If you have questions or would like to discuss this further, please do not hesitate to contact us.

Sincerely,

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