

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)<sup>1</sup>, thank you for the opportunity to provide comments on the proposed amendments to the Department of Financial and Professional Regulation's ("IDFPR") Illinois Sales Finance Agency Act, specifically Section 160.170 regarding debt cancellation product refunds (Illinois Register, page 14434). AFSA represents financial institutions of all sizes across many of the industries affected by the proposed rules, including consumer installment lenders and sales finance companies. We believe in rules that clearly consider existing laws to benefit consumers and financial institutions alike.

AFSA appreciates 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.

AFSA 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.

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<sup>1</sup> 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, AFSA requests 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, AFSA requests 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 commends 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 me at 805-501-8873 or [erayhan@afsamail.org](mailto:erayhan@afsamail.org).

Sincerely,



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