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Interpretive Opinion

Re: Income Share Agreements

As described in Colorado Uniform Credit Code Rule 18, income share agreements (“ISAs”) are consumer credit transactions. An ISA may be a student education loan as the term is defined in C.R.S. section 5-20-103(6)(a) of the Student Loan Equity Act (“SLEA”). The SLEA defines a student education loan to include a loan,

that is extended to a student loan borrower for the purpose of funding, in whole or in part, education expenses. The term includes a loan that is extended in order to refinance or consolidate a student loan borrower's existing student education loans.¹

Servicers of ISAs that meet the definition of student education loans must comply with Part 1 of the SLEA, including the requirement to obtain a license under C.R.S. section 5-20-106.

ISAs may be private education credit obligations, as the term is defined in C.R.S. section 5-20-202(7)(a). The SLEA defines a private education credit obligation as a credit obligation that,

- I. Is not made, insured, or guaranteed under Title IV of the “Higher Education Act of 1965”, 20 U.S.C. sec. 1070 et seq, as amended, and
- II. is extended to the consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the credit obligation is provided by the postsecondary educational institution that the student attends, including a payment plan or financing.²

Excluded from the definition are credit obligations extended by a postsecondary educational institution if:

¹ Section 5-20-103(6)(a) C.R.S.

² Section 5-20-202(7)(a) C.R.S.

- (A) The term of the extension of credit is ninety days or less; or
- (B) An interest rate is not applied to the credit balance, and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.³

Creditors of ISAs that are private education credit obligations must comply with Part 2 of the SLEA, including the requirement to register with the Administrator, as set out in C.R.S. section 5-20-203.

Martha U. Fulford
Administrator,
Uniform Consumer Credit Code

³ Section 5-20-202(7)(b)(II) C.R.S