

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Social Finance, Inc., File No. 162 3197

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Social Finance, Inc. and SoFi Lending Corp. (collectively “SoFi”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

SoFi is an online lender that offers, among other credit products, student loan refinancing. The Commission’s proposed complaint alleges that SoFi makes savings claims that, as detailed below, misrepresent how much money students have saved, will save, or will likely save by refinancing their student loans with SoFi.

SoFi has prominently advertised that consumers who refinance their loans with SoFi have saved large average amounts of money over the lifetime of those loans or each month. These claims overstate consumers’ average savings. SoFi’s calculations of its members’ average savings selectively excludes large categories of consumers who would likely pay more money, instead of saving. Specifically, when SoFi calculates its members’ average lifetime savings it excludes all consumers who refinance into longer term loans, most of whom actually pay *more* over the lifetime of the loan. Further, when SoFi calculates its members’ average monthly savings it excludes all consumers who refinance into shorter term loans, most of whom actually pay *more* on a monthly basis. As a result, SoFi’s representations significantly inflate the average savings consumers have actually achieved – sometimes even doubling the actual savings.

Additionally, when a consumer submits an application to refinance his or her student loan(s) and is presented with loan options, SoFi misrepresents that the consumer will save zero dollars when the consumer is actually expected to lose money. Specifically, if, for a fixed rate loan option, the consumer is expected to lose money over the lifetime of the loan, then SoFi falsely states that the consumer’s lifetime savings will be “\$0.00.” Likewise, if a consumer is expected to pay more on a monthly basis for a given loan option, then SoFi falsely states that the consumer’s monthly savings will be “\$0.00.”

The proposed order will prevent SoFi from engaging in similar acts or practices. Part I.A. would prohibit SoFi from misrepresenting that consumers who obtain a credit product have saved, will save, or will likely save money, or a specific amount of money, over the lifetime of a credit product or over any other time period (*e.g.*, monthly), including by representing that the amount of money saved over a specific time period will be zero when consumers will instead pay more money over that specific time period. Part I.B. would also prohibit SoFi from making any of the savings claims covered by Part I.A., unless those claims are substantiated with competent and reliable evidence. Part I.C. would prohibit SoFi from misrepresenting any other material

fact about the performance, benefits, or characteristics of any credit product when making a savings claim covered by Part I.A.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II is an order distribution provision that requires SoFi to provide the order to current and future principals, officers, and corporate directors, as well as current and future managers, employees, agents and representatives who participate in certain duties related to the subject matter of the proposed complaint and order, and to secure statements acknowledging receipt of the order. Part III requires SoFi to submit a compliance report one year after the order is entered. It also requires SoFi to notify the Commission of corporate changes that may affect compliance obligations within 14 days of such a change.

Part IV requires SoFi to maintain and upon request make available certain compliance-related records, including certain consumer complaints and unique advertisements. Part V requires SoFi to submit additional compliance reports within 10 business days of a written request by the Commission. Part VI is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.