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COMMENT LETTER

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March 2, 2018

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The Honorable Betsy De Vos
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Secretary De Vos:

On behalf of the Conference of State Bank Supervisors (CSBS), I am writing to oppose the regulatory interpretation the Department of Education is reportedly planning to issue that would seek to preempt state authority over student loan servicers and debt collectors. This effort at preemption by regulatory fiat runs counter to the Congressionally mandated state-federal balance in financial regulation and exceeds the Department's authority.

About CSBS

CSBS is the nationwide organization of banking regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. The mission of CSBS is to support the leadership role of state banking supervisors in advancing the state banking system; ensuring safety and soundness; promoting economic growth and consumer protection; and fostering innovative state regulation of the financial services industry.

State regulators charter and supervise 78 percent of all banks in the United States. In addition, state regulators license and supervise a variety of non-depository financial services. CSBS, on behalf of state regulators, also operates the Nationwide Multistate Licensing System (NMLS) to license and register those engaged in mortgage, money transmission, consumer finance, debt collection, and other non-depository financial services industries.

Reported Preemption Guidance is Contrary to Law

Responsibility for regulating and supervising debt collectors – like other nonbank financial services -- has historically resided at the state level. The licensing of financial services activities takes place primarily at the state level, because, as a function of the inherent police power of the states, the protection of the public welfare

is primarily a matter of local concern.¹ Indeed, as Justice Brandeis explained over 70 years ago: “[i]t is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”²

Congress has deliberately preserved this cooperative state-federal regulatory framework for nonbank financial services activities for the benefit of consumers and providers of financial services alike. Consumers benefit because the proximity of the state regulatory framework has proven to be more accountable to local concerns and enables the public to conduct their own assessment as to whether the degree of consumer protections afforded by a State accords with their personal preferences.

Preemption of state licensing or regulation is a policy response that Congress has carefully considered and chosen to do in certain circumstances through specific legislation. The Department’s purported interpretation, in addition to flouting Congressional intent, also upsets the calibrated state-federal balance of financial regulation of student lending.

Conclusion

State regulators firmly oppose this attempt at preemption through a mere interpretive notice. This decision rests with Congress and not with a federal agency.

Sincerely,

John Ryan
President and CEO

¹ *Lewis v. BT Inv. Managers*, 447 U.S. 27, 38 (1980) (“both as a matter of history and as a matter of present commercial reality, banking and related financial activities are of profound local concern. . . . [S]ound financial institutions and honest financial practices are essential to the health of any State’s economy and to the well-being of its people.”)

² See e.g., *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).