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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RUBEN JUAREZ, et al.,  
Plaintiffs,  
v.  
SOCIAL FINANCE, INC., et al.,  
Defendants.

Case No. [20-cv-03386-HSG](#)

**ORDER GRANTING MOTION FOR  
PRELIMINARY APPROVAL**

Re: Dkt. No. 93

Pending before the Court is Plaintiffs’ motion for preliminary approval of class action settlement. *See* Dkt. No. 93. The Court held a hearing on the motion. For the reasons detailed below, the Court **GRANTS** the motion.

**I. BACKGROUND**

**A. Factual Allegations**

Plaintiffs Ruben Juarez, Calin Constantin Segarceanu, Emiliano Galicia, and Josue Jimenez allege that Defendants Social Finance, Inc. d/b/a SoFi and SoFi Lending Corp. d/b/a SoFi (collectively, “SoFi”) engaged in lending discrimination. Plaintiffs applied for loans, but allege that SoFi denied their applications because they were not U.S. citizens or lawful permanent residents (“LPRs”). *See* Dkt. No. 62 (“SAC”) at ¶¶ 120–124. Rather, Plaintiffs had either Deferred Action for Childhood Arrivals (“DACA”) status or temporary green cards as conditional permanent residents (“CPRs”).<sup>1</sup> In May 2020, Plaintiffs brought a class action lawsuit against SoFi, alleging lending discrimination based on alienage and immigration status in violation of federal and California state law. In early December 2019, after discussions with Plaintiffs’

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<sup>1</sup> DACA is a form of deferred action against removal, a discretionary grant of authorized stay by the federal government. *See* SAC at ¶¶ 4, 34–42.

United States District Court  
Northern District of California

1 counsel in this case, SoFi changed its policy to make DACA recipients eligible for loans, but only  
 2 if they applied by telephone with a co-signer who is a U.S. citizen or LPR—two requirements that  
 3 are not imposed on citizen applicants. *Id.* at ¶ 5. At the same time, SoFi also created a designated  
 4 customer service number to field calls and initiate applications from DACA recipients and other  
 5 non-citizens seeking loans (the “877 number”). *See* Dkt. No. 93-2 at ¶ 11.

6 **B. Settlement Agreement**

7 The parties engaged in an all-day mediation session with JAMS arbitrator David  
 8 Geronemus, and have reached a settlement of this putative class action. *See* Dkt. No. 93-3, Ex. A  
 9 (“SA”). They have filed a motion for preliminary settlement approval. Dkt. No. 93. The key  
 10 terms of the settlement are as follows:

11 Class Definition: The parties have proposed two Settlement Classes:

- 12 • “National Class” means those individuals who
  - 13 ○ (i) applied for or attempted to apply for any credit product from SoFi;
  - 14 (ii) between December 19, 2019 through the date of preliminary approval;
  - 15 (iii) who held valid and unexpired DACA or CPR status at the time they applied
  - 16 for or attempted to apply for credit; (iv) who called SoFi at the designated 877
  - 17 number regarding the application as set forth in the class data produced by SoFi;
  - 18 (v) who were denied as set forth in the class data produced by SoFi; and (vi) who
  - 19 were not California residents as indicated in the “applied state” data field as set
  - 20 forth in the class data produced by SoFi; or
  - 21 ○ (i) applied for or attempted to apply for any credit product from SoFi;
  - 22 (ii) between May 19, 2017 through the date of preliminary approval; (iii) who
  - 23 held valid and unexpired DACA or CPR status at the time they applied for or
  - 24 attempted to apply for credit; (iv) who opted out of SoFi’s arbitration provision
  - 25 in writing; (v) who were denied as set forth in the class data produced by SoFi;
  - 26 and (vi) who were not California residents as set forth in the class data produced
  - 27 by SoFi;
  - 28 ○ Excluded from the National Class are SoFi, all officers, directors, and employees

1 of SoFi, and their legal representatives, heirs, or assigns, and any Judges to whom  
2 the Action is assigned, their staffs, and their immediate families.

- 3 • “California Class” means those individuals who
  - 4 ○ (i) applied for or attempted to apply for a credit product from SoFi; (ii) between  
5 December 19, 2019 through the date of preliminary approval; (iii) who held valid  
6 and unexpired DACA or CPR status at the time they applied for or attempted to apply  
7 for credit; (iv) who called SoFi at the designated 877 number regarding the  
8 application as set forth in the class data produced by SoFi; (v) who were denied as  
9 set forth in the class data produced by SoFi; and (vi) who were California residents  
10 as indicated in the “applied state” data field as set forth in the class data produced by  
11 SoFi; or
    - 12 ○ (i) applied for or attempted to apply for a credit product from SoFi; (ii) between May  
13 19, 2017 through the date of preliminary approval; (iii) who held valid and unexpired  
14 DACA or CPR status at the time they applied for or attempted to apply for credit;  
15 (iv) who opted out of SoFi’s arbitration provision in writing; (v) who were denied as  
16 set forth in the class data produced by SoFi; and (vi) who were California residents  
17 as set forth in the class data produced by SoFi.
    - 18 ○ Excluded from the California Class are SoFi, all officers, directors, and employees  
19 of SoFi, and their legal representatives, heirs, or assigns, and any Judges to whom  
20 the Action is assigned, their staffs, and their immediate families. *See SA at § 1.9.*

21 The parties have explained that these settlement classes were designed to exclude applicants  
22 subject to SoFi’s arbitration agreement. *See Dkt. No. 93 at 5; see also Dkt. 56 at 7–9 (Order*  
23 *Denying First Motion to Compel).*

24 Settlement Benefits: Defendant will make a \$155,000 non-reversionary payment for the  
25 settlement fund. *See SA at §§ 3.3.2, 3.3.3.* It will also provide an additional \$25,000 for  
26 administration costs. *See id.* at § 3.3.1. Each California Class Member who submits a Verified  
27 Claim shall be entitled to \$3,000 per denied application. *See id.* at § 3.3.5. Each National Class  
28 Member who submits a Verified Claim shall be entitled to \$1,000 per denied application. *Id.*

1            Release: All Settlement Class Members will release Defendant and its subsidiaries from:

2  
3            any and all claims, defenses, demands, objections, actions, causes of  
4            action, rights, offsets, setoffs, suits, damages, lawsuits, costs, relief  
5            for contempt, losses, attorneys' fees, expenses, or liabilities of any  
6            kind whatsoever, in law or in equity, for any relief whatsoever,  
7            including monetary, sanctions or damage for contempt, injunctive, or  
8            declaratory relief, rescission, general, compensatory, special,  
9            liquidated, indirect, incidental, consequential, or punitive damages, as  
10           as well as any and all claims for treble damages, penalties, interest,  
11           attorneys' fees, costs, or expenses, whether a known or Unknown  
12           Claim, suspected or unsuspected, contingent or vested, accrued or not  
13           accrued, liquidated or unliquidated, matured or unmatured, that in any  
14           way concern, arise out of, or relate to allegations that were or could  
15           have been asserted in the Class Action Complaint related to SoFi's  
16           alleged denial of Class Members' loan applications based on alienage,  
17           lack of U.S. citizenship and/or immigration status, including, but not  
18           limited to, any claims under 42 U.S.C. Section 1981, the California  
19           Unruh Act (Cal. Civil Code §§ 51 and 52 et seq.), or other state civil  
20           rights statutes, the Equal Credit Opportunity Act, and the Fair Credit  
21           Reporting Act. It is the intention of the Class Representatives to  
22           provide a general release of all Released Claims against the Releasees  
23           for claims related to the denial of their  
24           loan applications.

25           *See SA at § 1.37; see also id.* at §§ 10.1–10.5.

26           Incentive Award: The named Plaintiffs may apply for incentive awards of no more than  
27           \$5,000 each. *See SA at §§ 3.3.4, 15.2.* However, Plaintiff Juarez—who the parties agree is not a  
28           member of either class as defined above—may apply for an incentive award not to exceed  
29           \$6,000.<sup>2</sup> *Id.*

30           Attorneys' Fees and Costs: Class Counsel will file an application for attorneys' fees not to  
31           exceed \$300,000. *See SA at §§ 3.3.1, 15.1.*

32           Opt-Out Procedure: Settlement Class Members must submit a written request for  
33           exclusion to opt out of the Settlement. *See SA at § 11.1–11.6.* Settlement Class Members may  
34           also submit written objections to the Settlement. *See id.* at § 12.1–12.7. During the hearing on the  
35           motion for preliminary approval, the Court expressed some concern that under the Settlement,  
36           individuals wishing to opt out had to submit documentation reflecting their immigration status.  
37           The parties have since agreed to amend the Settlement so that documentation about immigration

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38           <sup>2</sup> *See Dkt. No. 93 at 8, & n.3; see also id.* at 10–11 (explaining that Mr. Juarez applied via  
39           telephone before SoFi created the 877 customer service line).

1 status is not required to opt out. *See* Dkt. No. 100.

## 2 **II. PROVISIONAL CLASS CERTIFICATION**

3 The plaintiff bears the burden of showing by a preponderance of the evidence that class  
4 certification is appropriate under Federal Rule of Civil Procedure 23. *Wal-Mart Stores, Inc. v.*  
5 *Dukes*, 564 U.S. 338, 350–51 (2011). Class certification is a two-step process. *First*, a plaintiff  
6 must establish that each of the four requirements of Rule 23(a) is met: numerosity, commonality,  
7 typicality, and adequacy of representation. *Id.* at 349. *Second*, it must establish that at least one of  
8 the bases for certification under Rule 23(b) is met. Where, as here, a plaintiff seeks to certify a  
9 class under Rule 23(b)(3), it must show that “questions of law or fact common to class members  
10 predominate over any questions affecting only individual members, and that a class action is  
11 superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed.  
12 R. Civ. P. 23(b)(3).

13 “The criteria for class certification are applied differently in litigation classes and  
14 settlement classes.” *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556 (9th Cir. 2019)  
15 (“*Hyundai IP*”). When deciding whether to certify a litigation class, a district court must consider  
16 manageability at trial. *Id.* However, this concern is not present in certifying a settlement class.  
17 *Id.* at 556–57. In deciding whether to certify a settlement class, a district court “must give  
18 heightened attention to the definition of the class or subclasses.” *Id.* at 557.

### 19 **A. Rule 23(a) Certification**

20 The Court finds that all the requirements of Rule 23(a) are met:

- 21 • **Numerosity.** Joinder of the 690 estimated class members would be impracticable.  
22 *See* Dkt. No. 99 at ¶¶ 5–7 (discussing potential class size).
- 23 • **Commonality.** Common questions of law and fact include whether SoFi’s lending  
24 policies violate the Civil Rights Act of 1866, 42 U.S.C. § 1981, or California’s  
25 Unruh Civil Rights Act, Cal. Civ. Code §§ 51 *et seq.*
- 26 • **Typicality.** Plaintiffs’ claims are both factually and legally similar to those of the  
27 putative class because each (1) lived in California or the United States; (2) was a  
28 DACA or CPR recipient when they applied for a loan from SoFi; and (3) allege that

1 he was denied credit under SoFi's lending policies because he was not a U.S.  
2 citizen or LPR.

- 3 • **Adequacy of Representation.** The Court is unaware of any actual conflicts of  
4 interest in this matter and no evidence in the record suggests that either Plaintiffs or  
5 counsel have a conflict with other class members. Plaintiffs' counsel has been  
6 appointed class counsel in numerous federal and state class actions. *See* Dkt. No.  
7 93-2 at ¶¶ 4–9; Dkt. No. 93-5 at ¶¶ 5–9. The Court finds that proposed class  
8 counsel and Plaintiffs have prosecuted this action vigorously on behalf of the class  
9 to date, and will continue to do so.

#### 10 **B. Rule 23(b)(3) Certification**

11 The Court also finds that the predominance and superiority requirements of Rule 23(b)(3)  
12 are met:

- 13 • **Predominance.** The Court concludes that for purposes of settlement, common  
14 questions predominate here because Plaintiffs challenge SoFi's lending policies and  
15 eligibility criteria that apply to all Class Members.
- 16 • **Superiority.** A class action enables the most efficient use of Court and attorney  
17 resources and reduces costs to the class members by allocating costs among them.  
18 Further, this forum is appropriate, and there are no obvious difficulties in managing  
19 this class action.

#### 20 **C. Class Representative and Class Counsel**

21 Because the Court finds that Plaintiffs meet the commonality, typicality, and adequacy  
22 requirements of Rule 23(a), the Court appoints Plaintiffs Segarceanu, Galicia, and Jimenez as  
23 Class Representatives.<sup>3</sup> When a court certifies a class, it must also appoint class counsel. Fed. R.  
24 Civ. P. 23(c)(1)(B). Counsel have investigated and litigated this case throughout its existence and  
25 have submitted declarations detailing their expertise in representing plaintiffs in class action suits.

26 \_\_\_\_\_  
27 <sup>3</sup> The parties appear to agree that because Plaintiff Juarez applied for a loan over the phone before  
28 SoFi created the "877" customer service line for DACA and other non-citizen applicants in  
December 2019, his calls are not reflected in SoFi's call-log data, and he is not included in either  
the California or National Classes. *See* Dkt. No. 93 at 11; *see also* Dkt. No. 93-2 at ¶ 55.

1 See Dkt. No. 93-2 at ¶¶ 4–9; Dkt. No. 93-5 at ¶¶ 5–9. Accordingly, the Court appoints Outten &  
 2 Golden LLP and Lawyers for Civil Rights as Class Counsel. See Fed. R. Civ. P. 23(g)(1)(A)  
 3 (listing factors courts must consider when appointing class counsel).

### 4 **III. PRELIMINARY SETTLEMENT APPROVAL**

5 Finding that provisional class certification is appropriate, the Court considers whether it  
 6 should preliminarily approve the parties’ class action settlement.

#### 7 **A. Legal Standard**

8 Federal Rule of Civil Procedure 23(e) provides that “[t]he claims, issues, or defenses of a  
 9 certified class—or a class proposed to be certified for purposes of settlement—may be settled . . .  
 10 only with the court’s approval.” Fed. R. Civ. P. 23(e). “The purpose of Rule 23(e) is to protect  
 11 the unnamed members of the class from unjust or unfair settlements affecting their rights.” *In re*  
 12 *Syncor ERISA Litig.*, 516 F.3d 1095, 1100 (9th Cir. 2008). Accordingly, before a district court  
 13 approves a class action settlement, it must conclude that the settlement is “fundamentally fair,  
 14 adequate and reasonable.” *In re Heritage Bond Litig.*, 546 F.3d 667, 674–75 (9th Cir. 2008).

15 Where the parties reach a class action settlement prior to class certification, district courts  
 16 apply “a higher standard of fairness and a more probing inquiry than may normally be required  
 17 under Rule 23(e).” *Dennis v. Kellogg Co.*, 697 F.3d 858, 864 (9th Cir. 2012) (quotations omitted).  
 18 Such settlement agreements ““must withstand an even higher level of scrutiny for evidence of  
 19 collusion or other conflicts of interest than is ordinarily required under Rule 23(e) before securing  
 20 the court’s approval as fair.”” *Roes, I-2 v. SFBCS Mgmt., LLC*, 944 F.3d 1035, 1048–49 (9th Cir.  
 21 2019) (quoting *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011)). A  
 22 more “exacting review is warranted to ensure that class representatives and their counsel do not  
 23 secure a disproportionate benefit at the expense of the unnamed plaintiffs who class counsel had a  
 24 duty to represent.” *Id.* (quotations omitted).

25 Courts may preliminarily approve a settlement and notice plan to the class if the proposed  
 26 settlement: (1) appears to be the product of serious, informed, non-collusive negotiations; (2) does  
 27 not grant improper preferential treatment to class representatives or other segments of the class;  
 28 (3) falls within the range of possible approval; and (4) has no obvious deficiencies. *In re Lenovo*

1 *Adware Litig.*, No. 15-MD-02624-HSG, 2018 WL 6099948, at \*7 (N.D. Cal. Nov. 21, 2018)  
2 (citation omitted). Courts lack the authority, however, to “delete, modify or substitute certain  
3 provisions. The settlement must stand or fall in its entirety.” *Hanlon*, 150 F.3d at 1026.

4 **B. Analysis**

5 **i. Evidence of Conflicts and Signs of Collusion**

6 The first factor the Court considers is whether there is evidence of collusion or other  
7 conflicts of interest. *See Roes*, 944 F.3d at 1049. The Ninth Circuit has directed district courts to  
8 look for “subtle signs of collusion,” which include whether counsel will receive a disproportionate  
9 distribution of the settlement, whether the parties negotiate a “‘clear sailing’ arrangement (*i.e.*, an  
10 arrangement where defendant will not object to a certain fee request by class counsel),” and  
11 whether the parties agree to a reverter that returns unclaimed funds to the defendant. *Id.*

12 **a. Clear Sailing Provision**

13 Here, the Settlement Agreement contains a clear sailing arrangement, which states that  
14 SoFi will not oppose Plaintiffs’ motion for attorneys’ fees and costs so long as the amount  
15 requested does not exceed \$300,000. *See SA* at § 15.1.2. The Ninth Circuit has noted that clear  
16 sailing arrangements are “important warning signs of collusion,” because “[t]he very existence of  
17 a clear sailing provision increases the likelihood that class counsel will have bargained away  
18 something of value to the class.” *Roes*, 944 F.3d at 1051 (quoting *In re Bluetooth*, 654 F.3d at  
19 948). Accordingly, when confronted with a clear sailing provision, the district court has a  
20 heightened duty to “scrutinize closely the relationship between attorneys’ fees and benefit to the  
21 class, being careful to avoid awarding ‘unreasonably high’ fees simply because they are  
22 uncontested.” *Id.* (quotations omitted).

23 Under the Settlement Agreement, any attorneys’ fees award will not be deducted from the  
24 Settlement Fund, but will instead be paid separately by SoFi. *See SA* at § 15.1. When deciding to  
25 award attorney’s fees and costs in such circumstances, courts generally apply the lodestar method.  
26 *See In re Bluetooth*, 654 F.3d at 941–42. The Court understands that if it were to award \$300,000  
27 in attorneys’ fees, this is significantly more than would be distributed to Class Members.  
28 However, in addition to the monetary award, SoFi has also agreed to change its lending policies



1 such that DACA and CPR applicants will be evaluated for consumer credit product eligibility on  
 2 the same terms as U.S. citizen applicants. *See* Dkt. No. 93 at 7. In any event, the Court is  
 3 cognizant of its obligation to review class fee awards with particular rigor, and at the final  
 4 approval stage will carefully scrutinize the circumstances and determine what attorneys’ fee  
 5 awards is appropriate in this case. At this stage, the Court does not find that the clear sailing  
 6 provision weighs against preliminary approval.<sup>4</sup>

7 **b. *Cy Pres* Distribution**

8 The Court must also evaluate whether the parties’ proposed *cy pres* recipient is  
 9 appropriate. A *cy pres* award must qualify as “the next best distribution” to giving the funds to  
 10 class members. *Dennis*, 697 F.3d at 865. “Not just any worthy recipient can qualify as an  
 11 appropriate *cy pres* beneficiary,” and there must be a “driving nexus between the plaintiff class  
 12 and the *cy pres* beneficiaries.” *Id.* (quotation omitted). That is to say, a *cy pres* award must be  
 13 “guided by (1) the objectives of the underlying statute(s) and (2) the interests of the silent class  
 14 members, and must not benefit a group too remote from the plaintiff class.” *Id.* (quotation  
 15 omitted). A *cy pres* distribution is not appropriate if there is “no reasonable certainty that any  
 16 class member would benefit from it.” *Id.* (quotation omitted).

17 Here, the parties have selected the University of California Immigrant Legal Services  
 18 Center as its *cy pres* recipient. *See* SA at § 3.3.6. The University of California Immigrant Legal  
 19 Services Center provides direct legal services to immigrant students and their families, including  
 20 DACA recipients and CPRs, to address a variety of legal needs. The Court preliminarily finds that  
 21 the University of California Immigrant Legal Services Center shares the interests of Class  
 22 Members in seeking equitable access to consumer loan products for DACA recipients and other  
 23 immigrant applicants, including with respect to student loans and loan refinancing. Accordingly,  
 24 the Court preliminarily finds that there is a sufficient nexus between the *cy pres* recipient and the  
 25 Settlement Classes.

26  
 27 \_\_\_\_\_  
 28 <sup>4</sup> To the extent Plaintiff’s counsel argues that it is entitled to attorneys’ fees in the amount of  
 \$300,000, *see* Dkt. No. 93 at 11–12, the Court need not—and does not—decide that issue now.  
 Preliminary approval is not an endorsement or pre-approval of any future fee request.

1                   **ii. Preferential Treatment**

2                   The Court next considers whether the settlement agreement provides preferential treatment  
3 to any Class Member. The Ninth Circuit has instructed that district courts must be “particularly  
4 vigilant” for signs that counsel have allowed the “self-interests” of “certain class members to  
5 infect negotiations.” *In re Bluetooth*, 654 F.3d at 947. For that reason, courts in this district have  
6 consistently stated that preliminary approval of a class action settlement is inappropriate where the  
7 proposed agreement “improperly grant[s] preferential treatment to class representatives.” *Lenovo*,  
8 2018 WL 6099948, at \*8 (quotations omitted).

9                   Although the settlement agreement authorizes the Class Representatives to seek incentive  
10 awards of no more than \$5,000 each and Plaintiff Juarez to seek an incentive award of no more  
11 than \$6,000 for their role in this lawsuit, the Court will ultimately determine whether they are  
12 entitled to such an award and the reasonableness of the amount requested. Incentive awards “are  
13 intended to compensate class representatives for work done on behalf of the class, to make up for  
14 financial or reputational risk undertaken in bringing the action.” *Rodriguez v. West Publ’g Corp.*,  
15 563 F.3d 948, 958–59 (9th Cir. 2009). Plaintiffs must provide sufficient evidence to allow the  
16 Court to evaluate their award “individually, using ‘relevant factors includ[ing] the actions the  
17 plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted  
18 from those actions, . . . [and] the amount of time and effort the plaintiff expended in pursuing the  
19 litigation . . . .’” *Stanton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). As discussed during  
20 the hearing, the Court has some concern as to whether Plaintiff Juarez is properly entitled to any  
21 incentive award since he is not a member of either settling class. The Court will consider the  
22 evidence presented at the final fairness hearing and evaluate the reasonableness of any incentive  
23 award request. Nevertheless, because incentive awards are not per se unreasonable, the Court  
24 finds that this factor weighs in favor of preliminary approval. *See Rodriguez*, 563 F.3d at 958  
25 (finding that “[i]ncentive awards are fairly typical in class action cases” and “are discretionary”  
26 (emphasis omitted)).

27                   **iii. Settlement within Range of Possible Approval**

28                   The third factor the Court considers is whether the settlement is within the range of

1 possible approval. To evaluate whether the settlement amount is adequate, “courts primarily  
2 consider plaintiffs’ expected recovery balanced against the value of the settlement offer.” *Lenovo*,  
3 2018 WL 6099948, at \*8. This requires the Court to evaluate the strength of Plaintiffs’ case.

4 Here, California Class Members are eligible under the Settlement Agreement to receive  
5 individual payments of up to \$3,000 per denial of a credit application, which amounts to 75% of  
6 the \$4,000 statutory damages available under the Unruh Civil Rights Act. And National Class  
7 Members are eligible to receive individual payments of up to \$1,000 per denial of a credit  
8 application. SoFi has also agreed to extend loans to current and valid DACA and CPR recipients  
9 on the same terms and conditions as U.S. citizens. Plaintiffs acknowledge that they would face  
10 substantial risk in continuing to litigate this case, including certifying the class and prevailing at  
11 trial. SoFi has vigorously asserted that its policies are lawful and justified based on heightened  
12 risks of lending to individuals with non-permanent immigration status. There may also be  
13 individualized reasons why Class Members were not qualified for loans, irrespective of their  
14 immigration status. SoFi also argues that online applicants are asked to agree to SoFi’s arbitration  
15 agreement, such that their claims would be subject to arbitration. The Court finds that the  
16 settlement amount, given these risks, weighs in favor of granting preliminary approval.

17 **iv. Obvious Deficiencies**

18 The Court also considers is whether there are obvious deficiencies in the settlement  
19 agreement. The Court finds no obvious deficiencies, and therefore finds that this factor weighs in  
20 favor of preliminary approval.

21 \* \* \*

22 Having weighed the relevant factors, the Court preliminarily finds that the settlement  
23 agreement is fair, reasonable, and adequate, and **GRANTS** preliminary approval. The Court  
24 **DIRECTS** the parties to include both a joint proposed order and a joint proposed judgment when  
25 submitting their motion for final approval.

26 **IV. PROPOSED CLASS NOTICE PLAN**

27 For Rule 23(b)(3) class actions, “the court must direct notice to the class members the best  
28 notice that is practicable under the circumstances, including individual notice to all members who

1 can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Individual notice must  
 2 be sent to all class members “whose names and addresses may be ascertained through reasonable  
 3 effort.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). District courts have “broad  
 4 power and discretion vested in them by [Rule 23]” in determining the contours of appropriate class  
 5 notice. *See Reiter v. Sonotone Corp.*, 442 U.S. 330, 345 (1979).

6 With respect to the content of the notice itself, the notice must clearly and concisely state  
 7 in plain, easily understood language:

- 8 (i) the nature of the action;
- 9 (ii) the definition of the class certified;
- 10 (iii) the class claims, issues, or defenses;
- 11 (iv) that a class member may enter an appearance through an attorney if  
the member so desires;
- 12 (v) that the court will exclude from the class any member who requests  
exclusion;
- 13 (vi) the time and manner for requesting exclusion; and
- 14 (vii) the binding effect of a class judgment on members[.]

15 Fed. R. Civ. P. 23(c)(2)(B).

16 The parties have agreed that a third-party settlement administrator will send class notice  
 17 via first-class U.S. mail to each potential class member at their last known address, as provided by  
 18 SoFi and updated by the administrator as appropriate. *See SA at §§ 2.5, 7.3, 7.5.* As the parties  
 19 explained during the hearing, they do not know which applicants held CPR or DACA status  
 20 during the relevant time period. Accordingly, the Settlement Administrator will send notice to all  
 21 those who according to SoFi’s records (1) called SoFi’s 877 customer service number for non-  
 22 citizen applicants and were not approved for a loan product; or (2) applied or attempted to apply  
 23 online, opted out of the arbitration provision, and were not approved for a loan product between  
 24 May 19, 2017 and the date of this order. *See Dkt. No. 93 at 4–5; see also Dkt. No. 99 at ¶¶ 4–7.*  
 25 The parties estimate that notice will be sent to approximately 2,300 potential class members, and  
 26 that of this 2,300, approximately 20% to 30% will have (or have had) DACA or CPR status such  
 27 that they would be eligible to participate in the Settlement as Class Members. *Id.*

28 Any letters returned as undeliverable will be sent to any updated address provided with the  
 returned mail. *See id.* at § 7.5. If no forwarding address is provided, the settlement administrator  
 will attempt to determine the correct address using the National Change of Address Database. *Id.*

1 It will also send notice via email and text, where email addresses and telephone numbers are  
2 available. *See id.* at §§ 2.5, 7.3, 7.5. The Settlement Administrator will also mail a reminder  
3 notice 30 days after the initial notice is sent. *See id.* at § 7.6; *see also* Dkt. No. 93-3, Ex. 4. The  
4 Court finds that the proposed notice process is “reasonably calculated, under all the circumstances,  
5 to apprise all class members of the proposed settlement.” *Roes*, 944 F.3d at 1045 (quotation  
6 omitted).

7 As to the substance of the notice, the parties have attached a copy of their proposed class  
8 notice to the Settlement Agreement. *See* Dkt. No. 97-3, Ex. C; Dkt. No. 93-3, Ex. 3; *see also* Dkt.  
9 No. 100 at ¶ 2. The notice explains how to submit a claim form and opt out of or object to the  
10 Settlement Agreement. *Id.* The Settlement Administrator will also establish a website, which will  
11 have copies of the relevant case documents. *See* SA at § 7.8. To further enhance understanding,  
12 the Settlement Administrator will operate the website in English and Spanish, and will operate a  
13 dual English-Spanish toll-free contact center. *See id.* at § 6.2. The proposed notice includes  
14 instructions in Spanish explaining how Class Members can access the website and phone number  
15 for further information. *See* Dkt. No. 97-3, Ex. C.

16 The notice also informs Class Members that Class Counsel will file a motion with the  
17 Court for attorneys’ fees, as well as reimbursement of litigation costs and expenses advanced by  
18 Class Counsel. *See id.* It also provides that Plaintiffs Segarceanu, Galicia and Jimenez may  
19 request up to \$5,000 for their services as Class Representatives, and Plaintiff Juarez may request  
20 up to \$6,000 for his contributions to this case. *Id.*

21 To enable class members to review the motion for attorneys’ fees and the motion for  
22 incentive award, Class Counsel shall include language in the settlement notice: (1) indicating the  
23 deadline for filing the attorneys’ fees motion and request for Plaintiffs’ incentive award;  
24 (2) specifically stating the deadline for any class member objections to these motions; and  
25 (3) informing class members how to access the motion and supporting materials. *See In re*  
26 *Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 993–94 (9th Cir. 2010) (holding that under  
27 Rule 23(h), class members must be given a full and fair opportunity to examine and object to  
28 attorneys’ fees motion).

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1 The Court finds that with these changes, the content of the proposed notice provides  
2 sufficient information about the case and thus conforms with due process requirements. *See*  
3 *Hyundai II*, 926 F.3d at 567 (“Notice is satisfactory if it generally describes the terms of the  
4 settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come  
5 forward and be heard.” (quotation omitted)).

6 **V. CONCLUSION**


7 The Court **GRANTS** the motion for preliminary approval. The parties are **DIRECTED** to  
8 meet and confer and stipulate to a schedule of dates for each event listed below, which shall be  
9 submitted to the Court within seven days of the date of this Order:

Event	Date
Deadline for Settlement Administrator to mail notice to all putative Class Members	
Filing deadline for attorneys’ fees and costs motion	
Filing deadline for incentive payment motion	
Deadline for Class Members to opt-out or object to settlement and/or application for attorneys’ fees and costs and incentive payment, at least 45 days after the filing of the motion for attorneys’ fees and incentive payments	
Filing deadline for final approval motion	
Final fairness hearing and hearing on motions	

19  
20 The parties are further **DIRECTED** to implement the proposed class notice plan with the edits  
21 identified above.

22 **IT IS SO ORDERED.**

23 Dated: 12/15/2022

24   
25 HAYWOOD S. GILLIAM, JR.  
26 United States District Judge  
27  
28