



1700 G Street NW, Washington, D.C. 20552

May 22, 2020

Nicholas Corpuz  
Director of Compliance  
Brace Software, Inc.  
555 W. 5th Street, Floor 35  
Los Angeles, CA 90013

Dear Mr. Corpuz:

This letter is in response to an application for a No-Action Letter Template (Application), filed with the Consumer Financial Protection Bureau (Bureau) by Brace Software, Inc. (Brace) that can serve as the basis for No-Action Letter applications by mortgage servicers intending to use Brace's loss mitigation platform (Applicants).

The Application explains that Brace offers an online platform that provides a digital loss mitigation solution to mortgage servicers (Platform), and that the Platform is offered to mortgage servicers on a "software-as-a-service" basis. The Platform has two components: (i) the consumer user interface (borrower-UI), which consists of a dynamic workflow with directed document upload, and (ii) the servicer workflow. The borrower-UI is a dynamic version of the Fannie Mae/Freddie Mac Form 710/Borrower Solicitation Package, the paper loss mitigation application commonly used by mortgage servicers. The servicer workflow, which is not intended to be used or seen by consumers, is a processing system that can be used by mortgage servicers to efficiently process and manage loss mitigation requests. The Platform can be customized by particular servicers in various ways. For example, the Platform provides an online conduit for disclosures and other communications from servicers to borrowers; the content of those disclosures and communications are provided by particular servicers.

The Bureau has considered and grants the Application, and accordingly issues this No-Action Letter Template pursuant to the Bureau's Policy on No-Action Letters (Policy). The Bureau intends to grant applications for a No-Action Letter based on this No-Action Letter Template under section E.1.b of the Policy, in appropriate cases. In general, such applications should include the information specified in section A of the Policy, but with appropriate adjustments. In particular, such applications should include a statement that the application is based on this

No-Action Letter Template, and the certifications in section A below. An application may also include the information specified in section B below.

## **A. Certifications**

1. The Applicant intends to use the Platform for processing loss mitigation applications.<sup>1</sup>
2. The Applicant will consider a loss mitigation application to be received in the borrower-UI component of the Platform for purposes of Regulation X, 12 CFR 1024.41(b)(2) when the borrower clicks on the “submit” button in the online application form in the Platform.<sup>2</sup>
3. The Applicant will process and give effect to cease communication requests (i.e., by not communicating further with the borrower with respect to such debt except under the circumstances outlined in 15 U.S.C. 1692c(c)) received on the Platform in addition to (but not instead of) processing and giving effect to cease communication requests received in writing.

## **B. Other Information**

A No-Action Letter application based on this No-Action Letter Template would cover the application of the laws and regulations identified in section D.3 below to the uses of the Platform identified in sections A.2 and A.3 above. To the extent an Applicant wishes a potential No-Action Letter to cover additional uses of the Platform, including any customizations, the Applicant should include such a request in its application, and identify any laws and regulations in addition to or other than those identified in section D.3 below. In determining whether to extend coverage of a No-Action Letter to any such additional uses, the Bureau will assess whether the application contains a sufficiently detailed description of those uses. For example, if an Applicant sought to extend coverage to the content of the messages that the servicer expects to send to borrowers through the Platform, prior to, during, or after the submission of a loss mitigation application, then such content would need to be described in sufficient detail in the application.

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<sup>1</sup> By so certifying, the Applicant would not be certifying to using the Platform as its sole mechanism for processing loss mitigation applications.

<sup>2</sup> By contrast, merely logging in and filling out information in the online application in the Platform, but not clicking on “submit,” would not constitute receipt of such an application.

## **C. No-Action Letter Template Limitations and Conditions**

1. This No-Action Letter Template is based on the factual representations made in the Application.
2. This No-Action Letter Template is non-operative and non-binding on the Bureau.<sup>3</sup>
3. This No-Action Letter Template and a copy of the Application will be published on the Bureau's website.

## **D. No-Action Letters Based on the No-Action Letter Template**

The Bureau anticipates that a No-Action Letter issued to an Applicant in response to an application based on the No-Action Letter Template would include the following elements:

1. A statement that the letter
  - a. is limited to the Applicant, and does not apply to any other persons or entities;
  - b. is limited to the described uses of the Platform, i.e., the uses described in the Application pursuant to sections A.2, A.3, and (if applicable) B above;<sup>4</sup>
  - c. does not apply to (i) different aspects of the Applicant's use of the Platform, or to (ii) the Applicant's offering or providing any other product or service;
  - d. is based on the factual representations made in the Applicant's application;
  - e. does not purport to express any legal conclusions regarding the meaning or application of Regulation X, 12 CFR 1024.41(b)(2); section 805(c) of the Fair Debt Collection Practices Act (15 U.S.C. 1692c(c)); or sections 1031 and 1036 of the Dodd-Frank Act (12 U.S.C. 5531, 5536); and
  - f. does not constitute the Bureau's endorsement of the described uses of the Platform, any other uses of the Platform, or any other product or service offered or provided by the Applicant.<sup>5</sup>
2. A requirement that the Applicant apprise the Bureau of (a) material changes to information included in its application; and (b) material information indicating that the

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<sup>3</sup> In particular, under section E.1.b of the Policy, the Bureau may modify this No-Action Letter Template in light of the additional information provided in an application for a No-Action Letter based on this No-Action Letter Template.

<sup>4</sup> If the applicant does not submit additional information pursuant to section B, a No-Action Letter issued in response to the application will be limited to the uses described pursuant to sections A.2 and A.3.

<sup>5</sup> See section C.3 of the Policy.

Applicant's uses of the Platform described in its application are not performing as anticipated in the application.<sup>6</sup>

3. A statement that unless or until terminated by the Bureau (as described in section C.7 of the Policy), the Bureau will not make supervisory findings or bring a supervisory or enforcement action against the Applicant under
  - a. Regulation X, 12 CFR 1024.41(b)(2),
  - b. section 805(c) of the Fair Debt Collection Practices Act (15 U.S.C. 1692c(c)), or
  - c. its authority to prevent unfair, deceptive, or abusive acts or practices,<sup>7</sup>predicated on the described uses of the Platform, i.e., the uses described in the Application pursuant to sections A.2, A.3, and (if applicable) B above.<sup>8</sup>
4. A statement that the Applicant may reasonably rely on any Bureau commitments made in the letter.<sup>9</sup>
5. A statement that the Bureau may terminate the letter if it determines that it is necessary or appropriate to do so to advance the primary purposes of the Policy, such as where the recipient fails to substantially comply in good faith with the terms and conditions of the letter; the described uses of the Platform do not perform as anticipated in the application; or controlling law changes as a result of a statutory change or a Supreme Court decision that clearly permits or clearly prohibits conduct covered by the letter.<sup>10</sup>
6. A statement that upon termination, the Bureau will not bring an action to impose retroactive liability on the Applicant with respect to conduct covered by the letter, except where a failure to substantially comply in good faith with the terms and conditions of the letter caused Dodd-Frank Act actionable substantial injury.<sup>11</sup>
7. A statement that the letter and a copy of the Applicant's application will be published on the Bureau's website.

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<sup>6</sup> See section C.4 of the Policy.

<sup>7</sup> 12 U.S.C. 5531, 5536.

<sup>8</sup> See section C.6 of the Policy.

<sup>9</sup> See section C.7(i) of the Policy.

<sup>10</sup> See section C.7(ii) of the Policy.

<sup>11</sup> See section C.7(iii) of the Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Watkins", with a long horizontal flourish extending to the right.

Paul Watkins  
Assistant Director, Office of Innovation  
Consumer Financial Protection Bureau