Exhibit A[1]

Option 1: Modify "Section 2. Trust Account Definition"

SECTION 2. DEFINITIONS

***

(~~20~~21) (A) "Trust account" means an account held by a provider that is:

(~~A~~i) established in an insured bank;

(~~B~~ii) separate from other accounts of the provider or its designee;

(~~C~~iii) designated as a trust account or other account designated to indicate that the money in the account is not the money of the provider~~ or its designee~~; and

(~~D~~iv) used to hold money of one or more individuals for disbursement to creditors of the individuals.

(B) For a plan which contemplates creditors will settle debts for less than the principal amount, on a sequential per-account basis, nothing in this [act] prohibits a provider from requesting or requiring an individual to place funds into an account, separate from the individual's then-existing bank account, to be used for the provider's fees and for payments to creditors or debt collectors in connection with a renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt, if:

(i) the funds are held in an account at a Bank as defined in Section 2(4);

(ii) the individual owns the funds held in the account and is paid accrued interest on the account, if any, minus any fees charged by the Bank;

(iii) the entity administering the account is not owned, controlled by, or in any way affiliated with the provider;

(iv) the entity administering the account does not give or accept any money or other compensation in exchange for referrals of business involving the debt management provider or plan; and

(v) the individual may withdraw from the debt management service at any time without penalty, and immediately receives all funds in the account, other than fees earned in compliance with Section 23, as required by Section 20.

[1] This redline is based on the Model UDMSA, with the exception of the fee provision language, which is based primarily on the Section 23 of the draft Proposed Revised UDMSA (Feb. 16, 2011), except as indicated. The use of the fee amounts included in Proposed Section 23 is for convenience purposes only.

(C) Nothing in subsection C of this definition is intended to prohibit providers from requesting or requiring an individual on an agreed upon plan and pursuant to an agreement to place funds to be used for the provider's fees and for payments for distribution to creditors or debt collectors on a one-time or periodic basis, in an account administered by the provider, subject to the requirements of Section 22 and Section 23 of this [act].

SECTION 22. TRUST ACCOUNT.

(a) All money paid to a provider by or on behalf of an individual pursuant to a plan for distribution to creditors is held in trust. Within two business days after receipt, the provider shall deposit the money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services.

(b) Money held in trust by a provider is not property of the provider or its designee. The money is not available to creditors of the provider or designee, except an individual from whom or on whose behalf the provider received money, to the extent that the money has not been disbursed to creditors of the individual.

(c) A provider or his designee shall:

(1) maintain separate records of account for each individual to whom the provider is furnishing debt-management services;

(2) disburse money paid by or on behalf of the individual to creditors of the individual as disclosed in the agreement, except that:

(A) the provider may delay payment to the extent that a payment by the individual is not final; and

(B) if a plan provides for regular periodic payments to creditors, the disbursement must comply with the due dates established by each creditor; and

(3) promptly correct any payments that are not made or that are misdirected as a result of an error by the provider or other person in control of the trust account and reimburse the individual for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

(d) A provider may not commingle money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services with money of other persons.

(e) A trust account must at all times have a cash balance equal to the sum of the balances of each individual's account.

(f) If a provider has established a trust account pursuant to subsection (a), the provider shall reconcile the trust account at least once a month. The reconciliation must compare the cash balance in the trust account with the sum of the balances in each individual's account. If the provider or its designee has more than one trust account, each trust account must be individually reconciled.

(g) If a provider discovers, or has a reasonable suspicion of, embezzlement or other unlawful appropriation of money held in trust, the provider immediately shall notify the administrator by a method approved by the administrator. Unless the administrator by rule provides otherwise, within five days thereafter, the provider shall give notice to the administrator describing the remedial action taken or to be taken.

(h) If an individual terminates an agreement or it becomes reasonably apparent to a provider that a plan has failed, the provider shall promptly refund to the individual all money paid by or on behalf of the individual which has not been paid to creditors, less fees that are payable to the provider under Section 23.

(i) Before relocating a trust account from one bank to another, a provider shall inform the administrator of the name, business address, and telephone number of the new bank. As soon as practicable, the provider shall inform the administrator of the account number of the trust account at the new bank.

SECTION 23. FEES AND OTHER CHARGES.

(a) A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.

(b) A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with Sections 19 and 28.

(c) If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services, or the like, except as otherwise provided in this

subsection and Section 28(d). The administrator may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.

(d) Subject to adjustment of dollar amounts pursuant to Section 32(f), the following rules apply:

(1) ~~If~~Subject to paragraph (2), if an individual assents to a plan that contemplates that creditors will reduce finance charges or fees for late payment, default, or delinquency, the provider may charge~~:(A)~~ a fee not exceeding $50 for consultation, obtaining a credit report, setting up an account, and the like~~;~~

(2) A provider may not request or receive any compensation from or on behalf of an individual unless:

(A) the provider has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a plan;

~~the provider has secured the assent of the individual and at least one creditor of the individual to a change in the terms of a debt,~~ and

(B) ~~-~~the individual has made at least one payment pursuant to that plan.;~~a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.~~the individual has made a payment toward satisfying the modified terms of the debt.~~

(~~2) If~~3) Subject to subsection (d)(1) if an individual assents to a plan that contemplates that creditors will ~~settle~~reduce finance charges or fees for late payment, default, or delinquency, the provider may receive compensation in the form of a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(4) Except as otherwise provided in subsection (c) if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt~~, a provider may charge~~:

~~(A) subject to Section 19(d), a fee for consultation, obtaining a credit report, setting up an account, and the like, in an amount not exceeding the lesser of $400 and four percent of the debt in the plan at the inception of the plan; and~~

~~(B) a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.~~

(A) compensation for services in connection with settling a debt may not exceed, with respect to each debt 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the agreement, and

(B) if the debt is to be settled by installment payments,

(i) the provider may receive this compensation in installments, made simultaneously with the individual's installment payments to the creditor, but

(ii) any such installment of the compensation may not be a greater percentage of the provider's total compensation for settlement of that debt than the simultaneous payment to the creditor is of the entire settlement amount for that debt.

(~~3~~5) A provider that receives fees under paragraph (4) may not also impose or receive fees under ~~both~~ paragraphs (1) ~~and~~or (~~2~~3) (~~4~~6) Except as otherwise provided in Section 28(d), if an individual does not assent to an agreement, a provider may receive for educational and counseling services it provides to the individual a fee not exceeding $100 or, with the approval of the administrator, a larger fee. The administrator may approve a fee larger than $100 if the nature and extent of the educational and counseling services warrant the larger fee.

(e) If, before the expiration of 90 days after the completion or termination of educational or counseling services, an individual assents to an agreement, the provider shall refund to the individual any fee paid pursuant to subsection (d)(~~4~~5).

(f~~) Except as otherwise provided in subsections (c) and (d), if a plan contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling a debt may not exceed, with respect to each debt:~~

~~(1) 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the plan less~~

~~(2) to the extent it has not been credited against an earlier settlement fee:~~

~~(A) the fee charged pursuant to subsection (d)(2)(A); and~~

~~(B) the aggregate of fees charged pursuant to subsection (d)(2)(B).(g~~) Subject to adjustment of the dollar amount pursuant to Section 32(f), if a payment to a provider by an individual under this [act] is dishonored, a provider may impose a reasonable charge on the individual, not to exceed the lesser of $25 and the amount permitted by law other than this [act].

Exhibit B[2]

Option 2: Modify "Section 22. Trust Account"

SECTION 2. DEFINITIONS

***

(~~20~~21) "Trust account" means an account held by a provider that is:

(A) established in an insured bank;

(B) separate from other accounts of the provider or its designee;

(C) designated as a trust account or other account designated to indicate that the money in the account is not the money of the provider or its designee; and

(D) used to hold money of one or more individuals for disbursement to creditors of the individuals.

SECTION 22. TRUST ACCOUNT.

(a) All money paid to a provider by or on behalf of an individual pursuant to a plan for distribution to creditors is held in trust. Within two business days after receipt, the provider shall deposit the money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services.

(b) Money held in trust by a provider is not property of the provider or its designee. The money is not available to creditors of the provider or designee, except an individual from whom or on whose behalf the provider received money, to the extent that the money has not been disbursed to creditors of the individual.

(c) A provider or his designee shall:

(1) maintain separate records of account for each individual to whom the provider is furnishing debt-management services;

(2) disburse money paid by or on behalf of the individual to creditors of the individual as disclosed in the agreement, except that:

(A) the provider may delay payment to the extent that a payment by the individual is not final; and

[2] This redline is based on the Model UDMSA, with the exception of the fee provision language, which is based primarily on the Section 23 of the draft Proposed Revised UDMSA (Feb. 16, 2011), except as indicated. The use of the fee amounts included in Proposed Section 23 is for convenience purposes only.

(B) if a plan provides for regular periodic payments to creditors, the disbursement must comply with the due dates established by each creditor; and

(3) promptly correct any payments that are not made or that are misdirected as a result of an error by the provider or other person in control of the trust account and reimburse the individual for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

(d) **[OPTIONAL:** For a plan under which creditors will settle debts for less than the principal amount of the debt**] [n]**othing in this [act] prohibits requesting or requiring each individual to whom the provider is furnishing debt-management services to place funds in an account to be used for the debt relief provider's fees and for payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt, provided that:

(1) the funds are held in an account at a Bank as defined in Section 2(4);

(2) the individual owns the funds held in the account and is paid accrued interest on the account, if any, minus any fees charged by the Bank;

(3) if the provider does not administer the account, the entity administering the account is not owned or controlled by, or in any way affiliated with, the provider;

(4) the entity administering the account does not give or accept any money or other compensation in exchange for referrals of business involving the debt-management services; and

(5) the individual may withdraw from the debt relief service at any time without penalty, and must receive all funds in the account, other than funds earned by the debt relief service in compliance Section 28 of this [act].

(e) Nothing in subsection (d) is intended to prohibit providers from requesting or requiring an individual on an agreed upon plan and pursuant to an agreement to place funds to be used for the provider's fees and for payments for distribution to creditors or debt collectors, on a one-time or periodic basis, in an account administered by the provider, subject to the requirements in Section 23 of this [act].

SECTION 23. FEES AND OTHER CHARGES.

(a) A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.

(b) A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with Sections 19 and 28.

(c) If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services, or the like, except as otherwise provided in this subsection and Section 28(d). The administrator may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.

(d) Subject to adjustment of dollar amounts pursuant to Section 32(f), the following rules apply:

(1) ~~If~~Subject to paragraph (2), if an individual assents to a plan that contemplates that creditors will reduce finance charges or fees for late payment, default, or delinquency, the provider may charge~~:(A)~~ a fee not exceeding $50 for consultation, obtaining a credit report, setting up an account, and the like~~;~~

(2) A provider may not request or receive any compensation from or on behalf of an individual unless:

(A) the provider has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a plan;

~~the provider has secured the assent of the individual and at least one creditor of the individual to a change in the terms of a debt,~~ and

(B) ~~-~~the individual has made at least one payment pursuant to that plan. ~~a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.~~~~the individual has made a payment toward satisfying the modified terms of the debt.~~

(~~2) If~~3) Subject to subsection (d)(1) if an individual assents to a plan that contemplates that creditors will ~~settle~~reduce finance charges or fees for late payment, default, or delinquency, the provider may receive compensation in the form of a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(4) Except as otherwise provided in subsection (c) if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt~~, a provider may charge~~:

~~(A) subject to Section 19(d), a fee for consultation, obtaining a credit report, setting up an account, and the like, in an amount not exceeding the lesser of $400 and four percent of the debt in the plan at the inception of the plan; and~~

~~(B) a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.~~

(A) compensation for services in connection with settling a debt may not exceed, with respect to each debt 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the agreement, and

(B) if the debt is to be settled by installment payments,

(i) the provider may receive this compensation in installments, made simultaneously with the individual's installment payments to the creditor, but

(ii) any such installment of the compensation may not be a greater percentage of the provider's total compensation for settlement of that debt than the simultaneous payment to the creditor is of the entire settlement amount for that debt.

(~~3~~5) A provider that receives fees under paragraph (4) may not also impose or receive fees under ~~both~~ paragraphs (1) ~~and~~or (~~2~~3).(~~4~~6) Except as otherwise provided in Section 28(d), if an individual does not assent to an agreement, a provider may receive for educational and counseling services it provides to the individual a fee not exceeding $100 or, with the approval of the administrator, a larger fee. The administrator may approve a fee larger than $100 if the nature and extent of the educational and counseling services warrant the larger fee.

(e) If, before the expiration of 90 days after the completion or termination of educational or counseling services, an individual assents to an agreement, the provider shall refund to the individual any fee paid pursuant to subsection (d)(~~4~~5).

~~(f) Except as otherwise provided in subsections (c) and (d), if a plan contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling a debt may not exceed, with respect to each debt:~~

~~(1) 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the plan less~~

1 ~~(2) to the extent it has not been credited against an earlier settlement fee:~~

2 ~~(A) the fee charged pursuant to subsection (d)(2)(A); and~~

3 ~~(B) the aggregate of fees charged pursuant to subsection (d)(2)(B).~~

4 ~~(g) Subject to adjustment of the dollar amount pursuant to Section 32(f), if a~~

5 ~~payment to a provider by an individual under this [act] is dishonored, a provider may impose a~~

6 ~~reasonable charge on the individual, not to exceed the lesser of $25 and the amount permitted by~~

7 ~~law other than this [act].~~

1
2 **Exhibit C[3]**
3 **Option 3: Modify "Section 23. Fees and Other Charges"**
4
5 **SECTION 2. DEFINITIONS**
6 ***
7 (~~20~~21) "Trust account" means an account held by a provider that is:
8 (A) established in an insured bank;
9 (B) separate from other accounts of the provider or its designee;
10 (C) designated as a trust account or other account designated to indicate
11 that the money in the account is not the money of the provider or its designee; and
12 (D) used to hold money of one or more individuals for disbursement to
13 creditors of the individuals.
14
15 **SECTION 22. TRUST ACCOUNT.**
16 (a) All money paid to a provider by or on behalf of an individual pursuant to a
17 plan for distribution to creditors is held in trust. Within two business days after receipt, the
18 provider shall deposit the money in a trust account established for the benefit of individuals to
19 whom the provider is furnishing debt-management services.
20 (b) Money held in trust by a provider is not property of the provider or its
21 designee. The money is not available to creditors of the provider or designee, except an
22 individual from whom or on whose behalf the provider received money, to the extent that the
23 money has not been disbursed to creditors of the individual.
24 (c) A provider shall:
25 (1) maintain separate records of account for each individual to whom the
26 provider is furnishing debt-management services;
27 (2) disburse money paid by or on behalf of the individual to creditors of
28 the individual as disclosed in the agreement, except that:
29 (A) the provider may delay payment to the extent that a payment
30 by the individual is not final; and

[3] This redline is based on the Model UDMSA, with the exception of the fee provision language, which is based primarily on the Section 23 of the draft Proposed Revised UDMSA (Feb. 16, 2011), except as indicated. The use of the fee amounts included in Proposed Section 23 is for convenience purposes only.

(B) if a plan provides for regular periodic payments to creditors, the disbursement must comply with the due dates established by each creditor; and

(3) promptly correct any payments that are not made or that are misdirected as a result of an error by the provider or other person in control of the trust account and reimburse the individual for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

SECTION 23. FEES AND OTHER CHARGES.

(a) A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.

(b) A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with Sections 19 and 28.

(c) If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services, or the like, except as otherwise provided in this subsection and Section 28(d). The administrator may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.

(d) Subject to adjustment of dollar amounts pursuant to Section 32(f), the following rules apply:

(1) ~~If~~Subject to paragraph (2), if an individual assents to a plan that contemplates that creditors will reduce finance charges or fees for late payment, default, or delinquency, the provider may charge~~:(A)~~ a fee not exceeding $50 for consultation, obtaining a credit report, setting up an account, and the like~~;~~

(2) A provider may not request or receive any compensation from or on behalf of an individual unless:

(A) the provider has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a plan;

~~the provider has secured the assent of the individual and at least one creditor of the individual to a change in the terms of a debt,~~ and

(B) ~~-~~the individual has made at least one payment pursuant to that plan.;~~a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the~~

~~time the fee is assessed, but not more than $50 in any month.~~~~the individual has made a payment toward satisfying the modified terms of the debt.~~

(~~2) If~~3) Subject to subsection (d)(1) if an individual assents to a plan that contemplates that creditors will ~~settle~~reduce finance charges or fees for late payment, default, or delinquency, the provider may receive compensation in the form of a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(4) Except as otherwise provided in subsection (c) if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt~~, a provider may charge~~:

~~(A) subject to Section 19(d), a fee for consultation, obtaining a credit report, setting up an account, and the like, in an amount not exceeding the lesser of $400 and four percent of the debt in the plan at the inception of the plan; and~~

~~(B) a monthly service fee, not to exceed $10 times the number of creditors remaining in a plan at the time the fee is assessed, but not more than $50 in any month.~~

(A) compensation for services in connection with settling a debt may not exceed, with respect to each debt, 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the agreement, and

(B) if the debt is to be settled by installment payments,

(i) the provider may receive this compensation in installments, made simultaneously with the individual's installment payments to the creditor, but

(ii) any such installment of the compensation may not be a greater percentage of the provider's total compensation for settlement of that debt than the simultaneous payment to the creditor is of the entire settlement amount for that debt.

(~~3~~5) A provider that receives fees under paragraph (4) may not also impose or receive fees under ~~both~~ paragraphs (1) ~~and~~or (~~2~~3).(~~4~~6) Except as otherwise provided in Section 28(d), if an individual does not assent to an agreement, a provider may receive for educational and counseling services it provides to the individual a fee not exceeding $100 or, with the approval of the administrator, a larger fee. The administrator may approve a fee larger than $100 if the nature and extent of the educational and counseling services warrant the larger fee.

(e) If, before the expiration of 90 days after the completion or termination of educational or counseling services, an individual assents to an agreement, the provider shall refund to the individual any fee paid pursuant to subsection (d)(~~4~~5).

(f~~) Except as otherwise provided in subsections (c) and (d), if a plan contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling a debt may not exceed, with respect to each debt:~~

~~(1) 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the plan less~~

~~(2) to the extent it has not been credited against an earlier settlement fee:~~

~~(A) the fee charged pursuant to subsection (d)(2)(A); and~~

~~(B) the aggregate of fees charged pursuant to subsection (d)(2)(B).(g~~) Subject to adjustment of the dollar amount pursuant to Section 32(f), if a payment to a provider by an individual under this [act] is dishonored, a provider may impose a reasonable charge on the individual, not to exceed the lesser of $25 and the amount permitted by law other than this [act].

(g) Nothing in Subsection (d) of this Section prohibits requesting or requiring each individual to whom the provider is furnishing debt-management services to place funds in an account to be used for the debt relief provider's fees and for payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt, provided that:

(1) the funds are held in an account at a Bank as defined in Section 2(4);

(2) the individual owns the funds held in the account and is paid accrued interest on the account, if any, minus any fees charged by the Bank;

(3) the entity administering the account is not owned or controlled by, or in any way affiliated with, the provider;

(4) the entity administering the account does not give or accept any money or other compensation in exchange for referrals of business involving the debt-management services; and

(5) the individual may withdraw from the debt relief service at any time without penalty, and must receive all funds in the account, other than funds earned by the debt relief service in compliance Section 28 of this [act].

1 (h) Nothing in subsection (g) of this Section is intended to prohibit providers from
2 requesting or requiring an individual on an agreed upon plan and pursuant to an agreement to
3 place funds to be used for the provider's fees and for payments for distribution to creditors or
4 debt collectors in an account administered by the provider, subject to the requirements in Section
5 22 and Section 23(d) of this [act].
6