



CFPB Examinations for Originators and Servicers of Student Loans – Are You Prepared?

“For many borrowers, a student loan may be their first major financial decision. With student debt topping a trillion dollars, we will be working to ensure consumers are treated fairly and lenders are held accountable.”

~ Richard Cordray, CFPB Director

“At the CFPB, we believe that a properly functioning market for consumer credit is a critical part of our economy. There is no greater example of that than in the student loan market.”

~ Raj Date, CFPB Deputy Director

“Student loans have now surpassed credit cards as the largest source of unsecured credit. Before the financial crisis, the private student loan market boomed, and many consumers borrowed significantly to pay for postsecondary education expenses.”

~ Rohit Chopra, CFPB Student Loan Ombudsman

“The student loan servicing complaints and stories received by [the CFPB] raise concerns that problems confronted by military borrowers are not confined to the mortgage market.”

~ Holly Petraeus, Assistant Director, CFPB Office of Servicemember Affairs

Read on for information about how to determine whether you are up to the test.

With the recent release of its product-specific Education Loan Examination Procedures, the CFPB has made it abundantly clear that it will be conducting comprehensive audits of originators and servicers of private education loans and legacy FFELP loans. That's right. Federal loans are included.

The CFPB will assess your internal policies and procedures, stated practices that it believes could be problematic, your compliance with federal consumer financial law, and the necessity for further supervisory or enforcement action. **And make no mistake – the CFPB will not be grading on a curve!**

Answer these questions to see if you are ready for a CFPB examination.

For Lenders

- Do you have comprehensive compliance risk management systems in place to prevent violations of federal laws that may affect loan origination, such as TILA, ECOA, FCRA, EFTA, GLBA, and ESIGN?
- Do you have policies and procedures in place to avoid advertising, marketing, and lead generation practices concerning private education loans that the CFPB considers to be unfair, deceptive, or abusive?
- Are you prepared to articulate the business justification for your use of school cohort default rates to determine school and student eligibility when the CFPB claims that this has a disparate impact against protected classes?
- Have your board and senior management documented their commitment to and involvement in consumer compliance? Are they being briefed on compliance management issues, including service-provider issues?
- Does your employee training program adequately address compliance issues? Are you monitoring sales calls? Have you conducted directly or through a third party a recent compliance audit?

For Servicers

- Do you have comprehensive compliance risk management systems in place to prevent violations of federal laws that may affect loan servicing, such as TILA, ECOA, FCRA, EFTA, FDCPA, and SCRA?
- Do you have policies and procedures in place to avoid payment processing and account maintenance practices regarding private education loans that the CFPB considers to be unfair, deceptive, or abusive?
- Do you have procedures in place to verify interest rate and payment changes for variable rate loans? Are you providing statements that clearly and conspicuously disclose loan balances, accrued interest, charges and fees, payment allocation, and required payments?
- Do you have policies and procedures in place for granting deferments consistent with FFELP requirements, and to determine eligibility for IBR and loan forgiveness plans?
- Do you have policies and procedures in place for receiving, reporting, resolving, and analyzing consumer inquiries and complaints? Are you reporting to your board and senior management on complaint trends?

We Can Help

Ballard Spahr attorneys regularly speak at trade association conferences, providing in-depth analyses of CFPB actions affecting student loan origination and servicing. Our blog, *CFPB Monitor*, which was recently named one of the top 100 law blogs of 2012 by the American Bar Association, provides the most relevant and up-to-date information about CFPB developments in this area. Additionally, we are helping numerous clients in this and other industries not previously subject to such heightened scrutiny prepare to deal with the CFPB by:

- Designing and overseeing self-assessments
- Conducting compliance audits and mock CFPB exams
- Drafting, reviewing, and revising policies and procedures
- Quarterbacking responses to civil investigative demands

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