Consumer Financial Protection Bureau

CONSUMER FINANCIAL PROTECTION BUREAU PROPOSES RULE TO OVERSEE NONBANK STUDENT LOAN SERVICERS

The Consumer Financial Protection Bureau (CFPB) proposed a rule today that would allow it to federally supervise certain nonbank student loan servicers for the first time. The rule would bring new oversight to a rapidly growing market that has seen a rise in borrower delinquency in recent years. The CFPB is taking public comment on the proposed rule and considering a final rule within the coming year.

Student Loans by the Numbers

- **$1.1 trillion:** approximate amount of outstanding student loan debt in the United States—second only to mortgages in household debt
- **40 percent:** amount of American households headed by someone under 35 that have student loan debt and are affected by student loan servicing
- **1 in 5:** U.S. households that have student loans and are affected by student loan servicing
- **49 million:** number of borrower accounts that would be better protected under CFPB's proposed rule

Overview

The cost of college education and the number of Americans pursuing that education have risen consistently in the past several years. To help pay, more Americans have turned to both federal and private student loans. Federal student loans make up nearly ninety percent of the market. Holders of federal and private loans, which include financial institutions and the federal government, often use nonbank loan servicers.

Loan servicers are responsible for collecting payments from borrowers on behalf of loan owners. Loan servicers are often different than the lender itself, and a borrower has no control or choice over which company services a loan. Student loan servicers:

- Send monthly statements and collect payments;
- Maintain records of payments and balances;
- Answer borrower questions;
- May report borrower account activity to consumer reporting agencies; and
- Work with borrowers on alternative payment options like income-based repayment or deferments.

Proposed Protections

The vast majority of student loan servicing is conducted by nonbank servicers. CFPB's proposed rule would subject any nonbank student loan servicer that handles more than 1 million borrower accounts to CFPB supervisory authority. With that threshold, the Bureau estimates that it would have authority to supervise the seven largest student loan servicers. Combined, those seven service the loans of 49 million borrower accounts, representing most of the activity in the student loan servicing market.

- **CFPB supervision activities would generally include gathering reports from and conducting examinations of supervised entities.** The examination process would be an ongoing process of pre-examination scoping and review of information, data analysis, on-site examinations, and regular communication with supervised entities, as well as follow-up monitoring. When necessary, examiners would coordinate and work closely with the CFPB's enforcement staff to take appropriate enforcement actions to address harm to consumers.

- **Examiners would make sure all relevant federal consumer financial laws are being followed by student loan servicers.** These laws may include the Fair Credit Reporting Act, Fair Debt Collection Practices Act, Electronic Fund Transfer Act, Equal Credit Opportunity Act, and prohibitions on unfair, deceptive or abusive acts or practices. These laws not only protect consumers but responsible servicers as well.

- **The Bureau would ensure that banks and nonbanks are following the same rules in the student loan servicing market.** Currently, CFPB examiners supervise large bank student loan servicers to ensure that they are complying with federal consumer financial laws, while nonbank student loan servicers are not being examined in that respect. The proposed rule would rectify that and make sure that both bank and nonbank student loan servicers are held accountable for their interactions with consumers.

- **The proposed rule would cover servicing of both federal and private student loans.** Some nonbank servicers handle exclusively federal student loans, some exclusively private student loans, and others handle both. Federal direct loans are commonly serviced by nonbank private contractors, and any of those contractors that handle more than 1 million borrower accounts would be subject to supervisory authority under the proposed rule.

- **The Bureau would be able to supervise the entire life of a private student loan.** The Bureau already supervises private student loan origination and debt collection practices. With this rule, the CFPB would be able to supervise the entire life of a private student loan—from origination through servicing to debt collection.

<u>**Servicing Issues Reported to CFPB**</u>

The CFPB recognizes that not every servicer is the same, and that there are servicers in the market that are fulfilling their responsibilities. However, based on private student loan borrower complaints described in the CFPB Student Loan Ombudsman's Report, there are several issues reported by borrowers in the student loan servicing market. The Bureau has heard that some private student loan borrowers, in trying to pay back their loans, face:

- **Confusion**: Some borrowers state that they often have a hard time figuring out how much they owe. These borrowers report they do not receive the information they need about their loans and they are often confused by the terms and conditions of their loan. Other borrowers are frustrated by not knowing when and how payments are processed, and report being charged unexpected fees. And other borrowers complain about conflicting instructions from different employees of the same servicer – or worse, when their loan has been sold or their servicer has changed, not even knowing who to pay.

- **Dead ends**: According to some borrowers, servicing personnel may be unaware of resources available to borrowers. Some borrowers complain of getting transferred to multiple departments, reaching personnel who are not responsive or empowered to provide clear answers. Borrowers also complain about being unable to reach appropriate service staff members to correct a mistake in how a payment was applied to their account.

- **Runarounds**: Some borrowers report paperwork getting lost and errors not always getting fixed quickly. Others complain of having limited access to their account information. And, according to some borrowers, payments are not always processed on time. They say some servicers take several days to process payments and borrowers end up paying interest on the outstanding principal during that processing time.

Current CFPB Authority

A major goal of CFPB supervision is to determine whether providers of consumer financial products and services are complying with consumer protection laws and whether those providers have adequate policies and procedures in place to comply with those laws.

- **The CFPB has authority to examine large banks and credit unions – and their affiliates – that have assets over $10 billion.** The CFPB supervises more than 150 of the nation's largest financial institutions.

- **This supervisory authority extends to their student loan origination and servicing activities.**

- **As to the nonbank sector, the Dodd-Frank Wall Street Reform and Consumer Protection Act specifically authorized the CFPB to supervise payday lending, mortgage servicing, and private education lending.**

- **The Dodd-Frank Act authorizes the CFPB to supervise nonbank "larger participants" as defined by rule.** The Bureau issued rules defining larger participants of the consumer reporting and consumer debt collection markets in 2012. If today's rule is finalized, it would make student loan servicing the third nonbank market in which the Bureau has defined larger participants.