

CFPB Initiative to Oversee Institutional Lending and Servicing – What It Means for You

January 25, 2022

Join the education and financial services enforcement groups for a short webinar on how to prepare for this CFPB initiative.

Feb 3, 2022, 1:00 pm EST

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What's the Consumer Financial Protection Bureau up to?

On January 20, 2022, the Consumer Financial Protection Bureau signaled a new front in its ongoing scrutiny of student loan origination and servicing practices by [announcing an initiative to examine the lending and servicing practices of the schools themselves](#). The CFPB has previously targeted for-profit higher education institutions, but this recent announcement suggests the broader deployment of bureau supervision staff to examine institutional lending practices at all colleges and universities. The announcement also comes on the heels of last fall's Federal Trade Commission issuance of 70 notices of penalty offense related to claims by for-profit institutions regarding graduates' job and earnings prospects, as discussed in [this CooleyED blog post](#).

In connection with its announcement, the CFPB helpfully unveiled revised [Education Loan Examination Procedures](#) that will guide future exams and announced a set of lending and servicing practices of particular concern. Specifically, the bureau has singled out as problematic:

- Tying enrollment and transcript access restrictions to borrower delinquencies.
- Acceleration of loans upon borrower withdrawal from an educational program.
- Failure to properly issue to borrowers refunds due under those agreements when a borrower withdraws from the program.
- Institutional arrangements with third-party lenders that may steer borrowers toward higher-priced loans.

While the CFPB called out specific practices of concern, it noted that its assessment of institutional lending practices will take place within the broader context of its private student lending and servicing examination playbook. This suggests that examiners will be looking for compliance with a range of technical origination and servicing requirements, potential claims of unfair, deceptive and abusive practices, and whether the institution maintains a proper compliance management system to oversee its lending and servicing functions.

What should happen next?

Post-secondary schools with significant direct lending, brokering and/or servicing operations are likely unfamiliar with the CFPB,

and they should immediately set out to understand their financing operations and what to expect. This includes not only understanding the practices called out in the CFPB's press release, but more broadly ensuring that they've built a sufficient compliance framework to support their lending and servicing operations. Such a framework would consist of adequate management reporting, written policies and procedures, employee training, monitoring and testing, and operational compliance.

While Cooley's education practice has helped post-secondary institutions navigate a dynamic regulatory environment for more than four decades, Cooley's new financial services enforcement group is intimately familiar with the CFPB, and has long helped institutions prepare for and navigate CFPB examinations and investigations. Cooley is happy to discuss the CFPB's initiative with individual institutions and help them get their operations ready for CFPB scrutiny.

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