



CFPB Proposes Rule to Supervise Largest Nonbank Student Loan Servicers

The Consumer Financial Protection Bureau has announced its intention to oversee the nation's largest nonbank loan servicers, which service more than one million accounts each year, in the higher education loan market. While the CFPB already supervises loan origination and larger debt collection providers, the [proposed rule](#) extends the Bureau's regulatory oversight to student loan servicers, allowing it to monitor most of the major players in the student loan market. Student loan debt is the largest category of non-mortgage debt in the United States, representing \$1.1 trillion in outstanding loans at the end of 2012. According to the CFPB's [statement](#) announcing the rule making, the nonbank servicers conduct the vast majority of student loan servicing.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 vests the Bureau with the statutory authority to regulate banks and participants of any size in the private education loan industry as well as larger nonbank participants in markets for other consumer financial products or services that the Bureau defines by rule. The proposed rule defines the student loan servicing market as "the collection and processing of loan payments on behalf of holders of promissory notes and, during periods when payments are deferred, maintaining of account records and communicating with borrowers on behalf of loan holders, as well as interactions with borrowers that facilitate such collection and processing of loan payments and maintaining of account records and communicating with borrowers." The rule also establishes the "larger participant" standard for that market. While considering alternative criteria, the CFPB proposes to adopt an account-volume standard, taking account of the

total number of accounts serviced during the prior calendar year. Applying that standard, larger participants would be those entities servicing in excess of one million accounts annually, capturing the seven largest nonbank student loan servicers, which together service an estimated 49 million borrower accounts.

The proposed rule would allow the CFPB to examine and supervise a larger class of loan servicers to ensure compliance with existing federal consumer financial laws, such as the Electronic Fund Transfer Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act and Title X of the Dodd-Frank Act. The CFPB would also examine whether larger participants in the student loan servicing industry engage in unfair, deceptive or abusive acts or practices, even if these practices do not violate express statutory provisions. In particular, the Bureau will examine practices in the areas of repayment status processing, loan servicing transfers, general payment processing, application of prepayments and partial payments, and default prevention and avoidance.

The public comment period on the proposed rule runs for 60 days, and the CFPB anticipates issuing the final rule by the end of 2013.

For more information about the content of this alert, please contact [Michael Mallow](#) or [Michael Thurman](#).

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