

PUBLICATION

The CFPB's Latest: Student Loans and Fix-It Forms

September 20, 2016

The Consumer Financial Protection Bureau has taken two actions that are worthy of note. First, the Student Loan Ombudsman released his mid-year report, in which he focused his attention on complaints about servicer activity related to income-based repayment plans. And second, in conjunction with the Ombudsman's report, the CFPB published a "Fix-It Form" that is designed to help borrowers correct issues with their repayment plans.

Student Loan Ombudsman Blames Servicers for Hindering Income-Based Repayment Plans. The Student Loan Ombudsman is charged with, among other things, compiling and analyzing data on complaints related to student loan servicing and debt collection. In August 2016, the Ombudsman released his mid-year report, analyzing thousands of complaints received by the Bureau between October 1, 2015, and May 31, 2016. In this report, the Ombudsman focused his attention on complaints related to the enrollment process for income-dependent repayment plans, including, in particular, the processing of applications.

Most student loan borrowers with federal loans have a right to set their monthly payments according to their income, some of whom may qualify for a payment as low as \$0. Yet borrowers complain about a plethora of issues with these plans, including poor customer service, delays, lost paperwork, inconsistent processing and inaccurate processing, which cause borrowers to suffer increased costs, reduced benefits and extended repayment terms. Delays during the application process lead to increased loan balances through capitalization of interest, loss of interest subsidies, decreased potential for loan forgiveness and exhaustion of forbearances. Erroneous application rejections lead to similar cost increases.

This report recommends immediate action from student loan servicers to correct the problems associated with income-derived repayment plans. First, the Ombudsman refers to recent policy guidance issued by the Department of Education for federal student aid as "industry standards" for all federal loans. The department's guidelines identify three well-defined circumstances under which a borrower may be denied enrollment in an income sensitive repayment plan: when the loan is ineligible for the chosen plan; when the borrower does not provide the necessary information for an accurate assessment; and when the borrower fails to respond within 60 days to a notice of deficiency. Second, the Ombudsman recommends that student loan servicers improve their communication with borrowers. Servicers should provide clear instructions to borrowers for the proper completion of income-driven replan applications. Likewise, servicers should review applications in a timely manner, provide prompt notice of any deficiencies and allow minor mistakes to be corrected by telephone. Additionally, servicers should provide clear communication concerning the payment consequences for a borrower's failure to correct an incomplete application.

In the beginning of the report, the Ombudsman noted that the Bureau "has repeatedly discussed widespread problems reported by consumers related to student loan servicing practices." The Ombudsman briefly reviewed the two previously discussed areas for servicer improvement. Now, with this report, student loan servicers should no longer discount the importance of corrective action and the Wells Fargo Consent Order should serve as a fair warning of the consequences for unfair and abusive practices that cause a financial detriment to borrowers.

The Fix-It Form. In conjunction with the Student Loan Ombudsman's mid-year report on income-driven repayment plans for student loan borrowers, the Bureau published an Income-Driven Repayment Application Fix-It Form (the Form) to guide servicers in improving their communication with student loan borrowers. The Form requires the service to clearly indicate whether the application is accepted, denied or incomplete. If the application is accepted, the Form indicates the amount of the borrower's new monthly payment and the due date. If the application is denied, the Form provides a choice of three explanations: (1) loan ineligibility; (2) higher resulting payment; and (3) lack of response to a request for more information. If the application is incomplete, the Form provides clear guidance on the nature of the deficiency and instructions on where to provide the information to correct the deficiency. The Form is most notable for its clarity and simplicity. It is designed to facilitate communication between servicers and borrowers about the application process by promoting consistency, transparency and accessibility. Although this form is not required, student loan servicers that take their obligations under the Act will give serious consideration to adopting it as their own.