NCHER BRIEFING

Wednesday, March 8, 2023

In Today's Edition

NCHER Webinar on the Department of Education's Dear Colleague Letter on Third Party Servicing

On Monday, March 27th from 2:00 – 3:00 p.m. ET, NCHER will hold a webinar to discuss the U.S. Department of Education's Dear Colleague Letter on third-party servicing. On February 15th, the Department released updated guidance to clarify when organizations that contract with institutions of higher education are considered third-party servicers and, thereby, subjected to disclosure, audit, and liability requirements. In the guidance, the Department added recruitment and retention services, software services used to administer Title IV programs, and the provision of educational content and instruction to those entities that are subject to these requirements and codified the prohibition on foreign-owned providers. The effective date for this guidance is September 1, 2023 and the Department is accepting written comments through March 29, 2023. Interested parties have raised concerns about the impact of the expansion of the definition of third-party servicers and how many entities will now fall under the definition. During the webinar, speakers from Thompson Coburn LLP will discuss the Dear Colleague Letter and the potential implications for those industry participants that are current or potential third-party servicers. A question-and-answer session will follow the discussion. Members can register for the webinar on the NCHER website.

House and Senate Democrats Send Letter to White House in Support of Federal Student Loan Forgiveness Plan

Yesterday, more than 100 House and Senate Democrats sent a letter to the White House expressing support for the U.S. Department of Education's federal student loan forgiveness plan. In the letter, the lawmakers write that they are confident that the debt relief action falls squarely within the administration's authority and expect the legal challenges to the plan to fail, allowing 40 million Americans to have their debts reduced or eliminated as they return to repayment. "Through your action, approximately 20 million borrowers will have no remaining balance, and nearly 90 percent of relief dollars will go to those earning less than $75,000 a year," the letter states. "In the less than 4 weeks that the application for debt relief was available and before the U.S. Department of Education was required to stop accepting applications as a result of lawsuits from opponents of the program, 26 million people applied to the Department to be deemed eligible for relief. Of such applicants, most are living in lower-income and majority-minority zip codes, suggesting debt relief will not only help individual borrowers but will also have a positive impact across communities that need it most." The letter was spearheaded by Senate Majority Leader Chuck Schumer (D-NY), Senate Health, Education, Labor, and Pensions Committee Chairman Bernie Sanders (I-VT), and Sen. Elizabeth Warren (D-MA). For additional coverage, see this article from The Hill.

CFPB Releases Special Supervisory Report on Junk Fees, Identifies Problems with Student Loan Servicing

Today, the Consumer Financial Protection Bureau (CFPB) released a special edition of its Supervisory Highlights – Junk Fees. The report covers several instances of financial institutions charging junk fees for deposit accounts and in multiple loan servicing markets, including in mortgage, student, and payday lending. The CFPB says that these unlawful fees corrode family finances, force up families' banking and borrowing costs, and are not easily avoided even by financially savvy consumers. On student loans, the Bureau said that it found student loan servicers sometimes charged late fees and interest even when student and parent borrowers made payments on time. Specifically, the servicers' policies did not allow borrowers to pay by credit card; however, their customer representatives erroneously accepted credit card payments. Then, the servicers cancelled the payments and did not offer borrowers the chance to pay again. Instead, the servicers acted as if no payment had been made and charged the borrowers late fees and additional interest.

House Financial Services Committee Holds Hearing with Federal Reserve Chair Powell

Today, the House Financial Services Committee held a hearing titled, "The Federal Reserve's Semi-Annual Monetary Policy Report," with Federal Reserve Board of Governors Chairman Jerome Powell. In his opening statement, Chairman Patrick McHenry (R-NC) spoke in support of the Federal Reserve's plan to "stay the course" and urged Chairman Powell to resist far-left ideologues who want changes at the Fed. He said that the White House's policies have contributed to the economic mess. "Since President Biden took office, we have experienced inflation at rates not seen since the early 1980s," Chairman McHenry said. "Inflation rapidly accelerated after Democrats passed their so-called American Rescue Plan Act, which poured nearly $2 trillion of inflation fuel into the economy. By June of last year, the Consumer Price Index showed inflation skyrocketed from below two percent to nearly nine percent. And Personal Consumption Expenditures—the Fed's preferred measure of consumer prices—ballooned to seven percent. Instead of being 'rescued' by Democrats, Americans were punished with pain at the grocery store and sticker shock at the pump." At the same time, he criticized the Fed for its initial work to implement new changes to climate policy through an upcoming review of the Community Reinvestment Act saying, "There is concern from many that the Fed is picking up new needles and knitting partisan sweaters."

In her opening statement, Ranking Member Maxine Waters (D-CA) discussed the improvement in the nation's economic situation since the last time Chairman Powell appeared before the Committee. However, she shared concerns about multiple interest rate hikes, which has raised housing costs for American families. She also brought up the looming debt ceiling fight and said that House Republicans were "ignoring the biggest economic threat to consumers and our economy: defaulting on our debt."

In his testimony, Chairman Powell focused on the nation's economic situation, including inflation, employment, and stabilizing prices in remarks that were identical to those he made yesterday before the Senate Banking, Housing, and Urban Affairs Committee. "Our policy actions are guided by our dual mandate to promote maximum employment and stable prices," he said. "Without price stability, the economy does not work for anyone. In particular, without price stability, we will not achieve a sustained period of labor market conditions that benefit all." He acknowledged that the U.S. economy has experienced a slowdown in growth, with real GDP rising at a below-trend pace of 0.9 percent. But he said that the labor market was still very tight, with the lowest unemployment rate since 1969. He concluded his remarks by repeating the warning that the Fed will speed up interest-rate increases if necessary in order to curb inflation.

For additional coverage, including an archived webcast of the hearing, visit the committee website.

Federal Reserve Releases Beige Book, Finds Economic Activity Increased in Early 2023 But Loan Demand Declined and Credit Standards Tightened

Today, the Federal Reserve released the latest edition of its Beige Book, which includes a summary of current economic conditions for the 12 Federal Reserve Districts based on anecdotal information gathered through reports from Bank and Branch Directors and interviews with key business contacts, economists, market experts, and other sources. The report says that, overall, the nation's economic activity increased slightly in early 2023. Six Districts reported little or no change in economic activity since the last report, while six indicated economic activity expanded at a modest pace. On balance, supply chain disruptions continued to ease. The report says that consumer spending generally held steady, though a few Districts reported moderate to strong growth in retail sales during what is typically a slow period. Auto sales were little changed, on balance, though inventory levels continued to improve. Several Districts indicated that high inflation and higher interest rates continued to reduce consumers' discretionary income and purchasing power, and some concern was expressed about rising credit card debt. While housing markets remained subdued, restrained by exceptionally low inventory, an unexpected uptick in activity beyond the seasonal norm was seen in some Districts along the eastern seaboard. Commercial real estate activity was steady, with some growth in the industrial market but ongoing weakness in the office market. Demand for nonfinancial services was steady overall but picked up in a few Districts. On balance, loan demand declined, credit standards tightened, and delinquency rates edged up. The report concludes that, amid heightened uncertainty, the contacts did not expect economic conditions to improve much in the months ahead.

Education Assistant Secretary Says President's Budget Request Expected to Address Research and Development

Over the weekend, U.S. Department of Education Assistant Secretary for Policy, Planning, and Evaluation Roberto Rodríguez spoke to Politico where he discussed the President's budget request for Fiscal Year 2024, which will be released tomorrow. In the interview, Assistant Secretary Rodriquez told the reporter that the Department's proposed budget will focus on closing academic achievement gaps for elementary and secondary students and expanding research and development efforts for both K-12 and postsecondary education modeled on the Defense Advanced Research Project Agency (DARPA). Last year, the House Appropriations Committee included funding in the Consolidated Appropriations Act to "invest in high-reward, scalable solutions to address longstanding deficits and inequities in the education system." But it is currently unclear if there will be sufficient Republican support in the new Congress to further advance this project." Assistant Secretary Rodriquez did not discuss specific spending numbers.

U.S. Department of Education News

For today's *Federal Register*, click here.
The following announcement was posted to the Federal Student Aid's Knowledge Center Website today.

- (GRANTS-23-03) Operational Implementation Guidance – Federal Student Aid's Implementation of 2023–24 Federal Pell Grant Payment and Disbursement Schedules

General News

The Hill reports that activists are preparing for next steps if the U.S. Supreme upholds the U.S. Department of Education's federal student loan forgiveness program.

The Hechinger Report explored the question, "How much does it cost to produce a community college graduate?"

The Los Angeles Times reports that student and parent borrowers have had their loans forgiven due to fraudulent or misleading terms and conditions.

Forbes published an article exploring the possibility that the White House could extend the current moratorium on federal student loan payments one more time.

The Hill says that consumer protections enacted by Congress and President Barack Obama could be overruled by the U.S. Supreme Court which is reviewing a lower court decision striking down the funding structure for the Consumer Financial Protection Bureau.

An online version of this Daily Briefing is available to view and print from the **Daily Briefing Section** of the **NCHER e-Library**.

1050 Connecticut Ave NW #65793
Washington, DC 20035

Phone: **(202) 822-2106**
Fax: (202) 822-2142