View in browser

NCHER

DAILY BRIEFING

Monday, June 14, 2021

In Today's Issue...

Department of Education Announces New Political Appointees

Treasury Secretary Yellen Gives Remarks on Progress in Switching to LIBOR Alternative

APLU and TIAA Release New Brief Arguing for Enhancing Financial Assistance Programs

Roosevelt Institute Releases Brief Arguing Student Debt Cancellation is Progressive

Bill Introductions

U.S Department of Education News

General News

Week of June 14, 2021

NCHER Weekly Rundown

The NCHER Weekly Rundown, which includes the latest information on important events in Washington, DC, is available today and can be downloaded from the **NCHER website**.

CFPB Releases Updated Rulemaking Agenda

Last Friday, the Consumer Financial Protection Bureau (CFPB) published its Spring 2021 Rulemaking Agenda. The agenda lists the regulatory matters that the Bureau is currently pursuing under its interim leadership, pending the appointment and confirmation of a permanent Director. The notice states that the permanent Director's changes to the regulatory agenda will be reflected in the Fall 2021 Agenda. The agenda includes the following items of special interest to NCHER membership:

- The Bureau is continuing a rulemaking to address the anticipated expiration of the London Interbank Offered Rate (LIBOR) index. The agenda notes that the proposed rule was published in June 2020 and the Bureau expects to issue a final rule in January 2022.The CFPB states that the rule is designed to lessen the financial impact to consumers and facilitate creditor compliance by providing examples of replacement indices that meet Regulation Z requirements. The Bureau states that this rulemaking is important for the millions of consumers who have adjustable-rate mortgages, credit cards, student loans, reverse mortgages, home equity lines of credit, or other loans that are tied to the LIBOR index. According to the Bureau, the rulemaking would help to ensure that any changes to an index underlying these loans as a result of the transition to a different index due to the discontinuation of LIBOR are done by industry in an orderly, transparent, and fair manner. It is unclear why it will take the Bureau 18 months to publish a final rule.
- The Bureau is considering a rulemaking to implement section 1033 of the Dodd-Frank Act to address the availability of consumer financial account data in electronic form. The Bureau states that the means by which these data are accessed, transmitted, stored, and used by financial institutions of all kinds can implicate significant privacy, security, racial equity, and other consumer financial protection concerns.
- On April 19, 2021, the Bureau issued a proposed rule to extend the effective date of two final rules issued in late 2020 to implement the Fair Debt Collection Practices Act. Both final rules were scheduled to take effect on November 30, 2021. According to the new rule, the CFPB proposed to extend the effective date of those final rules in light of the continuation well into 2021 of the widespread societal disruption caused by the COVID-19 pandemic. Considering that disruption, the Bureau believes that providing additional time for stakeholders to review and, if applicable, to implement the final rules may be warranted. The Bureau's next action is a final rule on whether and for how long to extend the effective date of these final rules after reviewing the comments submitted to the docket.

Department of Education Releases Updated Student Aid Quarterly Data Reports

Today, the U.S. Department of Education's Office of Federal Student Aid (FSA) released two new sets of quarterly portfolio reports on its Data Center with key data and other information about federal student aid programs as of December 31, 2020, and March 31, 2021. The reports reflect the flexibilities applied to borrower accounts as prescribed in the Coronavirus Aid, Relief, and Economic Security or CARES Act and extended by executive actions through September 30, 2021. The reports include the following information:

- As of March 21, 2021, the outstanding federal student loan portfolio is $1.59 trillion, representing 42.9 million recipients. Of that total, 90 percent of the outstanding balances on the portfolio are owned by the Department.
- As a result of special pandemic flexibilities for federal student loans, the number of borrowers in repayment status has fallen sharply. Only about 500,000 Direct Loan borrowers opted out of the payment pause and were in repayment status as of March 31, 2021, compared to 18.1 million borrowers a year ago, soon after the CARES Act was passed.

- With almost all federal student loan borrowers now in forbearance, no new Direct Loan borrowers entered default during this quarter. The more detailed delinquency demographic reports have been suspended until at least December 31, 2021, the first quarter for which borrowers could potentially be delinquent.
- Despite the repayment pause for most borrowers, enrollment in income-driven repayment (IDR) plans has continued to grow during the pandemic. As of March 2021, 8.3 million Direct Loan borrowers were enrolled in IDR plans, up 3 percent from March 2020.
- FSA recently redesigned the reporting on the Public Service Loan Forgiveness (PSLF) Program to align its reporting structure with the new application process. The new report provides greater insight into why many borrowers who have had their employment certified as eligible for PSLF are not meeting the forgiveness requirements. For most borrowers, FSA points out that it is a matter of timing as over 82 percent of borrowers who do not yet qualify for forgiveness have eligible loans that have been in repayment less than 120 months, meaning they could not yet have accumulated the required 120 months of qualifying employment or qualifying payments. One notable issue here that FSA flags is borrowers who consolidated older federal student loans into new Direct Loans did not get credit for employment or payment activity on their prior loans. FSA states that "This issue merits further consideration." Close to half the borrowers who do not yet qualify for PSLF are in this situation due to the treatment of their consolidated loans. The remaining 18 percent of borrowers who do not yet qualify for forgiveness divide as follows: 14 percent do not yet have 120 months of qualifying employment; 4 percent have met all requirements except for 120 qualifying payments.

Department of Education Announces Delay on FAFSA Simplification Implementation

Last week, the U.S. Department of Education's Office of Federal Student Aid announced that the new simplified Free Application for Federal Student Aid (FAFSA) that was required by Congress to be ready for the 2023-2024 academic year would not be fully ready and implemented until the 2024-2025 academic year. FSA said that some provisions of the FAFSA Simplification Act passed in December 2020 will be implemented as originally planned or earlier than expected. In a blog post, FSA Chief Operating Officer Richard Cordray said that his office was hard at work modernizing the FAFSA system. "To deliver on these new opportunities, FSA first needs to update the technology system that the FAFSA form is built on," he said. "Believe it or not, the current system is 45 years old, and though we have made it work all these years, it's just too limited to support these new changes." FSA also emphasized that, in the coming months, it will be moving forward on several other changes to federal student aid that Congress passed last year. For example, by October 1st, the Department will eliminate the requirement that male students register with the Selective Service before they receive federal student aid and restrictions on students with drug convictions receiving aid starting with this coming academic year. The questions regarding Selective Service and drug convictions will remain on the FAFSA until the 2023-24 school year, but the Department will not factor the answers that students provide when determining their eligibility for aid. For more coverage on the delay, see these articles from *Politico* or *Inside Higher Ed*.

Student Borrower Protection Center Releases Memo Urging Regulators to Revisit ISAs

Today, the Student Borrower Protection Center released a memo urging federal and state regulators to further scrutinize and regulate the providers of income-share agreements (ISAs). In the memo, the center argues that some ISAs may be void or unenforceable because they run afoul of state consumer lending laws or usury laws that cap interest rates. The memo says that the consequences of these contracts being found unenforceable are far reaching, setting up liability for both ISA providers and the companies servicing the agreements. In particular, the consumer group alleges that the companies collecting on ISAs that they view as unenforceable appear to be breaking state and federal laws by continuing to demand that borrowers repay under them. For a copy of the Student Borrower Protection Center's press release on the issue, click here.

FSA COO Cordray Answers Questions on Student Loans in The Washington Post

On Friday, the U.S. Department of Education's Office of Federal Student Aid (FSA) Chief Operating Officer Richard Cordray gave an interview to *The Washington Post* where he discussed student loans at greater length and his vision for the office. In the article, *The Post* said that FSA is overhauling the way it administers and manages the federal student loan servicing system and recently extended the Department's contracts by six months with the existing federal student loan servicers to give the agency more time. Mr. Cordray told the companies that the extension would be "the last action FSA will take under my leadership that qualifies as business as usual." A brief version of the conversation includes the following:

Q: In the letter you sent to the servicers this week, you mention that FSA will be working to set clear performance benchmarks. What do you have in mind at the moment?

Cordray: I dealt with the loan servicers when I was head of the Consumer Financial Protection Bureau. And, you know, there was a variety of experiences. Some happier than others. We are looking at more specific performance benchmarks that are rigorous and that, if not met, would lead to termination of contracts or reallocation of loans. That has to do with how borrowers are treated, how quickly things are handled. We need to get the incentives aligned and get the servicers on the same page with us in terms of the department's objectives about how borrowers are to be treated. There has been benchmarks in place in recent years. But, you know, we expect to be rigorous about executing on that. The servicers are kind of expecting that here. They know the background. They have dealt with me before. We intend and will hold the servicers accountable.

Q: One of the biggest complaints from servicers that I have heard routinely over the years is that the Department has never provided comprehensive guidance for servicing, any sort of manual or straight, clear rules of the road. And that creates more confusion among borrowers as well as the servicers. What is the Department doing to address that concern?

A: Yeah, look, whether that is a true and legitimate concern or whether it is a little bit of an excuse for a situation, you know, I will not speculate. But we are going to create specific and clear measurable ways of assessing performance. And the servicers are either going to meet those or not. And if not, there will be consequences. That is how I intend to operate in this position.

Q: As I am sure you are aware, members of Congress have expressed concerns about the millions of borrowers being thrown back into repayment this fall. What is FSA doing to prepare for the end of the payment pause?

A: We are meeting intensively about that right now. There is a lot of reason for concern here. There are a lot of moving parts. There are issues around loan forgiveness that might intrude on this as well and affect it. And there are issues around existing servicer contracts and the like. It is a very complex situation, but we are going to work through it quickly in a common-sense way.

Q: There were about 7.4 million borrowers in default prior to the pandemic. There is real concern about what happens to those borrowers and the potential for more people to face that fate when the moratorium ends. What is the department doing to help those borrowers as they return to repayment?

A: You know, how that is handled will matter enormously to those borrowers and will matter enormously to the operational details of our program. You are asking me about various things that I do not have decisions for you today, but these are things that are going to be decided in the very near future. And as we have them will be, we will be glad to keep you apprised.

Q: So much of the conversation around student loans has focused on cancellation, but the servicing piece is also extremely important. NextGen promises to resolve some of the issue's

consumer advocates have raised about servicing, but it is a project that predates your tenure. What is your long-term vision for loan servicing?

A: Yeah, I have been here a month so I may not have all the news for you today. There are some elements, as you know, of NextGen that are already underway and that so far, I would say what I have seen, it seems sensible. There are longer term issues about what to do with the debt collection aspect and what to do with the loan servicing aspect which has not yet been decided. And these are things we are working to decide. And as we have things to tell you about that, which again, should be in the foreseeable future, we will make sure that you are aware.

Q: What is the significance of rescinding the 2017 memo requiring servicers to send a request to FSA before releasing information to the state attorneys general? How does it factor into your broader vision for FSA?

A**:** It is a very clear sense that the different parts of government working together to ensure oversight and accountability of these very large servicers with millions of customers is important. It is not a job just for one area of the government. Multiple areas can work together. One of the things we are signaling here very loud and clear is we are going to work with those people. We are not going to try to stonewall them, as I think was happening under the prior regime. It will help us get to the ultimate goal, which is better service for borrowers across the country and holding servicers accountable to provide that service, which is what we at the department intend to do as well.

Department of Education Announces New Political Appointees

On Friday, the U.S. Department of Education announced more political appointees that will lead various parts of the agency. The appointees of interest to the NCHER membership are listed below:

- Alice Abrokwa, Senior Counsel, Office for Civil Rights
- Larry Bowden, Special Assistant, Office of the Secretary
- Anna Hartge, Special Assistant, Office of the Secretary
- Rachel Hegarty, Confidential Assistant, Office of Planning, Evaluation and Policy Development
- Emily Lamont, Special Assistant, Office of Career, Technical, and Adult Education
- Kevin Lima, Special Assistant, Office of Communications and Outreach
- Ben Martel, Confidential Assistant, Office of Legislation and Congressional Affairs
- Clare McCann, Special Assistant, Office of the Under Secretary
- Gypsy Moore, Senior Counsel, Office of the General Counsel
- Elias Romanos, Special Assistant, Office of Career, Technical, and Adult Education
- Sebastian Rozo, Confidential Assistant, Office of the Under Secretary
- Marco Sanchez, Special Assistant, Office of Legislation and Congressional Affairs
- Tiffany Taber, Managing Writer, Office of Communications and Outreach
- Kalila Winters, Special Assistant, Office of Legislation and Congressional Affairs
- Addie Zinsner, Confidential Assistant, Office for Civil Rights

Treasury Secretary Yellen Gives Remarks on Progress in Switching to LIBOR Alternative

Last Friday, Treasury Secretary Janet Yellen gave remarks to the Financial Stability Oversight Council where she discussed the progress that has been made in switching away from the London Interbank Offered Rate (LIBOR), led by the Alternative Reference Rate Committee (ARRC). During the speech, Secretary Yellen said that the Secured Overnight Financing Rate (SOFR) provides a robust rate, suitable for use in most financial services products and with underlying transaction volumes that are unmatched by other LIBOR alternatives. At the same time, she expressed concern about “recent use, and potential future growth in use, of alternative market indices in derivatives, where the volume of derivatives contracts referencing these alternative rates could quickly outnumber the transaction volumes underlying the reference rate, leaving it vulnerable to manipulation and disruption – one of the primary issues with LIBOR." The Secretary also said that she understands the desire of some market participants for a forward-looking SOFR term rate and encouraged market participants to promptly support the switch in derivatives from LIBOR to SOFR, which she said will allow the ARRC to recommend a term SOFR rate "quite soon."

APLU and TIAA Release New Brief Arguing for Enhancing Financial Assistance Programs

The Association of Public and Land-Grant Universities and the TIAA Institute released a report titled, "Financial Aid Innovations for College Affordability and Mitigating Student Debt: Brief No. 3: Addressing Student Need Beyond Crisis Management." The report examines how different innovations can address college affordability and the student debt burden. It highlights five practices being utilized at various colleges and universities across the country and examines their potential for being scaled up at other institutions. They include the following:

- One-Stop Centers for emergency aid and services to meet students' financial and non-academic needs.
- Completion and retention grants, which provide funds to current students with financial need who are on track to complete their degrees.
- Institutional debt forgiveness, which forgives debts owed to the university up to a certain amount to incentivize retention for current students or re-enrollment for students who have stopped out.
- Affordable learning materials, including Open Educational Resources and textbook scholarships, which address the high cost of textbooks and other required learning materials.
- Industry partnerships or partnerships between the university and local employers to finance students' education.

Roosevelt Institute Releases Brief Arguing Student Debt Cancellation is Progressive

The Roosevelt Institute released a brief titled, Student Debt Cancellation IS Progressive: Correcting Empirical and Conceptual Errors, which argues that student loan cancellation would be a progressive policy, and shows how the arguments supporting its regressive nature arise from several empirical and conceptual errors. In the report, the authors say that the regressive cancellation myth rests on a series of misleading methodological foundations: including private student loans in calculations of cancellation, conditioning analyses on borrowers only, focusing primarily on debtors' income rather than wealth, basing calculations on the value of debt to the federal government rather than the value to borrowers, and ignoring the racial distribution of debt. The brief recommends that policymakers consider the following:

- Contrary to common misperceptions, careful analysis of household wealth data shows that student debt cancellation—at all proposed levels—is progressive; it would provide more benefits to those with fewer economic resources and could play a critical role in addressing the racial wealth gap and building the Black middle class. The reason for this progressivity is that people from wealthy backgrounds (and their parents) rarely use student loans to pay for college.
- More substantial student debt cancellation plans, like the plan advocated by Sens. Elizabeth Warren (D-MA) and Chuck Schumer (D-NY) are in fact more progressive.
- Income eligibility cutoffs and income-driven repayment are inefficient and counterproductive ways to achieve progressivity.

Bill Introductions

H.R. 3830 - To amend the Higher Education Act of 1965 to provide additional amounts of loan forgiveness to teachers of English learners and teachers of bilingual and dual language immersion students.
Sponsor: Rep. Langevin, James R. [D-RI-2] (Introduced 06/11/2021)
Cosponsors: (2)
Latest Action: House - 06/11/2021 Referred to the House Committee on Education and Labor.

H.R. 3857 - To provide for the basic needs of students at institutions of higher education.
Sponsor: Rep. Torres, Norma J. [D-CA-35] (Introduced 06/11/2021)
Cosponsors: (0)
Latest Action: House - 06/11/2021 Referred to the House Committee on Education and Labor.

U.S. Department of Education News

For today's *Federal Register*, click here.

The following announcements were posted to Federal Student Aid's Knowledge Center:

Electronic Announcements

- Beginning Phased Implementation of the FAFSA Simplification Act (EA ID: GENERAL-21-39)
- 150% Direct Subsidized Loan Limit: Electronic Announcement #25 – Guidance and Operational Information for the Repeal of 150% Subsidized Usage Limit (EA ID: DL-21-04)
- Additional COD System Implementation for 2021–22 Award Year (EA ID: COD-21-03)

Dear Colleague Letters

- Early Implementation of the FAFSA Simplification Act's Removal of Selective Service and Drug Conviction Requirements for Title IV Eligibility

General News

Inside Higher Ed and *University Business* report that some public colleges and universities are encouraging students to take out high-cost, high-risk loans for non-degree-granting programs, according to findings in a new report from the Student Borrower Protection Center.

Business Insider reports that, according to Senate Majority Leader Chuck Schumer (D-NY), President Joe Biden recently told him to keep the pressure on to cancel $50,000 in federal student debt.

Yahoo Finance reports that the Biden Administration's move to provide student loan forgiveness for disabled borrowers was 'the bare minimum,' according to an advocacy group.

MSN compares federal and private student loans, noting it is important to understand the many key differences.

Inside Higher Ed reports that, for most private small colleges (excluding the highly selective Ivies), the admissions season is still going strong, according to the National Association for College Admission Counseling.

Masterstudies reviews what careers offer student loan repayment options.

Inside Higher Ed reports that the humanities are shrinking at many institutions of higher education, according to a recent global survey – everywhere except at community colleges.

Diverse Issues in Higher Education reports that Historically Black Colleges and Universities (HBCU) leaders are urging the Biden Administration to select the Executive Director of the White House Initiative on HBCUs soon.

Higher Ed Dive reports that college and university officials have come to see the advantage of remote services and expect to use a mix of teletherapy and in-person counseling sessions going forward.

Higher Ed Dive reports that colleges and universities hope to bring more international students to campus this fall.

Click on the following date for a PDF version the NCHER Daily Briefing:
June 14, 2021

National Council of Higher Education Resources
1050 Connecticut Ave NW
#65793
Washington, DC 20035

Phone: (202) 822-2106

Fax: (202) 822-2142