

Fireside Chat on Legal and Regulatory Developments Impacting the Education Sector

Innovation Education Summit

Jackson Hole, Wyoming

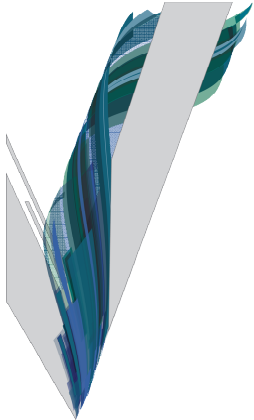
Tuesday, January 26, 2016

Jonathan L. Pompan, Esq.

Venable LLP, Partner, Co-Chair CFPB Task Force

202.344.4383

jlpompan@venable.com



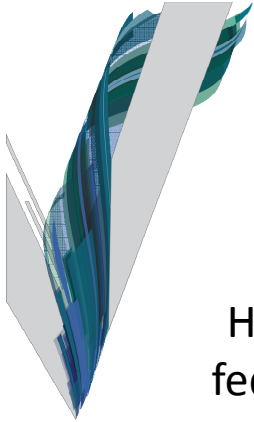
Welcome to Today's Session

This presentation is for general informational purposes only and does not represent and is not intended to provide legal advice or opinion and should not be relied on as such. Legal advice can only be provided in response to specific fact situations.

This presentation does not represent any undertaking to keep recipients advised as to all or any relevant legal developments.

ATTORNEY ADVERTISING. Prior results do not guarantee a similar outcome.

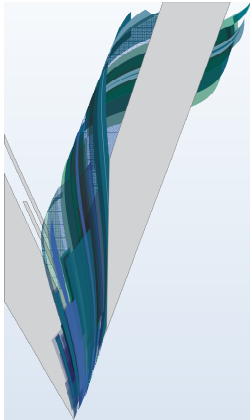




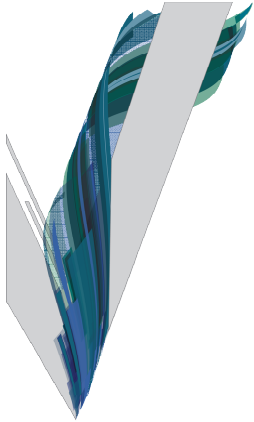
Today's Topics Include

Higher education professionals and vendors are impacted by hundreds of federal laws and regulations - compliance issues are a critical priority – and increasingly consumer protection regulators are scrutinizing higher education.

- Introduction
- CFPB Focus on Education
 - The CFPB in 2016....
 - The CFPB Today
 - Consumer Complaint Portal/Consumer Response
 - “Private” Student Loan Regulation
 - Education Ombudsman
 - Arbitration
 - Enforcement and Examination Trends
 - Election Year Outlook
- Federal Trade Commission
 - Focus on Unfair and Deceptive Advertising
 - FTC Workshop on Lead Generation
 - Outlook
- Department of Education
- Questions & Answers



CFPB Focus on Education



CFPB: Everyone Has a Story


Student loans

OCT 20 2015

Struggling to keep up with student loan repayment

BY [ASHLEY GORDON](#)

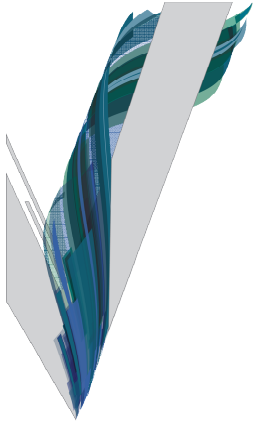
Everyone Has a Story: Meet Dani



0:00 / 2:26

CC HD YouTube

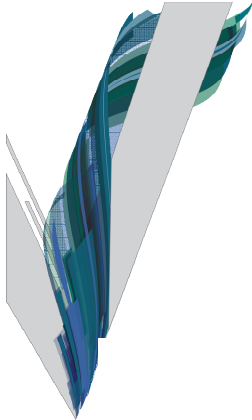
We've all heard the stories. Whether from our friends, colleagues, adult children, or through our own experiences, we know that student loan debt is taking a huge toll on students and graduates across the country. With the total volume of outstanding student debt amounting to well over a trillion dollars, we've heard stories of its impact on home buying, saving, the start of new businesses, new families, and more.



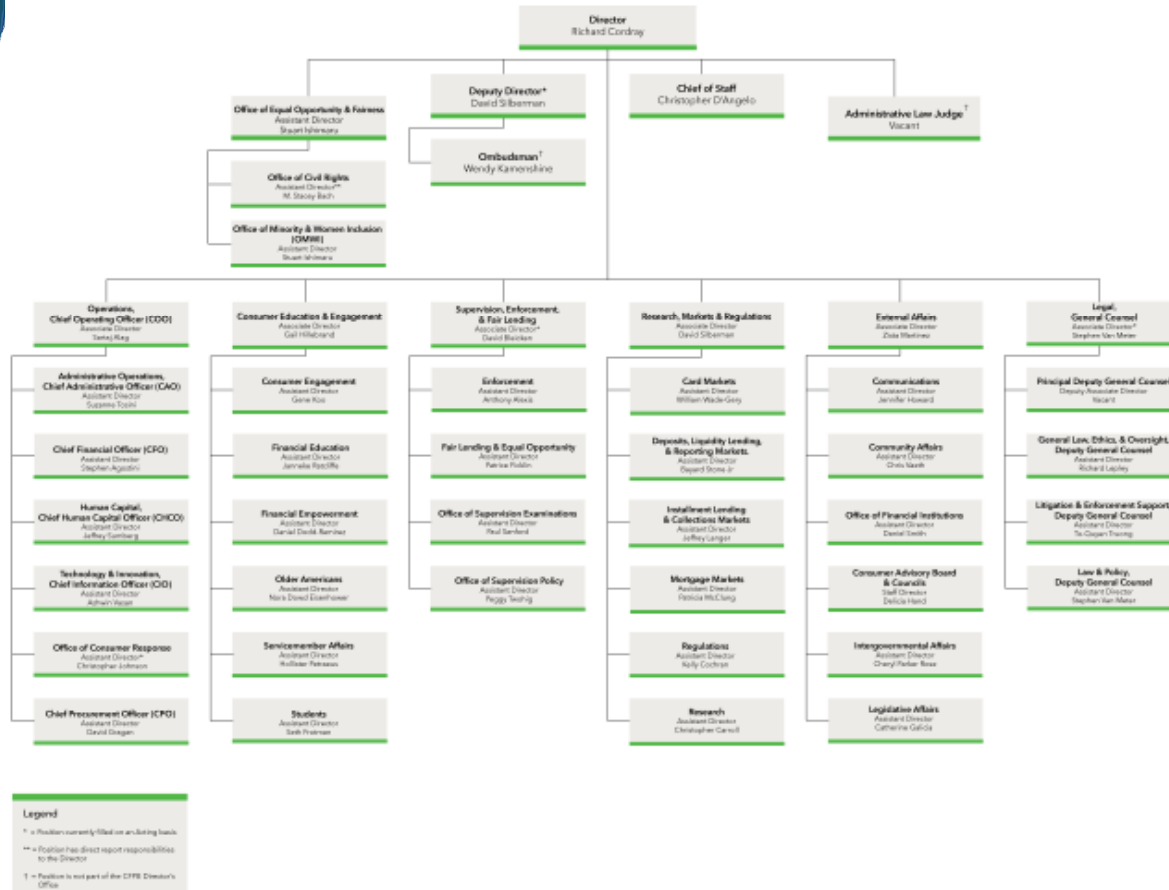
CFPB FY2015 Spending

Division/Program Area	Fiscal Year 2015
Office of the Director ²	7,965,000
Operations	108,201,000
Consumer Education & Engagement	26,327,000
Research, Markets & Regulations	34,380,000
Supervision, Enforcement, Fair Lending	140,792,000
Legal Division	13,396,000
External Affairs	6,979,000
Other Programs ³	2,781,000
Centralized Services ⁴	183,586,000
Total (as of 9/30/15)	\$524,407,000

Expense Category	Fiscal Year 2015
Personnel Compensation	192,274,000
Benefit Compensation	73,654,000
Travel	17,809,000
Transportation of Things	115,000
Rents, Communications, Utilities & Misc.	16,875,000
Printing and Reproduction	2,478,000
Other Contractual Services	191,740,000
Supplies & Materials	5,513,000
Equipment	21,415,000
Land and Structures	2,534,000
Interest and Dividends	0
Total (as of 9/30/15)	\$524,407,000



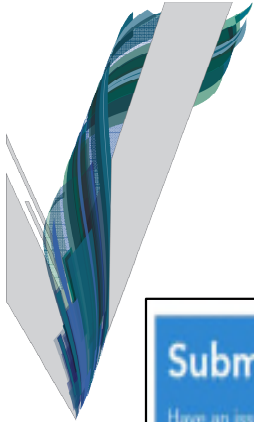
CFPB Continues to Grow



Last updated: January 11, 2016

FY 2015 Stats

- Total costs \$524M
 - \$266M on compensation/1,529 employees
 - \$4.7m for consumer contact center
 - \$2.4M on compliance tools for loan file exams
 - \$1M on expert witnesses



CFPB Complaint Portal / Consumer Response

Submit a complaint

Have an issue with a financial product or service? We'll forward your complaint to the company and work to get a response from them.

[Check status](#)
[Find help!](#)

Para presentar una queja en español, llamar al (855) 411-2372

Choose a product or service to get started

If you don't want to submit a complaint, you can [tell your story](#).

MOST COMMON

[Mortgage](#)

[Debt collection](#)

[Credit reporting](#)

OTHER PRODUCTS AND SERVICES

[Bank account or service](#)

[Credit card](#)

[Money transfer](#)

[Payday loan](#)

[Student loan](#)

[Vehicle or other consumer loan](#)

Consumer Complaint Database

These are complaints we've received about financial products and services.

Learn about the complaint process.

We don't verify all the facts alleged in these complaints but we do take steps to confirm a commercial relationship between the consumer and company. Complaints are listed here after the company responds or after they have had the complaint for 15 calendar days, whichever comes first. We reserve complaints if they don't meet all of the [publication criteria](#). Data is refreshed nightly.

DATA BY PRODUCT

- All
- Bank accounts or services
- Credit cards
- Credit reporting
- Debt collection
- Money transfers
- Mortgages
- Student loans
- Other consumer loans

Download, sort, and visualize

We're using a tool called [Socrata](#) to make it easier to view and organize the data into subsets and visualizations. Additionally, Socrata provides a [RESTful API](#) for programmers and researchers.

- [Visualization tutorials from data.gov](#)
- [Technical documentation](#)

Example visualizations

COMPLAINTS BY CHANNEL

CREDIT CARD COMPLAINT RESPONSES BY ISSUE

COMPLAINTS BY PRODUCT

consumerfinance.gov/complaintdatabase



Complaint submitted



Review and route



Company response



Consumer review



Review and investigate



Analyze and report

Complaints Received by the CFPB and Monetary Relief Obtained for Consumers

(Sept. 2014-Sept. 2015)

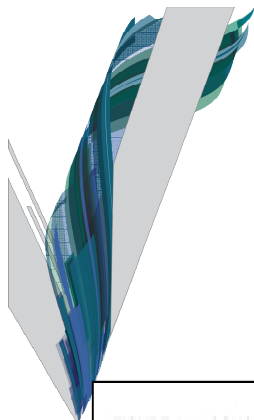


FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT

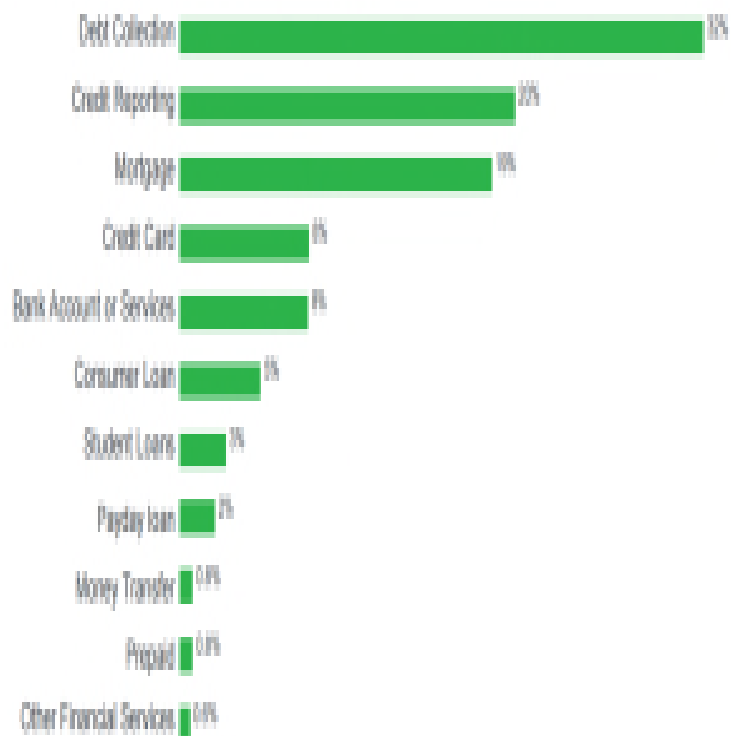
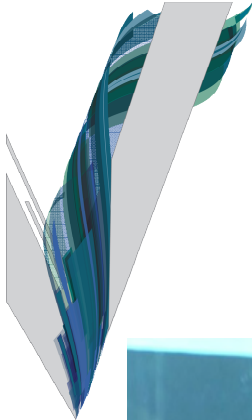
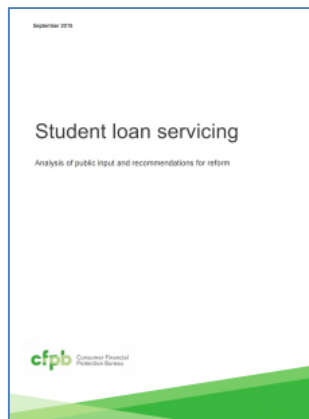
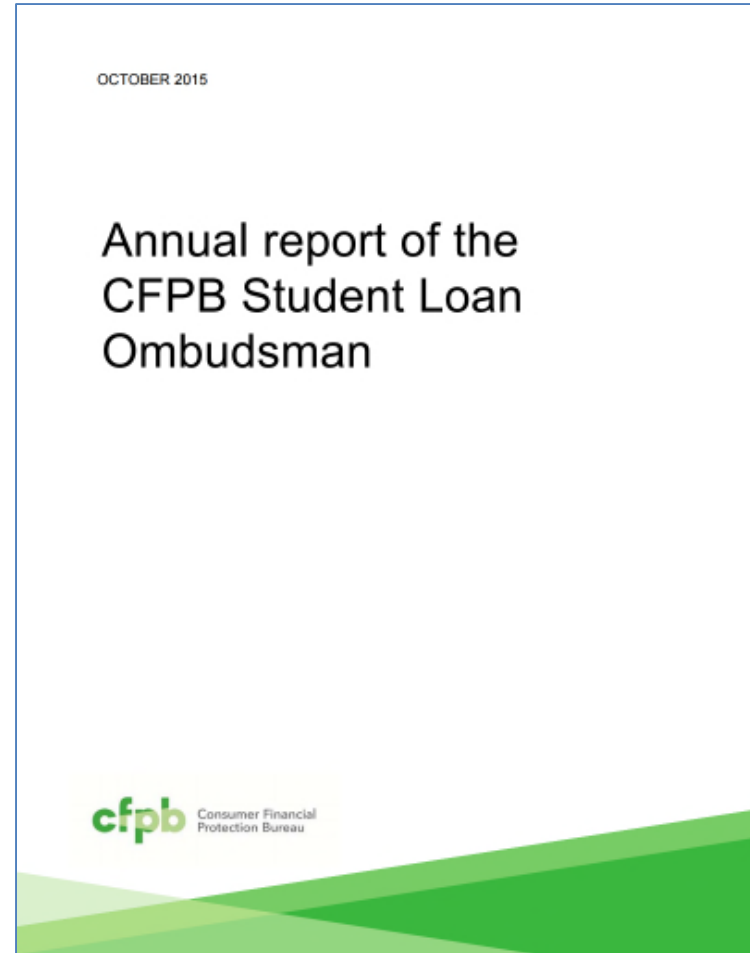


TABLE 22: MONETARY RELIEF REPORTED BY COMPANIES

Product	Number of complaints	Median amount
Debt collection	420	\$347
Credit reporting	200	\$23
Mortgage	1,210	\$500
Credit card	3,200	\$100
Bank account or service	3,090	\$105
Consumer loan	480	\$278
Student loans	250	\$176
Payday loan	80	\$319
Money transfers	180	\$100
Prepaid	270	\$200
Other financial services	30	\$186
Overall	9,420	\$140



CFPB Student Loan Related Initiatives

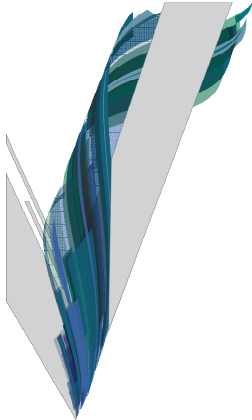


University of the District of Columbia (UDC)
Student Loan Servicing

Total Servicing Costs to Date	
Administrative and processing	\$ 10,000
Public services	\$ 0.000
Account management	\$ 0.000
Back-end support	\$ 0.000
Marketing	\$ 0.000
Other activities	\$ 0.000

Total Servicing Costs to Date (continued)	
Staff salaries	\$ 10,000
Staff benefits	\$ 0.000
Staff training	\$ 0.000
Staff travel	\$ 0.000
Staff meals	\$ 0.000
Staff entertainment	\$ 0.000
Staff housing	\$ 0.000
Staff transportation	\$ 0.000
Staff communication	\$ 0.000
Staff security	\$ 0.000
Staff insurance	\$ 0.000
Staff retirement	\$ 0.000
Staff health	\$ 0.000
Staff dental	\$ 0.000
Staff vision	\$ 0.000
Staff life	\$ 0.000
Staff disability	\$ 0.000
Staff other	\$ 0.000
Staff total	\$ 10,000

Total Servicing Costs to Date (continued)	
Staff other	\$ 0.000
Staff total	\$ 10,000
Staff other	\$ 0.000
Staff total	\$ 10,000
Staff other	\$ 0.000
Staff total	\$ 10,000



CFPB Student Loan Initiatives (cont'd)

Official website of the United States Consumer Financial Protection Bureau

CFPB Consumer Financial Protection Bureau

Contact us (855) 411-2372

HOME INSIDE THE CFPB GET ASSISTANCE PARTICIPATE LAW & REGULATION SUBMIT A COMPLAINT

HOME > STUDENTS AND YOUNG AMERICANS

Students and young Americans

Inquiry into student loan servicing practices

We hosted a field hearing in Milwaukee, Wisconsin with consumer experts, industry participants, college administrators, and borrowers to discuss challenges borrowers experience when trying to repay their student loans. Read [Director Cordray's remarks](#) from the event.

We also launched an [inquiry into student loan servicing practices](#) asking the public for input on ways to decrease student debt stress for borrowers. Before July 13th, tell us about the [roadblocks you've faced](#) on the path to pay off your debt. Your stories will help us as we work with other policymakers to improve student loan servicing for borrowers. Participate in the conversation online at [#studentdebtstress](#).

Annual report on student loan complaints

We released a report about serious problems faced by private student loan borrowers based on our analysis of private student loan complaints between October 1, 2013 and September 30, 2014. Read the report and our [advice for consumers](#), including a [sample letter](#) and [worksheet](#) to request a reduced monthly payment to avoid default.

Read our [2014 mid-year report](#) report highlighting issues related to co-signing a private student loan.

Paying for College

From start to finish, we can help you make informed financial decisions about paying for college.

[Get started](#)

Repay student debt

While we can't give you advice for your exact situation, we can point you in the right direction.

[Know your options](#)

Submit a student loan complaint

We'll forward your issue to the company, give you a tracking number, and keep you updated on the status of your complaint.

[Submit now](#)

Stay informed about our work for students and young Americans

Email address:

[SIGN UP](#)

STUDENT BANKING AND CREDIT CARDS

Banking on campus

Last year, we asked consumers, schools, and industry for their thoughts on financial products marketed on college campuses and hosted a forum. Read our [initial](#)

College credit card agreement database

We collect information on agreements between universities and credit card issuers. Check out the database. We also released a [report](#) to Congress

Safe Student Account Scorecard

We asked for feedback on a [Safe Student Account Scorecard](#) to help colleges and universities make sure the deals they make with financial institutions lead to safe

STUDENT LOAN REPORTS

Student loan affordability

On May 8th, we published a report discussing comments we received and outlining options policymakers and market participants should consider to help student borrowers manage their debt.

[Read what we heard and see the comments we received.](#)

Annual report of the CFPB student loan ombudsman 2013

Based on complaints, comments, and other input, we explain how some borrowers face obstacles when repaying their private student loans.

[Check out last year's report](#) and a [snapshot of complaints from earlier this year](#)

Private student loans

With the Secretary of Education, we submitted a report to Congress. Thousands of consumers gave us their [comments](#).

LEVELING THE PLAYING FIELD

Know Before You Owe

In partnership with the Department of Education, we've developed a [financial aid shopping sheet](#) to improve the way schools communicate financial aid offers. More than 1,500 colleges have agreed to use the shopping sheet.

[What we heard](#) - We released a prototype and received feedback from the public.

[Does your college help you know before you owe?](#)

Military education accountability

We're working with the Departments of Education, Defense, and Veterans Affairs to take steps to ensure that servicemembers, veterans and their families can get the information they need about the schools where they spend their education benefits.

[Student loan servicing and the military](#) - Servicemembers face unique challenges when [paying back student debt](#).

Public service and student debt

We're making public service organizations to help tackle student debt by signing the pledge.

[Check out our report, toolkit for employers](#) and our [guide for borrowers](#)

Read more about the CFPB's work for students on our blog

Speeches, Op-eds, and testimony

[Written Testimony before the Senate Budget Committee](#) - Robit Chopra, 6/4/2014

[Remarks before the Federal Reserve Bank of St Louis](#) - Robit Chopra, 11/18/2013

[Remarks at the CFPB Banking on Campus Forum](#) - Richard Cordray, 9/30/2013

[Student debt swells, federal loans now top a trillion](#) - Robit Chopra, 2/13/2013

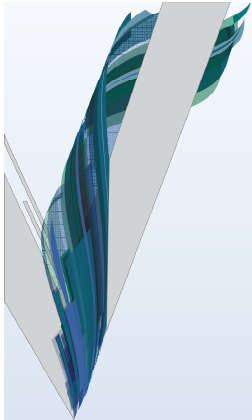
[Testimony before the Senate Committee on Banking, Housing, and Urban Affairs](#) - Robit Chopra, 6/25/2013

[Student debt domino effect?](#) - Robit Chopra, 5/09/2013

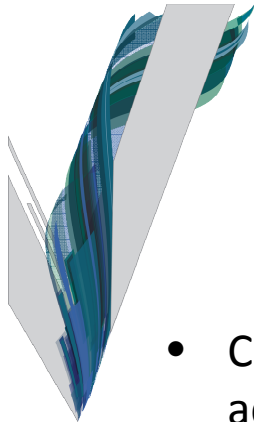
[Prepared remarks for a press call on proposed rule on student loan servicers](#) - Richard Cordray, 3/14/2013

[Debt déjà vu for students](#) - Robit Chopra, 10/25/2012

[Congressional Forum on Student Loans in Chicago, IL](#) - Robit Chopra, 8/27/2012



Arbitration



Arbitration Clauses in Contracts for Consumer Financial Products and Services

- CFPB has begun a rulemaking process to address use of arbitration agreements in connection with credit cards, deposit accounts, payday loans and various other consumer financial products or services.
- Proposal would (1) prevent companies from using arbitration agreements to foreclose consumers' ability to bring class action lawsuits, which can provide consumers with substantial relief and create the leverage to bring about changes in business practices; (2) and that arbitration filings and awards be submitted to the CFPB.
- Key Issue for installment and other continuity program providers that “roll over” from pre-rule to post rule.

OCTOBER 7, 2015

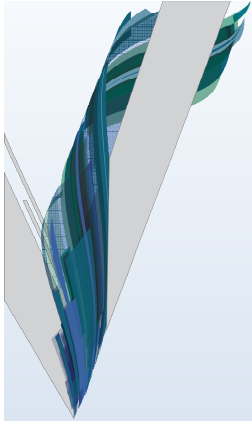
**SMALL BUSINESS ADVISORY REVIEW PANEL FOR
POTENTIAL RULEMAKING ON ARBITRATION
AGREEMENTS**

**OUTLINE OF PROPOSALS UNDER CONSIDERATION AND
ALTERNATIVES CONSIDERED**

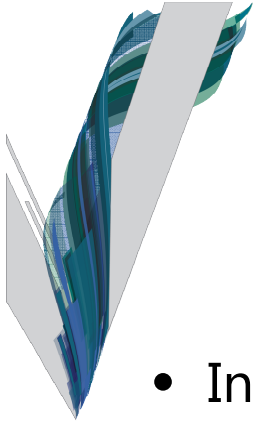
CONTENTS

I.	Introduction	3
II.	Background	5
A.	The Bureau's Study of Arbitration Agreements.....	7
B.	Regulatory Authority	12
III.	The SBREFA Process.....	12
IV.	Proposals Under Consideration to Limit the Use of Pre-Dispute Arbitration Agreements	13
A.	Proposals to prohibit the use of pre-dispute arbitration agreements in class litigation	14
1.	Why is the Bureau considering proposals to prohibit the use of pre-dispute arbitration agreements in class litigation?	14
2.	Requirement that pre-dispute arbitration agreements provide they are inapplicable to class litigation	17
3.	Alternatives considered	17
B.	Proposals to impose conditions on the use of pre-dispute arbitration agreements by requiring submission of arbitral claims and awards	19
1.	Why is the Bureau considering proposals to condition the use of pre-dispute arbitration agreements by requiring submission of arbitral claims and awards?	19
2.	Requirement to submit arbitral claims and awards to the Bureau	20
3.	Alternatives considered	21
C.	Effective Date and Coverage	22
1.	Effective Date	22
2.	Coverage.....	22
V.	Potential Impacts on Small Entities	23
A.	Overview	23
B.	Administrative cost of including new language in future contracts between covered persons and consumers	25
C.	Legal cost due to possible additional class litigation exposure	27
D.	Possible cost due to managing any perceived risk of increased exposure to class litigation.....	29

1

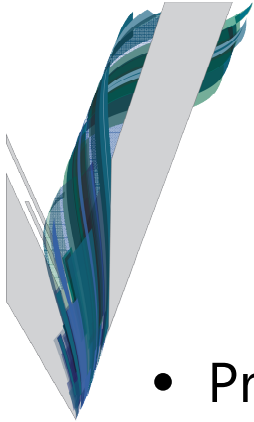


Enforcement and Examination Trends



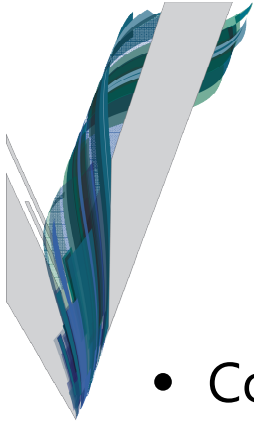
What does the record enforcement activity reflect?

- Increased use of enforcement authority
 - FY 2015 - 59 public enforcement actions
 - FY 2014 - 41 public enforcement actions
 - FY 2013 – 13 public enforcement actions
 - January 2012 – December 2012 – 9 public enforcement actions
- Larger civil money penalties
 - FY 2015 - \$185M
 - FY 2014 - \$77M
 - FY 2013 – \$49M
 - FY 2012 – \$32M



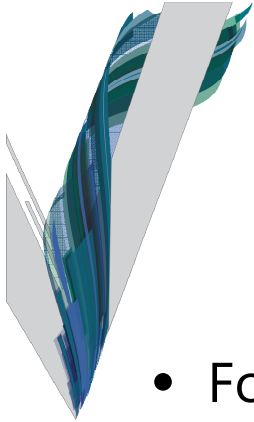
Education Related Enforcement Activity

- Private Student Loan Services
- CFPB v. ITT Educational Services
- CFPB v. Corinthian
- Non-Public Investigations
- Coordination with other Federal Regulators, and State Attorneys General



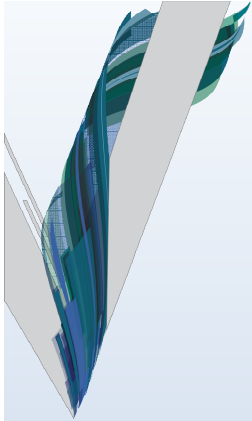
CFPB Enforcement Trends Expected in 2016

- Continued joint enforcement actions with other regulators (e.g., from past: Department of Justice, State of Maryland, Department of Education, New York Department of Financial Services, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation)
- Increased litigation vs. settlement for some defendants
- More enforcement actions that rely on
 - “Related Person,”
 - “Substantial Assistance,”
 - state law compliance; and
 - other aggressive theories of liability.

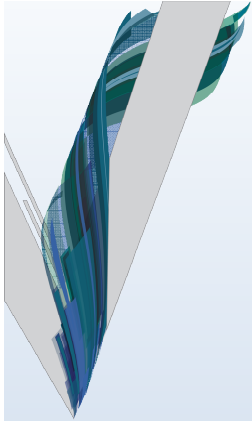


Examination Trends

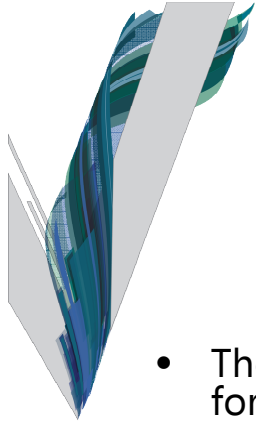
- Focus on Advertising, Private Student Lenders, Servicers, and More
 - More markets under examination authority and focus shift from mortgage origination and servicing.
- CFPB continues to use exams to build record in markets with pre-rule activity.
- Coordination with state and other federal supervisory agencies.
- Updates to Examinations Manual and continued attempts to harmonize and increase efficiency of exam process and outcomes.
- Expect to see more parties avail themselves of the appeals process, which is unpredictable and opaque.



Election Year Developments and Additional Outlook for 2016



Federal Trade Commission

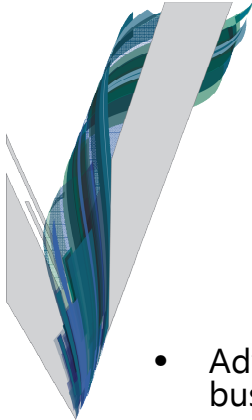


FTC Push on Consumer Education and Focus on “for-profit” Schools

- The FTC’s continued broad focus on the for-profit education sector and companies that assist in recruitment.
- In 2012, several U.S. Senators called on the FTC to take action “concerning unscrupulous for-profit colleges that engage in deceptive and abusive recruitment practices, including their use of third-party, online-marketing companies, or ‘lead generators,’ to mislead prospective students.”
- In response, the FTC said: “[t]he Commission is actively engaged in examining issues related to the for-profit education industry.” ([Letter from FTC Secretary to Senator Durbin](#), dated October 22, 2012).
- FTC reportedly investigated certain for-profit schools and advertisers.

The screenshot shows the FTC's Consumer Information website. The main heading is "CONSUMER INFORMATION" with a search bar. The page is divided into several sections:

- Navigation Menu:** MONEY & CREDIT, HOMES & MORTGAGES, HEALTH & FITNESS, JOBS & MAKING MONEY, Education & Training (highlighted), Job Hunting, Working from Home, Going into Business, Investments & Grants, PRIVACY & IDENTITY, BLOG, VIDEO & MEDIA, SCAM ALERTS.
- Section Title:** "Choosing a College: Questions to Ask"
- Main Text:** "Getting a degree or professional certification can improve your career choices. For-profit schools generally offer certificates or degrees and often specialize in career and job-related training. Unlike non-profit educational institutions, they generate profits for their owners. As you evaluate your options, be aware that some schools may stretch the truth to persuade you to enroll."
- Related PDF:** A button labeled "Related PDF" with a document icon and the text "Order Free Copies".
- Related Items:** A list of links: "Choosing a Vocational School", "Student Loans", "Paying for College Bookmark".
- Questions to Ask:** A sub-section with the text: "Some schools may take your money and leave you without the training and qualifications to get into the career you want. They tell you to sign up for courses that don't suit your needs, or press you to take out loans that will be hard to pay off. Before committing to any program, do some research, know exactly what you're paying for, and determine if you'll end up with the credentials you want." Below this is a link to the "College Navigator" and a list of key questions to ask, starting with "1. What's the total cost?".



FTC Vocational Schools Guides

- Advise against deceptive marketing practices by businesses that offer vocational training.
- While only a guide and not directly written for all degree-granting schools, the FTC's discussion provides a useful roadmap for educational institutions for the type of conduct it may find objectionable.
- The School Guides address questionable practices regarding misrepresentation of accreditation, the transferability of credit to other schools, government or employment agency affiliation, and testimonials or endorsements.
- The Guides also warn against misrepresenting teacher or enrollment qualifications, the nature of courses, the availability of financial aid, and the availability of jobs for graduates. In addition, the School Guides address the use of deceptive diplomas or certificates or placing classified ads that appear to be "help wanted" ads.

News & Events > Press Releases > FTC Approves Changes to Vocational Schools Guides

FTC Approves Changes to Vocational Schools Guides

FOR YOUR INFORMATION

November 7, 2013

TAGS: Bureau of Consumer Protection | Consumer Protection | Education

The Federal Trade Commission revised its Vocational School Guides, which advise against deceptive marketing practices by businesses that offer vocational training.

Created in 1972, the Vocational School Guides (formally known as Guides for Private Vocational and Distance Education Schools) address misrepresenting accreditation, the transferability of credit to other schools, government or employment agency affiliation, and testimonials or endorsements. They also warn against misrepresenting teacher or enrollment qualifications, the nature of courses, the availability of financial aid, and the availability of jobs for graduates. In addition, the Guides address the use of deceptive diplomas or certificates, and placing classified ads that appear to be "help wanted" ads.

In 2009, the FTC sought public comment on the Guides as part of its systematic review of all current FTC rules and guides. In response to those comments, the FTC has amended the Guides to address more specifically misrepresentations:

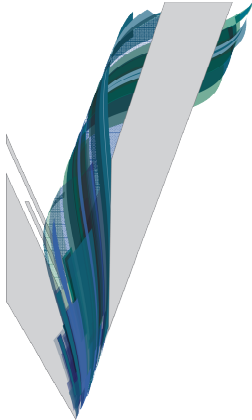
- commonly used in recruitment, including those regarding completion/dropout rates and post-graduation job prospects;
- about whether completion of a program will qualify students to take a licensing exam;
- concerning a student's score on an admissions test, how long it takes to complete a course or program, or a student's likelihood of success; and
- regarding the likelihood of financial aid or help with language barriers or learning disabilities, or how much credit students will receive for courses completed elsewhere.

Students interested in pursuing training through a vocational school should review the FTC's advice in [Choosing a Vocational School](#).

The Commission vote approving the Federal Register Notice announcing retention of the Guides with amendments was 4-0.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online [Complaint Assistant](#) or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides [free information on a variety of consumer topics](#). Like the FTC on Facebook, follow us on Twitter, and subscribe to press releases for the latest FTC news and resources.

CONTACT INFORMATION



FTC Workshop on Lead Generation



News & Events » Events Calendar » Follow the Lead: An FTC Workshop on Lead Generation

Follow the Lead: An FTC Workshop on Lead Generation



Follow the Lead

An FTC Workshop on Lead Generation

Related Releases

July 22, 2015
[FTC Announces Workshop to Examine Online Lead Generation](#)

October 19, 2015
[FTC Announces Agenda, Panelists for Upcoming Lead Generation Workshop](#)

OCT 30, 2015

CONSTITUTION CENTER
400 7th St SW, Washington, DC 20024 | [Directions & Nearby](#)

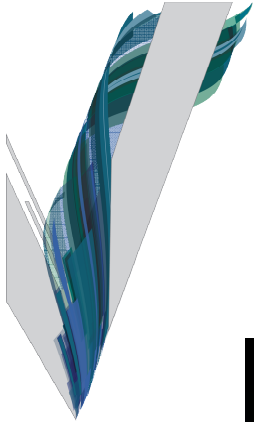
EVENT DESCRIPTION

The Federal Trade Commission hosted a workshop on October 30, 2015 to explore online lead generation in various industries including lending and education. The workshop brought together a variety of stakeholders, including industry representatives, consumer advocates, and government regulators.

Lead generation is the practice of identifying or cultivating consumer interest in a product or service, and distributing this information to third parties. For example, as consumers search the internet for all kinds of goods and services, they may express interest in or make an inquiry regarding specific products or services, such as educational programs, mortgages, or small-dollar loans, by submitting their personal information online. These consumer "leads" sometimes contain sensitive personal and financial information that may travel through multiple online marketing entities before connecting with the desired businesses. The workshop will explore the consumer protection issues raised by the practices of the lead generation industry, and what consumers and businesses should know and do to address them.

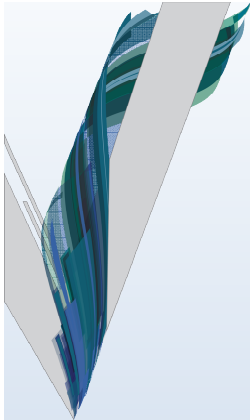
VIDEO FROM THE EVENT

- [Opening Remarks, Panels 1 & 2](#)
Introduction to Lead Generation Marketplace and Mechanics
Case Study on Lead Generation in Lending
- [Panel 3](#)
Case Study on Lead Generation in Education
- [Panels 4 & 5, Closing Remarks](#)
Overview of Consumer Protection Concerns & the Legal Landscape
Looking Ahead – Protecting & Educating Consumers

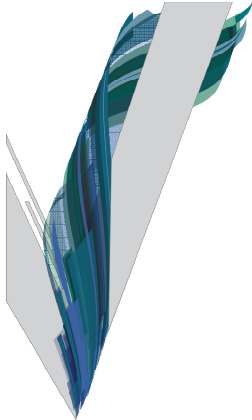


FTC Workshop on Lead Generation





Department of Education



HUFFPOST EDUCATION

Edition: **US** f Like 5.8m

FRONT PAGE POLITICS ENTERTAINMENT WHAT'S WORKING HEALTHY LIVING WORLDPOST HIGHLINE HUFFPOST LIVE ALL SECT

.COI

THE BLOG

Rohit Chopra Joins Department of Education

01/13/2016 10:21 am ET | Updated Jan 13, 2016

David Halperin
Attorney, advocate, writer at RepublicReport.org



Rohit Chopra, whose principled and determined leadership helped make the Consumer Financial Protection Bureau a strong force in addressing the abuses of predatory for-profit colleges, has joined the U.S. Department of Education as a senior adviser. Chopra is working directly for Under Secretary Ted Mitchell, focusing on

FOLLOW HUFFPOST

HuffPost f Like 5.8m

Education f Like 73k



Questions and Answers

Jonathan L. Pompan

Venable LLP

202.344.4383

jlpompan@venable.com

**For an index of presentations and articles on related topics,
see www.venable.com/cfpb/publications.**