

## **Education Loan Examination Procedures**

After completing the risk assessment and examination scoping, examiners should use these procedures, in conjunction with the compliance management system review procedures, to conduct an education loan examination. These procedures include guidance for examination of all aspects of private education loans and for examination of servicing of legacy Family Federal Education Loan Program (FFELP) loans.<sup>1</sup> The examination procedures contain a series of modules, grouping similar requirements together. Depending on the scope, and in conjunction with the compliance management system and consumer complaint response review procedures, each examination will cover one or more of the following modules. Module 7 – Examination Conclusions and Wrap-up is a required module and must be completed. The modules include:

1. Advertising, Marketing, and Lead Generation
2. Customer Application, Qualification, Loan Origination, and Disbursement
3. Loan Repayment, Account Maintenance, Payoff Processing, and Payment Plans
4. Customer Inquiries and Complaints
5. Collections, Accounts in Default, and Credit Reporting
6. Information Sharing and Privacy
7. Examination Conclusion and Wrap-up

## **Examination Objectives**

1. To assess the quality of the regulated entity's compliance risk management systems, including internal controls and policies and procedures, for preventing violations of Federal consumer financial law in its private education lending business.
2. To identify acts or practices that materially increase the risk of violations of Federal consumer financial law in connection with private education lending.
3. To gather facts that help determine whether a regulated entity engages in acts or practices that are likely to violate Federal consumer financial law in connection with private education lending.
4. To determine, in consultation with Headquarters, whether a violation of a Federal consumer financial law has occurred, and whether further supervisory or enforcement actions are appropriate.

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<sup>1</sup> These procedures are not intended to address the scope of the CFPB's supervisory authority.

## Background

In broad terms, private education loans are consumer loans made directly to students and/or parents to fund undergraduate, graduate, and other forms of postsecondary education.<sup>2</sup> Private education loans are typically used to bridge the funding gap between the cost of higher education programs and financial aid, grants, and loans made by the U.S. Department of Education under the Federal direct loan program. Federal direct loans are made pursuant to Title IV of the Higher Education Act. Private education loans might be offered by banks, non-profits, nonbanks, and even for-profit schools (also known as proprietary institutions).

In the past, private lenders were also able to provide borrowers with federally-guaranteed student loans under the FFELP.<sup>3</sup> The FFELP was eliminated under the Health Care and Education Reconciliation Act of 2010.<sup>4</sup> As of July 1, 2010, all Federal student loans must be made directly through the U.S. Department of Education under the direct loan program. Private lenders now only make private loans that are unaffiliated with the U.S. Department of Education, but lenders may continue to own and service loans made under the FFELP.

Under the FFELP, lenders would use private capital to make FFELP loans. Lenders would then receive a subsidy from the U.S. Department of Education in the form of either Interest Subsidy Payments (ISP) or Special Allowance Payments (SAP). The purpose of the ISP was to provide cash flow for interest payments on specific subsidized loans (Stafford) while they were in certain statuses such as deferment or forbearance where the borrower does not make payments and interest does not accrue. One feature of FFELP loans was the ability of the borrower to not make any payments while enrolled in school. Prior to July 2006, FFELP loans carried variable interest rates indexed to various underlying indices that reset on an annual basis, typically July 1 of each year. After July 2006, FFELP Stafford and PLUS loans carried fixed interest rates of 6.8 percent and 8.5 percent, respectively.

Through a network of private, mostly state-based, guaranty agencies, the U.S. Department of Education also guaranteed a large portion of the loans, insuring FFELP lenders against loan defaults. If a borrower defaults, the lender is reimbursed by the government for its losses. Currently this reimbursement is 97-98 percent of loan principal plus accrued interest. More information on the types of loans offered by the U.S. Department of Education through the FFELP can be found here: <http://www2.ed.gov/programs/ffel/index.html>.

Private education loans tend to have higher fees and interest rates than Federal loans or loans made under the FFELP, and unlike Title IV Federal education loans or FFELP loans, private education loans are not subsidized or insured by the Federal government. Also, private education

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<sup>2</sup> Under Regulation Z, a private education loan means an extension of credit that:

Is not made, insured, or guaranteed under Title IV of the Higher Education Act of 1965;

Is extended to a consumer expressly, in whole or part, for postsecondary educational expenses, regardless of whether the loan is provided by the educational institution that the student attends; and

Does not include open-end credit or any loan that is secured by real property or a dwelling.

A private education loan does not include an extension of credit in which the covered educational institution is the creditor if:

- The term of the extension of credit is 90 days or less, or
- An interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

<sup>3</sup> See Higher Education Act of 1965, Pub. L. No. 89-329, title IV, Sec. 421 (1965).

<sup>4</sup> See Health Care and Education Reconciliation Act of 2010, Pub.L. 111-152, title II, Sec. 2201 (2010).

loans do not generally offer the opportunities for cancellation or loan forgiveness in the event a borrower becomes disabled or dies. However, like Federal education loans, private education loans are generally non-dischargeable in bankruptcy, unless the borrower can show undue hardship by not discharging the loans.

Private education loans can be made through school referral (school channel) to a lender, or “direct-to-consumer” (DTC). Loans made through the school channel typically involve the school certifying enrollment, financial need levels, and academic progress to the lender. The school channel enables school financial aid offices to provide an overview of student debt burdens and to propose appropriate mixes of aid sources to the student.<sup>5</sup>

Unlike FFELP loans, private education loan products are typically underwritten to a credit policy and priced based on risk. The private education loan product typically has variable rates, based on LIBOR or Prime plus a margin. The margin is risk-based, usually ranging from zero percent to over 13 percent. Private lenders have begun offering fixed rate loans designed to compete with Federal loans. Like the variable rate loans, the pricing is risk-based, meaning that only borrowers with the best credit are offered rates in a range that competes with Federal loans. Accordingly, the manner in which these private loans with fixed rates are advertised can be very important so that consumers clearly understand the costs associated with each loan.

Many private education loans also include an origination fee from 1 percent to 10 percent, which covers both initial processing costs and a risk premium for lower credit scores. In addition, lenders may charge other fees associated with the private education loan process. The most common types of fees are:<sup>6</sup>

- Origination fee – charged by the lender; offsets cost of processing a loan and added to the loan amount.
- Disbursement fee – charged by the lender and added to the original principal loan amount when the loan is disbursed.
- Deferment fee – charged by the lender in exchange for the benefit of deferring a loan payment for a period of time.
- Repayment fee – charged by the lender at the onset of repayment and calculated based on the outstanding loan balance at the time repayment begins. Repayment fees have become rare.

Education loans are generally longer in duration than other forms of consumer credit, with the exact term varying based on the terms of the loan and the total amount borrowed. The term can be as short as five years and as long as 30 years.

Lenders use different underwriting methods relying on various measures of the borrower’s ability to pay when originating private student loans. For loans to full-time undergraduate students, product approval and pricing are predominantly based on the credit of a cosigner. For graduate professionals or part-time, employed students, pricing may be based on student credit history. An additional factor sometimes used in underwriting (or in-school eligibility) is a

<sup>5</sup> Recently, lenders who market loans directly to borrowers have begun using school certification as an additional underwriting tool.

<sup>6</sup> [http://www.hesc.com/content.nsf/SFC/Private\\_Student\\_Loans\\_Understanding\\_Fees](http://www.hesc.com/content.nsf/SFC/Private_Student_Loans_Understanding_Fees).

program's cohort default rate (CDR). CDR is a statistic published by the U.S. Department of Education which measures the number of borrowers defaulting on their Federal loans within a specified time period after entering repayment. CDR is one way to measure a program's ability to prepare students to command requisite wages to repay accrued debt. The U.S. Department of Education has started to use other statistics that may be more predictive than CDR of ability to repay accrued debt, such as "repayment rate," which measures the percentage of a given cohort that have begun reducing the principal balance owed on their Federal loans.

Like Federal loans, private education loans have traditionally offered full deferment of payments during school, capitalizing the accrued interest. However, some private education loans require some form of in-school payment, from full interest payments to nominal fixed monthly sums (e.g., \$25).

Private education lenders—whether banks or nonbanks—must comply with Federal consumer financial laws to the extent that the law applies to the particular lender and its activities:

- The Truth in Lending Act (TILA) and its implementing regulation, Regulation Z, generally impose requirements on lenders for private education loans, including disclosure of terms and interest rates. They also impose requirements on lenders regarding advertising of these terms, crediting of payments, and treatment of credit balances with respect to closed-end consumer credit transactions. In 2009, Regulation Z was amended following the passage of the Higher Education Opportunity Act (HEOA) to add disclosure and timing requirements that apply specifically to creditors making private education loans. TILA, as amended by the HEOA, also bans prepayment penalties on private education loans.<sup>7</sup>
- The Electronic Funds Transfer Act (EFTA) and its implementing regulation, Regulation E, impose requirements if the loan servicer of the private education loan within the scope of coverage obtains recurring electronic payments from borrowers.
- The Fair Debt Collection Practices Act (FDCPA) governs the activities of debt collectors.
- The Fair Credit Reporting Act (FCRA), and its implementing regulation, Regulation V, require entities that furnish information to consumer reporting agencies to have reasonable policies and procedures on the accuracy and integrity of information they furnish to consumer reporting agencies. FCRA and Regulation V also require that lenders give risk-based pricing notices when, based on consumer reports, they give borrowers materially less favorable loan terms than a substantial proportion of other consumers to which they lend. FCRA and Regulation V also put restrictions on the use and dissemination of various types of consumer information. In addition, FCRA and Regulation V require that when a consumer reporting agency notifies a furnisher of a consumer dispute, that the furnisher reinvestigate the dispute. They also require furnishers to handle disputes submitted directly to the furnisher by consumers about information the lender furnished to the consumer reporting agency. They also place limits on obtaining or using medical information when determining eligibility for a student loan.

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<sup>7</sup> 15 U.S.C. 1650(e).

- The Equal Credit Opportunity Act (ECOA) makes it unlawful to discriminate against any applicant for credit with respect to any aspect of a credit transaction:
  - on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);
  - because all or part of the applicant's income derives from any public assistance program; or
  - because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.<sup>8</sup>
- Creditors also are prohibited from making any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.
- In addition, ECOA and Regulation B require lenders to provide adverse action notices to consumers.
- The Gramm-Leach-Bliley Act (GLBA), through its implementing regulation, Regulation P, requires entities to provide privacy notices and limits information sharing in particular ways.

To carry out the objectives set forth in the **Examination Objectives** section, the examination process also will include assessing other risks to consumers that are not governed by specific statutory or regulatory provisions. These risks may include potentially unfair, deceptive, or abusive acts or practices (UDAAPs) with respect to lenders' interactions with consumers.<sup>9</sup> Collecting information about risks to consumers, whether or not there are specific legal guidelines addressing such risks, can help inform the CFPB's policymaking. Generally, the standards the CFPB will use in assessing UDAAPs are:

- A representation, omission, act, or practice is deceptive when:
  1. the representation, omission, act, or practice misleads or is likely to mislead the consumer;
  2. the consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and
  3. the misleading representation, omission, act, or practice is material.
- An act or practice is unfair when:
  1. it causes or is likely to cause substantial injury to consumers;
  2. the injury is not reasonably avoidable by consumers; and
  3. the injury is not outweighed by countervailing benefits to consumers or to competition.

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<sup>8</sup> The Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., is the collection of Federal statutes that protects consumers when applying for or receiving credit. The Act includes statutes that have dispute rights for consumers, such as the Fair Credit Reporting Act. The ECOA prohibits discriminating against an applicant who has exercised a dispute right pursuant to one of the statutes outlined in the Act.

<sup>9</sup> Section 1036 of the Dodd-Frank Act, PL 111-203 (July 21, 2010).

- An abusive act or practice:
  1. materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or
  2. takes unreasonable advantage of –
    - a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
    - the inability of the consumer to protect its interests in selecting or using a consumer financial product or service; or
    - the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

Refer to the examination procedures regarding UDAAPs for more information about the legal standards and the CFPB's approach to examining for UDAAPs.

The particular facts in a case are crucial to a determination of UDAAPs. As set forth in the **Examination Objectives** section, examiners should consult with Regional management and Headquarters to determine whether the applicable legal standards have been met before a violation of any Federal consumer financial law is cited, including a UDAAP violation.

## General Considerations

Completing the following examination modules will allow examiners to develop a thorough understanding of the education lender's practices and operations. To complete the modules, examiners should obtain and review, as applicable, each entity's:

- organizational charts and process flowcharts;
- board minutes, annual reports, or the equivalent to the extent available;
- relevant management reporting;
- policies and procedures; rate sheets;
- fee sheets;
- loan applications, loan account documentation, notes, disclosures, and all other contents of loan underwriting and servicing of account files;
- operating checklists, worksheets, and review documents;
- relevant computer program and system details;
- service provider due diligence and monitoring procedures, and lending procedures;
- underwriting guidelines;
- compensation policies;
- historical examination information;

- audit and compliance reports;
- management's responses to findings;
- training programs and materials;
- service provider contracts;
- advertisements; and
- complaints.

Finally, examiners should obtain access or a walkthrough of the creditor's online origination interface, the creditor's online applications, walk through of the origination process to test the timeliness and completeness of disclosures, and a walk through and overview of the systems used for the servicing and collection of payments for education loans, including any consumer interfaces.

Depending on the scope of the examination, examiners should perform transaction testing using approved sampling procedures, which may require use of a judgmental or statistical sample. Examiners also should conduct interviews with management and staff to determine whether they understand and consistently follow the policies, procedures, and regulatory requirements applicable to private education lending; manage change appropriately; and implement effective controls. Examiners also should consider observing customer interactions if consumer complaints or document review indicate potential concerns.

## **Module 1: Advertising, Marketing, and Lead Generation**

Examiners should engage in several steps to assess potential violations of law in connection with the advertising or marketing of private education loans. Examiners should begin the process by understanding how private education loans are developed and marketed to consumers. This can be accomplished through a review of the private education lender's policies, procedures, and internal controls. Examiners should also interview the entity's management to determine the process used to verify that marketing and advertising materials comply with consumer protection laws. Examiners should evaluate representative samples of all marketing and advertising materials, including print, electronic and other media, such as the Internet, email and text messages, telephone solicitation scripts, agreements and disclosures for the product(s) and service(s). Examiners should also understand the extent of any relationships that the private education lender has with service providers (including brokers, agents, or lead generators) to advertise, offer, or provide loans.

## **Truth in Lending Act (TILA) and Implementing Regulation Z**

Regulation Z imposes general advertising requirements applicable to all closed-end loans. Regulation Z has additional requirements applicable to private education lending, including additional disclosure requirements, prohibitions on co-branding an educational institution with the private education lending advertising material, and prohibitions on statements that an

educational institution endorses the lender's loans. Additionally, Regulation Z includes model forms that creditors may use which vary depending on the step of the origination process.

1. Assess compliance with the advertising requirements in Regulation Z for closed-end loans. (12 CFR 1026.24)
2. Determine whether the advertisements for credit are clear and conspicuous and state specific credit terms that actually are, or will be, arranged or offered the lender. (12 CFR 1026.24(a) & (b))
3. Determine whether the lender is using “triggering terms,” and if so, that additional requirements are satisfied. (12 CFR 1026.24(d))
4. In connection with solicitations<sup>10</sup> for private education loans, assess compliance with private education loan specific disclosure requirements. (12 CFR 1026.47). Disclosures are required on or with the solicitation and must include:
  - a. The interest rates (or range of rates) at the time of the solicitation, and a statement, if applicable, that the interest rate will depend on the consumer’s creditworthiness; whether the rate is fixed or variable, and certain additional information regarding interest rates than may increase after consummation;
  - b. Fees and default or late payment costs;
  - c. Repayment terms;
  - d. Cost estimates;
  - e. Eligibility;
  - f. Alternatives to private education loans;
  - g. Rights of consumers; and
  - h. Self-certification information.
5. Assess the creditor’s advertisements and marketing materials for compliance with Regulation Z prohibition on co-branding and institutional endorsement requirements. (12 CFR 1026.48)
6. Determine whether the creditor has established a preferred lender arrangement with a covered educational institution. For each preferred lender arrangement determine whether the creditor met the requirements of 12 CFR 1026.48(f) to provide the covered educational institution with the information required under 12 CFR 1026.47(a)(1)-(5) for each type of loan planned to be offered by the preferred lender for students attending the covered educational institution.

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<sup>10</sup> See 12 CFR 1026.46(d)(1)(i). For the purposes of the disclosures for private education loans, the term solicitation means an offer of credit that does not require the consumer to complete an application. A “firm offer of credit” as defined in section 603(l) of the Fair Credit Reporting Act (15 USC 1681a(l) is a solicitation.

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## **Equal Credit Opportunity Act (ECOA) and Implementing Regulation B**

1. Assess the private education lender's compliance with ECOA's marketing and advertising requirements, including the prohibition against discrimination or discouragement on a prohibited basis. Examiners should complete the advertising portion of the ECOA chapter of the *CFPB Supervision and Examination Manual*.
2. Assess the methods used by the private education lender to solicit, market to, or advertise to potential applicants for private education loan products, including but not limited to identifying any scripts. Determine whether there are any differences in the entity's solicitation or marketing efforts by lines of business, channel, loan product, particular educational institution, type of educational institution, or geography.
3. Assess the factors used by the private education lender to determine which potential applicants receive solicitations for private education loan products, as well as the terms and conditions of those solicitations.
4. Assess the marketing prospect databases used by the private education lender to determine which potential applicants receive solicitations for private education loan products, including the factors used by the marketing prospect database.
5. Assess the private education lender's guidelines, policies, procedures, and standards regarding making private education loan product recommendations, referring a loan applicant to a different loan product than first requested (including parent or co-signer loan products), or referring a loan applicant to subsidiaries, affiliates, or different lending channels within the entity.

## **Service Provider Business Arrangements (e.g. Agents, Brokers, or Lead Generators)**

Private education lenders may have arrangements with service providers to perform advertising and marketing. Examiners should assess whether the private education lender is monitoring its service provider relationships and activities for compliance with consumer regulations. Examiners' review of service provider arrangements should include a review of the private education lender's internal policies, procedures, service provider agreements, compensation programs, and training and promotional materials, including telemarketing scripts.

1. Determine whether the private education lender monitors the training of the service provider employees who market or promote private education loan products to ensure that those employees are trained to comply with applicable law, including to avoid making statements or taking actions that might be unfair or deceptive.
2. Determine whether the private education lender reviews a service provider's primary interface with consumers, such as reviewing recorded telephone calls or transcripts of online communication.

## **Other Risks to Consumers**

1. Determine whether the private education lender's advertisements make representations about future potential employment opportunities.
2. Determine whether the private education lender describes the loans as "government loan programs," "government-supported loans," or otherwise endorsed or sponsored by a Federal or state government entity.
3. Determine whether the private education lender uses terms such as "pre-approved," "guaranteed," or "fixed rate" on promotional material, and if so, whether the lender discloses any limitations, conditions, or restrictions on the offer.
4. Determine whether the private education lender has established a compensation structure that rewards employees based on the size or number of private education loans originated.

## Module 2: Application, Qualification, Loan Origination and Disbursement

Examiners should obtain and review a sample of applications (including scripts for telephone applications and screen captures of online applications), policies and procedures, training materials, and audits pertaining to the taking of applications, to ensure that the private education lender has controls to comply with consumer protection regulations. If possible, examiners should observe the interaction between consumers and the private education lender's loan officers.

Examiners should also review loan files and conduct loan officer interviews to determine whether the officers understand the policies, procedures, and regulatory requirements applicable to private education lending, and whether the officers are consistently applying applicable policies and procedures. If consumer complaints or document review indicates potential violations in the application, qualification, origination, or disbursement process, examiners may also conduct interviews of consumers and ask questions relevant to each topic below.

### Customer Application, Qualification, and Underwriting

#### *TILA and Implementing Regulation Z*

In addition to the Regulation Z requirement that private education lenders provide TILA closed-end disclosures prior to loan consummation under 12 CFR 1026.17 and .18, lenders also have three additional disclosure requirements for private education loans. Specific disclosures are required for the following stages in the loan origination process: application, approval, and final. Additionally, TILA provides customers with a right of rescission after consummation of private education loans.

1. Assess the private education lender's compliance with Regulation Z general disclosure requirements for closed-end credit. (12 CFR 1026.18). TILA disclosures must, among other things, be clear and conspicuous and made prior to the consummation of the loan. In addition, certain information must be disclosed, including:
  - a. Creditor;
  - b. Amount financed;
  - c. Finance charge;
  - d. Annual Percentage Rate (APR);<sup>11</sup>
  - e. Variable Rate;
  - f. Payment schedule including amount, timing and number of payments;
  - g. Total of payments;
  - h. Demand feature; and
  - i. Late payment.

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<sup>11</sup> NOTE: When verifying APR accuracies, use the Office of the Comptroller of the Currency's APR calculation model or other calculation tool acceptable to the CFPB.

2. Assess the private education lender's compliance with Regulation Z general disclosure requirements for variable rate loans. (12 CFR 1026.18(f))
3. Assess the private education lender's compliance with Regulation Z private education disclosure requirements. (12 CFR 1026.47). Examiners should verify that each disclosure was provided at the appropriate stage of the lending process, and that all information required by the respective disclosure was included. Review TILA chapter in the *CFPB Supervision and Examination Manual* for a full list of each item required for each of the four private education disclosures.<sup>12</sup>
  - a. Application Disclosures – Lenders must provide application disclosures on or with an application for a private education loan. If the application is taken over the phone, the creditor may, at its option, provide the application disclosure orally. If the creditor does not provide an oral disclosure, the application disclosure must be provided to the consumer or placed in the mail within three business days<sup>13</sup> unless the lender denies the application or approves the loan and instead provides the approval disclosure within three business days. Content of the application is the same as the solicitation disclosure. (12 CFR 1026.46(d)(1)). See Module 1's discussion of Solicitation Disclosures for more information.
  - b. Approval Disclosures – Lenders must provide approval disclosures prior to consummation of the loan, on or with any notice of approval provided to the consumer. (12 CFR 1026.46(d)(2)). If the lender provides an approval notice to the consumer in person, the approval disclosure must be provided concurrently. If notice of approval is communicated over the phone, the private education lender must place the approval disclosure in the mail within three business days. Content of the approval disclosure must include:
    - i. Interest rate information;
    - ii. Fees and default or late payment costs;
    - iii. Repayment terms;
    - iv. Alternatives to private education loans; and
    - v. Rights of the consumer.
  - c. Final Disclosure – Lenders must provide a final disclosure after the consumer accepts the loan and prior to disbursement (see #8, below). Content of the final disclosure must include:
    - i. Interest rate information;
    - ii. Fees and default or late payment costs;
    - iii. Repayment terms; and
    - iv. Cancellation right (see #8 below).

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<sup>12</sup> Solicitation Disclosures are covered in Module 1.

<sup>13</sup> The lender satisfies this requirement once the disclosure is mailed to the consumer.

4. Assess, as applicable, the private education lender's compliance with the Regulation Z requirement to obtain a signed self-certification form, attesting to the cost of attendance for the period covered by the loan and amount of financial assistance, other than the private education loan, for that period. (12 CFR 1026.48(e)). The U.S. Department of Education has published a specific form that must be used by the lender.
5. Determine whether the private education lender has a process to verify the accuracy and completeness of signed self-certification forms or uses other procedures (such as verifying students' financial aid need with the school financial aid office) to determine that loan amounts do not exceed financial need. (12 CFR 1026.48(e))
6. Assess the private education lender's compliance with Regulation Z term change and re-disclosure provisions. (12 CFR 1026.48(c)). Examiners should request loan files for loans where there was a change in terms, specifically the rate or terms of the loan under 12 CFR 1026.48(c)(4)(ii), to verify compliance with these provisions.
  - a. Determine whether the private education lender provided a new TILA disclosure if the lender changed the consumer's interest rate, payment, or term to accommodate a specific request from the consumer.
  - b. If the private education lender changed loan terms, and the change was not in connection with a specific request from the consumer, assess compliance with the exemptions to the change prohibition not requiring re-disclosure under 12 CFR 1026.48(c)(3).
  - c. Determine whether the lender withdrew a previously approved offer, or terms, for a reason other than those permitted under the regulation, or for a reason that was not a direct request from the consumer.
7. Assess the private education lender's compliance with Regulation Z requirement that the consumer's application and offer must remain open for 30 days. (12 CFR 1026.48(c)(1))
8. Assess the private education lender's compliance with Regulation Z requirement that consumers be allowed a right to cancel the private education loan. (12 CFR 1026.48(d)). Included in the final disclosure the lender must provide customers with statements that:
  - a. The consumer has the right to cancel the loan, without penalty, at any time before midnight of the third business day following the date on which the consumer receives the final loan disclosures. The statement must include the specific date on which the cancellation period expires and state that the consumer may cancel by that date.
  - b. The loan proceeds will not be disbursed until the cancellation period expires.
  - c. The method or methods by which the consumer may cancel; if the creditor permits cancellation by mail, the statement must specify that the consumer's mailed request will be deemed timely if placed in the mail not later than the cancellation date specified on the disclosure.
9. Assess compliance with the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). (The E-Sign Act does not mandate that lenders or consumers use or accept electronic records or signatures. It permits lenders to satisfy any

statutory or regulatory disclosure requirements by providing the information electronically after making certain disclosures, obtaining the consumer's affirmative consent, and obtaining a reasonable demonstration that the consumer can receive and retain disclosures electronically.)

## ECOA and Implementing Regulation B

### *Eligibility, Underwriting, and Pricing*

1. Determine whether the entity utilizes CDR or any other educational institution specific variable (such as graduation rate), in determining borrower eligibility, underwriting and/or pricing of private education loans.
2. Assess the entity's business justification for utilizing CDR or any educational institution specific variables and determine whether the entity conducts an analysis to support its business justification.
3. Determine whether the lender maintains any partnership, referral relationship, or preferred lender agreement with any educational institution regarding the entity's private education lending programs. Assess any financial or compensation arrangements. To the extent the entity distinguishes among or categorizes educational institutions, assess each such category.
4. Assess the entity's procedures, guidelines, and policies for identifying new educational institutions at which to make its private education loan products available. Assess eligibility standards, the eligibility monitoring process, and procedures for the elimination of ineligible educational institutions.
5. Assess the entity's underwriting and pricing guidelines, policies, procedures, and standards for each private education loan product offered during the review period. If the underwriting or pricing guidelines, policies, or procedures differ by lines of business, channel, divisions or geography, assess the differences.
6. Assess any credit scoring systems used in the underwriting and/or pricing processes. If the system is proprietary, assess all variables that in any way influence the score, including the weight of each variable in determining the score, and documentation validating the system.
7. Determine whether the entity used an automated underwriting system (AUS) in underwriting private education loans and assess how it was used during the review period. Determine all variables that in any way influence the AUS decision or score. For each product, determine the percentage of private education loan applications underwritten with the assistance of each AUS, and the percentage of private education loans underwritten without using any AUS.
8. Assess differences between rate sheets used for pricing private education loan products by line of business, channel, division, or geographical area, as well as rate sheets that are specific to a particular educational institution or a particular type of educational institution.

9. Determine whether the underwriting and/or pricing guidelines, policies, procedures, or standards differ in any way based on the applicants' or the co-applicants' race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), receipt of income from any public assistance program, or other prohibited basis. Include any consideration of age in the credit process, including but not limited to products with age restrictions or incorporation of age into a model or credit decision.
10. Assess any underwriting or pricing criteria related to a specific educational institution or type of educational institution.
11. Assess any differences in underwriting or pricing of products designed for individual institutions or different institution types (for instance, university, college, undergraduate, graduate, two-year, certificate).
12. Assess the entity's guidelines, policies, procedures, and standards for making overrides or exceptions in the underwriting and/or pricing of a private education loan. Determine if overrides or exceptions are capped at a certain percentage or number. Determine whether exception reporting is conducted and assess the quality of the report and the review process.
13. Assess the entity's guidelines, policies, procedures, and standards for providing adverse action notices to private education loan applicants. Include the procedures currently followed when the entity takes adverse action on oral or written private education loan applications and requests for preapproval submitted by consumers.
14. Determine how the entity links variables used in underwriting into adverse action reasons.
15. Assess the circumstances under which the entity requires an applicant to obtain a guarantor or co-signer for a private education loan.
16. Determine whether the private education lender refrains from collecting information on the race, color, religion, national origin, or sex of the applicant or any other person in connection with a loan transaction unless it is for purposes of a “self-test.”

## **Other Risks to Consumers**

1. Assess the private education lender's process for approving and communicating approval of private education loans.
2. Determine whether the private education lender approves loans in a timely manner, allowing borrowers to have full use of a 30-day firm offer period.
3. Determine whether the private education lender discloses that optional or related products and services which are offered simultaneously with credit—such as insurance, credit protection, and consumer report update services—are not required to obtain credit and are not considered in decisions to grant credit.
4. Determine the circumstances under which the private education lender requires students to add a co-signer; and, if applicable, the consequences that flow from the

addition of a co-signer, including whether the borrower is provided accurate information about such consequences.

5. Determine whether the lender provides co-signers with information and disclosures of the co-signers' rights and responsibilities associated with signing the private education loan.

## **Disbursement Processing**

### ***Regulation Z***

1. Determine whether the private education lender disbursed funds at least three business days after the consumer received the disclosures required by section 1026.47(c). (12 CFR 1026.48(d))

## **Other Risks to Consumers**

1. Assess the private education lender's cancellation policy in the event that a borrower consummates a loan and subsequently has less or no need for the private education loan.
2. Determine whether the lender is fully disbursing the principal amount of the loan disclosed to the customer, whether in a lump sum or in accordance with the educational institution's disbursement requirements (e.g., half each semester).
3. Determine whether the lender places limitations on the student's use of private education loan funds (e.g., a lender establishes a requirement that funds borrowed to pay for books or other educational expenses are used solely at a specific retailer).
4. Determine whether the lender has arrangements that require or pressure students to accept disbursement of education funds to a prepaid card or other required payment device; and if so, any attendant fees and requirements are fully disclosed to consumer.

## Module 3: Loan Repayment, Account Maintenance, Payoff Processing, and Payment Plans

Education lenders may service their own accounts, or contract with service providers who have greater expertise in managing education loans to service their portfolios. Portfolios may consist of private education loans and legacy FFELP loans. Although there is overlap, service requirements and borrower protections may differ depending on whether the loan is private or FFELP. Service providers are often responsible for collecting payments, acting as the primary interface with consumers, and addressing issues with delinquency and loss mitigation.

When determining the scope of the examination, examiners should determine whether the education lender, a service provider, or both should be examined for compliance.<sup>14</sup> Once the scope of the examination is finalized, examiners should review samples of servicing files and IT systems responsible for servicing the lender's portfolio of education loans. Examiners should begin by reviewing a sample of files from the education loan servicer's primary record system; if potential problems are found, examiners should review copies of relevant records outside the primary system, such as copies of monthly statements, copies of consumer payment records, and copies of bills from vendors. Examiners also should review the servicer's complaint files for a sample of consumers' complaints to identify patterns of issues.

## Electronic Fund Transfer Act (EFTA) and Implementing Regulation E

Assess compliance with EFTA for electronic payments and automatic transfers established between the private education loan servicer and the borrower. Refer to the examination procedures regarding EFTA's provisions on pre-authorized electronic transfers, 12 CFR 1005.10, for more information.

## Other Risks to Consumers – Private Education Loans

### *Repayment Status Processing*

1. Determine whether the servicer provides the borrower with an overview of all available repayment options before the loan becomes due.
2. If the servicer offers multiple repayment options, assess whether it implements a standard repayment plan for borrowers who have not chosen one.
3. Assess the lender's or loan servicer's policies and procedures, internal controls, and training regarding identifying and honoring all repayment status options.
4. Assess whether the lender, or loan servicer, is honoring contractual or statutory obligations to defer or forbear loan repayment (e.g., deferment for re-enrollment in school; forbearance for economic or medical hardship).

<sup>14</sup> See CFPB Bulletin 2012-03, Service Providers, for more information regarding CFPB's authority to examine a service provider to a Supervised Education Lender.

[http://files.consumerfinance.gov/f/201204\\_cfpb\\_bulletin\\_service-providers.pdf](http://files.consumerfinance.gov/f/201204_cfpb_bulletin_service-providers.pdf)

5. Determine how borrowers apply for deferment, forbearance, income-based repayment, or other repayment options, and what the eligibility requirements are for each option.
6. Determine whether the lender or loan servicer discloses terms and fees for deferment or forbearance, or any other accommodation, such as income-based repayment plans.
7. Determine whether the servicer has internal timelines for processing borrower requests to change repayment status, and whether the servicer notifies the borrower of receipt of her application or documents.
8. Determine how promptly changes to repayment status go into effect.

***Loan Repayment – Borrower Benefits***

Some private education lenders offer various borrower benefits, such as rate reduction for Automated Clearing House (ACH) payments or timely payments, graduation “bonus,” or other rewards to encourage the borrower to either take out the loan initially or to ensure payments are made timely once the loan is in repayment. On many occasions, these benefits may be offered to a borrower years before repayment is required. Examiners should verify that loan servicers are aware of what benefits were offered to borrowers and ensure that those benefits are provided to borrowers who meet the necessary qualifications.

1. Determine whether the lender or servicer has retained appropriate documentation of all benefits offered to the borrower.
2. Assess whether the lender or servicer has sufficient personnel and staffing to provide benefits related to deferments, forbearances, and other flexible payment plans in a timely fashion. Determine how many days it takes the lender to process an application for these types of benefits.
3. Determine whether the lender has sufficient controls to ensure that earned benefits are honored.
4. If the lender contracts for servicing with a vendor, determine whether the lender has processes and controls in place to ensure that the servicer is aware of and applies all appropriate benefits.
5. Determine whether the lender or loan servicer clearly discloses why benefits are denied, and the conditions and requirements that were not met resulting in loss of the benefit.

***Loan Servicing Transfers***

1. Determine whether the lender, or loan servicer, has transferred loans to a different servicing technology platform or to another loan servicer during the period covered by the examination.
2. Assess whether the lender or original service provider advises borrowers of the transfer and provides information necessary for the borrower to continue to make timely payments.
3. Assess the lender’s process and controls to ensure transferred account information is accurate.

4. Determine whether information regarding the borrower's account benefits and any pending borrower repayment status applications have been transferred.
5. Assess the lender's process for forwarding any payments received by borrowers after an account has been transferred to a new loan servicer.
6. Determine whether current ACH payment programs transfer to the new loan servicer, and whether borrowers are notified about what impact the loan servicing transfer has on the existing ACH payment program.
7. Determine whether the lender required the borrower to undergo a period of deferral while the servicing rights were being transferred, and if interest accumulated during that time.

***Payment Processing***

1. Determine whether the loan servicer has assessed a customer late fee or other delinquency fee even if the servicer received the full amount due on time.
2. Determine whether the servicer has levied or collected any delinquency charge on a payment, when the only delinquency is attributable to the late fees or delinquency charges assessed on earlier installments, and the payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period (otherwise known as payment pyramiding).
3. Determine whether the loan servicer credits the borrower's accounts in a timely manner.
4. Determine how a servicer responds when a payment transfer from the borrower's deposit account fails, including when and how the loan servicer notifies the borrower of a failed transfer.
5. Determine whether the servicer's customer service center has access to current loan information, including whether a payment transfer has failed. Determine what policies are in place to advise the borrower when the borrower has concerns that the payment transfer may not have gone through correctly.
6. Determine whether the loan servicer allows the borrower to access payments records including the amortization of the loan, amount of principal and interest paid to date, and if desired, the pay-off amount.
  - a. Assess the loan servicer's procedures for allowing borrowers to access these records.
7. Determine whether payments are posted on or as of the date they are received.
8. In assessing risks to consumers associated with payment processing, examiners may find evidence of violations of—or an absence of compliance policies and procedures with respect to—other laws, such as the Servicemembers Civil Relief Act. In these circumstances, examiners should identify such matters for possible referral to federal or state regulators or other appropriate action.

***Order of Application of Payments***

1. Determine whether the servicer adhered to the order of application specified in the loan instruments when crediting payments.

2. Determine how the servicer allocates payments when the borrower has multiple loans with the same provider.
3. Determine the policies for payment allocation, such as whether interest rate is considered and whether a borrower can change allocation of their monthly payment.

***Prepayments***

The Higher Education Opportunity Act prohibits prepayment penalty fees for early repayment of any private education loan. (15 U.S.C. 1650(e)). Prepayment penalties may not always take the form of a direct fee assessed to borrowers. Examiners should understand how the loan servicer treats additional principal payments.

1. Determine whether the servicer restricts or refuses additional principal payments, or imposes fees or undue burden on borrower's attempts to pay additional principal.
2. Assess whether the loan servicer credits additional principal payments to the borrower's balance or simply "pays ahead" the borrower's account without reducing principal.
3. Determine whether this information is clearly conveyed to the borrower, and if the borrower has the choice to choose between the two options.
4. Assess whether the loan servicer discloses its practices related to additional principal payments as well as the options to ensure that additional principal payments are credited to the account balance at the time the payment is made.

***Partial Payments***

Assess how the loan servicer handles partial payments. For example, whether the servicer credits the borrower's account for the amount received, or whether the servicer utilizes a suspense account.

1. If the servicer places payments in a suspense account, assess whether the servicer informs consumers of these actions in a clear and understandable manner.
2. If there is money in the suspense account from a prior month, and the consumer makes a subsequent payment that cumulatively equals a full payment, assess whether the servicer credits the full payment. If the servicer leaves money in the suspense account month after month without assessing whether the consumer has cumulatively made a full payment, this practice should be scrutinized carefully.
3. Verify that servicers are not allocating payments from suspense accounts to late fees or default-related fees before crediting those funds towards the regularly scheduled payment.
4. Determine the circumstances under which the servicer sends back payments, including, if applicable, whether the servicer in a timely, clear, and understandable manner explains the reason a payment is sent back, and the future payment amount that would be accepted.

**Note:** After the servicer has provided the customer written notice that the contract has been declared in default and the remaining payments due under the contract have been accelerated, the servicer is not required to accept payments which are insufficient to pay the full balance due.

***Periodic Statements***

Examiners should identify whether the lender, or the service provider, provides borrowers with periodic statements of the account. If so, examiners should review policies, procedures, and systems, to assess the adequacy of monthly statements that are provided to consumers.

1. Determine whether the monthly statements clearly and conspicuously identify monthly payment requirements, payment allocation, and any charges and fees.
2. Determine how statements are provided to borrowers.
3. Determine whether borrowers can access accounts through additional media such as online or by mail.
4. Determine whether borrowers can change the way they receive these statements.
5. Determine whether borrowers can access account statements before their loan enters repayment.
6. Determine whether the loan servicer informs the borrower of any interest rate changes, and when and how this information is provided.
7. Determine whether the loan servicer has a process to verify that interest rate and payment changes to borrower's accounts based on a change to a variable interest rate are accurate.

**Other Risks Specific to Legacy FFELP Loans**

Assessing for other risk to consumers related to a lender's legacy FFELP loans should begin with an assessment of the lender's compliance management system around servicing education loans. Lenders should have policies and procedures in place to ensure that they are following any additional FFELP requirements that impact consumers. Failure to understand and have adequate controls to ensure FFELP requirements are met could result in harm to consumers.

***Repayment Status Processing***

1. Assess the servicer's policies and procedures for granting deferments consistent with FFELP requirements

**Note:** FFELP allows for borrowers to obtain a deferment for certain circumstances, including when a borrower is enrolled in school at least half-time, is unemployed, has an economic hardship, or is on active military duty. Borrowers who are delinquent but not in default may be eligible for deferment.

2. Determine whether the servicer has policies and procedures in place to determine eligibility for Income Based Repayment (IBR) plans.
3. Assess the servicer's controls related to calculating IBR terms.

**Note:** To qualify for IBR, borrowers must have a partial financial hardship. Partial financial hardship means that under a standard 10-year repayment plan, the borrower's payments would exceed 15 percent of the difference between the borrower's adjusted gross income and 150 percent of the poverty guidelines for the borrower's family size.

4. Assess the servicer's policies and procedures for granting forbearance to borrowers.

**Note:** FFELP encourages lenders to grant forbearance when it would help prevent a borrower from defaulting, or it would help a borrower repay after default.

***Loan Repayment – Borrower Benefits***

FFELP loans offer additional borrower benefits, such as loan forgiveness. Certain forgiveness programs, such as the Public Service Loan Forgiveness or IBR forgiveness program, require borrowers to meet eligibility qualifications for a stated term. Servicers should have controls in place to track and retain any proof of a borrower's eligibility and completion towards a loan forgiveness program.

1. Determine whether the servicer is appropriately tracking eligibility for loan forgiveness programs, and granting forgiveness to eligible borrowers.

***Loan Servicing Transfers***

1. Determine whether the servicer provides borrowers with adequate and timely information when it transfers or sells servicing rights for education loans to a new servicer.

***Order of Application of Payments***

1. Assess the servicer's process for crediting payment to borrower's accounts.
2. Determine whether the servicer understands the various allocation requirements depending on the type of loan and repayment status and if the servicer has controls to credit payments appropriately based on loan types.

**Note:** For non-IBR FFELP loans, servicers must credit the payment amount first to late charges/collection costs, then to outstanding interest, and then to outstanding principal. For income-based payment of FFELP loans, lenders must credit the payment amount first to interest, second to collection costs, third to late charges, and then to outstanding principal.

***Prepayments***

1. Determine whether the lender automatically applies prepayments to future installments (absent contrary instructions from the borrower) and whether such a policy is clearly disclosed to borrowers.

## **Payoff Processing**

***Regulation Z - Treatment of Credit Balances***

1. Assess compliance with Regulation Z – Treatment of Credit Balances. Refer to the examination procedures regarding Regulation Z, 12 CFR 1026.21, for more information.

## **Module 4: Customer Inquiries and Complaints**

Examiners should review consumer complaints. Examiners should determine whether complaints were resolved adequately, and whether they were resolved in a timely manner.

### **Other Risks to Consumers**

1. Identify all channels and physical locations provided for receipt of customer complaints and inquiries.
2. Evaluate the comprehensiveness of systems, procedures, and/or flowcharts for capturing, logging, tracking, handling, and reporting complaints and their resolutions.
3. Assess the effectiveness of any telephone line available for inquiries or complaints, including (a) whether it is toll-free, (b) the ease of accessing a live person, (c) the hold times, and (d) the call abandonment rates.
4. Assess the effectiveness of other means available for inquiries or complaints, including written submissions and any online portal.
5. Evaluate the processes and speed for responses to consumer complaints. Review reports to management and the board of directors (or principals). Review the consumer complaint log(s), performance metrics, and exception/trend reports to determine whether consumer complaints are captured, correctly categorized, and are handled appropriately.
6. Determine if staffing levels are sufficient for volume. Then determine whether assumptions used for staffing determinations are validated or supported by analysis.
7. Listen to live calls and taped calls to assess the quality and training of call center personnel.
8. Assess whether the lender responds to borrower inquiries within a reasonable time period. For FFELP borrowers, lenders must respond within 30 days after receiving any borrower inquiry.

## Module 5: Collections, Accounts in Default, and Credit Reporting

Examiners should obtain a sample of the private education lender's servicing records for customers in default. Examiners should obtain collection call records and listen to a sample of collection calls. If consumer complaints or document review indicate potential violations in these areas, examiners also may conduct interviews of consumers from the sample and ask questions relevant to each topic area below. In connection with these steps, examiners should evaluate the following.

### Collections and Accounts in Default

Under the FDCPA, a "debt collector" is generally defined as any person who regularly collects, or attempts to collect, consumer debts due another person or institution or uses some name other than its own when collecting its own consumer debts, with certain exceptions. The definition includes, for example, an institution that regularly collects debts for an unrelated institution.

The debt collector definition has an exception that frequently applies to loan servicing: an institution is not a debt collector under the FDCPA when it collects debts that were *not* in default when they were obtained by the servicer.<sup>15</sup> Thus, a servicer that purchases the servicing rights for a portfolio of loans will be a debt collector only for loans that were in "default" at the time of the purchase.<sup>16</sup>

Examiners should obtain a sample of collection call records and assess whether collectors complied with the requirements listed in the FDCPA procedures. Examiners should also listen to a sample of collection calls.

### Fair Debt Collection Practices Act (FDCPA)

1. Assess compliance with the FDCPA. Refer to the FDCPA examination procedures for more information.

### Other Risks to Consumers

1. Determine whether the servicer contacts borrowers in an appropriate manner:
  - a. Employees and third-party contractors clearly indicate to consumers whom they are calling about the collection of a debt.
  - b. Employees and third-party contractors do not disclose the existence of a consumer's debt to the public without the consent of the consumer, except as permitted by law.
  - c. The entity avoids repeated telephone calls to consumers that annoy, abuse, or harass any person at the number called.
2. Determine whether the servicer's representatives make omissions or misrepresentations, or use inappropriate methods to collect debts.

<sup>15</sup> 15 U.S.C. 1692a (6)(F)(iii).

<sup>16</sup> The FDCPA itself does not contain a definition of the term "default." The standard private student loan note often states that the debt is in default if the payment is 15 or 30 days late. Federal loans go into default at 270 days past due.

3. Determine whether collections staff transfer borrowers to loss mitigation staff, in accordance with the institution's policies and procedures, to discuss loss mitigation alternatives.

***The Use of Service Providers for Collections***

For lenders utilizing service providers for collection activity, determine whether the lender has policies and procedures in place to monitor the service provider for compliance with Federal consumer financial laws.

***Workouts for Accounts in Default***

1. Determine when and how a borrower is notified that their account is past due, and when a past due account is sent to collections.
2. Determine whether the servicer reviews defaulted borrowers for all repayment status options before sending the account to collections.
3. Determine whether the lender, or loan servicer, offers formal or informal workout programs for borrowers in default. If so:
  - a. Determine whether the lender, or loan servicer, discloses the requirements and any associated fees when providing workout options to borrowers in default.
  - b. Determine whether the lender, or loan servicer, that offers workout programs provides each option available to borrowers.
  - c. Determine whether the lender provides payment options for borrowers in default, and if so, whether the lender is providing the options consistently to all borrowers in similar situations.
  - d. Determine whether the lender prioritizes workout options based on loan type (FFELP loans versus private loans), and if so, whether the lender has policies and procedures that document the prioritization rationale.
4. Examiners should obtain a sample of collection call records for accounts that are in default and assess whether collectors follow policies and procedures for handling such accounts.

**Collecting Delinquent Accounts through Legal Action**

Determine whether the lender has policies and controls in place to ensure the accuracy of information used to collect delinquent accounts through legal action.

**FCRA and Implementing Regulation V -  
Furnisher Requirements**

Examiners should obtain a sample of loan servicing records. For the loans in the sample, compare the information in the servicer's system of record with the information reported to the credit reporting agencies. Examiners should also review consumer complaints or review documents for potential violations of the Fair Credit Reporting Act and implementing Regulation V.

1. Assess compliance with the FCRA Furnisher Requirements. Refer to the FCRA examination procedures, 12 CFR 1022.40-43, for more information.

## **Module 6: Information Sharing and Privacy**

### **Gramm-Leach-Bliley Act (GLBA) and Implementing Regulation P - Privacy Notices**

1. Assess compliance with Privacy of Consumer Financial Information Regulations that implement the GLBA. Refer to the GLBA examination procedures, 12 CFR 1016.4 and 1016.5, for more information.

### **FCRA and Regulation Implementing V – Information Sharing with Affiliates**

1. Assess compliance with the FCRA Affiliate Marketing Rule. Refer to the FCRA examination procedures, 12 CFR 1022.21, for more information.

## **Module 7 – Examination Conclusions and Wrap-Up**

To conclude this supervisory activity, examiners must complete all steps under this section, regardless of the entity's risk profile.

1. Summarize the findings, supervisory concerns, and regulatory violations.
2. For the violations noted, determine the root cause by identifying weaknesses in internal controls, audit and compliance reviews, training, management oversight, or other factors. Determine whether the violation(s) are pattern or practice, or isolated.
3. Identify action needed to correct violations and weaknesses in the institution's compliance management system, as appropriate.
4. Discuss findings with the institution's management and, if necessary, obtain a commitment for corrective action.
5. Record violations according to agency policy in the Report of Examination/Supervisory Letter and the CFPB's electronic database system to facilitate analysis and reporting.
6. Determine if enforcement action is appropriate. If so, contact appropriate agency personnel for guidance.
7. Prepare a memorandum for inclusion in the workpapers and CFPB's official system of record that outlines planning and strategy considerations for the next examination and, if appropriate, interim follow-up.