

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2022-0038]

Request for Information Regarding Employer-Driven Debt

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Request for information.

SUMMARY: The Consumer Financial Protection Bureau (CFPB or Bureau) is charged with monitoring markets for consumer financial products and services to ensure that they are fair, transparent, and competitive. As part of this mandate, the CFPB is seeking input from the public on debt obligations incurred by consumers in the context of an employment or independent contractor arrangement.¹ Areas of inquiry include prevalence, pricing and other terms of the obligations, disclosures, dispute resolution, and the servicing and collection of these debts.

DATES: Comments must be received by Wednesday, September 7, 2022.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2022-0038 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* employer-drivendebt@cfpb.gov. Include Docket No. CFPB-2022-0038 in the subject line of the message.

¹ Through this Request for Information (RFI), the CFPB seeks information about employer-driven debt regardless of the legal status of the worker's relationship to the employer. Throughout this document, the term "employer driven debt" will refer to the relevant kind of debt obligation, and the term "employee" will refer to the worker subject to the debt obligation, regardless of whether a worker is considered an employee under the Fair Labor Standards Act, an independent contractor, or whether they may have been misclassified.

- *Mail/Hand Delivery/Courier:* Comment Intake—Employer-Driven Debt RFI, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID-19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC, area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern time. At that time, you can make an appointment to inspect the documents by telephoning 202-435-7275.

All submissions in response to this Request for Information (RFI), including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Emma Oppenheim, Director's Front Office, at (202) 297-7515. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background:

Employer-Driven Debt

The CFPB has identified a potentially growing market of debt obligations incurred by consumers through employment arrangements. These debts (referred to here as employer-driven debts) appear to involve deferred payment to the employer or an associated entity for employer-mandated training, equipment, and other expenses. In this marketplace, the users of these financial products and services are workers or job seekers and the firms offering or providing these financial products or services are employers or associated entities.

Though they may take other forms, employer-driven debt products appear to include:

- **Training Repayment Agreements that require workers to pay their employers or third-party entities for previously undertaken training provided by an employer or an associated entity if they separate voluntarily or involuntarily within a set time period.** These trainings may have been required in order to obtain a job or a promotion and may be of dubious value outside of the company-specific setting. These agreements generally require payment when workers leave their employment arrangements.
- **Debt owed to an employer or third-party entity for the up-front purchase of equipment and supplies essential to their work or required by the employer, but not paid for by the employer.** These products might be common in employment relationships in which workers are outsourced or classified as independent contractors. Workers may also owe deferred payments related to maintenance of equipment and supplies.

Risks to Consumers

Employer-driven debt, like other debt, could pose risks to consumers, including overextension of household finances, errors in servicing and collection, default, and inaccurate credit reporting. As with other debt, errors and misinformation can create heightened risks of consumer harm at each stage of the debt life cycle, from origination through servicing and default or payoff. The CFPB understands that, in addition to these general risks, employer-driven debt may also pose additional risks to consumers: consumers may not understand whether these arrangements involve an extension of credit, whether they have the ability to comparison shop for credit offered by others, or whether entering into the debt agreement is a condition of employment. Additional risks specific to the employment context may include whether default on the debt threatens continued or future employment, or whether the status of the debt is impacted by a decision to seek alternative employment. These risks might limit competition and transparency in this market for consumer financial products and services.

II. Request for Comment

This request seeks information from the public on how employer-driven debt has impacted consumers. The CFPB is particularly interested in hearing from consumers, worker organizations and labor unions, employers (including employers trying to compete with other employers using employer-driven debt), social services organizations, consumer rights and advocacy organizations, legal aid attorneys, academics and researchers, small businesses, financial institutions, and state and local government officials.

The CFPB welcomes the submission of descriptive information about experiences faced by people participating in the market, as well as quantitative data about employer-driven debt. The CFPB is interested in receiving comments relating to debt incurred to an employer or an

associated entity, taken on in pursuit or in the course of employment. Commenters need not answer all or any of the specific questions posed. The CFPB anticipates analyzing this information in the service of better understanding the relationship between labor practices and the market for consumer financial products or services and identifying priority areas for future action.

Market-level inquiries

For commenters with information about employer-driven debt at a market level, please share research or findings relevant to any part of the origination-to-collections lifecycle, including:

1. What is the total debt burden attributable to employer-driven debt? What data and evidence exist about the scope of employer-driven debt, including how many workers are subject to related practices?
2. What effect does employer-driven debt and related practices have on workers and their families? How does it affect household decision-making and balance sheets?
3. What firms or sectors are associated with employer-driven debt?
4. Is there any relationship between market concentration in particular industries and the use of employer-driven debt?
5. What are the effects of employer-driven debt on employers who impose it, or facilitate it being imposed, on their employees?
6. What are the effects of employer-driven debt on employers who do not impose it, but compete for labor with employers who do?

7. To what extent do these debts increase employee retention or limit worker mobility?
8. To what extent do employers or related third parties obtain state licenses for any financial products provided to employees?
9. How might the CFPB use its supervision, enforcement, research, rulemaking, and consumer complaint functions with respect to employer-driven debt?

Pre-Origination

1. Prior to creating the debt obligation, do employers or their agents evaluate likelihood of repayment on the part of the employee?
2. If yes, what information is used to evaluate likelihood of repayment?
3. What information, if any, do employers or their agents use to inform whether or not they impose the debt obligation and its terms? For what purposes are employer-driven debts incurred?

Origination

1. Are these debts incurred before or after an employee accepts employment?
2. For what purposes are employer-driven debts incurred?
3. How are the extensions of credit structured?
4. What are the typical terms of the extension of credit?
 - a. How is the amount of the debt determined?
 - b. Does the amount include interest and fees?
5. Do employers contract with third parties to offer credit to workers?

6. How do employers or their associated entities market to workers, and what statements are made as to the value of the employer-driven debt to the workers' earnings?
7. How are the terms and conditions of the extensions of credit communicated to workers?
8. Are the terms of the extensions of credit offered on a take-or-leave basis, or are workers able to negotiate the terms?
9. Are workers provided any information about other financing alternatives?
10. What triggers the worker's obligation to pay?
11. What are the circumstances, if any, under which a worker need not pay?
12. What is the duration of the credit agreement? If there are circumstances under which a worker need not pay, how long does the credit agreement last? If a worker's obligation to pay is triggered, how long is the repayment period?
13. What types of contracts or promissory notes do employees sign to enter into these agreements?
14. Are the extensions of credit ever assigned, sold, transferred, or otherwise conveyed to a party other than the originator? If so, at what point and to whom? For what purposes are employer-driven debts incurred?

Servicing and Collections

1. How are payments collected?
2. What collection practices are used by employers collecting employer-driven debt?
3. Are employers collecting employer-driven debt engaging in collection activities in-house or through third-party debt collection companies or finance companies?

4. If employers engage third-party debt collection companies, what type of oversight are they conducting?
5. Do employers or their agents threaten or engage in debt collection lawsuits to collect these debts?
6. Do employers or their agents cease collection efforts when a worker files for bankruptcy? Do employers or their agents cease collection efforts when a worker obtains bankruptcy discharge? How are payments collected?

Disputes

1. Do employers who impose employer-driven debt have processes, policies, and procedures for taking and handling disputes about the debt?
2. Following disputes, do employers modify the terms of debt instruments, cease collections, or cease or modify any consumer reporting?

Credit Reporting

1. To what extent do employers or related third parties furnish information to credit reporting companies regarding these debts?
2. What information do employers or related third parties furnish to credit reporting companies regarding the debt?
3. Do employers or related third parties furnish information to other consumer reporting companies, such as employment screening companies?
4. Are employers engaging in furnishing activities in-house or through third parties?
5. Do employers who impose employer-driven debt have processes, policies, and procedures for taking and handling disputes about reporting of the debt?

Transaction-level inquiries

For commenters with experiences pertaining to employer-driven debt, please share your experiences relevant to any part of the origination-to-collections lifecycle, including:

Pre-Origination

1. Did your employer or an agent evaluate your likelihood of repaying before originating the debt?
2. If yes, how did they evaluate your likelihood of repaying?
3. Did your employer collect any financial information from you before originating the debt?
4. Did your employer obtain a credit report or consumer report on you before originating the debt?

Origination

1. What is the name of the employer and/or third party associated entity originating the debt?
2. Was the debt incurred:
 - a. To a prospective employer or third party in order to get a job with that employer;
 - b. To a current employer or associated entity in order to maintain employment or become eligible for better wages, more complex duties, more hours, or a formal promotion;
 - c. Or both?
3. What was the debt was for?
4. What was the amount of the debt?

5. Were you charged any fees, penalties, or interest charges? If so, how were they disclosed?
6. Were there any other terms or conditions? If so, how were they disclosed?
7. Was the training, equipment, or other item, or the financing of that item, marketed to you? If so, how?
8. Was the training required for a professional license or credential, such as from a state licensing agency or professional body? Did you already have educational or other professional qualifications related to the employment?
9. Do you believe the cost you incurred for the training, equipment, or other item fairly reflects its value?
10. If you were required to obtain training, equipment, or some other item in order to obtain or advance your employment, were you given choices in how to finance it, and where or from what firm to obtain the training, equipment, or other item?
11. What is the name of the company or entity from which you received the training, equipment, or any other item in order to obtain or advance your employment?
12. What is the name of the company or entity that financed the debt?
13. If you feel comfortable doing so, please share any documents or communications, including any marketing, advertisements, contracts, or disclosures, associated with the employer-driven debt.

Servicing and Collections

1. If you took out employer-driven debt, have you had to pay your employer back?
2. If you have not had to pay your employer back, why not?

3. Did any specific conditions trigger a requirement that you pay back your employer (for example: leaving your job)?
4. How have you made your payments (e.g., via payroll withholding, ACH, sending checks, etc.)?
5. Did you have a choice in how to make your payments?
6. What collection tactics were used if you fell behind in your payments or defaulted?
7. Did your employer or their agent initiate a lawsuit against you in order to collect the debt?
8. If you feel comfortable doing so, please share any documents associated with the servicing or collection of the employer-driven debt, including billing notices, collection notices, etc.
9. If you have declared bankruptcy, did your employer or their affiliate stop trying to collect the debt?

Disputes

1. Have you disputed any aspect of the debt with your employer, the finance company, or any other third party associated with the debt?
2. What was the nature of your dispute?
3. To whom did you make your dispute?
4. How did the recipient of the dispute respond?
5. Was any element of your debt, including whether you would have to make any payments, altered following your dispute?

Credit Reporting

1. Has your employer, the finance company, or any other third party associated with the debt told you that they may furnish negative credit reporting information about you?
2. Has your employer, the finance company, or any other third party associated with the debt furnished negative credit reporting information about you?
3. The name of the employer, finance company, or other third party that said they would furnish or did furnish negative credit reporting information about you?
4. Have you filed a dispute regarding furnished information about your debt to the furnisher or a consumer reporting agency? How was the dispute handled?
5. Do you believe information about your debt has affected your ability to get subsequent employment, obtain credit, rental housing, or other problems?

Financial Health

1. What the effects of employer-driven debt were on your finances, employment experience, professional mobility, workplace health and safety, and compensation?
2. What the effects of employer-driven debt were on your family's well-being?

Rohit Chopra,

Director, Consumer Financial Protection Bureau.