

Take Note: Employers are Helping Pay Student Loans and Consumer Advocates are Watching Closely

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A growing number of employers are offering student loan repayment assistance as a means of attracting and retaining talent. Industries like tech, financial services, and health services are among the early adopters, offering variations of the same general benefit: the employer agrees to pay a certain amount—either a set figure or a percentage of salary—toward their employee’s student loan debt. Since student loan repayment benefits are relatively novel, the rules for both employers offering the benefit, and the student loan servicers administering it, are not yet explicit.

Wait, there are no rules for a financial services product? Not so fast! Consumer protection rules apply in this space just as much as any other. The emergence of this student loan benefit triggers many of the same issues surrounding student loan servicing that have arisen in enforcement and legislative contexts; there may be more of an incentive to ask other market participants—like employers and third party entities managing the benefit—to educate student loan borrowers on their rights and options. Indeed, the CFPB recently issued a report, entitled [*Innovation highlights: Emerging student loan repayment assistance programs*](#).

Student Loan Servicers, Take Note. The CFPB report details problems with servicers not having adequate capabilities to accept electronic payments from third parties; provide visibility into account information; provide timely responses to employer benefits enrollment; and additional issues that are familiar in many other servicing cases and contexts:

- lack of consistent payment processing policies across student loan servicers (causing two borrowers at the same employer to receive different value from the same student loan repayment benefit);
- improper allocation of payment, despite accompanying instructions; and,
- “Antiquated” computer software and policies.

In other words, servicers have a tricky balancing act to maintain. They must implement adequate protections to protect borrowers' privacy, all the while making third party payment processing accessible and functional.

Employers, Be Mindful. There are many options available to employers when it comes to administering the student loan repayment benefit. Employers need to understand the functions and limitations of servicers, and have a basic understanding of the types of consumer protections related to student loans that have been highlighted by regulators over the past several years. One major area is repayment options: ensuring student loan borrowers understand the difference between federal and private loans, and are educated about the pros and cons of the various federal student loan repayment options, like income-based repayment.

As if employers did not have enough to worry about with the standard financial services compliance rules described above, there has also been a strong push recently by many retirement plan asset managers to tie student loan repayment programs into an employer's retirement plan. Some large plan service companies have developed programs to provide plan participants with matching contributions to the retirement plan based on student loan repayments made through a loan servicer selected by the employer. Employers interested in taking this step need to carefully review their retirement plan documents and update them as needed to ensure these programs do not create new tax and ERISA issues for their plans.

No doubt some believe the rise in the student loan repayment assistance benefit will peak early due to the current lack of tax benefits for both employer and employee, unlike 401k contributions. However, changes may be forthcoming if Congress passes the Employer Participation Student Loan Assistance Act, which would allow employers to contribute up to \$5,250 annually toward employees' student loans tax free.

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Topics

Employee Benefits, Student Loans, Loan Servicing, CFPB, Employer Participation Student Loan Assistance Act