

## **CFPB Releases Fall 2016 Supervisory Highlights Together With New Guidance on Student Loan Servicing, Fair Lending, Reverse Mortgage Servicing**

Article By:

David A. Stein

Nikhil V. Gore

---

The CFPB released on October 31st its [Supervisory Highlights for Fall 2016](#). The Supervisory Highlights state that, taking into account non-public enforcement actions, “recent supervisory activities [...] resulted in approximately \$11.3 million in restitution to more than 225,000 consumers” during the May-August 2016 review period.

The Highlights reflect continued focus by the CFPB on many of the same issues and products it has targeted throughout the past several quarters, including automobile loan origination and servicing, debt collection, and mortgage origination, as discussed more fully below.

At the same time, the Supervisory Highlights flag a renewed focus on student loan servicing, including in connection with (i) denials of applications for income-driven repayment plans; (ii) failures to provide borrowers with “effective” choices on how to allocate their payments among various loans; and (iii) providing misleading billing statements about the allocation of payments to principal and interest when funds are “paid ahead” for future months.

Contemporaneous with the release of the Supervisory Highlights for Fall 2016, the CFPB also formally released:

- [revised Education Loan Examination Procedures](#) covering student loan servicing, accompanied by a [press release](#) in which CFPB Director Cordray called out “student loan servicers and other financial institutions” for purported “sloppy or callous practices”;
- [updated CFPB guidance](#) on the risk-based oversight of service providers (this updated guidance was published in the Federal Register last week); and
- new [Reverse Mortgage Servicing Examination Procedures](#).

In addition, the Supervisory Highlights contain a lengthy discussion of supervisory observations relating to fair lending, with a particular focus on the assessment of redlining risk and the provision of language services to non-English-proficient customers.

In addition to the student loan servicing issues described above, specific issues noted in the Fall 2016 Supervisory Highlights include:

- For automobile servicing, the CFPB identified as an unfair practice one or more auto loan servicers that refused to return personal property found in a repossessed vehicle until the borrower paid a storage fee, depending upon state law and contract terms.
- For mortgage origination, the CFPB reported that one or more mortgage originators relied on alternative income documentation, but failed to verify properly a consumer's total monthly income in determining ability to repay. The CFPB also found certain compliance management system weaknesses at one or more mortgage originators.
- For debt collection:
  - The CFPB observed favorably that the use of guides and scripts by debt collectors, supplemented by monitoring and discipline, resulted in improved adherence to compliance policies.
  - On the other hand, the CFPB noted that one or more debt collectors engaged in a number of Fair Debt Collection Practices Act violations including: charging consumers unlawful convenience fees; making false representations to consumers about consumers' creditworthiness and credit scores, the need for immediate payment to prevent damage to consumers' credit, and the pending revocation or expiration of the ability to settle the collection account; and unlawfully disclosing to a third party the debt owed by the consumer.
  - The CFPB also noted that one or more debt collectors engaged in a number of Fair Credit Reporting Act violations, including inadequate dispute handling and failing to provide guidance or training to employees regarding the difference between FCRA disputes and general consumer inquiries or complaints. The CFPB also noted instances where one or more debt collectors failed to provide consumers with a copy of the terms of authorization for preauthorized electronic fund transfers as required by Regulation E.