

***The Consumer Finance Podcast x Payments Pros* – Point-of-Sale Finance Series:**

Federal Shake-Ups and the Rise of Income Share Agreements in Student Loan
Financing

Host: Taylor Gess

Guests: Stefanie Jackman, Caleb Rosenberg, and Jeremy Sairsingh

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Taylor Gess (00:05):

Welcome to the special edition of [*The Consumer Finance Podcast*](#). I'm Taylor Gess, an associate in Troutman Pepper Locke's Consumer Financial Services Regulatory Practice, and I'll be your guest host for today's episode. Today, we're going to be giving you another installment of our special highlight series on point-of-sale finance, where we will discuss issues related to student lending and income share agreements, or what we'll refer to as ISAs. But before we jump into that topic, let me remind you to visit and subscribe to our blogs, TroutmanFinancialServices.com and ConsumerFinancialServicesLawMonitor.com. And don't forget about all of our other podcasts. We have the [*FCRA Focus*](#), all about credit reporting, the [*Crypto Exchange*](#) about crypto and digital assets. We have [*Unauthorized Access*](#), which is our privacy of data security podcast, and of course, [*Moving the Metal*](#), our auto finance podcast. All of those are available on all popular podcast platforms.

(00:55):

Speaking of those platforms, if you like this podcast, please let us know. Leave us a review on your podcast platform of choice and tell us how we're doing. Now, today's episode is another in our special highlight series on point-of-sale finance. I'm joined by my colleagues, Stefanie Jackman, Jeremy Sairsingh, and Caleb Rosenberg to give us some insights into student lending and ISAs at both the federal and state level.

So Stefanie, I know there's a lot going on at the federal level with student lending right now. Do you want to start us out by discussing some of the CFPB and Department of Education updates?

Stefanie Jackman (01:24):

Yeah, I'd be happy to do that. I mean, everybody's been watching and seeing that the CFPB has been significantly curtailed in its operations. We've seen throughout the course of this year, the acting director and Trump administration attempting to reduce the staff at the CFPB as well as how the CFPB sees and defines and carries out its mission. So, we're seeing an effort to reduce significantly down from almost 2,000 employees to several hundred. That has been complicated, I guess I'll say, by the litigation that was filed by the union that represents CFPB employees, and that litigation continues to this day. The DC Circuit Court of Appeals has upheld a requirement that the CFPB continue to carry out its core functions, or I should say mandatory

functions that are mandated under Dodd-Frank, but those are very few compared to what we're accustomed to seeing the CFPB doing.

(02:21):

There are things like market monitoring, certain reports to Congress, maintaining a complaint portal, and supervising large banks over 10 billion and a couple of other industry participants. Everything else the CFPB has done, rulemaking, enforcement, all sorts of other things that we're accustomed to seeing them do are permitted, but not mandatory that they do on an annual basis. We are also seeing the CFPB represent, most recently November, we saw them in that litigation say that they believe they will be out of funding and have an opinion from the Department of Defense saying that they are not able to take any more funds because the Federal Reserve has not been operating at a profit as required under the administration's read of the CFSAs decision from the Supreme Court that dealt with the CFPB's funding about two years ago now.

(03:16):

Of course, we're also seeing reports starting to come out that say the Fed will be profitable, however you define it. So we'll see what happens, but we continue to see a lot of activity to reduce headcount and activities at the CFPB. A lot of people have asked, do I think the CFPB is going to go away? First of all, only Congress can get rid of the CFPB. It is actually an agency that is mandated to exist under the Dodd-Frank Act. It does have core functions. You've had a Court of Appeals say that those things need to be carried out. I personally continue to believe that notwithstanding what the administration and leadership may say on any given day, there isn't a desire to completely shutter and close the CFPB. I don't think there's an ability to do that under the law as it currently stands, but I do think there is an effort to reshape it, to constrain it, and narrow its core functions to work more in conjunction with other regulators.

(04:12):

So that's a good transfer to the Department of Ed, another regulator. It has also experienced layoffs—significant layoffs, reduction in staff. Some of those are being undone a little bit. We've seen the Department of Ed and the current administration of firm and existing interagency cooperation agreement that allows the Department of Ed to transfer certain core functions to other departments like the Department of Labor, Department of State, Department of the Interior and Health and Human Services. Secretary Linda McMahon has been doing that, but some of those departments are starting to rehire people that had been laid off just because they're needed to continue to carry out the functions. But in my view, the Department of Ed aligns, maybe not to the same degree, with what we've seen the administration do with the CFPB and trying to reduce headcount and really redefine a more narrow view of core functions and think about what functions could be handled by other administrative agencies or in a different way, which is consistent with the platform that the current administration ran on about reducing, I think what they would say is "government bloat," if you will, in Washington, whether you agree that that exists or not.

(05:22):

There also have been some big changes with the One Big Beautiful Bill, but I don't want to step on Jeremy, who I know is going to talk about that. Focusing on the Federal Student Aid Office within Department of Ed, there haven't been a lot of impacts in the more broad sense there. Earlier, President Trump had talked about potentially shifting the FSA's duties or some of them to the Small Business Administration Department, but that hasn't happened. We haven't actually seen any indication that that's going on, at least that's public or that we've noticed. There was an announcement earlier about there being a new foreign funding portal that universities will be required to use to report foreign fundings beginning on January 2nd of 2026. They've rolled out a new earnings indicator to assist students in determining the affordability of their loans and other things like that.

(06:15):

But at a high level, what we're seeing with the Department of Ed, it's consistent with what we're seeing with other agencies. The CFPB has been the most impacted. Department of Ed has been in some significant ways, but I know Jeremy wants to dive into the One Big Beautiful Bill that did make a few more changes that are worth highlighting.

Taylor Gess (06:33):

Thanks, Stefanie. That's really helpful background as we get deeper into our discussion. Jeremy, as Stefanie alluded to, there's some significant student loan changes under the One Big Beautiful Bill. Can you tell us about what's happening there?

Jeremy Sairsingh (06:44):

Yeah, certainly. So, on July 4th, 2025, President Trump signed the One Big Beautiful Bill into law. The bill contains hundreds of provisions, but there are some really key updates to federal student loan programs in there. And there's a few that I want to highlight that I think are particularly relevant to the industry. The first has to do with repayment options. So to date, loan borrowers have faced a whole bunch of different options, plans for repaying student loans. You had income-contingent repayment, income-based repayment, pay-as-you-earn, the save plan. So when selecting a repayment option, there'd be a whole bunch of buttons to click. Now under the One Big Beautiful Bill, all of those are phased out replaced with just two plans—a standard plan, which is a fixed repayment period based on the amount of outstanding student loan debt and what's called a repayment assistance plan, which is a form of income-based repayment based on the borrower's adjusted gross income ranging from 1 to 10%.

(07:42):

And it varies as the borrower's income goes up. Why does this matter? Servicers are going to have to implement these changes, and it's going to be complicated. So migrating borrowers to the new plans, because the older plans date back to 2007. So you could have borrowers midstream adjusted onto these new plans, recalculating payments, communicating these fairly complex transitions. So on the servicing front, I think there's a lot to unpack and a lot of work

and communicating with borrowers to be done to implement these changes. Another development I wanted to flag is something that I think will have ramifications for student loan products beyond federal student loans. By one estimate, federal student loans constitute about 90% of the student loan market in the United States. And one impact of the One Big Beautiful Bill is to reduce caps on certain loan types. So in particular, grad plus loans, which are loans that graduate students take out to fund graduate education, are now capped significantly lower than they were before.

(08:47):

Going forward, there's going to be a \$20,500 per year cap with a per school loan limit of \$100,000. Similarly, parent plus loans, which are loans that parents and caregivers can take out to finance a child's education or some other individual's education. Going forward, these will be capped at \$20,000 a year and a total aggregate amount of \$65,000 per child. I think this creates a lot of opportunity in the private student lending market and for other education finance products, particularly those that we're seeing to really enter the market more prominently now like income share agreements and some other forms of education finance.

Taylor Gess (09:28):

Thanks, Jeremy. That was really helpful. So let's shift gears to the state level now. Jeremy, we focused a lot on student loans, but as you just mentioned, there's some other structures out there. I've heard a lot about income share agreements or ISAs. Can you help us generally understand what an ISA is and how that differs from a loan?

Jeremy Sairsingh (09:46):

Sure. Basically, an income share agreement is a form of education funding where the student receives funds to attend an education program, to attend a school, and agrees to pay a fixed percentage of his or her future income for a set period of time rather than paying a traditional interest-based loan. So, to distinguish it from a more traditional student loan, there's no interest rate, there's no principal on which an interest rate is calculated. Rather, you have a funding amount, which is typically, in an income share agreement, it'll be disclosed on the first page of the contract or listed in accompanying disclosures saying, "This is how much the provider will advance to the school for the student's education." But since there's no interest rate, how do you calculate repayments? How does this funding get paid back? So we often see a fixed payment rate, often 2 to 10%, of the student's income for a defined period of time, say two to 10 years.

(10:47):

The rate could vary based on what type of program the student is in, the specific school, the term of the obligation, and we'll often see a minimum income threshold after which payments pause. So, this functions kind of like income-based repayment programs in the federal student loan context where if someone is making less than X dollars, no payments are due. So similarly with income share agreements, there will be a minimum income threshold in most cases. So if the student is earning less than that threshold, no payment is due. Likewise, you might have a maximum cap. So if the student is earning more than a certain amount, that excess will not be

used to calculate the payment that's due. And then there's more often than not a maximum payment amount cap. So once the student has made income share agreement payments that exceed a multiplier, maybe 1.2, 1.5, 2.5 times the initial funding amount, the obligation to make payments ceases.

(11:54):

So importantly, there's no traditional interest and the total cost to the student depends on post-graduation earnings.

Taylor Gess (12:03):

Thanks, Jeremy. So now that we have a better grasp on what ISAs generally are, do you want to give us some information on how they're regulated?

Jeremy Sairsingh (12:11):

So yeah, around 2021, federal regulators started converging around the idea that ISAs are a form of credit, subject to the Truth in Lending Act (TILA). I don't know if the current CFPB would agree with this, but at the state level, we've seen an increase in state regulators viewing income share agreements as a form of credit subject to state lending, licensing laws, servicing laws, which Stefanie will talk about shortly. Often these laws do not have a clear definition of, especially the servicing laws, of what is a private student loan or a student loan. So income share agreements could very well fit into some of these broad definitions under the views of certain regulators. Going back to the CFPB's 2021 view that ISAs are consumer credit under the Truth in Lending Act, and this has a lot of implications once states start to follow that view as well, for example, subjecting such programs to the three-part disclosure regime under TILA and fair lending laws and other federal statutes relating to consumer credit.

Taylor Gess (13:14):

Caleb, since we have a good working understanding of what ISAs are now, can you share some thought with us on recent state law developments related to ISAs?

Caleb Rosenberg (13:22):

Yeah. So the biggest recent development is a law that was passed in Illinois that specifically governs income share agreements. So the thing that's exciting about this is that it's a comprehensive law specifically targeting these transactions. So the requirements are directed toward income share agreements in ways that are different than consumer credit transactions. And so they take into account a lot of the differences between income share agreements and traditional loans that Jeremy was just talking about. So first they define an educational income share agreement as an agreement that's an advance of money for post-secondary higher education needs where a consumer is obligated to make periodic payments, if any, that are based on a consumer's income. The obligation is incurred only if the income is above a certain threshold, and the obligation has a duration after which the consumer is not obligated to make payments regardless of how much has been paid.

(14:16):

And so this is just Illinois' way of describing the agreements that Jeremy was just telling us about. Similarly, the law has disclosure requirements and consumer protections that are specific to ISAs. So this also has protections that are consistent with some of the provisions that Jeremy was just telling us about. So for disclosures, it requires pretty detailed disclosures of calculation methods of payments, including income thresholds above which payments are going to be required, and also requires examples of potential payment obligations at different income levels, and also requires additional disclosure obligations when an ISA is being used for refinancing. And so this offers some clarity on how to offer ISAs in Illinois. It reduces some uncertainty about how to make certain disclosures, which can be very difficult when you're dealing with an innovative product that does not directly align with kind of traditional lending laws. So this can be helpful for companies that offer ISAs, but also obviously requires some planning to make sure that you specifically adhere to the requirements of the law.

(15:21):

Similarly, with additional consumer protections beyond the disclosure requirements, there's caps on the amount of a consumer's income that can be used for payments and also caps an effective APR, which is at 8.5% or a variable rate that varies based on the markets. There's also caps on total number of payments and the duration of the contract and voluntary payment relief periods. And then another obligation is similar to traditional loans that matches with some other state laws in that area is obligations have to be terminated on a consumer's death or permanent disability. And so there's a lot of overlap between the consumer protections that are being imposed for ISAs and for traditional student loans, but these obligations are drafted specifically for ISAs, which makes offering the product a little bit more clear in Illinois once the law comes into effect.

Taylor Gess (16:14):

Caleb, thanks so much for sharing that Illinois law with us. I think there's also been some action in New York related to student loans. Do you want to update us on that New York situation?

Caleb Rosenberg (16:23):

Yeah, thank you, Taylor. This law was just signed by the governor. It clarifies the bank licensing exemption for student loan servicing under the student loan servicing law in New York. It more clearly requires sending a notification to the superintendent to qualify for the exemption. It also requires compliance with New York's private education debt reporting law. The law also already requires compliance with the substantive provisions of the student loan servicing law. And so this is just a clarification of the licensing exemption for exempt entities. More broadly, I think this is an example of just state focus on student loan issues more generally.

Taylor Gess (17:00):

Great. Thank you, Caleb. Stefanie, while we're talking about state law, can you share some thoughts with us on licensing and student loan servicing laws?

Stefanie Jackman (17:06):

Yeah. So outside of the federal world, there are state laws that generally come in and impact private student loan lending. The federal pieces would be preempted, but we've seen attention by states to things like ISAs, as Caleb and Jeremy were talking about, and requiring certain disclosures and other consumer protections with income share agreements. We see states passing student loan servicing statutes that require certain disclosures. Other protections often also go hand in hand with needing to get some sort of license as a student loan servicer. There are state collection laws and licensing, collection licensing laws that can sometimes apply depending on the nature of the services someone is providing in connection with the private student loan. Where we've really seen focus in the last 12 to 18 months at the state level is laws with ISAs and putting protections in place, requiring disclosures, things like that.

(18:05):

I think that'll continue, and also, attention by state regulators too. Who is licensed as a student loan servicer or a student loan collector, and more importantly, who is not? So we've seen just in the last year to year and a half, some states taking a look at their existing or in some instances like with Kentucky, a new student loan servicing law that has a licensing component and trying to figure out the scope of that, right? Who does it apply to? Who does it not? What is student loan servicing within the confines of each of these state laws and licensing regulations? And we've seen states go different ways. Kentucky has some broad language about facilitating, directly or indirectly, the servicing student loans. So do other states, Oregon, California, Rhode Island, Nevada, and they're just the tip of the iceberg. But those are ones that I've assisted some clients with this year in fielding inquiries from those regulators about the nature of the services they provide, whether they require licensure as a student loan servicer, whether they don't.

(19:09):

And as is often the case at the state level, we see different outcomes. And it doesn't always align with kind of a blue state versus red state mentality. Student loan servicing and collections and private student lending in general can transcend political lines. So that's an area where we see this attention by lots of different states on either side of the proverbial aisle, if you will, politically. And it doesn't always align with who you might expect is attentive versus who isn't. And that's not something that I think is going to go away as we continue to see innovation in the private student loan lending space and different products, ISAs expanding. Who knows what else could be out there as we see students grapple with repayment options, which can sometimes be challenging. And that's another thing I want to be clear, I haven't seen yet, but I keep watching for, is state laws relating to credit reporting in connection with private student loans.

(20:10):

Under federal student loans and federal law, you're allowed to credit report, but we have seen some states in another context attempting to stop or limit, sometimes both, credit reporting in the medical debt context. And this is subject to challenge right now in Colorado and the First Circuit in a case called *Frey*. So there's two different things going on that are dealing with

preemption of the FCRA over these state laws in the medical debt context. But the reason I'm paying attention to what's going on in the medical debt world with regard to credit reporting and talking about it on a student loan podcast is one of the reasons for this is that these medical debts, they're treated as some other type of debt than say going and buying a car or a TV or whatever, right? It's an involuntary debt. It's something that somebody didn't choose to have.

(21:02):

They have to deal with their health. Maybe they had a car accident, whatever it may be. So it's being treated as a different type of debt that should warrant some flexibility, which sometimes turns into outright prohibition of being credit reported on that basis. It's almost kind of like this is more deserving debt for protection than other types of debt. And I'm not saying whether I agree with that or not, but I could see those same sorts of arguments making their way into private student loans on the basis that having some sort of education after high school is something that many people think, whether it's a trade school or a more traditional type of post-secondary education setting. These are things that cost money. These are things that are often necessary to get certain types of jobs that have the types of upward mobility and earning options that people obviously would like to have in the future.

(21:53):

So it could be seen as something that's kind of necessary, especially as we see federal funding be a little bit curtailed in ways that it maybe wasn't in the past. We'll see if that continues, but as a result of the One Big Beautiful Bill and other changes we talked about earlier at the federal level. So I could see states starting to try to restrict or ban private student loans or ISAs or things like that from credit reporting. Now, I think the pending litigation I mentioned we're seeing on preemption might serve to quell that for a little bit, but if it turns out that that's not preempted, we could see that kind of creep into the private student loan space at the state level. But to be clear, as I said at the beginning, unlike licensing and the expansion there, we haven't seen that kind of expansion at the state level with credit reporting, but I do like to flag it as a possible future thing.

Taylor Gess (22:44):

Thanks, Stefanie. It sure seems like there's a lot to keep up with in the student loan and ISA worlds right now. As we wrap up this podcast, do you have any key takeaways you want to leave our listeners with?

Stefanie Jackman (22:55):

I think it's just to continue to remain attentive to what's happening at the federal level if you're in the federal student loan space, but as many of our listeners probably are also in the private loan space or maybe entirely in that space, being attentive to what's happening at the state level with new proposed laws and oversight by student loan, those that are charged with administering student loan servicing licenses and collection licenses, I think is really important.

Taylor Gess (23:24):

Thank you, Stefanie and Jeremy and Caleb for being here with us today. I think we've done a great job highlighting some of the key issues at the federal and state level for consideration in the student lending and ISA space. So, let's leave the special series here for now, and we'll pick back up with another very interesting topic on our next special joint episode for *The Consumer Finance Podcast* and *Payments Pros*. In the meantime, thanks to our audience for listening today. And don't forget to visit and subscribe to our blogs, TroutmanFinancialServices.com and ConsumerFinancialServicesLawMonitor.com. While you're at it, why not visit us on the web at troutman.com and add yourself to our consumer financial services email list. That way we can send you copies of the alerts and advisories that we send out as well as invitations to our industry only webinars that we put on from time to time.

(24:07):

And of course, stay tuned for a great new episode of this podcast every Thursday afternoon and look forward to the remainder of our series on point-of-sale finance coming soon to your podcast feed. Thank you all for listening.

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