



MARYLAND COMMISSIONER OF FINANCIAL REGULATION INDUSTRY ADVISORY REGULATORY GUIDANCE



October 3, 2023

Guidance on the Student Financial Company Act

On May 8, 2023, Governor Moore approved the [Student Financing Company Act](#), House Bill 913 (the "Act"). The Act defines a "Student Financing Company" ("SFC") and requires all SFCs to register with the Office of Financial Regulation ("OFR") and provide the OFR with annual reports.

OFR is providing this guidance to entities engaged in any way with financing post-secondary education expenses. While OFR is providing this general guidance, entities should both read the legislation and speak with their own counsel as to the applicability of Act.

Who qualifies as a Student Financing Company?

The Act defines an SFC as "an entity engaged in the business of securing, making, or extending student financing products". An SFC includes any purchaser, assignee, or holder of student financing products. The Act defines student financing as financing "extended to a consumer expressly, in whole or in part, for postsecondary educational purposes". The Act expands this language to include:

- Financing provided by the post-secondary institution attended by the consumer;
- Credit used to repay or refinance existing student financing or federal student loan debt; and
- Any financial obligation in which repayment is based on a predetermined percentage of a consumer's future income.

"Student Financing Company" therefore includes:

- Any person, whether or not they market themselves as a student lender or their product as a student loan, so long as the consumer requests the loan and it is extended for the purpose of financing postsecondary education costs or expenses;
- Anyone who purchases, is assigned or holds a Student Financing product; and
- Any person who enters into an Income-Share Agreement with a consumer for the purpose of providing Student Financing.

"Student Financing Company" does not include entities who are collecting on behalf of a Student Financing Company. Such entities may qualify as collection agencies and require a license from the State Collection Agency Licensing Board. Further, the sale or assignment of servicing rights by an SFC does not relieve the SFC of the registration and reporting obligations set forth in the Bill. "Student Financing Company" also does not include lenders who make a good faith attempt to ascertain the purpose of a loan

and reasonably determine the consumer is not applying for a loan for the purposes of financing post-secondary educational costs or expenses.

The Act also excludes other entities from the definition of “Student Financing Company”. Entities engaging in student financing should carefully review the law’s scope and coverage.

What does The Bill require from Student Financing Companies?

The Act requires Student Financing Companies to register with the OFR beginning March 15, 2024 and to renew that registration on an annual basis. Further information on the manner in which OFR will handle registration will be provided at a later date.

The Act also requires Student Financing Companies to report certain information once they have registered. This information consists of 11 different categories and includes, but is not limited to:

- A list of all of the schools consumers who have received student financing from the company have attended if the consumer was residing in Maryland at the time the financing was extended and the debt is still outstanding;
- The total outstanding dollar amount owed by Maryland consumers who have received student financing from the company; and
- The rate of default for Maryland consumers who have received student financing from the company.

Because of the amount of information the Act requires SFCs to provide, OFR recommends that SFCs begin making adjustments to their systems and forms to ensure that they are appropriately tracking this information for reporting purposes.

IMPORTANT: Registering as an SFC does not authorize a person to extend credit for postsecondary educational purposes. In addition to registering, an SFC that extends such credit must hold a Maryland Consumer Loan and/or Installment Loan license unless exempt under the applicable licensing law. Similarly, a purchaser, assignee, or holder of student financing may be required to hold a Maryland Collection Agency license if such financing was delinquent at the time of acquisition and the person is not otherwise exempt from licensure.

What are the penalties for failing to comply with the Act?

SFCs should be aware that knowingly violating the requirements of the Act may result in a significant penalty. Any student financing product provided by an SFC may be deemed void and unenforceable if the Commissioner finds that the SFC knowingly violated the registration or reporting components of the Act or furnished inaccurate information to the OFR. To avoid such a result, SFCs should begin adjusting their systems and forms to ensure they are in full compliance with the Act by March 15, 2024.

Who should I contact if I have questions?

If you have any questions about whether you qualify as an SFC, the specifics of the information you must report to the OFR, or any other aspect of the Act please contact Amy P. Hennen, Acting Student Loan Ombudsman, Office of Financial Regulation, by email at amy.hennen@maryland.gov or by phone at 410-230-6094.

The Office of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's consumer financial protection agency and financial services regulator. For more information, please visit our website at www.labor.maryland.gov/finance.



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