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Regulatory: The Consumer Financial Protection Bureau, President Obama take action on student loans

… But is it all just misdirection?

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This column is part of a series of articles on the new Consumer Financial Protection Bureau and the upcoming wave of regulations affecting the consumer financial industry.

If you have kids who are in, about to go to, or just out of college, you probably know best that college tuition continues to skyrocket. A public college costs about $17,000 per year; private colleges cost about $39,000 per year. Graduating seniors who borrow money to go to college will leave school with an average of about $22,000 in debt if they attended a public institution and $28,000 if they attended a private one. With an economy that continues to offer bleak employment prospects, the swelling personal financial outlay and debt load required to get a college education is, for some, beginning to look less and less like a good investment.

Overall, though, getting a bachelor's degree will typically result in improved job prospects. In 2010, the unemployment rate for individuals 25 and older with a high school diploma was just over 10 percent. The number dropped to 4.7 percent for graduates of four-year colleges.

College graduates still make more money than peers who end formal education after high school. In 2010, high school graduates had a median annual income of $32,552. College graduates with an associate's degree had a median income of $39,884 and those who obtained their bachelor's degree earned $53,976.

These statistics illustrate the chasm of prosperity potential between those who graduate from a four-year college and those who do not. This chasm has contributed to rising college tuition by giving the institutions of higher learning in this country a carrot on the end of their own stick. Indeed, college tuition has risen 538 percent in the past 30 years. Hungry high school graduates will chase the carrot by paying the increased costs, even if it means putting themselves in debt at or near a level they probably cannot repay. Total student loan debt will probably exceed $1 trillion by the end of the year and has already exceeded the national credit card debt. Tellingly, more than 40 percent of student loan borrowers who entered repayment of their loans in 2005 became delinquent or defaulted on them by 2010.

What is our government doing about this? They're putting Band-Aids on tumors.

At the end of October, President Obama announced a new federal student loan program designed to reduce payments on student loans. There are two key features of the initiative.

1. The first is a loan consolidation program that allows borrowers with different types of loans (i.e., guaranteed and direct) to roll them into a single direct loan with a reduced interest rate.

2. Second, the president accelerated the implementation of a program passed last year that established a ceiling on student loan payments at 10 percent of a borrower's disposable income. Originally set to go into effect in 2014, the program will begin affecting students next year, two years earlier than originally scheduled.

How about the Consumer Financial Protection Bureau? What is it doing? According to Raj Date, de facto head of the Bureau, "[t]he problem with student loans start from the moment financial aid information arrives from colleges." As a result, the Bureau is once again trotting out its "Know Before You Owe" theme which it previously used on the Bureau's mortgage loan disclosure project. This time, the Bureau, in conjunction with the Department of Education, is looking for feedback on a form called a "financial aid shopping sheet." Once complete, colleges and universities will, if they choose, provide the simple form to students who apply for student aid. Use of the form, which will include information such as the amount of debt the student will have on graduation as well as details on the financial aid package offered to students, will be voluntary.

Similar to Titles X and XIV of the Dodd-Frank Act, these adjustments by the president and the Bureau are designed to directly impact the borrowers. The indirect consequences, however, will land squarely on the lenders. Are simpler forms better? Are they enough? What impact will loan consolidation have on the bottom line of private student loan lenders? In a time of unprecedented animosity, do these efforts bring an unnecessary and undeserved focus on financial institutions? Do we really need to be diverting precious resources to the development of a form that no one intends to force colleges to use anyway?

Lenders are trying to meet a need. Students and their parents want to pay for the education that will provide the greatest opportunities. To accomplish this, more and more money is required as the days go by. The colleges are demanding the money; the lenders are simply supplying it. Whatever your views on regulation and the free market, you have to look at all this and just scratch your head. The problem does not start when the loan applications arrive. The "problem" starts when our institutions of higher learning – the factories that build the future of this country – set tuition.

Mr. Bishop will be presenting a webinar on how banks and other consumer financial services companies can manage the risks presented by the Bureau's new authority to protect consumers from unfair, deceptive, or abusive acts or practices (UDAAP) on Nov. 15, 2011. The event is free, but advance registration is required here: http://www.foley.com/news/event_detail.aspx?eventid=3945*.*

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