

NASFAA's "Off the Cuff" Podcast – Episode 363 Transcript

OTC AskRegs Experts: RISE Final Rules and the Latest on NSLDS Post-Screening

Hugh Ferguson:

Hey everyone. Welcome to another episode of Off the Cuff. I'm Hugh Ferguson with our communications team.

Jill Desjean:

I'm Jill Desjean with NASFAA's policy team.

Sarah Austin:

And I'm Sarah Austin also with the policy team.

Hugh Ferguson:

Welcome back, Jill and Sarah. It's good to have you guys here. I mentioned this shortly before we started recording, but I can't believe that we're at a point that July 1st is actually a real date on the calendar. I mean, it is always a real date, but now it actually is happening.

Jill Desjean:

Yeah, you can imagine July 1, whereas a month ago maybe not so much, but yeah, the weather's warming up, the leaves are on the trees. Summer is coming.

Sarah Austin:

And honestly time is going so fast that I think July 1's going to be like tomorrow.

Jill Desjean:

No joke. Yeah. Literally I was talking to my son earlier and I said, "And here we are in April and blah, blah, blah." And he was like, "Mom, I think it's May." I was like, "Oh, yeah."

Sarah Austin:

And not only is it May, Jill, it's halfway through.

Jill Desjean:

Halfway through. I was just going to breeze right through May and just hop right into June. Yeah.

Hugh Ferguson:

Yeah. It's halfway through May and we have final rules finally.

Jill Desjean:

Yeah, some.

Hugh Ferguson:

So, maybe that's why our calendars are all messed up because we're supposed to be following certain dates and now things keep getting pushed.

Jill Desjean:

Yeah. Maybe we all can hit October. Yeah. Or just like clearly it's October, we're waiting on final rules.

Hugh Ferguson:

Yeah. But yeah, so on May 1st we got final rules from the RISE committee that we've been anxiously waiting for. Jill, can you kind of catch us up on what we now have and what we're still waiting for?

Jill Desjean:

Yeah. So, we have RISE. We got those rules, like you said, May 1st. We're still waiting on two sets of final rules coming out of the committees, the NegReg committees that were put together to implement the One Big Beautiful Bill Act. So, what we're waiting on are two sets of rules out of the AHEAD committee. The second committee that was held by the department and ahead itself was split into two separate rules packages. We've got Pell Grants that we are expecting kind of, I want to say like any day now. We know that the department has drafted those final rules. They're with the Office of Management Budget now. They've been there since April 30th. And so, I wouldn't be surprised to see them.

If they showed up tomorrow, I wouldn't be surprised. I would have not been surprised to see them last Friday, honestly. So, I think literally any day now. And then the accountability rules, which are the second week of the ahead committee in which the department is releasing as its own separate rules package, those are still up for public comment. Comments aren't even due until May 20th for those. So, we still have a ways to go before we're going to see final rules on the accountability stuff. If they want it to be effective July 1, they have to release the rules before July 1, but I think that's maybe the only deadline we're working on right now is coming back to July.

Hugh Ferguson:

Did the department mention June 1st is the last date that they would release these things by?

Jill Desjean:

I thought I heard them say that at some point. We've got the master calendar that they have to abide by except, right? We keep hearing this sort of like there's this tension between like, yes, we have this master calendar. We also have the One Big Beautiful Bill Act that says you have to implement a bunch of this stuff by July 1. And so, the department's argument all along has been Congress didn't waive rulemaking explicitly, but they kind of implicitly did that by setting a July 1 effective date because there was like physically no way between July 1 when the bill passed and November 1 for the department to go through all of the steps it needs to do to conduct NegReg and publish the rules before November 1.

They need something like, I think it's like 149 days and that's not July 4th to November 1st is less than that. So, they said Congress knew that, they know there's a master calendar, they knew their effective date and so they sort of implicitly waived that. So, I don't know off the top of my head like what the rule is, but I think there is something that they have to be out 30 days before the effective date. But I think the argument there could also be that Congress implicitly waived it by setting this July 1 date. So, yeah, not really sure. I just don't think June 1 is possible if they're finishing the public comment period on May 20th.

I think they're going to get a lot of comments on this and just given how long they usually take and the amount of time it just takes for the OMB review, it just doesn't seem like possible to have them out by June 1, but we'll see. What do I know? Yeah. Back to RISE though in terms of the comments that the department got and their responses, I think it wasn't surprising in there to see that the professional degree definition did not change. The department got a ton of comments about that including from NASPA and they dedicated a lot of their preamble texts. So, they've got the regulatory text and then they've got all of this explanatory text that leads up to the regs, sort of the buildup if you will.

And they spent a lot, a lot, a lot of the preamble talking about the professional degree designation and sort of cutting down every argument that people made in support of, "Why don't you add this group? This is why. Why don't you add this group? This is why." But yeah, they seemed pretty dug in during NegReg and since then. So, not surprising to see that they didn't change that definition and the effective date as well. They got a significant number, maybe not significant, but they definitely got some requests from people to delay the effective date, but they just reiterated their position that they don't feel that that's within their authority to do that.

Hugh Ferguson:

Got it. Yeah. And we've had a lot of comments on this topic going out through the entirety of the process have had a lot of coverage of what's been going on with this committee and draft rules and whatnot. And so, now that we're at this stage of the process, Jill, were there any NASFAA wins or any surprises about what we're now seeing?

Jill Desjean:

Yeah, we got a couple small NASFAA wins, I would say. I always look carefully for them, celebrate whenever we have one, but I wouldn't say any huge, huge victories there. A few changes, a few additions, no real bombshells in there. In terms of NASFAA wins, the department clarified in response to one of our comments that for graduate and professional students, if they make an enrollment change within the same four digit zip code, they will continue to qualify to receive the limited exception. So, this is something that came up during NegReg.

It's come up since then. We know that if you change programs as a grad or prof student, your limited exception eligibility goes away, but it's like some people aren't changing their program necessarily. They're changing their concentration. So, they're going from, I always use this example. So, here we go again. If you're an education master's degree student and your specialized, your concentration is K-12 and then you want to change your concentration to special education, that's the same program. It's the same 4-digit zip code. You're changing 6-digit zip codes. What matters is at the 4-digit level.

So, you can move around within those concentrations and not give up your limited exception eligibility to keep borrowing under the old limits. So, that was nice to see that the department addressed that. They didn't address it in the reg text. It's actually just in the preamble, but they affirmatively said, "This is okay." A lot of the other places where I'd say NASFAA got to win, they were very technical in nature. We pick things apart. We're like, "Over here, you said this, but you said it's slightly different over here," literally about commas and stuff. So, just places where we pointed out if there was a discrepancy or an omission that was more just technical in nature, not like a policy issue so much.

And to that point, we recently started doing AI scans of our comments and so our research department will look at all the comments that have been submitted and look to see which organizations agreed with us, which ones didn't, what topics bubbled up to the top and everything. And one of the things in these comments explicitly the AI summary said was basically that NASFA's comments were the most mired in the details. And I was like, "Oh, that's very on brand for NASPA." Yes, I will agree. So, we got some wins

there, little baby ones. In terms of other changes from the proposed to the final rule, of course, this was not a surprise in the rules.

It was a surprise a couple weeks before that the inclusion of grad plus loans in the lifetime limit. If we'd only seen that in the final rules, we would have been shocked, but we got that sort of sneak peek at that a couple weeks before when the department talked about the fact that their interpretation was different from what we had understood their interpretation to be and they did address that in the final rules by amending the final regulatory text. And the department also added some reg text related to creating a new single application for loan rehabilitation and income driven repayment.

This sounds like really weedy and nerdy, but it's an important thing for borrowers who are trying to dig themselves out of default. You can't repay under a rehabilitation agreement using income driven repayment, but of course, once you've gotten yourself out of default, it probably is a good idea to get onto an income driven repayment plan to ensure that you will continue to repay your loans successfully, but it was separate steps before. And so, now the department actually combined those into one application. There's still a lot of problems with getting people out of default.

It's still a really hard thing operationally to do. Many, many steps you have to take and a lot of places along the way where you're not sure if you did the right thing, but this is at least a step in the right direction. So, it was really good to see that making into the final rules and to see that the department's paying attention to... We've been getting all this attention about how many more people are entering default, but it's great to see that the department is also paying attention to how to help these people get out of default.

Hugh Ferguson:

Awesome. So, yeah, is there anything that we were hoping to see in the final rules that we didn't see?

Jill Desjean:

Yeah, yeah. We had a pretty big wishlist, not surprising to see that some of our things didn't make it in there. And this one was admittedly a stretch, but we had commented that we wanted to see the department calculate the expected time to credential. So, basically the amount of time that a student can qualify for that limited exception to the new borrowing limits, wanted them to have expected time credential to be calculated basically following the student's enrollment status. So, like if you're a halftime student and you're in a 2-year program, you would have four years of time to credential. Again, it felt like a stretch, but we threw it out there because we felt like the law would allow for that.

The department declined to accept that suggestion, which was not surprising given that that's been their position all through conversations that we've been having with them. We also asked them to remove the requirement for continuous enrollment. So, if you qualify for this limited exception based on things that have happened before July 1st, you can then lose eligibility for the limited exception after July 1st depending on certain actions that the student takes and one of them is withdrawing or ceasing enrollment and that is not in the statute. That is only a Department of Education thing. They added that during negotiated rulemaking and we just argued for them to take it out.

We said the law doesn't require continuous enrollment. There are lots of reasons why a student might need to stop out from school. Somebody might get sick, they might come up against SAP challenges and the school recommends that they take a semester off or something like that. We didn't think that that necessarily should cut you off from being able to continue to benefit from the limited exception, but the department also declined to take that suggestion, unfortunately.

And lastly, we knew that the department had indicated during NegReg that they plan to offer limited exception status to students who enroll in programs that are articulation agreements where you start an associate's degree program and then you transfer to another school under this articulation agreement straight into a bachelor's degree program and earn your bachelor's degree from the second school. And the department had said during NegReg that they wanted to let those students be treated as if they were continuously rolled in one program, but they did not end up following through on that in the final regulations.

So, those students will not, once they go from that associate's degree to the bachelor's degree, they will lose their limited exception eligibility, unfortunately.

Hugh Ferguson:

Got it. So, throughout the entirety of this timeline, we've had a lot of questions about what were in previous versions of the final rules and just like throughout the NegReg process and now that we're finally at this set of final rules, did they address a lot of our outstanding questions?

Jill Desjean:

Yeah. Yeah, they did. They addressed a lot of questions, some in the way we wanted them to, some not in the way we wanted to, but we knew this going in, as much as we've been like, "We're waiting for final rules, we're waiting for final rules." We knew everything doesn't make it into the regulatory language. And so, just not everything necessitates regulatory text. So, what we really need is guidance and the department can't issue official guidance until final rules are out. So, much as we were like, we're waiting on final res, we knew that May 1 would not be this magical date when we have all our answers, but at least now we know that the department can start crafting their official guidance.

And so, we'll be looking for that in the days and weeks to come, hopefully days. And of course we'll share what we learn on the podcast in today's news through all of our regular channels.

Hugh Ferguson:

Yeah. So, it's definitely going to be a busy couple of weeks as we get closer and closer to July point. Yeah, last one. For sure. Yeah. So, we'll be monitoring everything that's set to come out and get that to you guys as soon as we can make sense of it. So, thanks for that, Jill. Sarah, I think we're shifting gears a little bit to another important topic that's been coming up.

Sarah Austin:

Yeah. We've been hearing a lot about NSLDS, which I guess is not super unusual. There's always something going on it seems like with people talking about NSLDS, but most recently, what we've been hearing from our members is related to the NSLDS post-screening process, which I think our members probably know even more about this than I do, but just a little overview of what the post-screening process is. There's this weekly automated eligibility status check basically that is the NSLDS post-screening process and it's checking for students and also parent plus loan borrowers, but it's checking after a student has filed a FAFSA.

It's looking at the most recent information since the latest transaction of that FAFSA. So, if there's corrections made or that sort of thing, since the last transaction, has there been any sort of eligibility change based on the NSLDS data? And again, this is just like an automated weekly process that happens and then a school would get a new ISIR if there in fact was some sort of status change that maybe caused eligibility issues or they're close to something that may cause eligibility issues.

But if there's a change that warrants a NSLDS post-screening reason code, which are these codes that basically say what the flag is, what the school needs to be worried about in terms of the student's eligibility, then the school gets a new ISIR and it has this reason code on it. The reason code could be many different things. It could be something like just a change like master promissory note status change or it could be something like they exceeded subsidized loan limit. And of course that would trigger that the student is over a loan limit and they need to be adjusted or have an overpayment status, but schools have to review those reason codes and then potentially adjust the student's financial aid if needed.

Hugh Ferguson:

Okay, got it. So, what exactly is new now?

Sarah Austin:

Yeah. So, the post-screening process is definitely not new. This has been happening for quite some time, but what's new is that with the One Big Beautiful Bill Act, we of course have these new loan limits. So, the grad and professional aggregate limits, the parent plus loan limit, and then that new lifetime limit that Jill was just talking about. So, because of that, we need to have new codes that basically correspond to these new limits. So, what we got back in April was some new post screening reason codes like student is close to their lifetime limit, student recipient has exceeded their parent plus aggregate loan limit.

So, that one's worded a little bit weird because it's the parent, but we know that the parent plus aggregate limit is really per student. So, it's the student's limit, even though it's the parent borrower, but these new codes will basically now flag if students are approaching those limits or exceeding those new loan limits. However, the thing is that we know some students are going to fall under that limited exception and then therefore those new loan limits will not apply to them.

So, there's also a new flag that's called the loan limit exception flag and this is actually reported by the COD system to determine if that borrower qualifies for the old or I guess current loan limits because they fall under that limited exception or if they are subject to the new loan limits, the One Big Beautiful Bill Act loan limits. So, this flag is really what kind of determines which set of loan limits need to be checked in that NSLDS post screening process and that way it knows which set of codes to be potentially put in on the ISIR, but also needs to know which limits are they even looking at to see if the student is close to or exceeding their loan limits since they are kind of now completely separate loan limits.

Now an important thing to note here is that because this flag is in COD, it's the origination record that the schools are sending that kind of gets this flag on there in the first place or doesn't, I guess if the student is not under the limited exception, but that's really what's determining what set of loan limits the post-screening process needs to look at. So, that's really critical that you're sending your loan origination records so that COD can have that flag that then kind of informs NSLDS of what loan limits to be looking at.

Now, if there's a change in the limited exception status of a student, so like Jill was talking about, if they lose the eligibility for the limited exception, then of course that flag in COD, the change on that flag would then again trigger a post-screening in NSLDS that they would now be under those new loan limits. And all of these updates to the ISIR, NSLDS, COD, all of those changes were made April 26th, so it's actually happening now.

Hugh Ferguson:

Got it. Yeah. Is there anything else we need to know here?

Sarah Austin:

Yeah. So, I guess the thing that's interesting is, well, this is effective July 1. This did have to kind of all happen already to get ready for the July 1 implementation date. So, that's why these changes were actually made April 26th. And what happened is that once all of these changes were made, we started hearing from our members something kind of interesting or I guess surprising to me, it was not on my radar at all until we started hearing from members that all of a sudden they were seeing loan amounts and aggregate loan totals displayed in cents.

So, not whole dollars, but actually showing the cents on these loans in NSLDS and we're kind of like, "What's going on here? This has never happened. We've never seen sense before." And so, our members of course then ask us like, "What's going on? What was the change? What did we miss here?" So, we reached out to the department and I know I saw some stuff on like the FSATECH listserv as well of people asking about this and we got some responses there, but basically we got some clarification and also there was a recent electronic announcement that the department put out about these NSLDS OB3 changes, like the new post-screening reason codes, all of that.

They also put an update, like a blue note update at the top of that electronic announcement also addressing this. I will say it doesn't have a ton of detail. It's a pretty quick little blue note update. So, we got a bit more information, I would say, but basically what the department said is that this is all simply a change in how the data is displayed. So, it's reflecting amounts that are more precise, of course going to the two decimal points instead of just whole dollars, but I guess federal loan servicers have actually been reporting exact amounts even with the sense for some time now to NSLDS.

It's just that NSLDS is now actually reflecting those exact amounts rather than being whole dollars like it was before. So, as a result of that, the sensor now displaying on the ISIR, on the transfer monitoring list, on the actual NSLDS website that schools go to. So, that is really the change is the display of that. But most important, I would say, if you take one piece of information away from this is that they confirmed that the method that NSLDS is using to calculate aggregate limits and determine if a borrower has exceeded or is close to exceeding the limit, that kind of calculation has not changed. It is simply the display of showing cents.

It has not impacted the actual calculations in determining if a student is actually exceeding their loan amounts or not. So, another piece of information that I think we got from this that I found helpful because I did not know about this and sometimes I miss things I will say where I'm just like, "Wow, I had no idea." And then I talked to my colleagues and they're like, "Oh yeah, that's been around forever. You just somehow didn't know that." But this one, I feel pretty confident that at least every person I talked to at NASFAA also had not heard of this and even the TRA team, which they're like, I mean, they know everything. So, if they didn't know this, I'm like, "Okay, it wasn't just me."

But basically when the department was kind of clarifying that this was simply a display change, absolutely no change to the calculation or the method and how they check to see if someone's exceeding their limits, they mentioned that the undergraduate, the pre OB3 graduate and professional limits and then these new graduate and professional limits include a \$25 tolerance in terms of if they're exceeding their limits or not. And they were like, "No change there, still a \$25 tolerance." And we were like, "What? \$25 tolerance?" Which maybe to schools this is nothing new. And maybe you're like, "Yeah, you guys somehow all just didn't know this."

But we went back to try and figure out where does it even talk about this \$25 tolerance? And we're searching the NSLDS guides, the FSA handbook, can't find anything, but good old Google found a NSLDS newsletter, which I don't even think is a thing anymore, but an NSLDS newsletter from 2015 where it said the tolerance was changing from \$100 to 25. So, apparently since 2015, it's been \$25 tolerance in terms of if they're exceeding their limits or not. I was unaware. So, our AskRegs team put together a

little Q and A about this whole thing and kind of giving the full quote from the department about how this is just displaying sense, it's not changing the calculation, it's not changing anything really except that you now see cents instead of whole dollars.

So, they have that full clarification in this AskRegs article they just put out. They also have a link to this 2015 newsletter if you want to check that out and a little bit more information, go into a little bit more detail. So, if you haven't seen that AskRegs Q and A, you can definitely look at it. Maybe we can put it in the show notes for our members as well. But just so everyone knows that now that you're seeing those sense, yes, it is a new change, but it's not changing anything, but the display. No calculation change, no new, they're exceeding their limits where they wouldn't have been before. It's simply a display change.

Hugh Ferguson:

Awesome. Well, thanks for that, Sarah. We'll be sure to add those resources in the show notes so folks can follow along and try and keep track of all the updates that are coming out these last couple of weeks. And I'm sure the next couple of weeks coming up are going to be just as hectic and yeah, we'll be sure to keep TN updated for you. And if you think there's something you missed, feel free to just look back at previous issues and we'll make sure we get all the details coming out of the department updated for you and available as quickly as we can. So, I think that's all we have for today.

So, thanks everyone for tuning into another episode of Off the Cuff. Please feel free to send us your comments, leave any questions you have and we'll talk to you again real soon.