

## CFPB v. NCSLT Again Again Again

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As if the saga of litigation involving the Consumer Financial Protection Bureau (“CFPB”) and National Collegiate Master Student Loan Trusts (“NCSLT”) that has been going on since 2017 has not been protracted and complicated enough, on April 29, 2025, the CFPB and the entities that represent the interests of NCSLT jointly stayed the settlement that had finally been reached between the parties. The Joint Agreed Motion to Stay Remaining Deadlines filed in the U.S. District Court for the Southern District of Texas stated that the parties wished to allow mediation to occur so that “appropriate resolution” could be finalized, implying that the [proposed stipulated final judgment](#) that required NCSLT to pay \$2.25 million in consumer redress and to commit to a variety of compliance-related provisions is not appropriate.

For background reading, see our posts on this case from [November 2018](#), [April 2021](#), [December 2021](#), [February 2022](#), [April 2024](#), and [May 2024](#).

Despite the CFPB’s request to stay its negotiated, proposed final judgment, the Third Circuit’s decision in the litigation between the parties that was handed down in April 2024, still stands. That decision was focused upon the narrow question of whether statutory trusts, such as those that made up the NCSLT are “covered persons” for purposes of the Consumer Financial Protection Act (“CFPA”) and are therefore subject to CFPB enforcement actions. The Third Circuit agreed that statutory trusts in this case are “covered persons.” But that did not resolve the overall case between the two parties. Hence, the CFPB continued to push forward and filed a new complaint against NCSLT in May 2024, looking for equitable relief and consumer redress. And, it is in response to that complaint that the CFPB and NCSLT reached the proposed stipulated final judgment the Friday before Trump’s swearing-in, on January 17, 2025.

In terms of what this means for the industry, we should know by late July whether the parties have been successful in their mediation, which will provide a strong signal as to how much concern there should be regarding CFPB enforcement against statutory trusts, at least while Trump is in office. In the meantime, and in light of many other pronouncements from the CFPB regarding changes in enforcement priorities, it is unlikely that the CFPB will bring additional enforcement actions against other statutory trusts. See this [Inside Mortgage Finance article, “CFPB Drops Lawsuits Against Student Loan ABS”](#).

Of course, unless Congress amends the CFPA to explicitly state that statutory trusts are not “covered persons” or makes broader changes to the CFPB overall, as soon as there is a change in administration, the Third Circuit decision will still be available for the CFPB to rely upon going forward. Because most statutes of limitation will not have run by 2029, even in the case that a facility expires within the next four years, we still recommend that statutory trusts continue to employ best practices regarding servicing and debt collection and ensure that deal documentation allows for compliance oversight of servicers and debt collectors by securitization sponsors and/or deal administrators.