April 26, 2017

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«GreetingLine»

We write to express our outrage over the recent decision by the U.S. Department of Education to abdicate its responsibility to protect student loan borrowers and provide meaningful oversight of its contracted student loan servicers.[i] Now that the primary regulator has abandoned its most basic commitment to more than 40 million student loan borrowers, it is incumbent on state attorneys general, state banking regulators and the Consumer Financial Protection Bureau to take immediate action in order to clean up the mess left behind and prevent a financial catastrophe on the scale of the mortgage crisis.

Student loan servicers play a critical role in the success, or failure, of student loan borrowers' efforts to repay their student debt. For the vast majority of student loan borrowers, their servicer is their only point of contact when it comes to their student debt and the only source they know to turn to when problems arise. Servicers manage borrowers' accounts, process borrowers' monthly payments, notify distressed borrowers of and enroll them in alternative repayment plans, and communicate directly with borrowers. When these tasks are carried out accurately and in a timely manner, borrowers are able to seamlessly enroll in the repayment plans best suited for them, without experiencing roadblocks that could derail them from successfully repaying their student debt.

Unfortunately, millions of borrowers cannot depend on their servicers to provide this quality of service. In a court filing submitted on March 24, 2017, Navient, the largest student loan servicer, even went so far as to say: "There is no expectation that the servicer will act in the interest of the consumer." [ii]

With 1 out of 4 student loan borrowers struggling to repay their loans or already in default, it's no surprise that the bureau has experienced a 429 percent increase in student loan complaints received so far in 2017. According to recent research, more than 3,000 Americans served by these contracted student loan servicers are defaulting every single day.[iii]

The bureau continues to report on recent trends of complaints submitted by borrowers about their servicers. These complaints detail widespread servicing failures including a patchwork of sloppy practices that can create obstacles to repayment, raise costs and contribute to defaults, [iv] and needless hurdles that borrowers must overcome, such as prolonged processing delays and wrongful rejections, in applying for lower student loan payments.[v]

Navient exemplifies many of the worst practices found in the student loan servicing industry. Following a three-year investigation by a bi-partisan coalition of 29 state attorneys general,[vi] the company was sued by the bureau and the state attorneys general of Washington and Illinois in January 2017 [vii] for a litany of systematic illegal and unethical practices. These included: incentivizing employees to encourage borrowers to postpone payments through forbearance—an option in which interest continues to accrue—rather than enroll in an income-driven repayment plan that would avoid fees; obscuring information that borrowers needed to maintain lower monthly payments; failing to correctly apply borrower payments to their accounts, and misreporting the loan discharge of disabled borrowers to the credit bureaus.

This is just the latest of Navient's legal woes. The Justice Department and the Federal Deposit Insurance Corp. previously reached a $97 million settlement with the company for charging illegal late fees and unlawfully overcharging more than 70,000 active-duty service members on student loans. Even the Department of Education, infamously lax in its oversight of companies like Navient, found illegal practices at Navient's debt collection outfit and wound down its contract.

These problems in student loan servicing reflect many of the same shortcomings found in mortgage servicing, which exacerbated the depth of the mortgage crisis and delayed the economic recovery. The bureau has documented a wide range of complaints about student loan servicers that mirror complaints about mortgage servicers during the mortgage crisis, including payments not showing up in payment histories, processing errors that maximize late fees and penalties, misinformation on how payments are applied to multiple loans, misplaced paperwork that results in missed deadlines, and poor customer service that denies borrowers vital information about flexible repayment options.

Student debt has left borrowers in an even more desolate position than the mortgage crisis. Distressed borrowers who have defaulted on their student loans multiple times will be locked into this status unless they're able to pay the full amount due, an impossibility for even the best-off borrowers. There is little to no chance for bankruptcy or a "reset" to be achieved, at whatever cost to the broader economy and individual families, via large-scale foreclosures and short sales. The wages of student loan borrowers will be garnished for as long as they continue to work, and even in retirement, the government will be able to garnish their Social Security benefits. Their debts will follow them for their entire lives, creating a permanent financial underclass from within the ranks of those who had the grit, determination, and ability to attend college.

Given these circumstances, Education Secretary Betsy DeVos' withdrawal of the few consumer protections extended to borrowers is incomprehensible. It is clear that the Department of Education is more concerned with keeping the student loan industry profitable than with ensuring borrowers get the service they deserve.

We therefore call on the state attorneys general and state banking regulators, in coordination with the bureau, to fill the void left by Secretary DeVos and the Department of Education by:

1. **Committing to an industry-wide investigation** that prioritizes making harmed consumers whole, by reviewing the numerous complaints lodged against every servicer, **and suing companies that break the law**. Regulators must ensure servicers and their executives are held fully accountable and should avoid settlements that allow companies to operate business as usual.
2. **Developing enforceable nationwide servicing standards** immediately. Federal and state regulators should use their considerable authority to ensure servicers adhere to clear standards that protect borrowers against abuse. Already, the bureau has indicated its intent to develop borrower protections. We are eager to see these protections become a reality and will vigorously defend them against the inevitable attacks.
3. **Devoting staff to policing student loan servicers** to ensure compliance with federal and state consumer protection laws, and monitoring the student loan market more thoroughly.

As was discovered through the mortgage crisis, sunlight is the best disinfectant. We ask state attorneys general, state banking regulators, and the bureau to make student loan servicers' misconduct public through litigation, so that future consumers and policymakers can make better decisions based on an analysis of the abundant evidence of predatory misconduct in this financial market.

Sincerely,

American Association of University Professors
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Federation of Teachers
Americans for Financial Reform
Center for Responsible Lending
Communication Workers of America
Consumer Action
Consumer Federation of America
Consumers Union
Demos
Generation Progress
Higher Ed, Not Debt
International Federation of Professional and Technical Engineers (IFTPE)
NAACP
National Council of La Raza
National Education Association
Public Interest Research Group (PIRG)
Service Employees International Union
U.S. Student Association

cc: Director Richard Cordray, Consumer Financial Protection Bureau

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[i] https://www2.ed.gov/documents/press-releases/student-loan-servicer-recompete.pdf
[ii] http://news.navient.com/pdf/Motion-to-Dismiss-CFPB-3-24-17-AS-FILED.pdf
[iii] http://consumerfed.org/press_release/new-data-1-1-million-federal-student-loan-defaults-2016/
[iv] http://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf
[v] http://files.consumerfinance.gov/f/documents/201608_cfpb_StudentLoanOmbudsmanMidYearReport.pdf
[vi] http://www.huffingtonpost.com/entry/state-prosecutors-navient_us_57214218e4b01a5ebde47a02
[vii] https://www.nytimes.com/2017/01/18/business/dealbook/student-loans-navient-lawsuit.html