Prepared Remarks of Seth Frotman
Assistant Director and Student Loan Ombudsman
Consumer Financial Protection Bureau

Wednesday, May 10, 2017
Before the Maine Joint Committee on Insurance and Financial Services
Augusta, ME

Chairman Whittemore, Chairman Lawrence, and members of the committee; thank you for the opportunity to provide testimony today on proposed legislation to license student loan servicers in the state of Maine. And thank you, Senator Vitelli, for your continued advocacy on behalf of Mainers with student debt. My name is Seth Frotman and I serve as the Student Loan Ombudsman at the Consumer Financial Protection Bureau, where I lead the Bureau's Office for Students and Young Consumers.

The input and close collaboration of our state and federal partners is critical to carrying out the Bureau's work to protect consumers in the marketplace. You serve on the front lines – identifying harms and often leading the charge in protecting consumers. We are proud to stand alongside you in this arena and strive to find ways to help improve people's lives.

Today, I want to discuss the magnitude of the student debt issue we are facing in this country, and the impact this debt is having on the hundreds of thousands of student loan borrowers across the state of Maine. I will also talk about the importance of addressing illegal student loan servicing practices, the need to strengthen consumer protections, and the need to ensure legal compliance by the companies responsible for helping borrowers manage this debt.

When student loan borrowers are subjected to illegal servicing practices, the consequences can make a real and oftentimes devastating impact on their financial lives. States are the first to see the direct consequences when their residents are burdened by student debt, and are the first to feel the economic ramifications of unlawful student loan servicing practices. Consumers with significant student debt may delay starting families, saving for the down payment on a home, or starting a business.

States have seen the real world impact these servicing breakdowns can have on their citizens and their communities. Several have begun to take steps to enhance their role in protecting consumers in this critical market.

The Bureau has heard from hundreds of borrowers across Maine who struggle with student loans – far too many of whom face entirely avoidable servicing breakdowns. That is why I'm honored to submit these remarks as you consider how best to help Maine student loan borrowers and their families.

Student loan debt: Understanding the problem

More than 44 million consumers across the country collectively owe over $1.4 trillion in student loan debt. As the principal federal financial regulator for the higher education finance industry, the Consumer Financial Protection Bureau has a mandated responsibility to serve these consumers whose lives and livelihoods are often shaped by this debt. Their struggle continues, and their circumstances would not change even if we were to address the rising costs of college tomorrow. At this point, you have probably heard the numbers, but I think they are worth repeating.

- **Student loan debt has ballooned because more borrowers are borrowing at higher levels.** Since 2007, the total volume of outstanding student debt has more than doubled, rising from $540 billion to $1.4 trillion by the end of 2016.[1] In 2016, federal student loan borrowers, on average, owed more than $30,000 in federal student loan debt—up from less than $19,000 in 2007.[2] Over 60 percent of college graduates in Maine leave school with debt, averaging approximately $29,644.

- **As the share of younger borrowers in debt climbs, the share of older consumers with student debt grows in tandem.** Over the last decade, the number of Americans age 60 or older with one or more student loans quadrupled.[3] Between 2007 and 2015, the average debt load owed by older borrower roughly doubled from $12,000 to $23,500. Additionally, older borrowers are more likely to be in default than younger borrowers. More than a quarter of federal loans owed by borrowers age 65-74 are in default. For borrowers 75 years or older, more than half of outstanding federal

[1] *See* Federal Reserve Bank of New York, *Student Loan Debt by Age Group* (March 29, 2013), https://www.newyorkfed.org/studentloandebt/index.html; Board of Governors of the Federal Reserve System, *Consumer Credit* (October 7, 2016), http://www.federalreserve.gov/releases/g19/current/default.htm

[2] *See* U.S. Department of Education, *Federal Student Loan Portfolio*, https://studentaid.ed.gov/sa/about/data-center/student/portfolio.

[3] *See* Consumer Financial Protection Bureau, *Snapshot of older consumers and student loan debt* (January 2017), https://www.consumerfinance.gov/data-research/research-reports/snapshot-older-consumers-and-student-loan-debt/.

loans are in default. In a government audit released late last year, the Government Accountability Office found that tens of thousands of older consumers were pushed into poverty when their social security payments were offset to repay student debt—despite income characteristics that could entitle many of these borrowers to a zero dollar monthly "payment" under a range of widely-available federal debt relief programs.

Despite recent improvements in the labor market and the economy, the delinquency rate of student loans remains high. The share of consumers with past-due mortgages, credit cards, and car loans are at or below pre-recession levels. In contrast, the share of borrowers with delinquent student loans remains near its recession-era peak.[4] Research has found that this financial distress persists throughout various regions of Maine, including rural communities across northern Maine.[5]

This translates into a rising tide of borrowers who are delinquent or in default on student loans. The Department of Education estimates that more than 8 million student loan borrowers are now in default: last year alone, nearly 1.2 million new borrowers defaulted on a federal student loan.[6] In total, the Bureau estimates that more than one-in-four student loan borrowers were past due or in default on a student loan.[7]

For every borrower who misses a payment or slides into default, there may be others affected by the stress of managing this debt, and barely keeping their heads above water. In recent months, researchers attempted to quantify what we have heard from thousands of consumers with student debt – that this debt is straining household balance sheets and influencing consumers'

---

4 Federal Reserve Bank of New York, *Quarterly Report on Household Debt and Credit* (May 2016), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC_2016Q1.pdf.

5 *See* Washington Center for Equitable Growth, *Mapping Student Debt*, http://www.mappingstudentdebt.org.

6 *See* U.S. Department of Education, Federal Student Aid Data Center: Default Rates, https://studentaid.ed.gov/sa/about/data-center/student/default.

7 Consumer Financial Protection Bureau, *Student Loan Servicing* (2015), http://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.

behavior in a myriad of ways. Researchers have also found a troubling connection between higher debt burdens and other economic challenges like material or health care hardship.[8]

Student loan servicing and borrower success

Borrowers, especially consumers whose student debts are high relative to their incomes, depend on private companies to help them manage this debt. High quality servicing can help borrowers enroll in affordable payment plans, take advantage of forgiveness and other benefit programs, and avoid delinquency and default. But, for too many borrowers, student loan servicers – the companies responsible for sending borrowers' monthly bills, maintaining borrowers' student loan accounts, and helping them enroll in alternative repayment plans – fall short. These companies and their practices have been the subject of increasing scrutiny by federal and state law enforcement agencies, regulators, and auditors. What we have seen so far is cause for serious concern.

The Bureau has made it a priority to take action against companies that are engaging in illegal servicing practices. In 2014, the Bureau launched the first federal examination program for non-bank student loan servicers – supervising the nation's larger participants in the student loan servicing market for compliance with federal consumer law. Since that time, our examination program and our Office of Enforcement have taken action to address illegal servicing practices.

For example, we have alleged in public enforcement actions that student loan servicers were:

- Illegally steering borrowers into forbearance – a repayment option designed to assist borrowers experiencing short-term financial hardship – when borrowers have a right under federal law to enroll in repayment plans that allow for lower monthly payments over the long-term;[9]
- Illegally obscuring information consumers needed to maintain their lower payments, causing payments to spike by hundreds of dollars or more, and causing some borrowers

[8] *See* Mathieu R. Despard, et al., *Student Debt and Hardship: Evidence from a Large Sample of Low- and Moderate-Income Households*, 70 Children and Youth Services Review 8, November 2016, http://dx.doi.org/10.1016/j.childyouth.2016.09.001.

[9] *See* Consumer Financial Protection Bureau, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment* (January 2017).

to forfeit interest subsidies, progress toward loan forgiveness, and other important benefits;[10]

- Allocating partial payments in a way that maximizes fees and fails to give consumers who are repaying two or more loans effective choices about how to apply payments;[11]

- Providing misinformation on borrowers' billing statements, inflating the minimum amount owed;[12] and

- Making illegal debt collection calls to borrowers early in the morning and late at night, often excessively.[13]

In addition, here is a sampling of what our supervisory work has found at one or more student loan servicers:

- Unfairly denying, or failing to approve, income-driven repayment plan applications that should have been approved on a regular basis;[14]

- Failing to inform borrowers and co-signers that using forbearance may delay, or even permanently foreclose, eligibility for co-signer release;[15]

- Illegally increasing borrowers' interest rates following a loan sale and subsequent internal servicing conversion;[16]

---

[10] *See* Consumer Financial Protection Bureau, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment* (January 2017).

[11] *See* Consumer Financial Protection Bureau, *CFPB Takes Action Against Wells Fargo for Illegal Student Loan Servicing Practices* (August 22, 2016); and Consumer Financial Protection Bureau, *Supervisory Highlights: Issue 9, Fall 2015* (November 2015), http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf.

[12] *See* Consumer Financial Protection Bureau, *CFPB Orders Discover Bank to Pay $18.5 Million for Illegal Student Loan Servicing Practices* (July 22, 2015), http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-discover-bank-to-pay-18-5-million-for-illegal-student-loan-servicing-practices/

[13] *See* Consumer Financial Protection Bureau, *CFPB Orders Discover Bank to Pay $18.5 Million for Illegal Student Loan Servicing Practices* (July 22, 2015), http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-discover-bank-to-pay-18-5-million-for-illegal-student-loan-servicing-practices/

[14] *See* Consumer Financial Protection Bureau, *Supervisory Highlights: Issue 13, Fall 2016* (November 2016), https://www.consumerfinance.gov/documents/1389/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.

[15] *See* Consumer Financial Protection Bureau, *Supervisory Highlights: Issue 10, Winter 2016* (March 2016), http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf.

- Illegally auto-defaulting consumers when a loan's co-signer filed for bankruptcy, regardless of whether the borrower was current on all payments, where the whole loan due clause was ambiguous.[17]

CFPB Director Richard Cordray has noted "problems plaguing the student loan market have a domino effect that inhibits consumers who have invested in their education from getting ahead. We will not tolerate these illegal practices."[18]

Recently, the Bureau has released a series of new reports citing complaints from consumers seeking to secure a lower student loan payment tied to their income.[19] Issues that consumers report facing include:

- Despite the fact that the income-driven repayment application process should generally take no more than two weeks, borrowers report that their servicers let their enrollment applications sit under review for weeks or months at a time, leaving them to linger in an 'application abyss.'

- Borrowers report being rejected because their application had missing information or because their servicer lost paperwork, without being notified by the servicers or being given a chance to fix the problem.

- Borrowers who successfully enroll in an income-driven repayment plan may re-encounter the same obstacles each year because they have to re-certify their income and family size annually. Servicing practices related to recertification, particularly processing delays and wrongful rejections, can drive substantial and unnecessary increased costs to borrowers.

---

[16] *See* Consumer Financial Protection Bureau, *Supervisory Highlights: Issue 10, Winter 2016* (March 2016), http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf.

[17] *See* Consumer Financial Protection Bureau, *Supervisory Highlights: Issue 10, Winter 2016* (March 2016), http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf.

[18] Consumer Financial Protection Bureau, *CFPB Supervision of Banks and Nonbanks Recovers $14.3 Million for Consumers* (March 8, 2016), http://www.consumerfinance.gov/about-us/newsroom/cfpb-supervision-of-banks-and-nonbanks-recovers-14-3-million-for-consumers/.

[19] *See* Consumer Financial Protection Bureau, *Midyear Update on Student Loan Complaints* (August 18, 2016) http://files.consumerfinance.gov/f/documents/201608_cfpb_StudentLoanOmbudsmanMidYearReport.pdf.

- Borrowers who previously defaulted on a federal student loan may encounter processing delays and communication breakdowns that ultimately lead them back into default. The Bureau estimates that more than 220,000 previously defaulted student loan borrowers will end up back in default over the next 24 months, while paying more than $125 million in unnecessary interest charges that could have been avoided if they had been enrolled in an income driven repayment plan that featured interest subsidies.[20]

In 2015, we asked the public about the challenges they face. We received 30,000 comments, including thousands from individual consumers. Some of these consumers highlighted additional servicing problems for special populations of student loan borrowers, including:

- When servicers change, payments may be lost and consumers may face surprise late fees or borrowers may encounter other processing problems. Missing account records can knock borrowers off track on repaying their loans—a particular problem for borrowers working in public service and pursuing loan forgiveness.

- Student loan borrowers are not the only ones affected. Borrowers face numerous obstacles when attempting to release parents or grandparents who co-signed private student loans, which may affect other aspects of their financial lives.

- Veteran borrowers who receive loan discharges due to a total and permanent disability report ending up with damaged credit due to incorrect reporting of the discharge.

- Military borrowers continue to struggle when attempting to access the benefits they've earned through military service.

Since opening our doors, the Bureau has handled more than 44,000 complaints related to private and federal student loans. These borrowers are from every walk of life, from those initially entering into repayment to older borrowers entering into retirement. These borrowers report that their financial lives and livelihoods are strained as a result of student loan servicing problems. Here are just a few of the issues we have heard from student loan borrowers in Maine:

[20] *See* Consumer Financial Protection Bureau, *CFPB Projects that One-in-Three Rehabilitated Student Loan Borrowers Will Re-default Within Two Years* (October 17, 2016), http://www.consumerfinance.gov/about-us/newsroom/cfpb-projects-one-three-rehabilitated-student-loan-borrowers-will-re-default-within-two-years/.

- Recent college graduates report struggling to get an affordable monthly payment under an income-driven repayment plan as they apply for jobs and start their careers;
- Parents trying to help their children through school complain about being blocked from making payments on a co-signed loan, or being denied co-signer release after their child satisfies the requirements for release;
- Veterans with total and permanent disabilities complain that they cannot get payment relief on their private student loans, or that they are still subject to derogatory credit reporting after having their federal student loans discharged; and
- Senior citizens complain that they receive harassing collection calls threatening wage garnishment or Social Security offsets as they struggle to enroll in a rehabilitation program for defaulted loans.

Déjà vu or do over?

Unfortunately, many of these findings may sound familiar. The problems student loan borrowers encounter today resemble the problems faced by struggling homeowners when dealing with their mortgage servicers – particularly those homeowners who sought to take advantage of federal foreclosure prevention initiatives in the years following the financial crisis.

Consumers generally do not get to choose their mortgage or student loan servicer. Ordinary market forces do not guarantee reasonable customer service, and potentially magnify incentives to cut corners.

Servicing problems plagued many homeowners struggling to hang on to their homes. People did not get the help or support they needed, such as timely and accurate information about their options for saving their homes. Servicers failed to answer phone calls, routinely lost paperwork, and mishandled accounts. Communication and coordination were poor, leading many to think they were on their way to a solution, only to find that their homes had been foreclosed on and sold.

As one state regulator noted last year when discussing the similarities between these two markets, "this is not Déjà vu. We have been here before."[21]

So the question that policymakers, regulators, and law enforcement officials at all levels of government should be asking ourselves is this: Are we going to learn a lesson from the last crisis, or is history doomed to repeat itself? Millions of consumers depend on our answer.

State leadership and student loan servicing reform

Government at all levels can be part of the solution. We have seen states across the country take steps to require licensure and examination of student loan servicers to help protect consumers and ensure that student loan servicers follow the law.

In 2015, Connecticut Governor Dannel Malloy signed legislation authorizing Connecticut's banking commissioner to create a Student Loan Ombudsman in Connecticut and to stand up the nation's first state-level examination program for non-bank student loan servicers. As of July of 2016, all non-bank student loan servicers that serve borrowers in Connecticut are required to obtain a license and be subject to periodic review by Connecticut's banking department. In effect, consumers in Connecticut will have the benefit of a state agency with the authority and capacity to identify problems and take action.

Last year, Governor Jerry Brown of California signed similar legislation, requiring the California Department of Business Oversight to license and supervise student loan servicers operating within the state or servicing California residents. And just a few months ago, the District of Columbia created a similar program and established a Student Loan Ombudsman to assist District residents who have complaints about their student loan servicer.

If enacted, LD 1290 would make the state of Maine the most recent of our partners to exercise greater oversight of non-bank student loan servicers and work to ensure that these companies are in compliance with consumer law.

Working together to protect student loan borrowers

---

[21] *Comment from State of Connecticut, Department of Banking*, CFPB-2015-0021-0381 (July 2015), https://www.regulations.gov/#!documentDetail;D=CFPB-2015-0021-0381 (received in response to the Bureau's *Request for Information on Student Loan Servicing*).

Historically, non-bank providers of financial products and services, including student loan servicers, credit bureaus, debt collectors, and others, have not been subject to the same level of federal oversight as banks and credit unions. For more than four years, the Bureau has been working to change this – building an examination program that focuses on compliance at both banks and certain non-banks, including the larger participants in the student loan servicing market.

Our findings raise serious questions about whether borrowers are getting the level of service they need to stay afloat.

Close coordination between federal and state regulators is critical to ensuring that borrowers can depend on high quality student loan servicing, subject to rigorous oversight, whether their servicer is a large public company or a small not-for-profit. This improved coordination can help improve student loan servicing and strengthen consumer protection in the following ways:

- **Ensuring servicers are accountable for practices that harm consumers.** For more than five years, our examiners have coordinated with their state counterparts to look at a range of financial services companies, including mortgage servicers and debt collectors. In 2015, the Bureau announced that addressing illegal servicing practices through our examination and enforcement program is a priority. As more states and local government partners consider standing up oversight and licensure requirements for non-bank student loan servicers, we stand ready to partner with state examiners to better protect consumers and ensure effective, streamlined oversight.

- **Informing state actions to protect student loan borrowers.** As the Bureau continues its ongoing supervision and enforcement work in this market, we remain committed to providing important information that can serve as a roadmap for our state and local partners related to the illegal practices we identify. As part of our supervision program, the Bureau has put in place agreements with state banking agencies and state attorneys general to provide for close coordination and confidential information sharing, as appropriate. When our partners in state agencies have access to the information and insights they need to identify illegal practices, consumers benefit.

- **Sharing knowledge and insights from state oversight to inform federal policymaking.** State examiners and law enforcement officials are well positioned to identify issues that may be unique to that state, to an individual servicer's business practices, to a particular segment of consumers, or to the market as a whole. States have a unique ability to work on a granular level while simultaneously spotting trends and systemic issues at a state, or regional level. This knowledge and experience can be shared with the Bureau, which may have different tools and additional expertise to develop that picture and share it with the public more broadly. Through close state-federal coordination on student loan servicing oversight, the Bureau and other federal policymakers can have the benefit of unique insights developed on the ground by states in a historically opaque marketplace.

State and federal initiatives to root out harms in this critical market advance these principles and can serve as an important component of our work to reform the student loan servicing market.

Moving forward together

The Dodd-Frank Act was drafted to allow the Bureau to support states' efforts to protect consumers. Because of the problems I highlighted in these remarks, student loan servicers should be subject to robust oversight, and together, state and federal policymakers can cover the waterfront to better protect consumers. We believe such a partnership will help inform our broader work to reform the student loan servicing market and hold servicers accountable for illegal practices.

I would like to thank you again for the opportunity to discuss this important topic. The Bureau looks forward to continuing our important work together, and in particular, our work to increase accountability in this market.