Mid-year update on student loan complaints

June 2015

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1. Executive Summary

- The CFPB received more than 3,100 private student loan complaints between October 1, 2014, and March 31, 2015, a 34% increase over the prior reporting period. The CFPB also received approximately 1,100 debt collection complaints related to student loans during this period.

- Many private student lenders advertise options to release a co-signer from a private student loan. However, lenders' and servicers' policies related to this benefit are often opaque and may create significant roadblocks for borrowers seeking to release a co-signer. Most lenders and servicers generally do not proactively notify borrowers when they may be eligible. Consequently, the overwhelming majority of private student loan borrowers in our sample did not apply for a co-signer release. Of those who did apply, the rejection rate was 90%, on a weighted average basis.

- Borrowers submitted complaints to the CFPB noting that private student loan companies rejected their application for a co-signer release because they had previously accepted the servicers' offer of postponing payment through forbearance. These company policies can permanently ban a consumer from seeking co-signer release for the life of the loan.

- The CFPB reviewed a selection of private student loan contracts representing the majority of the market. Most contracts include clauses that have been interpreted to lead to a default in some cases even if the loan is in good standing, such as "auto-default" clauses where private student lenders and servicers place a loan into default when a borrower's co-signer dies or files for bankruptcy. These practices may constitute a violation of the law, depending on the circumstances.

- Private student loan companies claim that they do not intend to trigger these defaults. However, the CFPB continues to receive complaints from borrowers subjected to an auto-default, particularly when their loan has been sold or is held in a securitization trust.

- To increase the quality of customer service related to co-signers in the private student loan market, private student lenders and servicers should clearly state the required factors to obtain a co-signer release, proactively notify borrowers when they can apply, and warn borrowers about actions that might lead to disqualification.

- The market for student loan refinance products has rapidly grown, but current practices by some student loan servicers have created bureaucratic barriers for borrowers to pursue lower rates through refinancing. Complaints received by the CFPB indicate that borrowers are having trouble obtaining accurate payoff statements in order to refinance, as well as experiencing payment processing errors and delays. Depending on the circumstances, this may constitute a violation of the law.

- To increase the quality of customer service related to refinancing in the private student loan market, private student loan servicers should make payoff statements electronically available to borrowers and cooperate with innovators to facilitate a simpler refinance process.

2. About this Report

The Dodd-Frank Wall Street Reform and Consumer Protection Act established a student loan ombudsman within the Consumer Financial Protection Bureau. Pursuant to the Act, the ombudsman shall compile and analyze data on private student loan complaints and make appropriate recommendations to the Secretary of the Treasury, the Director of the Consumer Financial Protection Bureau, the Secretary of Education, and Congress.

This report analyzes more than 3,100 private student loan complaints and approximately 1,100 debt collection complaints related to student loan debt received between October 1, 2014, and March 31, 2015. This report also offers analysis and discussion to address issues reported by consumers in the student loan marketplace. The information included in this report represents the ombudsman's independent judgment and does not necessarily represent the view of the Consumer Financial Protection Bureau.

Rohit Chopra
Student Loan Ombudsman
Consumer Financial Protection Bureau

3. Student Loan Complaint Data

Information about consumer complaints, including information about student loan and debt collection complaints, is available to the public through the CFPB's Consumer Complaint Database.[1]

The database contains anonymized complaint data provided by consumers, including the type of complaint, the date of submission, the consumer's zip code, and the company that the complaint concerns. The database also includes information about the actions taken by a company in response to a complaint: whether the company's response was timely, how the company responded, and whether the consumer disputed the company's response. The database does not include consumers' personal information. The database includes web-based features such as the ability to filter data based on specific search criteria; to aggregate data in various ways, such as by complaint type, company, location, date, or any combination of available variables; and to download data.

The following tables are based on complaints received from October 1, 2014, through March 31, 2015, as exported from the public Consumer Complaint Database as of June 1, 2015.[2] Due to the lack of publicly-available data on private student loans, these tables are not indexed for market

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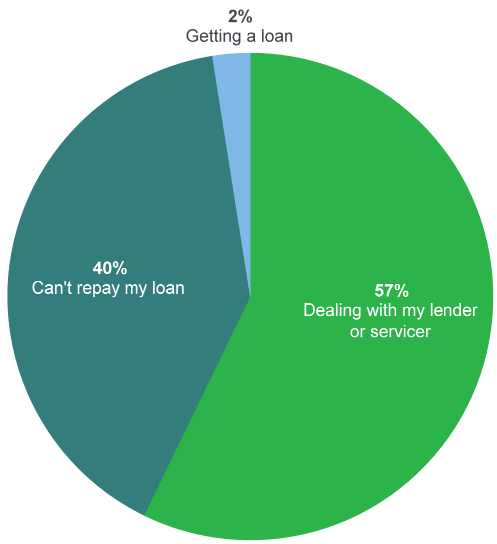
[1] Consumer Financial Protection Bureau, *Consumer Complaint Database, available at* http://www.consumerfinance.gov/complaintdatabase/.

[2] Not all complaints handled by the Bureau are published in the public Consumer Complaint Database. Complaints that do not meet the publication criteria may be removed from the database. The database lists complaints where the companies have had the opportunity to provide a response or after the companies have had the complaint for 15 calendar days - whichever comes first. The publication criteria are available at http://files.consumerfinance.gov/f/201303_cfpb_Final-Policy-Statement-Disclosure-of-Consumer-Complaint-Data.pdf. Therefore the number of complaints published in the database may be fewer than the total number of complaints handled by the Bureau.

share.[3] Due to changes in the corporate structure of certain market participants, tables were adjusted to facilitate appropriate time period comparisons.[4]

From October 1, 2014, through March 31, 2015, the CFPB handled approximately 3,100 private student loan complaints, an increase of 34% from the prior year.[5]

TABLE 1: PRIVATE STUDENT LOAN ISSUES REPORTED BY CONSUMERS FROM OCTOBER 1, 2014 THROUGH MARCH 31, 2015



Note: Consumers submitting student loan complaints can select from the following three types of complaint categories: "Getting a loan," "Can't pay my loan," and "Dealing with my lender or servicer." This figure reflects the categories consumers selected when filing a complaint.

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[3] Compared to other large markets of consumer financial products (such as residential mortgages and credit cards), availability of market data is quite limited for private student loans, which grew rapidly in the years leading up to the financial crisis. *See* Consumer Financial Protection Bureau and U.S. Department of Education, *Private Student Loans* (2012), *available at* http://www.consumerfinance.gov/reports/private-student-loans-report/.

[4] For example, for a substantial part of 2014, Sallie Mae and Navient were previously part of the same corporate entity. The tables in this section for this report will show their combined totals.

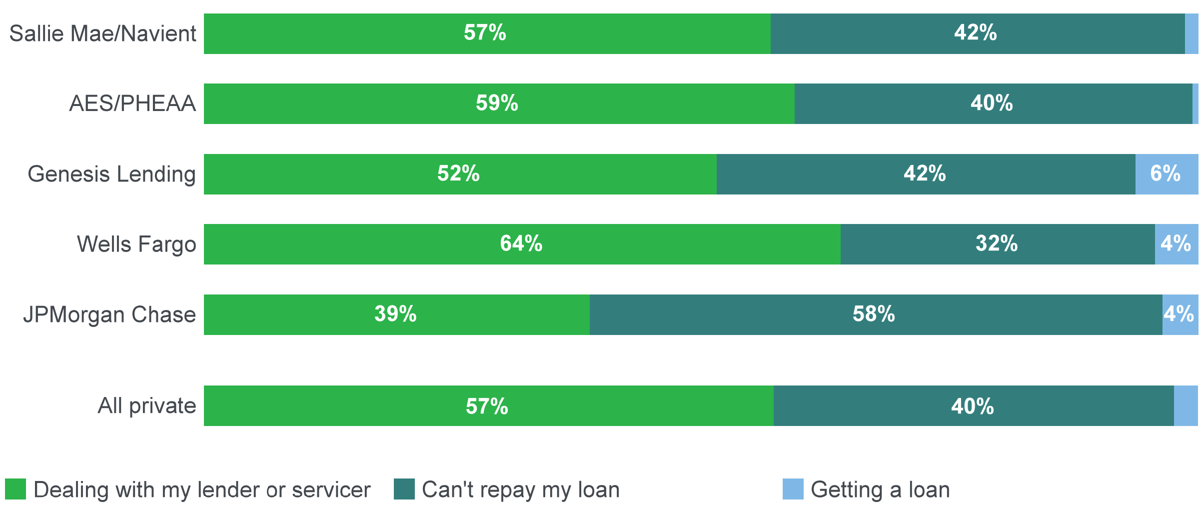
[5] During this time period, the Bureau experienced a substantial increase in complaints from current and former students enrolled at for-profit colleges. The bulk of these complaints did not meet the publication criteria for inclusion in the CFPB's Consumer Complaint Database. Therefore, data related to these complaints may not be reflected in all of the tables in this section. The publication criteria are available at http://files.consumerfinance.gov/f/201303_cfpb_Final-Policy-Statement-Disclosure-of-Consumer-Complaint-Data.pdf.

TABLE 2: COMPANIES WITH THE MOST PRIVATE STUDENT LOAN COMPLAINTS RANKED BY VOLUME

Company	Oct. 2013 – Mar. 2014	Oct. 2014 – Mar. 2015
Sallie Mae/Navient	1,008	1,018
AES/PHEAA	177	185
Genesis Lending	4	161
Wells Fargo	115	114
JPMorgan Chase	112	85

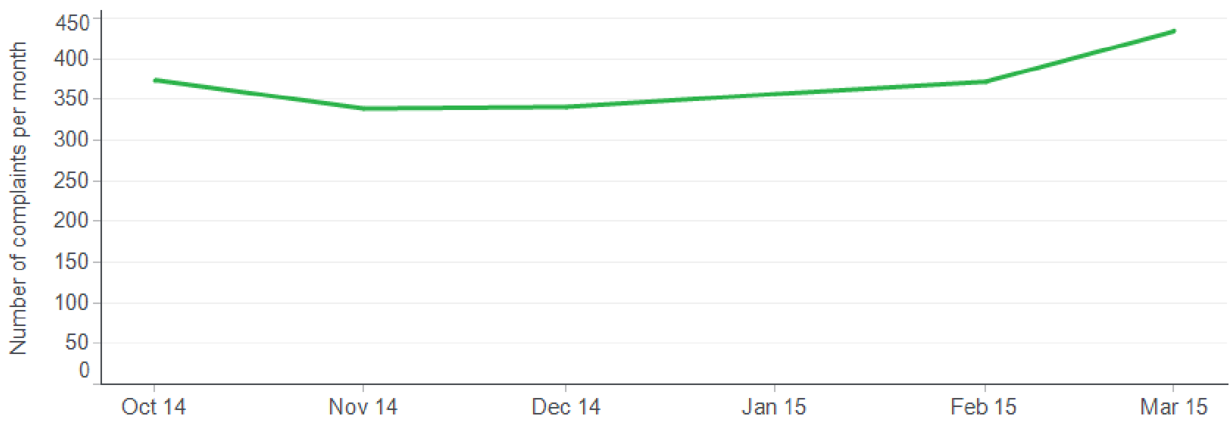
Note: This table reflects complaints where (1) the consumer identified the sub-product as a non-federal student loan and (2) the identified company responded to the complaint, confirming a relationship with the consumer. This table reflects the top companies by complaint volume for the period of October 1, 2014, through March 31, 2015.

TABLE 3: ISSUES IDENTIFIED IN PRIVATE STUDENT LOAN COMPLAINTS BY COMPANY FROM OCTOBER 1, 2014 THROUGH MARCH 31, 2015



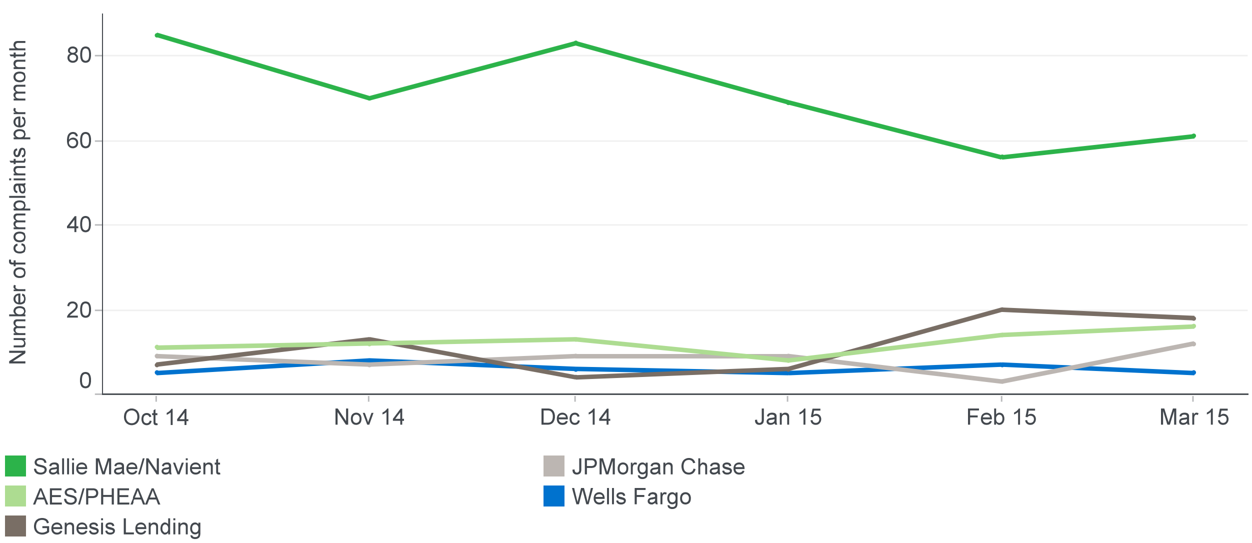
Note: This table reflects complaints where (1) the consumer identified the sub-product as a non-federal student loan, (2) the consumer identified the issue and (3) the identified company responded to the complaint, confirming a relationship with the consumer. This table reflects the top companies by complaint volume.

TABLE 4: PRIVATE STUDENT LOAN COMPLAINTS BY MONTH



Note: This table reflects complaints where (1) the consumer identified the sub-product as a non-federal student loan and (2) the identified company responded to the complaint, confirming a relationship with the consumer.

TABLE 5: PRIVATE STUDENT LOAN COMPLAINTS RELATED TO REPAYMENT DISTRESS BY MONTH



Note: This table reflects complaints where (1) the consumer identified the sub-product as a non-federal student loan, (2) the consumer identified their issue as “Can’t repay my loan” and (3) the identified company responded to the complaint, confirming a relationship with the consumer. This table reflects the top companies by complaint volume.

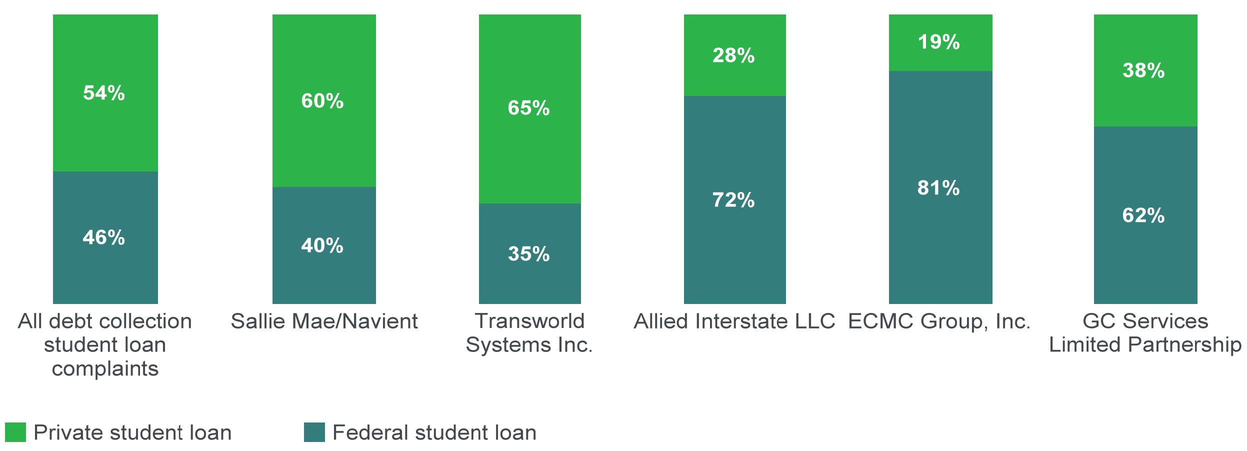
From October 1, 2014, through March 31, 2015, the CFPB handled approximately 1,100 debt collection complaints related to student loans.

TABLE 6: TOP RECIPIENTS OF STUDENT LOAN DEBT COLLECTION COMPLAINTS FROM OCTOBER 1, 2014 THROUGH MARCH 31, 2015

Federal Student Loans	Number of Complaints	Private Student Loans	Number of Complaints
Sallie Mae/Navient	47	Sallie Mae/Navient	71
Allied Interstate LLC	23	Transworld Systems Inc.	26
ECMC Group, Inc.	21	AES/PHEAA	14
GC Services Limited Partnership	16	Weltman, Weinberg & Reis	11
Transworld Systems Inc.	14	GC Services Limited Partnership	10

Note: This table reflects debt collection complaints where (1) the consumer identified the sub-product as a non-federal or a federal student loan and (2) the identified company responded to the complaint, confirming a relationship with the consumer. This table also reflects aggregated complaints of subsidiary debt collection companies under the parent company.

TABLE 7: DISTRIBUTION OF LOAN TYPE FOR STUDENT LOAN DEBT COLLECTION COMPLAINTS BY COMPANY FROM OCTOBER 1, 2014 THROUGH MARCH 31, 2015



Note: This table reflects debt collection complaints where (1) the consumer identified the sub-product as a non-federal or a federal student loan and (2) the identified company responded to the complaint, confirming a relationship with the consumer. This table was not adjusted to reflect each company's relative market share. This table reflects the top companies by complaint volume. This table also reflects aggregated complaints of subsidiary debt collection companies under the parent company.

4. Ombudsman's Discussion

The Dodd-Frank Wall Street Reform and Consumer Protection Act requires the ombudsman to analyze student loan complaints and make appropriate recommendations. Based on the analysis of complaints and other market trends, additional discussion is offered below. The discussion represents the ombudsman's independent judgment and does not necessarily represent the view of the Consumer Financial Protection Bureau.

4.1 Private Student Loan Industry Co-Signer Policies

4.1.1 Prevalence, Benefits, and Risks

The involvement of co-signers in the private student loan market is quite prevalent. According to a report published by the CFPB and the Department of Education, co-signed loans comprise an increasing share of new originations.[6] In 2008, 67% of private student loans were co-signed, often by a parent or grandparent. By 2011, over 90% of private student loans were co-signed.[7] More recent public filings confirm this trend.

For the lender, adding a co-signer to a private student loan helps to protect the lender against the risk of financial difficulty faced by the primary borrower. By making another individual equally responsible for repayment, lenders can gain greater certainty of profitability on an individual loan, at a very limited cost.

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[6] Consumer Financial Protection Bureau and U.S. Department of Education, *Private Student Loans* (August 2012), *available at* http://www.consumerfinance.gov/reports/private-student-loans-report/.
[7] *Id.*

For student borrowers, securing a co-signer may often be the only way to qualify for a private student loan. Even if a borrower is able to independently qualify for a loan, securing a co-signer may lead to a lower interest rate. However, borrowers may discover that there are certain disadvantages to having a co-signer. For example, a borrower experiencing financial hardship may be denied a loan modification based on a lender's evaluation of the co-signer's continued ability to repay. Borrowers with performing loans have also faced unexpected defaults, based on events affecting their co-signers (including their death), regardless of whether the account was otherwise in good standing.

While co-signing facilitates the ability for a borrower, often a child or grandchild, to obtain a private student loan, the financial benefits to the co-signer are quite limited. While the co-signer might generate some successful repayment history on a consumer credit report if the primary borrower pays the loan, there are noteworthy costs. Not only does the co-signer take on the responsibility to repay a loan in the event of a borrower's default, co-signing may create additional challenges or costs when the co-signer seeks credit on her own. For example, co-signing a private student loan could impact the co-signer's ability to refinance her mortgage at a lower rate.

Many market participants advertise and offer a feature for borrowers to release their co-signers from the loan obligation, often after a period of on-time payments and a credit check. Borrowers and co-signers are often made aware of this option in marketing materials provided prior to origination.

Some borrowers may wish to maintain a co-signer on their loan, while other borrowers may seek to release the co-signer from the loan. However, the analysis of borrower complaints reveals that opaque policies related to the co-signer release benefit may make obtaining co-signer release difficult for those consumers wishing to take advantage of this benefit.

In April 2014, we released a report describing complaints about "auto-defaults" when co-signers die or file for bankruptcy, even when the loan is otherwise in good standing.[8] Private student loan contracts often contain provisions that creditors have applied to place a borrower in default and accelerate the full balance of the loan upon the death or bankruptcy filing of a co-signer. The

[8] *See* Consumer Financial Protection Bureau, *Mid-year update on student loan complaints* (April 2014), *available at* http://files.consumerfinance.gov/f/201404_cfpb_midyear-report_private-student-loans-2014.pdf.

report noted that some in the private student loan industry utilize this provision to accelerate the balance on performing loans, which may pose harm to both consumers and investors. This practice may constitute a violation of the law, depending on the circumstances. Complaints analyzed as part of this report identified at least seven large depository institutions and specialty student loan market participants, including four of the top ten bank holding companies by assets acting as the marketer, lender, loan originator, loan servicer, or the current loan holder.[9]

Subsequent to last year's report, we asked certain market participants about current industry practices and policies related to co-signed private student loans.[10] We received six responses to the information request from respondents representing many corporate forms, including large depository institutions and third-parties servicing loans held by banks or in a securitized pool.

In addition, we further analyzed a selection of private student loan contracts to identify the prevalence of certain provisions related to co-signer issues. The originators also represented a range of corporate forms. The results from our analysis and assessment of company responses to this information request are described below.

4.1.2 Most private student loan contracts contain auto-default clauses

Our analysis of the terms and conditions of the selection of private student loan contracts revealed that there were a number of provisions that have been applied to permit a lender to place the loan in default and order the borrower to pay the entire remaining balance immediately, even if the loan is current and the borrower is making payments as agreed.

Auto-default clauses were commonly identified in the review of contracts. Out of the sample of private student loan contracts reviewed, the contracts generally contained some type of co-signer-related provision that may be applied by the creditor to place the loan in default.

Other terms identified in the sample included "universal default" clauses (that have been interpreted to allow a loan to be placed in default if the borrower is not in good standing on an

[9] Federal Financial Institution Examinations Council, National Information Center, *Holding Companies with Assets Greater than $10 Billion* (March 2014), *available at* http://www.ffiec.gov/nicpubweb/nicweb/HCSGreaterThan10B.aspx.

[10] *See* Appendix A for a sample of a letter sent to market participants requesting additional information on co-signer release policies.

unrelated loan held by the lender, such as a credit card), clauses that permit a default if a lender believes the prospect of an obligor repaying their loan is impaired (even if the loan is otherwise in good standing), and clauses that may be interpreted to permit a default when a borrower does not quickly notify the lender of a name change or address change.[11]

Respondents to the information request on co-signer policies claimed that they no longer place loans in default when a co-signer dies or files for bankruptcy and the borrower is otherwise in good standing. However, this practice is generally not memorialized in loan agreements. According to the complaints the Bureau has received, some market participants have used these clauses to place a loan in default when a co-signer dies or files for bankruptcy, even if the borrower is paying as agreed.

4.1.3 Risks related to loan sales and securitization

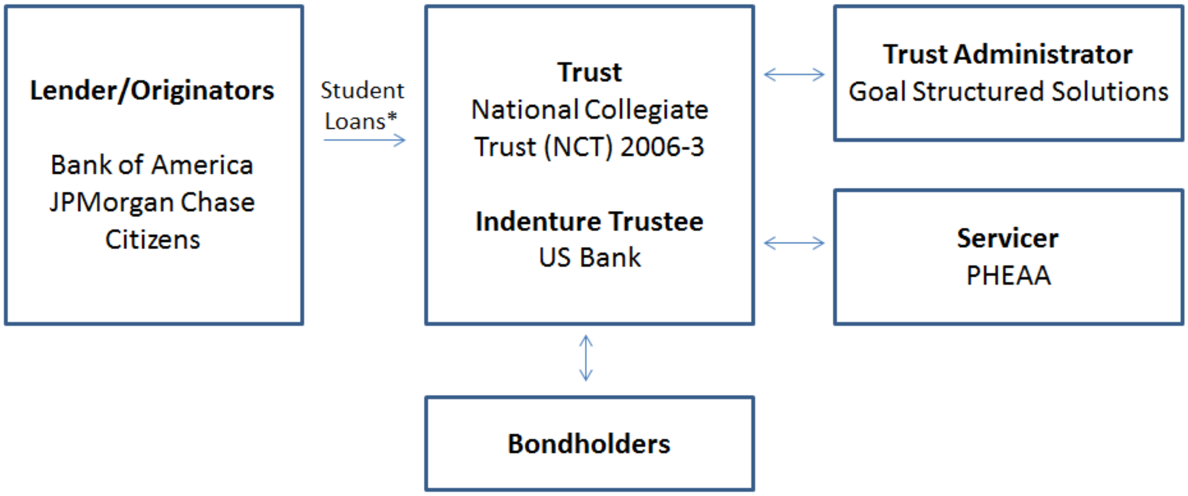
While many companies stated that they do not plan to take action based on auto-default provisions, there is no guarantee that such provisions may not be utilized by a future holder. While complaints related to auto-defaults have decreased since last year's report, they have not disappeared and remain a particular concern for borrowers whose loans are held in securitized loan pools.

For example, several borrowers who sought assistance from the CFPB experienced a recent death of a co-signer. The borrowers were current but were placed in default due to the inflexibility of contractual arrangements between various parties affiliated with the trust that owned the loan.

While several respondents to the information request on co-signer policies noted that they do not plan to trigger auto-defaults when a loan is otherwise performing, the decision to retain these clauses in private student loan contracts may create risks for consumers if loans are sold or securitized. The figure below describes the structure of a securitization trust to demonstrate potential auto-default risks.

[11] It is worth noting that these clauses do not include specific exclusions for active-duty servicemembers who are required to relocate due to military orders requiring a permanent change of station.

FIGURE 1: STRUCTURE OF A PRIVATE STUDENT LOAN ASSET-BACKED SECURITIZATION



*Student loans passed from lender/originators through a depositor, National Collegiate Funding, prior to purchase by the trust with proceeds from the sale of notes to bondholders.
Source: The National Collegiate Student Loan Trust 2006-3 Prospectus, SEC filings. Due to transaction activity, the names and roles of certain parties have changed from the initial prospectus.

For example, if the originating private student lender includes clauses that it interprets as permitting an auto-default in the case of co-signer death even when a loan is current, the lender might make a business decision to refrain from enforcing the provision, but only if the loan is held by the lender. However, once the loan is sold or securitized, the contractual arrangements and incentive structures can create the conditions for servicers to limit their discretion and enforce the provisions – even if it is not in the long-term interest of the bondholders – unless servicers are sufficiently indemnified.

4.1.4 Respondent private student loan companies provided co-signer release to less than 1% of borrowers

Given that borrowers face risks of auto-defaults based on contractual provisions and issues related to securitization, there are a number of advantages to consumers obtaining co-signer release. However, our analysis of responses to the co-signer policy information request reveals that a miniscule portion of borrowers with loans that include a co-signer release actually obtained one.

In order to release a co-signer from his or her obligation to repay, respondents noted that they required the borrower to complete a written application in order to conduct a review of the account or loan.

Almost all respondents also precondition co-signer release on successfully remitting a minimum number of on-time payments of principal and interest, and on a credit check upon receipt of the application. Some respondents imposed additional requirements to release a co-signer, including proof of graduation or an acknowledgement letter from the co-signer.

Respondents generally do not notify borrowers when they are eligible to apply for co-signer release. All respondents in our sample stated that they generally did not conduct proactive reviews of borrowers' accounts to determine if the borrower has met the minimum number of on-time payments to apply for a co-signer release. In addition, consumers report that servicers do not seem to be proactively notifying consumers about the specific requirements to submit a request for a release.

Less than half of respondents make co-signer release policies and applications available on their websites. Companies responded that access to basic information about the mechanics of the co-signer release process is limited. Five out of the six respondents noted that they have provided some information on their website about co-signer release; however, only two respondents provide the application necessary to apply for co-signer release online. Although most respondents do not publish information necessary to apply, all respondents required a written application to be considered for co-signer release. In addition to requiring a borrower to submit an application in order to trigger a review of his or her account, certain market participants place an annual restriction on how often a borrower may apply for co-signer release, even if the borrower would otherwise qualify for this benefit.

Of borrowers who apply for co-signer release from respondents in our sample, 90% were rejected. Most respondents noted that the most common reason for rejecting an application was due to not meeting certain pre-application requirements, such as making a specified number of on-time payments.[12] Importantly, the criteria for getting approved for a co-signer release were rarely communicated in a transparent fashion.

Most respondents also noted that borrowers must demonstrate creditworthiness as a prerequisite to release a co-signer; however, most co-signer release policies do not include a specific credit threshold to qualify for co-signer release. The low number of successful co-signer release applications suggests that the lack of transparency about eligibility criteria may be a significant factor. The absence of a clear articulation of specific factors that are considered when evaluating a borrower for co-signer release raises questions about whether lenders have set reasonable requirements for borrowers seeking to obtain this commonly-advertised benefit.

Borrowers can be disqualified from co-signer release for other unexpected factors. Most respondents noted that borrowers could also be disqualified from releasing a co-signer if they ever accepted their servicers' offer of postponing payment through forbearance. Some respondents noted that the use of forbearance would require the borrower to restart the clock and require the borrower to make additional on-time, consecutive monthly payments toward the payment threshold. Other respondents noted that the use of forbearance at any time during repayment would permanently bar a borrower from seeking co-signer release.

For borrowers who entered a challenging labor market, many were unable to obtain employment immediately after graduation. Servicers readily offered forbearance options for struggling borrowers; these borrowers frequently accepted these options with the expectation that they would be able to find employment and begin making payments. In these cases, a borrower may have eventually secured employment and begun successfully repaying their loans after the short forbearance period. For lenders and servicers with these co-signer release policies, a borrower who utilized forbearance, even in the early part of repayment, would be permanently barred from releasing his or her co-signer.

Some respondents noted that making prepayments on a loan can also disqualify borrowers. For example, we have received complaints from borrowers who made prepayments satisfying the total amount due for the following two or more months. In the event of a prepayment, the servicer will generally "advance" the due date for the next month's payment and will provide the

[12] It is worth noting that approval rates among respondents that received fewer applications generally had higher approval rates compared to those with heavier application volumes.

borrower with a monthly billing statement reflecting that no payment is due. In these cases, the borrower usually did not submit a payment for that month. The analysis of complaints revealed that these borrowers are then denied co-signer release, because the borrower did make an additional payment, even though they were told their required minimum payment was “$0.00.” According to some co-signer release policies, even though there was no required amount due, borrowers nonetheless should have submitted a payment in order to qualify for co-signer release. This practice may be a violation of federal law in some circumstances.

Borrowers also complain that they are not informed of the criteria to qualify for co-signer release and are not told the reason as to why an application was rejected. It is unclear from company responses whether these disqualifying events on co-signer release eligibility, such as prepayments or use of forbearance, were ever communicated to borrowers.

4.1.5 Other complaints related to co-signers

Inability to access key documentation. Co-signers to private student loans report they are unable to access important documents and notices on the co-signed loan. Co-signers report to the Bureau that they do not receive periodic billing statements or notices of missed payments until the primary borrower has missed several payments and is in danger of default. But when borrowers fall behind, co-signers note that servicers do not hesitate to remind them that they have the same legal responsibility to repay this debt as the primary borrower.

Bureaucratic barriers for accurate payment processing. Borrowers typically have multiple types of loans managed by the same servicer. In some cases, borrowers may have some loans that are co-signed and others that are not. Borrowers might also have multiple loans that are co-signed, but the specific co-signer may vary based on the specific loan.

When borrowers are in distress, co-signers must take action to protect their own credit records, but co-signers report significant bureaucratic barriers and red tape when seeking to make payments on their loan obligations. For example, servicers generally process payments submitted by borrowers based upon a default payment allocation policy, which typically allocates a payment proportionally across all loans. However, co-signers who wish to submit a payment only toward the loan(s) they have co-signed report that servicers are not well-equipped to accept payment instructions in advance in order to process payments remitted by a co-signer only toward the co-signed loans. We continue to hear from co-signers that they must call each month to reallocate their payments away from loans they have not actually co-signed.

4.1.6 Opportunities to enhance transparency and simplify the co-signer release process

Consumers and honest market participants can benefit if policies and practices related to co-signer release are reformed. The following changes would also help improve customer service levels in the private student loan market.

Transparent communication about the criteria to qualify for co-signer release. While many lenders advertise that they "offer" co-signer release, the specific criteria for obtaining the release are often unknown. While industry participants often communicate pre-application criteria, such as making a certain number of on-time payments, other factors are generally not shared with prospective borrowers.

For example, private student lenders could clearly communicate to borrowers the factors used to assess a co-signer release application. While the specific criteria may vary for individual borrowers, this should not prevent private student lenders from making information generally available with guidance that the requirements might vary based on individual circumstances.[13] Private student lenders and servicers could also publish any events which may disqualify the borrower from obtaining a co-signer release.

Warnings to borrowers when an action may lead to disqualification. Based on responses from market participants, as well as insights from consumer complaints, certain actions by the borrower or private student loan servicer might lead to a disqualification for co-signer release. By clearly publishing these disqualifying events, consumers can make more informed choices about repayment if servicers warned borrowers – through the online servicing platform or in writing – when a certain action might lead to disqualification.

Proactive notifications and easily-accessible applications. As noted earlier in this report, private student lenders and servicers often impose requirements before a borrower even applies for a co-signer release, such as a number of on-time payments. Our analysis of responses to this information request reveals that a noteworthy portion of applications were rejected due to borrowers' failure to meet these pre-application requirements.

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[13] Increased transparency by servicers regarding the factors considered when evaluating an application for co-signer release does not necessarily need to divulge any specific proprietary information.

Private student loan servicers might be able to reduce costs and increase transparency by proactively notifying borrowers when they have met these pre-application requirements. We also noted that several servicers do not post the application for co-signer release online. Given the low cost of making the application available online, creating barriers to the co-signer release application gives the perception that some market participants are seeking to deter borrowers from applying. Greater transparency through proactive notifications and easily-accessible applications can help to solve this problem.

Appropriateness of auto-default, universal default, and related terms and conditions. While some private student loan market participants claim that they will not trigger defaults based on certain terms that are included in private student loan contracts if a borrower is otherwise in good standing, borrowers remain at risk, particularly when loans are sold or securitized, as our analysis of complaints has indicated.

The Credit CARD Act of 2009 placed restrictions on the ability of credit card issuers to impose increases in rates and fees. Market participants and policymakers should determine whether certain terms related to default and acceleration of balances that are commonly included in private student loan contracts are appropriate. Under certain circumstances, they might constitute infractions of the law.

4.2 Roadblocks to Refinance

In 2013, the CFPB published a report that discussed ways to increase price competition by jumpstarting a student loan refinance market.[14] While the exact size of the refinance market is unknown, market participants include small financial institutions and nonbank lending startups, as well as large financial institutions. According to public filings and securitization offerings, private entities have originated billions of dollars in student loan refinance products.

While refinancing may not be available or appropriate for all borrowers, consumers who are experiencing poor customer service from their current servicer or who may be paying an interest

[14] *See* Consumer Financial Protection Bureau, *Student Loan Affordability* (May 2013), *available at* http://www.consumerfinance.gov/reports/student-loan-affordability/.

rate that does not properly reflect their credit risk might yield significant benefits from refinancing.[15]

The CFPB notes that consumers who choose to pursue refinancing can be stymied by their current student loan servicer. These problems include the lack of availability of accurate payoff statements and impediments when refinance providers are unable to target proceeds toward a specific loan.

4.2.1 Problems when seeking to pay off loans in full

When a borrower refinances her student loans, she may be responsible for requesting a payoff balance (the amount owed on her loans as of a specific date) from her student loan servicer and providing this information to her new lender for any loans to be refinanced. The new lender generally pays the borrower's student loan servicer directly, which, when processed properly, should satisfy the borrower's previous obligation in full. The borrower will begin to repay the refinanced loan to her new lender, effectively ending her business relationship with her previous student loan servicer.

This process is similar to the process by which homeowners refinance mortgages. When a borrower elects to refinance a mortgage, she is responsible for requesting a payoff balance from her mortgage servicer and providing this information to her new lender (in some cases, the lender may ask for this information directly). The lender offering the refinance product will pay the homeowner's loan balance on her behalf. Federal rules require that mortgage servicers respond to requests for payoff balances accurately and in a timely manner.[16]

Consumers and market participants note that the orderly process required for homeowners seeking to refinance does not always exist when refinancing student loans. Consumers identified problems related to obtaining timely and accurate payoff balances and directing pre-payments to specific loans – challenges that may make refinancing more difficult for the growing number of consumers seeking to take advantage of the current low-interest-rate environment and

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[15] The CFPB has offered advice to consumers who may be exploring student loan refinance options, such as the need to determine whether they may be losing certain benefits, especially when borrowing a private loan to pay off a federal loan. *See* http://www.consumerfinance.gov/blog/should-i-refinance-my-student-loan/.

[16] 12 CFR § 1026.36(c)(3).

refinance one or more student loans. There does not appear to be a reasonable justification for this practice.

Difficulty obtaining accurate payoff information. We have received complaints from borrowers stating that they are unable to obtain accurate payoff information from their servicers. Some consumers state that they receive different payoff amounts from different customer service representatives and are unable to receive a definitive answer. As discussed above, this may be particularly problematic for borrowers seeking to refinance, since borrowers are expected to communicate this information in a timely manner to their new lender, in order to ensure they obtain the interest rate and other offered terms prior to origination. This may constitute an infraction of the law, depending on the circumstances.

When borrowers attempt to pay off their loans, borrowers have complained of payment processing problems and processing delays. Other consumers report that they obtained a payoff balance, remitted the correct payment amount, and assumed their debt had been paid in full, only to discover that their payoff balance was incorrect and their account remained open with a small remaining balance. Consumers stated that they were unaware of the remaining balance until contacted by a debt collector after the loan was severely delinquent or in default. It is possible that this conduct is a violation of federal law.

We also continue to hear from consumers that they experience significant payment processing delays. Borrowers and co-signers complained that when they submitted a payment to pay a loan in full, often it would take up to 10 days for the payment to be posted to the account. Since interest accrues daily, consumers expressed frustration since the delay in payment processing could result in additional interest and cost to the loan. These delays can also create significant complications when refinancing and may constitute a violation of the law.

4.2.2 Obstacles to refinancing specific loans when a servicer handles multiple loans

Generally, if a borrower has several loans serviced by the same company, the servicer will group the loans together for billing purposes. When gradually paying loans back over time, this can be helpful for borrowers who wish to send one monthly payment to cover multiple loans. Unfortunately, many servicers fail to offer clear and transparent methods for consumers to target their payments toward specific loans, especially ones with the highest interest rates. Many servicers simply allocate any extra payments proportionally across all loans in the billing group.[17] In general, borrowers are better off when they seek to refinance the highest-rate loans grouped in an account, rather than ones with lower rates. The failure to process payments in accordance with a consumer's explicit instructions may constitute a violation of federal law, depending on the circumstances.

Consumers report roadblocks when trying to refinance high-rate loans, including problems paying off individual loans on an account that has multiple loans. We have received complaints from borrowers and co-signers expressing frustration that a payment submitted to pay off one particular loan is proportionally allocated across all loans, even if a borrower or co-signer submitted specific instructions along with the payment. Consumers report that servicers are not well-equipped to process payments in accordance with borrower or co-signer instructions.[18]

The inability to direct payments toward specific loans may be particularly problematic for borrowers seeking to refinance. We have heard from borrowers and market participants that legacy student loan servicers' processing policies make this difficult, particularly when servicing systems are designed to proportionally allocate a payoff payment among all loans in an account, rather than following instructions that accompany the payment by directing this payment to a specific loan or loans grouped in an account.

4.2.3 Opportunities to mitigate obstacles and simplify the refinance process

Student loan servicers that do not have processes in place to facilitate simple, accurate, and timely repayment from third parties can create complications for borrowers seeking to refinance. It can also frustrate the ability for new market entrants to meaningfully compete,

[17] For further discussion of payment processing policies, *see* Consumer Financial Protection Bureau, *Dear Colleague Letter on Payment Processing* (February 2014), *available at* http://files.consumerfinance.gov/f/201402_cfpb_letter_payment-processing.pdf.

[18] In 2013, we published a Consumer Advisory that warned student loan borrowers about the financial consequences of some servicers' payment allocation policies. For borrowers seeking to refinance a loan, these same policies may lead to substantial processing errors and additional costs for the same reasons. *See* Consumer Financial Protection Bureau, *Consumer Advisory: Stop Getting Sidetracked by your Student Loan Servicer* (October 2013), *available at* http://www.consumerfinance.gov/blog/consumer-advisory-stop-getting-sidetracked-by-your-student-loan-servicer/.

since bureaucratic barriers can create additional costs, complexity, and customer service challenges, without apparent justification and with self-serving results.[19]

Electronic means for borrowers to request and receive accurate payoff statements. Servicers could increase customer service quality by providing customers with a simple, electronic means to request a payoff statement when borrowers are seeking to pay off or refinance one or more outstanding student loans. Servicers could integrate a payoff request feature into the online servicing platform.

Consumers would benefit if these requests were processed in a timely manner and clearly stated the time period for which the amount due on a payoff statement will remain valid.[20] Relatively simple improvements to information systems would permit this information to be transmitted electronically to a third-party refinance provider with a consumer's consent.

Enhanced payment allocation methodologies for payments made by third parties. Some student loan servicers allow borrowers to direct prepayments to specific loans within a billing group as part of the standard set of features included in consumer-facing online servicing platforms. Consumers have noted that this feature is helpful should a borrower wish to direct a single payment to a specific loan on his account at the time a payment is made. Lenders and servicers can increase customer service quality if borrowers seeking to refinance could easily provide advance instructions for prepayment in anticipation of proceeds from a refinance provider. This change in processing policies can ensure payments made by third-party lenders on borrowers' behalf are allocated accurately, reducing time and costs for the refinance transaction.

4.3 Path Forward

The Consumer Financial Protection Bureau helps to make consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. In addition to accepting complaints,

[19] It is evident that incumbent student lenders and servicers have an economic incentive to create barriers for competition to avoid losing revenue streams from individual student loans that could be refinanced.

[20] Policymakers might consider the applicability of requirements for mortgage servicers related to payoff statements. *See, for example,* 12 CFR § 1026.36(c)(3).

the Bureau launched a student loan servicing supervision program, published consumer education materials for student loan borrowers, and monitored the market for new and emerging risks.

This report’s analysis and findings were shared with the Director of the Consumer Financial Protection Bureau, who expressed concern that student lenders and servicers may not be making even the most modest investments to improve their processes to ensure appropriate levels of customer service. The Bureau intends to continue to monitor this marketplace closely using all appropriate tools to ensure that borrowers are treated fairly.

5. Contact Information

To reach the CFPB's Student Loan Ombudsman:

By email

students@cfpb.gov

By mail

Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

To submit a complaint:

Online

consumerfinance.gov/complaint

By phone

Toll-Free: (855) 411-CFPB (2372)
Español: (855) 411-CFPB (2372)
TTY/TDD: (855) 729-CFPB (2372)

By fax

(855) 237-2392

By mail

US Mail: Consumer Financial Protection Bureau
PO Box 4503
Iowa City, Iowa 52244

Press and media requests

By email

press@consumerfinance.gov

APPENDIX A:

Consumer Financial Protection Bureau
1700 G Street, N.W., Washington, DC 20552

December 19, 2014

[redacted]

Dear Colleague:

I am writing to offer you the opportunity to share information on the options available to your customers who are seeking to release a co-signer from his or her private student loans. In recent months, the Bureau has had discussions with a number of industry participants regarding co-signer release policies.

According to a 2012 study on private student loans, conducted by the CFPB and the Department of Education, over 90% of new private student loans were co-signed in 2011. Given this high level, we are hoping to gain further understanding of co-signer release policies and are writing to offer you the opportunity to provide information on the options available to your customers regarding the release of a co-signer from an obligation.

We hope you can provide input on the questions below. Your responses will help us as we respond to consumer inquiries and develop additional consumer education materials.

If you service loans for multiple clients, please provide information based on each portfolio, if available.

(1) Do you service or own loans where co-signer release was either advertised or included as part of the original promissory note? If so, what are the eligibility requirements for a borrower to receive a co-signer release? Is release automatic or is a formal application required? If an application is required, please include this application in your response.

(2) If a formal application is required, does a borrower need to meet any basic prerequisites before applying (such as a number of on-time payments, etc.)?

(3) How do you communicate co-signer release policies to borrowers? Are these policies and application materials available online? How can prospective borrowers learn about these policies prior to seeking a loan?

(4) When a co-signer is released from a loan, what information is furnished to consumer reporting agencies to describe this event?

If co-signer release is available to your customers, it would also be helpful to understand the extent to which the option is being utilized.

(5) How many loans (by number of loans and unique borrowers) include a co-signer release provision? If multiple co-signer release policies exist, to the extent practicable, please provide samples of each co-signer release policy along with the number of loans and unique borrowers for each co-signer release policy.

(6) Of the loans that offer a co-signer release provision, how many loans (by number of loans and unique borrowers) meet basic eligibility prerequisites required to obtain co-signer release (e.g., number of consecutive timely payments, etc.)?

a. Of these loans, for how many loans (by loan and borrower count) have you contacted the borrower to notify about eligibility?

b. Of these loans, for how many loans (by loan and borrower count) have you successfully executed a co-signer release?

(7) For how many loans (by number of loans and unique borrowers) have borrowers taken steps to release a co-signer?

a. Of these loans, how many loans (by number of loans and unique borrowers) had a co-signer release executed?

b. Of these loans, how many loans (by number of loans and unique borrowers) had a co-signer release denied?

c. For borrowers who applied and were unsuccessful, what eligibility criteria triggered the denial (including frequency of criterion used to justify a denial, by number of loans and unique borrowers)?

(8) Of the loans for which you have successfully executed a co-signer release, how many loans (by number of loans and unique borrowers) had a co-signer release executed automatically (without a proactive request from the borrower)?

(9) How many loans (by number of loans and unique borrowers) contain a provision in the promissory note that permits acceleration of a balance upon co-signer death? Co-signer bankruptcy filing?

This is not a confidential supervisory information request and your response is entirely voluntary. Information provided in response to this request will support the Bureau's ongoing consumer education and market analysis functions. We may make public certain information we gather in response to this request, but we will not identify any particular market participant, and information provided may be subject to other public disclosure to the extent required by law.

If you have any questions about this request, please do not hesitate to let us know. We hope you might be able to respond by February 9, 2015. We hope to share with you anonymized results from responses by various market participants.

We look forward to our continued shared efforts to educate borrowers on how to successfully manage their student debt.

Sincerely,

Rohit Chopra
Assistant Director & Student Loan Ombudsman
Consumer Financial Protection Bureau