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Innovation highlights: Emerging student loan repayment assistance programs

Office for Students and Young Consumers

&

Project Catalyst

Consumer Financial Protection Bureau

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1. Introduction

Over the last decade, the amount of outstanding student loan debt has nearly tripled.[1] Today, more than 44 million Americans collectively owe more than $1.4 trillion in student debt.[2] Rising debt can be a roadblock to a full financial life for many consumers by creating significant financial stress, especially for those struggling to repay.

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[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. Student loan debt, driven by soaring college costs, now makes up 10.6 percent of total household debt, up from 5 percent in the third quarter of 2008. *See* Fed. Res. Bank of NY (FRBNY), *2016 Student Loan Update* (last visited Mar. 7, 2017), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_ 016; Fed. Res. Board, *Consumer Credit* (Jan. 2017), https://www.federalreserve.gov/releases/g19/current/; Fed. Res. Board, *Historical Data: Consumer Credit Outstanding (Levels)* (last updated Aug. 9 2017), https://www.federalreserve.gov/releases/g19/HIST/cc_hist_memo_levels.html. For further discussion, see Consumer Financial Protection Bureau (CFPB), *2016 Annual Report of the CFPB Student Loan Ombudsman* (Oct. 2016), https://www.consumerfinance.gov/documents/1229/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf.

[2] For further discussion, see CFPB, *Prepared Remarks of Seth Frotman Before the California State Senate Banking and Financial Institutions Committee* (Mar. 22, 2017), http://files.consumerfinance.gov/f/documents/201703_cfpb_Frotman-Testimony-CA-Senate-Banking-Committee.pdf.

Significant debt can have a domino effect on major choices throughout a consumer's life, such as the decision whether to take a particular job, to move, to buy a home, and more.[3] For many consumers, student debt can lead to financial hardship, and for some, make traditional milestones in life seem out of reach.[4] Research shows that financial distress can decrease employee productivity, increase their absenteeism, and may even undermine their health.[5] Since the Great Recession, financial distress remains particularly acute among certain segments of the American workforce, including young workers.[6]

A growing number of public- and private-sector actors recognize the far-reaching impact of this unprecedented level of student debt on consumers' lives, and have taken steps to address some of the myriad challenges posed by this mounting debt. These entities include large and small

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3 *See, e.g.*, Gene Amromin, Janice Eberly, & John Mondragon, *The Housing Crisis and the Rise in Student Loans* (Oct. 20, 2016), https://www.fdic.gov/news/conferences/consumersymposium/2016/documents/Mondragon_paper.pdf; CFPB analysis of Fed. Res. Board, *2013 Survey of Consumer Finances*, http://www.federalreserve.gov/econresdata/scf/scfindex.htm (last visited Dec. 29, 2016) (showing that borrowers with student loan debt nearing retirement have less saved than their counterparts without student loan debt); Pew Charitable Trusts, *Student Debt Means Many New Graduates Can't Afford to be Teachers or Social Workers* (Apr. 5, 2006), Project on Student Debt, http://www.pewtrusts.org/en/about/news-room/press-releases/2006/04/05/student-debt-means-many-new-graduates-cant-afford-to-be-teachers-or-social-workers (reviewing studies that show individuals with student loans are less likely to enter into public service fields like teachers and social workers); Gallup Purdue Index 2015 Report, *Great Jobs, Great Lives: The Relationship Between Student Debt, Experiences and Perceptions of College Worth* (2015), http://www.gallup.com/reports/197144/gallup-purdue-index-report-2015.aspx (finding that student loan borrowers are more likely to delay buying a home or car, starting a business, or going to graduate school than their peers without student loan debt).

4 *See* CFPB, *Student Loan Affordability* (May 2013), files.consumerfinance.gov/f/201305_cfpb_rfi-report_student-loans.pdf.

5 *See* CFPB, *Wellness at Work* (Aug. 2014), http://files.consumerfinance.gov/f/201408_cfpb_report_financial-wellness-at-work.pdf [hereinafter *Wellness at Work*].

6 *See id*.

private-sector employers, state and local governments, financial institutions, and colleges and universities (collectively called “providers”). To date, providers have launched a number of programs that promise to help student loan borrowers manage the burden of rising student loan debt.

These student loan repayment assistance programs (“third-party student loan repayment assistance programs” or “third-party repayment assistance programs”) include:[7]

- Employer-paid benefits designed for recruitment or retention (collectively “employer-sponsored third-party repayment assistance programs”);

- Government-administered initiatives to provide financial assistance to citizens with student debt (“state or local government third-party repayment assistance programs”); and

- Targeted student loan repayment assistance programs offered directly to individual borrowers by companies (“direct-to-consumer third-party repayment assistance programs”). These programs are often a marketing tool or product feature offered by issuers of credit cards or other financial products, or created by third-party companies to work in conjunction with financial products. These programs can feature student loan repayment assistance as a “reward” that can assist borrowers in targeting regular, small supplemental payments to accelerate student loan repayment.

The Bureau has observed that the increasing availability of third-party repayment assistance programs may benefit borrowers who are managing student debt. Borrowers can use these

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[7] Readers should note that colleges and universities, particularly law schools, may also offer Loan Repayment Assistance Programs or LRAPs, which may have a similar structure to the programs described in this report. School-based LRAPs may also offer assistance in the form of a forgivable loan that may be cancelled following some required action by the borrower (typically by completing a defined period of “public service” work). For further discussion of public service LRAP programs, see CFPB, *Public Service & Student Debt* (Aug. 2013). S*ee also infra* note 10.

third-party repayment assistance programs to potentially save hundreds or thousands of dollars in interest payments over the lifetime of a loan by prepaying principal on high-rate loan debt. Alternatively, borrowers can increase their monthly financial flexibility by using their benefits to replace all or a portion of their monthly student loan bill.

However, providers of third-party student loan repayment assistance programs ("third-party repayment assistance program providers") observe that making third-party payments toward student loans may be more complicated than issuing employee pay checks or providing other financial benefits, such as making deposits into 401(k) or other retirement accounts. For example, typically, student loan borrowers simultaneously repay multiple student loans that can have different terms, conditions, and repayment schedules, even when a single loan servicer handles all loans owed by a borrower.[8] As discussed later in this report, submitting third-party payments to a variety of student loan servicers is often further complicated by a range of student loan servicing practices and program requirements, including individual servicers' practices related to accepting and processing payments.

The dramatic rise in student debt, an increased understanding about the impact of this debt on consumers' lives, and the complex challenges associated with transmitting student loan payments have driven new opportunities and demand for technical expertise for aspiring third-party repayment assistance program providers. These third-party repayment assistance programs, including large-scale workforce recruitment or retention programs, are frequently administered for third-party repayment program providers by a variety of large and small financial technology companies ("program administrators").

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[8] *See* CFPB, *Defining Larger Participants in the Student Loan Servicing Market - Final Rule* (Dec. 2013), https://www.federalregister.gov/documents/2013/12/06/2013-29145/defining-larger-participants-of-the-student-loan-servicing-market.

Despite the benefits to borrowers from these third-party student loan repayment assistance programs, many of the providers and administrators note a range of practices that could potentially reduce benefits intended for borrowers or create roadblocks for consumer-friendly developments that could better support borrowers who struggle the most to repay.[9]

These entities note that student loan repayment assistance programs may be a promising way to reduce borrowers' overall financial stress, but potential barriers to additional innovation exist. Industry stakeholders highlight a complex process for making third-party payments driven by student loan servicers' legacy information technology, all-too-frequent payment processing errors, and the servicing industry's lack of a standardized process for handling third-party payments.

The next section of this report offers a review of increasingly common approaches to delivering borrower benefits under a third-party repayment assistance program, including an overview of the potential benefits and protections these programs seek to provide to individual student loan borrowers. The third section of the report provides a review of feedback from borrowers, third-party repayment assistance program providers, and program administrators. This section highlights the various opportunities and challenges that all three constituencies face when seeking to maximize third-party repayment assistance program benefits. The fourth section of this report features a discussion about how policymakers and participants in the student loan system can reduce potential barriers to innovation and growth for programs that can provide

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9 Many of these practices are substantively similar to those faced by borrowers and providers during the emergence of the student loan refinance industry – a key center of innovation in the student lending market. In 2015, the Bureau warned that certain servicing practices can "frustrate the ability for new market entrants to meaningfully compete, since bureaucratic barriers can create additional costs, complexity, and customer service challenges, without apparent justification and with self-serving results." CFPB, *Mid-Year Update on Student Loan Complaints* (June 2015), http://files.consumerfinance.gov/f/201506_cfpb_mid-year-update-on-student-loan-complaints.pdf. As discussed further in this report, a similar set of factors may discourage incumbent student loan servicers from making the investments in customer service and information technology necessary to mitigate consumer harm, foster consumer-centered innovation, and strengthen the customer experience.

substantial financial benefits and relief to borrowers facing the weight of historic student loan debt.

2. Common approaches to delivering third-party student loan repayment assistance programs

For more than two decades, third-party student loan repayment assistance programs have been offered to a small subset of student loan borrowers. These programs, historically offered by federal and state government agencies, hospitals, and some not-for-profit employers, have generally been designed to address potential workforce shortages. Most commonly, these programs target certain high-debt graduates of professional schools who pursued "public service" careers (*e.g.*, physicians serving in high-need, under-served areas).[10] These programs

[10] Over time, repayment programs have been offered by public and private entities, including federal and state governments, schools, and employers. These programs have aimed to support a variety of goals, including encouraging individuals to enter particular occupations like public service, provide retention incentives for employees (or borrowers) to remain employed in a certain occupation or position, provide relief to borrowers making high monthly payments relative to their income, and incentivize borrowers to use certain financial products or services. For example, as of October 1, 2015, there were over 50 loan forgiveness and loan repayment programs authorized by Congress to assist borrowers repaying their student loans. Most programs are designed to benefit a specific population of borrowers, like borrowers working in public service or those in high demand health care

are distinct from common repayment plans available to struggling borrowers that provide student loan payment relief, such as the income-driven repayment options provided under federal higher education law to most borrowers with federal student loans, or loan modification programs offered by some private student lenders to borrowers in distress.[11]

2.1 A growing share of student loan borrowers have access to third-party student loan repayment assistance programs

The number and diversity of third-party repayment assistance programs aimed at helping borrowers repay their student loans appear to be increasing.[12] Providers of third-party repayment assistance programs often rely on program administrators to manage the day-to-day operations of their programs. Program administrators are often fintech or technology platform companies with expertise issuing third-party payments to student loan servicers.

Employer-sponsored third-party student loan repayment assistance programs are projected to grow quickly in the future. While data on the growth of employer-sponsored third-party repayment assistance programs is limited, industry-wide surveys of employers show the number of companies offering repayment assistance programs has increased over the last several years.[13] Employer-sponsored student loan repayment assistance is being offered by a wide range of employers, including Fortune 500 companies, small businesses, and state governments, to borrowers from all income-levels and who are facing a variety of financial

fields. Many states offer similar repayment programs for residents of their states. *See* Congressional Research Service, *Federal Student Loan Forgiveness and Loan Repayment Programs* (July 28, 2016) [hereinafter *Forgiveness and Repayment Programs*].

[11] For further discussion, see CFPB, *Student Loan Servicing* (Sept. 2015), http://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.

[12] *See Forgiveness and Repayment Program*, *supra* note 10.

[13] *See infra* notes 14-16.

circumstances and challenges. One industry survey shows that nearly 1-in-10 employers with over 40,000 employees offer a third-party repayment assistance program.[14] In 2017, an industry analyst noted that employers of all sizes now offer third-party repayment assistance programs.[15] Another industry analyst predicted that the number of employers offering third-party repayment assistance programs may grow dramatically in the coming years, with as many as 26 percent of employers offering programs by 2018.[16]

Employers increasingly recognize the value of offering financial well-being benefits. In the wake of the Great Recession, employers observed that financial distress reduces worker productivity, increases absenteeism, and undermines employees' health.[17] For many workers, managing debt and credit wisely has a direct impact on their job. A recent survey found that 40 percent of millennial employees have a student loan and over 80 percent of them say that their student loans have a moderate or significant impact on their ability to meet their

[14] WorldatWork, *Inventory of Total Rewards Programs & Practices* (Jan. 2017), https://www.worldatwork.org/adimLink?id=81143.

[15] Society for Human Resource Management, *2017 Employee Benefits* (2017), https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/2017%20Employee%20Benefits%20Report.pdf (Finding that the number of employers offering student loan repayment programs increased from 3 percent in 2015 to 4 percent in 2017).

[16] Willis Towers Watson, *Employers expand use of voluntary benefits* (Mar. 2016), https://www.willistowerswatson.com/en/press/2016/03/employers-expand-use-of-voluntary-benefits.Industry analysts note generally that the pace of growth for employer-sponsored third-party student loan repayment programs may be contingent on efforts to align the tax treatment of benefits provided to borrowers under these programs to that of other employer provided benefits. Certain employer-provided educational assistance or savings plans may offer tax benefits to employees, however, payment provided under employer-sponsored third-party student loan repayment programs do not share the same favored tax status. *See, e.g.*, 26 U.S.C § 127, 26 U.S.C. § 529.

[17] *See Wellness at Work*, *supra* note 5.

other financial goals.[18] Recognizing that significant student debt can have a domino effect on consumers' financial lives and overall financial wellness, reports suggest an increased interest by both large and small employers in exploring benefits to help their employees pay down student debt or help manage their employees' student debt stress.[19] These programs may be designed to support recruiting efforts, improve retention, or supplement wellness benefits, among other goals.[20]

A growing number of specialized program providers, including many fintech companies, are enabling employers to offer third-party repayment assistance programs. Over the past five years, fintech firms and other program administrators have launched new offerings, seeking to lower the administrative and technological barriers for employers that wish to offer these benefits to their employees.[21] These companies tell the Bureau that new offerings are poised to drive further growth of employer-sponsored third-party repayment assistance programs. Consumers benefit when student loan repayment assistance programs are run efficiently, payments are timely and accurate, and programs are designed to strengthen borrowers' overall financial wellbeing. In this vein, fintech companies describe developing and hosting scalable software platforms that enable employers to contribute to their employees' student loan repayment via a customizable online platform.

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[18] PricewaterhouseCoopers, LLC, *Employee Financial Wellness Survey* (Apr. 2017), https://www.pwc.com/us/en/private-company-services/publications/assets/pwc-2017-employee-wellness-survey.pdf.

[19] *See, e.g., id.; also Wellness at Work*, supra note 5.

[20] *See* PricewaterhouseCoopers, LLC, *Employee Financial Wellness Survey* (Apr. 2017), https://www.pwc.com/us/en/private-company-services/publications/assets/pwc-2017-employee-wellness-survey.pdf; *Wellness at Work*, supra note 5.

[21] In preparation of this report, the Bureau engaged in discussions with a number of fintech and other companies that recently launched these offerings. These discussions informed, in part, the subsequent sections of this report. *See infra* note 38.

2.2 How third-party student loan repayment assistance programs work

As illustrated in Figure 1, third-party repayment assistance program features can vary greatly.[22] Despite variations across programs, these programs share a common structure – third-parties remit student loan payments directly to a student loan servicer, which accepts and applies these payments to private or federal student loans serviced on behalf of lenders or loan holders.

In general, third-party repayment assistance programs:

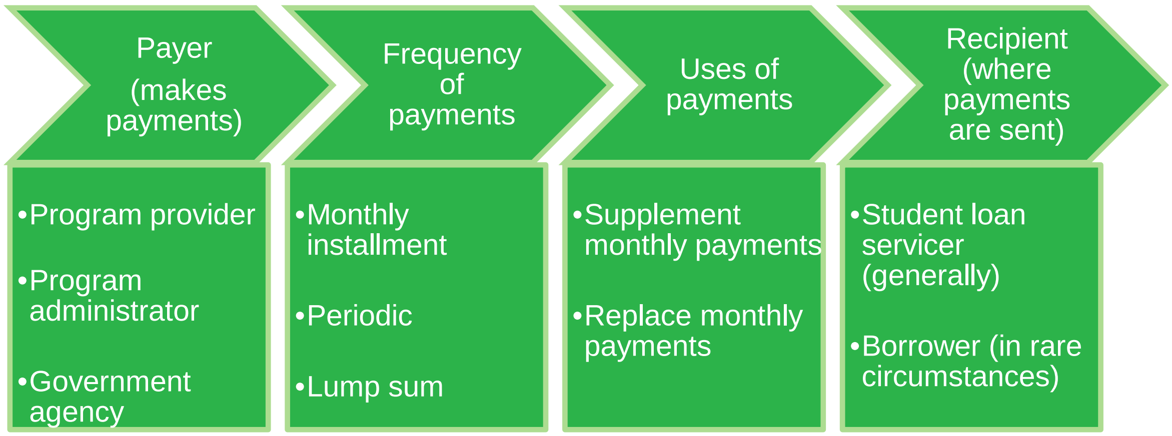
- Make loan payments on behalf of affiliated borrowers eligible for the program;
- Contribute cash payments toward one or more student loans – often made as monthly installments, as periodic non-monthly payments, or as an annual lump sum payment – where payments can either supplement or replace some or all of borrowers' monthly installment payments;[23] and

[22] Readers should note that the third-party student loan repayment programs discussed in this report provide additive benefits to help student loan borrowers repay their student loans. There are a number of other products and services offered by privates companies and non-profit organizations aimed at assisting borrowers in managing their student loans, including those that allow borrowers to authorize their employer to make loan payments using borrowers' earned income or helping federal loan borrowers invoke their right to make affordable payments under federal income-driven repayment plans. Many of these products do not provide additional financial support to borrowers repaying their loans or may require a fee for service. Some 'debt relief' companies charge struggling borrowers upfront fees to manage their student loans. The Bureau, the Federal Trade Commission, and a growing number of state attorneys general have taken action to shut down debt relief companies that violate federal or state consumer law. *See, e.g.*, CFPB, *CFPB Takes Action to Shut Down Illegal Student Debt Relief Scheme* (Mar. 25, 2016), https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-to-shut-down-illegal-student-debt-relief-scheme/; Federal Trade Commission, *FTC Stops Operators of Unlawful Student Debt Relief and Credit Repair Scheme* (May 25, 2017), https://www.ftc.gov/news-events/press-releases/2017/05/ftc-stops-operators-unlawful-student-debt-relief-credit-repair; Illinois Attorney General, *Madigan Files Lawsuits Against Student Loan Debt Relief Scammers* (May 4, 2015), http://www.illinoisattorneygeneral.gov/pressroom/2015_05/20150504.html.

[23] As noted above, the structure of third-party student loan repayment programs can vary greatly by provider. For example, some borrowers may receive a fixed payment toward their loans each month, paid by their employer as a

- Direct payments to borrowers' student loan servicer, generally by paper check or electronic payment.

FIGURE 1: VARYING TYPES OF STUDENT LOAN REPAYMENT ASSISTANCE PROGRAMS



Borrowers with student debt who are enrolled in a third-party repayment assistance program may receive and use their benefits in several ways, including:[24]

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workplace benefit. Other borrowers may receive small periodic payments toward their loans paid by a financial services company as incentive to use a specific financial product for retail purchases, or as an incentive to shop at specific vendors.

[24] Readers should note that, in most cases, entities offering third-party student loan repayment programs encourage borrowers to make regular monthly payments over-and-above the amount of the cash payment made on a borrower's behalf through the program. However, these programs also permit borrowers to continue to receive benefits even when they have not made a regular monthly payment for the full installment payment required on the loan. In effect, some borrowers may treat "supplemental" payments as replacement payments for all or part of their required monthly student loan payment. As discussed throughout this report, borrowers may value the financial flexibility third-party student loan repayment programs provide to pay higher-cost debts or prioritize personal and retirement savings. A 2016 survey of student loan borrowers found that over one-third of respondents would use a repayment assistance program from their employer to cover part of their currently monthly payment. Student Loan Hero, *More Companies Need to Offer Student Loan Help According to the Results of This New Survey* (Apr. 2016),

- **Supplementing regular monthly payments.** Third-party repayment assistance programs may be targeted to help pay down borrowers' student debt faster. When using repayment assistance programs to pay down student loans faster, borrowers continue to make their normal, scheduled monthly payments and use benefits paid through a third-party repayment assistance program as secondary, supplemental payments targeted to quickly pay down loan principal.[25] As noted earlier, borrowers can potentially save hundreds or thousands of dollars over the life of their loan when making additional payments toward their principle over time, particularly when these payments are targeted towards prepaying principal on high interest-rate loans.[26] For example, the city of Memphis, Tennessee provides employees who have student loans with a $50 supplemental loan payment each month as a fringe benefit, targeted to supplement borrowers' regular monthly payment.[27]

- **Replacing all or part of regular monthly payments.** Other third-party repayment assistance programs target payments to help borrowers meet their regular monthly

https://studentloanhero.com/featured/employer-sponsored-student-loan-repayment-assistance-survey-results-2016/.

[25] As noted earlier, the federal tax code considers payments under most employer-sponsored third-party student loan repayment programs as taxable income, and, as a result, this may affect borrowers' eligibility for certain federal protections, such as the calculation of monthly payments under income-driven repayment plans. Subsequent sections of this report provide further discussion on the intersection of third-party student loan repayment programs and federal benefits, including Public Service Loan Forgiveness. *See supra* note 16.

[26] The Bureau has previously noted how servicing practices can hinder borrowers trying to get ahead on their student loan payments. *See, e.g.*, CFPB, *Consumer advisory: Stop getting sidetracked by your student loan servicer* (Oct. 16, 2013), https://www.consumerfinance.gov/about-us/blog/consumer-advisory-stop-getting-sidetracked-by-your-student-loan-servicer/; CFPB, *You have the right to pay off your student loan as fast as you can, without a penalty* (Sept. 2016), https://www.consumerfinance.gov/about-us/blog/you-have-right-pay-your-student-loan-fast-you-can-without-penalty/.

[27] The City of Memphis, *Student Loan Reduction Program* (accessed July 9, 2017), http://www.memphistn.gov/Government/HumanResources/StudentLoanReductionProgram.aspx.

payment obligation.[28] Borrowers using third-party repayment assistance programs to replace part or all of their monthly payment may strengthen their household finances by unlocking greater financial flexibility, particularly early in their careers when cash flow may be more limited. These borrowers can use funds that would normally go toward their student loan payments instead to build wealth, support personal and retirement savings, or accumulate funds for a down payment on a home.[29] For example, the state of New York's "Get on Your Feet" program makes recurring monthly payments on behalf of eligible borrowers targeted to alleviate borrowers' need to make monthly student loan payments for a period of up to two years following graduation, so long as the borrower remains enrolled in a federal income-driven repayment assistance program.[30] In this example, by aligning state resources with federal repayment assistance programs, New York's third-party repayment assistance program is able to replace eligible borrowers' regular monthly payments, providing a cost-effective way for the state to help certain residents establish a strong financial footing when beginning their repayment.[31]

[28] Readers should note that, generally, where a borrower's third-party payment does not cover their full monthly bill, borrowers are still expected to make a supplemental payment to satisfy the remaining balance.

[29] *See, e.g.*, Robert Hiltonsmith, *At what cost? How student debt reduces lifetime wealth,* Demos (Aug. 2013), www.demos.org/what-cost-how-student-debt-reduces-lifetime-wealth.

[30] New York State Higher Education Services Corporation (HESC), *NYS Get on Your Feet Loan Forgiveness Program Fact Sheet* (2016), https://www.hesc.ny.gov/repay-your-loans/repayment-options-assistance/loan-forgiveness-cancellation-and-discharge/nys-get-on-your-feet-loan-forgiveness-program.html.

[31] *Id.* Additionally, in 2017, other states considered legislation to create similar programs. *See, e.g.*, California Kickstart My Future Loan Forgiveness Program, 2017 Bill Text CA AB 379, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB379; Get on Your Feet Loan Forgiveness Program, 2017 Bill Text RI H. 2558, webserver.rilin.state.ri.us/BillText/BillText17/HouseText17/H5889.pdf.

2.3 Opportunities and growing demand for third-party repayment assistance programs as student debt levels continue to climb

As the volume of outstanding student debt continues to grow, there remains a substantial opportunity and continued demand for further expansion of third-party repayment assistance programs, particularly where employers and other third-parties wish to provide greater financial support to student loan borrowers.[32] For the past three years, the number of borrowers repaying federal Direct Loans (the most common type of student loan) grew by more than 1.5 million people per year on average.[33] In total, the Department of Education reports that more than 5 million additional borrowers were repaying Direct Loans in mid-2017 than were in repayment three years prior, and projects that another 1.4 million Direct Loan borrowers will exit their grace period and begin making payments on their loans by the end of 2017.[34]

However, as discussed in the next section of this report, borrowers, third-party repayment assistance program providers, and existing and emerging program administrators describe a range of issues that can reduce program benefits for borrowers, driven in part by inconsistent industry practices, economic disincentives, reliance on outdated technology, and existing policies affecting how student loan servicers accept and process third-party payments. Taken together, if unaddressed, these servicing problems could diminish benefits intended for borrowers and create roadblocks for potentially consumer-friendly developments, especially those that could better support borrowers who struggle the most to repay.

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[32] *See also supra* note 16.

[33] U.S. Dept. of Education, *Federal Student Aid Data Center:* Portfolio by Loan Status (DL, FFEL, ED-Held FFEL, ED-Owned) (accessed on July 10, 2017), https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls.

[34] *Id*.

3. Industry and student loan borrower observations

When making third-party payments on student loans, there are a wide range of operational and technological factors that third-party repayment assistance program providers and administrators must consider. For example, student loan borrowers typically simultaneously repay multiple student loans that can have different terms, conditions, and repayment schedules, even where a single loan servicer handles all loans owed by a borrower. Issuing third-party payments to a variety of student loan servicers can become complicated by a range of student loan industry practices, including servicing practices related to accepting and processing payments.

For the past five years, the Bureau has documented how student loan borrowers face a wide array of servicing breakdowns at all stages of repayment – beginning before they ever need to pay a student loan bill and extending to the payoff process.[35] Student loan servicing problems

[35] *See, e.g.*, CFPB, *Consumer Advisory: Bad information about your college enrollment status can cost you* (Feb. 27, 2017), https://www.consumerfinance.gov/about-us/blog/consumer-advisory-bad-information-about-your-college-enrollment-status-can-cost-you/; CFPB, *Mid-Year Update on Student Loan Complaints* (June 2015), https://www.consumerfinance.gov/data-research/research-reports/2015-mid-year-update-on-student-loan-complaints/.

can affect borrowers of all types, whether they are struggling to manage monthly payments or trying to get ahead by paying down their loans more quickly.[36]

As part of this ongoing work, the Bureau has received a range of complaints from individual student loan borrowers that raise concerns about how student loan servicers process payments in general.[37] These consumer complaints about servicing practices include complaints submitted by borrowers who are the beneficiaries of third-party repayment assistance programs.

To better understand how these issues can affect potentially consumer friendly-innovation, the Bureau engaged with a variety of third-party repayment assistance program providers, program administrators (mainly consisting of fintech companies), and student loan servicers.[38] Through these efforts, the Bureau has heard student loan repayment assistance programs may be a

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[36] *See, e.g.*, CFPB, *CFPB Warns Student Loan Servicing Problems Can Jeopardize Long-Term Financial Security for Older Borrowers* (Jan. 5, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-warns-student-loan-servicing-problems-can-jeopardize-long-term-financial-security-older-borrowers/; *see also* CFPB, *CFPB Report Finds That 9 in 10 of the Highest-Risk Student Loan Borrowers Were Not Enrolled in Affordable Repayment Plans* (May 16, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-finds-9-10-highest-risk-student-loan-borrowers-were-not-enrolled-affordable-repayment-plans/; CFPB, Yo*u have the right to pay off your student loan as fast as you can, without a penalty* (Sept. 26, 2016), https://www.consumerfinance.gov/about-us/blog/you-have-right-pay-your-student-loan-fast-you-can-without-penalty/.

[37] *See infra* note 39.

[38] CFPB's Project Catalyst and the CFPB Student Loan Ombudsman have heard feedback from a range of private- and public-sector actors offering third-party student loan repayment programs, as well as a number of incumbent student loan servicers, including large specialty non-bank financial services companies, smaller non-bank lenders and servicers, and large depository institutions that originate and service private student loans. During our discussions, the Bureau met with nearly a dozen third-party student loan repayment program providers and administrators. Companies that met with the Bureau include third-party student loan repayment assistance providers and administrators making loan payments for fewer than 50 borrowers and several established program administrators making payments for companies with over 100,000 employees. In addition, the Bureau met with student loan companies including entities that originate and service private student loans, or service Direct Loans, ED-held FFELP loans, and privately held (commercial) FFELP loans.

promising tool for helping to reduce borrowers' overall financial stress, but are also an area where potential barriers to additional innovation that could benefit consumers exist.

The following sections of this report identify common observations made by industry stakeholders, along with an inventory of related issues identified in complaints submitted to the Bureau by individual student loan borrowers.[39] This inventory of issues may be helpful in further understanding how programs can operate in a way that will maximize their value for consumers.

3.1 Observations by third-party repayment assistance providers, program administrators, and student loan servicers

Third-party repayment assistance program providers and administrators note student loan servicing breakdowns throughout the repayment process that can delay when borrowers receive credit for their third-party payment. Companies note that if third-party payments are delayed, borrowers cannot maximize their third-party repayment assistance benefits. This is because student loans are "daily simple interest" loans, meaning interest continues to accrue on a borrower's loan balance every day between when a third-party repayment assistance provider or

[39] To illustrate the range of issues faced by student loan borrowers, this report draws upon complaints handled by the Bureau. We also reviewed other information, such as comments submitted by the public in response to requests for information, submissions to the "Tell Your Story" feature on the Bureau's website, and input from discussions with consumers, regulators and law enforcement agencies, and market participants. Readers should note that, where the following discussion draws upon consumer complaints and other qualitative input provided directly by borrowers, it does not suggest the prevalence of the issues described as they relate to the entire student loan market. The information provided by borrowers helps to illustrate where there may be a mismatch between borrower expectations and actual service delivered. We do not verify the facts alleged in these complaints, but we take steps to confirm a commercial relationship between the consumer and the company. *See also, supra* note 38.

administrator initiates a payment and when a servicer credits the payment to a borrower's loans.[40]

Additionally, these companies also note that current servicing practices can create roadblocks for additional potentially consumer-friendly developments that could expand access and availability of third-party repayment assistance programs. Expanded access to these programs could better support borrowers who struggle the most to repay. Student loan servicers also describe contractual features and public policies that underpin some of the servicing practices related to accepting and processing payments highlighted by third-party repayment assistance program providers and program administrators. Collectively, these observations cover three broad categories of student loan servicing problems: 1) program setup, including the reliable flow of information between payer and servicer; 2) payment transmittal; and 3) payment processing.

3.1.1 Establishing payment relationships between providers and student loan servicers

Third-party repayment assistance program providers and administrators note that the benefits of their programs are maximized for consumers when loan payments are quickly accepted and reliably processed by student loan servicers. The initial set-up process (establishing a relationship with the student loan servicer) generally requires third-party repayment assistance program providers or administrators to validate that a borrower has eligible student loans and

[40] For example, consider a borrower who receives a $15,000 annual lump sum loan payment from his or her employer, to be directed toward the borrower's loans with a 4.5 percent interest rate. For each additional day it takes for a third-party repayment assistance provider or administrator and a servicer to transmit, receive, process, and post a payment, this borrower will incur nearly $2 in interest charges. Where a provider offers this benefit to a large number of employees, the collective costs of these delays quickly scale. Consider, for example, a large organization offering a similar benefit to a workforce with 1,000 eligible student loan borrowers. In this example, this single program provider may encounter processing delays that could, collectively, cost its employees nearly $2,000 per day in unnecessary interest charges.

then initiate payment via a method that the servicer accepts (generally either a paper check or an electronic method). After initial validation, third-party repayment assistance program providers or administrators continue to interact with loan servicers by monitoring borrower eligibility for continued repayment benefits and issuing payments.

Where third-party repayment assistance program providers and administrators issue payments for dozens, hundreds, or thousands of borrowers each month, these entities often seek to establish processes for sending batch payments with instructions and receiving electronic confirmation when payments are applied to borrowers' accounts. Some of these entities note that, in other markets, loan servicers or card issuers commonly offer streamlined processes for handling batch third-party payments. However, third-party repayment assistance program providers and administrators express frustration that student loan servicers do not always provide clear or responsive communication when they attempt to establish processes for making payments, potentially leading to costly delays or dead ends for borrowers.

Third-party repayment assistance programs currently comprise a relatively small share of all borrower payments, so determining when and how to engage with third-party providers may not yet be a priority for some servicers. Unlike other markets where incumbents may compete in a race to integrate with emerging technologies and improve product offerings, student loan servicers do not need to compete to attract or retain borrowers based on servicing quality, and do not have the same economic incentive to innovate.[41]

Student loan servicers, third-party repayment assistance program providers, and program administrators identified the following issues when seeking to establish payment relationships between payers and servicers.

[41] Most student loans are placed with private, third-party servicers that are contracted by loan holders that pay monthly servicing fees. The performance metrics and requirements of these contracts may help determine servicers' priorities for investing in system enhancements and service innovations.

Third-party repayment assistance program providers and administrators note how legacy information systems can make processing payments unnecessarily complicated. Consumers benefit when payments are timely, processed quickly, and applied accurately – faster payments can save borrowers unnecessary interest charges on student loans, where, as discussed above, interest accrues daily. However, third-party repayment assistance program providers and administrators note that not all student loan servicers accept electronic payments – the fastest way to make a payment – from third-party payers. Multiple third-party repayment assistance program providers and administrators express frustration that as many as 15 to 30 percent of their monthly payments cannot be sent electronically. Third-party repayment assistance program providers and administrators note that they have to implement expensive manual processes to accommodate limitations in some student loan servicers' antiquated payment processing systems. These manual processes can increase the risk of processing errors and reduce the value of these programs for borrowers. One third-party repayment assistance program provider tells the Bureau that making payments by check quickly increases operating expenses for the payer as well – expenses that could be largely avoided through electronic payments. Another program administrator tells the Bureau that variations in payment handling policies between servicers is so great, as a workaround, it only issues paper checks to ensure all servicers can process payments – potentially increasing handling times, but lowering the likelihood of rejected payments.

Third-party repayment assistance program providers and administrators also describe the lack of procedures for processing batch payments, particularly when making payments to student loan servicers for hundreds or thousands of individual student loan borrowers at a time. These entities express frustration that some servicers do not always cooperate in accepting batch payments, requiring payers to initiate multiple individual electronic or paper transactions, adding unnecessary costs and complexity to the payment process.

Third-party repayment assistance program providers and administrators note that lack of access to consumer-permissioned information prevents more reliable repayment benefits and improved financial management tools. When a borrower and a third-party are both making payments to one or multiple loans in a single account, providers explain that they believe it is helpful for repayment assistance program administrators to have visibility into account information, such as loan balances, interest rates, and repayment plan information, when authorized by the borrower. Some third-party repayment assistance program providers and administrators note that this consumer-permissioned account access can better ensure payments are being made appropriately, especially as loans are near payoff status.

These entities note challenges obtaining this information even in circumstances where third-party repayment assistance program providers and administrators are responsible for making recurring monthly payments on borrowers' behalves. For example, several third-party repayment assistance program providers and administrators tell the Bureau that payments are frequently returned because an individual loan has been paid-in-full, noting that this information is not accessible to these companies prior to notice of a returned payment. These third-party repayment assistance program providers and administrators also note that, in some cases, third-party payments are returned even when a borrower owes other loans serviced by the same company in the same student loan account. These companies further explain that servicers will return funds to the company several weeks later, even as borrowers continue to accrue unnecessary interest.

Servicers note that, in some circumstances, secure authorized third-party access to borrower data may be limited by privacy or information security restrictions, including those required by the Department of Education. This may be particularly relevant where borrower data includes information about loans held by the Department of Education, including Direct Loans.

3.1.2 Transmitting payments

Once third-party repayment assistance program providers or administrators establish relationships with student loan servicers, they begin to transmit periodic payments on behalf of individual student loan borrowers. These entities may seek to transmit hundreds or thousands of payments per month to a variety of different student loan servicers. Third-party repayment assistance program providers and administrators describe a range of potential barriers to accurate and timely transmittal of student loan payments, detailing how variation in servicing practices, routine servicing errors, and servicer rejection of third-party payments may delay borrowers' access to their third-party repayment assistance program benefits, even as student loan interest continues to accrue.

Third-party repayment assistance program providers and administrators note that differences in the way servicers receive and post borrowers' payments can reduce the value of these programs for otherwise similarly situated borrowers, driven solely by the identity of their student loan servicer. Third-party repayment assistance program providers and administrators tell the Bureau that servicers do not always credit borrowers' accounts on the date a payment is received, but rather on the date it is processed and posted, a procedure that can reportedly take up to two weeks. These entities explain that, because student loans accrue interest daily, the gap in time between when a payment is received by a servicer and when it is posted to a borrower's account can cause unnecessary interest accrual. Taken together, third-party repayment assistance program providers and administrators state their belief that servicers may pass on thousands of dollars in interest charges to their customers, particularly if funds are not consistently being retroactively credited to the date received by servicers. These entities point out that lack of consistent payment processing policies across student loan servicers may cause two borrowers at the same employer to receive different value from the same third-party repayment assistance program – despite being entitled to the same monthly student loan payment benefit – solely because each borrower has a different servicer and those servicers follow different procedures.

Some student loan servicers, however, note that they protect their customers from additional interest accrual by retroactively crediting accounts back to the date a payment was received, irrespective of the timeline for payment posting.

Third-party repayment assistance program providers and administrators describe servicing delays and errors that can lead to unnecessary payment rejections. As the Bureau has described in prior publications, payment processing errors are routinely one of the most-complained-about servicing issues noted by student loan borrowers.[42] Similarly, third-party repayment providers and administrators note payment processing errors may cause their payments to be rejected by student loan servicers. Many of these entities note receiving a substantial number of rejected monthly payments (including payments made by paper check and made electronically), despite the payments often being issued to accounts where borrowers' account information has been verified as accurate. Several other program administrators

[42] *See, e.g.*, CFPB, *Annual report of the CFPB Student Loan* Ombudsman (Oct. 2016), http://files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf.

explain that third-party payment errors can surpass one percent of their total payments.[43] One program administrator describes how student loan servicers reject payments at rates higher than payment rejection rates in many other markets.[44] As a result, this company asserts these errors are entirely preventable and can cause real consumer harm when there should not be any. A third-party repayment assistance program provider that issues annual lump sum checks also notes that five to six percent of checks are returned due to "errors." This entity expresses frustration that high error rates create further delays in providing borrowers benefits, ultimately taking away from the value of their program.

Third-party repayment assistance program providers and administrators describe notification delays when payments are rejected. Third-party repayment assistance program providers and administrators tell the Bureau that when servicers reject payments – a common occurrence when, for example payer-provided account information does not match servicer records – slow notification and refund processes can lead borrowers to accrue weeks or more of unnecessary interest. Currently, even when authorized, these entities do not have access to borrower account information, which, these entities assert, would allow them ability to quickly respond to errors.

One program administrator explains that when payments are returned to the program administrator by a servicer, the rejected payment is typically returned by check, even when the initial payment was made by electronic transfer. This entity explains that in some cases a rejected payment can be returned up to 4-6 weeks later. In certain cases, by the time the entity is notified of the error, additional payments have already been issued that may ultimately be rejected too, resulting in additional unnecessary interest charges for borrowers who face a delay in receiving their third-party repayment assistance program benefits.

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[43] One company executive notes that consumers making payments or financial transactions in other financial markets should expect errors on fewer than 1 in 10,000 transactions.

[44] Readers should note that the Bureau has not independently compared data on rejection rates associated with third-party payments to student loan servicers to others.

Additionally, third-party repayment assistance program providers and administrators explain that they are not always notified when a payment is rejected and that rejected payments are not always returned. These entities note instances where servicers have accepted or cashed payments but failed to apply these funds to the correct borrowers' accounts.[45]

Third-party repayment assistance program providers and administrators also note receiving rejected payments that do not identify the borrower for whom the payment was intended, including basic information about the original date of payment, borrower account details, or the check number associated with the payment.

3.1.3 Borrower access to benefits and protections

The timing and process through which student loan servicers track, post, and apply payments greatly affects how much a borrower pays over time. It also can greatly impact borrower progress toward other student loan benefits and protections. Certain benefits available to federal and private student loan borrowers rely on borrowers making a specific number of timely payments. For example, eligible borrowers must make a series of 120 qualifying payments in order to obtain loan forgiveness under the Public Service Loan Forgiveness (PSLF) program.[46] Under PSLF, payments must be made in-full and on time, making accurate payment processing and recordkeeping critical servicing functions for these borrowers.[47] Similarly, borrowers with

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[45] Servicers tell the Bureau that the payment processing policies established for federal loan servicers can result in delayed handling of rejected payments. Servicers may receive limited information about these payments, making it harder to resolve in a timely manner.

[46] For further discussion, see CFPB, *Staying on Track While Giving Back: The cost of student loan servicing breakdowns for people serving their communities* (June 2017), files.consumerfinance.gov/f/documents/201706_cfpb_PSLF-midyear-report.pdf [hereinafter *Staying on Track*].

[47] *Id.*

co-signers on private student loans may be eligible for “co-signer release” after a certain number of on-time payments.[48]

Industry stakeholders note the payment processing challenges discussed in this report limits the ability to offer consumer-friendly innovations designed to help borrowers most in need. In particular, third-party repayment assistance program providers and administrators express reservations about offering programs that replace borrower’s primary payments, noting that they did not believe servicers could consistently and safely process third-party payments for borrowers, particularly for borrowers that rely on accurate payment processing for federal and private student loan repayment benefits.

Third-party repayment assistance program providers and administrators describe inconsistent implementation of payment instructions by student loan servicers, which can reduce benefits intended for borrowers. Third-party repayment assistance program providers and administrators that make payments for borrowers who have multiple loans handled by a single servicer may seek to provide one-time specific or standing instructions governing how to allocate third-party payments, where permitted. These entities explain that instructions help borrowers maximize the benefits of third-party repayment assistance programs and can help borrowers ensure they are making payments that count toward other student loan repayment benefits. However, when these instructions are not followed, borrowers can accrue unnecessary interest charges and can encounter challenges pursuing other valuable repayment benefits.[49]

Several program administrators tell the Bureau that they provide specific payment instructions to servicers, some of which borrowers can customize, accompanying every payment issued, but

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[48] For further discussion of cosigner release, see CFPB, *Mid-Year Update on Student Loan Complaints* (2015), http://files.consumerfinance.gov/f/201506_cfpb_mid-year-update-on-student-loan-complaints.pdf.

[49] For further discussion on payment instructions, see CFPB, *Mid-Year Update on Student Loan Complaints* (2015), http://files.consumerfinance.gov/f/201506_cfpb_mid-year-update-on-student-loan-complaints.pdf.

explain that servicers do not always follow these payment instructions. Several companies note frustration that some enrolled borrowers needed to call their servicers repeatedly to provide the same set of instructions directly.

Third-party repayment assistance program providers and administrators also note that some servicers do not accept standing instructions, requiring updated payment instructions to accompany each payment provided—increasing the need for manual processing and elevating the risk of servicing errors.

Lack of comprehensive, publicly available federal guidance regarding "qualified" payments can limit borrowers' ability to access repayment benefits and may inhibit consumer-friendly innovation. Third-party repayment assistance program providers, program administrators, and student loan servicers tell the Bureau that borrowers who rely on third-party payments to satisfy the entirety or a portion of their normal monthly payment are at risk of missing out on qualifying payments toward PSLF, particularly when payment instructions are not followed. These entities point to program requirements that cause borrowers who pay more than the amount due, including those who make multiple payments in a billing cycle, to forfeit credit toward qualifying payments if their third-party payment "overpays" their monthly bill, or if partial payments are not credited at specific times in the billing cycle.[50] These challenges are driven by distinct, but related, features of the federal student loan repayment process:

- **Paid-ahead status**: Participants in the student loan market note that when payments are issued to borrowers' loans in amounts greater than their monthly payment, the servicer may advance borrowers' due date to a future billing cycle, effectively "paying

[50] *See* 34 C.F.R. § 685.211 (Direct Loans); 34 C.F.R. § 682.209 (FFELP Loans); *see also* U.S. Dept. of Education, *Do you have unanswered questions about the Public Service Loan Forgiveness (PSLF) Program?* (accessed Aug. 15, 2017), https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions [hereinafter *PSLF FAQ*].

ahead" their loans (called "paid ahead" status).[51] Third-party repayment assistance program providers and administrators note that servicers often place borrowers in "paid ahead" status even when servicers are provided with explicit instructions to the contrary. Because a borrowers' account is considered "paid ahead," subsequent payments, whether made by a borrower or a third party, cannot be counted as qualifying payments under PSLF, even if they are both on time and for the correct amount.[52] Program administrators express concern that borrowers receiving third-party payments, particularly where these borrowers are also seeking to pursue PSLF, may remain in "paid ahead" status for an extended period of time and miss credit for months or years of otherwise-qualifying payments. These companies emphasize that lack of third-party access to basic account information, even when authorized by borrowers, compounds this risk.

- **Multiple payments during a single billing cycle**: Third-party repayment assistance program providers, program administrators, and student loan servicers caution that borrowers who rely on third-party payments to replace part of borrowers' required monthly installment payment may also make payments that cannot be counted as qualified payments under PSLF, even if they are made on time and, cumulatively, cover the full amount due in billing cycle. According to the Department of Education, multiple partial payments that total at least the borrower's required monthly payment amount, and received no later than 15 days after the scheduled payment due date, may

[51] *See* 34 C.F.R. § 685.211 (Direct Loans); 34 C.F.R. § 682.209 (FFELP Loans).

[52] The Department of Education notes that "[i]f you make a payment for more than the scheduled payment amount, the excess amount may be applied to cover all or part of one or more future payments, unless you request otherwise. Depending on how much extra you pay, it's possible that your next due date could be a month or more in the future from the date you made the extra payment amount. This is called being 'paid ahead.' If you make subsequent payments during a period when you are paid ahead, those payments won't count toward PSLF." *PSLF FAQ, supra* note 50.

be considered a qualifying payment under PSLF.[53] However, these companies tell the Bureau that the Department of Education does not provide specific guidance on the treatment of payments issued before a borrower's billing cycle opens. Without additional guidance, companies are unclear whether payments made before a borrower's monthly bill is generated will still count towards a qualifying payment. Student loan servicers generally observe that the direction provided by the Department of Education governing the application of multiple payments made during a billing cycle (including applicable federal regulations) are rigid and present operational challenges that make it more difficult for consumers to stay on track for loan forgiveness. Third-party repayment assistance program providers and administrators also note that, to the extent that clear direction does exist, it is not publicly available, and these entities may face challenges obtaining a clear explanation about how to remit these payments in a manner that provides the most benefit to the borrower.

3.2 Issues identified by individual student loan borrowers

Echoing many of the issues highlighted above by third-party repayment assistance program providers and administrators, borrowers have submitted complaints to the Bureau noting that student loan servicing problems related to their third-party repayment assistance program payments can create processing delays that undermine the benefits of their third-party student loan program and make it difficult to coordinate with other federal student loan benefits. Borrowers describe encountering these servicing problems when attempting to set up their participation in a third-party repayment assistance program, during the transmittal of third-party payments, and when third-party payments are processed, applied to their accounts, and tracked for the purpose of determining eligibility for borrower benefits and protections.

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[53] The Department of Education notes that "[i]f you make multiple partial payments that total at least your monthly payment amount, and you make those payments no later than 15 days after the scheduled payment due date for that month's payment, the series of partial payments will count as a one qualifying payment for PSLF." *PSLF FAQ*, *supra* note 50.

Borrowers report enrollment delays for third-party repayment assistance programs. As noted above, borrowers are often eager to access benefits provided by repayment assistance programs. However, enrollment delays caused by slow responses from servicers can cause borrowers to lose out on valuable student loan payments made on their behalf by providers. Borrowers eligible for student loan repayment benefits complain to the Bureau of delays lasting months, despite frequent attempts to help facilitate communication between third-party repayment assistance program providers and student loan servicers.

Borrowers complain that servicing errors during transmittal of third-party payments can take months to years to resolve. Borrowers tell the Bureau that payment errors can take extended periods of time to resolve while their loans continue to accrue interest. This is particularly true where servicers accept a third-party payment made by a repayment assistance program provider or administrator, but fail to credit the funds to a borrower's student loan account. For example, one borrower tells the Bureau that a large lump sum payment issued by his employer in January 2015 was accepted by his servicer but never applied to their loan. It took until the end of 2016 for the funds to be properly applied to the borrower's account. Compounding the economic harm caused by this error, this borrower describes how he paid income taxes on his lump sum third-party payment in 2015, but received none of the benefits of a lower principal in the interim. Another borrower employed as a healthcare provider tells the Bureau that one servicer cashed but never applied a $16,000 lump sum payment from her employer toward their loans, resulting in a four month delay before the payment could finally be processed and correctly credited to her account. With a 4.5 percent interest rate, this error forced the borrower to accrue an additional two dollars per day in debt service – almost $250 in unnecessary interest charges, in total.

Borrowers also complain of recurring payment processing errors that make it difficult to coordinate their benefits under federal loan repayment programs. Borrowers echo complaints by third-party repayment assistance program providers and administrators, explaining that servicers allocate payments incorrectly, despite providing payment instructions or confirming payment instructions that accompany third-party payments. In addition to creating unnecessary interest charges, payment processing errors can complicate eligibility for or progress toward other benefits and protections intended to assist certain borrowers.

As described in detail above, borrowers making payments while in "paid ahead" status cannot get credit for these payments toward PSLF. Borrowers complain that, after providing payment instructions to their servicer indicating that excess payments should not advance their due date, student loan servicers may not follow these instructions, and, instead, will "pay ahead" their loans. Other borrowers, particularly those with automatically debited payments, complain that they are never informed by their servicer that payments made while in "paid ahead" status are not qualifying payments. In some cases, borrowers note that they do not discover that timely monthly payments are not "qualifying" for PSLF until years later, when they learn that several months or years of prior payments did not result in progress toward loan forgiveness. As one borrower seeking PSLF explains:

> *I am a nurse and have worked full time since 2012 aside from maternity leave. I was fortunate to qualify for [employer-based loan repayment assistance], which helps me make payments for 3 years, providing me more money each month than I am required to pay to [my servicer]. Recently I submitted my Public Service Loan Forgiveness (PSLF) certification but was shocked to see that I have only made 14 qualifying payments in the 4 years that I have been working at my [employer]. [My servicer's] justification is that the extra money that I paid on top of what was due, automatically was put towards the next month, disqualifying ALL of those payments from PSLF. . . . I find it outrageous and disheartening that by default, overpaying your bill each month would result in "Paid Ahead" disqualifying payments from the PSLF program, unless I had taken additional steps to personally request that the money not be put towards the following month. I feel like the last 3 years of my payments have been wasted, and my [employer-based loan repayment assistance] program actually extended my PSLF months. This results in 3 years of additional payments, which is real money.*[54]

Additionally, some programs offered by federal agencies only permit funds to be applied to loan principal and may also prohibit payments to private loans, causing borrowers additional headaches and risking their eligibility for repayment benefits when servicers do not follow

[54] For further discussion about challenges for consumers pursuing PSLF when "paid ahead," see *Staying on Track*, *supra* note 46.

payment instructions.[55] One borrower working for the federal government and receiving federal loan payments under a Congressionally authorized repayment assistance program expresses concern that his servicer was jeopardizing his benefit by ignoring his standing payment allocation instruction:

> *As part of the program, the government would provide a certain amount each month to pay back my loans. By law, ONLY my [federal] loans were eligible for the program -- NOT my private loans. I soon found out that despite having all the correct information, [servicer] was applying my federal loan payments to my [private] loans. I called them and had them apply to the money toward the [federal] loan. Then it happened again the next month. And then again the month after that. I spent hours on the phone with [servicer] each month and no one at [servicer] could fix the problem nor explain why it was happening... The problem persisted literally for YEARS and was never fully resolved. I complained often enough that [servicer] eventually assigned me a dedicated customer service rep whose job it was to reapply the payments each month (she told me that she had a reminder in her outlook calendar. That band-aid solution worked for a few months until the customer service rep left [servicer] (no one from [servicer] informed me) and then I was back to square one.*[56]

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[55] *See, e.g.*, Office of Personnel Management, *Student Loan Repayment Program* (accessed July 12, 2017), https://www.opm.gov/policy-data-oversight/pay-leave/student-loan-repayment.

[56] CFPB-2015-0021-0320 (July 2015), https://www.regulations.gov/document?D=CFPB-2015-0021-0320.

4. Policy considerations

As noted earlier in this report, rising levels of student loan debt and growing monthly payments may present financial challenges for individual consumers and may pose risks for the broader economy. Third-party repayment assistance programs targeted to assist borrowers with high levels of student debt may offer an opportunity to ease student debt burdens for some borrowers. Policymakers and market participants may wish to consider taking a number of steps to develop programs that can best meet the needs of borrowers. Taking steps to address student loan servicing practices could improve the repayment experience for all borrowers and foster further growth of third-party repayment assistance programs.

4.1 Recommendations for student loan companies and policymakers

In particular, borrowers could benefit from immediate action by policymakers and market participants to better ensure accurate, timely, and transparent processing of third-party payments – measures that could address many of the issues described in this report. These steps could include:

- **A clear and easily accessible process for third-parties to direct electronic payments to borrowers' individual student loans.** Borrowers benefit when third-parties can quickly and easily make electronic payments when authorized to do so on borrowers' behalves. When third-party repayment assistance program providers and administrators struggle to find information on third-party payment policies, borrowers may lose out on months of valuable repayment benefits, driven by handling and processing delays. Student loan servicers can make it easier for borrowers to maximize third-party repayment benefits by developing and publicly communicating third-party payment processing procedures and consider creating a streamlined process to authorize third-party payers to make electronic payments on borrowers' behalves.[57] Additionally, borrowers enrolled in third-party repayment assistance programs would likely benefit from clear, proactive communication to program providers and administrators by servicers regarding any changes to payment processing policies. This may mitigate potentially negative consequences for the borrowers who rely on a third-party repayment assistance program as the primary source of loan payments, and who would become delinquent should their third-party payments be misdirected following a change in payment processing policies.

- **Consistent, industry-wide standards for processing payments, including payments made by third parties.** Borrowers depend on student loan servicers to handle payments, and process payments and payment instructions, in a way that facilitates successful repayment, maximizes value to consumers, and ensures consistency. Daily accrual of interest can reduce the benefit of third-party repayment programs if a payment is not posted quickly and accurately. As the Bureau has previously stated, all borrowers would be well served by a consistent, industry-wide approach to

[57] As noted above, the programs discussed in this report provide additive benefits to borrowers repaying student debt. 'Debt relief' companies may charge borrowers high upfront and recurring fees to enroll borrowers in free, widely available federal consumer protections. The Bureau, the Federal Trade Commission, and a growing number of state attorneys general have taken action to shut down debt relief companies that violate federal or state consumer law. *See supra* note 22.

payment processing.[58] Borrowers and, consequently, third-party repayment assistance program providers and administrators, may be well served if:

- **Servicers adhere to third-party payment instructions.** Borrowers should be able to expect payments made on their behalf by a third-party to be handled in a manner consistent with any instructions provided by the entity or person making the payment, unless those instructions conflict with borrower instructions. Borrowers would benefit from servicers accepting and honoring standing instructions – ensuring that servicers have a clear understanding of borrowers' preferences, even where no new instructions accompany a student loan payment. If no new instructions have been provided by a payer, the borrower should expect the payment to be handled in accordance with any previously provided standing instructions.

- **Payments are applied by servicers in a way that saves borrowers the most money and protects eligibility for federal repayment benefits.** Unless otherwise instructed by the borrower or payer, generally borrowers benefit when any third-party payment in excess of the total monthly amount due is directed to the loan bearing the highest interest rate. Where the borrower has provided instructions otherwise, a third-party payment should not place an account in "paid ahead" status.[59] If a third-party payment is sufficient to pay off a

[58] *See, e.g.*, CFPB, *Student loan servicing* (Sept. 2015), files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.

[59] *See* U.S. Dept. of Education, *Public Service Loan Forgiveness* (accessed Mar. 9, 2017), https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service ("If you make a monthly payment for more than the amount you are required to pay, you should keep in mind that you can receive credit for only one payment per month, no matter how much you pay. You can't qualify for PSLF faster by making larger payments. However, if you do want to pay more than your required monthly payment amount, you should contact your servicer and ask that the extra amount not be applied to cover future payments. Otherwise, you may end up being paid ahead, and you can't receive credit for a qualifying PSLF payment during a month when no payment is due.").

loan in full, generally borrowers would benefit when any remainder is directed to each successive loan bearing the next highest interest rate, until the payment is exhausted.

- **Third-party payments are credited effective to the date on which the servicer receives the funds.** To avoid unnecessary interest charges, borrowers benefit when third-party payments are accurately credited to borrowers' accounts as of the date a payment is received by the servicer, including both payments sent by U.S. mail and electronic payments.

- **Payment processing errors are resolved quickly and transparently.** Borrowers, third-party repayment assistance program providers and administrators, and student loan servicers benefit when errors are quickly resolved and payments are reprocessed accurately. Borrowers benefit when servicers promptly notify third parties if a payment cannot be applied to a borrower's account, and when erroneous or denied electronic payments are promptly returned through ACH or wire transfer. All stakeholders benefit when servicers provide the payer with basic information about any error, including information about the identity of the account to which the payment was directed and an explanation of the payment error. Borrowers would also be well served by a more consistent and transparent approach to addressing payment errors and communications around error resolution, including errors related to third-party payments.

- **Modernize and publish clear direction for servicers and third-party payers related to payment processing, particularly where payments affect existing federal student loan benefits and consumer protections.** When third-party repayment assistance programs and existing federal protections work in concert, the benefit to consumers can be large – particularly for borrowers working in public service professions. As described in detail above, the Higher Education Act, implementing rules, guidance, and federal contracts affect aspects of servicers' policies and procedures related to payment processing. This is particularly true where payment processing policies intersect with federal loan forgiveness programs, including PSLF. In particular, servicers, third-party repayment assistance program providers and administrators, and borrowers may benefit from clear, updated direction related to:

- **Paid-ahead status.** Where borrowers are pursuing PSLF, this can cause future on-time monthly payments to be deemed ineligible. Absent changes to federal rules requiring borrowers be put into "paid ahead" status, borrowers would benefit from clearer direction related to communications between servicers and payers, particularly when a borrower has been placed in paid ahead status and has also indicated intent to pursue PSLF. Borrowers, third-party repayment assistance program providers, administrators, and student loan servicers may all benefit from greater clarity when determining which payments "qualify" for PSLF, particularly where a borrower is receiving regular third-party payments made on their behalf and may be unaware that their loan status has jeopardized their pursuit of loan forgiveness – any effort to modernize regulations or guidance governing this process should consider this need for additional flexibility.

- **Multiple payments in a single billing cycle.** As described above, many borrowers participating in third-party repayment assistance programs will make payments on their own, in addition to those third-party payments made by their program provider. Consequently, servicers must determine how to aggregate and credit multiple payments made during a single billing cycle for the purposes of tracking borrower progress toward borrower benefits and protections that require borrowers to make a series of "on time" monthly payments, such as for PSLF. Borrowers, providers, and student loan servicers would all benefit from the publication of direction developed by the Department of Education, ensuring that all parties are following the same set of guidelines and minimizing the likelihood that borrowers will inadvertently forfeit qualifying months of payments toward PSLF when they elect to participate in a third-party repayment assistance program. Any effort to modernize regulations or guidance governing this process should also consider the unique challenges presented by a growing number of third-party payments and provide additional flexibility to ensure that this process appropriately protects the greatest number of student loan borrowers.

- **Explore ways to improve safe and secure access to student loan data by properly authorized third parties.** As previously noted by the Bureau, the secure sharing by consumers of financial account data has begun to power a wave of new financial products and services. For example, consumer-permissioned data access has formed the basis for personal financial management tools and mechanisms to reduce the time to verify consumers' accounts so benefits can be delivered more quickly and accurately.

Borrowers participating in student loan repayment plans may benefit from a safe and secure, real time source for information about borrowers' student loan accounts for authorized third-parties. Greater transparency in this regard can allow third-party repayment assistance providers and administrators to deliver payments in a more timely and accurate manner. Additionally, secure, authorized third-party access to student loan information could provide properly authorized third parties with real time information about payment processing, potentially reducing the costly delays associated with payment errors.

4.2 Recommendations for third-party repayment assistance program providers and administrators

Support all borrowers struggling to repay student loan debt. Student loan debt affects broad segments of the population. For example, the Bureau has noted the fastest growing segment of borrowers is older Americans, a population segment increasingly borrowing (or co-signing) student loans used to finance their children's and grandchildren's college education.[60] Bureau reports show these borrowers experience many of the same financial struggles as other

[60] *See* CFPB, *Old consumers and student loan debt by state* (Aug. 2017), *http://files.consumerfinance.gov/f/documents/201708_cfpb_older-consumers-and-student-loan-debt-by-state.pdf;* CFPB, *Snapshot of Older Consumers and Student Loan Debt* (Jan. 2017), https://www.consumerfinance.gov/data-research/research-reports/snapshot-older-consumers-and-student-loan-debt/ ("The number of consumers age 60 and older with student loan debt has quadrupled over the last decade in the United States, and the average amount they owe has also dramatically increased. This trend is not only the result of borrowers carrying student debt later into life, but also the growing number of older consumers participating in the financing of their children's and grandchildren's college education.").

borrowers with student loan debt.[61] Some federal agencies permit these borrowers to earn benefits under their own third-party repayment plans, noting it is a valuable tool for retaining very experienced employees.[62] Many program administrators tell the Bureau these borrowers are not always eligible to receive benefits through existing employer programs. Providers, including individual employers, state agencies, and others, should consider whether expanding these programs to better serve borrowers with parent loans and borrowers who co-sign private student loans can further achieve their objectives.

Additionally, many third-party repayment assistance programs only issue payments to student loan servicers, putting benefits out of reach for the more than eight million student loan borrowers in default who are struggling to repay $140 billion in debt. These borrowers' loans are managed by a student loan debt collector and not a student loan servicer.[63] Third-party benefits could be particularly impactful in breaking what the Bureau has identified as a disturbing cycle of default for these borrowers.[64] The Bureau will continue to engage with third-party repayment assistance program providers and administrators to identify opportunities for amplifying the positive effects of their programs by expanding program eligibility to defaulted borrowers.

Ensure access to existing federal benefits and protections for student loan borrowers and provide tailored enrollment information to employees. In 2013, the

[61] *See supra* note 60.

[62] *See* U.S. Office of Personnel Management, *Federal Student Loan Repayment Program Calendar Year 2014* (Sept. 2015), https://www.opm.gov/policy-data-oversight/pay-leave/student-loan-repayment/reports/2014.pdf.

[63] After a borrower defaults on a federal or private student loan, the loan is then transferred or placed with a collection agency. For further discussion on student loan collections, see CFPB, *Annual Report of the CFPB Student Loan Ombudsman* (Oct. 2016), http://files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf.

[64] *See* CFPB, *New data documents a disturbing cycle of defaults for struggling student loan borrowers* (May 2017), https://www.consumerfinance.gov/about-us/blog/new-data-documents-disturbing-cycle-defaults-struggling-student-loan-borrowers/.

Bureau recommended that government agencies, not-for-profit employers, and other public service organizations seeking to offer third-party payments consider tailoring these programs to support borrowers pursuing existing federal “payment relief” and loan forgiveness programs, including income-driven repayment plans and PSLF.[65] As noted previously, the state of New York’s “Get on Your Feet” program is structured in this manner, but third-party repayment assistance program providers, program administrators, and student loan servicers tell the Bureau that this structure is relatively rare. Borrowers working in public service would benefit from third-party repayment assistance programs customized to replace their required income-driven payments, rather than receiving supplemental or lump sum payments that pay more than is required each month. This can provide employees working in public service both short-term payment relief and loan forgiveness over the long-term – guaranteeing that borrowers who spend at least a decade serving their communities are not also overburdened by student loan debt.[66]

Providers and administrators offering programs designed to supplement borrowers’ monthly payment should still establish a payment process that takes existing payment processing procedures into account, and also inform beneficiaries of issues that could arise, particularly for borrowers that may be eligible for PSLF. As discussed earlier in the report, many borrowers may choose to use their program benefits to replace their normal monthly payments, even when participating in a program designed to supplement monthly payments.[67]

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[65] CFPB, *Public Service & Student Debt* (2013), http://files.consumerfinance.gov/f/201308_cfpb_public-service-and-student-debt.pdf.

[66] CFPB, *Public Service & Student Debt* (2013), http://files.consumerfinance.gov/f/201308_cfpb_public-service-and-student-debt.pdf. In 2013, the Bureau recommended that public service organizations consider this approach. Since that time, a number of organizations have expanded third-party student loan repayment programs, but this approach has not been widely utilized.

[67] *See supra* note 22.

Finally, as third-party repayment assistance programs continue to grow, program providers and administrators may also wish to make it easier for borrowers to consider their entire financial picture when participating in these programs. Consumers' decisions about student loan repayment are not made in isolation – household balance sheets include more than just student loans, and borrowers must make tradeoffs that consider their total financial circumstances. To maximize program benefits, third-party repayment assistance program providers may wish to support this holistic decision-making process by advising borrowers to consider their entire financial situation when choosing whether to have a provider supplement or replace their student loan payment. This approach can help borrowers better evaluate how to maximize their benefits, particularly where trade-offs include participation in other employer-sponsored benefits, such as 401(k) contributions with an employer match.

5. Conclusion

Taken together, the challenges that consumers, third-party repayment assistance program providers, and program administrators face when initiating, transmitting, and processing third-party payments could reduce benefits intended for borrowers, potentially causing borrowers to miss out on the maximum value of such programs, or create roadblocks for consumer-friendly developments that could better support borrowers who struggle the most to repay.

As third-party student loan repayment assistance programs are offered to a growing number of student loan borrowers by employers and other providers, program providers and administrators may wish to continue to consider the unique and varying needs of the millions of student loan borrowers who may stand to benefit from such offerings. The diverse range of consumer circumstances and industry practices, including servicing breakdowns, should be at the forefront as companies, employers, government agencies, and others weigh best practices and program features. Importantly, student loan borrowers often must consider a range of repayment factors, from determining how to pay down multiple loans and which loan to pay down first, to evaluating repayment options such as income-driven payments or loan forgiveness programs for public servants.

CFPB's Project Catalyst and the Office for Students and Young Consumers will continue to assess the effects, and potential benefits and risks, of innovation as they relate to the issues identified in this report. In particular, the Bureau will continue to work to strengthen student loan servicing practices to better protect student loan borrowers. The Bureau will also continue to foster the development of innovative financial services that benefit student loan borrowers.