Prepared Remarks of Seth Frotman
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Thank you for inviting me here today. This is now my seventh time addressing the Army JAG School, and I can tell you unequivocally that this has become one of the most meaningful events that I participate in over the course of the year. I appreciate the opportunity to provide you with an update on the progress made in providing better consumer protections regarding student loan servicing for members of the military, and to share with you the unique and ongoing challenges that military student loan borrowers face. Most importantly, my visit here serves as a reminder of how we need to redouble our efforts to make this market work for those who do so much for this nation.

Whether because of constant and consistent moves, deployments, or simply because of the pace of military life, military families face unique financial challenges. And, when servicemembers pay sky-high rates on a predatory car loan or navigate a customer service minefield when trying to get answers about a student loan, greater strain is placed on military families than on their civilian counterparts.

During my time at the Bureau, I have also seen first-hand the role that JAG Legal Assistance Attorneys play on a daily basis, and how important you are not only to the financial readiness of our soldiers, but also the military readiness of the United States.

Prior to serving as the Bureau's Student Loan Ombudsman, I was privileged to serve as an advisor to Holly Petraeus in our Office of Servicemember Affairs. Our work with servicemembers and their families solidified in my mind what you, as JAG lawyers, know well—financial readiness is imperative to ensure military readiness. I'm proud to have been a part of Holly's work identifying the significant student loan servicing breakdowns faced by military borrowers and calling for necessary reforms that were subsequently implemented by the Department of Education. The military complaints we received—many from JAG Officers like you—underpinned a lot of hard work across the federal government and led to nearly 78,000 servicemembers receiving over $60 million in restitution for violations of their Servicemembers

Civil Relief Act (SCRA) protections.[1] This victory could not have been achieved without your engagement in this process.

So, thank you for what you do every day to support soldiers and their families. And thank you for the opportunity to join you today to discuss student loan debt—a growing concern for servicemembers, veterans, and military families across the country.

ADVANCES IN MILITARY BORROWER PROTECTIONS

Over these last five years, we have worked to ensure that the military community's concerns were heard and that actions were taken to address them. As we discussed last year, perhaps the most significant movement we saw was related to improvements in the invocation process for student loan borrowers under the SCRA.

Servicemembers Civil Relief Act Update

In the wake of the settlement between Navient, the Department of Justice, and the FDIC, we saw a dramatic shift in the ability of servicemembers to successfully invoke their interest rate protections under section 527 of the SCRA.[2]

As most of you in this room know, the Department of Education directed holders and servicers of federal student loans to match their loan portfolio against a Department of Defense database, known as the Defense Manpower Data Center (DMDC), in order to proactively identify eligible borrowers serving on active duty and award them the interest rate reductions to which they are entitled under the SCRA. As I noted last year, the number of military borrowers accessing their rate cap under the SCRA increased more than tenfold between 2013 and 2015—at least 300,000 more military borrowers have obtained the SCRA rate cap as a result of this policy change, and we know this number continues to grow.

Since I was here last, there have been additional developments around these processes — the Department of Education instructed its loan servicers to retroactively award this interest rate protection for *all* student loan borrowers who served on active duty, going back to 2008 when this critical protection was extended to federal student loans. According to Secretary King, the

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[1] *See* U.S. Department of Justice, *Nearly 78,000 Service Members to Begin Receiving $60 Million Under Department of Justice Settlement with Navient for Overcharging on Student Loans* (May 28, 2015), *available at* http://www.justice.gov/opa/pr/nearly-78000-service-members-begin-receiving-60-million-under-departmentjustice-settlement.

[2] *See* id.; Federal Deposit Insurance Corporation, *FDIC Announces Settlement with Sallie Mae for Unfair and Deceptive Practices and Violations of the Servicemembers Civil Relief Act* (May 2014), *available at* http://www.fdic.gov/news/news/press/2014/pr14033.html.

Department of Education is "automatically provid[ing] credit for any servicemember who was on active duty . . . including servicemembers who did not apply for the benefit."[3]

On this issue, we continue to see signs of progress across the student loan servicing industry. We have heard that some companies servicing both federal and private student loans have now implemented this process company-wide, proactively identifying servicemembers and automatically awarding this protection for all of their eligible military customers, in turn making life easier for military borrowers engrossed in active duty life who don't have the time to sit on the phone and to invoke their rights repeatedly. These actions build upon efforts by the Department of Justice to make life easier for military borrowers through cross-enterprise invocation of SCRA protections. Additionally, we are seeing private student lenders draw on the best practices put in place by the Department of Education by proactively identifying military borrowers and affirmatively applying military borrower protections—a practice we hope all market participants will adopt.

STRONGER PROTECTIONS ON THE HORIZON

In other positive steps, the Department of Education has announced its intent to build new borrower protections in the student loan servicing market.[4] While not happening tomorrow, this is good news for you and your clients.

Under the Department's proposed servicing contracts, military borrowers will have direct access to high-touch servicing staff specially trained in benefits and protections available under federal law to military borrowers and veterans.[5] These specialists will have extensive training in the technical benefits that military borrowers struggle to get servicing personnel to understand.[6]

We know that some in the servicing industry are already stepping up and creating these specialty units in advance of the Department's new contracts. These companies realize that there is an immediate need for better practices to serve the military community, and there is an opportunity for the rest of the market to better serve their military and veteran customers by implementing similar practices today.

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[3] *See* U.S. Senate Committee on Health, Education, Labor and Pensions, *Questions for the Record – Responses from Dr. John King, Secretary of the U.S. Department of Education* (Feb. 26, 2016), *available at* http://www.help.senate.gov/imo/media/doc/King_Response_QFRs.pdf.

[4] *See* U.S. Department of Education, Memorandum from U.S. Department of Education Under Secretary Ted Mitchell on *Policy Direction on Federal Student Loan Servicing* (July 20, 2016), *available at* http://www2.ed.gov/documents/press-releases/loan-servicing-policy-memo.pdf.

[5] *Id.*

[6] *Id.*

CHALLENGES STILL ABOUND

I don't have to explain to anyone in this room that, despite the incremental progress being made in improving the accessibility of these benefits for all servicemembers, student loan servicing breakdowns continue to be a major challenge. To date, the CFPB has received over 1,600 complaints from servicemembers, veterans, and their families related to student loan servicing issues. Military borrowers continue to be plagued by student loan servicing breakdowns and antiquated policies that continue to impose too large a cost and take too large a toll on our country's servicemembers. The men and women who sacrifice so much for this nation deserve better.

Military deferment

The Bureau hears from hundreds of student loan borrowers a day. Outside of just the military context, one of my top concerns is the number of borrowers in financial distress who report being urged by servicing personnel to temporarily suspend their monthly payments using forbearance—an option that might be cheaper or easier for a servicer, but may not be in the borrower's best long-term financial interest.[7] Unfortunately, we have concerns that the misaligned incentives that may underpin this practice also carry over to the administration of protections and benefits for members of the military.

Military deferment may be a useful tool for active duty military borrowers under certain circumstances. However, we have concerns that it is being overused by servicers, in place of alternative repayment options that would set military borrowers up for long-term success.

We have heard from one large servicer that, on average, military borrowers remain in military deferment for 30 months. That means military borrowers are potentially missing out on two and half years of interest subsidies and repayment progress under an Income-Driven Repayment (IDR) plan. This may be a particularly costly loss for those borrowers who are seeking Public Service Loan Forgiveness (PSLF).

For example, consider an officer with an average student debt burden who enters the service following graduation and is immediately placed in a military deferment of average duration. Over the two and a half years that the borrower is sitting in deferment, she could lose out on

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

over $19,000 in savings she would have received under an income-driven plan and public service loan forgiveness.[8]

Military borrowers are uniquely situated to receive the benefits of PSLF—the average soldier stays in the military for seven years, putting them more than halfway towards meeting the requirements to receive student loan forgiveness.[9] When combined with the fact that 25 percent of veterans work in public service following their military service, the loss of qualified payments during active duty is even more costly.[10]

Servicemembers deserve better from their servicers. In the future, the Department of Education will require servicers to make live contact with military borrowers in deferment for over six months in order to discuss alternative repayment plans, like income-driven repayment plans and opportunities for loan forgiveness.[11] We encourage all servicers to adopt this practice today.

EASING THE BURDEN ON MILITARY BORROWERS

The clients you see every day are focused on their families, their mission, and their service to our country. When preparing for deployment or a PCS move, military borrowers should not have to battle with their loan servicer over endless paperwork, student loan interest rates, or repayment plan recertification. We've seen how the automation of the SCRA invocation process can alleviate some of the unique challenges military borrowers face.[12] However, there remains considerable work to be done.

- **Zero percent interest entitlement**. Last time I was here, we talked about how thousands of military borrowers continue to lose out on one of the most valuable protections guaranteed to those serving in the most dangerous settings – the ability of servicemembers serving in an area of hostile fire to reduce their federal student loan

[8] Assume an officer with $25,000 in Unsubsidized Federal Loans at six percent interest, entering active duty in 2012 at O-1 with one dependent. If the officer remains in the military for ten years, under Pay As You Earn, she could qualify for loan forgiveness after 120 payments totaling $19,882. If this same officer is placed in military deferment for 30 months, and then makes standard monthly payments thereafter, she will pay a total of $39,120.

[9] *See* Congressional Budget Office, *The All-Volunteer Military: Issues and Performance* (July 2007), *available at* https://www.cbo.gov/sites/default/files/110th-congress-2007-2008/reports/07-19-militaryvol_0.pdf.

[10] *See* Bureau of Labor Statistics, U.S. Department of Labor, *Employment Situation of Veterans Summary* (Mar. 22, 2016), *available at* http://www.bls.gov/news.release/vet.nr0.htm.

[11] *See supra* note 4.

[12] *See* Prepared Remarks of Seth Frotman, Deputy Assistant Direct and Acting Student Loan Ombudsman for the Consumer Financial Protection Bureau, Judge Advocate General's Legal Center and School (Nov. 3, 2015), *available at* http://static.politico.com/26/7d/516bee864088891f9aef8a406f58/prepared-remarks-of-seth-frotman.pdf.

interest rate to zero percent for up to five years. Servicemembers are already providing the information needed to determine eligibility for this protection, yet are still missing out on millions of dollars in relief. Since 2008, the Bureau estimated that military borrowers collectively paid more than $100 million in unnecessary interest charges on loans eligible for this benefit.

Last year, we discussed the imperativeness of overcoming bureaucratic roadblocks and simply ensuring that "one branch of government talks to another."[13] However, despite continued support for reform expressed by lawmakers, these problems persist because the application of this protection is not yet automated.[14] As a result, countless servicemembers performing some of the most dangerous missions in our Armed Forces still are not seeing the benefits of this key consumer protection.

- **HEROES Act waivers.** Again, as we discussed last year, the strains of military life make the necessary annual requirements to remain in an IDR plan particularly burdensome, and many military borrowers struggle to realize the key protections tied to income-driven repayment. The Bureau estimates that each year, nearly 6,000 servicemembers suffer direct economic hardship driven by an IDR recertification process that does not serve military borrowers.

  These hardships come in many forms, ranging from the payment shock when their student loan payments jump by hundreds of dollars or more,[15] to lost interest subsidies that lead to thousands of dollars in additional interest charges,[16] to lost progress towards loan forgiveness—problems that collectively increase the burden of their student debt and substantially increase the economic cost of their loans.[17] As you all know, military

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[13] *See* Consumer Financial Protection Bureau, *Prepared Remarks of Seth Frotman Deputy Assistant Director and Acting Student Loan Ombudsman* (Nov. 3, 2015), *available at* http://static.politico.com/26/7d/516bee864088891f9aef8a406f58/prepared-remarks-of-seth-frotman.pdf.

[14] *See, e.g.*, U.S. Department of Education, Memorandum from U.S. Department of Education Under Secretary Ted Mitchell on Policy Direction on Federal Student Loan Servicing (July 20, 2016), available at http://www2.ed.gov/documents/press-releases/loan-servicing-policy-memo.pdf.

[15] *See* Consumer Financial Protection Bureau, *When you make student loan payments on an income-driven plan, you might be in for a payment shock* (Aug. 17, 2015), *available at* http://www.consumerfinance.gov/about-us/blog/when-you-make-student-loan-payments-on-an-income-driven-plan-you-might-be-in-for-a-payment-shock/.

[16] A military borrower with one dependent entering repayment with $25,550 in Unsubsidized Direct Loans at six percent interest under Revised Pay As You Earn, and also entering active duty at O-1, would receive over $1,700 in interest subsidies. A military borrower with one dependent entering repayment with $11,000 in in Unsubsidized Direct Loans at six percent interest under Revised Pay As You Earn, and also entering active duty at E-3, would save over $2,700 in interest subsidies.

[17] *See supra* note 8. An enlisted soldier with $11,000 in Unsubsidized Direct Loans entering active duty in 2012 at E-3 with one dependent would pay $1,341 under Pay As You Earn and receiving PSLF. The same borrower would pay

borrowers are sensitive to potential damage to their credit given the critical role that credit plays in obtaining or maintaining a security clearance. Whenever possible, they strive to avoid severe economic hardships. There should be a policy that not only recognizes this, but works to make it possible.

However, despite the fact that we remain a nation at war, military borrowers continue to fall through the recertification cracks under the weight of life on active duty—the very thing the HEROES Act was put in place to protect against. And unfortunately, for the second year in a row, I must report back that too many servicemembers are still not benefitting from the HEROES Act's promise to lessen the burden of these bureaucratic hurdles.

- **Automatic Total Permanent Disability (TPD) discharge.** Bureaucratic hurdles also impact the veterans who have sacrificed the most for this country—those veterans eligible for a full discharge of their student loans due to their service-connected disability. Military borrowers eligible for TPD discharge complain to us of the obstacles they face when seeking loan discharge. Policymakers have an opportunity to ease this burden. The Department of Education has operationalized its process of proactively identifying approximately 387,000 civilians eligible for TPD discharge through a data match with the Social Security Administration.[18] Our veterans deserve the same. Furthermore, by solving the tax consequences of discharge, policymakers have an opportunity to automate the discharge process for those who have sacrificed the most for this nation.

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JAG Legal Assistance Attorneys protect our military families and bolster military readiness through your vitally important work. You serve on the front line in ensuring servicemembers and their families receive the protections earned through their sacrifice and service to our country. And I know that you cannot do it alone. As you know all too well and I have highlighted today, military borrowers with student debt face steep challenges. I also believe that these problems are solvable.

$14640 under standard repayment, and $16,800 if he was placed into military deferment for 30 months prior to standard repayment.

[18] *See* U.S. Department of Education, *U.S. Department of Education Acts to Protect Social Security Benefits for Borrowers with Disabilities* (Apr. 12, 2016) *available at* http://www.ed.gov/news/press-releases/us-department-education-acts-protect-social-security-benefits-borrowers-disabilities.

As you work with your clients, I also encourage you to take advantage of the range of tools developed by the Bureau, designed to assist borrowers with student loan debt.

Last month, we began publishing federal student loan complaint narratives on our consumer complaint database.[19] Now, military borrowers can have their voices heard and their complaints sent directly to the companies that can address them.[20] Additionally, through our complaint system, servicemembers can identify their military status, allowing the Bureau and other regulatory agencies, as well as policymakers and consumer advocates, to see what issues are affecting military borrowers. We want all military borrowers struggling with student loan servicing issues know that you can submit a complaint and have their voice heard.

The CFPB, as the primary federal financial regulator of the student loan industry, and the Department of Education, as administrator of federal aid programs, have worked closely to drive needed reforms in the student loan servicing market. The upcoming reauthorization of the Higher Education Act may present an opportunity for policymakers to address the unique challenges for military borrowers. But this will require close cooperation between policymakers to address the challenges for military borrowers we discussed today—an exercise that can only succeed if it continues to be informed by the exceptional work you do on behalf of your clients.

Thank you, again, for the opportunity to speak with you all today.

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[19] *See* Consumer Financial Protection Bureau, *Consumer Complaint Database, available at* http://www.consumerfinance.gov/data-research/consumer-complaints/.

[20] *See* Consumer Financial Protection Bureau, *Consumer Complaints with Consumer Complaint Narratives, available at* https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/nsyy-je5y. Users can filter narrators based on a consumer-selected “servicemember” tag.