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

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Chairman Dodd, Vice Chairman Vidak, and members of the committee, thank you for the opportunity to be here today to discuss the magnitude of the student debt issues we are facing in this country, its effects on the millions of student loan borrowers throughout the state of California, and the critical role that student loan servicers play in the financial lives of these consumers. My name is Seth Frotman and I serve as the Student Loan Ombudsman at the Consumer Financial Protection Bureau, where I lead the Bureau's Office for Students and Young Consumers.

Staggering growth in student debt

At this point, you have probably heard the numbers, but I think they are worth repeating. As I sit before you today, more than 44 million consumers across the country collectively owe over $1.4 trillion in student loan debt.[1] Over the last decade, the total volume of outstanding student loan debt has nearly tripled, adding nearly $900 billion on the backs of student loan borrowers.[2]

These increases can translate into very real financial consequences for student loan borrowers. For a typical borrower, an increased debt load results in dramatically higher amounts coming out of monthly paychecks. For example, according to one recent study, the average student loan payment for a 20-to-30 year old borrower in 2015 was $351, a payment amount more than 50 percent higher than it was a decade ago.[3] Rising monthly debt burdens can further strain

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[1] *See* Fed. Res. Bank of NY (FRBNY), *2016 Student Loan Update* (2016), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_2016; Fed. Res. Board, *Consumer Credit* (Jan. 2017), https://www.federalreserve.gov/releases/g19/current/.

[2] *See* Fed. Res. Board, *Historical Data: Consumer Credit Outstanding (Levels)* (accessed Mar. 7, 2017), https://www.federalreserve.gov/releases/g19/HIST/cc_hist_memo_levels.html.

[3] *See* Joel A. Elvery, *Is There a Student Loan Crisis? Not in Payments* (May 2016), https://clevelandfed.org/~/media/content/newsroom%20and%20events/publications/forefront/ff%20v7n02/ff%20v7n0204%20is%20there%20a%20student%20loan%20crisis%20pdf.pdf?la=en/ (observing that, as inflation-

household balance sheets for younger consumers, especially for those who struggle to balance sluggish wage growth amidst increases in other expenses such as health care, housing, and child care.[4]

One study shows that here in California, the average student loan balance of college graduates has grown by nearly 30 percent over the last decade.[5] In fact, over 50 percent of California students who enroll in bachelor degree programs now graduate with student loan debt, averaging over $22,000 per student.[6]

As the principal federal financial regulator for the higher education finance industry, the Consumer Financial Protection Bureau has a responsibility to serve consumers across the country whose lives and livelihoods are often shaped by this debt. Their struggle continues and their circumstances would not change even if we were to address the rising costs of college tomorrow.

Millions of student loan borrowers continue to struggle

Recent data and research demonstrates that student loan borrowers in communities across the country are struggling under the weight of student debt. For example:

- **Despite recent improvements in the labor market and the economy, the share of delinquent student loans remains stubbornly high.** The share of consumers with past-due mortgages, credit cards, and car loans is at or below pre-

adjusted student loan balances rose dramatically between 2005 and 2015, the average payment rose by more than 50 percent.).

[4] Research shows that real wage growth for individuals aged 25-34 with bachelor's degrees has been stagnant over the last decade. Over the same period, the cost of healthcare, housing, and childcare has outpaced inflation. *See* U.S. Census Bureau, *Current Population Survey Annual Social and Economic Supplement* (2005 - 2015), https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pinc/pinc-03.html#.html; FRBNY, *The Labor Market for Recent College Graduates* (Jan. 11, 2017), https://www.newyorkfed.org/research/college-labor-market/college-labor-market_wages.html; U.S. Bureau of Labor Statistics, *Consumer Price Index* (2005 – 2015), https://www.bls.gov/cpi/cpi_dr.htm.

[5] *See* The Institute for College Access and Success (TICAS), *Student Debt and the Class of 2015* (Oct. 2016). http://ticas.org/sites/default/files/pub_files/classof2015.pdf; TICAS, *Student Debt and the Class of 2005* (Aug. 2006), http://ticas.org/sites/default/files/legacy/files/pub/2005_State_by_State_report_FINAL.pdf.

[6] *See* TICAS, *Student Debt and the Class of 2015* (Oct. 2016), http://ticas.org/sites/default/files/pub_files/classof2015.pdf.

recession levels. In contrast, the share of borrowers with delinquent student loans remains near its recession-era peak.[7]

- **Millions of student loan borrowers are now in default, despite the range of default-prevention options available.** The Department of Education estimates over 8 million student loan borrowers are now in default on a federal student loan, a number larger than the population of 38 states.[8] In 2016 alone, nearly 1.2 million borrowers defaulted on a federal Direct Loan – more than two borrowers every minute.[9] The Bureau estimates that more than one-in-four borrowers are either delinquent or in default on their student loans.

- **While struggling student loan borrowers are widespread, data shows a strong relationship between the minority population in a zip code and its delinquency rate.** Recent research shows that zip codes with higher shares of African Americans and Latinos suffer disproportionately higher rates of student loan delinquency.[10] The relationship between zip code and delinquency rates can also be seen across various regions of California, including communities in Los Angeles and the Bay Area, where borrowers show higher rates of financial distress.

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

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[7] *See* FRBNY, *Household Debt and Credit Report Q42016* (2016), https://www.newyorkfed.org/microeconomics/hhdc.html.

[8] *See* U.S. Census Bureau, *Annual Estimates of the Resident Population: 2016 Population Estimates* (Dec. 2016), https://www.census.gov/data/tables/2016/demo/popest/state-total.html.

[9] U.S. Dept. of Education, *New Direct Loan Defaults* (accessed on March 7, 2017), https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLEnteringDefaults.xls (showing data for federal fiscal year 2016).

[10] *See* Washington Center for Equitable Growth, *How the student debt crisis affects African Americans and Latinos* (Feb. 17, 2016), http://equitablegrowth.org/how-the-student-debt-crisis-affects-african-americans-and-latinos/.

behavior in a myriad of ways.[11] Researchers have also found a troubling connection between higher debt burdens and other economic challenges like material or health care hardship.[12]

However, some observers have questioned the economic and behavioral effects of student debt, citing the widespread availability of affordable repayment options, like income-driven repayment (IDR). But these assertions only tell half of the story. While most borrowers with federal student loans have a right to pay based on how much money they earn, borrowers report a wide range of industry practices and policy pitfalls created unnecessary barriers to payment relief, contributed to borrower financial distress in the short-term, or even extended borrowers' debt by months or years.

Taken together, these observations paint a bleak picture—millions of student loan borrowers, particularly those who have struggled to realize the economic gains historically associated with higher education, may face a range of severe, but potentially avoidable, consequences.

Borrowers encounter problems at every stage of repayment

Borrowers depend on private companies to help them manage their debt. High quality servicing can help borrowers enroll in affordable payment plans, take advantage of forgiveness and other benefit programs, and avoid delinquency and default. But, for too many borrowers, student loan servicers – the companies responsible for sending borrowers' monthly bills, maintaining borrowers' student loan accounts, and helping them enroll in alternative repayment plans – fall short.

A wealth of recent data and research from government agencies, researchers, and regulators offers insight into the scale of the problem. For example:

- **Borrowers in default may be eligible for a substantially lower payment under an income-driven repayment plan.** A 2015 working paper analyzing loan performance data provided by the Department of Education and administrative wage data by the Department of the Treasury observed that 70 percent of borrowers in default

[11] *See* Consumer Financial Protection Bureau (CFPB), *Student Loan Affordability: Analysis of Public Input on Impact and Solutions* (May 8, 2013), files.consumerfinance.gov/f/201305_cfpb_rfi-report_student-loans.pdf.

[12] See Mathieu R. Despard, et al., Student Debt and Hardship: Evidence from a Large Sample of Low- and Moderate-Income Households, 70 Children and Youth Services Review (Nov. 2016).

in their sample had income characteristics that suggest substantial financial hardship.[13] Based on the Bureau's calculation, depending on a borrower's family size, an average borrower with these characteristics should be entitled to make a $0.00 monthly payment under widely available IDR plans.[14]

- **For borrowers who are able to successfully enroll in an alternative repayment plan, servicing challenges can still hinder their ability to stay on track and maintain an affordable monthly payment.** According to data released by the Department of Education in 2014, nearly 60 percent of borrowers missed their annual deadline to recertify under an IDR plan, triggering a spike in monthly payment and potentially increasing the total cost of their debt through capitalization of unpaid interest and other negative consequences.[15] The Bureau has warned consumers that servicing practices related to the handling of IDR renewal applications may lead to substantial borrower distress.[16]

- **These challenges are perhaps even more troubling for some of the most vulnerable borrowers who seek to cure a defaulted loan through rehabilitation.** A recent Bureau report projected that as a result of servicing and other program failures, one-in-three rehabilitated borrowers will re-default within the first two years despite likely qualifying for a zero dollar payment under an IDR plan.[17] As a consequence, the Bureau estimates that these borrowers could incur $125 million in unnecessary interest charges over this period, due to lost subsidies and other benefits.

- **Servicing breakdowns can wreak havoc on servicemembers, veterans, and military families.** The Bureau has released several reports documenting student loan

[13] *See* CFPB, *2015 Annual Report of the CFPB Student Loan Ombudsman* (Oct. 2015), http://files.consumerfinance.gov/f/201510_cfpb_annual-report-of-the-cfpb-student-loan-ombudsman.pdf.

[14] *See id.*

[15] *See id.*

[16] *See* CFPB, *When you make student loan payments on an income-driven plan, you might be in for a payment shock* (Aug. 17, 2015), https://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/.

[17] For further discussion, see CFPB, *2016 Annual Report of the CFPB Student Loan Ombudsman* (Oct. 2016), http://www.consumerfinance.gov/data-research/research-reports/2016-annual-report-cfpb-student-loan-ombudsman/.

complaints from military borrowers.[18] For example, servicemembers continue to report being guided into less favorable options by their student loan servicers, including military deferment or forbearance, without being notified of the additional costs associated with these options, and despite actively seeking information and assistance concerning other forms of repayment.[19]

- **Vulnerable borrowers, including older borrowers and borrowers with severe disabilities, may be eligible for substantial debt relief, but recent evidence suggests these borrowers miss out on programs that can save them thousands.** For borrowers who are disabled or who experience persistent economic distress and no wage growth, a range of consumer protections are available to ensure these borrowers are not driven into poverty by their student debt. For example, the Department of Education found that approximately 387,000 borrowers owing over $7.7 billion were positively identified as eligible to have their loans forgiven because they were identified as being totally and permanently disabled (TPD) by the Social Security Administration – however, these borrowers had never completed the necessary paperwork to have their loans discharged.[20] Many in default had their wages garnished or Social Security benefits offset, while others continued to make unnecessary monthly payments. In an audit finding released late last year, the Government Accountability Office found that tens of thousands of older consumers were pushed into poverty when their Social Security benefits were offset to repay student debt, despite income

[18] *See, e.g.*, CFPB, *Overseas and Underserved: Student Loan Servicing and the Cost to our Men and Women in Uniform* (July 7, 2015), https://www.consumerfinance.gov/reports/overseas-underserved-student-loan-servicing-and-the-cost-to-our-men-and-women-in-uniform/; CFPB, *The Next Front? Student Loan Servicing and the Cost to our Men and Women in Uniform* (Oct. 18, 2012), files.consumerfinance.gov/f/201210_cfpb_servicemember-student-loan-servicing.pdf; CFPB, *Veterans: Take advantage of student loan forgiveness, but don't let it damage your credit* (Nov. 17, 2014), https://www.consumerfinance.gov/about-us/blog/veterans-dont-let-student-loan-forgiveness-damage-your-credit/.

[19] For further discussion, see CFPB, *Remarks by Seth Frotman to the Judge Advocate General's Legal Center and School* (Oct. 2016), http://files.consumerfinance.gov/f/documents/201610_cfpb_Frotman-Remarks-JAG-School.pdf.

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

characteristics that could entitle many of these borrowers to a zero dollar monthly "payment" under a range of widely available federal debt relief programs.[21]

The Bureau has heard from tens of thousands of borrowers who are struggling to keep up with their payments because they are unable to access essential consumer protections. It's clear that the status quo isn't working. But to understand why, it's important to understand how we got here.

The Great Recession and the student debt boom

Conventional wisdom often points to the rapid rise in college tuition as the sole driver of increased student indebtedness. We also know that increased enrollment at high-cost career and for-profit schools has directly contributed to increased student borrowing.[22] While there is no question that rising college costs contribute to the recent boom in student borrowing, this observation downplays the effects of a potential cost shift from parents to students.

For much of our recent past, families have shared the economic burden of paying for college, in part because parents drew on a combination of income, savings, home equity, and retirement savings in order to contribute. These family contributions, when combined with a students' income from part-time work, and paired with a combination of student loans and grants, were sufficient to leave a typical borrower with a modest debt load at graduation. As tuition rose in the years preceding the Great Recession, this equilibrium was tenuous, but it held. But then the recession hit.

During the recession, millions of families suffered an economic shock. Widespread unemployment, combined with drops in home equity, investments, and retirement savings, battered household balance sheets. As wealth declined, particularly for middle-class families, many students faced the choice of taking on student debt, or not going to college at all. To put it

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[21] *See* Govt. Accountability Office, Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief, GAO-17-25 (Dec. 2016), www.gao.gov/assets/690/681722.pdf.

[22] *See* Adam Looney & Constantine Yannelis, *A Crisis in Student Loans? How Changes in the Characteristics of Borrowers and in the Institutions They Attend Contributed to Rising Loan Defaults*, The Brookings Institution (Fall 2015), https://www.brookings.edu/bpea-articles/a-crisis-in-student-loans-how-changes-in-the-characteristics-of-borrowers-and-in-the-institutions-they-attended-contributed-to-rising-loan-defaults/.

another way, rising student debt levels aren't just a byproduct of rising sticker price, but result, in part, from a cost shift from within the household from the family to the individual student.[23]

Researchers, policymakers and advocates have cited the "college wage premium" to make a public case for why increasing levels of student indebtedness shouldn't deter students from attending college. And college does pay off for many. However, observers too often confuse the soundness of the supposed investment in college with an assertion that increased student debt, and the attendant breakdowns these borrowers may encounter in repayment, are not problems that demand immediate attention. This misses the mark. Millions of borrowers continue to struggle under the strain of historic levels of student debt.

A growing body of evidence suggests that rising levels of student loan indebtedness may also have spillover effects on other segments of the economy, potentially limiting borrowers' access to credit, diminishing savings, reducing homeownership, threatening retirement security, and inhibiting borrowers from pursuing careers as healthcare providers and educators in underserved communities, or as entrepreneurs.[24]

We should not be cavalier about the burden we're asking these students to shoulder – "other people have it worse" offers little solace when far too many of the borrowers who have done everything we've asked of them still struggle to afford a down payment, start a family, or save for retirement. Nor should we ignore the potential risk to society and the broader economy, as rising student indebtedness influences changes in saving and spending by a generation of consumers.

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[23] 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.

[24] *See, e.g., id*.; 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).

As lending and borrowing has changed, so has the regulatory landscape

In 2007, more than 80 percent of all new student loans were made by banks and other private student lenders, the vast majority of which carried federal guarantees.[25] For two generations, guaranteed federal loans made through the Federal Family Education Loan program (FFELP) had been the primary source of loans for families seeking to borrow to go to college.[26] However, in 2008, banks and other private lenders expressed concerns that the financial crisis could lead the bank-based lending model to fail and that students would not be able to access federal loans.[27] At the federal level, policymakers responded to these concerns in stages – first, by propping up the student loan industry and protecting students from the effects of this potential disruption.[28] Second, Congress eliminated the bank-based federal loan program entirely.[29] Since 2010, greater than 90 percent of all new student loans have been made directly by the Department of Education through the Direct Loan program.[30]

Today, the Department of Education owns over $1 trillion in outstanding student loans and relies on a collection of nonbank private sector companies to service this debt.[31] These

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[25] *See* CFPB, *Private Student Loans* (2012), files.consumerfinance.gov/f/201207_cfpb_Reports_Private-Student-Loans.pdf; U.S. Dept. of Education, *Federal Student Aid Annual Report FY2007* (2007). https://studentaid.ed.gov/sites/default/files/fsawg/static/gw/docs/07AnnualReport.pdf.

[26] *See* CFPB, *Private Student Loans* (2012), files.consumerfinance.gov/f/201207_cfpb_Reports_Private-Student-Loans.pdf.

[27] *See* U.S. Dept. of Education, *2010 ECASLA Report* (June 2010), https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/June2010ECASLAReport.pdf ("As a result of disruptions in the finance markets in early 2008, many FFEL lenders raised concerns that increases in FFEL financing costs could result in those lenders opting out of the FFEL program in the 2008-2009 academic year. . . . Without proactive Federal intervention, there was serious concern that large numbers of students would find their source of Federal student loans disrupted when schools had little time to shift to other lenders or to the Direct Loan program.").

[28] *See id*.

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

[30] *See, e.g.*, U.S. Dept. of Education, *Federal Student Aid Annual Report FY2016* (Nov. 14, 2016), https://studentaid.ed.gov/sa/sites/default/files/FY-2016-Annual-Report.pdf; Measure One, *Private Student Loan Report* (2016), https://www.measureone.com/psl.php.

[31] *See* U.S. Dept. of Education, *Federal Student Aid Annual Report FY2016* (Nov. 14, 2016), https://studentaid.ed.gov/sa/sites/default/files/FY-2016-Annual-Report.pdf; *see also* CFPB, *Student Loan Servicing* (2015), files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.

companies historically had been subject to limited regulation and oversight, principally in their capacity as service providers to or as affiliates of the banks and other lenders that made federally guaranteed loans.[32] With the elimination of the bank-based federal loan program, this limited prudential oversight regime no longer even covers servicing of the vast majority of new loans – which exposed important gaps in the patchwork of federal and state oversight. In effect, without a formal role for regulated entities as lenders, the student loan servicers servicing debt for tens of millions of Americans fell outside of the existing framework for oversight.

However, the Bureau has brought to bear a unique set of oversight tools in order to change this–

- **Strengthening supervision of student loan servicers.** Historically, nonbank providers of financial products and services, including student loan servicers, credit bureaus, debt collectors, and others, have not been subject to the same level of federal oversight as banks and credit unions. For more than five years, the Bureau has been building an examination program that focuses on rooting out illegal practices at both banks and certain nonbanks, including the larger nonbanks in the student loan servicing market. This expanded oversight is an important step to protect consumers and bring consistency to much of a fragmented market by protecting consumers regardless of the kind of student loans they borrow or the type of company on the other end of the line.
- **Increasing transparency in the student loan servicing market.** Building on our continuing oversight work in this market, the Bureau proposed a new framework to monitor student loan servicing – collecting quarterly data from the nation's largest student loan servicers focused on many of the servicing practices that are critical to ensuring borrower success. The data we are proposing to collect would inform our ongoing work to protect "at-risk" student loan borrowers by taking a closer look at borrowers who face the greatest risk of default – borrowers with federal loans seeking to access affordable payments and borrowers with private student loans who experience financial distress.

[32] *See* CFPB, *Student Loan Servicing* (2015), files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf ("Historically, state and federal regulatory agencies have largely overseen student loan servicers as service providers to or as affiliates of financial institutions under their purview. This may have fragmented oversight responsibilities and inadvertently created barriers for regulators and law enforcement agencies seeking to understand and improve practices for all student loan borrowers.").

Widespread problems reported to us by consumers, as well as violations uncovered through our supervisory and enforcement work, indicate that there is much work to be done to clean up and reform the student loan servicing industry to ensure borrowers are protected.

Ending illegal student loan servicing practices

The Bureau has made it a priority to take action against companies that are engaging in illegal servicing practices. Our examination program and our Office of Enforcement have taken action to address many of these illegal practices.

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

- Illegally steering borrowers into forbearance – a repayment option designed to assist borrowers experiencing short-term financial hardship – when borrowers have a right under federal law to enroll in repayment plans that allow for lower monthly payments over the long-term;[33]
- Allocating partial payments in a way that maximizes fees and fails to give consumers who are repaying two or more loans effective choices about how to apply payments;[34]
- Providing misinformation on borrowers' billing statements, inflating the minimum amount owed;[35] and
- Making illegal debt collection calls to borrowers early in the morning and late at night, often excessively.[36]

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

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[33] *See* CFPB, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment* (Jan. 18, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.

[34] *See* CFPB, *CFPB Takes Action Against Wells Fargo for Illegal Student Loan Servicing Practices* (Aug. 22, 2016), https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-wells-fargo-illegal-student-loan-servicing-practices/.

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

[36] *See id*.

- Unfairly denying, or failing to approve, IDR plan applications that should have been approved on a regular basis, causing borrowers to make higher payments and subjecting them to unnecessary interest capitalization; [37]

- Failing to inform borrowers and co-signers that using forbearance may delay, or even permanently foreclose, eligibility for co-signer release;[38]

- Illegally increasing borrowers' interest rates following a loan sale and subsequent internal servicing conversion;[39]

- Illegally auto-defaulting consumers when a loan's co-signer filed for bankruptcy, regardless of whether the borrower was current on all payments, where the Whole Loan Due clause was ambiguous;[40]

- Failing to provide an effective choice on how payments should be allocated among multiple loans where the lack of choice can cause a financial detriment to consumers;[41]

- Deceiving borrowers who have made extra payments on their loans about how much interest would accrue or had accrued, and how that would affect the application of consumers' payments when the borrower began making payments again;[42]

- Making misrepresentations to consumers that late fees may be charged on loans held by the Department of Education. While Department of Education loan notes allow for the

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[37] *See* CFPB, *Supervisory Highlights: Issue 13, Fall 2016* (Nov. 2016), https://www.consumerfinance.gov/documents/1389/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.

[38] *See* CFPB, *Supervisory Highlights: Issue 10, Winter 2016* (Mar. 2016), http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf.

[39] See id.

[40] *See id*.

[41] *See* CFPB, *Supervisory Highlights: Issue 13, Fall 2016* (Nov. 2016), https://www.consumerfinance.gov/documents/1389/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.

[42] *See id*.

charging of late fees, the Department of Education does not, at this time, charge late fees on its loans and it instructs its servicers not to do so;[43] and

- Illegally threatening wage garnishment against borrowers who were not eligible for garnishment, and misleading borrowers about when the garnishment would begin.[44]

State leadership and student loan servicing reform

As the Bureau pursued a range of supervisory and enforcement work in this market, state policymakers across the country considered steps to expand oversight and accountability tools at the state level.

California has been a leader on this approach. Building on the foundation laid by this legislature and by Governor Brown, California has positioned itself to protect Californians with student debt. Over 3.7 million Californians have student debt, and depend on student loan servicers to manage their accounts, process monthly payments, provide timely accurate information about repayment options and respond when borrowers experience financial hardship.[45] As I've explained, many of these borrowers face a road to repayment marked by challenges at every bend. Particularly for borrowers seeking to exercise their right under federal law to an affordable monthly payment, the path forward can be precarious. They now have a strong ally in the State of California to ensure that student loan servicers comply with federal and state consumer laws.

I'm pleased to join Senior Deputy Commissioner Scott Cameron, who leads the Department of Business Oversight's Division of Financial Institutions (DFI) and shares a data-driven vision for how California can continue to lead on these critical issues. I wanted to close by offering our continued support to Commissioner Owen and the DBO, and to the California legislature, as you work to protect Californians with student debt, and to highlight three key areas where continued federal and state partnership offers immediate benefits for consumers:

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[43] *See* CFPB, *Supervisory Highlights: Issue 9, Fall 2015* (Oct. 2015), http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf

[44] *See id.*

[45] *See* FRBNY, *Student Loan Borrowing by State* (2012), https://www.newyorkfed.org/medialibrary/Interactives/householdcredit/data/xls/student-loan-by-state.xlsx.

- **Providing rigorous oversight in every corner of the student loan servicing market.** Much of our discussion today has focused on problems and illegal practices at our nation's largest student loan servicers. Although expanded state oversight over these large, complex companies is welcome news for millions of borrowers, states can also play a role in overseeing the dozens of smaller companies that service loans made by private lenders and keeping an eye on new entrants into this market, where their practices may present risks to consumers. This role may be particularly important as private lending and refinance activity continues to grow and if policymakers at the federal level consider new policies that may drive families to borrow more from private lenders, outside the federal student aid system. Because of steps taken in California, federal and state regulators can "cover the waterfront" – ensuring Californians are treated fairly, regardless of the size or location of the company managing their loans.

- **Driving better practices by demanding better data.** Both federal and state regulators depend on accurate, timely data to better examine how servicers operate, to identify practices that pose risks to consumers, and to inform additional law enforcement and oversight work. As California continues to build out its oversight function and assess its own needs, data from student loan servicers can help inform oversight work across the country – for example, through targeted oversight to assess practices affecting the hundreds of thousands of state and local government, education and non-profit workers in California. I think the old cliché is particularly apt in this context – "sunshine can be the best disinfectant."

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

Close coordination between federal and state regulators is critical to ensuring that borrowers can depend on high quality student loan servicing, subject to rigorous oversight, whether their servicer is a large public company or a small not-for-profit. State and federal initiatives to root out harms in this market are critical to protect consumers and can serve as an important component of our broader work to reform the student loans servicing market.

Moving forward together

As I noted above, a series of economic and policy changes over the last two decades continue to drive historic levels of debt owed by students and their families, and we continue to see the consequences of these changes. We have also seen student loan servicers engaged in illegal practices, adding insult to injury for struggling student loan borrowers. If we are to ask our citizens to take on student debt to get the degree, we must also redouble our efforts to ensure a road to repayment that is free from illegal practices.

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

When loan servicers can operate in the shadows, free from rigorous federal and state oversight, consumers too often pay the price. Policymakers and regulators at all levels have made strides to improve oversight and halt illegal student loan servicing practices while taking important lessons from the last crisis as we work to prevent the next one. We can't go back.

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