



Testimony of
C. Tapscott “Scott” Buchanan
Executive Director
Student Loan Servicing Alliance

Hearing on “An Examination of State Efforts to Oversee the \$1.5
Trillion Student Loan Servicing Market”
before the U.S. House of Representatives,
Committee on Financial Services,
Subcommittee on Oversight and Investigations

Tuesday, June 11, 2019
Rayburn House Office Building, Room 2128

Thank you, Chairman Green, Ranking Member Barr, and members of the Subcommittee, for allowing me to provide testimony today to help inform this discussion about student loan servicing, servicers' unique role, and also discuss how we can all work together to continue to improve student loan servicing. I am Scott Buchanan, Executive Director of the Student Loan Servicing Alliance (SLSA). SLSA is a non-profit trade association in Washington DC that focuses exclusively on student loan servicing issues. Our servicer members are responsible for servicing over 95% of all federal student loans, and the vast majority of private loans as well. Our membership is a mix of companies, state agencies, non-profits and our service partners who are all focused on providing the customer service function during repayment of student loans for private loan holders, but also the largest student loan holder: the United States federal government.

Background on the student loan programs

There is currently almost \$1.6 trillion in total outstanding student loans – and over \$1.4 trillion of that is federal loans. In other words, federal loans make up over 90% of all student loans. The vast majority of those federal loans are currently serviced by nine contractors to the Department, all of whom are SLSA members. These nine contractors include a state agency, six not-for-profit agencies, and two companies. Most of these loans are Direct Loans, made by the Department of Education using funds from the U.S. Treasury. Less than \$200 billion are loans in the FFELP Program (which are loans made by banks and guaranteed by the federal government), which has been winding down since 2010 after Congress passed legislation making the Department of Education the sole originator of all new federal loans. These federal, but privately funded, loans are serviced by 20 SLSA members. A little more than \$100 billion (less than 8%) are private loans, made by banks and other private lenders, with no federal backing. Most of these are also serviced by SLSA members.

The role of a servicer – While there has rightfully been much discussion about the critical issues facing the 44 million student loan borrowers, there has been less discussion about the mechanics and facts surrounding how the loan program works and what the responsibilities are of servicers in the lifecycle of a student loan. I think that is most helpful as a starting point to discuss servicing and how we can continue to improve it. It is first critical to understand what a servicer does and what a servicer does not do. Servicers are on the front lines every day talking to and working with borrowers and being their first and best conversation to understand and navigate their options. We send recent graduates letters and statements outlining their repayment options. We provide online interactive web experiences, where videos and calculators help break down and simplify what different choices will mean in practice. We have dedicated or trained representatives who work with those in the military. We hold facebook chats and twitter parties about good repayment strategies. We provide mobile apps and custom websites, so borrowers can interact with us at home or in their favorite coffee shop. And most importantly we talk with borrowers on tens of millions of phone calls each year. And those phone calls are handled by thousands of employees scattered across the United States, many of whom themselves have loans or children with loans, who are specially trained to get people from A to Z to answers.

But it's also important to remember what we don't do. The federal servicers do not set the parameters for student loan eligibility, do not set the interest rate on a student loan, do not determine what

repayment options are available to a borrower, do not earn the interest or return off a student loan, do not set fees or penalties, do not set payment application rules or process, don't handle default debt collection, and do not own the loans. Those are matters set forth by the statute and regulations governing the program, and by the guidance and contract terms put forward by the Department of Education. Servicers take very seriously, as demonstrated by the actual metrics and facts of our performance, our role to help borrowers be as successful as possible in repaying their loans so the federal student loan program can continue to serve future generations of students – the millions of future college students whom the Higher Education Act was enacted to assist.

While what we do is often misunderstood, so is the timing of when we step in to help borrowers. Our role begins after Congress has set interest rates and repayment plans, after a student has chosen a school, after the college has set the price and determined what other aid it will offer, after the borrower has decided how much they wish to borrow, after the loan has been originated and disbursed, and usually meaningfully begins after a student has graduated - or sometimes when they have left school for other reasons. That is when we start our job with regular communication with the borrower to help them access the options that are available so they can make the best choice amongst the repayment plans that Congress has provided. That communication is not a one-time event, and no single interaction in isolation characterizes the work that we do or the scope of what we share. Our efforts are a continuum of activity, ranging from letters, emails, phone calls, websites, and sometimes chat or text, in order to meet borrowers where they are and most prefer to interact – and over time and multiple interactions – in order to make available the tools for them to effectively manage their student loan obligations. As a borrower's life situation changes, we also change our efforts with them to try and identify - from what information they choose to share - what options are available now, that may not have been available before. Has their job situation changed? Has their family expanded? Has their income level risen? And then, what do they want to accomplish? Every borrower has a different view of what steps will be in their best interest. Some want to pay down their student loans slower because they have other debt at higher interest rates. Some want to pay them down faster because they want to become debt free as soon as possible. Some want just a little time to get beyond a financial hurdle this month. Some want a long-term solution that aligns with the career path they think they will have, where maybe their income will rise meaningfully over time or maybe where they are taking a public service job where their income may be less than another. It is a fact that no single repayment plan or strategy is best – both financially and in desirability – for all borrowers. In this way, every borrower is different, and servicers are on the front lines of trying to help a borrower understand and navigate amongst the often complex intricacies of those choices they must make. We're proud of that work and I'm proud to talk about our success in making a difference:

- Servicers have increased enrollment in IDR plans by 400% since 2013 and nearly 1/3 of all borrowers are in a repayment plan based on income. Half of the direct loan portfolio volume is in an income-driven repayment plan.
- While they were always low, according to the CFPB unverified complaints about student loan servicing – valid or not – declined by nearly 50% and represented just 00.6% of all complaints about potential consumer issues. Further of those received, more than 85% were about issues that had nothing to do with any servicing error.

- And these outcomes have been achieved while the number of borrowers that we are asked to support has grown by 40% in the last decade alone.

While better understanding who we are, what we do, and what we've accomplished helps provide a good framework for discussion, it is probably useful to also address some other assertions or rhetoric that has been a part of the dialogue where some more context will help move us towards real suggestions to improve student loan servicing for borrowers.

Rhetoric versus Reality

OIG Report - Federal loan servicers are subject to extensive oversight by the Department of Education, who contracts directly with them in order to provide servicing functions for the federal student loan program. One of the entities that performs additional assessment and review is the Office of the Inspector General (OIG). While there has been much mischaracterization of the recent OIG report on student loan servicing, there are important facts which are clear:

1. The OIG report validated the fact that every federal loan servicer exceeded the Service Level Agreement standards set by the Department of Education.
2. The OIG report found that, in May 2017 just as an example, that federal loan servicers had an average real error rate (dealing with relevant information discussed) of 00.49%.
3. The OIG report also validated that the Department of Education conducts extensive on-site visits, desk audits, compliance and reporting on service levels, and monthly call recording reviews of random samples for evaluation on multiple factors of quality of service.

While the OIG and ED did not agree on the end characterizations of the report and may disagree on what the standards should be in the future, these facts above are true. And contrary to the narrative some have suggested by using misleading mixing of numbers, these facts show that servicers are not only meeting the standards set and have extensive oversight, but they have an extremely low error rate by any reasonable measure.

That's a positive starting point, and servicers agree that we should always be working to do even better and our job continues to be to use this feedback to find new and better ways to keep errors low and continue training of our staff to handle the various and complicated repayment options – all while finding new ways to better educate borrowers.

State Litigation and Legislation – While I am not a party nor privy to the details of ongoing legal matters that several states Attorneys General have decided to pursue with federal loan servicers, there are some key conceptual and overarching points that should be considered on the topic that are also applicable to state legislation on these matters.

1. The federal student loan program is just that – a federal program that is set by Congress, overseen by the Department of Education, and administrated by direct contractors of the federal government – where the courts have clarified, especially in the now settled DC District Court case of SLSA vs. Taylor, that state efforts to legislate or litigate are generally pre-empted.

2. Setting aside those discretely legal matters, this means servicers are now stuck in the middle of a governmental disagreement between the states, multiple federal agencies, and Congress about who should in fact be determining the rules and processes that servicers should follow, even though today we work directly for the Department of Education and must follow its guidance.
3. Yet, as I will give specificity to later, we want to work with states to partner on many areas to help borrowers across the country. We continue to work actively to improve legislation, so it aligns with the federal standards and re-emphasizes the protections that borrowers already have. We are also working to educate legislators and regulators on the nuance of student loan servicing, and how to create consistent requirements that are both practically feasible but also actually have a real benefit to borrowers. We completely agree that transparency and borrower education are areas in which we can partner with states.

This underlying disagreement between others over who dictates servicing standards, which has driven many state level activities, is challenge for servicers to harmonize with federal law, regulation, and contracts - and has direct consequences for borrowers and taxpayers. To do our job well, servicers must be clear about what the standards and expectations are for servicing federal student loans so we can be clear with borrowers. Creating for our highly mobile borrowers and us a patchwork of changing requirements and potentially conflicting regulations on an inherently national and federal program means that communicating with borrowers clearly as they leave college and move where life takes them, becomes problematic.

Costs to Borrowers and Taxpayers – Conflicting litigation and potential conflicting regulation, of which we may indirectly be a party due to the disagreement between government entities, means that the resources we otherwise devote to helping borrowers access their options are being misdirected to try and get to clarity. And those resources are needed more than ever as the number of student loan borrowers grows, so we can help them but also protect them.

As student loan servicers, we are paid approximately 1/5 of what a mortgage servicer is paid on average to handle a consumer loan that is often far simpler to service in terms of payment options or complexity, and so resources are constrained. While it a policy decision of how much and where the federal government wants to invest in the student loan program, when that investment is drained to manage potentially conflicting regulations and litigation that reflect policy disagreements between different agencies and governments, that takes away time and energy that otherwise should be devoted to borrowers.

In addition to the resources being redirected to address these disagreements and potential conflicts, the disappointing rhetoric around student loan servicing has also meant that real harm is happening to borrowers. This is not some hypothetical or indirect harm, but instead one that is directly affecting millions of borrowers. Scammers who call themselves “debt relief” companies have sprung up and are now contacting federal student loan borrowers, making fraudulent claims about their ability to help a borrower, inserting themselves between that borrower and us – their real servicer - and then charging that borrower fees and sometimes even tricking the borrower into taking another loan to cover those fees. We have been working with the FTC, the CFPB, and even bipartisan co-sponsors in Congress to try

and protect borrowers from this harm. We will continue to do that, but when the false narrative that student loan servicers are not acting responsibly keeps getting repeated, it continues to encourage these entities that are actually doing harm.

Ways to Improve Loan Servicing

While much of my testimony has been so far about pointing out facts and explaining some of the ways in which we can correct the narrative on student loan servicing, I believe it is critically important that today's discussion be rooted in what we can do to improve federal student loan servicing in ways that benefit borrowers directly. While many broader considerations of the federal student loan program are under the jurisdiction of the Education and Labor Committee, there are several steps we would love to work with this committee and its members on improving student loan servicing:

1. *Education* - Consistent with the specific topic of this hearing, we have advocated that states should create additional resources that can be made available to all borrowers in their state to help further educate them on their options and how to resolve issues. In some states this may mean leveraging their existing higher education authorities and providing new investment. In others this may mean creating a Student Loan Ombudsman's office who can take complaints and offer independent third-party counsel to validate and echo the messages of servicers.
2. *Simplification* – Many borrower (and servicers) face the challenge of an antiquated process to handle applications for many repayment plans, especially for IDR plans. We would like to work with the subcommittee to support changes legislatively and at the agency level that would allow for data-sharing between the IRS and ED (which would both simplify the process, but also result in meaningful taxpayer costs savings on efforts ED supports) through Sec. 6103 of the IRS code. Further we look forward to getting approval to implement such simple modernizations as allowing servicers to reach out to borrowers with pre-filled recertification forms electronically, a strategy that has been proven to nearly triple the response rate of renewals. These two simple items would quickly and cheaply make the process to stay in IDR far easier for borrowers immediately.
3. *Standardization* – We have continued to advocate for a Common Servicing Manual that could be developed in partnership with ED, other regulators, and servicers that would provide clear documentation that all stakeholders can turn to and rely upon that would make clear the common practices that are expected on many topics. This would provide transparency, but also serve as a framework to allow future changes in expectations, and then drive change orders and investment needed to make those changes as the loan program evolves. Additionally, SLSA has been actively helping to support an effort to standardize and modernize credit bureau reporting, which we would welcome partnering with this subcommittee, ED, and others in order to implement as quickly as possible, so borrowers are ensured consistent treatment codified by industry best practices.
4. *Protection* – We have also been actively supporting efforts, lead in the House by Representatives Stevens and Smucker in a bipartisan manner with their introduction of HR2888, to pass legislation that would make it a criminal offense to misuse Department of Education loan access or attempt to defraud millions of borrowers by these debt relief scammers. Further, our existing

partnership with the FTC, the CFPB, and Congress to address this matter, could be further supported by states in helping us root out and end these efforts to actively harm federal student loan borrowers.

These are just some examples of recommendations and proposals that go beyond the public narrative today and instead get to core issues that can be addressed, and should be, that will have direct and material benefit to millions of federal student loan borrowers.

Summary

The challenges that we all face in improving higher education outcomes are real. College costs have risen more than 700 percent since 1983, according to data from the federal government. That's more than healthcare and five times more than inflation. Costs have increased for a wide variety of reasons, but many state governments have reduced their financial support of public colleges and universities, significantly driving family costs up.

And while costs have risen, families are still working to navigate the financial aid process, the tough decision about what institution best fits their needs, and creating a workable family plan, so that when students graduate they are set up to be as successful as possible and manage their loans. And, as a number of recent studies reveal, many people borrow money for college but don't finish it, leaving them in debt without a degree – and without any of the financial benefits a degree provides. These are real – but complicated - challenges.

And while student loan servicers are not directly involved in any of these early parts of the puzzle that must also be solved, we have recently been the subject of focus of conversation and so we want to educate people about our role and also be part of creating viable solutions in the world we know well. We process payments, inform borrowers about options, and we need to be focused on getting better every day. While servicers sometimes make mistakes that must be fixed, any honest and data-driven assessment of the real and material issues that most borrowers face show that they are often outside the direct control of servicers. The facts are also clear that our employees are working hard every day and helping borrowers achieve improved outcomes. But servicers have our unique role to play in this broader effort.

Scrutiny and discussion certainly can help raise awareness of repayment options and ensure borrowers have information about the options they have in managing their loans. But when that discussion shifts to misdirection away from informed debate about the actual causal factors or what that rulebook that federal policymakers write ought to say, then that is no longer constructive. The issues surrounding student loans are complex and Congress needs to take a holistic approach to addressing the rising costs of college, college financing options including student loans, financial literacy, and college completion. In focusing on our role in this, servicers want to work with Congress to ensure that everyone has a fair, understandable, and standardized student loan repayment process, often through legislative - or even process - improvements like the examples I shared today.

I look forward to working with you and others to continue an honest and real dialogue about the critical and complicated work of improving the higher education system, including student loan servicing, so it works for students, families, and leads to the successful outcomes for all.