

Congress of the United States

Washington, DC 20515

June 18, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

RE: Comment Letter for Proposed Rule Defining Larger Participants of the Student Loan Servicing Market (Docket No. CFPB-2013-0005)

Dear Director Cordray:

We applaud the Consumer Financial Protection Bureau's (CFPB) for exercising its authority under Section 1024 of the Dodd-Frank Wall Street and Consumer Protection (Dodd-Frank) Act (Public Law 111-203) to amend the regulation defining larger participants of certain consumer financial products and services by adding a new section to define larger participants of a market for educational loan servicing. We share CFPB's assessment about the potential risks posed to consumers from this industry, and support the proposed rule to subject certain nonbank educational loan servicers of both Federal and private education loans to CFPB's supervision.

There are currently no Federal programs supervising nonbank educational loan servicers' compliance with Federal consumer financial law, except for the limited requirement that Federal educational loans follow the U.S. Department of Education's performance standards. The proposed rule will allow CFPB to close this Federal supervisory gap and, at the same time, is consistent with CFPB's statutory objective under Section 1021 of the Dodd-Frank Act to ensure that markets for consumer financial products and services are fair, transparent, and competitive.

Education loan debt has a huge impact on the lives of many postsecondary education students, former students, and their families. There are more than 38 million borrowers of educational loans with over \$1.1 trillion in outstanding educational loan debt in this country, which is the largest category of non-mortgage debt in the United States. Given the impact student loans have on American families, we believe these rules should cover all forms of educational loans regardless if the borrower is a student, parent or relative. CFPB estimates that between 2007 and 2010, the average balance for households with educational loan debt climbed by 15 percent, even as other types of consumer credit declined. An economist and a research analyst in the Federal Reserve Bank of New York's Research and Statistics Group found that, in a reversal of a long-term trend, 30 year olds with loans borrowed for their education are now less likely to have mortgages and car loans than those without those debts. As CFPB points out in the

proposed rule, educational loans are not only essential for many students to obtain post-secondary education; they are also a significant part of the nation's economy.

The absence of Federal supervision over the nonbank educational loan servicing market may leave borrowers vulnerable to unfair, deceptive, and abusive practices. CFPB received about 2,900 complaints about private education loans from March 2012 to September 2012. More than two-thirds of these complaints were related to problems with repaying loans, including fees, billing, deferment, forbearance, fraud, and credit reporting. About 30 percent of the complaints related to problems borrowers face when they are unable to pay, including default, debt collection, and bankruptcy.

While private education loans only have a small percentage of the educational loan market, these borrowers may be even more at risk than others because of how the loans are structured. Private education loans do not generally offer the same consumer protections and repayment options as Federal loans for education which, among other things, allow income contingent monthly payments.

The proposed rule will allow CFPB to monitor whether servicers are complying with a number of important Federal consumer financial laws that provide substantive protections to consumers from some aspects of educational loan servicing. These laws include the Electronic Fund Transfer Act, the Fair Credit Reporting Act (FCRA), the Equal Credit Opportunity Act, and Title X of the Dodd-Frank Act. We share CFPB's view that, the mere prospect of potential supervisory activity, may create an incentive for larger participants in the market to evaluate, cure, or mitigate their compliance with these laws.

Just one example of the benefit to consumers of enhanced compliance with Federal consumer financial law can be seen with consumer reporting matters. Information contained in credit reports is used by creditors to determine the terms and conditions of credit they may offer to borrowers. Increasingly, credit reports are also used by businesses to make decisions about hiring potential job candidates and promoting current employees and by insurance companies for underwriting and rating policies. Many education loan servicers furnish information to consumer reporting agencies (CRAs) about borrowers' payment histories, which then appear on their credit reports. According to the Federal Reserve Bank of New York, 6.7 million borrowers were at least 90 days delinquent on their repayment.

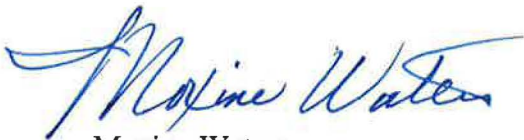
The FCRA establishes a number of obligations on all furnishers of information to CRAs, like educational loan servicers, including requiring them to establish procedures to ensure the accuracy of information. The FCRA also establishes several consumers' protections such as the right for individuals to dispute errors contained in their credit reports. CFPB's supervision of certain nonbank educational loan servicers will prod them to enhance their compliance with FCRA's mandates, which will benefit consumers. More accurate credit reports may make it

easier for some borrowers to obtain access to credit, get a job, or secure insurance at reasonable rates.

It is appropriate to use account volumes to determine the servicer's level of participation in the market and of the servicer's impact on consumers. We agree with CFPB that account volumes exceeding one million is a good threshold to determine whether an entity is a larger participant of the nonbank education loan servicing market. CFPB indicates that this threshold will likely cover seven nonbank education loan servicers, representing about 14 percent of all nonbank education loan servicers that are responsible for the activity in this market. As such, the proposed threshold will provide CFPB with sufficient access to obtain detailed data about the practices of a large portion of the nonbank education loan servicers' practices. However, it may be appropriate to include servicers with fewer accounts if the CFPB finds it prudent. A lower threshold of 200,000 borrowers would cover approximately 15 entities, or about 30 percent of all nonbank education loan servicers. Servicers with over 200,000 borrowers are still large and additional supervision should not be overly burdensome.

There is no clear assessment of what implementing the proposed rule will cost, primarily due to lack of data about the market. Nevertheless, given the staggering level of education loan debt in this country, the lack of repayment options available for private education loan borrowers, the absence of information about nonbank education loan servicers' compliance with Federal consumer financial law, we believe the potential benefits to consumers of the proposed rule will outweigh the possible costs. The proposed rule correctly identifies the need for Federal supervision of and, appropriately defines the large participants in, the nonbank education loan servicing market to subject to CFPB's supervisory activity. The proposed rule will enable CFPB to gather data to ensure this market is fair, transparent, and competitive.

Sincerely,



Maxine Waters
Ranking Member
House Financial Services Committee



George Miller
Ranking Member
House Education and the Workforce Committee

cc: Monica Jackson, Office of the Executive Secretary