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From: Remondi, Jack <jack.remondi@navient.com>
To: Mulvaney, Mick (CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=mulvaney, mickb5c>
Cc: Blankenstein, Eric (CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=blankenstein, eric0fe>; Sutton, Kirsten (CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=mork, kirsten7c6>; Johnson, Brian (CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=johnson, brian843>; Smith, Daniel (CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=daniel.smith>
Bcc:
Subject: Letter from Navient
Date: Thu Feb 22 2018 16:45:50 EST
Attachments: image001.jpg
Navient Request for a Meeting 2-22-2018 FINAL.PDF

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Dear Acting Director Mulvaney:

Attached is a letter about the open litigation between the Bureau and Navient. I thank you for your attention and will follow up with your office.

Thanks,

Jack

Jack Remondi
President & Chief Executive Officer
123 S Justison St, Wilmington, DE. 19801
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Navient.com

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1 ( Attachment 1 of 3) .

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Jack Remondi
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February 22, 2018

The Honorable Mick Mulvaney
Acting Director
The Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Acting Director Mulvaney:

I am writing with respect to the open litigation between the Consumer Financial Protection Bureau and Navient. Based on various news reporting, it is my understanding that you are reviewing all enforcement and legal actions. I would appreciate the opportunity to meet with you in person to discuss student loans in general, the work Navient does and the extraordinarily positive results we achieve, the respective roles of the Bureau and the Department of Education in the regulation of federal student loans, and the facts regarding our matter. As we have consistently stated, we believe the allegations made by the Bureau against our company in January 2017 are unfounded.[1] We remain confident that an impartial review of the facts will support this view and confirm our positive track record of supporting borrower success.

I firmly believe that the Bureau plays an important role to help protect consumers and to help ensure they have access to a competitive marketplace of cost-effective financial products that meet their financial needs. I also believe that financial services providers should work with the Bureau to ensure that markets function with a clear set of rules, a high level of integrity and with strong protections for consumers. Until the start of the litigation, Navient consistently sought to be a productive partner with the CFPB, holding regular meetings with Director Cordray, the student loan ombudsman and Bureau policy personnel.

Unfortunately, from my front row seat, I see that the Bureau's important mission has been undermined in the past by a lack of transparency, pre-determined politically-driven outcomes, and a lack of impartial data analysis. The Bureau has undertaken aggressive enforcement actions designed to make law, not apply it, with little concern for the actual facts or the impact on the affected company, its customers and employees. The public relations campaigns undertaken by the Bureau in connection with these politically-driven actions inflict a toll on honest companies and their hard-working employees that they struggle to overcome. As you stated in your employee memo, where do these companies go to get their reputations back? I also believe the Bureau's past actions have discouraged borrowers from engaging with their servicers.

I applaud your recent efforts to move the Bureau towards the points you advocated in your Wall Street Journal article. A greater emphasis on quantitative analysis, a focus on instances of quantifiable and unavoidable harm to the consumer, the prioritization of issues that negatively impact the largest number of consumers, increased reliance on formal rulemaking rather than regulation by enforcement,

[1] See Navient Fact Sheet on Legal Action, navient.com/legalfacts.

and cooperation with responsible providers such as Navient will significantly improve the Bureau's ability to protect consumers and fulfill its statutory mandate.

It will come as no surprise to you that I view the current enforcement action against Navient as a prime example of what was wrong with the Bureau under Director Cordray. In 2013, the Bureau launched an investigation of us, evidently with the intent to aggressively assert regulatory authority over the federal student loan program, which was long the exclusive province of the Department of Education. We saw this first-hand as the initial investigation focused on a relatively narrow set of payment allocation issues but then morphed into a sprawling effort to reshape the servicing of federal student loans under the guise of vague legal claims. We indicated many times that we consistently sought clear regulatory standards that apply to all and wanted to work with the Bureau to make enhancements for student borrowers. However, without any claim that Navient violated the Higher Education Act, any of the Department of Education's extensive regulations, or our contract with the Department, Navient was singled out as the target to make law through enforcement actions. Indeed, after President Trump's election, we were given an ultimatum and told to sign up to an entirely new regulatory scheme for loan servicing under a consent order that would have required us to pay millions of dollars for phantom legal violations. When we did not agree, Director Cordray and Illinois Attorney General Madigan filed suit against Navient just two days before Inauguration Day.

To be clear, our entire business is built around adhering to extensive federal regulations and contract requirements set forth by the Department of Education. In our interactions with the Bureau and the Department of Education, we have consistently advocated for a strong regulator with clear rules which all players in the marketplace are expected to adhere. We have implemented extensive enhancements for the benefit of borrowers and have put forward numerous recommendations to improve borrower outcomes.[2] But in contrast to the Department of Education, the Bureau never issued any public rules or requirements governing federal student loan servicing. Instead, as highlighted above, it sought to use the threat of its enforcement powers to extract a consent order from Navient to impose its view of what new servicing standards should be—a clear case of the kind of "regulation by enforcement" that has been widely criticized and was cited in last year's Treasury report.

Moreover, it has become apparent over the course of the litigation that the Bureau's lawyers had essentially no facts to back up the sensationalized charges leveled at Navient by Director Cordray and Attorney General Madigan last January. During a deposition of a Bureau-designated witness in August 2017, the enforcement staff acknowledged that they were not aware of *any* borrowers who were harmed by the alleged "forbearance steering" at the heart of the suit. Nine months and a couple depositions later—and *over four years* since it began the investigation—the Bureau's lawyers have still not pointed us to any borrowers who were in fact "steered" as the Bureau's complaint alleges. In addition, recent depositions of borrowers put forth by the Bureau's lawyers have demonstrated what we have said all along: borrowers receive numerous disclosures about repayment options, including income-driven repayment plans, both before and during repayment through multiple communications methods. Yet, unfortunately, some borrowers do not take action on the information we provide.

Navient dedicates significant resources to helping student loan borrowers succeed in repayment and is firmly committed to complying with Department of Education rules and our contract. Navient services student loans for 12 million borrowers and we are very proud that Navient borrowers are 37 percent less likely to default than those serviced by other organizations. Furthermore, we have played a leadership role in educating borrowers on the availability of income-driven repayment options, even while

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[2] For example, Navient provided extensive responses to multiple CFPB Requests for Information including on student loan borrower communications, student loan servicing and private student loans, available at navient.com/facts. See also "The student loan crisis we should work together to solve," and other columns published at medium.com/@JackRemondi.

helping to educate them that in many cases paying under an IDR program will increase their costs. As of Dec. 31, 2017, more than half of student loan balances serviced for the government, excluding loan types not eligible, were enrolled in IDR—the highest of any comparable servicer. We have worked extensively with the Department of Education to make it easier for borrowers to enroll in income-driven repayment plans, including through targeted pilot programs.

I also invite you and your staff to visit our servicing operations in Wilkes-Barre, Pennsylvania, to see firsthand what we do and how we do it. I am confident that a 2-hour visit would be highly enlightening to you and would show you the great work done by Navient team members. It would also well exceed the total time spent by CFPB supervisory or enforcement personnel at any Navient operations center since the CFPB was established.

I look forward to the opportunity to discuss the Bureau's mission and ways we can work together to support that mission. There are significant opportunities to enhance the federal student loan program for the betterment of student borrowers and taxpayers without intruding on the Department of Education's authority over the program and its contractors or overreaching the Bureau's statutory mandate.

Sincerely,

Jack Remondi

cc: U.S. Secretary of Education Betsy DeVos
Eric Blankenstein, CFPB

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# FACT SHEET on Legal Action

*Student loans are a reality for many millions of Americans, and as a servicer, Navient's goal is to help consumers successfully manage their loan repayment. Navient welcomes clear and well-designed guidelines that all parties can follow, have been developed and benefited from public comment, and support the best interest of borrowers. We will continue to advocate for enhancements to the student loan program, such as streamlined repayment options, easier income-driven repayment plan enrollment, credit bureau flexibility, and bankruptcy reform.*

**Background**

In January 2017, the Consumer Financial Protection Bureau filed legal claims against Navient, followed by three state attorneys general (Illinois, Washington and Pennsylvania). The allegations made in the claims are unfounded. The suits improperly seek to impose penalties on Navient based on unannounced servicing standards applied retroactively and only against one servicer. The cases have not yet been ruled upon. We will vigorously defend our record in court, and are confident we will prevail following an impartial review of the facts. In the meantime, we will continue to provide industry-leading service to our customers.

**Below are the facts.**

***Allegation:*** *Navient didn't do enough to get borrowers into income-driven repayment (IDR) plans and steered borrowers into forbearance instead.*

## Fact: Navient is a leader in enrolling eligible borrowers into income-driven repayment programs. We promote repayment options, including IDR, in 154 million communications annually.

- 53 percent of student loan balances serviced by Navient for the government are enrolled in income-driven repayment programs—more than any comparable servicer.[1]
- Forbearance[2] is often a required tool to help people enroll in IDR plans—in fact nearly 70 percent of IDR borrowers needed forbearance for one of two reasons:
    - First, past-due borrowers cannot enroll in IDR unless they bring their account current. A borrower who has missed payments either needs to pay the total past due balance or, more typically, needs forbearance to cure the delinquency.
    - Second, borrowers may need forbearance to enroll in IDR to give them payment

*Navient conducts its businesses through various members of the Navient family of companies.*

[1] Source: FSA Data Center as of June 2017 and Navient data as of September 2017 (excluding Parent Plus loans which are not eligible for IDR). By dollar volume, loans serviced by Navient are the most likely of any government servicer to be enrolled in IDR except for the servicer assigned all Public Service Loan Forgiveness loans which, by definition, are enrolled in IDR.

[2] Forbearance is a benefit that allows federal student loan borrowers, upon request, to postpone their payments during times of temporary financial challenges. Navient provides forbearance in short-term increments to ensure that borrowers remain connected during times of temporary financial challenges.

relief and time to complete the 12-page government-mandated application without becoming further past due.

- Servicers are paid up to 60 percent less[3] for borrowers in forbearance, debunking claims that servicers have an incentive to place borrowers in forbearance rather than IDR.
- Navient forbearance usage is in line with or lower than other major servicers.[4]
- Navient has publicly called for the simplification of the IDR process, including immediate online or phone enrollment, but so far no reforms have been made.[5]
- Despite being offered income-driven or other alternative repayment plans, some borrowers chose forbearance.
- Higher education experts have criticized the complexity of enrollment and recognize the importance of forbearance in keeping borrowers out of default. For example, one expert on student debt said: "...actually the way the program is set up, the best option for borrowers is forbearance because it doesn't require any paperwork and it immediately cures the loan, and doesn't require the borrower to do anything... here we have all the advocacy groups and the press out there saying 'these terrible servicers!,' but meanwhile, there's no criticism of the design of these policies and the policymakers making them."[6]
- Navient-serviced borrowers are 37 percent less likely to default[7] than borrowers serviced by our peers and, we believe they have been well-served by our practices.

***Allegation:*** *Navient didn't do enough to help borrowers to complete reenrollment so they could stay enrolled in income-driven repayment plans.*

## Fact: Navient goes above and beyond Department of Education mandated disclosure requirements.

- Under Department of Education regulations, borrowers must reenroll annually in income-driven repayment by submitting updated information about their income and family size. This is not Navient's requirement.
- Navient sends multiple notices and communications to borrowers to help them complete reenrollment on time, meeting or exceeding all federal requirements.
- Navient has pioneered supplemental approaches to support borrowers to reenroll on time. The approaches—evaluated and enhanced over time—go well beyond what is required by federal regulation or contract and have increased reenrollment rates.
- Navient has also advocated for a streamlined process with policymakers, the Department of Education, Department of Treasury, and the CFPB, including a multi-year enrollment income-driven repayment solution. Numerous consumer advocates have joined in this call for a simpler process.[8]

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[3] Source: https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing. Servicers are paid $2.85 per month for accounts in IDR or any repayment plan when on time but only $1.05 per month for a loan in forbearance.

[4] FSA Data Center Servicer Portfolio by Loan Status, data as of December 31, 2016.

[5] Washington Post, "Navient chief: There are 56 options for repaying federal student loans. It's time to simplify," Aug. 26, 2016.

[6] Excerpts from remarks made by Jason Delisle at a Pew Charitable Trusts forum on student debt, October2016.

[7] Source: analysis of 2014 federal fiscal year 2014 Cohort Default Rate, released by U.S. Department of Education, September 2017.

[8] On Jan. 17, 2017, the Departments of Treasury and Education announced that they have signed a Memorandum of

- It is not in Navient's financial or reputational interest for borrowers to fail to reenroll in IDR as those borrowers have higher rates of delinquency. In fact, servicers are paid less for past-due borrowers and higher delinquency rates are reflected in Direct Loan servicer performance measures.

***Allegation:*** *Navient does not have adequate processing and procedures in place to sufficiently address errors in payment processing.*

## Fact: Navient processes more than 90 million payments per year and does so with a high degree of timeliness and accuracy.

- In federal fiscal year 2016, 123 customers who requested assistance through the CFPB portal asked about the allocation of their payments.
- In most instances, no payment instructions were supplied to Navient by the customer, or the customer sent the payment to an incorrect payment address. Regardless, upon receipt of the customers' inquiry through the CFPB portal, Navient reapplied payments based on the customer's new request.
- Navient was the first major student loan servicer to offer borrowers an online option to allocate payments to specific loans, including for overpayments or underpayments. All extra payments are applied immediately and the customer can specify whether the payment should count for future payments due.
- Navient provides borrowers with same day processing. Payments received by 11:59 p.m. Eastern, including weekends and holidays, are posted effective that day, not the common practice of the payment being effective the next business day.

***Allegation:*** *Navient reported some loans incorrectly to the consumer credit bureaus*

## Fact: Navient's credit bureau reporting practices are consistent with Consumer Data Industry Association guidance.

- CFPB oversees credit reporting agencies and the procedures that they use for accurate credit reporting. Credit bureau reporting is also governed by the Fair Credit Reporting Act and guidelines established by the Consumer Data Industry Association (CDIA).
- Lenders and servicers are required by law to report accurately to credit bureaus, and rely on the CDIA for the guidance to report consistently and accurately.
- Data "furnishers" such as student loan servicers don't calculate credit scores and do not have access to proprietary credit scoring methodology used by FICO or the credit bureaus.
- Navient did not report disabled veterans in default.
- If we learn that reporting codes we are using may be interpreted negatively or in unintended ways by the credit bureaus, we stop using those codes and retroactively remove them.

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Understanding establishing a framework for electronically sharing tax data over multiple years, which when implemented will simplify IDR plans for borrowers by eliminating the need to send in income information on an annual basis, as is currently required.

***Allegation:*** *Navient misled borrowers with defaulted loans into participating in the rehabilitation program.*

## Fact: Navient has helped federal loan borrowers in default reestablish a record of repayment to rehabilitate their loans and begin to reestablish their credit.

- Since 2012, Navient helped nearly 250,000 borrowers successfully rehabilitate their loans—that is, make nine out of 10 on-time payments, thus reestablishing the loan at a regular servicer and removing the record of default from their credit history.
- For most defaulted federal loan borrowers, loan rehabilitation is the best plan; it establishes regular repayment and, if successful, removes the record of default from the borrower's credit record and, in some cases, wipes out nearly all collection costs charged by the government.
- Because rehabilitation helps borrowers, federal policy encourages rehabilitation over other options such as consolidation. Federal policy does this through, among other things, capping the percent of defaulted loans that can be consolidated, and making the benefits of rehabilitation more favorable to borrowers.[9]
- CFPB's website highlights the benefits of rehabilitation over other plans using nearly identical language regulators said was misleading for consumers when Navient used it. The CFPB site also warns borrowers about the benefits they will forgo if they use consolidation instead of rehabilitation.[10]
- The allegation is based on no data or evidence of harm.

***Allegation:*** *Navient made private education loans to borrowers who it should have known were not able to repay them.*

## Fact: Private education loans were made available to students attending schools also eligible for federal grants and student loans and who otherwise would not be able attend college.

- Many years ago, loans were made to students attending schools that were eligible for federal student loans (and, in many cases, remain so today).
- All student loans, federal and private, are made with the expectation that borrowers will graduate and obtain employment. Navient bore the risk whenever borrowers could not repay their private education loans.
- Consumer credit default rates skyrocketed during the recession as a result of high unemployment and macroeconomic conditions. Federal and private loans were no different.
- Navient does not originate private education loans.[11]

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[9] The Deficit Reduction Act of 2006 amended the Higher Education Act, Section 428(c)(2) to limit the use by guarantors of consolidation loans to resolve defaults.

[10] For example: https://www.consumerfinance.gov/askcfpb/657/what-are-main-advantages-rehabilitation-option-when-dealing-collection-agency.html

https://www.consumerfinance.gov/askcfpb/655/what-are-my-options-when-dealing-debt-collection-agency-working-us-department-education.html

[11] Navient spun off from Sallie Mae Bank in 2014. Sallie Mae Bank continues to originate private education loans, but Navient does not.

S·L·S·A STUDENT LOAN SERVICING ALLIANCE

# FACTS ON STUDENT LOAN BORROWERS

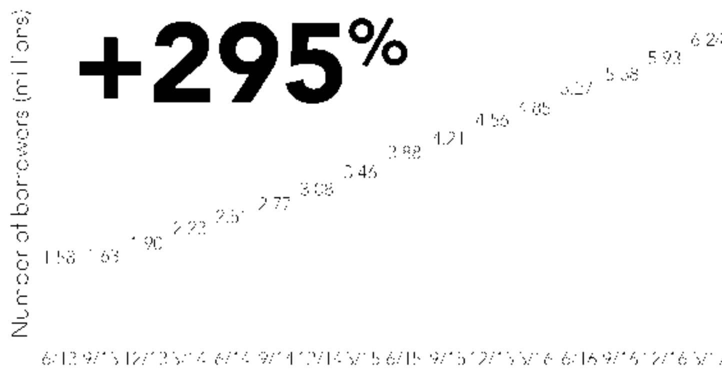
The vast majority of borrowers are managing their student loans successfully. Student loan servicers are on the frontlines helping.

## 1. Delinquency and default rates have steadily and significantly declined since the recession.

Continued enhancements in servicer outreach strategies, better economic conditions, and higher rates of enrollment in income-driven repayment plans are major factors for this decline.

## 2. Enrollment in income-driven repayment plans has increased by 295% since 2013.

Student loan servicers work every day to help borrowers learn about alternative repayment plan options.




## 3. For most borrowers, student debt is manageable and results in a valuable investment in the future.

- A bachelor's degree recipient is half as likely to be unemployed and earns $2,000 more per month vs. high school diploma recipients.
- Two-thirds of undergraduates leave school with less than $20,000 in student loans.

**Percent of undergraduate borrowers by loan balance**

Facts on student loan borrowers – continued

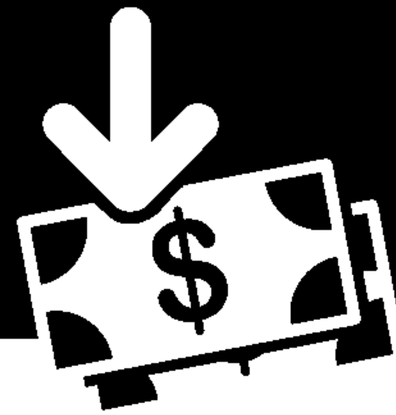
## 4. Graduation, not debt balance, is a leading predictor of payment success.

**3X**

Non-completers are three times more likely to default than bachelor's degree recipients.

**66%**

of borrowers who defaulted owed less than $10,000 (35% owed less than $5,000).




## 5. Contact is key to preventing default.

**90%**

Servicers report that as many as **90% of borrowers who default did not respond** to servicer contact despite multiple methods of outreach. Servicers continually test new strategies to increase engagement.

S · L · S · A

The Student Loan Servicing Alliance (SLSA) is a nonprofit, membership organization of 20 student loan servicers.

**Sources & notes:**

1. Federal Student Aid Data Center, U.S. Department of Education, July 2017. Percent of Direct Loan borrowers in repayment 90-plus days delinquent compared to comparable quarter three years ago. Percent of Direct Loan borrowers in repayment entering default compared to comparable quarter two years ago. Quarterly delinquency and default trends are only available since June 2013 and December 2014, respectively.
2. Federal Student Aid Data Center, U.S. Department of Education, July 2017. Direct Loans borrowers enrolled in any income-driven repayment plan program.
3. Trends in Student Aid, College Board, 2016; Education Pays, College Board, 2016
4. Investing in Higher Education, White House Council of Economic Advisors, July 2016.
5. Navient Response to CFPB RFI on Student Loan Borrower Communications, June 2016.

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