March 22, 2024

The Honorable Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

The Honorable Dr. Miguel Cardona
Secretary, U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear President Biden and Secretary Cardona,

For the first time in three years, more than 40 million federal student loan borrowers started repayment on their student loans. As the return to repayment launched, several major issues regarding student loans, payment plans, credit reports, and other aspects of student loans came into focus for state regulators. In addition, the Consumer Financial Protection Bureau issued a report titled, "Issue Spotlight: Federal Student Loan Return to Repayment" which discusses several alarming trends that negatively affect borrowers. We, the regulators of Illinois, Oregon, and Washington, write to advocate for swift action to resolve these issues for our residents in partnership with the Department of Education (ED).

Since President Biden took office, the administration has taken historic, anticipatory steps to ease the burden of student loans through programs such as the temporary Public Service Loan Forgiveness (PSLF) limited waiver opportunity, a one-time income-driven repayment (IDR) adjustment, and loan discharges to students who were victims of fraud. However, many changes over the past three years, including loan servicing transfers for millions of borrowers, changes in program requirements, the rollout of new payment plans, as well as restarting payments, have caused widespread issues that harm borrowers across the United States.

When the COVID-19 payment pause ended effective Aug. 31, 2023, countless borrowers did not have accurate payment counts for the PSLF program. Typically, Federal Student Aid (FSA) sends updated borrower payment count data to the Higher Education Loan Authority of the State of Missouri (MOHELA) monthly. However, payment data was not transferred to MOHELA for several months in early 2023. This meant borrowers who were eligible for discharge still received a bill from their servicer through no fault of their own. Borrowers were also instructed to make billed payments and then request a refund once the borrower's PSLF payment count was updated. This guidance places an undue burden on the borrower to address an issue that originated entirely outside of the borrower's control.

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Borrower refunds are another area of concern. Due to program changes during the payment pause (such as the PSLF limited waiver, the temporary expanded PSLF, and IDR adjustment), there are borrowers who are entitled to a refund. Currently, a borrower must call to request a refund, a task further complicated by staffing issues and lengthy wait times. Once a refund is requested, there is no mechanism for borrowers to track the process. For example, borrowers do not receive a confirmation number when they call to request a refund. Instead, borrowers are left to wonder when, or even if, their refund will arrive. Regulators also learned that FSA cannot track refund requests, since the refunds are initiated by the Treasury Department.

While the ultimate issuance of refunds is a substantial benefit to borrowers who have paid more than they owe, the lack of transparency in the manual refund process makes it impossible for borrowers to track the refunds to which they are entitled. While borrowers can no longer ask for refunds due to the COVID-19 payment pause, there are situations where borrowers are entitled to one (such as overpayment on PSLF or IDR). But the problem of tracking payments remains. Borrowers need a mechanism that shows their request was made and is in process.

Borrowers depend on their loan servicer to accurately report their account history to the credit bureaus. Incorrect reporting of information can be detrimental to borrowers and have long-lasting effects. During the COVID-19 pandemic, many states received reports of borrowers whose credit was affected by incorrect reporting, preventing them from purchasing homes or making other large purchases. While efforts were made to fix this problem, regulators are concerned its effects may be felt for years to come. That is because many people do not check their credit reports until they need to make a large purchase, delaying discovery that their score is lower due to a reporting mistake.

It is essential that loan servicers accurately report borrowers' credit information. Due to past mistakes, regulators have concerns about accurate credit reporting as payments begin again, particularly with the guarantee that credit reporting will not take place for one year. State regulators have already had to contact the FSA to have them intervene on a borrower's behalf with the credit agencies. We ask that ED work with the credit bureaus to establish a unique mechanism for borrowers to both report and resolve their credit issues.

We appreciate that the administration has made significant changes to IDR plans. The one-time IDR adjustment and the Saving on a Valuable Education (SAVE) plan will provide relief to many borrowers. However, there are several complications affecting the successful implementation of these changes. The large number of pending IDR applications has created a backlog for many servicers. Borrowers wait in limbo to hear if they qualify for their new payment amount. This issue was highlighted in the recent Consumer Financial Protection Bureau (CFPB) report which discussed how delays in IDR application result in "unnecessary periods of accrued interest and lost progress towards loan cancellation." [1] In addition, regulators are concerned about the high denial rate of IDR applications by loan servicers. Until IDR applications are processed in a timely and accurate manner, large numbers of borrowers cannot access lower monthly payments and relief that the IDR plans were designed to provide. We urge ED to make this a top priority in their relationship and contracts with servicers.

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[1] Consumer Financial Protection Bureau. "Federal Student Loan Return to Repayment Report." January 2024, https://files.consumerfinance.gov/f/documents/cfpb_federal-student-loan-return-to-repayment-report_2024-01.pdf.

Another issue referenced in the CFPB report involved the billing of incorrect payment amounts to borrowers, due to servicers conducting faulty payment calculations. For example, MOHELA used the 2022 Federal Poverty Rate instead of the 2023 rate when calculating payment amounts. This error resulted in thousands of borrowers receiving inaccurate payment information.[2] Further, regulators have discovered cases where IDR demographic information was not transmitted correctly. Particularly during the 2021-22 loan transfers, borrower information was not accurately transmitted to the new loan servicers, resulting in stalled IDR plans and confusion regarding borrower payment amounts. When payment counts are not calculated correctly, it is detrimental to any borrower budgeting for a new student loan payment, particularly when they have not had to make a payment in more than three years.

Regulators agree that the one-time IDR adjustment is an excellent tool for helping borrowers make progress toward loan forgiveness. However, these adjustments have not been applied for all qualifying borrowers. Regulators have had frequent discussions with the FSA regarding the implementation of the one-time IDR adjustment. While these discussions have been helpful, the deadline for implementation continues to be postponed. [3] The IDR adjustments can significantly affect borrowers' plans for their future as they consider how long they will have to make payments on their student loans. At the writing of this letter, some – but not all – groups of borrowers have had their accounts adjusted. Regulators urge ED to complete this one-time adjustment as soon as possible.

In the same vein, the new SAVE IDR plan will eventually help many borrowers. The SAVE plan promises that many undergraduate student loan payments will be cut in half by reducing the formula from 10 percent to 5 percent of income above 225 percent of the poverty line. While regulators applaud this change, it does not go into effect until Summer 2024. The current messaging around the SAVE plan has resulted in borrowers believing their payments will be cut in half as soon as they are approved by their servicer. Regulators urge the administration to implement the change sooner and not wait until the summer. Alternatively, regulators request that the current messaging regarding the SAVE plan clarify and emphasize when payments will be lowered to reduce confusion for borrowers.

Call center wait times were at an all-time high but have slowly started to improve. However, there are still some servicers with a high percentage of borrowers who are experiencing a wait time of more than 30 minutes.[4] As a result, borrowers are waiting for hours to speak to their servicers about the many changes that have occurred in the student loan space, or to attempt to resolve one of the many problems

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[2] "NASFAA | over 300,000 Federal Student Loan Borrowers Received Incorrect Bills from Their Servicers." *Www.nasfaa.org*, www.nasfaa.org/news-item/31977/Over_300_000_Federal_Student_Loan_Borrowers_Received_Incorrect_Bills_From_Their_Servicers. Accessed 13 Nov. 2023.

[3] Federal Student Aid. (n.d.). https://studentaid.gov/announcements-events/idr-account-adjustment

[4] Dow Jones & Company. (2023, October 27). *WSJ News Exclusive | Student-Loan Wait Time Complaints Prompt Federal Probe*. The Wall Street Journal. https://www.wsj.com/us-news/education/student-loan-payment-processors-draw-probe-on-wait-times-borrower-advice-1235976e

outlined above. Some borrowers, facing wait times of more than 100 minutes, simply give up on contacting their servicers for help. CFPB's report highlights the call abandonment rate, where almost half (47 percent) of borrowers who called for help hung up before being connected to a service representative. [5] Even though many loan servicers significantly increased their staff in preparation for the return to repayment, it has not been enough to support more than 40 million borrowers. This is unacceptable and needs to be rectified so borrowers can get the help they need and deserve.

Lastly, regulators want to acknowledge the dedicated FSA employees who have been attentive and responsive to the state regulators. Regrettably, we are aware that FSA did not get the funding it requested in the budget. The agency was handed many initiatives to implement without the resources to do so, putting more pressure on these employees as they struggle to handle the influx of issues and changes. These budget cuts also trickle down to the loan servicers, which compounds the issues mentioned above. As budget talks continue, we strongly urge the administration to increase FSA's budget.

As state regulators, our priority is consumer protection. Many of the signed states have student loan servicing acts and will be enforcing their regulations where appropriate to protect borrowers from systemwide errors. We will continue to work closely with FSA and the CFPB to monitor the situation, and we thank them for their collaboration.

We ask that during this historic time with unprecedented challenges, you take steps to fix the issues discussed. As noted above, we urge you to create a refund tracking system, ensure accurate credit reporting, adjust IDR payment counts swiftly and accurately, implement all SAVE plan changes, monitor platform changes, and increase FSA's budget. Student loan borrowers should not suffer consequences due to these systemic issues. We look forward to our continued collaboration as we work toward a better system that works for all student loan borrowers.

Sincerely,

Susana Soriano
Acting Director of Banking
Illinois Department of Financial and Professional Regulations

T.K. Keen
Administrator
Oregon Division of Financial Regulation

Charles Clark
Director
Washington Department of Financial Institutions

[5] Consumer Financial Protection Bureau. "Federal Student Loan Return to Repayment Report." January 2024, https://files.consumerfinance.gov/f/documents/cfpb_federal-student-loan-return-to-repayment-report_2024-01.pdf.

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