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CFPB Orders Discover Bank to Pay $18.5 Million for Illegal Student Loan Servicing Practices

Discover's Illegal Servicing Practices Affected Private Student Loan Borrowers Transferred from Citibank

WASHINGTON, D.C. — Today the Consumer Financial Protection Bureau (CFPB) took action against Discover Bank and its affiliates for illegal private student loan servicing practices. The CFPB found that Discover overstated the minimum amounts due on billing statements and denied consumers information they needed to obtain federal income tax benefits. The company also engaged in illegal debt collection tactics, including calling consumers early in the morning and late at night. The CFPB's order requires Discover to refund $16 million to consumers, pay a $2.5 million penalty, and improve its billing, student loan interest reporting, and collection practices.

"Discover created student debt stress for borrowers by inflating their bills and misleading them about important benefits," said CFPB Director Richard Cordray. "Illegal servicing and debt collection practices add insult to injury for borrowers struggling to pay back their loans. Today's action is an important step in the Bureau's work to clean up the student loan servicing market."

Discover Bank is an Illinois-based depository institution. Its student loan affiliates – The Student Loan Corporation and Discover Products, Inc. – are also charged in today's action. Beginning in 2010, Discover expanded its private student loan portfolio by acquiring more than 800,000 accounts from Citibank. As a loan servicer, Discover is responsible for providing basic services to borrowers, including accurate periodic account statements, supplying year-end tax information, and contacting borrowers regarding overdue amounts.

Student loans make up the nation's second largest consumer debt market. The market has grown rapidly in the last decade. Today there are more than 40 million federal and private student loan borrowers and collectively these consumers owe more than $1.2 trillion. The market is now facing an increasing number of borrowers who are struggling to stay current on their loans. Earlier this year, the Bureau revealed that more than 8 million borrowers were in default on more than $110 billion in student loans, a problem that may be driven by breakdowns in student loan servicing. While private student loans are a small portion of the overall market, they are generally used by borrowers with high levels of debt who also have federal loans.

Today's action demonstrates how Discover failed at providing the most basic functions of adequate student loan servicing for a portion of the loans that were transferred from Citibank. Thousands of consumers encountered problems as soon as their loans became due and Discover gave them account statements that overstated their minimum payment. Discover denied consumers information that they would have needed to obtain tax benefits and called consumers' mobile phones at inappropriate times to

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Photos and bios

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contact them about their debts. The CFPB concluded that the company and its affiliates violated the Dodd-Frank Wall Street Reform and Consumer Protection Act's prohibitions against unfair and deceptive acts and practices, and also the Fair Debt Collection Practices Act. Specifically, the CFPB found that the company:

- **Overstated the minimum amount due in billing statements:** Discover overstated the minimum amount due for certain borrowers who were just starting to pay off their student loan debts. The minimum payment due incorrectly included interest on loans that were still in deferment and were not required to be paid. For some borrowers this overpayment meant diverting payments from other expenses; for others it meant not paying at all because they thought they could not come close to making the full payment and instead accrued associated penalties.
- **Misrepresented on its website the amount of student loan interest paid:** The tax code permits taxpayers to deduct student loan interest paid during the year under certain conditions. Servicers are required to provide borrowers with a statement specifying how much the borrower paid in interest, if it was more than $600. Discover did not provide the Citibank private student loan borrowers with the customary tax information form it provided to its other borrowers, unless those borrowers submitted certain paperwork. For those borrowers who did not submit that additional form, their online interest statements on Discover's website in 2011 and 2012 reflected $0.00 in interest paid. Discover did not explain that the borrowers were required to fill out a form to get the correct amount of interest they paid. This zero interest statement was likely to mislead consumers into believing that they did not qualify for the student loan tax deduction, potentially causing consumers to not seek important tax benefits.
- **Illegally called consumers early in the morning and late at night, often excessively:** Discover placed more than 150,000 calls to student loan borrowers at inappropriate times – before 8 a.m. and after 9 p.m. in the borrower's time zone. Discover learned about these violations in October 2012 but failed to address the problem until February 2013.
- **Engaged in illegal debt collection tactics:** Discover acquired a portfolio of defaulted debt from Citibank but failed to comply with the consumer notices required by federal law. For example, the company failed to provide consumers with specific information about the amount and source of the debt and the consumer's right to contest the debt's validity. That information must be provided during the debt collector's initial communication or in a written notice immediately following that initial communication.

Enforcement Action

Under the Dodd-Frank Act, the CFPB has the authority to take action against institutions engaging in unfair, deceptive, or abusive practices. Among the terms of the consent order filed today, Discover must:

- **Return $16 million to more than 100,000 borrowers:** Specifically, Discover will:
    - Provide an account credit (or a check if the loans are no longer serviced by Discover) to the consumers who were misled about their minimum payments in an amount equal to the greater of $100 or 10 percent of the overpayment, up to $500. About 5,200 victims will get this credit;
    - Reimburse up to $300 in tax preparation costs for consumers who amend their 2011 or 2012 tax returns to claim student loan interest deductions. For consumers who do not participate in this tax program or did not take advantage of earlier ones offered by the company, Discover will issue an

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account credit of $75 (or a check if their loans are no longer serviced by Discover) for each relevant tax year. About 130,000 victims will receive this relief; and
    - Provide account credits of $92 to consumers subjected to more than five but fewer than 25 out-of-time collection calls and account credits of $142 to consumers subjected to more than 25 calls. About 5,000 victims will receive these credits.

- **Accurately represent the minimum periodic payment:** Discover cannot misrepresent to consumers the minimum periodic payment owed, the amount of interest paid, or any other factual material concerning the servicing of their loans.

- **Send clear and accurate student loan interest and tax information to borrowers:** Discover must send borrowers the IRS W-9S form that it requires them to complete to receive a form 1098 from the company, and it must clearly explain its W-9S requirement to borrowers. Discover must also accurately state the amount of student loan interest borrowers paid during the year.

- **Cease making calls to consumers before 8 a.m. or after 9 p.m.:** Discover must contact overdue borrowers at reasonable times. This will be determined by the time zone of the consumer's known residence or phone number, unless the consumer has expressly authorized Discover to call outside these hours.

- **Pay $2.5 million civil penalty:** Discover will pay $2.5 million to the CFPB's Civil Penalty Fund.

A copy of the consent order can be found at:
http://files.consumerfinance.gov/f/201507_cfpb_consent-order-in-the-matter-of-discover-bank-student-loan-corporation.pdf

This order comes as the Bureau considers steps to ensure that all student loan borrowers have access to adequate student loan servicing. Last year, the Bureau expanded its examination program to supervise the largest nonbank participants in the student loan servicing market. In October, the Bureau released an edition of Supervisory Highlights identifying a range of illegal student loan servicing practices at one or more companies. Earlier this year, the Bureau was joined by leaders from the Department of Education and the Department of the Treasury in launching a public inquiry into student loan servicing practices.

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.