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Prepared Remarks of CFPB Director Richard Cordray on the Navient Enforcement Action Press Call

Washington, D.C.

By Richard Cordray – JAN 18, 2017

Today the Consumer Financial Protection Bureau is filing a lawsuit against Navient (formerly part of Sallie Mae), which is the nation's largest servicer of both federal and private student loans. From our extensive investigation of the matter, we found that Navient has systematically and illegally failed borrowers at every stage of repayment. Among other things, we found that Navient created obstacles to repayment by providing bad information, processing payments incorrectly, and failing to act when borrowers complained. The company also used shortcuts and deception to illegally cheat struggling borrowers out of their rights to lower payments, which caused them to pay much more than they had to for their loans. These unlawful practices have cost student loan borrowers across the country both heartache and money. And we are working to make sure they do not happen again.

Navient currently services the student loan accounts of more than 12 million borrowers, over half of them under its contract with the Department of Education. Altogether, it services more than $300 billion in federal and private student loans, which is more than one-in-four borrowers in this country. Today's lawsuit names as defendants Navient Corporation, Navient Solutions, and Pioneer Credit Recovery, a unit of Navient that specializes in collecting on defaulted loans.

Student loan servicers play a critical role for student loan borrowers because they bear responsibility for managing the loans. They are the link between the borrower and the owner of the loan, though in many cases they may own the loan themselves. They communicate directly with borrowers, collect and apply payments, and can help work out modifications to the loan terms. Importantly, in this marketplace, consumers cannot easily take their business elsewhere. Instead, they are simply stuck with their student loan servicer, whether they are being treated well or poorly.

At every stage of repayment on student loans, Navient has failed to follow the law and caused borrowers needless anxiety and aggravation. Borrowers and the CFPB have reason to expect better from the nation's largest student loan servicer. As soon as borrowers are required to start paying back their loans, they find that they must deal with their student loan servicers. Servicers are supposed to follow instructions from the borrower about how to allocate payments across what often are multiple student loans. We believe that Navient repeatedly creates obstacles to repayment by misallocating or misapplying payments. The company all too often fails to correct its errors unless a consumer stays vigilant, discovers the problem, and contacts the company to insist that it be fixed.

Navient also illegally steers vulnerable borrowers toward options that may cost more. Since 2009, federal student loan borrowers facing financial hardship have had the right under federal law to make student loan payments based on how much money they earn and their family size. These are known as income-driven repayment plans. For borrowers who are unemployed or have low incomes, these government-supported plans can offer as little as a zero-dollar monthly payment. Since Congress first expanded access to these protections, a wide range of federal regulators and agencies, including the Department of Education, the Consumer Bureau, the Treasury Department, the FDIC, and the Department of Justice, have repeatedly made it clear that we expect all student loan servicers to give consumers a fair shot at repaying their loans. This includes helping consumers understand and enroll in income-driven repayment plans, as well as other programs and benefits available to consumers that can reduce their interest payments or lead to loan forgiveness.

But the CFPB found in its investigation, and now alleges in its lawsuit, that Navient all too often fails to help consumers understand that they can peg their student loan payments to their current income and household size. Instead, it often steers consumers toward a short-term solution that allows borrowers to take a temporary break from making payments, known as "forbearance." With forbearance, borrowers can temporarily suspend making monthly payments, but their debt continues to grow as the unpaid interest is added to the loan. It is typically not suitable for borrowers who are facing long-term financial hardship. And the longer a borrower is in forbearance, the more their loan balance increases.

For servicers, enrolling troubled borrowers in forbearance is generally easier to process than an income-driven repayment plan. An income-driven repayment plan involves paperwork and longer discussions. Forbearance can take just a few minutes and often avoids the submission of any paperwork. Forbearance is thus a cheaper approach that saves Navient money.

But while steering borrowers into forbearance might reduce operating costs and thus could boost profits for Navient, it costs consumers real money. From January 2010 to March 2015, the company added up to $4 billion – that is with a "B" – in extra interest charges to the principal balances of loans that were repeatedly enrolled in forbearance. Over this period, many affected borrowers contacted Navient multiple times for help, and Navient responded by extending the length of their forbearance. At any point in this process, Navient could have helped eligible borrowers get started instead on an income-driven repayment plan, but Navient failed to do so.

We also found and now allege that for borrowers who successfully enrolled in an income-driven repayment plan, Navient obscured the information that borrowers needed to maintain their lower payments. These borrowers must certify their income and family size annually, but Navient's emails and annual renewal notices failed to adequately inform them of critical deadlines or the consequences if they failed to act. We believe that Navient's failure to provide adequate notices contributed to borrowers not renewing their enrollment on time, causing their affordable monthly payments to expire. When this happens, a borrower's monthly payment can jump by hundreds of dollars, the principal balance may increase by thousands of dollars, and they may also forfeit other benefits, such as interest subsidies and progress toward loan forgiveness.

We determined that even for borrowers whose loans had been discharged, Navient continued to harm them. Specifically, we are talking about borrowers who are totally and permanently disabled, including American military veterans who were disabled during their military service. As you may be aware, student loan payments are reported to the credit reporting companies. When borrowers default or run into trouble in repaying their loans, reporting this information can damage their credit profile and prevent them from being able to take out future loans.

Federal student loan borrowers who are severely and permanently disabled have a right to seek loan forgiveness under the federal discharge program for Total and Permanent Disability. We found in our investigation and now allege that Navient misreported to the credit reporting companies by using a reporting code for disabled borrowers that was meant to be used only in cases of default. When loan defaults show up on a credit report, it damages the borrower's credit and can cause severe harm by preventing people from buying a home, leasing a car, or even renting an apartment or passing a criminal background check. Our country's veterans and disabled borrowers deserve better.

What makes many of these illegal practices even more troubling is that our investigation showed that poor treatment of student loan borrowers was institutionalized at every stage of repayment at Navient. The company simply failed to invest the time and effort necessary to help financially distressed borrowers. Shirking its responsibilities, Navient chose to shortcut its obligations as a servicer in favor of making its job easier, quicker, and less costly.

Struggling borrowers have paid a heavy price for having their loans serviced by Navient. For those who were steered into forbearance, they saw their debt increase. Navient failed to adhere to its obligation to help borrowers navigate the numerous available options and identify the repayment plans that best suited their individual circumstances.

To remedy these wrongs, the Bureau is seeking redress for consumers who were harmed by Navient's illegal practices. We are also seeking to prohibit Navient from committing illegal conduct in the future and thereby prevent new borrowers from being similarly harmed.

Student loans make up the nation's second largest consumer debt market after mortgages. Today we have over 44 million federal and private student loan borrowers, who collectively owe about $1.4 trillion. There is growing evidence that a strain of this magnitude threatens the economic security of vast numbers of young Americans, and growing numbers of older Americans as well. Significant debt loads can have a domino effect on the major choices people make in their lives: what job to take and whether to move, buy a home, or even get married.

There is no doubt that breakdowns in student loan servicing are partly responsible for borrowers, now totaling more than 8 million, who are currently estimated to be in default on over $130 billion in student loans. The lawsuit we are filing today seeks to address some of these breakdowns at Navient, with the goal of protecting consumers from harm caused by the company's violations of federal consumer financial laws.

And now I will turn it over to Attorney General Madigan and Senior Counsel Smith. It is my honor to be working alongside them on this matter. Together, their states have been leaders in standing up for student loan borrowers. Illinois and Washington are among our toughest and most effective advocates for consumers, and their work on behalf of those with student loans has inspired and informed our own mission at the CFPB. Thank you.

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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.

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