

United States Senate
WASHINGTON, DC 20510

May 20, 2020

The Honorable Kathleen Kraninger
Director
Consumer Financial Protection CFPB
1700 G Street, NW
Washington, D.C. 20552

Dear Director Kraninger:

We write regarding the Consumer Financial Protection Bureau's (CFPB) examinations of the companies that service federally-held student loans. We have previously written to you about the CFPB's failure to conduct supervisory examinations of student loan servicers for more than two years.¹ Student loan borrowers have paid the price for the CFPB's inaction. During this extreme delay, both the Government Accountability Office and the U.S. Department of Education's (Department) Inspector General issued several reports finding widespread mistakes and mismanagement by servicers of federally-held student loans that resulted in significant harm to student loan borrowers.² Especially as consumers face new and compounding financial hardships in the wake of COVID-19, it is critically important that the CFPB move forward with oversight and enforcement actions in the student loan market.

We were encouraged to learn that the CFPB recently began its first examination of a servicer of federally-held student loans since 2017. The CFPB described this as a "joint examination" with the U.S. Department of Education. We have received few other details about how this "joint examination" would be carried out or the Department's role in this examination.

Given the Department's record obstructing CFPB oversight and enforcement, we are skeptical of the Department's role in this joint examination and would strongly oppose limitations, restrictions, or other interference with the CFPB's ability to conduct complete and thorough examinations. We understand that the current examination has been referred to internally at the

¹ See, e.g., Jan. 30, 2020 Letter from Sens. Brown and Menendez to Director Kraninger, *available at* <https://www.banking.senate.gov/newsroom/minority/brown-menendez-demand-answers-from-cfpb-director-on-failure-to-protect-student-loan-borrowers>.

² See U.S. Gov't Accountability Office, GAO 18-547, Public Service Loan Forgiveness, Education Needs to Provide Better Information for the Loan Servicer and Borrowers (2018), *available at* <https://www.gao.gov/assets/700/694304.pdf>; GAO 19-595, Public Service Loan Forgiveness, Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion, (2019), *available at* <https://www.gao.gov/products/GAO-19-595>; U.S. Dep't of Education, Office of Inspector General, ED-OIG/A05Q0008, Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans, (2019), *available at* <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf>.

agencies as a “pilot,” and strongly urge that the Department agree to allow the CFPB to proceed with any future examinations of servicers of federally-held student loans.

We also remain concerned that the CFPB and Department have not reestablished the Memorandum of Understanding (MOU) for the CFPB to access the student borrower loan data, known as the Supervisory MOU. For more than a year, the CFPB has provided a variety of excuses and shifting explanations for the failure to reestablish the Supervisory MOU.³ As a result, other than the current joint examination, the Department is still withholding access to student borrower loan data necessary for the CFPB to fully examine servicers of federally-held student loans for potential wrongdoing. We have repeatedly asked your staff for updates on this issue, but still have not received any meaningful update from the CFPB regarding progress towards reestablishing the MOU or a timeline for finalizing the MOU.

To better understand if and how the CFPB is carrying out its statutory mandate to oversee the student loan market, please provide responses to the following by June 3, 2020.

1. As to the “joint” examination with the Department:
 - a. Is the CFPB following all seven modules from the June 2017 Examination Procedures for Education Loans?⁴ If not, please explain why not.
 - b. Does the CFPB require the Department’s permission to share confidential examination information or findings with other CFPB offices (including Research, Markets, Regulations, or Enforcement) or with state regulators, respectively?
 - c. Did the Department have input on the scope of the CFPB’s examination? If so, please describe.
 - d. Has the Department supervised or provided any instruction to CFPB examiners in carrying out their work?
 - e. Does the CFPB require the Department’s permission or input to carry out any of its examination work?
 - f. Did or will the Department participate in the CFPB’s determination of final examinations findings, citations, or the contents of CFPB final examination reports?
 - g. Did or will the Department participate in assessing remediation or compliance with any Matters Requiring Attention?
 - h. Did or will the Department participate in any decisions regarding referrals to the CFPB’s Office of Enforcement?
2. How many other examinations of servicers of federally-held student loans does the CFPB currently have planned for 2020, and of these, in how many will the Department participate?

³ See *supra* n. 1.

⁴ https://files.consumerfinance.gov/f/documents/201706_cfpb_Education-Loan-Servicing-Exam-Manual.pdf.

3. Since December 2019, describe what progress the CFPB has made, if any, in reestablishing the Supervisory MOU with the Department, including a timeline of relevant meetings and exchanges of draft text and a timeline for finalizing the MOU.
4. You testified that CFPB examiners would be detailed to the Department during the February 2020 oversight hearing before the House Committee on Financial Services.
 - a. How many CFPB examiners have been detailed to the Department, and for how long?
 - b. What is the purpose of the examiners' detail to the Department and the scope of their work?
5. How is the CFPB monitoring student loan servicers' implementation and compliance with the CARES Act, including the pause on payments, interest, and collections, and the required notifications to borrowers to ensure that borrowers fully understand their rights and options, including the option to consolidate federal student loans that do not qualify for CARES Act relief into a Direct Loan?
6. Has the CFPB identified any trends in complaints from student loan borrowers since the beginning of the coronavirus national emergency? If so, please include a breakdown of information by servicer and types of loans.
7. Please describe the instances, and summarize the content, of CFPB's recommendations to the Department regarding the "NextGen" student loan servicing reform, including all efforts to improve oversight and accountability of contractors.

Thank you for attention to this important matter. We look forward to your response.

Sincerely,

/s/ Sherrod Brown

Sherrod Brown
United States Senator

/s/ Patty Murray

Patty Murray
United States Senator

/s/ Jack Reed

Jack Reed
United States Senator

/s/ Chris Van Hollen

Chris Van Hollen
United States Senator

/s/ Brian Schatz

Brian Schatz
United States Senator

/s/ Elizabeth Warren

Elizabeth Warren
United States Senator

/s/ Robert Menendez

Robert Menendez
United States Senator

/s/ Tina Smith

Tina Smith
United States Senator