March 6, 2014

Rohit Chopra
Assistant Director and Student Loan Ombudsman
Consumer Financial Protection Bureau

James Runcie
Chief Operating Officer
Office of Federal Student Aid
U.S. Department of Education

Sent via e-mail

Dear Mr. Chopra and Mr. Runcie:

We have been following the Department of Education's plans to launch a new Direct Loan consolidation system. We understand from the January 7, 2014 announcement that the Department has begun implementing the first phase of this system and that the second is likely to occur this spring.[1] According to the announcement, most borrowers without loans in default should be applying for consolidation through the new studentloans.gov portal.

We have been unable to navigate the system because it requires a borrower PIN number. Based on the announcement and discussions with Department staff, we understand that borrowers will, for the first time, be required to choose a specific loan servicer as part of the consolidation application. This "chosen" servicer will be responsible for completing the consolidation application and acting as the borrower's general loan servicer. Borrowers will be able to choose between FedLoan Servicing (PHEAA), Great Lakes Educational Loan Services, Nelnet and Sallie Mae.

Although we agree generally with enhanced borrower freedom to choose servicers, we are very concerned about the potential for abuse with this new consolidation system. This could occur in a number of ways, including:

[1] We refer to this announcement:
http://www.ifap.ed.gov/eannouncements/010714NewDirectConsolidLoanProInfoPhaseOneTran.html

1. **Collection agency referrals:** Phase one does not include borrowers with loans in default. However, the current plan is to require these borrowers to use the new system once phase two is implemented. These borrowers are almost always dealing with a collection agency. Although borrowers should be able to bypass collection agencies and consolidate on their own, our experience is that the collection agencies pressure borrowers to allow the agencies to process the consolidation applications. Under the new system, we fear that these agencies will make servicer choices without consulting the borrowers.

   There is very serious potential for abuse. Kickback arrangements are one possibility. Even more directly, one of the servicers on the list, Sallie Mae, owns collection agencies.

2. **For-Profit Debt Relief Companies.** The National Consumer Law Center released a report last year focusing on abuses in the for-profit student loan "debt relief" industry. [2] New York Governor Cuomo's new Student Protection Unit recently announced that it had sent subpoenas to thirteen of these "relief" companies. [3]

   We found that the only "service" most of these companies perform, if they perform any service at all, is processing government loan consolidation applications on behalf of borrowers. This appears to be yet another area of potential abuse if these companies seek compensation to steer borrowers to particular servicers. Our investigation found that these companies generally do not provide reliable information to consumers. Therefore it would not be surprising if they selected servicers on behalf of borrowers without informing the borrowers about their right to choose servicers. Most of these companies seek powers of attorney to act on behalf of borrowers.

3. **School Referrals.** A number of our clients with loans in default have told us that for-profit school staff seeking to recruit them have offered to get their loans out of default for free. Many then tried to process loan consolidation applications on behalf of the borrowers. In some cases, we believe that the schools may be working with "debt relief" companies described above.

   In addition, many schools, both for-profit and non-profit, counsel students on handling loans after leaving school. In many cases, the schools are working with borrowers seeking to consolidate loans. It is unclear how these schools can counsel borrowers on comparing servicers and making informed selections.

4. **FFEL (Federal Family Education Loan or Guaranteed Loan) Conflicts.** Borrowers with FFEL loans often seek to consolidate into the Direct Loan program. All four of the "consolidation servicers" has a legacy FFEL portfolio. All but Sallie Mae were FFEL guaranty agencies, although Sallie Mae owns a guaranty agency. We fear that these agencies will steer borrowers into choosing them as the Direct Loan servicer, perhaps even inaccurately informing borrowers that they are required to keep the same servicer as they transition to Direct Loans.

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[2] See National Consumer Law Center, "Searching for Relief: Desperate Borrowers and the Growing Student Loan 'Debt Relief' Industry" (June 2013), available at: http://www.nclc.org/issues/searching-for-relief.html.
[3] See http://www.dfs.ny.gov/about/press2014/pr1401221.htm.

**We are also concerned about the lack of information available to consumers to help them make servicer choices.** The only information we know of showing servicer performance is the quarterly servicer survey information that is generally available only on the Department's Information for Financial Aid Professionals (IFAP) web site. [4] While imperfect, this information gives borrowers some sense of servicer performance. However, it is hidden on a site that consumers rarely visit or even know about. Further, we have noticed that the most recent information has not been posted. We have not seen an update since August 2013. There are media reports that the Department is making adjustments to some of the data categories. However, we do not understand why this would preclude the Department from continuing to release updated information in the other categories.

We are requesting that you send information about any and all information that is publicly available for consumers to learn about servicer performance. Please also indicate whether any information will be available in the future. Please be specific about this information. For example, can borrowers access the redacted transcripts from borrower satisfaction surveys? What other information is available?

In addition, we request that you contact us as soon as possible to explain any precautions the Department or other agencies have taken to avoid potential abuses and to provide information so that consumers can truly shop for servicers. This is particularly critical since once they make a choice, as far as we know, the Department will not let borrowers switch to a different servicer.

Sincerely,

Deanne Loonin

National Consumer Law Center
617-542-8010
dloonin@nclc.org.

[4] See, e.g., http://www.ifap.ed.gov/eannouncements/082213LSIQrtlyCustSatisSurveyBeginSept2013.html.