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Comment submitted by
The National Consumer Law Center

To the Consumer Financial Protection Bureau

Re: Request for Information Regarding Student Loan Borrower Communications (Payback Playbook)

Docket No. CFPB-2016-0018

June 10, 2016

I. Introduction

Thank you for the opportunity to comment on communications to student loan borrowers regarding their repayment options, and specifically the CFPB's prototype Payback Playbook. These comments are submitted on behalf of the National Consumer Law Center's ("NCLC's") low-income clients.[1] NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable.[2]

These comments follow on the detailed comments NCLC submitted to the CFPB in July 2015 in response to the CFPB's related request for information regarding student loan servicing. *See* Docket No. CFPB-2015-0021-6840. NCLC appreciates the CFPB's engagement with and responsiveness to our July 2015 comments in the current request for comments, including the need to address the problem that "[s]tudent loan borrowers lack

[1] The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations that represent low-income and older individuals on consumer issues. In addition, NCLC publishes and annually supplements practice treatises that describe the law currently applicable to all types of consumer transactions, including National Consumer Law Center, Student Loan Law (5th ed. 2014), updated at www.nclc.org/library. These comments were written by NCLC attorneys Persis Yu (Director of the Student Loan Borrower Assistance Project) and Abby Shafroth.

[2] *See* the Project's web site at http://www.studentloanborrowerassistance.org.

information about the current status of their accounts and options for restructuring payments." *See* Request for Information Regarding Student Loan Borrower Communications, CFPB-2016-0018 at n.9.

We appreciate the Bureau's attempt to ensure that borrowers are aware of the income-driven repayment plans and how they may benefit from those plans. Many of the borrowers who we work with are in default or have relied on a long series of forbearances and deferments when they reach us. Few, if any, knew about income-driven repayment even though the vast majority of our clients qualify for a zero dollar monthly payment. Providing customized information to help borrowers navigate their repayment options would be beneficial to many. There are, however, also potential negative consequences of providing inaccurate or irrelevant information. Therefore, we submit the following comments in order to help the CFPB strike the proper balance between providing information and protecting consumers' rights and interests.

II. Customization and the Importance of Accuracy

Providing customized information can be a powerful approach to educating and empowering student loan borrowers; however, we caution that providing customized information that is inaccurate can be misleading and harmful. For example, a borrower who is provided a monthly payment estimate that is *too high* may not be motivated to enter income-driven repayment even though the actual monthly payment would be affordable. Worse yet, these borrowers may become more discouraged, concluding from the communication that they have no affordable options, and thus may fail to take action on their loans or consider income-driven plan when they may have otherwise. On the other hand, a borrower who receives an estimate that is *too low* may unknowingly apply for a plan that is not affordable. This may lead the borrower to feel cheated or mislead, and thus unwilling to engage with the servicer to find another option. The effect of these errors will likely be worse for low-income and vulnerable borrowers who may have less access to correct information. This population of borrowers is also more likely to have not received real benefit from their educational spending, and may already harbor mistrust regarding their student loans.

For these reasons, the source of the information utilized for customizing the Payback Playbook is extremely important. Currently, unless a borrower has already applied for an income-driven repayment plan, a servicer will not have the information necessary to generate an estimated payment amount. Thus, the question is how the servicer will obtain this information.

We strongly urge caution regarding the use of one potential option: consumer reporting agency (CRA) products that attempt to estimate or "model" consumers' income and family size. We have serious concerns about the accuracy of these products. In fact, the reliability of these "income modeling" products is so questionable that the Office of the Comptroller of the Currency (OCC) has restricted their use by credit card issuers that it supervises on safety and soundness grounds.[3]

[3] Consumer Financial Protection Bureau, Consumer Credit Card Market Report 143 (Dec. 3,

Other types of CRA products, such as The Work Number, contain actual payroll information rather than estimating income, but only have information on limited numbers of borrowers, limiting their utility for purposes of the proposed Playbooks. Also, they too may contain errors. Traditional credit reports from the nationwide consumer reporting agencies have significant error levels, according to a 2012 study by the Federal Trade Commission.[4]

As for other types of "Big Data," NCLC's 2014 report, *Big Data, a Big Disappointment for Scoring Consumer Creditworthiness*, detailed our survey of the data maintained on consumers by data brokers.[5] Our volunteers found that information maintained on them by data brokers were riddled with inaccuracies, ranging from a wrong email address to "mixed files" that combined information about our volunteer with information about multiple other individuals. Most significantly, there were serious errors from one data broker that touts its ability to estimate income based on its advanced models. Seven of the fifteen consumer reports generated by that data broker contained errors in estimated income, nearly doubling the salary of one participant and halving the salary of another.

In addition to accuracy issues, use of data brokers raises serious privacy concerns. Data brokers gather data from many different sources—including social networking data, web browsing history, and purchase information—and utilize sophisticated algorithms to discern information about the consumer. In a now infamous example, Target predicts which shoppers are pregnant based on the history of products purchased at the store, combined with other demographic information purchased from third-party data brokers.[6] In many instances, consumers may not realize that data about them is being generated or used. And there may be sources of information that consumers feel are inappropriate for use by student loan servicers. Additionally, income and family size are personal information and some borrowers simply may not want their servicers to know that information without their consent. Therefore, if third-party data brokers are used, there should be appropriate ways both to inform borrowers that the servicer is obtaining third-party data about them and to allow borrowers to opt out. However, due to these privacy concerns and the inaccuracy problems discussed above, we do not think the use of data brokers is appropriate for the Playbook.

The best source of data would the individual's tax information. Although IRS data still has the potential for inaccuracy (e.g., income reflected in tax returns may have

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2015), available at http://files.consumerfinance.gov/f/201512_cfpb_report-the-consumer-creditcard-market.pdf

[4] FTC, Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (Dec. 2012)(finding that 21% of consumers had verified errors in their credit reports, 13% had errors that affected their credit scores, and 5% had errors serious enough to be denied or pay more for credit).

[5] National Consumer Law Center, Big Data: A Big Disappointment for Scoring Consumer Credit Risk, Mar. 2014, available at http://www.nclc.org/issues/big-data.html.

[6] Kashmir Hill, *How Target Figured Out A Teen Girl Was Pregnant Before Her Father Did*. Forbes, Feb. 16, 2012, www.forbes.com/sites/kashmirhill/2012/02/16/how-target-figured-out-a-teen-girl-was-pregnant-before-her-father-did/.

changed significantly, and the number of dependents reflected in tax returns may not be the same as household size for purposes of income-driven repayment plan calculations due to differences in the definitions of dependents and family size), the harm of the inaccuracy may be mitigated by the fact that it was generated using the borrower's actual information. Specifically, if the information is presented as based on the borrower's last tax return, the borrower can recognize if his or her income has meaningfully changed since their tax return, and is thus unlikely to be misled by an income amount that is no longer accurate. In contrast, estimates generated by data brokers are not transparent as to how current or how accurate they may be, and thus are more likely to be misleading.

In light of the fact that IRS data is unlikely to be available in the immediate future, we recommend that the Playbook not attempt to customize an estimated repayment amount for each borrower. The risk of providing inaccurate information is greater than the benefit of presenting the information as specific to the borrower. Rather, we recommend the Playbook provide information about a fictitious borrower that is targeted to the borrower (and has the same loan obligations). We propose that this fictitious borrower's income be provided as a round number that is based upon the median income in the borrower's census tract (e.g., $15,000, $20,000, $25,000, $35,000, $50,000, $75,000, $100,000, $150,000, etc.). This approach also has the benefit of alleviating privacy concerns.

We also propose that the Playbook present examples based on different family sizes. For low-income borrowers, incorrectly identifying the family size can dramatically impact the accuracy of the repayment estimate. For example, under the REPAYE plan, a family with an adjusted gross income of $30,000 would pay $102 per month if the family size is 1 as compared to $0 per month for a family of 4.[7] Unfortunately, the relevant household size is also the hardest piece of information to estimate. Because of the huge impact that family size can have on payment amounts, and the significant risk of getting this estimate wrong, we recommend the Playbook instead present income-driven payment amounts for two different family sizes. This would demonstrate the range of payment amounts for borrowers at a given income level depending on their family size, and would allow borrowers to consider where they fall in that range. Specifically, we suggest providing the income-driven repayment amounts for a household of 1 and a household of 4. We suggest displaying a household size of 1 because it will be accurate for many borrowers who recently left school, and because it will generate the largest possible payment for an income level—thus providing an anchor for a borrower to envision his or her own repayment amount. We suggest also displaying a common larger household size, such as 4, because it will provide the borrower with an adequate range to see the impact of household size on the repayment amount.

III. Feedback Related to Specific Elements of the Playbook

a. Selection of Repayment Plans Presented as Options

[7] This is assuming a borrower who lives in the continental United States who has a loan balance of $30,000 with an interest rate of 6.8 percent.

In light of the number and complexity of available repayment plans, we appreciate the CFPB's idea to simplify the decision making process for borrowers by presenting only one or two alternatives to the borrower's current plan in the Playbook (with a link provided for borrowers interested in learning about other options). In presenting only a subset of plans, however, the CFPB and Education Department should ensure that the plans presented are the likely best alternative options for the borrower. As the CFPB recognizes in its call for comments, borrowers in income-driven repayment plans have dramatically lower delinquency and default rates, and it is important to ensure that all eligible borrowers are aware of their right to select an income-driven plan and what such plan might look like for them. Thus in nearly all cases, including all situations where the borrower is eligible for an income-driven plan that would reduce their current monthly payment, an income-driven plan should be presented as an alternative.

For borrowers eligible for multiple income-driven plans, the CFPB and Education Department should endeavor to present the plan likely to be most generous to the borrower. Due to complex differences in the plans and the different ways in which changes in future income, family size, and even tax filing status impact monthly payments and total lifetime costs under each plan, determining the single best income-driven plan for borrowers may be impossible in some instances. There are, however, some general rules of priority.[8] For example, the plan presented should offer the lowest monthly payment the borrower qualifies for. This will generally mean that a borrower who is eligible for REPAYE, PAYE, or "New IBR" (for which the payment is 10% of discretionary income) should not be presented with the original IBR (15% of discretionary income) or income-contingent repayment ("ICR," 20% of discretionary income) as options.[9] Additionally, in choosing between plans that offer the same payment amount, the plan presented should offer the shortest repayment period before forgiveness. While REPAYE, PAYE, and New IBR share a standard 20-year payment term, REPAYE provides a longer 25-year term for graduate borrowers, and such borrowers should therefore be presented with PAYE if eligible.[10] Finally, while PAYE and new IBR use the same general payment calculation and repayment periods, subtle differences between the plans make PAYE more favorable to borrowers,[11] and thus PAYE rather than IBR should be presented to borrowers eligible for both.

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[8] *See generally* National Consumer Law Center, Student Loan Law §3.3.3.9 (5th ed. 2014), updated at www.nclc.org/library.

[9] There may be circumstances in which a borrower eligible for the original IBR and REPAYE (but not PAYE), may benefit more from IBR than REPAYE due to the ability to exclude a spouse's income from the IBR payment calculation by filing taxes separately, and due to IBR's cap on monthly payments. For purposes of the Playbook, these factors may be too difficult to take into account.

[10] For borrowers *without* graduate loans who qualify for both PAYE and REPAYE, the optimal plan will be depend on individual factors and priorities, including whether the borrower is married and files taxes separately and would have a lower payment amount as a result under PAYE as a result; whether the borrower is likely to earn more over time such that they would hit the payment cap used in PAYE (and whether they would prefer capping their payments or paying their loan off faster as their income rises); and whether the borrower is facing negative amortization and how much they might benefit from the REPAYE's more generous treatment of accrued interest. *See* National Consumer Law Center, Student Loan Law §3.3.3.9.

[11] Specifically, if a borrower no longer has a partial financial hardship, PAYE limits the amount of interest capitalized to 10% of the original principal balance when the borrower entered repayment; IBR has no such

Unlike income-driven plans, graduated repayment plans should not necessarily be presented to all borrowers given the risk presented by the significantly escalating monthly payment amounts. A graduated repayment plan may be a good option for some higher-earning borrowers, especially those who do not have a "partial financial hardship" but may face temporary financial obligations that make payments under the standard or extended plans difficult.[12] In those cases, graduated repayment plans may be the best way to reduce their current obligations while remaining current on their loans. For many lower-income borrowers, however, including Playbook A's sample family of two earning $29,457, the graduated payment plan is a risky option—like a mortgage with initially low but quickly growing payments—which provides insufficient upside as compared to an income-driven plan. The CFPB should therefore consider that it may be best to *only* suggest an income-driven plan as an alternative to the standard plan for lower-income borrowers (and potentially for middle-income borrowers).[13]

For example, the sample borrower in Playbook A would be at much greater risk of missing payments and defaulting (or potentially missing other bill payments to meet student loan obligations) under the graduated plan than the income-driven plan, given the rapid tripling of monthly payments from $152 to $455 in the course of less than 10 years. In contrast, under PAYE, the risk of payment amounts outstripping the borrower's ability to pay would be minimal, as payments would be based on actual income rather than rosy ideas that ability to pay would triple in the coming decade.

The only upside to the graduated plan over the income-driven plan for this borrower is the potential to pay less over the total life of the loan—but even this advantage is uncertain. Using the Department's Repayment Estimator[14] and assuming a loan balance of $24,000 at 6% interest, the borrower in Playbook A is projected to save about $2000 total in interest over the nearly 20-year PAYE period by opting for the graduated plan rather than PAYE. But this estimated savings may not pan out. The estimated savings is based on the Repayment Estimator's optimistic assumption that all borrowers will enjoy a 5% increase in income every year, which would mean steadily increasing monthly payments each year under PAYE. Because the actual level of nominal wage growth is about half that 5% assumption,[15] and wage growth is historically even lower for low-income earners,[16] it is likely that many low-income borrowers will actually pay less in total

cap. 34 C.F.R. § 685.209(a)(2)(iv)(B). Also, unlike IBR, borrowers in the PAYE repayment plan can leave PAYE and select any other repayment plan at any time without first entering and "transiting through" the standard repayment plan, simplifying the process of changing payment plans if desired. 34 C.F.R. § 685.209(a)(4)(ii). *See* National Consumer Law Center, Student Loan Law §3.3.3.9.

[12] Higher earning borrowers may also have more secure career prospects and greater likelihood of obtaining the raises needed to support the graduated plan's increasing monthly payments.

[13] To the extent a borrower is eligible for an extended plan, it may also be an appropriate alternative option to present, though it will generally offer less benefit to low-income borrowers than income-driven plans.

[14] https://studentloans.gov/myDirectLoan/mobile/repayment/repaymentEstimator.action.

[15] *See* http://www.epi.org/nominal-wage-tracker/, showing that recent nominal wage growth for private employees has only been 2.5%.

[16] Since 1979 the earnings of low-wage earners have grown more slowly than other workers, actually shrinking in real terms. *See* http://www.epi.org/publication/charting-wage-stagnation/ and Figure 4.

under an income-driven plan than under a graduated plan—while also benefiting from lower monthly payments and reduced risk of unaffordable payments in the event of job loss or wage reduction.[17]

In short, while an income-driven option should nearly always be presented to borrowers, a graduated repayment plan (or extended-graduated plans) should likely only be suggested to middle or higher income borrowers for whom initial payments would be lowest under such plan.

b. Displaying Lifetime Loan Costs

Playbooks sent to borrowers who are current on their payments (or who are in a grace period before beginning repayment) should include some information about differences in the total lifetime costs of alternative payment plans. In addition to the amount of monthly payments and the repayment term, the total lifetime cost is relevant information for a borrower who has been able to make payments on the standard plan but is considering alternatives. We appreciate that for income-driven plans it is impossible to provide total lifetime costs, as costs will depend on how the borrower's income changes over time. Therefore, for Playbooks to current borrowers that include an income-driven option, the Playbook should briefly indicate that total lifetime amounts paid may be higher on plans with lower monthly payments, as the CFPB includes on the current versions of the Playbook. This sort of notice, combined with a link to the site where borrowers can learn more about various details including "total loan costs," should ensure that borrowers are provided information sufficient to consider total loans costs in their repayment plan decision.

In contrast, plan differences in total lifetime costs are less relevant to borrowers who are delinquent. For these borrowers, accessing affordable monthly payments is critical, and suggesting that an alternative plan could increase total lifetime costs could be counterproductive. Additionally, it may be incorrect if remaining on the standard plan leads the borrower to default, as lifetime costs could then include significant collection costs (up to 40% for Perkins loans) and capitalization of interest, in addition to the cascading financial problems borrowers experience when subject to default collection tactics. The CFPB should therefore evaluate and perhaps test whether the warning on Playbook C that switching plans to "a lower monthly payment often means paying more over the life of your loan" deters borrowers from changing plans even when they cannot afford their current plan.

c. Prominent Links to Sign Up and Get More Information/Estimates

Especially for electronic communications, to make this communication as actionable as possible the Playbook should include prominent links to: (1) the landing page to sign up for a different repayment plan; and (2) the landing page for the Repayment

[17] Borrowers in the REPAYE plan, which does not have a monthly payment cap, could also pay less over the total lifetime of the loan than they would under a graduated plan if their income increases faster than projected, leading to an earlier payoff and less interest accrual.

Estimator and/or other information about repayment plan options. The Education Department has some good materials online, including the electronic application for repayment plans, but its website is not easy for all borrowers to navigate and the Playbook can simplify this step. By including prominent links in the Playbook (for example, colored buttons that say "Click to Sign Up Now") that go directly to the page where borrowers can take action, the CFPB can increase the likelihood that interested borrowers will take action effectively, and decrease the risk that borrowers will put off action for later, get lost navigating the internet and give up, or worse yet, search the internet for student loan relief and wind up on a private "debt relief" scam website.

d. Servicer Phone Number

Providing a number to call where borrowers can get help signing up for repayment plans or more information about their options is critical. A phone number ensures that borrowers who do not have ready access to the internet, have questions about the plans, or encounter difficulty applying online have a clear way to get in touch with someone who can help. Many low-income borrowers, including many of our clients, do not have computers and access email primarily from their phones. Additionally, the income-driven application process has several steps with which some borrowers will struggle. These borrowers are some of the most at risk of default under a standard plan, and for these borrowers a prominent phone number to someone who can help (and who will not tell them to call a different number or transfer them around) is essential. However, having a number to call is only useful if borrowers who call their servicer are given accurate and competent advice about their options. Therefore, as NCLC has repeatedly emphasized, the Education Department must also takes steps to improve student loan servicing.[18]

e. Playbook C: Test Providing Information about When Delinquent Loans Will Go into Default

One of the Playbook's primary goals should be to help borrowers avoid default as a result of not being able to afford the monthly payments of their current plan. To increase the probability that borrowers will act before they default, the CFPB should test including information to delinquent borrowers about when they will default if they do not resume or begin making payments, and generally what the consequences of default are. The goal should not be to scare or harass borrowers, but to inform them of the consequences and timeline, which may encourage borrowers to take action to access a more affordable repayment plan before it is too late and they are caught in the default collection system.

[18] *See, e.g.*, Persis Yu, NCLC's Student Loan Borrower Assistance, Department's Plan to Protect Student Loan Borrowers (May 5, 2016), at http://www.studentloanborrowerassistance.org/protect-student-loan-borrowers/; National Consumer Law Center, Comment Submitted to the Consumer Financial Protection Bureau Re: Request for Information regarding Student Loan Servicing (July 13, 2015), Docket No. CFPB-2015-0021-6840, *available at* http://www.nclc.org/images/pdf/special_projects/sl/NCLC_Comments_Student_Loan_Servicing_Jul2015.pdf. *See also* Americans for Financial Reform Letter to Secretary King (May 5, 2016) (addressing recent announcements about student loan servicing standards and servicer contracts), *available at* http://ourfinancialsecurity.org/wp-content/uploads/2016/05/AFR-Letter-on-Student-Loan-Servicing-Solicitiation-Process.pdf.

This may require that different versions of the "Playbook C" type communication are sent when the borrower's account is fewer days overdue (when providing a distant-sounding deadline for action may discourage prompt action), versus when the default date is closer. We therefore encourage the CFPB to test both the language and dates for sending information about the timeline and consequences of default to borrowers who are delinquent.

IV. Feedback about Email and Other Methods of Communication

The CFPB seeks comment on how it would be best to see the Playbook "(*e.g.*, in monthly billing statements, when you log on to your account online, etc.)." Based on our experience working with low-income borrowers struggling with their loans, we stress that to be effective at reaching the borrowers most at risk of default, the Playbook must be sent directly to borrowers—both in the body of emails and via mailed letters, including mailed monthly statements. Posting the Payback Playbook in borrowers' online servicing and FSA accounts is important and useful, but insufficient. In our experience, many borrowers struggling with their student loans do not log into the online servicing accounts or the Department's online student loan accounts frequently or at all; indeed, many do not even know about these accounts and have not created log in information.

Further, for emailed communications, we emphasize that the subject line should be clear and not generic (testing would be valuable), and the Playbook should be contained in the body of the email. As the CFPB noted in its call for comments, "Borrowers described that they may be more likely to take action in response to monthly email communications containing personalized repayment information, rather than written statements instructing borrowers to log in to review their account or to call a customer service representative to discuss available options." This is consistent with our experience: when borrowers receive a generic communication that directs them to log into their online account to access a letter or information, that step is a significant barrier and many borrowers do not get the communication. This is especially true for low-income borrowers who often do not have ready access to a computer and access their email from their phones.

We do not suggest excluding the Payback Playbook from borrowers' online accounts—displaying the Payback Playbook prominently in the place where many borrowers do go to engage with their student loans should be a given. Moreover, it should be especially easy from these online accounts to provide clear links to take borrowers directly to the pages where they can sign up for a new plan or use a Repayment Estimator and get more information about the plans. We merely emphasize that for the borrowers most at risk of default, many would never see the Playbook if it is only displayed in online accounts that the borrower has to affirmatively navigate to and log into.

V. Feedback about Which Populations of Borrowers Would Benefit from Receiving the Playbook, and When They Should Receive It

a. Populations of Borrowers that Would Benefit

Most borrowers would benefit from receiving more information about their student loan repayment options, and we expect many would benefit from a well-developed, actionable communication along the lines of the proposed Playbook.

In particular, we would expect that most borrowers who appear based on estimates to be eligible for a lower or significantly lower monthly payment under an income-driven repayment would benefit from receiving a communication like the Playbook. In addition, certain subsets of borrowers would be especially likely to benefit. We provide below a non-exhaustive list of borrowers we expect would be most likely to benefit from the Playbook:[19]

- Borrowers who are delinquent. These borrowers are at most urgent risk of default, and most are likely delinquent because they cannot afford the payments under their current repayment plan. These borrowers would benefit most from effective, actionable communications about their options.

- Borrowers who are in a deferment or forbearance related to unemployment or other financial hardship. Borrowers who have postponed repayment for one of these reasons have done so because they cannot afford their monthly payments under their current repayment plan and would benefit from effective communications about lowering their payments. Additionally, while these forbearances and deferments are important options, an income-driven plan is often a better—and more permanent—option for borrowers than relying on temporary deferments and forbearances.

- Borrowers who have missed one or more payments, even if they subsequently caught up. While default is a less urgent risk for this group of borrowers, missing payments may be an indicator that the borrower has difficulty affording his or her current monthly loan payments and would benefit from better information about alternatives.

- Borrowers who withdrew from school prior to completing. Mark Zuckerberg notwithstanding, borrowers who do not complete their educational programs are significantly more likely to struggle with and default on their loans than borrowers who complete.[20]

The CFPB and the Education Department should assess whether there are other indicators that a borrower's current loan payments are unaffordable or the borrower has difficulty making payments, as all such borrowers would be likely to benefit from receiving targeted communications about reducing their payments. For example, it may be that many borrowers who make individual monthly payments on their student loans, rather

[19] Please note that any borrowers within these groups who are not estimated to be eligible for a repayment plan with a lower monthly payment should not receive the Playbook for the reasons discussed below.
[20] *See, e.g.*, Clare McCann, New America Foundation, Student Loan Defaulters Aren't Who You Think They Are (Oct. 23, 2014) *available at* http://www.edcentral.org/defaulters/.

than signing up for auto-debiting, do so because they are uncertain if they will have sufficient funds to make their payments in any given month; if so, this would be another indicator of difficulty with or concern about ability to satisfy current monthly payments.

In contrast, there are at least two groups of borrowers who we would not expect to benefit from the Playbook: borrowers who are not eligible for a lower monthly repayment and current students not yet in repayment. First, borrowers who are not eligible for a repayment plan with a lower monthly payment (based on the information or estimates of their income and family size range) would be unlikely to benefit from the Playbook. These borrowers should be informed that alternative repayment options exist, but the emphasis on "reducing your monthly payment" is at best inapplicable to these borrowers, and at worst could lead borrowers for whom the estimates are incorrect to write off income-driven repayment as a viable alternative.

Second, while we support providing more information to borrowers while they are still in school about their loan obligations and repayment options, the Playbook is not the best vehicle to communicate with such borrowers. The personalized or semi-personalized nature of the communication would be difficult if not impossible to get reasonably correct for borrowers who are still in school and are not yet earning their post-school income, and who may take out additional loans. Additionally, these communications would not be fully actionable while the borrower is still in school and unable to provide the income-documentation needed for IDR.

b. When and How Frequently the Playbook Should Be Sent

We encourage the CFPB and Education Department to assess and test when and how frequently the Playbook should be sent to borrowers to maximize impact.[21] As explained above, the Playbook should not be sent to borrowers while they are still in school and not yet in repayment. Similarly, we would expect significant income and household data accuracy problems during the first few months after borrowers graduate, when they may not yet have found work and may be in temporary housing situations that would decrease the accuracy of census tract data (e.g., borrowers who move home with parents temporarily). In contrast, we expect it would be beneficial to send the Playbook to borrowers at a number of times, including when a borrower:

- is about to enter repayment,
- receives the first few billing statements,
- begins a deferment or forbearance based on financial hardship or unemployment,
- re-enters repayment following a deferment or forbearance,
- misses a payment,
- receives a billing statement for a higher monthly amount each year on a graduated repayment plan.

[21] Including whether it is beneficial to borrowers to always make the Playbook available in their online accounts.

VI. Credit Reporting of Student Loans

We are very encouraged to see the Departments of Education, Treasury, and the CFPB working together on a new initiative to modernize the way student loans appear on borrowers' credit reports. As we have indicated on prior comments to the CFPB, we also see inconsistent practices in terms of reporting information to credit bureaus. Credit reporting is important to borrowers' financial well-being, as nearly half of all employers do credit checks on some or all of their employees when hiring. Poor credit can also affect a consumer's ability to secure affordable housing and insurance.

The negative impact of a missed payment can be magnified by the way that a servicer reports accounts to the credit bureaus. Even though a borrower may only make one payment, each loan will be reported as an independent trade line. Some servicers will even split consolidation loans into subsidized and unsubsidized components. Therefore, every missed payment for a borrower winds up looking like two or more missed payments for credit purposes. Some servicers are also slow to update borrowers' credit reports. As a result, consolidation can lead to the double reporting of the same loans.

An example of the negative impact of student loan credit reporting practices comes from an NCLC client, Patty, who works full time as a waitress. Patty was able to work out affordable payment arrangements for most of her student loans, but one private student lender refused to work with her and as a result she is now three years past due on this account. Unfortunately, because she cannot get up to date on this one private loan, it will continue to report a past due balance until it is obsolete. Exacerbating the negative credit impact is how these missed payments are reported. Although this lender sends Patty one bill with one monthly payment, because she took out the loan in three separate disbursements (as happens for students who borrow to attend multiple semesters), the debt is reported on her credit reports as three separate past due accounts.

The way Patty's student loans are being reported has already cost her significantly. When Patty's car was totaled in an accident, she needed to buy a used car on credit in order to get to work. Patty has a long credit history, but the past due private student loan is the biggest drag on her credit score. Due to her bad credit score, the best interest rate that Patty could get on a car loan was 19.7 percent. Over the life of her loan, she will pay thousands more dollars for her car as a result of the way her student loan accounts were reported.

As Patty's example demonstrates, *how* student loan information is presented on credit reports has a meaningful impact on consumers, and is not merely a technical detail. Therefore, the CFPB, together with the Education Department and Treasury, should take this opportunity to not only bring student loan credit reporting practices into consistent alignment, but to make sure that new alignment is based on best practices. Best practices guidelines for credit reporting on student loans must therefore be developed. The development process should include input from borrowers and organizations that advocate on their behalf so that borrowers' experiences with how credit reporting decisions impact them are heard, and so borrowers' interests in fair credit reporting practices are reflected in

the guidelines. Borrowers are a key constituency in this process, and we urge the CFPB, Education Department, and Treasury to seek borrower input throughout the process.

Thank you for your consideration of these comments. Please feel free to contact Abby Shafroth or Persis Yu if you have any questions or would like to discuss any of our comments. (Ph: 617-542-8010; email: ashafroth@nclc.org or pyu@nclc.org).