Consumer Financial Protection Bureau

1700 G Street, N.W., Washington, DC 20552

March 18, 2014

The Honorable Sherrod Brown
United States Senate
713 Hart Senate Office Building
Washington, DC 20510

Dear ~~Senator Brown~~ Sherrod,

Thank you for your letter about the treatment of families by private student loan servicers and debt collectors in a time of tragedy.

Frequently, a borrower asks a parent or other family member to co-sign a private student loan. As you have noted, federal law does not require forgiveness of private student loan debt when the primary borrower has died. As specified in many promissory notes, a co-signer is legally obligated to repay the student loan debt if the primary borrower is unable to pay, including in the event of the primary borrower's death.

In some cases, the terms and conditions require that the co-signer immediately make full payment on the outstanding balance of the loan – a true challenge for many families and a stark contrast to federal student loans.

The Bureau began accepting complaints on private student loans in March 2012.[1] Between October 1, 2012 and September 30, 2013, we have received at least 16 complaints related to the death of a primary borrower. Approximately 50% of these complaints come from customers of Sallie Mae.

In your letter, you asked whether the Bureau is confident that private student loan servicers and debt collectors are following the law. In addition, you inquired as to whether stricter rules are needed to protect families of deceased borrowers.

In December 2013, the Bureau finalized a rule defining larger participants in the student loan servicing market, allowing the Bureau to supervise nonbank larger participants in the student loan

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[1] Consumer Financial Protection Bureau, *Our Student Loan Complaint System is Open for Business*, available at http://www.consumerfinance.gov/blog/our-student-loan-complaint-system-is-open-for-business/ (March 2012).

servicing market beginning in March 2014.[2] This will supplement our existing efforts to supervise larger participants in the debt collection industry.[3] Both of these efforts – in addition to ongoing enforcement activity – will help the Bureau ascertain whether industry participants are complying with existing law.

I am concerned about the impact of debt collection activities on families when a primary borrower has died. When debt collectors repeatedly make phone calls asking to speak to the deceased when they have already been informed of the situation, it raises a number of consumer protection questions. In November 2013, the Bureau published an Advance Notice of Proposed Rulemaking seeking comment from the public on debt collection practices.[4] This notice includes several questions about decedent debt, which will help to inform a potential rulemaking.

You further inquired as to whether parent co-signers are sufficiently aware of their obligations in the event of a tragedy like the one you described. In 2008, Congress enacted the Higher Education Opportunity Act, which directed the Federal Reserve Board of Governors to develop special disclosures for private student loans. These new disclosures were finalized in 2009 and implemented by lenders in 2010.[5] The Bureau has not conducted any analysis as to whether parent co-signers are sufficiently aware of their obligations. While we have not conducted formal analysis, the Federal Reserve Board of Governors did not include any language related to loan discharge upon death in its model disclosures.

Your letter also asked whether there should be a federal requirement for loan holders to forgive a private student loan when the primary borrower has died.

While we have not conducted robust quantitative analysis on the cost of credit if this requirement existed, we anticipate that the impact on financial institutions would vary based on size.

Most private student loans are held in large portfolios. Originators may be able to more easily price expected losses from this requirement into the cost of new originations. A smaller financial institution with a small pool of loans would manage risk differently. We have heard that credit unions are interested in purchasing insurance products for their loan portfolios so they may offer forgiveness to their customers upon death. However, some have faced challenges finding an underwriter. A federal requirement may create a market for insurance companies to offer this protection to small financial institutions, but may cause challenges if such an option continued to be unavailable.

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[2] Consumer Financial Protection Bureau, *CFPB to Oversee Nonbank Student Loan* Servicers, available at http://www.consumerfinance.gov/newsroom/cfpb-to-oversee-nonbank-student-loan-servicers/ (December 2013).
[3] Consumer Financial Protection Bureau, *CFPB to Oversee Debt Collectors,* available at http://www.consumerfinance.gov/newsroom/consumer-financial-protection-bureau-to-oversee-debt-collectors/ (October 2012).
[4] Consumer Financial Protection Bureau, *CFPB Considers Debt Collection Rules*, http://www.consumerfinance.gov/newsroom/cfpb-considers-debt-collection-rules/ (November 2013).
[5] Truth in Lending, 74 Fed. Reg. 41194 (Bd. of Governors for the Fed. Reserve Sys. August 14, 2009) ; 12 C.F.R. § 1026.46.

Finally, while the Bureau does not supervise depository institutions for safety and soundness, I am concerned that poor recordkeeping and potentially harmful tactics when institutions seek to collect debt raises questions about whether these institutions are adequately managed. As a member of the Federal Deposit Insurance Corporation's board of directors and as Director of the Bureau, I deeply believe that robust processes for ensuring compliance go hand-in-hand with a safe and sound institution.

Thank you for allowing us the opportunity to address these concerns and we thank you for your continuing interest in the Bureau's work. I have included the most recent *Annual Report of the CFPB Student Loan Ombudsman*, which analyzes private student loan complaints and offers recommendations to federal policymakers, for your review.

Please do not hesitate to contact me or my staff should you need anything further.

Sincerely,

Richard Cordray
Director