December 10, 2019

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry,

Americans for Financial Reform (AFR), a coalition of more than 200 national, state, and local groups who have come together to advocate for reform of the financial industry[1], wishes to express our support for the following package of bills:

- **H.R. 5294, The Student Borrower Protection Act (Rep. Alma Adams)**
- **H.R. 5287, The Fair Student Loan Debt Collection Practices Act (Rep. Al Lawson)**
- **H.R. 4545, The Private Loan Disability Discharge Act of 2019 (Rep. Madeleine Dean)**

As a coalition formed in the wake of the subprime mortgage crisis to lay the foundation for a strong, stable, and ethical financial system, AFR is highly attuned to the problems created by the ongoing student debt crisis, with outstanding student debt surpassing $1.5 trillion, more than 8 million borrowers in default, and another borrower entering default every 28 seconds.[2] It's a crisis that impacts more than just young people. More than three million Americans over 60 years old still owe student debt.[3] Parent PLUS loans are increasing at a faster rate than student loans, and many of these borrowers owe significant amounts of debt.[4] As of 2014, 13 percent of parents with Parent PLUS loans owe more than $50,000.[5] In 2015, 37 percent of federal student

[1] A complete list of Americans for Financial Reform's coalition members is available at: https://ourfinancialsecurity.org/about/coalition-members/.
[2] https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-frotmans-20190307.pdf
[3] https://www.wsj.com/articles/over-60-and-crushed-by-student-loan-debt-11549083631
[4] http://money.com/money/5641842/parent-plus-loans-growth-fixes/
[5] https://www.brookings.edu/wp-content/uploads/2018/02/es_20180216_looneylargebalances.pdf

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loan borrowers age 65 and older were in default, and 40,000 older borrowers had their Social Security garnished due to student loans.[6]

Additionally, as this crisis unfolds in neighborhoods all across our country, borrowers and communities of color feel this burden most acutely—experiencing some of the most severe consequences associated with this crisis. Throughout the lifecycle of their loans, borrowers of color face significant barriers that impede progress and compound the historic socioeconomic inequality faced by communities of color. More than 90 percent of African-American and 72 percent of Latino students fund their higher education with student loans in comparison to 66 percent of white students.[7] The average white borrower pays down almost 95 percent of their loans 20 years after starting college in stark contrast to their black peers who still owe 95 percent of their original balance after the same period.[8] Recent research from the Federal Reserve Bank of New York has provided comprehensive data that further examines disparities in loan performance for borrowers of color in relation to their white peers.[9] Predominantly-black communities have the highest and fastest-growing student loan balances, with an average balance of $38,000, about $5,000 more than the national average. The Federal Reserve data also points to alarming trends in repayment disparities.[10] Default rates are approximately 17.7 percent in majority-black zip codes and 13 percent in Latino-majority zip codes as compared to 9 percent default rates in majority-white zip codes.

A recent report from the New York Fed has shown that there are now more student loan delinquencies than are present in either mortgage or credit card debt, confirming that student lending has hit a crisis point in the United States.[11] Unlike mortgage lending, there is no industry-wide framework at the federal level establishing rules for student loans or student loan servicing. And ongoing problems at servicers exacerbate the crisis, failing borrowers at every turn, be it by pushing them into default when they qualify for a $0 a month Income-Driven Repayment plan, or by failing to process their requests in a timely fashion. The bills we discuss below would make significant strides to tackle this crisis by extending a series of consumer protections to student loan borrowers, creating much-needed standards for servicers, and increasing the transparency of the student loan market overall.

H.R. 5294, The Student Borrower Protection Act, Rep. Alma Adams (D-NC)

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[6] https://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf

[7] https://www.consumerfinance.gov/about-us/blog/significant-impact-student-debt-communities-color/

[8] https://heller.brandeis.edu/iasp/pdfs/racial-wealth-equity/racial-wealth-gap/stallingdreams-how-student-debt-is-disrupting-lifechances.pdf

[9] https://libertystreeteconomics.newyorkfed.org/2019/11/just-released-racial-disparities-in-student-loan-outcomes.html

[10] https://libertystreeteconomics.newyorkfed.org/2019/11/just-released-racial-disparities-in-student-loan-outcomes.html

[11] https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/hhdc_2019q2.pdf

Unlike mortgages or credit cards, there is no industry-wide framework at the federal level that sets standards for the student loan industry. As a result, people with student loans do not have safeguards to help them succeed in getting out of debt.

The legislation, led by Representative Alma Adams (D-NC) would address this problem by creating comprehensive new minimum servicing standards. The standards proposed include those related to application of payments, communication with borrowers, transferring loans between servicers, disclosure of deadlines and late fees, and notification requirements for interest rate changes. It would create a requirement for servicers to take action in response to inquiries from borrowers within 30 business days, ensuring that borrowers aren't left hanging by their servicer. The bill would also direct servicers to create a service member and veterans liaison who is specifically trained on the protections afforded to members of the military.

When students leave school they are hit with the additional challenge of navigating a terribly complex and confusing repayment system. While making payments, a borrower's main point of contact is a loan servicer like Sallie Mae, Navient, or FedLoan Servicing. The servicer becomes the gatekeeper for everything a borrower needs to do to manage a student loan. But as multiple state and federal investigations have shown, loan servicers are consistently getting in the way of borrowers' ability to manage their loans. Servicers routinely lose paperwork, misapply payments, give inaccurate information, and even steer borrowers into repayment options that add to the overall cost of their loans – or worse, cause them to fall behind on payments and slide toward default. The standards outlined in this bill would ensure that borrowers are being treated fairly and consistently across servicers, and bring about a long-needed check on the failures of the student loan servicing industry.

In addition, this bill would prohibit both pre-dispute forced arbitration clauses and class action bans in student loan agreements – an idea originally proposed by Representative Madeleine Dean (D-PA) in separate legislation. The 2015 Consumer Financial Protection Bureau's arbitration study showed that 86 percent of the largest private student loan lenders include forced arbitration in their loan documents.[12] These "ripoff clauses" buried in the fine print block borrowers from challenging illegal behavior in court. Instead, lenders push disputes into secret arbitration proceedings rigged in their favor. Most of these clauses also ban student loan borrowers from joining together in class action lawsuits – often the only practical means of contesting fraud, illegal fees, and other forms of widespread misconduct. Student loan borrowers already face a stacked deck when they try to hold large corporations accountable for harms, but forced arbitration clauses in consumer financial contracts make it nearly impossible to beat the odds. We strongly support this legislation.

H.R. 5287, The Fair Student Loan Debt Collection Practices Act (Rep. Al Lawson)

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[12] https://files.consumerfinance.gov/f/201503_cfpb_factsheet_arbitration-study.pdf

One of the great and ongoing failures of student loan servicers is putting students in a more expensive repayment option than they qualify for. As one example, the CFPB sued Navient for illegally cheating borrowers out of their rights to lower repayments by taking shortcuts such as putting them in forbearance when the borrower qualified for an income-driven repayment program. These servicing failures means that there are borrowers who qualify for income-driven repayment plans of $0 per month due to low income that are instead placed into collection for failure to pay. This bill by Representative Al Lawson (D-FL) would ensure that low-income borrowers rights under IDR are protected by prohibiting debt collectors from collecting on a loan through wage garnishment if that loan would not require payment under an income-driven repayment plan. We strongly support this legislation.

H.R. 4545, The Private Loan Disability Discharge Act of 2019 (Rep. Madeleine Dean)

Current law states that when a borrower dies or becomes permanently disabled before paying off their federal student loans, the loans can be canceled, which relieves the borrower, or their family, of the debt burden. But current law does not afford this same dischargeability to private student loan debt. This bill by Rep. Madeleine Dean (D-PA) would amend the Truth in Lending Act to require discharges of private student loans following permanent disability or death of the borrower,and it would require the same discharge for any cosigners of those loans. This legislation would, importantly, also ensure that the discharged debt is not taxed as income, something that isn't always guaranteed today.[13] We strongly support this legislation.

The student loan protections, transparency measures, and servicing reforms included in these bills are urgently needed so that borrowers are treated more fairly, basic standards are clearer , and borrowers facing challenging circumstances have every opportunity to succeed. We look forward to working with you to swiftly pass this package to better protect consumers. Thank you for your attention. If you have any questions about this letter, please contact Alexis Goldstein (alexis@ourfinancialsecurity.org) at 202-973-8005.

Sincerely,

Americans for Financial Reform

[13] https://www.studentloanborrowerassistance.org/tax-death-disability-discharges-gone-now/