VIA ELECTRONIC MAIL

July 13, 2015

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Consumer Financial Protection Bureau
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RE: CFPB's Request for Information Regarding Student Loan Servicing

To the CFPB:

The National Foundation for Credit Counseling ("NFCC") commends the Consumer Financial Protection Bureau's (the "Bureau's") attention to the difficulties that many student loan borrowers face when interacting with servicers. The Bureau's tireless and incisive attention to this issue has done much to drive policy discussion, and we look forward to learning what the Bureau does with the information gathered through this process. We appreciate the opportunity to provide comments on the issues facing student borrowers, as outlined in the Bureau's recent Request for Information (RFI).

The Supplementary Information included in the RFI does an excellent job of cataloguing many of the issues surrounding the student loan servicing market. It is clear that the Bureau is considering constructive ways to improve the servicing experience for student loan borrowers, and this letter includes some further suggestions. Our experience working with consumers in the credit card and mortgage servicing markets tells us that there are inherent limits to how far effective servicing can go in helping borrowers to navigate what is ultimately an extremely complex and individualized problem. **Student borrowers need neutral, third-party advocates who can help them understand their individual repayment situation and options, and empower them to make informed repayment decisions.**

Student Loan Counseling

The Federal Direct Lending program exists, in large part, because the government determined as a matter of policy that it wanted to invest in the future of the United States by ensuring that individual financial status would not be a barrier to accessing education and opportunity. It seems incongruent, then, that after these same student borrowers leave school, that the government would not continue to work towards their success by making high-quality, comprehensive financial counseling available to them, helping them to manage and prioritize their financial obligations. **Instead, as documented extensively in the Bureau's RFI, the student loan servicing experience often acts as an impediment to student borrowers' financial and personal success.**

President Obama acknowledged that student borrowers deserve better service on March 10, 2015 when he released the Student Aid Bill of Rights. In this document, he stated that "every borrower has the right to quality customer service, reliable information, and fair treatment, even if they struggle to repay their loans." High quality, independent non-profit counseling can satisfy this imperative student borrower right.

Approximately 40% of existing NFCC clients come to us with student debt – with an average balance of nearly $33,000. Moreover, while clients with student debt have substantially similar levels of income and expenses to those without student debt, clients with student debt come to us with substantially lower levels of assets and savings. **These clients evidence a clear need for in-depth, personalized budgeting and financial prioritization advice with an emphasis on both short- and long-term outcomes.** This is simply a service that traditional student loan servicing, with a business model predicated upon low levels of client engagement and short phone calls, cannot be expected to deliver.

The NFCC and its Member Agencies are already hard at work developing a comprehensive, National Student Loan Counseling Program to help struggling student loan borrowers evaluate their repayment options within the context of their other financial obligations. Building upon decades of experience in providing industry-leading credit, housing, and bankruptcy counseling services, this new program will work directly with borrowers to explore the short- and long-term implications of their repayment options. The program will incorporate a comprehensive counseling protocol, counselor training and certification, counseling technology, and data capture and analysis. Student borrowers who engage with an NFCC Certified Student Loan Counselor will learn, for example, whether an income-driven plan will cause them to pay more in interest over a standard repayment plan, and how that choice might affect their credit card debt and housing decisions.

As we saw in the housing crisis, effective third-party counseling can substantially reduce delinquency and re-default rates.[1] Moreover, student borrowers at risk of default on their student loans are often facing other financial hardships as well. A student loan servicer is not qualified to address these financial challenges with the borrower, and is not in a position to do so. Indeed, in a study conducted by the STRATMOR group, researchers found that housing counseling combined with comprehensive financial counseling resulted in substantial cash-flow increases for clients - even compared to traditional housing counseling - which consequently lead to better housing outcomes.[2]

Indeed, the Bureau's RFI outlines several customer service problems common to student loan servicing and acknowledges that student loan servicers are poorly-equipped to assist borrowers in distress. Servicers may fail to fully explain to struggling borrowers that if they select a forbearance option, interest will continue to accrue on their loans, for example. Or, more troublingly, a servicing agent might give a borrower inaccurate or misleading information. NFCC member agency counselors already delivering student loan counseling routinely experience these problems first-hand: in three-way telephone calls involving a student borrower, a counselor, and a servicer,

[1] Mayer, Neil et al. 2010. National Foreclosure Mitigation Counseling Program Evaluation: Preliminary Analysis of Program Effects. Washington, DC: The Urban Institute; Ding, Lei, Robert G. Quercia, and Janneke Ratcliffe. 2007. "Post-purchase Counseling and Default Resolutions among Low- and Moderate-Income Borrowers." Journal of Real Estate Research, 30(3): 315-344. See also Quercia, Roberto and Spencer M. Cowan. 2008 "The Impacts of Community-based Foreclosure Prevention Programs." Housing Studies, 23(3): 461-483.

[2] The Impact of Credit Counseling on Distressed Mortgage Loan Losses, The STRATMOR Group, November 1, 2011, available at http://www.nfcc.org/newsroom/newsreleases/files11/distressed_mortgage.pdf

counselors repeatedly experience servicers giving inaccurate information to clients. Often, this is due to inadequate training or experience on the servicer agent's behalf. In any event, it is inexcusable when the consequences to the borrowers can be so large.

The NFCC has met with the Bureau and other federal government agencies, including the Department of the Treasury and the Department of Education to discuss our Student Loan Counseling Program in detail. However, there are a number of important steps that the Bureau can take as a part of the process of developing rules covering the student loan servicing industry in order to ensure adequate support for student loan counseling:

1. The Bureau Should Adopt an Industry-Wide Definition of "Counseling"

The Bureau's RFI correctly notes that there is no existing, comprehensive statutory or regulatory framework providing uniform standards for the servicing of all student loans. One unfortunate consequence of this lack of unifying regulation is there is no commonly accepted definition of "counseling" in the student loan space. Indeed, although the Higher Education Act requires that all student borrowers receive entrance and exit counseling, the Act does not define what "counseling" entails. Consequently, we see a wide variety of services that are represented as "counseling" that in fact bear little resemblance to what true, independent, non-profit counselors would describe as counseling services. One example is student loan servicing companies sometimes refer to their servicing agents as "counselors" – a gravely misleading and troubling practice. Another example is colleges and universities, and even the Department of Education itself, referring to online, uniform, non-interactive educational content as "counseling." The current state of the student loan repayment market, with its high levels of delinquency, default, and lack of borrower understanding of their repayment options, demonstrates that a more concerted effort to support true counseling is needed.

The Bureau should strongly consider adopting a common definition of counseling so as to ensure that all student borrowers receive a consistently positive experience. The NFCC posits that effective, high-quality counseling has three fundamental aspects: 1) it is delivered by independent, non-profit providers that do not have a financial stake in helping their clients achieve a particular outcome and who put the interest of their clients first; 2) it is an individually-interactive experience in which the counselor's objective is to realize goals set by the client; and 3) the providing agencies and counselors must adhere to rigorous 3rd party standards for training, certification, and transparency.

2. The Bureau Should Ensure that Counseling is Available to Every Student Loan Borrower

As the President outlined in the Student Aid Bill of Rights, every student borrower deserves access to quality, reliable repayment information. Certainly, many student borrowers will be able to self-educate in order to select a repayment option that suits them best. Once effective rules are in place, student loan servicers should be able to handle a large number of student borrower needs as well. However, should an individual borrower request additional support, or if a borrower evidences a need for more support than a servicer can provide, **student loan servicers should be required to inform borrowers of the availability of counseling.** This type of referral requirement has demonstrated tremendous success in programs like the Emergency Homeowners Loan Program, the Making Home Affordable Program, the Home Affordable Modification Program, the Qualified Mortgage Rule, and in counseling requirements included in the CARD Act.

Counseling and education for student loan borrowers is particularly important when borrowers are choosing between repayment options that may have complex or hidden negative consequences for the borrower. For example, borrowers choosing an Income-Based Repayment plan may achieve significantly reduced monthly payments, but those payments may not be enough to cover the interest that accrues on the loan each month. Such borrowers successfully avoid delinquency each month, but may be setting themselves up for difficulties in the future as their loan balance continues to grow. Similarly, borrowers entering forbearance may not understand that interest continues to accrue on their account, or that they have a limited amount of forbearance available before they must resume active repayment.

While servicers may inform these borrowers that interest will continue to accrue on their accounts, servicers are not in a position to explore the exact impact that this accruing interest will have on borrowers' budgets. Nor might a servicer even disclose this information if the borrower doesn't know to ask. Additionally, servicers are not equipped to work with borrowers to establish personalized budgets that prioritize each borrowers' financial obligations to ensure that borrowers are ideally-position for long-term success. Counselors can help these borrowers work through their personal finances to understand the effects that these repayment decisions will have on their budgets, and can help borrowers create and select an action plan that sets them up for long-term success.

Because counselors are equipped to work with clients to proactively understand the short- and long-term implications of complicated repayment decisions, **the Bureau should consider requiring servicers to notify borrowers of the availability of counseling whenever the borrower selects a negatively-amortizing repayment plan, or elects to enter deferment or forbearance**.

3. **The Bureau Should Consider How Counseling can Reduce the Number of Incidents Leading to Complaints Filed through its Complaints Portal**

Student borrowers that receive inaccurate or incomplete information from a servicer can seek assistance in resolving their issue by submitting a complaint to the Bureau. However, there are numerous problems with this approach. First of all, many borrowers will not know if they receive inaccurate information from a servicer, and therefore will not know to submit a complaint. Secondly, the complaint resolution process is resource-intensive and takes many months to resolve. **Counselors working with clients and servicers can resolve disputes in real-time, reducing the need for a lengthy and painful complaint process.**

4. **The Bureau Should Examine Methods to Support the Cost of Student Loan Counseling**

The topic of how to pay for student loan counseling receives substantial discussion, and with good reason: struggling student borrowers are often not in the best position to pay for the cost of counseling. Making matters worse, the headlines are full of examples of the Bureau or state governments going after deceptive for-profit companies that charge substantial fees in return for insubstantial service. Despite the presence of these bad actors, truly objective, high-quality comprehensive student loan counseling remains a valuable service, both for borrowers and for lenders and servicers.

To be sure, there are a wide variety of educational resources available online for student borrowers to self-educate about their loans and their repayment options, for free. Both the Bureau and the Department of Education offer some of the best educational resources available. However, the sheer complexity of the student loan repayment landscape and the impact of student loan repayment choices on other personal financial obligations mean that many borrowers simply want to talk to an expert about their options. Non-profit student loan counselors can provide this service at the lowest possible cost to the client or to other sponsors, such as the federal government, lenders, or servicers.

Borrowers derive significant value from student loan counseling because they emerge from counseling educated about their options and with the assurance that their selected repayment strategy matches their financial objectives. For example, a borrower who learns that she can save thousands of dollars in interest by selecting a standard repayment plan instead of an income-driven plan while making other budgetary adjustments to cover the increased student loan payment derives a clear financial benefit from counseling. Another borrower who signs up for income driven plans might derive substantial value from time saved researching his options on his own and determining which ones made the most sense for his budget.

The federal government, too, would be a significant beneficiary of widespread counseling for student borrowers. The increasingly high levels of delinquency and default among federal student loan borrowers present substantial costs on the federal government.[3] As both the predominant lender in the student loan market and the administrator of servicing and repayment programs, the federal government would benefit substantially from reduced delinquency and default rates, higher levels of borrower engagement, and reduced servicing and collection costs as a result of supporting widespread student loan counseling.

5. **The Bureau Should Support Efforts to Gather More Extensive Data on the Financial Predicaments of Student Loan Borrowers**

As the Bureau points out in its RFI, market data for student loan borrowers is quite limited. It is well-documented that the collective student loan market stands at over $1.2 trillion, and that the total outstanding debt has surpassed all other forms of consumer credit save mortgages. However, little information is available on the predicaments of actual borrowers. Although the Federal Reserve Banks of New York and St. Louis have produced powerful projections based on representative samples of consumer credit profiles, more data on actual student borrowers is

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[3] See, e.g. Congressional Budget Office Updated Projections: 2015 to 2025 *available at:* http://www.cbo.gov/sites/default/files/cbofiles/attachments/49973-UpdatedBudgetProjections.pdf (stating that the Congressional Budget Office predicts an additional a $27 billion (or 30 percent) increase in Treasury outlays for student loans for the 2016–2025 period. These projections reflect recent Department of Education data including higher estimates of defaulting loans and increased program administration costs.

needed to inform policy and ensure that federal repayment programs adequately address borrower needs.

Student loan counseling presents a tremendous opportunity to gather data on the financial and personal causes of repayment distress, and what methods and programs are most effective in remediating these challenges. Through the NFCC's Sharpen Your Financial Focus ("Sharpen") program, we have been able to gather an incredible amount of information on the financial challenges that our clients face, as well as the powerful positive impact that financial counseling has on their lives. As mentioned in the introduction, 40% of existing NFCC clients come to our agencies with student debt, with an average balance of $33,000, and low savings rates. Preliminary data on Sharpen outcomes shows that clients emerge from counseling with dramatically reduced levels of delinquency and revolving debt. By supporting widespread adoption of counseling technology, the Bureau can empower the NFCC and our member agencies to collect valuable information on the financial predicaments of student loan borrowers and which repayment programs are most effective in enabling them to achieve financial success.

6. **The Bureau Should Consider More Accurate and Productive Metrics for Tracking Successful Student Debt Repayment**

The current metric that the federal government uses to track the success of the Direct Lending Program is called the Cohort Default Rate ("CDR"). As the Bureau is certainly aware, the CDR tracks how many borrowers default within three years of leaving a college or university. Schools whose CDR rises above a certain threshold are at risk of penalties, including loss of access to the Direct Lending Program.

Although well-intentioned, there are a number of critical flaws with the CDR metric that significantly impair support for student borrowers themselves. Firstly, because the CDR only monitors how many students default, it fails to monitor a number of other important borrower *success* metrics such as the number of borrowers in active repayment, or how many of those borrowers have selected positively-amortizing repayment plans. The CDR also fails to track indicators of borrower distress such as delinquency, deferment, and forbearance rates.

Finally, the short 3-year horizon of the CDR allows schools and private companies to "game" the metric by contacting borrowers to enroll them in deferment or forbearance programs simply so that the borrower will not default within the 3-year window monitored by the CDR. It is telling that many schools employ "default aversion" companies to conduct this service. In fact, when you consider that borrowers who graduate from school typically have 6 months of deferment available before they enter active repayment, plus 12 months of available forbearance, plus at least 270 days of delinquency before their loan is considered in default, these default aversion companies only have to encourage a borrower to make a few payments before there is no longer a risk of that borrower defaulting within the relevant 3-year window. As a result, many colleges and universities spend millions of dollars hiring default aversion companies to artificially inflate the apparent success of their graduates.

Student borrowers deserve a metric that tracks borrower success, not just the number of borrowers who avoided failure in a narrow period of time. The Bureau should consider alternative metrics that track borrower success over a longer period of time, thereby ensuring that schools and servicers are properly incented to set up borrowers for long-term success.

About the NFCC

The NFCC is a 501(c)(3) nonprofit voluntary membership organization representing the largest and longest-standing nonprofit financial counseling and education network in the country. The NFCC's vision is to create a national culture for financial responsibility. The NFCC network's core mission is to promote a national agenda for financially responsible behavior and build capacity for its members to deliver the highest quality financial education and counseling services.

The NFCC was formed 64 years ago and is recognized as the "Gold Standard" of financial education and counseling because of its rigorous Member Quality Standards, Council On Accreditation (COA) requirements, and counselor certification requirements. The NFCC's members currently comprise seventy-seven 501(c)(3) nonprofit organizations with over 600 local offices and 1,500 professionally certified counselors and educators in all 50 states and Puerto Rico. The NFCC and its Member Agencies thus have national reach, with local, community-based service delivery.

The NFCC Student Loan Counseling Program:

The NFCC's student loan counseling program is designed to provide consumers with a trusted, reliable, impartial resource to help consumers address student loan issues. Consumers can expect confidential, professional and knowledgeable counseling services from the many NFCC member agencies across the country. NFCC counselors have assisted millions of consumers with financial and credit education since 1951, and are prepared to provide sound advice and direction to student loan borrowers.

NFCC Certified Student Loan Counselors will work individually with borrowers to ensure they understand their repayment options whether they are still in school, recent graduates or interested in re-evaluating how they have been handling your repayment(s) since leaving school.

Each counseling session begins with a review of the client's financial situation. This review not only includes student loan debt, but any other outstanding debt the client may have such as a mortgage, car loan, or credit card debt.

Specifically, our counselors will help borrowers by explaining:

- How to make your payments on time
- Strategies to reduce the total amount of interest you pay over the life of the loan
- Steps to take if you have trouble making your payments
- Repayment plan options
- Loan rehabilitation programs
- Student loan debt consolidation options
- Conditions for cancellation and forgiveness

NFCC Certified Student Loan Counselors will work with powerful student loan counseling software that automatically determines all available workout options for which each borrower qualifies. Trained and certified counselors will then be able to walk clients through the pros and cons of each repayment strategy, taking into account each borrowers unique financial situation. This combination of technology and individual expertise will allow the NFCC to deliver efficient, thorough, and consistently high-quality student loan counseling to all borrowers. It also affords the NFCC a powerful tool to track program performance, client repayment trends, and counselor performance.

NFCC Certified Consumer Credit Counselor Program:

The National Foundation for Credit Counseling (NFCC) requires that all counselors employed by our affiliated members undertake the professional preparation to become "Certified Consumer Credit Counselors" (CCCC). Counselors must obtain counselor certification within one year (12 months) of their date of hire or promotion to provide counseling services. Certification requirements include passing tests on the first six books in the Counselor Certification series.

To become a CCCC requires an understanding of the theories, principles, issues, counseling techniques, and forms that are applicable to credit and financial counseling. The required subjects (Books 1-6) are: (1) Basic Counseling Principles, (2) Budgeting, (3) Credit, (4) Collections & Debt Management, (5) Consumer Rights & Responsibilities, and (6) Bankruptcy.
Each book includes objectives, key concepts, and review questions. Each section of the counselor certification examination consists of a variety of multiple-choice questions. Additional certifications available include (7) Housing, and (8) Education. Student Loan Counseling will be Book 9.

Once certification is obtained, counselors are expected to maintain and aspire to the highest possible level of professional development. Counselors are initially certified for two years and must submit annual documentation of continuing development. A certified counselor must accumulate a minimum of 20 Professional Development Units (PDUs) each two years to maintain certification. Professional development and continuing education areas that fulfill the PDUs requirement include such activities as direct counseling, association memberships, attendance at workshops and conferences, teaching, as well as publishing and research activities.

The NFCC Counselor Certification Task Force, comprised of NFCC staff and NFCC Member Agency professionals, oversees the counselor certification program. Policy recommendations are presented to the NFCC Board of Trustees and compliance issues are referred to the NFCC's Monitoring and Compliance Committee. An independent third-party contractor, a professional educational services company, maintains and updates the on-line counselor certification program.

Thank you for your attention to this important issue. We look forward to continued engagement with the Bureau as you continue this work.