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DEGREES OF DEBT:
Stories from Student Loan Borrowers Highlight Urgent Need for Reform

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Introduction

Going to college has long been an essential part of the American Dream. The formula reads: get an education, work hard, and you'll get ahead no matter who you are or where you come from. Unfortunately, the current reality looks somewhat different. Education costs have skyrocketed, while family incomes have stagnated. The effects of the 2008 financial collapse are still felt across the country, as households continue to recover from the loss of a job, a house, or hard-earned savings. As a result, students and families who are strapped for cash have increasingly turned to student loans in order to pay for college.

Consumers Union set out to take the pulse of consumers in order to find out how student loans have affected them and their families. We asked them about their experiences throughout the student loan process, including: applying for financial aid; comparing different options for financing college; deciding how much to borrow; choosing repayment plans; managing monthly payments; and how they fared financially over the long term.

After reading hundreds of consumer stories, we found that people from all walks of life are grappling with student loan debt – and the debt is having a huge impact on their lives as a whole. They're frustrated at having to take on debt to get an education, and confused by the financial aid process; struggling to find affordable repayment options, and encountering problems with the servicers handling their loans; and they see no end to the debt burdens they face.

This paper features some of the consumer stories we collected that illustrate major problems plaguing student loan borrowers, and offers policy recommendations to restore fairness to the student loan system.

Background

Americans now owe over $1 trillion in student loan debt, surpassing even credit card debt.[1] The federal government is the largest student lender, with roughly 85 percent of the market, but banks and financial companies also offer student loans.[2] The Department of Education is projected to earn a $51 billion profit this year alone from student loans.[3]

Business is booming for lenders, but that isn't exactly a good thing for the millions of families struggling to keep up with the cost of education. Tuition has increased over 500 percent since 1985 at public colleges, which admit the vast majority of students nationwide.[4] Average family incomes (adjusted for inflation) are lower than they were a decade ago, making it even harder to pay for college without loans.[5]

Currently, two-thirds of American college students graduate with student loan debt.[6] Those borrowers owe an average of $26,600.[7] Student debt isn't just a problem for 18-22 year olds: two-thirds of student loan borrowers are over 30, and 15 percent are over 50.[8] This isn't surprising, given that students are graduating with more debt and it is almost impossible to walk away from a student loan. Borrowers who default may be subject to aggressive collection tactics for years.[9] The federal government can garnish wages and even Social Security pensions without going to court.[10] Meanwhile, student loans are nearly impossible to discharge in bankruptcy, unlike credit card or even gambling debts.[11]

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[1] Rohit Chopra, Consumer Fin. Protection Bureau, Student Loans Swell, Federal Loans Now Top a Trillion, Address Before the Ctr. for American Progress (July 17, 2013), *available at* http://www.consumerfinance.gov/speeches/student-debt-swells-federal-loans-now-top-a-trillion/.
[2] *Id.*
[3] Cong. Budget Office, CBO May 2013 Baseline Projections for the Student Loan Program, http://www.cbo.gov/sites/default/files/cbofiles/attachments/44198_StudentLoanPrograms.pdf (last visited Oct. 31, 2013).
[4] Catherine Rampell, *Why Tuition Has Skyrocketed at State Schools*, N.Y. TIMES, Mar. 2, 2012, *available at* http://economix.blogs.nytimes.com/2012/03/02/why-tuition-has-skyrocketed-at-state-schools/ (citing figures from the Bureau of Labor Statistics).
[5] College Board, Trends in Higher Education, Trends in College Pricing, Changes in Family Income Over Time, http://trends.collegeboard.org/college-pricing/figures-tables/changes-family-income-over-time (last visited Oct. 31, 2013).
[6] THE INST. FOR COLLEGE ACCESS & SUCCESS, STUDENT DEBT AND THE CLASS OF 2011 2 (2012), *available at* http://projectonstudentdebt.org/files/pub/classof2011.pdf.
[7] *Id.*
[8] *See* CAMPUS PROGRESS, THE STUDENT DEBT CRISIS 20 (2012), *available at* http://www.americanprogress.org/wp-content/uploads/2012/10/WhiteStudentDebt-5.pdf (summarizing data in Figure 8).
[9] *See* NAT'L CONSUMER LAW CTR., STUDENT LOAN BORROWER ASSISTANCE PROJECT, NO WAY OUT: STUDENT LOANS, FINANCIAL DISTRESS, AND THE NEED FOR POLICY REFORM 35-37 (2006), *available at* http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/nowayout.pdf [hereinafter NO WAY OUT].
[10] *See* 31 C.F.R. §§ 900—904 (2012) (setting standards for government collection of all "federal claims," including student loan debts).
[11] Student loans can only be discharged if the debtor can show that repaying the debt will "impose an undue hardship on the debtor and the debtor's dependents." 11 U.S.C. § 523(a)(8) (2012).

Of the more than $1 trillion in student loans outstanding, private loans account for roughly $150 billion of the market.[12] Private student loans can come with high, variable interest rates,[13] and unlike federal loans they do not come with guaranteed flexible repayment options. Unfortunately, students and families often receive confusing financial aid letters from colleges that fail to explain differences between grants and loans, or between federal and private loans.[14] As a result, borrowers may not realize until after graduation the full extent of the debt burdens and responsibilities they face.

The long-term effects are hard to predict, but student debt could create significant obstacles to improving the housing market, and to the nation's economic recovery as a whole, because borrowers must delay other life cycle investments like cars and homes in order to afford their student loan payments.[15] It is also alarming that student loan debt has grown since the 2008 financial crisis, while all other forms of consumer debt have shrunk.[16] Default rates appear to be on the rise, too. The Department of Education's latest estimates show that one in ten federal loan borrowers are defaulting on their loans after two years of being in repayment, and one in seven are defaulting after three years.[17]

A few recent changes in the law have made some progress toward reform. In 2007, Congress passed the College Cost Reduction and Access Act (CCRAA) with bipartisan support.[18] It reduced interest rates on some federal loans,[19] created the income-based repayment (IBR) program,[20] and created a loan forgiveness program for graduates committed to public service.[21] In 2008, Congress also passed the Higher Education Opportunity Act (HEOA), which contained important provisions regarding student loan marketing and disclosures, among other things.[22] HEOA prohibited deceptive marketing of private student loans through "co-branding," or

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[12] CONSUMER FIN. PROTECTION BUREAU & U.S. DEP'T OF EDUC., PRIVATE STUDENT LOANS 3 (2012), *available at* http://files.consumerfinance.gov/f/201207_cfpb_Reports_Private-Student-Loans.pdf.
[13] *See id.* at 12 (lenders reported variable rates ranging from 2.98% to 3.55% at the low end to 9.50% to 19.00% at the high end).
[14] Janet Lorin, *Colleges Confuse Students with Letters Offering Aid That's Debt*, BLOOMBERG NEWS, Apr. 23, 2012, *available at* http://www.bloomberg.com/news/2012-04-24/colleges-confuse-students-with-letters-offering-aid-that-s-debt.html.
[15] *See* NAT'L ASS'N OF CONSUMER BANKRUPTCY ATTORNEYS, THE STUDENT LOAN "DEBT BOMB": AMERICA'S NEXT MORTGAGE-STYLE ECONOMIC CRISIS? 2 (2012), *available at* http://nacba.org/Portals/0/Documents/Student%20Loan%20Debt/020712%20NACBA%20student%20loan%20debt%20report.pdf [hereinafter THE STUDENT LOAN "DEBT BOMB"] (warning of negative impact high debt burdens can have on financial decisions such as home-buying and saving for retirement).
[16] DONGHOON LEE, FED. RES. BANK OF N.Y., HOUSEHOLD CREDIT & DEBT: STUDENT DEBT 5 (2013), *available at* http://www.newyorkfed.org/newsevents/mediaadvisory/2013/Lee022813.pdf (PowerPoint presentation highlighting 2012:Q4 data specific to student loans).
[17] Press Release, U.S. Dep't of Educ., Default Rates Continue to Rise for Federal Student Loans (Sept. 30, 2013), *available at* http://www.ed.gov/news/press-releases/default-rates-continue-rise-federal-student-loans.
[18] Pub. L. No. 110-84, 121 Stat. 784 (2007).
[19] 121 Stat. at 790-91.
[20] *Id.* at 792-95.
[21] *Id.* at 800-01.
[22] Pub. L. No. 110-315, 122 Stat. 3078 (2008).

using a school's logo to suggest the school endorses the lender.[23] The law also prohibited private lenders from offering kickbacks or other compensation to schools in exchange for competitive advantages.[24]

In addition, as part of the 2010 Dodd-Frank Act, the new Consumer Financial Protection Bureau (CFPB) was given jurisdiction over private student lenders.[25] As one of its first actions on student loan issues, the CFPB partnered with the Department of Education to create model financial aid forms that clearly explain different financing options, as well as estimate students' monthly loan payments after graduation.[26] Many schools have adopted the model form already, but use of the form is voluntary.[27] The CFPB has also developed an interactive online tool that helps students compare financial aid offers.[28]

More recently, in July 2013, Congress passed legislation to tie federal student loan interest rates to government bond rates as a way to reduce rates in the short term.[29] However, some education and consumer advocates have expressed concerns about tying these loans to market rates, because rates may rise as the economy improves and as a result all federal loans may eventually become more expensive than they are now.[30]

Although these past efforts have made some progress, more action is needed to assist student loan borrowers. Consumers Union believes policymakers and regulators must take a comprehensive approach to addressing problems in the student loan market. Students and families clearly need better information about their options before agreeing to take out student loans, and borrowers struggling to repay their debts need safe and flexible repayment options to help manage their obligations responsibly throughout the life of the loan.

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23 122 Stat. at 3481.
24 *Id.*
25 Pub. L. No. 111-203, 124 Stat. 1376, 1987 (2010).
26 Consumer Fin. Protection Bureau, Know Before You Owe (Student Loans), http://www.consumerfinance.gov/students/knowbeforeyouowe/ (last visited Oct. 31, 2013).
27 To see the list of schools using the model form, *see* U.S. Dep't of Educ., Financial Aid Shopping Sheet, http://www2.ed.gov/policy/highered/guid/aid-offer/index.html (last visited Oct. 31, 2013) (click on "Institutions that have adopted the Shopping Sheet").
28 Consumer Fin. Protection Bureau, Paying For College, http://www.consumerfinance.gov/paying-for-college/ (last visited Oct. 31, 2013).
29 Bipartisan Student Loan Certainty Act of 2013, Pub. L. No. 113-28, 127 Stat. 506 (2013).
30 *See, e.g.*, Press Release, The Inst. for College Access & Success, Student Loan Interest Rate Deal is a Missed Opportunity to Make College More Affordable (July 18, 2013), *available at* http://www.ticas.org/files/pub/TICAS_Interest_Rate_Compromise_STA.pdf; Press Release, U.S. PIRG, Student Loan Deal Passes Senate 81-18, Will Put Students Deeper in Debt (July 24, 2013), *available at* http://www.uspirg.org/news/usp/student-loan-deal-passes-senate-81-18-will-put-students-deeper-debt.

Consumer Stories Highlight the Need for Comprehensive Reform of the Student Loan System

In May 2013, Consumers Union invited consumers who visit our website and subscribe to our email listservs to submit their stories and describe their personal experiences dealing with student loans. Over 600 submissions came in, just within the first week. Below we include a sampling of the stories we received. Although the stories came from throughout the United States, they had a number of common themes that illustrate the urgent need for student loan reform. These stories demonstrate how pervasive student loan issues are, and how drastically they impact real people's lives.[31]

Borrowers who wrote to us complained about a number of problems throughout the process of paying for college, from applying for financial aid at the front end to managing student debt payments at the back end. The major problems consumers cited were:

- Confusing financial aid offers;
- Borrowing too much or borrowing the wrong kinds of loans;
- Having little to no options for refinancing or reducing monthly payments;
- Unfair fees or issues with how payments are processed;
- Trouble with loan servicers;
- Unfair or deceptive practices; and
- No relief from overwhelming debt, even after years of repaying.

Transparency: Problems Understanding Financial Aid Offers

The college financial aid process has confused students and families for years. In 2007, Consumers Union conducted focus group research on financial aid disclosures, and found that families were often flummoxed by the college funding process.[32] The focus group participants reported that the terminology and format of the letters were obstacles to understanding their options.[33] In its efforts to develop the model Financial Aid Shopping Sheet, the CFPB solicited public comments in 2012 and found that students and families thought it was critical to have

[31] These stories appear as submitted by consumers. The names are partially anonymized, listing only first name, city and state for each. Abbreviated names are in quotations, for those consumers who requested further privacy. The stories are edited only to correct typos or as appropriate for brevity and clarity.
[32] MICHAEL WROBLESKI, CONSUMERS UNION, HELPING FAMILIES FINANCE COLLEGE: IMPROVED STUDENT LOAN DISCLOSURES AND COUNSELING iii (2007) (on file with author).
[33] *Id.* at 5.

standardized information about different options for financing college, as well as estimates of debt loads and monthly payments after graduation.[34]

Many consumers wrote to us that they didn't fully understand their options upfront for financing college, or stated that the financial aid application process was opaque and confusing. For example, Desiree from St. Cloud, FL told us that her financial aid office confused her regarding her options for grants and loans, as well as what kinds of loans she was getting:

> **I was told after ten years I would qualify for loan forgiveness. Just learned now I don't because when I filled out my paperwork I was granted a different loan.**

Phil from Sunnyvale, CA also lamented the confusing financial aid process students and families have to navigate:

> **I strongly recommend much better parent education "up front." What we didn't know until it was too late is that many states have aid grants that can be used for any in-state school (public or private), but not for out of state schools.** In our case, California grants up to about $12,000/year to students with financial need, but, since we didn't know about that source of aid, the son didn't apply to private schools in California. Better education up front will help parents guide their sons/daughters to more affordable schools, where the total "unmet need" is likely to be less.

This is why students and families need clear, easy-to-read financial aid offer letters that plainly show the differences between various sources of aid. Forms should also distinguish between federal and private loans, and estimate the average monthly loan payments they will have to make after the student leaves school.

Overborrowing: Problems Choosing the Least Expensive Way to Pay for College

In addition to general confusion about the financial aid process, many students and families are unaware of the differences between federal and private loans. Our 2007 report found that focus group participants didn't realize that federal loans had fixed interest rates while many private loans did not, and also didn't know that private loans come with less flexible repayment options.[35] A 2012 survey commissioned by Young Invincibles also found that many borrowers did not understand the terms of their loans, including the differences between federal and private student loans, and were surprised about the size of their monthly payments after graduation.[36]

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[34] Memorandum from Rohit Chopra, Student Loan Ombudsman, Consumer Fin. Protection Bureau on *Know Before You Owe: Student Loans* 2 (Jan. 2012), *available at* http://files.consumerfinance.gov/f/2012/01/Memorandum_KBYOStudentLoans_FeedbackSummary_Jan2012.pdf.

[35] WROBLESKI, *supra* note 32, at 6.

[36] *See* NERA & YOUNG INVINCIBLES, HIGH DEBT, LOW INFORMATION: A SURVEY OF STUDENT LOAN BORROWERS 2 (2012), *available at* http://www.nera.com/nera-files/PUB_Student_Loans_0312.pdf (finding that 65 percent of respondents misunderstood loan terms; two-thirds did not understand difference between federal and private loans; and 20 percent were surprised by loan payment amounts).

Some borrowers who shared their stories with us expressed their dismay at having borrowed too much money, or having taken out private loans without understanding that they can come with variable interest rates, as well as fewer protections than federal loans. For example, Tom from Overland Park, KS told us that no one explained to him the differences between federal and private loans, and how expensive it would be to pay the loans back:

> Well like most young adults at the age of 18 I decided to pursue a higher education in the hopes of gaining more skills, knowledge and the hope of gainful employment in a thriving workforce with a decent salary. **Unfortunately when you're taking out loans to assist for this costly education they don't tell students that there is a BIG difference between Federal and Private student loans** and that you only receive a small amount of Federal loans so that you are essentially forced into taking out Private to cover the remaining amount of your tuition, books, bills, room/board etc.

This is why it's important for students and families to have meaningful counseling about their options. Especially when it comes to private loans, schools need to step in and explain the differences between private and federal loans, and ensure that students have exhausted their options for federal aid first before taking out private loans.

Repayment: Problems Obtaining Flexible Options

Once in repayment, many borrowers struggle to find options that meet their needs, particularly if they have private loans. In its 2012 joint report to Congress, the CFPB and Department of Education found that private lenders typically did not provide income-based plans or loan modifications to keep borrowers out of default.[37] In July 2013, the CFPB also published findings from its consumer complaint database, which showed that the largest subset of consumers with private loans complained that they could not modify the terms of their loans or lower their monthly payments.[38]

A substantial number of borrowers complained to us about their repayment options. Borrowers with private loans in particular had a lot of problems managing their payments or getting lenders to agree to more flexible repayment terms to meet their needs. Others mentioned their frustration at having no options for refinancing to get lower rates.

For example, "S.C." from Bethesda, MD expressed frustration at the lack of options for reducing monthly payments on a combination of federal and private loans:

> I'm currently paying 30% of my monthly income to student loans, both private and federal. **What I find so frustrating is that there is no relief for private loans….the private lenders don't offer any programs to help reduce monthly payments….**There are literally no options to reduce my monthly

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[37] CONSUMER FIN. PROTECTION BUREAU & U.S. DEP'T OF EDUC., *supra* note 12, at 66.
[38] CONSUMER FIN. PROTECTION BUREAU, MID-YEAR SNAPSHOT OF PRIVATE STUDENT LOAN COMPLAINTS 5 (2013), *available at* http://files.consumerfinance.gov/f/201308_cfpb_complaint-snapshot.pdf [hereinafter MID-YEAR SNAPSHOT].

> payment. My private loans are at a very high interest rate, more than double that of my federal loans. The monthly payments are majority interest payments and barely dent the principal.

Lori from Belleville, IL also told us that she wished there were options for refinancing her loans to get a lower rate:

> **I cannot "refinance" my student loan balance to a lower interest rate** because I consolidated my loans. I am stuck with a daily 6% interest rate on my balance, moving my dream date of payoff even further away…. **I truly believe if existing student loans could be refinanced for a lower interest rate we would see a significant increase in repayments and payoffs.**

This is why it's crucial for all borrowers to have a guaranteed right to flexible and affordable repayment plans. Borrowers should also have refinance options as their finances improve over time.

Payment Processing: Problems with Extra Charges and Growing Loan Balances

In addition to having problems with repayment plans, some borrowers also get hit with unexpected fees or watch their balances grow because of how their payments are applied to their balances. The CFPB Student Loan Ombudsman's 2012 and 2013 reports to Congress have highlighted many complaints from consumers about how their loan payments were processed.[39] In 2012, some complained about receiving late fees despite having set up automatic debit transactions to ensure timely payments.[40] Borrowers also complained about private lenders charging fees just to get a "forbearance," or temporary suspension of payments.[41] Borrowers in 2012 and 2013 frequently complained about attempting to repay more than their minimum payment to pay down the principal faster, only to discover that the amount in excess of the minimum was automatically applied to interest on the next month's payment instead.[42] In 2013, borrowers also complained about their inability to apply payments on a bill that covers multiple loans in a way that pays down the higher-interest balance first.[43]

Some borrowers who wrote to us expressed frustration at being charged excessive fees, or having no control over how their loan payments are applied to their balances. For example, "C." from New York, NY was frustrated at having to pay fees to suspend payments on a private student loan:

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[39] *See* CONSUMER FIN. PROTECTION BUREAU, ANNUAL REPORT OF THE CFPB STUDENT LOAN OMBUDSMAN 2 (2013), *available at* http://files.consumerfinance.gov/f/201310_cfpb_student-loan-ombudsman-annual-report.pdf [hereinafter 2013 OMBUDSMAN REPORT]; CONSUMER FIN. PROTECTION BUREAU, ANNUAL REPORT OF THE CFPB STUDENT LOAN OMBUDSMAN 8 (2012), *available at* http://files.consumerfinance.gov/f/201210_cfpb_Student-Loan-Ombudsman-Annual-Report.pdf [hereinafter 2012 OMBUDSMAN REPORT].

[40] 2012 OMBUDSMAN REPORT, *supra* note 39, at 8.

[41] *Id.* at 10-11.

[42] 2013 OMBUDSMAN REPORT, *supra* note 39, at 8-9; 2012 OMBUDSMAN REPORT, *supra* note 39, at 8.

[43] 2013 OMBUDSMAN REPORT, *supra* note 39, at 9.

> My private student loans are now DOUBLE the amount I borrowed (back in 2003-2005). The interest rate I was given, by Sallie Mae, was 12% Plus Libor. After I was laid off in 2009, I almost went into default. **Sallie Mae would only give me a Forbearance (at their discretion), if I paid $150 & $50 for each loan- then the Forbearance lasts only 3 months anyway. And, the interest gets thrown onto the back of the loan, too.** There is an incredible amount of interest & usury fees on my account. I am not young- I will never be able to pay it off- it will just keep growing, & growing. And, I paid back half of what I borrowed originally- but now the balance is still double.

Richard from Globe, AZ told us about his frustration at having no control over how his payments were applied to his balance, even when he tried paying more than his required monthly amount:

> **After a year of paying more than due each month I noticed that it made no difference in the balance**….I asked AES if I could make principal payments only on top of the monthly payment. They said no, the only way I can save on interest is to pay off the loans, about now $60,000….**My last letter from them on my inquiry of how I can pay off this loan sooner was: "Any amount received that exceeds the amount billed is applied towards the next due installment. This does not affect the manner in which payments are applied. Although your payment may satisfy a bill due in the future, the payment is applied to the outstanding interest, then to the principal balance, effective the date the payment was received."** So as far as I can tell there is no way to pay off this loan early, except to pay the total amount due plus interest.

Borrowers don't deserve insult added to injury – fees should be reasonable and payments should be applied fairly and accurately to a borrower's loan balance. If a borrower pays more than the required monthly amount, the excess amount should be applied to the balance instead of interest.[44]

Servicing: Inability to Fix Problems or Get a Straight Answer

Problems with loan servicers – the companies that handle payments, loan paperwork and customer service inquiries – are a major source of stress for many student loan borrowers. In its July 2013 report on private student loan complaints, the CFPB found that out of the 2,002 complaints it received over a six-month period, 62 percent discussed problems with servicing and repayment.[45] The CFPB has stated that it sees troubling similarities between servicing problems in the student loan market and servicing problems in the mortgage market, such as: missing paperwork, inconsistent

[44] For example, even credit card users receive protections against unfair fees and application of payments. Under the Credit CARD Act of 2009, penalty fees must be reasonable and proportional, and credit card companies must apply payment amounts in excess of the minimum payment to higher-interest balances first. *See* Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111-24, 123 Stat. 1734 (2009).

[45] MID-YEAR SNAPSHOT, *supra* note 38, at 5.

directions from customer service representatives, and limited access to account information.[46]

Servicing issues were a major theme for the consumers who wrote to us. Many expressed frustration with servicers who gave inconsistent answers, failed to have accurate records, or simply refused to work with them to resolve outstanding issues.

For example, Christopher from Hastings-on-Hudson, NY told us about his failed attempts to work out a reasonable payment plan with his student loan servicer, and being unable to get any of the paperwork associated with his loan:

> I took a job at a restaurant, but after Christmas one year, I literally only brought home $600 for the month. My fiancée at the time also had student loans through Sallie Mae, she called on her behalf and they asked her to fax in her pay stubs and they would see about lowering her payments. She is a RN and they lowered her payment to less than $200. So naturally, I tried to do the same thing since I only made $600 in a month. **They said sorry but I have a private loan and the best they could do is lower my payment to $457.58 a month that would only cover the interest. I was dumbfounded. I said what was the interest rate? They said it's variable, but currently it is 13.5% variable. I told them I signed the loan agreement at 6%. I have requested on three occasions to get a copy of said agreement, but have yet to receive it.**

Tara from Glastonbury, CT also experienced ongoing hassles with her loans, because they were transferred over and over again to different servicers:

> I finished graduate school in 1987, received a student loan deferment in the year following graduation while I searched for a job. When the deferment was up I began to pay back the loan, in spite of being underemployed and struggling to keep up with other bills. **Fast forward about 10 years. During this period the loan was repeatedly sold to other lenders, often several times in 1 year. The lenders themselves could not keep track, often failing to notify me of the change, and causing me to chase after them to learn the correct holder of the loan and their new mailing address for payment.** I was diligent and responsible, and always paid my bills.

All servicers need to have a fair and transparent process for resolving issues. Borrowers should be able to assert their rights, access their paperwork, get clear answers, and have a place to complain if things go wrong. Borrowers should be treated fairly and guaranteed a continuity of fair service when their loans are transferred to another servicer.

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[46] *See* 2013 OMBUDSMAN REPORT, *supra* note 39, at 16; 2012 OMBUDSMAN REPORT, *supra* note 39, at 8.

Fairness: Deceptive Marketing, Aggressive Collections, and Other Problems

Many student loan borrowers also find themselves subjected to a range of unfair or deceptive practices that put them in too much debt or steer them toward loan default. For example, congressional investigations into the for-profit college industry have found that some schools aggressively and deceptively market high-cost career programs to students despite knowing that program completion and job placement rates are low, thus putting students at risk of defaulting on their loans later on.[47] Some state attorneys general have also investigated and sued schools for such practices.[48] In addition, borrowers struggling to repay their loans have experienced harassment and aggressive collection practices, which may drive them further into distress instead of finding a way out of default.[49]

Some borrowers told us about their experiences being pressured into signing up for programs that didn't really meet their needs, or being treated unfairly when they fell behind on payments. For example, Elaine from Jacksonville, FL lamented that her daughter's training at a local career college hadn't helped her get a job but had still put their family into a lot of debt:

> Not only am I paying for my own student loans, but I'm paying for my daughter's student loans as well. **My daughter went to the worst college, "Stenotype Institute of Jacksonville" -guaranteed 100% job placement. What a joke and what a rip off that place was and now we are stuck paying this huge balance for nothing.** Interest rates are ridiculous and I never seem to get ahead.

Celine from Northfield, MN has been struggling to stop harassment from her servicer, despite her attempts to work out a solution:

> I attended a state university for four years and I've not been able to find a job. I have a Bachelor of Science in Sociology. I can't even find a minimum wage job. I applied for some but they won't give me a job. Also I've been diagnosed

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[47] S. COMM. ON HEALTH, EDUCATION, LABOR & PENSIONS, FOR PROFIT HIGHER EDUCATION: THE FAILURE TO SAFEGUARD THE FEDERAL INVESTMENT AND ENSURE STUDENT SUCCESS, S. REP. NO. 112-37, pt. 1, at 63-66 (2012).
[48] *See, e.g.*, State v. Heald Colleges, LLC et al., No. 13-534793 (Cal. Super. Ct. filed Oct. 10, 2013), *available at* http://oag.ca.gov/system/files/attachments/press_releases/Complaint%2C%20filed%20stamped_0.pdf? ; State v. Alta Colleges, Inc. et al., No. 12-01587 (Ill. Cir. Ct. filed Jan.18, 2012), *available at* http://www.ag.state.il.us/pressroom/2012_01/WESTWOOD_Complaint_11812.pdf; Press Release, [New York] A.G. Schneiderman Announces Groundbreaking $10.25 Million Dollar Settlement with For-Profit Education Company that Inflated Job Placement Rates to Attract Students (Aug. 19, 2013), *available at* http://www.ag.ny.gov/press-release/ag-schneiderman-announces-groundbreaking-1025-million-dollar-settlement-profit.
[49] For example, the National Consumer Law Center has been critical of private collection agencies (PCAs) hired to collect government student loans, citing collection fees as a disincentive to helping borrowers stay out of default. *See, e.g.*, NAT'L CONSUMER LAW CTR., BORROWERS ON HOLD: STUDENT LOAN COLLECTION AGENCY COMPLAINT SYSTEMS NEED MASSIVE IMPROVEMENT 2 (2013), *available* at http://www.studentloanborrowerassistance.org/wp-content/uploads/2013/05/borrowers-on-hold.pdf; NO WAY OUT, *supra* note 9, at 35-42.

> with a disability which might be the reason companies are hesitant to hire me**. I keep having to defer my loans and now Sallie Mae keeps harassing me with phone calls. I sent in my deferment and I talked to them about a solution. I thought everything was okay but they're still calling me.** I struggle with making any payments because I don't get enough finances to pay for the rent, food, electricity etc.

Borrowers need protection from deceptive marketing, abusive collection tactics and other unscrupulous practices that trick students into taking on unmanageable debt or make it harder for them to keep up with payments.

Relief: Inability to Pay Down Loans, No Money Left for Savings or Retirement

Finally, the sheer debt burdens that borrowers take on in order to go to college can lead to long-term financial woes. Even though there are some circumstances under which a federal loan can be canceled – such as after death or disability,[50] or after completing a number of years in a public service profession[51] – the requirements are very specific and may be difficult for most borrowers to meet. Furthermore, because both federal and private student loans are treated more harshly than other types of unsecured credit in bankruptcy, many borrowers may have little recourse even when their finances hit bottom. The National Association of Consumer Bankruptcy Attorneys (NACBA) recently surveyed lawyers from across the country who expressed concerns that their clients' inability to get bankruptcy relief for student loans could produce a systemic crisis – in their words, the next "debt bomb."[52]

All too many borrowers who wrote to us simply expressed despair at being unable to keep up with student loan payments, not to mention their inability to save up for anything else – retirement, a home or car, even an occasional meal at a restaurant. Others discussed their struggles with bankruptcy and financial ruin, with their student loans still hanging over them.

For example, Thomas from Lynnwood, WA wrote that he has been paying his loan for 20 years and still can't get rid of it:

> **I'm 64 years old and I've been making student loan payments since 1994. The amount I've paid in interest is greater than the amount I borrowed initially and at this rate, my loan won't be paid off for another 20 years.** I have not been able to replace the 1994 vintage used car I bought in 2002. My wife and I have not taken a vacation since 2008. When I retire, it is my understanding that my student loan payments will be deducted from my Social Security benefits.

Rita from Mansfield, TX told us about her struggles with disability and unemployment after going back to school for a master's degree, and her worry that she won't be able to get a break:

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[50] *See* 20 U.S.C. § 1087dd(c)(1)(F) (2012) (loan cancellation provisions for death and disability).
[51] *See* 20 U.S.C. § 1087e(m) (2012) (public service loan forgiveness option).
[52] *See* THE STUDENT LOAN "DEBT BOMB," *supra* note 15, at 2-4.

> During my 7 year career as a public school teacher, I decided to embark on a journey to obtain my Masters Degree in Education at 58 years old….**I have since had to undergo back surgery which I have lived with for years. I am unable to walk or stand for more than 10-15 minutes without being in pain. I am unable to work, and although my doctors have determined that I am permanently disabled, I was denied disability payments because I taught school and did not pay into Social Security. I have asked that the $32,000 student loan be forgiven, but I have not received an answer yet. This student loan is really affecting my life because there is no way that I can pay it back!** Please help me with this huge debt that weighs on my mind daily.

Carmela from Rowland Heights, CA told us about her struggle to stay afloat after her husband became ill and disabled, and her frustration at being unable to get relief from her student loans even after filing for bankruptcy:

> I took out what I thought was 1 loan to pay for my MBA. **In the middle of my MBA program, my husband became ill, and ultimately did not work for 8 months.** State disability payments were tiny, we had a ton of unsecured debt already, and I ended up using my student loan funds for living expenses, which required me to take out another loan. So it basically doubled the student debt load. **We ultimately had to file bankruptcy (Ch 13) and student-loan debt is protected. That is, I am going through the Ch 13 but if there is any money left owing at the end of the Ch 13, I still have to pay it.** The loans were not discharged, nor would they be even after the Ch 13.

Borrowers shouldn't be deprived of long-term financial security just because they tried to get an education. Reasonable access to forgiveness options and flexible repayment alternatives, for all borrowers, would go a long way to ensure that multiple generations of borrowers aren't stuck in a lifetime of debt and can contribute to a robust national economy.

Next Steps and Policy Recommendations

These stories are just a snapshot of the stress and grief so many borrowers are experiencing. Millions of Americans are struggling to get the education they need and paying a hefty price for it – not just financially but also in terms of their delayed hopes and broken dreams. Congress, the Department of Education and the CFPB must act quickly to restore fairness to the system and ensure that education continues to open doors to economic opportunity for all.

Starting in 2014, Congress will begin the process for reauthorizing the Higher Education Act of 1965 (HEA), which sets the framework for federal grant money and student loan programs.[53] The HEA reauthorization process presents the key opportunity to strengthen federal aid programs so that financial aid offers, counseling, repayment plans and forgiveness options are more accessible and transparent.

In addition, the Department of Education will be considering new rules pertaining to career colleges, to ensure that taxpayer dollars aren't subsidizing low-performing schools that saddle students with shoddy degrees and high student debt.[54] For-profit career colleges have long been under scrutiny for engaging in deceptive practices that contribute to bad outcomes for students, as discussed above.[55]

Finally, the CFPB is exploring possible initiatives to help make private student loans more affordable, including the creation of a credit facility or other government-financed capital resource mechanism to spur a refinance market.[56] The agency also has plans to examine the practices of student loan servicers, using its authority to supervise nonbanks that provide financial services to consumers.[57]

We urge Congress, the Department of Education and the CFPB to follow through on these actions already in progress. Below we outline the key areas in need of reform.

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[53] 20 U.S.C. §§ 1070—1099e (2012) (Title IV of the Act).

[54] Negotiated Rulemaking Committee, Negotiator Nominations and Schedule of Committee Meetings – Title IV Federal Student Aid Programs, Gainful Employment in a Recognized Occupation, 78 Fed. Reg. 35179 (June 12, 2013).

[55] *See, e.g.*, S. COMM. ON HEALTH, EDUCATION, LABOR & PENSIONS, FOR PROFIT HIGHER EDUCATION: THE FAILURE TO SAFEGUARD THE FEDERAL INVESTMENT AND ENSURE STUDENT SUCCESS, S. REP. NO. 112-37, pt. 1, at 53-55 (2012) (discussing deceptive and aggressive marketing to increase enrollment and profit, with little regard for student needs). According to Department data provided to the Senate Health, Education, Labor & Pensions Committee for a two-year study of the industry, for-profit colleges enroll 13 percent of students seeking higher education, but contribute to 47 percent of student loan defaults. *See id.* at 17.

[56] CONSUMER FIN. PROTECTION BUREAU, STUDENT LOAN AFFORDABILITY: ANALYSIS OF PUBLIC INPUT ON IMPACT AND SOLUTIONS 24 (2013), *available at* http://files.consumerfinance.gov/f/201305_cfpb_rfi-report_student-loans.pdf; *see also* Consumers Union, Letter to Consumer Fin. Protection Bureau (Apr. 5, 2013), *available at* http://defendyourdollars.org/wordpress/wp-content/uploads/2013/04/CFPB_comment_private_-loans_4_13.pdf.

[57] Defining Larger Participants of the Student Loan Servicing Market, 78 Fed. Reg. 18902 (proposed Mar. 28, 2013).

Seven Principles for Fair Student Lending

Consumers Union believes that all students deserve affordable access to quality higher education. Until education costs decrease, students and families will need access to student loans. To that end, Consumers Union has developed the following policy agenda for comprehensive reform of the student loan system:

<u>Transparency</u>: Lending options should be easily comparable
Congress should require schools to provide students with plain-language, standardized disclosures that clearly explain their options for financing education, including grants and scholarships as well as loans. The disclosures should enable students to compare and understand the differences between private and federal loans, as well as their estimated monthly loan payments after graduation.

<u>Borrowing Options</u>: Schools should help students find the most affordable ways to pay for college
To prevent unnecessary borrowing, Congress should require private lenders to check with the borrower's school before making a loan. Schools should provide students with pre-loan counseling to review loan costs and eligibility requirements for less costly financial aid options.

<u>Flexible Repayment</u>: Borrowers must be given reasonable options
Congress should require lenders to offer flexible, affordable and sustainable repayment options, including income-based repayment plans, deferments and forbearances, and acceptance of partial payments – regardless of the type of loan. The CFPB and other banking regulators should also issue guidance or take other steps to encourage loan refinancing.

<u>Reasonable Costs</u>: Fees should be reasonable and payments should be processed fairly
Borrowers should not be penalized with excessive, new or hidden fees. Congress should change the law, and the CFPB should take steps pursuant to its authority over student loan servicers, to ensure that servicers do not manipulate payments in a manner that triggers extra fees or increases a borrower's balance.

<u>Accountability</u>: Students should have access to effective and timely loan inquiries and dispute resolution
Congress and the CFPB should require student loan servicers to establish clear procedures and a single point of contact for questions and complaints. Complaints handling, resolution and appeals should be centralized and monitored by regulators.

<u>Fairness</u>: Abusive, unfair and deceptive practices must not be permitted
Congress and the CFPB should prohibit deceptive marketing, abusive collection and servicing practices, and other fraudulent practices and services. The Department of Education should also issue strong "gainful employment" rules to prevent students and taxpayers from subsidizing low-performing career colleges.

<u>Reasonable Relief</u>: Loans shouldn't be a lifelong burden
All borrowers should receive opportunities to rehabilitate loans back into good standing with an affordable and sustainable repayment plan. Congress should change the law to ensure that more borrowers have the opportunity to obtain loan discharges or cancellations in certain circumstances, including long-term economic hardship.

Now is the time to reaffirm as a nation that education is a public good – and that we should support those who seek higher education instead of punishing them with onerous financial burdens. To achieve that goal, we must take bold and immediate steps to address the incredible challenges consumers face in the student loan system.