CONSUMER FINANCIAL PROTECTION BUREAU | JANUARY 2024

Issue Spotlight: Federal Student Loan Return to Repayment

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1. Introduction

As monthly payments for federally owned student loans come due for the first time in over three years,[1] the Consumer Financial Protection Bureau (CFPB) is actively engaged in oversight of this return to repayment. We are supervising student loan servicers, monitoring consumer complaints,[2] and collaborating with federal and state partners[3] to ensure that servicers are held accountable when they fail to meet their legal obligations to borrowers during this critical period.

The Consumer Financial Protection Act directs the CFPB to conduct risk-based supervision that considers the dangers to consumers created by the provision of consumer financial products or services[4] and focuses resources toward areas with greater risk.[5] The CFPB determined that the return to repayment of federally owned student loans presents significant consumer risks and initiated its supervisory response due to the number of impacted consumers (over 28 million), consumer complaints and other field market intelligence, and the history of compliance issues by student loan servicers.[6]

The CFPB is releasing the following aggregate anonymized observations of the return to repayment because of the extent of the risk of harm to consumers during this period as well as the significance of the ongoing issues examiners have identified to-date. The CFPB notes that

[1] In 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act paused student loan borrowers' obligations to make payments on their federally held student loans, and the pause was subsequently extended administratively by the Department of Education. Those payment obligations resumed in October of 2023 because of the Fiscal Responsibility Act of 2023.

[2] *See, e.g.,* Consumer Financial Protection Bureau, *2023 Report of the CFPB Education Loan Ombudsman*, (Oct. 2023), https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf.

[3] U.S. Department of Education, *Biden-Harris Administration Announces Framework for Student Loan Servicer Accountability To Protect Borrowers Nationwide*, (Nov. 9, 2023), https://www.ed.gov/news/press-releases/biden-harris-administration-announces-framework-student-loan-servicer-accountability-protect-borrowers-nationwide.

[4] 12 USC 5514 (b)(2).

[5] Consumer Financial Protection Bureau, *CFPB Supervision and Examination Process*, (Feb. 2019), https://files.consumerfinance.gov/f/documents/cfpb_examination-process-section.pdf, at 1.

[6] *See, e.g.,* Consumer Financial Protection Bureau, *Supervisory Highlights Student Loan Servicing Special Edition Issue 27*, (Fall 2022), https://files.consumerfinance.gov/f/documents/cfpb_student-loan-servicing-supervisory-highlights-special-edition_report_2022-09.pdf.

these issues may have serious implications for borrowers[7] as well as for servicers' compliance with state and federal consumer financial protection law.[8]

CFPB's oversight of the return to repayment is ongoing, and we will continue examining student loan servicers, monitoring of consumer complaints received about student loan servicers, and collaborating with federal and state partners, and enforcing the law where necessary.

[7] In addition to the specific harm detailed below, return-to-repayment problems likely have compounding effects on certain subsets of borrowers, like those pursuing Public Service Loan Forgiveness (PSLF). For example, a borrower who cannot get through to their servicer to make a monthly payment may lose a month of credit when they later apply for the program.

[8] This update does not present a comprehensive or final list of consumer risks and does not report any conclusions on whether the conduct described is a violation of federal consumer financial law. Rather, it describes important observations made to date about servicer operations and borrower experiences during the earliest phases of the return to repayment. These observations complement and are corroborated by recent findings of servicer error by the Department of Education. *See, e.g.*, U.S. Department of Education, *U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers*, (Oct. 30, 2023), https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers#:~:text=Due%20to%20the%20failure%20of,of%20October%20for%20this%20mistake.

2. Observations

CFPB examiners have observed that student loan borrowers are facing long hold times when trying to reach their servicer by phone, significant delays in servicers' processing of their applications for income-driven repayment, and inaccurate billing statements.[9]

The statistics reported below reflect what servicers reported to the CFPB and have not been independently validated. Many aggregate trends and consumer risks detailed below exist across all federal student loan servicers.[10] But in some areas the CFPB's Supervision Office has observed variations in borrower experiences across servicers, suggesting that servicers can mitigate adverse borrower outcomes with appropriate operations and compliance practices.

2.1 Extended call hold times

Many borrowers require assistance from a live representative to apply for income-driven repayment, make payments, understand their loan-cancellation or discharge options, or resolve disputes. Indeed, servicers and the Department of Education encourage student loan borrowers to contact their servicer when they need assistance regarding their student loan debt.

Borrowers are facing increasing delays in their ability to communicate with their servicer by phone. During the last two weeks of October 2023, the average student loan borrower that called their servicer waited over an hour (73 minutes) to speak to a live agent (Figure 1).[11]

[9] This analysis presents information collected between August and October 2023. The data included in this update is aggregated an anonymized to protect the supervised entities and the integrity of the supervisory process.

[10] To maintain the anonymity of the supervised institutions discussed in this Supervisory Update, references to institutions generally are in the plural and related findings may pertain to one or more institutions.

[11] The data points represent the average call wait time for the two weeks preceding the reporting date listed on the x-axis. The call wait times are weighted according to the number of borrowers assigned to each servicer during the period. Call wait times are included for days when customer service representatives were available and exclude weekends and holidays when representatives are not available.

FIGURE 1: AVERAGE AGGREGATE CALL WAIT TIME (AUG-OCT 2023)

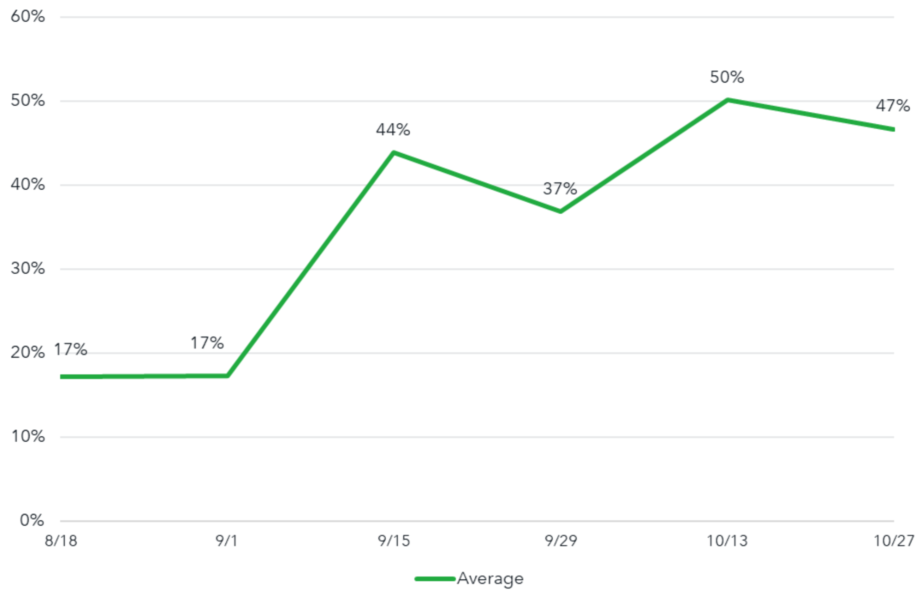
Extended call wait times were not limited to peak call periods and seem to be reasonably consistent across call center operating hours. For example, over the latest reporting period, no matter when they called, most borrowers encountered potential wait times longer than 45 minutes when they tried to reach a customer service representative.[12] One consumer reportedly waited 565 minutes to speak with a customer service representative.

Longer call wait times correlate with increased drop rates. For the last period, 47 percent of borrowers placed into a queue to speak to an agent hung up before being connected (Figure 2).[13]

[12] For the period covered by this report, servicers had wait times of over 45 minutes for 83.6 percent of the call center operating hours over the preceding two weeks. The share of operating hours with wait times over 45 minutes is weighted according to the number of borrowers assigned to each servicer during the period. Operating hours refer only to times when customer service representatives were available and excludes weekends and holidays.

[13] Call drop rate measures, for the preceding two-week period, the number of inbound calls where the borrower hung up before being connected to a representative out of the number of total inbound calls referred to an agent aggregated across all servicers and displayed as a percentage. This measure does not include borrowers that accessed an automated interactive voice response (IVR).

FIGURE 2: AGGREGATE AVERAGE CALL DROP RATES FOR INBOUND CALLS REFERRED TO A LIVE AGENT (AUG-OCT 2023)



Examiners observed that call drop rates vary significantly across servicers with two servicers dropping almost 50 percent fewer calls than the others. This variance may reflect differences in operational strategies employed by the different servicers.

Borrowers can suffer various injuries when they must wait extended periods to contact their servicer to manage their loan debt. Borrowers risk missing payments and other negative consequences when they cannot perform the tasks they need on their servicers' websites nor reach the servicers by phone. Additionally, given limited call center hours, borrowers may be forced to take off time from work just to reach their servicer. Extended waits could also dissuade borrowers from inquiring about options, like income-driven repayment or PSLF, that could reduce their monthly payments or eliminate their debt altogether. Finally, where borrowers are trying to dispute potential servicer errors they may continue to be billed for incorrect amounts or miss out on credit for previous payments.

Examiners' analysis suggests that servicing errors, processing delays, or confusing communications can drive borrowers to call in to clarify the status of their loans. Examiners observed that servicers employ a range of different policies and procedures related to call back functionality, online chat, and other communication methods to manage call wait times. These differences in self-help and call deflection strategies between servicers may affect how many borrowers need to call their servicers and how long they wait if they do call.

2.2 Income-driven repayment application processing delays

Timely enrollment in an income-driven repayment plan is a critical protection for borrowers struggling to afford their federal student loan payments. These plans, such as the new Saving on a Valuable Education (SAVE) plan, seek to lower borrowers' monthly payment amounts by tying payments to income and family size. A principal feature of the SAVE plan is that the interest is subsidized such that if a borrower makes a full payment that does not cover the accrued interest then the additional interest is subsidized and the borrower's loan balance will not grow.[14] With few exceptions, borrowers must submit applications to their student loan servicers to enroll in or annually recertify income-driven repayment plans.[15] In addition, borrowers can submit applications for a recalculation of their monthly payment under an income-driven repayment plan when they experience a significant change in income.

By the end of October 2023, over 450,000 income-driven repayment applications had been pending with a servicer for more than 30 days (Figure 3). [16] The aggregate number of unprocessed income-driven repayment applications has risen consistently since the CFPB began receiving data in August 2023; as of the late October 2023, servicers reported over 1.25 million pending income-driven repayment applications.

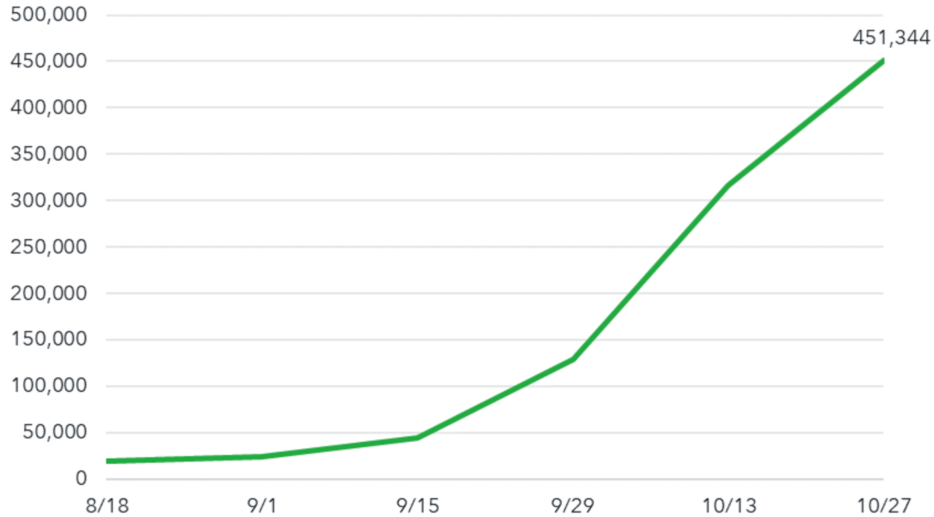
Across all servicers, each employee tasked with processing income-driven repayment applications had on average 1,335 outstanding applications. The average income-driven repayment processing time varies across servicers, however – the slowest servicer is taking, on average, five times longer to process an income-driven repayment application than the quickest servicer. Only one of the four servicers processed more income-driven repayment applications in the last reported period than it received, suggesting the application backlog will grow unless current trends are reversed.

[14] *See* Office of Federal Student Aid, *SAVE Repayment Plan Offers Lower Monthly Payments*, https://studentaid.gov/announcements-events/save-plan.

[15] Borrowers previously enrolled in the REPAYE plan were automatically enrolled in SAVE in the fall of 2023. https://studentaid.gov/announcements-events/save-plan. Further, by July 2024, certain groups of borrowers may be automatically enrolled or re-enrolled into income-driven repayment plans.

[16] This data represents the number of unprocessed income-driven repayment applications that have been pending more than 30 days during the preceding two-week period.

FIGURE 3: UNPROCESSED INCOME-DRIVEN REPAYMENT APPLICATIONS PENDING FOR AT LEAST 30 DAYS (AUG-OCT 2023)



Income-driven repayment applications that take more than 30 days potentially have negative implications for borrowers. During these prolonged processing delays, interest accrues that potentially would not have if the income-driven repayment applications were timely processed. Borrowers are commonly put on an administrative forbearance while their income-driven repayment application is pending and, depending on the type of forbearance applied, borrowers may not receive credit towards income-driven repayment or PSLF cancellation during the months of this forbearance. The Department of Education (ED) recently acknowledged that borrowers are injured when servicing errors result in unnecessary periods of accrued interest and lost progress towards loan cancellation.[17] Delays in IDR application processing may also cause borrowers to make payments that are larger than they can afford, causing financial strain or even increased indebtedness on other forms of credit, like credit cards. These delays also cause borrowers considerable frustration and wasted time as they repeatedly try to get information from their servicer about the status of their application.

2.3 Inaccurate billing and disclosure statements

Borrowers returning to repayment rely on accurate billing and disclosure statements from their servicers to know how much to pay and when those payments are due. Accuracy is especially

[17] *See* U.S. Department of Education, *Request Approval: Use of Secretary's Compromise Authority for Remediating Potential Harm to Borrowers Caused by Return to Repayment Servicing Errors*, (Oct. 29, 2023), https://www2.ed.gov/policy/gen/leg/foia/decision-memorandum-return-to-repayment-servicing-errors-10-29-23-signed-redacted.pdf.

crucial for the almost 24 million transferred borrowers[18] who are making payments to a different servicer and the millions of recent graduates who are making payments for the first time ever.

Examiners observed that many borrowers have received inaccurate loan disclosures or billing statements in recent months. Examiners noted two general categories of inaccuracies: 1) billing errors; and 2) errors related to calculating income-driven repayment payment amounts. Examples include the following:

Billing errors

- Listing premature due dates that were before the end of the payment pause.
- Incorrectly sending bills to borrowers with approved or pending borrower-defense applications.

Errors related to calculating payment amounts for income-driven repayment

- Listing inflated monthly payment amounts due to the servicer having applied outdated poverty guidelines.
- Listing inflated monthly payment amounts due to the servicer applying incorrect income amount.
- Listing inflated monthly payment amounts due to the servicer failing to account for spousal loan balances as required under certain benefit programs.
- Inflating monthly payment amount due to the servicer failing to properly calculate the borrower's family size.

ED has observed similar inaccurate billing information and also released information about ongoing servicer performance, which indicates that one servicer failed to send billing statements to 2.5 million borrowers on time, among other errors.[19] These errors not only cause significant borrower confusion, but they may also cause harm where borrowers pay a wrongly inflated amount or are forced to expend considerable time and resources to fix servicer errors.

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[18] For a number of reasons, including several major federal student loan servicers exiting the market, in recent years almost 24 million federal student loan borrowers were transferred from one federal student loan servicer to a new loan servicer.

[19] *See Remediating Potential Harm to Borrowers Caused by Return to Repayment Servicing Errors*, supra n. 17.

Although CFPB's oversight of servicer conduct related to return to repayment is ongoing, in earlier exams unrelated to return to repayment, the CFPB has found that student loan servicers engaged in unfair acts or practices when they excessively delayed processing student loan program forms[20] and when certain systematic errors resulted in incorrect bills to consumers. [21] The CFPB has also found that student loan servicers engaged in an unfair and abusive act or practice by failing to provide, for an extended period, an adequate avenue for consumers to timely resolve disputes or inquiries by phone or submit phone payments, when it offered the option of paying and resolving disputes or inquiries by phone.[22]

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[20] *See* CFPB, *Supervisory Highlights Student Loan Servicing Special Edition,* Issue 27, Section 4.2.3, Fall 2022 https://files.consumerfinance.gov/f/documents/cfpb_student-loan-servicing-supervisory-highlights-special-edition_report_2022-09.pdf (describing the unfair practice of excessively delaying processing PSLF forms).

[21] *See Supervisory Highlights Student Loan Servicing Special Edition*, at § 4.2.3 (describing unfair practice of improper processing of income-driven repayment requests); *see also*, CFPB, *Supervisory Highlights*, Issue 21, Section 2.4.1, Winter 2020, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-21_2020-02.pdf (describing unfair practice of inflating monthly payment amounts after servicing transfers); CFPB, *Supervisory Highlights*, Issue 13, Section 2.5.4, Fall 2016, https://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf (describing unfair practice due to system errors).

[22] Federal student loan servicers have long been subject to federal consumer financial protection laws. The CFPB has notified certain servicers that certain conduct may be prohibited. For example, CFPB examiners noted that servicers engage in a prohibited practice when during a five-month period, a servicer's call center was not fully staffed and averaged 40 minutes before connecting with consumer calls, leading to almost half of the consumers abandoning their calls before reaching a customer service representative.