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October 31, 2017

Mr. Jack Remondi
President and CEO
Navient Corporation
123 Justison Street
Suite 300
Wilmington, DE 19801

Dear Mr. Remondi:

I write today regarding Navient Corporation's ("Navient") recent acquisition of Earnest, a financial technology and education finance company focused on refinancing borrowers' federal loans into private loans, and the impact this acquisition could have on federal student loan borrowers with loans serviced by Navient.[1]

Given Navient's role as a massive federal student loan servicing contractor for the U.S. Department of Education, I'm concerned that this acquisition could result in Navient exploiting its access to federal student loan borrowers and their sensitive data to easily market or cross-sell Earnest's student loan products to borrowers who have their federal student loans serviced by Navient, siphoning borrowers out of the federal loan program and away from critical consumer protections and forgiveness, as well as repayment options available to federal borrowers. I am requesting more information about this acquisition and how Navient plans to utilize Earnest are consistent with the company's federal student loan servicing responsibilities.

Since spinning off from Sallie Mae in 2014, Navient – the nation's largest student loan servicer – has focused on servicing and collecting more than $300 billion in existing student loans, including the company's contract with the U.S. Department of Education to service federal student loans.[2] On October 4, Navient announced an agreement to purchase Earnest for $155 million. Earnest, founded in 2013, describes its mission as "mak[ing] credit more accessible by reducing the costs and barriers faced by millions of financially responsible people."[3] Earnest's products include student loans, home equity, credit card, and other personal loans.

Navient's acquisition of Earnest is significant because for the first time since separating from Sallie Mae, Navient will begin originating its own private student loans. The company's

[1] "Navient announces agreement to acquire Earnest, a leading financial technology and education finance company." *Navient* (October 4, 2017). Online at: https://news.navient.com/news-releases/news-release-details/navient-announces-agreement-acquire-earnest-leading-financial.
[2] "Federal student loan servicing fact sheet." *Navient* (2017). Online at: http://news.navient.com/static-files/19ae6017-d036-485f-a159-1bc0298f42de.
[3] "About us | Earnest." *Earnest* (2013). Online at: https://www.earnest.com/about-us.

potential financial gain from expanding its loan borrowing pool is significant and without precedent. During the 25 year history of the federal direct student loan program, no major federal student loan servicer has also served as an originator of private refinanced student loans.

Federal student loan borrowers currently do not have the ability to refinance their federal loans without exiting the federal student loan program and originating a new private student loan. Start-up companies like Earnest have sprung up in recent years to take advantage of this limitation and to skim borrowers who are most likely to repay their loans off the federal portfolio by allowing some federal borrowers to refinance their federal student loans as private student loans. This year Earnest is expected to originate nearly $1 billion in student loans, refinancing federal student loan borrowers into riskier private student loans with fewer protections.[4]

While federal student loans come with critical consumer protections and forgiveness programs, private student loans do not come with most of these protections. When borrowers refinance their federal student loans as private student loans, they often sacrifice these federal consumer protections and forgiveness programs, like income-driven repayment, borrower defense to repayment, public service loan forgiveness, and other consumer protections that Congress created to help people manage their debts.

During an October 18 call with investors in which you discussed this acquisition, you stated:

> *We will add over $1 billion in new refi loans to our balance sheet this year, and I expect we will add more than $1.5 billion in new loans in 2018... with Earnest, we'll be a dominant originator of refi loans... when you're lending to borrowers in this segment, you're lending to borrowers who have completed their education and have demonstrated income through their existing job and a very stable, consistent payment pattern early in their repayment years.*[5]

With this purchase, Navient faces a potentially serious conflict of interest: the company could be collecting monthly payments from federal student loan borrowers with one hand, and trying to get some of those same borrowers to trade in their federal loans for Navient/Earnest's private refinanced loans with the other hand. When these borrowers do so, they lose out on their federal protections, and free Navient from contractual servicing obligations and Higher Education Act oversight. Navient could also use the payment records to target the most profitable federal student loan borrowers, and then use contact information provided by the federal government to market directly to these borrowers. And, Navient could then securitize Earnest's private refinanced loans on Wall Street to make a fortune off this deal.

My concerns about this conflict of interest are compounded by Navient's troubling history of misconduct and mistreatment of student loan borrowers. In 2014, Navient was fined nearly $100 million dollars by the Department of Justice and the Federal Deposit Insurance Corporation for

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[4] Gensler, L. "Earnest, an online student lender, bought by Navient for $155 million." *Forbes* (October 4, 2017). Online at: https://www.forbes.com/sites/laurengensler/2017/10/04/earnest-acquired-by-navient-fintech-student-loans/#246b6ed67e19.
[5] "Edited transcript of NAVI earnings conference call or presentation 18-Oct-17." *Yahoo! Finance* (October 19, 2017). Online at: https://finance.yahoo.com/news/edited-transcript-navi-earnings-conference-182058453.html.

systematically overcharging service members on their student loans.[6] In addition, pending lawsuits by the Consumer Financial Protection Bureau ("CFPB") and Attorneys General from Pennsylvania, Illinois, and Washington allege Navient violated the law by creating obstacles for borrowers to repay their loan debts in ways that harmed students and boosted the company's profits.[7]

Although Navient often boasts that its borrowers are less likely to default compared to other federal servicers,[8] the allegations in the CFPB's lawsuit raise questions about whether the company has managed default rates by simply encouraging borrowers to postpone payments by railroading them into forbearance periods that delay repayment in exchange for the accrual of interest.[9] According to data released by the CFPB in April, Navient was the subject of more complaints than any other company in the country during the first quarter of 2017.[10] Navient has also ranked last or near last among the four major Title IV Additional Servicers in the Department of Education's borrower satisfaction ratings for the past five years.[11]

In response to the lawsuit filed by the CFPB, Navient has attacked the Bureau's structure and astoundingly asserted in court documents that "*the servicer acts in the lender's interest... and there is no expectation that the servicer will 'act in the interest of the consumer.'*"[12] This statement suggests that Navient will look for every conceivable opportunity to make more money off the backs of students without any regard to their financial well-being. The Earnest acquisition may be another opportunity for Navient to make even more money with even less accountability.

Given this history, I am deeply concerned that this acquisition presents Navient with an opportunity to abuse its unfettered access to, and relationship with, federal student loans borrowers in order to cross-sell Earnest refinancing products, shift borrowers from its federal servicing portfolio to its private loan origination portfolio, and boost company profits while

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[6] "Justice Department reaches $60 million settlement with Sallie Mae to resolve allegations of charging military servicemembers excessive rates on student loans." *U.S. Department of Justice* (May 13, 2014). Online at: https://www.justice.gov/opa/pr/justice-department-reaches-60-million-settlement-sallie-mae-resolve-allegations-charging.

[7] Commonwealth of Pennsylvania court filing vs. Navient Corporation and Navient Solutions, LLC. (October 5, 2017). Online at: https://www.attorneygeneral.gov/uploadedFiles/MainSite/Content/Related_Content/PressReleases/PA%20v.%20Navient%20Complaint%202017-10-6%20(Stamped%20Copy).pdf; Consumer Financial Protection Bureau court filing vs. Navient Corporation, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc. (January 18, 2017). Online at: http://files.consumerfinance.gov/f/documents/201701_cfpb_Navient-Pioneer-Credit-Recovery-complaint.pdf.

[8] Federal student loan borrowers serviced by Navient are 37% less likely to default." Navient (September 28, 2017). Online at: https://globenewswire.com/news-release/2017/09/28/1134513/0/en/Federal-student-loan-borrowers-serviced-by-Navient-are-37-less-likely-to-default.html.

[9] Id.

[10] "Monthly Complaint Report." Vol. 22. *Consumer Financial Protection Bureau* (Apr. 2017). Online at: http://files.consumerfinance.gov/f/documents/201704_cfpb_Monthly-Complaint-Report.pdf.

[11] Federal Student Aid. "Servicer performance metrics and allocations." *U.S. Department of Education.* Online at: https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing/servicer-performance#12312015.

[12] Navient Corporation court filing. (March 24, 2017). Online at: https://consumermediallc.files.wordpress.com/2017/04/gov-uscourts-pamd-110329-29-0.pdf.

reducing its contractual responsibilities. In order to address these concerns, I ask that you answer the following questions about this acquisition by November 27, 2017:

1) Will Navient take steps to end its contractual relationship with the U.S. Department of Education as a federal student loan servicer once the acquisition is finalized in order to prevent conflicts of interest?

    a. If not, how will Navient ensure a "firewall" between its student loan servicing portfolio and the Earnest loan products?

2) Will Navient use any of its regular communication with federal borrowers (including emails, direct mail, and phone calls) to market Earnest private student loan refinancing products?

3) Will Navient use any nonpublic information – including the contact information of borrowers provided by the federal government or borrower repayment data—to target or contact federal borrowers with student loans serviced by Navient about Earnest private student loan refinancing products?

4) Will Navient include information about Earnest private student loan refinancing products on any websites or materials that federal borrowers with student loans serviced by Navient might regularly encounter during the course of their student loan repayment?

5) Will Navient cross-sell or market Earnest's refinanced private student loans to federal borrowers with student loans serviced by Navient in any way, shape, or form?

    a. If so, has this arrangement been approved by the Office of Federal Student Aid at the U.S. Department of Education? Please provide all written correspondence between Navient and the Education Department regarding this acquisition.

I look forward to your prompt response to my questions.

Sincerely,

Elizabeth Warren

Elizabeth Warren
United States Senator