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September 19, 2013

The Honorable Jacob Lew
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Lew and Secretary Duncan:

I am writing to request information on the Department of Education and the Department of the Treasury's ongoing relationship with Sallie Mae despite Sallie Mae's pattern of breaking the rules and ignoring its contractual obligations.

According to Sallie Mae's most recent quarterly filing with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation plans to replace its existing cease-and-desist order against Sallie Mae with a formal enforcement action.[1] According to reports, the enforcement action is likely to allege that Sallie Mae violated the Servicemembers Civil Relief Act and the Equal Credit Opportunity Act by charging military personnel excessive interest on their student loans.[2]

Those allegations – while troubling on their own – are only one of many documented problems with Sallie Mae. In 2007, Sallie Mae agreed to a multi-million dollar settlement with the New York Attorney General's office to resolve claims relating to the improper marketing of federal student loans.[3] In 2008, the Treasury Department's Inspector General reviewed 36 separate cases and found that Sallie Mae's debt collection arm, Pioneer Credit Recovery, Inc., had violated its contractual obligations in each case through transgressions such as failure to adequately document its debt collection process and failure to inform consumers of their rights and obligations under debt compromises.[4] And just a few months ago, the Department of Education's Inspector General found that Sallie Mae had violated contractual terms by failing to report the verbal complaints it received from federal student loan borrowers.[5]

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[1] SLM Corporation, Form 10-Q (June 30, 2013), *available at* http://www.sec.gov/Archives/edgar/data/1032033/000119312513319383/d539937d10q.htm.

[2] Richard Perez-Pena, *Sallie Mae to be Accused of Overcharging Military Personnel on Loans*, New York Times (Aug. 9, 2013), *at* http://www.nytimes.com/2013/08/10/us/sallie-mae-to-be-accused-of-overcharging-military-personnel-on-loans.html?_r=0.

[3] Amit R. Paley & Tomoeh Murakami Tse, *Student Loan Giant Sallie Mae Settles in N.Y. Conflict-of-Interest Probe*, Wash. Post (Apr. 12, 2007), *available at* http://www.washingtonpost.com/wp-dyn/content/article/2007/04/11/AR2007041101326.html.

[4] Office of Inspector General, Department of the Treasury, *Private Collections Agencies: Pioneer Credit Recovery, Inc. Need to Improve Compliance with FMS's Debt Compromise Requirements* (Sept. 26, 2008), *available at* http://www.treasury.gov/about/organizational-structure/ig/Documents/oig08043.pdf.

[5] Office of Inspector General, Department of Education, Final Alert Memorandum re: Verbal Complaints Against Private Collection Agencies (May 8, 2013), *at* http://www2.ed.gov/about/offices/list/oig/auditreports/fy2013/l06m0012.pdf.

Despite Sallie Mae's track record, your agencies appear to have given little more than a slap on the wrist – additional training and reporting requirements but no monetary penalties or contractual remedies. I am particularly concerned about this approach because of the enormous benefits the government has provided Sallie Mae. Since 2009, the government has given Sallie Mae contracts worth hundreds of millions of dollars.[6] These contracts are in addition to a number of indirect and direct benefits the government has already provided to Sallie Mae. Sallie Mae has borrowed billions at astonishingly low interest rates through the federally-backed Federal Home Loan Bank of Des Moines. Through the Ensuring Continued Access to Student Loans program, Sallie Mae booked profits of $284 million in 2009 and $321 million in 2010 by selling government-guaranteed loans to the federal government. Also under the ECASLA program, the government created an asset-backed commercial paper conduit facility through which Sallie Mae borrowed billions at the very low rate of 0.82%.[7]

In short, the government has rewarded Sallie Mae enormously despite its repeated failings. Although Sallie Mae is a major player in the federal student loan programs, it is a for-profit company. As such, its profits – profits that have been boosted by special deals and breaks from the federal government – go to its shareholders. While the government has been quite tolerant of Sallie Mae's failings and helped Sallie Mae maintain its profitability, it is not nearly as generous when it comes to student borrowers. For students who default on their federal loans, the accountability is relentless. The government bars these borrowers from participating in federal student aid programs. The entire loan balance becomes due immediately, and fees and penalties get stacked on top. The government may withhold tax refunds, wages, and federal benefits. Defaulted borrowers face onerous collection practices, without even the hope of discharging their student loan obligations through bankruptcy. Where is that kind of accountability for Sallie Mae?

As regulators consider disciplinary action against Sallie Mae, I would appreciate it if you could respond to the following questions:

Department of Education:

1. If Sallie Mae is found to have violated the Servicemembers Civil Relief Act, the Equal Credit Opportunity Act, or other laws or contractual provisions, will the Department terminate its contracts with Sallie Mae or otherwise seek monetary relief? What policies and practices will guide the Department's actions in this respect?

2. What steps has the Department taken in response to the Inspector General's recent finding that Sallie Mae failed to report verbal complaints it received from borrowers?

3. The Department has the authority to assess civil penalties against a lender or guaranty agency of up to $35,000 per violation, failure, or misrepresentation. Has the Department exercised this authority against Sallie Mae or any other lender or guaranty agency? Under what circumstances would the Department exercise this authority?

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[6] Search conducted at http://www.usaspending.gov.
[7] Review of SLM Corporation, Inc. Form 10-Ks

4. Please detail any and all investigations into Sallie Mae and its affiliated companies over the past 10 years. Please indicate any instances in which Sallie Mae has been found to be in violation of its contractual obligations, and the number of students affected by these violations.

5. Please describe all penalties the Department has assessed on Sallie Mae and its affiliated companies over the past 10 years.

6. If, in the Department's estimation, Sallie Mae's past actions have not been sufficient to justify ending its contract, please describe the Department's policies and standards for the type of unlawful action that would justify the termination of a contract with a loan servicer.

Department of the Treasury:

1. What action did the Department take in response to the Inspector General's 2008 finding that Sallie Mae consistently failed to comply with its contractual obligations relating to debt collection?

2. How, if at all, does the Department account for Sallie Mae's poor track record on student loan servicing when it decides whether to award Sallie Mae contract extensions?

I ask for your prompt attention to this matter and would very much appreciate a response by the end of September. If you have any questions, please don't hesitate to contact my office.

Sincerely,

Senator Elizabeth Warren