October 12, 2023

The Honorable Elizabeth Warren
United States Senate
Washington, DC 20510

Dear Senator Warren:

Nelnet received your letter expressing concern regarding the repayment resumption for millions of federal student loan borrowers, a concern we have also raised on multiple occasions. With proactive planning and advanced communication with servicers and borrowers, the Federal Government could have avoided foreseeable borrower impacts and created a better customer experience. Over the course of the student loan repayment pause, we frequently communicated concerns to Congress and the Biden Administration about the U.S. Department of Education Office of Federal Student Aid (FSA) and third-party servicer capacity to best support borrowers in return to repayment, given the increase in program complexity and decrease in available resources. Unfortunately, during this unprecedented period, our concerns were not addressed.

We support your call on Congress to ensure FSA has the appropriate resources to protect and support borrowers during their return to payment. As a third-party service provider for the Federal Government, this letter addresses our ongoing commitment to supporting successful borrower outcomes and explains the increasingly challenging and underfunded Federal student loan program. With respect to the metrics requested in your letter, two federal agencies, FSA and the Consumer Financial Protection Bureau (CFPB) are closely monitoring servicing activity during return to repayment, and we encourage you to reach out to them for data.

Following Our Map: Servicers Work for and at the Direction of FSA

As a third-party service provider for the Federal Government, we operate according to our contract with and as directed by FSA. As such, FSA directs when and with what information we communicate to borrowers.

Federal student loan repayment has never been paused nationally, and many consumers are first-time borrowers with no loan repayment experience. Borrowers deserve, and should have received, guidance and direction from the Federal Government on how to access program benefits and how to successfully enroll in a repayment plan aligned with their financial needs. Unfortunately, borrowers were instead met with confusing and conflicting announcements of program changes, were told no payments were required, that interest would not accrue, indefinitely, and were promised their loans would be discharged.

Your letter states, “We are particularly concerned that, as of August, loan servicers had not been in contact with millions of borrowers.” We shared this same concern in our August letter to you, where we reported FSA had directed us not to send proactive borrower communications regarding return to repayment and available payment options. We saw the obvious value of providing information early in the process, but we can communicate with borrowers only in accordance with the terms of our federal contract. FSA directed us to begin those communications in August.

As you also noted, as of August, millions of transferred borrowers had yet to create accounts with their new servicers. We conducted outreach campaigns during transfers, but we suspect many borrowers had no real sense of urgency because repayment was suspended and many expected their loans to be discharged based on the Administration's statements, leading many borrowers to wait until the last minute. Additional proactive communications surrounding repayment resumption could have helped reduce these numbers.

Self-Inflicted Wounds: Federal Government Actions and Changing Relief Programs Cause Borrower Confusion and Amplify Borrower Anxiety

Leading up to the return to repayment, Federal Government actions and public policy announcements were made with little to no prior communication to servicers and without regard for the time and effort required to update computer systems, increase staffing, and train people to put those changes in place. Servicers were caught flatfooted to deal with unanticipated call volume and could not properly prepare to answer borrowers' questions.

Returning to repayment is an unfamiliar situation for many borrowers, and unfamiliarity breeds anxiety. As we noted in our August letter, "since March 2020, borrowers have experienced new life events, families have experienced new hardships, and new borrowers have taken out Federal student loans without having experienced interest accrual or needing repayment assistance. Many borrowers now find themselves uncertain about how to resume (or begin) repayment, or even how much they owe." If we can't help them because FSA hasn't given us the necessary resources to adequately hire, train, and deploy customer service representatives, that anxiety and confusion is amplified. As journalist Cory Turner noted in the September 11, 2023, NPR story you cited, "[T]he system is more complex than ever, with the Education Department and servicers rolling out a new repayment plan at the same time the department is doing an unprecedented review of borrowers' records and adjusting millions of accounts."

For additional context, a few examples of government actions enhancing the problems:

- Upon announcement of the Biden-Harris Student Loan Relief program, the Federal Government and outside organizations encouraged borrowers to contact their servicers to ask for refunds of voluntary payments made while in the CARES Act forbearance. The media presented this as a way for borrowers to maximize loan forgiveness. This flooded call centers and created large refund backlogs in our operational accounting area. Also of note, once the U.S. Supreme Court struck down the program, we experienced call volume due to borrower confusion about refund processing and how such requests, many still in process, would impact monthly payment amounts when payments resumed.

- On the same day the U.S. Supreme Court ruled that the Biden Administration's $400 billion loan cancellation plan could not go forward, President Biden announced a new student loan debt relief plan, but no details. Naturally, borrowers called servicers seeking information. FSA didn't have information and directed us to add messaging to our website and phone system noting just that.

- On July 14, the Biden Administration announced $39 billion in student loan forgiveness for 804,000 borrowers. Again, servicers had no advance notice and call volume spiked from borrowers asking if their loans were forgiven.

- In August, with little warning to servicers, the Federal Government urged borrowers to contact their servicers by September 1, to find out if they qualified for the Saving on a Valuable Education (SAVE) program. Once again, calls increased significantly, many borrowers hung up, and understandably, frustrations ran high.

- On October 2, the Biden Administration announced another $9 billion in student loan forgiveness for 125,000 borrowers. Again, servicers received no advance notice, making it impossible to update phone and website messaging with information for borrowers seeking details about the announcement or prepare agents with adequate information to field borrower calls.

- FSA is encouraging all borrowers to submit Income-Driven Repayment (IDR) applications, but many are already in the SAVE program, creating multiple applications, confusion, and delays.

Transfers of Loans to a New Servicer Carries Risk: Nelnet Has Worked to Minimize Impact Despite Federal Inaction on Longstanding Concerns

Since at least 2015 Federal Direct loan servicers have requested and proposed changes to improve the federal loan transfer process. To date, none of the changes to this outdated and inflexible process have been implemented which was painfully obvious as loans transferred from the Pennsylvania Higher Education Assistance Authority (PHEAA) to other servicers on a very aggressive timeline following their exit from the program.

Transfers of massive amounts of data are inherently made more challenging because there are no standard communications, web presence, or other servicing processes and borrowers are naturally confused when they are moved to a new servicer. As a result, Nelnet has devoted significant time and resources to identifying and addressing these inherent challenges, including issues we identified in the PHEAA transfers, and on which we continue to wait for FSA resolution.

On the other hand, Nelnet's transfer of nearly 11 million borrowers over 20 months from the Great Lakes servicing platform was a great success. Less than three percent of accounts in those transfers required manual intervention to ensure all data fields were accounted for and in the correct format, and those that did require such intervention were identified and resolved prior to final conversion, avoiding borrower impact. For these transfers, we worked collaboratively with FSA and we had sufficient time and resources to execute the transfers the right way.

A Recipe for Failure: Program Changes and Resulting Implementation Decisions Have Hindered Servicing Processing, Increased Manual Work, and Negatively Impacted Borrowers

As we return to repayment, a series of program changes and implementation decisions by the Federal Government have fueled unfavorable borrower outcomes beyond our control. For example:

- In preparing to implement SAVE we requested the approved borrower application form. We did not receive it ahead of time but eventually, we discovered it on StudentAid.gov and immediately updated our training materials to prepare our processors for interest to restart on September 1.

- A recalculation of income-driven repayment qualifying information was mandated for all borrowers who were transitioning from Revised Pay As You Earn (REPAYE) to SAVE by the end of August 2023, but we were not allowed to begin working these applications until July 30, 2023. 700,000 borrowers required redisclosures, and nearly 60,000 had to be manually worked, which in turn took significant resources away from processing incoming applications.

- During the same period, Nelnet was prohibited from informing REPAYE to SAVE borrowers that the recalculation was in process and, as a result, many borrowers submitted unnecessary applications that nonetheless had to be reviewed. This, in addition to the proactive processing, created duplication of effort, again diverting our associates from other work supporting borrowers.

- The continued changes in SAVE guidance post-implementation required us to change processing protocols, work guides, and our processing system, which required additional manual intervention, and new borrower communication updates for applications that had already been processed.

Recalculation Errors: Rushed Decisions and Bad Data Result in Bad Calculations

The $1.645 trillion in federal student loan debt is arguably the country's most complicated consumer financial product. Student loan borrowers with little or no experience with debt, let alone complex debt, require accurate information as they make decisions around repayment. Unfortunately, on the eve of the return to repayment, the process of calculating payments was changed. Your letter notes, "Borrowers across the country are reporting incorrect payment calculations." We did not make the decisions that created these challenges, and despite a lack of resources, servicers worked tirelessly to get good data verification and process millions of accounts in record time. While we were not able to fully automate this process in the short period allowed, Nelnet's process was sound and our manual fallout rate was low. We have seen no errors in our automated or manual processing, and we continue to work with FSA and the CFPB to review individual accounts needing manual adjustment due to inaccurate or incomplete borrower information.

The process was further impacted on August 1 when borrowers were no longer allowed to self-certify income on studentaid.gov. Now borrowers who apply through studentaid.gov cannot have their payments calculated automatically, and they may have to send us additional documents. These applications then must be manually adjusted, requiring additional time and resources. However, borrowers who apply through our website are able to self-certify and thus be processed automatically.

Incorrect payment calculations also occur because:

- Studentaid.gov stopped rejecting incomplete applications, leaving it to servicers to contact those borrowers for income information;

- In-school borrowers were told by FSA to complete the application even though they weren't eligible, and servicers had to deny their applications, again increasing frustration and anxiety;

- Borrowers incorrectly entered large income amounts on their applications, resulting in higher payments based on those income totals; and

- The prior servicer incorrectly calculated the payment amount while the new servicer correctly calculated it based on FSA's guidance.

Servicer Compensation Matters You Can't Cut Your Way to Success

The federal student loan program is an immensely complicated program with constantly changing requirements and benefits. For many federal student loan borrowers, participation in the program marks their first interaction with debt financing and loan repayment, making high-quality servicing especially important. Despite these truths, the federal government pays third-party servicers a rate less than 1/10 of the average rate for third-party mortgage servicing (according to publicly available data from the Mortgage Bankers Association), a less complicated asset to service. While federal student loan servicers continually strive to do more with less, the compensation we receive severely limits our options.

Add to that Federal budget cuts which impaired servicers' ability to properly staff our call centers in the months leading up to repayment. As you know, Nelnet had staffed up for a January 2023 return to repayment date, which was then extended to September. However, while Nelnet had staffed up, we were forced by the Federal Government's unexpected fee reductions to servicers to eliminate 800 customer service agents in the first quarter of 2023. We knew, and **clearly** communicated to FSA that this would also impact the speed at which we could ramp back up for repayment, as the hiring, training, and security clearance process takes months to perform, relies on FSA approvals, and is only possible if returning to repayment is certain and under the contractual rate for repayment servicing (a rate much higher than servicing in forbearance). When repayment was finally a reality, we attempted to rehire many of the associates we had laid off and streamlined our onboarding and training processes, but at the lower rates we could not, as we noted in August, "hire the staff needed for the repayment surge until after repayment [began] and servicing fees return[ed] to repayment levels."

We have been consistent in our communication. For three years we have very vocally warned that reduced fees and continued extensions of the payment pause meant it would be highly unlikely we would be prepared to manage call volume when repayment finally began.

- In October 2020, we advised then-FSA Chief Operating Officer Mark Brown that a servicing fee reduction prevented Nelnet from hiring enough staff for the planned December 2020 return to repayment, and this would impact service levels, including abandonment rate.

- In late 2021, we hired hundreds in reliance on a February 1, 2022, return to repayment. In late December 2021, when repayment was delayed to May 2022, we did not have time to reduce staff and then rehire, instead, we kept staff on at the reduced rates and incurred tens of millions of dollars in expense.

- A January 2022 letter to FSA's chief operating officer Richard Cordray detailed our concerns, as did communications in September 2022 after the repayment date was extended to December 2022.

In your letter, you noted that you are "skeptical of the claim that insufficient funding is keeping [servicers] from fulfilling their most foundational obligation considering that they were paid on average approximately $2 a month per account amounting to billions of dollars, while payments, interest, and collections were suspended during the public health emergency." But servicers were not sitting idly by during the repayment pause. Our work was not suspended. Borrower calls continued, millions of accounts had to be managed, bulk borrower transfers increased significantly, new programs were announced and had to be implemented, and on nine occasions the government announced a return to repayment, triggering staffing, training, and technology updates, only to later extend it further and reverse those efforts. And, as with everything else in this economy, our costs for system maintenance, technology infrastructure, and cybersecurity increased substantially during the three-and-a-half-year forbearance period.

Working Together for Borrowers' Best Interests

In closing, I thank you for and support your advocacy before Congress to ensure FSA has the appropriate resources to protect and support borrowers during their return to repayment, and we share your concerns about a return to repayment for millions of borrowers. As we have for over 40 years, we will continue to operate with borrowers' best interests at the forefront. Since March of 2020, the program has become exceedingly more complex to service. Borrowers have not received the support and information they deserve with enough time to prepare, and regrettably, decisions by the Federal Government have further complicated our ability to best serve borrowers. While we believe all of this was preventable, we will continue to work to minimize borrower confusion and anxiety and help promote successful repayment. The best interests of borrowers, servicers, and the government will be served by stronger communication and deeper collaboration.

We eagerly await Congress's decision on fiscal year 2024 appropriations as we prepare for the possibility of further reductions in service levels due to inadequate funding, and we hope your efforts to ensure FSA has appropriate resources to protect and support borrowers are successful.

Sincerely,

Jeffrey R. Noordhoek

Jeffrey R. Noordhoek
Chief Executive Officer
Nelnet

CC: Senator Richard Blumenthal
Senator Chris Van Hollen
Senator Edward J. Markey