

Prepared Remarks of Seth Frotman
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Thank you for inviting me here today. This is now my eighth time addressing the Army JAG School, and as I mention every time that I am here – I can honestly say without reservation that this is my favorite event of the year. I am humbled by the work you all do to serve our country, and I am honored to have the opportunity to report on the progress made in improving the student loan market for servicemembers and veterans. More importantly, my visit here allows me to share with you the ongoing challenges that military borrowers and their families continue to face.

For the last six years, consumers have benefited from the partnership the Bureau has with judge advocates, military service organizations, and veteran service organizations. Your service on the frontlines helping servicemembers and their families empowers us to do our job protecting consumers. Through this partnership, we have achieved real results for the men and women serving in our Armed Forces. For example, the Bureau has handled more than 88,200 complaints from military families. These complaints come from servicemembers living all across the country and overseas, serving in every branch of the military – from the servicemember in California who experienced a problem with a vehicle loan, to the servicemember in South Carolina buying a home. Complaints from servicemembers also cover nearly every consumer financial product, from mortgages to bitcoins, and of course, student loans. In fact, we have handled over 2,900 complaints from military borrowers about student loans.¹

¹ The Consumer Financial Protection Bureau (CFPB) also publishes reports analyzing complaints received from servicemembers. See, e.g., CFPB, *Overseas & Underserved: Student Loan Servicing and the Cost to Our Men and Women in Uniform* (July 2015), <https://www.consumerfinance.gov/data-research/research-reports/overseas-underserved-student-loan-servicing-and-the-cost-to-our-men-and-women-in-uniform>; CFPB, *The Next Front? Student Loan Servicing and the Cost to Our Men and Women in Uniform* (Oct. 2012), <https://www.consumerfinance.gov/data-research/research-reports/the-next-front-student-loan-servicing-and-the-cost-to-our-men-and-women-in-uniform-3>.

In New York, after submitting a complaint, a servicemember was finally able to secure the six percent interest rate cap for his student loans, as provided by the Servicemembers Civil Relief Act (SCRA). And in Arkansas, after months of trying to correct the errors related to the reporting of her student loans on her own, a servicemember's family member submitted a complaint and was able to clear up credit reporting errors that were destroying her credit. Submitting a complaint to the Bureau not only helps the person who submitted the complaint, but it can help countless others, and can even help to reshape the market. For example, complaints from military borrowers who were being overcharged on their student loans led to a Department of Justice investigation of Navient for violating the SCRA.² As a result, nearly 78,000 servicemembers received \$60 million in restitution – all stemming from those initial complaints.³ Additionally, due to a permanent change in federal student loan servicing policy, servicers now proactively check the Department of Defense's database – a change that has helped more than 100,000 military borrowers automatically save more than \$20 million in student loan interest charges each year.⁴

Also, in January of this year, the Bureau sued Navient, the nation's largest student loan servicer.⁵ Among other claims, we allege that Navient likely harmed the credit of borrowers with permanent disabilities, including injured veterans whose total and permanent disability was connected with their military service. We allege that when borrowers claimed their right to have their loans forgiven through the Total and Permanent Disability Discharge process, Navient potentially harmed their credit by using a code meant for defaulted loans when reporting the borrowers' loan status to the credit bureaus. But the Navient suit is just one example of how

² See U.S. Department of Justice, Nearly 78,000 Service Members to Begin Receiving \$60 Million Under Department of Justice Settlement with Navient for Overcharging on Student Loans (May 28, 2015), <https://www.justice.gov/opa/pr/nearly-78000-service-members-begin-receiving-60-million-under-department-justice-settlement>.

³ Id.

⁴ See CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 2017), <http://consumerfinance.gov/data-research/research-reports/annual-report-cfpb-student-loan-ombudsman-2017> ("[M]ore than 100,000 military borrowers have automatically saved more than \$20 million in student loan interest charges each year since 2015 [based on the Bureau's analysis of GAO data. *See infra* note 9]."); *see also* U.S. Department of Education, Office of Inspector General, *Servicemembers Civil Relief Act* (Feb. 29, 2016), <https://www2.ed.gov/about/offices/list/oig/mis/cscraport02292016.pdf>.

⁵ See CFPB, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment* (Jan. 18, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

we're working to protect servicemembers. Years ago, when I worked with Holly Petraeus in the Office of Servicemember Affairs, we heard from Education Service Officers (ESOs) and JAGs across the country about how for-profits schools were aggressively marketing to servicemembers and pressuring students into predatory loans. In 2014, the Bureau took action against now-defunct ITT and Corinthian Colleges for these predatory lending schemes.⁶ Years later, now as Student Loan Ombudsman, I unfortunately still hear these complaints. And I want you to know that we are still working to protect you and your clients. Two months ago, the Bureau reached a settlement with Aequitas after the Bureau alleged that Aequitas aided in Corinthian's predatory lending scheme. The Bureau secured over \$180 million in relief for borrowers who were harmed.⁷

The Bureau is also continuing its work with the Departments of Defense and Veterans Affairs to strengthen oversight and accountability of schools and companies targeting servicemembers and veterans so that our military families will no longer be treated like "dollar signs in uniforms."⁸

Servicemembers are still struggling with student debt

For years, I have heard from servicemembers all across the country about how they entered military service not only with student debt, but because of student debt. Now we can tie a

⁶ See CFPB, *CFPB Sues For-Profit College Chain ITT for Predatory Lending* (Feb. 26, 2014), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-for-profit-college-chain-itt-for-predatory-lending/>; CFPB, *CFPB Sues For-Profit Corinthian Colleges for Predatory Lending Scheme* (Sep. 16, 2014), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-for-profit-corinthian-colleges-for-predatory-lending-scheme>; see also State of California Department of Justice, *Attorney General Kamala D. Harris Obtains \$1.1 Billion Judgment Against Predatory For-Profit School Operator* (Mar. 23, 2016), <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-obtains-11-billion-judgment-against-predatory> ("[T]he Court found, among other things, that . . . [Corinthian Colleges, Inc.] unlawfully used the official seals of the United States Department of the Army, the United States Department of the Navy, the United States Department of the Air Force, the United States Marine Corps, and the United States Coast Guard.").

⁷ See CFPB, *CFPB Takes Action Against Aequitas Capital Management for Aiding Corinthian Colleges' Predatory Lending Scheme* (Aug. 17, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-aequitas-capital-management-aiding-corinthian-colleges-predatory-lending-scheme/>; see also CFPB, *Consumer Financial Protection Bureau Takes Action Against Bridgepoint Education, Inc. for Illegal Student Lending Practices* (Sep. 12, 2016), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-takes-action-against-bridgepoint-education-inc-illegal-student-lending-practices>.

⁸ Hollister Petraeus, *For-Profit Colleges, Vulnerable G.I.'s*, New York Times (Sept. 21, 2011), <http://www.nytimes.com/2011/09/22/opinion/for-profit-colleges-vulnerable-gis.html?mcubz=3>.

number to this: more than 200,000 servicemembers collectively owe more than \$2.9 billion in student debt.⁹ While we know that large segments of the student loan market continue to struggle under historic levels of debt, military borrowers face unique challenges.

Servicemembers with student loans continue to suffer from outdated policies and servicing lapses that can prevent them from accessing the benefits and protections they are promised under federal law. Financial readiness is a critical component of military readiness, and these breakdowns can impose too large a toll on our country's servicemembers. The men and women who sacrifice so much for this nation deserve better.

As you all are well aware, the challenges of military life, such as deployment and frequent moves, can have powerful financial repercussions. Congress enacted a range of protections specifically to address the unique financial circumstances servicemembers with student loans endure as a result of their service to our country. Despite these protections, we continue to hear from military borrowers all across the country struggling with servicing breakdowns and collection hurdles. For example:

- **Automatic protections for active duty military borrowers.** Last year, I spoke about the bureaucratic hurdles that can prevent military borrowers from accessing special protections that can help them stay on track with their loans.¹⁰ For example, under law, active duty military that are assigned away from their normal duty station during times of war or national emergency are not required to annually recertify their income-driven repayment plans – yet we hear from military borrowers they are not receiving this protection, costing them potentially thousands of dollars.¹¹ Furthermore, the law specifies that military borrowers serving in areas of hostility should not be accruing interest on their federal Direct Loans – yet we know that many are, and it is

⁹ Estimates are based on the Bureau's analysis of data provided in Government Accountability Office (GAO), *Student Loans: Oversight of Servicemembers' Interest Rate Cap Could Be Strengthened*, GAO-17-4 (Nov. 15, 2016), <https://www.gao.gov/products/GAO-17-4>.

¹⁰ See CFPB, *Prepared Remarks of Seth Frotman, Student Loan Ombudsman, before the Judge Advocate General's Legal Center and School* (Oct. 18, 2016), http://files.consumerfinance.gov/f/documents/201610_cfpb_Frotman-Remarks-JAG-School.pdf.

¹¹ 20 U.S.C. § 1098bb. The Bureau estimates that each year, nearly 6,000 servicemembers suffer direct economic harm driven by an IDR recertification process that does not serve military borrowers. See CFPB, *Prepared Remarks of Seth Frotman, Student Loan Ombudsman, before the Judge Advocate General's Legal Center and School* (Oct. 18, 2016), http://files.consumerfinance.gov/f/documents/201610_cfpb_Frotman-Remarks-JAG-School.pdf.

collectively costing them well over \$100 million per year.¹² And yet, another year has passed, we remain a nation at war, and military borrowers still struggle to access these protections. Servicemembers are already providing the information necessary to determine eligibility for these protections, yet each year, tens of thousands of military borrowers fall through the cracks.

- **Expanding protections for military borrowers with disabilities.** The problems are not limited to those serving on active duty. Veterans who sacrificed for our country – those with service-connected disabilities – are needlessly struggling under the weight of student loans eligible for discharge. When one branch of government talks to the other, we have all the information needed to determine eligibility for disability discharge.¹³ Last year, the Department of Education identified 387,000 civilian borrowers eligible for disability discharge through a data match with the Social Security Administration, and notified them of their rights to discharge their federal student loan.¹⁴ But we have not yet ensured that all disabled veterans are similarly aware of their rights.

We are still in the dark about how many severely disabled veterans are needlessly paying every single month on a student loan that could be discharged. As a result, we have failed to inform all severely disabled servicemembers of their right to discharge what could be a burdensome student loan debt. Earlier, we discussed the importance of automating these benefits so that servicemembers may realize their full benefits. Veterans with severe disabilities are among the most deserving of any process that could ease the burden of securing critical debt relief. Additionally, it is imperative that policymakers remember

¹² 20 U.S.C. § 1087e(o). Since 2008, the Bureau estimated that military borrowers collectively paid more than \$100 million in unnecessary interest charges on loans eligible for this benefit. See CFPB, *Prepared Remarks of Seth Frotman, Student Loan Ombudsman, before the Judge Advocate General's Legal Center and School* (Oct. 18, 2016), http://files.consumerfinance.gov/f/documents/201610_cfpb_Frotman-Remarks-JAG-School.pdf.

¹³ See CFPB, *Prepared Remarks of Seth Frotman, Student Loan Ombudsman, before the Judge Advocate General's Legal Center and School* (Oct. 18, 2016), http://files.consumerfinance.gov/f/documents/201610_cfpb_Frotman-Remarks-JAG-School.pdf.

¹⁴ See U.S. Department of Education, *U.S. Department of Education Acts to Protect Social Security Benefits for Borrowers with Disabilities* (Apr. 12, 2016), <http://www.ed.gov/news/press-releases/us-department-education-acts-protect-social-security-benefits-borrowers-disabilities>.

that the disability discharge process for federal student loans cannot be automated while there remains a tax burden associated with disability discharge.¹⁵

Unfortunately, we also continue to hear from military borrowers with service-connected disabilities who do not fall within the current disability discharge parameters. For example, borrowers with partial disabilities have no discharge protections, regardless of the impact of their disability on their ability to work. Additionally, private student loans carry no market-wide guarantee of a disability discharge option, unlike those that exist under federal law for federal student loans. Even when a private loan has a disability discharge option, borrowers complain to us about not knowing how to apply or how to qualify. As policymakers consider potential changes to the higher education finance market that may increase the role of private lending, it is important to recognize that a guaranteed right to disability discharge – including for those who have been or will be severely injured in connection with their military service – is not a right provided across the market.

- **Student loan repayment assistance.** I would be remiss to not discuss what I find to be a top concern of JAGs each year when I address this conference – repayment assistance programs. Unfortunately, far too often, the student loan repayment benefits offered by employers, including federal government employers, create difficult dilemmas for borrowers in need of student debt relief. For example, I hear from JAGs and others employed in public service about how they receive subsidies or other employer payments intended for their student loans that do not align with other federal protections for public service borrowers – namely Public Service Loan Forgiveness. These borrowers are stuck in a catch-22 – benefits that are supposed to help them manage their student loan debt end up raising their taxable incomes and, in turn, raising their income-driven payments. The payments are paying down a balance that, should they continue with their military career, would be forgiven. Borrowers complain that they receive all of the tax liability that comes with receiving the payment assistance, but none of the benefits as the payments are applied to principal they would not have otherwise owed. Unfortunately, the end result is that benefits that should clear the path toward loan forgiveness are

¹⁵ Under current law, discharge of student debt under the Total and Permanent Disability program may be treated as income for federal income tax purposes. Policymakers may wish to consider the tax treatment of discharged debt when evaluating opportunities to further automate this process.

actually increasing borrower burden, and a program meant to assist military borrowers with their student debt is missing the mark.

Earlier this year the Bureau released a report urging employers and policymakers to work together to better synchronize these programs so that those struggling under the weight of this debt get the intended relief.¹⁶

We also hear from military borrowers that servicers are not accurately applying these payments to their loans, particularly military borrowers receiving lump-sum payments from the Department of Defense.¹⁷ Servicing breakdowns when applying payments that include limitations on how they must be disbursed, how they can be applied to a loan, and when they can be applied to a loan can inhibit borrowers' progress toward loan forgiveness. For example, some programs offered by federal government agencies only permit funds to be applied to loan principal and may also prohibit payments to private loans, causing borrowers additional headaches and even risking their eligibility for repayment benefits like Public Service Loan Forgiveness when servicers do not follow payment instructions.¹⁸ With one-in-five veterans going into public service after leaving the military, the servicing problems that accompany repayment programs should be top of mind.¹⁹

¹⁶ CFPB, *Innovation highlights: Emerging student loan repayment assistance* (Aug. 16, 2017), <https://www.consumerfinance.gov/data-research/research-reports/innovation-highlights-emerging-student-loan-repayment-assistance/>. This report highlighted the processing issues associated with payments submitted by third parties on behalf of student loan borrowers.

¹⁷ 10 U.S.C. §§ 2171(a)(1), (b), (c). The Department of Defense publishes an application form that provides additional information to servicemembers related to this benefit, which is administered separately by each branch of the armed forces. See U.S. Department of Defense, *DOD Educational Loan Repayment Program (LRP) Annual Application* (Jan. 2014), www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd2475.pdf. Lump-sum payments from the Department of Defense will only qualify for multiple qualifying payments under PSLF when applied retroactively. See 34 C.F.R. § 685.219(c). In effect, borrowers can only earn multiple qualifying payments by first entering forbearance for 12 months before receiving the lump-sum payment, and then having their servicer retroactively apply the lump-sum payment to their loans.

¹⁸ See, e.g., Office of Personnel Management, *Student Loan Repayment Program* (accessed July 12, 2017), <https://www.opm.gov/policy-data-oversight/pay-leave/student-loan-repayment>.

¹⁹ See Bureau of Labor Statistics, *Employment Situation of Veterans Summary* (Mar. 22, 2017), <https://www.bls.gov/news.release/vet.nr0.htm>.

- **Taking action to protect servicemembers.** Before I conclude today, I want to touch on the work states are doing to protect servicemembers. As the Bureau pursued a range of supervisory and enforcement work in this market, state policymakers across the country considered steps to expand oversight and accountability tools at the state level. Servicemembers often serve as “canaries in a coal mine” when there are failures in the market. In every financial market, strong oversight helps ensure servicemembers do not have to struggle to access basic military protections. We have seen a number of states take steps to increase oversight over student loan servicing, and improvements to servicing are critical to ensuring servicemembers get the benefits they have earned through their service to this country.

Military borrowers with student debt face steep challenges. Those who serve, or have served, our country should not have to worry about falling victim to unfair, deceptive, or abusive financial practices. When individual consumers are empowered to speak up when something goes wrong, all consumers are better for it. We are here to ensure that the military community’s concerns are heard – and that we do something about them.

When consumers submit a complaint to the Bureau, they can have their voices heard and their complaints sent directly to the companies that can address them. Consumers can also choose to publish their complaint narrative on our public complaint database.²⁰ Additionally, through our complaint system, servicemembers can identify their military status, allowing the Bureau and other regulatory agencies, as well as policymakers and consumer advocates, to see what issues are affecting military borrowers. We want all military borrowers struggling with student loan servicing issues to know that they are empowered to have their voice heard.

More work needs to be done to address the unique challenges military borrowers face. The Bureau stands ready to work with anyone who wants to address the challenges for military borrowers we discussed today – an exercise that can only succeed if it continues to be informed by the exceptional work you do on behalf of your clients.

Thank you, again, for the opportunity to speak with you all today.

²⁰ See CFPB, *Consumer Complaints with Consumer Complaint Narratives*, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/nsyy-je5y>. Users can filter complaints submitted by servicemembers based on a consumer-selected “servicemember” tag.