



**Testimony of Seth Frotman
Before the United States Congress
House Financial Services Committee
*A \$1.5 Trillion Crisis: Protecting Student Borrowers
and Holding Student Loan Servicers Accountable*
September 10, 2019**

INTRODUCTION

Chairwoman Waters, Ranking Member McHenry, Members of the Committee, thank you for the opportunity to testify today.

Over the course of the last decade, I traveled all across the country, talking to thousands of people in big cities, small towns, and nearly every slice of America in between. And from these conversations, I have found that one aspect of life cuts across, interweaving these communities with seemingly little else in common—the fallout from extraordinary student debt.

In townhalls across the Bible Belt, parents talk of struggling to put food on the table because their student loan payments consume entire paychecks.¹

In hearing rooms in Augusta, AARP members testify about how student debt leaves them without money for medicine or doctor visits.²

In quiet corners amid hushed conversations, borrowers describe overcoming tremendous adversity to rebuild their lives—their homes, their jobs, their families—but still cannot escape the fallout of crippling student debt.³

Sixty-thousand complaints tell the same story: borrowers who did everything right—went to school and took on debt to get the degree.⁴ Now, they are desperately trying to pay it back but are derailed at every turn.⁵

And in each story, a common question: How could *this* happen to me after I did everything I was supposed to do?

And the answer is one we are often unwilling to acknowledge—we encouraged millions of students to take on billions in debt. And then, to add insult to injury, we sent them into a market with a piecemeal consumer protection framework that buckled under the weight of this historic burden.

This is the story of our nation's student debt crisis.

Despite the vitriol spewed in today's political discourse, the student debt crisis did not stem from an entire generation's personal failure.

Despite the social media screeds, the student debt crisis did not happen because 44 million Americans all lacked personal responsibility.

To those who stood on the frontlines of crises past, these arguments carry a familiar echo. These are the same tired arguments that have been made in this same room every time Americans came together to demand economic justice.

These arguments are as dangerous as they are wrong.

It is dangerous to tout that student loan debt is “good debt,” just as it was dangerous to tout that home values would always rise in perpetuity and an investment in your house always paid off.

It is wrong to claim that student loan borrowers are “better off” without consumer protections and oversight, just as it was wrong when those claims were made until the very moment the mortgage market crashed.

You have heard these arguments, as have your predecessors, as have their predecessors. These arguments were wrong then, just as they are wrong now.

And after a lifetime of listening to these arguments, it should come as no surprise that the people in those town halls are no longer buying it. The people in those hearing rooms don’t believe it. All across this country, people see how these arguments fuel a system that promised them the American Dream and then left them behind. They see how the priorities of the staunch proponents of the status quo push their children, their friends, and their neighbors, even further behind.

THE STUDENT DEBT CRISIS

While others might spend this critical moment debating what descriptive noun adequately conveys the true state of this market, this hearing recognizes that we are in a crisis.⁶

Our country is in the midst of a student debt crisis. We must put aside the notion that simply because investment bankers are not lining the sidewalks of 7th Avenue while holding the contents of their desks in a box, that somehow this is not a crisis; that somehow our nation does not need to act.⁷

Action should not be triggered only when a market is deemed “as systemically risky as subprime mortgage-backed securities.”⁸ The call to action lies in those townhalls and in those hushed conversations. It lies with the impact student debt is having on our neighbors and neighborhoods. It lies in the collective weight of \$1.6 trillion in student loan debt.

For individual borrowers and families, this impact is real and immediate.

- The average student loan balance is now more than \$33,000, a 60 percent increase from only a decade ago.⁹ Today, nearly eight million borrowers owe in excess of \$50,000 in student debt.¹⁰

- Households are devoting an increasing share of their budgets to pay their student loans. In the last ten years, the share of household balance sheets consumed by student debt has more than doubled.¹¹
- Women make up half of all college students yet owe two-thirds of all outstanding student debt—totaling more than \$900 billion.¹² Not only do a disproportionate number of women take on student debt, but they take on greater amounts of debt. In 2016, women, on average, graduated from bachelor’s degree programs with 14 percent higher student debt balances than men.¹³
- African-American and Latino students borrow at higher rates than their white peers—data shows that more than 90 percent of African-American and 72 percent of Latino students take out loans to attend college, compared to 66 percent of white students.¹⁴ Furthermore, communities of color borrow in greater amounts, regardless of school, sector or degree.¹⁵ One study found that at graduation, African-American borrowers owe nearly 45 percent more student debt than white borrowers, and the disparity will more than triple in the years that follow.¹⁶
- Older Americans now comprise the fastest growing cohort of student loan borrowers. Outstanding student debt for borrowers over the age of 50 has increased by 512 percent in less than 15 years.¹⁷ Today, 8.4 million Americans over the age of 50 each owe, on average, more than \$31,000 in student debt.¹⁸
- Data now shows how student loan debt affects every aspect of a borrower’s financial life, and the ramifications last a lifetime. Student loan borrowers earn less income over their careers,¹⁹ accumulate less wealth,²⁰ delay buying cars and homes,²¹ struggle to build good credit,²² and save less for retirement.²³
- And the impact spreads across their lives and families.²⁴ We now know that student debt affects decisions about occupational choice and trajectory,²⁵ continued education,²⁶ and family formation.²⁷

And with this significant increase in debt burden, we also see a significant increase in distress.

Last year, more than one million borrowers defaulted on a student loan.²⁸ That is more than the population of every single one of your districts. Today, more than nine million borrowers are currently sitting in default.²⁹ Among them, we find people from every walk of life, including servicemembers, senior citizens, and veterans.³⁰

Another three million borrowers are at least two payments behind.³¹ These are the defaults yet to come—borrowers we can expect the system to fail if we continue to tacitly accept the status quo.

And the harm to these borrowers extends beyond the days past due, beyond the collection calls during dinner. These borrowers may struggle to find and keep jobs,³² to rent homes,³³ and to maintain professional licenses.³⁴ They may have wages garnished,³⁵ tax refunds withheld,³⁶ and Social Security benefits offset.³⁷

But the student debt crisis does not end there.

When you multiply the plight of individual student loan borrowers 44 million times, you see where student debt begins to shape our economy and society.³⁸ Millions of Americans are experiencing the fallout of the student debt crisis. And the devastation ripples across their communities.

- Data now shows how student debt inhibits the economic growth of our neighborhoods and communities. Student loan borrowers are less likely to start small businesses³⁹ or purchase homes.⁴⁰ In fact, student debt is directly responsible for 400,000 fewer home purchases by millennials since 2005.⁴¹
- Studies are beginning to reveal the impact of student debt on public health. Research has already shown that foreclosure rates are linked to poorer health outcomes, including for preventable conditions, and we are now starting to see the same indicators in the student loan market.⁴² Student loan-related stress has been linked to poorer psychological functioning, higher levels of stress and anxiety, and may ultimately lead to higher healthcare costs across states and the country.⁴³
- Recent studies show that student loan borrowers are leaving America's rural communities, choosing to pursue better economic outcomes in urban areas. The Federal Reserve found that, in fact, those with the most debt are the most likely to leave rural areas.⁴⁴ And as those who remain behind struggle to pay their student debt, data shows they suffer worse credit outcomes and lower wages.⁴⁵
- Research now shows how student debt can be a driver for income inequality, perpetuating wealth gaps between and across generations.⁴⁶ Students who are forced to finance their education through loans will begin their careers with fewer assets and divert more income to debt repayment than wealth accumulation.⁴⁷ And as they progress through their professional lives, the gap remains.⁴⁸
- Student loan debt also fuels systemic racial disparities. Where the typical white family has more than four times the assets as African-American and Latino families with the same income, African-American and Latino students are forced to take on more debt to get the same education.⁴⁹ These students then enter the workforce where systemic pay disparities force them to devote larger shares of their smaller paychecks to pay down debt, rather than build wealth.⁵⁰ Additionally, data shows that after more than a decade into repayment, median debt balances for African-American female borrowers will *increase* by 13 percent, compared to a decrease of 44 percent for white male borrowers.⁵¹ And then, when their children go to college, the cycle repeats itself. In numerous ways, student debt is both “a cause and a consequence of racial inequality.”⁵²

Like kerosene on a fire, student debt is driving the systemic economic and racial inequality that is tearing our communities apart and tearing our country apart.

THE STUDENT DEBT CRISIS IS A CONSUMER PROTECTION CRISIS

But it is more than ballooning balances. It is more than the rippling repercussions. It is also the bullseye we have placed on the backs of 44.7 million people.⁵³

The student debt crisis is a consumer protection crisis.

Regardless of where your presuppositions of blame for this crisis lie, we should all agree on one thing: if you are taking on debt to chase the American Dream, you should not be ripped off in the process.

However, too many for too long have allowed predatory players to have near free reign to prey on the struggles of student loan borrowers. All across the market, we see:

- Student loan servicers doling out millions in executive compensation while arguing that there is “no expectation” that they will work to help the very borrowers they are paid to serve;⁵⁴
- Private lenders with business practices that would make payday lenders blush, casually making non-dischargeable loans they know are going to fail;⁵⁵
- Banks setting up shop on campus to prey on students and leech overdraft fees from the financial aid of the most vulnerable;⁵⁶
- Social media companies driving revenue for investors by pushing scam ads that tout fake “student loan debt relief” to the most desperate borrowers;⁵⁷
- Companies existing solely to manipulate outcomes for the poorest-performing schools, and committing illegal practices that keep the spigot of taxpayer funds flowing;⁵⁸
- Debt collectors and collection lawyers manipulating the court system in order to garnish borrowers’ wages and destroy consumers’ credit;⁵⁹
- For-profit schools scouring homeless shelters in an effort to continue to feed at the trough of federal dollars;⁶⁰
- Fintech firms driving credit products that force today’s students to sign away tomorrow’s wages, leaving women and borrowers of color disparately impacted;⁶¹ and
- Bankers slicing and dicing student debt into some of the worst financial instruments in Wall Street’s history.⁶²

All across the market, companies premise their business models on abusing student loan borrowers:

Aequitas Capital Management.⁶³ Berkeley College.⁶⁴ Bridgepoint Education.⁶⁵ Career Education Corporation.⁶⁶ Citibank.⁶⁷ Conduent.⁶⁸ Corinthian Colleges.⁶⁹ Discover Bank.⁷⁰ Education Management Corporation.⁷¹ GC Services.⁷² iQor Holdings.⁷³ Higher One.⁷⁴ ITT Education

Services.⁷⁵ National Collegiate Student Loan Trusts.⁷⁶ Navient.⁷⁷ PHEAA.⁷⁸ Pioneer Credit Recovery.⁷⁹ QuinStreet.⁸⁰ Sallie Mae Bank.⁸¹ SoFi.⁸² Sunkey Publishing.⁸³ Student Aid Institute.⁸⁴ Transworld Systems.⁸⁵ Victory Media.⁸⁶ Wells Fargo Bank.⁸⁷

We must disabuse ourselves of the notion that we are merely dealing with outliers in an otherwise benevolent system, or that the problem is limited to one sector of schools.⁸⁸ The problem spans the entire market. Throughout America, big banks and small scams hurt millions of borrowers at every single point of their financial lives—from the day a student receives her first bill until the day she pays off her last loan.

Regulators,⁸⁹ law enforcement officials,⁹⁰ lawmakers,⁹¹ scholars,⁹² and consumer advocates⁹³ have all documented how student loan borrowers have less rights and fewer protections than exist in other markets. Because for too long, we have treated student loans as “something different,” and therefore have accepted the idea that student loan borrowers should be treated as “something different.” And for 44 million people, “something different” has meant something worse.

When large financial services companies that drive borrowers to default are simultaneously taking victory laps after appearing on Fortune 500 lists, we know we must do better.⁹⁴

TIME FOR ACTION

And that is where this Committee comes in.

Because this is the Committee that has repeatedly taken a stand when consumers are getting ripped off.

In 1968, following a boom in middle-class access to credit—often accompanied by deceptive interest calculations—this Committee stepped in to pass the Truth in Lending Act so that consumers could “compare more readily the various credit terms” and be protected against “inaccurate and unfair . . . practices.”⁹⁵

In 1970, acknowledging the risk to consumers that accompanies computer-aggregated data, this Committee stepped in to pass the Fair Credit Reporting Act to ensure “fairness, impartiality, and respect for consumers.”⁹⁶

In 1996, recognizing the scams that emerged following the oligopolization of the credit reporting market, this Committee stepped in to pass the Credit Repair Organizations Act so that consumers could “establish[] and maintain[] their credit worthiness” without being subjected to business practices that cause “financial hardship upon consumers.”⁹⁷

In 2009, following decades of deceptive and abusive practices in the credit card market, this Committee passed the Credit Card Accountability Responsibility and Disclosure Act in order to promote “fair and transparent practices.”⁹⁸

And a year later, when our nation was recovering from the largest financial collapse seen in generations, this Committee stepped up again to protect the American consumer by passing the Dodd-Frank Wall Street Reform and Consumer Protection Act.⁹⁹

These efforts, along with so many others, worked.

This Committee's actions helped consumers avoid tens of billions of dollars in credit card fees.¹⁰⁰

This Committee's actions kept tens of thousands of families in their homes.¹⁰¹

This Committee's actions have resulted in more than a billion dollars back to victims of housing discrimination.¹⁰²

In all of these instances, this Committee took decisive action on behalf of the American people. The 44 million Americans with student debt, and the millions more who are affected by it, need you to do the same.

That is what this hearing is about. That is what the legislation before this Committee is about—creating the protections and accountability that the millions of Americans who receive a student loan bill each month deserve.

STUDENT LOAN BORROWERS NEED STRONG, ENFORCEABLE RULES OF THE ROAD

Rampant breakdowns across the student loan market harm every type of borrower, with every type of loan, at every stage of repayment.¹⁰³ Lost paperwork, mishandled payments, deceptive disclosures, and the routine denial of borrowers' repayment rights all add up to billions of dollars in additional debt for millions of borrowers.¹⁰⁴

Law enforcement officials from coast to coast have documented how Navient's forbearance steering practices have denied the most vulnerable borrowers their right to income-driven repayment, resulting in \$4 billion in needless interest being added to their loans.¹⁰⁵ State law enforcement have demanded justice for dedicated public servants who are being denied the promise that the federal government made to them—that if they served in their communities for a decade, they would have their student loans forgiven.¹⁰⁶ And these examples only scratch the surface.

Behind the billions of dollars and broken promises are student loan servicers—large consumer finance companies paid to manage this trillion-dollar market.

And these problems will only get worse: The Department of Education estimates that over the next two years, at least 37 million borrower accounts will be transferred between loan companies.¹⁰⁷ Over the next two decades, millions of borrowers will apply for loan forgiveness through income-driven repayment and Public Service Loan Forgiveness.¹⁰⁸ Every year, hundreds of thousands of additional borrowers will be thrust into this broken system.¹⁰⁹

Through amendments to the Truth in Lending Act, this Committee reformed the credit card and mortgage markets,¹¹⁰ helping millions of Americans in the process. This Committee must use the same tools now to reform the student loan market—because millions more still need your help.

And these protections will only be realized when they are enforceable by independent financial regulators, law enforcement officials, and most critically, borrowers themselves. Because

borrowers should not be reliant on the Department of Education—the self-described “largest special purpose consumer bank in the world”—to seek justice when wronged.¹¹¹

This Committee must also fight back against the political tactics of an administration that has prioritized special interests over student borrowers. It must prevent the CFPB’s current political leadership from defunding the critical work of policing the student loan market,¹¹² and it must take steps to end the Department of Education’s obstruction of independent law enforcement.¹¹³

PRIVATE STUDENT LOAN BORROWERS NEED BETTER PROTECTIONS

For too long, the plight of private student loan borrowers has been overlooked and dismissed as an “insignificant” slice of the \$1.6 trillion market. But that “insignificant” slice is a \$140 billion market—larger than the payday loan market;¹¹⁴ larger than outstanding past-due medical debt.¹¹⁵

Industry trade groups deceptively tout charge-off rates as the only measure of success, arguing that policymakers need not be concerned.¹¹⁶ And yet, as the Federal Reserve Bank of New York noted just last month, real delinquency rates are “higher than what are published by lenders,” because lenders can selectively remove charged-off balances.¹¹⁷ Even after this arbitrary cut-off date, lenders “continue to attempt to collect on these debts and consumers’ lives continue to be affected.”¹¹⁸ These industry talking points also do nothing to convey the myriad of ways in which this product can ruin the lives of struggling families.

In many ways, private student loan borrowers are among the most in need of Committee action. We see this in consumer complaints—heartbreaking stories where borrowers take on this debt on the pathway to their future, but then tragedy strikes. A high-risk pregnancy leads to a lost paycheck. A child is born with special needs. A borrower becomes totally and permanently disabled. Despite what is touted in marketing materials, private student lenders have no statutory obligation to accommodate any of these borrowers.

And these borrowers need help. Congress started this work in 2018, ensuring that in the event of a borrower’s death, her student loan will be discharged and a parent- or grandparent-cosigner will not be left with the bill.¹¹⁹ Now this Committee must extend those protections to borrowers who become disabled.

But there is more work to do in this market. From the predatory lending tactics of for-profit schools to the origination of loans designed to fail, we have seen private student loan borrowers fall victim to illegal practices that lead to a lifetime of debt. However, for too long, the courthouse door has been locked shut when these borrowers sought justice. Just as this Committee banned mandatory arbitration provisions for consumers with certain mortgage loans,¹²⁰ this Committee should do the same for private student loan borrowers.

STUDENT LOAN BORROWERS NEED CONSISTENCY, ACCURACY, AND TRANSPARENCY IN CREDIT REPORTING

Borrowers depend on the student loan industry for more than just sending bills and collecting payments. At the center of borrowers’ financial lives sits an opaque web of companies operating the nation’s credit reporting system.

When furnishing and reporting practices are premised on outdated and inconsistent policies, the fallout reverberates across a borrower's entire financial life, impacting her ability to get a job, rent an apartment, or even open a bank account. Yet, for years, we have seen disturbing indicators of servicers' inaccurate credit furnishing practices¹²¹ within an antiquated reporting system propagated by industry.¹²² The lack of consistency, accuracy, and transparency only serve to exacerbate the struggle faced by 44 million student loan borrowers.

Like when two identical borrowers were treated differently when they tried to buy a home, simply because of which company serviced their student loans. Or when the use of outdated codes resulted in "harmful conclusions being drawn from [borrowers'] credit histories" simply because these companies refused to adapt to the modern student loan market.¹²³ In this vacuum, industry has set new standards for itself—new guidelines that affect tens of millions of borrowers with no public input and no means to hold servicers and credit bureaus accountable when things go wrong.¹²⁴

This Committee must require student loan companies to accurately and consistently furnish the most basic loan information, including loan balances and servicing transfers. But more than that, borrowers deserve to be treated fairly when servicers place their loans into forbearance or income-driven repayment plans. And finally, when student loan companies drop the ball, endangering the financial futures of millions of Americans, they need to be held to account.

PROTECTING BORROWERS HARDEST HIT BY THE STUDENT DEBT CRISIS

There are now more than nine million borrowers in default on their student loans.¹²⁵ And for the debt collectors that target them, this is big business.¹²⁶ These companies chase fat government payouts at the expense of borrowers' best interests by routinely providing inaccurate, misleading, or outright false information.¹²⁷ The most vulnerable borrowers are left with extra fees and collection costs, often leading to a cycle of default that can last for years.¹²⁸ This toxic mix of abuse and misaligned financial incentives drive federal contractors to extract payments from those in extreme financial distress, even when borrowers have a right to make no payment at all, or to qualify to have their debt cancelled outright.

This Committee has an opportunity to right this wrong, halting harmful collection tactics and giving borrowers new tools under federal consumer law to hold collectors accountable.

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This is the unfinished work of financial reform. This is the unwritten chapter that 44 million Americans need this Committee to write.

CONCLUSION

We cannot continue to ignore the trillion-dollar blackhole in our financial markets.

We cannot continue to debate the right number of zeroes on a student loan bill without acknowledging the predatory players that keep them there.

We cannot continue to be lobbied into believing that the companies getting rich off of the misery of millions of Americans are not part of the problem.

And that is why the work of this Committee is so important.

As it has done time and again, this Committee must stand as the fierce defenders of American families.

As it has done time and again, this Committee must protect those chasing the American Dream from those who seek only to prey on its pursuit.

As it has done time and again, this Committee must act.

Millions of Americans across this country need you to act.

Thank you.

¹ See, e.g., Julia Barnard & Robin Howarth, *North Carolina's Student Debt: A Dimension of a Crisis*, Ctr. for Responsible Lending 3 (Aug. 2019), <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-nc-fsl-studentloans-aug2019.pdf> (“1.2 million North Carolinians have outstanding student loan debt totaling \$44 billion, with this amount having tripled between 2008 and 2018. . . . At least 16.5% of student loan borrowers in North Carolina are in severe delinquency, having made no payments on their loans for 90 days or more.”); Aarthi Swaminathan, *Map: Cities in the South are being held back by student debt*, Yahoo Finance (May 15, 2019), <https://finance.yahoo.com/news/student-debt-cities-map-175110486.html> (“[T]hirteen of the bottom 20 cities [with the highest levels of student loan indebtedness as a proportion of income] were in the South.”).

² See *An Act To Establish a Student Loan Bill of Rights To Regulate Student Loan Servicers: Hearing on L.D. 995 Before the Comm. on Health Coverage, Ins. and Fin. Serv.*, 2019 Leg., 129th Sess. (Me. 2019) (testimony from Amy Gallant, AARP Maine), <https://legislature.maine.gov/backend/app/services/getDocument.aspx?doctype=test&documentId=108088>; see also Consumer Fin. Prot. Bureau (CFPB), *Snapshot of older consumers and student loan debt* 13 (Jan. 2017), https://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf (“[O]lder consumers with outstanding student loans are more likely than those without outstanding student loans to report that they have skipped necessary health care need such as prescription medicines, doctors’ visits, and dental care because they could not afford it.”); *An Act To Establish a Student Loan Bill of Rights To Regulate Student Loan Servicers: Hearing on L.D. 1507 Before the Comm. on Ins. and Fin. Serv.*, 2017 Leg., 128th Sess. (Me. 2017) (testimony from Amy Gallant, AARP Maine), <https://legislature.maine.gov/legis/bills/getTestimonyDoc.asp?id=75851>; Abha Bhattarai, *Student debt now affects a staggering number of elderly Americans*, Wash. Post (Jan. 16, 2017), <https://www.washingtonpost.com/news/business/wp/2017/01/16/student-debt-now-affects-a-staggering-number-of-elderly-americans/> (“A large portion of older student loan borrowers struggle to afford basic needs,’ the report said, adding that older borrowers were increasingly likely to have skipped necessary doctors’ appointments and prescription medications because they couldn’t afford them.”).

³ See, e.g., Letter from U.S. Senators to Secretary Betsy DeVos (Oct. 20, 2017), https://www.warren.senate.gov/files/documents/2017_10_20_Letter_to_DeVos_Hurricanes.pdf (“Nearly 10 percent of Puerto Rico’s population have federal student loans. . . . Many of these students continue to be without power, telephone, or internet service needed to make payments on their loans or to request assistance from their student loan servicers.”); Megan Leonhardt, *Americans are staying silent on student loan debt—and it’s not helping*, CNBC (Aug. 7, 2019), <https://www.cnbc.com/2019/08/07/student-loans-are-the-most-uncomfortable-conversation-topic-for-americans.htm>; see also Michelle Conlin, *Student loan borrowers, herded into default, face a relentless collector: the U.S.*, Reuters (July 25, 2017), <https://www.reuters.com/investigates/special-report/usa-studentloans/> (discussing how borrowers’ Earned Income Credit tax refunds are offset by the federal government due to defaulted student loan debt, impinging on their ability to use the refund for basic necessities); M.H. Miller, *How student debt*

devoured my life, *The Week* (Sept. 4, 2018), <https://theweek.com/articles/793316/how-student-debt-devoured-life>; Mandi Woodruff, *7 College Graduates Whose Lives Were Wrecked By Student Loan Debt*, *Business Insider* (June 6, 2013), <https://www.businessinsider.com/students-loan-debt-horror-stories-2013-6>.

⁴ See CFPB, *Annual Report of the CFPB Student Loan Ombudsman 2* (Oct. 2017), https://files.consumerfinance.gov/f/documents/cfpb_annual-report_student-loan-ombudsman_2017.pdf (finding that the “CFPB handled over 50,700 private and federal student loan complaints, and about 9,800 debt collection complaints related to private or federal student loan debt.”).

⁵ See *id.*; CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 16, 2012), https://files.consumerfinance.gov/f/201210_cfpb_Student-Loan-Ombudsman-Annual-Report.pdf; CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 2013), https://files.consumerfinance.gov/f/201310_cfpb_student-loan-ombudsman-annual-report.pdf; CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 16, 2014), https://files.consumerfinance.gov/f/201410_cfpb_report_annual-report-of-the-student-loan-ombudsman.pdf; CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 2015), https://files.consumerfinance.gov/f/201510_cfpb_annual-report-of-the-cfpb-student-loan-ombudsman.pdf; CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 2016), https://files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf. As of September 6, 2019, the 2018 report has not been published.

⁶ See, e.g., Diane Harris, *The Truth About Student Debt: 7 Facts No One Is Talking About*, *Newsweek* (Aug. 8, 2019), <https://www.newsweek.com/2019/08/23/student-debt-loans-truth-facts-cover-story-1453057.html> (“‘Calling it a crisis misrepresents the situation,’ says Sandy Baum, senior fellow for the Center on Education Data and Policy at the Urban Institute. ‘Not everyone with student debt is having his or her life ruined.’”); Glenn C. Altschuler, *The student debt crisis isn’t what you think it is*, *The Hill* (May 5, 2019), <https://thehill.com/opinion/education/442170-the-student-debt-crisis-isnt-what-you-think-it-is>; Max Eden, *Is There a Student Debt Crisis?*, *Manhattan Inst.* (2016), <https://files.eric.ed.gov/fulltext/ED568720.pdf>; Paul Davidson, *Are student loans as big of a problem as people think?*, *USA Today* (July 7, 2017), <https://www.usatoday.com/story/money/2017/07/07/student-loans-big-problem-people-think/101842736/>; but see Julie Margetta Morgan & Marshall Steinbaum, *We Can’t Address the Student Debt Crisis until We Understand Its Effects*, *Roosevelt Inst.* (Dec. 3, 2018), <https://rooseveltinstitute.org/we-cant-address-student-debt-crisis-until-we-understand-its-effects/>.

⁷ See generally Photograph of an employee walking out of the Lehman Brothers building carrying a box of his belongings in New York, Joshua Lott, *Reuters* (Sept. 15, 2008), <https://www.theglobeandmail.com/report-on-business/international-business/us-business/ten-iconic-photos-from-the-collapse-of-lehman-brothers/article4528337/#c-image-0>; see also David Teather, *Wall Street crisis: Lehman staff tell their stories*, *The Guardian* (Sept. 15, 2008), <https://www.theguardian.com/business/2008/sep/15/lehmanbrothers.creditcrunch1>; David Ellis, *The Meltdown*, *CNN Money* (Sept. 15, 2008), https://money.cnn.com/2008/09/15/news/companies/lehman_brothers/index.htm; Seth Frotman, *Broken Promises: ow Debt-financed Higher Education Rewrote America’s Social Contract and Fueled a Quiet Crisis*, 2018 *Utah L. Rev.* 4, 811-846.

⁸ Greg Gelzinis (@FinGregg), *Twitter* (May 20, 2019, 8:27 PM), <https://twitter.com/FinGregg/status/1130631254167179267> (“The benchmark for action shouldn’t be ‘Is it as systemically risky as subprime mortgage-backed securities?’ It’s a false dichotomy used to justify inaction/regulatory rollbacks.”).

⁹ Fed. Res. Bank of N.Y., *2018 Student Loan Update* (2018), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_2018.xlsx; Fed. Res. Bd., *Consumer Credit- G.19* (Aug. 7, 2019), <https://www.federalreserve.gov/releases/g19/current/default.htm>.

¹⁰ *2018 Student Loan Update*, *supra* n. 9; see also Rajashri Chakrabarti et al., *At the N.Y. Fed: Press Briefing on Household Borrowing with Close-Up on Student Debt*, *Fed. Res. Bank of N.Y.* (Apr. 3, 2017), <https://libertystreeteconomics.newyorkfed.org/2017/04/at-the-ny-fed-press-briefing-on-household-borrowing-with-close-up-on-student-debt.html> (“We have noted in the past that delinquency and default rates are lower among higher-balance borrowers; however, the default rates among higher-balance borrowers have worsened notably in recent years. Further, payment progress is slower among those who borrowed more. Ten years later, over 70 percent

of the original balance has been repaid among those who had borrowed less than \$5,000 when they left college in 2006, compared to a reduction of only 25 percent among students who borrowed more than \$100,000.”).

¹¹ See Fed. Res. Bank of N.Y., *Household Debt and Credit Report (Q1 2019)*, <https://www.newyorkfed.org/microeconomics/hhdc.html> (last accessed Aug. 8, 2019).

¹² See Kevin Miller, *Women’s Student Debt Crisis in the United States*, Am. Ass’n. U. Women (May 2017), <https://www.aauw.org/research/deeper-in-debt>.

¹³ See *id.*

¹⁴ See Aissa Canchola et al., *The significant impact of student debt on communities of color*, CFPB (Sept. 15, 2016), <https://www.consumerfinance.gov/about-us/blog/significant-impact-student-debt-communities-color/>.

¹⁵ See Mark Huelsman, *Debt to Society*, Demos (June 2019), <https://www.demos.org/sites/default/files/2019-06/Debt%20to%20Society.pdf>.

¹⁶ See Judith Scott-Clayton & Jing Li, *Black-white disparity in student loan debt more than triples after graduation*, Brookings (Oct. 20, 2016), <https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation/>; see also Sara Goldrick-Rab et al., *The Color of Student Debt: Implications of Federal Loan Program Reforms for Black Students and Historically Black Colleges and Universities*, Wis. Hope Lab (Sept. 2, 2014), <https://news.education.wisc.edu/docs/WebDispenser/news-connections-pdf/thecolorofstudentdebt-draft.pdf?sfvrsn=4> (finding that the amount borrowed for college represents a much larger fraction of black students’ family income and their future earnings than it does for their white peers).

¹⁷ See Lori A. Trawinski et al., *The Student Loan Debt Threat: An Intergenerational Problem*, AARP (May 14, 2019), <https://www.aarp.org/ppi/info-2019/the-student-loan-debt-threat-an-intergenerational-problem.html>.

¹⁸ See *2018 Student Loan Update*, *supra* n. 9; see also U.S. Dep’t of Educ., *Data Point: Changes in Undergraduate Program Completers’ Borrowing Rates and Loan Amounts by Age: 1995-96 Through 2015-16*, NCES 2019-437 (Aug. 2019), <https://nces.ed.gov/pubs2019/2019437.pdf> (finding that the student loan borrowing rate for undergraduates age 50 or older has increased 45 percentage points during the last two decades).

¹⁹ See, e.g., Justin Weidner, *Does Student Debt Reduce Earnings?*, Princeton (Nov. 2016), https://scholar.princeton.edu/sites/default/files/jweidner/files/Weidner_JMP.pdf (finding that “student debt is permanently scarring, as graduates with debt experience no faster income growth than their unburdened peers. Debt induces graduates to enter employment faster and select jobs in unrelated fields, leading to lower income levels and growth rates.”).

²⁰ See, e.g., Daniel Cooper & J. Christina Wang, *Student Loan Debt and Economic Outcomes*, Fed. Res. Bank of Bos., *Current Pol’y Persp.* (Oct. 2014), <https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/economic/cpp1407.pdf> (“In addition, the distribution of total wealth excluding student debt liabilities is lower for homeowners with student debt than for homeowners without student loan debt (again conditional on at least some college attendance). This wealth disparity remains even after controlling for a wide range of demographic and other factors.”).

²¹ See, e.g., Meta Brown & Sydnee Caldwell, *Young Student Loan Borrowers Retreat from Housing and Auto Markets*, Fed. Res. Bank of N.Y. (Apr. 17, 2013), <http://libertystreeteconomics.newyorkfed.org/2013/04/young-student-loan-borrowers-retreat-from-housing-and-auto-markets.html> (finding that homeownership rates of 30-year-old student loan borrowers decreased by more than 5 percent compared with homeownership rates of 30-year-old non-borrowers, and finding that over the analyzed time period student borrowers were less likely to hold auto debt than nonborrowers); Fed. Res. Bank of N.Y., *Press Briefing On Household Debt, With Focus On Student Debt* 36–47 (Apr. 3, 2017), <https://www.newyorkfed.org/medialibrary/media/press/PressBriefing-Household-Student-Debt-April32017.pdf#page=39> (finding that college attendees with student debt have lower homeownership rates than college attendees without student debt and that higher debt balances are associated with lower home ownership rates).

²² See, e.g., Erika Davis, *Student Debt: Trends and Possible Consequences*, Fed. Res. Bank of Dallas (Sept. 30, 2014); <https://www.dallasfed.org/~media/documents/outreach/fi/2014/fi1403.pdf> (finding that in 2013, there was a 24-point differential in average credit scores between 30-year-old consumers with and without student loan debt).

²³ See, e.g., CFPB, *Snapshot of older consumers and student loan debt* 14 (2017), http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf (finding that borrowers nearing retirement “had a lower median amount in their employer-based retirement account or an Individual Retirement Account (IRA) than consumers without student loan debt”); Joe Valenti, *A Look at College Costs across Generations*, AARP (May 2019), <https://www.aarp.org/content/dam/aarp/ppi/2019/05/a-look-at-college-costs-across-generations.doi.10.26419-2Fppi.00063.001.pdf> (finding that student loan borrowers may need to work two to seven years longer than non-borrowers to achieve the same retirement savings); Joseph Egoian, *73 Will Be the Retirement Norm for Millennials*, NerdWallet (Oct. 23, 2013), <https://www.nerdwallet.com/blog/investing/73-retirement-norm-millennials/> (finding that a 4 year college graduate with median student loan debt of \$23,000 has about \$115,000 less in retirement savings than a 4 year college graduate with no student loans by the time they reach age 73); Mikhail Zinshteyn, *Saddled With Debt, Recent Grads Can’t Save*, AARP (May 29, 2019), <https://www.aarp.org/money/credit-loans-debt/info-2019/recent-grads-delay-saving.html>.

²⁴ See, e.g., Caitlin Zaloom, *How Paying for College Is Changing Middle-Class Life*, N.Y. Times (Aug. 30, 2019), <https://www.nytimes.com/2019/08/30/opinion/sunday/college-tuition.html>; Elissa Nadworny, *Families, Not Just Students, Feel The Weight Of The Student Loan Crisis*, Nat’l Pub. Radio (Sept. 4, 2019), <https://www.npr.org/2019/09/04/755221033/families-not-just-students-feel-the-weight-of-the-student-loan-crisis>.

²⁵ See, e.g., Weidner, *supra* n. 19; Davis, *supra* n. 22; William Gale et al., Brookings Inst., *Student Loans Rising: An Overview Of Causes, Consequences, And Policy Options* 3–4 (2014), https://www.brookings.edu/wp-content/uploads/2016/06/student_loans_rising_gale_harris_09052014.pdf (showing that student debt “is associated with students pursuing jobs that pay higher wages initially, perhaps at the expense of wages in the future . . .”).

²⁶ See, e.g., Gale, *supra* n. 25 (finding “that student loan borrowers are roughly 60 to 70 percent less likely to apply to graduate school—after controlling for other factors—than non-borrowers.”).

²⁷ See, e.g., Robert Bozick and Angela Estacion, *Do student loans delay marriage? Debt repayment and family formation in young adulthood*, 30 Demographic Res. 69, 1865-1891 (June 13, 2014), <https://www.demographic-research.org/volumes/vol30/69/30-69.pdf>; Dora Gicheva, *Student loans or marriage? A look at the highly educated*, 53 Econ. of Educ. Rev. 207-216 (2016).

²⁸ See U.S. Dep’t of Educ., Fed. Student Aid Data Ctr., *New Direct Loan Defaults* (last accessed Sept. 5, 2019), <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLEnteringDefaults.xls> (between 2018 Q1 and 2018 Q4, 1,080,300 borrowers defaulted on a Direct Loan).

²⁹ There is no definitive source of information that identifies the number of unique borrowers in default. As of the second quarter of 2019, 5.3 million Direct Loan borrowers were in default on one or more loans and 3.9 million FFELP loan borrowers were in default on one or more loans. There is no equivalent data identifying borrowers in default on private student loans. Readers should note that the estimate is based on limited public data available and may double count borrowers with both FFELP and Direct Loans. See U.S. Dep’t of Educ., Fed. Student Aid Data Ctr., *Portfolio by Loan Status (DL, FFEL, ED-held FFEL, ED-Owned)* (last accessed Sept. 6, 2019), <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls>; U.S. Dep’t of Educ., *Federal Perkins Loan Program Status of Default as of June 30, 2016* (June 12, 2017), <https://ifap.ed.gov/perkinscdrguide/1516PerkinsCDR.html>.

³⁰ See e.g., U.S. Gov’t Accountability Off., *Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief*, (Dec. 19, 2016), <https://www.gao.gov/products/GAO-17-45>; Consumerist, *Report: \$171M Garnished From Older Americans' Social Security To Repay Student Debt In 2015*, (Dec. 20, 2016), <https://www.consumerreports.org/consumerist/report-171m-garnished-from-older-americans-social-security-to-repay-student-debt-in-2015/>; Annie Nova, *Many disabled veterans eligible for student loan forgiveness are still paying*, CNBC (Nov. 12, 2018), <https://www.cnbc.com/2018/11/12/many-disabled-veterans-are-still-forced-to-repay-their-student-debt.html>.

³¹ See U.S. Dep’t of Educ., Fed. Student Aid Data Ctr., *Portfolio by Delinquency Status (DL, ED-Held FFEL, ED-Owned)* (last accessed Sept. 5, 2019), <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLPortfoliobyDelinquencyStatus.xls>; see also Andrew F. Haughwout et al., *Just Released: Mind the Gap in Delinquency Rates* <https://libertystreeteconomics.newyorkfed.org/2019/08/just-released-mind-the-gap-in-delinquency-rates.html>.

³² See, e.g., Nat'l Conf. of St. Leg., *Use of Credit Information in Employment 2015 Legislation* (2015), <http://www.ncsl.org/research/financial-services-and-commerce/use-of-credit-information-in-employment-2015-legislation.aspx> (showing that as of 2015, 39 states allowed employers to use credit information in employment decisions); Blake Ellis, *Employer credit checks keep jobless out of workforce*, CNN (Mar. 4, 2013), <https://money.cnn.com/2013/03/04/pf/employer-credit-checks/>.

³³ See, e.g., Christine DiGangi, *Can You Be Denied an Apartment Because of Bad Credit?*, Yahoo Finance (Dec. 13, 2014), <https://finance.yahoo.com/news/denied-apartment-because-bad-credit-130049897.html> (“The most well-known consequence of having bad credit is trouble getting loans or credit cards, but a low credit score can also make it difficult to find a place to live.”).

³⁴ See Jessica Silver-Greenberg et al., *When Unpaid Student Loan Bills Mean You Can No Longer Work*, N.Y. Times (Nov. 18, 2017), <https://www.nytimes.com/2017/11/18/business/student-loans-licenses.html>; Nick Sibilla, *Defaulting on a student loan could cost you your job in these professions*, NBC News (Aug. 28, 2018), <https://www.nbcnews.com/think/opinion/defaulting-student-loan-could-cost-you-your-job-these-professions-ncna904476>.

³⁵ See U.S. Dep’t of Educ., *Collections* (last accessed Sept. 6, 2019), <https://studentaid.ed.gov/sa/repay-loans/default/collections> (“Your loan holder can order your employer to withhold up to 15 percent of your disposable pay to collect your defaulted debt without taking you to court. This withholding (‘garnishment’) continues until your defaulted loan is paid in full or removed from default.”).

³⁶ See *id.* (“Federal law related to the collection of debts owed to the government requires ED to request that the U.S. Department of the Treasury withhold money from your federal income tax refunds . . . to be applied toward repayment of your defaulted federal student loan.”).

³⁷ See U.S. Gov’t Accountability Off., GAO-17-45, *Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief* (2016), <https://www.gao.gov/assets/690/681722.pdf>.

³⁸ See Maggie Fitzgerald, *Jamie Dimon sounds off on student debt crisis: ‘What we’ve done is a disgrace’*, CNBC (June 26, 2019), <https://www.cnbc.com/2019/06/26/jamie-dimon-weighs-in-on-student-loan-debt.html> (“‘What we’ve done is a disgrace and it’s hurting America,’ JP Morgan’s chairman and CEO told Yahoo Finance . . . ‘I think they should look at all parts of student lending, fix the broken parts, and then forgive those people [who] need forgiveness, and then help people get into school, and then make sure the schools are responsible in getting the kids out’”); Riley Griffin, *The Student Loan Debt Crisis Is About to Get Worse*, Bloomberg (Oct. 17, 2018), <https://www.bloomberg.com/news/articles/2018-10-17/the-student-loan-debt-crisis-is-about-to-get-worse> (quoting Fed. Res. Chairman Jerome Powell, “You do stand to see longer-term negative effects on people who can’t pay off their student loans. It hurts their credit rating; it impacts the entire half of their economic life. As this goes on, and as student loans continue to grow and become larger and larger, then it absolutely could hold back growth.”).

³⁹ See, e.g., Brent W. Ambrose et al., *The Impact of Student Loan Debt on Small Business Formation* (Mar. 31, 2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2417676; Brandon Busteded, *Student Loan Debt: Major Barrier to Entrepreneurship*, Gallup (Oct. 14, 2015), <http://www.gallup.com/businessjournal/186179/student-loan-debt-major-barrier-entrepreneurship.aspx>.

⁴⁰ See, e.g., Meta Brown & Sydnee Caldwell, *Young Student Loan Borrowers Retreat from Housing and Auto Markets*, Fed. Res. Bank of N.Y. (Apr. 17, 2013), <http://libertystreeteconomics.newyorkfed.org/2013/04/young-student-loanborrowers-retreat-from-housing-and-auto-markets.html> (finding that homeownership rates of 30-year-old student loan borrowers decreased by more than 5 percent compared with homeownership rates of 30-year-old non-borrowers); Fed. Res. Bank of N.Y., *Press Briefing On Household Debt, With Focus On Student Debt* 36–47 (Apr. 3, 2017), <https://www.newyorkfed.org/medialibrary/media/press/PressBriefing-Household-StudentDebt-April32017.pdf#page=39> (finding that college attendees with student debt have lower homeownership rates than college attendees without student debt and that higher debt balances are associated with lower home ownership rates).

⁴¹ See Alvaro Mezza et al., *Can Student Loan Debt Explain Low Homeownership Rates for Young Adults?* 5, Fed. Res. Bd., Consumer & Community Context (Jan. 2019), <https://www.federalreserve.gov/publications/files/consumer-community-context-201901.pdf>.

⁴² See Janet Currie & Erdal Tekin, *Is there a Link Between Foreclosure and Health?*, 7 Am. Econ. J. Econ. Pol’y 1, 63-84 (Feb. 2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4933518/>.

⁴³ See Katrina M. Walsemann et al., *Sick of Our Loans: Student Borrowers and the Health of US Young Adults*, 124 Soc. Sci. & Med. 85 (Jan. 2015) <https://paa2014.princeton.edu/papers/140454>; see also Patricia E. McLean-Meynsse, *Are Concerns about Repaying Student Loan Debt Related to Health Status Rankings?*, 50 J. of Food Distribution Res. 1 (Mar. 2019) https://www.fdrsinc.org/wp-content/uploads/2019/03/JFDR_50.1_15_McLean-Meynsse.pdf.

⁴⁴ See PJ Tabit & Josh Winters, “*Rural Brain Drain*”: *Examining Millennial Migration Patterns and Student Loan Debt* 7-14, Fed. Res. Bd., Consumer & Community Context (Jan. 2019), <https://www.federalreserve.gov/publications/files/consumer-community-context-201901.pdf>; see also Cassidy Morrison, *Student debt is keeping doctors from rural areas*, Wash. Examiner (June 20, 2019), <https://www.washingtonexaminer.com/news/student-debt-is-keeping-doctors-from-rural-areas>; *Low Wages, student debt fuel vet shortage in rural Missouri*, Associated Press (Aug. 25, 2019), <https://www.apnews.com/0da140722da043e981f3881d1b75d6c3>.

⁴⁵ See Tabit, *supra* note 44; see also Aarthi Swaminathan, “*It’s really troubling*”: *Parts of America are trapped in a ‘catch-22’ economic situation*, Yahoo Finance (July 1, 2019), <https://finance.yahoo.com/news/rural-america-distressed-communities-181618799.html>.

⁴⁶ See William Elliot & Melinda Lewis, *Student Debt Effects on Financial Well-Being: Research and Policy Implications*, 29 J. Econ. Surveys 614 (2015), <http://onlinelibrary.wiley.com/doi/10.1111/joes.12124/full> (finding that student loan debt can delay asset accumulation for years and can decrease a family’s net worth by 63 percent); Daniela Kraiem, *The Cost of Opportunity: Student Debt and Social Mobility*, 48 Suffolk U. L. Rev. 689, 699 (2015) (“Students with unmanageable debt are more likely to be low-income, female, black, and have dependent members such as children or elderly parents.”); William Elliot & Melinda Lewis, *Student Loans Are Widening The Wealth Gap: Time To Focus On Equity* 7, Assets & Educ. Initiative, Univ. Of Kan., (2013), <http://aedi.ssw.umich.edu/sites/default/files/publications/publication-cd-reportsr1.pdf> (“However, despite our collective belief in an American dream of equitable opportunities for all, higher education today increasingly reinforces patterns of relative privilege, particularly as students rely more and more on student loans to finance college access.”).

⁴⁷ See William Elliot, *How Student Debt Stunts Financial Growth*, The Atlantic (Mar. 1, 2015), <https://www.theatlantic.com/business/archive/2015/03/how-student-debt-stunts-financial-growth/386300/>.

⁴⁸ See generally Emily Rauscher & William Elliott, *The Relationship Between Income and Net Worth: A Virtuous Cycle for High but Not Low Income Households*, 20 J. Poverty 380 (2016) (finding that a college graduate with an extra \$10,000 in student loans will achieve the nation’s median net worth 26 percent slower than a college graduate without that debt, concluding that financing higher education through student loans can put college graduates who begin school with few assets even further behind their wealthier peers); Thomas Piketty, *Transcript of Student Loan Debt Is the Enemy of Meritocracy in the U.S.*, Big Think (Mar. 19, 2015), <http://bigthink.com/videos/thomas-piketty-on-the-rise-of-us-student-debt> (“And I think if we really want to promote more equal opportunity and redistribute chances in access to education, we should do something about student debt. And it’s not possible to have such a large group of the population entering the labor force with such a big debt behind them.”).

⁴⁹ See Mark Huelsman, *Debt to Society*, Demos (June 2019), <https://www.demos.org/sites/default/files/2019-06/Debt%20to%20Society.pdf>; see also Jillian Berman, *The black-white wealth gap is fueled by student debt*, MarketWatch (May 6, 2018), <https://www.marketwatch.com/story/how-student-debt-is-fueling-the-racial-wealth-gap-2018-05-03> (“The racial wealth gap means that black students likely have less wealth to draw on when paying for college than their white counterparts, meaning they typically need to rely more on debt to pay for school.”).

⁵⁰ See Fenaba R. Addo, *Parents’ Wealth Helps Explain Racial Disparities in Student Loan Debt*, Fed. Res. Bank of St. Louis, Ctr. For Household Fin. Stability (Mar. 2018), https://www.stlouisfed.org/~/media/publications/in-the-balance/images/issue_19/itb19_march_2018.pdf (“Existing racial wealth disparities and soaring higher education costs may actually replicate racial wealth disparities across generations by driving racial disparities in student loan debt load and repayment.”).

⁵¹ See Mark Huelsman, *Debt to Society*, Demos (June 2019), <https://www.demos.org/sites/default/files/2019-06/Debt%20to%20Society.pdf> (also finding that over 20 percent of black college graduates default, a rate 5 times as high as white bachelor's recipients, and a higher rate than white students who drop out of college with debt.); see also Judith Scott-Clayton & Jing Li, *Black-white disparity in student debt more than triples after graduation*, Brookings (Oct. 20, 2015), <https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation/> (finding that African American borrowers are more than three times likely to default within four years as white borrowers); see generally *Student Loan Borrowers Across NYC Neighborhoods*, Fed. Res. Bank of N.Y. and N.Y.C. Dep't of Consumer Aff. (Dec. 2017), <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/credit-conditions/student-loan-borrowing-nyc-neighborhoods.pdf>; *Student Loan Debt Distress Across NYC Neighborhoods: Identifying Indicators of Vulnerability*, N.Y.C. Dep't of Consumer Aff. (Nov. 2018), <https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Research-StudentLoanDebtDistressAcrossNYCNeighborhoods.pdf>; Bina Patel Shrimali, Jacob DuMez, & Sarika Abbi, *At What Cost? Student Loan Debt in the Bay Area*, San Francisco Off. of Fin. Empowerment (Apr. 2019), <https://www.frbsf.org/community-development/files/student-loan-debt-in-the-bay-area.pdf>.

⁵² See Jillian Berman, *All the ways student debt exacerbates racial inequality—'it's like landing in quick sand'*, MarketWatch (July 27, 2019), <https://www.marketwatch.com/story/all-the-ways-student-debt-is-exacerbating-racial-inequality-its-like-landing-in-quick-sand-one-black-student-says-2019-07-18> (quoting sociology professor Jason Houle, as stating that student debt is “both a cause and consequence of racial inequality.”).

⁵³ 2018 Student Loan Update, *supra* n. 9.

⁵⁴ Memorandum of Law in Support of Defendants' Motion to Dismiss at 20, *CFPB v. Navient Corp.*, No. 3:17-cv-00101-RDM (M.D. Pa. 2017) (stating 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.’”); see also Shahien Nasiripour, *Student Debt Giant Navient to Borrowers: You're on Your Own*, Bloomberg (Apr. 3, 2017), <https://www.bloomberg.com/news/articles/2017-04-03/student-debt-giant-navient-to-borrowers-you-re-on-your-own>; Erin Arvedlund, *Navient, your student loan servicer, is under pressure from an activist hedge fund. Is that good or bad for borrowers?*, Phila. Inquirer (June 2, 2019), <https://www.inquirer.com/business/navient-john-remondi-canyon-partners-joshua-friedman-student-loans-20190602.html>; Molly Hensley-Clancy, *How America's Student Loan Giant Dropped The Ball*, BuzzFeed (Feb. 13, 2017), <https://www.buzzfeednews.com/article/mollyhensleyclancy/how-things-went-wrong-at-americas-student-loan-giant> (“[F]or a lot of people, it was a question of, ‘Do I help this borrower and answer their questions, or do I rush through it and afford my groceries this month?’”).

⁵⁵ See e.g., Complaint at 26, *Ill. v. Navient Corp.*, No. 2017-CH-00761 (Ill. Jan. 18, 2017) http://www.illinoisattorneygeneral.gov/pressroom/2017_01/NavientFileComplaint11817.pdf (“If the borrower can create condensation on a mirror, they need to get a loan this year.”); 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/> (“[T]he costs of the private student loans included 10 percent origination fees and interest rates as high as 16.25 percent.”); CFPB, *CFPB Sues For-Profit Corinthian Colleges for Predatory Lending Scheme* (Sept. 16, 2014), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-for-profit-corinthian-colleges-for-predatory-lending-scheme/> (“In July 2011, the Genesis loan interest rate was about 15 percent with an origination fee of 6 percent.”).

⁵⁶ See, e.g., CFPB, *Letter to the Department of Education* (Feb. 5, 2018), <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/letter-department-education/> (providing an unpublished analysis prepared by the Bureau's Office for Students and Young Consumers about student use of college-sponsored deposit and prepaid accounts, obtained through a Freedom of Information Act request in January 2019); CFPB, *CFPB Finds Bank Marketing Deals With Colleges Can Mean Costly Fees and Risks for Students*, (Dec. 14, 2016), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-bank-marketing-deals-colleges-can-mean-costly-fees-and-risks-students/>; David Baumann, *Students Are Being 'Ripped Off' by Wells Fargo-University Deals, Warren Charges*, Credit Union Times (Jan. 18, 2019) <https://www.cutimes.com/2019/01/18/students-are-being-ripped-off-by-wells-fargo-university-deals-warren-charges/?slreturn=20190730153010>.

⁵⁷ See, e.g., Leticia Miranda, *People Are Falling For These Wild Student Forgiveness Scams*, BuzzFeed (Aug. 12, 2016), <https://www.buzzfeednews.com/article/leticiamiranda/student-debt-relief-scams-are-getting->

worse (“Typically companies post advertisements online, on the radio, and on social media like Facebook and Instagram with messages promising to reduce or completely relieve student debt, according to regulators and attorneys who have represented people who have been scammed.”); Danielle Douglas-Gabriel, *Government to Google: Stop fraudsters from using your search engine for student debt scams*, Wash. Post (June 22, 2015), <https://www.washingtonpost.com/news/get-there/wp/2015/06/22/government-to-google-stop-fraudsters-from-using-your-search-engine-for-student-debt-scams/>; Sam Adler-Bell, *Scam Artists Are Preying on Student Debt Holders—and Google Is Helping*, The Century Foun. (Sept. 14, 2015), <https://tcf.org/content/commentary/scam-artists-are-preying-on-student-debt-holders-and-google-is-helping/?session=1>.

⁵⁸ See, e.g., U.S. Gov’t Accountability Off., GAO-18-163, *Federal Student Loans: Actions Needed to Improve Oversight of Schools’ Default Rates* 14 (2018), <https://www.gao.gov/assets/700/691520.pdf> (“One consultant previously offered borrowers gift cards as an incentive to put their loans in forbearance.”); Mike Pierce, *What it means to be a student loan servicer: Guaranty Agency edition*, Student Borrower Protection Ctr. (Mar. 29, 2019), <https://protectborrowers.org/what-it-means-to-be-a-student-loan-servicer-guaranty-agency-edition/>; see generally Selected Appendices from Staff. Rep. of S. Comm. On Health, Educ., Labor, and Pensions, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* (July 30, 2012), https://www.help.senate.gov/imo/media/for_profit_report/PartII.pdf.

⁵⁹ See Stacy Cowley & Jessica Silver-Greenberg, *As Paperwork Goes Missing, Private Student Loan Debt May Be Wiped Away*, N.Y. Times (July 17, 2017), <https://www.nytimes.com/2017/07/17/business/dealbook/student-loan-debt-collection.html>; Robyn C. Smith & Emily Green Caplan, *Going to School on Robo-signing: How to Help Borrowers and Stop the Abuses in Private Student Loan Collection Cases*, Nat’l Consumer L. Ctr. (Apr. 2014), <https://www.studentloanborrowerassistance.org/wp-content/uploads/2013/05/robo-signing-2014.pdf>; Laura Northrup, *Student Loans Are The New Robo-Signing Crisis*, The Consumerist (June 4, 2015), <https://consumerist.com/2015/06/04/student-loans-are-the-new-roboisigning-crisis/>.

⁶⁰ See, e.g., Selected Appendices, *supra* n. 58 at 361-362, 602-613.

⁶¹ See Julie Margetta Morgan et al., *Income Share Agreements: A Student Debt Promise Falling Short Of Reality*, Roosevelt Inst. (Jan. 10, 2019) <https://rooseveltinstitute.org/income-share-agreements-student-debt-promise-falling-short-reality/>; Adam Levitin, *What Is “Credit”? AfterPay, Earnin’, and ISAs*, Credit Slips (July 18, 2019), <https://www.creditslips.org/creditslips/2019/07/what-is-credit-afterpay-earnin-and-isas.html>; Adam Levitin, *How NOT to Regulate ISAs*, Credit Slips (Aug. 2, 2019), <https://www.creditslips.org/creditslips/2019/08/how-not-to-regulate-isas.html>; Julie Margetta Morgan, Joanna K. Darcus, & Tariq Habash, *Will Income-Share Agreements Be the Next Payday Loans?*, The Am. Prospect (July 2, 2019), <https://prospect.org/authors/julie-margetta-morgan-joanna-k-darcus-tariq-habash>.

⁶² See Shahien Nasiripour, *Wall Street Is Fighting a CFPB Deal Over Billions in Defaulted Student Loans*, Bloomberg (Nov. 8, 2017), <https://www.bloomberg.com/news/articles/2017-11-08/wall-street-is-fighting-a-cfpb-deal-over-billions-in-defaulted-student-loans> (“The worst-performing student loan investment vehicles ever created by Wall Street”); see also CFPB, *CFPB Takes Action Against National Collegiate Student Loan Trusts, Transworld Systems for Illegal Student Loan Debt Collection Lawsuits* (Sept. 18, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-national-collegiate-student-loan-trusts-transworld-systems-illegal-student-loan-debt-collection-lawsuits/>; Natalie Kitroeff, *The Lawsuit Machine Going After Student Debtors*, Bloomberg (June 3, 2015), <https://www.bloomberg.com/news/articles/2015-06-04/the-student-debt-collection-mess>.

⁶³ 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/>; Or. Dep’t of Just., *AG Rosenblum Announces \$192 Million Aequitas Settlement; \$2.1 Million for Oregon Students* (Aug. 17, 2017), <https://www.doj.state.or.us/media-home/news-media-releases/ag-rosenblum-announces-192-million-aequitas-settlement-2-1-million-oregon-students/>.

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⁶⁵ See CFPB, *Consumer Financial Protection Bureau Takes Action Against Bridgepoint Education, Inc. for Illegal Student Lending Practices* (Sept. 12, 2016), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-takes-action-against-bridgepoint-education-inc-illegal-student-lending-practices/>.

⁶⁶ See, e.g., Stacy Cowley, *For-Profit Chain Cancels \$494 Million in Student Debt to End State Investigations*, N.Y. Times (Jan. 3, 2019), <https://www.nytimes.com/2019/01/03/business/student-debt-career-education-corporation.html>.

⁶⁷ See CFPB, *CFPB Takes Action Against Citibank For Student Loan Servicing Failures That Harmed Borrowers* (Nov. 1, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-citibank-student-loan-servicing-failures-harmed-borrowers/>; The Joplin Globe, *Guardsmen sue Citi, saying loan terms penalize military*, Trib. News Serv. (Feb. 22, 2011), https://www.joplinglobe.com/news/guardsman-sues-citi-saying-loan-terms-penalize-military/article_f5888f98-17f8-5dc5-84f7-187b3f075741.html.

⁶⁸ See Danielle Douglas-Gabriel, *ACS's \$2.4 million settlement in Massachusetts highlights problems in student loan servicing*, Wash. Post (Nov. 22, 2016), <https://www.washingtonpost.com/news/grade-point/wp/2016/11/22/acss-2-4-million-settlement-in-massachusetts-highlights-problems-in-student-loan-servicing/>; Danielle Douglas-Gabriel, *ACS's \$9 million settlement in New York places a spotlight on problems in student loan servicing*, Wash. Post (Jan. 4, 2019), <https://www.washingtonpost.com/education/2019/01/05/acss-million-settlement-new-york-places-spotlight-problems-student-loan-servicing/>.

⁶⁹ See CFPB, *CFPB Sues For-Profit Corinthian Colleges for Predatory Lending Scheme* (Sept. 16, 2014), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-for-profit-corinthian-colleges-for-predatory-lending-scheme/>.

⁷⁰ See CFPB, *CFPB Orders Discover Bank to Pay \$18.5 Million for Illegal Student Loan Servicing Practices* (July 22, 2015), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-discover-bank-to-pay-18-5-million-for-illegal-student-loan-servicing-practices/>.

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⁷² See Fed. Trade Comm. (FTC), *Student Loan Debt Collector Will Pay \$700,000 for Unlawful Collection Calls in Settlement with FTC* (Feb. 14, 2017), <https://www.ftc.gov/news-events/press-releases/2017/02/student-loan-debt-collector-will-pay-700000-unlawful-collection>.

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⁷⁶ See CFPB, *CFPB Takes Action Against National Collegiate Student Loan Trusts, Transworld Systems for Illegal Student Loan Debt Collection Lawsuits* (Sept. 18, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-national-collegiate-student-loan-trusts-transworld-systems-illegal-student-loan-debt-collection-lawsuits/>.

⁷⁷ See Complaint, *CFPB v. Navient Corp.*, No. 3:17-cv-00101-RDM (M.D. Pa. Jan. 18, 2017); Complaint, *Pa. v. Navient Corp.*, No. 3:17-cv-1814-RDM (M.D. Pa. June 19, 2019); Complaint, *Cal. v. Navient Corp.*, No. CGC-18-

567732 (Cal. Oct. 16, 2018); Complaint, *Ill. v. Navient Corp.*, No. 2017-CH-00761 (Ill. July 10, 2018); Complaint, *Miss. v. Navient Corp.*, No. G2108-98203 (Miss. July 24, 2018); Complaint, *Wash. v. Navient Corp.*, No. 17-2-01115-1 SEA (Wash. Jan. 18, 2017); *see also* Complaint, *Hyland v. Navient Corp.*, No. 1:18-cv-09031 (S.D. N.Y. Oct. 3, 2018); Fed. Dep. Ins. Corp., *FDIC Announces Settlement with Sallie Mae for Unfair and Deceptive Practices and Violations of the Servicemembers Civil Relief Act* (May 13, 2014),

<https://www.fdic.gov/news/news/press/2014/pr14033.html>; U.S. Dep't of Just., *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>;

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⁸² *See* FTC, *Online Student Loan Refinance Company SoFi Settles FTC Charges, Agrees to Stop Making False Claims About Loan Refinancing Savings* (Oct. 29, 2018), <https://www.ftc.gov/news-events/press-releases/2018/10/online-student-loan-refinance-company-sofi-settles-ftc-charges>.

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⁸⁵ *See* CFPB, *CFPB Takes Action Against National Collegiate Student Loan Trusts, Transworld Systems for Illegal Student Loan Debt Collection Lawsuits* (Sept. 18, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-national-collegiate-student-loan-trusts-transworld-systems-illegal-student-loan-debt-collection-lawsuits/>.

⁸⁶ *See* FTC, *Victory Media Settles FTC Charges Concerning Its Promotion of Post-Secondary Schools to Military Consumers* (Oct. 19, 2017), <https://www.ftc.gov/news-events/press-releases/2017/10/victory-media-settles-ftc-charges-concerning-its-promotion-post>.

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⁸⁸ *See supra* notes 63-87; *see also* CFPB, Supervisory Highlights, (Fall 2015), http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf (finding that one or more student loan servicer was making misrepresentations to consumers that late fees may be charged on loans held by the Department of Education. While Department of Education loan notes allow for the charging of late fees, the Department of Education did not and does not charge late fees on its loans and it instructs its servicers not to do so); CFPB, Supervisory Highlights (Fall 2016), https://www.consumerfinance.gov/documents/1389/Supervisory_Highlights_Issue_13_Final_10.31.16.pdf (finding that one or more servicers was unfairly denying, or failing to approve, income-driven repayment plan applications that should have been approved on a regular basis, causing borrowers to make higher payments and subjecting them to unnecessary interest capitalization; failing to provide an effective choice on how payments should be allocated among multiple loans where the lack of choice can cause a financial detriment to consumers; and deceiving borrowers who have made extra payments on their loans about how much interest would accrue or had accrued, and how that would affect the application of consumers’ payments when the borrower began making payments again); CFPB, Supervisory Highlights (Winter 2016), http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf (finding that one or more student loan company was failing to inform borrowers and co-signers that using forbearance may delay, or even permanently foreclose, eligibility for co-signer release; illegally increasing borrowers’ interest rates following a loan sale and subsequent internal servicing conversion; and illegally auto-defaulting consumers when a loan’s co-signer filed for bankruptcy, regardless of whether the borrower was current on all payments, where the Whole Loan Due clause was ambiguous); CFPB, Supervisory Highlights (Spring 2017), https://www.consumerfinance.gov/documents/4608/201704_cfpb_Supervisory-Highlights_Issue-15.pdf (finding that one or more student loan company was failing to reverse adverse consequences of erroneous deferment terminations, including late fees charged for non-payment during periods when the borrower should have been in deferment, and interest capitalization that occurred because the borrower’s deferment was erroneously terminated; and making deceptive statements about interest capitalization during successive deferments or forbearances, when servicers capitalized interest after each period of deferment or forbearance, instead of capitalizing once when the borrower eventually reentered repayment).

⁸⁹ *See, e.g.*, CFPB, *Student Loan Servicing* 103 (Sept. 2015) https://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf (“[P]olicymakers have undertaken broad-based legislative and regulatory efforts to strengthen applicable federal consumer financial laws protecting consumers in the servicing of mortgages and credit cards. However, for student loan borrowers, there is no existing, comprehensive federal statutory or regulatory framework providing consistent standards for the servicing of all student loans.”); Letter from Conn. Dep’t of Banking Counsel Bruce H. Adams to the CFPB in response to a Request for Information Regarding Student Loan Servicing, CFPB-2015-0021-0381 (July 13, 2015), <https://www.regulations.gov/contentStreamer?documentId=CFPB-2015-0021-0381&attachmentNumber=1&contentType=pdf>.

⁹⁰ *See, e.g.*, Letter from Ill. Att’y Gen. Lisa Madigan, et al. to the CFPB in response to a Request for Information Regarding Student Loan Servicing, CFPB-2015-0021-0376 (July 14, 2015), <https://www.regulations.gov/contentStreamer?documentId=CFPB-2015-0021-0376&attachmentNumber=1&contentType=pdf> (“Unlike in similar financial service industries, there is little regulation of specific student loan servicer conduct, such as the handling and application of payments.”).

⁹¹ *See, e.g.*, Letter from Congresswoman Susan Davis to Director Cordray in response to a Request for Information Regarding Student Loan Servicing, CFPB-2015-0021-0379 (July 13, 2015), <https://www.regulations.gov/contentStreamer?documentId=CFPB-2015-0021-0379&attachmentNumber=1&contentType=pdf> (“[I]t is important the Bureau also put in place strong rules for *all* borrowers, regardless of loan type or who owns their loans. As a prime example, the Bureau should look to our work in the CARD Act to help inform how they should best protect borrowers. . . .”); Steve Fenberg and Faith Winter, *Opinion: Colorado will lead the effort to end the student crisis*, The Colo. Sun (Apr. 11, 2019), <https://coloradosun.com/2019/04/11/student-debt-steve-fenberg-faith-winter/>.

⁹² See, e.g., Letter from Professor Alan White et al. to the CFPB in response to a Request for Information Regarding Student Loan Servicing, CFPB-2015-0021-6929 (July 23, 2015), <https://www.regulations.gov/document?D=CFPB-2015-0021-6929>.

⁹³ See, e.g., Letter from Nat'l Consumer L. Ctr to the CFPB in response to a Request for Information Regarding Student Loan Servicing, CFPB-2015-0021-6840 (Sept. 29, 2015), <https://www.regulations.gov/contentStreamer?documentId=CFPB-2015-0021-6840&attachmentNumber=1&contentType=pdf> (“The absence of clear borrower protections contrasts with other consumer credit areas such as credit cards and mortgages.”); Letter from Consumers Union to the CFPB in response to a Request for Information Regarding Student Loan Servicing, CFPB-2015-0021-7592 (Oct. 20, 2015), <https://www.regulations.gov/contentStreamer?documentId=CFPB-2015-0021-7592&attachmentNumber=4&contentType=pdf> (“The Bureau rightly notes that other kinds of consumer debt come with protections related to repayment and servicing. By contrast, for people who took out loans to get an education, there are fewer protections and the system is often tough to navigate – as a result, these borrowers may be at the mercy of their servicers.”); see also Seth Frotman, *Broken Promises: How Debt-financed Higher Education Rewrote America's Social Contract and Fueled a Quiet Crisis*, 2018 Utah L. Rev. 4 811-846 (July 2018), <https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1172&context=ulr>.

⁹⁴ See Navient (@Navient), Twitter (May 16, 2019, 9:08 AM), <https://twitter.com/navient/status/1129010758132600833?lang=en> (“We’ve made the 2019 Fortune 500 list! #Fortune500”); see also Pa. Att’y Gen. Josh Shapiro (@JoshShapiroPA), Twitter (May 16, 2019, 2:47 PM), https://twitter.com/JoshShapiroPA/status/1129096020183404544?ref_src=twsrc%5Etfw (“Yes you did. By unlawfully adding \$4 billion on the backs of students and their families through your predatory student loan practices, as our complaint alleges. Shameful. #Navient”); Sen. Elizabeth Warren (@SenWarren), Twitter (May 16, 2019, 12:58 PM), https://twitter.com/SenWarren/status/1129068735573233664?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1129068735573233664&ref_url=https%3A%2F%2Fwww.marketwatch.com%2Fstory%2FElizabeth-warren-calls-navient-scammers-after-student-loan-giant-celebrates-making-the-fortune-500-2019-05-17 (“This student loan company is literally under investigation and being sued by states and the federal government for cheating students to make more money. But congrats on breaking into the #Fortune500, @Navient. I didn’t know they had a special section for scammers.”); Congresswoman Katie Porter (@RepKatiePorter), Twitter (May 16, 2019, 9:59 AM), <https://twitter.com/repkatieporter/status/1129023518916714496?lang=en>, (“So the nation’s biggest profiteer off of student lending - subject to investigations and lawsuits over predatory practices - is bragging about how they’ve made the Fortune 500 list on the backs of students . . .”).

⁹⁵ Consumer Credit Protection Act, Pub. L. No. 90-321, 18 Stat. 146 (1968); see also Christopher L. Peterson, *Truth, Understanding, and High-Cost Consumer Credit: The Historical Context of the Truth in Lending Act*, 55 Fla. L. Rev. 807, 857 (2003), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=878951.

⁹⁶ See 15 U.S.C. § 1681(a)(4); see also Austin H. Krist, *Large-Scale Enforcement of the Fair Credit Reporting Act and the Role of State Attorneys General*, 115 Columbia L. Rev. 8 (2015); Joanne Colombani, *The Fair Credit Reporting Act*, 13 Suffolk U. L. Rev. 63, 63 (1979) (noting industry-wide procedures enabling CRAs to take advantage of economies of scale “create a correspondingly large number of inaccurate reports”); Elizabeth D. De Armond, *Frothy Chaos: Modern Data Warehousing and Old-Fashioned Defamation*, 41 Val. U. L. Rev. 1061, 1063–64 (2007) (observing prior to advent of CRAs, credit reputations were built and verified through localized face-to-face interactions); Edward Thrasher, *The Fair Credit Reporting Act: Deficiencies and Solutions*, 21 Temp. Pol. & C.R.L. Rev. 599, 599 (2012) (“[C]redit and reputation . . . have moved from local relationships within smaller communities, such as a local bank official and a local homeowner who regularly see one another, to a national scale where a consumer’s transactional history is stored forever in increasingly expanding databases.”).

⁹⁷ 15 U.S.C. §§ 1679(a)(1), (2).

⁹⁸ Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111-24 (2009) (codified at 15 U.S.C. § 1601); see also Congresswoman Carolyn Maloney, *President Signs Rep. Maloney’s Credit Card Reforms*, (May 21, 2009) <https://maloney.house.gov/media-center/press-releases/president-signs-rep-maloney%E2%80%99s-credit-card-reforms> (“We have at long last leveled the playing field between credit card companies and their customers . . .”).

⁹⁹ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) (codified at 15 U.S.C. § 5301 *et seq.*).

¹⁰⁰ See CFPB, *CFPB Finds CARD Act Helped Consumers Avoid More Than \$16 Billion in Gotcha Credit Card Fees* (Dec. 3, 2015), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-card-act-helped-consumers-avoid-more-than-16-billion-in-gotcha-credit-card-fees/>; Sumit Argarwal et al., *Regulating Consumer Financial Products: Evidence from Credit Cards*, 130 Q. J. of Econ. 1, 111 (Nov. 25, 2014), <https://doi.org/10.1093/qje/qju037> (estimating that the CARD Act saved consumers \$11.9 billion per year).

¹⁰¹ See CFPB, *2013 RESPA Servicing Rule Assessment Report* (Jan. 2019), https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rule-assessment_report.pdf.

¹⁰² See Shanti Abedin et al., *Making Every Neighborhood A Place of Opportunity: 2018 Fair Housing Trends Report*, Nat. Fair Housing Alliance (2018), https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report_4-30-18.pdf.

¹⁰³ See, e.g., CFPB, *CFPB Concerned About Widespread Servicing Failures Reported by Student Loan Borrowers* (Sept. 29, 2015), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-concerned-about-widespread-servicing-failures-reported-by-student-loan-borrowers/>; 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/> ([T]he Bureau alleges that Navient has failed to provide the most basic functions of adequate student loan servicing at every stage of repayment for both private and federal loans.”).

¹⁰⁴ See e.g., CFPB, *Student Loan Servicing* (Sept. 2015), https://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf; Marian Wang, *Student Loan Borrowers Dazed and Confused by Servicer Shuffle*, ProPublica (Apr. 23, 2012), <https://www.propublica.org/article/student-loan-borrowers-dazed-and-confused-by-servicer-shuffle>.

¹⁰⁵ See Complaint, *CFPB v. Navient Corp.*, *supra* n. 77; see also Complaint, *Pa. v. Navient Corp.*; Complaint, *Cal. v. Navient Corp.*; Complaint, *Ill. v. Navient Corp.*; Complaint, *Miss. v. Navient Corp.*; Complaint, *Wash. v. Navient Corp.*, *supra* n. 77.

¹⁰⁶ See Complaint, *Mass. v. Pa. Higher Educ. Assistance Agency*, 1784-CV-02682 (Mass. Sup. Ct. 2017); see also Jillian Berman, *This government loan forgiveness program has rejected 99% of borrowers so far*, MarketWatch (Sept. 23, 2018), <https://www.marketwatch.com/story/this-government-loan-forgiveness-program-has-rejected-99-of-borrowers-so-far-2018-09-20?ns=prod/accounts-mw>.

¹⁰⁷ See Solicitation from the U.S. Dep’t of Educ. for the Next Generation Financial Services Environment, Solicitation No. 91003119R0008 (Jan. 2019), <https://www.fbo.gov/utills/view?id=a0303314e019f14fb5e524db737f6aad> (“[Greater than] 37 million customers being serviced in the FSA environment (with an additional 5 million serviced through the FFEL program outside of the FSA environment) . . . Customer base projected to grow over 40% between 2017-26 . . . [and] [m]ost immediately and on a rapid schedule, FSA anticipates migrating, through conversion, nearly 200 million loan accounts from existing servicers to the Enhanced Processing Solution . . .”).

¹⁰⁸ As of Q2 2019, more than seven million borrowers were enrolled in income-driven repayment plans that are eligible for loan forgiveness after 20 or 25 years. See U.S. Dep’t of Educ., Fed. Student Aid Data Ctr., *Portfolio by Repayment Plan* (last accessed Sept. 6, 2019), <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls>. As of March 31, 2019, more than two million borrowers had submitted approved Employer Certification Forms to the Department of Education, indicating intent to pursue Public Service Loan Forgiveness. See U.S. Dep’t of Educ., Fed. Student Aid Data Ctr., *Public Service Loan Forgiveness Data* (last accessed Sept. 6, 2019), <https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data>.

¹⁰⁹ See *supra* note 101 at 3 (“The lending portfolio is growing at 7% per year, driven by nearly \$100 billion in annual disbursements across more than 17 million annual loan originations.”).

¹¹⁰ See CFPB, *Laws and Regulations: Truth in Lending Act* (Apr. 2015), https://files.consumerfinance.gov/f/201503_cfpb_truth-in-lending-act.pdf?__hstc=40088317.82af9c9a98fa600b1bb630f9cde2cb5f.1508371200067.1508371200068.1508371200069.1&__hssc=40088317.1.1508371200070&__hsfp=1773666937.

¹¹¹ U.S. Dep't of Educ., *Secretary DeVos Announces Intent to Enhance FSA's Next Generation Processing and Servicing Environment* (Aug. 1, 2017), <https://www.ed.gov/news/press-releases/secretary-devos-announces-intent-enhance-fsas-next-generation-processing-and-servicing-environment>.

¹¹² See Emily Wilkins, *New Head of Student Loan Oversight Office Will Have Less Power*, Boomberg Gov. (Mar. 1, 2019), <https://about.bgov.com/news/new-head-of-student-loan-oversight-office-will-have-less-power/>; Glenn Thrush & Stacy Cowley, *Mulvaney Downgrades Student Loan Unit in Consumer Bureau Reshuffle*, N.Y. Times (May 9, 2018), <https://www.nytimes.com/2018/05/09/us/student-loans-consumer-financial-protection-bureau-cfpb.html?module=inline>.

¹¹³ See Chris Arnold, *CFPB Chief Says Education Department Is Blocking Student Loan Oversight*, Nat. Pub. Radio (May 16, 2019), <https://www.npr.org/2019/05/16/723568597/cfpb-chief-says-education-department-is-blocking-student-loan-oversight>.

¹¹⁴ See Off. of the Comptroller of the Currency, *Installment Lending: Core Lending Principles for Short-Term, Small-Dollar Installment Lending*, OCC Bulletin 2018-14 (May 23, 2018), <https://www.occ.gov/news-issuances/bulletins/2018/bulletin-2018-14.html> (“U.S. consumers borrow nearly \$90 billion every year in short-term, small-dollar loans . . .”).

¹¹⁵ See Laura Santhanam, *Millennials rack up the most medical debt, and more frequently*, Pub. Broadcasting Serv. (July 26, 2018), <https://www.pbs.org/newshour/health/millennials-rack-up-the-most-medical-debt-and-more-frequently> (“[O]ne in six Americans have past-due health care bills on their credit report, a debt totaling \$81 billion in all.”).

¹¹⁶ See, e.g., *CBA Statement on Private Student Loan Performance and the Costs of College*, Consumer Bankers Assoc. (Mar. 10, 2015) <https://www.consumerbankers.com/cba-media-center/media-releases/cba-statement-private-student-loan-performance-and-costs-college>.

¹¹⁷ Andrew F. Haughwout et al., *Just Released: Mind the Gap in Delinquency Rates*, Fed. Res. Bank of N.Y. (Aug. 13 2019), <https://libertystreeteconomics.newyorkfed.org/2019/08/just-released-mind-the-gap-in-delinquency-rates.html>.

¹¹⁸ *Id.*

¹¹⁹ But the vast majority of private loan borrowers remain vulnerable to this harmful practice. See Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. No. 115-174, § 601 (2018) (“The amendments made by subsection (a) shall only apply to private education loan agreements entered into on or after the date that is 180 days after the date of enactment of this Act.”).

¹²⁰ See 15 U.S.C. § 1639c(e).

¹²¹ See, e.g., Rohit Chopra & Holly Petraeus, *Veterans: Take advantage of student loan forgiveness, but don't let it damage your credit* (Nov. 17, 2014), <https://www.consumerfinance.gov/about-us/blog/veterans-dont-let-student-loan-forgiveness-damage-your-credit/>; 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/> (“[Navient] [h]armed the credit of disabled borrowers, including severely injured veterans . . .”).

¹²² See, e.g., U.S. Dep't of Educ., *Fact Sheet: Modernizing Credit Reporting for Student Loans* (Apr. 2016), <https://www2.ed.gov/documents/press-releases/04282016-credit-reporting.doc>.

¹²³ *Id.*

¹²⁴ See CDIA Issues New, *Updated Reporting Guidance for Federal Student Loans*, Consumer Data Industry Assoc. (Aug, 2019), https://crrg.s3.amazonaws.com/CDIA+News+Release_Updated+Federal+Student+Loan+Guidance-

2019.pdf (“To develop this updated guidance . . . CDIA worked with the Student Loan Servicing Alliance (SLSA) and others involved in the student loan industry.”).

¹²⁵ See *supra* n. 29.

¹²⁶ See Persis Yu, *Pushed Into Poverty: How Student Loan Collections Threaten the Financial Security of Older Americans*, Nat’l Consumer L. Ctr (May 2017), https://www.nclc.org/images/pdf/student_loans/student-loan-collections-threaten-fin-sec.pdf; *Strengthening the Federal Student Loan Program for Borrowers: Hearing Before the S. Comm on Health, Education, Labor, and Pensions*, 113th Cong., (2014), <https://www.help.senate.gov/imo/media/doc/Loonin1.pdf> (statement from Deanne Loonin, “Outsourcing collection is not cheap. Taxpayers paid about \$1 billion in commissions to private student loan debt collectors in 2011. Department projections show commissions growing to over \$2 billion by 2016.”).

¹²⁷ See, e.g., CFPB, *Annual report of the CFPB Student Loan Ombudsman* (Oct. 2016), https://files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf; U.S. Dep’t of Educ., *U.S. Department of Education to End Contracts with Several Private Collection Agencies* (Feb. 27, 2015), <https://www.ed.gov/news/press-releases/us-department-education-end-contracts-several-private-collection-agencies> (“In its review, the Department found that agents of the companies made materially inaccurate representations to borrowers . . . [F]ive private collection agencies . . . were found to have given inaccurate information at unacceptably high rates about [student loan repayment] benefits. In particular, these agencies gave borrowers misleading information about the benefits to the borrowers’ credit report and about the waiver of certain collection fees.”); CFPB, *Supervisory Highlights 7* (Winter 2015), https://files.consumerfinance.gov/f/201503_cfpb_supervisory-highlights-winter-2015.pdf (finding that at one or more debt collection companies, “agents overstated the rehabilitation program’s impact on consumers’ credit report and credit scare and the extent to which collection fees would be waived upon completion of the program.”).

¹²⁸ See CFPB, *Update from the CFPB Student Loan Ombudsman* (May 16, 2017), https://files.consumerfinance.gov/f/documents/201705_cfpb_Update-from-Student-Loan-Ombudsman-on-Redefaults.pdf.