

June 3, 2019

Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20052

Dear Director Kraninger,

We are writing to urge the Bureau take the necessary steps to protect student loan borrowers from discrimination by the student loan industry.

Student loan borrowers of color disproportionately bear the brunt of America's student debt crisis, and sadly, the extraordinary levels of delinquency and default across these communities is preventable. The most vulnerable student loan borrowers have a right under federal law to make affordable student loan payments—a powerful protection that should make student loan defaults extremely rare.¹ However, mounting evidence shows that borrowers of color continue to experience extremely high rates of delinquency and default, particularly when compared to their white peers.² This evidence suggests that the consumer finance companies responsible for administering these protections—student loan servicers—have failed millions of African American and Latino student loan borrowers.

These systemic failures require real oversight and accountability.

As you know, the Consumer Financial Protection Bureau is responsible for administering the nation's fair lending laws and the application of those laws to companies in the student loan market.³ In 2017, under then-Director Cordray, the Bureau announced that it would prioritize the oversight work needed to protect student loan borrowers from violations of the Equal Credit Opportunity Act (ECOA) at the hands of the nation's largest student loan servicers.⁴

¹ See 34 C.F.R. § 685.209.

² See Consumer Financial Protection Bureau (CFPB), *The significant impact of student debt on communities of color* (Sept. 15, 2016), <https://www.consumerfinance.gov/about-us/blog/significant-impact-student-debt-communities-color/>; see also Rakesh Kochhar & Richard Fry, *Wealth inequality has widened along racial, ethnic lines since end of Great Recession*, Pew Research Center (Dec. 12, 2014), <https://www.pewresearch.org/fact-tank/2014/12/12/racial-wealth-gaps-great-recession/>; Judith Scott-Clayton, *The looming student loan default crisis is worse than we thought*, Brookings Institution (Jan. 11, 2018), <https://www.brookings.edu/research/the-looming-student-loan-default-crisis-is-worse-than-we-thought/>.

³ See CFPB, *Fair Lending Report of the Consumer Financial Protection Bureau* (Apr. 2017), https://files.consumerfinance.gov/f/documents/201704_cfpb_Fair_Lending_Report.pdf.

⁴ See Danielle Douglas-Gabriel, *Government watchdog investigating discrimination in student loan servicing*, Wash. Post (Apr. 14, 2017), https://www.washingtonpost.com/news/grade-point/wp/2017/04/14/government-watchdog-investigating-discrimination-in-student-loan-servicing/?utm_term=.eadc6b4cea8c.

This critical work sought to stop student loan companies from discriminating against borrowers of color who struggle to repay their student debt. As the Bureau's senior fair lending official described when announcing this initiative, "We're looking at disparities in outcomes . . . and we believe there may be some."⁵

Civil rights protections are essential to ensure the public's trust in a transparent, fair, and well-functioning market, and the Bureau must prioritize enforcement of key statutes like the ECOA.

The purpose of income-driven repayment programs is meant to provide borrowers access to affordable and reasonable student loan payments. Such programs should not be available to some borrowers and not others; especially where it causes interest to accumulate, leaving borrowers with more debt as their loans sits in forbearance or default. Where such access is provided in an unequal way, with a disproportionate impact by race or sex—as data suggests is the case in the student loan market—a diligent regulator must investigate these disparities and root out potential discriminatory industry practices.

Unfortunately, your recent testimony on March 7, 2019 before the House Financial Services Committee raised new questions about whether the Bureau is engaging in this critical oversight work. In response to a direct question from Congresswoman Pressley about whether the Bureau continues to police discrimination in the student loan market, you stated:

*I absolutely want to address this issue with the Department of Education . . . It is a conversation that we need to have. I want to have the Student Loan Education Ombudsman [sic] in place to have that conversation and facilitate a more productive relationship going forward with the Department of Education so they can carry out their responsibilities and the Bureau can carry out its responsibilities.*⁶

This indirect response effectively ignores the CFPB's independent oversight responsibilities and the immediate need for investigative action given the well-documented racial disparities in student loan outcomes. Your April 23, 2019 letter to Senator Warren, which focused on the current status of the Bureau's student loan servicing oversight program, is cause for further alarm. In this letter, you explain that the Department of Education has instructed the largest companies in the industry to obstruct this oversight. Yet, the Department of Education cannot solely carry this responsibility—the CFPB must provide diligent oversight of student loan servicers and we ask you to quickly remedy this situation. Specifically, you explained:

⁵ See CFPB, *Fair Lending Report of the Consumer Financial Protection Bureau* (Apr. 2017), https://files.consumerfinance.gov/f/documents/201704_cfpb_Fair_Lending_Report.pdf.

⁶ *Putting Consumers First? A Semi-Annual Review of the Consumer Financial Protection Bureau: Hearing Before The H. Comm. on Fin. Services*, 116th Cong. (2019), <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=402377#Wbcast03222017>.

Since December 2017, student loan servicers have declined to produce information requested by the Bureau for supervisory examinations related to Direct Loans and Federal Family Education Loan Program (FFELP) loans held by the [U.S. Department of Education] based on the Department's guidance.⁷

This is unacceptable.

Nowhere in Title X of Dodd-Frank exists any requirement from Congress that the Bureau receive a permission slip from Secretary Betsy DeVos to ensure that the nation's civil rights laws are being followed.

The Bureau is an independent agency, with a mandate from Congress to oversee student loan servicers for compliance with the nation's consumer financial laws, including the Equal Credit Opportunity Act.

That is what it must do.

Sincerely,



Student Borrower Protection Center



Center for Responsible Lending



Lawyers' Committee for Civil Rights Under Law



NAACP



Southeast Asia Resource Action Center



The Leadership Conference on Civil & Human Rights

Leadership Conference on Civil and Human Rights



UnidosUS

⁷ See CFPB, *Letter to Senator Elizabeth Warren from Director Kathleen L. Kraninger* (Apr. 23, 2019) https://www.warren.senate.gov/imo/media/doc/2019.04.23%20KK%20to%20Warren_student%20loan%20industry.pdf.