

# United States Senate

WASHINGTON, DC 20510

February 10, 2022

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street, N.W.  
Washington, DC 20552

Dear Director Chopra:

We write to request that you promptly investigate the findings of a troubling report released by the Student Borrower Protection Center (SBPC) that found that private student loan companies and servicers intentionally misrepresented to borrowers the possibility of discharging certain private student loans in bankruptcy.<sup>1</sup> We urge the Consumer Financial Protection Bureau (CFPB) to investigate these findings and take appropriate action to ensure private student lenders and servicers are complying with bankruptcy law.

According to the SBPC, for decades, private student lenders have intentionally perpetuated the false narrative that all student loans, including all private student loans, are non-dischargeable in bankruptcy except in cases where borrowers meet a standard of “undue hardship.”<sup>2</sup> In reality, these rules for dischargeability of private student loans only apply to qualified education loans. Qualified education loans are defined in the Internal Revenue Code as loans taken out by an “eligible student” used to finance the cost of attendance at a recognized institution of higher education that qualifies for federal student aid.<sup>3</sup>

However, the SBPC report indicates that private student lenders have long peddled a variety of private student loans that do not meet the definition of qualified education loans and are, therefore, generally dischargeable in bankruptcy. The SBPC estimates that approximately \$50 billion in private student loan debt held by some 2.6 million borrowers falls into this category. These non-qualified private loans, created by lenders to generate additional revenue, include direct-to-consumer loans and career training loans used for unaccredited schools that do not qualify for federal student aid. These schools, many of which are for-profit colleges, often provide deficient education benefits and leave students with little other than massive student debt.

The SBPC found that private student loan lenders took advantage of the widespread belief that all private student loans are non-dischargeable in bankruptcy and that lenders marketed their non-qualified education loans under this false pretense. The report found that lenders included misleading language in their promissory notes, misrepresenting to students that they could not discharge their loans in bankruptcy. At the same time, when these companies sold

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<sup>1</sup> Student Borrower Protection Center. (2022, January). *Morally Bankrupt How the Student Loan Industry Stole a Generation's Right to Debt Relief*. [https://protectborrowers.org/wp-content/uploads/2022/01/SBPC\\_Morally-Bankrupt.pdf](https://protectborrowers.org/wp-content/uploads/2022/01/SBPC_Morally-Bankrupt.pdf)

<sup>2</sup> 11 U.S.C. § 523 (a)(8)

<sup>3</sup> 26 U.S.C. § 221(d)

non-qualified debts to Wall Street investors, they explicitly disclosed that non-qualified education loans were eligible for discharge in bankruptcy—telling investors the truth while lying to borrowers.

Moreover, the SBPC report shows the extent to which lenders went to collect on the debts that could have been legally discharged—relying on the complexity of the bankruptcy process and abusive collection tactics, such as letters, phone calls, and negative reports made to credit bureaus. In some cases, lenders pursued legal action to recover debts that already were discharged legally. The SBPC report estimates that private student loan companies have collected hundreds of millions of dollars on loans in this manner.

There is growing bipartisan consensus in Congress that student loan bankruptcy laws should be overhauled to make them fairer and more workable for borrowers who have no other options for relief. But, as we continue to work on lasting changes to these laws, we must not allow companies to fraudulently prevent borrowers from seeking the little relief that is afforded under current law. We urge the CFPB to review the troubling findings in the SBPC report and take appropriate action.

Thank you for your consideration. We look forward to your prompt response.

Sincerely,



Richard J. Durbin  
United States Senator



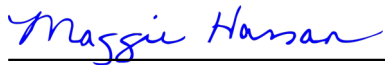
Sherrod Brown  
United States Senator



Sheldon Whitehouse  
United States Senator

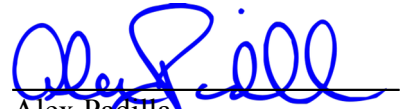


Elizabeth Warren  
United States Senator



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Margaret Wood Hassan  
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Alex Padilla  
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