October 12, 2016

Sarah Bloom Raskin
Deputy Secretary
U.S. Department of the Treasury

Ted Mitchell
Undersecretary
U.S. Department of Education

John Koskinen
Commissioner of Internal Revenue
Internal Revenue Service

Dear Deputy Secretary Bloom Raskin, Undersecretary Mitchell, and Commissioner Koskinen,

We write today as representatives of students, consumer groups, student loan servicers, and labor unions to highlight the importance of streamlining and automating the annual reapplication process for borrowers participating in income-driven repayment (IDR) plans. We also request a meeting to discuss this issue. Allowing borrowers to provide a multi-year consent for the automatic sharing of necessary income and household size data from their federal tax filings would help ensure borrowers do not face the consequences of failing to recertify for IDR, which includes financial penalties and avoidable loan delinquencies. It would also free up resources to help servicers focus on individuals who need the most assistance.

As you are aware, the Department of Education has been successful in assisting an increasing number of student borrowers to repay their loans based upon their income. According to the most recent data on the Direct Loan program from the U.S. Department of Education, 5.3 million borrowers owing a collective $269 billion are using an IDR plan.[1] That represents 24 percent of borrowers and 40 percent of all Direct Loan dollars in repayment.[2] The popularity of IDR plans continues to grow, with the numbers of borrowers and loan dollars on IDR plans more than doubling in the last two years.[3]

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[1] Analysis of data from U.S. Department of Education, "Direct Loan Portfolio by Repayment Plan," Q2 2016, available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls (last accessed August 2016).

[2] Ibid.

[3] Ibid.

IDR is a crucial lifeline for many borrowers. By tying loan payments to their income, individuals transitioning to repayment or with otherwise unaffordable debts are better able to stay current and avoid default and the severe consequences associated with it.

Unfortunately, a key element of IDR's design weakens its ability to ensure students can stay out of delinquency and default permanently. Borrowers are required to recertify income to remain in a repayment plan based on income. While referred to as "re-certification," the process is almost identical to the lengthy application process. That means every year borrowers have to fill out exact same paperwork or online forms to ensure their continued participation on an IDR plan, even though servicers only need income and family size to calculate payment levels.

Failing to complete this annual IDR re-certification has substantial consequences for borrowers who continue to need a payment lower than the standard 10-year payment. Today, servicers cannot directly obtain the necessary earnings information to update borrowers' payment amounts without the borrower completing a new application. Without the completed application, the servicer cannot allow the borrower to continue making a potentially lower payment based upon their income. As a result, borrowers end up reverting to monthly payments equal to what they would owe if they had started on the 10-year standard plan. For borrowers currently paying nothing or limited amounts on IDR, this could result in them suddenly facing unaffordable payment requests. For others, it may mean having to pay hundreds of dollars more each month.

And that's just the start of the problems. Borrowers on IDR plans may be making payments that do not cover all the interest accumulating on their loan. That interest capitalizes when they stop making payments based upon their income, resulting in them owing more overall on their loan. Borrowers making use of automatic withdrawals from their bank accounts will especially feel the hit of this change, as the higher payment amount will be automatically pulled from their bank account, potentially causing an overdraft fee.

Servicers are well aware of this issue and engage in outreach efforts to get borrowers to complete the necessary paperwork to re-enroll on time. But data suggest the recertification process is still a significant problem. According to the U.S. Department of Education, 57 percent of borrowers on an income-driven plan fail to re-apply on time.[4] About a third of these borrowers ended up stuck in a hardship status where they had to pause their loan payments.[5]

Recertification problems can compound existing difficulties with getting delinquent borrowers onto IDR plans. According to data from one federal student loan servicer, only about one-third of severely delinquent borrowers who have been verbally qualified for IDR take the steps to

[4] U.S. Department of Education, "Sample Data on IDR Recertification Rates for ED-Held Loans," March/April 2015, available at http://www2.ed.gov/policy/highered/reg/hearulemaking/2015/paye2-recertification.pdf.
[5] Ibid.

enroll in one of these plans.[6] And, even if they did enroll, one-third of this subset of distressed borrowers did not successfully recertify on time despite numerous contact attempts.[7] IDR cannot help delinquent borrowers experience long-term repayment success as much as it should if borrowers cannot easily stay on these plans.

The problem with the current re-certification process is not that borrowers need to provide up-to-date income and family size information. We agree that this information should be updated annually. The problem lies with the process: the annual lengthly paperwork and deadlines required of borrowers.

Fortunately, an easier solution to IDR enrollment exists. When borrowers sign up for or re-enroll in these plans, they could simply authorize the IRS to automatically share the necessary information on income and family size with the Department of Education for multiple years. That way, when the IRS sends the data each year, the Department would be able to give servicers the information needed to adjust monthly payments. Servicers would still work with borrowers whose circumstances are not accurately reflected by their tax return information and those who cannot use multi-year consent because they do not file tax returns or are married filing separately. Yet, since servicers can accept alternative income information directly, this process should be streamlined as well.

Everyone wins under an automatic re-enrollment situation. Borrowers would no longer worry about getting hit with large payment spikes and interest capitalization, while servicers would be able to re-direct their resources from IDR re-certification to targeting individual borrowers who are at greater risk of delinquency or default.

In fact, this idea—to allow for multiple years of data-sharing for IDR enrollment —is so common sense that it used to be available for borrowers on the income-contingent repayment plan. These individuals simply completed a two-page form with their name and other identifying information, and the IRS shared the relevant data with the Department of Education for up to five years.[8]

The Department of Education and the Treasury Department have already acknowledged the importance of a multi-year certification process for IDR. The Education Department's October 2015 report, "Strengthening the Student Loan System to Better Protect All Borrowers,"

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[6] Navient, "Navient Response to CFPB RFI Payback Playbook," June 12, 2016, available at https://www.regulations.gov/document?D=CFPB-2016-0018-0665, page 12.

[7] Ibid.

[8] U.S. Department of Education, "William D. Ford Federal Direct Loan Program Income Contingent Repayment Plan Consent to Disclosure of Tax Information," OMB Form No. No. 1845-0017, available at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200601-1845-005 (last accessed August 2016).

explicitly calls for such a program to be developed. The report also suggests that there are no statutory barriers preventing the establishment of such a process.[9]

It is long past time to develop a multi-year process for re-certifying participation in IDR plans. A 2015 bipartisan House letter to the Treasury Department urged the Administration to move forward on this effort, and bipartisan bills have also drawn attention to this issue. The challenges faced by borrowers and servicers in navigating the current process, and the frequent harm that occurs when it goes wrong, are simply too great to allow the status quo to persist. We request an update from the Administration on this important issue. We look forward to your response and to meeting with you to discuss how we can work together to create a common-sense recertification process.

Sincerely,

American Federation of Labor (AFL-CIO)
American Federation of Teachers (AFT)
Americans for Financial Reform (AFR)
Center for American Progress (CAP)
Education Finance Council (EFC)
Edfinancial Services
Generation Progress (GP)
Granite State Management & Resources
Higher Ed, Not Debt (HEND)
National Consumer Law Center (on behalf of its low-income clients)
National Council of Higher Education Resources (NCHER)
National Foundation for Credit Counseling (NFCC)
Navient
Oklahoma Student Loan Authority (OSLA)
Pennsylvania Higher Education Assistance Agency (PHEAA)
Service Employees International Union (SEIU)
Student Debt Crisis
Student Loan Servicing Alliance (SLSA)
The Institute for College Access and Success (TICAS)
Utah Higher Education Assistance Authority (UHEAA)

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[9] U.S. Department of Education, "Strengthening the Student Loan System to Better Protect All Borrowers," October 2015, available at https://www2.ed.gov/documents/press-releases/strengthening-student-loan-system.pdf,page 12.

CC:
The Honorable Lamar Alexander, Chairman, U.S. Senate Committee on Health, Education, Labor, and Pensions
The Honorable John Kline, Chairman, U.S. House of Representatives, Committee on Education and the Workforce
The Honorable Orrin Hatch, Chairman, U.S. Senate Committee on Finance
The Honorable Kevin Brady, Chairman, U.S. House of Representatives Committee on Ways and Means
The Honorable Patty Murray, Ranking Member, U.S. Senate Committee on Health, Education, Labor, and Pensions
The Honorable Robert "Bobby" Scott, Ranking Member, U.S. House of Representatives, Committee on Education and the Workforce
The Honorable Ron Wyden, Ranking Member, U.S. Senate Committee on Finance
The Honorable Sander Levin, Ranking Member, U.S. House of Representatives, Committee on Ways and Means