



October 15, 2018

**VIA Electronic Delivery**

Consumer Financial Protection Bureau  
Attn: Chief Freedom of Information Act Officer  
1700 G St. NW  
Washington, DC 20552  
(855) 444-3642  
CFPB\_FOIA@consumerfinance.gov

**Re: Freedom of Information Act Request**

Dear Chief FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Consumer Financial Protection Bureau ("CFPB") regulations at 12 C.F.R. pt. 1070, Democracy Forward Foundation submits this request for records.

*Records Requested*

In an effort to understand, and explain to the public, the supervisory activities of the CFPB for federal student loans,<sup>1</sup> Democracy Forward Foundation requests that CFPB produce the following within twenty (20) business days:

1. Examination reports that include the supervision or examination of practices in connection with federal student loans.
2. Any guidance, instruction, templates, manuals, or examination procedures for CFPB staff on how or whether to conduct supervision or examinations of practices in connection with federal student loans.

The time period for this search is from November 20, 2017 to the date the search is conducted.

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<sup>1</sup> For purposes of this request, "federal student loans" means loans originated by the U.S. Department of Education; offered through the Federal Perkins Loan Program; or made, insured or guaranteed under Title IV of the Higher Education Act of 1965. See [CFPB Supervision and Examination Manual](#) 322 ("The vast majority (greater than 98 percent) of new federal student loans are originated by the Department of Education through the Federal Direct Loan Program. A small share of new federal student loan originations are made directly by higher education institutions through the Federal Perkins Loan Program, which provides low-interest loans to students with financial need. In 2015, Perkins Loans accounted for approximately 1.2 percent of all federal student loan originations."), 12 C.F.R. § 1090.106(a) ("Post-secondary education loan means a loan that is made, insured or guaranteed under Title IV of the Higher Education Act of 1965 ( 20 U.S.C. 1070et seq.) or that is extended to a consumer with the expectation that the funds extended will be used in whole or in part to pay post-secondary education expenses.").

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation, or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

*Fee Waiver or Reduction Requested*

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 12 C.F.R. § 1070.22, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request.

Democracy Forward Foundation is a “[r]epresentative of the news media” within the meaning of 12 C.F.R. § 1070.22(b)(1)(iv). Democracy Forward Foundation “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience” through its website, press releases, and social

media outlets. *Id.*<sup>2</sup> For a sampling of news coverage of executive branch activity that Democracy Forward Foundation has facilitated, *see* <https://democracyforward.org/news/#.W8DYIGhKiHs>.

Additionally, the subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of these operations by the public in a significant way. Moreover, the request is for non-commercial purposes.

Pursuant to 12 C.F.R. § 1070.22(e)(1)(iii)(A), disclosure of the requested records “is in the public interest because . . . [f]urnishing the information is likely to contribute significantly to public understanding of the operations or activities of the government.” The request pertains to “direct and clear” operations and activities of the CFPB and is “meaningfully informative about government operations or activities in order to be “likely to contribute” to an increased public understanding of those operations or activities.” *Id.* §§ 107.22(e)(2)(A)(i)-(ii). The records would “contribute to the understanding of a reasonably broad audience of persons interested in the subject.” *Id.* § 107.22(e)(2)(A)(iii). The release of yet unseen and unavailable records would enhance “[t]he public’s understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure.” *Id.* § 107.22(e)(2)(A)(iv). The requested records will shed light on the CFPB’s activities.

Specifically, this request pertains to CFPB supervision of practices connected to federal student loans. Acting Director Mick Mulvaney recently suggested that the CFPB has halted review of practices in connection with federal student loans.<sup>3</sup> CFPB supervisory activities are an important part of maintaining a consumer-friendly market, and the information generated by this request would provide information relevant not only to those individuals with education loans but also to Americans keenly interested in markets more broadly. Whether the CFPB is fulfilling its role in the education loan market has already caught the attention of both Senators<sup>4</sup> and the media.<sup>5</sup> This request seeks to reveal information not yet public about whether the CFPB has followed through on the comment made by acting Director Mulvaney.

This request is “not primarily in the commercial interest of the requester.” *Id.* § 1070.22(e)(1)(iii)(B). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about improper government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets.

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<sup>2</sup> *See* Democracy Forward Twitter, @DemocracyFWD; Democracy Forward Facebook, <https://www.facebook.com/DemocracyFwd/>; <https://democracyforward.org/work/democracy-forward-foundation-doc/>.

<sup>3</sup> <https://www.cnbc.com/video/2018/09/12/watch-cnbc-full-interview-with-ombs-mick-mulvaney.html> (“the statute gives us responsibility for private student loans, OK, that represents about 8 % of the market. Under a handshake agreement within the Obama Administration, the Bureau was going after and regulating public student loans, which is most of them, 92 % of them. We said no no no, the statute says we’re going to be responsible for private student loans, that’s what we’re going to do.”).

<sup>4</sup> <https://apps.npr.org/documents/document.html?id=4878499-Senate-Democrats-Letter-To-CFPB-About-Student>.

<sup>5</sup> <https://www.npr.org/2018/09/14/647467582/senators-demand-answers-from-cfpb-head-after-student-loan-watchdogs-resignation>.

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

*Conclusion*

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Adam Grogg as soon as possible at foia@democracyforward.org or (202) 701-1790.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

*/s/ Adam Grogg*

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Adam Grogg  
Senior Counsel, Democracy Forward Foundation