

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of)	CONSENT ORDER,
NAVIENT SOLUTIONS, INC.,)	ORDER FOR
f/k/a SALLIE MAE, INC., as an)	RESTITUTION, AND
institution-affiliated party of)	ORDER TO PAY
SALLIE MAE BANK)	CIVIL MONEY PENALTY
SALT LAKE CITY, UTAH)	FDIC-13-0382b
(INSURED STATE NONMEMBER BANK))	FDIC-13-0383k
)	
)	

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency for Navient Solutions, Inc., formerly known as Sallie Mae, Inc., an institution-affiliated party (“IAP”) of Sallie Mae Bank, Salt Lake City, Utah (“Sallie Mae” or “Bank”), under sections 3(q) and 3(u) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1813(q) and 1813(u). For purposes of this CONSENT ORDER, ORDER FOR RESTITUTION, AND ORDER TO PAY CIVIL MONEY PENALTY (collectively “ORDER”), Navient Solutions, Inc. will be referred to as “SMI.”

The FDIC determined that SMI, in connection with SMI’s servicing of student loans owned or originated by Sallie Mae, has engaged in: (1) unsafe or unsound banking practices; (2) deceptive and unfair acts and practices in or affecting commerce, in violation of section 5 of the Federal Trade Commission Act (“Section 5”), 15 U.S.C. § 45(a)(1), by (a) inadequately disclosing to consumers the payment allocation methodologies while allocating underpayments in a manner that maximizes late fees incurred by consumers; (b) misrepresenting or inadequately

disclosing in its billing statements how consumers could avoid late fees; (c) appearing to condition receipt of benefits under the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. app. §§501-597b, upon the submission of a certification confirming the SCRA-protected Servicemembers,¹ active duty status and an agreement to recertify active duty status annually; and (d) advising consumers that SCRA-protected Servicemembers must be deployed to receive benefits under the SCRA; (3) violations of the SCRA by failing to reduce the interest rate to 6% on SCRA-protected Servicemembers’ qualifying loans or otherwise failing to provide complete SCRA relief to certain SCRA-protected Servicemembers after having been put on notice of these borrowers’ active duty status, and (4) other violations of law, including the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693 *et seq.*

During the Eligibility Period and until the close of trading on NASDAQ on April 30, 2014, the Bank and SMI were wholly owned subsidiaries of SLM Corporation. At the close of trading on NASDAQ on April 30, 2014, SLM Corporation distributed the stock of Navient Corporation to its shareholders, thereby dividing the business into two distinct parts. The Bank remains a wholly owned subsidiary of SLM Corporation. Navient Corporation owns all of the common stock of SMI. SLM Corporation has no ownership interest in Navient Corporation. The relationship between SLM Corporation and Navient Corporation is governed by a Separation and Distribution Agreement and a Transition Services Agreement, both dated as of April 30, 2014. During the current transition period after the separation, SLM Corporation owns a class of preferred stock in SMI and has the right to appoint one out of the five directors of SMI, with that director serving, at SLM Corporation’s option, as Chairman of SMI’s board of

¹ For purposes of this Order, “SCRA-protected Servicemember” includes servicemembers as defined in 50 U.S.C. app. § 511(1) and (2).

directors. SLM Corporation also has certain limited veto rights with respect to the transition services process as it relates to the separation of the computer systems of the two companies.

SMI, by and through its duly elected and acting Board of Directors (“Board”), has executed a **STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER, ORDER FOR RESTITUTION, AND ORDER TO PAY CIVIL MONEY PENALTY** (“**CONSENT AGREEMENT**”), dated May 2, 2014, that is accepted by the FDIC. With the **CONSENT AGREEMENT**, SMI has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law or regulation, to the issuance of this **ORDER** by the FDIC.

Having determined that the requirements for issuance of an order under sections 8(b) and 8(i)(2) of the FDI Act, 12 U.S.C. §§ 1818(b) and 1818(i)(2), have been satisfied, the FDIC hereby issues the following ORDER:

DEFINITIONS

For purposes of this ORDER, the following definitions shall apply:

1. “Clear and conspicuous” shall mean:
 - (a) As to written information, written in a type size and location sufficient for an ordinary consumer to read and comprehend it, and disclosed with language and syntax that would be easily recognizable and understandable to an ordinary consumer; and
 - (b) As to information presented orally, spoken and disclosed in a volume, cadence and syntax sufficient for an ordinary consumer to hear and comprehend.
2. “DMDC” shall mean the Department of Defense Manpower Data Center database.
3. “Effective Date” shall mean the date on which the ORDER is issued.

4. “Eligibility Period” shall mean the period from November 28, 2005 to the Effective Date of this ORDER.

5. “Eligible Multiple Account” shall refer to a student loan account serviced by SMI containing two or more student loans, where one or more of these student loans were owned or originated by the Bank and were in repayment status during the Eligibility Period.

6. “Eligible Single Account” shall refer to a student loan account serviced by SMI containing one student loan that was owned or originated by the Bank and was in repayment status during the Eligibility Period.

7. “Late Payment” shall mean any payment on one or more private or Federal Family Education Loan Program (“FFELP”) loans that was made after the end of the applicable Past-Due Grace Period.

8. “Minimum Late Fee” shall mean the minimum flat fee, as defined under the terms of the relevant promissory note, that a borrower will incur on his/her student loan for a late payment.

9. “Past-Due Grace Period” shall refer to the allotted amount of time, as defined under the terms of the relevant promissory note, during which a borrower who is past due on his/her student loan will not incur a late fee if the borrower pays the past due amount during that allotted amount of time.

10. “Payment Allocation Methodology” shall mean the methodology used to divide a single payment on a pro-rata basis across loans contained within an Eligible Multiple Account.

11. “Payment Processing Eligible Consumers” shall mean borrowers who meet one or both of the following criteria:

(a) Any borrower with one or more Eligible Multiple Account(s) who, at any time during the Eligibility Period, made an Underpayment that led to such borrower being charged a Minimum Late Fee on one or more student loans that would not have been charged had a different Payment Allocation Methodology to process the Underpayment been used;

(b) Any borrower who received a monthly billing statement with an Eligible Single Account or Eligible Multiple Account, who at any time during the Eligibility Period, made a Late Payment and incurred at least one late fee because the Late Payment was made after the expiration of the Past-Due Grace Period reflected on that borrower's preceding billing statement, even though the Late Payment was made before the expiration of the Past-Due Grace Period reflected on the billing statement most recently received by the borrower before the Late Payment was tendered.

12. "Products and Services" shall mean any lending or other product or service that is or may be offered in conjunction with any "insured depository institution," as that term is defined in 12 U.S.C. § 1813(c)(2).

13. "Regional Director" shall mean the Regional Director of the FDIC's San Francisco Regional Office.

14. "Restitution Consultant" shall mean an objective and unaffiliated third party who possesses the appropriate expertise and qualifications to review the restitution eligibility criteria described in the ORDER and SMI's loan servicing system.

15. "Sallie Mae Bank Consent Order" shall mean the FDIC's Consent Order, Order for Restitution, and Order to Pay Civil Money Penalty issued against the Bank, FDIC-13-0366b and FDIC 13-0367k

16. “SCRA Eligible Loan” shall mean a student loan originated or owned by the Bank where: (1) the student loan was taken out while a borrower was not on military service,² (2) thereafter, a borrower experienced a period of military service during the Eligibility Period, and (3) the Bank charged interest at a rate in excess of six percent (6%) per year on the then-outstanding balance (including any previously capitalized interest) on the student loan at any time during the borrower’s period of military service.

17. “Section 5 Guidance” shall mean the Financial Institution Letter, entitled *Unfair or Deceptive Acts or Practices by State-Chartered Banks* (FIL-26-2004, issued March 11, 2004).

18. “Underpayment” shall mean, in the case of a borrower with one or more Eligible Multiple Accounts, a payment that is less than the total amount due for that billing cycle for each Eligible Multiple Account.

19. “USDOJ” shall mean the United States Department of Justice.

20. “USDOJ Order” shall mean the consent order issued resolving a complaint filed on or about May 13, 2014, by USDOJ in the United States District Court in the District of Delaware, *United States v. Sallie Mae, Inc., et al.*

I. CONSENT ORDER

IT IS HEREBY ORDERED that SMI, as an IAP of the Bank, and SMI’s officers, agents, servants and employees, successors and assigns cease and desist from engaging in unsafe or unsound banking practices and violations of law and regulations described in this ORDER.

IT IS FURTHER ORDERED that SMI shall take the following affirmative actions:

² For purposes of this Order, the term “military service” is defined by Section 511(2) of the SCRA, 50 U.S.C. app. § 511(2).

Correct Violations of Law

21. Within sixty (60) days of the effective date of this ORDER, SMI shall correct all violations of law, as more fully set forth in this ORDER and in the Sallie Mae Bank Consent Order, and shall implement procedures to prevent their recurrence in connection with any Products and Services. To the extent SMI is required in the USDOJ Order to submit revised policies and procedures to the USDOJ for approval, SMI shall implement the USDOJ-approved policies and procedures within thirty (30) days of the USDOJ's approval. SMI's actions as required by this paragraph shall be satisfactory to the Regional Director as determined at subsequent examinations and/or visitations.

22. SMI shall take all action necessary to facilitate the Bank's compliance with the Sallie Mae Bank Consent Order.

SCRA and Unfair and Deceptive Acts and Practices involving Servicemembers

23. To the extent any Products or Services are being offered now or in the future, SMI and, as applicable, the Bank or any insured depository institution shall cease all violations of the SCRA and all unfair and deceptive acts or practices involving servicemembers and shall comply with the Section 5 Guidance. Without limiting the generality of the foregoing:

(a) SMI shall not charge interest at a rate in excess of six percent (6%) per year on the then-outstanding balance (including any previously capitalized interest) of any student loan taken out while a borrower was not on military service, where the borrower subsequently enters into military service and is eligible for SCRA protection under section 527 of the SCRA, 50 U.S.C. app. § 527 ("Section 527").

(b) SMI shall not misinform consumers about SCRA protections and benefits available under Section 527, or otherwise discourage any borrower from invoking SCRA

protection pursuant to Section 527 on any student loan taken out by a borrower while not on military service.

(c) SMI shall inform any borrower who inquires about receiving a military deferment or military forbearance of the SCRA protections and benefits available under Section 527.

(d) SMI shall refrain from seeking any default judgment with respect to any student loan without first checking the SMI's files, including all customer service notes and the DMDC, to determine whether an individual against whom SMI intends to seek a default judgment is in military service, and, if so, filing an accurate affidavit of military service, attaching to the affidavit the most recent military status report from the DMDC and a copy of the borrower's military orders, if available.

(e) SMI shall impose no requirements for obtaining SCRA benefits beyond those expressly set forth under the SCRA. Without limiting the generality of the foregoing, SMI shall not condition the granting of benefits upon the use of a specific form or require that a written notice explicitly request benefits.

(f) SMI shall not engage in communications that, expressly or by implication, condition receipt of benefits under the SCRA upon an agreement that the borrower will recertify his/her active-duty status periodically.

(g) SMI shall accept borrowers' military orders as written notice of eligibility for reduced interest rates pursuant to the SCRA via facsimile, mail, or overnight delivery. SMI shall also accept borrowers' requests for a military deferment or forbearance as written notice of eligibility for reduced interest rates pursuant to the SCRA. Within six (6) months of the Effective Date, SMI shall also create an online intake form. Thereafter, SMI shall also accept

completed online intake forms as written notice of eligibility for reduced interest rates pursuant to the SCRA.

(h) SMI shall not require that any military orders submitted have a specific end date for the period of military service. In the event that any military orders provided to SMI do not list a specific end date for the period of military service, SMI shall not remove protections other than as specified in subsection (m) of this paragraph. SMI also shall not require that any military orders submitted specify the date upon which the borrower first entered active duty for this period of service. SMI shall provide SCRA benefits beginning on the earliest eligible date provided in the orders or by the DMDC. However, if the earliest date provided indicates that the borrower was on active duty at the time of loan origination, SMI shall notify the borrower and provide the borrower a reasonable opportunity to provide documentation showing that the borrower was not on active duty at the time of loan origination.

(i) SMI shall accept, in lieu of military orders, a letter on official letterhead from a borrower's commanding officer that includes contact information for confirmation and:

- i. Sets forth the full name and Social Security number or date of birth of the borrower; and
- ii. Sets forth the period of military service of the borrower and, as may be applicable, that the military service of the borrower is indefinite, or the date on which the military service of the borrower ended or is scheduled to end.

(j) In the event that SMI receives notice of SCRA eligibility via the online intake form or otherwise, SMI shall check the DMDC to confirm the borrower's SCRA eligibility. If the DMDC records confirm eligibility, SMI shall provide the interest rate reduction required by the SCRA for the dates indicated by the DMDC and shall notify the borrower that

the borrower may submit additional documentation to establish eligibility dates if the borrower disagrees with the dates provided by the DMDC. If the DMDC records do not confirm eligibility, Defendants may inform the borrower that he or she is not eligible for SCRA interest rate benefits unless he or she provides a copy of documents establishing military service. Such documents will include any document prepared exclusively by a branch of the military, the Department of Defense, or a borrower's commanding officer that indicates that the borrower is on active duty (e.g., active duty orders, change of station orders, DD-214 forms, letters from commanding officers, etc.). Such documents will not include a DOD Educational Loan Repayment Program (LRP) Annual Application, DD Form 2475.

(k) Within sixty (60) days of receiving a notice of eligibility from a borrower for a reduced interest rate pursuant to the SCRA, SMI shall review all student loans owned by SMI and taken out by the notifying borrower, shall determine the interest rate(s) charged on those student loans, and shall determine the borrower's eligibility for the reduced interest rate on all such student loans. If the borrower is determined to be eligible for SCRA benefits, the reduced interest rate will be applied within this sixty (60) day period. SMI shall apply benefits retroactively to the first day of eligibility, including the date of receipt of orders for reservists and inductees, even if such reduction brings the monthly payment amount below any minimum payment amounts specified in the student loan agreement.

(l) Within thirty (30) days after determining that a borrower is not eligible for an interest rate reduction pursuant to the SCRA, SMI shall notify the borrower in writing of the reason(s) for the denial. SMI shall ensure that the borrower is given an opportunity to provide additional documentation or information to establish eligibility for the reduced interest rate.

(m) SMI shall not raise the interest rate on eligible SCRA-protected Servicemember student loans to an amount higher than six percent (6%) per year until it accesses the DMDC and the information on the DMDC shows that the borrower is no longer in military service or until SMI otherwise receives notice of the end of military service.³ Prior to removing a borrower from interest rate protection, SMI shall notify the borrower in writing of the reason(s) for removal of protection and shall give the borrower at least thirty (30) days from the date SMI sends notice to the borrower to provide additional documentation or information to establish continued eligibility for the reduced interest rate.

(n) SMI shall maintain written policies and procedures to ensure compliance with the SCRA.

(o) SMI shall ensure all appropriate Bank employees are adequately trained on the requirements of the SCRA.

(p) SMI shall designate customer service representatives who have been specifically trained on the protections of the SCRA and who are responsible for the intake of notices of eligibility and application of benefits across all student loans that are owned by SMI. SMI shall also ensure that it has a designated telephone number at which borrowers may reach the designated SCRA customer service representatives who will address questions or concerns regarding reduced interest rates pursuant to the SCRA.

Unfair and Deceptive Acts and Practices involving Payment Processing

24. To the extent any Products or Services are being or are to be offered in conjunction with any insured depository institution, SMI shall cease all unfair and deceptive acts

³ If the Bank receives valid military orders that include an end date of military service inconsistent with that appearing on the DMDC, the Bank shall not raise the interest rate on the borrower's loan(s) until the latter of the two dates has passed.

or practices involving payment processing and loan servicing and shall comply with the guidance set forth in the Section 5 Guidance. Without limiting the generality of the foregoing, SMI shall:

- (a) Ensure that, as of August 1, 2014, SMI's website clearly and conspicuously describes SMI's Payment Allocation Methodology in cases of prepayment, Underpayment and delinquency, and late-fee assessment, including clear and conspicuous disclosure of any requirement that the consumer communicate with SMI or any other third-party service provider concerning these policies and procedures, and ensure that all billing statements contain a sufficiently clear and adequate summary of SMI's policies and refer consumers to the more detailed information available on SMI's website;
- (b) At the time SMI groups any or all of the borrower's student loans for billing purposes or when more than one of a borrower's student loans are moved from deferred status into active, repayment status, SMI shall provide the following disclosure to the borrower and any affected co-signer:
 - i. If Underpayments are accepted, an explanation of how SMI will allocate and apply Underpayments to any or all of the grouped or multiple student loans, along with illustrative examples of the effects of Underpayments on allocation and application and the potential consequences for principal, interest, and fees in these examples; and
 - ii. A statement that the borrower or any co-signer may, at any time, opt out of the grouping of any or all of the borrower's student loans for billing purposes; and
 - iii. A statement that the borrower may direct how payments are allocated among any of the borrower's individual student loans serviced by SMI, with clear and conspicuous instructions on how to do so, along with illustrative examples and potential consequences for principal, interest, and fees in these examples;

(c) Ensure that all borrowers and co-signers are provided with the opportunity at all times to opt out of the grouping of any or all of the borrower's student loans for billing purposes;

(d) Ensure that all borrowers are provided with the opportunity at all times to direct how payments are allocated among any of the borrower's individual student loans;

(e) Cease imposing a Minimum Late Fee on any student loan grouped for billing purposes or when a borrower has more than one student loan in repayment status;

(f) Comply with all borrower instructions related to allocation of payments among loans serviced by SMI, and institute policies and procedures to ensure these instructions are followed; and

(g) On each billing statement, accurately disclose all late fees that may be imposed before the due date for the current amount due and the date each such late fee will be imposed, including late fees related to past-due amounts.

II. ORDER FOR RESTITUTION

IT IS FURTHER ORDERED that SMI provide restitution to consumers as follows:

25. The USDOJ Order will require SMI, the Bank, and SLM DE Corporation to deposit sixty million dollars (\$60,000,000) into an interest-bearing escrow account for the repayment of SCRA-related restitution. Pursuant to this ORDER, SMI shall ensure that sufficient funds shall be deposited into this account to redress the SCRA-related restitution claims for all Bank owned or originated loans.

26. Restitution under this ORDER and the Sallie Mae Bank Consent Order are intended to cover the same consumers. The Bank and SMI may reach separate agreement

concerning the funding and distributing of restitution under this ORDER and the Sallie Mae Bank Consent Order.

Restitution Plan for SCRA

27. SMI has engaged the services of an independent consultant approved by the USDOJ to review SMI's entire portfolio of SCRA-Eligible Loans for potential SCRA violations.

28. Within sixty (60) days from the effective date of this ORDER, SMI shall prepare and submit a comprehensive Restitution Plan for all borrowers with SCRA Eligible Loans that were owned or originated by the Bank ("SCRA Restitution Plan"). The SCRA Restitution Plan, at a minimum, shall require SMI to provide restitution to consumers for SCRA Eligible Loans from November 28, 2005 to the Effective Date of this ORDER. SMI shall submit the SCRA Restitution Plan, including samples of letters to consumers, to the Regional Director for review, comment, and non-objection prior to implementation.

Restitution Plan for Payment Processing

29. Within ninety (90) days from the effective date of this ORDER, SMI shall prepare and submit a comprehensive Restitution Plan for all Payment Processing Eligible Consumers ("Payment Processing Restitution Plan"). The Payment Processing Restitution Plan, at a minimum, shall require SMI to provide restitution to all Payment Processing Eligible Consumers as follows:

(a) For Payment Processing Eligible Consumers defined under Paragraph 11(a), the difference between the Minimum Late Fee assessed on each student loan and the amount of the late fee that would have been assessed had the Minimum Late Fee not been imposed; and

(b) For Payment Processing Eligible Consumers defined under Paragraph 11(b), actual late fees incurred up to a maximum of six late fees on each Eligible Single Account and each Eligible Multiple Account.

30. The Payment Processing Restitution Plan shall include a plan for removing negative payment history, when appropriate, attributable to payment processing violations for which restitution is provided under the approved restitution methodology to correct the credit histories of accounts belonging to borrowers and any co-signer(s).

31. Restitution shall be calculated for all Payment Processing Eligible Consumers during the Eligibility Period. SMI shall submit the Payment Processing Restitution Plan, including samples of letters to consumers, to the Regional Director for review, comment, and non-objection prior to implementation.

Effect of Prior Determinations or Other Monetary Relief

32. In the event that the USDOJ determines that an SCRA Eligible Loan is ineligible to receive SCRA-related restitution under the USDOJ Order, nothing contained in this ORDER shall require SMI or the Bank to pay SCRA-related restitution on such a loan.

33. If SMI or the Bank provides restitution for the entire time period covered by this ORDER to any borrower for any of the violations identified in this ORDER or pursuant to the USDOJ Order for specific fees or interest improperly assessed against the borrower, then this ORDER shall not be construed as requiring SMI to provide a duplicate credit or payment for those fees or interest charges for the same time period.

Payment of Restitution and Recordkeeping

34. Within sixty (60) days of receipt of non-objection from the Regional Director, SMI shall implement the SCRA Restitution Plan and Payment Processing Restitution Plan

(collectively, “Restitution Plans”). Any restitution due to a Payment Processing Eligible Consumer who has an existing account balance shall be paid in the form of an account credit. Any restitution due to a Payment Processing Eligible Consumer that exceeds the Payment Processing Eligible Consumer’s outstanding balance shall be paid in the form of a certified or bank check.

35. Restitution provided by SMI under this ORDER shall not limit consumers’ rights in any way.

36. SMI shall retain for seven years all records pertaining to the Restitution Plans, including but not limited to: documentation of the processes and procedures used to determine the Eligible Consumers; the names, contact, and account information of the Eligible Consumers; any mailing records; and documentation that the appropriate restitution and equitable relief were made.

Account Credits and Refunds

37. SMI shall send letters to all Payment Processing Eligible Consumers regarding restitution checks or account credits. Within sixty (60) days from the Effective Date, SMI shall submit to the Regional Director for review a plan for providing refunds, including the proposed text of letters that shall be sent to Payment Processing Eligible Consumers regarding account credits or restitution checks. Such letters shall include satisfactory language explaining the reason SMI is crediting an account or sending a restitution check. SMI shall then address any comments of the Regional Director, making such changes as may be required to the proposed letters. The letters, incorporating any changes that may be required in response to comments by the Regional Director, shall be sent by mail to all Payment Processing Eligible Consumers entitled to receive account credits and/or restitution checks in accordance with the ORDER.

38. When SMI makes cash restitution by certified or bank check made payable to a Payment Processing Eligible Consumer, SMI shall send the certified or bank check by United States Postal Service first-class mail, address correction service requested, to the Payment Processing Eligible Consumer's last address as maintained by SMI's records. SMI shall make reasonable attempts to obtain a current address for any Payment Processing Eligible Consumer whose notification letter and/or restitution check is returned for any reason, using standard address search methodologies, and shall promptly re-mail all returned letters and/or restitution checks to current addresses, if any. If the certified or bank check for any Payment Processing Eligible Consumer is returned to SMI after such second mailing by SMI, or if a current mailing address cannot be identified using standard address search methodologies, SMI shall retain the restitution amount of such Payment Processing Eligible Consumer for a period of three-hundred and sixty (360) days from the date the restitution check was originally mailed, during which period such amount may be claimed by such Payment Processing Eligible Consumer upon appropriate proof of identity. After such time, these monies will be disposed of in accordance with the appropriate Restitution Plan.

39. SMI shall not undertake collection efforts in the same mailing as that containing any of the restitution checks and/or notification letters. Further, SMI shall not condition, expressly or by implication, the provision of a credit or cash payment pursuant to this ORDER on the payment of any outstanding debt.

Credit Reporting

40. No later than sixty (60) days after completing financial restitution under this ORDER, SMI shall request that all three (3) major credit bureaus and all other credit reporting

agencies and bureaus to which SMI has reported any borrower's negative payment history to remove:

- (a) negative payment history for those months during which the SCRA independent consultant determines, under the approved SCRA restitution methodology, that a borrower may have been eligible for the SCRA interest rate benefit and was assessed interest at a rate greater than six percent, to correct the credit histories of accounts belonging to borrowers and any co-signer(s); and
- (b) negative payment history, when appropriate, attributable to payment processing violations for which restitution is provided under the approved restitution methodology to correct the credit histories of accounts belonging to borrowers and any co-signer(s) as detailed in the Payment Processing Restitution Plan.

Independent Restitution Consultant and Certified Accounting Firm

- 41. Within thirty (30) days from the Effective Date, SMI shall submit to the Regional Director for non-objection the name and qualifications of a Restitution Consultant.
- 42. Within thirty (30) days from the receipt of non-objection by the Regional Director of the selection of the Restitution Consultant, SMI shall retain the Restitution Consultant at its own expense and shall develop, in consultation with the Restitution Consultant, and submit to the Regional Director for non-objection, a review schedule for the independent analysis that shall include, at a minimum:
 - (a) A list of all student loan portfolios and applicable loan servicing systems to be reviewed with a prioritized review schedule;
 - (b) The date by which the review will be completed for each student loan portfolio and loan servicing system; and

(c) The date that a final written report will be completed for all student loan portfolios. The Restitution Consultant's final written report shall be submitted to the Board no later than one hundred eighty (180) days from the Effective Date.

43. In accordance with the review schedule, the Restitution Consultant shall:

(a) Complete an independent analysis to identify all Payment Processing Eligible Consumers and the restitution amounts due under this ORDER. The analysis should include a review of all servicing systems, documents, and files necessary to identify all Payment Processing Eligible Consumers and the corresponding restitution amounts. The Restitution Consultant should compare its completed independent analysis with the list of Payment Processing Eligible Consumers and restitution amounts identified pursuant to SMI's Payment Processing Restitution Plan to identify and explain any discrepancies.

(b) Provide to the Board a detailed written report containing the analysis, assessments, and recommendations, including any discrepancies between the Restitution Consultant's analysis and SMI's Payment Processing Restitution Plan.

44. The Board shall review the Restitution Consultant's final report at the next scheduled Board meeting or within sixty (60) days of receipt, whichever is sooner. This review shall be recorded and noted in the Board minutes.

45. SMI shall, within fifteen (15) days of the Board's review of the Restitution Consultant's final report, provide the Regional Director with a copy of the report.

46. If any report prepared by the Restitution Consultant identifies issues such as additional consumers eligible for restitution or additional restitution due under the ORDER, SMI shall:

(a) Within sixty (60) days of receiving the Restitution Consultant's report, submit a supplemental restitution plan ("Supplemental Restitution Plan") to the Regional Director for non-objection prior to implementation; and

(b) Within thirty (30) days of receiving non-objection from the Regional Director, SMI shall implement any Supplemental Restitution Plan.

47. SMI shall retain, at its expense, an independent certified accounting firm ("Firm") to determine compliance with the Restitution Plans, including any Supplemental Restitution Plan(s). Prior to the engagement of the Firm, and no later than sixty (60) days from the effective date of this ORDER, SMI shall submit the name and qualifications of the Firm, together with the proposed engagement letter with the Firm and the proposed agreed-upon procedures, to the Regional Director for non-objection. The Firm shall determine compliance in accordance with the attestation standards established by the American Institute of Certified Public Accountants for agreed-upon procedures for engagements.

48. The engagement letter between SMI and the Firm shall grant the FDIC access to the Firm's staff, work-papers, and materials prepared in the course of the Firm's engagement and preparation of the reports required by the Restitution Order.

49. To be acceptable to the Regional Director, the Firm must be an objective and unaffiliated third party and, at a minimum, comply with the Code of Conduct of the appropriate State Board of Accountancy and meet auditor independence requirements of the Securities and Exchange Commission.

50. Nothing in this ORDER or the Sallie Mae Bank Consent Order prohibits the Bank and SMI from retaining the same unaffiliated third parties to act as Restitution Consultant and Firm to fulfill the obligations under the ORDER or the Sallie Mae Bank Consent Order. To the

extent the Bank and SMI hire the same Restitution Consultant and Firm, they may reach separate agreement concerning the costs and expenses associated with each.

III. ORDER TO PAY CIVIL MONEY PENALTY

51. IT IS FURTHER ORDERED that by reason of the violations of law and/or regulations, and after taking into account the CONSENT AGREEMENT, the appropriateness of the penalty with respect to the financial resources and good faith of SMI, the gravity of the conduct by SMI, the history of previous conduct by SMI, and such other matters as justice may require, including the severity of the risks to and losses of consumers, pursuant to section 8(i)(2) of the FDI Act, 12 U.S.C. § 1818(i)(2), a penalty of three million, three hundred thousand dollars (\$3,300,000) is assessed against SMI. SMI shall pay the civil money penalty to the Treasury of the United States, as directed by the FDIC.

52. IT IS FURTHER ORDERED that SMI is prohibited from seeking or accepting indemnification from such payment from any third party.

IV. REPORTING REQUIREMENTS

53. Within thirty (30) days from the end of each calendar quarter following the effective date of this ORDER, SMI shall provide a written progress report addressing each provision of the ORDER and detailing the form, manner, results and dates of any actions taken to secure compliance with the provisions of the ORDER to the Regional Director. All progress reports and other written responses to the ORDER shall be reviewed by the Board and made a part of the Board minutes. The progress reports shall be true and accurate and accompanied by a certification of compliance signed by the entire Board. The certification of compliance shall include the following:

(a) A statement confirming that SMI is in compliance with all provisions of the ORDER; or

(b) If SMI is not in compliance with all provisions of the ORDER, SMI must provide:

(i) A list of the provisions with which SMI is not yet in compliance, an explanation of why SMI is not yet in compliance with each specific provision, and a description of the actions SMI has taken to comply with the provision; and

(ii) A statement as to when SMI will be in full compliance with the ORDER.

V. SAVINGS CLAUSE AND EFFECTIVE DATE

The provisions of the ORDER shall not bar, estop or otherwise prevent the FDIC or any other federal or state agency or department from taking any other action against SMI, the Bank, or any of SMI's or the Bank's affiliates, successors, and assignees.

The ORDER shall be effective on the date of issuance.

Calculation of time limitations for compliance with the terms of the ORDER shall be based on calendar days, unless otherwise noted.

The provisions of the ORDER shall be binding on SMI, its officers, agents, servants, employees, and any successors and assigns thereof.

The provisions of the ORDER shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside by the FDIC.

Issued pursuant to delegated authority this 13th day of May, 2014.

/s/
Sylvia H. Plunkett
Senior Deputy Director
Division of Depositor and Consumer Protection