

January 17, 2011

Consumer Financial Protection Bureau  
1500 Pennsylvania Avenue NW (Attn: 1801 L Street)  
Washington, DC 20220

Attn: Monica Jackson, Office of the Executive Secretary

Re: Docket No. CFPB-2011-0037  
Comments Regarding Request for Information Regarding Private  
Education Loans and Private Educational Lenders

Dear Ms. Jackson:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) Request for Information Regarding Private Education Loans and Private Educational Lenders (Information Request). This letter represents CUNA's views on the questions set forth in the Information Request to the extent that CUNA has sufficient information to respond to these questions. By way of background, CUNA is the nation's largest credit union trade organization, representing approximately 90 percent of our nation's 7,300 state and federal credit unions, which serve approximately 93 million members.

CUNA and its members support the CFPB's efforts to gather information regarding private student lending and to study closely the private student lending market, consistent with your authority under the Dodd-Frank Act. There are about 300 credit unions that currently offer student loans to their members and they want to ensure they are providing lending products that have favorable rates and other terms and that their members understand their obligations under the loan agreement, as credit unions do with other loans provided to their members. In that connection, we encourage the CFPB to be mindful of the positive role credit unions play in providing student loans to members pursuing educational opportunities.

We also applaud the analytical and deliberative approach that the CFPB has taken thus far with regard to its various information gathering and rulemaking efforts. We encourage the CFPB to continue to take such an approach, particularly with regard to generating a report regarding private education loans and private education lenders and with any follow-up actions. Along these lines, to the extent the CFPB has authority to do so, we encourage the CFPB to study the costs of higher education, the value received from higher education,

and its costs on students and their families, and provide a report to Congress on its findings.

In response to the specific questions raised by the CFPB in its Information Request, CUNA submits the following comments. The CFPB's questions are repeated below in italics, followed by CUNA's comments.

### ***Scope and Use of Private Education Loans***

*(1) In addition to private education loans, to what extent do students and their families rely on other forms of non-federal debt financing to pay for postsecondary education (e.g., tuition payment plans, student credit cards, parent or family credit cards, home equity lines of credit, etc.)?*

CUNA does not purport to be an expert in this area but we understand that students and their families consider and use various resources to pay for postsecondary education. For example, in the past, credit union members have used home equity loans to at least partially cover postsecondary education expenses. But due to the decreased value of homes and consequent loss of equity, this option is no longer available for many families, which makes alternatives like private education loans more attractive and necessary.

Additionally, we understand that families use loans against their retirement savings accounts (e.g., 401(k)), loans from parents, savings, credit cards and current earnings to cover postsecondary education expenses. Our members believe that students use credit cards to cover certain non-tuition expenses such as travel expenses, food, books, and other supplies. Current earnings can also be used to cover tuition expenses through a university's installment payment plan.

*(2) For students who do not exhaust their federal loan options, including those that require the completion of a Free Application for Federal Student Aid (FAFSA), before turning to private education loans, what explains their choice of private loans?*

There may be a number of reasons that families choose private education loans. It is our understanding that in some cases, it is because borrowers may simply be unaware of options beyond private lenders. Also, there may be a perceived convenience associated with private education loans – completing a FAFSA can be a long, arduous process but completing a loan application (particularly with a financial institution with which the consumer is familiar) tends to be easier. We also understand that some consumers turn to private education loans because they simply assume that the family's income is too high to qualify for financial aid, and therefore they believe there is no reason to go through the process of completing a FAFSA. In addition, we believe parents may not always feel comfortable filling out the FAFSA form because they are concerned that the student will therefore have access to their financial

information. However, please note that we understand many credit union lenders now require students to fill out a FAFSA in order to apply for private loans.

Additionally, our members believe that consumers often view private lenders as more customer-focused, more service oriented, market-driven (from both a price and service perspective) and more responsive. Private loans often carry a lower, usually variable, interest rate than federal student loans and it is our understanding that many consumers prefer a lower interest rate over other loan features.

### ***Information and Shopping for Private Loans***

*(3) From what sources do students and their families obtain information about private education loans and private lenders? What sources are most helpful and accurate?*

CUNA and its members understand that the first source of information for educational financing options is the postsecondary school that the student either attends or is considering attending. Regarding private loans, we understand that many schools no longer provide assistance because schools view the process of maintaining preferred and/or recommended private lender lists under current regulations as being too time consuming.

We believe that consumers also turn to internet search engines for private loan information, but that the available information is typically vast and not easily comparable.

Some of our credit union members participate in a website named CUStudentLending.org, which is a cooperative venture available to credit unions participating in the private student lending market. This website provides comprehensive information to private student loan borrowers. Additionally, many consumers turn to their existing financial institution for information. Lenders that offer student loans, such as credit unions, typically provide information to borrowers regarding both federal loans and private loan options.

*(4) How effective are the existing disclosures provided by private education lenders regarding the terms and conditions of the loans? Among other things, comments could address issues such as whether students and their families feel they adequately understand the terms and conditions of various financial products offered to finance their education goals.*

CUNA and its members feel strongly that the existing Truth-in-Lending Act (TILA) Disclosures that lenders are required to provide are burdensome and overwhelming to borrowers and their families. In particular, the third and final required TILA disclosure is repetitive and has unreasonably elongated the

lending process, burdening the borrower and the lender with a longer time frame from application to disbursement.

CUNA believes the information provided in the disclosures is important, but that the disclosures should be more concise and should include the information most relevant to the borrower. For example, borrowers need to know the applicable interest rate, how and when such rate adjusts, payment dates and terms, late charges, default rates, and contact information for the lender and/or servicer.

The final TILA disclosure, which is provided to the borrower prior to disbursing the funds to the school, is repetitive as it contains information that is already provided in the first two disclosures. The borrower must actively review and accept this same information in the initial Application disclosure. It also delays the disbursement of funds by at least a week, as it must be mailed, accepted by the borrower, and mailed back to the lender. Additionally, the Right of Rescission period must pass before any loans can be disbursed.

Finally, CUNA would like to point out that the majority of lenders offering private student loans require school certification prior to issuing the loan. The school plays an important role in this process, by certifying that the student is not over-borrowing – meaning that the student is only taking out the loans to cover his or her “Cost of Attendance,” which typically includes tuition, supplies, and living expenses. For this reason, schools are increasingly requiring students to complete a FAFSA before certifying a loan (even a private loan) to ensure students are not borrowing beyond their needs.

At the time the existing TILA disclosure regulations were passed, many lenders were using a direct-to-consumer product, bypassing the need for school certification. Today, however, very few lenders offer this type of product and most loans must be certified by the school. CUNA urges the CFPB to consider implementing separate rules for school-certified and direct-to-consumer private educational loans.

CUNA would welcome the opportunity to work with the CFPB to improve TILA disclosures for student loans, drawing on the expertise of our Consumer Protection Subcommittee and our Lending Council.

*(5) What sources of information do students rely upon to gauge the appropriate amount of student debt when selecting a school or program? Do students rely on financial aid budgets provided by the school or on other sources to determine amounts needed to cover tuition and other expenses? Do they consider ability to repay in choosing amounts of debt to incur? If so, what resources are available to help them determine their ability to repay?*

CUNA understands that students typically rely on the “Cost of Attendance” estimates provided by schools to determine the appropriate amount of student loans to borrow.

Many credit unions do provide financial education and seminars relating to student lending generally, and encourage students to attend. The CUStudentLending.org website also provides extensive financial education regarding student lending, through both written information and webinars.

### ***Institutional Loans***

*(6) To what extent are students offered or solicited to take out private education loans made directly by the school they are attending? How do such programs compare to those offered by non-school private educational lenders (e.g., interest rates, ease of approval, underwriting criteria, repayment terms etc.)?*

CUNA’s members have pointed out that many schools have private lenders listed on their websites, but that (as discussed above) many schools do not maintain recommended or preferred private lender lists anymore due to the regulatory burden associated with maintaining such lists.

CUNA also understands that most credit unions require school certification of private loans, and that the number of direct-to-consumer lenders is dwindling (also discussed above). For this reason, we understand that most credit unions currently require students to complete a FAFSA before qualifying for private funding through the credit union.

*(7) What types of schools most commonly offer their own private student loan programs? How do schools select the students they deem eligible for their loan programs (e.g., academic merit, financial need, recruitment, retention)? How are school loan programs funded?*

CUNA’s members believe that the only schools offering their own private student loan programs are for-profit institutions that no longer qualify for Title 9 programs.

### ***Repayment***

*(8) How well are the amount and timing of private education loan repayment terms understood (a) when borrowers take out the loan, (b) during school, (c) at graduation, and (d) when repayment begins? Among other things, comments could address individual experiences at each stage of a student’s education, or reference existing studies or survey work concerning the percentage of students with different levels of understanding regarding their debt load at each stage of their education.*

CUNA’s members believe that the first two TILA disclosures, the Application and Approval disclosures, provide the relevant information that borrowers need

at the time they are applying for the loan. However, (as discussed above) CUNA believes these disclosures could be simplified to provide the relevant information to the borrower in a concise, comprehensive manner. Many credit union lenders also provide their borrowers with quarterly interest statements while their monthly payments are deferred and encourage borrowers to make interest payments during this time if possible. Please see our response to question 3(a) for additional comments.

*(9) What are the best practices at school financial aid offices in providing students with information about students' future loan payments and ability to afford those payments? The Bureau is particularly interested in steps or programs schools voluntarily use to create or enhance students' awareness of their debt loads and ability to afford their loan payments, as well as any evidence concerning the impact of such initiatives.*

CUNA's members believe that it would be beneficial for school financial aid offices to provide students with critical information regarding the student's ability to repay. Such information could include the student's anticipated earnings in the field he or she is pursuing, typical employment rates in various fields, the school's attrition rates, and other factors relating to the student's future earning capabilities.

*(10) How much does a student's debt load affect undergraduate field of study or career choices after graduation? To what extent do undergraduates' or recent graduates' debt loads affect their decision to attend graduate school or seek advanced professional degrees?*

Based on CUNA's members' experience, student borrowers are generally not concerned with the relationship between their field of study and student debt load. Schools are not currently required to provide such information or educate students on this issue.

*(11) Are students adequately informed of their rights as borrowers on private education loans? What resources are students offered to protect their rights? Who directs them to resources that may help them protect their rights (e.g., friends, schools, lenders, particular websites, etc.)?*

CUNA's members that offer student loans typically provide financial education and seminars on borrowers' rights and responsibilities when taking out private student loans. There are also numerous websites available to students, and school financial aid offices often provide counseling on this issue.

*(12) What financial education techniques and resources have empirically-demonstrated effectiveness in helping borrowers avoid default on private education loans? How prevalent are these techniques and resources? Among other things, the CFPB is particularly interested to learn,*

*(a) Which alternative repayment plans have proven most effective in keeping borrowers out of default and why?*

Federally insured credit union (FICU) lenders are limited by statute and National Credit Union Administration (NCUA) regulations to adhere to certain lending and repayment parameters. FICU lenders typically work within these parameters to provide assistance to distressed borrowers on an individual basis to work out a repayment plan to fit their situation.

Some credit union lenders offer interest-only payments to borrowers for a set period of time to allow borrowers to temporarily reduce their monthly obligations. Some also offer temporary forbearance as a way to temporarily suspend payments, limited to a particular period of time over the life of the loan, such as three to six months.

*(b) Whether private lenders adopted repayment program modifications to respond to the high unemployment rate among recent graduates in the wake of the financial crisis?*

See above response for 11(a).

*(c) Are there techniques that private education lenders should try to help reduce default?*

CUNA and its members believe that frequent communication with the borrower is essential to help reduce default. Credit union lenders typically contact the borrower promptly upon the first sign of default.

Some credit unions also require a small in-school monthly repayment (as low as \$25 a month) and/or require a co-signer, such as a parent or guardian.

*(d) Have private lenders developed rehabilitation programs for defaulted loans?*

CUNA understands that FICU lenders typically try to work with their members well before they default to avoid such a development. We are not certain that such rehabilitation programs would fit within the current statutory and regulatory scheme to which FICU student lenders are subject.

Thank you for the opportunity to comment on the Information Request. If you have any questions concerning our letter, please feel free to contact CUNA's Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 508-6776.

Sincerely,



Kristina A. Del Vecchio  
Counsel for Special Projects