



## CFPB Request for Comment on Private Student Lending

The Consumer Financial Protection Bureau (CFPB) has issued a notice and request for comment regarding private student loans made by credit unions and other not-for-profit and for-profit student lenders. CFPB is requesting this information in order to prepare a report to Congress on the private student loan industry as required by section 1077 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

CFPB will be accepting comments until January 17, 2012; **please submit comments to CUNA by January 6, 2012**. Please feel free to e-mail your responses to SVP and Deputy General Counsel Mary Dunn ([mdunn@cuna.coop](mailto:mdunn@cuna.coop)). You can also mail them to CUNA's Regulatory Advocacy Department, 601 Pennsylvania Avenue, NW, South Building, 6th Floor, Washington, DC 20004.

Comments can be submitted to CFPB using [www.regulations.gov](http://www.regulations.gov) or by email at [CFPB\\_StudentsFedReg@cfpb.gov](mailto:CFPB_StudentsFedReg@cfpb.gov); if commenting directly to CFPB please include "Docket No. CFPB-2011-0037" on your comment. You may access a copy of the CFPB's proposal [here](#).

### **Background Information**

Section 1077 of the Dodd-Frank Act requires CFPB and the Department of Education to submit by July 21, 2012 a report to Congress containing at the least the following information regarding so-called "private" student loans (i.e. student loans that are not federally-guaranteed under Title IV of the Higher Education Act or made directly by the federal government<sup>1</sup>):

- 1) The growth and changes of the private education loan market in the United States;
- 2) Factors influencing such growth and changes;
- 3) The extent to which students and parents of students rely on private education loans to finance postsecondary education and the private education loan indebtedness of borrowers;

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<sup>1</sup> Loans with federal guarantees and those made directly by the federal government are typically referred to as "federal" student loans.

- 4) The characteristics of private education loan borrowers, including—
- a) The types of institutions of higher education that they attend;
  - b) Socioeconomic characteristics (including income and education levels, racial characteristics, geographical background, age, and gender);
  - c) What other forms of financing borrowers use to pay for education;
  - d) Whether they exhaust their Federal loan options before taking out a private loan;
  - e) Whether such borrowers are dependent or independent students (as determined under part F of title IV of the Higher Education Act of 1965<sup>2</sup>) or parents of such students;
  - f) Whether such borrowers are students enrolled in a program leading to a certificate, license, or credential other than a degree, an associates degree, a baccalaureate degree, or a graduate or professional degree; and
  - g) If practicable, employment and repayment behaviors;
- 5) The characteristics of private educational lenders, including whether such creditors are for-profit, non-profit, or institutions of higher education;

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<sup>2</sup> Any student who does not meet the statutory definition of an “independent student” is a “dependent student.” 34 C.F.R. § 668.2. The statutory definition of “independent student” is codified at 20 U.S.C. § 1087vv and includes any individual who:

- (A) is 24 years of age or older by December 31 of the award year;
- (B) is an orphan, in foster care, or a ward of the court, at any time when the individual is 13 years of age or older;
- (C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- (D) is a veteran of the Armed Forces of the United States (as defined in 20 U.S.C. § 1087vv (c)(1)) or is currently serving on active duty in the Armed Forces for other than training purposes;
- (E) is a graduate or professional student;
- (F) is a married individual;
- (G) has legal dependents other than a spouse;
- (H) has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a)), or as unaccompanied, at risk of homelessness, and self-supporting, by--
  - (i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11432(g)(1)(J)(ii));
  - (ii) the director of a program funded under the Runaway and Homeless Youth Act (42 U.S.C. §§ 5701 et seq.) or a designee of the director;
  - (iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. §§ 11371 et seq.) (relating to emergency shelter grants) or a designee of the director; or
  - (iv) a financial aid administrator; or
- (I) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

- 6) The underwriting criteria used by private educational lenders, including the use of cohort default rate (as such term is defined in section 435(m) of the Higher Education Act of 1965<sup>3</sup>);
- 7) The terms, conditions, and pricing of private education loans;
- 8) The consumer protections available to private education loan borrowers, including the effectiveness of existing disclosures and requirements and borrowers' awareness and understanding about terms and conditions of various financial products;
- 9) Whether Federal regulators and the public have access to information sufficient to provide them with assurances that private education loans are provided in accord with the Nation's fair lending laws and that allows public officials to determine lender compliance with fair lending laws; and
- 10) Any statutory or legislative recommendations necessary to improve consumer protections for private education loan borrowers and to better enable Federal regulators and the public to ascertain private educational lender compliance with fair lending laws.

## **Questions**

CFPB has asked the following specific questions regarding private student lending as part of its request for comment in order to collect information for its report to Congress (which are reprinted here verbatim):

### *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.)?
- 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?

### *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?

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<sup>3</sup> Currently, "cohort default rate" generally means "the percentage of those current and former students who enter repayment . . . [and] default before the end of the second fiscal year following the fiscal year in which the students entered repayment." 20 U.S.C. § 1085(m).

- a. 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.
- 4) 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?

#### *Institutional Loans*

- 5) 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.)?
- 6) 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?

#### *Repayment*

- 7) 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.
- 8) 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.
- 9) 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?

- 10) 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.)?
- 11) 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?
  - 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?
  - c. Are there techniques that private education lenders should try to help reduce default?
  - d. Have private lenders developed rehabilitation programs for defaulted loans?