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NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS
★ FROM THE OFFICE OF THE PRESIDENT ★

NACUBO

1/17/2012

The Honorable Richard Cordray
Director, Consumer Financial Protection Bureau
1500 Pennsylvania Ave, NW
Washington, DC 20220

Dear Mr. Cordray,

On behalf of the National Association of College and University Business Officers (NACUBO) and the National Association of Student Financial Aid Administrators, we respectfully submit comments on the Consumer Financial Protection Bureau's Request for Information Regarding Private Loans and Private Educational Lenders (FR Doc No: 2011-29737).

We appreciate the opportunity to comment on this very important issue, and we hope to stay engaged on the CFPB's work on this topic in the future. Please do not hesitate to contact us if you have any questions.

Regards,

Justin Draeger
NASFAA President & CEO

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Opening Doors of Educational Opportunity

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About NASFAA
The National Association of Student Financial Aid Administrators (NASFAA) supports the training, diversity, and professional development of financial aid administrators; advocates for public policies and programs that increase student access to and success in postsecondary education; and serves as a forum for communication and collaboration on student financial aid issues.

About NACUBO
The National Association of College and University Business Officers (NACUBO) promotes sound fiscal and administrative management at our nation's public and nonprofit colleges and universities.

Request for Information Regarding Private Loans & Private Educational Lenders

Scope and Use of Private Education Loans

In order to finance their college education, many students and families turn to private student loans. Unlike federal student loans, which are issued directly from the government, private student loans are provided by lenders that operate independently from the federal government. Whereas the terms and conditions of federal student loans are determined by law, the terms and conditions of private student loans are determined primarily by the loan providers. In most cases, private student loans do not offer the same quality of borrower protections as federal student loans.

The private student loan market grew significantly in the past ten years, with the percentage of undergraduate students receiving a private student loan increasing 9 percentage points from 2003-04 to 2007-08, according to the U.S. Department of Education (2011). The growth in actual dollars during that time went from $5.1 billion to $22.1 billion, according to The College Board (2011). However, the use of private student loans has decreased in recent years, primarily due to tighter credit standards.

Students and families turn to private student loans for a variety of reasons. In some instances private loans are used to fill remaining need after federal grant and loan limits have been exhausted. In other cases, students choose to use private loans to finance their entire education, without using any federal loans. NASFAA and NACUBO find the latter scenario to be problematic, as federal loans provide valuable consumer protections, including fixed interest rates and flexible repayment options.

In limited situations, private student loans may be less expensive than federal student loans. Beginning July 1, 2012, federal subsidized student loan interest rates will increase to 6.8 percent—a rate higher than some private loans. While private loan interest rates may seem more appealing, consumers must keep in mind that a private student loan's advertised interest rate is not always the interest rate a student receives and that federal loans generally offer more generous repayment terms and benefits than private loans, such as income based repayment and loan forgiveness.

We believe it is essential that consumers be fully aware of the terms and conditions of private student loans—including how they compare to federal student loans—before signing on the dotted line. We are supportive of efforts that educate consumers on the importance of exhausting their federal student loans before turning to private loans.

Information and Shopping for Private Loans

Most often students obtain information about private education loans through the lenders themselves. Lenders proactively target their marketing to college-aged students and families. Students and families may also learn about private student loan options offered by lenders with which they already have a relationship (personal banking, mortgages, car loans, etc.).

Institutions can also provide information on private student loans, through the use of a "Preferred Lender List". Institutions must select lenders based on benefits to student and parent borrowers, such as competitive interest rates, fees, etc. The student, however, is under no obligation to select a lender from the institution's PLL list.

Under current Department of Education rules, having a PLL subjects an institution to:

- Loan disclosure requirements
- Annual disclosures regarding loans offered pursuant to a PLL
- Preferred lender list requirements, including the requirement to publish a PLL, rules for compiling the list, and disclosures about the list
- Private education loan marketing restrictions
- Annual reporting requirements about the preferred lending arrangement
- Preferred lender arrangement code of conduct requirements

Because the PLL requirements are so extensive and time-consuming, many institutions have stopped offering PLLs. Unfortunately for students, schools without PLLs are very careful to avoid giving *any* guidance, lest they find themselves subject to all of the requirements listed above.

School Certification Requirement

Unlike federal student loans, private student loans do not require any institutional certification. Section 155 of the Higher Education Act, as amended, along with Sec. 128(c)(3) of the Truth in Lending Act, require that a lender obtain a self-certification signed by the applicant before disbursing a private education loan. The school is required to provide this form and the required information to complete it to admitted or enrolled students. The school provides information on cost of attendance and estimated financial assistance as part of the form, but direct school "certification of eligibility" to the lender is not required. As a result, institutions continue to have no real way of knowing if a student has taken a private loan. In addition, lack of school certification opens the door to the inclusion of inaccurate information on cost of attendance and estimated financial assistance on the self-certification form.

While this complex self-certification process is a step in the right direction in encouraging students and families to exhaust less costly forms of aid before turning to private loans, we believe that the process is flawed in that it does not establish a direct certification of eligibility by the institution. As such our organizations are heavily in favor of a full private loan certification process, where institutions would certify eligibility for the loan directly to the lender, just as is the case with federal student loans.

The goal of school certification is simple: Assure that borrowers use private education loans only after exhausting less expensive federal, state, and institutional aid. Requiring school certification that confirms students' attendance and loan eligibility—as is currently required on all federal student loans—discourages unnecessary borrowing that could lead to delinquency and default. It also gives financial aid administrators an additional opportunity to counsel students about less expensive forms of financial aid. If students still desire to use private student loans over federal student loans after adequate counseling, school certification is vital to ensure students do not inadvertently displace grants and other forms of gift-aid with private education loans, since federal law requires that total financial aid (including private education loans) not exceed a student's cost of attendance.

School certification is in the interest of all stakeholders involved in private education loans. Most student loan providers also support full school certification on private education loans because they receive school-certified assurance that students are taking on permissible debt levels tied to a specific period of enrollment. All stakeholders—schools, lenders, and most importantly students—stand to benefit from private loan certification.

Targeting TILA Requirements to the Right Loans

In what can only be described as an oversight when the original law was passed, we believe that all federal student loans should be exempt from TILA student lending requirements. Currently, only loans offered under Title IV of the Higher Education Act, as amended, are exempt from private education loan requirements, including disclosures and the self-certification form. Therefore, an institution must comply with these requirements when it offers a student a Health Professions Loan, a Nursing Student Loan, a Loan for Disadvantaged Students, or a Primary Care Loan, which are federal loans authorized under Title VII and VIII of the Public Health Service Act.

A quick glance at the self-certification form shows that subjecting Title VII and VIII loans to these requirements is not logical and actually creates more confusion for borrowers. The disclosures in Section 1 include:

- "You may qualify for free or lower-cost federal, state or institutional student aid in place of, or in addition to, a private education loan. Federal loans with fixed interest rates of 6.8% or less are available to students and families at <u>all</u> income levels. "

- "You are strongly encouraged to discuss the availability of free or lower-cost financial assistance with your school's financial aid office before taking out a private education loan."
- "Taking out a private education loan may reduce your eligibility for free or low-cost federal, state or institutional student financial aid."

Title VII and VIII loans are, in fact, federal loans and they have lower interest rates and better repayment provisions than the Federal Direct Stafford Loan and the Federal Direct PLUS Loan. Requiring private student loan disclosures for Title VII and VIII loans is counter to the purpose of consumer disclosures.

Institutional Loans
Many institutions offer their own private loans to students, often for those who have exhausted their federal student loan eligibility. Very little data exist on private institutional loans. We offer the following observations to provide information requested by the CFPB, and to illustrate the fact that loans from institutions of higher education tend to be very different from private loans from financial institutions whose business is lending and finance. We hope this information informs the CFPB's consideration of appropriate consumer protections based on the source and purpose of a loan.

In their annual *Trends in Student Aid* publication, the College Board, in partnership with NASFAA, collected data on institutional loans and found that institutional loans have grown from about $500 million in 2007-08 to about $720 million in 2010-11.

The College Board goes on to note that institutional loan activity has decreased at public and nonprofit colleges and universities. Although tuition payment plans (which allow students to spread out their payments over the course of the term) and emergency loan programs, which provide small amounts to students to meet immediate, unexpected needs, are quite common, informal polling indicates that only about half of nonprofit and public institutions offer institutional loans to help students meet their cost of attendance. Loan volume at most institutions appears to be quite small, often with fewer than 100 student borrowers each year.

Most institutional loans are awarded as part of a financial aid package to students based on need. As with all loan offers, students have the option of accepting or rejecting the loan. Often such students must meet specific criteria. The following sampling of targeted populations is illustrative:

- Students in specific programs, especially graduate and professional programs
- Medical students who commit to service in underserved specialties
- Undergraduate international students
- For some donor-established loan funds, students pursuing certain courses of study, who attended a specific high school, or from a certain heritage

Particularly for some targeted loan programs, students may be offered the opportunity to apply for a loan.

Institutional grant aid dwarfs institutional loans—$36 billion compared to $720 million in 2010-11—but institutional loans are nonetheless an important tool to help students fill gaps remaining after other sources of aid are exhausted.

Institutional loan programs offered by public and nonprofit colleges and universities are generally funded through donor gifts and endowed funds, although some rely on institutional operating funds and a few are debt-financed. Terms of institutional loans vary from program to program and school to school. Interest rates range from 0 to 18 percent, with the majority reporting rates comparable to federal loans of 5 – 7 percent. Grace periods and in-school deferments are common, as are 10-year standard repayment periods.

The pattern of lending by for-profit institutions may be different. The College Board notes that the volume of institutional loans offered by for-profit institutions increased in recent years, probably reflecting the tightening of credit availability through other sources.

Conclusion

NASFAA and NACUBO would like to thank the CFPB for the opportunity to comment on the important issue of private student loans. We look forward to working with the CFPB in the future, and welcome the opportunity to engage further on this issue.

References

College Board. (2011). Trends in Student Aid 2011. https://trends.collegeboard.org/downloads/Student_Aid_2011.pdf

U.S. Department of Education. (2011). Stats in Brief: The Expansion of Private Loans in Postsecondary Education. https://nces.ed.gov/pubs2012/2012184.pdf.