The Torch

August 3, 2012

A bi-weekly report from the Coalition of Higher Education Assistance Organizations

COHEAO News

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  COHEAO has finally decided to take the plunge and join the world of Twitter and we are encouraging all members to follow us @COHEAO.
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  In a notice in the *Federal Register* this week, the CFPB's Office of Financial Education (OFE) indicated it is seeking public comment on "effective financial education approaches that create opportunities for consumers to improve their financial decision making capabilities."
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Industry News

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  The release of the CFPB report and subsequent Senate Subcommittee hearing prompted some media coverage, including editorials in the *New York Times* and *Wall Street Journal*.
- **Report Examines Student Loan Borrowers with $100,000 Debts**
  Mark Kantrowitz, publisher of *Finaid.org*, released a paper this week on students with debts greater than $100,000.
- **NCLC Releases Report on Defaults—A Five Question Survey of 40 NCLC Clients**
  The National Consumer Law Center (NCLC) released a report this week, "The Student Loan Default Trap." The report was based on a five question survey of 40 NCLC clients who had defaulted on student loans.

Attachments

- **COHEAO Commercial Members**
- **Board of Directors**
- **Special Attachment: Senate Subcommittee Hearing on Private Student Loans**
- **COHEAO Webinar Recording Flyer**
- **The COHEAO Achievement Program (CAP)**

COHEAO News

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The COHEAO Mid-Year Conference was held in Cleveland this week. Conference delegates gathered in the birthplace of rock and roll (and home to the Rock and Roll Hall of Fame) for three days of informative conference programming as well as several engaging meetings of COHEAO Task Forces and Committees.

Rohit Chopra, Student Loan Ombudsman at the CFPB, provided the luncheon address and provided attendees with an update on the activities of the Bureau, including the intake of student loan complaints, the financial aid "shopping sheet," and the recently released private student loan report. Gail McLarnon of the US Department of Education discussed the recently approved Perkins Loan regulations, plans for additional negotiated rulemaking on fraud, debit cards, and streamlining regulations in the campus-based aid programs, in addition to other current activities in the Department.

In addition to these updates from Washington (along with insights from COHEAO Executive Director Harrison Wadsworth), the 2012 COHEAO Mid-Year also offered presentations and discussions on topics relating to day-to-day operations. These sessions included a discussion of a single sign-on point for student loan servicing, default management, creating a culture of compliance, and in-depth review from the Department of Education's Office of Inspector General (OIG) on Title IV fraud.

COHEAO would like to thank all of the conference attendees for their participation. We also realize that travel and budget restrictions may preclude many of you from attending this conference, so we will likely be offering many of our most popular sessions via webinar. Be sure to check back with www.coheao.org for details.

The task force meetings at this year's conference seemed especially productive and we thank everyone involved with those meetings, particularly the task force chairs. If you are interested in becoming a part of COHEAO task force and learning more about their activities, please contact the task force chairs or Wes Huffman (whuffman@wpllc.net).

Perkins Task Force
Nancy Paris, Chair
ACS
nancy.paris@acs-inc.com

Financial Literacy Task Force
Carl Perry, Chair
Progressive Financial Services
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STAR: Student Tuition & Accounts Receivable
Laurie Beets, Chair
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COHEAO Commerical Members Committee
Karen Reddick, Chair
National Credit Management
kreddick@ncmstl.com

The CFPB Working Group
David Stocker, Chair
Account Control Technology
dstocker@accountcontrol.com

Agenda Committee
Lori Hartung, Chair
Todd, Bremer, and Lawson, Inc.
lori.hartung@tbandl.com

Conference presentations are also now available on the web. For more information, including copies of session handouts, please visit: http://www.coheao.com/conference-events/past-events/2012-annual-conference-2/

COHEAO Joins the "Twittersphere," Follow Us Today!

COHEAO has finally decided to take the plunge and join the world of Twitter and we are encouraging all members to follow us @COHEAO.

We will be using our Twitter feed to provide news updates and our thoughts on the day's news. We also intend to eventually use this as a tool in our advocacy efforts. In addition to news and comment on student finance issues, we will also use the COHEAO Twitter feed for news regarding our organization. An excellent example is this tweet of Jackie Ito-Woo receiving an award from COHEAO President Bob Perrin: https://twitter.com/COHEAO/status/229975633474760706/photo/1

For the latest on anything and everything related to student loans and student financial services (and sometimes even matters that are not), follow us @COHEAO.

Special Attachments: COHEAO Webinar Recordings & The COHEAO Achievement Program (CAP)

You'll notice a couple of COHEAO flyers attached with today's edition of *The Torch*. One is a flyer for archived recordings of COHEAO webinars and another is a one-pager on the COHEAO Achievement Program (CAP).

Archived webinar recordings are available for purchase. Please take a look at the list and if you see a topic of interest, please don't hesitate to contact Wes (whuffman@wpllc.net) on purchasing the recording.

With the completion of the COHEAO Mid-Year, the CAP program is really beginning to hit its stride. We will be providing more information on CAP certification progress in *The Torch* later this month, but we wanted to highlight the key elements of the program with today's edition.

The Congress

Leadership Agrees to CR for First Half of FY2013

On Tuesday, Senate Majority Leader Harry Reid (D-NV) and House Speaker John Boehner (R-OH) announced intentions to pass a six month continuing resolution—or "CR"—that will fund the federal government at the level of $1.047 trillion—or the spending limit set for FY2013 in the *Budget Control Act.*

On its face, the deal struck by Leadership in the House and Senate this week related to federal spending for the next fiscal year seems to be evidence of a willingness to work together. Look a little deeper, however, and it is clear that politics played a large role in the negotiations that yielded an agreement to vote on a spending measure in September. The move will take the pressure off of the current Congress to make hard spending decisions. While agreeing to that spending level—too high for conservative Republicans, and too low for supporters of larger investments in domestic programs—is rare evidence of an ability to work across the aisle and the Capitol, no other details of the deal have been announced. It seems that the split between spending on defense programs and non-defense programs has yet to be defined, let alone amounts for the other spending subcommittees.

Observers suggest that a CR at $1.047 trillion will be complicated for those charged with writing it and the countless advocacy communities that will be trying to influence it. Usually, such temporary spending bills simply fund programs at the previous year's level. For FY 2012, that level is $1.043 trillion, meaning that the new package will have an extra $4 billion to spend among programs. The new CR might spell out which programs get extra money, or it could list funding levels, program by program, with some programs perhaps getting less than they do now and the difference showing up in other accounts. Or, all of these tortured predictions could be for nothing and the bill will be a "clean" CR—funding programs at FY 2012 levels.

A clean CR is obviously problematic for restoring Perkins Loan cancellation funding, but COHEAO will be working hard for its inclusion in the final bill. We will likely be reaching out to COHEAO members in key states as the process moves behind the scenes in August and publicly throughout September. Though the odds of this happening seem long at the present time, these efforts will also serve to lay the groundwork for the next time Congress actually passes a regular spending bill as well as HEA reauthorization, which is not too far on the horizon.

With Spending Deal in Works, Tax Extenders Continue to Loom

Though the deal announced by Leadership and the White House avoids the threat of a government shutdown come September 30 (the end of the federal fiscal year), the debate over the extension of numerous tax cuts, predominantly the so-called "Bush Tax Cuts," but others as well, looms over the remainder of the 112th Congress. Below is an update from ACE on the topic:

Some of the tax cuts scheduled to expire on Dec. 31 are of great interest to colleges and universities, students and families. There are currently three proposals in play—one passed by the House, one passed by the full Senate, and one approved yesterday by the Senate Finance Committee. All three measures include some of the following key higher education provisions.

Set to expire on Dec. 31, 2012:

- *The American Opportunity Tax Credit (AOTC),*

- *The expanded Student Loan Interest Deduction (SLID),*
- *Expanded Coverdell Education Savings Accounts (ESAs), and*
- *Employer-Provided Educational Assistance (Sec. 127) benefits.*

Expired on Dec. 31, 2011:

- *The above-the-line deduction for qualified tuition and related expenses,*
- *The Individual Retirement Account (IRA) Charitable Rollover, and*
- *The research and development tax credit.*

The Senate Finance Committee version includes the tax provisions that expired last year, but not the provisions set to expire at the end of this year. We sent a letter Wednesday to the Senate Finance and House Ways and Means committees, urging extensions for ***all*** *of the outstanding higher education provisions.*

However, none of these measures stand any chance of seeing final action until after the November election.

Special Attachment on Senate Subcommittee Hearing on Private Student Loans

The Senate Subcommittee on Financial Institutions and Consumer Credit convened hearing last week, "Private Student Loans: Providing Flexibility and Opportunity to Borrowers." A summary of the hearing, which was designed to highlight the release of the CFPB report on private student loans, is included with today's edition as a special attachment.

Additional information on the hearing, including testimony and an archived webcast, is available online: **http://banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=d31bafb1-22cf-455e-8cd4-2b8121209cec**

Harkin Releases HELP Report on For-Profit Sector

Senator Tom Harkin (D-IA), Chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee, unveiled a report on the findings of the Committee's two-year investigation of the for-profit higher education industry early this week.

Here are the findings of the report identified in a press release from Chairman Harkin:

- ***Staggering investment of tax dollars:*** *Taxpayers are investing more than $30 billion a year into companies that operate for-profit colleges, including 25% of Department of Education student aid funds, 37% of Post-9/11 GI Bill benefits, and 50% of Department of Defense Tuition Assistance funds. Among the 15 publicly traded for-profit college companies, the total of these sources accounts for 86% of revenues.*
- ***Sky-high tuition****: Most for-profit colleges charge higher tuition than community colleges or flagship public universities for comparable programs: on average, B.A. programs cost 19% more than at flagship public universities, Associate programs four times more than at community colleges, and certificate programs cost four times more than at community colleges. Internal documents indicate that for-profit education companies set tuition to satisfy profit goals, and rarely set tuition below available federal student aid. Partially because of these high costs, 96% of for-profit students take out federal and/or private loans to cover the cost and more than one in five will default on those loans within three years.*

- ***Predatory recruiting:*** *Internal documents, interviews with former employees, and GAO undercover recordings demonstrate that many companies train recruiters in tactics of emotional exploitation in order to get prospective students to enroll. Some companies have also been using tactics that mislead prospective students with regard to the cost of the program, the time to complete the program, the completion rates of other students, the success of other students at finding jobs, the transferability of the credit, or the reputation and accreditation of the school. Additionally, the 90-10 rule has made veterans and servicemembers prime targets for these aggressive recruiting tactics.*
- ***Too many students leave with debt, but no degree:*** *The HELP Committee analyzed student data provided by 30 for-profit higher education companies and found that for students who enrolled in 2008-09, more than half withdrew by mid-2010. For Associate degree students, that number was even higher: 64% of 2-year students left with no degree.*
- ***Billions in taxpayer dollars diverted to marketing, executive salaries, and profits:*** *In FY2009, the 30 companies examined devoted 22.4% of all revenues, or $4.1 billion, to marketing, advertising, recruiting and admissions staffing; 19.4%, or $3.6 billion, to profit; and 17.7%, or $3.2 billion, to student instruction. The average CEO salary was $7.3 million in 2009, more than seven times the average salary of large public university presidents, and more than twice the average at non-profit colleges and universities. The amount allocated to marketing and to profit each exceeded the 17.4 % spent on student instruction.*
- ***Gaming the regulatory system to maximize profits:*** *Internal documents show that for-profit education companies use multiple strategies to comply with the letter of the 90/10 rule that both defy the spirit of regulations and lead to policies that are bad for students, including stopping the flow of needed federal student aid to certain campuses before the end of the fiscal year, or raising tuition above available federal aid to create a gap that must be filled by private loans or out-of-pocket cash or credit card payments. In order to keep student default rates under the acceptable threshold for access to federal financial aid, some companies pay vendors and employees to make thousands of calls to former students to "cure" students at risk of default. Documents obtained from four large for-profit schools show that on average, 75% of the students "cured" were placed in forbearance or deferment. While keeping the company eligible for taxpayer dollars, these practices distort default rates, and at least in some cases, these practices delay rather than avert default on balances that continue to accumulate interest.*

Unsurprisingly, Ranking Member Mike Enzi and Committee Republicans disagreed with the findings of the report and their rebuttal points were included in the final document. Chief among the Republicans complaints is the singling out of the proprietary sector.

Steve Gunderson, a former Member of Congress and the current president of APSCU, the trade association of for-profit colleges and universities, issued a strong rebuttal statement as well. It reads, in part:

> *Unfortunately, Senator Harkin's report continues in the tradition of ideology overriding reality. The report twists the facts to fit a narrative, proving that this is nothing more than continued political attacks on private sector colleges and universities. For example, the student loan default statistic mentioned in the report continues to be presented in a misleading fashion that compares students to dollars, not dollars to dollars. Instead of joining the conversation about ways to expand access to postsecondary education, Senator Harkin is attacking schools that are currently providing instruction to 3.8 million students. Today's students already face enough challenges accessing postsecondary education without these sorts of distractions. Instead, let's work together to develop*

partnerships and agree that all higher education institutions need to be held to the same high standards in the best interests of our students and future workforce."

We urge Senator Harkin to get on board for the simple reason that more students - particularly working adults, parents and veterans - are independently selecting to attend our schools because of flexible course scheduling, career-specific instruction and a pathway to employment in high-demand occupations.

The full report, which includes thousands of pages of internal documents, is available online: http://www.gpo.gov/fdsys/browse/committeecong.action?collection=CPRT&committee=health&chamber=senate&congressplus=112&ycord=0

Polis, Bishop, Schwartz Introduce House Version of "Know Before You Owe" Act

Congressman Jared Polis introduced the Know Before You Owe Act, a bill to require school certification of private student loans as well as additional disclosures from schools and lenders related to private student loans. The legislation is cosponsored by Congressman Timothy Bishop of New York and Congresswoman Allyson Schwartz of Pennsylvania.

The Know Before You Owe Act would require private lenders to:

- Certify with the borrower's school that the student is enrolled and the amount the student is eligible to borrow before issuing a private loan.
- Provide the borrower with quarterly updates on their loans, including accrued but unpaid interest and capitalized interest.
- Report information to the Consumer Financial Protection Bureau about their student loans.

This bill would require institutions of higher education to inform students on:

- Their federal financial aid availability and eligibility;
- Their ability to select a private lender of their choice;
- The impact of a private loan on their eligibility for other forms of financial aid;
- Their right to accept, reject or cancel a private loan as allowed under current law; and
- The terms and conditions of federal and private student loans.

Polis' legislation is the House companion to a Senate bill from Sens. Dick Durbin (D-IL) and Tom Harkin (D-IA), S. 2280. Neither is expected to pass this year, but are further signs of Congress' interest in consumer information in higher education.

Additional information from Rep. Polis office is available online: http://polis.house.gov/News/DocumentSingle.aspx?DocumentID=305399

GAO Calls for Improved Tax Information, More Evaluative Research on Impact of Student Aid

The GAO issued a study last week, "Improved Tax Information Could Help Pay for College." The report notes there are more recipients of higher education related tax benefits than student aid recipients. It also offers the following online as highlights of the report:

We found that multiple Title IV programs and tax expenditures provided substantial aid to populations across income levels. In 2009, 12.8 million students received Title IV aid, and approximately 18 million tax filers claimed a higher education tax benefit for current expenses. The number of students receiving Title IV aid increased from 10.4 million to 12.8 million, or 23 percent, from 2006 to 2009. The number of tax filers benefiting from an education tax expenditure was larger, and increased from 14.4 million to 18 million, or 25 percent, from 2006 to 2009. Recent increases in both Title IV aid and tax expenditures from 2008 to 2009 may be because of enrollment increases and legislative actions, among other factors. Title IV grants tend to benefit students and families with incomes below the national median (about $52,000 from 2006 to 2010), while loans and work-study serve these students as well as students at family incomes above the median. Most tax benefits from the tuition and fees deduction and the parental exemption for dependent students went to families with incomes above $60,000, whereas the majority of benefits from the other higher education tax expenditures in our review—such as the American Opportunity Credit—went to families with lower incomes.

In our analysis of 2009 IRS data for selected returns with information on education expenses, we found that tax filers do not always choose tax expenditures that maximize their potential tax benefits. We found about 14 percent of filers (1.5 million of almost 11 million eligible returns) failed to claim a credit or deduction for which they appear eligible. On average, these filers lost a tax benefit of $466. We estimate that the total amount of tax benefits filers did not claim was approximately $726 million in 2009. We found no cases where filers' combined state and federal tax liability would have been higher if they had claimed one of those benefits on their federal return. Taxpayers might not maximize their tax benefits because they are unaware of their eligibility for the provisions or confused about their use. IRS and Education have taken steps to provide information on these provisions, but the number of filers failing to claim a higher education tax provision suggests more could be done. For example, IRS stated that it coordinated with tax preparation software providers to provide links to relevant higher education forms, while Education's Federal Student Aid website provides a link to IRS's "Publication 970, Tax Benefits for Education." Developing a coordinated, comprehensive strategy to better inform eligible students could improve take-up of these tax provisions.

We also found that despite Education's research efforts, evaluative research on the effects of federal assistance for higher education on student outcomes—such as the likelihood students will complete their education—remains limited. Researchers have examined the effects of federal assistance on a limited basis, such as only for certain states or groups of students, but these studies provide an incomplete view of the effects of federal assistance. Education's efforts to sponsor and undertake research represent an important step, but research available at present still lacks evaluative information on the effects of federal grants, loans, and work-study. Continuing gaps in research on the effectiveness of federal assistance may be due, in part, to data and methodological challenges that have proved difficult to overcome. Recent changes in Title IV aid and tax expenditures—such as the introduction of the American Opportunity Credit in 2009—may provide opportunities for evaluative research, but Education officials told us they have not conducted such research due in part to the level of resources Education officials told us they devote to such research. In an environment of constrained budgets, evaluative research can help inform policy decisions.

Additional information on the report is available online: **http://www.gao.gov/products/GAO-12-863T**

The White House, The Administration & The Campaign

CFPB Seeks Info on Financial Education

In a notice in the *Federal Register* this week, the CFPB's Office of Financial Education (OFE) indicated it is seeking public comment on "effective financial education approaches that create opportunities for consumers to improve their financial decision making capabilities." Comments are due by October 31 and the COHEAO Financial Literacy Task Force will be considering a possible response. Below is an excerpt from the *Register* notice:

OFE is interested in promoting innovation to assist consumers in solving common, discrete financial decision-making problems where behavioral approaches could be valuable. Some of these common financial decisions could be facilitated by a number of approaches that specifically address the behavioral impediments to progress. The questions listed below reflect one or more of the areas mentioned above. Please feel free to respond to any or all of the questions below and please be sure to indicate in your comments on which questions you are commenting. Comments could include, where appropriate, specific examples or related research and/or program evaluation that illustrate your comments.

1. *In your experience, what are consumers' most common financial decision-making challenges?*
2. *Is there a common set (or lack) of habits, attitudes, or practices, and if so, what are they?*
3. *What are the major challenges in providing financial education that would help adult consumers address the issues identified in questions 1 and 2, and that would lead to good financial outcomes for recipients?*
4. *Given the five core areas (earning, spending, saving and investing, borrowing, and protecting) identified by the Financial Literacy and Education Commission in 2010, what skills are most helpful for building capability in the areas of spending, savings and borrowing? What information on these and other topics should the CFPB further develop and disseminate?*

The full *Federal Register* notice is available online: http://www.gpo.gov/fdsys/pkg/FR-2012-08-02/html/2012-18830.htm

ED and CFPB Release "Shopping Sheet," Duncan Expects "Little Resistance"

In addition to the joint report on private student loans, the Department of Education and CFPB released a final version of the "shopping sheet" last week. A report from *Inside Higher Ed's* "Quick Takes" is below:

> *The Education Department and the Consumer Financial Protection Bureau on Monday released their **standardized "shopping sheet,"** a financial aid award letter they'd like all colleges to adopt. While standardizing award letters **remains controversial** with many colleges, 10 college presidents and state system heads have already agreed to use the department's model, which includes the cost of attendance (broken down into tuition and fees, housing and meals, books and supplies, transportation and other costs); state, federal and institutional grants and scholarships; the net price after scholarships; and loan options. It also includes the college's six-year graduation rate and default, and the average monthly payment for a typical student who takes out loans.*
>
> *In a conference call with reporters Monday, Education Secretary Arne Duncan said he believes peer pressure -- and pressure from students and their parents -- will cause other institutions to follow*

suit. "There's tremendous interest in this," Duncan said. "We'll move this as far as we can on a voluntary basis, but we're not anticipating a huge amount of resistance."

The *Inside Higher Ed* article is available online:
http://www.insidehighered.com/quicktakes/2012/07/24/education-department-unveils-shopping-sheet#ixzz21Xv198BK

3100+ Schools Sign-on for "Principles of Excellence" Exec Order

Though the "Principles of Excellence" executive order may remain a source of heartburn for many campus administrators, ultimately over 3,100 schools decided to sign on to participate. NASFAA is reporting that 3,131 schools signed on in the end. Here is a description from the Department of Veterans Affairs official GI Bill website:

> The Principles of Excellence are guidelines for educational institutions receiving Federal funding. Schools that agree to participate will:
>
> - Provide students with a personalized form covering the total cost of an education program.
> - Provide educational plans for all Military and Veteran education beneficiaries.
> - End fraudulent and aggressive recruiting techniques and misrepresentation.
> - Provide accommodations for Service Members and Reservists absent due to service requirements.
> - Designate a Point of Contact for academic and financial advising.
> - Ensure accreditation of all new programs prior to enrolling students.
> - Align institutional refund policies with those under Title IV.

Industry News

Dueling Editorials from the NYT & WSJ on Private Student Loans

The release of the CFPB report and subsequent Senate Subcommittee hearing prompted some media coverage, including editorials in the *New York Times* and *Wall Street Journal*.

- The *Journal* editorial, "You Don't Owe That," is available online: **http://online.wsj.com/article/SB10000872396390444330904577539263257191398.html?KEYWORDS=student+loans**
- The *Times* editorial, "Better Disclosure for Private Student Loans," is available online: **http://www.nytimes.com/2012/07/26/opinion/better-disclosure-for-private-loans.html**

Report Examines Student Loan Borrowers with $100,000 Debts

Mark Kantrowitz, publisher of *Finaid.org*, released a paper this week on students with debts greater than $100,000 . The highlight of the report is that less than 1.5 percent of all students carry such debt loads. Here are the other key findings identified in the report:

- *Overall, 1.5% of all undergraduate and graduate students graduated with six-figure student loan debt in 2007-08, involving 0.2% of undergraduate students and 6.4% of graduate students. More than 95% of the undergraduate students were Bachelor's degree recipients. Six-figure student loan debt is more common among graduate students. 2.6% of Master's degree recipients, 9.7%*

of doctoral degree recipients, 36.2% of law school graduates and 49.0% of medical school graduates graduated with six-figure debt.

- *Among the students graduating with six-figure student loan debt, 10% were undergraduate students and 90% were graduate and professional students.*

- *Less than half of dependent undergraduate students who graduate with six-figure student loan debt do so because their parents are unable or unwilling to borrow from the Parent PLUS loan program. Some parents even borrowed $100,000 or more in Parent PLUS loans.*

- *Students graduating from more expensive colleges are more likely to graduate with six-figure student loan debt.*

- *More than half of undergraduate students who graduate with six-figure student loan debt attended the most selective colleges and universities.*

- *Nearly three-quarters (72%) of undergraduate students graduating with six-figure student loan debt graduated from non-profit colleges, even though non-profit colleges represent only 17% of total undergraduate student enrollment. A quarter (24%) of undergraduate students with six-figure student loan debt graduated from public colleges and 3% from for-profit colleges.*

- *Undergraduate students for whom the ratio of net price to total family income is 18% or more are four times more likely to graduate with six-figure student loan debt.*

- *Undergraduate students majoring in theology, architecture and history are more likely to graduate with six-figure student loan debt and undergraduate students majoring in computer science, mathematics and health care are less likely to graduate with six-figure student loan debt.*

- *High-income students are more likely to graduate with six-figure student loan debt and low-income students are less likely to graduate with six-figure student loan debt than students from middle-income families.*

- *Students who borrow from private student loan programs are more likely to graduate with six-figure student loan debt.*

The full report is available online: http://www.finaid.org/educators/20120801sixfiguredebt.pdf

NCLC Releases Report on Defaults—A Five Question Survey of 40 NCLC Clients

The National Consumer Law Center (NCLC) released a report this week, "The Student Loan Default Trap." The report was based on a five question survey of 40 NCLC clients who had defaulted on student loans.

Of particular note, 47 percent of the defaulted borrower respondents (19 people) indicated they did not believe they should have to pay the debt. Another 10 percent (four respondents) responded "yes and no" to this question. Below is a sample of the responses as to why the borrower should not have to repay the loan:

- *"Not working in the field, no placement services. No one I know from the school is working. Went through the phonebook A to Z and wasn't able to get a job with their degree."*
- *"Credits are worthless, I was deceived. I did not get a job or internship. For the amount of money of the debt, the degree is nonexistent. I can't do anything with it."*
- *"The school never helped me get a job, and they never gave me any certificate . . . the school had already got their money. I don't know why they charged me twice. The Department of Education also took so much money from me to pay the loan that they paid themselves over and over again. I never got a job in the field."*
- *"Because when I went to the school I felt like they didn't provide enough education for what I paid for or what I took out the loan for. They made so many promises while you're in school and after for helping you and they never did. The credit you're supposed to earn, it's not enough for you to get a job in the real world."*
- *"Because the location closed down so there was no more school."*
- *"Because I didn't gain anything from it. I didn't even go to school for that long, maybe a month, and it wasn't worth anything. They also took triple the amount that I owed."*

The report also offered some policy recommendations, arguing current collection and loan rehabilitation policies are "draconian." Below is the section on creating a "more efficient and equitable collection system":

> ***A. Eliminate private collection agencies from the dispute resolution role***
> *Dispute resolution is obviously not the primary mission of loan collection agencies. Debt collectors are not adequately trained to understand and administer the complex borrower rights available under the Higher Education Act, and the government does not provide sufficient oversight of their activities. There are certainly times when a borrower is uncooperative or has exhausted all options. In those cases, the loan holder may have no choice but to focus on collection efforts. Yet there are many borrowers who want to find a solution, but are stymied because they cannot get past the rude, harassing, and often abusive behavior of a collection agent.*
>
> *Until such time as the government identifies viable alternatives to private collection agencies, we call on the Administration to issue a moratorium on using private collection agencies for student loan dispute resolution. Specifically, the government should ©2012 National Consumer Law Center www.nclc.org The Student Loan Default Trap 5 33 bring all accounts in-house for borrowers that are already subject to extreme collection programs such as Social Security offset. These will limit the costs of pursuing borrowers with little or no resources. In addition, if a borrower informs a collection agency that he believes he has a defense to the debt, that the amount is wrong, or that he wants to request a hardship waiver, the file should be immediately brought in-house.*
>
> ***B. Collection charges should be limited to only those fees that are bona fide and reasonable and actually incurred***
> *The amount of fees to be charged must be clearly written in the promissory note. In no event should fees be added to the principal, a standard practice known as capitalization, which balloons loan balances and makes it even harder for borrowers to make a dent in their debts. Reasonable collection fees should be charged only when actual costs are incurred and in no case should fees be charged for government offsets or wage*

garnishments.

C. Require loan holders to provide information to borrowers about all post-default options and evaluate collectors based on borrower service

D. Eliminate the current incentive commission system that leads collectors and loan holders to withhold important information to borrowers and pursue their own profits rather than borrower needs

This includes the elimination of financial incentives to collectors for:

- *Pushing rehabilitation generally and for rehabilitation programs with higher payment*
- *amounts.*
- *Pushing more monthly payments prior to dispute resolution than are required by law.*
- *Discouraging borrowers from pursuing consolidation or other options on their own.*

E. The Department must stop delegating inherently governmental functions, such as conducting fair hearings, to third party debt collectors

There is an inherent conflict of interest in allowing collection agency officials to conduct and make hearing decisions. The hearing judges must be neutral and independent.

F. The Department and its agents should make publicly available the process for handling complaints against collection agencies and any disciplinary actions taken against those agencies

The Department and other loan holders often excuse examples of bad behavior as "anecdotal" and point to low volumes of borrower complaints. This excuse does not take into account the lack of a clear borrower-friendly complaint process. The Department's website and other materials should give clear information about how to lodge complaints about collection agencies.

The recommendations did garner a mild bit of attention in the media, but it is difficult to see how a sample of 40 borrowers will drive any policy discussion.

The full report is available online: http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/student-loan-default-trap-report.pdf

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To: COHEAO Board of Directors

From: Harrison Wadsworth

Date: July 24, 2012

Re: Report on the Hearing, "Private Student Loans: Providing Flexibility and Opportunity for Borrowers?" before the Senate Banking Committee, Subcommittee on Financial Institutions and Consumer Protection

The hearing took place this afternoon, lasting a little less than two hours. Sen. Sherrod Brown (D-OH) chaired the entire hearing. Ranking Republican Bob Corker (R-TN) was there throughout. Other senators present for at least part of the hearing were Democrats Jack Reed (RI), Daniel Akaka (HI), Kay Hagan (NC) and Robert Menendez (NJ). The witnesses are below, with links to their written testimony. They all gave abbreviated oral versions of what was submitted.

- **Mr. Rohit Chopra** [view testimony]
  Student Loan Ombudsman
  Consumer Financial Protection Bureau
- **Ms. Deanne Loonin** [view testimony]
  Attorney and Director of Student Loan Borrower Assistance Project
  National Consumer Law Center
- **Ms. Jen Mishory** [view testimony]
  Deputy Director
  Young Invincibles
- **Mr. Jack Remondi** [view testimony]
  President and COO
  Sallie Mae

Summary

The hearing was not as contentious as was expected and there were not many shots taken at private loan lenders of today. In fact, the theme from all the three consumer-advocacy witnesses was that today's private loan practices are greatly improved from 2005-07, and are not "predatory" or otherwise bad for students. However, they all also said that there were predatory practices during the 2005-07 period and called for measures to help borrowers from that time who are struggling to reduce their loans. Corker, the only Republican who attended, stressed that the hearing and the CFPB should be focusing on federal student loans as the far larger debt problem. He also said federal mandates on states like Medicaid reduce support for higher education on the state level.

Chopra indicated that he was hopeful that the CFPB could work with prudential regulators to improve the ability of lenders to offer workout plans to borrowers and increased forbearance. He also said that the CFPB wanted more of a market to develop for refinancing private student loans like is available for mortgage refinancing.

Details of the Hearing:

Sen. Brown read an opening statement in which he said that thousands of borrowers are saddled with debt without options. He said we should explore ways to provide borrowers with short term relief options. Long term, he hopes more information will be provided on private loans. He related an anecdote about a former staffer in the Peace Corps who had trouble getting a loan deferment and who is struggling with paying her interest so that her loan balance continues to grow.

Sen. Corker delivered an opening statement where he said that 7 percent of student loans are private loans while the rest are backed by the taxpayer. He said the problem is the cost of college. On one hand the government wants to solve the problem but on the other hand it mandates things like Medicaid to the states, which forces them to take money away from education. He is not convinced the "government takeover of student loans" has benefited everyone.

Sen. Akaka read a statement calling for more information for consumers.

Brown: in response to Corker, said we don't have jurisdiction over federal loans but he is willing to work on the "whole issue of student loan debt."

Rohit Chopra provided a summary of his written testimony in which he said: growing college costs, declining wages and job uncertainty have led to more debt. Like with mortgages, lax lending practices are much less common today. Loans are cosigned and carefully underwritten. But private loans often lack repayment flexibility. IBR doesn't impact private student loans. The CFPB hopes to continue our work with other agencies to facilitate repayment flexibility and remove roadblocks.

Borrowers need a refinancing option. High student loan debt hurts the housing market and leads to lower retirement contributions. Many borrowers can't secure adequate credit to manage their debt burden.

Brown question: the average interest rate on student loans is 7.8 percent while interest rates are very low. Why?

Chopra: a student's credit profile can change over time. Their credit improves as they progress through college, but without a refinancing product a lender can't appropriately allocate risk. Historically, the student loan refinancing market developed as a consolidation loan market, via FFELP. The lack of such a market for private loans today is partially due to capital market conditions. "We don't see many lenders competing to find borrowers who want to refinance."

Brown: is there a role for the Fed in providing relief for loan borrowers?

Chopra: All regulators have a role to ensure that the market is functioning well – pricing could be more fair and more connected to risk. The market may not be liquid enough to appropriately price a borrower's risk and reduce their payments.

Corker: Do you advocate forgiveness in bankruptcy?

Chopra: no, not exactly. We did not see price decreases after loans were made nondischargeable in 2005. Changes that did take place seemed due to the capital markets. We asked Congress to take another look at bankruptcy.

Corker: so one of first actions of the CFPB was to try to get Congress to let consumers file bankruptcy on the 7 percent of loans made by the private sector. On private loans the prudential regulators restrict what lenders can do for borrowers.

Chopra: We have been working with lenders to identify where there can be win win situations for borrowers and lenders. Lenders say have been constrained by guidance from prudential regulators. We think this can be improved without affecting safety and soundness.

Corker: it's "fascinating" private lenders are not given the flexibility to work with borrowers. It's also fascinating you are not advocating on the public side that students be permitted to file for bankruptcy. This is an example of why we had concerns about separating the CFPB from the prudential regulators when the CFPB was created.

Chopra: IBR is like a Chapter 13 bankruptcy in that it permits restructuring without declaring bankruptcy. The CFPB is working well with the prudential regulators.

Jack Reed: could your insights be assigned to the public sector also?

Chopra: yes they could. We are looking at this as a whole. One of our first actions was to work with the Department of Education on shopping sheet for borrowers.

Reed noted that there are cost increases at private institutions that could not be caused by state spending on Medicaid. Chopra replied that he didn't have much insight on college costs.

Reed: are they prepayment penalties on private loans?

Chopra: TILA bans prepayment penalties for private student loans. One would have thought this would lead to a healthy refinancing market but that hasn't happened.

Reed: is there a correlation between schools and private student loans? Are some schools steering students to private loans?

Chopra. In 2007 state AGs identified certain "unsavory relationships" between lenders and schools but the 2008 HEOA stopped that. We would like more engagement between schools and lenders. The only area with risk is certain lending arrangements between schools in the for-profit sector designed to comply with HEA provisions. (He was apparently referring to the use of institutional loans to comply with the 90-10 rule.)

Akaka: predatory lending practices led to students taking out too much debt. You also say students should take out more loans to avoid excessive credit card debt. What is the appropriate role of PSLs?

Chopra: PSLs are a safer bet than credit cards, for example. We do see a role but think the PSL market should be more transparent which is why we use the shopping sheet.

Akaka: private loans meant to supplement federal loans. How is CFPB helping students who are unable to access reasonable student loans?

Chopra: we called for PSLs to be certified by financial aid offices.

Hagar noted she is also on the HELP Committee and expressed interest in for-profit schools' institutional loans. Many of these loans have interest rates as high as 18 percent. One has a rate of 15 percent but a default rate of 80 percent. Another has an interest rate of 18 percent with default rate of 50 percent. This seems to indicate there is not interest in repayment on the part of the school. Are there plans to further look at loans made by for profit institutions?

Chopra: these are issues looked at in the past. One was the concept of skin in the game – lenders shared risk (apparently referring to FFELP risk sharing). Another idea is to consider a borrower's ability to repay like is now done with mortgages. We will look at the 90-10 rule and the use of GI Bill funds at for-profit institutions as well.

Chopra: most lenders are requiring schools to certify loans, an underwriting principle not observed before the financial crisis when capital market conditions made it so that was not the case.

Menendez: what is stopping changes to loans. How can we create market competition (for refinancing)?

Chopra: disclosures help. But there isn't opportunity to refinance.

Menendez: as someone who advocated allowing mortgage borrowers to refinance at lower levels, we should allow refinancing. How do we stimulate competition?

Chopra: we need clearer disclosures that are simpler. This reduces lender costs and is clear to borrowers. Most lenders agree that federal loans should be considered first. And there is broad support for school certification from lenders, schools and consumers.

Corker: My concern is the "hypocrisy" of this (report and hearing). The government makes loans to all comers at 3.4 percent interest, regardless of credit status with no payments made for four years. What we are really doing is piling up debt down the road that these students will have to pay off. (Asking rhetorically) Is there any way the federal government can come out to the good?

Chopra: interest rates set by Congress are not our issue. I don't know the answer to the question.

<u>Panel Two:</u>
Deanne Loonin read an excerpt from her lengthy statement. The private loan market was like the subprime predatory mortgage market during the pre-2008 period. Interest rates were up to 20 percent with high origination fees. Fortunately the market has changed. We don't see those third party subprime loans any more. There are more responsible lending practices going on now and we are heartened to see that. Even if the private loan market is smaller, that is better for our clients if they aren't borrowing unnecessarily.

Also, we need to provide relief for borrowers harmed by predatory loans made prior to 2008. Lenders have moved on for the most part but the borrowers haven't. There is little flexibility by lenders, and any relief is usually short term. We understand that there are problems with prudential regulators. That is what we hear but we don't know. If it is the case we want to learn more about it. There needs to be affordable modifications and principal reductions, plus standardized policies on cancellation in extreme situations like death and disability.

Jennifer Mishori read an excerpt from her prepared statement. She referred to a survey Young Invincibles conducted and research from a bus tour around the country that was recently completed.

The survey found that students reported they are not well informed. Two thirds of students in the survey said they didn't understand the differences between federal and private loans. More information should be made available. School certification of private loans should be required. Marketing material should include all repayment terms earlier in the process.

Jack Remondi read his prepared statement. He said private loans are not for everyone and are not meant to replace federal aid and originally were called supplemental loans for that reason. Today the vast majority of new loans have co-signers. Sallie Mae offers a number of borrower protections but the best protection is careful underwriting. Know before you go. Pick the right school, prepare a financial plan that covers the entire cost of education, and graduate. Sallie Mae offers a side by side choice of rates, sends multiple disclosures, encourages rate shopping, explains borrowers' right to cancel. Customers receive monthly statements.

Of private education loan borrowers, 98 percent filled out the FAFSA. Just 3 percent borrowed only private loans. Sallie Mae advocates school certification and requires it before we will disburse a loan. We encourage payments in school. Ninety percent of loans in repayment are current and chargeoffs dropped from a high of 6 percent to 3 percent this year. We work with borrowers to offer various flexible payment plans.

SLM supports bankruptcy reform that requires a period of good faith payment that is prospective and is for federal and non-federal loans alike. FCRA does not allow for a second chance to rehabilitate private student loans. We recommend that Congress consider changing this.

Questions from Senators:

Brown: Loonin said predators have moved on, but borrowers cannot. Chopra talked about the need for refinancing opportunities. What is available?

Loonin: our clients find very few refinancing options. Clearly it is possible to offer some of these options. What do regulators permit? There is a haphazard offering of options. Same lenders will offer different relief to different borrowers in the same circumstances.

Remondi: these are principally education loans made to families (such as when parents co-sign a loan) so the price is based on the highest credit score of both parent and student. Also, most loans have variable rates. Most refinancing (in other product areas) is done due to a change in the interest rate environment, rarely because of a change in a borrower's credit score. They are already getting low cost loans due to their cosigner's credit score so a change in the student's credit would usually not affect their rate.

Loonin: TILA disclosures were an improvement but borrowers need to get the exact terms of their loans earlier in the process.

Remondi: there are more disclosures on student loans than on any other consumer product. They have lots of time to change or cancel loan. The key is graduation. Failure to graduate is the top reason for defaults in federal and private loans.

Corker: What predatory lending instances are you seeing right now?

Mishory: a lot has improved. We saw in the 2005-07 era a lot of direct to consumer marketing that led to over borrowing. The market improved but we still have the problem of those who borrowed then.

Corker: on federal side we are making loans to all. is it possible that federal loans are going to turn out OK? On the private side they actually have to stay solvent. On the public side we can just make things up and do things that will make us insolvent as a country.

Loonin: loans made during heyday of predatory period were as bad a product as you can imagine.

Corker: Do you have a problem with what Remondi described?

Loonin: I have good relationship with Sallie Mae; a lot of products they have created going forward do show more responsible lending practices.

Remondi: to deal with issues of schools not providing adequate education, good information is helpful but students and families need to consider the total cost of education before starting.

Corker: are we doing this at the federal level?

Remondi: no. The extensive disclosures are not available in the federal loan program because it is exempt from the truth in lending laws.

Akaka: asks about the effect of the problems with LIBOR.

Remondi: the allegation is that rates were set too low so that would have helped borrowers.

There being no more questions, the hearing concluded.

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