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January 17, 2012

Monica Jackson
Office of the Executive Secretary
Consumer Finance Protection Bureau
1500 Pennsylvania Avenue, N.W.
Washington, DC. 20220

Re: Bureau of Consumer Financial Protection Request for Information Regarding Private Education Loans and Private Educational Lenders. Docket No. CFPB-2011-0037.

Dear Ms. Jackson:

As an organization dedicated to promoting and improving campus-based student loan programs and student financial services, the Coalition of Higher Education Assistance Organizations (COHEAO) appreciates the opportunity to offer comments on your request for information on private education loans and private education lenders. COHEAO members address all sorts of issues related to financing for students, including federal student aid, but our comments here focus largely on institutional loan programs offered directly by campuses.

These loans are often low-cost and low-dollar loans, funded and managed by institutions of higher education. They are most often modeled after the Federal Perkins Loan Program, meaning they are revolving loan funds with no upfront loan fees, 5% (and sometimes lower) simple interest with no interest capitalization, either a six- or nine-month grace period, and interest-free deferment periods.

However, despite these loans' attractive consumer features, they are not Title IV loans and, as such, frequently qualify as "private education loans," subject to specific Truth in Lending Act (TILA) regulations. COHEAO believes some of these regulations that were conceived with the loan products made by traditional lenders in mind are inappropriate for institutional loans offered by our members and, in particular, the Department of Health and Human Services (HHS) student loan programs. We look forward to the opportunity to work with the Bureau to create a workable regulatory environment that best serves students and families for these loan programs and products.

Please note we did not answer all of the questions set forth in the November 17 *Federal Register* notice. Instead, we focused on the questions where COHEAO members have the most experience and expertise. Our responses are as follows:

Question #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.)?

A relatively small, but significant, number of students and families rely on each of the forms of debt-financing identified in this question, but COHEAO members most often administer tuition payment plans. Tuition payment plans are a growing element of tuition financing as their increased use is the natural outgrowth of the decline of the overall economy and the tightening of the private loan market. The most recent Sallie Mae/Ipsos "How

America Pays for College" survey indicates 26% of students and families choose an installment payment plan over full payment at the beginning of the term.

Payment plans are valuable tools which allow students and families much more flexibility in financing tuition. Importantly, this payment option is often critical in providing access for students, both traditional and non-traditional, who are working their way through school.

The tuition payment plan helps students and families avoid private student loans and, in some cases, borrowing altogether. Most payment plans do not fall under the TILA Regulation Z student loan specific requirements, as they are short-term and charge only a nominal administrative fee rather than interest or other costs associated with the amount financed. However, in some cases, particularly at public colleges and universities, the administrative fee will differ by the type of student (example: state resident/non-resident), which can trigger certain regulatory requirements for private student loans.

Requiring the TILA disclosures with these payment plan offerings only serves to confuse students and families. In particular, it makes very little sense to remind students of the availability of federal loans when they may be better served by avoiding debt altogether through the use of a payment plan.

Question #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?

Comments:
Before responding to the question, it should be made clear that, in order for students to receive federal student loans, they must file a FAFSA, and most, if not all, schools strongly encourage all domestic students to file a FAFSA in order to take advantage of all federal aid for which they might qualify. Additionally, the institutional loans offered by COHEAO members are generally provided for students who have already exhausted all of their federal options.

In responding to the question, it is presumed that "students who do not exhaust their federal loans options" is in reference to those undergraduate students whose parents do not rely on federal Parent PLUS loans and to graduate/professional degree students who do not borrow federal Grad PLUS loans. With that in mind, there are a variety of reasons why students might turn to private loans.

First, there are several reasons related to the Title IV student loan programs:

- Undergraduate students might have exhausted their Stafford Loan eligibility, and their parents are unwilling to borrow a PLUS loan.

- International students are ineligible for federal loans, so private loans are their only option if financial assistance is needed.

- Some students are ineligible for federal loans, such as male students who failed to register with the Selective Service and are now 26 years or older.

- Although there have been many efforts to simplify the application, some students and families remain intimidated by the FAFSA so they resort to the easier and faster private loan option even when counseled by the school and lenders to pursue federal loans.

Secondly, there are reasons related to consumer preferences or lender marketing efforts, including the following:

- Some students (particularly with a cosigner or graduate students with excellent credit) may qualify for a lower-cost private loan that is more competitive than the parent or grad PLUS loan that charges a 4% origination fee and 7.9% fixed interest rate. With the loss of the Stafford Loan rebates and subsidies for graduate students, there is an expectation that even more of these students will seek private loans in the future.
    - Example: It is not unusual among graduate MBA students who expect to repay their loans within a short timeframe after completing their degree to seek variable rate private student loans, thus capitalizing on the current low-interest-rate market.

- Although the new TILA regulations and credit conditions have greatly curbed direct-to-consumer (DTC) private student loans, there are some students who may receive persuasive marketing material directly from lenders about their private loan offerings.

<u>Question #3:</u>
From what sources do students and their families obtain information about private education loans and private lenders? What sources are most helpful and accurate?

<u>Comments:</u>
There are numerous sources of information for students on private student loans, including the following:

- Family
- Peers/other students
- Schools
- Direct marketing from lenders
- "Google" or other online searches
- Online comparison tools
- General advertisements

In terms of schools, some offer lists of selected lenders, while others offer a generic list of all private loan lenders from whom their students have borrowed over the past few years. Many schools are no longer able to offer any assistance to students in finding a lender due to the burdensome nature of complying with the "preferred lender arrangement" (HEOA) regulations, which leaves many students to their own devices to search for private loans. As there does not exist today a single source of comprehensive, accurate, and comparative private loan information designed solely with the student's best interests and needs in mind, the unintended consequence of largely removing schools from offering counseling on private education loans has been to create a significant void in the information available to students and their parents.

Despite the effort of some schools to provide accurate, comparative information about loans offered by lenders, it is nearly a full-time job keeping the information up to date. Lenders frequently make modifications, such as changing the interest rate spread, and, of course, the index on which the interest rates are based can change as frequently as monthly. Hence, lenders should be the most reliable source of information about the loans they offer, and it does not make sense to require schools that have "preferred lender arrangements" to disclose possibly out-of-date information about the lenders' loan products.

Another piece of comparative information that is lacking in the private loan industry is a means of analyzing loan costs on an apples-to-apples basis. Due to the variations in private loans, annual percentage rates (APR) and finance charges are not particularly useful tools in comparing loan products. The APR for one loan may be based on required in-school repayment, but the student might compare that APR to a private loan that allows a student to defer repayment until after a grace period.

Such fully-deferred loans, however, all allow pre-payments without penalties, so a student could voluntarily make payments while in school, but the APR would not reflect that. Also, some loans have different repayment periods, e.g., seven, 10, 15, or 20 years, yet are all compared by an APR. Again, since the loans do not have prepayment penalties, a 10-year repayment term could be reduced to a seven-year term by making prepayments. A completely different means of comparing loan costs is needed to assist students in better analyzing which of the loans being considered does, in fact, offer the best terms.

<u>Question #3(a)</u>
How effective are the existing disclosures 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.

<u>Comments</u>:
The disclosures currently required for private loans are "undergraduate Title IV centric." The statutory basis for the disclosures was a faulty presumption that student borrowers are all undergraduates, and Title IV loans are the only ones that are "good" for students because all others loans are more costly with less attractive terms. This is, in fact, inaccurate. The world of financial aid is extraordinarily complex—serving a vast cross-section of students, as well as students in different types of academic programs. A one-size-fits-all solution or requirement is not always in the best interest of all students.

The highly subsidized campus-based student loan programs, established under Titles VII and VIII of the Public Health Service Act (with oversight by the U. S. Department of Health and Human Services), have been placed in the "private loan" category under TILA. Some of these loans are more attractive than the subsidized Stafford Loan—with no upfront loan fees, 5% simple interest with no interest capitalization, with either a nine- or twelve-month grace period, and generous interest-free deferment periods that are designed for health profession students. When a student is offered one of these loans, they should be encouraged to accept them—even before a subsidized Stafford Loan. However, the private loan disclosures that these students receive are misleading and potentially guide them into thinking that the HHS Title VII and VIII loans are not the best options.

Similarly, non-federal, campus-based loans that some institutions offer students are also classified as "private loans," despite the fact that many of these types of loans are modeled on the Federal Perkins Loan Program loan terms—no upfront loan fees, 5% (and sometimes lower) simple interest with no interest capitalization, either a six- or nine-month grace period, and interest-free deferment periods. Again, these loans are less costly than even subsidized Stafford Loans (which will rise again to a 6.8% interest rate this year under the College Cost Reduction and Access Act of 2007), yet all the required disclosures imply that the federal loans should be exhausted first.

In addition, some of the required private loan disclosures are inappropriate—for example, disclosures for graduate students include information on Title IV aid that is only available to undergraduates. It makes no sense to disclose undergraduate aid information to a graduate or professional degree student. It just adds confusion.

<u>Question #5:</u>
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.)?

<u>Comments:</u>
This question, particularly the use of the term "solicited," suggests some schools are making a profit on their institutional loans. This is simply not the case for COHEAO member colleges and universities. Institutional loans offered by COHEAO member institutions are nearly always provided once the student has exhausted their low-cost federal loan options. Additionally, the vast majority of these loan programs act as a revolving loan fund, meaning the repayment of existing loans funds the disbursement of loans for future students.

The extent to which institutional loans are offered to students vary greatly by the size, type, resources, and preferences of the institution and, in some cases, its donors. Similarly, institutional loans vary greatly in terms of product features.

However, as noted above, many institutional loan programs are modeled after the Perkins Loan Program—revolving loan funds with no upfront loan fees, 5% (and sometimes lower) simple interest with no interest capitalization, either a six- or nine-month grace period, and interest-free deferment periods. From a consumer standpoint, these loans often offer better pricing and terms than even the Stafford Loan Program, meaning they compare quite favorably to most traditional private education loans.

In terms of underwriting, while COHEAO member colleges and universities are sensitive to the debt loads of their students and work to prevent over borrowing, the use of traditional banking criteria, such as debt-to-income ratios, FICO scores, etc., and risk-based pricing, is largely unheard of for institutional loans. Particularly at traditional universities, these are generally low-cost, low-dollar loans made to students who would otherwise be unable to attend/remain in school.

However, in terms "ease of approval," it is difficult to say whether students are more are less likely to be approved; the process is simply different. In terms of traditional credit scores, it is generally much "easier" to be approved for an institutional loan than one offered from a traditional lender. However, institutional loans are often limited to students displaying financial need or academic merit (see next question), and the application process often involves a trip to a campus office to sign the necessary documentation and receive in-person counseling, so it is difficult to say these loans are "easier" to acquire.

Question #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?

Comments:
In addition to the well-documented efforts of the proprietary sector in this area, nearly all types of four-year colleges—public/private and small/large—offer some form of tuition financing which qualifies as private education lending. In the case of larger programs funded directly by the university, financial need is often the driving factors in determining eligibility for institutional loan programs. Students generally must meet a minimal academic threshold, such as maintaining satisfactory academic progress as defined in the Title IV programs, and display financial need to qualify for these loan programs.

Additionally, there are numerous loan programs funded by individual donors at all types of colleges. These loan programs usually offer generous pricing (5% or lower) and terms, but also include additional requirements and considerations, such as college, major, place of permanent residence, etc., as specified by the donor.

Question #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.

Comments:
With the vast majority of institutional loan programs acting as revolving funds, perhaps even more than the federal loan programs, colleges and universities have a vested interest in ensuring students understand the repayment terms of these loans. As such, schools often go well beyond the disclosures required under TILA Regulation Z when it comes to students understanding repayment.

Entrance and exit counseling is a common feature on the institutional loan programs offered by COHEAO members. This counseling is generally offered in conjunction with entrance and exit counseling for the federal loan programs. Students are sent notices of their repayment obligations throughout the application and disbursement process, during the in-school period, at graduation, and finally, when repayment begins. These communications offer the borrower contact information for someone on campus (or a third-party partner) to discuss the loan.

COHEAO members are often responsible for tuition bills and institutional loan programs, meaning they are in a unique position to help their campus target students who are showing signs of financial difficulty. Often, students will contact COHEAO members on campus to discuss their tuition bill, Perkins Loan, or institutional loan balances and will receive direct counseling related to the repayment of all of their student loans—federal, private, and institutional.

In terms of the loans offered by traditional lenders, we note the TILA Regulation Z requirements have only been in place for a little over a year, but some schools have expressed concern with areas outside of these new disclosures. For instance, some lenders offer private loans that require some form of repayment while the student is still enrolled; such payments may include principal and interest payments, interest-only payments, or a fixed payment amount, such as $25/month. It is common that these loans have reduced interest rates, commensurate with the reduced credit risk, as compared to those loans that do not require repayment until after a grace period of typically six months following the date on which the student was no longer enrolled.

We do not have data on the frequency with which students default on such in-school repayment obligations, but there are potential situations when students could become ineligible for additional disbursements because of defaulting on their in-school repayment obligation.

There are also cases where graduate level students who borrowed private loans as undergraduates are not aware of their ineligibility to continue to defer repayment while in graduate school, which creates a financial hardship on those students. Again, this may be due to a lack of adequate disclosure to the student when the loan was originally made.

There is a concern about some lender practices in terms of “back-end” benefits, such as a “graduation reward” that might result in a reduced interest rate or a reduction in loan principal. Under such circumstances, it is unclear whether borrowers are reminded at an appropriate juncture about such benefits and informed of the process and timeframe for applying for the benefit before the borrower loses his/her eligibility for the benefit. Also, such benefits typically are not included in the promissory note but should be.

Having a single source that consists of information about all of a student’s loans—federal, institutional, state, and private—would greatly facilitate a student’s understanding of the types of loans he/she has as well as where to contact the lender on a particular loan. Too often defaults occur because a lender has lost contact with a borrower, and the borrower has forgotten that he/she has that loan. The current National Student Loan Data System (NSLDS) is inadequate for this purpose as it only reflects Title IV loans, and the data reflected are merely a snapshot in time.

<u>Question #8</u>
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.

Although they are usually charged with administering the Perkins Loan program, COHEAO members often provide students with information on future loan payments and the ability to afford those payments, both on federal and private education loans. COHEAO members work in both the student financial services and financial aid offices on campus and, depending on the college, either or both of these departments are often involved in offering financial education programs for their students.

There are several schools that have implemented financial literacy programs to better educate students about the consequences of debt, monitoring debt levels, as well as debt management. The following are the efforts of select COHEAO members, all of which have seen the default rates on their federal student loans drop as a result of these programs:

- **The University of Illinois** has implemented an "Annual Loan Counseling" program for its students. Under this program, students must complete an online counseling session for each year they take out a loan. In addition, the University has launched its "Student Money Management Center" which assists students with financial literacy concepts related to their college experience both during school and post-graduation.

- **Meharry Medical College** requires in-person counseling on financial education for all students. The counseling is part of the orientation process for incoming students, regardless of discipline. The medical school then requires such counseling as part of the academic curriculum in the student's last year. At the dental school, students with loans are required to undergo the second round of financial literacy counseling. This counseling is provided by an outside partner specializing in financial literacy, BC Holdings, LLC.

- **The Fashion Institute of Design and Merchandising (FIDM)** has incorporated and expanded upon the federal student loan entrance and exit counseling requirements by creating a (non-credit) required course for these borrowers as part of their curriculum. The course includes three sessions on financial literacy related topics—1) Understanding Your Student Loans; 2) Credit Management; and 3) Budgeting. These three sessions are designed to educate students on consumer topics and offer information to help understand student loan obligations, the need for monitoring and maintaining a credit score, and the importance of keeping a personal budget, among other topics.

However, most schools are unable to do as much as they would like in this area. There are numerous student financial services and financial aid offices which would like to implement full-fledged financial literacy programs.

<u>Question #10</u>
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.)?

<u>Comments</u>:
COHEAO members make every effort to ensure they are compliant with all regulations, including the TILA regulations specific to private education loans, with their institutional loan programs. As such, they provide the

comprehensive set of notices and disclosures required by Regulation Z when applicable to their institutional loan programs. Again, we must mention that some of these disclosures only serve to confuse borrowers, particularly the requirement schools provide a disclosure urging students to exhaust federal loan eligibility before borrowing institutional or Title VII Health and Human Services loans with better terms and conditions.

Question #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 their high unemployment rate among recent graduates in 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?*

Comments:

COHEAO members offer repayment terms on their institutional loans which are flexible enough to offer borrowers forbearances, deferments and low monthly payment plans during periods of demonstrated economic hardship. In terms of rehabilitation programs, arguably the greatest benefit of the rehabilitation available on Title IV student loans—a restoration of the account for credit bureau reporting purposes—cannot be offered on institutional or any type of private loans. Title IV student loan rehabilitation is required by federal law. However, credit bureau reporting standards do not support rehabilitation of other debt because it erases prior credit history, thereby compromising the accuracy of debtor credit ratings.

COHEAO appreciates the opportunity to share our comments and hope they inform your efforts on the report mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Should the CFPB wish to discuss the issues raised in this letter further, please feel free to contact COHEAO Executive Director Harrison Wadsworth at 202.289.3910 or hwadsworth@wpllc.net. We look forward to working with the Bureau, in particular the Office of Students and the Office of Financial Education, in the future.

Sincerely,

/s/	/s/
Robert Perrin President	Maria Livolsi Vice President

Cc: COHEAO Board of Directors