This Request for Information is scheduled to be published to the Federal Register in late February. In the meantime, please send comments via email to studentloanaffordability@cfpb.gov

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BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2013-0004]

Request for Information Regarding an Initiative to Promote Student Loan Affordability

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: This notice requests information from the public to determine options that would increase the availability of affordable payment plans for borrowers with existing private student loans. Section 1035 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) establishes an ombudsman for student loans (Ombudsman) within the Consumer Financial Protection Bureau (Bureau). Among other things, the Ombudsman is responsible for making "appropriate recommendations" to the Director of the Bureau, the Secretary of the Treasury, the Secretary of Education, and Congress.

In October 2012, the Ombudsman presented a report, which recommended that policymakers identify opportunities to spur refinance and modification activity in the private student loan market. This notice seeks information from market participants, consumers, and other stakeholders in order to provide more detailed information on ways to encourage the development of more affordable loan repayment mechanisms for private student loan borrowers.

DATES: Comments must be received on or before April 8, 2013.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2013-0004, by any of the following methods:

- *Electronic*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier*: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. Please note the number associated with any question to which you are responding at the top of each response (you are not required to answer all questions to receive consideration of your comments). In general, all comments received will be posted without change to *http://www.regulations.gov*. In addition, comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202-435-7275.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. **Sensitive personal information, such as account numbers or Social Security numbers, should not be included.** Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions or any additional information, please contact Monica Jackson, Office of the Executive Secretary, at 202-435-7275.

AUTHORITY: 12 U.S.C. 5511(c).

SUPPLEMENTARY INFORMATION:

There are more than 38 million student loan borrowers with over $1.1 trillion in outstanding debt. The majority of the market consists of loans originated under Title IV of the Higher Education Act. The remainder of the market consists of private student loans. In July 2012, the Director of the Bureau and the Secretary of Education submitted a report to Congress detailing the private student loan market. The report[1] found that, as of the end of 2011, there were more than $8 billion in defaulted private student loan balances, with even more in delinquency. Federal student loans frequently provide for income-based repayment options for borrowers with partial financial hardship, as well as rehabilitation options for borrowers in default. In general, private student loans do not offer similar modified repayment options.

The Dodd-Frank Act requires the Secretary of the Treasury to designate an Ombudsman within the Bureau. The Dodd-Frank Act requires that the Ombudsman present an annual report describing the activities of the Ombudsman during the prior year, compile and analyze data on borrower complaints regarding private educational loans, and make appropriate recommendations to policymakers. In October 2012, the Ombudsman released an annual report.[2] The report, among other things, analyzed complaints and other input from private student loan borrowers, and noted that many consumers reported difficulties negotiating repayment plans with their lenders and servicers in times of financial difficulty, as well as challenges finding refinance options. Included in the report was a recommendation that policymakers identify options to spur the availability of loan modification and refinance options for student loan borrowers.

Some policymakers have sought changes to the treatment of private student loans in the bankruptcy code. This policy option is not the primary subject of this Request for Information.

[1] Consumer Financial Protection Bureau and Department of Education: Report on Private Student Loans (2012).
[2] Consumer Financial Protection Bureau: Annual Report of the CFPB Student Loan Ombudsman (2012).

Rather, this request seeks information on options to increase the level of affordable repayment options for both pre-default and post-default borrowers in distress who wish to repay their loans but may be lacking near-term ability to service their obligations.

Loan modifications

For the purposes of this request, a loan modification refers to a restructuring of a debt obligation agreed to by the creditor and debtor where the creditor agrees to a concession. In recent years, many homeowners have sought more affordable repayment options for mortgage obligations to avoid foreclosure. In such situations, some creditors may have an economic incentive to modify the loan, as the net present value (NPV) of the restructured debt may be greater in value than the value of the collateral after foreclosure costs. However, in other situations, with respect to securitized debt obligations secured by residential real estate, subordinated note holders might be unwilling to approve a change in terms. Given the potential impact foreclosures can have on the financial system and local economies, many policymakers pursued policies designed to encourage alternative repayment options for mortgage borrowers.

The private student loan market might also benefit from further loan modification activity. Even with concessions, creditors might increase the NPV of distressed loans through such modifications. However, the market for private student loans differs from the market for residential mortgages. Private student loans are not secured by collateral and have generally lower outstanding balances relative to mortgages. These differences might fundamentally impact creditors' economic calculus for determining whether to offer a change in repayment terms.

There are also some important similarities between the two markets. As with mortgage origination, student loan originators often access funding through the asset-backed securities (ABS) market. In 2012, public filings reveal that more than $4 billion of private student loan asset-backed securities were issued. Like in the mortgage market, private student loan underwriting practices have significantly improved since the economic downturn, which may limit the level of distress for future borrowers. Another notable similarity is the employment of third-party loan servicers unaffiliated with the original lender, though this practice is less prevalent in the private student loan market than in the mortgage market.

Borrowers of federal student loans have a number of options to modify the terms of their obligations to ensure an affordable payment plan. For example, borrowers with a partial financial hardship can elect the Income-Based Repayment plan, which caps payments on eligible student loans as a percentage of income above 150% of the poverty line. Borrowers in default can rehabilitate many federal student loans by making "reasonable and affordable" payments in a consistent, timely fashion for a specified period. There are also provisions to adjust the status of a rehabilitated federal student loan on a consumer's credit report.

Available data indicate that, in recent years, there has been limited modification activity in the private student loan market. There are a number of potential impediments to offering alternative repayment options. Some of these may include: (a) accounting guidelines that add complexity when offering alternative repayment options without charging off the loan;[3] (b) operational and information technology limitations among loan servicers; and (c) incentive mismatch among trustees, administrators, and/or noteholders in ABS trusts and loan servicers.

Impacts on individual borrowers and the public

Policymakers have employed various measures to prevent foreclosures among American homeowners and to mitigate resulting risks to the public and the broader economy. Examples of these risks include increased stress on insured depository institutions and decreased

[3] See, for example, CNBE Policy Guidance 2010-02, issued by the Office of the Comptroller of the Currency in August 2010.

home values of properties proximate to foreclosed homes – both of which can lead to further distress. Given the relative size of the private student loan market and the nature of the product, private student borrower distress is unlikely to contribute to similar, significant systemic risk. However, distress among borrowers with all types of student loans may cause other negative effects in the broader economy. For example, the Department of Treasury's Office of Financial Research described in its recent annual report that student loan debt might dampen consumption.[4] Changes in the household headship rates, automobile sales, and homeownership by younger Americans might also be impacted by student debt levels. Should these risks be significant, policymakers may wish to consider partnerships between the federal government and the private sector to increase the availability of alternative repayment options and reduce the levels of delinquency and default.

The Ombudsman seeks information in order to provide policymakers with further details on potential ways to increase payment affordability for private student loan borrowers in distress and on the risks of failing to do so. The deadline for submission of comments is April 8, 2013.

The Bureau encourages comments from the public, including:

- Consumers;
- Financial institutions, including lenders and loan servicers;
- Nationally recognized statistical rating organizations (NRSROs);
- Private student loan asset-backed trust administrators;
- Institutions of higher education;
- Credit reporting agencies;

[4] Department of the Treasury, Office of Financial Research: Annual Report to Congress (2012).

- Debt collectors;
- Housing finance professionals;
- Manufacturers of automobiles and other financed goods;
- Brokers and service providers in the residential real estate industry;
- Professional associations, such as those representing health professionals and teachers;
- Providers of financial counseling; and
- Other interested parties.

The Bureau is interested in responses in the following general areas, as well as specific questions below. Please feel free to respond to any of the questions outlined below.

Scope of Borrower Hardship

1 What are the primary drivers of private student loan borrower distress?

  a What characteristics might predict distress at loan origination?

  b What characteristics might predict distress for borrowers who complete a program of study?

  c What characteristics might predict distress during repayment?

  d What are typical debt-to-income ratios of borrowers in distress?

2 How do borrowers in distress typically stay current with their private student loans? To what extent do borrowers reduce consumption or adjust living arrangements to meet obligations?

  a Do borrowers seek to reduce payments on federal student loans in order to make payments on private student loans?

b. To what extent do borrowers in distress accrue other debt (credit cards, family loans) to meet private student loan obligations?

c. To what extent do borrowers in distress forego "other nonessential expenses" to meet private student loan obligations?

Current Options for Borrowers with Hardship

3. What options currently exist for borrowers to permanently or temporarily lower monthly payments on private student loan obligations? To what extent have these affordable repayment options cured delinquencies?

4. How do lenders typically evaluate whether or not a borrower qualifies for these affordable repayment options? If lenders make use of financial models, what are the key drivers of these models?

5. Do lenders work directly with co-signers to modify terms? If so, how?

6. What is the incidence or expectation of re-default rates among restructured private student loans?

Past and Existing Loan Modification Programs for Other Types of Debt

7. What are some examples of loan modification programs sponsored by a public entity or the private sector that have been successful? Which features of these programs might be applicable to a student loan affordability program? Which features of these programs might not be appropriate for a student loan affordability program?

Servicing Infrastructure

8. Is the servicing infrastructure utilized by major lenders flexible enough to process loan modifications at scale? What are the limitations of these servicing platforms? Are those

limitations capable of being overcome? What are the estimated costs of overcoming those limitations?

9 What are the key differences between servicing of student loans compared to servicing of residential mortgages that must be considered when crafting an affordability program?

Consumer Reporting and Credit Scoring

10 How are payments plans for defaulted private and federal student loans currently reported to consumer reporting agencies? How are rehabilitated federal student loans reported by consumer reporting agencies, and how does that reporting affect credit scores?

Lender Participation

11 How might an affordability program sponsored by a public entity mitigate moral hazard and selection bias?

Borrower Awareness

12 What are some examples of modification or refinance initiatives that successfully made borrowers aware of a new program? Which features of these programs are applicable in the private student loan market?

13 What are the most effective communication mechanisms to reach borrowers in distress?

Spillovers

14 How do student loan payments impact access to mortgage credit? How does student debt impact a consumer's ability to accumulate a down payment? How does student debt impact a consumer's ability to meet debt-to-income requirements for FHA-insured and private sector mortgages?

15 To what extent does student loan debt impact the market for automobiles? How does student loan debt impact a consumer's ability to secure an auto loan?

16 What evidence exists about the impact of student loan debt on consumption, savings, homeownership, household formation, entrepreneurship, and other indicators of economic health?

Dated: February ___, 2013.

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Garry Reeder,

Chief of Staff, Bureau of Consumer Financial Protection.