

From: Texas Association of Student Financial Aid Administrators , Rick Renshaw
Subject: Reg Z - Truth In Lending

Comments:

May 25, 2009

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Dear Ms. Johnson:

On behalf of the Texas Association of Student Financial Aid Administrators (TASFAA) I respectfully submit the following comments on the proposed rules to implement Title X of the Higher Education Opportunity Act (HEOA), which amended the Truth in Lending Act (TILA). TASFAA represents approximately 175 Postsecondary institutions in Texas comprised of public, private, and community colleges.

The concerns of TASFAA surround the concept of institutional loans, funded by the institution or state mandated set-asides, and the issues that may arise with these types of loans being classified as private education loans. Typically these loans are short term in nature with repayment periods of 30 to 90 days with the sole purpose to provide a temporary payment of required fees until the student's federal financial aid application is complete and ready to be awarded. The funding from these loans may come from donor directed contributions or state mandated set-asides from tuition dollars for the purpose of providing emergency short term funding for students attempting to meet enrollment deadlines or census date requirements.

It is our understanding that the Department of Education in the last negotiated rulemaking session did recognize that some issues may be present with these types of loans and provided for an exemption for institutional loans in their definition of a preferred lender arrangement. The following language has been used in providing the exemption.

"For purposes of this definition, an arrangement or agreement does not exist if the private education loans provided or issued to a student attending a covered institution is made by the covered institution, and the private education loan is - -

- (i) Funded by the covered institution's own funds;
- (ii) Funded by donor directed contributions;
- (iii) Made under title VII or title VIII of the Public Service Health Act; or
- (iv) Made under an institutional payment plan of the covered institution."

TASFAA believes the inclusion of institutional loans in the definition of a private educational loan will cause delays in processing these funds and could prevent the student from meeting certain enrollment deadlines for payment due to the disclosure requirements and mandatory waiting periods for release of

funds. The short term nature and payment periods of these loans, as well as the intended use of funds as a temporary payment until permanent federal financial aid funds can be completed, appears to differentiate these loans from the normal definition of a private education loan, which may be made by a true lender and is intended to be long term in nature. It is our hope that an exemption may be provided for institutional loans from the requirements described in the proposed rules.

The following represents our recommendations:

Section 226.37(b)(5) - Private Education Loan definition

TASFAA recommends additional wording in section 226.37(b)(iii) to further define that a private education loan does not include institutional loans if they meet the following criteria.

- (1) Funded by the covered institution's own funds;
- (2) Funded by donor directed contributions;
- (3) Made under title VII or title VIII of the Public Service Health Act; or
- (4) Made under an institutional payment plan of the covered institution

Section 226.39(e) - Self Certification Form

TASFAA supports the intent of the self certification form, which we hope would prevent a student from borrowing more than is needed for educational expenses. However, in cases where the school would certify the private education loan we believe this form is redundant. Also, in the case of institutional loans, especially institutional loans made on a short term or emergency basis, the requirement to provide the form and the information needed to complete the form to the student is not needed since the form would then be given back to the school. These loans typically are not intended to take the place of a student's application for federal financial aid and as mentioned previously are not intended to be a long term solution for payment of fees. We recommend an exemption be allowed for institutional loans of this nature since it would not meet the intended purpose and could cause delays for the student in receiving funds they may need on an emergency basis to meet deadlines for payment or census date requirements. We would also request an exemption for any private education loans that require school certification since this would provide the information concerning education expenses and estimated financial assistance as part of the certification process.

Thank you for your consideration of these suggestions. If you should have any questions please feel free to contact me.

Sincerely,

Richard C. (Rick) Renshaw
TASFAA President