

From: Career College Association, Tammy Halligan
Subject: Reg Z - Truth In Lending

Comments:

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Public Comments on Regulation Z; Docket No. R-1353: Truth in Lending:

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General Comment: May 26, 2009

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

via: Federal Rulemaking Portal

Re: Docket No. R-1353

Dear Ms. Johnson:

The Career College Association, on behalf of its 1,600 members who offer postsecondary educational programs in over 200 career-specific fields at all degree levels, thanks the Federal Reserve Board for the opportunity to comment on the proposed regulations amending Regulation Z, Truth in Lending, as published in the March 24, 2009 Federal Register.

CCA supports providing information to student and parent borrowers about the details of their prospective and current obligations under private loans.

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borrowers are able to make better choices regarding the amounts and types of debt they take on to finance their education. As the Federal Reserve Board has acknowledged in this NPRM, however, too much information is as bad or worse than not enough, and the timing of the information is as important as the

content.

CCA offers comments on the following specific sections of the proposed regulations:

CCA believes that the Federal Reserve Board should exercise its discretion under TILA section 105(a) to exempt institutions of higher education from the definition of "creditor" for purposes of application of the new Subpart F with respect to installment payment plans or institutional loans made to students attending the institution. See 15 U.S.C. § 1604(a). In the alternative, CCA suggests that the Board exercise its discretion to exempt such installment payment plans or institutional loans from the definition of "private education loan" in 37(b)(5). CCA does support the application of Subpart C disclosures for such installment payment plans or institutional loans if the institution otherwise meets the definition of "creditor," and that only the Subpart F disclosures would not be required for these particular plans and loans.

The Higher Education Opportunity Act of 2008, which amends the Truth in Lending Act with respect to these proposed regulations, does not speak to the term "creditor." Rather, the HEOA amendments to TILA impose disclosure requirements on "private educational lenders." Section 1011(b) of the HEOA, setting out the TILA amendments, defines "creditor" as including "a private educational lender as that term is defined in section 140 for purposes of this title." Section 140 defines "private educational lender" as including persons "engaged in the business of soliciting, making, or extending private education loans." Before the HEOA amended TILA, TILA would not classify an entity as a creditor unless its agreement with the borrower, among other things, required more than four payments (15 U.S.C. § 1602(f)). Now this same provision adds the following statement at the end of the section: "The term 'creditor' includes a private educational lender (as that term is defined in section 140 [15 USCS § 1650]) for purposes of this title [15 USCS §§ 1601 et seq]."

Since the definition of a "private educational lender," has no minimum number of payment requirements, CCA believes a school should not be considered a "creditor" under TILA, regardless of the number of payments it requires in its agreement with student borrowers. While we believe that the Board's proposed rules meant to exclude banks, credit unions, and institutions which would otherwise not meet the former definition of "creditor," we believe this must be made more clear in the final regulations.

This argument applies to institutional payment plans as well. Under these plans, institutions allow students to make installment payments on a remaining balance on their student account rather than taking out a private educational loan. Some

institutions also require students to pay a nominal amount on a recurring basis throughout the educational term, since making regular cash payments of any amount can make students more invested in their education. In both these scenarios, subjecting institutions to all of the new Subpart F requirements would be burdensome and offer no additional protections to the student consumer; instead, it could dissuade institutions from offering these benefits to their students.

We also think the definition of "private educational loan" should be modified to exclude student loans made by a covered higher education institution for attendance at that institution so that these loans would be subject to the Subpart C requirements but not those of Subpart F.

These changes would make institutional loans at covered institutions subject to all the key consumer disclosures but would exempt them from the Subpart F provisions, some of which are problematic to impossible to comply with. For example, Subpart F has a provision requiring a 30-day delay in disbursement. Many institutions require students to pay their tuition and fees in full at the beginning of an educational term. In fact, the Higher Education Act has a provision allowing institutions with a cohort default rate below a threshold limit to disburse federal student loan funds without holding those funds for 30 days. Applying this provision to institutional loans would align institutional and federal loan programs, to the benefit of students. Additionally, this change would exempt institutions from the co-branding and self-certification requirements. Co-branding would be difficult for covered institutions making institutional loans to comply with; it would, effectively, prevent them from putting the name of the institution on the promissory note of the loan. And requiring institutions to complete the self-certification form for private educational loans made by the institution for students attending the institution simply adds a layer of paperwork to the process that could, potentially, cause more confusion for students than assist them.

CCA proposes amending the definition of "preferred lender arrangement" in 37(b)(4) to clarify that a covered educational institution making institutional loans to students attending that institution would never be considered to be in a preferred lender arrangement with itself. The definition in proposed 226.37(b)(4)-1 states the term refers to "an arrangement or agreement between a creditor and a covered educational institution?" We believe that this definition should not apply in this case because an institution does not make an arrangement or agreement with

itself to provide these loans. Including institutions making institutional loans in this definition would impose reporting and disclosure requirements on those institutions that are problematic to impossible to comply with while adding no benefit to the information students receive.

We thank you for this opportunity to comment on the proposed amendments to Regulation Z, Truth in Lending. Please feel free to contact me if you have any questions or would like additional information.

Regards,

Harris N. Miller
Career College Association