Improving Program Administration by Protecting Federal Assets and Providing for an Orderly Wind-Down of the Federal Guaranteed Student Loan Program

Since 1965, state and nonprofit guaranty agencies have provided important services to students, borrowers, families, and the federal government by helping to manage the federal student loan program at the local level, and increasing access to and success in postsecondary education. Under the Higher Education Act (HEA), guaranty agencies:

- Provide a range of outreach services and programs to students, families, schools, and community organizations to help students gain access to and succeed at postsecondary education.
- Help students and families better manage their finances by designing materials and programs on budgeting, establishing good credit, paying for college, and successfully managing debt.
- Work closely with students, borrowers, and schools to provide information and support to ensure successful loan repayment and avoid default. This includes ongoing borrower contact, especially for those student and parent borrowers who have fallen behind on their payments.
- Have agreements with the Secretary of Education to administer certain aspects of the federal guaranteed student loan program, called the Federal Family Education Loan Program (FFELP).
- Review default claims to ensure due diligence was performed by the lender and servicer; purchase these claims; work with defaulted student and parent borrowers to rehabilitate their defaulted loans, restore their credit, and provide them with a fresh start; recover defaulted loan dollars; process discharge claims for eligible borrowers; and report actions to credit bureaus.
- Conduct detailed program reviews on behalf of the federal government to ensure program integrity and lender and school compliance with pertinent federal and state laws and regulations, and to provide important program data and reports to federal and state governments, schools, lenders, and other stakeholders to improve the operation and efficacy of the federal student aid programs.
- Protect borrowers' personal data by complying with data security standards required by the Secretary of Education.

In 2010, Congress passed the Health Care and Education Reconciliation Act, which ended all new originations under FFELP. Federal loans to finance postsecondary education are now made under the Federal Direct Loan Program. Although there are no new originations of FFELP loans, guaranty agencies continue to carry out their public purpose missions and federal responsibilities, which include assisting borrowers, paying lender default claims, and providing outreach services to all students regardless of which type of federal student loan they may have taken out to finance their postsecondary education. As of September 30, 2015, according to the U.S. Department of Education, the guaranteed loan portfolio consisted of about $223 billion in outstanding FFELP loans held by private lenders. In addition to their responsibilities on the outstanding FFELP portfolio, guaranty agencies were also responsible for collecting over $34 billion in defaulted loans on behalf of the federal government. In FY 2014, the latest year for which data is available, guaranty agencies rehabilitated $5.2 billion in defaulted loans to approximately 300,000 borrowers, and collected another $4.5 billion for the federal government.

As the outstanding loan portfolio managed by guaranty agencies continues to decline over the next decade, the current guaranty agency funding structure will fail to provide the resources necessary to meet the needs of the federal government, students, borrowers, schools, and taxpayers. For example, guaranty agencies are required to properly manage a Federal Reserve Fund, which is the property of the United States and is used to pay default claims and default prevention fees. The cessation of new loan originations under FFELP has eliminated the principal source of revenue to the Federal Fund, a Federal Default Fee equivalent to 1 percent of the amount of each loan guaranteed. Congress recognized this challenge when it passed H.R. 2029, the "Consolidated Appropriations Act of Fiscal Year 2016," which included a provision to increase from 95 percent to 100 percent reinsurance payments on default claims paid by agencies to lenders. This important change will ensure that guaranty agencies can continue to use their operating funds to provide important college access and success programs for low-income and first-generation students and that agencies are able to maintain a more stable financial posture while discharging their final legal obligations under FFELP as it winds-down.

The budget agreement also included language:

- Directing the U.S. Department of Education to submit a report to the House and Senate Committees on Appropriations, Committee on Education and the Workforce, and Committee on Health, Education, Labor, and Pensions on a plan to assist guaranty agencies, lenders, and borrowers in the wind down of the FFEL program as the outstanding loan portfolio continues to decline. The plan has to specifically address guaranty agencies and their subsidies, the current status of the wind-down, the financial stability of guaranty agencies, and an assessment of any authority necessary for purposes of the wind down. The report must be completed by June 2016.
- Extending the funding for guaranty agency account maintenance fees until September 30, 2016.
- Directing the Department to conduct outreach to current FFELP borrowers who may be eligible for income-driven repayment plans and other repayment options.

NCHER Reform Proposals

The National Council of Higher Education Resources (NCHER) supports the important and successful work of guaranty agencies in helping students, families, and borrowers access higher education. We urge Congress to protect federal assets and provide for an orderly wind-down of the federal guaranteed student loan program by:

- <u>Continuing its oversight of the Department of Education's development of the FFELP wind-down report.</u> There are a number of important provisions that the Department and Congress should support in an effort to provide for an orderly wind-down of FFELP and promote the financial stability of guaranty agencies. First, under the Higher Education Act, guaranty agencies are required to meet a minimum reserve ratio in the Federal Fund. With the 2010 changes to the federal student loan programs and the recent move to reinsure guaranty agencies at 100 percent as described above, a minimum reserve ratio is no longer relevant and should be repealed. Second, currently, guaranty agencies do not receive reinsurance for claim repayments for three weeks or more following the time they pay a claim. This puts further stress on the agency's Federal Fund, which in turn can curtail their ability to provide critical services to assist struggling borrowers. Guaranty agencies should be provided "just-in-time" reinsurance payments on default claims. NCHER hopes that both of these proposals are included in the Department's FFELP wind-down report, and looks forward to working with Congress and the Department on identifying additional areas that ensure the financial stability of guaranty agencies, especially in light of the loss of collections revenue mandated by the Bipartisan Budget Act of 2013. Many of these items can also be incorporated into the upcoming reauthorization of the Higher Education Act.

- <u>Extending the authority for AMF payments past September 30, 2016.</u> Guaranty agencies receive Account Maintenance Fees (AMF) from the U.S. Department of Education to pay for their general operating expenses. The fees are paid quarterly and are based on an agency's original outstanding principal balance of its non-defaulted portfolio. AMF is used to carry out the agency's mandate to conduct college access activities, provide educational programs and materials in financial literacy, maintain loan records, establish and enforce standards and provide training and technical assistance for lenders and schools, defend bankruptcy proceedings, provide schools with information on defaults and loan transfers, conduct claim reviews and issue lender payments, conduct comprehensive reviews of lenders, servicers, and schools, and monitor school enrollment and repayment status. For FY 2014, the Department paid an estimated $165 million in AMF to guaranty agencies. For FY 2015, it is estimated that the figure will fall to approximately $150 million as the FFELP portfolio continues to slowly decline. The payment of AMF is essential for guaranty agencies to provide important services on behalf of the federal government, and Congress must extend their authorization before the end of the current fiscal year.

If you have any questions or need more information, contact Sean Deverey, Vice President for Government Relations at the National Council of Higher Education Resources (NCHER), at sdeverey@ncher.us or (202) 822-2106.