

September 26, 2008

The Honorable Chris Dodd, Chairman
The Honorable Richard Shelby,
Ranking Member
Committee on Banking, Housing and
Urban Affairs
U.S. Senate
Washington, DC 20510

The Honorable Barney Frank, Chairman
The Honorable Spencer Bachus, Ranking
Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Dodd and Frank, Senator Shelby and Representative Bachus,

We, the undersigned student and consumer advocates, believe that the inclusion of private student loans in the economic bailout package would be hasty and ill-conceived. These loans should not be included in the final rescue plan. If they are, Congress has a fundamental obligation to also come to the aid of financially distressed private student loan borrowers. The Treasury Department must have the same power and obligation to modify unsustainable private student loans as it does for mortgage loans.

Over the past several years, student loan companies' aggressive marketing practices have pushed student borrowers to take on unnecessarily high levels of expensive private student loan debt. In some cases, lenders steered borrowers away from cheaper, federal loans. In other cases, lenders failed to provide borrowers with full, clear disclosures. In the most egregious cases, they agreed to make high-risk loans to subprime borrowers at for-profit schools in exchange for lender exclusivity on those campuses. Lenders did so assuming that the overall volume of business would make up for any losses incurred from subprime private student loans. Instead, defaults on these loans grew alarmingly, and banks have spent hundreds of millions of dollars to cover their losses.

Many young adults starting their careers burdened by overwhelming debt face obstacles not unlike homeowners facing foreclosures:

- Student loans, like mortgages, are bundled into securitization packages. Servicers are reluctant or unwilling to modify them or offer realistic repayment plans.
- The final safety net, bankruptcy, is unavailable to private student loan borrowers because the 2005 bankruptcy act made private student loans – unlike every other type of private unsecured loan – virtually nondischargeable.
- Whereas a homeowner who loses her home can try to pick up the pieces and start over, as any loan deficiency will either be waived or is dischargeable, a student loan borrower has few, if any, options for getting out of overwhelming debt.

If Congress cannot put a stop to a student lender bailout, we urge you to at least ensure that Treasury will have the same power to assist student borrowers as it does to help homeowners.

Just as for mortgage loans, Treasury's power to purchase student loans should be conditioned by the following protections:

- Treasury should purchase whole loans, or structure its purchase of securities, so that it has the ability to modify those loans.
- Treasury should have an obligation to maximize loan modification and realistic workout options before sending student loans into collection and should report to Congress on its progress.
- Bankruptcy judges should have the power to modify or discharge private student loans.
- Congress should preserve all legal claims student loan borrowers had before the government took over the assets.
- Loan modifications should not result in negative tax consequences for borrowers.

In the wake of the fallout, loan companies have begun to think twice before providing high-cost loans to high-risk borrowers. Bailing out student loan companies now could prove not only to be the wrong thing to do, but entirely counterproductive. Congress should not walk away from lessons learned.

If private student loans are included in your final economic package, we urge you to send a message to the American people that Congress is looking out not just for lenders, but for students and their families as well. At a time when a higher education has never been more important, paying for college has never been harder. Students and families need protections that only you can give them.

Sincerely,

American Association of Collegiate Registrars and Admissions Officers
American Association of State Colleges and Universities
Consumer Action
Consumer Federation of America
Dēmos: A Network for Ideas & Action
National Association for College Admission Counseling
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
New America Foundation
The Project on Student Debt, The Institute for College Access & Success
Public Citizen
U.S. Public Interest Research Group
United States Students Association