Will Housing Market Troubles Affect Student Loans?

With college aid offers out the door and on the tables of millions of American high school seniors, Washington has turned more and more attention to the question of whether the liquidity problems in the financial markets could affect student loans. Both the education and banking committees in Congress have put increasing pressure on the administration to develop a plan to ensure liquidity as more and more banks drop out of the student loan business. So far, colleges losing lenders have been able to find alternate sources of funding, and no one yet knows of any students unable to get loan funding. So, is this just a case of frantic banks, or is a real problem at hand?

Generally Speaking

One thing we know for sure is that lenders of all sorts have been exiting the federal loan programs – at least 60 to date – and limiting private student loan availability. In recent days, the rate of exiting seems to have grown. Some students at for-profit institutions already have experienced difficulties obtaining private, non-federal loans. Some lenders have announced they won't make loans to students at certain schools. Other lenders have declared that they won't take on small balance loans, especially at schools with high default rates – including many community colleges.

NAICU conducted a survey of its members in early March. At that time, respondents felt that access to Federal Family Educational Loan Program (FFELP) loans was not a problem. However, they were aware that some students were having a tougher time qualifying for private loans, and that available private loans were more expensive. (Survey results are at www.naicu.edu/doclib/20080324_NAICULoanDebtSurvey_Results.pdf.)

Over a month later, though, with a number of big banks dropping out of the program, the situation has shifted a bit. Some colleges are scrambling to find willing lenders to put on their preferred lender list, or are have taken steps to convert to the Direct Loan Program. Effects of the freezing of capital markets, that began in the home mortgage sector in early 2007, have now spread to financial sectors involved in student and institutional lending.

Concern about these effects on federally-insured student loans initially centered on lenders and others involved in the providing FFELP loans. Increasingly, though, consternation is being expressed by state lending entities, the Department of Education, Congress, colleges, and the families of college students. Most recently, President Bush devoted his weekly radio address to the issue last Saturday, urging Congress to quickly pass legislation to stabilize the student-loan situation.

Congress Kicks Up the Pressure

The Senate Banking Committee, chaired by Sen. Christopher Dodd (D-Conn.), held a hearing on April 15, to shine the same spotlight on student loan liquidity that it earlier put on the housing credit crisis. NAICU vice president Sarah Flanagan testified about the importance of
both federal and private loans for students at private colleges (www.naicu.edu/docLib/20080416_BankComm.Test-SS.pdf) as did Pat McGuire, president of Trinity Washington University (www.trinitydc.edu/news_events/pressreleases/wp-content/uploads/2008/04/mcguire-senate-banking-committee-testimony-4-15-08.pdf). The hearing concluded with several senators declaring their intent to ensure sufficient liquidity for student loans this fall.

Following the hearing, Dodd wrote letters to both Treasury Secretary Henry Paulson and Federal Reserve Board Chairman Ben Bernanke, asking them to take steps to quell the growing concerns. Specifically, Dodd encouraged Paulson to consider using the Federal Financing Bank to provide liquidity. The idea, however, was rejected in a letter to Dodd from Paulson, Secretary of Education Spillings, and Jim Nussle, director of the Office of Management and Budget. Their position, as stated in the letter, is that the Department of Education could not purchase loans from lenders without new legislation (www.naicu.edu/docLib/20080425_DoddLetter.pdf).

Legislation Offered

Sen. Edward Kennedy (D-Mass.) and Rep. George Miller (D-Calif.), chairs of the Senate and House education committees, have introduced legislation to ensure the functioning of the FFELP. Miller’s bill (H.R. 5715) was quickly approved by the House Education and Labor Committee and passed the House on April 24. As we go to print, the Senate is planning to fast-track Miller’s bill with a few technical changes, ship it quickly back to the House for final approval, and get it to the president for his signature by later this week.

Both bills would authorize the Secretary of Education to buy federal loans from student loan lenders for greater liquidity, would expand the Secretary’s authority under an HEA provision called Lender of Last Resort, and would provide modest increases to current student loan limits for certain students. The bills have some differences, though. For example, Kennedy’s bill (S.2815) also would increase awards for the poorest Pell recipients.

Kennedy also has sent a letter to NAICU president David Warren (www.naicu.edu/docLib/20080425_SenKennedyLtr.pdf), urging him to inform presidents that the Direct Loan program (DLP) is an alternative to FFELP, and that DLP will have capital for lending. A number of colleges have already begun the process for direct lending certification, in case they need to convert, since the changeover takes time. Colleges interested in this safety net should consider starting the conversion process sooner, rather than later.

In his letter, Kennedy also encourages colleges to take extra steps in counseling families about such federal options as the PLUS program, and asks colleges to notify Carmel Martin of his staff, at (202) 224-0767, if they know of students having difficulty obtaining loans.

For more information, contact Maureen Budetti, maureen@naicu.edu

Momentum Growing for Expanded GI Bill

Sen. Jim Webb (D-Va.) and other proponents of improved educational opportunities for veterans have stepped up efforts to provide more generous benefits under the GI Bill.

In January 2007, Webb introduced the "Post-9/11 Veterans Education Assistance Act of 2007" (S. 22), which would have provided educational benefits paralleling those of the post-World War II GI Bill. Among others, these benefits included full tuition, books, fees, a monthly stipend, and coverage of other training costs at the veteran’s institution of choice.

The prospects for enactment of the legislation are unclear, in large part due to its substantial price tag. This past February, however, Webb unveiled a revised bill with a number of changes to reduce its cost. Currently, 56 Senators are signed on to the measure. A companion bill, H.R. 5740, was introduced in the House by Rep. Harry Mitchell (D-Ariz.) on April 7, with 241 cosponsors. Also, media attention has increased throughout the month, and the issue has even entered the presidential election debates.
The revised bill includes a cap on the tuition benefit at the amount of in-state tuition at the most expensive public college in a state. At the same time, the revised measure also creates a federal program that would match, dollar-for-dollar, colleges’ contributions to help veterans cover tuition costs above the in-state public tuition cap. Institutions would not be required to make any contributions. Those that chose to do so could contribute any amount, or could limit the number of veterans eligible for the aid.

In introducing the revised bill, Webb and the principal cosponsors – Sens. Chuck Hagel (R-Neb.), John Warner (R-Va.), and Frank Lautenberg (D-N.J.) – spoke on the Senate floor. Especially noteworthy was Warner’s strong statement on the importance of assisting veterans to attend the college of their choice:

“The original GI Bill of Rights was enacted in 1944, and in successive Congresses they made changes to it. But the key to the bill that the two of us from World War II – Senator Lautenberg and myself – is that our group of veterans could go to any college or university of his choice, subject to academic or admission requirements ... Today’s GI bill ... simply does not have the financial provisions to enable young men and women of this generation to go to any campus they desire ... And so we have carefully structured in this bill the opportunity for institutions of higher learning to step up and share in this program.”

Warner’s full statement contains several other references to maintaining veterans’ options for attending private colleges. (See www.naicu.edu/docLib/20080425_SenJWarner-RevGIBill.pdf)

NAICU has endorsed the expanded GI Bill, and will take part in a rally at the U.S. Capitol on April 29 in support of the increased benefits. They are likely to be added as an amendment to the emergency war funding bill to be debated by Congress in the coming weeks.

For more information, contact Susan Hattan, susan@naicu.edu

**Department Issues Proposed FERPA Regulations**

The Department of Education has issued a number of proposed changes in the regulations governing the Family Educational Rights and Privacy Act (FERPA).

The proposals, published on March 24, deal with a number of FERPA-related questions – most notably clarification of the information that institutions may share with parents and other parties. Last year’s Virginia Tech tragedy brought to light the widespread confusion about what is and is not allowed under FERPA. As explained in the preamble to the proposed regulations:

In making a determination under paragraph (a) of this section [regarding the determination of a health or safety emergency], an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the safety or health of a student or other individuals. If the educational agency or institution determines that there is articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the Department will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination. [Federal Register, March 24, 2004, p. 15589]

A comparison of current and proposed regulations dealing with disclosures in health and safety emergencies is shown in the accompanying box.
The proposed regulations also would:

1. make it easier to disclose education records for the audit, evaluation, compliance or enforcement of K-16 programs in cases where such activities are specifically authorized by Federal, State, or local law;

2. prohibit the disclosure or confirmation of a student’s directory information without the student’s prior written consent if a Social Security number or other non-directory information is used to identify the student – a practice that has been used by some institutions and vendors to confirm things such as a student’s attendance or receipt of a degree at an institution; and

3. address a variety of issues that have arisen since the regulations were last revised, including implementation of FERPA amendments made by the USA Patriot Act and by the Campus Sex Crimes Prevention Act, as well as the Owasso and Gonzaga U.S. Supreme Court decisions.


Comparison of Provisions--Information Disclosure in Health and Safety Emergencies

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T.A. Collective Bargaining Back on the Front Burner

New legislation would specify that graduate teaching and research assistants at private colleges and universities are employees under the terms of the National Labor Relations Act. The "Teaching and Research Assistant College Bargaining Rights Act" was introduced on April 17 in the House and Senate committees with jurisdiction over federal labor laws – in the House as H.R. 5838 by Rep. George Miller (D-Calif.) and in the Senate as S. 2891 by Sen. Ted Kennedy (D-Mass.).

The legislation would effectively overturn the 2004 ruling of the National Labor Relations Board (NLRB) in a case involving Brown University. In that case, the NLRB found that graduate teaching and research assistants are students, not employees. Graduate student employment issues at public institutions are subject to state labor laws – so both the NLRB decision and the pending legislation affect only private institutions. (See WIR, 7/27/04).

The 2004 ruling itself overturned an earlier board ruling that graduate student at New York University could unionize. That 2000 NYU ruling had overturned precedent dating to 1974 – so the Brown decision brought the issue full circle. NAICU joined the American Council on Education in filing a brief on behalf of Brown, and continues to believe that the work of graduate assistants is a fundamental aspect of their role as students, not as employees.

This issue is likely to become a highly-charged political battle in this election year. In a letter soliciting House members’ support for the legislation, Miller referred to the Brown decision as having been made by the "Bush Board." Kennedy also referenced the Brown decision in introducing the bill, noting that "it is hardly the only bad decision by the National Labor Relations Board under the Bush administration, which has been the most anti-worker, anti-labor, anti-union NLRB in history."

For more information, contact Susan Hattan, susan@naicu.edu

Homeland Security Proposes Increase in SEVIS Fees

The U.S. Department of Homeland Security has released a proposal that would increase Student and Exchange Visitor Information System (SEVIS) fees by up to $200 per application. If approved, the new fee structure would go into effect October 1, 2008.

The increased fees would be for international visitors applying for student visas (in categories known as F, J, or M visas). Homeland security feels the revenue is necessary to support SEVIS, the growing database on international visitors. Comments on the proposal, released April 21, are due to the Department of Homeland Security by June 30, 2008.

For more information, contact Karin Johns at NAICU at karin@naicu.edu

For more information, contact Susan Hattan, susan@naicu.edu
Higher Education Act: The End is Near, or Is It?

Is the never-ending saga of the Higher Education Act (HEA) bill about to end? Or are current rumors merely more of the same stuff that have trailed the beleaguered process in the past? This past week in Washington, at least three versions of the "almost done" rumor circulated through lobbyist circles.

The first rumor had it that the bill was almost finished, and would be done in time for the HEA conference report to be passed into law before the extension of the current bill expires on April 30. That rumor was quickly replaced by a second: the Senate would add all of the conferenced HEA items to the House bill addressing the student loan credit crunch (see first story, above), then toss the whole bill back to the House who would send it to the president shortly. A third rumor said that the Senate would not amend the credit crunch bill, but would merely give it the upper chamber's stamp of approval, and send it to the White House for signature – leaving HEA behind in the dirt. The final rumor sees another HEA extension coming soon, most likely on the credit crunch bill, but predicts that completion by Memorial Day is likely.

What do NAICU staff think? We think this is an insane process.

For more information, contact Sarah Flanagan, sarah@naicu.edu