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CFPB Urged to Require Private Student Loan Modifications

More than 850,000 Private Student Loans in Default

(BOSTON) With more than 850,000 private student loans currently in default and thousands of other borrowers struggling to make their payments, attorneys at the National Consumer Law Center (NCLC) are urging the Consumer Financial Protection Bureau (CFPB) and policymakers to help borrowers struggling to keep up with their private student loan payments. [NCLC attorneys submitted comments](#) in response to the [CFPB's formal request](#) for information discussing the successes and failures of recent efforts to modify home mortgages, and how those lessons could be applied in the context of student loans. NCLC attorneys said that borrowers with unaffordable payments have described how difficult it is to work out any kind of payment plan with private lenders (federal student loans, in contrast, offer a number of repayment and reinstatement options). "It's a Catch-22," said Arielle Cohen, an attorney at the National Consumer Law Center. "Do student loan borrowers pay the loan instead of the rent and risk eviction, or pay the rent instead of the loan and damage their credit reports, making it difficult to find a job, rent an apartment, or get affordable car or health insurance? Lenders that had no problem saying 'yes' to risky loans now have no problem saying 'no' when these borrowers need help. The CFPB and other regulators need to step in."

NCLC identifies five features that must be part of any proposed loan modification program in its comments:

- 1) modifications must be truly affordable for borrowers;
- 2) borrowers must not lose any existing rights or protections;
- 3) borrowers must be able to enforce their rights under the modification program;
- 4) the program must reach a high percentage of eligible borrowers; and
- 5) the program must be fair to borrowers, taxpayers, and lenders.

NCLC's comments also emphasize the need for other policies to assist current borrowers and prevent future student loan defaults, including restoration of bankruptcy rights for all student loan borrowers and reduced impact of negative credit reporting on borrowers' ability to access housing, employment opportunities and other basic needs. NCLC attorneys also recommend ensuring that future originations are based on sound underwriting and include provisions for flexible repayment and discharges in situations such as school closure, death, or disability.

The [CFPB's August 2012 report](#) showed that investors' demand for private student loan asset-backed securities drove huge growth in the market from approximately 2005 to 2008. Demand was so great that lenders could loan \$100 and immediately sell the obligation to investors for \$105 or more. In order to increase volume, some lenders weakened underwriting standards and

began bypassing school financial aid offices to market loans directly to borrowers. As a result, some pools of loans originated during the period have default rates of 50% or more. Just as in the subprime mortgage market, poor lending decisions are causing serious hardship for borrowers and big losses to investors, but servicers' voluntary efforts to provide loan modifications are lackluster. "The great need for borrower relief and the irresponsible behavior of some lenders provide justification for aggressive action by policymakers," said Cohen. "The CFPB has taken an important step in requesting this information. We hope the CFPB, other regulators, and Congress take effective action soon."

NCLC Comments on Private Student Loans:

<http://www.studentloanborrowerassistance.org/wp-content/uploads/2007/03/cfpb-comments-april2013.pdf>

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Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. **www.nclc.org**

NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable. **www.studentloanborrowerassistance.org**