FP-06-04

Subject: Reporting Changes for Lenders

Summary: This letter provides guidance to FFEL lenders on reporting changes to the quarterly Lender's Interest and Special Allowance Request and Report (LaRS) as a result of the Higher Education Reconciliation Act of 2005.

Dear Colleague:

On February 8, 2006, President Bush signed the Higher Education Reconciliation Act of 2005 (HERA), Pub. L. 109-171, which made significant changes to the Higher Education Act of 1965, as amended (HEA), and reauthorized the Federal Family Education Loan (FFEL) Program. Some of these changes affect the way FFEL lenders report quarterly to the Department of Education (the Department) on the Lender's Interest and Special Allowance Request and Report (LaRS). The purpose of this letter is to provide guidance on those reporting changes.

<u>Reduction of Origination Fees</u>

The amount of origination fees that lenders are currently authorized to charge Stafford Loan borrowers is being reduced and eventually eliminated under the changes made by the HERA to the HEA. PLUS Loan borrowers will continue to be charged the current mandatory 3 percent origination fee. This PLUS requirement also applies to loans made to graduate and professional students, as authorized by HERA. Consolidation Loan borrowers are not charged a fee, and therefore are not affected.

Beginning with loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007, the maximum origination fee that can be charged to Stafford Loan borrowers will be 2 percent. The maximum fee drops to 1.5 percent on July 1, 2007, 1.0 percent on July 1, 2008, and 0.5 percent on July 1, 2009. The fee will be eliminated as of July 1, 2010.

Accordingly, in Part I of the Lender's Interest and Special Allowance Request and Report (LaRS) the edits for Column C, Fee Percent have been changed to reflect the new fee structure. If you are completing the form online, you will see the new percentages when you select this column. All percentage changes will be enabled during the reporting period in which they take effect.

830 First St. N.E., Washington, DC 20202
www.FederalStudentAid.ed.gov
1-800-4-FED-AID

New Interest Rates for FFEL PLUS and Stafford Loans

For FFEL PLUS loans for which the first disbursement is made on or after July 1, 2006, the interest rate scheduled to take effect has been increased from a fixed rate of 7.9 percent to a fixed rate of **8.5 percent**.

For FFEL Stafford loans for which the first disbursement is made on or after July 1, 2006, the fixed rate of **6.8 percent** previously provided for in section 427A(l) of the HEA will be effective.

As a result, LaRS edits for Part I, Column D, Part II, Column B, and Part III, Column F have been changed to reflect the new interest rates. If you are completing the form online, you will see the new interest rates in the drop-down boxes beginning with the quarter ending September 30, 2006.

Changes to Special Allowance

The HERA requires the repayment by a lender of excess interest when the applicable interest rate on a loan for any quarter exceeds the “special allowance support level.” This requirement applies to loans for which the first disbursement of principal is made on or after April 1, 2006, but does not apply with respect to any special allowance payment made under section 438 of the HEA before April 1, 2006.

The HERA defines the term “special allowance support level” as a number expressed as a percentage equal to the sum of:

- The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period, plus
- 2.34 percent for Stafford loans in repayment, or 1.74 percent during the in-school, grace or deferment periods; or
- 2.64 percent for PLUS and Consolidation loans.

The excess interest will be calculated each quarter by subtracting the “special allowance support level” from the applicable interest rate, multiplying the result by the average daily principal balance as reported to LaRS, and dividing by four. This is the same special allowance calculation presently in effect. The difference is that the Department will now deduct any negative result from the total of any payments that it would otherwise owe the lender. In the event that the net result of these calculations is that the lender owes funds, the Department will collect from the lender using normal billing processes.

This provision requires new special allowance categories. For loans first disbursed on or after April 1, 2006 the new special allowance categories will be:

- ***CE** – For all Stafford Loans during an in-school, grace or deferment period,*
- ***CF** – For all Stafford Loans in repayment,*
- ***CG** – For Consolidation Loans, and*
- ***CH** – For PLUS loans, including PLUS loans made to graduate and professional students, as authorized by HERA.*

Special Allowance Payments on Tax-Exempt Loans

Effective February 8, 2006, with the enactment of the HERA, certain special allowance payment provisions of the Taxpayer-Teacher Protection Act of 2004 have been made permanent.

Under the HEA, as it existed prior to the passage of the HERA, loans that were financed with funds obtained by the holder from the issuance of tax-exempt obligations originally issued prior to October 1, 1993 would be paid at the usual rates paid on other loans as specified in subparagraphs (A), (E), (F), (G), (H), or (I) of section 438(b)(2) of the HEA if certain actions occurred after September 30, 2004, and before January 1, 2006. The HERA removed the January 1, 2006 ending date. The removal of that date from §438(b)(2)(B) means that the special allowance rates on tax-exempt loans that were covered under §438(b)(2)(B) revert to the usual rates if those loans are:

1. Financed by a tax-exempt obligation described in section 438(b)(2)(B)(v)(I)(aa) that, after September 30, 2004, has matured or been refunded, retired, or defeased;
2. Refinanced after September 30, 2004, with funds obtained from a source other than funds described in section 438(b)(2)(B)(v)(I); or
3. Sold or transferred to any other holder after September 30, 2004.

In addition to these restrictions, the HERA added two additional provisions that prohibit a loan from being eligible for the 9.5 percent minimum special allowance rate under section 438(b)(2)(B) if the loan was:

4. Made or purchased on or after the date of enactment of the HERA; or
5. Not earning a quarterly rate of special allowance determined under section 438(b)(2)(B)(i) or (ii) as of February 8, 2006, the date of enactment of the HERA.

Exception for certain holders:

The HERA created an exception to the restrictions in 4 and 5 above (but not to the first three restrictions) by substituting “December 31, 2010,” for the “date of enactment” if the holder:

- Was, as of February 8, 2006, and during the quarter for which the special allowance is paid, a unit of the state or local government or a nonprofit private entity;
- Was, as of February 8, 2006, and during the quarter, not owned or controlled by, or under the common ownership or control with, a for-profit entity; and

- Held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100 million on loans for which special allowances were paid under section 438(b)(2)(B) in the most recent quarterly payment prior to September 30, 2005.

Accordingly, the Department has created new tax-exempt special allowance categories for loans disbursed on or after April 1, 2006, for those lenders eligible under the special exceptions noted above. The new codes are effective April 1 in order to comply with the provision to recapture excess interest. The new codes are:

- ***XM** – For all Stafford Loans in an in-school, grace or deferment period,*
- ***XN** – For all Stafford Loans in repayment,*
- ***XO** – For Consolidation Loans, and*
- ***XP** – For PLUS Loans, including PLUS Loans made to graduate and professional students, as authorized by HERA.*

Restriction of Special Allowance on PLUS Loans

Prior to the HERA, special allowance payments would not be made on PLUS loans disbursed on or after July 1, 2006 during any 12-month period beginning July 1 and ending June 30 unless the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial), for the last calendar week ending on or before such July 1, plus 2.64 percent, exceeded 9.0 percent.

This provision of the HEA has been eliminated by the HERA. Accordingly, beginning with the quarter ending September 30, 2006, PLUS loans first disbursed on or after July 1, 2006 will be eligible for special allowance.

ADDITIONAL TOPICS OF INTEREST

In addition to the LaRS reporting changes, we are including several topics of general interest that we feel are important to share at this time.

Lender Identification Number Assignment

We would like to reiterate our existing policy regarding the assignment of lender identification numbers (LIDs) to entities wishing to participate in the FFEL program. LIDs are assigned solely for the purpose of identifying a particular entity and tracking that lender's activities in the FFEL program.

For example, data associated with an LID is monitored to ensure that the lender does not exceed the loan volume restrictions in the definition of "lender" in 34 CFR 682.200. Requests for LIDs to accommodate a lender's business needs (e.g. a contractual arrangement that a lender has with its servicer) are not consistent with the purpose of the LID and will be denied.

Consolidation Loan Rebate Fees

An issue has been raised concerning the amounts reported on Lines 7 and 11 (“EOM Accrued Unpaid Interest Balance”) of the FFEL Consolidation Loan Rebate Fee Report and Remittance Form. Specifically, some servicers and/or lenders may be reporting only the “borrower’s interest” and not the “government interest” on Lines 7 and 11. This is incorrect.

All accrued unpaid interest is subject to the Consolidation Loan Rebate Fee, regardless of whether that interest will be paid by the Department or paid by the borrower.

In addition, when submitting fees, lenders should refrain from sending sensitive documents such as borrower rosters with names and social security numbers. These documents are not needed for fee processing and are shredded upon receipt by ED.

Lender Profile Updates

Lenders are reminded that it is their responsibility to inform the Department of any acquisitions, mergers, or name changes. Ideally these changes should be reported prior to the change, as soon as the lender is aware that the change will happen. In any event, we expect such changes to be reported no later than 30 days after they occur. These changes can be reported via email to FSA_LR@ed.gov.

In addition, changes in payment instructions, i.e. ACH routing or account numbers, should be reported promptly to the FMS Operations Help Desk at 1-800-433-7327, Option 3, to reduce the possibility that your payment will be returned to the Department for invalid information.

OPA Renewal Deadline

The current Organizational Participation Agreements (OPA’s) are due to expire on September 30, 2006. Please watch for further information in May 2006 regarding the renewal of this form.

Treasury Offset Program (TOP)

The Department of Treasury (Treasury) is now matching Department payments against outstanding government debts, based on the Tax ID number on our lender profile. Unfortunately, the Department receives no information from Treasury to indicate an offset has occurred. *If you receive an email payment notice for one amount, and your actual receipt is for another amount, your payment may have been offset.*

You can determine if an offset has occurred by looking at your incoming ACH transmission. Normally, the transmission will say it is coming from “EPGA TREAS 303.” However, if an offset has occurred the transmission will say it is coming from “TCS TREAS 449.” If this is your situation, please call Lender Reporting at 202-377-3324 or 202-377-3322 so we can verify the Tax ID number as reported to Treasury and provide further guidance.

If you have any questions on the information provided in this letter, please send all inquiries to FSA_LR@ed.gov.

Sincerely,

Matteo Fontana
General Manager, FSA Financial Partners Services