

CNBE 2010-2 (REV)

To: Examiners-in-Charge of Large and Midsize Banks, and Retail Credit Network Groups for Large, Midsize, and Community Bank Supervision

From: Grace E. Dailey, Senior Deputy Comptroller and Chief National Bank Examiner

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Subject: Policy Interpretation: OCC Bulletin 2000-20—Application to Private Student Lending

OCC Bulletin 2000-20, “Uniform Retail Credit Classification and Account Management Policy: Policy Implementation” (referred to in this guidance as Retail Classification Policy), provides guidance for controlling the use of extensions, deferrals, renewals, and rewrites of closed-end loans. While that policy does not specifically address account management practices for private student loans and the unique aspects of providing higher-education financing, the fundamental principles set forth in that guidance are applicable. Specifically, extensions, deferrals, renewals, and rewrites can be used to help borrowers overcome temporary financial difficulties, as long as those actions do not cloud the true performance and delinquency status of the portfolio, are based on renewed willingness and ability to repay the loan, and are structured and controlled in accordance with sound internal policies.

Borrowers transitioning from school to the job market often experience delays in achieving full employment and may not have sufficient resources to immediately begin repayment. While the Office of the Comptroller of the Currency (OCC) recognizes the need to facilitate an orderly transition into repayment, national banks and federal savings associations (collectively, banks) must also ensure the integrity of their books and records. Consistent with the Retail Classification Policy, practices that defer the start of the repayment period must be well controlled, supported, and documented to prevent the inappropriate deferral of loss recognition in problem situations. Once repayment has begun, private student loans should not be treated differently from other consumer loans except in cases when borrowers return to school.

Many banks have adopted practices for working with distressed borrowers that mirror federally guaranteed student loan programs. This range of practice is not appropriate for student loans not backed by a federal guarantee nor do they conform to the principles established by the Retail Classification Policy. In particular, many banks with private student loan portfolios have been granting excessive forbearance to distressed borrowers both in the transition into repayment and during the repayment term. The most common forbearance option is the suspension of all

payments, generally with continued interest accrual. These workouts often suspend repayment for protracted periods without sufficient documentation of the borrower's hardship or willingness and reasonably expected ability to repay.

Examiners should ensure that bank practices are reasonable and consistent with the principles outlined in the Retail Classification Policy. While specific programs and policies may vary across banks, here are some examples of practices and policies that generally would be acceptable as part of a controlled and documented program.

Grace and Extended Grace Periods

- The bank provides borrowers a six-month grace period immediately following separation from school (graduation or withdrawal) without conditions or documentation of any hardship. During the grace period, the bank contacts the borrowers to counsel them on repayment terms, the repayment process, and the borrowers' repayment responsibilities to ensure an orderly transition to repayment.
- Immediately following the grace period, the bank offers an extended grace period of up to six months for borrowers experiencing financial hardship and who have appropriate documentation. This gives borrowers a total of up to 12 months following graduation or withdrawal from school to obtain employment (grace period plus extended grace period) and assist in the transition to repayment.

Subsequent to the grace and extended grace periods, borrowers should begin regular repayment schedules. When necessary and prudent, short-term payment forbearance should be limited to extensions granted in conformance with existing supervisory guidance for retail credits.

Loan Modifications

For long-term hardships, the bank temporarily or permanently reduces the interest rate to lower the borrowers' payments. Any temporary reduction in borrowers' interest rate should provide a reasonable transition back to the contract rate to avoid payment shock. Conversely, extensions of loan terms, allowing non-amortizing payments or a balloon payment at maturity, are generally not appropriate actions for long-term hardships because there has not been any demonstrated ability by the borrowers to repay. These types of actions should generally be criticized as delaying recognition of the problem credit.

In-School Deferments

The bank grants in-school deferment for borrowers who re-enroll in qualifying schools as no less than half-time students on the borrowers' existing and new private student loans. To facilitate synchronizing payments on multiple loans to the same borrowers, the bank provides borrowers who re-enroll in school a grace period for any existing and new private student loans upon graduation or withdrawal from school.