FP-06-07 May 11, 2006

SUBJECT: GAFR Reporting Changes for Guaranty Agencies

SUMMARY: This letter provides guidance to guaranty agencies on reporting changes to the Guaranty Agency Financial Report (GAFR), ED Form 2000, 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 changes to the Higher Education Act of 1965, as amended (HEA), and reauthorized the Federal Family Education Loan (FFEL) Program. We provided initial guidance concerning the changes made by the HERA to the HEA student loan programs in Dear Colleague Letter GEN-06-02 on March 14, 2006. Some of those changes impact guaranty agency reporting to the Department of Education (the Department) on the Guaranty Agency Financial Report (GAFR). The purpose of this letter is to provide guidance to guaranty agencies on reporting changes affecting the following four areas:

1. Filing reinsurance claims
2. Lender insurance and guaranty agency reinsurance rates
3. Collection costs on defaulted loans being consolidated
4. Federal default fees

We are in the process of updating the GAFR Instruction Guide with all HERA provisions that impact guaranty agency reporting. The updated guide will be available before July 1, 2006 at:

http://www.fp.ed.gov/PORTALSWebApp/fp/index.jsp.

A summary of the HERA provisions that impact current GAFR reporting is provided below.

1. Filing reinsurance claims

Effective for reinsurance requests filed on or after July 1, 2006, the time a guaranty agency is allowed under §428(c)(1) of the HEA for filing a reinsurance claim to the Department has been reduced from 45 days to 30 days following the date the guaranty agency pays the lender's claim on the loan. As a result of this change, the Department will provide guaranty agencies with the option of reporting reinsurance claims twice each month. A supplemental form will be available (web application only) for reporting reinsurance claims one time between monthly reports.

The supplemental form process will be the same as the current GAFR process, *i.e.*, e-mail alerts, acceptance/rejection, payment terms at net 21 days, and a Statement of Account (SOA). If a guaranty agency submits a supplemental claim form, the next monthly GAFR report must include the supplemental reinsurance request amounts. The monthly GAFR claim amounts will be reduced by the supplemental claim amounts.

The supplemental claims form will be available by June 26, 2006 to allow guaranty agencies to report lender claims paid in early June 2006.

In order to preserve GAFR/National Student Loan Data System (NSLDS) reasonability reports, the guidelines below must be followed when submitting supplemental claim requests

1. NSLDS field 114 (Date Reinsurance Claim Requested) and field 116 (Amount of Reinsurance Claim Requested) must correspond to monthly GAFR report date and amount.

2. NSLDS field 115 (Date Reinsurance Claim Paid) must continue to be reported as the actual date the guaranty agency receives the reinsurance claim payment from the Department (electronic funds transfer (EFT) date). This field is unlike most date fields associated with an event in NSLDS; it is treated as value or detail about the "Reinsurance Request Event" and does not impact reasonability.

For compliance audits, the guaranty agency must maintain the actual reinsurance request date for the supplemental claim requests. A user guide for reporting supplemental reinsurance claims is being developed and will be posted on the Financial Partner Portal, prior to June 26, 2006 at:

http://www.fp.ed.gov/PORTALSWebApp/fp/index.jsp

2. Lender insurance and guaranty agency reinsurance rates

Beginning with loans for which the first disbursement of principal is made on or after July 1, 2006, a guaranty agency must insure 97 percent (a decrease from the current 98 percent) of a defaulted loan.

The insurance percentage applicable to lenders or lender servicers designated as exceptional performers under section 428I of the HEA decreases from 100 percent to 99 percent for any default claim submitted to a guaranty agency by the exceptional performer lender or lender servicer on or after July 1, 2006, regardless of when the loan was made or when it defaulted.

For loans for which the first disbursement of principal is made on or after July 1, 2006, a guaranty agency will receive 100 percent reinsurance from the Department for "exempt claims" that it pays under section 428(c)(1)(G) of the HEA. The term "exempt claims" is defined in the HEA as claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the

borrower or the student to be ineligible for all or a portion of the loan or for interest benefits on the loan.

The following chart summarizes the primary insurance and reinsurance rates, impacted by HERA, for default, exempt, and exceptional performer claims.

Description	Sample Loan / Claim Amount	Reimbursement Rate (GA to Lender)	Reimbursement Amount to Lender	Maximum Reimbursement Rate (ED to GA)	Reimbursement Amount to GA
Lender Insurance (Loan 1st Disbursed on or after 10/1/93 and before 10/1/98)	$1,000.00	98%	$980	98%	$960.40
Lender Insurance (Loan 1st Disbursed On/After 10/1/98 and Before 7/1/06)	$1,000.00	98%	$980.00	95%	$931.00
Lender Insurance (Loan 1st Disbursed On/After 7/1/06)	$1,000.00	97%	$970.00	95%	$921.50
Lender Insurance for Exempt Claims (Loan 1st Disbursed Before 7/1/06)	$1,000.00	98%	$980.00	95%	$931.00
Lender Insurance for Exempt Claims (Loan 1st Disbursed On/After 7/1/06)	$1,000.00	100%	$1,000.00	100%	$1,000.00
Exceptional Performer (Claim Submitted Before 7/1/06)	$1,000.00	100%	$1,000.00	95%	$950.00
Exceptional Performer (Claim Submitted On/After 7/1/06)	$1,000.00	99%	$990.00	95%	$940.50

3. Collection costs on defaulted loans being consolidated

The HERA amends section 428(c) of the HEA by limiting the amount of collection costs a guaranty agency may charge a borrower consolidating a defaulted loan to no more than 18.5 percent of the outstanding principal and accrued interest of the defaulted loan. For defaulted loans consolidated on or after October 1, 2006, the HERA requires a guaranty agency to remit to the Secretary a portion of the collection charge equal to the lesser of the amount charged the borrower or 8.5 percent of the outstanding principal and interest of the loan.

Effective October 1, 2006, GAFR, line item MR-11, FFEL Consolidation Refund, for both the web application and FTP file format, will be modified to accept data in line item MR-11, Other Amounts. This field will be used to report the Secretary's share of the collection costs charged on defaulted loans being consolidated.

When paying off a defaulted FFEL loan being consolidated into the Direct Loan Program, the Department will continue to use the current process and include in the payoff to the guaranty agency collection costs charged by the guaranty agency (which cannot exceed an amount equal to 18.5 percent of the outstanding principal and interest). Effective October 2006, line item MR-

15 (Late Reporting Interest) of the GAFR will be renamed "Default FFEL Consolidated By DL Fee" to allow reporting in the MR-15, Amount Due To (From) Guarantor column. This field is being enabled to collect the Secretary's share of the collection costs charged on defaulted loans being consolidated.

On and after October 1, 2009, a guaranty agency must remit the entire amount of the collection costs charged the borrower applicable to a defaulted loan that is paid off with excess consolidation proceeds. The term "excess consolidation proceeds" is defined in the HEA, as, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation loans received to pay defaulted Title IV loans for that agency that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.

4. Federal default fees

Effective for loans for which the date of guarantee of principal is on or after July 1, 2006, the HERA eliminates the insurance premium fee that guaranty agencies could charge a borrower and replaces it in section 428(b)(1)(H) of the HEA with a required Federal Default Fee of 1 percent of the principal amount of each loan that a guaranty agency must deposit into its Federal Fund. The Default Fee will be reported on the Annual GAFR in line item AR-19, Insurance Premiums.

The Default Fee can either be charged to the borrower by a deduction from the proceeds of the loan or paid from other non-federal sources. If the borrower is charged the fee, it must be deducted proportionally from the loan proceeds. The Default Fee must be deposited into the guaranty agency's Federal Fund immediately upon receipt, but no later than 45 days after the loan proceeds have been disbursed by the lender, even if payment will be made from a source other than borrower proceeds.

If you have any questions regarding the reporting changes described in this letter, please contact Sandra Simmons at 202-377-3332 or Nettie Harding at 202-377-3307, or via e-mail to FSA_GAR@ed.gov.

Sincerely,

Matteo Fontana
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Federal Student Aid