

Prepared for:
U.S. Department of Education
Federal Student Aid
Business Operations

Entity Reviewed:
Great Lakes Educational Loan Services, Inc.
2401 International Lane
Madison, WI 53704

Prepared by:
U.S. Department of Education
Federal Student Aid
Financial Institution Oversight Service - Northern Division

Internal Review Report

May 26, 2015

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A. Review Information

SID Number: 700581

Program Review Control Number (PRCN): 20144055006

Name and Address:

Great Lakes Educational Loan Services, Inc.
2401 International Lane
Madison, WI 53704

Dates of Review: July 28, 2014, through August 1, 2014

Review Period: June 17, 2009, through May 31, 2014

B. Entity Information

Great Lakes Educational Loan Services, Inc. (Great Lakes) signed a contract on June 17, 2009 to be a Title IV Additional Servicer (TIVAS) contractor with the U.S. Department of Education (Department) to service loans owned by the Department, including Federal Family Education Loan (FFEL) Program loans purchased by the Department from FFEL program lenders under the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA). Although the Loan Purchase Commitment Program expired September 30, 2010, the Asset-Backed Commercial Paper Conduit Put Program allowed FFEL Program lenders to sell loans to the Department until this program expired on January 19, 2014. In 2010, the TIVAS contract was extended to include servicing of William D. Ford Federal Direct Loan (Direct Loan) Program as well as FFEL Program loans owned by the Department. The FFEL and Direct Loan programs are authorized by Title IV of the Higher Education Act of 1965, as amended (HEA).

Background

The Servicemembers Civil Relief Act (SCRA) provides a wide range of protections for individuals entering or called to active duty in the military or servicemembers already deployed. In regard to FFEL loans and Direct Loans, the SCRA limits the interest rate a borrower may be charged on a loan made to the servicemember entering qualifying military service to six (6) percent. When the servicemember ends a period of active duty military service, the interest rate should return to the original rate. The six percent interest rate applies during any period when the borrower is on active duty military service.

The SCRA's interest rate limit first became applicable to the FFEL and Direct Loan programs with the passage on August 14, 2008 of the Higher Education Opportunity Act (HEOA) which amended §§428(d) and 438 of the HEA to incorporate the SCRA's interest rate limitation.

The Department's Dear Colleague Letter (DCL) GEN-08-12/FP-08-10, issued in December 2008, included guidance to FFEL loan holders regarding the application of the SCRA for FFEL

Program and Direct Loan Program loans.¹ Page 120 of the DCL noted that the interest rate limitation applied to borrowers in active duty military service as of August 14, 2008, but did not apply to an endorser of a PLUS loan unless the borrower is also performing eligible active duty military service. The DCL also stated that:

. . . Under the SCRA, the borrower must contact the creditor (loan holder) in writing to request the interest rate adjustment and provide a copy of the borrower's military orders. For this purpose, the term "in writing" may include a borrower's email request the term "copy of the borrower's military orders" includes a scanned copy of the orders attached to that email request. . . The Department will apply the SCRA interest rate limit to Direct Loan borrowers in the same manner.

On October 29, 2009, the Department published final regulations in the Federal Register that included changes to implement the SCRA interest rate cap. The regulations became effective July 1, 2010. The final regulations added 34 CFR §682.202(a)(8) which provides:

The charges that lenders may impose on borrowers, either directly or indirectly are limited to the following:

(a) *Interest.* The applicable interest rates for FFEL Program loans are given in paragraphs (a)(1) through (a)(4) of this section.

(8) *Applicability of the Servicemembers Civil Relief Act (50 U.S.C. 527, App. sec. 207).* Notwithstanding paragraphs (a)(1) through (a)(4) of this section, effective August 14, 2008, upon the loan holder's receipt of the borrower's written request and a copy of the borrower's military orders, the maximum interest rate, as defined in 50 U.S.C. 527, App. section 207(d), on FFEL Program loans made prior to the borrower entering active duty military status is 6 percent while the borrower is on active duty military service.

The final regulations also changed the Direct Loan Program regulations at 34 CFR§685.202(a)(4), to similarly provide:

(4) *Applicability of the Servicemembers Civil Relief Act (50 U.S.C. 527, App. sec. 207).* Notwithstanding paragraphs (a)(1) through (3) of this section, effective August 14, 2008, upon the Secretary's receipt of a borrower's written request and a copy of the borrower's military orders, the maximum interest rate, as defined in 50 U.S.C. 527, App. section 207(d), on Direct Loan Program loans made prior to the borrower entering active duty status is 6 percent while the borrower is on active duty military service.

¹ Section C.1.4.3 (Constraints) of Great Lakes TIVAS contract states that "[t]he contractor(s) will be responsible for maintaining a full understanding of all federal and state laws and regulations and FSA requirements and ensuring that all aspects of the service continue to remain in compliance as changes occur." The Department's DCL system provides FSA program direction and compliance guidance.

On December 12, 2013, FSA issued Change Request (CR) 2278 which states that “FSA needs to ensure that active duty personnel are receiving the active duty student loan benefits they are entitled to receive.” This CR instructs all of FSA’s servicers to “...do a match with the Department of Defense (DoD) database to identify active duty military personnel for purposes of applying active duty military benefits to eligible loan recipients.” On April 7, 2014, FSA issued CR 2409 which states that “[t]he servicers shall outreach to all eligible active duty personnel identified in the DoD match (per CR 2278) and ongoing annually...The servicers should track the results of this outreach activity and report to FSA any problems or successes with this effort.” On May 19, 2014, CR 2658 instructed the TIVAS to use the Defense Manpower Data Collection (DMDC) database to “...replace the requirement for the receipt of orders...as long as the servicer notifies the service member that the benefit is being applied and provides the service member an opportunity to request additional information.” Great Lakes has implemented CR 2658 which is expected to address the issues identified in this report.

C. Review Objectives

The objective of this review was to determine whether borrowers of eligible FFEL loans and Direct Loans received the benefit of the 6 percent interest rate cap provided by the SCRA in accordance with applicable statutes, and the Department’s regulations and guidance.

D. Purpose and Scope of Review

The purpose of this review was to:

- (1) Determine whether Great Lakes complied with all the applicable statutes, regulations, and guidance in determining whether a borrower was eligible to receive the interest rate cap provided by the SCRA, and
- (2) Ensure that eligible borrowers who met the requirements for the interest rate cap under the SCRA were granted the benefit on all their eligible federal student loans.

Financial Institution Oversight Service (FIOS) conducted a program review at Great Lakes from July 28, 2014, through August 1, 2014. The review covered the period June 17, 2009 (the effective date of Great Lakes’ TIVAS contract) through May 31, 2014. The review was limited to loans owned by the Department and serviced by Great Lakes under the TIVAS contract. The review did not cover whether Great Lakes applied the SCRA interest rate cap on FFEL loans it held and loans it serviced for other holders or private student loans.

E. Summary of Element Reviewed

Using the National Student Loan Data System (NSLDS), FIOS extracted a population of 21,932 unique records of FFEL Program and Direct Loans owned by the Department and serviced by Great Lakes under the TIVAS contract that reflected that the borrower had received a military deferment or a military grace period from June 17, 2009 through May 31, 2014, and which had an interest rate above 6 percent. A statistically valid random sample of 99 loans, representing 99 distinct borrowers, was selected for testing from the population of 21,932 loans. FIOS used its

standard expected deviation rate of 0.0 percent, tolerable deviation rate of 3 percent, and confidence level rate of 95 percent, based on the population of 21,932 records, to arrive at the sample size of 99, as defined by IDEA data analysis software.

Element: Servicemembers Civil Relief Act

Borrowers in active duty military service may have the interest rate charged on eligible FFEL Program and Direct Loan Program limited to 6 percent. Under the Department's regulations, to receive the benefit of the interest rate cap under the SCRA during the period covered by the review², the borrower must have provided the servicer with a written request for the benefit and a copy of the appropriate military orders. These documents may be provided in paper form or by email. In some cases, a representative with the borrower's power of attorney may present the documents on behalf of the borrower. The servicer must grant the benefit based on the military orders provided and may use information obtained through the DMDC system to augment the information in the request.

Methodology:

FIOS interviewed key Great Lakes officials responsible for servicing loans under the TIVAS contract. FIOS reviewed Great Lakes' processes and procedures to ensure that they adhered to the requirements in the HEA and the Department's regulations, policies and other guidance in regard to SCRA. To determine active duty military service dates and SCRA eligibility, data from NSLDS, Great Lakes' internal system and borrower records were reviewed and any inconsistencies were reconciled. For all loans in the sample, copies of monetary transaction histories, collection activity histories, and deferment histories were also reviewed.

All loans were tested to determine whether Great Lakes:

- Notified the borrower that they may be eligible for the SCRA interest rate cap,
- Granted the SCRA interest rate cap when the borrower requested the benefit in writing and submitted a copy of their military orders, and applied the interest rate cap to all eligible loans, both FFEL Program and Direct Program Loans,
- Denied the SCRA interest rate cap in accordance with the Department guidelines,
- Granted the interest rate cap for the correct time period for borrowers approved for the SCRA interest rate cap, and
- Adjusted the SCRA interest rate cap back to the original interest rate if the borrower left active duty military service or was otherwise found to be ineligible for the SCRA interest rate cap.

Results:

For the 99 borrowers tested:

- Great Lakes did not notify borrowers of their potential eligibility. Notifying the borrower of their potential SCRA eligibility was not required during the period covered by the review.

² Since the period covered by the review, the Department changed the process for insuring that eligible borrowers receive the benefit of the interest rate cap under the SCRA.

- 20 borrowers requested the SCRA interest rate cap:
 - Great Lakes granted the SCRA interest rate cap to 15 borrowers:
 - Great Lakes correctly granted the benefit to 14 borrowers.
 - Great Lakes incorrectly granted the benefit to 1 borrower.
 - Great Lakes denied the SCRA interest rate cap to 5 borrowers:
 - Great Lakes correctly denied the benefit to 4 borrowers.
 - Great Lakes incorrectly denied the benefit to 1 borrower.
 - Great Lakes used incorrect active duty military service dates to determine the benefit period for 2 of the 15 borrowers granted the benefit.
 - Great Lakes correctly adjusted the interest rate cap back to the original interest rate for 13 of the 15 borrowers granted the benefit.

There were three issues identified.

FIOS found that Great Lakes did not fully comply with all Department statutes, regulations, and guidance for granting the interest rate cap provided by the SCRA to eligible servicemembers. Specifically, Great Lakes incorrectly granted the SCRA interest rate cap to one borrower, incorrectly denied the SCRA interest rate cap to one eligible borrower, used incorrect active duty military service end dates to determine the SCRA interest rate cap benefit period and did not always adjust the interest rate cap back to the original rate when the borrower was no longer eligible.

Issue 1 – Incorrectly Granted the SCRA Interest Rate Cap

Great Lakes incorrectly granted the SCRA interest rate cap to one borrower.

Title 32 – National Guard periods of active duty are not covered by SCRA unless the borrower is called to active duty due to a national emergency declared by the President or the Secretary of Defense, as defined in accordance with 10 U.S.C. § 101(d) (1) and 502(f).

Great Lakes incorrectly granted the SCRA benefit for one borrower that had been called to active duty under Title 32 – National Guard for training but not called to active duty due to a national emergency declared by the President or the Secretary of Defense.

Recommendations:

We recommend that Business Operations direct Great Lakes to—

- 1.1 Review the portfolio of borrowers granted the SCRA interest rate cap as a result of National Guard active duty to ensure that only eligible borrowers were approved for the benefit and adjust borrower accounts or allow benefits already provided to borrowers, as appropriate.
- 1.2 Comply with all Department requirements and seek assistance in the implementation of new regulatory requirements.

Issue 2 – Denial of SCRA Interest Rate Cap

Great Lakes incorrectly denied the SCRA interest rate cap to one eligible borrower.

The borrower submitted a written request for the SCRA benefit, provided copies of their military orders, and the loan was made prior to the borrower's beginning date of active duty military service, but Great Lakes never took action to grant the benefit. Great Lakes stated that this was a processing oversight related to human error.

Recommendation:

We recommend that Business Operations direct Great Lakes to—

- 2.1 Retroactively grant the SCRA interest rate cap to the eligible borrower and adjust the borrower's account accordingly.
- 2.2 Develop and implement a control to prevent future processing errors of this nature.

Issue 3 – Incorrect Active Duty Military Service Dates Used for SCRA Interest Rate Cap Periods and Interest Rate Was Not Always Adjusted Back to the Original Rate.

Great Lakes used incorrect active duty military service end dates to determine the SCRA interest rate cap benefit period for two borrowers, and did not always adjust the interest rate back to the original rate.

For one borrower, the active duty military service date ended on June 4, 2014 and was incorrectly extended to September 14, 2014. For a second borrower, the active duty military service begin date was November 4, 2013. Great Lakes should have ended the SCRA interest rate cap period 18 weeks and 6 days later on April 10, 2014. However, the scheduled SCRA interest cap end date on Great Lakes' system was November 4, 2017. Great Lakes has a procedure to confirm the expiration of the SCRA interest rate cap eligibility period, but Great Lakes did not properly adjust eligibility dates for the two borrowers. Additionally, the interest rate for borrowers with a change in eligibility status was not always changed back to the original interest rate.

FIOS recommends that Business Operations direct Great Lakes to—

- 3.1 Review the portfolio of borrowers in SCRA status to ensure that: 1) correct begin and end dates are used for determining the eligible benefit period and 2) the interest rate is accurately adjusted back to the original rate for borrowers who had a change in eligibility status and adjust borrower accounts or allow benefits already provided to the borrowers, as appropriate.
- 3.2 Comply with all Department requirements regarding the use of correct active duty service dates.

F. Conclusion

The program review identified the following issues:

- The interest rate cap was incorrectly granted to one borrower under Title 32 – National Guard periods of active duty not covered by SCRA.
- Great Lakes incorrectly denied the SCRA interest rate cap to one eligible borrower.
- Incorrect active duty military service end dates were used to apply the interest cap under the SCRA. The benefits were not always reversed for changes in a borrower' eligibility status.