7/30/2015

The Honorable Debbie Matz
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Dear Chairman Matz:

We are writing to call your attention to reportedly harmful, predatory private student loans to students at for-profit colleges made by federally chartered credit unions, federally insured state chartered credit unions (FISCUs), and Credit Union Service Organizations (CUSOs). These loans may constitute unfair and deceptive trade practices, and threaten the credit unions' safety and soundness by posing serious credit, reputation, and compliance risks.

We are deeply disturbed about the role of credit unions and CUSOs that partnered with for-profit colleges to offer predatory student loans. In particular, ITT Educational Services, the controversial for-profit college chain, allegedly developed a scheme to issue high-cost private student loans to its students through a CUSO.[1] These loans defaulted at extremely high rates – demonstrating their fundamentally predatory nature, and their threat to safety and soundness.

According to news reports, Eli Lilly Federal Credit Union,[2] along with six state-chartered credit unions,[3] allegedly partnered with ITT to offer these loans to ITT students. The Rochdale Group, a credit union consulting firm, recruited credit unions to partner with ITT through the CUSO Student CU Connect (SCUC).[4] While neither the credit unions nor the Rochdale Group are parties to any enforcement action, the partnership between ITT and SCUC has drawn scrutiny from federal regulators.

Last year, the Consumer Financial Protection Bureau sued ITT for conduct related to the SCUC loan program. The CFPB's lawsuit claims that ITT pressured students into the loans by misleading them about the value of the degree, lying about their job prospects, rushing them through the loan originations using high-pressure and deceptive tactics, and pressuring them to

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[1] Consumer Financial Protection Bureau: "CFPB Sues For-Profit College Chain ITT for Predatory Lending." http://www.consumerfinance.gov/newsroom/cfpb-sues-for-profit-college-chain-itt-for-predatory-lending/. In response, ITT issued a press release calling the complaint "unfounded, " http://www.ittesi.com/2014-04-30-ITT-Educational-Services-Inc-Calls-CFPB-Complaint-Unfounded-Asks-Court-To-Dismiss.

[2] Now called Elements Financial, http://www.indianachamber.com/index.php/member-press-releases/3199-elfcu-1-billion-credit-union-embraces-85-year-history-dynamic-future-becoming-elements-financial-indianapolis.

[3] The other credit unions included the FISCUs Bellco Credit Union, in Greenwood Village, CO; CommunityAmerica Credit Union, Lexana, KS; Workers' Credit Union, Fitchburg, MA; Directions Credit Union, Toledo, Ohio; Veridian Credit Union, Waterloo, IA; and Credit Union of America, Wichita, KS. http://www.cutimes.com/2014/05/01/credit-unions-part-of-cfpbs-itt-loan-complaint.

[4] The Rochdale Group, "Creating Collaborative Solutions," Nov. 5, 2009, https://www.creditunions.com/assets/1/30/Student%20CU%20Connect-ITT%20partnership%20growing.pdf.

take out loans that ITT knew they would never have the ability to repay with interest rates as high as 16.5% and origination fees up to 10%.[5] Thousands of students took out expensive loans that "they could not afford, did not want, did not understand, or did not even know they had."[6]

According to the complaint, the SCUC private loan program originated $189 million in loans to ITT students over a period of less than three years. ITT projected the loans to have an extremely high default rate of 60%; currently some pools have default rates higher than 70%.[7]

The credit unions allowed ITT extreme control over the SCUC loan program. The CFPB suit alleges that "SCUC was the brainchild of ITT or its paid consultants, and ITT was actively involved in the creation and support of SCUC by developing the underwriting criteria, providing a credit facility, and paying the credit union membership fees in the lead credit union on behalf of the students who took out SCUC loans."[8]

The ITT credit union student loan program has also been the target of a Securities and Exchange Commission enforcement action. In May of this year, the SEC charged ITT, its chief executive officer Kevin Modany, and its chief financial officer Daniel Fitzpatrick with fraud. The SEC's complaint alleges that ITT, Modany, and Fitzpatrick engaged in a fraudulent scheme and made a number of false and misleading statements to hide the magnitude of ITT's guarantee obligations for its private student loan programs, including its credit union partnership with SCUC.[9]

Not only have students been harmed by the SCUC loans, but they might also present a risk to safety and soundness. The participating credit unions have faced serious losses. For example, Eli Lilly Credit Union recorded a loan loss reserve of 70% of total loan balances related to the program.[10]

We note that many of the risks that manifested in the SCUC program are highlighted in the NCUA 2013 Supervisory Letter on private student loans.[11] The Supervisory Letter notes that

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[5] Consumer Financial Protection Bureau: "CFPB Sues For-Profit College Chain ITT for Predatory Lending." http://www.consumerfinance.gov/newsroom/cfpb-sues-for-profit-college-chain-itt-for-predatory-lending/.

[6] Consumer Financial Protection Bureau vs. ITT Educational Services, Inc., at ¶ 97, http://files.consumerfinance.gov/f/201402_cfpb_complaint_ITT.pdf. On March 9, 2015, the District Court judge dismissed the CFPB's Truth in Lending Act claim finding it was time-bared. The suits primary claim pertaining to SCUC loan program was permitted to go forward.

[7] Id., at ¶ 120, at ¶ 12, and at ¶ 154.

[8] Id., at ¶ 121.

[9] Securities and Exchange Commission: "SEC Announced Fraud Charges Against ITT Educational Services." http://www.sec.gov/news/pressrelease/2015-86.html. In response, ITT issued a press release calling the SEC charges "unfounded, " http://www.ittesi.com/2015-05-12-ITT-ESI-Will-Fight-The-SECs-Unfounded-Charges. An attorney for Daniel Fitzpatrick said, "We do not believe he did anything wrong, and we look forward to our day in court." http://www.usatoday.com/story/money/business/2015/05/12/itt-educational-services-sec-fraud-charges/27169703/ On the company's Jun. 1, 2015 earnings call, Mr. Modany noted that he had no further response beyond the company's previously disclosed comments. http://seekingalpha.com/article/3230586-itt-educational-services-esi-ceo-kevin-modany-on-q4-2014-results-earnings-call-transcript?page=4.

[10] Chris O'Malley, *Indianapolis Business Journal*: "ITT student-loan bet stings Lilly's credit union." April 26, 2014. http://www.ibj.com/articles/47360-itt-student-loan-bet-stings-lilly-s-credit-union.

[11] NCUA, Supervisory Letter, December 2013, http://www.ncua.gov/Resources/Documents/LCU2013-15_SupervisoryLetter.pdf.

"private student lending can involve significant credit risk, especially if the lender has weak underwriting … practices."[12] The Supervisory Letter also cautions that inadequately managed relationships with CUSOs involved in private loans can result in "legal disputes, reputation risk, and financial loss."

We appreciate NCUA's supervisory letter but remain concerned about the participation of credit unions in such harmful lending practices to students at for-profit colleges. We urge you to, take into account the type of colleges with which credit unions partner to make private student loans and the increased risk posed by for-profit colleges during examination and supervisory activities. We also encourage you to consider whether the credit unions participating in the SCUC loan program observe requirements related to CUSOs and take enforcement action against credit unions that participated in ITT's predatory lending scheme.

It would be troubling if the Rochdale Group arranged any other financial partnerships or CUSOs to allow credit unions to make loans to for-profit college students.

According to guidelines by the U.S. Department of Education, the Secretary of Education may require that ITT submit an irrevocable letter of credit equal to at least 50% of federal student aid funds that the institution received in the last fiscal year.[13] If any credit union seeks to issue a letter of credit on behalf of ITT, we ask you to take appropriate steps to probe any transaction before finalized.

Thank you again for your attention to this matter.

Center for Responsible Lending
Consumers Union
Consumer Action
Generation Progress
Higher Ed, Not Debt
National Consumer Law Center (on behalf of its low-income clients)
Student Debt Crisis
United States Student Association
Veterans for Education Success
Woodstock Institute

cc: Honorable Arne Duncan, Secretary of Education
Honorable Mary Jo White, Chair, Securities and Exchange Commission
Honorable Richard Cordray, Director, Consumer Financial Protection Bureau

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[12] Supervisory Letter at 2.
[13] Federal Student Aid Handbook. http://ifap.ed.gov/fsahandbook/attachments/0910FSAHbkVol2Ch11Financial.pdf.