

#	Subject	Summary of Change to Common Manual	Type of Update	Effective Date
1283	Common Income-Based Repayment Plan Request Form	<p>2.3.C Common Forms 10.8.D Income-Based Repayment Schedule</p> <p>Adds information regarding distribution of the Department's common form (published December 19, 2012) for borrowers to request the income-based repayment plan.</p>	Federal	Distribution of the Department's Income-Based (IBR) /Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request form to a borrower on and after April 1, 2013, unless implemented no earlier than December 19, 2012.
1284	Income-Based Repayment Plan	<p>10.8.D Income-Based Repayment Schedule 10.10.A Permitted Capitalization</p> <p>Adds information to align with the income-based repayment plan final regulations published in the <i>Federal Register</i> on November 1, 2012. Provides individual lender flexibility regarding what type of income documentation a borrower must provide in order to determine whether the borrower has a partial financial hardship. Also outlines various notifications that a lender must send to a borrower under the income-based repayment plan provisions.</p>	Federal	<p>For repayment of all IBR-eligible loans based upon income-based repayment plan requests on or after July 1, 2013.</p> <p>For income-based repayment plan income documentation and required notifications, July 1, 2013, unless implemented by the lender no earlier than November 1, 2012.</p>
1285	Loan Forgiveness under the Income-Based Repayment Plan	<p>13.9.D Loan Forgiveness under the Income-Based Repayment Schedule</p> <p>Adds information pertinent to loan forgiveness and the requirement to notify borrowers under the income-based repayment plan provisions published by the Department on November 1, 2012.</p>	Federal	<p>For clarifications on qualifying payments, July 1, 2009.</p> <p>For Income-based repayment loan forgiveness notifications, notifications provided by the lender on or after July 1, 2013.</p>

Batch 192 (Approved)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 21, 2013

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Feb 21

SUBJECT: Common Income-Based Repayment Plan Request Form

AFFECTED SECTIONS: 2.3.C Common Forms
10.8.D Income-Based Repayment Schedule

POLICY INFORMATION: 1283/Batch 192

EFFECTIVE DATE/TRIGGER EVENT: Distribution of the Department's Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request form to a borrower on and after April 1, 2013, unless implemented no earlier than December 19, 2012.

BASIS:
DCL GEN-12-22.

CURRENT POLICY:
Current policy provides information about the income-based repayment plan.

REVISED POLICY:
Revised policy adds information regarding distribution of the Department's common form (published December 19, 2012) for borrowers to request an income-based repayment plan.

REASON FOR CHANGE:
This change is necessary to comply with the Department's guidance regarding a new common form for borrowers to request an income-based repayment plan.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 2.3.C, column 2, page 13, by adding a new paragraph 2, as follows:

Income-Based Repayment Plan Request Form

- Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request

Revise Subsection 10.8.D, page 17, column1, by adding a new paragraph 4, as follows:

10.8.D Income-Based Repayment Schedule

...

A borrower may request an income-based repayment plan through the use of the Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request form.

If a borrower selects IBR, the lender must determine, based on the borrower's documentation, if the borrower has a . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Common Income-Based Repayment Plan Request Form

The *Common Manual* is being revised to include information regarding use of the Department's common form for requesting an income-based repayment plan. Lenders may distribute the new form to borrowers on and after December 19, 2012, but must distribute only this form on and after April 1, 2013. Per DCL-GEN-12-22, the previous version of the Income-Based Repayment Plan Request form may be accepted from borrowers through April 30, 2013.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:*Student/Borrower:*

A borrower may benefit from using a new, updated version of the form.

School:

A school may benefit from the borrower's use of a consolidated version of the form as the borrower should have a greater knowledge of his/her loans and options to repay the loans. This could result in a decrease in the school's cohort default rate.

Lender/Service:

A lender may need to revise processes and procedures when converting from distribution and use of the previous form to the new revised form.

Guarantor:

A guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

January 8, 2013

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 14, 2013

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, College Assist, FAME, Great Lakes, MGA, NASFAA, NCHER, NELA, OCAP, PPSV, SCSL, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Most of the commenters supported this proposal as written. Several commenters recommended wordsmithing changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter requested that "income-based repayment plan" should be capitalized throughout the proposal.

Response:

The Committee notes that the Manual's convention regarding discussion of the various payment plans is to use lower case.

Change:

None.

COMMENT:

One commenter suggested that the effective date/trigger event was cumbersome and that reference to the

lender is not necessary because an entity implementing a repayment program is a lender. The commenter also suggested removing reference to the earliest implementation date because it is confusing and unnecessary as the date has already passed, and no one could have implemented the form before it was made available by the Department.

Response:

The Committee disagrees with the suggested change regarding striking the earliest implementation date for distribution of the form. The *Common Manual* convention for the effective date and trigger event for forms or regulations that have a flexible early implementation period is to state the specific timeframe for which it may be implemented. Regarding the use of “lender” in the effective date/trigger event, the Committee agrees that it can be removed, but for a different reason than suggested by the commenter. The Committee notes that this policy applies to any entity that distributes common forms to borrowers.

Change:

The reference to “lender” has been removed from the effective date/trigger event.

COMMENT:

Three commenters suggested change to the name of the form as it is referenced in Subsection 2.3.C—specifically in how the acronyms were listed.

Response:

The Committee agrees that the exact name of the form should be used.

Change:

The Committee corrected the name of the form throughout the proposal.

COMMENT:

Two commenters suggested adding information to Subsection 10.8.D to indicate that a borrower may also use an online, or electronic application.

Response:

The Committee understands that there is an electronic version of this form, however the Committee’s intent was to provide the name of the new common form. The Committee notes that many common forms referenced in the Manual may be completed online rather than using a paper version.

Change:

The language was modified to reflect that the lender doesn’t necessarily need to forward a copy of the form to the borrower.

COMMENT:

One commenter suggested including in the Common Bulletin Section, reference to the *Dear Colleague Letter* that provided the information that previous versions of the form may only be accepted for processing through April 30, 2013. The commenter also suggested adding the exact name of this form in the Bulletin language rather than referencing a previous version of the income-based repayment plan request, as follows:

“Per DCL-GEN-12-22, the previous versions of the Income-Based/Pay As You Earn/Income-Contingent Repayment Plan Request Form ~~Income-based Repayment Request form~~ may be accepted from borrowers through April 30, 2013.”

Response:

The Committee agrees that adding DCL GEN-12-22 to the Bulletin language will be helpful. However, the Committee disagrees with referencing the previous version of this form as “Income-Based/Pay As You Earn/Income-Contingent Repayment Plan Request Form.” The previous version the form as it relates to the FFELP was the Income-Based Repayment Plan Request.

Change:

The Committee corrected the name of the previous version of the form by inserting the word “Plan.”

COMMENT:

One commenter suggested adding an implementation statement for the school.

Response:

The Committee agrees.

Change:

An implication statement for the school was added as submitted by the commenter.

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 21, 2013

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Feb 21

SUBJECT: Income-Based Repayment Plan

AFFECTED SECTIONS: 10.8.D Income-Based Repayment Schedule
10.10.A Permitted Capitalization

POLICY INFORMATION: 1284/Batch 192

EFFECTIVE DATE/TRIGGER EVENT: For repayment of all IBR-eligible loans based upon income-based repayment plan requests on or after July 1, 2013.
For income-based repayment plan income documentation and required notifications, July 1, 2013, unless implemented by the lender no earlier than November 1, 2012.

BASIS:
§682.215(b)(3) and §682.215(e).

CURRENT POLICY:
Current policy includes information pertinent to the income-based repayment plan prior to final rules published on November 1, 2012.

REVISED POLICY:
Revised policy adds information to align with the income-based repayment plan final regulations published in the *Federal Register* on November 1, 2012. The revised policy provides individual lender flexibility regarding what type of income documentation a borrower must provide in order to determine whether the borrower has a partial financial hardship. Revised policy also outlines various notifications that a lender must send to a borrower under the income-based repayment plan provisions.

REASON FOR CHANGE:
This change is necessary to comply with the final regulations published by the Department in the *Federal Register* dated November 1, 2012.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 10.8.D, page 17, column 1, paragraph 3, as follows:

10.8.D Income-Based Repayment Schedule

Beginning on July 1, 2009, a borrower may request to repay any eligible loan under an income-based repayment (IBR) plan. A borrower who requests the IBR plan on or after July 1, 2013, must repay all of his or her eligible loans held by that lender under the IBR plan. If a borrower previously excluded IBR-eligible loans prior to July 1, 2013, the borrower may continue to exclude such loans from IBR as long as the borrower remains under the IBR plan. If the borrower has multiple lenders and wants to repay all eligible loans under the IBR plan, the borrower must request IBR from each lender separately. Eligible FFELP and Direct loans include the outstanding balances on all loans except:

- A defaulted loan.
- A FFELP or Direct parent PLUS loan.
- A FFELP or Direct Consolidation loan that repaid a FFELP or Direct parent PLUS loan.

§682.215(b)(3)

Revise Subsection 10.8.D, page 17, column 2, paragraph 2, as follows:

To enable the lender to ~~make this determination~~ determine whether the borrower has a PFH, the lender must collect documentation of the borrower's AGI that is acceptable to the lender.
~~either:~~

If the borrower's AGI is not available or the lender believes that the borrower's reported AGI does not reasonably reflect the borrower's current income, the lender must collect other documentation to verify the borrower's income.

[\$682.215(e)(1)(i) and (ii); §685.221(e)(1)(i) and (ii)]

- ~~A signed copy of the page(s) of the borrower's most recent federal tax return that contains the borrower's AGI. If the borrower's tax return was filed electronically, the lender must ensure that the copy obtained from the electronic submission process is signed. If the borrower provides a copy of his or her most recent federal tax return, the borrower is not required to provide copies of any other tax return forms, schedules, attachments, or worksheets, including W-2 Forms. Unless the lender has reason to believe that the information on the tax return is not accurate, it may rely upon the AGI amount reported on the tax return for purposes of the PFH determination. If the lender questions the accuracy of the signed copy of the tax return submitted by the borrower, it must require the borrower to provide the lender with a signed consent form (IRS Form 4506-T) or the tax transcript that is received after submitting Form 4506-T to the Internal Revenue Service (IRS). [Department's *Electronic Announcement* dated June 12, 2009]~~
- ~~The tax transcript information from the IRS, which can be obtained by the borrower submitting a signed consent form (IRS Form 4506-T) for the disclosure of applicable AGI and other tax return information from the IRS directly to the IRS, or to the lender for submission to the IRS.~~
[\$682.215(e)(1); §685.221(e)(1)]

Revise Subsection 10.8.D, page 18, column 1, paragraph 1, as follows:

~~However, if the borrower's AGI is not available or if the lender believes that the borrower's AGI does not reflect the borrower's current income, the lender may use other documentation, provided by the borrower, to verify income.~~

For a married borrower filing taxes separately, AGI includes only the borrower's income. For a married borrower filing taxes jointly, AGI includes both the borrower's and spouse's income. A married borrower who files a joint tax return may include with his or her eligible loans any eligible loans owed by the borrower's spouse for purposes of determining PFH eligibility. If the lender does not hold at least one of the spouse's eligible loans, the lender must obtain the spouse's consent for the lender to obtain information about the spouse's eligible loans from the National Student Loan Data System or obtain from the borrower or spouse other documentation, acceptable to the lender, of the spouse's eligible loan information. In this situation, the lender must:

...

[\$682.215(a)(1) and (b)(1)(ii); §682.215(e)(1)(iii); §685.221(a)(1) and (b)(2)(ii)]

Revise Subsection 10.8.D, page 19, column 1, paragraph 1, as follows:

~~If a borrower selects an IBR plan, the lender must—unless the borrower requests otherwise—require that all eligible loans held by the lender be repaid under the IBR plan. If the borrower has multiple lenders and wants to repay all eligible loans under the IBR plan, the borrower must request IBR from each lender.~~

The lender must recalculate the monthly permanent-standard payment amount for a borrower when any of the following occurs:

- The borrower ceases to have a PFH or chooses not to make PFH payments but remains in the IBR plan.

- The borrower fails to provide within 10 days of the specified annual deadline documentation of the borrower's AGI which is acceptable to the lender (and, if applicable, access to the borrower's spouse's loan information), unless the lender is able to determine the borrower's new monthly payment amount before the end of the borrower's current annual payment period. a signed copy of his or her most recent federal tax return, or fails to renew or withdraws consent for tax transcript information from the IRS (via IRS Form 4506-T). See above for more information on the documentation requirements.
[§682.215(e)(7)]

To recalculate the borrower's monthly payment amount under either of the two preceding bullets, a lender uses a standard repayment schedule for a 10-year repayment period based on the borrower's outstanding loan balance at the time that the borrower began repayment under the IBR plan. This The combined repayment period under IBR and under the newly-calculated standard repayment plan monthly payment amount (a.k.a. permanent-standard) may result in a total period in repayment period that exceeds 10 years.

If the lender receives the borrower's information within 10 days of the specified annual deadline, the lender must determine promptly the borrower's new monthly payment amount. If the lender does not determine the new monthly payment amount by the end of the borrower's current annual payment period, the lender must prevent the borrower's monthly payment amount from being recalculated using the permanent-standard calculation and maintain the borrower's current scheduled monthly payment amount until the lender processes the information received from the borrower and determines the new monthly payment amount. If the new monthly payment amount is less than the borrower's previously calculated monthly income-based payment amount, the lender must make the appropriate adjustment to the borrower's account (including, but not limited to, interest subsidy and special allowance billings) to reflect any payments at the previously calculated amount that the borrower made after the end of the most recent annual payment period. Unless the borrower requests otherwise, the lender does not apply any additional amounts to future payments.

If the new monthly payment amount is equal to or greater than the borrower's previously calculated income-based monthly payment amount, the lender does not make retroactive any adjustments to the borrower's account.

In both cases above, the new annual payment period begins on the day after the end of the most recent annual payment period.
[§682.215(e)(8)(i)-(iii); §685.221(e)(8)(i)-(ii)]

If the lender receives the borrower's information more than 10 days after the specified annual deadline and the borrower's monthly payment amount is recalculated to the permanent-standard amount, the lender may grant forbearance with respect to payments that are overdue or would be due at the time the new calculated income-based monthly payment amount is determined only if the new income-based monthly payment amount is zero or is less than the borrower's previously calculated income-based monthly payment amount. The lender may not capitalize interest that accrues during the portion of this administrative forbearance period that covers payments due after the end of the prior annual payment period.
[§682.215(e)(9); §685.221(e)(9)]

If a borrower chooses to leave IBR, a lender recalculates the borrower's monthly payment amount. For any FFELP or Direct loan other than a Consolidation loan, the monthly payment amount is recalculated by using based on a standard repayment schedule for the time remaining on a 10-year repayment period, and based on the borrower's outstanding loan balance at the time the borrower elects to leave IBR (a.k.a. expedited-standard). For a Consolidation loan, the monthly payment amount is recalculated, based on the applicable time remaining as initially determined when the Consolidation loan went into repayment, and on the borrower's outstanding loan balance at the time the borrower elects to leave IBR. up to a maximum of 30 years. (See Subsection 15.5.C for information on applicable repayment

periods.) In either case, the recalculated payment amount is referred to as the expedited-standard payment amount.

[\$682.215(d)(2); §685.221(d)(2)(i)]

After leaving IBR and being assigned an expedited-standard payment amount, a borrower may request a change to a different repayment plan after making one monthly payment. This monthly payment may be the full expedited-standard amount or any payment amount greater than \$0 made under a reduced-payment forbearance. (See Subsection 11.22.A for information on a discretionary reduced-payment forbearance.)

[\$682.215(d)(3); §685.221(d)(2)(ii); *Federal Register* dated November 1, 2012, p. 66111]

Required Notifications

The lender must send a written notification to the borrower after it makes a determination that a borrower qualifies for the IBR plan for the year the borrower initially elects the plan and for any subsequent year that the borrower has a PFH. The notification must include all of the following information:

- The borrower's scheduled income-based monthly payment amount and the current annual payment period for which this amount applies.
- A statement that explains that the borrower must annually provide documentation of the borrower's AGI, spouse's loan information (if applicable) and self-certification of his or her family size if the borrower chooses to remain on the IBR plan. The lender must advise the borrower that he or she will be notified in advance of the date by which the lender must receive this information.
- An explanation of the consequences if the borrower does not provide the required information:
 - The borrower's monthly payment will be converted to the permanent-standard amount.
 - If the borrower provides the requisite documentation of income but does not recertify his or her family size, the borrower's continued eligibility for an income-based payment will be determined based on a family size of one.
- An explanation of the consequences if the borrower no longer chooses to leave the income-based repayment plan.
- An explanation of the borrower's option to request, at any time during the borrower's current annual payment period, that the lender recalculate the borrower's monthly payment amount if the borrower's financial circumstances change and the income amount that was used to calculate the borrower's current monthly payment no longer reflects the borrower's current income.

If the lender recalculates the borrower's income-based monthly payment amount based on the borrower's request for early re-evaluation, the lender must send the borrower a written notification that includes all of the information outlined above. Early re-evaluation of a new income-based monthly payment amount establishes a new annual payment period.

For each subsequent year that a borrower who currently has a PFH remains on the IBR plan, the lender must notify the borrower in writing of the requirements to provide documentation of the borrower's AGI, spouse's loan information (if applicable) and self-certification of his or her family size if the borrower chooses to remain on the IBR plan. The lender must send this notice to the borrower no later than 60 days and no earlier than 90 days prior to the borrower's annual deadline date. The borrower's annual deadline date must be no earlier than 35 days before the end of the borrower's annual payment period. The notification must provide the borrower with all of the following information:

- The borrower's annual deadline date.
- The consequences if the lender does not receive the information within 10 days following the borrower's annual deadline date, including:
 - The borrower's monthly payment amount will be changed to the permanent-standard payment amount.
 - The effective date for the permanent-standard monthly payment amount.
 - An explanation that unpaid accrued interest will be capitalized at the end of the borrower's current annual payment period.

Each time a lender determines that a borrower no longer has a PFH for a subsequent year that the borrower wishes to remain on the IBR plan the lender must send the borrower a written notice that includes all of the following information:

- The borrower's monthly permanent-standard payment amount, recalculated based on the borrower no longer having a PFH.
- An explanation that unpaid accrued interest will be capitalized at the time the lender determines that the borrower no longer has a PFH.
- Information about the borrower's option to request, at any time, that the lender re-determine whether the borrower has a PFH, if the borrower's financial circumstances change and the income amount used to determine that the borrower no longer has a PFH does not reflect the borrower's current income.
- An explanation that the borrower will be notified annually of this option.

If the lender determines that the borrower again has a PFH, the lender must recalculate the borrower's monthly payment as applicable, and send the borrower a written notification that includes the information described in the first set of bullets under this subheading. Redetermination of a new income-based monthly payment amount establishes a new annual payment period.

For each subsequent year that a borrower remains in IBR, but does not have a PFH, the loan holder must send the borrower a written notification reminding the borrower about the borrower's option to request, at any time, that the lender re-determine whether the borrower has a PFH based on the borrower's current income.
[\$682.215(e)(2)-(5); §685.221(e)(2)-(5)]

Revise Subsection 10.10.A, page 21, column 1, by inserting a new paragraph 4, as follows:

A lender may capitalize unsubsidized interest that accrues during:

- . . .
- . . .

A lender also may capitalize unpaid interest accrued during the repayment period of a borrower who is repaying under the income-based repayment (IBR) plan if the borrower fails to submit timely the documentation required to renew the IBR option. In that case, the lender may capitalize unpaid accrued interest at the end of the borrower's current annual payment period. See Subsection 10.8.D for more information regarding capitalization and IBR.

**PROPOSED LANGUAGE - COMMON BULLETIN:
Income-Based Repayment Plan**

The *Common Manual* has been revised to align with income-based repayment plan final regulations published in the *Federal Register* on November 1, 2012. The revised language provides individual lender

flexibility regarding what type of income documentation a borrower must provide to the lender in order for the lender to determine whether the borrower has a partial financial hardship. Revised policy also outlines various notifications that a lender must send to a borrower under the income-based repayment plan provisions.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student/Borrower:

A borrower will become more informed as a result of the various notifications that a lender must provide while the borrower is repaying his or her loan under the income-based repayment plan.

School:

None.

Lender/Service:

A lender may need to update its processes and procedures relating to new provisions for the income-based repayment plan.

Guarantor:

A guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

June 15, 2012

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 14, 2013

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, College Assist, FAME, Great Lakes, MGA, NASFAA, NCHER, NELA, OCAP, PPSV, SCSL, SLSA, TG, UHEA, USA Funds, and VSAC.

Responses to Comments

Most of the commenters supported this proposal as written. Several commenters recommended wordsmithing changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter made suggestions to add and correct several citations used in the proposal.

Response:

The Committee agrees with the suggestions.

Change:

The suggestions made by the commenter have been incorporated into the proposal and proposed language.

COMMENT:

One commenter requested that “income-based repayment plan” should be capitalized throughout the proposal.

Response:

The Committee notes that the Manual’s convention regarding discussion of the various payment plans within the text of the Manual is to use lower case.

Change:

None.

COMMENT:

Two commenters suggested the first effective date/trigger event should be revised for clarity.

Response:

The Committee agrees.

Change:

This first effective date/trigger event has been revised, as follows:

“For repayment of all IBR-eligible loans based upon income-based repayment plan requests on or after July 1, 2013.”

COMMENT:

One commenter suggested adding a citation and an additional sentence to Subsection 10.8.D, page 17, column1, paragraph 2, as follows:

“If a borrower previously excluded IBR-eligible loans prior to July 1, 2013, the borrower may continue to exclude such loans from IBR as long as the borrower remains under the IBR plan.”

Response:

The Committee agrees.

Change:

The information suggested by the commenter has been added.

COMMENT:

One commenter noted that the proposal deletes language regarding specific types of acceptable proof of a borrower’s AGI and the new common form for applying for IBR specifies “the most recent two years” and taxable vs. untaxable income. Although a lender has flexibility to determine documentation that they will accept, the commenter suggests adding new language that provides examples of the types of proof that may be acceptable, based on the form. Discussing the acceptable proof of AGI will assist on putting everyone on the same page and avoid what may seem like conflicting information between the *Common Manual* and the form.

Response:

The Committee appreciates the commenter’s suggestion. The Committee understands that as a result of negotiated rulemaking discussions and the final rules that followed, reference to specific documentation of AGI were removed from the regulations and lender servicers were allowed the flexibility of requesting documentation of the borrower’s AGI that is acceptable to the lender servicer. This is the information conveyed in this proposal. The Committee does not believe that adding examples of acceptable documentation would add meaningfully to the context of the policies that govern IBR or the usefulness of the provisions being covered in the Manual’s text.

Change:

None.

COMMENT:

One commenter noted that Subsection 10.8.D, page 18, column 1, paragraph 1, should be inserted into the proposal and stricken, as the text no longer applies.

Response:

The Committee agrees.

Change:

The paragraph has been inserted and stricken.

COMMENT:

One commenter requested revisions to Subsection 10.8.D, page 19, column 1, paragraph 2, as follows:

“The lender must recalculate the monthly permanent-standard payment amount for a borrower when any of the following occurs:

- The borrower ceases to have a PFH or chooses not to make PFH payments but remains in the IBR plan.
- The borrower fails to provide annual documentation acceptable to the lender of the borrower’s AGI (and, if applicable, access to the borrower’s spouse’s loan information) within 10 days of the specified annual deadline, unless the lender is able to determine the borrower’s new monthly payment amount before the end of the borrower’s current annual payment period.”

The commenter notes that NSLDS authorization is only good for 60 days, and the spouse would need to re-authorize each year.

Response:

The Committee agrees.

Change:

The language has been revised as suggested by the commenter.

COMMENT:

Two commenters noted that in Subsection 10.8.D, IBR documentation received more than 10 days after the annual period end date, the language needs to be clear that the forbearance and non-capping are together.

Another commenter made suggestions to the new text in Subsection 10.8.D, to clarify the PFH payment amount. However the Manual currently does not use the term, therefore, the commenter suggested using the term “calculated income-based payment amount” where applicable. The commenter suggested language to clarify that adjustments to the account include interest subsidy and special allowance payments per the Notice of Proposed Rulemaking (NPRM) preamble discussion.

Also, the commenter noted that a borrower cannot request a different allocation of a payment. The phrase “unless the borrower requests otherwise” in the regulations refers to the payment application to future installments in 682.209(b)(2)(ii) per discussions at negotiated rulemaking meetings and in the NPRM Preamble language. Thus, a lender may not advance the due date for future installments with any excess amounts paid over the newly calculated partial financial hardship amount unless the borrower requests otherwise.

Further, the commenter suggested restructuring so that it is clear that the administrative forbearance can only be granted if the loan has been converted to permanent-standard and if the new partial financial hardship payment amount is \$0 or less than the previous partial financial hardship payment amount. Suggested changes also clarify that this administrative forbearance period can cover payments that are overdue *and* due at the time of the granting.

In the last paragraph of this subsection, commenters provided suggestions to clearly indicate that both recalculations for non-Consolidation loans and Consolidation loans are called the expedited-standard payment amounts. The commenter also suggested a slight formatting change for proper cite references and to state that the one payment requirement is either the full expedited-standard repayment amount or a payment greater than \$0 on a reduced-payment forbearance.

Several commenters made some of the same suggestions as mentioned above.

Response:

The Committee agrees with the commenters’ suggestions.

Change:

Changes were made to this subsection as suggested by the commenters.

COMMENT:

One commenter suggested changes to the new text for required notifications. Regarding the first two notices, the spouse's loan information, if applicable, is also required each year in a timely manner and the consequences of the borrower not submitting renewal documentation in a timely manner should also be listed. In the case of re-evaluation and redetermination, the Department stated that this creates a new annual payment period. The commenter also suggested formatting changes so that sub bullets identify more clearly the consequences. Further, the commenter suggested adding a new paragraph that describes the requirement for an annual notice while the borrower is in permanent-standard repayment.

Response:

The Committee agrees with the suggestions provided by the commenter.

Change:

The new text has been revised as suggested by the commenter.

COMMENT:

One commenter noted that it didn't appear that capitalization of interest was addressed in areas of the proposal other than in the notifications section and questioned whether it should be.

Response:

The Manual addresses capitalization of interest in general in Section 10.10 and if there are rules that pertain to certain situations, it is noted in the text as applicable. The Committee has added a brief reference to special rules for capitalization of interest accruing during an IBR repayment period and a cross reference and hyperlink to the materials specific to IBR.

Change:

The Committee has added new language to Subsection 10.10.A to direct the user to the IBR materials for additional information about special capitalization rules.

COMMENT:

One commenter suggested adding a new administrative forbearance to Section 11.21 of the Manual for the new administrative forbearance to cover delinquencies under the IBR umbrella.

Response:

The Committee agrees. The Committee added this issue to its pending log.

Change:

None.

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 21, 2013

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Feb 21

SUBJECT: Loan Forgiveness under the Income-Based Repayment Plan

AFFECTED SECTIONS: 13.9.D Loan Forgiveness under the Income-Based Repayment Schedule

POLICY INFORMATION: 1285/Batch 192

EFFECTIVE DATE/TRIGGER EVENT: For clarifications on qualifying payments, July 1, 2009.
For Income-based repayment loan forgiveness notifications, notifications provided by the lender on or after July 1, 2013.

BASIS:
§682.215.

CURRENT POLICY:
Current policy includes information pertinent to loan forgiveness under the income-based repayment plan prior to final regulations published on November 1, 2012.

REVISED POLICY:
Revised policy adds information pertinent to loan forgiveness and the requirement to notify borrowers under the income-based repayment plan provisions published by the Department on November 1, 2012.

REASON FOR CHANGE:
This change is necessary to comply with the final regulations published by the Department in the *Federal Register* dated November 1, 2012.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 13.9.D, page 69, column 1, paragraph 1, as follows:

13.9.D Loan Forgiveness under the Income-Based Repayment Schedule

Under IBR, a borrower who meets all eligibility requirements may have his or her outstanding principal balance and accrued interest forgiven on a qualifying FFELP loan. To be eligible for IBR loan forgiveness after 25 years, the borrower must have participated in the IBR plan and have made at least 300 monthly qualifying payments or equivalents on or after July 1, 2009, by satisfying any of the following conditions:

- . . .
- Made monthly loan payments under any repayment plan that were equal to or greater than the amount required under the standard repayment schedule with a 10-year repayment period for the amount of the borrower's loans that were outstanding at the time the loans initially entered repayment (standard-standard).
- Made monthly loan payments, after the borrower no longer had a partial financial hardship or after the borrower stopped making income-based payments, under the standard repayment schedule based on a 10-year repayment period for the amount of the borrower's loans that were outstanding at the time the borrower selected the IBR plan (permanent-standard).
- Made monthly payments of any amount under a standard repayment plan based on a 10-year repayment period.

• . . .
Revise Subsection 13.9.D, page 69, column 2, by adding a new paragraph 3, as follows:

Borrower Notification Requirements

The lender determines when a borrower has met the requirements to become eligible for loan forgiveness. The borrower is not required to submit a request for loan forgiveness. No later than 6 months prior to the anticipated date that the borrower will meet the loan forgiveness requirements, the lender must send the borrower a written notice that includes all of the following:

- An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness.
- A reminder that the borrower must continue to make scheduled monthly payments.
- General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

The information required in the notice is based on the information available to the lender as of the date the lender sends the notice to the borrower.
[§682.215(g)(1); §685.221(f)(5)(i)-(ii)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Loan Forgiveness under the Income-Based Repayment Plan

The *Common Manual* has been updated to align with final rules published by the Department in a *Federal Register* dated November 1, 2012. The revisions primarily include new notification information that must be provided to the borrower no later than 6 months prior to the anticipated date that the borrower will meet the loan forgiveness requirements.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student/Borrower:

A borrower will become more informed as a result of the notification that a lender must send to the borrower regarding his or her approaching the anticipated date that the borrower will meet the loan forgiveness requirements.

School:

None.

Lender/Servicer:

A lender may need to update its processes and procedures relating to new provisions for loan forgiveness under the income-based repayment plan.

Guarantor:

A guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

December 18, 2012

Batch192/February 21, 2013

Page 2

Approved 1285-0003 192

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 14, 2013

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, College Assist, FAME, Great Lakes, MGA, NASFAA, NCHER, NELA, OCAP, PPSV, SCSL, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Most of the commenters supported this proposal as written. Several commenters recommended wordsmithing changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter suggested adding a second effective date/trigger event because clarifications to qualifying payments were technical corrections based on prior guidance given by the Department and are therefore effective back to the start of IBR on July 1, 2009.

Response:

The Committee agrees.

Change:

A new effective date and trigger event were added as suggested by the commenter.

COMMENT:

One commenter suggested adding back language struck in the proposed text for the 3rd bullet in Subsection 13.9.D, as that text is correct for the qualifying permanent-standard payment. The commenter provided a suggestion for a new bullet to provide for any standard payment made under a 10-year standard repayment plan at any amount as clarified in the Final Rules under §682.215(f)(1)(iv). This technical correction was to clarify that any payment made under a 10-year standard repayment plan, even those payments that were less than the standard-standard payment amount because they were adjusted due to variable rate changes or SCRA interest limitations, would still qualify toward IBR forgiveness.

Response:

The Committee agrees.

Change:

Changes were made as suggested by the commenter.

COMMENT:

One commenter suggested adding a new last paragraph to the notification requirements to provide clarification that the Department gave in the Preamble to the Final Rules (page 66112) in regard to the timing of the information in the notice as borrower behavior could revise the actual forgiveness date and/or amount. The commenter also provided citations for the information.

Response:

The Committee agrees.

Change:

The changes were made as suggested by the commenter.

COMMENT:

One commenter requested that "income-based repayment plan" should be capitalized throughout the proposal.

Response:

The Committee notes that the Manual's convention regarding discussion of the various payment plans within the text of the Manual is to use lower case.

Change:

None.

ma/edited-chh