**Issue Paper 8**

**Session 1: November 13-15, 2017**

**Issue:** Whether to recalculate a borrower’s Subsidized Usage Period and interest accrual, if applicable, when the borrower receives a discharge of a loan for which he or she has not received all or part of the educational benefit of the loan

**Statutory cite:** §455(q) of the Higher Education Act of 1965, as amended (HEA)

**Regulatory cite:** 34 CFR685.200(f)

**Summary of issue:**

Section 455(q) of the HEA provides that a first-time borrower on or after July 1, 2013, is not eligible for additional Direct Subsidized Loans if the borrower has received Direct Subsidized Loans for a period that is equal to or greater than 150 percent of the length of the borrower’s current program of study. In addition, some borrowers who are not eligible for Direct Subsidized Loans because of the 150 percent limit become responsible for the interest that accrues on their loans when it would otherwise be paid by the government. Neither the statute nor regulations issued prior to the delayed 2016 regulations address what effect a discharge of a Direct Subsidized Loan has on the 150 percent limit. They also do not address whose responsibility it is to pay the outstanding interest on any remaining loans that have not been discharged, but have previously lost eligibility for interest subsidy.

Currently, the Department does not include in the calculation of a borrower’s subsidized usage period, the subsidized usage period associated with a Direct Subsidized Loan or the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan if the borrower receives a discharge that demonstrates the borrower did not receive all or part of the educational benefit of the loan. The discharges that meet this description are: closed school, false certification, unpaid refund, and borrower defense.

As a part of the November 1, 2016, final regulations, the Department reflected this practice by amending 34 CFR 685.200(f)(4)(iii) to specify that a partial or full discharge based on school closure, false certification, unpaid refund, or borrower defense would result in the elimination or recalculation of the subsidized usage period associated with the loan(s) discharged in calculating a borrower’s subsidized usage period. The Department also amended 34 CFR 685.200(f)(3)(v) to provide that if all or part of a Direct Subsidized Loan (or applicable portion of a Direct Consolidation Loan) is discharged such that a borrower has a remaining eligibility period, the Department reinstates the interest subsidy on any eligible loans and refunds applicable amounts already paid by the borrower.

Questions for consideration by the committee include:

* Should the Department recalculate or eliminate the applicable subsidized usage period from calculation of the borrower’s subsidized usage period and reinstate interest subsidy (if applicable) when a borrower receives a loan discharge?

* If so, to which discharges should recalculation or elimination of subsidized usage periods apply?