

Guidelines for MLSA Section 7: Rescission of Purchase (UnPut) Q and A Document

Developed by the NCHelp and SLSA Joint Workgroup

***NOTE:** UnPut loans should generally be handled like transfers. However, in most instances they will require some manual intervention. Lenders/servicers and guaranty agencies may want to consider flagging these loans in their systems in order to ensure that they receive proper handling, both now and in the future.*

The Department of Education (ED) has agreed to changes proposed to the Repurchase Referral Loan Detail Report that will assist in the process of reinstating guarantees. ED is also reviewing additional information requested to be added to the Loan Level Detail Schedule.

General

1. **Q:** Are pen and ink promissory notes being sent back from the TIVAS to the repurchasing lenders?

A: No. Original promissory notes were not transferred when the loans were Put – only copies were sent. The original lender/servicer that Put the loan should still have the necessary documents.

2. **Q:** If the loan has been UnPut because the loan was ineligible for Put due to certain borrower benefits, could the lender reinstate the benefits immediately?

A: Lenders/servicers will need to look at the type of borrower benefit and determine if the borrower is still eligible.

3. **Q:** If a loan is determined to be ineligible for the Put program due to a missing MPN and the lender is required to repurchase the loan, is the guarantor permitted to reinstate the guarantee on the loan?

A: Yes. The Master Loan Sale Agreement includes 17 specific criteria that speak to a Put being a sale of "Eligible Loans." If these criteria are not met then the loan must be repurchased ("UnPut"). Loans are required to be repurchased because they do not meet the Put criteria for an "Eligible Loan," not because they are loans not eligible for insurance/reinsurance.

In the case of missing MPN's, ED, in an email exchange with a guarantor on May 25-26, 2010, confirmed its position that current FFELP practices with respect to missing MPNs, including obtaining another signed MPN from the borrower or some other form of written affirmation from the borrower acknowledging the debt, or entering into an indemnification agreement with the guarantor, are acceptable remedies which are sufficient to maintain the guarantee, including reinsurance. Guarantors should follow current practices with regard to a missing MPN.

Repayment

4. **Q:** Will the repurchasing lender continue collecting on the loan based on any existing delinquency when the UnPut loan is successfully transferred back or is the repurchasing lender required to send out a new repayment schedule?

A: The UnPut should be considered like any other loan sale or transfer. The repurchasing lender should proceed with the existing payment schedule that comes from the TIVAS.

5. **Q:** Are these loans, if already in repayment, to be brought current at the time they are UnPut?

A: Generally no. (Exception: if less than 60 days delinquent and the lender applies an administrative forbearance). However, the lender may need to redisclose if the loan will not pay off in the required timeframe.

6. **Q:** For loans entering or returning to repayment during the UnPut process, what is a timely first payment or next payment due date after the loan is UnPut?

A: Follow the applicable regulations, including those that provide for an additional 15 days after a transfer to complete a required activity. The lender/servicer is not required to redisclose a loan just because it's being UnPut.

7. **Q:** How do servicing systems handle transfers regarding back-dating statuses? What will happen to interest payments, etc.?

A: The repurchasing lenders/servicers should treat the UnPut loans just like they do in other situations that require special handling with the intent to make the borrower whole. Repurchasing lenders/servicers may have to handle these loans differently based on processes and system constraints.

8. **Q:** Will ED (through the TIVAS) pass back the Unpaid TRA (Unpaid Fee/Unpaid Capped Interest) information for lenders to load as well?

A: This information will be in the Loan Transfer/Conversion File (deconversion file) that will be provided to lenders/servicers at the time of the repurchase. Lenders/servicers passed OID information to the TIVAS when the loan was Put and the TIVAS will pass it back to lenders/servicers in the deconversion file information.

9. **Q:** How should the repurchasing lender treat interest accruals prior to the loan being UnPut? May the repurchasing lender capitalize interest?

A: Again, these loans should be treated like a normal loan sale or transfer; capitalize interest only if it meets the capping criteria (entering repayment, coming out of deferment, forbearance, etc.). The loan would be eligible for administrative forbearance if it is less than 60 days delinquent at time of transfer.

Default Aversion and Claims

10. **Q:** Since a default aversion request (DAAR) must be submitted to a guarantor within 60-120 days of delinquency, will the lender be required to submit a DAAR to a guarantor within a certain period of time after the loan is UnPut if the loan is UnPut after the 120 day period of delinquency?

A: Lenders/servicers will have to review the repurchased loan, and if the delinquency is outside of the lender/servicer's normal DAAR trigger, the lender/servicer will need to generate a DAAR. A lender currently is permitted an additional 15 days to complete a required activity when a transfer occurs. If the transfer occurs within the 60th-120th day of delinquency, the lender's initial submittal of a DAAR must be no later than the 135th day of delinquency to ensure that no due diligence violation is assessed by the guarantor. If the transfer should occur after the 120th day of delinquency, the lender's initial submittal of a DAAR must be no later than 15 days from the transfer date to ensure that no due diligence violation would be assessed.

11. **Q:** How will the UnPut transaction affect the Default Aversion process with regard to fees?

A: If the guarantor receives a DAAR, they will be able to bill for it like any other DAAR request.

12. **Q:** For loans that were in repayment prior to being UnPut, will the repurchasing lender be able to provide complete claim filing documentation?

A: Yes. Summary information for the period that the loan was owned by ED will be provided at the time of sale by the TIVAS to the repurchasing lender/servicer, thereby allowing for proper completion of the Claim Form. The exception to this will be data normally reported in Section IX (CAM Record type 58), Collection History. The TIVAS will not provide individual collection activities and associated dates to the repurchasing lender/servicer. It should be remembered, however, that based on a conference call with Federal Student Aid officials on November 17th, 2010, no due diligence violations should be cited and no interest penalties may be assessed for any period when the loan was held by ED.

13. **Q:** Will the data that is provided to the repurchasing lender when a loan is UnPut load onto systems in such a way that claim submitters that utilize CAM to file claims on these loans electronically, or will they require a manual (paper) submission?

A: It depends. UnPut loans may require manual intervention before an electronic claim filing process can be used.

TIVAS

14. **Q:** What contact information should lenders/servicers provide to the TIVAS to help facilitate the exchange of information on UnPut loans?

A: The repurchasing lender/servicer should provide the TIVAS with both a business contact and a technical/testing contact, including the person's name, email and phone number. SLSA will collect contact information for the lenders/servicers and send to the TIVAS. NCHELP will collect contact information for the guarantors to send to the lenders/servicers.

The TIVAS will also provide the repurchasing lender/servicer with business and/or technical contacts information once a repurchase request is received.

15. **Q:** The loan conversion file layout (as referenced in ECASLA EA#27) has a field for a 3-digit guarantor code as referenced in table 3 as the FFELP Guarantor Code. Can you confirm with the four TIVAS that we will receive the original FFEL Guarantor code?

A: The deconversion file will not reflect the original FFEL guarantor. However, the NCHELP/SLSA Joint UnPut workgroup has developed a process to exchange the original guarantor between the TIVAS, repurchasing lender and guarantor using the Repurchase Referral Loan Detail Report.

16. **Q:** Can repurchasing lenders/servicers obtain a sample of the letter each TIVAS will send to the borrower when transferring their loan?

A: The TIVAS will be sending borrowers whose loans are being transferred a letter and it will contain contact information for the repurchasing lender/servicer. They will share the letter with those lenders/servicers with which they are exchanging information as appropriate, upon request.

Sent to ED on 02/18/2011 for Confirmation

17. Please confirm that any loans that may be in the following statuses will not be subject to the UnPut process: Defaulted, Discharged (e.g. death, total/permanent disability), Active Bankruptcy.