NELNET INC
Form 10-Q
November 09, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)
x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2009

or

¨ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the transition period from _________ to ___________.

COMMISSION FILE NUMBER 001-31924

NELNET, INC.
(Exact name of registrant as specified in its charter)

NEBRASKA	84-0748903
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
121 SOUTH 13TH STREET, SUITE 201 LINCOLN, NEBRASKA	68508
(Address of principal executive offices)	(Zip Code)

(402) 458-2370
(Registrant’s telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes [ ] No [ ]

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer [ ]	Accelerated filer [X]
Non-accelerated filer [ ]	Smaller reporting company [ ]

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes [ ] No [X]

As of October 31, 2009, there were 38,348,015 and 11,495,377 shares of Class A Common Stock and Class B Common Stock, par value $0.01 per share, outstanding, respectively (excluding 11,317,364 shares of Class A Common Stock held by a wholly owned subsidiary).

NELNET, INC.
FORM 10-Q
INDEX
September 30, 2009

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

NELNET, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Dollars in thousands, except share data)

		As of September 30, 2009 (unaudited)	As of December 31, 2008
Assets:			
Student loans receivable (net of allowance for loan losses of $50,120 and $50,922, respectively)	$	23,764,263	25,413,008
Student loans receivable - held for sale		1,627,794	—
Cash and cash equivalents:			
Cash and cash equivalents - not held at a related party		15,077	13,129
Cash and cash equivalents - held at a related party		319,216	176,718
Total cash and cash equivalents		334,293	189,847
Restricted cash and investments		798,636	997,272
Restricted cash - due to customers		50,783	160,985
Accrued interest receivable		389,238	471,878
Accounts receivable (net of allowance for doubtful accounts of $1,506 and $1,005, respectively)		49,268	42,088
Goodwill		175,178	175,178
Intangible assets, net		59,803	77,054
Property and equipment, net		28,116	38,747
Other assets		104,333	113,666
Fair value of derivative instruments		210,157	175,174
Total assets	$	27,591,862	27,854,897
Liabilities:			
Bonds and notes payable	$	26,586,093	26,787,959
Accrued interest payable		24,859	81,576
Other liabilities		193,055	179,336
Due to customers		50,783	160,985
Fair value of derivative instruments		8,998	1,815
Total liabilities		26,863,788	27,211,671
Shareholders' equity:			
Preferred stock, $0.01 par value. Authorized 50,000,000 shares; no shares issued or outstanding		—	—
Common stock:			
Class A, $0.01 par value. Authorized 600,000,000 shares; issued and outstanding 38,349,461 shares as of September 30, 2009 and 37,794,067 shares as of December 31, 2008		383	378
Class B, convertible, $0.01 par value. Authorized 60,000,000 shares; issued and outstanding 11,495,377 shares as of September 30, 2009 and December 31, 2008		115	115

Additional paid-in capital		108,442	103,762
Retained earnings		620,583	540,521
Employee notes receivable		(1,449)	(1,550)
Total shareholders' equity		728,074	643,226
Commitments and contingencies			
Total liabilities and shareholders' equity	$	27,591,862	27,854,897

See accompanying notes to consolidated financial statements.

NELNET, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Dollars in thousands, except share data)
(unaudited)

	Three months ended September 30, 2009	Three months ended September 30, 2008	Nine months ended September 30, 2009	Nine months ended September 30, 2008
Interest income:				
Loan interest	$ 143,255	284,468	474,587	911,140
Investment interest	1,943	9,118	8,810	29,914
Total interest income	145,198	293,586	483,397	941,054
Interest expense:				
Interest on bonds and notes payable	76,016	234,016	328,600	791,621
Net interest income	69,182	59,570	154,797	149,433
Less provision for loan losses	7,500	7,000	23,000	18,000
Net interest income after provision for loan losses	61,682	52,570	131,797	131,433
Other income (expense):				
Loan and guaranty servicing revenue	26,006	29,691	81,280	78,173
Tuition payment processing and campus commerce revenue	12,987	11,863	40,373	35,980
Enrollment services revenue	30,670	29,858	88,188	83,148
Software services revenue	4,600	5,159	16,424	19,342
Other income	11,094	5,408	39,483	17,787
Gain (loss) on sale of loans, net	8,788	—	8,386	(47,426)
Derivative market value, foreign currency, and put option adjustments and derivative settlements, net	7,740	6,874	2,740	10,468
Total other income	101,885	88,853	276,874	197,472
Operating expenses:				
Salaries and benefits	37,810	44,739	116,216	142,131
Other operating expenses:				
Cost to provide enrollment services	20,323	17,904	56,208	48,062
Depreciation and amortization	8,769	10,781	28,379	32,218
Professional and other services	6,584	10,185	20,382	25,409
Occupancy and communications	5,122	4,194	16,064	14,949
Trustee and other debt related fees	2,387	2,423	7,487	7,277
Postage and distribution	1,958	2,576	7,100	8,691
Advertising and marketing	1,936	1,712	5,632	5,706
Impairment expense	—	—	—	18,834
Other	7,773	9,155	25,121	27,151
Total other operating expenses	54,852	58,930	166,373	188,297
Total operating expenses	92,662	103,669	282,589	330,428
Income (loss) before income taxes	70,905	37,754	126,082	(1,523)
Income tax expense	(24,501)	(13,969)	(46,020)	(1,793)
Income (loss) from continuing operations	46,404	23,785	80,062	(3,316)

Income from discontinued operations, net of tax		—	—	—	981
Net income (loss)	$	46,404	23,785	80,062	(2,335)
Earnings (loss) per share, basic and diluted:					
Income (loss) from continuing operations	$	0.93	0.48	1.60	(0.07)
Income from discontinued operations		—	—	—	0.02
Net income (loss)	$	0.93	0.48	1.60	(0.05)

See accompanying notes to consolidated financial statements.

3

NELNET, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY AND COMPREHENSIVE INCOME (LOSS)
(Dollars in thousands, except share data)
(unaudited)

	Preferred stock shares	Common stock shares Class A	Common stock shares Class B	Preferred stock	Class A common stock	Class B common stock	Additional paid-in capital	Retained earnings	Employee notes receivable	Total shareholders' equity
Balance as of June 30, 2008	—	37,952,246	11,495,377	$ —	380	115	99,854	485,739	(2,046)	584,042
Comprehensive income:										
Net income	—	—	—	—	—	—	—	23,785	—	23,785
Total comprehensive income										23,785
Issuance of common stock, net of forfeitures	—	49,650	—	—	1	—	960	—	—	961
Compensation expense for stock based awards	—	—	—	—	—	—	1,045	—	—	1,045
Repurchase of common stock	—	(7,564)	—	—	(1)	—	(102)	—	—	(103)
Balance as of September 30, 2008	—	37,994,332	11,495,377	$ —	380	115	101,757	509,524	(2,046)	609,730
Balance as of June 30, 2009	—	38,325,492	11,495,377	$ —	383	115	107,959	574,179	(1,449)	681,187
Comprehensive income:										
Net income	—	—	—	—	—	—	—	46,404	—	46,404
Total comprehensive income										46,404
Issuance of common stock, net of forfeitures	—	31,403	—	—	1	—	241	—	—	242
Compensation expense for stock based awards	—	—	—	—	—	—	349	—	—	349
Repurchase of common stock	—	(7,434)	—	—	(1)	—	(107)	—	—	(108)
Balance as of September 30, 2009	—	38,349,461	11,495,377	$ —	383	115	108,442	620,583	(1,449)	728,074

Balance as of December 31, 2007	—	37,980,617	11,495,377	$ —	380	115	96,185	515,317	(3,118)	608,879
Comprehensive income (loss):										
Net loss	—	—	—	—	—	—	—	(2,335)	—	(2,335)
Total comprehensive income (loss)										(2,335)
Cash dividend on Class A and Class B common stock - $0.07 per share	—	—	—	—	—	—	—	(3,458)	—	(3,458)
Issuance of common stock, net of forfeitures	—	83,337	—	—	1	—	2,033	—	—	2,034
Compensation expense for stock based awards	—	—	—	—	—	—	4,308	—	—	4,308
Repurchase of common stock	—	(69,622)	—	—	(1)	—	(769)	—	—	(770)
Reduction of employee stock notes receivable	—	—	—	—	—	—	—	—	1,072	1,072
Balance as of September 30, 2008	—	37,994,332	11,495,377	$ —	380	115	101,757	509,524	(2,046)	609,730
Balance as of December 31, 2008	—	37,794,067	11,495,377	$ —	378	115	103,762	540,521	(1,550)	643,226
Comprehensive income:										
Net income	—	—	—	—	—	—	—	80,062	—	80,062
Total comprehensive income										80,062
Issuance of common stock, net of forfeitures	—	569,937	—	—	6	—	3,539	—	—	3,545
Compensation expense for stock based awards	—	—	—	—	—	—	1,310	—	—	1,310
Repurchase of common stock	—	(14,543)	—	—	(1)	—	(169)	—	—	(170)
Reduction of employee stock notes receivable	—	—	—	—	—	—	—	—	101	101

Balance as of September 30, 2009	—	38,349,461	11,495,377	$	—	383	115	108,442	620,583	(1,449)	728,074

See accompanying notes to consolidated financial statements.

4

NELNET, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in thousands)
(unaudited)

	Nine months ended September 30,	
	2009	2008
Net income (loss)	$ 80,062	(2,335)
Income from discontinued operations	—	981
Income (loss) from continuing operations	80,062	(3,316)
Adjustments to reconcile income (loss) from continuing operations to net cash provided		
by operating activities:		
Depreciation and amortization, including loan premiums and deferred origination costs	88,118	107,944
Provision for loan losses	23,000	18,000
Impairment expense	—	18,834
Derivative market value adjustment	(19,912)	72,399
Foreign currency transaction adjustment	55,979	(40,361)
Change in value of put options issued in business acquisitions	—	3,483
Proceeds to terminate and/or amend derivative instruments	3,820	15,403
Payments to terminate and/or amend derivative instruments	(11,710)	(3,679)
Gain from repurchase of bonds and notes payable	(19,185)	—
Originations and purchases of student loans-held for sale	(13,345)	—
(Gain) loss on sale of loans, net	(8,386)	47,426
Deferred income tax benefit	(30,654)	(23,979)
Other non-cash items	3,569	6,929
Decrease in accrued interest receivable	82,640	63,220
(Increase) decrease in accounts receivable	(7,180)	445
Decrease in other assets	9,976	13,928
Decrease in accrued interest payable	(56,717)	(37,334)
Increase (decrease) in other liabilities	34,575	(1,765)
Net cash flows from operating activities - continuing operations	214,650	257,577
Net cash flows from operating activities - discontinued operations	—	—
Net cash provided by operating activities	214,650	257,577
Cash flows from investing activities:		
Originations, purchases, and consolidations of student loans, including loan premiums		
and deferred origination costs	(2,104,234)	(2,368,229)
Purchases of student loans, including loan premiums, from a related party	(39,649)	(212,888)
Net proceeds from student loan repayments, claims, capitalized interest, participations, and other	1,507,981	1,538,134
Proceeds from sale of student loans	550,176	1,267,826
Proceeds from sale of student loans to a related party	61,452	—
Purchases of property and equipment, net	(466)	(5,094)
Decrease (increase) in restricted cash and investments, net	198,636	(154,768)
Purchases of equity method investments	—	(2,988)
Business acquisition - contingent consideration	—	(18,000)

Net cash flows from investing activities - continuing operations		173,896	43,993
Net cash flows from investing activities - discontinued operations		—	—
Net cash provided by investing activities		173,896	43,993
Cash flows from financing activities:			
Payments on bonds and notes payable		(3,978,507)	(5,328,782)
Proceeds from issuance of bonds and notes payable		3,761,543	5,225,548
(Payments) proceeds from issuance of notes payable due to a related party, net		(21,520)	32,790
Payments of debt issuance costs		(5,876)	(14,778)
Dividends paid		—	(3,458)
Proceeds from issuance of common stock		329	566
Repurchases of common stock		(170)	(770)
Payments received on employee stock notes receivable		101	575
Net cash flows used in financing activities - continuing operations		(244,100)	(88,309)
Net cash flows used in financing activities - discontinued operations		—	—
Net cash used in financing activities		(244,100)	(88,309)
Net increase in cash and cash equivalents		144,446	213,261
Cash and cash equivalents, beginning of period		189,847	111,746
Cash and cash equivalents, end of period	$	334,293	325,007
Supplemental disclosures of cash flow information:			
Interest paid	$	380,543	814,469
Income taxes paid, net of refunds	$	69,924	24,302

See accompanying notes to consolidated financial statements.

NELNET, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Information as of September 30, 2009 and for the three and nine months ended September 30, 2009 and 2008 is unaudited)
(Dollars in thousands, except per share amounts, unless otherwise noted)

1. Basis of Financial Reporting

The accompanying unaudited consolidated financial statements of Nelnet, Inc. and subsidiaries (the "Company") as of September 30, 2009 and for the three and nine months ended September 30, 2009 and 2008 have been prepared on the same basis as the audited consolidated financial statements for the year ended December 31, 2008 and, in the opinion of the Company's management, the unaudited consolidated financial statements reflect all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of results of operations for the interim periods presented. The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates. Operating results for the three and nine months ended September 30, 2009 are not necessarily indicative of the results for the year ending December 31, 2009. The unaudited consolidated financial statements should be read in conjunction with the Company's Annual Report on Form 10-K for the year ended December 31, 2008. Certain amounts from 2008 have been reclassified to conform to the current period presentation. Management has evaluated subsequent events, and the impact on the reported results and disclosures, through November 9, 2009, which is the date these financial statements were filed with the Securities and Exchange Commission ("SEC").

2. Restructuring Charge

During the second quarter of 2009, the Company adopted a plan to further streamline its operations by continuing to reduce its geographic footprint and consolidate servicing operations and related support services.

Management has developed a restructuring plan that will result in lower costs and provide enhanced synergies through cross training, career development, and simplified communications. The Company will simplify its operating structure to leverage its larger facilities and technology by closing certain offices and downsizing its presence in certain geographic locations. Approximately 300 associates will be impacted by this restructuring plan. However, the majority of these functions will be relocated to the Company's Lincoln headquarters and Denver offices. Implementation of the plan began immediately and is expected to be substantially complete during the second quarter of 2010.

The Company estimates that the charge to earnings associated with this restructuring plan will be fully recognized by December 31, 2010 and will total approximately $13.0 million, consisting of approximately $6.3 million in severance costs and approximately $6.7 million in contract terminations, of which $2.8 million and $3.2 million has been recognized in the second and third quarters of 2009, respectively, and $1.4 million is expected to be recognized in the fourth quarter of 2009. Selected information relating to the restructuring charge follows:

	Employee termination benefits	Lease terminations	Total
Restructuring costs recognized during the three month period ended June 30, 2009	$ 1,482 (a)	1,291 (b)	2,773

Cash payments	(672)	—	(672)
Restructuring accrual as of June 30, 2009	810	1,291	2,101
Restructuring costs recognized during the three month period ended September 30, 2009	1,412 (a)	—	1,412
Adjustment from initial estimate of charges	—	1,786 (b)	1,786
Cash payments	(29)	(381)	(410)
Restructuring accrual as of September 30, 2009	$ 2,193	2,696	4,889

(a) Employee termination benefits are included in "salaries and benefits" in the consolidated statements of operations.
(b) Lease termination costs are included in "occupancy and communications" in the consolidated statements of operations.

Selected information relating to the restructuring charge by operating segment and Corporate Activity and Overhead follows:

Operating segment	Restructuring accrual as of June 30, 2009	Restructuring costs recognized during the three month period ended September 30, 2009	Adjustment from initial estimate of charges	Cash payments	Restructuring accrual as of September 30, 2009
Student Loan and Guaranty Servicing	$ 1,812	860	1,786	(410)	4,048
Tuition Payment Processing and Campus Commerce	—	—	—	—	—
Enrollment Services	—	—	—	—	—
Software and Technical Services	149	292	—	—	441
Asset Generation and Management	—	—	—	—	—
Corporate Activity and Overhead	140	260	—	—	400
	$ 2,101	1,412	1,786	(410)	4,889

Operating segment	Estimated total restructuring costs	Restructuring costs recognized through September 30, 2009	Remaining restructuring costs expected to be recognized
Student Loan and Guaranty Servicing	$ 10,131	4,644	5,487
Tuition Payment Processing and Campus Commerce	—	—	—
Enrollment Services	—	—	—

Software and Technical Services		1,078	714	364
Asset Generation and Management		—	—	—
Corporate Activity and Overhead		1,763	613	1,150
	$	12,972	5,971	7,001

7

In 2007 and 2008, the Company recorded restructuring charges related to certain legislative events and disruptions in the capital markets. As a result of the restructurings, the Company incurred expenses related to severance, contract terminations, and impairment of long-lived assets. These restructuring plans were completed by management in December 2007 and January 2008. However, an accrual related to certain lease terminations remains. Information relating to such accrual follows:

Restructuring accrual as of December 31, 2008	$	3,480
Cash payments		(228)
Restructuring accrual as of March 31, 2009		3,252
Cash payments		(228)
Adjustment from initial estimate of charges		515
Restructuring accrual as of June 30, 2009		3,539
Cash payments		(229)
Adjustment from initial estimate of charges		142
Restructuring accrual as of September 30, 2009	$	3,452

3. Student Loans Receivable and Allowance for Loan Losses

Student loans consist of federally insured student loans, non-federally insured student loans, and student loan participations. If the Company has the ability and intent to hold loans for the foreseeable future, such loans are held for investment and carried at amortized cost. Amortized cost includes the unamortized premiums and capitalized origination costs and fees, all of which are amortized to interest income. Loans which are held-for-investment also have an allowance for loan loss as needed. Any loans the Company has the ability and intent to sell are classified as held for sale and are carried at the lower of cost or fair value. Loans which are held-for-sale do not have the associated premium and origination costs and fees amortized into interest income and there is also no related allowance for loan losses.

As of September 30, 2009, the Company had $1.6 billion of 2008-2009 academic year Federal Family Education Loan Program ("FFELP") loans classified as held for sale. These loans were funded using the Department of Education's Loan Participation Program (the "Participation Program") and were sold to the Department of Education (the "Department") under the Department's Loan Purchase Commitment Program (the "Purchase Program"). Under the Purchase Program, the Department purchases loans at a price equal to the sum of (i) par value, (ii) accrued interest, (iii) the one percent origination fee paid to the Department, and (iv) a fixed amount of $75 per loan. Upon selling the $1.6 billion of loans held for sale, the Company recognized a gain in October 2009 of $26.9 million. During the third quarter of 2009, the Company sold $427.7 million (par value) of student loans under the Purchase Program and recognized a gain of $9.7 million.

The Company plans to continue to use the Participation Program to fund certain loans originated through the 2009-2010 academic year. Loans originated by the Company for the 2009-2010 academic year are classified as held for investment on the accompanying consolidated balance sheet.

Student loans receivable consisted of the following:

	As of September 30, 2009		As of December 31, 2008
	Held-for-investment	Held-for-sale	Held-for-investment
Federally insured loans	$ 23,295,203	1,607,169	24,787,941
Non-federally insured loans	167,114	—	273,108
	23,462,317	1,607,169	25,061,049
Unamortized loan premiums and deferred origination costs	352,066	20,625	402,881
Allowance for loan losses – federally insured loans	(29,015)	—	(25,577)
Allowance for loan losses – non-federally insured loans	(21,105)	—	(25,345)
	$ 23,764,263	1,627,794	25,413,008
Allowance for federally insured loans - held-for-investment as a percentage of such loans	0.12%		0.10%
Allowance for non-federally insured loans as a percentage of such loans	12.63%		9.28%
Total allowance as a percentage of the ending balance of total loans (excluding loans held-for-sale)	0.21%		0.20%

The Company has provided for an allowance for loan losses related to its student loan portfolio. Activity in the allowance for loan losses is shown below:

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Beginning balance	$ 50,000	47,909	50,922	45,592
Provision for loan losses	7,500	7,000	23,000	18,000
Loans charged off, net of recoveries	(4,380)	(5,839)	(13,482)	(13,772)
Sale of loans	(3,000)	—	(10,320)	(750)
Ending balance	$ 50,120	49,070	50,120	49,070

Loan Sales

The activity included in “gain (loss) on sale of loans, net” in the accompanying consolidated statements of operations is detailed below.

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Department's Purchase Program (a)	$ 9,689	—	9,689	—
Private loan participations (b)	(695)	—	(695)	—
FFELP loan sales to related parties (c)	(206)	—	(608)	—
FFELP loan sales to third parties (d)	—	—	—	(47,426)

Gain (loss) on sale of loans, net	$	8,788	—	8,386	(47,426)

(a) During the three months ended September 30, 2009, the Company sold $427.7 million (par value) of student loans to the Department under the Purchase Program.

(b) During the three and nine months ended September 30, 2009, the Company participated $––––30.5 million and $95.5 million, respectively, of non-federally insured loans to third parties. Loans participated under these agreements have been accounted for by the Company as loan sales. Accordingly, the participation interests sold are not included on the Company's consolidated balance sheet. Per the terms of the servicing agreements, the Company's servicing operations are obligated to repurchase loans subject to the participation interests when such loans become 60 or 90 days delinquent. The activity in the accrual account related to this repurchase obligation, which is included in "other liabilities" in the accompanying consolidated balance sheet, is detailed below.

9

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Beginning balance	$ 7,600	—	—	—
Transfer from allowance for loan losses	3,000	—	9,800	—
Reserve for repurchase of delinquent loans (a)	—	—	800	—
Ending balance	$ 10,600	—	10,600	—

(a) The reserve for repurchase of loans is included in "other" under other operating expenses in the accompanying consolidated statements of operations.

(c) During the three and nine months ended September 30, 2009, the Company sold $21.4 million (par value) and $61.5 million (par value), respectively, of federally insured student loans to Union Bank & Trust Company ("Union Bank"), an entity under common control with the Company.

(d) During March and April 2008, the Company sold $1.3 billion (par value) of federally insured student loans in order to reduce the amount of student loans remaining under the Company's multi-year committed financing facility for FFELP loans, which contained certain equity support provisions (see note 4 for additional information related to the FFELP warehouse facilities).

4. Bonds and Notes Payable

The following tables summarize outstanding bonds and notes payable by type of instrument:

	As of September 30, 2009		
	Carrying amount	Interest rate range	Final maturity
Variable-rate bonds and notes (a):			
Bonds and notes based on indices	$ 19,749,843	0.30% - 6.90%	11/25/13 - 06/25/41
Bonds and notes based on auction or remarketing	2,247,420	0.33% - 3.75%	11/01/09 - 07/01/43
Total variable-rate bonds and notes	21,997,263		
Commercial paper - FFELP facility (b)	361,279	0.22% - 0.38%	08/03/12
Fixed-rate bonds and notes (a)	186,274	5.40% - 6.50%	11/01/09 - 05/01/29
Unsecured fixed rate debt	264,966	5.125% and 7.40%	06/01/10 and 09/15/61
Unsecured line of credit	691,500	0.73% - 0.79%	05/08/12
Department of Education Participation	1,902,909	0.91%	10/15/09 and 09/30/10
Department of Education Conduit	1,155,351	0.37%	05/08/14
Other borrowings	26,551	0.26% - 5.10%	01/01/10 - 11/01/15
	$ 26,586,093		

	As of December 31, 2008		
	Carrying amount	Interest rate range	Final maturity
Variable-rate bonds and notes (a):			
Bonds and notes based on indices	$ 20,509,073	0.75% - 5.02%	09/25/13 - 06/25/41
Bonds and notes based on auction or remarketing	2,713,285	0.00% - 6.00%	11/01/09 - 07/01/43
Total variable-rate bonds and notes	23,222,358		
Commercial paper - FFELP facility (b)	1,445,327	1.32% - 2.94%	05/09/10
Commercial paper - private loan facility (b)	95,020	2.49%	03/14/09
Fixed-rate bonds and notes (a)	202,096	5.30% - 6.68%	11/01/09 - 05/01/29
Unsecured fixed rate debt	475,000	5.125% and 7.40%	06/01/10 and 09/15/61
Unsecured line of credit	691,500	0.98% - 2.41%	05/08/12
Department of Education Participation	622,170	3.37%	09/30/09
Other borrowings	34,488	1.25% - 5.47%	05/22/09 - 11/01/15
	$ 26,787,959		

(a) Issued in asset-backed securitizations

(b) Loan warehouse facilities

Secured Financing Transactions

The Company has historically relied upon secured financing vehicles as its most significant source of funding for student loans. The net cash flow the Company receives from the securitized student loans generally represents the excess amounts, if any, generated by the underlying student loans over the amounts required to be paid to the bondholders, after deducting servicing fees and any other expenses relating to the securitizations. The Company's rights to cash flow from securitized student loans are subordinate to bondholder interests and may fail to generate any cash flow beyond what is due to bondholders. The Company's secured financing vehicles are loan warehouse facilities, asset-backed securitizations, and the government's Participation and Conduit Programs (as described below).

Most of the bonds and notes payable are primarily secured by the student loans receivable, related accrued interest, and by the amounts on deposit in the accounts established under the respective bond resolutions or financing agreements. The student loan interest margin notes, included in fixed rate bonds and notes in the above tables, are secured by the rights to residual cash flows from certain variable rate bonds and notes and fixed rate notes. Certain variable rate bonds and notes and fixed rate bonds are secured by financial guaranty insurance policies or a letter of credit and reimbursement agreement issued by Municipal Bond Investors Assurance Corporation, Ambac Assurance Corporation, and State Street.

Historically, the Company funded new loan originations using loan warehouse facilities and asset-backed securitizations. Student loan warehousing has historically allowed the Company to buy and manage student loans prior to transferring them into more permanent financing arrangements. In July 2008, the Company did not renew its liquidity provisions on its FFELP warehouse facility. Accordingly, the facility became a term facility and no new loan originations could be funded with this facility. In August 2008, the Company began funding FFELP Stafford and PLUS student loan originations for the 2008-2009 and 2009-2010 academic years pursuant to the Department's Participation Program and a participation agreement with Union Bank.

Loan warehouse facilities

Student loan warehousing has historically allowed the Company to buy and manage student loans prior to transferring them into more permanent financing arrangements. To support its funding needs on a short-term basis, the Company historically relied upon a multi-year committed facility for FFELP loans.

FFELP Warehouse Facility

On August 3, 2009, the Company entered into a FFELP warehouse facility (the "2009 FFELP Warehouse Facility"). The 2009 FFELP Warehouse Facility has a maximum financing amount of $500.0 million, with a revolving financing structure supported by 364-day liquidity provisions, which expire on August 2, 2010. The final maturity date of the facility is August 3, 2012. In the event the Company is unable to renew the liquidity provisions by August 2, 2010, the facility would become a term facility at a stepped-up cost, with no additional student loans being eligible for financing, and the Company would be required to refinance the existing loans in the facility by August 3, 2012.

The 2009 FFELP Warehouse Facility provides for formula based advance rates depending on FFELP loan type, up to a maximum of 92 percent to 98 percent of the principle and interest of loans financed. The advance rates for collateral may increase or decrease based on market conditions. The facility contains financial covenants relating to levels of the Company's consolidated net worth, ratio of adjusted EBITDA to corporate debt interest, and unencumbered cash. Any violation of these covenants could result in a requirement for the immediate repayment of any outstanding borrowings under the facility. Unlike the Company's prior FFELP warehouse facility, the new facility does not require the Company to refinance or remove a percentage of the pledged student loan collateral on an annual basis. As of September 30, 2009, $361.3 million was outstanding under this facility and $138.7 million was available for future use.

The Company's prior FFELP warehouse facility was supported by 364-day liquidity which was up for renewal on May 9, 2008. The Company obtained an extension on this renewal until July 31, 2008. On July 31, 2008, the Company did not renew the liquidity provisions of this facility. Accordingly, as of July 31, 2008, the facility became a term facility with a final maturity date of May 9, 2010. The terms and conditions of the prior FFELP warehouse facility provided for formula-based advance rates based on market conditions. As of December 31, 2008, the Company had $1.6 billion of student loans in the facility, $1.4 billion borrowed under the facility, and $280.6 million in cash posted as equity funding support for this facility. During 2009, the Company refinanced the student loans in this facility which allowed the Company to withdraw all remaining equity funding support from the facility. The Company refinanced these loans using the following facilities:

- In March 2009, the Company completed a privately placed asset-backed securitization of $294.6 million.
- In June 2009, the Company accessed the Department's Conduit Program (as further discussed below).
- In August 2009, the Company refinanced all remaining loans using the 2009 FFELP Warehouse Facility and terminated the prior FFELP facility.

Private Loan Warehouse Facility

On February 25, 2009, the Company paid $91.5 million on the outstanding debt of its private loan warehouse facility with operating cash and terminated the facility. Beginning in January 2008, the Company suspended private student loan originations.

Asset-backed securitizations

As part of the Company's issuance of asset-backed securities in March 2008 and May 2008, due to credit market conditions when these notes were issued, the Company purchased the Class B subordinated notes of $36 million (par value) and $41 million (par value), respectively. These notes are not included on the Company's consolidated balance sheet. If the credit market conditions improve, the Company anticipates selling these notes to third parties. Upon a sale to third parties, the Company would obtain cash proceeds equal to the market value of the notes on the date of such sale. Upon sale, these notes would be shown as "bonds and notes payable" on the Company's consolidated balance sheet. Unless there is a significant market improvement, the Company believes the market value of such notes will be less than par value. The difference between the par value and market value would be recognized by the Company as interest expense over the life of the bonds.

On October 22, 2009, the Company completed an asset-backed securities transaction of $434.0 million. The Company used the proceeds from the sale of these notes and additional funds of $17.3 million to purchase principal and interest on student loans, which were previously financed in other asset-backed securitizations and the 2009 FFELP Warehouse Facility. As of November 6, 2009 $179.1 million was outstanding under the 2009 FFELP Warehouse Facility and $320.9 million was available for future use.

Department of Education's Loan Participation and Purchase Commitment Programs

In August 2008, the Department implemented the Purchase Program and the Participation Program pursuant to the Ensuring Continued Access to Student Loans Act of 2008 ("ECASLA"). Under the Department's Purchase Program, the Department will purchase loans at a price equal to the sum of (i) par value, (ii) accrued interest, (iii) the one percent origination fee paid to the Department, and (iv) a fixed amount of $75 per loan. Under the Participation Program, the Department provides interim short term liquidity to FFELP lenders by purchasing participation interests in pools of FFELP loans. FFELP lenders are charged a rate of commercial paper plus 50 basis points on the principal amount of participation interests outstanding. Loans funded under the Participation Program for the 2008-2009 academic year had to be either refinanced by the lender or sold to the Department pursuant to the Purchase Program prior to October 15, 2009. To be eligible for purchase or participation under the Department's programs, loans were originally limited to FFELP Stafford or PLUS loans made for the academic year 2008-2009, first disbursed between May 1, 2008 and July 1, 2009, with eligible borrower benefits.

On October 7, 2008, legislation was enacted to extend the Department's authority to address FFELP student loans made for the 2009-2010 academic year and allowing for the extension of the Participation Program and Purchase Program from October 15, 2009 to September 30, 2010. The Department indicated that loans for the 2008-2009 academic year which are funded under the Department's Participation Program will need to be refinanced or sold to the Department prior to October 15, 2009. On November 8, 2008, the Department announced the replication of the terms of the Participation and Purchase Programs, in accordance with the October 7, 2008 legislation, which includes FFELP student loans made for the 2009-2010 academic year.

As of September 30, 2009, the Company had $−−−1.9 billion of FFELP loans funded using the Participation Program, of which $1.6 billion are 2008-2009 academic year loans and are classified as held for sale on the Company's consolidated balance sheet. These loans were sold to the Department under its Purchase Program in October 2009. The Company plans to continue to use the Participation Program to fund certain loans through the 2009-2010 academic year.

Department of Education's Conduit Program

In January 2009, the Department published summary terms for its program under which it will finance eligible FFELP Stafford and PLUS loans in a conduit vehicle established to provide funding for student lenders (the "Conduit Program"). Loans eligible for the Conduit Program had to be first disbursed on or after October 1, 2003, but not later than June 30, 2009, and fully disbursed before September 30, 2009, and meet certain other requirements. The Conduit Program was launched on May 11, 2009. Funding for the Conduit Program is provided by the capital markets at a cost based on market rates, with the Company being advanced 97 percent of the student loan face amount. Excess amounts needed to fund the remaining 3 percent of the student loan balances are contributed by the Company. The Conduit Program has a term of five years and expires on May 8, 2014. The Student Loan Short-Term Notes ("Student Loan Notes") issued by the Conduit Program are supported by a combination of (i) notes backed by FFELP loans, (ii) the Liquidity Agreement with the Federal Financing Bank, and (iii) the Put Agreement provided by the Department. If the conduit does not have sufficient funds to pay all Student Loan Notes, then those Student Loan Notes will be repaid with funds from the Federal Financing Bank. The Federal Financing Bank will hold the notes for a short period of time and, if at the end of that time, the Student Loan Notes still cannot be paid off, the underlying FFELP loans that serve as collateral to the Conduit Program will be sold to the Department through the Put Agreement at a price of 97 percent of the face amount of the loans. As of September 30, 2009, the Company had $1.2 billion borrowed under the facility.

Union Bank Participation Agreement

The Company maintains an agreement with Union Bank, as trustee for various grantor trusts, under which Union Bank has agreed to purchase from the Company participation interests in student loans (the "FFELP Participation Agreement"). The Company has the option to purchase the participation interests from the grantor trusts at the end of a 364-day term upon termination of the participation certificate. As of September 30, 2009 and December 31, 2008, $681.9 million and $548.4 million, respectively, of loans were subject to outstanding participation interests held by Union Bank, as trustee, under this agreement. The agreement automatically renews annually and is terminable by either party upon five business days notice. This agreement provides beneficiaries of Union Bank's grantor trusts with access to investments in interests in student loans, while providing liquidity to the Company on a short-term basis. The Company can participate loans to Union Bank to the extent of availability under the grantor trusts, up to $750 million or an amount in excess of $750 million if mutually agreed to by both parties. Loans participated under this agreement have been accounted for by the Company as loan sales. Accordingly, the participation interests sold are not included on the Company's consolidated balance sheet.

Unsecured Line of Credit

The Company has a $750.0 million unsecured line of credit that terminates in May 2012. As of September 30, 2009, there was $691.5 million outstanding on this line. The weighted average interest rate on this line of credit was 0.77% as of September 30, 2009. Upon termination in 2012, there can be no assurance that the Company will be able to maintain this line of credit, find alternative funding, or increase the amount outstanding under the line, if necessary. The lending commitment under the Company's unsecured line of credit is provided by a total of thirteen banks, with no individual bank representing more than 11% of the total lending commitment. The bank lending group includes Lehman Brothers Bank ("Lehman"), a subsidiary of Lehman Brothers Holdings Inc., which represents approximately 7% of the lending commitment under the line of credit. On September 15, 2008, Lehman Brothers Holdings Inc. filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code. The Company does not expect that Lehman will fund future borrowing requests. As of September 30, 2009, excluding Lehman's lending commitment, the Company has $51.2 million available for future use under its unsecured line of credit.

The line of credit agreement contains certain financial covenants that, if not met, lead to an event of default under the agreement. The covenants include maintaining:

- A minimum consolidated net worth
- A minimum adjusted EBITDA to corporate debt interest (over the last four rolling quarters)
- A limitation on subsidiary indebtedness
- A limitation on the percentage of non-guaranteed loans in the Company's portfolio

As of September 30, 2009, the Company was in compliance with all of these requirements. Many of these covenants are duplicated in the Company's other lending facilities, including its FFELP warehouse facilities.

The Company's operating line of credit does not have any covenants related to unsecured debt ratings. However, changes in the Company's ratings (as well as the amounts the Company borrows) have modest implications on the pricing level at which the Company obtains funding.

A default on the 2009 FFELP Warehouse Facility would result in an event of default on the Company's unsecured line of credit that would result in the outstanding balance on the line of credit becoming immediately due and payable.

Debt Repurchases

During 2009, the Company repurchased outstanding debt as summarized below. There were no debt repurchases in 2008. Any gains (losses) recorded by the Company from the repurchase of debt are included in "other income" on the Company's consolidated statements of operations.

	5.125% Senior Notes due 2010			Junior Subordinated Hybrid Securities			Asset-backed securities		
	Notional amount	Purchase price	Gain (loss)	Notional amount	Purchase price	Gain (loss)	Notional amount	Purchase price	Gain (loss)
Three months ended:									
March 31, 2009	$ 34,866	26,791	8,075	—	—	—	—	—	—
June 30, 2009	35,520	31,080	4,440	1,750	350	1,400	1,100	1,078	22
September 30, 2009	137,898	138,505	(607)	—	—	—	44,950	39,095	5,855
Nine months ended September 30, 2009	208,284	196,376	11,908	1,750	350	1,400	46,050	40,173	5,877
Subsequent to September 30, 2009 through November 9, 2009	—	—	—	—	—	—	140,200	126,159	14,041
Total debt repurchased	$ 208,284	196,376	11,908	1,750	350	1,400	186,250	166,332	19,918
Balance as of September 30, 2009	$ 66,716			$ 198,250					

5. Derivative Financial Instruments

The Company is exposed to certain risks relating to its ongoing business operations. The primary risks managed by using derivative instruments are interest rate risk and foreign currency exchange risk.

Interest Rate Risk

The Company’s primary market risk exposure arises from fluctuations in its borrowing and lending rates, the spread between which could impact the Company due to shifts in market interest rates. Because the Company generates a significant portion of its earnings from its student loan spread, the interest rate sensitivity of the balance sheet is a key profitability driver. The Company has adopted a policy of periodically reviewing the mismatch related to the interest rate characteristics of its assets and liabilities together with the Company's outlook as to current and future market conditions. Based on those factors, the Company uses derivative instruments as part of its overall risk management strategy.

The Company issues asset-backed securities, the vast majority being variable rate, to fund its student loan assets. The variable rate debt is generally indexed to 3-month LIBOR, set by auction, or through a remarketing process. The income generated by the Company’s student loan assets is generally driven by short term indices (treasury bills, commercial paper, and certain fixed rates) that are different from those which affect the Company’s liabilities (generally LIBOR), which creates basis risk. Moreover, the Company also faces repricing risk due to the timing of the interest rate resets on its liabilities, which may occur as infrequently as every quarter, and the timing of the interest rate resets on its assets, which generally occurs daily. In a declining interest rate environment, this may cause the Company’s student loan spread to compress, while in a rising rate environment, it may cause the spread to increase. As of September 30, 2009, the Company had approximately $23.8 billion of FFELP loans indexed to three-month financial commercial paper rate and $19.7 billion of debt indexed to LIBOR.

In using different index types and different index reset frequencies to fund assets, the Company is exposed to interest rate risk in the form of basis risk and repricing risk, which, as noted above, is the risk that the different indices may reset at different frequencies, or will not move in the same direction or with the same magnitude. While these indices are short term with rate movements that are highly correlated over a longer period of time, they have recently become less correlated. Due to capital market dislocations or other factors not within the Company’s control, there can be no assurance the indices will regain their high level of correlation in the future.

The Company has used derivative instruments to hedge the repricing risk due to the timing of the interest rate resets on its assets and liabilities. The Company has entered into basis swaps in which the Company (i) receives three-month LIBOR set discretely in advance and pays a daily weighted average three-month LIBOR less a spread as defined in the agreements (the "Average/Discrete Basis Swaps"); and (ii) receives three-month LIBOR and pays one-month LIBOR plus or minus a spread as defined in the agreements (the "1/3 Basis Swaps").

However, the Company does not generally hedge the basis risk due to the different interest rate indices associated with its assets and liabilities, since the derivatives needed to hedge this risk are generally illiquid or non-existent and the relationship between the indices for most of the Company's assets and liabilities has been highly correlated over a long period of time.

The following table summarizes the Company's basis swaps outstanding as of September 30, 2009 and December 31, 2008 used by the Company to hedge the repricing risk due to the timing of the interest rate resets on its assets and liabilities.

	As of September 30, 2009 Notional Amount	
Maturity	Average/Discrete Basis Swaps	1/3 Basis Swaps
2010	$ —	1,000,000
2011 (a)	6,000,000	—
2013	—	500,000
2014	—	500,000
2018	—	1,300,000
2019	—	500,000
2021	—	250,000
2023	—	1,250,000
2024	—	250,000
2028	—	100,000
2039	—	150,000
	$ 6,000,000	5,800,000

(a) Certain of these derivatives have forward effective start dates of January 2010 ($1.5 billion), February 2010 ($1.5 billion), and March 2010 ($1.5 billion).

	As of December 31, 2008 Notional amount	
Maturity	Average/Discrete Basis Swaps	1/3 Basis Swaps
2010	$ 4,500,000	—
2011	2,700,000	—
2012	2,400,000	—
2018	—	1,300,000
2023	—	1,250,000
2028	—	100,000
	$ 9,600,000	2,650,000

During the three and nine months ended September 30, 2009, the Company terminated and/or amended certain Average/Discrete Basis Swap agreements for net receipts of $2.4 million and net payments of $7.9 million, respectively.

FFELP loans originated prior to April 1, 2006 generally earn interest at the higher of a floating rate based on the Special Allowance Payment or SAP formula set by the Department and the borrower rate, which is fixed over a period of time. The SAP formula is based on an applicable index plus a fixed spread that is dependent upon when the loan was originated, the loan's repayment status, and funding sources for the loan. The Company generally finances its student loan portfolio with variable rate debt. In low and/or declining interest rate environments, when the fixed borrower rate is higher than the rate produced by the SAP formula, the Company's student loans earn at a fixed rate while the interest on the variable rate debt typically continues to decline. In these interest rate environments, the Company may earn additional spread income that it refers to as floor income.

Depending on the type of loan and when it was originated, the borrower rate is either fixed to term or is reset to an annual rate each July 1. As a result, for loans where the borrower rate is fixed to term, the Company may earn floor income for an extended period of time, which the Company refers to as fixed rate floor income, and for those loans where the borrower rate is reset annually on July 1, the Company may earn floor income to the next reset date, which the Company refers to as variable rate floor income. In accordance with legislation enacted in 2006, lenders are required to rebate fixed rate floor income and variable rate floor income to the Department for all FFELP loans first originated on or after April 1, 2006.

Absent the use of derivative instruments, a rise in interest rates may reduce the amount of floor income received and this may have an impact on earnings due to interest margin compression caused by increasing financing costs, until such time as the federally insured loans earn interest at a variable rate in accordance with their special allowance payment formulas. In higher interest rate environments, where the interest rate rises above the borrower rate and fixed rate loans effectively become variable rate loans, the impact of the rate fluctuations is reduced.

As of September 30, 2009, the Company held the following interest rate derivatives to hedge fixed-rate student loan assets earning fixed rate floor income.

	As of September 30, 2009	
Maturity	Notional Amount	Weighted average fixed rate paid by the Company (a)
2010	$ 1,000,000	0.76%

(a) For all interest rate derivatives, the Company receives discrete three-month LIBOR.

Foreign Currency Exchange Risk

During 2006, the Company completed separate debt offerings of student loan asset-backed securities that included 420.5 million and 352.7 million Euro-denominated notes (the "Euro Notes") with interest rates based on a spread to the EURIBOR index. As a result of this transaction, the Company is exposed to market risk related to fluctuations in foreign currency exchange rates between the U.S. dollar and Euro. The principal and accrued interest on these notes is re-measured at each reporting period and recorded on the Company's balance sheet in U.S. dollars based on the foreign currency exchange rate on that date. Changes in the principal and accrued interest amounts as a result of foreign currency exchange rate fluctuations are included in the "derivative market value, foreign currency, and put option adjustments and derivative settlements, net" in the Company's consolidated statements of operations.

The Company entered into cross-currency interest rate swaps in connection with the issuance of the Euro Notes. Under the terms of these derivative instrument agreements, the Company receives from a counterparty a spread to the EURIBOR index based on notional amounts of €420.5 million and €352.7 million and pays a spread to the LIBOR index based on notional amounts of $500.0 million and $450.0 million, respectively. In addition, under the terms of these agreements, all principal payments on the Euro Notes will effectively be paid at the exchange rate in effect as of the issuance of the notes.

For the three and nine months ended September 30, 2009, the Company recorded an expense of $39.4 million and $56.0 million, respectively, as a result of re-measurement of the Euro Notes, and income of $44.8 million and $28.9 million, respectively, for the change in the fair value of the related derivative instruments. For the three and nine months ended September 30, 2008, the Company recorded income of $128.9 million and $40.4 million, respectively, as a result of re-measurement of the Euro Notes, and an expense of $129.0 million and $37.3 million, respectively, for the change in the fair value of the related derivative instruments.

The re-measurement of the Euro-denominated bonds generally correlates with the change in fair value of the cross-currency interest rate swaps. However, the Company will experience unrealized gains or losses related to the cross-currency interest rate swaps if the two underlying indices (and related forward curve) do not move in parallel. Management intends to hold the cross-currency interest rate swaps through the maturity of the Euro-denominated bonds.

Accounting for Derivative Financial Instruments

The Company records every derivative instrument on the balance sheet as either an asset or liability measured at its fair value. Management has structured all of the Company's derivative transactions with the intent that each is economically effective; however, the Company's derivative instruments do not qualify for hedge accounting. As a result, the change in fair value of the Company's derivatives at each reporting date are included in "derivative market value, foreign currency, and put option adjustments and derivative settlements, net" in the Company's consolidated statements of operations. Changes or shifts in the forward yield curve and fluctuations in currency rates can significantly impact the valuation of the Company's derivatives. Accordingly, changes or shifts to the forward yield curve and fluctuations in currency rates will impact the financial position and results of operations of the Company.

Any proceeds received or payments made by the Company to terminate a derivative in advance of its expiration date, or to amend the terms of an existing derivative, are included in "derivative market value, foreign currency, and put option adjustments and derivative settlements, net" on the consolidated statements of operations and are accounted for as a change in fair value on such derivative.

The following table summarizes the fair value of the Company's derivatives not designated as hedging instruments:

	Asset derivatives		Liability derivatives	
	Fair value as of September 30, 2009	Fair value as of December 31, 2008	Fair value as of September 30, 2009	Fair value as of December 31, 2008
Interest Rate swaps	$ —	—	(1,812)	—
Average/discrete basis swaps	—	2,817	(6,660)	(1,800)
1/3 basis swaps	13,966	5,037	(8)	(15)
Cross-currency interest rate swaps	196,191	167,320	—	—
Other	—	—	(518)	—
Total	$ 210,157	175,174	(8,998)	(1,815)

The following table summarizes the effect of derivative instruments in the consolidated statements of operations. All gains and losses recognized in income related to the Company's derivative activity are included in "Derivative market value, foreign currency, and put option adjustments and derivative settlements, net", on the consolidated statements of operations.

Derivatives not designated as hedging instruments	Amount of gain (or loss) recognized on derivatives Three months ended September 30,		Amount of gain (or loss) recognized on derivatives Nine months ended September 30,	
	2009	2008	2009	2008
Settlements:				
Interest rate swaps	$ (436)	(3,175)	$ (447)	(14,194)
Average/discrete basis swaps	646	(3,999)	11,707	40,711
1/3 basis swaps	3,071	—	20,473	894
Cross-currency interest rate swaps	1,633	7,963	7,074	18,578
Other	—	—	—	—
Total settlements	4,914	789	38,807	45,989

Change in fair value:						
Interest rate swaps		(2,822)	(1,335)		(1,811)	2,763
Average/discrete basis swaps		1,864	10,390		(16,813)	(40,948)
1/3 basis swaps		(1,115)	—		8,751	2,568
Cross-currency interest rate swaps		44,773	(128,951)		28,871	(37,283)
Other		(518)	35		914	501
Total change in fair value		42,182	(119,861)		19,912	(72,399)
Total impact to statements of operations	$	47,096	(119,072)	$	58,719	(26,410)

17

Derivative Instruments - Credit and Market Risk

By using derivative instruments, the Company is exposed to credit and market risk.

When the fair value of a derivative instrument is negative, the Company would owe the counterparty if the derivative was settled and, therefore, has no immediate credit risk. Additionally, if the negative fair value of derivatives with a counterparty exceeds a specified threshold, the Company may have to make a collateral deposit with the counterparty. The threshold at which the Company posts collateral may depend on the Company's unsecured credit rating. If interest and foreign currency exchange rates move materially, the Company could be required to deposit a significant amount of collateral with its derivative instrument counterparties. The collateral deposits, if significant, could negatively impact the Company's liquidity and capital resources.

When the fair value of a derivative contract is positive, this generally indicates that the counterparty would owe the Company if the derivative was settled. If the counterparty fails to perform, credit risk with such counterparty is equal to the extent of the fair value gain in the derivative less any collateral held by the Company. As of September 30, 2009, the Company held approximately $308 million of collateral from the counterparty on the cross-currency interest rate swaps.

The Company attempts to manage market and credit risks associated with interest and foreign currency exchange rates by establishing and monitoring limits as to the types and degree of risk that may be undertaken, and by entering into transactions with high-quality counterparties that are reviewed periodically by the Company's risk committee. The Company also has a policy of requiring that all derivative contracts be governed by an International Swaps and Derivatives Association, Inc. Master Agreement.

6. Derivative Market Value, Foreign Currency, and Put Option Adjustments and Derivative Settlements, net

The following table summarizes the components of "Derivative market value, foreign currency, and put option adjustments and derivative settlements, net" included in the consolidated statements of operations.

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Change in fair value of derivatives	$ 42,182	(119,861)	19,912	(72,399)
Foreign currency transaction adjustment	(39,356)	128,891	(55,979)	40,361
Change in fair value of put options issued in business acquisitions	—	(2,945)	—	(3,483)
Derivative settlements, net	4,914	789	38,807	45,989
Derivative market value, foreign currency, and put option adjustments and derivative settlements, net	$ 7,740	6,874	2,740	10,468

7. Segment Reporting

The Company has five operating segments as follows: Student Loan and Guaranty Servicing, Tuition Payment Processing and Campus Commerce, Enrollment Services, Software and Technical Services, and Asset Generation and Management. The Company's operating segments are defined by the products and services they offer or the types of customers they serve, and they reflect the manner in which financial information is currently evaluated by management. The accounting policies of the Company's operating segments are the same as those described in the summary of significant accounting policies. Intersegment revenues are charged by a segment to another segment that provides the product or service. Intersegment revenues and expenses are included within each segment consistent with the income statement presentation provided to management. Changes in management structure or allocation methodologies and procedures may result in changes in reported segment financial information.

The management reporting process measures the performance of the Company's operating segments based on the management structure of the Company as well as the methodology used by management to evaluate performance and allocate resources. Management, including the Company's chief operating decision maker, evaluates the performance of the Company's operating segments based on their profitability. As discussed further below, management measures the profitability of the Company's operating segments based on "base net income." Accordingly, information regarding the Company's operating segments is provided based on "base net income." The Company's "base net income" is not a defined term within generally accepted accounting principles ("GAAP") and may not be comparable to similarly titled measures reported by other companies. Unlike financial accounting, there is no comprehensive, authoritative guidance for management reporting.

Historically, the Company generated the majority of its revenue from net interest income earned in its Asset Generation and Management operating segment. In recent years, the Company has made several acquisitions that have expanded the Company's products and services and has diversified its revenue – primarily from fee-based businesses. The Company currently offers a broad range of pre-college, in-college, and post-college products and services to students, families, schools, and financial institutions. These products and services help students and families plan and pay for their education and students plan their careers. The Company's products and services are designed to simplify the education planning and financing process and are focused on providing value to students, families, and schools throughout the education life cycle. The Company continues to diversify its sources of revenue, including those generated from businesses that are not dependent upon government programs, thereby reducing legislative and political risk.

Fee Generating Operating Segments

Student Loan and Guaranty Servicing

The Student Loan and Guaranty Servicing segment provides for the servicing of the Company's student loan portfolios and the portfolios of third parties and servicing provided to guaranty agencies. The servicing and business process outsourcing activities include loan origination activities, application processing, borrower updates, payment processing, due diligence procedures, and claim processing. These activities are performed internally for the Company's portfolio in addition to generating fee revenue when performed for third-party clients. The guaranty servicing, servicing support, and business process outsourcing activities include providing software and data center services, borrower and loan updates, default aversion tracking services, claim processing services, and post-default collection services to guaranty agencies. The following are the primary product and service offerings the Company offers as part of its Student Loan and Guaranty Servicing segment:

- Origination and servicing of FFELP loans
- Origination and servicing of non-federally insured student loans
- Servicing and support outsourcing for guaranty agencies

In June 2009, the Department of Education named the Company as one of four private sector companies awarded a servicing contract to service all federally-owned student loans, including FFELP loans purchased by the Department pursuant to ECASLA. Beginning in August 2010, the contract will also cover the servicing on new loans originated under the Direct Loan Program. Servicing volume will initially be allocated by the Department to servicers awarded a contract, however, performance factors such as customer satisfaction levels and default rates will determine volume allocations over time. The contract spans five years with one, five-year renewal option. Servicing loans under this contract will increase revenue earned by this segment. However, operating margins under this contract are expected to be lower than historical levels achieved.

Tuition Payment Processing and Campus Commerce

The Tuition Payment Processing and Campus Commerce segment provides products and services to help institutions and education-seeking families manage the payment of education costs during the pre-college and college stages of the education life cycle. The Company provides actively managed tuition payment solutions, online payment processing, detailed information reporting, financial needs analysis, and data integration services to K-12 and higher educational institutions, families, and students. In addition, the Company provides customer-focused electronic transactions, information sharing, and account and bill presentment to colleges and universities.

Enrollment Services

The Enrollment Services segment offers products and services that are focused on helping students plan and prepare for life after high school (content management and publishing and editing services) and helping colleges recruit and retain students (lead generation and recruitment services). Content management products and services include online courses and related services. Publishing and editing services include test preparation study guides and essay and resume editing services. Lead generation products and services include vendor lead management services and admissions lead generation. Recruitment services include pay per click marketing management, email marketing, list marketing services, and admissions consulting.

Software and Technical Services

The Software and Technical Services segment provides information technology products and full-service technical consulting, with core areas of business in educational loan software solutions, business intelligence, technical consulting services, and Enterprise Content Management solutions.

Asset Generation and Management Operating Segment

The Asset Generation and Management segment includes the acquisition, management, and ownership of the Company's student loan assets. Revenues are primarily generated from the Company's earnings from the spread, referred to as the Company's student loan spread, between the yield received on the student loan portfolio and the costs associated with originating, acquiring, and financing its student loan portfolio. The Company generates student loan assets through direct origination or through acquisitions. The student loan assets are held in a series of education lending subsidiaries designed specifically for this purpose. In addition to the student loan portfolio, all costs and activity associated with the generation of assets, funding of those assets, and maintenance of the debt transactions are included in this segment. This includes derivative activity and the related derivative market value and foreign currency adjustments. The Company is also able to leverage its capital market expertise by providing investment advisory services and other related services to third parties through a licensed broker dealer subsidiary. Revenues and expenses for those functions are also included in the Asset Generation and Management segment.

Segment Operating Results – "Base Net Income"

The tables below include the operating results of each of the Company's operating segments. Management, including the chief operating decision maker, evaluates the Company on certain non-GAAP performance measures that the Company refers to as "base net income" for each operating segment. While "base net income" is not a substitute for reported results under GAAP, the Company relies on "base net income" to manage each operating segment because it believes this measure provides additional information regarding the operational and performance indicators that are most closely assessed by management.

"Base net income" is the primary financial performance measure used by management to develop the Company's financial plans, track results, and establish corporate performance targets and incentive compensation. Management believes this information provides additional insight into the financial performance of the core business activities of the Company's operating segments. Accordingly, the tables presented below reflect "base net income," which is the operating measure reviewed and utilized by management to manage the business. Reconciliation of the segment totals to the Company's operating results in accordance with GAAP are also included in the tables below.

Segment Results and Reconciliations to GAAP

	Three months ended September 30, 2009									
	Fee-Based									
	Student Loan and Guaranty Servicing	Tuition Payment Processing and Campus Commerce	Enrollment Services	Software and Technical Services	Total Fee-Based	Asset Generation and Management	Corporate Activity and Overhead	Eliminations and Reclassifications	"Base net income" Adjustments to GAAP Results	GAAP Results of Operations
Total interest income	$ 23	16	—	—	39	144,310	1,191	(342)	—	145,198
Interest expense	—	—	—	—	—	69,914	6,444	(342)	—	76,016
Net interest income (loss)	23	16	—	—	39	74,396	(5,253)	—	—	69,182
Less provision for loan losses	—	—	—	—	—	7,500	—	—	—	7,500
Net interest income (loss) after provision for loan losses	23	16	—	—	39	66,896	(5,253)	—	—	61,682
Other income (expense):										
Loan and guaranty servicing revenue	26,387	—	—	—	26,387	—	(381)	—	—	26,006
Tuition payment processing and campus commerce revenue	—	12,987	—	—	12,987	—	—	—	—	12,987
Enrollment services revenue	—	—	30,670	—	30,670	—	—	—	—	30,670
Software services revenue	966	—	—	3,634	4,600	—	—	—	—	4,600
Other income	137	—	—	—	137	9,959	998	—	—	11,094
Gain (loss) on sale of loans, net	—	—	—	—	—	8,788	—	—	—	8,788
	21,525	62	139	3,793	25,519	—	8,355	(33,874)	—	—

Intersegment revenue										
Derivative market value, foreign currency, and put option adjustments	—	—	—	—	—	—	—	—	2,826	2,826
Derivative settlements, net	—	—	—	—	—	4,914	—	—	—	4,914
Total other income (expense)	49,015	13,049	30,809	7,427	100,300	23,661	8,972	(33,874)	2,826	101,885
Operating expenses:										
Salaries and benefits	12,468	6,399	5,337	5,756	29,960	1,693	5,919	238	—	37,810
Restructure expense- severance and contract termінination costs	2,646	—	—	292	2,938	—	402	(3,340)	—	—
Impairment expense	—	—	—	—	—	—	—	—	—	—
Cost to provide enrollment services	—	—	20,323	—	20,323	—	—	—	—	20,323
Other expenses	7,613	2,265	3,266	776	13,920	4,801	8,567	1,929	5,312	34,529
Intersegment expenses	9,398	670	550	786	11,404	20,764	533	(32,701)	—	—
Total operating expenses	32,125	9,334	29,476	7,610	78,545	27,258	15,421	(33,874)	5,312	92,662
Income (loss) before income taxes	16,913	3,731	1,333	(183)	21,794	63,299	(11,702)	—	(2,486)	70,905
Income tax (expense) benefit (a)	(6,427)	(1,418)	(507)	70	(8,282)	(24,054)	6,976	—	859	(24,501)
Net income (loss) from continuing operations	10,486	2,313	826	(113)	13,512	39,245	(4,726)	—	(1,627)	46,404
Income from discontinued	—	—	—	—	—	—	—	—	—	—

operations, net of tax										
Net income (loss)	$ 10,486	2,313	826	(113)	13,512	39,245	(4,726)	—	(1,627)	46,404

(a) Income taxes are applied based on 38% of income (loss) before income taxes for the individual operating segments.

	Three months ended September 30, 2008										
	Fee-Based										
	Student Loan and Guaranty Servicing	Tuition Payment Processing and Campus Commerce	Enrollment Services	Software and Technical Services	Total Fee-Based	Asset Generation and Management	Corporate Activity and Overhead	Eliminations and Reclassifications	"Base net income" Adjustments to GAAP Results	GAAP Results of Operations
Total interest income	$ 304	396	6	—	706	290,039	2,010	(749)	1,580	293,586
Interest expense	—	—	1	—	1	224,272	10,492	(749)	—	234,016
Net interest income (loss)	304	396	5	—	705	65,767	(8,482)	—	1,580	59,570
Less provision for loan losses	—	—	—	—	—	7,000	—	—	—	7,000
Net interest income (loss) after provision for loan losses	304	396	5	—	705	58,767	(8,482)	—	1,580	52,570
Other income (expense):										
Loan and guaranty servicing revenue	29,827	—	—	—	29,827	(136)	—	—	—	29,691
Tuition payment processing and campus commerce revenue	—	11,863	—	—	11,863	—	—	—	—	11,863
Enrollment services revenue	—	—	29,858	—	29,858	—	—	—	—	29,858
Software services revenue	942	—	—	4,217	5,159	—	—	—	—	5,159
Other income	6	—	—	—	6	4,079	1,323	—	—	5,408
Intercompany revenue	18,402	58	2	1,660	20,122	—	15,671	(35,793)	—	—
Derivative market value, foreign										
	—	—	—	—	—	—	—	—	6,085	6,085

currency, and put option adjustments										
Derivative settlements, net	—	—	—	—	—	789	—	—	—	789
Total other income (expense)	49,177	11,921	29,860	5,877	96,835	4,732	16,994	(35,793)	6,085	88,853
Operating expenses:										
Salaries and benefits	13,876	6,236	5,805	4,138	30,055	1,980	14,179	(1,952)	477	44,739
Restructure expense- severance and contract terminination costs	—	—	—	—	—	—	—	—	—	—
Impairment expense	—	—	—	—	—	—	—	—	—	—
Cost to provide enrollment services	—	—	17,904	—	17,904	—	—	—	—	17,904
Other expenses	10,632	2,132	2,512	568	15,844	5,354	13,477	(247)	6,598	41,026
Intersegment expenses	11,940	288	1,509	826	14,563	18,200	831	(33,594)	—	—
Total operating expenses	36,448	8,656	27,730	5,532	78,366	25,534	28,487	(35,793)	7,075	103,669
Income (loss) before income taxes	13,033	3,661	2,135	345	19,174	37,965	(19,975)	—	590	37,754
Income tax (expense) benefit (a)	(4,823)	(1,354)	(790)	(128)	(7,095)	(14,047)	7,391	—	(218)	(13,969)
Net income (loss) from continuing operations	8,210	2,307	1,345	217	12,079	23,918	(12,584)	—	372	23,785
Income from discontinued operations, net of tax	—	—	—	—	—	—	—	—	—	—
Net income (loss)	$ 8,210	2,307	1,345	217	12,079	23,918	(12,584)	—	372	23,785

(a) Income taxes are applied based on the consolidated effective tax rate to income (loss) before income taxes.

	Nine months ended September 30, 2009									
	Fee-Based									
	Student Loan and Guaranty Servicing	Tuition Payment Processing and Campus Commerce	Enrollment Services	Software and Technical Services	Total Fee-Based	Asset Generation and Management	Corporate Activity and Overhead	Eliminations and Reclassifications	"Base net income" Adjustments to GAAP Results	GAAP Results of Operations
Total interest income	$ 102	57	—	—	159	473,130	3,930	(1,324)	7,502	483,397
Interest expense	—	—	—	—	—	306,846	23,078	(1,324)	—	328,600
Net interest income (loss)	102	57	—	—	159	166,284	(19,148)	—	7,502	154,797
Less provision for loan losses	—	—	—	—	—	23,000	—	—	—	23,000
Net interest income (loss) after provision for loan losses	102	57	—	—	159	143,284	(19,148)	—	7,502	131,797
Other income (expense):										
Loan and guaranty servicing revenue	82,424	—	—	—	82,424	—	(1,144)	—	—	81,280
Tuition payment processing and campus commerce revenue	—	40,373	—	—	40,373	—	—	—	—	40,373
Enrollment services revenue	—	—	88,188	—	88,188	—	—	—	—	88,188
Software services revenue	2,766	—	—	13,658	16,424	—	—	—	—	16,424
Other income	498	—	—	—	498	18,851	20,134	—	—	39,483
Gain (loss) on sale of loans, net	—	—	—	—	—	8,386	—	—	—	8,386
Intersegment revenue	62,291	172	416	10,813	73,692	—	25,739	(99,431)	—	—
Derivative market value,										

foreign currency, and put option adjustments	—	—	—	—	—	—	—	—	(36,067)	(36,067)
Derivative settlements, net	—	—	—	—	—	38,807	—	—	—	38,807
Total other income (expense)	147,979	40,545	88,604	24,471	301,599	66,044	44,729	(99,431)	(36,067)	276,874
Operating expenses:										
Salaries and benefits	40,527	19,346	17,295	16,656	93,824	5,203	18,420	(1,390)	159	116,216
Restructure expense-severance and contract termination costs	5,159	—	—	714	5,873	—	755	(6,628)	—	—
Impairment expense	—	—	—	—	—	—	—	—	—	—
Cost to provide enrollment services	—	—	56,208	—	56,208	—	—	—	—	56,208
Other expenses	27,350	7,012	9,602	2,292	46,256	15,635	27,287	3,736	17,251	110,165
Intersegment expenses	28,352	1,962	1,604	2,195	34,113	59,372	1,664	(95,149)	—	—
Total operating expenses	101,388	28,320	84,709	21,857	236,274	80,210	48,126	(99,431)	17,410	282,589
Income (loss) before income taxes	46,693	12,282	3,895	2,614	65,484	129,118	(22,545)	—	(45,975)	126,082
Income tax (expense) benefit (a)	(17,744)	(4,667)	(1,480)	(994)	(24,885)	(49,066)	11,150	—	16,781	(46,020)
Net income (loss) from continuing operations	28,949	7,615	2,415	1,620	40,599	80,052	(11,395)	—	(29,194)	80,062
Income from discontinued operations, net of tax	—	—	—	—	—	—	—	—	—	—
Net income (loss)	$ 28,949	7,615	2,415	1,620	40,599	80,052	(11,395)	—	(29,194)	80,062

(a) Income taxes are applied based on 38% of income (loss) before income taxes for the individual operating segments.

	Nine months ended September 30, 2008									
		Fee-Based								
	Student Loan and Guaranty Servicing	Tuition Payment Processing and Campus Commerce	Enrollment Services	Software and Technical Services	Total Fee-Based	Asset Generation and Management	Corporate Activity and Overhead	Eliminations and Reclassifications	"Base net income" Adjustments to GAAP Results	GAAP Results of Operations
Total interest income	$ 1,160	1,471	16	—	2,647	892,690	4,781	(1,389)	42,325	941,054
Interest expense	—	—	3	—	3	762,689	30,318	(1,389)	—	791,621
Net interest income (loss)	1,160	1,471	13	—	2,644	130,001	(25,537)	—	42,325	149,433
Less provision for loan losses	—	—	—	—	—	18,000	—	—	—	18,000
Net interest income (loss) after provision for loan losses	1,160	1,471	13	—	2,644	112,001	(25,537)	—	42,325	131,433
Other income (expense):										
Loan and guaranty servicing revenue	78,147	—	—	—	78,147	26	—	—	—	78,173
Tuition payment processing and campus commerce revenue	—	35,980	—	—	35,980	—	—	—	—	35,980
Enrollment services revenue	—	—	83,148	—	83,148	—	—	—	—	83,148
Software services revenue	3,477	—	37	15,828	19,342	—	—	—	—	19,342
Other income	44	—	—	—	44	13,787	3,956	—	—	17,787
Gain (loss) on sale of loans, net	—	—	—	—	—	(47,426)	—	—	—	(47,426)
Intersegment revenue	57,008	242	2	4,993	62,245	—	46,843	(109,088)	—	—

Derivative market value, foreign currency, and put option adjustments	—	—	—	—	—	466	—	—	(35,987)	(35,521)
Derivative settlements, net	—	—	—	—	—	55,954	—	—	(9,965)	45,989
Total other income (expense)	138,676	36,222	83,187	20,821	278,906	22,807	50,799	(109,088)	(45,952)	197,472
Operating expenses:										
Salaries and benefits	40,365	17,450	18,701	14,031	90,547	6,157	41,581	1,323	2,523	142,131
Restructure expense- severence and contract termination costs	747	—	282	487	1,516	1,845	3,746	(7,107)	—	—
Impairment expense	5,074	—	—	—	5,074	9,351	4,409	—	—	18,834
Cost to provide enrollment services	—	—	48,062	—	48,062	—	—	—	—	48,062
Other expenses	27,130	6,743	7,801	1,901	43,575	15,793	42,263	51	19,719	121,401
Intersegment expenses	35,040	1,045	4,936	1,562	42,583	57,754	3,018	(103,355)	—	—
Total operating expenses	108,356	25,238	79,782	17,981	231,357	90,900	95,017	(109,088)	22,242	330,428
Income (loss) before income taxes	31,480	12,455	3,418	2,840	50,193	43,908	(69,755)	—	(25,869)	(1,523)
Income tax (expense) benefit (a)	(10,542)	(4,081)	(1,187)	(902)	(16,712)	(15,889)	22,824	—	7,984	(1,793)
Net income (loss) from continuing operations	20,938	8,374	2,231	1,938	33,481	28,019	(46,931)	—	(17,885)	(3,316)
Income from discontinued operations, net of tax	—	—	—	—	—	—	—	—	981	981

Net income (loss)	$	20,938	8,374	2,231	1,938	33,481	28,019	(46,931)	—	(16,904)	(2,335)

(a) Income taxes are applied based on the consolidated effective tax rate to income (loss) before income taxes.

Corporate Activity and Overhead in the previous tables primarily includes the following items:

- Income earned on certain investment activities
- Interest expense incurred on unsecured debt transactions
- Other products and service offerings that are not considered operating segments
- Certain corporate activities and unallocated overhead functions related to executive management, human resources, accounting and finance, legal, marketing, and corporate technology support

24

The adjustments required to reconcile from the Company's "base net income" measure to its GAAP results of operations relate to differing treatments for derivatives, foreign currency transaction adjustments, and certain other items that management does not consider in evaluating the Company's operating results. The following tables reflect adjustments associated with these areas by operating segment and Corporate Activity and Overhead:

		Student Loan and Guaranty Servicing	Tuition Payment Processing and Campus Commerce	Enrollment Services	Software and Technical Services	Asset Generation and Management	Corporate Activity and Overhead	Total
		Three months ended September 30, 2009						
Derivative market value, foreign currency, and put option adjustments (1)	$	—	—	—	—	(2,826)	—	(2,826)
Amortization of intangible assets (2)		1,078	1,842	2,251	141	—	—	5,312
Compensation related to business combinations (3)		—	—	—	—	—	—	—
Variable-rate floor income, net of settlements on derivatives (4)		—	—	—	—	—	—	—
Income from discontinued operations, net of tax (5)		—	—	—	—	—	—	—
Net tax effect (6)		(410)	(700)	(855)	(54)	1,074	86	(859)
Total adjustments to GAAP	$	668	1,142	1,396	87	(1,752)	86	1,627
		Three months ended September 30, 2008						
Derivative market value, foreign currency, and put option adjustments (1)	$	—	—	—	—	(9,030)	2,945	(6,085)
Amortization of intangible assets (2)		1,165	1,889	3,258	286	—	—	6,598
Compensation related to business combinations (3)		—	—	—	—	—	477	477
Variable-rate floor income, net of settlements on derivatives (4)		—	—	—	—	(1,580)	—	(1,580)
Income from discontinued operations, net of tax (5)		—	—	—	—	—	—	—

Net tax effect (6)		(432)	(699)	(1,205)	(106)	3,926	(1,266)	218
Total adjustments to GAAP	$	733	1,190	2,053	180	(6,684)	2,156	(372)
				Nine months ended September 30, 2009				
Derivative market value, foreign currency, and put option adjustments (1)	$	—	—	—	—	37,499	(1,432)	36,067
Amortization of intangible assets (2)		3,236	5,598	7,994	423	—	—	17,251
Compensation related to business combinations (3)		—	—	—	—	—	159	159
Variable-rate floor income, net of settlements on derivatives (4)		—	—	—	—	(7,502)	—	(7,502)
Income from discontinued operations, net of tax (5)		—	—	—	—	—	—	—
Net tax effect (6)		(1,230)	(2,127)	(3,037)	(161)	(11,399)	1,173	(16,781)
Total adjustments to GAAP	$	2,006	3,471	4,957	262	18,598	(100)	29,194
				Nine months ended September 30, 2008				
Derivative market value, foreign currency, and put option adjustments (1)	$	—	—	—	—	32,504	3,483	35,987
Amortization of intangible assets (2)		3,586	5,937	9,193	858	145	—	19,719
Compensation related to business combinations (3)		—	—	—	—	—	2,523	2,523
Variable-rate floor income, net of settlements on derivatives (4)		—	—	—	—	(32,360)	—	(32,360)
Income from discontinued operations, net of tax (5)		(981)	—	—	—	—	—	(981)
Net tax effect (6)		(1,182)	(1,954)	(3,045)	(284)	548	(2,067)	(7,984)
Total adjustments to GAAP	$	1,423	3,983	6,148	574	837	3,939	16,904

(1) Derivative market value, foreign currency, and put option adjustments: “Base net income” excludes the periodic unrealized gains and losses that are caused by the change in fair value on derivatives used in the Company’s risk

management strategy in which the Company does not qualify for “hedge treatment” under GAAP. Included in “base net income” are the economic effects of the Company’s derivative instruments, which includes any cash paid or received being recognized as an expense or revenue upon actual derivative settlements. “Base net income” also excludes the foreign currency transaction gains or losses caused by the re-measurement of the Company’s Euro-denominated bonds to U.S. dollars and the change in fair value of put options issued by the Company for certain business acquisitions.

(2) Amortization of intangible assets: “Base net income” excludes the amortization of acquired intangibles.

(3) Compensation related to business combinations: The Company has structured certain business combinations in which the consideration paid has been dependent on the sellers' continued employment with the Company. As such, the value of the consideration paid is recognized as compensation expense by the Company over the term of the applicable employment agreement. "Base net income" excludes this expense.

(4) Variable-rate floor income: Loans that reset annually on July 1 can generate excess spread income compared with the rate based on the special allowance payment formula in declining interest rate environments. The Company refers to this additional income as variable-rate floor income. The Company excludes variable-rate floor income, net of settlements paid on derivatives used to hedge student loan assets earning variable-rate floor income, from its "base net income" since the timing and amount of variable-rate floor income (if any) is uncertain, it has been eliminated by legislation for all loans originated on and after April 1, 2006, and it is in excess of expected spreads. In addition, because variable-rate floor income is subject to the underlying rate for the subject loans being reset annually on July 1, it is a factor beyond the Company's control which can affect the period-to-period comparability of results of operations.

Prior to October 1, 2008, variable rate floor income was calculated by the Company on a statutory maximum basis. However, as a result of the disruption in the capital markets beginning in August 2007, the full benefit of variable rate floor income calculated on a statutory maximum basis has not been realized by the Company due to the widening of the spread between short term interest rate indices and the Company's actual cost of funds. As a result of the ongoing volatility of interest rates, effective October 1, 2008, the Company changed its calculation of variable rate floor income to better reflect the economic benefit received by the Company. The economic benefit received by the Company related to variable rate floor income was $0.1 million for the three months ended September 30, 2008 and $7.5 million and $25.7 million for the nine months ended September 30, 2009 and 2008, respectively. There was no economic benefit received by the Company related to variable rate floor income for the three months ended September 30, 2009. Variable rate floor income calculated on a statutory maximum basis was $0.1 million and $1.6 million for the three months ended September 30, 2009 and 2008, respectively, and $23.9 million and $42.3 million for the nine months ended September 30, 2009 and 2008, respectively. Beginning October 1, 2008, the economic benefit received by the Company has been used to determine base net income.

The Company has used derivative instruments to hedge variable rate floor income during certain periods. During the nine months ended September 30, 2008, the Company made payments (settlements) of $10.0 million on such derivatives. These settlements are netted with variable-rate floor income and are excluded from "base net income."

(5) Discontinued operations: In May 2007, the Company sold EDULINX. As a result of this transaction, the results of operations for EDULINX are reported as discontinued operations for all periods presented. The Company presents "base net income" excluding discontinued operations since the operations and cash flows of EDULINX have been eliminated from the ongoing operations of the Company.

(6) For 2009, income taxes are applied based on 38% of income (loss) before income taxes for the individual operating segments. For 2008, income taxes for each individual operating segment are applied based on the consolidated effective tax rate.

8. Intangible Assets and Goodwill