INSTITUTE FOR
FINANCIAL LITERACY

First Demographic Analysis of Post-BAPCPA Debtors

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Introduction

The Institute for Financial Literacy is a non-profit financial literacy organization based in Portland, Maine. The Institute's mission is to make effective financial literacy education available to all American adults. The Institute for Financial Literacy accomplishes its mission by developing financial literacy materials, publishing the National Standards in Adult Financial Literacy Education and maintaining the Library of Personal Finance.

The Institute for Financial Literacy expanded its mission with the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). BAPCPA incorporated a new requirement that individuals must first complete mandatory credit counseling in order to be eligible to file a consumer bankruptcy case into the bankruptcy code[1]. This new section reads as follows; "an individual may not be debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis."[2]

In addition, the new law requires that certain debtors in the bankruptcy system must complete a mandatory financial management instructional course in order to receive a discharge of their debts.[3] A married couple filing a joint bankruptcy petition must each complete credit counseling prior to filing and a financial management instructional course prior to discharge as a result of the law's application of these requirements to "individuals."[4]

[1] Title 11 USC
[2] 11 USC sec. 109(h)(1)
[3] 11 USC sec 727(a)(11) and 1328 (g)(1)
[4] 11 USC 302

The Institute for Financial Literacy was approved to provide the mandatory credit counseling under section 111(a) in the six Bankruptcy Administrator[5] districts, effective for the October 17, 2005 enactment date of BAPCPA. The Institute received its credit counseling approval under section 111(a) from the United States Trustees Program, covering all 88 remaining judicial districts, on November 15, 2005.

The Institute for Financial Literacy was also approved by the United States Trustees Program and the Bankruptcy Administrators in all judicial Districts as a provider of the mandatory financial management instructional course effective for the October 17, 2005 enactment date of BAPCPA. The Institute for Financial Literacy is approved in all 94 judicial districts, covering all 50 states and US territories.

During the multiple attempts to pass BAPCPA into law, much rhetoric and little comprehensive research was cited with regard to the demographics of consumer bankruptcy. As a result, the Institute for Financial Literacy recognized the importance of establishing a comprehensive, neutral research program to better understand those individuals contemplating bankruptcy, as well as those who eventually seek bankruptcy protection.

During the development of its credit counseling service and financial management instructional course, the Institute for Financial Literacy incorporated a research component into its delivery platforms to allow large scale data collection and facilitate the establishment of such a research study.

This first report will look at a sampling of demographic information gathered during the first six months since BAPCPA's enactment, a time period covering October 17, 2005 through March 31, 2006. It includes a combination of respondents accessing the credit counseling services only, the financial management instructional course only, or both programs. It is not known how many respondents who sought credit counseling services actually filed for bankruptcy as of the date of this writing. It is worth noting that, pursuant to section 109(h)(1), any certificates issued by an approved non-profit budget and credit counseling provider are valid for a 180-day period from the date of delivery. Therefore, a consumer who sought out credit counseling on October 17, 2005 would have until April 15, 2006 to file a bankruptcy petition before being required to retake a credit counseling session.

It is also worth noting that, prior to the enactment of the new law, a record number of consumer bankruptcy petitions were filed around the nation. It is reported that during the three week period prior to October 17, 2005, over 600,000 petitions where filed. This represents nearly one third of the normal annual filings, and will most likely skew the statistical results of research conducted into the filings during the six month period following enactment.

[5] The states of North Carolina and Alabama and their six respective judicial districts are not under the authority of the United States Trustees Program, but rather individual Bankruptcy Administrators(BA). Each BA has set its own approval process in place for the approving of a nonprofit budget and credit counseling agency as is required under section 111(a).

Development of Sample

The Institute for Financial Literacy has been approved to provide mandatory budget and credit counseling by telephone and Internet as allowed in section 109(h)(1). The Institute is also approved to provide credit counseling in person in its home district of Maine.[6]

Clients learn about the availability of approved providers from one of several sources. The bankruptcy clerks maintain lists of approved providers for their districts and distribute these lists to the general public upon request.[7] The Bankruptcy Administrators and the United States Trustees Program also maintain updated lists of approved providers on their respective websites.[8] Clients may also learn about the new requirements and obtain a list of approved providers in their district during their initial consultation with an attorney.

Data Collection Instrument

During the development of the credit counseling and financial management instructional course programs, the Institute incorporated a voluntary survey tool. At the beginning of the respective programs, the survey gathers demographic information from participants. If a client receives both services from the Institute, the survey information is only gathered once.

Clients taking a program through the Internet for the first time are presented with the Client Survey page before proceeding. Here they read the following statement:

> Before we begin your session we would like to collect some information from you. This information will not be used to personally identify you in any way. The information will be used for statistical research purposes as we evaluate our program.

Should a client choose not to complete any part of the survey, they simply move to the next page and begin their respective program. Clients also have the option of completing only part of the survey before moving to the next page.

Clients receiving their services by telephone are informed by counselors that the Institute is conducting on-going research, and that the clients are not required to answer any of the questions. Counselors also explain that the information gathered will have no impact on the outcome of the counseling or education session.

If the client agrees to participate, the counselor will read a confidentiality statement and collect the data from the client. The counselor will first identify the category and then read all answer choices in that category. The client then identifies their response and the counselor marks the choice into the data collection instrument.

[6] For purposes of this research the sampling of in person sessions was statistically insignificant.
[7] 11 USC sec. 111(a)
[8] The United States Trustees Program website is located at www.usdoj.gov/ust the six Bankruptcy Administrators maintain their own individual website, but they can be accessed by a link maintained by the United States Courts at www.uscourts.gov/.....

The categories being surveyed included: Gender, Age, Ethnicity, Educational Background, Personal Income, Employment, Marital Status, and Causes of Financial Distress.

Core Sample

The Institute for Financial Literacy is approved to provide BAPCPA related credit counseling and financial management education in all fifty states. The sampling for this first report contains respondents from all 50 states.

Five thousand and ninety four (5,094) clients volunteered to complete the survey in whole or in part, compared with nearly 138,000 new bankruptcy cases filed nationally between October 17, 2005 and March 31, 2006. If all respondents filed bankruptcy petitions[9], this would represent 4% of all new cases filed for the period, and is therefore a statistically significant and relevant sample.

It should also be noted that not all respondents answered all survey questions. For purposes of statistical analysis, 100% of the survey participants gave income information (5,094 responses) while 92% answered the gender question (4,645 responses) and only 91% responded to the Highest Level of Education Completed question (4,598 responses.)

Protection of Confidentiality

The Institute for Financial Literacy maintains a client confidentiality policy. Counselors are trained that all information, whether gathered for research or the for the credit counseling or financial management instructional courses, is to be held in the strictest of confidence.

The Institute for Financial Literacy does not report out demographic information individually, only in the aggregate. Client's names or other obvious personal identifiers have been changed or removed to protect clients' privacy.

[9] 97% of credit counseling clients received a recommendation to consult an attorney based upon their financial condition. All financial management education clients are already bankruptcy debtors.

Findings

Gender

A total of 4,645 participants answered the gender question, a 92% response rate. Of these, 53.8% (2,499) indicated that they were female, while 46.2% (2,146) were male. In comparison, the current population of the United States is estimated at 293,655,404,[10] and of that 51% are female and 49% male.

In an article published in October 2001 in the American Bankruptcy Institute Journal,[11] researchers with the Executive Office for the United States Trustee Program (USTP) looked at a sample of chapter 7 debtors who had filed during 2000. Of over 1,900 debtors sampled, it was found that 53% were female and 47% were male.

Age

A total of 4,625 participants answered the age question, a 91% response rate. Of these, 3.6% (168) identified as 18-24 years of age; 22.7% (1,048) identified as 25-34 years of age; 28.6% (1,322) identified as 35-44 years of age; 22.4% (1,038) identified as 45-54 years of age; 13.8% (636) identified as 55-64 years of age; and 8.9% (413) identified as 65 years of age or older.

In comparison, the current population of the United States shows that 7% (20.9 million) are age 20-24; 14% (40 million) are age 25-34; 15% (44.1 million) are age 35- 44; 14% (41.6 million) are age 45-54; 10% (29.1 million) are age 55-64; and 13% (36.3 million) are 65 years or older. Research conducted by the Consumer Bankruptcy Project in 1991 and 1999 also looked at age and has been cited by the General Accounting Office[12].

In an article published in December 2001 in the American Bankruptcy Institute Journal,[13] researchers with the Executive Office for the United States Trustee Program (USTP) looked at a sample of chapter 7 debtors who had filed during 2000. In the USTP sample it was found that debtors between the ages of 25 and 44 were filing for bankruptcy at rates which far exceeded their proportion to the population, while debtors 45 to 59 filed at rates corresponding to their proportion of the population. In separate research conducted by the USTP between 1998 and 2000, they found that 4.4% of their sample reported being over the age of 70.[14] When compared to the Institute's findings, there appears to be a statistically significant shift in the age of bankruptcy debtors, the most dramatic of which is seen to be occurring with the population aged 65 and older. Further research and analysis will be required to determine the nature of this shift and its correlation, if any, with new law.

Table 1 below compares the Consumer Bankruptcy Project findings and those of the Institute to the US population.

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[10] Source: Population Division, U.S. Census Bureau Release Date June 2005
[11] *See* Ed Flynn and Gordon Bermant, *The Class of 2000* 20 ABI Journal 8 (Oct. 2001).
[12] *See* General Accounting Office, *College Students and Credit Cards*, GAO 01-773, June 2001.
[13] *See* Ed Flynn and Gordon Bermant, *Filers Most Likely in 25-44 Age Range*, 20 ABI Journal 10 (Dec. 2001).
[14] *See* Ed Flynn and Gordon Bermant, *A Closer Look at Elderly Chapter 7 Debtors,* 21 ABI Journal 3 (April 2002).

Table 1: Comparison of Age Group Data

Age Range	Percentage of Debtors IFL	Percentage of Debtors CBP	Percentage of US Adults
18-24	3.6	6.9	7[15]
25-34	22.7	29	14
35-44	28.6	34.2	15
45-54	22.4	17.7	14
55-64	13.8	8.9	10
65+	8.9	3.3	13

Ethnicity

A total of 4,602 participants answered the ethnicity question, a 91% response rate. Of these, 15.4% (706) identified as African American/Black; 72.9% (3,356) identified as Caucasian/White; 6.1% (282) identified as Latino/Hispanic; 2.0% (90) identified as Asian; 1.1% (51) identified as Native American; and 2.5% (117) identified as Other.

There appears to be a statistically significant variation between bankruptcy filings and proportion of the population for both the Caucasian/White and Latino/Hispanic categories. However, this variation may be a result of difference in the data collection instruments, as the Institute respondents may choose only a single ethnicity category, while the US Census Bureau allows those of Hispanic origin to choose a second appropriate ethnicity category. Further studies should be conducted.

Table 2 below compares the Institute's findings with the US population:

Table 2: Ethnicity

Ethnicity	IFL Clients Totals	Percentage of IFL Total	Percentage of US Population
African American /Black	706	15.4	13
Caucasian/White	3356	72.9	81
Latino/Hispanic	282	6.1	14[16]
Asian	90	2.0	4
Native American	51	1.1	1
Other	117	2.5	1

[15] US Census Bureau collects data from ages 15-19 and 20-24, only the 20-24 data was used.
[16] Census Bureau allows people of Hispanic origin to self select other race categories as well, the percentages therefore will not total 100%.

Education

A total of 4,598 participants answered the question asking their highest level of education completed, 91% response rate. Of these, 4.7% (215) identified at the Graduate level; 10.7% (491) identified at the Bachelors level; 7.6% (349) identified at the Associates level; 30.8% (1,421) identified at the Some College level; 39.7% (1,824) identified at the High School/GED level; 6.2% (283) identified at the Primary School level; and 0.3% (15) identified themselves as having no education.

There appears to be some statistically significant correlation between educational level and bankruptcy filings rates. Individuals with more advanced education seem to have lower incidents of filing for bankruptcy when compared against their proportion of the US population. The total percentage of respondents holding an associates degree or higher was 23%, compared with 30.7% of the US population. Clients with a high school degree/GED or some college constituted 70.5% of the respondents, compared with 49.7% of the US population.

The Jump$tart Coalition for Personal Financial Literacy administers a nationwide biennial survey to measure the financial literacy levels of high school seniors. In the 2005-06 survey, the results revealed an average score of 52.4 percent, a failing grade by most measures. Further study and analysis is required to determine the correlation, if any, between educational level and bankruptcy filings. Such research should ideally integrate an analysis of the effect of earning power and the financial education opportunities at the primary school, high school, and college level.

It should be noted that a statistically significant deviation between the Institute's findings and the US population was also found with regard to individuals with a primary school education level or lower. However, this deviation may reflect an inability of individuals at these education levels to access the Institute's programs, which are delivered through the Internet and by telephone. This issue should be studied further to determine whether this deviation reflects actual court filings, and if so whether this deviation represents a lack of need or an obstruction of access for bankruptcy protection.

Table 3 below compares the Institute's findings to the US Population:

Table 3: Education

Education Level	**IFL Clients Totals**	**Percentage of IFL Total**	**Percentage of US Population**
Graduate	215	4.7	8.9
Bachelors	491	10.7	15.5
Associates	349	7.6	6.3
Some College	1421	30.8	21.1
High School/GED	1824	39.7	28.6
Primary School	283	6.2	17.4
None	15	.3	2.2

Income

A total of 5,094 participants answered the income level question, a 100% response rate. Of these, 44.6% (2,270) identified as earning less than $20,000.00 per year; 24.4% (1,243) identified as earning $20,000.00 to $30,000.00 per year; 14.4% (733) identified as earning $30,000.00 to $40,000.00 per year; 7.7% (390) identified as earning $40,000.00 to $50,000.00 per year; 4.2% (216) identified as earning $50,000.00 to $60,000.00 per year; and 4.7% (242) identified as earning more than $60,000.00 per year.

USTP research has looked at debtors' financial profiles and found that the average gross income for cases filed in 2000 was $30,108[17]. This can be compared to other studies the USTP conducted in 1998 and 1999, where they found the gross income averaged $27,324. However, in what may be a more accurate comparison, the USTP published a study where household size was also reported. In that study, single occupant households averaged $14,783 gross income in 1997.[18] In the Institute's data, 69% of respondent indicated that their personal income, which did not include spouses or other household contributions, was $30,000 or less. The majority of available census data is based on median household income, and therefore comparison is not made for the purposes of this report.

The impact of BAPCPA upon the correlation between income level and the need to file for bankruptcy is yet unknown and should be studied further.

Table 4 below shows the Institute's findings:

Table 4: Self Identified Income of IFL Respondents

Income Level	**Number of Responses**	**Percentage of Responses**
Less than 20K	2270	44.6
20k-30k	1243	24.4
30k-40k	733	14.4
40k-50k	390	7.7
50k-60k	216	4.2
More than 60k	242	4.7

Employment

A total of 4,607 participants answered the employment question, a 91% response rate. Of these, 61.8% (2,844) identified themselves as employed; 13.7% (632) identified themselves as unemployed; 10.5% (485) identified themselves as retired; 7.7% (353) identified themselves as self-employed; 5% (231) identified themselves as a homemaker; and 1.3% (62) identified as a student.

[17] *See* note 10.
[18] *See* Ed Flynn, *Low Income Chapter 7Debtors*, 19 ABI Journal 4 (June 1999).

In comparison, USTP research looked at the employment status of debtors during the calendar year 2000. In their findings, USTP reported that 81% of debtors were employed while 19% were unemployed.[19] In a separate study of elderly debtors, the USTP found that in a sample of 884 cases, 39 debtors self identified as over 70 years old, and 99% of those were no longer employed. If it is inferred that these individuals were retired,[20] this would result in 4.4% of the sample being retired.

There is a statistically significant difference in the rate of unemployed debtors in the Institute survey when compared to the USTP research. There are multiple potential causes for this, and further study and analysis is required before firm conclusions can be established.

Table 5 below shows the Institute's findings:

Table 5: Employment

Employment	Number of Responses	Percentage of Responses
Employed	2844	61.8
Unemployed	632	13.7
Retired	485	10.5
Self-Employed	353	7.7
Homemaker	231	5
Student	62	1.3

Marital Status

A total of 4,642 participants answered the marital status question, a 92% response rate. Of these, 54% (2,517) identified themselves as married; 24% (1,096) identified themselves as single; 17% (784) identified themselves as divorced; 5% (212) identified themselves as widowed; and less than 1% identified themselves as cohabitating.

In comparison, USTP research looked at the marital status of debtors during the period between 1998 and 2000,[21] and the US Census Bureau reports marital status for the population age 18 and older. The comparisons are set forth in Table 6 below.

In a separate study of elderly debtors, the USTP found that 43.6% of debtors over the age of 70 were widowed,[22] and the US Census Bureau reports that 30.8% of the population age 65 and older is widowed.

Both Institute and USTP findings show that divorced individuals file for bankruptcy at statistically higher rates compared to the general population, and further study is recommended.

[19] *See* Ed Flynn, Gordon Bermant and Karen Bakewell, *Just Recently Hired: Job Tenure Among No-Asset Chapter 7 Debtors,* 21 ABI Journal 4 (May 2002)..
[20] *See* note 14.
[21] *See* note 14.
[22] *Id.*

Table 6 below compares the Institute and USTP findings with the US population:

Table 6: Marital Status

Marital Status	Number of Responses	Percentage of IFL Responses	Percentage of USTP	Percentage of US Population
Married	2517	54	42.9	56.5
Single	1096	24	33.1	24.8
Divorced	784	17	21.7	12.2
Widowed	212	5	2.4	6.5
Cohabitating	33	0[23]	n/a	n/a

Causes of Financial Distress

During the credit counseling process, clients are asked to pick from a list of common causes of financial distress to self-describe the causes for their current financial situation. Clients are encouraged to choose more than one cause when describing their situations and therefore the percentages will equal more than 100%. The table below shows the results:

Table 7: Causes of Financial Distress

Cause of Financial Distress	Percentage of IFL Clients
Overextended on Credit	55.2
Unexpected Expenses	52.3
Reduction of Income	46.3
Job Loss	32.9
Illness/Injury	30.9
Divorce	15.2
Birth/Adoption of Child	7.9
Death of Family Member	7.8
Retirement	4.8
Identity Theft	2.1

Several of the categories need additional in-depth study in order to better understand what clients are indicating, such as overextended on credit and unexpected expenses. Evaluation must include the underlying factors for these specific circumstances, but with clients indicating over 50% in both categories they are clearly significant and deserve more study.

Reduction of income and job loss has been looked at by both the USTP and the Consumer Bankruptcy Project. The authors of the Consumer Bankruptcy Project "suggest that job-related income interruption is by far the most important cause of severe financial distress for middle-class Americans."[24] Further analysis is required to determine the correlation, if any, between income level and the relative effects of job-related income interruption.

[23] Statistically .008% of sample.
[24] Sullivan, Teresa A, Warren, Elizabeth, and Westbrook, Jay Lawrence, *The Fragile Middle Class* (2000), p.75

While BAPCPA was being debated by Congress, a study was released indicating that nearly half of all Americans file for bankruptcy because of medical expenses, with 54.5% having "met criteria for 'any medical bankruptcy.'"[25] In a separate effort, the USTP analyzed medical debt for debtors who filed chapter 7 based on bankruptcy schedules. The USTP found "medical debt did not seem to be a major factor in the vast majority of cases. The average medical debt listed per debtor was $2,582.00, or about 5.6 percent of the total general unsecured debt."[26] The Institute's response rate for "Illness/Injury" was 30.9%, a statistically significant difference from these previously published reports. The correlation between healthcare expenses and consumer bankruptcy is of great concern, and therefore additional research in a variety of sectors should be pursued.

The response rate for Retirement as a cause for financial distress was 4.8%, 8.9% of respondents indicated they are 65 years of age or older and 10.5% indicated they are retired. This raises questions about the overall financial health of the average American senior citizen, and what becomes of those seniors after they file for bankruptcy. A basic tenant of bankruptcy is that consumers are afforded an economic 'fresh start' by the discharge of their debt. Therefore, after receiving their discharge, they are able to apply future earning towards their own economic vitality. However, in modern times the question arises whether older individuals exiting the bankruptcy system have sufficient earning power and/or retained assets to recover their self-sufficiency. Additional research looking at why older Americans file bankruptcy and the long term effect on their financial situation is necessary.

The Federal Trade Commission reported that 255,000 Americans were the victims of Identity Theft in 2005. This represents approximately 1/10 of one percent of the American adult population. The Institute's response rate for Identity Theft as a cause of financial distress was 2.1%, which that although a small percentage of the population may be affected by this problem, the personal financial consequences for those that are effected can be devastating. Policymakers, law enforcement, businesses and financial educators must continue to work in their respective fields to protect and educate consumers about this issue.

Conclusion

The data presented in this report does not lend itself to drawing final conclusions about any topic or issue. It is intended to identify issues requiring additional research and analysis, and to serve as a catalyst for discussion of the causes and effects of bankruptcy among the academic, legal, governmental, consumer and financial sectors. The validity of data collected in the first six months after enactment of BAPCPA must be verified through its comparison with later data collections. This will avoid any demographic abnormalities created by the pre-enactment rush to filing described in the introduction to this report. Over the long term, this data collection effort will provide a substantial demographic baseline for analyzing the issues attending consumer bankruptcy debtors and help to identify changing trends in consumer bankruptcy filings.

[25] Himmelstein, David U., Warren, Elizabeth, Thorne, Deborah and Woolhandler, Steffie J., "Illness and Injury as Contributors to Bankruptcy" (February 8, 2005). P. 66

[26] *See* Note 11. The USTP also noted that this figure did not include any medical debts that would have been paid by credit card or personal loans.