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BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2015-0001]

Request for Information Regarding an Initiative on Safe Student Banking

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: The Consumer Financial Protection Bureau (Bureau or CFPB) seeks feedback on a draft *Safe Student Account Scorecard* that offers information to colleges and universities when soliciting agreements from financial institutions to market safe and affordable financial accounts for their students. The Bureau seeks comment from the public, including student and parent consumers, institutions of higher education, and financial institutions.

DATES: Comments must be received on or before March 9, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CFPB-2015-0001, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* FederalRegisterComments@cfpb.gov. Include the title and Docket No. CFPB-2015-0001 in the subject line of the message.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW, Washington DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE, Washington DC 20002.

Instructions: All submissions should include the agency name and docket number for this proposal. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1275 First Street NE, Washington DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions or any additional information, please contact Monica Jackson, Office of the Executive Secretary, at 202-435-7275.

AUTHORITY: 12 U.S.C. 5511(c).

SUPPLEMENTARY INFORMATION: Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that established the Bureau, part of the Bureau's mission is to empower consumers to take control over their economic lives. The Bureau is specifically charged with promoting financial education, researching developments in markets for consumer financial services and products, and providing information, guidance, and technical assistance regarding the offering and provision of consumer financial products or services to traditionally underserved consumers and communities.

Section 1021 of the Dodd-Frank Act charges the Bureau with “collecting, researching, monitoring and publishing information” about consumer financial products and services. The Bureau seeks feedback on a potential *Safe Student Account Scorecard* that colleges and universities can voluntarily use when negotiating with providers to ensure that financial accounts marketed to their students are accounts that the college or university deems safe and affordable.

The Bureau is interested in receiving comments to develop a *Safe Student Account Scorecard*. The Bureau is therefore interested in responses to the questions outlined below. The deadline for submission of comments is March 9, 2015. The Bureau encourages comments from the public, including:

- Student and parent consumers;
- Student associations and consumer organizations;
- Institutions of higher education and affiliated parties;
- Providers of financial aid disbursement services;
- Financial institutions; and
- Other interested parties.

Please note that the Bureau is not soliciting individual student account information in response to this notice and request for information, nor is the Bureau seeking personally identifiable information (PII) regarding student accounts from the parties or any third party.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

Background

Colleges and universities have long played a role in the offering of financial products to students. Institutions of higher education have partnered with banks and nonbanks to offer a variety of financial products and services, including loans under the now-discontinued Federal Family Educational Loan (FFEL) Program, private student loans, credit cards, student checking accounts, and closed-loop stored value card services tied to student ID cards.

In February 2013, the Bureau published a Notice and Request for Information on Financial Products Marketed to Students Enrolled in Institutions of Higher Education.¹ In September 2013, the Bureau hosted the Banking on Campus forum, seeking comment on the market from institutions of higher education, nonbank financial companies, technology providers, depository institutions, students, and consumer advocates.²

The Bureau found that financial product marketing partnerships have shifted from credit cards and preferred student lender agreements toward student debit and prepaid cards. There are now more agreements to market student checking, debit, and prepaid cards than agreements to market credit cards.³

According to the Government Accountability Office (GAO), at least 852 schools had agreements to provide debit or prepaid card services to their students as of July 2013. Enrollment at these schools accounts for about 40 percent of all postsecondary students.⁴

Arrangements between Institutions of Higher Education and Financial Institutions

Institutions of higher education have developed commercial arrangements with financial institutions to market a range of products to students. For example, some of these arrangements

are limited to leasing university-owned property while others may be a sponsorship agreement or affiliated with the institution of higher education's athletics program. In many cases, these arrangements provide financial institutions unique or special marketing access to students.⁵

Deposit Accounts Linked to Student ID Cards. Some institutions of higher education automatically link bank accounts to their student ID cards, while others allow their students to choose whether or not to opt in to linking their accounts. In 2012, National Association of College and University Business Officers (NACUBO) found that 12 percent of schools surveyed had linked student ID cards to deposit accounts.⁶ According to the GAO, the ability to link an account might impact a student's choice in adopting a financial product.⁷

Marketing Access on University Property. Some financial institutions include exclusive marketing, naming rights, and other agreements in their contracts with schools. In addition to co-branding on student ID cards, financial institutions sometimes give exclusive rights to brand events and place signage on university property. According to a report published by a consumer organization submitted as a public comment to the Bureau, many students often think of co-branding as an endorsement.⁸

Pay-for-Performance Bonuses. Many institutions of higher education receive indirect or direct compensation from financial institutions in connection with the offering of financial products. Some financial institutions offer direct payments for use of college trademarks and branding, others offer bonuses based on the number of student account sign-ups, while others offer discounted – or even completely free – services in exchange for marketing access.

Financial Aid Disbursement Accounts. Many students receive scholarships, grants, and student loans that cover more than the amount of their tuition, including costs like textbooks and transportation. Many institutions of higher education partner with third-party financial

companies to disburse these funds directly to students. These companies may even seek to promote a specific financial product where financial aid proceeds could be credited. In 2012 and 2014, federal agencies issued consent orders that involved one of the largest market participants in the financial aid disbursement market for alleged violations of various Federal consumer financial laws.⁹

Additional Challenges and Risks

While partnerships between financial institutions and universities have the potential to provide benefits to students, there have also been challenges.

In 2007, the New York Attorney General reported questionable conduct by school officials, including university personnel who were accepting compensation and gifts from lenders included on school preferred lender lists and officials who owned stock in companies offering loans to students.¹⁰ The Higher Education Opportunity Act of 2008¹¹ addressed many of these practices by requiring schools to clearly disclose the method and criteria used to choose lenders appearing on a “preferred lender list” and to develop a code of conduct. The Act also generally restricted co-branding, such as the use of a university logo or mascot.¹²

Many colleges and universities have also formed credit card marketing agreements with financial institutions, which in some cases have resulted in targeted marketing and incentive payments to the school. The Credit CARD Act of 2009¹³ restricted the use of tangible inducements (“freebies”) for students when marketing a credit card on campus, and required credit card issuers who enter into “college card affinity agreements” to submit agreements¹⁴ to a public database now administered by the CFPB.¹⁵

The CFPB has called on financial institutions to voluntarily disclose agreements with institutions of higher education to market products to students.¹⁶ Information about these arrangements is already required to be disclosed when marketing credit cards and private student loans to students. The CARD Act requirement is limited to credit cards and does not include other financial products, including prepaid cards and deposit accounts with debit cards, marketed through schools. The CFPB has previously noted that making these agreements available for all financial products can demonstrate a commitment to transparency by financial institutions and their partner schools, helping students and their families understand basic information about these arrangements before choosing a specific product.¹⁷

The GAO also noted that “increased transparency for college card agreements could help ensure that the terms are fair and reasonable for students and the agreements are free from conflicts of interest.”¹⁸ Additionally, NACUBO has urged institutions to publicly disclose the terms of these agreements as they relate to debit card arrangements used to access student loan and scholarship proceeds.¹⁹

According to a NACUBO survey of school officials, 69 percent of debit card arrangements are already available to the public.²⁰ However, finding these agreements can be difficult. For example, a student may need to file a formal request under a state open records law to obtain the information. Easier access to these arrangements may increase the public’s confidence that these agreements are structured in ways that consider the interests of students.

Mechanisms for Developing Partnerships

Institutions of higher education use a variety of mechanisms to develop partnerships with financial institutions. Many colleges solicit marketing partners by publishing a Request for

Proposal (RFP) as part of a formal process to seek information from financial institutions.

According to a NACUBO survey, 60 percent of schools use a competitive bidding process for establishing their relationships with vendors.²¹

The Bureau's scan of publicly available RFPs showed that RFPs from institutions of higher education generally solicit proposals on a wide range of banking services and student banking affinity arrangements are usually only one component of those services. It appears that when evaluating these arrangements, scores generally do not heavily weigh student account features. Evaluation criteria rarely included a consideration of product features and costs. Some of the RFPs included a scoring system, where financial compensation to the school was heavily weighted.

In light of recent concerns about the quality of banking products being offered to students through official partnerships, institutions of higher education have sought advice from the Bureau about how to ensure that product offerings marketed to their students are superior to those that are generally available.

Safe Student Account Scorecard

The Bureau is seeking public input on material that institutions of higher education can choose to include in their RFPs when soliciting marketing partnerships with financial institutions. The scorecard, once finalized, can help committees evaluating contract proposals to determine whether product offerings have safe features and offer superior value to students, as well as whether financial institutions are able to adhere to certain guidelines for transparency and for marketing practices. The goal of the *Safe Student Account Scorecard* will be to provide responsible institutions of higher education with a standardized format to solicit critical cost and

feature information from prospective financial institution partners. Schools would be able to incorporate any or all aspects of the scorecard to meet their unique needs.

For the purposes of soliciting detailed comments from the public on a scorecard, the Bureau drafted a sample version based on the FDIC's Model Safe Accounts Template.²² A sample *Safe Student Account Scorecard* is available at

<http://www.consumerfinance.gov/students/request-for-information-regarding-an-initiative-on-safe-student-banking/>.

The FDIC's template describes "electronic, card-based accounts that limit acquisition and maintenance costs. Transaction accounts are checkless, allowing withdrawals only through automated teller machines, point-of-sale-terminals, automated clearinghouse pre-authorizations, and other automated means." The Bureau recognizes that the FDIC's template was not developed specifically for accounts to be utilized by students enrolled in institutions of higher education. In addition, the template may need to be adapted if institutions of higher education choose to enter marketing partnerships to offer other types of accounts.

In developing the draft for comment, the Bureau also considered public comments and testimony received as part of its 2013 Request for Information,²³ as well as public proceedings related to the negotiated rulemaking held by the U.S. Department of Education.²⁴

Below are some general areas for which information is being sought. Please respond to any or all of the questions below:

- 1 How can institutions of higher education and students benefit from soliciting information on the features and cost of financial products marketed through a partnership with a financial institution?

- 2 How can the draft scorecard based on the FDIC Model Safe Accounts template be adapted to meet the needs of this specific market and to other types of products that institutions of higher education seek to offer to their students?
- 3 What are the potential advantages and disadvantages of separately negotiating arrangements with prospective financial institutions to market financial products to students, compared to including these arrangements as part of a broader relationship with a financial institution encompassing other services?
- 4 What factors would institutions of higher education consider when determining whether or not to include additional information on product features and cost as part of a Request for Proposal?
- 5 What other information would be useful for institutions of higher education to solicit from potential marketing partners to assist them in determining whether financial product offerings are safe and affordable for their students?
- 6 What tools or information would be helpful for institutions of higher education when comparing proposals from potential marketing partners and selecting the proposal offering the safest, most affordable products for students?
- 7 For existing arrangements between institutions of higher education and financial institutions to market student checking accounts, prepaid cards, and other financial products, what fees do students most frequently incur? To what degree do transaction patterns and fees vary among different student populations? How does this compare to the frequency of fee assessments on accounts unrelated to these marketing arrangements?
- 8 For which student financial products would a *Safe Student Account Scorecard* be most useful to institutions of higher education?

¹ Consumer Financial Protection Bureau, *Request for Information Regarding Financial Products to Students Enrolled in Institutions of Higher Education*, available at <http://www.regulations.gov/#!docketDetail;D=CFPB-2013-0003> (Feb. 2013).

² Consumer Financial Protection Bureau, *Banking on Campus Forum*, available at http://files.consumerfinance.gov/f/201309_cfpb_banking-on-campus-forum.pdf (Sept. 2013).

³ Consumer Financial Protection Bureau, *College Credit Card Agreements: Annual Report to Congress*, available at http://files.consumerfinance.gov/f/201412_cfpb_college-card-agreement-report-2014.pdf (Dec. 2014).

⁴ U.S. Gov't Accountability Office, *GAO-14-91, COLLEGE DEBIT CARDS: Actions needed to Address ATM Access, Student Choice, and Transparency*, available at <http://www.gao.gov/assets/670/660919.pdf> (Feb. 2014).

⁵ Consumer Financial Protection Bureau, *What sunshine for student financial products can show us*, available at <http://www.consumerfinance.gov/blog/what-sunshine-for-student-financial-products-can-show-us/> (Feb. 2014).

⁶ National Association of College and University Business Officers (NACUBO), *Students Refunds and Personal Banking at Colleges and Universities*, available at http://www.nacubo.org/Documents/Initiatives/Campus_Card_Survey_Summary_FINAL.pdf (Oct. 2012).

⁷ U.S. Gov't Accountability Office, *GAO-14-91, COLLEGE DEBIT CARDS: Actions needed to Address ATM Access, Student Choice, and Transparency*, available at <http://www.gao.gov/assets/670/660919.pdf> (Feb. 2014).

⁸ U.S. PIRG, *The Campus Debit Card Trap: Are Bank Partnerships Fair to Students?*, available at http://www.uspirg.org/sites/pirg/files/reports/thecampusdebitcardtrap_may2012_uspef.pdf (May 2012).

⁹ Board of Governors of the Federal Reserve System, *Federal Reserve Board announces civil money penalty and issues cease and desist order against Cole Taylor Bank*, available at <http://www.federalreserve.gov/newsevents/press/enforcement/20140701b.htm> (July 2014).

Federal Deposit Insurance Corporation, *FDIC Announces Settlements With Higher One, Inc., New Haven, Connecticut, and the Bancorp Bank, Wilmington, Delaware for Unfair and Deceptive Practices*, available at <https://www.fdic.gov/news/news/press/2012/pr12092.html> (Aug. 2012).

¹⁰ See for example, New York State Office of the Attorney General, *Press Release, Attorney General Cuomo Announces Settlement with Education Finance Partners Over its Student Loan Practices*, available at <http://www.ag.ny.gov/press-release/attorney-general-cuomo-announces-settlement-education-finance-partners-over-its> (Apr. 2007).

¹¹ Public Law No. 110-315.

¹² 20 U.S.C. § 1019a.

¹³ Public Law No. 111-24.

¹⁴ 15 U.S.C. § 1637(r).

¹⁵ Consumer Financial Protection Bureau, *College Credit Card Agreements Database*, available at <http://www.consumerfinance.gov/credit-cards/college-agreements/>.

¹⁶ Consumer Financial Protection Bureau, *CFPB Calls on Financial Institutions to Publicly Disclose Campus Financial Agreements*, available at <http://www.consumerfinance.gov/newsroom/cfpb-calls-on-financial-institutions-to-publicly-disclose-campus-financial-agreements/> (Dec. 2013).

¹⁷ Consumer Financial Protection Bureau, *What sunshine for student financial products can show us*, available at <http://www.consumerfinance.gov/blog/what-sunshine-for-student-financial-products-can-show-us/> (Feb. 2013).

¹⁸ U.S. Gov't Accountability Office, *GAO-14-91, COLLEGE DEBIT CARDS: Actions needed to Address ATM Access, Student Choice, and Transparency*, available at <http://www.gao.gov/assets/670/660919.pdf> (Feb. 2014).

¹⁹ National Association of College and University Business Officers (NACUBO), *Students Refunds and Personal Banking at Colleges and Universities*, available at http://www.nacubo.org/Documents/Initiatives/Campus_Card_Survey_Summary_FINAL.Pdf (Oct. 2012).

²⁰ *Ibid.*

²¹ *Ibid.*

²² In January 2011, the FDIC published a Model Safe Accounts Template. The Bureau reviewed this template and the associated docket of public comments when developing this draft *Safe Student Account Scorecard* for use by colleges and universities. Available at <https://www.fdic.gov/consumers/template/background/>.

²³ Consumer Financial Protection Bureau, *Request for Information Regarding Financial Products Marketed to Students Enrolled in institutions of Higher Education*, available at <http://www.regulations.gov/#!docketDetail;D=CFPB-2013-0003> (Feb 2013).

²⁴ Department of Education, *Negotiated Rulemaking 2013-2014 Program Integrity and Improvement*, available at <http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/programintegrity.html>.

Dated: January 15, 2015.

Christopher D'Angelo,

Chief of Staff, Bureau of Consumer Financial Protection.

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