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Perspectives on Financial Products Marketed to College Students

Presentation to the Department of Education Negotiated Rulemaking Session

Washington, DC

Note: This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein. The presentation is being made by a Consumer Financial Protection Bureau representative on behalf of the Bureau. It does not constitute legal interpretation, guidance, or advice of the Bureau.

About the Consumer Financial Protection Bureau

- In July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act was enacted, which created an independent consumer agency to oversee the financial services marketplace. The Act authorizes the CFPB to engage in financial education, research, rulemaking, supervision, and enforcement.
- In July 2011, consumer protection functions from other bank regulators transferred to the CFPB, and the Bureau began supervising the nation's largest financial institutions
- The CFPB has certain supervisory, enforcement, and rulemaking authorities in the student financial services sector, with respect to federal consumer financial laws

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In 2013, CFPB launched an inquiry into financial products marketed to college students

- In light of a public enforcement action against a large provider of financial aid disbursement cards related to alleged unfair and deceptive practices,¹ as well as continued complaints, CFPB published a request for information seeking comment on the market²
- The inquiry drew responses from institutions of higher education, nonbank financial companies, technology providers, deposit-taking institutions, students, and consumer advocates²
- CFPB hosted a “Banking on Campus” forum to discuss the preliminary findings³
- In December 2013, the CFPB called on financial institutions to publicly disclose their financial agreements with colleges and universities with respect to checking accounts, debit cards, and prepaid cards, as they are required to do for other consumer financial products⁴

1 FDIC settlement with Higher One , Inc. and the Bancorp Bank:

www.fdic.gov/news/news/press/2012/pr12092.html

2 The *Federal Register* notice and public submissions are available at:

www.regulations.gov/#!documentDetail;D=CFPB-2013-0003-0001

3 A video of the forum, as well as the presentation of preliminary findings, can be found at

www.consumerfinance.gov/students

4 For further information, visit: www.consumerfinance.gov/blog/sunshine-for-student-financial-products/

CFPB released a series of preliminary findings from this inquiry

- While partnerships between schools and financial institutions have the potential to provide benefits to students, there have also been challenges in recent history
- Financial product marketing partnerships have shifted from credit cards and student loans to student checking, debit, and prepaid card products
- Providers monetize relationships with schools through varying business models
- College affinity products generally do not appear to have more attractive features compared to other student checking products
- Arrangements between financial institutions and institutions of higher education for many student banking products are not well-understood

Several government agencies have shifted away from paper check disbursement

- The Treasury Department published a final rule in December 2010 to gradually phase out paper checks for federal benefit payments (e.g., Social Security, Veteran and federal retirement benefits) by March 1, 2013
- The majority of federal benefit payments are made by direct deposit. According to Treasury, nearly 95% of payments were made electronically as of March 2013
- Based on public input, Treasury established the Direct Express prepaid card program. For federal benefit recipients who do not enroll in direct deposit, most receive the Direct Express prepaid card, which has many of the same protections as a checking account, including deposit insurance and Regulation E coverage
- According to the National Consumer Law Center's 2013 Survey of Unemployment Prepaid Cards, almost every state now offers or requires electronic payment of unemployment compensation through direct deposit and/or a prepaid card option

Requiring disbursement through electronic fund transfer can reduce fraud and costs

- Direct deposit is safer than mailing paper checks. In some programs, beneficiaries are 125 times more likely to have a problem with a paper check than with an electronic payment like direct deposit⁵
- According to a comment submitted by NACUBO,⁶ most schools already offer electronic payment options for credit balances on tuition accounts
 - 84% offer paper check disbursements
 - 58% offer EFT to bank account of student's choosing
- Direct deposit may be helpful in creating identity trails, potentially leading to better fraud detection⁷

⁵ See, for example, information from Treasury FMS: <http://www.fms.treas.gov/godirect/about-faq/>

⁶ NACUBO: Student Refunds and Personal Banking at Colleges and Universities: October 2012

⁷ See, for example, the September 2012 Social Security Administration testimony:

<http://www.gpo.gov/fdsys/pkg/CHRG-112hhr80440/html/CHRG-112hhr80440.htm>

Very few students are unable to obtain a bank account

- CFPB, working with the FDIC, analyzed the 2011 National Survey of Unbanked and Underbanked Households, a supplement to the Census Bureau's Current Population Survey (CPS)
- We found that most college students already have bank accounts:
 - Over half of new college students already have a bank account
 - Review of the largest financial institutions shows that almost all offer student checking products unaffiliated with colleges and universities
- New college students who don't have a bank account have chosen not to or haven't done so yet. However, very few students (<0.5%) are unable to secure a bank account. Reasons may include:
 - Negative reporting due to past issues reporting to specialty bureaus (e.g., Chex Systems)
 - Undocumented students who are unable or have not obtained Individual Taxpayer Identification Number (ITIN)
 - Suspicion of being a threat to national security or engaging in money laundering

Today, prepaid cards may be suitable for students who are unable (or choose not) to obtain a bank account

- According to a report by the Federal Reserve, “data on the prevalence of use of prepaid cards for 158 programs in 36 states show that these programs disbursed more than \$149 billion in 2011, and 67% of that amount was disbursed through prepaid cards”⁸
- According to an FDIC study, prepaid cards generally do not offer credit features, such as overdraft protection. While half of younger Americans never overdraft, the other half average approximately seven overdrafts a year⁹

Prepaid cards vary in features and consumer protections

- **Open-loop vs. Closed-loop:** “Open-loop” can be used anywhere that accepts retail electronic payments (i.e. Visa, Mastercard). “Closed-loop” can only be used at a specific merchant or group of merchants
- **Reloadability:** A prepaid card may or may not be “reloadable,” meaning that the consumer, or other authorized party, can add funds to the card after the initial issuance
- **Consumer Protections:**
 - General purpose reloadable (GPR) cards are not currently required to provide the same protections available to debit cards linked to checking accounts
 - However, federal and state agencies have negotiated with some financial institutions to offer prepaid cards with many of the same protections as debit cards
 - CFPB is currently considering whether to issue regulations on prepaid cards and the possible extension of federal consumer protections¹⁰

Electronic Fund Transfer Act (EFTA) and Regulation E protect consumers engaging in electronic transactions

- CFPB has the authority to promulgate regulations implementing EFTA, in Regulation E¹²
- Some protections under EFTA:
 - Disclosures and statements: consumers are able to learn about account fees, and financial institutions must provide periodic statements
 - Protections against unauthorized transactions: Limits how much a consumer will have to pay for an unauthorized debit card transaction or other electronic fund transfers, including those arising from loss or theft of the card
 - Error resolution: If a consumer notifies an institution that an unauthorized transaction or error involving an EFT has occurred, the institution must investigate and resolve the claim by specified deadlines

As technology and consumer preferences evolve, other forms of electronic payments may emerge

- College students are often early adopters of emerging payment technologies,¹³ such as mobile payments and digital wallets
- Emerging payment technologies may evolve quickly, and regulations regarding financial aid disbursements should consider the likelihood that technologies and devices will change
- Generally, CFPB has the authority to address Regulation E coverage as it relates to emerging payment technologies

The alternatives to paper check disbursement vary in terms of consumer protections

Device	Deposit Insured (FDIC or NCUSIF)	Fraud Protection & Error Resolution	Overdraft Features	Example
Debit Card	Yes	Yes	Yes, Opt-In	Student Checking Account
Prepaid Card ¹³	Some, If Contracted	Some, If Contracted	Generally Not	Direct Express

The potential for conflicts of interest exist when financial institutions partner with schools to market products

- According to the CFPB's inquiry, many institutions of higher education receive indirect or direct compensation from financial institutions in connection with the offering of financial products
- **Indirect revenue sharing:** provision of services to school at lower-than-market rates, such as discounts for disbursing to specific card or account product or management of ID card operations
- **Direct revenue sharing:** remuneration in exchange for a specified number of product adoptions by students
- If a certain financial product where the school has a financial interest is chosen as the “default” choice or implies endorsement of the school, this can lead to mismatched incentives

School incentives may impact financial product adoption rates

Campus	School-Arranged Unsolicited Access Device	Direct Deposit to Own Account	Paper Check Request
1	76%	15%	9%
2	67%	20%	13%
3	62%	26%	12%
4	61%	20%	19%
5	55%	26%	19%
6	51%	28%	21%
7	49%	40%	11%
8	48%	36%	16%
9	48%	32%	19%
10	45%	40%	15%
11	44%	40%	16%
12	41%	38%	21%
13	37%	50%	13%

Recent laws have addressed transparency and conflicts of interest in the credit card and student loan markets

- College credit card agreements¹⁴
 - Requires providers to submit “affinity agreements” to a public database, disclose number of accounts and total amount to schools
 - Restricts the use of “freebies” in exchange for sign-ups when marketing on campus

- Preferred student lenders¹⁵
 - Prohibits delay of financial aid delivery due to lender choice
 - Restricts co-branding (such as the use of a university logo or mascot)
 - Requires a code of conduct, including prohibitions on gifts and compensation to school officials
 - Requires clear disclosure of the method and criteria used to choose financial institutions being marketed as “preferred”
 - Requires schools listing preferred student loan lenders to also list multiple unaffiliated financial institutions

Question and Answer

For further information

- Request for Information on Financial Products Marketed to Students Enrolled in Institutions of Higher Education:
<http://1.usa.gov/OWgVSx>
- Public comments in response to Request for Information:
<http://1.usa.gov/NP7wvk>
- YouTube Video of the CFPB Banking on Campus forum:
<http://bit.ly/1hWeHv3>
- CFPB Guide for College Students on Choosing a Bank Account:
<http://1.usa.gov/1nXMF9Q>
- CFPB College Credit Card Agreement Database and Annual Report:
<http://www.consumerfinance.gov/students/>