



April 2, 2014

Ms. Pamela Moran
U.S. Department of Education
Office of Postsecondary Education
1990 K Street, N.W.
Washington, DC 20006

Submitted via email to: pamela.moran@ed.gov

RE: Title IV Program Integrity and Improvement – Negotiated Rulemaking

Dear Ms. Moran:

The Consumer Bankers Association (CBA)¹ and the American Bankers Association (ABA)² (collectively, the Associations) appreciate the opportunity to submit our comments on the Department of Education’s (DOE) current draft regulation, issued pursuant to a negotiated rule making process that addresses matters related to Title IV HEA program funds. We support the goals of the draft regulation and will continue to work with the DOE on this important issue, but we have serious concerns about the proposed provisions related to the disbursement of federal student aid credit balances (DOE’s Issue Paper 4).

The Associations share the DOE’s goal in promoting students’ understanding and management of financial products while ensuring that they have meaningful choices. However, we have serious concerns about and objections to the expansiveness of the draft regulation related to disbursement of these federal student aid credit balances, particularly with regard to non-disbursement accounts (i.e. accounts opened outside of the Title IV credit balance disbursement process), as well as with regard to sponsored disbursement accounts.

¹ The Consumer Bankers Association is the only national financial trade group focused exclusively on retail banking and personal financial services — banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members include the nation’s largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the total assets of depository institutions.

² The American Bankers Association represents banks of all sizes and charters and is the voice for the nation’s \$14 trillion banking industry and its two million employees. The majority of ABA’s members are banks with less than \$165 million in assets.

Concerning non-disbursement accounts, though the language in the draft regulation is not clear, it would certainly classify as “sponsored accounts” any traditional bank deposit account linked to a “campus card,” such as a college identification card, even though the depository institution offering the account does not facilitate the delivery of federal student aid credit balances for the school -- which is the subject of the rulemaking. In addition, the draft regulation could cover any deposit account that could receive federal student aid credit balance disbursements held by a financial institution that happens to have other types of arrangements with a college or universities (“educational institutions”). As sponsored accounts, these accounts would be subject to various requirements and significant restrictions under the proposed regulation, including disclosure of relationships that have nothing to do with the disbursement of federal student aid credit balances.

While the DOE has authority to write rules concerning Title IV financial aid disbursement and the methods under which disbursements are made, the proposed rule would go further and regulate the availability and terms of deposit accounts, including debit cards and prepaid cards, available to students from depository institutions -- separate and apart from the financial aid disbursement process. We can identify no authority for DOE’s overreach to regulate deposit accounts that have, at best, only a tangential relationship with those accounts. Moreover, and more importantly, this broad scope would have a chilling effect on the offering of accounts designed for students and would deprive students of choice and access to valuable, low-cost, convenient, and easily accessed bank services, accounts that can be especially useful to those students who arrive on campus without a bank account. For these reasons, we urge the DOE to redraft its draft regulation so that it does not cover these traditional bank products and services to the extent they are offered outside of disbursement services (i.e., to the extent the deposit account opening process is not integrated within the federal student aid credit balance disbursement process).

In addition, we believe that the DOE’s draft regulation of “disbursement” sponsored accounts will also deprive students and educational institutions of a convenient, quick, and safe means for students to access their federal student aid credit balances.

Discussion

Non-Disbursement Accounts and Services

The Associations’ members offer deposit accounts to students of educational institutions that are often less expensive than those available to the general public and that are designed specifically for young customers. For example, these accounts often do not have debit card or maintenance fees or fees for not maintaining a minimum balance. They may be simplified, with fewer features, and conveniently linked to a parent’s account. They are often tailored to the specific student population of a particular educational institution. These products provide safe, expedited, and convenient access to funds for students, including cash withdrawal and convenient payment options. In addition, it is worth noting that Association members offering products to students have a vested interest to ensure that their student customers have a

positive experience, because their goal is to foster long-term relationships with students, banking relationships that will continue to grow and meet the expanding financial needs of the customer long after graduation day. That positive experience includes dealing fairly with young students whose needs are often not well understood when they prepare for college.

These arrangements between depository institutions and educational institutions not only offer student a very low-cost deposit account option but also the convenience of “opting in” to link their debit card to their student identification card, when available. While students can choose to carry two cards, one for their finances and another for campus identification, many find it convenient to carry a single, combined-use card.

The current draft regulation may cause students to lose access to the convenience and low cost of these accounts and limit their options only to accounts available to the general population, which tend to be more expensive. Under Section 668.164(e) of the proposal, accounts are classified as sponsored accounts if the educational institution—

Establishes a process that a student . . . follows to open a financial account . . . through any arrangement with an entity under which any party to the arrangement exercises any control over the financial account into which the student’s Title IV, HEA program funds are transferred or deposited.

While the language of the draft regulation is unclear, it appears that if there is a contract or arrangement for a “campus card program,” (e.g., cards that serve as a campus identification and access a deposit account), the account is a “sponsored account” *even if the depository institution is not facilitating the delivery of federal student aid credit balances for the school*. The language could be read even more broadly to cover other products/services that are similarly not integrated into the federal student aid credit balance disbursement process. This broad application of “sponsored account” status reaches well-outside the Title IV credit balance disbursement process and outside the scope of the current rulemaking.

If subject to the provisions, depository institutions could not offer services that carry any maintenance, debit card, overdraft, or ATM fees, and bank services for students would be subject to other restrictions and requirements. Such limitations and restrictions make a product unsustainable and uneconomical as a practical and business matter. Depository institutions will either migrate away from the campus programs or reprice student accounts or both. The disruption of the campus programs will also severely reduce the financial guidance and support students receive at the critical time when they embark on a new life phase and new financial responsibilities. Without the financial education and counseling provided at the educational institutions and supported by the financial institutions, students are left to fend for themselves without guidance.

Accordingly, as depository institutions exit the market, students and schools would lose valuable, affordably priced, and convenient combined banking and school services as well as financial education.

Sponsored Accounts – Title IV Disbursement

In addition to our concerns about non-disbursement accounts and services, we are concerned that the proposed regulation will effectively eliminate federal student aid credit balance disbursement accounts—that is, accounts specifically designed to disburse federal student aid credit balances—to the detriment of students and educational institutions.

Federal student aid is disbursed directly to colleges and universities, which use the funds to satisfy a student’s tuition expenses and then disburse the remaining funds to the student to be available for other appropriately related purposes. The DOE has issued a series of student aid credit balance disbursement regulations, which have increased the operational complexity of disbursing these funds to students. Financial service providers have partnered with educational institutions to help these educational institutions satisfy the DOE disbursement requirements. These arrangements enable colleges and universities to reduce the costs of disbursing federal student aid credit balances by utilizing direct deposit, rather than mailing paper checks, decreasing costs for students and schools and providing to students, safe, quick, and convenient access to funds. In some of these federal student aid credit balance disbursement arrangements, financial institutions may offer students a deposit account or, when instructed by the educational institutions, provide them with a prepaid card to access federal student aid credit balances, particularly where a student does not have a pre-existing account to accept a direct deposit of funds.

The draft regulation under development by the DOE would effectively deprive students and educational institutions of these services by compelling financial institutions currently providing such “sponsored accounts” to stop providing them to tens of thousands of students on multiple campuses. The draft regulation would require providers to give unlimited free access to *any* ATM, whether or not the provider owns the ATM or imposes the fee. (The provider would have to reimburse the student for fees imposed by *other* ATM owners if the student *chooses* to use those ATMs.) In addition, the draft regulation would allow students to overdraw their bank accounts an unlimited number of times, with no recourse to the bank for collection for negative balances. With limited or no means to support the cost of providing the services, providers would exit the business and close existing accounts. The result would be thousands of students losing a convenient, safe, and quick option to access their federal student aid credit balances, as well as forego the convenience of a single card with combined financial and school functionality. Payments to students via checks would be more prevalent, especially for those without bank accounts, delaying the students’ access to the funds and potentially causing them to incur off-campus check cashing fees. In addition, it is worth noting that the Bureau of Consumer Financial Protection found that requiring disbursement through electronic fund transfer can reduce fraud and costs.³

³ “Perspectives on Financial Products Marketed to College Students”: Presentation to the Department of Education Negotiated Rulemaking Session. March, 26, 2014 (pages 3, 7).

The Associations agree that students should have free and convenient access to their federal student aid credit balances. It is with that purpose in mind that the Associations urge the DOE to reinforce the importance of consumer protections by preserving the availability and affordability of financial services to students, recognizing the practical business aspects and operational realities of offering “sponsored accounts.” For these reasons, students must continue to have the option to access their federal student aid credit balances by the use of these products.

Conclusion

The Associations share the DOE’s goal to ensure that students have choices in their financial products and understand those products before they make their choice. Depository institutions today help to serve the needs of students by offering products designed to be useful and attractive to students. Students are often afforded low-cost, high-convenience financial products designed with their needs in mind. We urge the DOE to preserve the viability of these products and services. We appreciate the opportunity to continuing working with the DOE on this important matter.

Sincerely,



David Pommerehn
AVP & Senior Counsel
Consumer Bankers Association



Nessa Feddis
SVP & Deputy Chief Counsel
American Bankers Association