December 2015

Safe Student Account Toolkit

Resources for selecting accounts that meet students' needs

Consumer Financial Protection Bureau

December 2015

Safe Student Account Scorecard

Consumer Financial Protection Bureau

Safe Student Account Scorecard for Inclusion in College Requests for Proposals

This Safe Student Account Scorecard ("Scorecard") is a resource to assist institutions of higher education ("colleges") that are seeking to select college-sponsored financial accounts, such as deposit or prepaid accounts ("accounts"), which meet their students' needs. Colleges can voluntarily choose to use this Scorecard to supplement their existing procurement process when soliciting accounts provided by financial institutions, third-party servicers, or a third-party servicer's associated financial institutions ("vendors").

Each part of the Scorecard contains questions that administrators can use to solicit information from prospective vendors as part of a request for proposals ("RFP") or similar process.

The U.S. Department of Education has recently issued final regulations for the Federal student aid programs that impose requirements regarding marketing of financial accounts at colleges participating in those programs.[1] The Scorecard and accompanying materials do not govern those regulations. Colleges participating in the Federal student aid programs should consult those regulations directly to determine how to meet the requirements set out by the U.S. Department of Education.

The Scorecard highlights certain minimum protections that will be required by the Department of Education starting July 1, 2016, for colleges that partner with a third-party servicer that offers

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[1] See *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

or directly communicates information about a preferred financial account to students and assists the college with the disbursement of Federal Title IV aid ("Tier 1" arrangements).[2] The Scorecard also highlights other minimum protections under these rules that may be required for both accounts marketed under a "Tier 1" arrangement and for certain other college-sponsored accounts marketed directly to students ("Tier 2" arrangements).[3]

The set of features and protections identified in the Scorecard may provide a baseline for colleges seeking, on a voluntary basis, to identify safer and more affordable accounts for their students generally.[4] Although these requirements may not be mandatory for all types of student accounts a college may consider, they can provide helpful context as administrators evaluate whether different types of accounts meet students' needs.

- **Part One: Safer student account features.** Part one solicits certain information from vendors regarding account fees and features that may make accounts safer and more affordable for students. This section may be helpful for colleges seeking to enter into "Tier 2" or other arrangements. These features are required by the Department of Education for all "Tier 1" agreements, and some of these features are required for "Tier 2" agreements as well.

- **Part Two: Additional features and supplemental information.** Part two seeks to help administrators solicit information to identify and compare fees and

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[2] A "Tier 1" arrangement is between a college and a third-party servicer under which the servicer performs one or more of the functions associated with processing direct payments of Title IV funds on behalf of the college, and offers one or more financial accounts under the arrangement, or where the college or third-party servicer directly communicates information about the account to students. *See* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[3] A "Tier 2" arrangement is an arrangement 1) between a college and a vendor that offers financial accounts through a financial institution and 2) under which financial accounts are offered and marketed directly to students. However, some colleges with few Title IV credit balance recipients may not have to comply with certain requirements for "Tier 2" arrangements. *See* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[4] Colleges should also note that Cash Management rules also include other requirements pertaining to account fees and features, marketing, and transparency that are not referenced in the Scorecard. For "Tier 1" accounts, for example, these include prohibitions on charging students for certain up-front or other fees (e.g. point-of-sale fees). Schools may wish to consider whether to request additional information about these fees or features when seeking accounts that would not be marketed under a "Tier 1" arrangement. *See* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

account features and to assess consumer protections included in competing bids. This section may be helpful for colleges seeking to enter into “Tier 1,” “Tier 2,” or other arrangements. Colleges may also wish to base the annual fee report, described in Part four, on the supporting documentation requested in this section.

- **Part Three: Marketing practices.** Part three solicits information to identify vendors’ marketing policies. The practices featured in this section are similar to the requirements under the Department of Education’s rules for accounts marketed under “Tier 1” and “Tier 2” arrangements.

- **Part Four: Contract transparency.** Part four solicits information to identify vendors’ ability to meet certain transparency principles. The principles included in this section are similar to the requirements under the Department of Education’s rules for accounts marketed under “Tier 1” and “Tier 2” arrangements.

Administrators can choose to include the following Scorecard as part of an RFP when seeking an arrangement to market college-sponsored accounts to students. Administrators can instruct prospective vendors to provide written responses to the questions included below. Administrators can find a more detailed discussion of the Scorecard in the supplemental Administrator Handbook.

Part one: Safer student account features

The Department of Education's recent rules on Cash Management establish a set of minimum protections that will be required for colleges offering certain college-sponsored financial accounts, such as deposit and prepaid accounts (“accounts”), that are marketed to students by third-party servicers that assist a college in making direct payments of federal Title IV funds (“Tier 1” arrangements). Some of these protections may also be required for certain other college-sponsored accounts offered and marketed directly to students (“Tier 2” arrangements).

In response to this solicitation, [Name of College] is seeking to identify vendors that offer products that feature the protections as identified below, all of which are required by the Department of Education for accounts marketed under a “Tier 1” arrangement and some of which are required for accounts marketed under a “Tier 2” arrangement.[5]

Question 1: Does the account(s) include the following set of safer features?

Vendors submitting proposals that do not maintain all of the features listed below should provide an additional explanation, including information about each specific fee or feature.

Safe Account Features	Fee/Feature
Overdraft fees	None
Access to a network of fee-free regional or national ATMs	Included
Deposit insurance	Included

[5] More information about the Department of Education’s Cash Management rules can be accessed at http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

Part two: Additional features and supplemental information

Please provide information about the following account fees and features, including information about the expected volume and prevalence of certain fees included in terms and conditions of the account(s) identified in your bid.

Question 2: Please provide information about each fee that could be assessed to students using the account(s) included in your proposal. As part of your response, please provide additional fee and transactional data about all account(s) included in your proposal, including:

- A description for how each fee can be incurred, the standard amount or fee range for each fee, and any criteria for waiving or refunding each fee;
- The estimated number of accounts that will incur each fee, the estimated share of all accounts that will incur each fee, and an estimate of the net fees charged to students by each fee, excluding waived or refunded fees over the course of one academic year (please see the instructions tab in the attached worksheet for additional information[6]). When possible, justify your estimates with actual fee data from a partner college arrangement or a similar student account you offer; and

[6] **NOTE TO COLLEGE ADMINISTRATORS:** Colleges may wish to provide prospective vendors with a worksheet soliciting information about annual projected volume and prevalence of fees associated with accounts included in proposals, in order to ensure vendors' responses are uniform and comparable. In addition, colleges may wish to solicit a snapshot of fees assessed to students by the vendor under a comparable arrangement with another college to provide a similar account or accounts–such as an annual fee report discussed further in Part four.

- Any other supporting information related to account terms and conditions necessary to evaluate your response to this question.

Question 3: Please provide information about all products, services, and features that allow students to easily manage their accounts outside of a bank branch. For example, please identify in your response whether account(s) include, at no additional charge, paper or electronic statements, direct deposit, online and mobile banking, and customer service. Please include estimates as to what percent of students may use each feature and service you provide.

Question 4: Please provide information regarding ATM access, including the number of current, planned, or proposed fee-free ATMs students can access proximate to the college's campus(es) and in the community, and if those ATMs can be accessed 24 hours per day, seven days per week. Additionally, provide details on how students living out of state or traveling abroad can access fee-free ATMs away from campus.

Question 5: What additional fraud and error resolution protections are included or applicable, beyond what is required by law, and how can students access those protections?

Question 6: What beneficial services or features on the account(s) are specifically tailored to the needs of students? Please include benefits that supplement the features that are normally included in your commercially-available student accounts.

Part three: Marketing practices

To ensure students are able to make informed choices, a vendor offering a college-sponsored account(s) should provide students with objective and fact-based information about their options. The following marketing principles are similar to the requirements under the Department of Education's recent rules on Cash Management for accounts marketed under "Tier 1" and "Tier 2" arrangements.

Question 7: Provide details related to your ability to comply with the following:

- Students shall be informed of the terms and conditions of the account before an account is created, including given proper written notification that the account is not required.
- Materials shall be presented in an objective and fact-based manner.
- Ensure that, for providers that are responsible for making electronic transfers on behalf of a college, a direct payment of money to students, including direct payment to a student's preexisting bank account, is timely and hassle-free.
- Ensuring consent in obtained from students before an access device is provided, as required by Department of Education rules for accounts marketed under "Tier 1" and "Tier 2" arrangements.
- The personally identifiable information of students should be protected.
- Vendor shall be transparent about any relationship with this college. See *Contract transparency requirements* below.

Part four: Contract transparency

A vendor selected to provide college-sponsored account(s) should be transparent with the terms of the marketing arrangement so students and families can determine if the arrangement meets students' needs. The following transparency principles are similar to requirements under the Department of Education's recent rules on Cash Management for accounts marketed under "Tier 1" and "Tier 2" arrangements.

Question 8: Provide details related to your ability to comply with the following:

- *Publication of arrangement.* Vendor shall allow the college to publicly disclose this arrangement and a summary of this arrangement on appropriate locations of its website and in other manners that the college deems appropriate. This may include any public website where students can obtain information about the account(s) and any online portal through which students may sign up for the account.
- *Annual fee report.* Vendor shall provide an annual report to the college about account fees assessed to students, in order to evaluate if accounts continue to meet students' needs. Vendors should consider producing this report in a similar format to the information provided in response to Question 2 of this Scorecard.
- *Publication of revenue sharing and royalty provisions.* Vendor shall allow the college to publicly disclose revenue sharing and royalty, including monetary and non-monetary, paid or received, to the college on appropriate locations of the college's website and in other manners that the college deems appropriate, consistent with the college's policy on disclosure and applicable state and federal law and regulation.

December 2015

Administrator handbook

Guide for selecting accounts that meet students' needs

Consumer Financial Protection Bureau

Table of contents

About this handbook

The Government Accountability Office (GAO),[1] the U.S. Department of Education's Inspector General,[2] and financial regulators[3] have raised potential concerns about college-sponsored financial accounts ("accounts"), such as deposit and prepaid accounts, which are marketed to nearly 10 million students. According to the GAO, college-sponsored accounts are often no better than what a student can access on his or her own in the marketplace, and in some cases, can be more costly for student consumers.[4]

Institutions of higher education ("colleges") may seek to provide students with access to college-sponsored or co-branded accounts by contracting with a partner financial institution, a third-party servicer, or a third-party servicer's associated financial institution ("vendors"). The Consumer Financial Protection Bureau ("Bureau") developed this Administrator Handbook ("Handbook") as a resource to assist college administrators if they choose to seek out safer, more affordable, and more transparent accounts for their students.

The Handbook, along with the enclosed Safe Student Account Scorecard ("Scorecard"), can help administrators gather relevant information to review, compare, and evaluate accounts offered by different vendors in response to a Request for Proposals ("RFP") or similar process.

The Handbook and Scorecard include some of the minimum protections that will be required by the Department of Education starting July 1, 2016, for colleges that partner with a third-party servicer that directly markets financial accounts to students and assists the college with the disbursement of Title IV aid ("Tier 1" arrangements).[i] The Handbook and Scorecard also include

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[i] A "Tier 1" arrangement is between a college and a third-party servicer under which the servicer performs one or more of the functions associated with processing direct payments of Title IV funds on behalf of the college, and offers one or more financial accounts under the arrangement, or where the college or third-party servicer directly

certain minimum protections under these rules that may be required for both accounts marketed under a "Tier 1" arrangement and for certain other college-sponsored accounts offered and marketed directly to students ("Tier 2" arrangements).[ii] However, this Handbook does not govern those regulations, which colleges participating in the Federal student aid programs should consult directly for their requirements.[iii]

These features and protections identified in this Handbook may provide a baseline for colleges seeking, on a voluntary basis, to identify safer and more affordable accounts for their students generally.[iv] Although these requirements may not be mandatory for all types of student accounts a college may consider, they can provide helpful context as administrators evaluate whether different types of accounts meet students' needs.

This Handbook outlines a four-step approach that administrators can use to assess existing campus banking options and, if necessary, enter into a marketing arrangement to provide an account that better meets their students' needs.

- **Step one: Engage.** Step one provides a review of some of the new minimum protections required by the Department of Education's rules on Cash Management for accounts marketed under "Tier 1" and "Tier 2" arrangements. Colleges seeking to identify accounts outside of a "Tier 1" arrangement that may be safer and more affordable for

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communicates information about the account to students. *See* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[ii] A "Tier 2" arrangement is an arrangement 1) between a college and a vendor that offers financial accounts through a financial institution and 2) under which financial accounts are offered and marketed directly to students. However, some colleges with few Title IV credit balance recipients may not have to comply with certain requirements for "Tier 2" arrangements. S*ee* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[iii] See *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[iv] Colleges should also note that Cash Management rules also include other requirements pertaining to account fees and features, marketing, and transparency that are not referenced in the Handbook and Scorecard. For "Tier 1" accounts, these include prohibitions on charging students for certain up-front or other fees (*e.g.,* point-of-sale fees). Colleges may wish to consider whether to request additional information about these fees or features when seeking arrangements outside of "Tier 1." *See* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

their students may wish to assess whether some of these minimum protections are appropriate for their own co-branded or college-sponsored accounts.

- **Step two: Develop.** For colleges that decide to solicit bids from vendors to market accounts to students, step two discusses ways the Scorecard can help colleges promote enhanced consumer protections during the development and release of an RFP.
- **Step three: Evaluate.** Step three explains how administrators may use the Scorecard to assess and compare the account fees and features across different proposals.
- **Step four: Monitor.** Step four provides additional information to administrators seeking to establish oversight and transparency requirements for vendors.

This Handbook, in conjunction with the Scorecard, is designed to help administrators solicit critical information from prospective vendors about the fees, features, and policies related to student financial products. With this information, the Bureau hopes that administrators will be better positioned to select accounts that meet their students' needs.

Overview:
Selecting financial accounts that meets your students' needs

STEP 1
Engage

Review materials and assess current situation

- Review the administrator handbook and accompanying Scorecard
- Review new consumer protections required by Deptartment of Education Cash Management rules
- Assess if current banking options maintain certain of these minimum protections
- If options do not meet students' needs, consider preparing an RFP to procure an account

STEP 2
Develop

Prepare for the RFP process

- Create or update code of conduct
- Use the Scorecard to help solicit safer and more affordable accounts
- Publish RFP
- Answer vendors questions

Draft and distribute the RFP

- Identify opportunities to solicit bids that best meet your students' needs
- Publish a RFP
- Answer vendors' questions

STEP 3
Evaluate

Assess proposals

- Use Scorecard to compare and evaluate fees and features
- Identify and prioritize accounts that best meet your students' needs

Select a vendor

- Determine which account is most appropriate for your students
- Award contract

STEP 4
Monitor

Monitor vendor performance

- Make agreements transparent
- Use Scorecard to continuously monitor fees and features
- Monitor vendors' efficiency and customer service

1. Step one: Engage

Prior to beginning an RFP process to solicit bids for an account, administrators should familiarize themselves with the Department of Education's recent rules on Cash Management for accounts marketed under "Tier 1" and "Tier 2" arrangements.[5] Some of the features and protections established by these rules may offer helpful context for administrators seeking to evaluate whether similar protections can be found on commercially-available accounts that are accessible to their students. Administrators may find there is an opportunity to develop an account that better meets their students' needs by entering into a marketing arrangement for an account. Additionally, administrators may wish to use some of these protections as a baseline to reevaluate an agreement currently in place.

1.1 New Department of Education rules for certain accounts

The Department of Education promulgated new rules on Cash Management in response to reports that "identified several troubling practices in the campus card market, including biased and incomplete information provided to students, evidence that third-party servicers use their access to student information to persuade students to select a preferred account over other options, and evidence that some students are incurring unreasonably high fees by using these accounts and are losing their federal student aid funds as a result."[6] The rules establish new requirements for colleges that partner with vendors to distribute Title IV funds and/or sponsor or directly market accounts to their students.[7] These new requirements go into effect on July 1, 2016.[8]

When a college partners with a vendor to provide accounts to students, the arrangement will likely fall under requirements for either the "Tier 1" or "Tier 2" provisions under the new rules.

"Tier 1" arrangements. A "Tier 1" arrangement is an arrangement between a college and a third-party servicer, under which the servicer performs one or more of the functions associated with processing direct payments of Title IV funds on behalf of the college, and offers one or more financial accounts under the arrangement, or that directly markets the account to students itself or through an intermediary.[9]

"Tier 2" arrangements. A "Tier 2" arrangement is an arrangement that is 1) between a college and a vendor that offers financial accounts through a financial institution and 2) under which financial accounts are offered and marketed directly to students.[10]

Under the new rules, among other things, "Tier 1" accounts marketed to students must not include certain account fees, including overdraft fees, and both "Tier 1" and "Tier 2" accounts must have certain features, including access to a network of fee-free ATMs, as discussed in further detail in Section 1.2.[11] As the Department of Education notes, "the goal of these regulations is to protect students by ensuring that students have fee-free access to funds needed to pay for education expenses such as food and housing and books and supplies."[12] Although these requirements may not be mandatory for all types of student accounts a college may consider, they may provide helpful context as administrators evaluate whether different types of accounts meet students' needs.[v]

Administrators should also note that this section does not contain a complete description of the Cash Management rule requirements. Administrators should review the full rules to have a better understanding of their obligations when sponsoring accounts marketed under "Tier 1" and "Tier 2" arrangements.[13]

Administrators seeking to provide these protections to their students may wish to evaluate whether accounts commercially-available maintain these protections. Administrators can do this by surveying the banking options currently available to their students and then comparing

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[v] In response to the Bureau's *Request for Information Regarding an Initiative on Safe Student Banking*, the Bureau received comments from the public, including organizations representing colleges, students, policy experts, market participants and others, identifying certain fees that pose risks for students. Specifically, some commenters identified overdraft fees and fees charged for ATM access as fees that pose particular problems for student consumers. For a more detailed discussion, *see* Consumer Financial Protection Bureau, *Memorandum on Public Comments Regarding an Initiative on Safe Student Banking* (December 2015), *available at* http://files.consumerfinance.gov/f/201512_cfpb_safe-student-account-account-public-memo.pdf.

the accounts' terms and conditions to the safe student account features, discussed further in the section 1.2 and 1.3.

1.2 Safer student account features

When evaluating whether commercially-available accounts meet their students' needs, colleges may wish to use some of the account requirements under the new Department of Education rules on Cash Management as a baseline when considering a "Tier 2" agreement or an agreement that is not covered under these rules. These could include requirements related to overdraft fees, ATM access, and deposit insurance. Additionally, colleges may wish to look to these requirements if they choose to reevaluate accounts under a current "Tier 2" or other agreement.

In October 2015, the Department of Education finalized new rules protecting federal student aid recipients from two categories of the most common and costly fees charged to students—overdraft fees and ATM fees.[14] Specifically, the Department of Education noted in its rule that "overdraft fees present the potential for significant costs and harm to students, especially because students are often among those most vulnerable to incurring such charges."[15] Additionally, the Department of Education noted that a "lack of available surcharge-free ATMs can lead to unnecessary fees charged to students . . . especially for students who make multiple smaller withdrawals to carefully manage their funds on a tight budget."[16] In response to the Department of Education's proposal, colleges and consumer advocates commented that the fees associated with overdraft services and limited fee-free ATM access present unique risks for student consumers.[17]

The final rules, which will take effect on July 1, 2016, include some of the following minimum requirements for accounts marketed under "Tier 1" and "Tier 2" arrangements: [vi]

[vi] Administrators should be aware that there are additional fee and feature restrictions for accounts marketed under "Tier 1" arrangements beyond the three features listed below, including, for example, a prohibition on point-of-sale fees. Depending on the needs of an individual college or student body, administrators may wish to consider including questions about these additional fees when seeking information about accounts under a "Tier 2" arrangement or another arrangement.

- **"Tier 1" restrictions on overdraft fees.** Accounts marketed under "Tier 1" arrangements will be prohibited from extending credit and from assessing a fee to a student for most transactions or withdrawals that exceed the account balance.[18]

- **"Tier 1" and "Tier 2" requirements related to ATM access.** These rules will require that students using accounts marketed under "Tier 1" and "Tier 2" arrangements have convenient access to funds through a fee-free ATM network that has a sufficient number of ATMs that are reasonably available.[19] However, colleges with "Tier 2" arrangements that have few Title IV credit balance recipients may not be required to comply with this requirement.[20]

- **"Tier 1" and "Tier 2" requirements related to deposit insurance.** Additionally, both accounts marketed under "Tier 1" and "Tier 2" arrangements must be insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF).[21]

The following section provides a more detailed description of each of the product features that relate to these requirements.

Overdraft transactions

Users of checking accounts sometimes engage in debit transactions in amounts that exceed their accounts' balances. An overdraft occurs if financial institutions choose to cover such a transaction. Financial institutions typically charge a fee for an overdraft, although certain overdrafts may avoid a fee depending on the particular circumstances of the transaction and the financial institution's policies.[vii] A non-sufficient funds ("NSF") fee may be charged when a demand for payment, such as a check, is not honored because there are not sufficient funds in the associated financial account.

[vii] Administrators should be aware that accounts that permit consumers to write checks may allow the balance of such an account to drop below zero dollars, or "go negative." Depending on the size of the overdraft, this may pose specific risks to students who may find that it is financially difficult to repay a negative balance on an account. Administrators may wish to consider this risk when evaluating whether to enter into an agreement for an account that permits students to write checks. For further discussion, see Federal Deposit Insurance Corporation, *Model Safe Accounts Pilot: Final Report* (2012), available at https://www.fdic.gov/consumers/template/SafeAccountsFinalReport.pdf.

In a study of accounts at several large banks, the Bureau found that overdraft and NSF fees constitute the majority of the total checking account fees incurred by consumers, in general.[22] For example, for consumers that opted-in to overdraft fees for one-time debit card and ATM transactions per Regulation E,[viii] overdraft and NSF fees accounted for about 75 percent of their total checking account fees and averaged over $250 per year.[23] The study also found that most overdraft fees are paid by a small fraction of bank customers: eight percent of customers incur nearly 75 percent of all overdraft fees.[24]

Additionally, this analysis found that the propensity to overdraft is the highest for young adults.[ix] The Bureau found that 38.5 percent of this segment of consumers averaged at least one overdraft over a 12 month period, and 10.7 percent had more than 10 overdrafts per year.[25]

Colleges should also be aware that overdraft program features, pricing, and other practices vary across vendors and may affect the total overdraft related fees paid by student consumers.[26]

As noted above, the new rules for accounts marketed under "Tier 1" arrangements must not include certain account fees, including overdraft fees.[27]

Access to a network of fee-free regional or national ATMs

Vendors typically maintain a network of proprietary ATMs or contract with a regional or national ATM network[x] to ensure that their customers can access their money fee-free.[28]

[viii] Regulation E implements the federal Electronic Fund Transfer Act and provides a basic framework that establishes the rights, liabilities, and responsibilities of participants in electronic fund transfer systems, such as automated teller machine transfers, telephone bill-payment services, point-of-sale (POS) terminal transfers in stores, and preauthorized transfers from or to a consumer's account (such as direct deposit). The term "electronic fund transfer" (EFT) generally refers to a transaction initiated through an electronic terminal, telephone, computer, or magnetic tape that instructs a financial institution either to credit or to debit a consumer's asset account.

[ix] The analysis found that the share of accounts in higher overdraft categories generally declines with account holder age, and the share of accounts without any overdrafts rising from 61.5 percent of the 18-25 age group to 84.6 percent of the 62 and over age group. Further analysis is needed to determine the underlying mechanisms of this relationship, such as differences in debit card use, differences in average balances, and other factors. These data point stats are for accounts across a small number of large banks and are not necessarily representative of the entire U.S. population.

[x] The size and scale of ATM networks vary, and vendors have suggested access to a large fee-free ATM network can greatly expand students' ability to withdraw funds without incurring a fee. S*ee, e.g., Proposed Language for Financial Aid-to-Debit Card Programs*, TouchNet (Mar. 15, 2014), *available at*

Adequate access to a conveniently-located network of fee-free ATMs 24 hours a day can enable students to avoid fees associated with out-of-network ATMs.[29]

While many vendors operate their own network of ATMs, students can still benefit from having access to a larger national network of ATMs. National ATM networks can help provide coverage to students taking online courses that may not live in the area of the primary campus(es).[30] Additionally, national networks can provide coverage to out-of-state students needing access to their funds when visiting home.[31]

Alternatively, vendors may elect to reimburse students for using ATMs managed by other financial institutions.[32] This feature can provide the same benefits as being part of a larger national ATM network.

Special considerations for prepaid accounts

DEPOSIT INSURANCE

Deposit insurance protects a consumer from loss in the event of insolvency of an insured depository institution. The FDIC administers deposit insurance for banks and the National Credit Union Administration for credit unions. Deposit insurance is a common feature on most deposit accounts, including those held in checking and savings accounts, but not always for prepaid products. In a 2014 Bureau study of prepaid account agreements, just over 60 percent of agreements reviewed for general purpose reloadable cards stated that the accounts were eligible for deposit insurance, while just over 10 percent explicitly disclosed they were not insured.[33] Administrators may wish to ensure that any college-sponsored prepaid account has this feature, which can be a critical protection for students.[xi] The Bureau has proposed rules that would require disclosure of the absence of this insurance for prepaid accounts.[34]

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http://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-toughey5-debitcards.pdf (submitted in support of the discussion regarding the Department of Education's negotiated rulemaking on Cash Management, 2013-14).

[xi] Beginning July 1, 2016, the new Department of Education rules on Cash Management will require accounts marketed under "Tier 1" and "Tier 2" arrangements at institutions of higher education that receive Title IV funds maintain deposit insurance and to satisfy Regulation E's requirements on payroll cards. *See Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67199 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

MEET OR EXCEED PROTECTIONS FOR UNAUTHORIZED TRANSACTIONS, THEFT, AND ERRORS FOR DEPOSIT ACCOUNTS

Debit cards linked to bank accounts are subject to mandatory federal protections for resolving disputes and the return of funds after unauthorized transactions, theft, and errors, as required under Regulation E.[35] In contrast, some types of prepaid cards are not currently subject to those rules and thus they may provide fewer protections.[36] These protections can serve as valuable safeguards for students if their cards are lost, stolen, or their accounts are otherwise compromised. If a college is contemplating a prepaid account program, it may consider requiring these accounts to meet or exceed the minimum standards under Regulation E. For example, colleges could require that the vendor provide access to account history for a specified period of time, maintain clear error resolution procedures, and protect students against unauthorized, erroneous, or fraudulent withdrawals or purchases. In November 2014, the Bureau issued a proposed rule which would better align consumer protections for prepaid accounts to the protections currently provided to consumers on checking and savings accounts under Regulation E.[37] At the time of this document's publication, the Bureau is working to finalize this rule. In addition, accounts marketed under both "Tier 1" and "Tier 2" arrangements must meet the requirements for accounts that receive federal payments, including, for prepaid cards, compliance with requirements for payroll cards under Regulation E.[38]

1.3 Understanding banking options commercially-available to students

Students may already have access to commercially-available accounts that provide benefits that meet their needs. Some colleges have found it useful to scan or survey current banking options to help determine whether there is a need to procure an account or whether commercially-available accounts meet the needs of their students.

Most students likely have access to various accounts at banks and credit unions, including financial institutions that operate online. Additionally, students likely have access to other types of financial products, such as prepaid accounts sold through retail stores. By scanning or surveying the terms and conditions of a few existing student accounts, administrators can gain insight into the availability of accounts that include specific fees or features.

Administrators may wish to use the protections described section 1.2 as a baseline when assessing commercially-available options.[xii] Products featuring these protections may be safer and more affordable for students. Financial institutions generally make fee schedules available online for specific accounts, including student accounts, although these can sometimes be hard to find.

Additionally, engaging with students and student leaders can provide valuable context as administrators seek to evaluate the needs of their student body. This feedback can better help illuminate which accounts, features, and services their students use most frequently.

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After conducting this comparison and evaluating students' needs, colleges may decide it is in their students' interests to solicit bids from vendors to develop a college-sponsored account or amend a current agreement. For colleges that wish to publish a solicitation, the Scorecard described in step two of this Handbook can help solicit specific information from prospective vendors, including whether accounts feature the protections described section 1.1 and 1.2. Administrators can also use this Scorecard to compare and evaluate differences in account fees, features, and policies between competing bids or proposals, as discussed in the following section.

[xii] As noted in footnote [iii], colleges may wish to evaluate whether to include protections required for "Tier 1" accounts, including other restrictions on fees and features not identified in the enclosed Scorecard. *See* U.S. Dep't. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

2. Step two: Develop

Administrators who determine that existing, commercially-available accounts, or an account under a current agreement, do not meet their students' needs may wish to solicit proposals from vendors to provide a product that is a better fit for their student body.

Prior to initiating a procurement process, colleges may find it helpful to implement or update an employee or institutional code of conduct to prevent conflicts of interest. In the past, some vendors have provided gifts, monetary payments, and other forms of compensation to individual employees or a college[xiii] as a way to increase their likelihood of being selected as a financial partner.[39] Such conflicts of interest may hamper the decision-making process for a college seeking a financial partner that would be beneficial for students.[40] Colleges can find a review of current marketing restrictions and prohibitions for vendors and colleges when marketing credit cards or student loans on campus in the appendix.

When developing and drafting an RFP, administrators may wish to communicate to potential vendors that their college intends to prioritize safer, more affordable, and more transparent accounts. Administrators can achieve this goal by soliciting information about certain fees, features, and policies in their RFP. As described below, the enclosed Scorecard can assist

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[xiii] A March 2014 Final Management Information Report issued by the Department of Education Inspector General reviewed several arrangements between colleges and vendors and found that revenue sharing and cost provisions in agreements can create the potential for conflicts of interest, because the college's' financial interests would not be aligned with the best interests of students. *See* U.S. Dep't of Education, Office of Inspector General, *Final Management Information Report*, ED-OIG/X09N0003 15-16 (Mar. 10, 2014), *available at* https://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-lindstrom1-oig.pdf. A similar report by the GAO also noted concerns that payments and other benefits colleges receive from card providers may motivate colleges to encourage the use of college cards or potentially select a vendor that provides the college the most revenue rather than the one that provides students the best terms. *See* U.S. Gov't Accountability Office, GAO-14-91, *College Debit Cards: Attention Needed to Address ATM Access, Student Choice, and Transparency* 29-30 (Feb. 2014), *available at* http://www.gao.gov/assets/670/660919.pdf.

colleges seeking to solicit critical information about accounts from vendors. With this information in hand, administrators can also review, compare, and evaluate bids from different vendors.

2.1 Safe student account scorecard

Administrators can include the enclosed Scorecard as a stand-alone section of an RFP or adapt the document to solicit specific information about fees and features relevant to their students so that they can better compare competing proposals. By seeking accounts that feature the protections identified in Part One of the Scorecard, colleges can solicit proposals for safer and more affordable accounts marketed under “Tier 2” or other arrangements. The features identified in Part One will be required for any account marketed under a “Tier 1” arrangement. The questions contained in Part Two can assist administrators when comparing and evaluating the economic effects of any account, including accounts marketed under “Tier 1,” “Tier 2,” or other arrangements. Additionally, in Parts Three and Four of the Scorecard, colleges can solicit information from vendors on how they intend to implement certain marketing policies and transparency principles. These principles include some of the requirements in place for “Tier 1” and “Tier 2” accounts and may be broadly applicable to other arrangements.

Making an apples-to-apples comparison between fees

Colleges have noted that it may be difficult to make side-by-side comparisons between different student accounts.[41] Variations in policies and procedures between vendors may result in meaningful differences in how fees are charged.[42] Rather than trying to evaluate how specific policies and mechanics affect the frequency of a particular fee, administrators may find it helpful to instead require vendors to estimate the net cost (actual fees charged to all students, excluding any waived or refunded fees) that will be charged for each fee on the student body. This can be helpful in evaluating the economic effects of any account, including accounts marketed under “Tier 1,” “Tier 2,” and other arrangements.

Administrators should be aware that vendors must use a degree of judgment when producing fee estimates that can make it difficult to make an apples-to-apples comparison between accounts. However, vendors that submit bids in response to an RFP may already have arrangements to offer accounts to students with other colleges. Colleges can request data from prospective vendors about one or more of their current college partnerships to better evaluate the effect of account fees on consumers. Vendors that do not maintain a current college-account marketing agreement may still be able to offer data or justify estimates related to the prevalence of specific fees associated with their accounts used more frequently by young consumers (*e.g.*, commercially-available student accounts). Using actual data from another college arrangement or similar account offered by the vendor can allow for a more accurate comparison across accounts provided by different vendors.

Administrators may also wish to consider providing a worksheet or template, as described in the enclosed Scorecard, to better ensure that vendors submit fee and feature information in a manner that is easily comparable between bids.[xiv]

Marketing practices

In Part Three, the Scorecard solicits information to help administrators better understand how vendors interact with students through marketing. When considering a vendor, colleges may wish to pay particular attention to vendors' anticipated marketing practices and carefully consider what obligations the vendor expects of the college under a proposed marketing plan.[43]

A college's endorsement, or perceived endorsement, of a financial product carries enormous weight for students. Simple actions like co-branding or joint marketing opportunities can leave students with the impression that a financial product is the best deal—even though they may be able to find better options by shopping for a commercially-available account.[44] For example, in the past, some colleges endorsed student loan products offered by vendors through a preferred lender list.[45] Generally, the listed lenders originated up to 90 percent of all loans taken out by the college's students.[46]

Part Three of the Scorecard can help administrators consider policies to ensure that students receive objective and fact-based information about a vendor's college-sponsored accounts. Some of the marketing requirements identified in Part Three are required for accounts marketed under "Tier 1" and "Tier 2" arrangements.[47]

[xiv] **Note to Administrators:** Administrators may wish to request technical assistance from the Bureau when developing a worksheet or template. For more information or to request assistance, please contact the CFPB Office for Students and Young Americans at students@cfpb.gov.

Some colleges have used additional strategies to promote a competitive marketplace for students when offering accounts, including:

- **Allowing multiple vendors to link debit card functionality to their student identification cards.** Providing students the option to connect to different vendors may foster competition between the vendors seeking business on campus and financial institutions located around the campus community.

- **Requiring students to consent to receiving a dual-use card, when cards are linked to a student identification card.** To make clear that students are not required to open an account with a vendor, some colleges only provide student identification cards that can link to a college-sponsored account to those students who consent to receiving the dual use card. At these colleges, a standard identification card not co-branded by the vendor is the default option and students only receive an identification card linked to an account from the vendor after they consent. This may better signal to students that they are not required to open the college-sponsored account.[xv]

Transparency principles

The GAO notes 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."[48] Additionally, the National Association of College and University Business Officers (NACUBO) has urged colleges to publicly disclose the terms of any arrangements with third-parties issuing debit cards to students.[49]

[xv] Beginning July 1, 2016, the new Department of Education rules on Cash Management prohibit pre-mailing of an access device (debit card) to a student that has not consented to receiving the device. The Department of Education states the policy is designed to better signal to students that the college–sponsored account is not preferred or required. However, the rule provides a safe harbor for an access device that is also used for institutional purposes, such as a student identification card. The Department of Education states their primary reason for allowing this safe harbor is that the potential costs of reproducing student identification cards may be greater than the potential cost-savings provided to students. *See Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67127-67128, (Oct. 30, 2015), ***available at*** http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf. Some colleges have found ways to implement procedures to obtain a student's consent before an identification cards is produced, such as during the new student orientation process.

To ensure information on arrangements will be accessible to students, administrators can use the transparency section of the Scorecard to solicit information related to vendors' ability to meet certain transparency principles, including an explanation of the specific policies and procedures a vendor will adopt in order to satisfy these requirements. This information may be helpful for colleges when seeking to compare vendors' approaches when implementing these principles, some of which are also required for accounts marketed under "Tier 1" and "Tier 2" arrangements.[50]

3. Step three: Evaluate

After prospective vendors have submitted proposals, including responses to the enclosed Scorecard, administrators should review, compare, and evaluate bids to determine the best accounts for their students. The following discussion may be helpful for administrators seeking to better understand the expected financial cost of certain accounts on students as they work to determine which account is most in line with their students' and colleges' needs.

3.1 Using the Scorecard to prioritize accounts that meet students' needs

Now that vendors have submitted bids, including responses to the Scorecard, administrators can use this information to select a vendor or solicit additional information from prospective vendors.

Administrators should be aware that vendors may advertise or submit proposals describing "standard" account options used across multiple colleges. In contrast, many colleges have been successful in soliciting bids from vendors to provide accounts that are offered exclusively to students on their campuses, allowing for terms and conditions to be tailored to better meet their students' needs.[51] For example, these accounts may provide wider access to fee-free ATM networks or fee structures superior to what may be included in a "standard" bid from the same vendor offered to another college.

Comparing account fees

Colleges seeking to prioritize minimizing account fees on student accounts[xvi] can evaluate and compare competing proposals to assess the potential financial effects fees may have on their students. Weighing responses to questions one and two of the Scorecard as a significant portion of a vendor's score in an RFP or evaluation can incent vendors to focus on minimizing fees charged to students.

Comparing the "net cost" of fees. Examining fees based on the estimated net cost to students is administratively simpler than attempting to analyze various fee policies across multiple vendors. The net cost is the actual fees charged to student, excluding any waived or refunded fees. Administrators can use the Scorecard to compare the net cost between two similar fees from competing bids. Similarly, administrators can compare the net cost of all fees between two accounts from competing bids. With this information in hand, administrators can more precisely evaluate the potential costs of an account for their students.

As noted in section 2.1, administrators should be aware that vendors must use a degree of judgement when producing fee estimates, which can make it difficult to make an apples-to-apples comparison between accounts. When possible, administrators may wish to require vendors to justify their estimates with actual fee data from another college partner or a similar student account, or, at minimum, to provide a detailed justification for the assumptions used when developing an estimate.

Understanding the size and frequency of fees. However, not all fees have the same impact on students. Administrators should pay special attention to the size and frequency of account fees. Some fees may only impact a small number of accounts but impose significant costs to those account holders. Additionally, certain fees may be more easily anticipated by students. For example, a recurring monthly maintenance fee may be easier for students to budget compared to an unexpected fee charged for using an out-of-network ATM. Colleges may want to closely examine fees that could be hard for students to budget for in advance.

[xvi] For example, the National Association of College and University Business Officers (NACUBO) recommends colleges negotiate low or no-fee account options for their students. *See, e.g.*, National Association of College and University Business Officers (NACUBO), *Safeguarding Student Finances: Guidance for Campuses Offering Student Debit Card Options* (Dec. 2012), *available at* http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/pii-safeguarding.pdf.

After examining fees, administrators may wish to request specific changes or enhancements to the terms and conditions included in a vendor's final proposal. Some vendors may be willing to adjust their proposals to remain competitive. Alternatively, vendors may also be willing to adjust proposals if a college agrees to offset any loss in expected revenue.[xvii]

3.2 Evaluating account benefits

While assessing fees can be important, colleges may also choose to prioritize other features or benefits that can come with an account or an arrangement with a vendor. For example, one college may wish to prioritize convenient access to ATMs and bank branches on campus, while another college may find an account with a robust mobile banking platform will better meet the needs of their students. Administrators should be aware that vendors may offer a variety of features that benefit students; however, it may be difficult to gauge the benefits of these features to students as clearly as the effects of account fees.

When considering how to evaluate certain features included in proposals, colleges should be aware that some beneficial features may be fairly common on accounts across vendors. A college may wish to require certain common features as minimum requirements for proposals, while prioritizing bids that include less common features by more-heavily weighting responses to relevant questions through its RFP process.

[xvii] For example, one college was reported to have successfully negotiated out a $0.50 PIN swipe fee highly criticized by students. In exchange, the college was reported to have agreed to pay the vendor $2 per student each year that could be waived if the college conducted an information campaign on the account. *See, e.g.*, *Making money off Students, Debit-card Edition*, Reuters. (Oct. 4, 2010), *available at* http://blogs.reuters.com/felix-salmon/2010/10/04/making-money-off-students-debit-card-edition.

3.3 Other considerations before selecting a vendor

In addition to considering fees and features, colleges may also wish to evaluate marketing, transparency and other elements of proposals that may be relevant to a college's or students' needs.

Transparency and marketing. As discussed in greater detail in Step two of this Handbook, colleges may choose to consider vendors' willingness or ability to commit to marketing accounts in a specified manner and to agree to disclose certain information to the college or the public on a periodic basis, consistent with the transparency requirements contained in the Scorecard.[xviii]

Student feedback. Before making a selection, colleges may also wish to engage with student leaders and other stakeholders on campus to obtain additional input related to a final proposal or proposals. By soliciting student feedback throughout this process, college administrators can better align a final agreement with students' needs. Student organizations have reported to the Bureau that this can help lead to better outcomes during the procurement process.[52]

After comparing fees, evaluating account benefits, and assessing marketing and transparency provisions, administrators may be prepared to make a selection. Should a college select a vendors' proposal, administrators should consider taking steps to monitor the implementation of any agreement, as described in the following section.

[xviii] Per the new Department of Education rules on Cash Management, colleges must ensure vendors abide by certain marketing practices and disclose certain information, which must also be disclosed to the Secretary on an annual basis. *See Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67197-67199 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

4. Step four: Monitor

Once an agreement is in place and a program is operational, administrators may wish to take steps to improve transparency related to the contracting process and continuously monitor the vendor's performance.

- **Contract transparency.**[xix] Colleges can show their commitment to transparency by posting contracts on their website to help students and families see the terms included in the final agreement to provide a college-sponsored account. NACUBO, for example, recommends that colleges help students better understand the benefits of their campus banking arrangements by creating a short, plain language summary of the main components of the arrangement to post on the college's website and supplying contact information for relevant campus employees who can provide students with more information about the arrangement.[53]

- **Continuous monitoring of fees.**[xx] Depending on the terms of an agreement, the volume and prevalence of fees charged to students may change in response to

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[xix] Per the new Department of Education rules on Cash Management (effective July 1, 2016), many colleges will be required to publish their marketing arrangements online and provide copies to the Secretary of Education. ***See Program Integrity and*** Improvement (final rule), 80 Fed. Reg. 67197-67199 (Oct. 30, 2015), ***available at*** http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf. Additionally, the Bureau's proposed prepaid rule would require transparency for prepaid accounts through disclosure of terms and agreements on the prepaid issuer's website and for submission to the Bureau for posting on the Bureau's website. Consumer Financial Protection Bureau, *Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)*, 79 Fed. Reg. 77101 (proposed Dec. 23, 2014), ***available at*** http://www.gpo.gov/fdsys/pkg/FR-2014-12-23/pdf/2014-27286.pdf.

[xx] Per the new Department of Education rules on Cash Management, colleges will be required to submit annual summaries on the performance of marketing arrangements, including the number of accounts opened under the arrangement, mean and median fees paid by students, and the total compensation the college received for the marketing arrangement. Colleges that maintain marketing arrangements but are not required to disclose detailed

adjustments in account terms or changes in vendors' policies. In addition, commercially-available accounts may change over time and new products may better meet students' needs, when compared to accounts procured through an RFP process. Through the life of an agreement with a vendor, administrators may wish to continuously monitor the account fee schedule, policies for charging fees, and the total net fees paid by students.[54]

Administrators can do this by requiring the vendor to provide written notice or seek approval whenever they plan to implement an account change related to fees. Additionally, colleges may wish to require the vendor to complete sections of the Scorecard on a routine basis, such as each semester or year, providing updated fee data so that administrators can determine if the fees being charged to students are consistent with the vendor's stated expectations and continue to meet students' needs.

Colleges may also wish to monitor specific account features, such as remote deposit capture and use of out-of-network ATMs, to continuously assess how important and accessible they are to their students.

- **Continuous monitoring of performance.** Many colleges rely on vendors to perform or subcontract specific administrative functions on behalf of the college, such as disbursement of funds and Title IV credit balances. Students rely on these services to be timely and efficient. Administrators may wish to continuously monitor the services provided by their vendor by collecting periodic performance data on specific metrics, such as use and downtime of ATMs on campus, the average wait time for students who contact customer support, and dispute resolution.

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information about their arrangements may also wish to disclose this information. Additionally, colleges will be required to ensure arrangements are not inconsistent with the best financial interests of their students. This, in part, requires the college to conduct a reasonable due diligence review at least every two years to assess whether fees imposed under "Tier 1" or "Tier 2" accounts are, considered as a whole, consistent with or below prevailing market rates. *See Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67197-67199 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

5. Conclusion

We hope this Handbook and the Scorecard can assist colleges when evaluating commercially-available student accounts and to support efforts to solicit safer, more affordable, and more transparent accounts from vendors.

Provide feedback to the CFPB

The Scorecard resources may be updated from time to time based on feedback from administrators and other interested parties and based on the Bureau's ongoing monitoring of market trends. Feedback on your experience with the materials can help us produce more helpful tools in the future.

Please direct any questions and feedback to students@cfpb.gov.

6. Contact information

CFPB'S STUDENT LOAN OMBUDSMAN:

Email: students@cfpb.gov

Webpage: http://www.consumerfinance.gov/students

Address: Consumer Financial Protection Bureau

1700 G St NW

Washington, DC 20552

TO SUBMIT A COMPLAINT:

Webpage: http://www.consumerfinance.gov/complaint

Toll-Free: (855) 411-CFPB (2372)

Español: (855) 411-CFPB (2372)

TTY/TDD: (855) 729-CFPB (2372)

Fax: (855) 237-2392

Address: Consumer Financial Protection Bureau

PO Box 4503

Iowa City, Iowa 52244

FOR ADDITIONAL RESOURCES TO ASSIST STUDENT LOAN BORROWERS:

Repay Student Debt web tool: http://www.consumerfinance.gov/paying-for-college/repay-student-debt

Paying for College suite of tools: www.consumerfinance.gov/paying-for-college/

Ask CFPB: http://www.consumerfinance.gov/askcfpb/

FOR PRESS & MEDIA REQUESTS:

Email: press@consumerfinance.gov

APPENDIX: MARKETING, TRANSPARENCY, AND CONFLICTS OF INTEREST

Recent conflict of interest prohibitions

While partnerships between vendors and colleges have the potential to provide benefits to students, there have also been challenges.

In 2007, the New York Attorney General identified questionable conduct by college officials accepting compensation, gifts, and owning stock in companies on their college's preferred lender list.[55] The Higher Education Opportunity Act of 2008 addressed many of these practices by requiring colleges to clearly disclose the method and criteria used to choose lenders appearing on a "preferred lender list" and to develop a code of conduct.[56] The Act also generally restricted co-branding arrangements, such as the use of a university logo or mascot on marketing for student loans.[57]

In subsequent years, some colleges formed credit card marketing arrangements with vendors. Vendors frequently paid royalties to colleges based on the number of students using their credit card. The Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 restricted the use of tangible inducements for students when marketing a credit card on campus and requires credit card issuers who enter into "college card affinity agreements" to annually submit arrangements to a public database now administered by the Bureau.[58]

Below is a list of requirements colleges and vendors must follow under the Higher Education Act and Credit CARD Act when jointly marketing student loans and credit cards. Administrators can reduce potential conflicts of interest by adopting similar rules in their college-sponsored account marketing arrangements.

Restrictions on marketing college credit cards

- Vendors must submit "affinity agreements" to a public database,[xxi] disclose the number of accounts open under the agreement, and disclose total amounts of remuneration paid to a partner college.[59]
- When marketing on campus, vendors and credit card providers are restricted from giving inducements, also known as "freebies," such as t-shirts or food, in exchange for applying for a credit card.[60]

Restrictions on marketing student loans[61]

- Colleges are prohibited from delaying the delivery of student loans[xxii] based on the lender a student chooses.[62]
- Vendors and colleges are restricted from co-branding college marks, logos, or mascot on financial products.[63]
- Colleges are required to develop an employee code of conduct, including prohibitions on gifts and compensation to college officials.[64]
- Colleges are required to clearly disclose of the method and criteria used to choose vendors being marketed as "preferred."[65]
- Colleges are required to have more than one lender on their preferred list when recommending private student loans.[66]

[xxi] Beginning July 1, 2016, the new Department of Education rules on Cash Management will require many colleges to post their arrangements online with similar summaries and submit links to those contracts to the Secretary of Education. *See Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67127-67129, (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[xxii] Under the new Department of Education rules on Cash Management, most vendors will be required to disburse federal student aid to an account chosen by the student in a manner as timely as they would disburse the aid to one of a vendor's own accounts. However, non-federal aid funds, such as institutional refunds or overpayments, are not subject to the same requirements. *See* U.S. Department of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67196 (Oct. 30, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf.

[1] *See* U.S. Gov't Accountability Office, GAO-14-91, *College Debit Cards: Attention Needed to Address ATM Access, Student Choice, and Transparency* (Feb. 2014), ***available at*** http://www.gao.gov/assets/670/660919.pdf.

[2] *See* U.S. Dep't. of Education, Office of Inspector General, *Final Management Information Report*, ED-OIG/X09N0003 (Mar. 10, 2014), ***available at*** https://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-lindstrom1-oig.pdf.

[3] *See* Federal Deposit Insurance Corp., *FDIC Announces Settlements With Higher One, Inc., New Haven, Connecticut, and the Bancorp Bank, Wilmington, Delaware for Unfair and Deceptive Practices* (August, 8 2012), ***available at*** https://www.fdic.gov/news/news/press/2012/pr12092.html; Consumer Financial Protection Bureau, *Consumer Advisory: Accessing your Scholarships and Student Loan Funds* (Aug. 9, 2012), ***available at*** http://www.consumerfinance.gov/blog/consumer-advisory-accessing-your-scholarships-and-student-loan-funds/.

[4] *See* GAO, *College Debit Cards*, *supra* note 1.

[5] *See* U.S. Dep't. of Education, *Program Integrity and Improvement (final rule)*, 80 Fed. Reg. 67194-67200 (Oct. 30, 2015), available at http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf; ***and*** U.S. Dep't. of Education, *U.S. Department of Education Announces Two Final Regulations to Protect Students and Help Borrowers* (Oct. 27, 2015), available at http://www.ed.gov/news/press-releases/us-department-education-announces-two-final-regulations-protect-students-and-help-borrowers.

[6] *See* Dep't. of Education, *U.S. Department of Education Announces Two Final Regulations to Protect Students and Help Borrowers*, *supra* note 5.

[7] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5.

[8] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5 at 67194-67200.

[9] *Id.*

[10] *Id.*

[11] *Id.* at 67197-67198.

[12] *See* Dep't. of Education, *U.S. Department of Education Announces Two Final Regulations to Protect Students and Help Borrowers*, *supra* note 5.

[13] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5 at 67194-67400.

[14] *Id.*

[15] *Id.*; *see also* U.S. Department of Education, *Program Integrity and Improvement* (proposed rule), 80 Fed. Reg. 28508-28509 (May. 18, 2015), *available at* http://www.gpo.gov/fdsys/pkg/FR-2015-05-18/pdf/2015-11917.pdf.

[16] *Id.*

[17] *See, e.g.*, Public comments received in response to the Department of Education's *Proposed Rule for Program Integrity and Improvement* (July 02, 2015), ED-2015-OPE-0020-0088, ED-2015-OPE-0020-0113, ED-2015-OPE-0020-0122, ED-2015-OPE-0020-0138, CFPB-2013-0003-0158, ED-2015-OPE-0020-0161, ED-2015-OPE-0020-0168, ED-2015-OPE-0020-0170.

[18] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5 at 67197-67198.

[19] *Id.* at 67197-67199.

[20] *Id.* at 67198.

[21] *Id. at* 67199, 668.164(g).

[22] Consumer Financial Protection Bureau, *Data Point: Checking account overdraft* 8-10 (July 2014), *available at* http://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf.

[23] *Id.* at 5.

[24] *Id.* at 5.

[25] *Id.* at 14.

[26] For further discussion of overdraft policies and pricing, *see* Consumer Financial Protection Bureau, *CFPB Study of Overdraft Programs: A white paper of initial data findings* 27-40 (June 2013), *available at* http://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf.

[27] *See* Dep't. of Education, *Program Integrity and Improvement, supra* note 5.

[28] GAO, *College Debit Cards, supra* note 1, at 21-23

[29] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5, at 67162-67163.

[30] S*ee, e.g.*, *Proposed Language for Financial Aid-to-Debit Card Programs*, TouchNet (Mar. 15, 2014), *available at* http://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-toughey5-debitcards.pdf (submitted in support of the discussion regarding the Department of Education's negotiated rulemaking on Cash Management, 2013-14).

[31] *Id*.

[32] *See, e.g.*, Public comment in response to the Consumer Financial Protection Bureau's Request for Information Safe Student Banking, CFPB-2015-0001-0037.

[33] Consumer Financial Protection Bureau, *Study of prepaid account agreements* 27-28 (Nov. 2014), *available at* http://files.consumerfinance.gov/f/201411_cfpb_study-of-prepaid-account-agreements.pdf.

[34] Consumer Financial Protection Bureau, *Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)* (proposed rule), 79 Fed. Reg. 77101, §668.164(g) (Dec. 23, 2014), *available at* http://www.gpo.gov/fdsys/pkg/FR-2014-12-23/pdf/2014-27286.pdf.

[35] *See* 12 C.F.R. § 1005.6 and 1005.11.

[36] CFPB, *Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)*, *supra* note 34.

[37] *Id*.

[38] *See* 668.164(g); 31 CFR 210.5(b)(5); 12 CFR 1005.18.

[39] N.Y. Att'y Gen., *Attorney General Cuomo Announces Settlement With Education Finance Partners Over Its Student Loan Practices* (Apr. 16, 2007), *available at* http://www.ag.ny.gov/press-release/attorney-general-cuomo-announces-settlement-education-finance-partners-over-its.

[40] U.S. Dep't. of Education, Office of Inspector General, *Final Management Information Report*, ED-OIG/X09N0003 15-16 (Mar. 10, 2014), *available at* https://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-lindstrom1-oig.pdf.

[41] *See* Public comment in response to the Consumer Financial Protection Bureau's *Request for Information on Safe Student Banking* (Feb. 13, 2015), CFPB-2015-0001-0036.

[42] Consumer Financial Protection Bureau, *CFPB Study of Overdraft Programs: A white paper of initial data findings* 28-48 (June 2013), *available at* http://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf.

[43] *Safeguarding Student Finances: Guidance for Campuses Offering Student Debit Card Options*, National Association of College and University Business Officers (NACUBO) (Dec. 2012), *available at* http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/pii-safeguarding.pdf.

[44] Consumer Financial Protection Bureau, *New Students Should Look Closely at College-sponsored Bank Accounts and Shop Around* (Aug. 2015), *available at* http://www.consumerfinance.gov/blog/new-students-should-look-closely-at-college-sponsored-bank-accounts-and-shop-around/

[45] N.Y. Att'y Gen., Mass. Att'y Gen., *Submission to the Department of Education in response to Negotiated Rulemaking - Program Integrity and Improvement: Issue 4: Cash Management* (Mar. 5, 2014), *available* at http://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-fast1-cashmgmt.pdf (submitted in support of the discussion regarding the Department of Education's negotiated rulemaking on Cash Management, 2013-14).

[46] N.Y. Att'y Gen., *In the Matter of New York University* (Mar. 2007), *available at* http://www.nyu.edu/content/dam/nyu/financialAid/documents/student.loan.agreement.pdf.

[47] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5 at 67196-67199.

[48] GAO, *College Debit Cards*, *supra* note 1.

[49] *See Safeguarding Student Finances*, *supra* note 43.

[50] *See* Dep't. of Education, *Program Integrity and Improvement*, *supra* note 5 at 67196-67199.

[51] *See, e.g.*, Public comment in response to the Consumer Financial Protection Bureau's Request for Information on Financial Products Marketed to Students Enrolled in Institutions of Higher Education (Feb. 5, 2015), CFPB-2013-0003-0018.

[52] *See, e.g.*, Public comment in response to the Consumer Financial Protection Bureau's Request for Information Safe Student Banking, CFPB-2015-0001-0007; CFPB-2015-0001-0025; CFPB-2015-0001-0031.

[53] *See* Public comment in response to the Consumer Financial Protection Bureau's *Request for Information on Safe Student Banking* (Feb. 13, 2015), CFPB-2015-0001-0009.

[54] For example, one college negotiated reductions in account fees so that students could more easily access their funds; *See, e.g.*, Western Washington University, *Letter to students regarding updates from the Higher One Task Force* (Feb. 2012), *available at* http://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-toughey2-wwashu.pdf (submitted in support of the discussion regarding the Department of Education's negotiated rulemaking on Cash Management, 2013-14).

[55] *See* N.Y. Att'y Gen., *Attorney General Cuomo Announces Settlement With Education Finance Partners Over Its Student Loan Practices* (Apr. 16, 2007), *available at* http://www.ag.ny.gov/press-release/attorney-general-cuomo-announces-settlement-education-finance-partners-over-its.

[56] *See* Program participation agreements, 20 U.S.C. § 1094(a)(25).

[57] *See* Preventing unfair and deceptive private educational lending practices and eliminating conflicts of interest, 15 U.S.C. § 1650(c).

[58] Open end consumer credit plans, 15 U.S.C. § 1637(r).

[59] *Id*.

[60] *See* Preventing unfair and deceptive private educational lending practices and eliminating conflicts of interest, 15 U.S.C. § 1650(c).

[61] For a further discussion on adopting these provisions, *see* U.S. Department of Education, Office of Inspector General, *Final Management Information Report*, ED-OIG/X09N0003 15-16 (Mar. 10, 2014), *available at* https://www2.ed.gov/policy/highered/reg/hearulemaking/2014/pii2-lindstrom1-oig.pdf.

[62] *See* Preferred lender arrangement disclosures, 34 C.F.R. § 601.10(d)(5).

[63] *See* Limitations of private education loans, 12 C.F.R. § 226.48(a).

[64] *See* Program participation agreements, 20 U.S.C. § 1094(a)(25)(A).

[65] *See* Preferred lender arrangement disclosures, 34 C.F.R. § 601.10(d)(3).

[66] *See* Preferred lender arrangement disclosures, 34 C.F.R. § 601.10(d)(2).