VIA email – CFPB_StudentsFedReg@cfpb.gov

March 18, 2013

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

RE: Docket No. CFPB-2013—0003: Request for Information Regarding Financial Products Marketed to Students Enrolled in Institutions of Higher Education

Dear Ms. Jackson:

The Consumer Bankers Association (CBA)[1] and the American Bankers Association (ABA)[2] (collectively "the Associations") submit this letter in response to the Consumer Financial Protection Bureau's (Bureau) Request for Information Regarding Financial Products Marketed to Students Enrolled in Institutions of Higher Education (RFI). The Associations appreciate the opportunity to share our comments and to work with the Bureau on this issue.

Pursuant to the RFI, the Bureau seeks information to develop a clearer picture of the financial products and services being offered to college students, as well as consumers' experiences using those products and services. The Bureau also seeks information about "how current and future partnerships between institutions of higher education and financial institutions could be structured to promote positive financial decision-making among young consumers" and indicates it wants to "see if students are getting a good deal. . ." The Associations share the Bureau's goal in promoting consumers' understanding and management of financial products while ensuring that they have meaningful choices – whatever their age or stage in their financial life cycle.

The Associations believe students should have choices in financial products and services and understand those products and services before making a selection, and we support the

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[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.

Bureau's efforts to achieve that goal. In the preamble to the RFI, however, the Bureau states that it is also seeking to determine if the informed choices of the students are in their "best interest." While consumers' interests are of paramount concern, the goal of the Bureau's inquiry should not be to establish a suitability standard against which products and services are evaluated, but to ensure that students are given informed choice to determine what is in their own best interest. That is what we assume the Bureau intends, and we would encourage clarification of this point.

Discussion

Depository institutions of all sizes offer products for today's university and college ("educational institutions") students and this population of often new entrants to traditional banking products benefit from the many bank products available in the market. These products may be offered as a part of a bank's everyday suite of products, and many institutions in fact offer stand-alone products suitable for younger customers and students. These products may include deposit accounts with debit cards with no monthly fees and/or no minimum balance, low-cost prepaid cards, or limited purpose accounts that can be connected to a parent's account. The latter arrangement allows parents to monitor their child's financial activity and provide funding as needed, including in emergencies. Depository institutions may also make arrangements to pay educational institutions for space to install ATMs on or near campuses and to market their products on campus.

Other student-oriented products include those that are provided pursuant to a partnership between a financial institution and a university or college – affinity products. These banking options are often identified with a specific educational institution and can be offered under exclusive and non-exclusive arrangements. In these cases, students are offered the choice of that affinity bank's product, but are not obligated to accept the offer. The primary focus of this letter is on those student affinity products offered pursuant to exclusive relationships between schools and financial institutions for those student products.

Exclusive arrangements for student products can play an important role in bringing low-cost offerings to students. These products may include campus identification cards that have the functionality of a debit card and are often linked to a no-monthly-balance, no-monthly-maintenance-fee student checking account. A bank could also partner with a school to provide personal bank accounts with normal debit capabilities or prepaid products not otherwise connected to the student identification card. All of these options are designed to allow accounts to be loaded with funds directly by a student and/or with funds provided through student loan reimbursements.

The Associations' members offer competitively priced and easy to use products for young consumers. These products are designed to provide safe, expedited, and convenient access to funds for students. In addition, our members' goal is to foster long-term relationships with students that will continue to grow and meet the expanding financial needs of the customer long after graduation day, so it is in their best interest to ensure student customers have a positive experience. Accordingly, it is important to draw distinctions between products offered to students by heavily regulated depository institutions (e.g. banks and credit unions) and those products offered by entities that are not regularly examined and often rely on short-term business models designed to produce short-term monetary gain. In contrast with depository institutions, these entities often lack the ability or desire to foster long-term relationships with students that will continue post-graduation and often employ business models that maximize the fees students pay in order to ensure a profit.[3]

Additionally, our members that offer affinity student products are highly regulated by federal and state agencies. As such, these products are overseen and examined by a number of regulatory agencies, including the Bureau, to ensure products comply with various consumer protection laws. Importantly, all bank-offered products are subject to applicable federal and state statutes, most notably, the provisions of the Electronic Funds Transfer Act (EFTA), the Truth in Savings Act (TISA), and the Higher Education Act.

<u>Benefits of Affinity Relationships</u>

1) Student Benefits

Students have choices and can benefit from affinity relationships. First, with regard to our members' products, all consumers, including students, always have the freedom to choose the financial institutions and products they use, and are not required to use any particular product or institution. Even where the educational institution has an affinity relationship with a particular financial institution, it is entirely up to the student to affirmatively opt-in to any product. Second, all terms of a financial product, including fees, are given to student prior to account set-up and must be clear and conspicuous under the provisions of federal law (TISA as implemented under Regulation DD and EFTA as implemented under Regulation E). Third, students choosing to use an affinity product are under no obligation to continue using the product during the duration of enrollment or for any period of time thereafter.

Additional important benefits of many affinity programs are their low cost and student-oriented design. Depository institutions that enter into affinity relationships for student products are often able to offer tailored products at lower costs due to participation of often large, homogeneous groups – student bodies. The similarity in basic financial characteristics of most students allows the depository institution to design products suited to meet the specific needs of a particular student body. As with any financial products, tailored products that meet the needs of many allow institutions to invest in the service of the product and enhance its ease of use. For example, student affinity programs may allow a bank to provide convenient amenities such as on-campus, fee-free ATMs and to allow for other product features, such as the direct deposit of student loan reimbursements. Many also carry benefits with local merchants who offer products and services at discounted rates. These features not only add to the overall value of student affinity products (e.g. faster funds availability), but also enhance the products' safety and convenience (e.g. direct deposit vs. handling check and/or cash).

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[3] *Price, et al. v. Higher One Holdings, Inc., et al.*, Case No. 12-cv-1093-VLB, U.S. District Court, District of Connecticut.

Affinity arrangements also often provide financial education for students. Depository institutions are aware that many students are new to traditional banking services. Many university and college freshmen have never held a deposit account or paid a bill. Accordingly, affinity arrangements often include assistance and education to students at convenient times and locations in order to promote fiscal responsibility. These education programs underscore the effort financial institutions make to ensure students are provided with quality financial products and services that will serve them beyond their college experience. Such assistance and education are not typically provided with similar off-campus services.

2) University and College Benefits

In addition to the educational institutions' presumed incentive to act in the best interest of their students, one would expect that other practical reasons might also motivate them to ensure that students benefit from arrangements with depository institutions. Providing services that harm their students could impact important sources of current and future financial support. The reputational harm might jeopardize current alumni and tuition contributions. Future alumni contributions could be jeopardized if current students have a negative experience.

Affinity relationships can also prove to be a more efficient use of educational institution resources that ultimately benefit students by decreasing tuition costs and improving facilities and services. These partnerships have the potential to generate significant savings and revenues for colleges and universities. By partnering with depository institutions, educational institutions receive assistance with a variety of services that they are often not equipped to handle or do so at great financial cost. According to a report issued by the National Association of College and University Business Officers (NACUBO), bank partners can often alleviate colleges' and universities' administrative burdens by applying expertise to such things as payment processing, data management, compliance and more.[4] NACUBO also indicates in its report that depository institution partners are often better suited to serve educational institutions and students through expedited electronic fund disbursements, which lessen the need for printed checks that take longer to be processed and can be lost – all at great costs.

<u>Competitive Process</u>

Educational institutions can develop affinity relationships through two competitive processes – public request for proposals (RFP) or direct solicitation by a depository institution. However, a majority of today's affinity relationships are initiated through the RFP process which solicits competitive bids for institutions and their constituencies. RFPs and their results are often public record.[5] Both processes are often administered through an educational institution's procurement office, which is staffed with experienced professionals that possess the knowledge necessary to negotiate complicated agreements. Many institutions also include student representatives in evaluating affinity programs to ensure consideration of student needs when choosing a partnership.

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[4] NACUBO: Student Refunds and Personal Banking at colleges and Universities (at 2) – October 2012.
[5] *Id* at 2

Irrespective of the type of affinity solicitation, it is in the best interest of educational institutions to negotiate the best deal for its students. As discussed, they have every incentive to negotiate the best terms and conditions to provide the best value proposition for students (e.g. low student costs, convenience, etc.). In fact, according to the above-referenced report from the NACUBO, an overwhelming majority of colleges and universities surveyed about their affinity relationships indicated they took into consideration potential student-related bank fees when selecting a banking partner.[6]

Conclusion

The Associations share the Bureau'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 as part of a suite of their general products and through affinity relationships with universities and colleges. Depository institutions have an incentive to ensure student customers have a positive banking experience because their goal is to foster long-term relationships through multiple products.

Affinity relationships can provide value to both institutions of higher education and the students they serve. Students are often afforded low-cost, high-convenience financial products designed with their needs in mind and in many cases receive convenient financial education to better prepare them for life-long financial relationships. Universities and colleges can benefit from the savings and revenue and the assistance in providing services they are not otherwise equipped to handle.

We appreciate the opportunity to provide information and look forward to working with the Bureau on this important matter.

Sincerely,

David Pommerehn	Nessa Feddis
Counsel, Legislative & Regulatory Affairs	Senior Vice President & Deputy Chief Counsel
Consumer Bankers Association	American Bankers Association

[6] *Id* at 2