

PUBLICATION

CFPB Takes Aim at Relationships between Universities and Credit and Debit Card Issuers

February 13, 2015

Financial institutions marketing credit and debit cards to college and university students should prepare for likely investigations and enforcement actions by the Consumer Financial Protection Bureau and other regulatory bodies in the coming months and years.

Credit CARD Act of 2009 and Reduction of Colleges' Relationships with Credit Card Issuers

Anyone who attended a college or university in the United States in the 1990s or 2000s likely recalls tables throughout campus where representatives for credit card companies offered gifts and low introductory interest rates to induce students to sign up for their first credit card. What college students may not have realized was that their colleges and universities had entered into marketing agreements with those credit card companies and were compensated for allowing them to market directly to their students.

In response to these arrangements, Congress passed the Credit Card Accountability, Responsibility and Disclosure (CARD) Act of 2009. Pursuant to the CARD Act, credit card issuers must disclose to the CFPB all marketing agreements they have with colleges, universities and certain affiliated organizations, the number of new credit card accounts opened related to those agreements, and the compensation paid by the credit card issuers.

In December 2014, the CFPB submitted its [latest report](#) to Congress regarding the CARD Act, and noted that the number of credit card marketing agreements with institutions of higher learning and the amount of compensation paid to universities have both substantially declined from 2009 to 2013. In light of these decreases, the regulatory focus seems to have shifted to issuers of debit and pre-paid cards, which are not covered by the CARD Act's new requirements.

The CFPB's Monitoring of Debit Card Issuers

While the CFPB has not brought any enforcement actions in this area, in the past few years it has steadily increased its monitoring of debit card issuers, and [sought](#) "voluntary" disclosures of information based on its inherent powers under the Dodd-Frank Act. The CFPB also repeatedly hinted at future enforcement actions against what it sees as inappropriate relationships between debit card issuers and universities.

Specifically, the CFPB noted that "When financial institutions secretly give kickbacks to schools, they are engaging in risky practices," and [that](#) it had "alerted financial institutions about the potentially risky practice of not readily disclosing arrangements with colleges and universities to market bank accounts, prepaid cards, debit cards and other financial products to students." [In December 2014](#), the CFPB again put debit card issuers and universities on notice that it is "closely monitoring the marketing arrangements many colleges and universities have with financial institutions related to deposit accounts, prepaid cards, debit cards and other financial products" and that investigations "have raised numerous concerns about conflicts of interest in these deals and their impact on students."

Despite these strongly worded statements, the CFPB has not yet brought any enforcement actions against debit card issuers or universities. However, in January 2015, the CFPB proposed new regulations relating to a voluntary "Safe Student Account Scorecard" that colleges and universities can use to request that financial institutions disclose the same information relating to debit card accounts as credit card issuers are required to do under the CARD Act.

Actions Against Debit Card Issuers by Other Bodies

While the CFPB has not brought any enforcement actions against debit card issuers, two other regulatory bodies have done so, and pressure is mounting on others to follow suit.

[In 2012](#), the Federal Deposit Insurance Corporation (FDIC) brought an enforcement action alleging deceptive trade practices by a bank and affiliated company in marketing debit card accounts to college students and assessing fees that affected refunds of the students' education loans. That action resulted in an \$11 million settlement, in addition to enhanced oversight requirements.

[In July 2014](#), the Federal Reserve Board settled a similar enforcement action relating to the issuance and management of college students' debit card accounts, resulting in \$3.5 million in penalties and restitution as well as increased oversight obligations.

Meanwhile, [in February 2014](#), the U.S. Government Accountability Office (GAO) issued a lengthy report recommending that Congress increase oversight of debit and pre-paid card activities on college campuses, and noting multiple possible enforcement options for the Department of Education and CFPB. Congress has also increased pressure [on the Department of Education](#) to take action.

Further Enforcement Actions Are Likely

While the CFPB has only sought "voluntary" disclosures of information regarding the relationships among debit card issuers, universities and their students, it appears that it and other regulatory bodies are likely to bring further enforcement actions in this area in the months and years to come. Accordingly, debit card issuers and universities should review their current marketing agreements and practices and prepare to defend against any such investigations or enforcement actions.