



September 5, 2018

Ms. Jay Sidhu
CEO Customers Bank
1015 Penn Avenue, Suite 103
Wyomissing, PA 19610

Shipment via United Parcel Service
Tracking No. 1ZA879643597155270

RE: Final Program Review Determination Letter
PRCN: 2015 1 07 99991

Dear Ms. Sidhu:

Department staff conducted a focused program review of Higher One, Inc.'s/Customers Bank's (Higher One's/Customers Bank's) administration, as a third party servicer, of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). Higher One's/Customers Bank's final response to the program review report was received on November 17, 2017.

The Third Party Servicer Oversight Group has reviewed Higher One's/Customers Bank's response to the Program Review Report. A copy of the program review report (and related attachments) with Higher One's/Customers Bank's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by Higher One/Customers Bank upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning the outstanding findings of the program review report. The purpose of this letter is to: (1) identify liabilities resulting from the findings of the program review report, (2) provide instructions for payment of liabilities to the Department, (3) and notify Higher One/Customers Bank of its right to appeal.

The total liability due from Higher One/Customers Bank from this program review is **\$6,481,064.45**.

The final program review determination for each finding is discussed in detail below.

Federal Student Aid

An OFFICE of the U.S. DEPARTMENT of EDUCATION

Third Party Servicer Oversight Group

1010 Walnut Street, Suite 336; Kansas City, MO 64106

Psa3rdpartyserviceroversight@ed.gov

Findings and Final Determinations

Resolved Findings

The Department has determined Higher One/Customers Bank implemented the corrective actions necessary to resolve Findings 2 and 3 of the program review report. Therefore, these findings may be considered closed.

Finding with Final Determinations

The program review report finding requiring further action is summarized below. At the conclusion of the finding is a summary of Higher One's/Customers Bank's response to the finding, and the Department's final determination for the finding. A copy of the program review report issued on August 18, 2017 is attached as Appendix A.

Finding 1. Failure to Provide Fee-Free Access to ATMs

Noncompliance:

An institution that participates in any Title IV, HEA program, and its servicer(s), must cooperate with the Department in the conduct of audits, investigations, program reviews or other reviews authorized by law. The institution and servicer must cooperate by providing timely access to requested records, including computerized records and records reflecting transactions with any financial institution with which the institution or servicer deposits or has deposited any Title IV program funds, and to any pertinent books, documents, papers, or computer programs. 34 C.F.R. § 668.24(f)(1),(2).

A. 2014 – 2016 Award Years (2013-2014; 2014-2015; 2015-2016)

During these award years, if an institution established a process that a student or parent followed to open a bank account or obtain a debit card, stored-value card, ATM card, or other transaction device, or similarly assisted the student or parent in opening an account, the institution was required to inform the student or parent of the terms and conditions associated with accepting and using the account before the account was opened. In addition, the institution had to ensure that the student or parent had convenient access to a branch office of the bank or an ATM of the bank in which the account was opened, or an ATM of another bank, so that the student did not incur any cost in making cash withdrawals. The branch office or the ATMs had to be located on the institution's campus, in institutionally-owned or operated facilities, or on "Public Property" that is immediately adjacent to and accessible from campus. 34 C.F.R. § 668.164(c)(3)(2015). The Department has defined "Public Property" to include all thoroughfares, streets, sidewalks, and parking facilities. 34 C.F.R. § 668.46(a).

Higher One and its partnering institutions established a policy and a process that required students to sign into a co-branded web-site to activate a Higher One Debit MasterCard that was mailed to students by Higher One. Students were then required to utilize the Higher One Debit MasterCard card number to follow a process to make his/her preference for the disbursement of Title IV credit balances. Since Higher One and the institutions established these processes they were required to comply with the fee free access provision noted above.

The Department determined that at some institutions that partnered with Higher One for the delivery of Title IV credit balance refunds students were not provided fee-free access to an ATM located on the institution's campus, in institutionally-owned or operated facilities, or immediately adjacent to the campus that students attended. For example, in its contract with Sacred Heart, Higher One installed only one ATM at its main campus despite the fact that Sacred Heart had five satellite locations. In addition, during the program review conducted at Bryant & Stratton College, program reviewers documented that Higher One had initially only installed ATMs at two of its campuses. When Bryant & Stratton entered into its contract with Higher One in 2011 there were no ATMs at its main location or at 15 additional campus locations. At the time of the program review in May of 2013, ATMs were still not installed at seven Bryant and Stratton locations.¹

The Department was informed in July 2016 that the fee-free ATMs that had been installed at institutions of higher education by Higher One had been disabled effective May 4, 2016. On July 8, 2016, the Department notified Customers Bank (formerly Higher One) that removal of these ATMs was a direct violation of the Title IV cash management regulations. In its response, Customers Bank confirmed that the fee-free Higher One ATMs had been disabled on May 4, 2016. Customers Bank stated that as of that date, it had provided surcharge-free access to the Allpoint ATM Network in anticipation of the July 1, 2016 regulatory changes that required third party servicers offering financial accounts under T1 arrangements to ensure that students have convenient access to the funds through a surcharge-free national or regional ATM network. At the Department's request, Customers Bank identified \$1,110,275 in ATM fees charged to students between May 4, 2016 and July 1, 2016. Customers Bank urged the Department to conclude that restitution of the fees was unnecessary in this instance, as it would deter program participants from early implementation of future regulatory changes.

B. 2017 and Subsequent Award Years

The Title IV regulations regarding student access to credit balance funds when an institution partners with an entity to provide financial accounts for students were revised effective July 1, 2016. Under the new regulations, an arrangement is considered to be T1 if an institution contracts with a servicer to disburse Title IV funds to financial accounts offered under the contract, or information about the financial accounts is communicated directly to students by the institution, the third party servicer, or another entity affiliated with the third party servicer. 34 C.F.R. § 668.164(e)(1). If an entity meets this definition, it must comply with additional requirements which include providing students with

¹ The Department's review of information from prior reports and its database establishes that there are numerous other institutions that contracted with Higher One that did not have accessible ATMs on campus.

convenient access to the funds in the financial account through a surcharge-free national or regional ATM network that has ATMs sufficient in number and housed and serviced such that Title IV funds are reasonably available to students, including at the times the institution or its third party servicer makes direct payments into the financial accounts of those students. 34 C.F.R. § 668.164(e)(2)(iv).

As discussed in the preamble to the Notice of Proposed Rulemaking (NPRM) and the Final Regulations, the phrase “sufficient in number and housed and serviced such that Title IV funds are reasonably available to students” is a direct reference to ATMs located on campus. To determine if the number or location of an institution’s fee-free ATMs meets this requirement, the school and its servicer must consider the number of credit balance recipients attending each school location. The school is exempt from this requirement only where the number of credit balance recipients is small enough that it is not cost-effective to place and service an ATM at a particular location. In response to public comments on the NPRM that it specify the number of ATMs that a school must have on a campus location, the Department chose instead to establish an approach where the school makes that determination depending on its student population and campus characteristics.

The Preamble discussion to the Final Regulations published on October 30, 2015 makes clear the Department’s intention with respect to accessibility to fee-free ATMs. The Preamble specifically states:

The Department believes it is important to balance the cost and burden of providing ATMs against the necessity for students to have convenient access to their student aid, which is an existing regulatory requirement By requiring that there are in-network ATMs sufficient in number and housed and serviced such that the funds are reasonably available to the accountholder, students will have access to their funds while institutions will have flexibility in instances where few credit balance recipients are enrolled. For example, at a large campus with thousands of Title IV recipients, it is likely that several ATMs would be required. In contrast, if an institution has a location with only a few credit balance recipients, or a location where students are only taking one class, an ATM that is part of a larger regional network at a store several blocks away may be sufficient. A location of an institution providing students with 100 percent of an educational program in a small town in a rural region would need to provide ATM access on campus if students would otherwise have no free access to their funds through an in network ATM or branch office of the account provider located in the town. . . . If there continues to be “runs” on fee-free ATMs, or if students are forced to incur an abnormally high number of out-of network ATM fees, or if the institution receives complaints about the number and location of its ATMs (all indicators that were cited in consumer and government reports), there would be good evidence that the institution is not complying with the fee-free convenient ATM access provisions of the regulations and would need to evaluate whether additional ATMs or different locations would be necessary.

80 Fed. Reg. 67163-67164 (October 30, 2015). The regulatory history makes clear that for many institutions the only way to meet the “convenient access” mandate of the regulations is to provide ATMs on campus.

The contracts Higher One/Customers Bank has with numerous Title IV institutions, including the 7 that were part of this review, are all considered T1 arrangements under the Title IV disbursement regulations. Consequently, Higher One/Customers Bank must comply with the requirements outlined above regarding fee-free access to Title IV funds.

As previously noted, Higher One/Customers Bank disabled its ATMs effective May 4, 2016, and switched to the Allpoint ATM Network for surcharge-free access to funds in anticipation of the July 1, 2016 regulatory changes that required third party servicers offering financial accounts under T1 arrangements to ensure that students have convenient access to the funds through a surcharge-free national or regional ATM network. Although Higher One/Customers Bank claims that this network meets the regulatory requirements, the Department has determined that is not the case for all institutions. As noted above, the Department made clear that institutions of a certain size and in certain areas would require ATMs on campus to meet the “convenient access” requirement. Very few of the Allpoint ATMs are located on institutions’ campuses. Further, the Department has reviewed the ATM locations for several institutions and determined that the closest ATM location was not convenient under any definition of the term. Not only would students need to secure transportation to reach the ATMs, but there are also safety and access concerns in some of the areas. For example, students under 21 years of age may not be able to enter a bar to obtain funds, and some students may not be comfortable entering isolated truck stops or convenience stores late at night. The regulations were revised to ensure that students could conveniently receive Title IV credit balances without incurring fees, and the Allpoint Network chosen by Higher One/Customers Bank does not provide that option for all institutions. Consequently, Higher One/Customers Bank is not fully compliant with the new requirements.

Directives from Program Review Report:

With its response to the program review report, Higher One/Customers Bank was required to revise its policies and procedures for the delivery of Title IV funds to comply with revised regulatory requirements, including ensuring that students receive fee-free access to Title IV funds.

A. 2014-2016 Award Years (2013-2014; 2014-2015; 2015-2016)

In addition, Higher One/Customers Bank was required to provide a listing of all higher education institutions that Higher One/Customers Bank contracted with to deliver Title IV credit balance refunds and identify those locations, timeframes, and the aggregate amount of fees for each institution that were charged to students during the time period in which Higher One/Customers Bank and the institution did not provide fee-free access to an ATM located on the institution’s campus, in institutionally-owned or operated facilities, or immediately adjacent to the campus that the students attended. Higher One/Customers Bank was allowed to exclude institutions that provided 100% of its educational programs on line.

B. 2017 and Subsequent Award Years

Higher One/Customers Bank was also required to update the listing provided to the Department in July 2016 of all Title IV institutions with which it maintained a T1 arrangement and identify the location of the nearest AllPoint Network ATM to the main campus and all additional locations of that institution. Higher One/Customers Bank was required to review that listing and identify any locations that did not have an ATM that met the “convenient access” criteria listed above. In addition, Higher One/Customers Bank was required to make arrangements to install ATMs on campuses if that was the only way that students could have convenient access to their Title IV funds. Higher One/Customers Bank was also required to provide the Department a timeline for the installation of the required ATMs.

Final Determination:

2014-2016 Award Years (2013-2014; 2014-2015; 2015-2016)

The regulations in place at the time of the program review required convenient fee-free access to ATMs or a branch office of a bank to be located on the institution’s campus or immediately adjacent and accessible from the campus to ensure that students did not incur any cost in making cash withdrawals. The Department has determined that Higher One/Customers Bank did not maintain convenient access to ATMs or bank branches located on or immediately adjacent to and accessible from 487 of the main and/or branch campuses of the institutions it partnered with. Consequently, students incurred costs that were prohibited to access Title IV credit balance refunds. See 34 C.F.R. § 668.164(c)(3).

Higher One/Customers Bank submitted the requested file review identifying students who incurred fees in violation of the above regulation. The Department has accepted Higher One’s/Customers Bank’s file review for purposes of resolving this finding. The Department did remove any student who had a credit balance of \$1.00 or less in the account from the spreadsheet. Based on its analysis of the file review, the Department has determined that the total liabilities owed for this violation for the time period July 1, 2013 and May 4, 2016, are **\$5,370,789.45**. In addition, Customers Bank identified an additional **\$1,110,275** in prohibited ATM fees charged to students between May 4, 2016 and June 30, 2016, when it removed ATM terminals from numerous campus partners.

The total liability owed by Higher One/Customers Bank related to this finding is **\$6,481,064.45**.

In addition to the payment of liabilities, Higher One/Customers Bank must notify each of its partner institutions identified in Appendix B of the amount of fees paid by students attending that institution.

2017 and Subsequent Award Years

In response to the program review report, Higher One/Customers Banks notified the Department that it had switched to the Allpoint ATM network to provide students convenient access to their Title IV refunds. At the Department’s request, Higher One/Customers Bank provided a spreadsheet listing all institutions with whom it contracts and the location of all ATMs in the Allpoint network that were in a

several mile radius of the institution. Higher One/Customers Bank also identified the exact distance and location of the nearest ATM to campus. Higher One/Customers Bank notified the Department that it was taking steps to monitor the situation at each institution to ensure that students continued to receive fee-free access to their Title IV funds. In addition, Higher One/Customers Bank informed the Department that it was installing ATMs at 5 locations where it deemed students did not have convenient access to their funds.

The Department has reviewed the information provided by Higher One/Customers Bank in its response, and additional information regarding the institutions with whom the servicer contracts. After reviewing all of the relevant information, the Department has determined that the steps taken by Higher One/Customers Bank are not sufficient to comply with the convenient access provision of the disbursement regulations. As outlined in the report, the Allpoint network alone would not provide the students convenient access to their Title IV credit balance funds. The Department identified numerous cases where a student would have to travel a distance from campus to obtain his/her funds. This would clearly not be convenient for students residing on or around campus, or students commuting by bus or rail. In addition, some locations are in facilities or areas that may not be deemed safe for a student to access and others have limited hours of availability.

As set forth in the preamble to the regulation, the Department considers that in most cases a student would have convenient access to his/her funds only if there was an ATM on campus. Based on the information provided by Higher One/Customers Bank, the Department was unable to identify any client institutions that would fall into the limited exceptions to a campus ATM outlined in the preamble language above. Consequently, in order for Higher One/Customers Bank to remain in compliance with the disbursement regulations, it must install ATMS on the campuses of its client institutions. The Department recognizes that it may not be cost effective for Higher One/Customers Bank to install ATMs at the campuses of all institutions with whom it contracts, however, the decision to enter into these Tier 1 arrangements rests solely with the servicer.

As directed in the program review report, Higher One/Customers Bank must immediately make arrangements to install ATMs at the relevant campuses. In this regard, Higher One/Customers Bank should provide the Department an update on the actions taken to comply with this directive within 90 days of the date of this determination. If Higher One/Customers Bank fails to comply with this directive, the servicer will be referred to the Department's Administrative Actions and Appeals Servicer Group for possible adverse action.

Payment Instructions:

Liabilities Owed to Students

Higher One/Customers Bank must make a good faith effort to pay the amount identified in Appendix C directly to the student. Payments can be made directly to student accounts at Higher One/Customers Bank if those accounts remain open.

Higher One/Customers Bank must provide proof of payment to each student by submitting a copy of the front and back of the negotiated check, or proof of electronic fund transfer or deposit into the student's Higher One/Customers Bank Account. Proof of payment should be sent to Tammy Allen within **180** days of the date of this letter.

In the event a student cannot be located and/or the student does not cash a check that has been mailed, Higher One/Customers Bank must contact Tammy Allen with this information and return the funds directly to the Department following the payment instructions that will be forwarded at that time.

Appeal Procedures:

This constitutes the Department's FPRD with respect to the liabilities identified from the August 18, 2017 program review report. If Higher One/Customers Bank elects to appeal to the Secretary of Education for a review of the financial liabilities established by this FPRD, Higher One/Customers Bank must file a written request for a hearing. Please note that entities may appeal financial liabilities only. The Department must receive Higher One's/Customers Bank's request no later than 45 calendar days from the date Higher One/Customers Bank receives this FPRD. **The Department requests that Higher One/Customers Bank submit an original and four copies of its complete request for review.** The request must be sent to:

Attn: Susan Crim, Director
Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement
830 First Street, NE UCP3, Room 84F2
Washington, DC 20002-8019

Higher One's/Customers Bank's appeal request must:

- (1) indicate the findings, issues, and facts being disputed;
- (2) state Higher One's/Customers Bank's position, together with pertinent facts and reasons supporting its position; and
- (3) include a copy of the FPRD received by Higher One/Customers Bank.

When it submits its request for appeal, Higher One/Customers Bank may also include documentation it believes the Department should consider in support of the appeal.

If any appeal documents include personally identifiable information (PII), the PII must be redacted, except for the student's name and last four digits of his/her social security number (please see the enclosed document, "Protection of Personally Identifiable Information," for instructions on how to mail records containing PII).

If the appeal is timely, the request for appeal will be transmitted to the Department's Office of Hearings and Appeals (OHA), for an administrative hearing in accordance with § 487(b)(2) of the

Page 9


HEA, 20 U.S.C. § 1094(b)(2). The Hearing Official assigned to the case will issue an order scheduling the submission of briefs and supporting evidence in accordance with 34 C.F.R. § 668.114(c). Higher One/Customers Bank may therefore submit additional documentation supporting its appeal request at that time. Further, if Higher One/Customers Bank is appealing a projected liability amount, it may provide detailed liability information from a complete file review, either at the time it initially submits its appeal request or pursuant to the proceedings at OHA. The procedures followed with respect to Higher One's/Customers Bank's appeal are those provided at 34 C.F.R. Part 668, Subpart H. Interest on the appealed liabilities shall continue to accrue at the applicable value of funds rate, as established by the United States Department of Treasury, or if the liabilities are for refunds, at the interest rate set forth in the loan promissory note(s).

Record Retention:

Program records relating to the period covered by the program review must be retained until the later of: resolution of the loans, claims or expenditures questioned in the program review; or the end of the retention period otherwise applicable to the record under 34 C.F.R. §§ 668.24(e)(1)-(e)(3).

The Department expresses its appreciation for the courtesy and cooperation extended during the review. If you have any questions regarding this letter, please contact Tammy Allen at (816) 268-0443. Questions relating to any appeal of the FPRD should be directed to the address noted in the Appeal Procedures section of this letter.

Sincerely,



Dvak Corwin
Compliance Manager

cc: Andrew Rakacki, BankMobile

Enclosures: Protection of Personally Identifiable Information Enclosure
 Appendix A: Program Review Report
 Appendix B: Liabilities Notification to Institutions
 Appendix C: Liabilities Owed to Students
 Appendix D: Higher One/Customers Bank Response to Program Review Report

PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION

Personally Identifiable Information (PII) being submitted to the Department must be protected. PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth).

PII being submitted electronically or on media (e.g., CD-ROM, floppy disk, DVD) must be encrypted. The data must be submitted in a .zip file encrypted with Advanced Encryption Standard (AES) encryption (256-bit is preferred). The Department uses WinZip. However, files created with other encryption software are also acceptable, provided that they are compatible with WinZip (Version 9.0) and are encrypted with AES encryption. Zipped files using WinZip must be saved as Legacy compression (Zip 2.0 compatible).

The Department must receive an access password to view the encrypted information. The password must be e-mailed separately from the encrypted data. The password must be 12 characters in length and use three of the following: upper case letter, lower case letter, number, special character. A manifest must be included with the e-mail that lists the types of files being sent (a copy of the manifest must be retained by the sender).

Hard copy files and media containing PII must be:

- sent via a shipping method that can be tracked with signature required upon delivery
- double packaged in packaging that is approved by the shipping agent (FedEx, DHL, UPS, USPS)
- labeled with both the "To" and "From" addresses on both the inner and outer packages
- identified by a manifest included in the inner package that lists the types of files in the shipment (a copy of the manifest must be retained by the sender).

PII data cannot be sent via fax.

Appendix A:

Program Review Report

Prepared for
Higher One, Inc.



PROUD SPONSOR of
the AMERICAN MIND™

TPS ID: 77000954
PRCN: 2015 1 07 99991

Prepared by
U.S. Department of Education
Federal Student Aid
Third Party Servicer Oversight Group

Program Review Report

August 18, 2017

Table of Contents

	Page
A. Servicer Information.....	3
B. Scope of Review.....	3
C. Regulatory Background.....	4
D. Findings	6
Finding 1. Failure to Provide Fee Free Access to ATMs	6
Finding 2. Failure to Deliver Title IV, HEA Credit Balance Refunds within Required Regulatory Timeframes	11
Finding 3. Failure to Maintain Required Records.....	17
E. Recommendations.....	18
F. Appendices.....	20
Appendix A: Institutional Sample.....	20
Appendix B: Institutional Program Review Reports Referenced.....	20
Appendix C: Higher One Student Fees.....	20

A. Servicer Information

Higher One, Inc.
115 Munson Street
New Haven, CT 06511

Services Provided: Disbursement Services

Number of Clients: 550 (2013-2014)

Title IV Participation of Higher One, Inc. Clients (G5/COD):

	2013-2014 Award Year
Federal Pell Grant	\$8,069,059,532
TEACH	\$ 16,964,715
Direct Subsidized Loan	\$5,663,994,169
Direct Unsubsidized Loan	\$9,718,245,454
Direct PLUS	\$1,421,491,481
Direct Grad PLUS	\$ 726,348,961
Federal Supplemental Education Opportunity Grant	\$ 184,159,542
Federal Work Study	\$ 186,646,371
Federal Perkins Loan	\$ 129,679,655

Scope of Review

Department staff conducted a focused program review of Higher One Inc.'s (Higher One's) administration, as a third party servicer, of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). The focus of the review was to determine Higher One's compliance with the statutes and federal regulations as it pertains to the administration of Title IV, HEA processes Higher One performed on behalf of Title IV, HEA eligible institutions. The review consisted of, but was not limited to, an examination of contracts, policies and procedures, marketing materials, fee schedules, disclosure statements, institutional and student disbursement records, as well as the systems and procedures utilized to ensure the protection and safeguarding of personally identifiable information.

A sample of six Title IV, HEA eligible institutions that contracted with Higher One were identified for inclusion in the review. Those institutions Colorado Technical University (Colorado Technical), Florida South Western State College (Florida South Western), New York Institute of Technology (New York Institute), Post University (Post), Sacred Heart University (Sacred Heart) and Southern Connecticut State University (Southern Connecticut). The Department also reviewed information concerning Bryant and Stratton that was obtained during a program review conducted by the New York School Participation Division. The Department

obtained copies of written policies and procedures, marketing materials, as well as forms utilized by the institutions pertaining to the disbursement and delivery of Title IV, HEA credit balances and conducted focused program reviews at all six institutions.

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Higher One's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Higher One of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

Regulatory Background

An institution of higher education may enter into a written contract with a third party servicer for the administration of any aspect of the institution's participation in any Title IV, HEA program. 34 C.F.R. § 668.25. Banks and/or financial service companies often enter into contracts with eligible Title IV, HEA institutions to perform one or more of the following functions on behalf of the institution:

- obtaining a student's authorization to perform electronic fund transfers;
- obtaining a student's Title IV, HEA disbursement delivery preference;
- transferring Title IV, HEA funds electronically to a student's bank account;
- opening a bank account or other financial account on behalf of a student;
- issuing Title IV, HEA credit balance checks; and /or
- issuing debit card products for the delivery of student credit balance refunds, including Title IV, HEA credit balances.

A Title IV, HEA credit balance occurs when an institution credits Title IV, HEA program funds to a student's account and the total amount of those funds exceeds the student's tuition, fees, room, board, and other allowable charges. 34 C.F.R. § 668.164(e). Institutions that enter into agreements with banks or financial institutions generally provide students with an option to obtain a Title IV, HEA credit balance refund through a traditional or prepaid debit card. Some institutions outsource the entire disbursement and/or credit balance delivery process to banks or financial institutions.

Higher One Student Checking and Refund Management Disbursement Services

Higher One partnered with institutions of higher education to provide financial services and a refund management solution to deliver Title IV and non-Title IV credit balance refunds to students on behalf of each institution. During the scope of the program review, Higher One also partnered with Urban Trust Bank, WEX Bank, and Customers Bank to provide its full service banking solution. According to Higher One literature and contracts obtained by the Department, Higher One helped colleges and universities reduce administrative cost, streamline business processes, create new revenue streams, increase student customer service, and strengthen the campus community. Colleges and Universities looked to Higher One to help them enhance

financial services and refund management effectiveness, increase revenue from external sources, increase student services without significant additional costs to the institution, increase customer service levels for students, and expand student services by offering financial services tied to the OneCard which enabled students to make purchases off-campus anywhere MasterCard was accepted.

In its contracts with institutions, Higher One was required to:

- (1) Host a secure, co-branded web site for capturing student refund disbursement preference instructions;
- (2) Manage electronic refund disbursements according to students' disbursement selection preference;
- (3) Issue checks to students who failed to provide a disbursement preference option;
- (4) Reconcile disbursement accounts;
- (5) Process stop payments;
- (6) Return undisbursed/undeliverable funds to the institution;

Under these contractual arrangements, Higher One partnered with institutions to provide a co-branded College and Higher One Debit MasterCard to serve as the exclusive refund card on campus. The OneCard provided access to an optional Demand Deposit Account (DDA) or "One Account" each cardholder could choose to open. Higher One's "One Account" allowed for full featured banking including unlimited check writing, deposits and withdrawals. The One Account was made available to all members of the campus regardless of financial or credit history, and could be easily opened online without pre-qualification or paper signature required. Students activated their OneCard as well as the MasterCard debit functionality via a secure, co-branded website that had the look and feel of the institution. There was no charge for cash withdrawals when students used the OneCard at a Higher One ATM.

Higher One and its partnering institutions, including all six of the institutions included in the scope of the program review, established a specific process that students were required to follow to obtain a credit balance refund owed to students by the institution. As part of this process, institutions submitted enrollment files containing student contact information and other personally identifiable information needed for Higher One to manage each institution's electronic disbursement management program. Higher One was responsible for mailing welcome packets to students that included the student's Higher One co-branded Debit MasterCard as well as instructions for accessing the Higher One co-branded web site. Students were required to utilize the information in the welcome package to log in to the web site to activate the Higher One Debit MasterCard.

Students also made their delivery preference selection for credit balances through the same website as the activation of this OneCard. After entering the Higher One Debit MasterCard number and other information necessary to authenticate the student's identity on the web site, students were required to read through information regarding the disbursement selection options available to them and then instructed to make a disbursement selection preference. To increase the appeal of the Higher One account, students were notified that funds would be deposited on

the card the same business day funds were released to the institution, if the student selected the Higher One checking account option for their disbursement selection preference. Students who selected this option were then required to open a Higher One checking account.

Each institution determined the disbursement options available to students on the Higher One co-branded web site. Other possible options available to students in addition to the Higher One checking account included depositing credit balance refunds into a bank account designated by the student or receipt of a paper check. According to the Higher One web site, students that elected to receive their funds via a deposit to a student designated bank account would receive their funds in two to three business days from the date that funds were released by the student's institution. Students that elected to receive a paper check would receive their funds in five to seven days from the date that funds were released from the student's institution. If a student failed to login to the secure web site and make a disbursement preference selection, Higher One was to notify the student that a check was available to pick up at the institution. After 21 days, Higher One was to mail the student's refund check to the student's permanent mailing address on file at the institution.

Under the arrangements outlined above, Higher One had the full responsibility for delivering Title IV credit balances, which is a Title IV function. Consequently, Higher One was a Third Party Servicer for institutions using this product.

On June 16, 2016, Customers Bancorp, Inc. announced the successful acquisition of the OneAccount Student Checking and Refund Management Disbursement Services business of Higher One through its subsidiary Customers Bank. Through this acquisition, Customers Bank purchased all of the assets of the Higher One disbursements business, including all property and equipment, all contractual relationships with educational institutions, and all intellectual property. Customers Bank also hired approximately 225 employees who previously managed and worked for Higher One.

Program Review Findings

During the review, three areas of noncompliance attributable to Higher One were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by Higher One/Customers Bank and/or Higher One/Customers Bank's clients to bring operations of the financial aid programs into compliance with the statutes and regulations.

Finding 1. Failure to Provide Fee-Free Access to ATMs

Noncompliance:

An institution that participates in any Title IV, HEA program, and its servicer(s), must cooperate with the Department in the conduct of audits, investigations, program reviews or other reviews

authorized by law. The institution and servicer must cooperate by providing timely access to requested records, including computerized records and records reflecting transactions with any financial institution with which the institution or servicer deposits or has deposited any Title IV program funds, and to any pertinent books, documents, papers, or computer programs. 34 C.F.R. § 668.24(f)(1),(2).

A. 2014 – 2016 Award Years (2013-2014; 2014-2015; 2015-2016)

During these award years, if an institution established a process that a student or parent followed to open a bank account or obtain a debit card, stored-value card, ATM card, or other transaction device, or similarly assisted the student or parent in opening an account, the institution was required to inform the student or parent of the terms and conditions associated with accepting and using the account before the account was opened. In addition, the institution had to ensure that the student or parent had convenient access to a branch office of the bank or an ATM of the bank in which the account was opened, or an ATM of another bank, so that the student did not incur any cost in making cash withdrawals. The branch office or the ATMs had to be located on the institution's campus, in institutionally-owned or operated facilities, or on "Public Property" that is immediately adjacent to and accessible from campus. 34 C.F.R. § 668.164(c)(3)(2015). The Department has defined "Public Property" to include all thoroughfares, streets, sidewalks, and parking facilities. 34 C.F.R. § 668.46(a).

As noted above, Higher One and its partnering institutions established a policy and a process that required students to sign into a co-branded web-site to activate a Higher One Debit MasterCard that was mailed to students by Higher One. Students were then required to utilize the Higher One Debit MasterCard card number to follow a process to make his/her preference for the disbursement of Title IV credit balances. Since Higher One and the institutions established these processes they were required to comply with the fee free access provision noted above.

The Department has determined that at some institutions that partnered with Higher One for the delivery of Title IV credit balance refunds students were not provided fee-free access to an ATM located on the institution's campus, in institutionally-owned or operated facilities, or immediately adjacent to the campus that students attended. For example, in its contract with Sacred Heart, Higher One installed only one ATM at its main campus despite the fact that Sacred Heart had five satellite locations. In addition, during the program review conducted at Bryant & Stratton College, program reviewers documented that Higher One had initially only installed ATMs at two of its campuses. When Bryant & Stratton entered into its contract with Higher One in 2011 there were no ATMs at its main location or at 15 additional campus locations. At the time of the program review in May of 2013, ATMs were still not installed at seven Bryant and Stratton locations.¹

¹ The Department's review of information from prior reports and its database establishes that there are numerous other institutions that contracted with Higher One that did not have accessible ATMs on campus.

The Department was informed in July 2016 that the fee-free ATMs that had been installed at institutions of higher education by Higher One had been disabled effective May 4, 2016. On July 8, 2016, the Department notified Customers Bank (formerly Higher One) that removal of these ATMs was a direct violation of the Title IV cash management regulations. In its response, Customers Bank confirmed that the fee-free Higher One ATMs had been disabled on that date. Customers Bank stated that as of May 4, 2016, it had provided surcharge-free access to the Allpoint ATM Network in anticipation of the July 1, 2016 regulatory changes that required third party servicers offering financial accounts under T1 arrangements to ensure that students have convenient access to the funds through a surcharge-free national or regional ATM network. At the Department's request, Customers Bank identified \$1,110,275 in ATM fees charged to students between May 4, 2016 and July 1, 2016. Customers Bank urged the Department to conclude that restitution of the fees was unnecessary in this instance, as it would deter program participants from early implementation of future regulatory changes.

B. 2017 and Subsequent Award Years

The Title IV regulations regarding student access to credit balance funds when an institution partners with an entity to provide financial accounts for students were revised effective July 1, 2016. Under the new regulations, an arrangement is considered to be T1 if an institution contracts with a servicer to disburse Title IV funds to financial accounts offered under the contract, or information about the financial accounts is communicated directly to students by the institution, the third party servicer, or another entity affiliated with the third party servicer. 34 C.F.R. § 668.164(e)(1). If an entity meets this definition, it must comply with additional requirements which include providing students with convenient access to the funds in the financial account through a surcharge-free national or regional ATM network that has ATMs sufficient in number and housed and serviced such that Title IV funds are reasonably available to students, including at the times the institution or its third-party servicer makes direct payments into the financial accounts of those students. 34 C.F.R. § 668.164(e)(2)(iv).

As discussed in the preamble to the Notice of Proposed Rulemaking (NPRM) and the Final Regulations, the phrase "sufficient in number and housed and serviced such that Title IV funds are reasonably available to students" is a direct reference to ATMs located on campus. To determine if the number or location of an institution's fee-free ATMs meets this requirement, the school and its servicer must consider the number of credit balance recipients attending each school location. The school is exempt from this requirement only where the number of credit balance recipients is small enough that it is not cost-effective to place and service an ATM at a particular location. In response to public comments on the NPRM that it specify the number of ATMs that a school must have on a campus location, the Department chose instead to establish an approach where the school makes that determination depending on its student population and campus characteristics.

The Preamble discussion to the Final Regulations published on October 30, 2015 makes clear the Department's intention with respect to accessibility to fee free ATMs. The Preamble specifically states:

The Department believes it is important to balance the cost and burden of providing ATMs against the necessity for students to have convenient access to their student aid, which is an existing regulatory requirement By requiring that there are in-network ATMs sufficient in number and housed and serviced such that the funds are reasonably available to the accountholder, students will have access to their funds while institutions will have flexibility in instances where few credit balance recipients are enrolled. For example, at a large campus with thousands of Title IV recipients, it is likely that several ATMs would be required. In contrast, if an institution has a location with only a few credit balance recipients, or a location where students are only taking one class, an ATM that is part of a larger regional network at a store several blocks away may be sufficient. A location of an institution providing students with 100 percent of an educational program in a small town in a rural region would need to provide ATM access on campus if students would otherwise have no free access to their funds through an in network ATM or branch office of the account provider located in the town. . . . If there continues to be "runs" on fee-free ATMs, or if students are forced to incur an abnormally high number of out-of network ATM fees, or if the institution receives complaints about the number and location of its ATMs (all indicators that were cited in consumer and government reports), there would be good evidence that the institution is not complying with the fee-free convenient ATM access provisions of the regulations and would need to evaluate whether additional ATMs or different locations would be necessary.

80 Fed. Reg. 67163-67164 (October 30, 2015). The regulatory history makes clear that for many institutions the only way to meet the "convenient access" mandate of the regulations is to provide ATMs on campus.

The contracts Higher One/Customers Bank has with numerous Title IV institutions, including the 7 that were part of this review, are all considered T1 arrangements under the Title IV disbursement regulations. Consequently, Higher One/Customers Bank must comply with the requirements outlined above regarding fee free access to Title IV funds.

As previously noted, Higher One/Customers Bank disabled its ATMs effective May 4, 2016, and switched to the Allpoint ATM Network for surcharge free access to funds in anticipation of the July 1, 2016 regulatory changes that required third party servicers offering financial accounts under T1 arrangements to ensure that students have convenient access to the funds through a surcharge-free national or regional ATM network. Although Higher One/Customers Bank claims that this network meets the regulatory requirements, the Department has determined that is not the case for all institutions. As noted above, the Department made clear that institutions of a certain size and in certain areas would require ATMs on campus to meet the "convenient

access” requirement. Very few of the Allpoint ATMs are located on institutions’ campuses. Further, the Department has reviewed the ATM locations for several institutions and determined that the closest ATM location was not convenient under any definition of the term. Not only would students need to secure transportation to reach the ATMs, but there are also safety and access concerns in some of the areas. For example, students under 21 years of age may not be able to enter a bar to obtain funds, and some students may not be comfortable entering isolated truck stops or convenience stores late at night. The regulations were revised to ensure that students could conveniently receive Title IV credit balances without incurring fees, and the Allpoint Network chosen by Higher One/Customers Bank does not provide that option for all institutions. Consequently, Higher One/Customers Bank is not fully compliant with the new requirements.

Required Action:

A. 2014-2016 Award Years (2013-2014; 2014-2015; 2015-2016)

Higher One/Customers Bank must provide a listing of all higher education institutions that Higher One/Customers Bank contracted with to deliver Title IV credit balance refunds and identify those locations, timeframes, and the aggregate amount of fees for each institution that were charged to students during the time period in which Higher One/Customers Bank and the institution did not provide fee-free access to an ATM located on the institution’s campus, in institutionally-owned or operated facilities, or immediately adjacent to the campus that the students attended. Higher One/Customers Bank may exclude institutions that provide 100% of the educational programs on line. The spreadsheet (Appendix C – Higher One Student Fees) must include a listing of all Title IV recipients, by award year, that received one or more Title IV credit balance refunds delivered via the Higher One/Customers Bank Account and identify the amount of fees each student incurred to access the Title IV funds deposited in the Higher One account for each student that appears on the listing. This spreadsheet must be organized by award year, and then by individual students. The spreadsheets must be compiled in an Excel spreadsheet program and submitted in CD-ROM format for each institution.

Higher One/Customers Bank must engage a Certified Public Accountant (CPA) to test each file review completed. The CPA must develop a set of procedures designed for testing the accuracy and completeness of the file review. **The suggested procedures must be provided to Tammy Allen within 30 days of Higher One’s receipt of this Program Review Report.** Ms. Allen will review the procedures, indicate if any changes are needed, and approve the procedures.

The CPA must apply the agreed upon procedures to test the file reviews completed by Higher One/Customers Bank, and prepare a report including any exceptions noted during its testing. The exceptions must be detailed and identified. Exceptions must be reported for all file review elements as specified in the finding requirement as presented in the Program Review Report.

The CPA must prepare the report in accordance with the AICPA Attestations Standards. The CPA's report must be submitted with Higher One's response to this report.

Higher One/Customers Bank is reminded that hard copy files containing PII must be safeguarded as described in the enclosure to the cover letter of this report.

B. 2017 and Subsequent Award Years

Higher One/Customers Bank must update the listing provided to the Department in July 2016 of all Title IV institutions with which it has a T1 arrangement and identify the location of the nearest AllPoint Network ATM to the main campus and all additional locations of that institution. Higher One/Customers Bank must review that listing and identify any locations that do not have an ATM that meets the "convenient access" criteria listed above. In addition, Higher One/Customers Bank must make arrangements to install ATMs on campuses if that is the only way that students can have convenient access to their Title IV funds. As noted in the pre-ambble, larger institutions and those in rural areas will likely require one or more ATMs on campus. Higher One/Customers Bank must also provide the Department a timeline for the installation of the required ATMs with its response to this report.

Finding 2. Failure to Deliver Title IV, HEA Credit Balance Refunds within Required Regulatory Timeframes

Noncompliance:

A Title IV credit balance occurs if the total amount of all Title IV, HEA program funds credited to a student's account exceeds the amount of tuition and fees, room and board, and other authorized charges assessed the student. The institution must pay the resulting credit balance directly to the student or parent as soon as possible but no later than 14 days after the balance occurred if the credit balance occurred after the first day of class of a payment period, or 14 days after the first day of class of a payment period if the credit balance occurred on or before the first day of class of that payment period. 34 C.F.R. § 668.164(e)(2015).

An institution may establish a policy requiring its students to provide bank account information or open an account at a bank of the student's choosing as long as this policy does not delay the disbursement of Title IV, HEA program funds to students. Consequently, if a student does not comply with the institution's policy, the institution must nevertheless disburse the funds to a student within the required time frame by:

- (1) Issuing a check payable to and requiring the endorsement of the student or parent. An institution issues a check on the date that it:

- (a) Mails the check to the student or parent; or

- (b) Notifies the student that the check is available for immediate pickup at a specified location at the institution. The institution may hold the check for up to 21 days after the date it notifies the student. If the student does not pick up the check within this 21-day period, the institution must immediately mail the check to the student or parent, initiate an EFT to the student's or parent's bank account, or return the funds to the appropriate Title IV, HEA program;
- (2) Initiating an EFT to a bank account designated by the student or parent; or
- (3) Dispensing cash for which the institution obtains a signed receipt from the student or parent.

34 C.F.R. § 668.164(c)(3).

The Department has determined that Higher One and its partnering institutions failed to properly notify students that a check was available for immediate pickup at a specific location at the institution within the 14-day timeframe. A school may not require a student to take any actions to obtain his or her credit balance. It is the sole responsibility of the school to pay, or make available, any Title IV credit balance within the 14-day regulatory timeframe. If an institution does not notify a student that a check is available for immediate pickup at a specific location at the institution, the institution is required to mail the check to the student within the 14-day timeframe.

As noted in Finding one, Higher One and its partnering institutions established a policy and a process that required students to sign into a co-branded web-site to activate a Higher One Debit MasterCard that was mailed to students by Higher One. Students were then required to utilize the Higher One Debit MasterCard card number to make their delivery preference options for credit balances. As a result, it became both the institution's and Higher One's responsibility to ensure that the 14 day time frame in the regulations was followed. Higher One did not meet this responsibility. Notification letters that were reviewed by the Department establish that Higher One's position was that it had 21 days after credit balance funds were released by an institution to send checks to students who failed to make a preference selection. In many cases, Higher One followed that timeline. Those actions are inconsistent with the clear language of the regulation.

It should also be noted that in the notification letters Higher One sent to students failing to make a preference, Higher One again attempted to market their bank card as the fastest way to obtain a credit balance. In addition, as set forth in its contracts, Higher One charged the institution a fee if less than 90% of the disbursements were done outside of Higher One's card. For institutions serving thousands of students, these fees could be significant. This type of arrangement contributes to the high pressured marketing of the cards to students by both Higher One and the institution. This high pressured marketing to students is inconsistent with the fiduciary standard of conduct expected of a third party servicer and the institutions.

As set forth below, specific issues were identified at all institutions reviewed as part of Higher Ones Servicer review.

A. Colorado Technical

The Department requested that Higher One provide refund notification letters for all students in the sample so that it could determine if Higher One was disbursing the credit balances within the requisite time period. Higher One claimed that it could not produce all of the notification letters because some documents were lost when the company moved its data storage from an outside source to in-house. Consequently, Higher One was unable to provide copies of credit balance refund notifications for 38 students in the sample. As a result, program reviewers were unable to determine if these students received their Title IV credit balance refunds within the applicable regulatory timeframe.

In addition, program reviewers noted the date reflected on the copy of the negotiated checks provided by Higher One were frequently dated after the system "mailed" date reflected on the Higher One electronic account history. For example, the Higher One system screen shot obtained by program reviewers for Student 46 reflects the credit balance check for the student was mailed on 06/06/2014. The date of issue on the copy of the negotiated check for Student 46 is 06/09/2014, three days after the check was mailed to the student.

Further, Colorado Technical failed to issue a credit balance refund to Student 25 within the required 14 day timeframe. On 10/23/2013, the student's ledger account reflected a credit balance refund owed to the student in the amount of \$3,080. The credit balance remained on the student's account until 01/05/2014, when tuition charges of \$3,680 were posted to the student's ledger account, creating a balance owed by the student of \$600. On 01/15/2014, a Direct Unsubsidized loan disbursement of \$6,760 was posted to the student's ledger account, resulting in a Title IV credit balance refund owed to the student in the amount of \$6,160. Colorado Technical did not issue the Title IV credit balance refund check to the student until 03/27/2014. The credit balance authorization form which would allow Colorado Technical to retain and apply funds towards other allowable charges in subsequent payment periods was not signed and dated until 10/14/2014.

B. Florida South Western

Florida South Western informed Higher One in June 2014 that it wanted all checks to be mailed to students after seven days if the student failed to make a disbursement preference. Documentation provided to program reviewers by the institution established that this policy change was not actually implemented. Florida South Western provided Higher One with disbursement data for credit balance refund recipients within four days of the date that a credit balance refund was created on a student's account. Higher One agreed to mail credit balance refund checks to students who failed to make a credit balance disbursement preference within 10 days after the date the credit balance data and funds were sent to Higher One by Florida South

Western. As set forth below, the time frame established in the documents was also not followed in all cases. Examples are provided below.

Student 16 - Florida South Western posted Title IV, HEA funds to the student ledger account for Student 16 on 01/22/2013 creating a credit balance in the amount of \$6,046.76. Higher One received the student's disbursement data from Florida South Western on 01/28/2013. Higher One did not mail the student's credit balance refund check until 02/14/2013. The check was dated 02/15/2013.

Florida South Western also posted Title IV, HEA funds to Student 16's ledger account on 02/25/2014 creating a credit balance in the amount of \$4,452.00. Higher One received the student's disbursement data from Florida South Western on 02/28/2014. Higher One did not mail the student's credit balance refund check until 03/19/2014. Higher One was unable to provide a copy of the credit balance refund notifications for this transaction.

Student 52 - Florida South Western posted Title IV, HEA funds to the student ledger account for Student 52 on 07/06/2014 creating a credit balance in the amount of \$2,935.84. According to the student's ledger account, Higher One received the student's disbursement data from Florida South Western on 07/10/2014. Higher One did not mail the student's credit balance refund check until 07/30/2014. The check was dated 07/31/2014.

In addition to the specific issues identified above for the program review sample, program reviewers noted the date reflected on the copy of the negotiated checks provided by Higher One were frequently dated after the system "mailed" date reflected on the Higher One electronic account history. For example, the Higher One system screen shot obtained by program reviewers for Student 16 referenced above reflects the credit balance check for the student was mailed on 02/14/2013. The date of issue on the copy of the negotiated check for Student 16 is 02/15/2013, one day after the check was mailed to the student.

Additionally, for the reasons fully outlined above, Higher One and Florida South Western were unable to provide copies of credit balance refund notifications for 18 students in the sample. As a result, program reviewers were unable to determine if these students received their Title IV credit balance refunds within the applicable regulatory timeframe.

C. New York Institute

Examples of issues found by the Department are reflected below:

Student 30 - New York Institute posted Title IV, HEA funds to the student ledger account for Student 30 on 08/04/2014 creating a credit balance in the amount of \$22,729.50. According to the student's ledger account, Higher One received the student's disbursement data from New York Institute on 08/07/2014. Higher One did not mail the student's credit balance refund check until 08/27/2014. The check was dated 08/28/2014.

In addition, program reviewers noted the date reflected on the copy of the negotiated checks provided by Higher One were frequently dated after the system "mailed" date reflected on the Higher One electronic account history. For example, the Higher One system screen shot obtained by program reviewers for Student 15 reflects the credit balance check for the student was mailed on 01/10/2014. The date of issue on the copy of the negotiated check for Student 15 is 01/13/2014, three days after the check was mailed to the student.

Additionally, for the reasons fully outlined above, Higher One and New York Institute were unable to provide copies of credit balance refund notifications for 17 students in the sample. As a result, program reviewers were unable to determine if these students received their Title IV credit balance refunds within the applicable regulatory timeframe.

D. Post

Examples of issues found by the Department are reflected below:

Student 15 - Post posted Title IV, HEA funds to the student ledger account for Student 15 on 12/07/2011 creating a credit balance of \$522.64. Subsequent Title IV, HEA funds were posted to the student's ledger account on 02/01/2012, 05/29/2012, and 10/23/2012. According to the student's ledger account, Higher One received the student's 10/23/2012 disbursement data from Post on 07/25/2013. Higher One did not mail the student's credit balance refund check until 09/12/2013. The check was dated 09/14/2013.

In addition, program reviewers noted the date reflected on the copy of the negotiated checks provided by Higher One were frequently dated after the system "mailed" date reflected on the Higher One electronic account history. For example, the Higher One system screen shot obtained by program reviewers for Student 29 reflects the credit balance check for the student was mailed on 05/23/2014. The date of issue on the copy of the negotiated check for Student 29 is 05/27/2014, three days after the check was mailed to the student.

Additionally, for the reasons fully outlined above, Higher One and Post were unable to provide copies of credit balance refund notifications for 14 students in the sample. As a result, program reviewers were unable to determine if these students received their Title IV credit balance refunds within the applicable regulatory timeframe.

E. Sacred Heart

Examples of issues found by the Department are reflected below:

Student 43 - Sacred Heart posted Title IV, HEA funds to the student ledger account for Student 43 on 07/15/2014 creating a credit balance in the amount of \$15,649.75. According to the student's ledger account, Higher One received the student's disbursement data from Sacred Heart on 07/24/2014. Higher One did not mail the student's credit balance refund check until 08/12/2014. The check was dated 08/13/2014.

In addition, program reviewers noted the date reflected on the copy of the negotiated checks provided by Higher One were frequently dated after the system "mailed" date reflected on the Higher One electronic account history. For example, the Higher One system screen shot obtained by program reviewers for Student 32 reflects the credit balance check for the student was mailed on 02/21/2014. The date of issue on the copy of the negotiated check for Student 32 is 02/24/2014, three days after the check was mailed to the student.

Additionally, for the reasons fully outlined above, Higher One and Sacred Heart were unable to provide copies of credit balance refund notifications for 23 students in the sample. As a result, program reviewers were unable to determine if these students received their Title IV credit balance refunds within the applicable regulatory timeframe.

F. Southern Connecticut

Examples of issues found by the Department are reflected below:

Student 4 – Southern Connecticut posted Title IV, HEA funds to the student ledger account for Student 4 on 02/05/2013 creating a credit balance in the amount of \$12,256.00. According to the student's ledger account, Higher One received the student's disbursement data from Southern Connecticut on 03/04/2013. Higher One did not mail the student's credit balance refund check until 03/22/2013.

In addition, program reviewers noted the date reflected on the copy of the negotiated checks provided by Higher One were frequently dated after the system "mailed" date reflected on the Higher One electronic account history. For example, the Higher One system screen shot obtained by program reviewers for Student 28 reflects the credit balance check for the student was mailed on 09/27/2013. The date of issue on the copy of the negotiated check for Student 28 is 09/30/2013, three days after the check was mailed to the student.

Additionally, for the reasons fully outlined above, Higher One and Southern Connecticut were unable to provide copies of credit balance refund notifications for 38 students in the sample. As a result, program reviewers were unable to determine if these students received their Title IV credit balance refunds within the applicable regulatory timeframe.

Required Action:

Customers Bank (formerly Higher One) and its partnering institutions must review and revise its internal policies and procedures to ensure Customers Bank appropriately disburses credit balance refunds to students within the 14-day regulatory timeframe. A copy of the revised policies and procedures must accompany Customer Bank's response to this report. Customers Bank must ensure its response incorporates all procedures necessary for compliance with 34 C.F.R. § 668.164.

Finding 3. Failure to Maintain Required Records

Noncompliance:

Federal regulations require an institution to establish and maintain on a current basis all records necessary to establish its proper administration of the Title IV, HEA programs and its application for any Title IV, HEA program funds. 34 C.F.R. § 668.24(a). In addition, the records that an institution must maintain in order to comply with the provisions of this section include documentation relating to each student's or parent borrower's receipt of title IV, HEA program funds, including the amount, date, and basis of the institution's calculation of any refunds or overpayments due to or on behalf of the student. See 34 C.F.R. § 668.24(c)

An institution shall maintain required records in a systematically organized manner and shall make its records readily available for review by the Secretary or the Secretary's authorized representative at an institutional location designated by the Secretary or the Secretary's authorized representative. An institution may keep required records in hard copy or in microform, computer file, optical disk, CD-ROM, or other media formats, provided that record information must be retrievable in a coherent hard copy format or in other media formats acceptable to the Secretary. Any imaged media format used to maintain required records must be capable of reproducing an accurate, legible, and complete copy of the original document, and, when printed, this copy must be approximately the same size as the original document. See 34 C.F.R. § 668.24(d).

An institution that participates in any title IV, HEA program and the institution's third-party servicer, if any, shall cooperate with an independent auditor, the Secretary, the Department of Education's Inspector General, the Comptroller General of the United States, or their authorized representatives, a guaranty agency in whose program the institution participates, and the institution's accrediting agency, in the conduct of audits, investigations, program reviews, or other reviews authorized by law. The institution and servicer must cooperate by providing timely access, for examination and copying, to requested records, including but not limited to computerized records and records reflecting transactions with any financial institution with which the institution or servicer deposits or has deposited any title IV, HEA program funds, and to any pertinent books, documents, papers, or computer programs. See 34 C.F.R. § 668.24(f)

As set forth above, Higher One maintains that numerous refund notifications were lost when it transitioned data servers. As a result, it was unable to provide all documentation necessary for the Department to complete its review.

Required Action:

Customers Bank must review and revise its internal policies and procedures to ensure that copies of required notifications are retained. A copy of these policies and procedures must accompany Customers Bank response to this report.

Recommendation

The following is a recommendation based upon observations made by the review team during the program review. The review team believes that adoption of this recommendation will assist Customers Bank and its clients in its administration of Title IV, HEA funds.

Postsecondary educational institutions participating in the Title IV, HEA programs are subject to the information security requirements established by the Federal Trade Commission (FTC) for financial institutions. These requirements apply to all customer information in an institution's possession, regardless of whether such information pertains to students, parents, or other individuals with whom the institution has a customer relationship, or pertains to the customers of other financial institutions that have provided such information to the institution. Customer information is any record containing nonpublic personal information about a customer of a financial institution, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of the institution or its affiliates. As a financial institution covered under these information security requirements, an institution must develop, implement, and maintain a comprehensive information security program.

The information security program must be written in one or more readily accessible parts and contain administrative, technical, and physical safeguards that are appropriate to the size and complexity of the school, the nature and scope of its activities, and the sensitivity of any customer information at issue.

The safeguards shall be reasonably designed to achieve the following objectives:

- (a) Insure the security and confidentiality of customer information,
- (b) Protect against any anticipated threats or hazards to the security or integrity of such information, and
- (c) Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

An institution must designate an employee or employees to coordinate its information security program. An institution must identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information and assess the sufficiency of any safeguards in place to control these risks.

At a minimum, the school's risk assessment should include consideration of risks in each relevant area of the institution's operations, including:

- (a) Employee training and management,
- (b) Information systems, including network and software design, as well as information processing, storage, transmission, and disposal, and
- (c) Detecting, preventing, and responding to attacks, intrusions, or other systems failures.

An institution must design and implement information safeguards to control the risks identified through risk assessment, and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures.

An institution must evaluate and adjust its information security program in light of the results of the required testing and monitoring, as well as for any material changes to your operations or business arrangements or any other circumstances that it has reason to know may have a material impact on an institution's information security program. See 15 U.S.C. §§ 6801(b), 6805(b)(2); 16 C.F.R. §§ 313.3(n), 314.1-5; Gramm-Leach-Bliley Act: Sections 501 and 505(b)(2); see also *2013-2014 Federal Student Aid Handbook, Volume 2 at 135-136*.

A service provider is any person or entity that receives, maintains, processes, or otherwise is permitted access to customer information through its provision of services directly with an institution. Institutions must take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue and require service providers by contract to implement and maintain such safeguards.

On behalf of its clients, Customers Bank should review its information security program to ensure Customers Bank and its clients are in compliance with requirements established by the Federal Trade Commission (FTC).