

December 16, 2015

## MEMORANDUM

TO	Members of the public, including participants in our <i>Initiative on Safe Student Banking</i>
FROM	Seth Frotman, Student Loan Ombudsman
SUBJECT	Public comments regarding our <i>Initiative on Safe Student Banking</i>

Thank you to those who provided public comments as part of our [\*Initiative on Safe Student Banking\*](#).

We launched this project to develop the *Safe Student Account Scorecard* as a tool for colleges and universities seeking to identify and develop partnerships with banks and other vendors to provide financial accounts that meet their students' needs. Earlier this year, we asked you to provide feedback on a draft of the Scorecard.<sup>1</sup> We heard from students, student governments, consumer advocates, colleges and universities, providers of student financial products and services, and organizations representing banks and credit unions.

In December 2015, we published a new version of our Scorecard<sup>2</sup> and a new Handbook for college administrators, designed to assist colleges and universities that wish to voluntarily adopt the Scorecard when developing Requests for Proposals (RFPs). When designing these materials, we incorporated feedback from the public comments you provided.

Here is what you told us:

**Colleges may be able to benefit from soliciting information on the features and cost of financial products marketed through a partnership with a financial institution.**

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<sup>1</sup> See Consumer Financial Protection Bureau, *Notice and Request for Information Regarding an Initiative on Safe Student Banking* (January 2015), available at <http://www.consumerfinance.gov/students/request-for-information-regarding-an-initiative-on-safe-student-banking>.

<sup>2</sup> Consumer Financial Protection Bureau, *Safe Student Account Toolkit* (December 2015), available at [http://files.consumerfinance.gov/f/201512\\_cfpb\\_safe-student-account-toolkit.pdf](http://files.consumerfinance.gov/f/201512_cfpb_safe-student-account-toolkit.pdf).

We asked for your feedback about whether colleges and students would benefit if colleges solicited additional information on fees, features, and associated costs. Many commenters, including organizations representing students, market participants, consumer advocates, and trade associations representing colleges and industry, provided feedback generally indicating that colleges could benefit from a resource providing technical assistance about ways to solicit better information from vendors and that is designed to assist administrators when comparing and evaluating financial accounts.<sup>3</sup> One credit union noted that “inherent complexities surrounding banking practices can present a challenge to higher education officials charged with meeting student needs for on-campus banking convenience and ensuring that convenience comes at a fair cost to students.”<sup>4</sup> Organizations representing consumers, students, and one credit union noted that additional transparency around costs and fees may better help highlight vendors that offer affordable products.<sup>5</sup> However, two trade associations representing industry cautioned the Bureau about creating an inflexible tool that focuses too granularly on specific fees and features.<sup>6</sup>

### **The FDIC Model Safe Account is an imperfect model for our Safe Student Account Scorecard.**

Commenters emphasized that certain features of the FDIC Safe Account<sup>7</sup> may not be necessary or appropriate as a model for colleges seeking to procure safer and more affordable accounts for students. In particular, commenters, including two trade associations representing industry, a trade association representing college business officers, and a credit union, expressed concern that some of the features and fees included in the FDIC Model Safe Account are not needed for the vast majority of students that have access to a broad range of commercially available financial products.<sup>8</sup> For example, the trade

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<sup>3</sup> See, e.g. National Association of College and University Business Officers (NACUBO), available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>; Consumers Union, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; Americans for Financial Reform et al., <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0010>; Credit Union National Association, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0014>; Pew Charitable Trusts, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0024>; National Association of Federal Credit Unions, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0016>.

<sup>4</sup> See, e.g., University of Wisconsin Credit Union, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0004>; Consumers Union,

<sup>5</sup> See, e.g., Consumers Union, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; University of Wisconsin Credit Union, available at

<http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0004>; Consumers Union, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>.

<sup>6</sup> American Bankers Association and Consumer Bankers Association, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>.

<sup>7</sup> Federal Deposit Insurance Corporation, *Model Safe Accounts Pilot: Final Report* (2012), available at <https://www.fdic.gov/consumers/template/SafeAccountsFinalReport.pdf>.

<sup>8</sup> See, e.g., National Association of College and University Business Officers (NACUBO), available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>; Network Branded Prepaid Card Association, available at <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>; American Bankers Association and Consumer Bankers Association, available at

association representing college business officers and the credit union both noted that the FDIC Model Safe Account presupposes that an electronic, card-based account is necessary for an account to be “safe” and that, as proposed, our Scorecard may cause colleges to limit the range of products available to students unnecessarily.<sup>9</sup> One trade association representing the prepaid card industry cautioned that the FDIC Model Safe Account may cause colleges to favor traditional deposit accounts over more innovative prepaid products and that this imbalance may restrict the choices available to students.<sup>10</sup>

Consumer and student advocates generally expressed support for the FDIC Model Safe Account; however, some consumer groups acknowledged that different banking challenges may exist for college students than for consumers that are unbanked.<sup>11</sup> Several of these commenters suggested the Scorecard focus on assisting colleges in determining the economic effects financial accounts may have on their students.

**Overdraft fees and lack of ATM access present unique risks for students, but designating specific fees or features as “unsafe” for students may limit access to innovative products.**

Commenters from consumer groups, consumer advocates, student governments, research organizations, a university system, and a credit union emphasized to the Bureau that fees associated with overdraft services and limited access to fee-free ATMs present unique risks for student consumers.<sup>12</sup>

One research organization that has conducted research on banking products noted that younger and lower-income consumers are more likely than other consumers generally to overdraft using debit cards.<sup>13</sup> Based on this finding and other research, this organization

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<http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>; University of Wisconsin Credit Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0004>.

<sup>9</sup> *See, e.g.*, National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>; University of Wisconsin Credit Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0004>.

<sup>10</sup> Network Branded Prepaid Card Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>.

<sup>11</sup> *See, e.g.*, Consumers Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; Center for Responsible Lending and National Consumer Law Center, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0008>.

<sup>12</sup> *See, e.g.*, Center for Responsible Lending and National Consumer Law Center, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0008>; Consumers Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; Cities for Financial Empowerment Fund, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0010>; California State Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0007>; Pew Charitable Trusts, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0024>; Woodstock Institute, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0017>; University of California, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0036>; University of Wisconsin Credit Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0004>.

<sup>13</sup> Pew Charitable Trusts, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0024>.

recommended that we “provide more information and a stronger warning to educational institutions about partnering with banks or credit unions that charge overdraft or insufficient funds fees, or at least work to limit the number of fees charged.”<sup>14</sup>

Several commenters also noted that access to fee-free ATMs was of paramount concern to many students and that our Scorecard, as proposed, did not emphasize this element sufficiently. One trade association representing the prepaid card industry noted that “there are safe account features not included in the CFPB’s Model Scorecard, such as fee-free ATM withdrawals, other free load capabilities, and free teller withdrawals.”<sup>15</sup> A consumer advocate noted that “the presence of surcharge-free ATM access and related ATM fees is a key concern for students and should be disclosed upfront. One way to make these provisions more prominent would be to incorporate access to cash as part of the Scorecard’s Question 1.”<sup>16</sup>

Conversely, several market participants and trade associations expressed concern that designating a set of specific fees or features as “safe” may suppress innovative features or provide an oversimplification of what constitutes as a safe account.<sup>17</sup> One industry trade association noted that “this overly simplistic categorization of what constitutes a safe account will provide an incomplete and misleading view of products and choices that do not easily fit into the suggested format.”<sup>18</sup>

### **Colleges benefit from student involvement early and often when colleges consider entering into marketing arrangements to provide college-sponsored accounts**

There was wide consensus among commenters that agreements should meet students’ needs and that colleges should engage with their student bodies when creating arrangements.<sup>19</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> Network Branded Prepaid Card Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>.

<sup>16</sup> Center for American Progress, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0020>.

<sup>17</sup> *See, e.g.*, Network Branded Prepaid Card Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>; American Bankers Association and Consumer Bankers Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>; International Bancshares Corporation, *available at* <http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;s=international;dct=PS;D=CFPB-2015-0012>; U.S. Chamber of Commerce Center for Capital Markets Competitiveness, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0029>.

<sup>18</sup> American Bankers Association and Consumer Bankers Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>.

<sup>19</sup> *See, e.g.* National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>; Consumers Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; Americans for Financial Reform et al., <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0010>; Credit Union National Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0014>; American Bankers Association and Consumer Bankers Association, *available at*

Consumer advocates, students, student governments, and a trade association representing college business officers suggest that colleges could meet that goal by involving students and student leaders when colleges are considering a marketing arrangement.<sup>20</sup> The trade association representing college business officers noted that student involvement through focus groups, representation on a selection committee, or consultation with student governments can help lead to better outcomes during the procurement process.<sup>21</sup>

**Stakeholders are mixed in their views regarding the publication of college agreements in full, but noted that providing additional context and summaries about the agreement can be beneficial.**

Our draft Scorecard offered sample principles colleges could choose to adopt in an RFP to make their arrangement more transparent to the public, such as the disclosure of marketing agreements, disclosure of revenue sharing, and an annual summary of fees. Many of the transparency principles are current requirements for colleges or vendors when marketing other financial products to students, such as credit cards and student loans.<sup>22</sup>

We received feedback from commenters, including three trade associations representing depository institutions, the prepaid card industry, and college business officers, and an organization representing the interests of businesses, expressing concern about the disclosure of contracts.<sup>23</sup> In particular, these organizations were concerned that publishing a contract in full would be unhelpful for students seeking to determine if an account was structured in their best interest.<sup>24</sup> Additionally, one commenter suggested that calculating fees charged to students could be administratively difficult.<sup>25</sup>

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<http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>; *See, e.g.*, California State Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0007>; United States Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0025>; Michigan State University Student Body President, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0031>.

<sup>20</sup> *See, e.g.*, California State Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0007>; United States Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0025>; Michigan State University Student Body President, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0031>; National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>.

<sup>21</sup> *Id.*

<sup>22</sup> *See, e.g.*, Open end consumer credit plans, 15 U.S.C. § 1637(r); Preferred lender arrangement disclosures, 34 C.F.R. § 601.10.

<sup>23</sup> *See, e.g.*, Network Branded Prepaid Card Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>; Chamber of Commerce Center for Capital Markets Competitiveness, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0029>; National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>.

<sup>24</sup> *Id.*

<sup>25</sup> *See, e.g.*, Network Branded Prepaid Card Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>.

Conversely, organizations representing students and consumer advocates argued that disclosing marketing agreements provides confidence to the public that agreements were made in the best interests of students.<sup>26</sup> Additionally, two associations representing credit unions noted the importance of preserving transparency for students as a tenet of any procurement process, including providing students with access to the completed Scorecard of bidders.<sup>27</sup>

**The marketing of financial products should be neutral and preserve students' ability to choose a product that meets their needs.**

Commenters generally agreed that students should be able to make an informed and independent choice about financial products and should not be coerced into a specific financial account.<sup>28</sup>

Commenters also offered specific feedback on marketing principles and other consumer protections identified in our proposal. For example, trade associations representing industry, a credit union, and a trade association representing college business officers noted potential problems with requiring written affirmative consent to receive an access device when attached to an institutional instrument, such as a student identification card.<sup>29</sup> These commenters noted that these instruments are often provided to students before the

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<sup>26</sup> See, e.g., Consumers Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; United States Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0025>.

<sup>27</sup> See, e.g., National Association of Federal Credit Unions, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0016>; Credit Union National Association (CUNA), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0014>.

<sup>28</sup> See, e.g., National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>; Consumers Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0037>; Americans for Financial Reform et al., <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0010>; Credit Union National Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0014>; American Bankers Association and Consumer Bankers Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>; See, e.g., California State Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0007>; United States Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0025>; Michigan State University Student Body President, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0031>.

<sup>28</sup> See, e.g., California State Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0007>; United States Student Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0025>; Michigan State University Student Body President, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0031>; National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>.

<sup>29</sup> See, e.g., Network Branded Prepaid Card Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0028>; University of Wisconsin Credit Union, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-00204>; National Association of College and University Business Officers (NACUBO), *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0009>; American Bankers Association and Consumer Bankers Association, *available at* <http://www.regulations.gov/#!documentDetail;D=CFPB-2015-0001-0027>.

beginning of the semester and requiring written consent would be burdensome or could require the reissuing of instruments.<sup>30</sup>

## **Revised Safe Student Account Scorecard**

Based on feedback received from a diverse range of stakeholders and the final Cash Management Rule from the Department of Education, we released a revised version of our Scorecard, along with an Administrator Handbook to assist colleges seeking to implement the Scorecard on a voluntary basis. Our revised Scorecard focuses on certain elements found in new rules promulgated by the Department of Education regarding cash management.

We revised the Scorecard to be consistent with certain minimum protections that will be required by the Department of Education starting July 1, 2016, for colleges that partner with a third-party servicer that offers or directly communicates information about a preferred financial account to students and assists the college with the disbursement of Federal Title IV aid (“Tier 1” arrangements).<sup>31</sup> The Scorecard also highlights other minimum protections under these rules that may be required for both accounts marketed under a “Tier 1” arrangement and for certain other college-sponsored accounts marketed directly to students (“Tier 2” arrangements).<sup>32</sup>

The set of features and protections identified in the Scorecard may provide a baseline for colleges seeking, on a voluntary basis, to identify safer and more affordable accounts for their students generally.<sup>33</sup> Although these requirements may not be mandatory for all types of student accounts a college may consider, they can provide helpful context as administrators evaluate whether different types of accounts meet students’ needs.

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<sup>30</sup> *Id.*

<sup>31</sup> A “Tier 1” arrangement is between a college and a third-party servicer under which the servicer performs one or more of the functions associated with processing direct payments of Title IV funds on behalf of the college, and offers one or more financial accounts under the arrangement, or where the college or third-party servicer directly communicates information about the account to students. See U.S. Dep’t. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), available at <http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf>.

<sup>32</sup> A “Tier 2” arrangement is an arrangement 1) between a college and a vendor that offers financial accounts through a financial institution and 2) under which financial accounts are offered and marketed directly to students. However, some colleges with few Title IV credit balance recipients may not have to comply with certain requirements for “Tier 2” arrangements. See U.S. Dep’t. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), available at <http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf>.

<sup>33</sup> Colleges should also note that Cash Management rules also include other requirements pertaining to account fees and features, marketing, and transparency that are not referenced in the Scorecard. For “Tier 1” accounts, for example, these include prohibitions on charging students for certain up-front or other fees (e.g. point-of-sale fees). Schools may wish to consider whether to request additional information about these fees or features when seeking arrangements outside of “Tier 1.” See U.S. Dep’t. of Education, *Program Integrity and Improvement* (final rule), 80 Fed. Reg. 67126-67127 (Oct. 30, 2015), available at <http://www.gpo.gov/fdsys/pkg/FR-2015-10-30/pdf/2015-27145.pdf>.

These revisions recognize that the FDIC Model Safe Account was not developed exclusively with students in mind. We addressed commenters concerns by adjusting our Scorecard to more closely align with certain minimum protections identified by the Department of Education.<sup>34</sup> Readers should note that, although the Bureau is not endorsing specific aspects of the Department of Education’s rulemaking, the highlighted protections may provide helpful context as administrators evaluate whether different types of accounts meet students’ needs.

This modification reduces the number of “safer” account features identified in Part one of the Scorecard from seven to three—overdraft fees, ATM access, and deposit insurance—in part to ensure that the discussion of fees and features was limited to areas identified by the Department of Education in its rulemaking while reducing some of the concerns raised by commenters. The Scorecard now refers to these three account attributes as “safer student account features.”

In response to comments, we revised Part two of our scorecard to solicit policies and practices on a limited set of additional features, and to solicit supplemental information that may assist administrators when comparing the economic effects and protections for accounts across different vendors. Part two now seeks information on all account fees, instead of focusing only on certain account fees across several questions.

Parts three and four were revised to be similar to the Department of Education’s new requirements on marketing and transparency, soliciting feedback regarding vendors’ ability to comply with certain transparency and marketing policies and practices. The Department of Education’s rules will require colleges to create summaries of their agreements to post publicly to help the public better understand the terms of the agreement. Additionally, we intended these revisions to address concerns that certain marketing provisions in the draft Scorecard would be logistically difficult.

To address concerns that administrators may believe the Scorecard is mandatory, we added language that further emphasizes the Scorecard is completely voluntary and can be customized by colleges to meet their needs.

Finally, in response to comments urging students be more involved in any procurement process, the Administrator Handbook suggests administrators consider engaging with students and student leaders prior to requesting proposals and before selecting a vendor.

## **Next Steps**

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<sup>34</sup> For further discussion, see Consumer Financial Protection Bureau, *Safe Student Account Toolkit* (December 2015), available at [http://files.consumerfinance.gov/f/201512\\_cfpb\\_safe-student-account-toolkit.pdf](http://files.consumerfinance.gov/f/201512_cfpb_safe-student-account-toolkit.pdf).

Based on your feedback, we published a [Handbook and updated Scorecard](#) in December 2015. We also issued a call for colleges interested in voluntarily using these resources to contact the Bureau and request technical assistance. In the coming months, we will continue to engage with you and other stakeholders on these important issues and look forward to receiving additional feedback on this project in the future.