TO: Program Integrity and Institutional Quality Negotiators

FROM: Joe Weglarz, primary negotiator representing business officers from institutions of higher education
Dom Chase, alternate negotiator representing business officers from institutions of higher education

DATE: January 18, 2024

RE: Proposed Changes to Cash Management Regulations

Payment methods have evolved significantly since the last time the Department of Education revisited its cash management regulations in 2015. Students and consumers continue to adopt new and evolving payment methods because they want their transactions to be faster, cheaper, and safer.

For years, ED has relied on a definition of Electronic Funds Transfer (EFT) provided by the Department of the Treasury.[1] While ED has allowed payments initiated by the Secretary to utilize the broad EFT definition provided by Treasury, it has limited transactions initiated by or on behalf of an *institution* to only Automated Clearinghouse (ACH) transactions.[2] This is commonly known as a "direct deposit" transaction.

During the COVID-19 pandemic, ED provided several regulatory flexibilities to institutions via waivers and modifications of statutory and regulatory provisions due to the national emergency. ED expanded disbursement methods beyond ACH in a December 11, 2020 *Federal Register* notice to allow institutions and third-party servicers to utilize Treasury's comprehensive definition of EFT, allowing students and families timely access to their funds.[3] This waiver specifically allowed institutions to disburse funds via ACH, via person-to-person payment methods (such as Zelle and PayPal), or to use a student's debit card number to transfer Title IV credit balances to their checking account using an original credit transaction (OCT).

These flexibilities provided during the pandemic were appreciated by students, families, and higher education institutions. Given that ED required institutions to notify their auditors of alternative payment methods used during the national emergency, there should be sufficient data to determine if these methods are safe and affordable.

Proposed Regulation Redline:

§668.161 Scope and Institutional Responsibility

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(a) General
(2) As used in this subpart—

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(iv) EFT (Electronic Funds Transfer) means a transaction initiated electronically instructing the crediting or debiting of a financial account, or an institution's depository account. For purposes of this subpart ~~transactions initiated by the Secretary~~, the term "EFT" includes all transactions covered by 31 CFR 208.2(f). ~~For purposes of transactions initiated by or on behalf of an institution, the term "EFT" includes, from among the transactions covered by 31 CFR 208.2(f), only Automated Clearinghouse transactions~~;

[1] 31 CFR 208.2(f)
[2] 34 CFR 668.161(a)(2)(iv)
[3] 85 Fed. Reg. 79,856 (Dec. 11, 2020)