August 14, 2017

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1275 First St. N.E.
Washington, DC 20002

Re: CFPB-2017-0015
RIN 3170-AA72
Amendments to Rules Concerning Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)

Dear Ms. Jackson,

The Center for Financial Services Innovation (CFSI) is submitting this letter in response to the request for comment on the proposed Amendments to Rules Concerning Prepaid Accounts, issued by the Consumer Financial Protection Bureau (CFPB, the Bureau) and published on June 29, 2017. Like you, we recognize the important role that prepaid products and services can play in the financial health of U.S. consumers and we are committed to promoting high-quality financial products. We believe that financial services can be a force for good in people's lives and that meeting consumers’ needs responsibly is ultimately good for both the consumer and the provider.

CFSI is a national authority on consumer financial health. We believe that financial health comes about when a consumer’s day-to-day financial systems enable them to build resilience and pursue opportunities. We lead a network of financial services innovators – banks, the fintech community, processors, servicers, non-profits, and community-based organizations – all committed to building higher quality products and services. Guided by our Compass Principles – Embrace Inclusion, Build Trust, Promote Success, and Create Opportunity – CFSI informs, advises and connects our network to seed innovation that will transform the financial services landscape. We hear the pain points and the see the opportunities from both industry and consumer viewpoints.

We have been working in the prepaid arena since 2004 when we published an article on stored-value cards in an OCC Community Development publication. In 2012, we released our Compass Guide to Prepaid, developed in consultation with industry and consumer stakeholders, which laid out a set of aspirational guidelines for design and delivery of prepaid cards. In the same year, we also developed a proposed fee box for prepaid cards in our report “Thinking Inside the Box: Improving Consumer Outcomes Through Better Fee Disclosure for Prepaid Cards.” In March, 2016, we released a second version of our Prepaid Industry Scorecard (updated from our 2014 scorecard), which tracks the progress the industry has made since the release of the Compass
prepaid guide. We released the Compass Guide to Payroll Cards in January, 2015, again in consultation with industry and consumer stakeholders.\(^1\) Earlier this year we released our 2017 Payroll Industry Scorecard as a companion to the prepaid industry scorecard.

In our comment letter on the proposed rules, CFSI supported the need for clear and standard regulation in the prepaid card industry. The core of our mission is the financial health of consumers, particularly those who are underserved. Having access to high-quality financial services is crucial for consumers to manage their day-to-day financial lives well, leading to long-term resilience and opportunity.

In our April 5, 2017 comment letter on the delay of the effective date, we supported the extension of the effective date to April 1, 2018. These rules and the consumer protection they afford are important, but we understand the concerns regarding supply chains, production backlogs, and systems programming.

**Error Resolution and Limited Liability**

CFSI supports the proposed amendments with respect to error resolution for unregistered prepaid cards. In our April 5, 2017 comment letter, we suggested that the Bureau revisit their decisions on liability requirements for unregistered cards. Providers need to be able to validate the customers’ information in order to provide dispute resolution services. Our concern is that the final rules as originally published appear to cover unregistered cards, opening up the possibility for increased fraud.\(^2\) Fraud mitigation will increase costs and prices for consumers, and could affect access and availability of these products.

While we believe the provision that requires financial institutions to resolve errors that occurred prior to verification is in the consumers’ best interest, we also believe this is an issue that providers, the Bureau, and safety and soundness regulators should monitor and make adjustments as needed. It may be that the “look back” period may need to be limited in some way.

**Credit Cards Linked to Digital Wallets**

A June, 2017 study by the Federal Reserve Bank of Boston forecasts that use of mobile and digital wallets will grow rapidly over the next several years, particularly among younger users who are digital natives.\(^3\) The Bureau needs to be developing rules that can work within (and withstand) the range of innovations that are happening in the payment channels these days. We support the proposed changes to the rules that allow accounts linked to different payment tools to be governed by the rules within those different payment structures, be they debit (Reg E) or credit (Reg Z).

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\(^1\) Within the industry, Visa Clear standards apply to prepaid cards with the Visa logo. MasterCard has issued standards for payroll card issuers and program managers.

\(^2\) Berry, Kate (2017). “CFPB’s prepaid rule could open the door to rampant fraud” American Banker (March 23, 2017)

As a regulator, you should be developing tools that will allow you to regulate by looking out of the windshield rather than looking in the rearview mirror. As CFSI has said in many of our comment letters, we believe that narrowly prescriptive rules are an anachronism in an era of financial technology evolution and innovation. The prepaid market, in particular, would benefit more by outlining a set of principles rather than a series of rules that end up either stifling innovation or generating products that fall outside of narrowly defined structures, creating gaps in consumer protection. We have attached examples of principles from our Compass Guide to Prepaid as an appendix to this letter.

**Proposed Effective Date**

CFSI supported the extension of the effective date to April 1, 2018. Whether this should be extended further really depends on how quickly the Bureau can finalize these proposed amendments. As we said in our April, 2017 letter:

The primary cost of this delay would be that consumers would not have the information they need to make appropriate choices among card products. However, as our 2016 Prepaid Industry Scorecard shows, card providers made substantive improvements since 2014 in disclosing account terms and privacy, and in individual fees. Between 2014 and 2016, the industry retained its A grade for fee disclosures and its A-grade on pricing schedule and options. Thus, the risk to consumers of not having the information they need for decision making seems low.

**Other Amendments**

In general, CFSI supports the other amendments (exclusions for loyalty, award, or promotional gift cards; unsolicited issuance of access devices and pre-acquisition disclosures; clarifying selected pre-acquisition disclosures; submission of account agreements; safe harbor for early compliance) as proposed. However, we note again that regulators will have a hard time keeping up with an evolving and innovative product space if they insist on the level of detail required in traditional regulatory structures.

The rate of change in both technology and the services and products these technologies enable make “bright line” legislating and rulemaking an anachronism. Consumer protection is still very much needed, but policy makers need to identify the right tools to reshape the regulation of financial services to fit the innovations in the 21st century – it is not a question of whether, but how. Moving away from prescriptive rules to principles-based rules will enable both regulators and industry participants to remain nimble and relevant as products and services grow and evolve over time.

**Other Actions to Consider**

*Tracking consumer outcomes.* The rapid pace of technology innovation in financial services means that the industry is constantly coming across new ways to improve consumer financial health in this country. We believe this innovation can best be leveraged when providers align business outcomes with customer outcomes. Thus, we are hopeful that the industry and the regulatory community will adopt the view that improving consumer financial health should be a
success metric for the financial services industry. CFSI’s Eight Ways to Measure Financial Health gives providers a way to gauge how their customers are doing and whether products and services are improving consumer outcomes. We recommend that the CFPB also leverage this framework in helping determine which innovations in the prepaid space are positive for consumers.

Harmonization among types of prepaid programs. Payroll cards are a subset of prepaid cards, varying only in their distribution method. Today, the business model of prepaid is dependent on getting a sustainable percentage of direct deposit relationships. The Bureau should explore how to bring the prepaid and payroll sectors together under a common banner to achieve economies of scale as well as consistency in regulation and treatment.

Conclusion

CFSI believes that access to high-quality financial services is necessary for consumers’ financial health and any clarity that the Bureau provides in rules for prepaid cards and accounts is welcome. Access to high-quality transactional services is a key component of a successful financial life for consumers. Having the ability to spend, save, borrow, and plan safely and effectively can help individuals manage their day-to-day finances, weather financial shocks, and provides them with longer-run financial opportunities.

Well-designed products built upon our Compass Principles have the potential to help people improve their financial well-being and financial health. In our vision for a financial marketplace with high-quality products, consumers will know what to expect when they choose and use services – and will have consistent experiences that reinforce healthy financial behaviors. Financial service providers will benefit from a standard, consistent, and level playing field. And markets will benefit from increased efficiency, efficacy, and innovation.

Sincerely,

Jennifer Tescher
President and CEO
Center for Financial Services Innovation

Jeanne M Hogarth
Vice President
Center for Financial Services Innovation
Appendix -- Compass Practices for Prepaid Accounts (2012)\(^d\)

CORE PRACTICES

This section outlines the standards for a high-quality prepaid account. A prepaid account should not be considered high quality unless it meets these practices.

1. Product Functionality
Practices regarding an account’s transactional features, including the ability to load, store, and access funds.

   1.1 Deposit insurance: Consumer funds are safe and fully insured.
   
   1.2 Load: Consumers have multiple, convenient options for adding funds to their account.
   
   1.3 Pay: Consumers can make purchases from and payments to nearly all merchants, billers, and individuals.
   
   1.4 Withdraw: Consumers have convenient and immediate access to their funds through many channels.

2. Marketing and Communications
Practices regarding how the consumer learns about the product, its features, and prices.

   2.1 Fee disclosure: Prices are easily accessible and are presented simply and clearly.
   
   2.2 Account terms disclosure and privacy policy: Consumers are effectively informed of all account terms and any changes in those terms, and their privacy is protected.

3. Customer Service and Account Information
Practices regarding consumers’ ability to access account information, to identify and resolve problems with the account, to make adjustments to their account, and to receive the information and support necessary to use the account successfully.

   3.1 Access to balance and transaction history: Consumers have many ways to access their balance information and transaction history quickly.
   
   3.2 Customer service center: It is easy to obtain customer support, and callers to the customer service center are treated respectfully and helpfully.

\(^d\) Extract from Compass Guide to Prepaid Cards; full text is available at http://cfsinnovation.org/research/the-compass-guide-to-prepaid/ Since the original publication, many of the “Stretch” and “Next Generation” practices have been implemented by the industry. See CFSI’s 2016 Prepaid Industry Scorecard, available at https://s3.amazonaws.com/cfsi-innovation-files/wp-content/uploads/2017/01/19204903/Prepaid-Scorecard-FINAL.pdf
3.3 Fraud and error resolution: If fraud, errors, or malfeasance affect a consumer’s account, the consumer’s liability is limited, and appropriate investigative procedures are taken to resolve the problem.

3.4 Paper statements: Consumers can request mailed paper statements at a reasonable cost and access statements electronically in a printable format.

4. Pricing Design
Practices regarding the design of prepaid account pricing schedules that balance overall affordability, simplicity, consumer choice, and provider costs.

4.1 Pricing schedule and options: The pricing schedule is simple, straightforward, and supportive of consumer choice.

4.2 Individual fees: Individual fees are affordable and designed to align profitability for the provider with success for the consumer.

4.3 Building a supportive customer-provider relationship: The pricing schedule encourages a supportive rather than a punitive relationship between customers and providers.

STRETCH PRACTICES
This section provides additional best practice ideas for providers looking to stretch beyond the basic requirements.

5. Product Functionality
Practices regarding an account’s transactional features, including the ability to load, store, and access funds.

5.1 Additional customer benefits: Consumers receive additional benefits that increase the account’s value.

6. Marketing and Communications
Practices regarding how the consumer learns about the product, its features, and prices.

6.1 Promoting positive customer use: Consumers receive proactive guidance about how to enhance their use of the product.

7. Customer Service and Account Information
Practices regarding consumers’ ability to access account information, to identify and resolve problems with the account, to make adjustments to their account, and to receive the information and support necessary to use the account successfully.

7.1 Alerts: Consumers can set-up customizable alerts for specific situations to help them budget better, avoid fees, and detect fraud quickly.
8. Distribution Channels and Product Acquisition
Practices regarding where, when, and how consumers can access, acquire, and register an account.

8.1 Account access: Registration procedures enable a wide range of consumers to access the product, while balancing increased access with appropriate regulatory requirements.

8.2 Reaching the consumer: The product is available through a variety of convenient and familiar locations and channels

NEXT GENERATION

This section is for providers that have met the standards for quality, challenged themselves to stretch beyond the basics, and are considering additional services for their prepaid account customers. These practices are called “next generation” to emphasize the need for new models that actively contribute to improving people’s lives and deliver sustainable value to all consumers and providers. Many current approaches are not responsible or viable for the consumer or the provider, and we need customer-focused innovation, research, and testing for these new models to emerge.

9. Additional Services
Practices regarding additional, non-transactional services.

9.1 Budgeting: The prepaid account provides consumers with tools for planning, budgeting, and tracking expenditures.

9.2 Savings: Consumers can easily transfer funds easily into a savings account.

9.3 Credit Reporting: The provider explores how the consumer’s transaction history could assist the consumer in applying for credit or building a positive credit report.

9.4 Credit Access and Overdraft Services: When offering credit or overdraft services with prepaid accounts, providers should exercise caution and offer only high-quality, safe, affordable options.

9.5 Other Financial Needs: Consumers can choose to allow providers to use their transaction history as the basis for offering other beneficial products.