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June 14, 2018

Submitted via Email at: FederalRegisterComments@cfpb.gov

Darian Dorsey
Comment Intake
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Bureau of Consumer Financial Protection
Request for Information Regarding Bureau's Adopted Regulations and New Rulemaking Authorities
[Docket No. CFPB–2018–0011]

Dear Mr. Dorsey:

This letter is submitted on behalf of the Network Branded Prepaid Card Association ("NBPCA")[1] in response to the Consumer Financial Protection Bureau's ("Bureau") Request for Information Regarding the Bureau's adopted regulations and new rulemaking authorities (the "RFI").[2] The RFI seeks public input regarding the substance of the Bureau's adopted regulations, including any updates or modifications the Bureau should make to its adopted rules. The NBPCA appreciates the opportunity to share its comments on the RFI and looks forward to continuing to work with the Bureau to create common sense regulations that properly balance protections for consumers with the benefits they receive from financial services providers offering diverse and innovative products in the marketplace.

We are writing to request certain substantive modifications to the Bureau's adopted rule for Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth In Lending Act (Regulation Z), as modified in a final rule issued by the Bureau on Jan. 25, 2018 and published in the Federal Register on Feb. 13, 2018 (the "Rule").[3] Our members have been working with the Bureau on all aspects of the Rule throughout the rulemaking process, including, but not limited to, the submission of comment letters to the Bureau's Advanced Notice of Proposed Rulemaking on May 24, 2012, and the Bureau's Proposed Rule published on Dec. 23, 2014.[4] In addition, our members have engaged with Bureau staff at in-person meetings to assist the Bureau in its understanding of the prepaid industry and issues and concerns of industry members with respect to the requirements of the Rule.

[1] The NBPCA is a nonprofit, inter-industry trade association that supports the growth and success of network branded prepaid cards and represents the common interests of the many participants in this rapidly growing payments category. The NBPCA's members include banks and financial institutions, the major card networks, processors, program managers, marketing and incentive companies, card manufacturers, card distributors, payment industry consultants and law firms. The comments made in this letter do not necessarily represent the position of all members of the NBPCA.
[2] 83 Fed. Reg. 12286 – 12289 (March 21, 2018).
[3] 81 Fed. Reg. 83934 – 84387 (Nov. 22, 2016); 83 Fed. Reg. 6364 – 6449 (Feb. 13, 2018).
[4] 79 Fed. Reg. 77102 – 77335 (Dec. 23, 2014).

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In response to our comment letters and in-person meetings, the Bureau has made a number of positive changes to the Rule, including the extension of the Rule's effective date and the removal of a requirement to apply Regulation E error resolution and limited liability protections to unverified prepaid accounts. The NBPCA appreciates the Bureau's attention to our members' concerns and the corresponding changes the Bureau has made to the Rule. Our members, however, continue to have concerns with certain aspects of the Rule and respectfully request the Bureau make additional changes to streamline the Rule and ease the compliance challenges it presents, while retaining important consumer protections.

With this in mind, provided below are additional recommended modifications and changes to the Rule. We have raised the issues and concerns detailed below in our previous correspondence with the Bureau regarding the Rule. In order to provide additional context for our comments herein, we have enclosed copies of our comment letters that were previously submitted to the Bureau during the rulemaking process.

NBPCA RESPONSES TO FEEDBACK REQUESTED IN THE RFI

I. REQUESTED MODIFICATIONS TO THE RULE

DISCLOSURES AND COVERAGE UNDER THE RULE

The Bureau should remove the long form disclosure from the Rule as it is redundant to information already provided to the consumer and, according to the Bureau's own research, is likely to overwhelm and confuse consumers when provided pre-acquisition

With certain exceptions, the Rule continues to require an issuer to provide a consumer with both a short form fee disclosure and a long form fee disclosure prior to the acquisition of a prepaid account. While the NBPCA agrees that the material fees for using a prepaid account should be disclosed to consumers prior to acquisition, we believe that the pre-acquisition process contained in the Rule will not achieve that goal. In particular, we note that in addition to the short form and long form disclosures required under the Rule, a consumer obtaining a prepaid account will also receive a cardholder agreement, which will describe the terms and conditions of use, the fees associated with using the product, and any additional disclosures required under state law.

Given the information contained in the short form disclosure and the cardholder agreement, our members believe that the long form disclosure is simply redundant and that requiring issuers to provide consumers with yet another disclosure unnecessarily increases both industry costs and consumer confusion. Evidence for this latter point can be found in the Bureau's own research it conducted in advance of issuing its proposed rule in 2014. Specifically, the Bureau itself learned that consumers found the long form disclosure overwhelming and noted the likelihood that consumers may simply disregard the disclosure as follows:

> "The Bureau does not believe consumers would necessarily benefit from receiving only this long form disclosure before acquiring a [P]repaid [A]ccount. In the Bureau's testing, for example, many participants reported feeling overwhelmed by the amount of information included on a prototype long form and they struggled to compare two long form disclosures, even those that

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> listed identical fee types. The Bureau believes that the potential size and complexity of the long form might overwhelm and lead consumers to disregard the disclosure and also not use it to comparison shop across products or even to evaluate a single product."[5]

In sharp contrast, the Bureau found that the fees already included in the short form disclosure were the most relevant to a consumer's purchase decision, noting that:

> "[W]hen participants in the Bureau's consumer testing saw longer lists of fees during testing, they frequently cited one of the fees included on the short form disclosure as that which would most influence their decision about which prepaid product to acquire. In other words, testing participants were not relying on the additional information in the long form disclosure to make a decision. The results suggest that the participants would have reached the same decision reviewing a short form disclosure."[6]

Based on the above, our members believe that the short form disclosure, when coupled with the more detailed cardholder agreement, provides consumers with a complete, sufficient and manageable disclosure, and the Bureau should revise the Rule to dispense with the long form disclosure requirement altogether. Alternatively, if the Bureau is not willing to remove the long form disclosure requirement, then the NBPCA would respectfully request that the long form disclosure should, in all cases, only be required to be distributed online, over the phone, or by request for a written copy.

The Bureau should remove the requirements for electronic disclosures provided under the Rule to be responsive to varying screen sizes and to be machine readable

The Rule requires that electronic disclosures provided to consumers be in a responsive form and viewable across all screen sizes. Our members have indicated that ensuring disclosures provided electronically are responsive across varying screen sizes creates significant technical challenges that make compliance overly difficult. Specifically, by requiring issuers to provide pre-acquisition disclosures responsive to screen size, the Rule prevents use of common applications such as Adobe and Word. Instead, financial institutions must hard code disclosures. In the event of a change, the new disclosures would be cumbersome to develop and would be subject to stringent technical specifications. Yet the screen size responsiveness requirement does not add substantive value because consumers are used to maneuvering smaller screens. Moreover, the Rule's level of specificity with regard to the manner in which electronic disclosures are made appears to be unique and not shared by other similar regulations for the financial services industry.

Given the compliance challenges presented and the fact that no similar obligation appears elsewhere, we ask the Bureau to remove the requirement that electronic disclosures be responsive to varying screen sizes from the Rule and instead simply require that such electronic disclosures can be displayed on a screen.

[5] 79 Fed. Reg. 77150 (December 23, 2014).
[6] 79 Fed. Reg. 77154 (December 23, 2014).

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In addition to being in a responsive form, the Rule requires electronic disclosures to use machine-readable text that is accessible via Web browsers, mobile applications and screen readers. Moreover, although the Bureau has not yet specified the format issuers will be required to use when submitting account agreements to the Bureau, it appears to be leaning towards a machine-readable requirement as well.

Our members have highlighted a number of concerns with the Bureau's requirements for machine readable electronic disclosures and the submission of account agreements. With respect to electronic disclosures, our members report that complying with the "machine readable" requirement when creating the required disclosures will require an unreasonable amount of unnecessary development work, particularly when compared with a PDF solution, which our members note would be far easier to implement. Moreover, PDF files are screen reader accessible, work well with all devices, are printer friendly, can be saved or e-mailed easily, and are already familiar to consumers.

With respect to the Rule's submission requirement, our members note that credit card issuers submitting credit card agreements to the Bureau are not required to submit agreements using machine readable text and instead are permitted to e-mail PDF copies of agreements to the Bureau. Our members believe there is no reason for the Rule to impose more difficult requirements on prepaid account issuers than are applicable to credit card issuers (not to mention traditional issuers of deposit accounts). At a minimum, given that the Bureau has indicated that it plans to revisit the credit card agreement submission requirements to reduce burden on credit card issuers, we respectfully ask that the Bureau delay the effective date for the submission requirement for prepaid account issuers until such time as it finalizes changes to the same for credit card issuers. The Bureau should then revisit the submission requirements for institutions subject to the Rule to ensure that prepaid and credit card issuers are treated similarly with respect to this requirement.

For these reasons, we ask the Bureau to modify the Rule consistent with our comments herein.

The Bureau should remove the short form disclosure for additional fee types as it is potentially misleading and not informative

As part of the short form disclosure obligations, the Rule requires issuers to disclose the number of additional fee types they charge with respect to a given program. Our members have reported certain concerns with making such a disclosure. For example, it may lead consumers to believe that a program that offers a larger number of optional features is more expensive than one that offers less flexibility. In addition, requiring issuers to make the disclosure regarding the number of additional fee types may also result in issuers eliminating innovative additional services that consumers may find useful in order to reduce the number of fee types listed on the short form. Finally, the requirement that the additional fee type disclosure be in bold type gives it undue prominence. Indeed, the number of additional fee types is no more meaningful or significant than any of the static fees on the form.

Given these concerns we ask that this requirement be deleted from the Rule.

The calculations required to disclose additional incidental fee types (5% Fees) are overly difficult and should be removed from the Rule

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In addition to a prescribed set of "static" fees, the Rule requires issuers to include on the short form the two fee types that generate the highest revenue from consumers for a given program or across programs that share the same fee schedule during a prescribed time period. Fee types that account for less than 5% of an issuer's revenues, as well as finance charges, do not need to be disclosed.

Based on feedback from our members, we believe this disclosure requirement is particularly troublesome and may require some members to calculate incidence-based fees for hundreds of programs, as the fees associated with the programs are not uniform. Exacerbating this issue is the fact that because programs may not share the same fee schedule, program data cannot be aggregated across multiple programs to perform the analysis required by the Rule. These calculations are very difficult to perform and the attendant benefit to consumers is, at best minimal, particularly given the strict requirements associated with the related short form disclosures.

Our members believe the static fees that are required to be disclosed on the short form are sufficient to enable consumers to make an informed purchasing decision and there should be no requirement that issuers perform hundreds of complex calculations to disclose fees that a consumer may never in fact incur. For these reasons, we urge the Bureau to remove this requirement from the Rule.

The Bureau should exclude non-reloadable products from coverage under the Rule

The NBPCA is concerned that the Rule continues to apply to various non-reloadable prepaid products that are not designed to function as transaction account substitutes and that are often used as a means of making one-time, low value payments that were previously made by cash or check. As expressed in our original comment letter, we strongly believe that these products should be excluded from the Rule or they risk elimination from the marketplace due to compliance costs exceeding the revenues generated from the product. These non-reloadable prepaid products are used for a wide variety of other services, such as reimbursement of real property lease security deposits, reimbursement of furniture lease security deposits, and compensation to doctors for completing surveys, to name just a few of the use cases.

The NBPCA is concerned that if non-reloadable prepaid products, such as, but not limited to, the ones described above, are not exempted from the Rule, this fast-growing market segment may disappear, which would harm consumers by depriving them of a more convenient means of receiving such payments. We thus ask the Bureau to modify the Rule to exclude these types of products from coverage.

Alternatively, we would ask the Bureau to exclude from the Rule non-reloadable products that are also not marketed to the general public. One, but by no means the only, example of such a product is utility refund cards, which are often used to disburse refunds for services that have been paid in advance (e.g., paying for cable services at the start of the month before services are rendered) or to reimburse consumers for unused security deposits. We note that the Bureau's final amendments to the Rule clarified that the existing exclusion for loyalty, award, and promotional cards extended to loyalty, award, and promotional cards not marketed to the general public. Similarly, our members think it makes sense to extend this exception to any non-reloadable cards that are not marketed to the general public, such as disbursement cards described above. While these products do not technically qualify as loyalty, award, or

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promotional cards under the CARD Act, they offer similar features and function in much the same manner. We also note that while we raised this issue with the Bureau in our initial response to its proposed amendments, the Bureau did not opine on the issue in the final Rule or provide any analysis. Rather, the Bureau noted that such an issue was beyond the scope of its proposal and thus it could not act on it.

For these reasons, should the Bureau continue to apply the Rule to non-reloadable products, the NBPCA urges the Bureau to exclude those non-reloadable products that are not marketed to the general public from the Rule.

The Bureau should expand the exclusions in the Rule for healthcare and employee benefit accounts to other similarly structured products

The NBPCA continues to be concerned with the apparent limitation of the applicability of the exemptions for healthcare and employee benefit products contained in the Rule to the explicit examples given by the Bureau. Specifically, the Rule provides that a "prepaid account" does not include an account "loaded only with funds from a health savings account, flexible spending arrangement, medical savings account, health reimbursement arrangement, dependent care assistance program, or transit or parking reimbursement arrangement."[7] While the NBPCA agrees that it would be inappropriate to subject these employee benefit products to coverage under the Rule, the NBPCA is also concerned that by limiting the exclusion to the enumerated products, the Bureau may cause other similar products to be deemed "prepaid accounts," subject to all of the requirements of the Rule. For example, consider 529 college and ABLE Act savings plans. Like an HSA, a 529 plan and an ABLE plan are tax-advantaged savings plans designed to encourage consumer savings that can be spent on certain "qualified expenses."[8] While these savings plans operate similarly to an HSA, under the current Rule, it appears that an account loaded only with funds from one of these listed programs would still qualify as a "prepaid account."[9] Such a result would be harmful to both industry and consumers because the increased compliance costs would make it difficult for providers to continue offering these products.

OVERDRAFT AND CREDIT SERVICES UNDER THE RULE

Prepaid accounts offering overdraft services should not be singled out for different treatment from other consumer asset accounts that offer overdraft services

The NBPCA is disappointed that the Rule continues to exhibit markedly different treatment for overdraft and credit features offered in connection with prepaid accounts, from how the same types of features are treated when they are offered in conjunction with a debit card connected to a traditional

[7] 81 Fed. Reg. 84326 (Nov. 22, 2016) (Rule Section 1005.2(b)(3)(ii)(a)).
[8] In the case of 529 Plans, qualified expenses include qualified tuition expenses. Whereas in the case of ABLE plans, qualified expenses relate to qualified disability expenses.
[9] It is worth noting that, in the case of ABLE Act savings plans, while the federal law allowing for these tax-advantaged plans was passed in 2014, because the plans are state enabled, we are only just now seeing them adopted by the states. These plans are a good example of a product that did not exist at the time the Bureau was preparing its Rule, but nevertheless would greatly benefit from inclusion in the exceptions from the Rule provided by the Bureau.

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checking account. The NBPCA believes that there is no compelling reason for treating similar bank products differently, and for providing disfavored treatment to the one product that is designed to provide access to financial services for low and moderate-income consumers who might not otherwise have access to a traditional bank account. It is important to note that prepaid accounts are the only financial services products in the market today that are subject to this limitation. Thus, for all practical purposes, the Rule creates an uneven playing field for prepaid accounts vis-a-vis other payment types, which will ultimately have an impact on how a consumer views the product. Our members believe such a result makes little to no sense, particularly when considering the fact that prepaid account products make up less than 1% of the consumer complaints the Bureau received since 2011.

On its face, it appears that the Rule attempts to treat consumers who may have affirmatively selected to use prepaid accounts to access their money, much differently than consumers who have decided to open a traditional bank account with an associated debit card. Accordingly, it seems that prepaid account users will simply not have the same flexibility to choose the bank features that meet their specific needs like their debit card counterparts. This is particularly troubling considering that the limitations on such features included in the Rule hinge on the access device selected by the consumer when they open their bank account. The restrictions in place today will make it impracticable for prepaid account providers to continue offering account features that take advantage of the full range of a prepaid account's potential benefits for consumers.

As stated in our previous comment letters, while we acknowledge the Bureau's admirable aim of protecting consumers from potentially harmful financial products and services, we believe this goal can be addressed without the restrictive overdraft guidelines in the Rule. Furthermore, we would like the opportunity to reiterate our request from our March 2015 comment letter, that the current overdraft restrictions be removed and replaced with a modest cap on the number of overdraft fees in any month or a modest cap on the total amount that any account may be overdrawn, perhaps $150.

The NBPCA continues to have concerns with respect to the definition of "Business Partner" in the Rule

Should the Bureau continue to restrict credit offered in conjunction with a prepaid account in a manner similar to that included in the Rule today, the NBPCA requests additional changes to the definition of "Business Partner." In particular, the Bureau's amendments to the Rule create a limited exception for certain business arrangements between prepaid account issuers and credit card issuers that offer traditional credit card products. To qualify for the exception, providers must, among other things, not allow the prepaid account to access credit from the credit card account in the course of a transaction with the prepaid account unless the consumer has submitted a written request to authorize linking the two accounts that is separately signed or initialized.

The NBPCA understands that this exception is designed to address certain complications in applying the credit provisions of the rule to credit card accounts linked to digital wallets that can store funds, but also applies to prepaid accounts more broadly. The NBPCA has significant concerns with the structure of this exception. First, the exception applies only to traditional credit cards linked to a prepaid account offered by a party other than the prepaid account issuer. The NBPCA believes the exception should be extended to traditional credit cards issued by the prepaid account issuer. Similar to credit cards

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offered by a third party that are linked to a digital wallet or prepaid account, credit cards offered by an account issuer itself are already subject to Regulation Z's open-end credit card rules and, given the other requirements of the Bureau's proposed exception, could be offered to consumers under circumstances that pose very little risk. It remains unclear what problem the Bureau is trying to solve by requiring consumers to spend additional time (and potentially adversely impact their credit score) to take the extra steps to secure a credit card from a company not associated with the prepaid issuer who has issued their card. If the consumer likes his or her prepaid account issuer, and the company in question also issues credit, and specific credit card rules will be applied to the credit product, what benefit is there from compelling the consumer to go two separate places to obtain a credit card covered by the same rules?

The restrictions regarding who can or cannot offer a credit card connected with a prepaid account appear to be in place because the Bureau is concerned about prepaid providers circumventing the overdraft restrictions in the Rule. However, in our estimation, the overdraft provisions are so restrictive that we anticipate that few, if any, prepaid providers will offer an overdraft feature connected to their prepaid account. As such, we believe the Bureau's attempts to restrict credit offerings will only serve to make it more complicated for consumers who use prepaid and also want to have access to a line of credit. A potential outcome of this feature is that consumers will become so frustrated that they cannot obtain credit and prepaid products from the same entity that they move away from prepaid products altogether.

ADDITIONAL MODIFICATIONS FOR THE RULE

The Bureau should remove compulsory use language requirements from the disclosure requirements for payroll and government benefit cards

The Rule requires issuers of government benefit and payroll cards, respectively, to include a statement on the top of the short form disclosure warning consumers that they do not have to receive payment through a prepaid card. The required disclosures read as follows:

- Government Benefit Cards. One of either of the following:
    - "You do not have to accept this benefits card. Ask about other ways to receive your benefits."
    - "You have several options to receive your payments: [list of options available to the consumer]; or this benefits card. Tell the benefits office which option you choose."

- Payroll Cards. One of either of the following:
    - "You do not have to accept this payroll card. Ask your employer about other ways to receive your wages."
    - "You have several options to receive your wages: [list of options available to the consumer]; or this payroll card. Tell your employer which option you choose."

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While the NBPCA strongly supports the rights of consumers to select their preferred payment method that best fits their needs in order to receive government benefits or wages, the NBPCA feels the required warning, which we do not believe applies to other financial services products, may actually do more harm than good for consumers. Specifically, the NBPCA is concerned that either of the particular statements proposed by the Bureau, but particularly the first option, would have a chilling effect on both government benefit and payroll card consumers. Any consumer receiving the short form disclosure with one of the required statements may be dubious about the reasons for including such a warning and come to the conclusion that a government benefit or payroll card is not a safe payment option, regardless of whether, in reality, it provides the greatest level of benefit to the consumer.[10] Moreover, our members report that the second option provided by the Bureau may not be operationally feasible. This is because wage payment options may vary, depending on state law. Use of the second disclosure would require a provider to take responsibility for an item that varies by employer and location, and could change outside of the provider's control. Given this concern, we suspect that many providers would be left with only the first option.

Because of its potential to dissuade consumers from selecting prepaid cards as a convenient and cost-effective method of government benefit or wage payment for themselves, the NBPCA urges the Bureau to either remove the compulsory use language requirements from the Rule or to include statements that are more positive and focused on consumer choice. Specifically, the NBPCA proposes the following statements, which alert the consumer to the fact that they have payment options, while mitigating the risk that the proposed statement could scare them away from choosing a government benefit or payroll card if that option is in their best interest:

- Government Benefit Cards. "Prepaid Cards may be a convenient method to receive your benefit payments, but you do have options on how to get paid. Ask your benefit provider about other ways to get your payments."

- Payroll Cards. "Payroll Cards may be a convenient method to receive your wages, but you do have options on how to get paid. Ask your employer about these options."

The Bureau should update its posting and submission requirements to treat prepaid cards the same as other account products and, at a minimum, the Bureau should remove the requirement for payroll and government benefit card providers to submit cardholder agreements to the Bureau for posting to a publicly available website

Section 19 of the Rule generally requires issuers to post prepaid account agreements on the issuers' websites (or make them available upon request in limited circumstances) and to submit those agreements to the Bureau for additional posting. In the commentary accompanying the Rule, the Bureau states that it believes this requirement will benefit consumers by facilitating comparison shopping while assisting the consumers' understanding of the terms and conditions of prepaid account agreements. While the NBPCA supports a requirement for consumers to have electronic access to their own account agreements, the NBPCA does not believe the submission and posting requirements imposed upon prepaid

[10] https://www.fiscal.treasury.gov/fsservices/indiv/pmt/dirExpss/dirExpss_blog.htm.

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account providers in the Rule is necessary and that it further imposes strict requirements on prepaid account providers that are not imposed on similar financial services products.

There is no requirement comparable to Section 19 of the Rule applicable to issuers of traditional deposit accounts. Moreover, although credit card issuers are required to post the agreements they offer to the general public on their websites, they are only required to submit their currently offered card agreements to the Bureau on a quarterly basis. Thus, the Rule applies more stringent requirements to prepaid account issuers than are applicable to any other providers of similar financial services products. Our members do not believe such different treatment is warranted and, for this reason, we request that the Bureau update the posting and submission requirements so that prepaid account issuers are treated consistently with the providers of traditional deposit accounts that they compete with in the marketplace. In short, the requirement that issuers both post agreements to their own website and submit them to the Bureau creates significant administrative burdens for the industry (particularly given the need to continually update agreements as they are introduced, amended or withdrawn) without creating a meaningful benefit for consumers.

At a minimum, our members believe the posting and submission requirements should be modified to exempt payroll and government benefit cards. Unlike consumers of many traditional general purpose reloadable cards, consumers of payroll and government benefit cards are not presented with a choice between several card programs. Rather, by definition, consumers of these card types are employees or benefits who are offered the card through their employer or benefits provider respectively. The consumer cannot comparison shop for a different product so comparing the terms of one payroll or government benefit program with another will not facilitate comparison-shopping. Given this fact, there is little consumer benefit to be derived from the posting of such card agreements.

Moreover, while the NBPCA believes that access to one's own payroll or government benefit agreement on an issuer's website is essential, the NBPCA fears that access to all such agreements available in the marketplace will likely cause consumer confusion and harm. Specifically, there is a danger that publicly posting payroll and government benefit program agreements will mislead consumers by giving them the impression that they have the ability to comparison shop when they do not. Consumers will be confused as to why they have access to the terms and conditions for card programs that the consumer cannot elect to choose, even if they want to.

For these reasons, we ask the Bureau to modify the Rule consistent with our comments herein.

The Bureau should modify the Rule to require issuers to maintain no more than 12 months of account transaction history, and remove the requirement that issuers provide written transaction histories to consumers upon request at no charge

Under the Rule, an issuer must provide a written account transaction history for a prepaid account promptly in response to the consumer's oral or written request. The written history must cover at least 24 months prior to the date on which the issuer received the request. With limited exceptions, the issuer may not assess a fee for providing the written history provided the consumer only submits one such request per month.

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With regard to these requirements, the NBPCA first urges the Bureau to limit the amount of written transaction history an issuer has to keep to 12 months, as opposed to 24. While we understand the Bureau included this requirement out of a concern that consumers may need such information for tax filing purposes, in the experience of the NBPCA's members, consumers have not requested or required 24 months' worth of transaction history. Second, with regard to providing a consumer's written transaction history upon request, while the NBPCA recognizes the importance of the providing consumers the ability to access their account histories at any time at no cost, the NBPCA does not believe the proposed requirement is necessary to achieve this result. In particular, the NBPCA points out that, under the Rule, a consumer could request a full written history of their transactions for the previous 24 months on the first day of every single month. So long as the consumer limited such requests to once per month, the issuer would have to mail a packet to the consumer containing the full 24 months of transaction history at no charge every month. The costs associated with mailing such transaction histories on a monthly basis could quickly mount up and could result in an issuer (i) determining that offering a particular card program is simply not cost effective, and (ii) terminating the applicable cardholder account or the entire prepaid account program, thereby limiting consumer choice.

Moreover, the NBPCA believes that the myriad of ways a consumer can access their transaction history makes the requirement to mail written statements unnecessary. Currently, consumers can obtain free access to their transaction history online, through any computer, smart-phone, or tablet, and can obtain their balance information over the phone at no cost. Moreover, many programs today offer innovative features such as text alerts after every transaction to let consumers know exactly how much money they have left in their accounts. Given the varied ways a consumer has to access their transaction history at no charge, the NBPCA believes that requiring issuers to mail a written history each month at no cost is not necessary.

As an alternative to providing a free written transaction history each month upon request from a consumer, the NBPCA suggests a requirement entitling consumers to a written copy of their transaction history once every 12 months at no cost to the consumer. The NBPCA believes this solution appropriately balances the need to ensure consumers have ready access to their account histories while not placing any undue burden on issuers to compile and mail months of transaction history information at no cost on a monthly basis.

II. CURRENT PROVISIONS OF THE RULE THAT SHOULD BE KEPT

As noted above, the Bureau has made a number of positive changes to the Rule that the NBPCA and its members support. Should the Bureau make additional changes or modifications to the Rule, we urge the Bureau to maintain these positive changes. In particular, the NBPCA strongly supports the Rule's provision that Regulation E error resolution and limited liability requirements do not extend to prepaid accounts that have not successfully completed the financial institution's consumer identification and verification process. As the NBPCA has expressed in both its conversations with and comment letters to the Bureau, the extension of Regulation E's limited liability provisions to unverified, anonymous products would lead to a significant increase in fraud losses stemming from the difficulties experienced by issuers in investigating claims of unauthorized use or error in the case of anonymous accounts and may cause some providers to significantly restrict the features and usability of unregistered prepaid accounts. For

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these reasons, we urge the Bureau to retain the provision that error resolution requirements do not extend to unverified and unregistered accounts in any further modifications of the Rule.

In addition, should the Bureau further modify or change the Rule, we urge the Bureau to consider whether a further extension of the effective date will be necessary to allow providers time to implement the requirements of the modified Rule.

CONCLUSION

The NBPCA appreciates the opportunity to comment on the RFI and the Rule. While the NBPCA appreciates the positive changes the Bureau has made to the Rule to date, including the extension of the Rule's effective date and the removal of a requirement to apply Regulation E error resolution and limited liability protections to unverified prepaid accounts, our members continue to have concerns with certain aspects of the Rule and believe that additional changes should streamline the Rule and ease the compliance challenges it presents while retaining important consumer protections. We therefore urge the Bureau to further modify the Rule consistent with the comments provided in this letter.

If you have any questions, please do not hesitate to contact me at the number listed below or at: btate@nbpca.org.

Sincerely,

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ENCLOSURES

NBPCA CORRESPONDENCE WITH THE BUREAU REGARDING THE RULE

(SEE ATTACHED)

DOCS/2061648.6