



Network Branded Prepaid Card Association
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January 27, 2013

Via Electronic Submission

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Attention: CFPB Docket No. CFPB-2012-0050 / RIN 3170-AA33

Re: Comment Letter on Proposed Revisions to Regulation E, Subpart B (Requirements for Remittance Transfers)

Dear Madam:

This letter is submitted to the Consumer Financial Protection Bureau (“CFPB” or “Bureau”) on behalf of the Network Branded Prepaid Card Association (“NBPCA”) in response to the proposed revisions to Subpart B of Regulation E – Requirements for Remittance Transfers (the “Rules”) and corresponding Official Interpretations in the *Federal Register* on December 31, 2013, at 77 *Fed. Reg.* 77188-77215 (the “Proposal”).

The NBPCA is a non-profit trade association representing a diverse group of organizations that take part in delivering network branded (often referred to as “open loop”) prepaid cards and other forms of prepaid access used by consumers, businesses and governments. The NBPCA’s members include prepaid access providers and sellers, in addition to depository institutions, card organizations, processors, program managers, marketing and incentive companies, card distributors, and law and media firms. The NBPCA is active on behalf of its members to inform and educate government officials, the media and consumers about these important payment products that provide critical access to financial services for the underbanked and a growing segment of “Generation Y” consumers, as well as convenience, security and efficiency to a wide-range of users. In its role as a leader in the prepaid industry, the NBPCA works with members to establish and encourage best practices that benefit card users and industry participants while at

the same time, protect our financial systems from misuse and abuse.¹ We welcome the opportunity to respond to the Proposal.

Errors Resulting from Incorrect Account Information

The NBPCA supports the CFPB’s proposal to clarify that a remittance transfer provider has not made an error if it does not make funds available to a designated recipient by the disclosed date of availability because the sender gave an incorrect account number to the remittance transfer provider.

Incorrect account number for the recipient. We urge the CFPB to clarify that an incorrect account number for this purpose may also include a prepaid account number (whether associated with a prepaid card or some other form of prepaid access), a credit card number or a debit card number, in addition to a bank DDA account number.

Similarly, proposed § 1005.33(h)(3) refers to a “deposit” of the remittance transfer into a customer’s account at the recipient institution other than the designated recipient’s account.” other than accounts. We suggest that the CFPB use the word “credits” instead of, or in addition to, “deposits” in this section so it is clear that transfers made to prepaid cards are also covered by this provision.

Incorrect account number for the sender. We also request that the CFPB clarify that no error has occurred under § 1005.33(a)(1)(iv)(D) if the sender gives the remittance transfer provider an incorrect number for the sender’s account from which funds are to be sent. If a sender gives a remittance transfer provider his/her bank account number (or credit, debit or prepaid card number, or other account number from which a transfer is to be funded), but the number given was in fact incorrect, an error should not be deemed to have occurred because the remittance transfer provider is unable to make the funds available to the designated recipient by the disclosed date of availability.

Insufficient funds in the sender’s account. Similarly, if the sender has provided a correct account number but, at the time the sender’s payment is to be made, the account has insufficient funds or is otherwise unable to fund the transfer, the remittance transfer provider should not be deemed to have made an error in not being able to make funds available to the designated recipient by the disclosed date of availability.

Model disclosure language for errors resulting from incorrect account numbers. Proposed § 1005.33(h) provides that, for an incorrect account number provided by a sender, an error has not occurred if the remittance transfer provider can demonstrate that, among other things, “[t]he sender had notice that, in the event the sender provided an incorrect account number, that the sender could lose the transfer amount.” We urge the CFPB to provide model language to satisfy this requirement, which might be made part of the short form error resolution and cancellation

¹ This letter does not necessarily represent the position of each of the organizations that is a member of the NBPCA.

disclosures set forth in A-37 (and in the long form disclosures in A-36, if necessary) or in a card or other account agreement.

Disclosure of Sub-National Foreign Taxes

We support the CFPB's proposal to eliminate the requirement for remittance transfer providers to disclose taxes imposed by foreign regional, provincial, state, or other local governments. However, we remain concerned about the requirements to disclose foreign taxes at the national level, as well as other fees, as discussed below.

Disclosure of Foreign Taxes and Recipient Institution Fees

We urge the CFPB to reconsider the requirement that remittance transfer providers disclose foreign (national) taxes and recipient (and other) institution fees, or at least delay the effective date for those disclosure requirements until a solution for ascertaining such taxes and fees can be developed, perhaps with assistance from the CFPB itself.

The Dodd-Frank Act § 1073 does not mandate that remittance transfer providers disclose foreign taxes and other fees. Rather, it requires that the disclosure must include the amount of currency to be received by the designated recipient, the amount of the transfer, *any fees charged by the remittance transfer provider*, and the exchange rate. There is no mention of foreign taxes and other fees.

The requirement for a remittance transfer provider to know the amount of fees that will be imposed on a transfer by a recipient's institution poses an enormous burden on remittance transfer providers, and likely ultimately will result in inaccurate estimated disclosures being provided to consumers and/or much more limited options for consumers to send remittance transfers.

The CFPB has provided, in proposed § 1005.32(b)(4), that with respect to any unknown variable affecting the amount of fees imposed by a recipient's institution, the remittance transfer provider may disclose "the highest possible recipient institution fees that could be imposed on the remittance transfer with respect to any unknown variable," which may be determined based on the institution's fee schedules or "information ascertained from prior transfers to the same recipient institution." If the provider cannot obtain fee schedules or does not otherwise have such information, a provider would be permitted to rely on "other reasonable sources of information," if the provider uses the highest fees identified in its disclosures. Proposed comment 32(b)(4)-2 explains that such sources of information would include fee schedules published by competitor institutions, surveys of financial institution fees, or information that is provided by the recipient institution's regulator or central bank.

We note, however, that it is uncommon for recipient institutions to send information back to remittance transfer providers regarding the amount of fees they assess, due to privacy concerns as well as because it is simply often not technologically feasible to do so.

Proposed comment 31(b)(1)-1(iv) states that a fee that is “specifically related” to a remittance transfer for this purpose may be a flat, per-transaction fee or it may be based on other factors in addition to the remittance transfer itself, such as account status or the quantity of remittance transfers received. We are concerned that it will be especially difficult for remittance transfer providers to know the amount of fees that may be assessed by recipient institutions that are “related” to a remittance transfer but that may be assessed at some later time, such as on a monthly basis.

Delayed Effective Date for the Rules

In our comment letter of January 14, 2013, regarding the CFPB’s proposed temporary delay of the February 7, 2013 effective date for the Rules, we stated that we believe 90 days is the *minimum* amount of time most remittance transfer providers will need to make necessary systems adjustments following final rule changes issued by the CFPB. Some remittance transfer providers, however, may need significantly more time than 90 days to make all the necessary changes to comply with the Rules once they are finalized by the CFPB. We therefore urge the CFPB to extend the effective date for the Rules to at least six months, if not one year, after it finalizes changes to the Rules based on the Proposal. Remittance transfer providers need additional time to make systems changes to address changes to the Rules once finalized by the CFPB, as well as to develop their own compilations of foreign tax information (as there is no database of that information currently available) and to attempt to research and develop “reasonable sources of information” regarding recipient and intermediary institution fees.

Thank you for this opportunity to provide input regarding this issue. If you have any further questions, please do not hesitate to contact us at (201) 746-0725.

Very truly yours,



Kirsten Trusko
President and Executive Director

Network Branded Prepaid Card Association (NBPCA)