



Innovative Payments Association

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Submitted Electronically at: <http://sers.fec.gov/fosers/>

Federal Election Commission

1050 First Street NE

Washington, DC 20463

Re: Contributions Through Untraceable Electronic Payment Methods
[REG 2024-08]

To whom it may concern:

This letter is submitted to the Federal Election Commission (the “FEC”) on behalf of the Innovative Payments Association (“IPA”),¹ in response to the notification of availability of petition for rulemaking issued by the FEC and published in the Federal Register on November 26, 2024 (the “Petition”).² The Petition is in response to a Petition for Rulemaking submitted by Ken Paxton, the Attorney General of the State of Texas, requesting that the FEC amend its regulations concerning the use of credit cards to make contributions and to address the potential use of prepaid cards to circumvent contribution amount limitations and source prohibitions. The Petition requests that the FEC amend its regulations to: (i) require that records for contributions made by credit, debit, and prepaid, or gift cards include documentation confirming that a cross-check occurred between the contributor’s self-reported identifying information with the card issuing institution’s own information for the name and billing address of the cardholder; and (ii) prohibit contributions from prepaid or gift cards unless the information from such cards can be cross-checked with the card issuing institution to confirm name and billing address.³

We appreciate the opportunity to provide feedback to the FEC on this important topic. If you have questions about our comments, we would be happy to discuss them further.

Prepaid Account Products are Issued by Highly Regulated Organizations and Subject to the same BSA/AML Requirements as other Financial Services Account Products and the amendments included in the Petition are unnecessary

In response to the Petition, we believe it is important to note at the outset that prepaid accounts are issued by highly regulated institutions that are required to implement the Bank Secrecy Act (“BSA/AML”) compliance programs that address customer identification, verification, and due diligence, suspicious

¹ The IPA is a trade organization that serves as the leading voice of the electronic payments sector, including prepaid products, mobile wallets, and person-to-person (P2P) technology for consumers, businesses and governments at all levels. The IPA’s goal is to encourage efficient use of electronic payments, cultivate financial inclusion through educating and empowering consumers, represent the industry before legislative and regulatory bodies, and provide thought leadership. The comments made in this letter do not necessarily represent the position of all members of the IPA.

² 89 Fed. Reg. 93224 (Nov. 26, 2024).

³ *Id.* at 93225.



activity monitoring and reporting, currency transaction reporting, as well as other BSA/AML reporting and recordkeeping requirements.

“Prepaid accounts,” which includes prepaid cards, mobile wallets, and peer-to-peer payments, are issued by regulated banks and other highly regulated organizations, such as money service businesses that are state-licensed and often registered as providers of prepaid access with FinCEN. Issuers of prepaid card programs are subject to examination, review, and supervision by state banking or other departmental regulators, federal banking regulators, the Internal Revenue Service or a combination of these agencies. Bank issuers of network branded prepaid cards are legally required under FinCEN’s BSA/AML requirements to have effective BSA/AML compliance programs that address customer identification, verification and due diligence, suspicious activity monitoring and reporting, currency transaction reporting, as well as other BSA/AML reporting and recordkeeping requirements.

Under FinCEN’s BSA/AML requirements, each issuer for a reloadable prepaid card program must have an anti-money laundering program that enables the prepaid card issuer to monitor every transaction creating a trail that records place, time, date, amount, and often the nature of the transaction. Prepaid card issuers and program managers routinely monitor card activity and file suspicious activity reports (“SARs”), currency transaction reports (“CTRs”) or notify law enforcement of suspicious transactions.

In addition, prepaid account transactions are processed through the same payment systems used by debit and credit cards, which requires authorization prior to completing a purchase or obtaining cash from an ATM. This system enables prepaid card issuers to cancel a prepaid card and to track every use, creating a trail that records place, time, date, amount, and often the nature of the transaction.

While we are aware of some lingering public perceptions that prepaid products are anonymous, we note that so-called “anonymous” prepaid cards today are limited to non-reloadable gift or reward cards, which are low balance, and are subject to significant access, load, ATM-usage and geographic restrictions.⁴ In contrast, reloadable prepaid products are subject to BSA/AML requirements that include “know your customer” customer identification requirements.

Many prepaid accounts are also subject to federal regulatory oversight and compliance responsibilities in a manner similar to debit accounts today. For example, prepaid accounts are regulated by the Consumer Financial Protection Bureau under Regulation E in much the same manner as debit cards attached to demand deposit accounts. Moreover, most reloadable prepaid cards offer FDIC pass through insurance, which makes these accounts functionally equivalent to demand deposit accounts in the eyes of the FDIC.⁵

⁴ For example, as defined, most “gift cards” today can only be used to complete a transaction at a single merchant or a group of affiliated merchant, and do not possess broader transaction capabilities.

⁵ See FDIC Financial Institution Letter, Stored Value Cards and Other Nontraditional Access Mechanisms New General Counsel's Opinion No. 8, FIL-129-2008, available at <https://www.fdic.gov/news/news/financial/2008/fil08129.html>.



In short, prepaid accounts operating in a complex regulatory framework that provides regulators with significant ability to gain insights into prepaid account products directly from the banks they regulate. This existing regulatory framework includes, but is not limited to, the following:

- Interagency Guidance on Third Party Relationships.⁶
- Interagency Guide for Community Banks on Conducting Due Diligence on Fintech Companies.⁷
- The CFPB's prepaid account rule.⁸
- The Bank Service Company Act.⁹
- The CARD Act.¹⁰
- FDIC's General Counsel Opinion No. 8.¹¹
- FinCEN's Prepaid Access Rule.¹²
- CFPB proposal to supervise fintech providers, including digital wallets and payment apps.¹³
- FDIC Complex Bank Supervision.¹⁴
- OCC Office of Financial Technology.¹⁵
- State Based Licensing, laws, and regulation.

We believe most, if not all, risks posed by contributions made via prepaid accounts can be appropriately addressed through this existing regulatory framework and the additional amendments in the Petition are not necessary.

Prepaid account products are a beneficial financial tool used by millions of Americans and government agencies and the amendments in the Petition may stigmatize the use of this important tool

Our members are concerned that amendments proposed in the Petition could unnecessarily stigmatize millions of Americans who use of prepaid account products to meet their day-to-day financial needs. Prepaid account products have proved to be an invaluable tool to open the door to the card-based financial system for many of the approximately 4.2% Americans households that are unbanked or underbanked.¹⁶ Many consumers in these groups have limited access or no access to bank branches or ATMs in their neighborhoods. Moreover, many are not eligible for a traditional bank account, or do not have enough money for traditional banking services, or simply do not want a traditional bank account. In short, millions of Americans from all walks of life and income levels utilize prepaid accounts as their

⁶ <https://www.occ.gov/news-issuances/bulletins/2023/bulletin-2023-17.html>.

⁷ <https://www.fdic.gov/sites/default/files/2024-03/pr21075a.pdf>.

⁸ <https://www.consumerfinance.gov/prepaid-rule/>.

⁹ 12 U.S.C. §§ 1861 et seq.

¹⁰ 12 CFR § 1005.20.

¹¹ <https://archive.fdic.gov/view/fdic/7790>.

¹² <https://www.fincen.gov/resources/statutes-regulations/guidance/final-rule-definitions-and-other-regulations-relating>.

¹³ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-new-federal-oversight-of-big-tech-companies-and-other-providers-of-digital-wallets-and-payment-apps/>.

¹⁴ <https://www.fdic.gov/system/files/2024-06/ii-15-1.pdf>.

¹⁵ <https://www.occ.gov/topics/supervision-and-examination/financial-technology/index-financial-technology.html>.

¹⁶ <https://www.fdic.gov/household-survey>



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primary bank account to pay to help manage their day-to-day financial lives. This includes making financial contributions to the political candidate of their choice.

Further, many state and federal governments have transitioned to prepaid account products from checks to make government and benefit payments to unbanked recipients. These prepaid account products are faster, safer, and significantly cheaper, saving federal and state agencies millions of dollars a year.¹⁷ The U.S. Treasury has been a leader in this area with its Direct Express¹⁸ card used by many Americans to access their Social Security, U.S. Department of Veterans Affairs, Office of Personnel Management, and other federal benefits.

We believe it is important to not forget that the payments community, including prepaid account providers, played a key role in helping the country through the Covid-19 pandemic by making it easier for Americans to receive, move, and access funds without leaving the comfort of their homes. The innovations and investments made by the payments community allowed the U.S. economy to continue to operate and even thrive in some sectors during the pandemic. In the words of the FDIC, “the importance of quickly receiving income from Economic Impact Payments or other government relief programs created a unique bankable moment, and consumers benefited from enhanced online and mobile account opening technologies and the greater availability of safe and affordable bank accounts. This combination of factors resulted in meaningful gains in connecting households to the banking system.”¹⁹ We do not believe it is a stretch to say that the meaningful gains cited by the FDIC would not have been possible were it not for the payments community, including providers of prepaid accounts.

Conclusion

The IPA appreciates your consideration of our comments. If you have any questions or wish to discuss this letter, please do not hesitate to contact me at: btate@ipa.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Tate', is written over a horizontal line.

Brian Tate
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¹⁷ https://www.fiscal.treasury.gov/fsservices/gov/pmt/efit/efit_home.htm.

¹⁸ <https://fiscal.treasury.gov/GoDirect/media/release/us-treasury-introduces-direct-express-debit-card/index.html>.

¹⁹ [2021 FDIC National Survey of Unbanked and Underbanked Households](#).

