



March 23, 2015

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

Re: Comments on proposed prepaid card amendments to Regulation E, Docket No. CFPB-2014-0031 or RIN 3170-AA22

Dear Ms. Jackson:

We appreciate the opportunity to comment on the rules proposed by the Consumer Financial Protection Bureau (CFPB) to ensure that prepaid cards are transparent and safe for consumers seeking alternatives to manage personal finances. Georgia Watch is a statewide consumer advocacy organization whose mission is to empower and protect Georgia consumers on matters that impact their wallets and quality of life. Through education, advocacy and policy development, Georgia Watch works to influence public policies that positively impact consumers, safeguard consumer protections in the area of personal finance, and protect the right to trial by jury and promote access to the courts.

At Georgia Watch, we work every day to protect the rights of consumers and empower Georgians to choose products that will protect and grow their assets, and to avoid scams and predatory products in the marketplace. While prepaid cards are a relatively new product in the personal finance market, they are becoming increasingly popular with the unbanked population. In Georgia, 10.9% of the population is unbanked, with an additional 26.9% underbanked. While we recommend that consumers choose products that are safe, reliable and help to build positive credit history, we also recognize that prepaid cards can be a convenient and manageable option for low-income consumers. Therefore, we want to ensure that our most vulnerable and economically disadvantaged citizens are provided with safe prepaid card products.

Georgia Senate Bill 88, which would provide for the payment of wages by credit to a payroll card, will likely pass the House in the next week. Georgia Watch worked with bill sponsors to ensure that proper fee disclosures and opt-out provisions will be proactively included with any payroll card issued by Georgia employers. With the passage of this legislation, we expect to see an increase of employers issuing prepaid cards to their workforce.

With this context in mind, Georgia Watch submits these comments in an effort to support a strong rule that will ensure all prepaid cards are safe, transparent, and free from the types of fees and loopholes that would categorize prepaid cards as predatory products. We urge the CFPB to address ambiguities that create these loopholes and permit overdraft fees and other abusive credit features associated with many current prepaid card options.

Maximize Disclosure

It is important that the CFPB rules maximize the disclosure requirements for prepaid accounts, in order to adequately protect consumers. As such, we encourage the CFPB rule to ensure that all prepaid card agreements are posted clearly, within 7 business days of issuance, on both the issuer and CFPB websites. Moreover, the agreements should be made searchable on both websites by school, employer, program manager or other branded entity associated with the card, in addition to the bank issuer.

We agree with the proposed regulations that issuing a short, concise disclosure of fees in addition to the full explanation of fees makes sense from a consumer accessibility perspective. However, in order to prevent non-disclosure of other fees either unanticipated by the CFPB or otherwise uncategorized, Georgia Watch suggests that the short version of the disclosure specifically mention all associated fees, with further explanation included in the longer version of the disclosure.

Limit Predatory Fees

We agree that credit, if offered to prepaid cardholders, should comply with credit card rules. Such rules would include requiring the issuer to assess the consumer's ability to repay the credit, limiting fees in the first year to 25% of the credit line, providing consumers with control over how to repay debt, scheduling payments only once a month, and other rules that prevent the creditor from taking funds held in the prepaid card account. Many prepaid cardholders live paycheck to paycheck, making them highly vulnerable to such unjustified or unexpected fees. We also support the rule to prohibit credit from being marketed to or added to a prepaid card for 30 days to protect consumers from falling prey to other predatory credit products that would further a cycle of debt.

Moreover, Georgia Watch recommends that all overdraft fees associated with prepaid cards be disallowed. In many cases, overdraft fees create a cycle of inescapable debt for low-income consumers. We believe that prepaid cards should only allow consumers to use the amount placed on the card, so as to avoid any unintended fees or over-spending. Consumers should use credit deliberately when they want to use it, not inadvertently through an overdraft. In line with this proposed change, Georgia Watch also believes that fees for declined transactions should be prohibited.

We also urge the CFPB to ensure that ATM balance inquiries are free and consumers are offered an option for accessing free or low cost regular paper statements. Consumers should not be penalized for attempting to monitor their accounts and manage their assets responsibly.

Guarantee Solvency

We agree with the proposed regulation that any deposit not protected by deposit insurance should be disclosed proactively to the consumer. Georgia Watch believes that the best practice in guaranteeing solvency for consumer accounts would be to require prepaid card companies to hold funds in custodial accounts that have deposit insurance and are therefore protected from the company's creditors.

Protect Access to the Courts

The proposed regulations allow for forced arbitration clauses in the context of prepaid accounts. Georgia Watch asks that the regulations ban forced arbitration clauses, which both deprive consumers of their day in court and prohibit courts from ordering refunds to all victims. We hope the CFPB will look

to its recent study on the effects of mandatory arbitration that fully illustrates the restrictions over 80 million consumers currently face, preventing them from seeking redress against financial institutions.¹

Ensure Protection from Fraud and Debt

We agree that the proposed regulations should extend the protections of Regulation E to most prepaid cards, with a broad definition to prevent evasions and protect virtual prepaid systems. According to a recent study conducted by the Federal Reserve, 69 percent of the unbanked have access to a mobile phone, approximately half of which are smartphones.² We appreciate that the extension of Regulation E to virtual prepaid systems takes into account the ever-changing marketplace of financial products available online. We suggest that the rule should also protect prepaid cards used to pay need-tested public benefits. In an effort to curb any unnecessary burden of debt for consumers, we recommend that the deadline for disputing transactions or errors be extended to 120 days minimum.

Promoting Consumer Choice

In light of the likely passage of Georgia Senate Bill 88, we appreciate that the proposed regulations require that employees can opt out of accepting their wages on a payroll card. Georgia Watch feels that this warning should also be extended to students before their financial aid is transferred to any prepaid card. In addition, we believe that both before and after the payroll card is issued, employees and students should receive clear notice of their options for receiving funds, any time restraints on when they can change their method for receiving funds, and information on how to change their preference for receiving earned funds.

We sincerely appreciate the scope and strength of the proposed regulations by the Consumer Financial Protection Bureau to shore up rules on prepaid cards. We hope that our observations will aid the Bureau in further bolstering protections for consumers in the personal finance marketplace.

Thank you for considering our comments.

Sincerely,



Elise Blasingame
Director of Community Education



Liz Coyle
Executive Director

¹ *Arbitration Study: Report to Congress, pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act § 1028(a)*. Consumer Financial Protection Bureau, March, 2015.

² *Consumers and Mobile Financial Services 2014*. Board of Governors of the Federal Reserve System.