

April 5, 2017

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

Re: Docket No. CFPB-2017-0008 or RIN 3170-AA69, Prepaid Accounts (extension of effective date)

Dear Ms. Jackson,

The undersigned consumer, civil rights, and community groups appreciate the opportunity to comment on the Consumer Financial Protection Bureau's proposed six month extension, to April 1, 2018, of the effective date for complying with the CFPB's final prepaid accounts rule.

The CFPB's prepaid account rule is an important, common sense rule that provides clear fee disclosures, access to account information, and fraud and error protection for this rapidly growing market. The rule brings prepaid accounts out of the shadows and recognizes the important role they play in bringing access to banking services to underserved communities. The rule has been widely supported, with few exceptions, in both consumer and industry circles.

We write to make a few brief points.

First, consumers have waited far too long for protections for prepaid accounts. Prepaid cards have been around for more than a decade without the basic protections that debit cards receive. The current October 1, 2017 effective date is nearly three years since this rulemaking began, and we are disappointed that the Bureau is considering delaying protections further. The CFPB states that developments after the CFPB finalized the rule, including unanticipated backlogs and implementation challenges, have made the original effective date difficult for some providers. If an extension is warranted, we urge the Bureau to give the minimum necessary extension (no longer than the proposed six months), to implement the rule as soon as possible, and not to provide any further extensions.

Second, while the CFPB has stated that it is not considering changes to the underlying rule, if it does so we urge the Bureau to ban overdraft fees. As we explained at greater length in our original comments,<sup>1</sup> overdraft fees have absolutely no place on prepaid cards. While 98% of prepaid cards are true to their purpose and are actually "prepaid," a few cards, primarily payday lender prepaid cards and payroll cards used by low wage employers, have overdraft fees. These cards exploit the struggling consumers who turn to prepaid cards to control their expenses. Contrary to the claim that overdraft features help consumers make ends meet at the end of the month, the cycle of overdrafting leaves consumers with less liquidity at the end of the month, not more. We are disappointed that the CFPB did not ban overdraft fees and urge the Bureau to reconsider its decision to allow some hybrid prepaid-credit cards

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<sup>1</sup> See Comments of Americans for Financial Reform et al on proposed prepaid card amendments to Regulation E, Docket No. CFPB-2014-0031 or RIN 3170-AA22(Mar. 23, 2015), <http://ourfinancialsecurity.org/wp-content/uploads/2015/03/AFR-March-2015-Comment-Letter-to-CFPB-on-Prepaid-Cards-1.pdf>.

with overdraft features. In no circumstances should the Bureau weaken the rule's protections governing overdraft features.

Third, we urge the Bureau to reject any call to narrow the definition of "prepaid account" in order to exempt newer fintech products. The CFPB wisely designed a rule that would not be outdated before it even took effect. The rule appropriately covers not only physical plastic cards but also newer forms of prepaid accounts that operate online and through mobile devices. Whatever form the prepaid account takes, consumers need to understand the fees, have access to account information, and receive basic protection against unauthorized charges and errors.

Fourth, the CFPB should provide additional clarity to the distinction between a "prepaid account" and a "checking account" to prevent evasions. It is apparent that some in the prepaid industry expect to be able to avoid the prepaid rules simply by reclassifying their cards as "checking accounts" or another excluded category.<sup>2</sup> The Bureau already made clear that preauthorized checks do not turn a prepaid account into a checking account. We also urge the CFPB to clarify that issuers cannot evade the rules simply by using a debit card bank identification number (BIN) or making another change to an account that is clearly a prepaid account

Finally, we also have heard industry claims that the 30-day waiting period for overdraft features could inadvertently impact the ability to add a legitimate credit card to a mobile wallet. Others claim that the protection that applies upon purchase (before the consumer has a chance to register the card) could lead to fraud. While we express no view on the merits of these claims, if the CFPB determines that the concerns are legitimate, we urge it to adopt a carefully tailored response that does not undermine the protections for consumers or invite evasions.

Thank you for the opportunity to submit these comments.

Allied Progress  
Americans for Financial Reform  
Center for Economic Integrity, Tucson AZ  
Center for Responsible Lending  
Connecticut Legal Services  
Consumer Action  
Consumer Federation of America  
Consumers for Auto Reliability and Safety  
Empire Justice Center  
Florida Alliance for Consumer Protection  
Consumers Union  
Georgia Watch  
Homeowners Against Deficient Dwellings  
Kentucky Equal Justice Center

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<sup>2</sup> See National Consumer Law Center, Press Release, "NetSpend Plans Evasions of CFPB Prepaid Rules to Preserve \$80 Million in Overdraft Fees" (Oct. 28, 2016), <https://www.nclc.org/media-center/netspend-plans-evasions-of-cfpb.html>; Kevin Wack, American Banker, CFPB Rules Will Take \$80M Bite out of NetSpend's Revenue (October 26, 2016) ("NetSpend said that it is planning to launch several new products, including a prepaid card for small businesses and a deposit account that allows customers to write checks, in an effort to overcome the lost revenue.").

Leadership Conference on Civil and Human Rights  
NAACP  
National Association of Consumer Advocates  
National Consumer Law Center (on behalf of its low income clients)  
National Consumers League  
National Employment Law Project  
Oregon Food Bank  
People's Action  
Public Justice Center  
Texas Legal Services Corp.  
U.S. PIRG  
Virginia Citizens Consumer Council  
Woodstock Institute