

August 14, 2017

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

**Re: Rules Concerning Prepaid Accounts Under Reg E and Z;
Docket No. CFPB–2017–0015**

Dear Ms. Jackson:

On behalf of the 2.2 million credit union members we represent, the Heartland Credit Union Association (HCUA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB or Bureau) proposed amendments regarding prepaid accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z).

HCUA supports the goals of safe and transparent disclosures and appropriate consumer protections on prepaid accounts, which offer many benefits to consumers, many of whom are underserved. However, we continue to urge the Bureau to limit new regulatory requirements on credit unions that offer prepaid accounts, so such accounts remain accessible and so credit unions and other issuers remain innovative in the payments space.

Proposed Changes to Rules Governing Prepaid Accounts

In 2016, the Bureau issued its final rule on prepaid accounts (Final Rule), which amended Regulations E and Z. The Final Rule extended Regulation E coverage to prepaid accounts and adopted provisions specific to such accounts, and generally expanded Regulation Z's coverage to overdraft features that may be offered in conjunction with prepaid accounts. The Bureau's recent decision to delay the effective date by six months until April 1, 2018 has eased some of the pressure on issuers and vendors that continue to make the changes necessary for compliance. Further, we appreciate the Bureau's effort in issuing this proposal to clarify and provide flexibility to provisions in the Final Rule.

In general, HCUA continues to have concerns with the Final Rule. Under the proposal, Regulation E's error resolution and limited liability requirements would not apply to prepaid accounts for which the financial institution's consumer identification and verification process has not been completed. While the scope of this proposed provision is quite narrow, we support its intent, as it has the potential to help issuers manage their error resolution and liability requirements under such circumstances. In addition, in instances where the consumer's identity is later verified, the institution would be required to resolve disputed transactions that occurred (*at any time*) prior to verification. We are concerned that this proposed provision of potential increases in fraudulent activity that may result. Similarly, we also support an approach that would limit an issuer's error resolution and limited liability requirements to transactions occurring no more than 30 days prior to the date of registration and verification. We believe this would provide adequate protection for the consumer while at the same time reducing the potential for fraudulent activity.

The proposal would exclude certain business arrangements between prepaid account issuers and traditional credit card issuers from the credit-related provisions of the Final Rule in Regulation Z, to address complications in applying those provisions to credit card accounts already subject to Regulation Z which are linked to digital wallets that can store funds.

We appreciate the CFPB's recognition of unintended effects caused by the Final Rule's amendments to Regulation Z regarding prepaid accounts that offer certain credit options. We support the Bureau's effort to address the specific conflict described above related to digital wallets capable of storing funds. However, we believe the proposed correction is too narrow to have a meaningful impact on the more significant issues created by the Final Rule's expansion of Regulation Z.

HCUA disagrees with the Bureau's decision in the Final Rule to categorize prepaid cards that offer other services as credit cards, subjecting them to the requirements and limitations of Regulation Z. We reiterate our position from previous discussions with, and letters to, the Bureau that characterizing a prepaid account as a credit account is clearly inappropriate due to the inherent differences of such products. As such, we urge the Bureau to eliminate the Final Rule's application of Regulation Z to prepaid accounts.

We support the proposal that would allow prepaid account issuers to delay submitting a change in the names of other relevant parties to a prepaid account agreement (such as employers for a payroll card agreement) until such time as the issuer is submitting other agreement changes to the Bureau. The proposed revisions would permit short form and long form disclosures to be provided to the Bureau as separate addenda to the agreement, rather than integrated into the agreement or as a single addendum.

Safe Harbor for Early Compliance

In the proposal, the CFPB does not propose a safe harbor for early compliance, but rather solicits input on whether one would be necessary and/or appropriate. In support of its decision to forego proposing a safe harbor, the Bureau states its understanding that it is unaware of any particular conflicts between the Final Rule and current federal regulations governing prepaid accounts.

Since it is entirely plausible that a prepaid card issuer could be exposed to potential liability if it complies with the rule prior to the effective date, we believe a safe harbor is both necessary and appropriate. For example, since the Final Rule includes numerous changes from the current requirements for prepaid accounts, an issuer could be targeted as being noncompliant with the existing regulation. Therefore, we urge the CFPB to offer assurance in the form of a safe harbor that such early compliance will not expose the issuer to liability.

Further Delay of Effective Date

As detailed above, we appreciate the Bureau's initiative in issuing this proposal in an effort to provide clarification and flexibility to some of the Final Rule's provisions. However, a number of the proposed changes, while ultimately may prove positive from a compliance perspective, are substantive in nature and will require extensive updates, including to systems and actual disclosures. As such, issuers and vendors may be inclined to halt current updates until after the proposed changes are finalized, so as not to prematurely implement provisions that may later be revised. Thus, we urge the Bureau to further delay the effective date until at least October 1, 2018.

As always, we appreciate the opportunity to review this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Bradley D. Douglas". The signature is written in a cursive style with a large, stylized initial 'B'.

Brad Douglas
President/CEO