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National Association of Federally-Insured Credit Unions

August 14, 2017

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

RE: Amendments to Rules Concerning Prepaid Accounts
RIN 3170-AA72

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I am writing in response to the Consumer Financial Protection Bureau's (CFPB or Bureau) request for comments regarding the proposed "Amendments to Rules Concerning Prepaid Accounts." In our previous comments, we asked that the Bureau delay the general effective date for the Final Prepaid Accounts Rule (Final Rule)¹ and encouraged a reassessment of the regulation's numerous provisions to facilitate relief for credit unions. While NAFCU continues to believe that the Final Rule should not apply to credit union issuers of prepaid accounts, NAFCU supports the CFPB's efforts to identify amendments aimed at alleviating regulatory burden.

General Comments

NAFCU has consistently supported providing consumers with helpful information about the products and services they use. Prepaid accounts offered by credit unions are among the most transparent and understandable products available in the financial marketplace. Yet the Rule's array of pre-acquisition disclosures, which incorporate multiple fee schedules and specific methods for determining reportable fees, will require credit unions to thoroughly review prepaid account agreements and engage in extensive coordination with program managers for white label products.

As the CFPB is likely aware, many unbanked consumers depend on prepaid accounts to avoid the higher costs associated with traditional products or financial services. A highly regulated prepaid account environment could adversely affect these financially vulnerable consumers by forcing credit unions to discontinue prepaid products. Credit unions have already incurred significant costs as a result of expanded HMDA compliance, which leaves little overhead for additional burdens imposed by the Final Rule—such as reworked packaging for cards, new disclosures, and renegotiation of account structures to accommodate the Final Rule's treatment of overdraft features.

¹See [81 Fed. Reg. 83934](#) (Nov. 22, 2016).

The proposed amendments would provide some relief, particularly in the context of drawing reasonable limits on the applicability of Regulation E's error resolution provisions to unverified prepaid accounts. NAFCU also asks that the CFPB consider placing limits on the look back period for investigating unauthorized transactions which occurred before the prepaid account was verified. A prerogative to verify the account within a reasonable time should take into consideration the added costs credit unions may face when developing new investigation protocols for accounts that are verified after fraud has occurred.

In addition, NAFCU appreciates clarifications related to the exclusion for loyalty, award or promotional cards and believes that the exclusion should extend to any card not marketed to the general public. Likewise, the new exemption for linked credit features offered by "business partners" may provide some relief for credit unions that offer digital wallet services. However, when overdraft and credit features are accessible on a prepaid account and do not qualify for the exemption because they are provided by the issuer, the prepaid account will be subject to the Final Rule's onerous regime for covered separate credit features. As we have stated previously, such treatment may force credit union issuers to limit certain prepaid product lines to the detriment of their members. If the CFPB seeks to meaningfully reduce the burdens of the Final Rule, it should expand the exemption afforded to business partners to prepaid account issuers.

The CFPB should delay implementation of the Final Rule until April 1, 2019.

Amendments to error resolution rules, modifications to the content and packaging of Regulation E disclosures, and the proposed written authorization requirement for linking credit features are all changes that will necessitate additional implementation time for credit unions. Given that the Final Rule already imposes significant new burdens for credit unions, an adjustment of the general effective date is necessary to avoid disruption of member access to prepaid account services. Furthermore, the CFPB's recently finalized arbitration rule will require credit unions to review and update account agreements. Accordingly, NAFCU asks for a one year delay of the Final Rule's general effective date.

Conclusion

NAFCU commends the CFPB for recognizing that the complexity of the Final Rule necessitates substantial change to reduce compliance burdens for issuers. In our previous comments, we noted that error resolution procedures for unverified accounts would harm consumer access to prepaid account products—a fact that the CFPB acknowledges in its discussion of the proposed amendments. Significantly, the preamble notes that cost savings which may result from the proposed amendments may be passed on to consumers in the form of lower prices, or used to develop higher quality products. NAFCU asks that the CFPB expand this line of inquiry to understand how an exemption for credit unions could yield savings for members who rely on prepaid products.

As we have stated previously, NAFCU believes that the CFPB should rescind the rule entirely to avoid the risk of disrupted service or loss of access to affordable prepaid products. In the

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alternative, NAFCU asks that the CFPB exempt credit unions from the Final Rule. The transition to new disclosures, new systems, and potentially new service agreements will correspond with significant costs and reduced availability of prepaid products. Accordingly, the CFPB should explore all modes of relief for credit union issuers in order to preserve member access to these products, particularly at smaller institutions.

NAFCU appreciates the chance to submit comments regarding the proposed amendments to the Final Prepaid Accounts Rule. Should you have any questions or concerns, please do not hesitate to contact me at amorris@nafcu.org or (703) 842-2266.

Sincerely,

A handwritten signature in black ink that reads "Andrew Morris". The signature is written in a cursive, flowing style.

Andrew Morris
Regulatory Affairs Counsel