

September 9, 2015

By electronic delivery
Director Richard Cordray
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Issue strong rules to prevent dangerous credit features attached to prepaid cards

Dear Director Cordray:

The undersigned consumer and civil rights organizations write to urge you to issue final prepaid card rules that prevent payday lenders and other predatory lenders from attaching dangerous credit features to the cards. We appreciate the strong elements of the proposed rules, which recognize that overdraft services are a form of credit and that credit accessed through cards must have the robust protections of the Credit CARD Act. While the proposed rules will stop some abuses, we are concerned that loopholes in the proposal can be exploited.

First, we urge the CFPB to prohibit all overdraft fees on prepaid cards. Prepaid cards are designed to be “prepaid.” Overdraft features undermine the primary reason consumers seek out prepaid cards: for a safe way to control spending and avoid the problems of overdraft fees and credit products. Prepaid cards do not have checks, and there is no justification for “overdraft” protection.

Second, the CFPB must apply credit card rules to all credit lines designed to be accessible through prepaid cards. The proposed rules protect only credit lines accessed through a “particular” prepaid card designated by the creditor. It will be too easy for prepaid card companies and lenders to completely avoid the credit card rules that are so important to making this market safer and more transparent. Prepaid companies will design credit lines that can be accessed in other ways, in theory, but in practice will be accessed through a particular card. Lenders will offer credit lines designed to be accessed by prepaid cards and market them to prepaid cardholders without specifying a particular card. Payment processors can work with lenders to build credit features into prepaid card processing platforms that are used by multiple cards and can be turned on with a flick of a switch.

A recent report by the National Consumer Law Center shows that nearly all of the major payday lenders offer prepaid cards that are not in fact prepaid and are designed to enable the payday lender to skim an incoming pay or benefits check. Many payday lenders are also developing credit lines as a substitute for traditional payday loans. Indeed, another recent report by NCLC shows that states have less robust protection for credit lines than they do for installment loans. It will be easy for payday lenders to offer high-cost credit lines designed to be linked to the prepaid cards they sell.

Once linked to a given prepaid card, these credit lines need the same protections proposed for “particular card” credit features. Creditors must be required to determine ability to pay, limit fees that distort APR comparisons, offer a reasonable time to pay, give consumers control over when and how they repay, and limit unreasonable penalty fees. Prepaid card companies that offer credit features linkable to their prepaid cards (whether or not the features could also be linked to other cards) should also comply with the disclosure and waiting periods that the CFPB has proposed.

In its proposal, the CFPB noted the importance of treating credit products associated with prepaid accounts consisting, avoiding evasions, and preventing features that undermine the understanding of prepaid cards as a safe way to control spending. The CFPB also emphasized that prepaid consumers will benefit from strong protections because many are new to the financial system, “are disproportionately unbanked or underbanked, often have limited education, and are often unemployed or recipients of public benefits.” Finally, given that prepaid cards are largely a blank slate, the CFPB expressed hope that strong rules will help credit offered to prepaid card consumers to evolve in a more straightforward and consumer-friendly manner.

All of these considerations demand that overdraft features be completely banned on prepaid cards and that credit card rules apply to all credit lines designed to be accessible through prepaid cards. Thank you for your work to protect consumers who use prepaid cards. We look forward to seeing a strong final rule.

Yours very truly,

Alabama Appleseed
Americans for Financial Reform
Arizona Community Action Association
Arkansans Against Abusive Payday Lending
California Reinvestment Coalition
Center for Economic Integrity (Arizona)
Center for Economic Integrity (New Mexico)
Center for Responsible Lending
Connecticut Association for Human Services
Consumer Action
Consumer Federation of America
Consumers Union
Demos
Florida Alliance for Consumer Protection
Georgia Watch
Kentucky Equal Justice Center
Leadership Conference on Civil and Human Rights
Legal Assistance Resource of Connecticut, Inc.
Maryland Consumer Rights Coalition
NAACP
National Consumer Law Center (on behalf of its low income clients)
New Economy Project (New York)
North Carolina Justice Center
Public Citizen
Public Justice Center (Maryland)
Reinvestment Partners (North Carolina)
Texas Appleseed
U.S. PIRG
Virginia Citizens Consumer Council
Virginia Partnership to Encourage Responsible Lending
Virginia Poverty Law Center
Woodstock Institute