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VIA EMAIL

July 23, 2012

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

Re: Docket No. CFPB-20120019, RIN 3170-AA22 General Use Reloadable Prepaid Cards

Dear Ms. Jackson:

I am contacting you from Woodstock Institute in response to the advance notice of proposed rulemaking regarding General Purpose Reloadable ("GPR") cards which was published in the *Federal Register* on May 24, 2012, at 77 Fed. Reg. 30923-30925. Woodstock Institute also supports the comments submitted separately by Americans for Financial Reform.

About Woodstock Institute

Woodstock Institute works locally and nationally to create a financial system in which lower-wealth persons and communities of color can safely borrow, save, and build wealth so that they can achieve economic security and community prosperity. We conduct research on financial products and practices, promote effective state and federal policies, convene a coalition of community investment stakeholders working to improve access to credit, and help people use our work to understand the issues and develop and implement solutions.

Organizational Perspective on GPR Cards

Woodstock Institute believes that most GPR cards offer a consumer transaction experience that is very similar to a basic checking account. GPR cards provide low-cost access to payment networks, the ability to see a record of transactions, and a secure cash alternative. The similarity to checking accounts is present on both sides of the financial relationship. Consumers choose GPR cards because they value the features of checking accounts but choose not to, or are unable to, open a checking account. Financial institutions offer GPR cards because they recognize the value of establishing new customer relationships, even if a customer's risk profile means they are not eligible for checking accounts.

For both consumers and financial institutions, these products serve as a checking account substitute. Thus, much of the innovation in the field has been devoted to reducing transaction risk and replicating features already present in checking accounts.

There has been relatively little innovation in processes that integrate GPR cards into the broader financial mainstream. As a result, the GPR card market is covered by inconsistent consumer protections, and silos GPR card consumers into a second-class banking relationship. To address this concern, we believe that there are three main areas of consumer protection that the Consumer Financial Protection Bureau should address as part of its rulemaking process: the regulatory coverage of products; product fees and disclosures; and, product features. Our comments address each of these rulemaking priorities.

A. Regulatory Coverage of Products

1. **How should the CFPB define GPR cards in the context of Regulation E? Should certain prepaid products not be included in this definition, such as cards that may serve a limited purpose?**

   Woodstock Institute supports the definition of GPR cards in the context of Regulation E as previously proposed by Americans for Financial Reform.

   All GPR cards should be covered by the protections of the Electronic Funds Transfer Act (EFTA) and Regulation E. Regulation E provides consumers with protection against liability due to loss, theft, and unauthorized charges; the ability to dispute errors; the right to account information, including transaction history and balances; fair disclosure of terms and conditions and fees; and, protection from overdraft programs imposed without consumer consent.

   Specialized Cards Need Protection. Each of these is a critical protection and should apply to all GPR cards, including cards used for a specialized use, such as university and health spending cards. These cards are used over an extended period of time and can involve substantial sums of money. All of these cards are subject to fraud or error just like any other GPR card and consumers have the same need for protection.

   Needs-tested Benefits. Needs-tested benefits that are paid through prepaid cards rather than through electronic benefit transaction (EBT) cards should also be covered by Regulation E. Visa- or MasterCard-branded prepaid cards are subject to more widespread risk of unauthorized charges than EBT cards are, and low-income recipients of needs-tested benefits particularly need the protections of Regulation E.

   Mobile Payment Systems. Mobile payment systems that function as virtual prepaid cards should also be covered by Regulation E. Consumers need the same protection for electronic transactions made through a mobile payment system that is reloadable and usable for general purposes as they do for a physical prepaid card. Broad coverage of the entire market will prevent evasions.

2. **Should only certain aspects of Regulation E be applied to GPR cards?**

   Transactional accounts, including GPR cards, contribute to a person's persistent financial identity. That identity provides a permanent record of the consumer's income, transactions and fees. Access to statements, whether paper or online, allows people to review their transaction history, account for fees, and identity any unauthorized charges, Statements are also important when preparing tax returns, contesting a tax audit, or looking for a record of a payment.

We recognize that GPR cards are often used for shorter periods of time than checking accounts, which is all the more reason to ensure that people can access their financial history in a predictable and consistent manner.

GPR cards must provide free online access to transaction history going back at least 24 months and provide consumers with the option to request free annual statements online, or request paper statements at no more than $1 per month.

B. Product Fees and Disclosures

3. **What steps could the Bureau take to most effectively regulate these products to provide the consumer with transparent, useful, and timely fee disclosures? Should market participants be required to provide disclosure presale, post-sale, or both?**

   All GPR cards sold in a retail environment should include a full list of fees that are disclosed presale. Fee disclosures should be available for review on the outside of any GPR card packaging before the point of purchase.

4. **How can the Bureau best enable a consumer to compare various GPR cards, or other payment products, that may have different fee structures or be offered through various distribution channels? Many GPR cards offer limited space to disclose contract terms. How should market participants convey the most important contractual terms to consumers to enable them to make educated purchase decisions?**

   We recommend the disclosure of fees associated with GPR cards based on a range of likely usage scenarios.[1] Behavior-based disclosure will provide a far more accurate estimate of the total cost of usage than will a disclosure model based on the Schumer Box that is currently required as part of credit card agreements. While an important disclosure feature that should be made available to consumers pre-purchase, we believe that fee list-based disclosures do not capture the total cost of usage for products such as GPR cards because GPR card fees are variable, transactional, and frequent (such as debit usage fees, statement fees, and ATM access fees). Tabular or Schumer box-type disclosure is best suited for credit cards, where fees are usually the result of a penalty, such as a one-time over the limit fee, and where there are no per-transaction or reload fees and use of ATMs is rare.

5. **Should the existence, or lack thereof, of FDIC passthrough insurance associated with a GPR card be disclosed to the consumer? If so, how and when should the existence of FDIC pass-through insurance be disclosed?**

   FDIC deposit insurance should be required for all GPR cards and should be displayed in a manner consistent with deposit insurance display guidelines. Disclosing the existence FDIC deposit insurance coverage alone, however, would be insufficient without additional consumer protections.

[1] Rust, Adam. *8 Principles for the Reform of the Prepaid Debit Card*. Durham, NC: Reinvestment Partners, 2012. Web. 1 June 2012.

C. Product Features

6. The Bureau seeks public input on the costs, benefits, and consumer protection issues related to any credit features that may be offered by GPR cards.

Woodstock Institute opposes credit products attached to GPR cards, including but not limited to deposit advance or overdraft features. Offering high-cost, non-productive forms of credit through GPR cards undermines the value proposition of the card as a payment mechanism and threatens existing state consumer protections for high-cost consumer credit products.

GPR card customers may already have a credit card with a financial institution, they may have chosen to not open a credit card account, or they may have a risk profile that excludes them from the credit card market. In any case, there are existing products available to meet the current or future credit needs of most consumers. If a consumer has chosen to not use credit products or does not qualify for them, offering high-cost credit changes the "pay first" nature of the GPR card product into a riskier "pay later" product.

Allowing credit products through GPR cards would encourage card would encourage card providers to argue that federal banking laws preempt to strong consumer protections established by many states to cap consumer credit rates and eliminate products features that contribute to a cycle of debt. In Illinois, the Monsignor John Egan Campaign for Payday Loan Reform spent nearly a decade working to eliminate many of the worst practices of the state payday lending industry. The campaign had some success in reducing rates and restricting the debt cycle, and establishing a rate cap for all forms of unsecured credit was a critical part of this reform effort. Credit offered through GPR cards would encourage issuers to ignore these rate caps and restrictions on features that contribute to a long-term cycle of debt. We urge the Consumer Financial Protection Bureau to establish a blanket prohibition on credit products offered through GPR cards.

7. Currently, most GPR cards do not offer a savings account associated with the card. The Bureau seeks public input on the costs, and benefits, and consumer protection issues related to savings features offered with GPR cards.

Woodstock Institute supports the savings account comments submitted by Americans for Financial Reform. We urge the Bureau to encourage prepaid card issuers to offer savings accounts or savings features on prepaid cards. Modest savings eliminate the need for overdraft and deposit advance products. The CFPB should also work with the Federal Reserve Board to permit linked savings accounts on prepaid cards issued by banks over $10 billion.

D. Other Information on GPR Cards

10. Is there any other information relevant to GPR cards that will help inform the Bureau as it considers how best to address these products or other issues the Bureau should consider in this regard?

GPR cards should facilitate a consumer's access to the broader financial system, not limit it. Most GPR cards have limited functionality. Some have bill pay functions but most do not. Most lack savings features or even outbound ACH transfers to savings accounts.

We believe that consumers are best served when they have access to a broad array of safe financial products. For some consumers, a transactional product that drives down the cost of access to payment networks and allows basic budgeting is appropriate. Other consumers currently seek a higher functioning product (with bill pay or transfer to savings options, for example), but are unable to access it because they have a risk profile that excludes them from a checking account.

We believe that whenever GPR cards are offered, they should be offered alongside any other product for which a consumer qualifies. And if a consumer does not currently qualify for a full-fledged checking account, then there must be a clear "refer-up" process in place to ensure that consumers seeking a checking account in the future are not excluded from them based on past product choice.

Much of this "refer-up" process will be driven by the technology platform on which the GPR card program operates. For GPR programs that are offered directly by banks, presenting consumers with a suite of product offerings will be relatively easy so long as the GPR product is integrated into the existing customer portal. For example, when consumers accesses their GPR account online, they should be able to view their GPR card transaction record, along with potential checking and debit options, savings options, and credit card options, just as any other customer would.

For GPR card programs that are operated by banks or credit unions, this process should be relatively easy, assuming that the financial institution is willing to develop the appropriate technology platform. For program managers that operate stand-alone GPR card programs, it is critical that they develop referral relationships with banks or credit unions that can provide additional products if and when consumers feel that their financial needs have expanded. When GPR consumers are relegated to a second-class product, we believe the value proposition of the GPR card is significantly diminished.

Conclusion

A checking account at a financial institution remains the product of choice for the vast majority of consumers, and is likely to remain so in the near future. Consumers and financial institutions will continue to demand and develop products that facilitate access to payment networks in the most efficient manner possible. As we consider consumer protections and issues of access, it is important to keep in mind that the GPR card is a collection of features already widely available to most consumers.

With this in mind, we hope that we can establish a set of consumer protections that integrates GPR cards into the existing regulatory structure, rather than creating a second-class product governed by a weaker regulatory structure. From the consumer perspective, after all, swiping a debit, credit or GPR card looks and feels the same regardless of what rules apply.

Sincerely,

Tom Feltner
Vice President

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