Network Branded Prepaid Card Association
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Via Email: ***regs.comments@federalreserve.gov***

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Attention: No. R-1419 and RIN 7100-AD76

Re: Remittance Transfers Proposed Rule

Dear Ms. Johnson:

This letter is submitted to the Board of Governors of the Federal Reserve System ("Board") on behalf of the Network Branded Prepaid Card Association ("NBPCA") in response to the proposed rule published in the *Federal Register* on May 23, 2011 at 76 *Fed. Reg.* 29902-29962 ("Proposed Rule"). Specifically, the Proposed Rule seeks to amend Regulation E to address remittance transfers to individuals and entities located in foreign countries as required by Section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), codified as Section 919 to the Electronic Fund Transfer Act ("EFTA"), and the corresponding official staff interpretations.

The NBPCA is a non-profit trade association representing a diverse group of organizations that take part in delivering network branded prepaid cards to consumers, businesses and governments. The NBPCA's members include financial institutions, card organizations, processors, program managers, marketing and incentive companies, card distributors, law and media firms. The NBPCA is active on behalf of its members to enhance the environment for the success of network branded prepaid cards through education of government officials, the media and consumers. It also works with members to establish and encourage best practices to benefit card users and industry participants.[1]

We believe that, in crafting the Proposed Rule, the Board may have a misunderstanding of how certain "remittance transfers" are provided using prepaid cards, and that additional exceptions must be added to the Proposed Rule to account for these differences.

[1] This letter does not necessarily represent the position of each of the organizations that are members of the NBPCA.

"Remittance Transfers" Using Prepaid Cards

Prepaid cards may be funded by a consumer in a variety of ways, including at retail load locations and at agents of licensed money service businesses, by transfers from a consumer's transaction account using the ACH system, and by transactions carried out using credit, debit or other prepaid cards, using the payment card networks.

In addition to point-of-sale purchases (including cash-back) and ATM transactions, a consumer may transfer funds out of a prepaid card account (general purpose reloadable cards or payroll cards): (1) to businesses (foreign and domestic) through bill payment transactions which may be accomplished using the payment card networks, the ACH system or by issuance of a check to the creditor, (2) to other accounts (transaction accounts or prepaid card accounts) held by the consumer or a third party by use of the payment card networks, by ACH or by intra-bank transfers; or (3) more "traditional" remittances offered by the card issuer or a program manager to a prepaid cardholder using the ACH system, other domestic and international funds transfer systems, or third-party money remittance services, such as Western Union or MoneyGram.[2]

Further, a number of programs offered by issuers of general purpose reloadable prepaid cards or payroll cards permit the cardholder to request a secondary card, which may be provided to a member of the family of the cardholder, such as a student away at school or on a trip (in either case, foreign or domestic), or a spouse or other relative who may be located in the United States or a foreign country. Other programs allow "linked" accounts, where a prepaid cardholder may set up their card account to allow the cardholder to transfer funds to another consumer transaction or prepaid card account maintained by a third-party, such as a family member or relative of the cardholder. The holder of the linked account may be located in the United States or in a foreign country, and the financial institution holding the linked account may be located in the United States or a foreign country.

In other cases, specialty prepaid card programs may be offered, such as travel cards or payroll card programs where the issuer may be located in the United States, but the cardholder may be located in a foreign country, either temporarily or permanently, as funds are either added to or removed from the prepaid card. This is often the case with expat employees who are working abroad.

Given the extremely broad definitions of designated recipient and remittance transfer set forth in EFTA § 919(g) and the Proposed Rule, any number of transactions made in either funding and spending funds off of prepaid cards may be characterized as remittance transfers under the statute and Proposed Regulations ***without the entity undertaking the transaction having any idea that the "designated recipient" is***

[2] Given provisions set forth in the final rule issued by the Board to implement Section 1075 of the Dodd-Frank Act on interchange fees, some or all of these functions may be curtailed for certain prepaid card programs offered by issuers which are not exempt from the interchange fee limits set forth in that final rule.

located in a foreign country at the time of the transaction, and thus covered as a "remittance transfer" under the Proposed Rule.

By example, a prepaid cardholder holding a general purpose reloadable prepaid card or a payroll card may have a secondary card issued to a child who will be away at college, either in the United States or in a foreign country. The parent intends to transfer funds from the primary card to the secondary card on a monthly basis to cover their child's expenses. As far as the issuer of the primary and secondary cards knows, both family members reside in the United States; however, under the literal definitions set forth in the Proposed Rule, the issuer faces the real risk that the monthly transfers by the parent to the child's card if the child is studying abroad will be treated as remittance transfers under the Proposed Rule and the issuer will be sanctioned for failing to comply with the Proposed Rule.

A second example may involve a travel card procured by a parent for a family member who intends to take a trip, either foreign or domestic. If the trip is foreign, and the parent adds funds to the travel card during the family member's trip, the issuer faces the real risk that the transfers by the parent to the family member's travel card will be treated as remittance transfers under the Proposed Rule and the issuer will be sanctioned for failing to comply with the Proposed Rule even though the funds remain on deposit in the U.S.-based financial institution issuing the travel card.

Numerous other examples can be provided. In each case, unlike in the traditional Western Union or MoneyGram situation, the issuer of the card which is undertaking the transaction may have no idea that the intended recipient of the transaction is located in a foreign country at the time of the transaction. The Proposed Rule must be revised to include exceptions for such transactions, or there is a real risk that prepaid card-based funding and transfer methods may be curtailed to avoid potential liability and several beneficial types of prepaid consumer products will no longer be offered in the market. These concerns are not addressed by the proposed exclusion for certain prepaid card accounts as contained in the Proposed Rule.

We respectfully urge the Board to consider our comments and suggestions. If you have any questions, or would like to discuss any of the matters outlined above in further detail, please do not hesitate to contact us at (201) 746-0725.

Sincerely,

Kirsten Trusko

President & Executive Director

Network Branded Prepaid Card Association (NBPCA)