



July 23, 2012

Via Electronic Delivery

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

Re: Docket No. CFPB–20120019; General Purpose Reloadable Prepaid Cards

Dear Ms. Jackson:

The Clearing House Association L.L.C.¹ respectfully submits this comment letter to the Consumer Financial Protection Bureau (“Bureau”) in response to the Bureau’s advance notice of proposed rulemaking (“ANPR”) in which it seeks comment, data, and information from the public about general purpose reloadable prepaid cards (“GPR cards”).²

I. Introduction

The Bureau intends to issue a proposal to extend the protections of Regulation E, which implements the Electronic Fund Transfer Act (“EFTA”), to GPR cards. As its first step in that effort, the Bureau issued the ANPR regarding GPR cards soliciting responses to ten specific questions organized into four categories: (i) regulatory coverage of prepaid products; (ii) product fees and disclosures; (iii) product features; and (iv) other information on GPR cards. The Bureau notes that the comments received in response to these questions “will help inform the Bureau as to the contours of any proposed rulemaking concerning GPR cards.”³

In extending Regulation E to cover GPR cards, the Bureau states that it will “be mindful of avoiding any unnecessary burden on industry.”⁴ The Clearing House encourages the Bureau to adhere closely to this guiding principle. In particular the Bureau should carefully balance the benefits of federal consumer protections against the possibility that the cost and burden of compliance may reduce consumer access to GPR card products and services. We believe the

¹ Established in 1853, The Clearing House is the nation’s oldest banking association and payments company. It is owned by the world’s largest commercial banks, which employ 1.4 million people in the U.S. and hold more than half of all U.S. deposits. The Clearing House is a nonpartisan advocacy organization representing through regulatory comment letters, amicus briefs and white papers the interests of its owner banks on a variety of systemically important banking issues. The Clearing House Payments Company provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated clearing-house, funds-transfer, and check-image payments made in the U.S. See The Clearing House’s web page at www.theclearinghouse.org.

² Electronic Fund Transfers (Regulation E), 77 Fed. Reg. 30923 (May 24, 2012).

³ *Id.* at 30924.

⁴ *Id.* at 30925.

risk of reduced consumer access is particularly acute with respect to GPR cards and other products popular among unbanked and underbanked populations, as the cost and burden of regulatory compliance may make it less attractive for financial institutions to offer these products or may increase their cost to consumers.

With this concern in mind, and as discussed in further detail below, The Clearing House:

- encourages the Bureau to define “GPR cards” narrowly to include only those prepaid products that function as deposit account substitutes (and to distinguish GPR cards from debit cards, payroll cards, gift cards and credit cards, which serve different functions than GPR cards and are subject to separate, existing regulatory requirements);
- believes that if Regulation E is applied to GPR cards, the Bureau should apply a modified version of the framework applicable to payroll card accounts found in 12 C.F.R. § 1005.18;
- recommends that any new rules the Bureau may apply to GPR cards not hinder the evolution of payments technology and the methods by which financial institutions and their customers communicate, including the development of an array of new payment “form factors” and non-card means of access to funds associated with a GPR card, as well as the increasing predominance of electronic, real time communication;
- opposes prescriptive disclosure requirements for GPR cards, including any requirement to make disclosures on the cards or other payment form factors;
- supports a general disclosure requirement regarding whether a GPR card product has been structured in such a way as to qualify for deposit insurance, but does not believe that financial institutions should be required to disclose whether the value underlying a GPR card is in fact insured as to a particular card holder; and
- encourages the Bureau to be mindful of the negative consumer impacts of excessive regulation and to carefully evaluate, through empirical consumer testing, whether the benefits of new regulations on GPR cards justify their consequences (including the burden on financial institutions and the concomitant impacts to consumers, and the likelihood of reduced product availability and increased cost to consumers).

II. Discussion

A. Regulatory Coverage of Products

The Bureau has asked in the ANPR how it should define “GPR cards” for purposes of prospective coverage under Regulation E and whether only certain aspects of Regulation E should be applied to these products.

1. Definition of GPR Cards

As explained in more detail below, we believe that a GPR card should be defined to mean a card, code, or other device that is:

- issued to a consumer on a prepaid basis primarily for personal, family or household purposes;
- reloadable and not marketed or labeled as a gift card or gift certificate;
- has been registered with the issuing financial institution or its agent;
- generally redeemable upon presentation at multiple, unaffiliated merchants for goods or services, or at automated teller machines, and not used solely for a limited purpose (e.g., health benefit cards) or restricted in use to defined merchants or locations; and
- not used to access or debit any account held in the individual name of the card holder (other than a subaccount or other method of recording or tracking funds purchased or loaded on the card on a prepaid basis).

Consistent with the general scope of the EFTA and Regulation E, the Bureau should limit the definition of GPR cards to cards, codes or devices (collectively referred to herein as “cards”) that are sold or issued to consumers for personal, family or household purposes.

The Bureau states in the ANPR that some consumers may view and use GPR cards as an alternative to traditional checking accounts and that the number of GPR cards that are loaded by direct deposit has increased significantly.⁵ Furthermore, the Bureau identifies the use of these products as a checking or deposit account substitute as one of the factors underlying the Bureau’s focus on expanding consumer protection regulations to apply to GPR cards.⁶

⁵ 77 Fed. Reg. 30923, 30924.

⁶The Bureau states that “[t]hree factors in particular command greater attention to GPR cards: The growth of the market for GPR cards, consumer use, and the lack of comprehensive federal regulation.” With respect to consumer use, the Bureau states that “some consumers may view and use GPR cards as an alternative to traditional checking accounts. This possibility is reflected in the increase in the number of GPR cards that consumers are loading through direct deposit. The second largest GPR card program manager reported that nearly 42% of its cardholders had direct deposit as of December 31, 2011, as compared to about 14% as of December 31, 2007.”

Accordingly, we believe the Bureau should define “GPR cards” to include only those prepaid products that provide similar functionality to a debit card linked to a traditional bank account. For example, we believe the definition should be limited to those cards that are reloadable and, consistent with the gift card exclusions of 12 C.F.R. § 1005.20(b), not marketed or labeled as gift cards or gift certificates, thereby excluding traditional gift cards that do not function as deposit account substitutes from regulation as GPR cards.

With respect to registration, an issuer likely will have no means of identifying or communicating with the card holder until the card is registered. Thus, Regulation E protections cannot be practically afforded to consumers who hold unregistered cards. We note that FinCEN’s recently-adopted prepaid access rules implementing the Bank Secrecy Act with respect to prepaid products⁷ apply stringent requirements regarding when a provider of prepaid access under a prepaid program must collect information about the holder of a prepaid card (including name, date of birth, address and identification number). Issuing financial institutions and their agents that provide GPR cards often conform their registration requirements to the information collection obligations under the Bank Secrecy Act. While certain reloadable prepaid cards that qualify for exemption from the information collection requirements under FinCEN’s prepaid access rules will not be registered with the issuing financial institution or its agent, these cards, while reloadable, are low denomination products with restricted features that make them ill-suited as deposit account substitutes. Hence, a requirement that Regulation E protections be conditioned upon GPR card registration will ensure that such protections are afforded to those cards that both function like demand deposit accounts and for which the issuer has sufficient information to identify and communicate with the card holder.

We also believe that the definition of GPR cards should capture only those cards that may be used to purchase goods or services in transactions involving multiple, unaffiliated merchants, or that provide access to funds via ATM networks. Further, the concepts of “general use” and “multiple, unaffiliated merchants” should be defined in a manner that does not include cards that serve a limited purpose (e.g., health benefit cards) or that are restricted in use to defined merchants or locations (e.g., cards usable only at merchants falling into specified merchant categories or cards usable only at locations (retail or ATM) within a limited geographic area (including campus cards and mall-specific cards)). Cards that have limited acceptance by merchant type or geography are ill-suited as substitutes for traditional consumer checking-accounts, and the limited benefit to consumers of applying Regulation E protections to these products would be outweighed by the burdens and costs of compliance.

In expanding Regulation E to apply to GPR cards, we also recommend that the Bureau account for evolving technology and functionality that continues to drive innovation in the GPR card marketplace. For example, a GPR card may take non-card form (such as a key fob or smart phone application), funds associated with a GPR card may be accessible through a mechanism other than the card or card number (e.g., funds may be accessible via ACH bill payment or through a mobile telephone number) and consumers may prefer to interact with the financial institutions that issue their GPR cards by all-electronic means (including through a smart-phone application, text messaging, the internet or telephone voice response unit). The extension of Regulation E to GPR cards should not limit the evolving capabilities of GPR cards or impede

⁷ Definitions and Other Regulations Relating to Prepaid Access, 76 Fed. Reg. 45403 (July 29, 2011).

technological innovation that increases the accessibility and usefulness of these products to consumers.

The Bureau notes in the ANPR that it is not seeking information about “closed loop” cards, debit cards linked to a traditional checking account, non-reloadable cards, payroll cards, electronic benefit transfers (EBTs), or gift cards. Thus, we expect that the definition of GPR card would exclude such products, as indicated in the proposed definition above. Moreover, it is essential that the Bureau clearly distinguish products falling under the definition of GPR card from other forms of access device subject to Regulation E to avoid confusion about how a particular product will be treated under Regulation E.

2. Scope of Regulation E Applicability to GPR Cards

In general, The Clearing House believes that the Bureau should apply Regulation E to GPR cards in a manner that is similar to the modified framework for payroll card accounts found in 12 C.F.R. § 1005.18 (“Payroll Card Rule”) due to the functional similarities between the products.⁸ However, as discussed in further detail below, the Bureau should exercise its authority under Section 904(c) of the EFTA to establish error resolution rules for GPR cards that are different from those found in the Payroll Card Rule and that (i) reflect advancements in technology and changes in consumer behavior since the Payroll Card Rule was issued, and (ii) take into account the risks associated with the often limited relationship between the financial institution that issues a GPR card and the card holder.⁹ Specifically, for the reasons described in greater detail below, we believe that a notice of error relating to a GPR card should be timely if the notice is received by the financial institution within 60 days from the date information about a specific transfer becomes available to the consumer (e.g., when information about the transfer is posted to the consumer’s online account history). In addition, because the financial institution that issues a GPR card may have a limited relationship with the card holder, which increases the risk of fraud or abuse by the card holder, institutions should not be required to provide GPR card holders with provisional credit if the institution is unable to complete its investigation of an alleged error within 10 business days.

The Payroll Card Rule provides financial institutions flexibility in disclosing information to consumers about their payroll card accounts. Under the rule, financial institutions may either provide periodic statements under 12 C.F.R. § 1005.9 as they would for other accounts subject to Regulation E, or, instead, may:

- make balance information available through a readily available telephone line;

⁸ The final Payroll Card Rule was published in the Federal Register on August 6, 2006. Electronic Fund Transfers, 71 Fed. Reg. 51437 (Aug. 30, 2006).

⁹ Section 904(c) of the EFTA provides that regulations issued to implement the EFTA “may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the [Bureau] are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.”

- make available an electronic history of the consumer's account transactions, such as through an Internet web site, that covers at least 60 days preceding the date the consumer electronically accesses the account; and
- provide promptly upon request a written history of the consumer's account transactions, covering at least 60 days preceding the date the institution receives the consumer's request.¹⁰

Financial institutions that offer GPR cards should be permitted to use an alternative disclosure framework for providing account information that is similar to the Payroll Card Rule for the same reasons that the Board of Governors of the Federal Reserve System ("Board") granted financial institutions relief from the periodic statement requirement for payroll card accounts, including that:

- account information for GPR cards can be easily accessed by telephone or online, including through increasingly prevalent mobile devices;
- consumers increasingly prefer to use these electronic, real-time means to monitor their account balances and to check for errors;¹¹ and
- the limited benefit that consumers would receive if periodic statements were required is significantly outweighed by the costs that compliance with a periodic statement requirement would impose on financial institutions.

Notably, the Board stated in the preamble to the final Payroll Card Rule that consumers who use telephone and on-line methods to access information about their accounts often have access to more timely information through these methods than they would have if they only received periodic statements.¹² In addition, the Board stated in the final Payroll Card Rule that requiring financial institutions to provide periodic statements for payroll card accounts "could impose considerable one-time implementation costs, as well as ongoing costs for mailing such statements, on financial institutions currently offering such accounts and could discourage other financial institutions from offering them in the future."¹³ Consumer electronic access to account information, particularly with respect to payroll cards and GPR cards, has only increased since the Board issued the Payroll Card Rule. The Clearing House believes that the benefit to consumers of receiving periodic statements for GPR cards would be far outweighed by the related costs of preparing, generating and (if provided in physical form) mailing those statements—costs that could unnecessarily increase the fees financial institutions charge consumers for such cards.

¹⁰ 12 C.F.R. § 1005.18.

¹¹ The Board noted in the [Final Payroll Card Rule] that most participants in a focus group did not use periodic statements to track transactions or look for errors. "Participants generally attributed their lack of statement use to the fact that they monitored their account information frequently during the month by the telephone or on-line. While a few participants wanted to receive paper statements, most indicated a clear preference for using alternative means of monitoring account activity, in particular by phone and online." Electronic Fund Transfers, 71 Fed. Reg. 51437, 51443 (Aug. 30, 2006).

¹² 71 Fed. Reg. 51437, 51443.

¹³ *Id.*

Although, in general, we believe the Bureau should apply a version of Regulation E to GPR cards that is similar to the Payroll Card Rule, the Bureau should establish updated error resolution rules for GPR cards that account for (i) technological advancements that provide consumers with significantly increased access to information about their financial accounts, including increased access to the internet and the rapid development of “smart” phones and other mobile devices that provide mobile, real-time access to account information, and (ii) the fact that consumers regularly use these technologies to check their account information.

The EFTA generally provides that a notice of error is timely if a financial institution receives notice of an error within 60 days after transmitting a periodic statement for the account.¹⁴ Regulation E implements this requirement in 12 C.F.R. § 1005.11, which provides that a notice of error is timely if it is received by the financial institution no later than 60 days after the institution sends the periodic statement on which the alleged error is first reflected. In contrast, the Payroll Card Rule contains two different triggers for beginning the 60-day period for reporting alleged errors: either on the date the account is electronically accessed by the consumer (if the consumer obtains transaction information electronically) or on the date the institution sends the consumer a written history (if the consumer has requested a written history of his or her account transactions).¹⁵ Because some financial institutions do not track consumers’ access to their electronic history or when a written history is sent, the Payroll Card Rule provides a safe harbor providing that these institutions comply with the error resolution provisions if they treat a notice of error as timely when it is received from the consumer within 120 days after the transaction allegedly in error was credited or debited to the consumer’s account.¹⁶

We believe that the Bureau should exercise its authority under Section 904(c) of the EFTA to establish rules providing that a notice of error relating to a GPR card is timely if the notice is received within 60 days from the date information about a specific transfer becomes available to the consumer (e.g., when information about the transfer is posted to the consumer’s online account history). Such a timeframe would provide consumers with sufficient time to obtain account information and check for errors, and would be consistent with advancements in technology that provide consumers the ability to regularly check their account balances via telephone, or through the internet using a personal computer, “smart” phone, or other mobile device. Notably, in 2006 when the Payroll Card Rule was issued, the Board stated that the majority of participants in a focus group that evaluated consumer preferences regarding access to payroll card account information, “regularly checked their balances over the telephone or checked balance and transaction information online; some checked their accounts through these methods multiple times per week.” In the past six years, online and mobile banking has become even more ubiquitous. Thus, we believe that a 60 day period that is triggered from the date information about a transfer becomes available to a consumer will

¹⁴ A notice of error is also timely if it is received within sixty days from (i) when a consumer is provided documentation of an electronic funds transfer initiated by a consumer from an electronic terminal; or (ii) for certain passbook accounts, when a consumer is provided, upon presentation of the passbook, a writing with the amount and date of transfers involving the account. 15 USC § 1693f(a).

¹⁵ 12 C.F.R. § 1005.18(c)(4).

¹⁶ *Id.*

provide consumers with ample time to check their account information and report an alleged error while also encouraging consumers to be diligent in identifying errors to their financial institutions to mitigate losses.¹⁷

We also encourage the Bureau to adopt modified error resolution rules for GPR cards that do not require a financial institution to provide GPR card holders with provisional credit while the institution investigates an alleged error. Under 12 C.F.R. § 1005.11, which applies to accounts (including payroll card accounts) subject to Regulation E generally, if a financial institution is unable to complete its investigation of an alleged error within 10 business days, the institution may extend the investigation period to up to 45 days from receipt of a notice of error (up to 90 days for an electronic fund transfer that resulted from a point-of-sale transaction involving a debit card or a payroll card). If the financial institution extends its error investigation period past 10 business days, which generally is necessary for debit cards, payroll cards, and GPR cards because payment card network transaction dispute resolution processes do not support resolution finality within 10 business days, the institution is required to provisionally credit the consumer's account in the amount of the alleged error.

However, because the relationship between a financial institution that issues a GPR card and the GPR card holder frequently is more limited than a traditional checking or deposit account relationship and lacks the continuity that is inherent to a payroll card relationship in which regular deposits of the consumer's pay are made to the account by the consumer's employer, we believe that any requirement that a financial institution provisionally credit a GPR card during the error investigation period could encourage fraud and abuse. The limited relationship between an issuing financial institution and a GPR card holder may embolden the card holder to falsely allege an error, receive a provisional credit, and then exhaust the provisionally credited funds during the financial institution's investigation period. The institution may have little or no ability to recoup the ill-gotten provisionally credited funds where the institution has a limited relationship with the defrauding GPR card holder.

In addition, financial institutions may offer GPR cards to certain customers who apply but fail to qualify for a traditional checking account, including because those customers do not satisfy an institution's customer identification procedures or other screening standards necessary to open a traditional deposit account. Offering a GPR card to customers who are ineligible for traditional deposit accounts carries with it an increased risk of fraud for the financial institution, including with respect to any funds the financial institution provisionally credits during the investigation of an asserted error affecting the GPR card. The risk that a provisional credit requirement for GPR cards will be abused, and that a financial institution may not be able to recover the funds that are fraudulently obtained as a result of such abuse, may discourage some institutions from offering GPR cards as fallback or second-look products, relegating unbanked populations seeking but failing to qualify for traditional banking relationships to the often riskier and more expensive alternative financial services marketplace.

¹⁷ In light of these technological advances and the significant expansion of online and mobile banking, The Clearing House also encourages the Bureau to reconsider and revise the error notice provision of the Payroll Card Rule so that it provides for a similar 60-day timeframe that is triggered from the date that information about a specific transfer becomes available to the consumer.

For the reasons stated above, we believe that financial institutions should be permitted to investigate and resolve a timely-reported error involving a GPR card without having to provide the consumer with a provisional credit while the reported error is under investigation. However, if the Bureau concludes that GPR card holders must be afforded provisional credit during reported error investigations, we urge the Bureau to carefully balance the benefits of provisional credit during the course of an error investigation against the risk that a provisional credit requirement for GPR cards will be abused, as well as the possibility that such abuse will result in reduced consumer access to GPR card products. We believe, at a minimum, that the proper balance between these factors requires a longer investigation period than 10 business days for asserted errors involving GPR cards before a provisional credit requirement is triggered.

B. Product Fees and Disclosures

The Bureau asks a number of questions about product fees and disclosures in the ANPR, including with respect to how the Bureau can ensure that consumers receive transparent, useful, and timely fee disclosures regarding GPR cards; how the Bureau can best enable consumers to compare various GPR cards, or other payment products; and whether the existence, or lack thereof, of FDIC pass-through insurance associated with a GPR card should be disclosed to consumers.

1. Fee Disclosure Requirements for GPR Cards

As the Bureau notes in its reasoning for extending Regulation E coverage to GPR cards, consumers may view and use GPR cards as an alternative to traditional checking accounts. Accordingly, because consumers use these products as account substitutes, we believe that any initial disclosure regime the Bureau applies to GPR cards should be similar to the requirements for other “accounts” under Regulation E (i.e., 12 C.F.R. § 1005.07), including payroll card accounts, which requires that disclosures be “clear and readily understandable.”¹⁸ We believe that providing initial disclosures similar to those required under 12 C.F.R. § 1005.07 would be the best way to convey important contractual terms to consumers in a manner similar to the way information about alternative products is disclosed. More prescriptive disclosure methodologies would be unnecessarily burdensome, would treat GPR cards differently than products against which they are regularly compared (e.g., traditional debit cards and payroll cards), and may stifle innovation because prescription would likely presuppose the fee types, form factors or uses associated with GPR cards even though these areas continue to evolve rapidly. Moreover, because most physical payment cards or other payment form factors offer limited or no space to disclose contract terms, and because the fees and other terms that govern a GPR card may change over time, the Bureau should not require any disclosures to be made on the physical card or payment device itself (just as traditional debit cards and payroll cards are not required to bear disclosures). In addition, The Clearing House believes that fees that financial institutions charge for GPR cards and related services should be set based on free market forces and strongly discourages the Bureau from entertaining, as a part of this rulemaking exercise, the establishment of specific fee restrictions or limits in connection with GPR cards.

¹⁸ 12 C.F.R. § 1005.4(a)(1).

2. Existence of FDIC Pass-Through Insurance

The Bureau inquired through the ANPR whether the existence, or lack thereof, of Federal Deposit Insurance Corporation ("FDIC") pass-through insurance associated with a GPR card should be disclosed to the consumer. We believe it is important that consumers are informed of whether the funds associated with a GPR card are eligible for deposit insurance that may protect the card holder's funds from loss if the issuing financial institution were to fail. Thus, we encourage the Bureau to require general disclosures on this topic. However, we believe that any such rule should only require a disclosure that either (i) the GPR card product has been structured in such a way as to qualify for deposit insurance, or (ii) no deposit insurance is available for the product.

A GPR card issuer can control whether a particular GPR card product is structured in a way to allow card holders' funds associated with the product to be eligible for deposit insurance, including FDIC pass-through insurance. However, whether the funds associated with a particular consumer's GPR card are in fact insured will depend on, among other things, characteristics of that consumer, including the amount of other deposits the consumer may have with the institution issuing the GPR card. Consequently, deposit insurance disclosure rules for GPR cards should only require a disclosure either that no deposit insurance is available for that GPR card, or that the holder of the GPR card may be eligible for insurance, subject to applicable limitations, and not that the underlying value of the GPR card is in fact insured. In addition, we encourage the Bureau to coordinate with the FDIC regarding any required disclosures pertaining to eligibility for FDIC deposit insurance coverage. Finally, although many GPR cards are structured to qualify for FDIC pass-through insurance, it is important that the Bureau recognize that there may be other means by which GPR card funds are insured. Thus, the Bureau should be careful not to limit the structures or mechanisms that may be used to provide such insurance coverage.

C. Product Features

The Bureau asked in the ANPR about product features that are offered by GPR cards, including credit and savings features, and whether GPR cards offer consumers the opportunity to improve or build credit.

1. Credit and Savings Features

The Clearing House believes that the development of GPR cards and associated features should be left to free market forces and that the Bureau should not stifle innovation by imposing requirements on whether a particular product may or may not offer certain functionality (for example, by requiring GPR cards to offer or prohibiting GPR cards from offering certain features such as overdraft protection, associated savings accounts or other features). The market will provide the GPR card features consumers' desire based on consumer demand. For example, if consumers desire overdraft protection coverage associated with their GPR cards, then consumers will select GPR card products issued by financial institutions that offer overdraft protection coverage. Further, to the extent that a financial institution offers overdraft protection coverage in connection with GPR cards, The Clearing House anticipates that such feature would be subject to the related requirements of Regulation E to the same extent as payroll card products are subject to those requirements. GPR card products should not be

subject to more onerous requirements regarding additional features than apply to traditional debit cards or payroll cards offering similar features.

2. Credit-Building Feature

We are unaware at this time of any GPR cards that can be used effectively to improve or build credit (other than, perhaps, GPR cards associated with committed lines of credit from the issuing financial institution). However, we recognize that credit reporting agencies may, in the future, consider prepaid card transaction history in evaluating a consumer's creditworthiness. Given the evolving nature of this area, The Clearing House recommends that the Bureau refrain from establishing regulatory requirements pertaining to credit-building features of GPR cards unless and until a clear need and path forward for such regulation becomes apparent. Such regulation would be premature at the current stage of product development.

D. Other Information on GPR Cards

Finally, the Bureau requested other information on GPR cards, including whether there is any other information that will help inform the Bureau as it considers how best to address these products.

As we stated at the outset of this letter, The Clearing House supports the Bureau's objective of approaching the regulation of GPR cards in a manner that avoids unnecessary burden on the financial services industry. Excessive compliance burdens impact the ability of financial institutions to meet the needs of consumers and may actually reduce consumer access to products and services, as the costs and burdens of regulatory compliance may deter financial institutions from offering GPR cards or may increase their cost to consumers. This outcome is even more likely in light of the Board's Regulation II, which limits the potential revenue that financial institutions receive from interchange fees in connection with many GPR cards, particularly those that offer features that make them effective substitutes for checking account products (such as ACH billpay).

As noted above, we encourage the Bureau to study the impacts that applying Regulation E to GPR cards will have, including the potential for reduced availability and increased costs to consumers, and reference these potential unintended consequences when conducting empirical consumer studies about the perceived benefits of enhanced regulation of GPR cards. We also encourage the Bureau to consider and include in its consumer studies questions and responses related to GPR card protections that already exist as product features in the marketplace today. As the Bureau notes in the ANPR, many financial institutions already voluntarily provide GPR card holders with certain disclosures and protections.¹⁹ Finally, we recommend that the Bureau carefully examine the distinct structures, designs and features associated with the various card products that financial institutions offer (e.g., credit cards, debit cards, payroll cards and gift cards, among others), and take these differences into consideration when developing

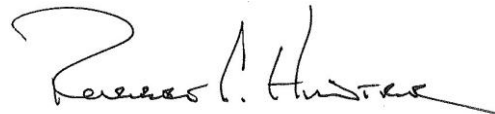
¹⁹ The Bureau states that "[recently, the GPR card market has benefited from competition and economies of scale, leading many market participants to voluntarily provide some protections for consumers." 77 Fed. Reg. 30923.

appropriate requirements for GPR cards so as to preserve the distinct purposes of each product and, thus, the choices available to consumers.

III. Conclusion

Thank you for your consideration and review of these suggestions. If you have any questions or wish to discuss The Clearing House's comments, please do not hesitate to contact me using the contact information provided below.

Yours very truly,

A handwritten signature in black ink, appearing to read "Robert C. Hunter". The signature is fluid and cursive, with a large initial "R" and "H".

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