

**EXAMINING ISSUES IN THE PREPAID CARD  
MARKET**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
FINANCIAL INSTITUTIONS AND CONSUMER  
PROTECTION  
OF THE  
COMMITTEE ON  
BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED TWELFTH CONGRESS  
SECOND SESSION  
ON  
EXAMINING ISSUES IN THE PREPAID CARD MARKET  
—  
MARCH 14, 2012  
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# C O N T E N T S

WEDNESDAY, MARCH 14, 2012

	Page
Opening statement of Chairman Brown .....	1
Opening statements, comments, or prepared statements of: Senator Corker .....	2
<b>WITNESSES</b>	
Lauren Saunders, Managing Attorney, National Consumer Law Center .....	3
Prepared statement .....	24
Jennifer Tescher, President and Chief Executive Officer, Center for Financial Services Innovation .....	4
Prepared statement .....	30
Daniel R. Henry, Chief Executive Officer, NetSpend Holdings, Inc. ....	6
Prepared statement .....	34
L. Richard Fischer, Partner, Morrison and Foerster .....	8
Prepared statement .....	62
David Rothstein, Researcher, Policy Matters Ohio .....	9
Prepared statement .....	64
<b>ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD</b>	
Letter submitted by Chairman Sherrod Brown from William E. Saunders, Chief Executive Officer, Community Choice Financial .....	69
Prepared statement of the Network Branded Prepaid Card Association .....	72



## **EXAMINING ISSUES IN THE PREPAID CARD MARKET**

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**WEDNESDAY, MARCH 14, 2012**

U.S. SENATE,  
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER  
PROTECTION,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, DC.*

The Subcommittee convened at 2:35 p.m., in room SD-538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chairman of the Subcommittee, presiding.

### **OPENING STATEMENT OF CHAIRMAN SHERROD BROWN**

Chairman BROWN. The Subcommittee will come to order.

Thank you, and thanks to the witnesses, all, for being on time, being seated, even the witnesses that have had a more difficult time getting here. Ms. Saunders, thank you for that, and thanks to Senator Corker for always working together well. I will do a short opening statement, then Senator Corker will do the same and we will begin the hearing.

The Subcommittee held a hearing in October examining what more can be done to encourage low- and moderate-income Americans to save and to build wealth. Today, we are asking what more can be done to move low- and moderate-income Americans into financial products, to be among the banked, if you will.

Prepaid cards are one alternative for lower-income customers looking to use financial products responsibly. We know some things about the prepaid market, but there is much we do not know. We know it is a growing product and a growing market. According to a Federal Reserve study, the number of prepaid transactions increased 21 percent per year from 2006 to 2009 and the value of prepaid transactions increased 22 percent per year over that same period.

We know it is a diverse product. They are used as a substitute for debit cards to serve as direct deposit vehicles for employers, to store State unemployment benefits, as is done in Ohio, and as a method for depositing tax returns. And we know that this product provides an important service to those who use it. Studies show that cardholders are using prepaid cards primarily to purchase staples, primarily for groceries, food away from home, and purchases at gas stations.

We also know there are challenges associated with prepaid cards. Like many other financial products, when terms are clearly disclosed and consumers have complete information presented simply

about the product, they can use them properly, but it is important consumers understand all the fees associated with these cards. It is important that consumers understand that not all products offer the same levels of protection.

We are here today to learn more about the various prepaid card products, the consumers who use them, the protections that are afforded to those consumers.

I thank the panel for joining us.  
Senator Corker.

#### **STATEMENT OF SENATOR BOB CORKER**

Senator CORKER. Thank you, Mr. Chairman, and I thank all of you for being here today.

I think our goal should be to learn today. I usually do not make very long opening statements. I look forward to your testimony. I want to make sure we have sensible regulations that do not impede innovation, but at the same time, I think customers should know what they are getting and private companies should innovate and develop new services.

So, look, I am looking forward to your testimony and learning a lot about prepaid services and look forward to the questioning when it occurs. Thank you all for being here.

Chairman BROWN. Thank you, Senator Corker.

Senator Corker has a judicial nominee to introduce in a few moments, so when he leaves, that will be the reason. He is going to try to return.

Quickly, I will introduce the panel. Lauren Sanders is the Managing Attorney at the National Consumer Law Center's Washington office. She handles legislative, administrative, and other advocacy efforts in our financial services area. She previously directed the Federal Rights Project of the National Senior Citizens Law Center, was Deputy Director of Litigation at Bet Tzedek Legal Services in Los Angeles, was an associate at the public interest firm Hall and Phillips. Welcome, Ms. Saunders.

Jennifer Tescher is the President and CEO for the Center for Financial Services Innovation, which aims to transform the financial services experience in America in order to better serve underbanked customers and to help them achieve prosperity. She founded CFSI in 2004, has achieved notable success in raising the profile of underbanked access and asset building as an objective for the industry. She previously served on the Federal Reserve Board's Consumer Advisory Council.

Daniel Henry has been CEO of NetSpend Holdings, Inc., since February 2008. He is a leading provider of reloadable prepaid debit cards. Prior to joining NetSpend, Mr. Henry cofounded Euronet Worldwide, a global provider of electronic payment services. Welcome.

Rick Fischer is a partner at Morrison and Foerster in Washington, focusing on retail financial services, privacy, and data security. For some 40 years, he has advised a variety of companies, including banks and retailers and insurers and technology companies throughout our country on the full range of financial services and payment system issues. His practice has a special emphasis on pri-

vacy and data security, e-commerce technology, and financial services joint ventures. He also serves as Washington counsel for Visa.

David Rothstein is a researcher at Policy Matters Ohio, an Ohio-based nonprofit, nonpartisan policy research organization. He is Project Director for Ohio's Asset Building Coalition, CASH, which stands for Creating Assets, Savings and Hope. He researches tax and wage and consumer policy, including the Earned Income Tax Credit, housing and foreclosure issues, and consumer protection. He is a Research Fellow for the New American Foundation and serves on the Board of Managers of the National Community Tax Coalition.

Welcome to all five of you. If you would begin, Ms. Saunders. Thank you.

**STATEMENT OF LAUREN SAUNDERS, MANAGING ATTORNEY,  
NATIONAL CONSUMER LAW CENTER**

Ms. SAUNDERS. Thank you. Chairman Brown, Ranking Member Corker, and Members of the Committee, thank you for the opportunity to testify today about prepaid cards.

Prepaid cards offer access to modern electronic banking systems for millions of underbanked consumers. Today, too many prepaid cards have substandard protections, limited functionality, and problematic fee structures. But it is too early to pass definitive judgment on the market as the market is young and the regulatory structure is still developing.

Here are seven factors to keep in mind as Congress, regulators, and the industry work to make prepaid cards a safe, useful, and empowering product for consumers.

First, consumers must have the choice of financial products and services that meet their needs. Traditional bank accounts must continue to be available to low-balance customers, and public agencies must always offer the choice of direct deposit to an account of a consumer's own choosing before offering a prepaid card.

Second, consumers must understand the cost and in terms of their accounts. Fees need to be more prominently displayed, and we should explore developing a single benchmark like the APR to help consumers compare different products and understand the overall cost of the product.

Third, consumer funds must be safe in case of insolvency of any party involved with the card. FDIC or credit union insurance should be required. Exceptions for nonbank uninsured cards, like the American Express card, should be permitted, if at all, only for very limited balance cards that function more like gift cards.

Fourth, consumers need protection from errors, unauthorized charges, and disputes. All prepaid cards should be covered by Regulation E directly and not merely as a matter of contract or voluntarily. And cards should also come with charge-back rights in case of merchant disputes, as with credit cards.

Fifth, consumers need ample, free, and convenient access to account information and customer service. Consumers should be encouraged to know their balance, review their statements for unwanted fees, errors, and unauthorized charges, and ask questions and resolve issues with their accounts. Yet prepaid cards can charge fees that deter access to this information. Consumers who

may not have Internet access are expected to monitor accounts online and may not even have the choice of paper statements. Prepaid cards should not be a black box in the customer's wallet.

Sixth, prepaid cards must not have unfair fees or tricks and traps. Purchase and monthly fees are the price of the product, but a long list of other fees makes the card hard to price or compare and leads to customer confusion. And in particular, some types of fees are problematic and need regulatory attention. Penalty and information fees should be eliminated whenever possible.

Seventh, it is essential that overdraft fees and embedded credit features be eliminated from prepaid cards. Overdraft fees and trouble managing credit are what have driven many consumers out of bank accounts. The very name "prepaid card" should mean what it says. Indeed, "you cannot spend more than you have" is a common marketing refrain for prepaid cards. Prepaid cards with credit features can permit payday lenders to piggyback on bank preemption to make loans in States where the loans are illegal. Senator Brown, in your own State of Ohio, the payday lender CheckSmart is using a prepaid card to evade the State's usury cap.

Congress banned overdraft fees as a condition of the prepaid card exemption from the interchange fee cap, but smaller banks are exempt. The Treasury Department banned credit on cards that accept direct deposit of Federal payments, but the rule does not apply to every card. Banning overdraft fees and other embedded credit features on all prepaid cards would prevent deceptive practices and confusion and help make the cards a safe, genuine, alternative to bank accounts, deserving of higher interchange fees.

The good news is that things are generally moving in the right direction. Fees have been coming down. Voluntary protection is becoming more widespread. But we are not there yet. Congress and regulators can help by leveling the playing field with strong minimum standards to bring prepaid cards into the financial mainstream and out of the shadow banking system where they are today.

Thank you for this opportunity to testify. I would be happy to answer your questions.

Chairman BROWN. Thank you, Ms. Saunders. I appreciate it.

Ms. Tescher, thank you for joining us.

**STATEMENT OF JENNIFER TESCHER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CENTER FOR FINANCIAL SERVICES INNOVATION**

Ms. TESCHER. Good afternoon, Mr. Chairman and Ranking Member Corker. Thanks for having me today. I am Jennifer Tescher. I am the President and CEO of the Center for Financial Services Innovation. CFSI is a national nonprofit organization in its eighth year of providing leadership, research, and insights on the everyday financial needs of financially underserved consumers.

CFSI has studied the general purpose reloadable prepaid card market for nearly a decade. We also work with nonprofit organizations to provide them the information they need to help their clients use prepaid cards safely and effectively. Last summer, we convened 19 of the leading prepaid companies and consumer advocacy organizations to create a forum for a dialog about what makes for

a high-quality prepaid card. The group dialog has informed the creation of a prepaid quality guide, which we expect to publish this summer.

Yesterday, we released our recommendations for a standardized fee box for improving the transparency of prepaid cards, and three prepaid card providers have committed to adopt or test CFSI's proposed disclosure box.

CFSI believes that well designed prepaid cards can offer a critical on ramp to the financial mainstream for underserved consumers comprised of 30 to 40 million American households. General purpose reloadable prepaid cards are virtual bank accounts and they represent a truly new point of financial access at a time when access overall is diminishing. Prepaid cards function like electronic bank accounts without checks. Consumers load funds on the card and, with the majority of prepaid cards, can spend only what they load. And because prepaid cards can be loaded only with funds that are immediately available, they offer immediate liquidity. Anyone can qualify for a prepaid card regardless of credit history and they can be conveniently accessed and used.

Prepaid card providers have in recent years begun to add a broad range of features and functions, including bill payment, money transfer, savings, and credit building that hold promise for linking near-term transactions to longer-term asset building. For instance, at least five prepaid card providers now offer customers high-yield savings accounts linked to their cards.

In 2008, CFSI worked with researchers at the University of Washington to conduct in-depth interviews with two dozen prepaid card users to understand why they were choosing prepaid cards, how they were using them, and how they perceived the product. Most consumers in the study had low or moderate incomes and substantial personal debt. All but one interviewee had used checking or savings accounts before starting to use prepaid, and a majority had opened bank accounts as adolescents. But by the time they were interviewed, 14 had no conventional bank account. Most either had closed their accounts or had their accounts closed by the banks.

Overdraft fees were a common complaint. Some felt their bank chose to honor one big check in order to allow several smaller checks to bounce, each one incurring a costly overdraft fee. Some consumers said they simply could not understand banks' fee structures.

Customers did not hold themselves harmless in disputes with banks. One mentioned a gambling addiction and others considered themselves to be bad money managers. But the way their banks handled or ignored their problems left them mistrustful.

The results of our research suggested six elements of the prepaid card experience that customers valued: Convenience, accessibility and inclusion, immediate liquidity, simplicity and transparency, value, and built-in discipline.

It is important to acknowledge that not all prepaid products are created equal and there had been some that had been poorly structured, outrageously priced, and a bad deal for consumers. On balance, however, the accessibility, simplicity, convenience, and value that most prepaid cards provide make them a promising product

for everyday consumers. To ensure prepaid lives up to that promise, it is critical that we do more to ensure that they provide a safe and robust experience.

CFSI recommends mandating FDIC pass-through insurance, extending Regulation E as it is applied to payroll cards, and requiring a standardized fee disclosure box. While most prepaid companies have taken some steps to make it easier for consumers to find and understand the fees associated with their products, an examination of current prepaid fee disclosure practices shows that there is a need for improvement.

CFSI has designed a model fee disclosure box and three prepaid card providers, Green Dot, Plastyc, and Ready Credit, have committed to adopt or test it. Ultimately, any model fee box adopted by regulators should be based on consumer and industry research, cost-benefit analysis, and consumer testing.

In conclusion, prepaid cards hold great promise for improving the manner in which tens of millions of American households conduct their financial activities.

Thanks, and I look forward to your questions.

Chairman BROWN. Thank you, Ms. Tescher.

Mr. Henry.

**STATEMENT OF DANIEL R. HENRY, CHIEF EXECUTIVE OFFICER, NETSPEND HOLDINGS, INC.**

Mr. HENRY. Thank you. Mr. Chairman, Ranking Member Corker, thank you for the opportunity to appear before you today. I testify today not only on behalf of NetSpend as the CEO, but also on our 2.1 million cardholders. Forty-four thousand of them reside in Ohio. Thirty-one thousand of them reside in Tennessee.

NetSpend is one of the Nation's leading providers of general purpose reloadable prepaid debit cards for unbanked consumers. Our mission is to empower consumers with the convenience, security, and freedom to be self-banked. We are proud of what we do and committed to collaborate with policy makers, regulators, advocates, and our industry peers to promote a clear and effective regulatory framework for our industry and the consumers we serve.

According to the FDIC, there are 60 million underbanked consumers in the United States. Why is that? Well, most traditional banks and their products and fee structures really are not designed for low-income consumers who typically maintain very low average balances. It may surprise you to hear that of NetSpend's 2.1 million active cardholders, more than 3,000 of these cardholders are employees of Bank of America, Chase, or CitiBank. Our customers are typically working Americans who want control, security, and convenience, and who have not had good experience with banks. They are people who deserve the same quality of financial services as the more affluent customers of traditional banks enjoy.

The reason we have our customers is because we provide them with a better solution designed to meet their unique financial service needs. Bear in mind the NetSpend card, like the similar products of our competitors, is a bank account. It is FDIC insured on a pass-through basis, subject to the same consumer protections and compliance requirements as a checking account, provides access to a host of financial services, including flexible fee plans, 5 percent

on your savings, free person-to-person account transfers, free direct deposit of payroll and benefits, bill payment services, real-time account alerts to let consumers always know how much money they have, more than 100,000 brick-and-mortar locations where consumers can add funds to their card accounts, and a host of financial literacy and budgeting tools.

We have also developed what we believe is a very consumer-friendly overdraft program that includes buffers and a grace period that result in most overdraft transactions avoiding any fee whatsoever. And when fees are charged, they are less than half of what most banks and credit unions charge.

So our product is a bank account, but one which we have stripped out the real estate and personnel cost of bank branches. We have leveraged the infrastructure of nonbank retailers to reach underbanked consumers, leveraged technology to build a product platform and network that provides these customers with utility, security, dignity, and access they have never had before. Reloadable prepaid products are better and cheaper than the alternatives.

Just this week, Bretton Woods released a new study of reloadable prepaid cards that showed the following. Consumers who use a reloadable prepaid card with direct deposit have an average cost savings of 40 percent versus a low-balance checking account. Consumers who switch from cash to a reloadable prepaid card have an average cost savings of 56 percent. Due to fierce competition, the prices of reloadable prepaid cards are trending down, while in the aftermath of interchange fee caps and other transfers, the price of low-balance checking accounts are trending up.

The Bretton—bless you. The Bretton Woods study also reminds us that many of the consumers we try to serve no longer have access to checking accounts because they are among the 19 percent of U.S. adults who cannot qualify for an account because they are in the ChexSystems or TeleCheck's data base.

There is sometimes a perception that the prepaid industry is unregulated when, in fact, we and our products are highly regulated at both the Federal and State levels, through both the regulation of our issuing bank and through direct regulation of us. We at NetSpend welcome efforts to eliminate any ambiguity about what rules apply to our business and our industry. We have appreciated our direct engagement with the extremely capable staff of the new Consumer Financial Protection Bureau as they work to learn more about our industry and the customers we serve.

We believe it is very important that we maintain ground rules in a way that enhance consumers freedom of choice rather than limiting it. We are all committed to developing more effective ways to communicate with our customers about the fees, terms, and conditions of our products. But limitations on the products, such as restrictions on the types of fees that can be charged, will only harm consumers. I believe those of us who serve the low-income population in the United States have a higher standard to which to adhere. To truly serve this customer, we need to be allowed to compete on a level playing field with the traditional bank products that have failed these people. We believe price controls and prohibitions will only limit choice and stifle innovation.

We look forward to working with policy makers, regulators, and advocates to facilitate the development of financial service products that serve the unbanked Americans who have largely been left behind by traditional banking products. Thank you.

Chairman BROWN. Thank you, Mr. Henry.  
Mr. Fischer.

**STATEMENT OF L. RICHARD FISCHER, PARTNER, MORRISON  
AND FOERSTER**

Mr. FISCHER. Thank you. Chairman Brown and Ranking Member Corker, my name is Rick Fischer and I am partner at the law firm of Morrison and Foerster. As you indicated, Chairman Brown, I do work for Visa, but today I am here on my own behalf and not testifying on behalf of Visa.

The essence of my testimony is that legislative action on prepaid cards is not necessary. I believe that the structure and oversight of the prepaid card market is currently sufficient and that any perceived deficiencies can effectively be addressed by the new Consumer Financial Protection Bureau.

As you have heard, prepaid cards are an innovative product. I think that is generally accepted. They provide substantial benefits to consumers, but they also provide benefits to employers and Government agencies, among others.

Although prepaid cards represent only a small part of the payment card market, it is growing rapidly. You have heard that, as well. In fact, according to the Federal Reserve Board, it is the fastest growing segment of the payment card market.

You have also heard the prepaid card functions like checking accounts. However, it is at a significantly lower cost. Consumers can load funds and use them in a variety of ways, and they can use them like credit cards and debit cards throughout the country, and, in fact, outside the country, as well, in many cases.

Prepaid cards are an attractive, cost-effective payment option for consumers with less than perfect credit. It also assists unbanked consumers function in an increasingly noncash world.

But I want to emphasize that it is not only the credit-impaired or the unbanked consumers that benefit through prepaid cards. Many consumers use them to help them control their budgeting. Others use them to protect their deposit accounts from fraud in the event of a data breach, since it is only the funds in the prepaid card and not the funds in the deposit account that would be accessed. So it is no wonder that this is a fast-growing segment of the market.

With the growth of prepaid cards, both State and Federal rules are evolving to address prepaid practices. In addition, payment system rules, like the Visa rules, also enable consumers to dispute transactions through chargebacks. You heard from Ms. Saunders that the desirability of that, it is very important and it is available today on branded cards. Similarly, the system rules protect consumers from unauthorized use of payment cards, just like any other branded cards. And in addition, all prepaid cards at financial institutions, the funds held at financial institutions are currently protected by FDIC insurance.

In terms of consumer protections, the Card Act in 2009 provided additional protections for gift cards and other prepaid cards. The Federal Reserve Board has extended Regulation E to payroll cards and many Government benefit cards, Social Security payment cards, for example.

But at that time, the Federal Reserve Board indicated exactly what Ms. Saunders said. It is a developing market, it is a new market, and they are going to take it slow in terms of regulations, but they would monitor the market to see when new regulations are required. This responsibility now resides with the Consumer Financial Protection Bureau. More specifically, the Bureau has the authority to regulate all consumer financial products and services. With respect to prepaid cards, as I indicated, they have inherited the authority of the Federal Reserve Board to apply Regulation E, including its disclosure and error resolution requirements, to other types of prepaid cards. The authority is there and it can be used. The Bureau can determine whether additional consumer protections should be proposed under Regulation E, and the Bureau has made it quite clear that it intends to review prepaid card fees, disclosures, and practices, and that this is one of its priorities.

Congress created the Consumer Financial Protection Bureau and directed the Bureau to oversee a fair market for consumer services. The authority vested in Congress in the Bureau is sufficient to address any additional consumer protections needed for prepaid cards. The Bureau has announced its intention to review prepaid card practices, and the Bureau should be given the opportunity to do so.

Thank you for the opportunity to be here today and I would be happy to answer any questions.

Chairman BROWN. Thank you very much, Mr. Fischer.

Mr. Rothstein, welcome.

**STATEMENT OF DAVID ROTHSTEIN, RESEARCHER, POLICY MATTERS OHIO**

Mr. ROTHSTEIN. Good afternoon, Chairman Brown, Ranking Member Corker. Thank you for giving me the opportunity to testify on behalf of Policy Matters Ohio and the New America Foundation.

My testimony today is based upon the following three premises. Low- and moderate-income families need and deserve full transparency and disclosure of fees associated with prepaid debt cards. Prepaid debit cards, particularly cards with public benefits and tax returns loaded onto them, should not have features that add high fees, such as overdraft charges and balance inquiry. And finally, the prepaid card market should not be a replacement but rather a complement to other financial products that build and manage assets for working families.

As you have heard, millions of low- and moderate-income families use prepaid debit cards for their day-to-day purchases, but my testimony today focuses on those who receive them for public benefits, such as unemployment compensation, food assistance, and State tax refunds. These families are particularly financially vulnerable, so protecting and growing their assets is especially important.

Government or public sector cards paid for with public dollars used to provide unemployment compensation and other benefits, and ensuring that these dollars are not siphoned off by unnecessary fees should be a top priority.

While I represent the viewpoint of many consumers nationwide, I can also provide an on-the-ground perspective about the prepaid debit cards that are used for unemployment compensation in Ohio. In 2011, more than half-a-million Ohioans received unemployment compensation, bringing \$3.3 billion to Ohio's families. They have two choices in Ohio for their unemployment compensation. One is through direct deposit into a bank account and the second is through an electronically loaded debit card called the ReliaCard, a prepaid Visa card provided by U.S. Bank.

The ReliaCard is used in other States, as well, and has several advantages over paper checks, which are no longer an option in Ohio. First, the ReliaCard allows recipients without bank accounts to receive compensation and not pay to cash a check. Second, the ReliaCard allows recipients to make electronic purchases and bill payments, unlike a cash or check option. Third, the card requires a code and is harder to steal than cash or a check. And finally, recipients get their benefits several days sooner.

We began to research this card in depth because our colleagues in housing and tax preparation assistance alerted us that individuals receiving unemployment compensation were actually overdrafting on their benefits.

The ReliaCard is convenient for many users. However, it also can carry some fees for withdrawal and overall use. I have attached a table to my testimony. U.S. Bank charges \$1.50 for withdrawing money at non-U.S. Bank locations or ATMs that are not part of the Visa PLUS ATM network. There are other fees that the ATM might charge, as well. There are fees for balance inquiries at non-U.S. Bank locations. The ReliaCard also has overdraft fees at \$17 for purchases that exceed the value on the card if they opt for coverage. However, this fee is likely to be dropped this July due to the Durbin Amendment on interchange fee rules. It is important to note that ATM and overdraft fees can add up, incurring multiple charges in a day or week, for many clients who are still operating in a cash economy.

The ReliaCard definitely has some positive components to its fee structures. There are no fees for point-of-sale transactions, so the card can be used anywhere that accepts Visa. Card users can purchase above the price of transaction and receive cash back for no additional charge from most merchants. There is no bank transfer fee or penalty for moving funds from the ReliaCard to a bank account. Balance inquiries are also free at a U.S. Bank or Visa PLUS ATM location, which allows clients to better manage their finances. Several other features on the card include free customer service inquiries, paper statements, and replacement of lost or stolen cards. Other public sector debit cards might charge for these items.

In addition to concern about fees, there are reasons to be concerned about access to U.S. Bank and free network locations. There are approximately 750 ATMs in the Ohio network. However, not all of Ohio's 88 counties have one of these covered locations. In fact, our map showed that 33 counties have no U.S. Bank locations and

16 counties have no Visa PLUS ATM locations. Many of the non-urban counties in Ohio have few locations, and often one free location every 20 miles. We have attached the maps of unemployment rates and the ReliaCard coverage to this testimony to give you a better picture. Some of the areas with highest unemployment rates have the fewest locations.

Also of concern is that it was extremely difficult for Policy Matters in doing this research to find the ATM network and locations. We, in fact, had to do a public records request to get the full list.

Given my time, I just wanted to also highlight, it is imperative that the prepaid cards are not a substitute for savings accounts or mainstream financial products. This is a growing concern in the consumer community.

There are huge policy implications if prepaid cards become the new norm for clients and a second-tier banking account of sorts, and I am again grateful to provide testimony and happy to answer questions.

Chairman BROWN. Thank you, Mr. Rothstein, and thank you all for the testimony from every single one of you, especially the “Gesundheit” from Mr. Henry, something unprecedented in Senate hearings. Thank you for the—that was a really classy move. He said you were ambidextrous, is the word he used, or versatile or something, so—

Senator CORKER. We had George Clooney in earlier today, but you clearly outdid him.

[Laughter.]

Chairman BROWN. Before going on, I ask unanimous consent the written statement of the Network Branded Prepaid Card Association be included in the hearing record. Thank you. With no objection, so ordered.

Mr. Fischer, I will start with you. You said something I thought maybe sets the context. You, I believe, were saying that we, at least now, do not need to do anything legislatively but should let the CFPB move forward in its efforts. Do any of you disagree with that, that we let Administrator Cordray and that Bureau put rules out and deal with some of these things? Maybe it would include a model disclosure, like Ms. Tescher said, and a whole set of other things on overdrafts and fee rules and all that. Would you want to start, Ms. Saunders, your thoughts on letting that process work, as opposed to Senator Menendez’s bill, which we will talk about in a moment, perhaps.

Ms. SAUNDERS. Sure. Well, we support Senator Menendez’s bill, and if the Senate chose to act on that, we would support it. But we also do believe that the CFPB has most of the authority that it needs and it can address most of what I talked about. There may be a couple little details that would be a little harder, but for the most part, I think the CFPB can address the issues, as well.

Chairman BROWN. Ms. Tescher.

Ms. TESCHER. I would agree, also, that the CFPB has the authority it needs, and I have been really pleased to see that they are taking a very data-focused approach, research-focused approach, to figuring out how to write rules in this area.

Chairman BROWN. Mr. Henry.

Mr. HENRY. I would echo. I think that they have plenty of the authority, and I have had numerous meetings with representatives from the CFPB and have been very impressed with their pragmatic approach, their industry experience, and the way—the questions they are asking and the way they are going about things. So, so far, I can say I am optimistic with what I see there.

Chairman BROWN. Mr. Rothstein, your comments on what Mr. Fischer said.

Mr. ROTHSTEIN. Mr. Chairman, I would generally agree with the panel. I would say that there is one issue particularly related to the testimony that I gave. There is a little bit of murkiness between Federal and State public sector cards that might not be able to be addressed by the CFPB. But, in general, I definitely agree with that.

Chairman BROWN. Thank you. Ms. Tescher, you said that these prepaid cards can, you used the term “on ramp” to becoming banked, or to being part of the banking system. How do you envision that? Are we on that ramp now? Are we likely to fall off or not get on that ramp because of some nonbanks that might be doing some things that you talked about, usury laws in Ohio and some of those issues? Tell us what you think about that.

Ms. TESCHER. So, I think, going back to the CFPB comment, the benefit that allowing the CFPB to act has is they are now empowered to regulate both banks and nonbanks at the product level as opposed to the institution, you know, taking a purely institution-type approach. And so I think that any disparities in terms of the playing field between those two sets of actors, there are hopes of leveling it with CFPB action.

I do think the right question to be asking, though, today is if someone has a prepaid card, are they still unbanked? And I would say that as prepaid cards increase in their functionality, as we add the kind of consumer protections that I think most of us on this panel are calling for, I would suggest that they become equivalent to each other. At the end of the day, a prepaid card is a bank account. It is issued by a bank. I think the biggest difference is how the card is being distributed. So I think there is a lot of room for products that are manufactured by banks and that have the appropriate consumer protections in place, but that are distributed by a wide range of other providers, be they retailers, nonprofits, *et cetera*.

Chairman BROWN. Mr. Henry, would you consider your customers who have prepaid cards, would you consider them in the banking system?

Mr. HENRY. Absolutely. Absolutely.

Chairman BROWN. In every case?

Mr. HENRY. Every case. Yes. These are bank-issued, FDIC-insured, Visa or Master Card branded debit cards. They are banking products. The funds on these cards reside in a federally regulated institution. And I would like to add some points—

Chairman BROWN. Well, let me follow up on that and then add the points. Would you say your competitors who offer, or anybody else that offers these prepaid cards, would you say all of them are in the banking system, too?

Mr. HENRY. There are a lot of players out there, so I hesitate to say all of them. But the vast majority of the consumers who pick up these cards, sign up for direct deposit, the majority of those customers are in the handful of players in the space, ourselves and three or four others, and all of those have cards that are issued by banks, FDIC insurance, and follow all the Reg E compliance guidelines that we do.

You are seeing—and I think that it is real important for everyone to realize that—my belief is that banks were designed to serve consumers with money. The most efficient banks in this country can serve maybe 5,000 customers per retail branch, and those banks need \$20 to \$30 million of deposits per branch. NetSpend has two million customers, which means we would need 400 branches to serve two million customers. But with an average daily balance of around \$80, our static deposits might be enough to support four or five branches.

So the basic business model of retail banking—and it is not to be a criticism of banks—it just will never, ever be able to serve this low- to moderate-income consumer in a fee-friendly, functional-friendly way.

Chairman BROWN. What percentage of—and then I will turn it to Senator Corker—what percentage of your revenues are from overdraft fees?

Mr. HENRY. A very small percentage. On our overdraft product, I think it is real important to note is that overdraft gets painted with a very broad brush, and the overdraft programs that are out there typically by banks is a solution we would never offer. For our customers, our customers receive up to \$10 overdraft free of any fees whatsoever. So they can over-guard their account by up to \$10.

Then they have the ability to opt into our BDOE product, we call it our Best Darn Overdraft Ever solution, and to opt into that, they must be on direct deposit, they must have access to email and/or wireless alerts. Those alerts, we send them a message anytime there is any activity on their account, so they always know their balance to the penny. Also with our overdraft solution, they can never dig themselves a hole greater than \$100. If they overdraft, they obviously get a text message to their phone or an email to their computer saying they have overdraft and that they have 24 hours to cure that overdraft. And if they cure it, there is no fee or penalty whatsoever. That is why more than 61 percent of our overdrafts occur without any fee or penalty at all. If they do pay a penalty, it is only \$15, which is less than half of the national average of what banks and credit unions charge for overdraft.

Yes, it is called overdraft, but for us, we have created what we believe is an emergency pool of money for this consumer so that they can get access to \$20, \$30, \$40 worth of food or gas or medicine until their next pay period, and we get comments from customers time and time again how much they appreciate that product, and our surveys show that our most satisfied customers are the ones who have enrolled in and take advantage of our overdraft program.

Chairman BROWN. Interesting, and I will yield to Senator Corker, but I have more questions.

Senator CORKER. Thank you, Mr. Chairman. I am going to leave in about 60 seconds, but I will come back if you are still going. I think this has been a very interesting hearing and I appreciate you calling it.

I am sitting here thinking I am a caveman because I do not have a prepaid card with all the—

[Laughter.]

Senator CORKER. —with all the benefits that do exist.

One of you mentioned, Ms. Saunders or Ms. Tescher, that overall access is diminishing. I think it was Ms. Tescher. What is driving that right now?

Ms. TESCHER. I think Dan started to talk about it, that there have been a number of changes as we have sought to re-regulate the financial services industry, changes to interchange, changes to overdraft, that have put significant new revenue pressures on banks.

Senator CORKER. The Durbin Amendment is really, I mean, in fairness, caused a lot of people to be out of the system, is that correct, or having to pay higher fees to be in it?

Ms. TESCHER. I think it is a variety of factors. I do not think it is just any single one factor. And I think that the economics of banking had been under pressure for quite some time, if you think about it. It was really—free checking was not free. It was being subsidized largely by low-income consumers who had the greatest share of overdraft fees.

Senator CORKER. Yes.

Ms. TESCHER. And when that revenue went away, all of a sudden, banks were not really in a position to offer “free” anymore. So I think you are seeing banks start to reprice and restructure their accounts in a way that, frankly, just will not be of enough value, I think, to many consumers. I do not think a lot of banks are actively kicking consumers out. I think consumers are voting with their feet.

Senator CORKER. Yes, just because of the higher fees that are—

Ms. TESCHER. In part—

Senator CORKER. They are more transparent now.

Ms. TESCHER. When something is free, if it does not give you much value, you might use it anyway because it is free.

Senator CORKER. Right.

Ms. TESCHER. But when it is \$15 and you are not getting much value, well, maybe no thank you.

Senator CORKER. Yes. Mr. Henry, who is your regulator?

Mr. HENRY. I would like to know. I mean, we are—

Senator CORKER. But you mentioned you are regulated. Surely you know when they come in.

Mr. HENRY. I am sorry. Please, no disrespect. I apologize. One of the reasons I am quite supportive of the CFPB is I would rather have one known Federal organization that is my regulator as opposed to five or six that may or may not be my regulator. FDIC, OCC, indirectly, in terms of regulating our sponsor banks, FinCEN. We also have State money transfer licenses in numerous States, so many of the State money transfer agencies are regulators. So there is a significant amount of regulation that we adhere to.

Senator CORKER. Listen, if it is closed when I come back, we will offer some written questions, but I really do believe this has been a great hearing and I thank all of you for being here and your testimony. Mr. Chairman, thank you for letting me participate.

Chairman BROWN. Thank you for your comments. Thank you. Thanks, Senator Corker.

Ms. Saunders, you spoke of usury laws on Ohio. One thing you said that I thought was interesting juxtaposed to Mr. Henry's comments were that you said in your testimony that a number of—what drives many people into these accounts and into the prepaid card is that they have had trouble managing with all the overdraft fees they have gotten in checking accounts, and a very different picture from Mr. Henry's painting of how they do these overdraft fees, you know, the larger check first, then the smaller, and we know how that has happened.

Talk to me about what you said about evading Ohio usury laws, and then, Mr. Rothstein, I would like to hear your comments on her comments, if you would.

Ms. SAUNDERS. Well, in terms of evading State usury laws, banks, of course, national banks in particular, but typically State banks, as well, are not subject to them. So if a loan is made by a bank, it is not covered by payday loan laws. Prepaid cards, as we have heard discussed, are typically issued by a bank even if there is a nonbank, like NetSpend, involved in the picture. Payday lender CheckSmart has developed a prepaid card issued by Urban Trust Bank in Florida and they offer a credit—two different credit features on that card. One is styled as overdraft and the other is more an account advance type of product well in excess of the State's usury cap, but I think they believe that because the card is issued by a bank, that they are exempt from State laws. You know, whether that is actually true and who is charging the fee and making the loan is sort of a complicated question.

Chairman BROWN. Mr. Rothstein, your thoughts about this. I assume you are aware of what she is talking about.

Mr. ROTHSTEIN. Mr. Chairman, yes. The payday model in Ohio, as I am sure you have followed, has switched since 2008 when the new State usury law was passed for payday loans and—

Chairman BROWN. Passed on a ballot issue.

Mr. ROTHSTEIN. Passed on a ballot issue—

Chairman BROWN. Or initially.

Mr. ROTHSTEIN. Yes. The function of what Ms. Saunders is touching on is exactly true. There are also lenders that are using a Second Mortgage Act in Ohio to make loans, and again, this—and there are also—a third way they are doing it is also making loans that are payday loans under the Credit Service Organization Act, which is they are acting as—they are applying for a credit service exception which is generally an act that was for groups that help people who are in sort of debt trouble and they would help them improve their credit score, which obviously there is some—a lot of groups have taken exception to that. They are not credit service organizations. So there are about three different ways right now that they are sort of evading the new statute for payday loans and one of the ones Ms. Saunders touched on, yes.

Chairman BROWN. Ms. Saunders, continuing this discussion, the on ramp that—I do not know why I like that term so much, but the on ramp that Ms. Tescher mentioned, CheckSmart and use through this Florida bank, is the card that they provide an on ramp to the banking system?

Ms. TESCHER. No, I do not believe so. I believe that the primary purpose of the card is to evade State laws. And, in fact, CheckSmart developed the card originally to circumvent Arizona's payday loan laws. When Arizona's usury cap kicked in, I believe, in 2010, that is when they came out with this card as a way of evading State laws. So I do not think this is a card that is designed for the purpose of bringing people into the mainstream. It is designed for the purpose of being a vehicle to avoid State laws.

Chairman BROWN. Could you contrast for Mr. Henry some comments about his card, that he makes a very strong case for his card, that his customers are in the banking system the way that we want people to be in it—could you make that contrast with what is happening in Ohio with what you contend is a violation of the usury law, whether it is CheckSmart or other, I do not care which company for this purpose, but could you make a contrast on what they do and what he does, as qualified as you are to speak about what he does based on—and he can comment, too, but could you make that contrast? Or maybe, Mr. Henry, you could help with that, too, if you know.

Ms. SAUNDERS. Yes.

Chairman BROWN. Maybe even Mr. Henry, taking one of your competitors, maybe not necessarily by name, and contrasting how bad it can be and how good it can be with yours, but start with Ms. Saunders and anybody else can comment on that.

Ms. SAUNDERS. Well, although we may have some difference of opinion about the overdraft feature on the NetSpend cards, I would never say that the purpose of the NetSpend cards is purely to be a vehicle for overdraft or for credit. I think the purpose of the NetSpend card is to provide a useful product to people to make transactions, and I really do not disagree with most of what Mr. Henry said.

On the overdraft side of things, we just do not believe that credit and an asset account should really be mixed in the same product. And when you do that, what happens is when you overdraft, the loan gets paid first before you pay food or rent or necessities, and even with some limits, like on the NetSpend card—which is certainly a better policy than most banks, I would certainly give him that—but I think you can end up having \$45 a month in overdraft fees just added to your monthly expenses for consumers who really cannot afford that.

So I think it is better to keep credit on its own as a separate product. We can have the conversation about what are appropriate small loans. But mixing it with the asset account, we think just endangers the money that people need first for food and rent. When people are acting on very thin margins, you give them fast and easy credit, they will take it because they are desperate, but then the following month, they will find they are just a little bit further behind.

Chairman BROWN. Mr. Henry, what do some of your competitors that—again, without naming them, you certainly could or could not, either way—what do some of your competitors do that you would not consider particularly ethical in this business that regulation has not stopped them from doing, things that you do much more ethically and better?

Mr. HENRY. Mr. Chairman, I would like to first start by reminding everybody that it is my strong opinion that what we have here is we have bank accounts, so we keep talking about the prepaid card as though it is a separate and distinct animal. It is a bank account. And so I think it is, again, real important to remind ourselves that we are dealing with a card that is issued from a regulated institution that has full oversight. Everything that we do in terms of marketing materials that we send out to customers, everything has to be approved by our issuing sponsor bank and many times by their regulator. I want to make sure we have that out there.

In terms of me trying to identify other players in the market that are not as—in terms of the way they operate, honestly speaking, there are—our biggest competitor that I see is ignorance and lack of awareness of this alternative. The reason why tens of millions of consumers in this country are trapped in cash is because it works for them and they really do not have an alternative. There are second and third generations of consumers in this country who, they saw their mom get their check, go to a check casher, cash it, get on a bus, go pay the bills. That is the way it is. That is the way it works. When Social Security checks go away a year from now, I am going to be thrilled because we are going to see the Federal Government is going to be really making proper steps to push the consumer out of the cash-based world into electronic payments.

And going back to my earlier point, traditional retail banks by their business model are not set to serve this low-income consumer with a low-cost model. Do you want to know why we can do free person-to-person transfers? Because we have a low-cost model. What will cost you \$15 if you go to a money transfer agent to send money across town, we can do for you for free. Why are we able to offer an overdraft program that is way less than half, probably—if you count in all the free overdrafts we provide, it is probably 10 or 15 percent of what the costs a bank charges—because we are a low-cost provider.

And, Ms. Saunders, I have really enjoyed getting to know you over the years because I think we have—I have learned that we are really going after the same objective, is to serve this consumer. And the reason why I want to say we are a bank account is if we can do money transfers for free and if we can do overdraft for 10 percent of the cost of a traditional bank, what do you think we can do with small-dollar loans when we get the chance?

And this consumer is very savvy, OK. Time after time when we do focus groups on this customer, we ask them, why do you have this card? A friend or family member told them about it. Word of mouth is the most forceful advertising in this space. And that is why you will see that the vast majority of consumers who picked up this card and really committed to it, they are committed to a card that has great disclosure, very fee friendly, and is an on ramp

to traditional financial services. I truly believe in the free market and I believe that this freedom of choice and this innovation that is taking place is what can help all of us get this consumer that we all want to serve out of the very, very expensive world of cash and into electronic payments.

Chairman BROWN. Thank you.

Mr. Fischer, and then I will turn to Senator Corker. Yes.

Mr. FISCHER. Just a couple of quick points. First of all, most branded prepaid cards are, as you have heard—first of all, they are all bank issued. They are all FDIC insured. And the vast majority of them are deposit account only. In other words, there is no lending feature.

Number two, there are many large banks, even if there are many large banks that are customers of NetSpend, there are still large banks that offer a very similar product, and one of the good things about disclosure is consumers can choose among those products.

Finally, there is nothing wrong in and of itself with the combination of deposit and credit. Many of us, probably most of us have deposit accounts that have a feature which is a credit feature when we overdraft, not overdraft in a fee standpoint, but we have lines of credit, and there is nothing wrong with that. The key is whether they are offered in a fair and undeceptive way, and that is one of the reasons, I think, that the Consumer Financial Protection Bureau can be helpful in a context like that. They do not have to talk about generalities. They can talk about specifics and specific individual companies to decide whether or not what they are doing with a combination of prepaid and credit is appropriate or not and make the decision accordingly.

Chairman BROWN. Thank you, Mr. Fischer.

Senator Corker.

Senator CORKER. Thank you. I have been watching your body language, Ms. Saunders, and in your testimony in the beginning, I think you were concerned about some of the folks that may be underbanked or unbanked having access to checking services and all that and these cards not being a total substitute for that. Tell me what some of your concerns are. In fairness, I will tell you, I have no experience whatsoever with prepaid cards, but am very impressed by the testimony today. It seems to me that they are, in fact, offering multitudes of services that—more easily done at lesser cost, and yet I sense you may have some concerns about them sort of taking over all the banking needs, if you will, of customers and maybe them not having access to things they ought to have access to.

Ms. SAUNDERS. Right. I mean, I am concerned about banks neglecting their obligations to serve their entire communities, including lower-income people in their communities, with the full range of services. I think prepaid cards today do have a number of limitations that I think the industry is working to overcome.

They tend to work pretty well for people who have direct deposit of their income, of their wages, of their benefits. They work less well for people who have income from other sources. It costs money to load cash onto a prepaid card. Most of them, I do not believe you can load a check onto a NetSpend card without paying to cash it first. They do not offer paper checks and some people—correct me

if I am wrong, I mean, I know there are some types of checks out there, but not everybody can be paid with a card.

And then there is just the larger question of whether you are developing a relationship that gives you access to other products, like an auto loan or a credit card. I know that every time I walk into my bank, which I generally do not do, but if I happen to need to talk to a person, they always say to me, oh, by the way, do you need a mortgage?

I think the industry is developing and I think the prepaid cards are gaining in functionality. I think the lines between what is a prepaid card and what is a bank account are blurring. We are seeing banks enter the prepaid card market itself. So I think this is an evolving conversation. But I think we need to make sure that we do not just say, this is the only place for low-income consumers and they cannot also have access to the full range of services and products that traditional banks offer.

Senator CORKER. I think that is a fair—I will say, it sometimes seems like it is us here in Washington that are making it more difficult for some of the lower-income citizens to have access to credit. I know I supported the credit card bill that passed in 2009, but I think one of the net negative effects of that was that a lot of people with lesser credit ended up not having access to those. It seems to me that much of what has happened here over the last several years has had a negative impact on people being able to access those services. I do not know if you have any comments on that or not.

Ms. SAUNDERS. I think it is a complicated issue. I think the economy probably has as much to do with people dropping out of the banking system as other issues. I mean, we did not take a position on the interchange fee debate. You know, we are a little concerned about how it is playing out. In particular, we are concerned about the final regulations issued to implement the prepaid card exemption from the interchange fee cap. There was a lot of concern that banks were going to use prepaid cards to evade the interchange fee cap and so the Fed put some limits that you cannot, for example, transfer money off of a prepaid card issued by a large bank onto a savings account and still get your interchange fee, you know. That is a problem.

Senator CORKER. Yes. I had a lot of problems with it, too, so we are on the same page.

Mr. Henry, I heard you asking sort of about hopefully having permission over time to be able to make small loans. Apparently, that is not something you can do now with a prepaid card, is that correct?

Mr. HENRY. You know, we have not developed a product to know if it is something we can or cannot do—

Senator CORKER. So you do not yet know if you can—

Mr. HENRY. No, because we will have to get approval from our issuing bank partner and their regulators to do that. But I do want to comment. Ms. Saunders, you mentioned about you cannot load a check onto a prepaid card. We have on our product roadmap remote deposit capture technology, where a consumer can take a picture of their check with their mobile phone and then be able to deposit that check onto the card. And if they can wait the three or

4 days for that check to clear, we will allow that to be deposited free of charge.

And I think it is really important to note that already today, we see more than 40 percent of the interaction that happens on our Web site in terms of our customers logging into their account, check their balance, and such—more than 40 percent of that is coming from a smart phone and it is growing rapidly. I sincerely believe that 2 years from now, we will see low- to moderate-income consumers almost be completely penetrated in terms of smart phones, and then the level of access that that gives these consumers to be able to manage their accounts, I think, is going to improve dramatically, and we will be continuing to develop solutions to leverage on that technology.

Senator CORKER. How would you—if you moved, I mean, there is obviously not much risk in the prepaid card business by virtue of the way that it works. I mean, it is prepaid. How would you take customers that you are now attracting by word of mouth and all of that, how would you end up doing underwriting for the types of loans you are talking about?

Mr. HENRY. May I first comment on there is not much risk?

[Laughter.]

Mr. HENRY. We will suffer more than \$8 million of losses this year due to fraud, efficient attacks that happen on our consumers from fraudsters as well as friendly fire that happens. We give our—

Senator CORKER. And they are fully protected from that fraud, is that correct?

Mr. HENRY. Yes. We—

Senator CORKER. The same kind of protection you have with a credit card or—

Mr. HENRY. We give the same sort of protections you have with your bank-issued debit card, absolutely. And so there is some risk, yes, sir. But there is not a lot of credit risk.

In terms of how we would go to underwriting such an account, you know, you could kind of look at it very much like the small community banks of the past. We are going to know this customer. We have customers that have been with us—I was just reading through our testimonies of customers I have included with our testimony—have been with us since 2002. We have customers who have been with us, you know, 6, 7, 8, 9, 10 years. We know when they are on direct deposit and we see how much money they load on the card. We also own and operate our own processing platform, so we see where they spend. We see what percentage they spend on gas, food, groceries, and what have you. And so I believe that we would be in a better position than any credit card company to be able to make a judgment in terms of how much credit we can extend to this consumer.

But again, I want to mention that we have no immediate plans to provide credit. I have committed to Ms. Saunders that I will be sitting with her when we have this program and get her input on it. What I am saying is that that is an example of innovation that we can step in and fill a void, and just asking that well-intended legislation and regulation does not thwart that innovation.

Senator CORKER. I would think, if you—let me ask a question. I guess, obviously, there is a huge business in sending money back to other countries when people come here to work and are trying to support families or loved ones in other places, or maybe people who are here permanently but sending money to other countries, Cuba and other places, where they are just trying to help loved ones out. Can you transfer money on one of these cards, a prepaid card, to another country for free?

Mr. HENRY. If you had a NetSpend card and you were traveling overseas, I could send you money from my NetSpend card to your NetSpend account and you would be able to use that overseas. But all of our cardholders are U.S. citizens. We issue that card—so we do not issue cards in foreign countries. I do not know if I answered your question.

Senator CORKER. Yes. So if someone was working here and wanted to send money to a family member in another country and they were doing that on a monthly basis, which so many people who work here do, is there a mechanism that you can set up with these cards to make that happen?

Mr. HENRY. That family member would have to be able to legally get a card issued from our bank here in the United States.

Senator CORKER. The family member in the other country?

Mr. HENRY. Yes, that is correct. So—but—

Senator CORKER. I see many of your staff may know more about this than—

Mr. HENRY. Yes. I am just giving—told myself to give myself the opportunity to mention that when we talk about remittance and money transfer, we naturally think about international. But if you speak to the two largest providers of money transfer in this country, they will tell you that their biggest corridor is domestic United States, many times just across town. The biggest money transfer corridor is domestic transfers in this country. When you think about it, you do not have a bank account. You do not have a checkbook. And you need to send money to a friend or family member in this country, how do you do it? You truck on down to a money transfer location, you pay \$15 to \$20 to send money, and the recipient has to get in the car and go pick it up. So, again, this is an example of what we do in terms of creating product that is uniquely designed for this low-income consumer and their unique needs.

Another example, you sign up for direct deposit with NetSpend, you have access to your funds when they post, not when they settle. So you have a low-income consumer who with our direct deposit many times gets paid up to 2 days faster than they would if they waited for their paycheck or with traditional bank direct deposit. There is not a bank in this country who would do that. We do that because we recognize the very unique needs of this low-income consumer.

Senator CORKER. Thank you.

Chairman JOHNSON. Thank you, Senator Corker.

Let me conclude with one question. Ms. Tescher, I just, you released yesterday your sort of model disclosure box, your disclosure box. I do not know if all of you had a chance to at least glance with it. Is that generally the right way to go? Is that something you would, if you can comment in a few words on it, and if you are not

familiar with it yet, that is fine, too, but if that is something that you think that the Consumer Financial Protection Bureau should suggest, should order for this industry to follow. Ms. Saunders.

Ms. SAUNDERS. We support improved disclosure, including a fee box, something like what CFSI has proposed. There may be details we can discuss, but we definitely support the effort—not as the only measure. Like we said in my testimony, we think there are some fees that are more problematic, but certainly more disclosure is a good idea.

Chairman BROWN. And the kind of disclosure that she suggests.

Ms. SAUNDERS. Yes.

Chairman BROWN. OK. Ms. Tescher, obviously, you agree with the box.

[Laughter.]

Ms. TESCHER. Yes.

Chairman BROWN. Mr. Henry, your thoughts, briefly, about that.

Mr. HENRY. No. We missed the deadline to make the press release, but we fully intend to test the box. We were in full support of it.

Chairman BROWN. OK. Thanks.

Mr. Fischer.

Mr. FISCHER. In the late 1980s, with then-Representative Schumer, we developed the “Schumer Box” for credit cards. I agree with the concept—

Chairman BROWN. It was not your suggestion to name it that, I hope.

[Laughter.]

Mr. FISCHER. Actually, I have only—

Chairman BROWN. Senator Corker, not to speak for him, but we have only been on the Senate for 5-plus years on this Committee and we have already heard too much talk about that, frankly, but go ahead.

[Laughter.]

Mr. FISCHER. You will be surprised how that came up. Over a cocktail, sometime, I will tell you how it came up.

Chairman BROWN. All right. You are on.

Mr. FISCHER. But we will put it this way, that the Senator, then-Representative, came to that idea very quickly.

[Laughter.]

Chairman BROWN. If you had suggested the “Fischer Box,” he probably would not have.

[Laughter.]

Mr. FISCHER. He did not like that idea, actually. The idea was—the key fees or the key concepts so the consumers—the box has been a tremendous success. The one note I saw in the article, and that is all I have seen, talked about 14 fees. That is too many. And so the concept, I think it is great, but the devil is in the details. It has got to be something that people can use and look at, hit the key things so they can shop. Fourteen fees is too many.

Chairman BROWN. Thank you.

Mr. Rothstein.

Mr. ROTHSTEIN. We definitely support the concept and I definitely agree the devil is in the details. I think one thing that we would like to see and try to move toward is to take the box even

a step further and say, you know, we have an APR for measuring and comparing the cost of credit for loans and is there something that we can do along the same lines for comparing the cost of pre-paid debit cards, given that there are so many actors out there.

You know, one of the problems, obviously, from the public sector, Government card perspective, is that you do not really have a choice unless you get direct deposit of what card you get. But, yes, we definitely support that idea.

Chairman BROWN. Thank you.

Senator CORKER. Mr. Chairman, if I could—I know you are getting ready to close the hearing—I again want to thank the witnesses and thank you and your staff for causing this to happen.

I think what I have heard today is there is a lot of innovation that is taking place in this field. It is evolving. There is an agency, the Consumer Financial Protection Agency, that they believe can regulate this accordingly, and I do not know whether it is because they have watched the way we act here or whatever. I think they are saying, we do not really want any Congressional regulation. We think we are in good shape.

So we look forward to hopefully more testimony down the road as it evolves and hopefully we will allow it to evolve and let the agency itself deal with any regulation that needs to take place. But thank you so much for coming.

Chairman BROWN. Senator Corker, thank you, and all five of you, thank you.

Some Members of the Committee who are not here, or Senator Corker or I, may have some written questions to you, and if you would respond to those as quickly as possible. And if you have any additions that you would like to submit in the record, you have a week to do that and we would appreciate that.

Thanks for your candor and your good testimony.

The Subcommittee is adjourned.

[Whereupon, at 3:43 p.m., the hearing was adjourned.]

[Prepared statements and additional material supplied for the record follow:]

**PREPARED STATEMENT OF LAUREN SAUNDERS**  
MANAGING ATTORNEY, NATIONAL CONSUMER LAW CENTER

MARCH 14, 2012

Chairman Brown, Ranking Member Corker, and Members of the Committee, thank you for the opportunity to testify about prepaid cards on behalf of the National Consumer Law Center's low-income clients.<sup>1</sup> The prepaid card market is growing fast and has provided access to modern electronic payment systems for millions of consumers who have been shut out of or misused by the traditional banking system. However, prepaid cards fall into gaps in our consumer protection system and also present new issues not addressed by our regulatory framework.

Prepaid cards are a relatively new product and are continuing to develop. There are a number of unknowns, and we should not pass definitive judgment on the prepaid card market as it exists today. Currently, too many prepaid cards have substandard protections, limited functionality, and problematic fee structures. Will they remain a second tier bank account or will regulators and the industry overcome those hurdles? Will banks use prepaid cards as an excuse to shed low balance customers and neglect their obligations to serve their entire communities? Or will prepaid cards both serve useful functions in their own right and be a helpful stepping stone to greater financial inclusion of the unbanked and underbanked?

We do not yet know the answers to these questions. The factors are complicated, but here are some barometers.

First, consumers must have the choice of payment systems and financial accounts with a range of functions that meet their needs. The banking system, and traditional bank accounts, must remain open to low balance consumers. Prepaid cards are still a very limited product.<sup>2</sup> For most consumers, a traditional bank or credit union product is still the best choice.<sup>3</sup> But many banks have been shedding their less profitable customers, and they must not use prepaid cards as an excuse for pushing lower income or credit-impaired consumers out of checking accounts. Instead, banks must look to the prepaid card world for ideas about how to safely and efficiently serve these consumers.

Public agencies and employers must always give benefit recipients and employees the choice of direct deposit to an account of their own choosing before making payments on a prepaid card. That is the law, but six States are currently failing to offer direct deposit of unemployment compensation.<sup>4</sup>

For consumers who choose prepaid cards, regulators must be careful not to relegate prepaid cards to second class status or prevent them from being an access point to the financial mainstream. Unfortunately, recent regulations exempt prepaid cards from the interchange fee cap only if the cards' features are limited.<sup>5</sup>

Second, consumers must understand the cost and terms of their accounts. Understanding is more than disclosure. Information must not only be provided, but done so in a clear and conspicuous manner than promotes actual awareness and understanding. Some prepaid cards do a better job of this than others but many fall short. Some providers disclose fees prominently on the outside of the package at retail locations and on their Web sites, but those are the exception. On Web sites in par-

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<sup>1</sup> Organizational descriptions are attached.

<sup>2</sup> For example, prepaid cards work well as a vehicle for receiving direct deposits, but few, if any, can accept deposits of paper checks, forcing consumers to continue to use check cashers for some types of checks. In addition, load fees make cash deposits uneconomical. Most cannot be used to make payments to persons or entities that cannot accept cards.

<sup>3</sup> A common complaint about prepaid cards is that they do not help consumers build credit, but banks accounts do not either. However, bank accounts offer many more features and a relationship with an institution that offers a broader range of products.

<sup>4</sup> The Electronic Funds Transfer Act prohibits any person, including a State, from "requir[ing] a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a Government benefit." 15 U.S.C. §1693k(2). California, Indiana, Kansas, Maryland, Nevada, and Wyoming require unemployed workers to have a prepaid card account with the bank that issues the State card as a condition of receiving unemployment benefits. Though funds may be transferred to a private account, there is a delay in receiving the funds. For more information on unemployment prepaid cards, see National Consumer Law Center, "Unemployment Prepaid Cards: States Can Deal Workers a Winning Hand by Discarding Junk Fees" (May 2011), available at <http://www.nclc.org/issues/unemployment-compensation-prepaid-cards.html>.

<sup>5</sup> General use cards, if issued by a bank over \$10 billion, cannot have checks, electronic bill-payment features or transfers to other accounts—including linked savings. Government agency cards issued by large banks are not permitted to accept nongovernment funds loaded by the consumer, preventing those cards from being used to bring a more fully functional account to unbanked consumers.

ticular, fees tend to be buried several clicks away and in the fine print of terms and conditions.

Even when clearly disclosed, prepaid cards can have complicated fee schedules. Complex balkanized pricing can make it difficult to discern the overall cost of an account or to compare different cards.

All prepaid cards should display, prominently, a chart of fees (and other important terms). Researchers should explore a standardized price tag that reflects the average cost of a card and gives consumers a simple benchmark for comparing cards with different structures, just as the APR provides a point of comparison for credit cards today.

Third, consumers' funds must be safe in the case of insolvency of any party involved with the card, be it the bank, the program manager or someone else. The FDIC has explained how prepaid card programs must be set up to ensure FDIC insurance payable to the consumer regardless of the size of the master account. Most prepaid cards follow the FDIC requirements, but there is no way for consumers to know if they do, and some may not.

However, not all prepaid cards are issued by banks or eligible for FDIC insurance. American Express's prepaid cards are issued by its Travel Related Services division and not its bank and do not have FDIC insurance or any other Federal protection if AmEx were to become insolvent. State money transmitter laws apply, but the protection they afford varies from State to State and even in the best State does not guarantee that the consumer will not lose funds or have them locked up in a protracted bankruptcy proceeding. Though American Express appears to be stable, bigger companies have failed, and the AmEx model may also be copied by less venerable institutions.<sup>6</sup>

Regulators must insist that any general use reloadable prepaid card carry deposit insurance, especially (but not only) if the card is used for deposit of wages, benefits, or other income.<sup>7</sup> Exceptions should be permitted, if at all, only for very limited balance cards that function more like gift cards.

Fourth, consumers need protection from errors, unauthorized charges, and disputes. The Electronic Funds Transfer Act and Regulation E provide rights for bank account debit cards, payroll cards, and non-needs tested Government benefit cards, but not for other types of prepaid cards. Most prepaid cards voluntarily follow the Regulation E payroll card rules. But determining whether they do requires scrutinizing fine print for complicated legalese, and even then consumers' rights are not as strong or enforceable as they would be if they fell under Regulation E directly.

All prepaid cards should be covered by Regulation E. This includes virtual prepaid cards and equivalent mobile payment systems.

In addition, consumers with prepaid cards—as well as those who use bank account debit cards—should have chargeback rights if consumers have a dispute with a merchant, just as they do with credit cards. The likelihood of a problem with a purchase is no different than when the purchase is made with a credit card or with a debit or prepaid card, and consumers need the same ability to dispute a charge if they did not get what they paid for.

Fifth, consumers need ample, free, and convenient access to account information and customer service. Consumers should have multiple free methods of determining their balances, viewing transaction information, asking questions and resolving issues with their accounts. Most prepaid cards are not provided through brick-and-mortar locations that offer access to a human being. Fees may be charged for telephone customer service, and the consumer must enter long strings of numbers and navigate multiple menus to get to a live agent. Cards are typically provided and marketed to lower income, underbanked consumers, and yet consumers are expected to monitor their accounts online even if they do not have easy Internet access or are not comfortable using computers or accessing sensitive information online. Many prepaid cards do not offer the option of signing up for paper statements at any price or charge high fees for doing so. Fees are even charged for simple balance inquiries at ATMs and accessing an automated customer service line.

Prepaid cards should not be a black box in the consumer's wallet. They are accounts, and consumers should be able, and encouraged, to monitor their accounts for fees, errors and unauthorized charges. Consumers accustomed to the cash world may have questions about how the cards work. Like any consumer, they need the ability to resolve the problems that can arise. Admittedly, the margins on prepaid

<sup>6</sup>The precedent of permitting a company to hold consumer funds in accounts that are not covered by deposit insurance also makes it easier for dangerous products to emerge in the mobile payment space.

<sup>7</sup>Or, for prepaid cards issued by credit unions, the cards should carry equivalent share insurance from the National Credit Union Administration.

cards are thin, and the industry has reasons for encouraging consumers to use lower cost channels. But consumers should not be nicked and dimed for seeking the information they need, or worse, be inhibited from doing so. Prepaid cards will remain a substandard form of account if the industry does not find ways to encourage consumers to actively engage with their accounts to get the information they need—and to view prepaid card accounts as accounts, not just as disposable gift cards.

Sixth, prepaid cards must not have unfair fees or tricks and traps. Not every fee is troubling. Prepaid cards provide a service, and providers are entitled to charge for that service.<sup>8</sup> If pricing is simple enough to be understandable, consumers can decide if the value is worth the price.

But some types of fees are problematic. Penalty fees should be eliminated whenever possible. As we saw in the credit card market, providers have terrible incentives to trick consumers into making mistakes if penalty fees are any part of the profit model.<sup>9</sup> Information and customer service fees, as discussed above, inhibit consumers from getting information they need to manage their accounts. Inactivity, monthly or other fees should also not be charged against a zero balance account, creating a debt for an account that the consumer may assume is empty and closed. Some cards also charge quite steep or unexpected fees for other reasons.

Beyond specific problematic fees, the industry must simplify, simplify, simplify and keep fees minimal and reasonable. The more fees a card has, the more chances for confusion and unhappy customers. The difference between in- and out-of-network ATM fees, and ATM fees *v.* ATM surcharges *v.* ATM balance inquiries, can be bewildering. Some fees associated with bill payment features are incomprehensible and quite steep. Providers should help consumers to understand the cost of the cards by eliminating all fees that are not necessary and giving consumers the choice of a monthly fee that covers routine usage and a pay-as-you-go model with a small number of fees for discrete services.

Prepaid cards also need to stay clear of the tricks that have plagued other types of accounts.

Seventh, it is essential that overdraft fees and embedded credit features be eliminated from prepaid cards. Overdraft fees are what have driven many consumers out of bank accounts and created the opportunity for prepaid cards. When and how small dollar credit should be provided, through separate credit accounts,<sup>10</sup> is another conversation, but the security of deposit accounts should not be undermined by including dangerous embedded credit features.

Senator Brown, in your own State of Ohio, prepaid cards are being used by the payday lender CheckSmart to evade Ohio's payday loan laws through loans on prepaid cards issued by Florida-based Urban Trust Bank. They are doing the same thing in Arizona. Prepaid cards with credit features are all too easy to sell in payday stores where the loans are illegal, taking us back to the rent-a-bank days when banks loaned out their charters to payday lenders to use as a vehicle for preemption.

Congress already directed prepaid card issuers to eliminate overdraft fees by conditioning the interchange fee cap exemption on the absence of such fees. But that rule does not apply to banks under \$10 billion. The Treasury Department took an important step forward to protect prepaid cards by banning attached lines of credit or loan agreements on cards that accept direct deposit of Federal payments.<sup>11</sup> Again, the rule does not apply to every card.

The very name “prepaid card” should mean what it says. Indeed, “no credit check needed” and “you can't spend more than you have” are common marketing refrains for prepaid cards. Banning overdraft fees and other embedded credit features on

<sup>8</sup>The exception is Government payment cards and payroll cards. Those cards should be designed to be free to the consumer for routine usage.

<sup>9</sup>Ideally, penalty fees will be eliminated altogether. At most, they should cover the cost of the conduct and be coupled with active measures to assist the consumer from making the mistake again.

<sup>10</sup>We do not categorically oppose linking prepaid cards to a separate, affordable credit account as long as there is no offset of the deposit account or mandatory electronic repayment. A discussion of alternatives to payday loans and the features of a genuine alternative can be found in National Consumer Law Center, “Stopping the Payday Loan Trap: Alternatives That Work, Ones That Don't” (June 2010), available at [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/report-stopping-payday-trap.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf). The criteria are: 36 percent APR with fees, amortizing installment payments generally over 90 days, no offset or mandatory electronic repayment, and consideration of ability to pay. Every form of credit that we have seen on a prepaid card fails every one of these criteria.

<sup>11</sup>See, 75 Fed. Reg. 80335 (Dec. 22, 2010). The interim rule has not yet been finalized. NCLC's comments suggesting ways to tighten the rule to prevent evasions are available at [http://www.nclc.org/images/pdf/other\\_consumer\\_issues/exempt\\_public\\_benefits/prepaid-card-comments.pdf](http://www.nclc.org/images/pdf/other_consumer_issues/exempt_public_benefits/prepaid-card-comments.pdf).

prepaid cards would prevent deceptive practices and confusion and make the cards a safe, genuine alternative to bank accounts, deserving of the higher interchange fees they are entitled to charge.

The good news is that things are generally moving in the right direction. The choice of prepaid cards on the market has been expanding. Banks, with their wide ATM networks (and capacity to accept deposits of cash and checks), are entering the market, and the industry is working on innovations like remote deposit capture that will make prepaid card accounts more functional. Compliance with FDIC insurance rules and Regulation E is generally the market standard. New means of accessing account information, like automated text messages and smart phone apps, are becoming more common. On many cards, fees have been coming down and fee structures are being simplified (though not yet enough). Most cards do not have overdraft fees and, other than the CheckSmart card, other credit features are currently non-existent.<sup>12</sup>

But there are always outliers, and problematic cards harm not only the consumers who use them but also the reputation of an industry that is still introducing itself to the public. As the prepaid card industry knows all too well, the general public perception of prepaid cards is quite negative. The industry will have to work hard to gain public trust.

Regulators can help both consumers and industry by leveling the playing field and establishing strong minimum standards. The industry should welcome thoughtful regulation to help bring prepaid cards into the financial mainstream and take them out of the shadow banking system where they are today.

Dialogue, like today's hearing, is critical. Thank you again for this opportunity to testify. I would be happy to answer your questions.

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<sup>12</sup>The Office of Thrift Supervision's laudatory 2010 action in shutting down lines of credit that were unfair or deceptive helped send a useful message to the industry, as did the Treasury direct deposit rule. However, Russell Simmons has announced that he will be adding a credit feature to his card.

**Attachment: Descriptions of Organizations**

**National Consumer Law Center, Inc. (NCLC)** is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and policy advice on consumer law issues to attorneys, policymakers and consumer advocates across the country. NCLC publishes a series of eighteen practice treatises and annual supplements on consumer credit laws, as well as bimonthly newsletters on a range of topics related to consumer credit issues and low-income consumers. NCLC's attorneys have been closely involved with the enactment of the all federal laws affecting consumer credit since the 1970s, and regularly provide extensive comments to the federal agencies on the regulations under these laws.

**Americans for Financial Reform** is a coalition of more than 250 national, state and local consumer, labor, investor, civil rights, community, small business, and senior citizen organizations that have come together to spearhead a campaign for real reform, fighting for a banking and financial system based on accountability, fairness and security.

**Center for Responsible Lending (CRL)** is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, which consists of a state-chartered credit union (Self-Help Credit Union (SHCU)), a federally-chartered credit union (Self-Help Federal Credit Union (SHFCU)), and a non-profit loan fund.

**Consumer Action** empowers underrepresented consumers nationwide to assert their rights in the marketplace and financially prosper through multilingual financial

education materials, community outreach, and grassroots “make your voice heard” advocacy.

**Consumer Federation of America (CFA)** is a nonprofit association of some 300 national, state, and local pro-consumer organizations created in 1968 to represent the consumer interest through research, advocacy, and education.

**Consumers Union of United States, Inc., publisher of Consumer Reports**, is a nonprofit membership organization chartered in 1936 to provide consumers with information, education, and counsel about goods, services, health and personal finance. Consumers Union's publications have a combined paid circulation of approximately 8.3 million. These publications regularly carry articles on Consumers Union's own product testing; on health, product safety, and marketplace economics; and on legislative, judicial, and regulatory actions that affect consumer welfare. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and services, fees, and noncommercial contributions and grants. Consumers Union's publications and services carry no outside advertising and receive no commercial support.

**The Leadership Conference on Civil and Human Rights** is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 210 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups.

**PREPARED STATEMENT OF JENNIFER TESCHER**  
 PRESIDENT AND CHIEF EXECUTIVE OFFICER, CENTER FOR FINANCIAL SERVICES  
 INNOVATION

MARCH 14, 2012

Thank you, Chairman Brown, Ranking Member Corker, and Members of the Committee. On behalf of the Center for Financial Services Innovation, I appreciate the opportunity to participate as a witness before the Senate Banking Subcommittee on Financial Institutions and Consumer Protection on the matter of prepaid cards. We appreciate the Subcommittee's attention to this important financial innovation.

I am the President and CEO of the Center for Financial Services Innovation. CFSI is a national nonprofit organization, in its eighth year of providing national leadership, research, and insights on the everyday financial services needs of financially underserved consumers. We conduct consumer and industry research to develop a broad understanding of consumers in this segment and the products offered to them. We organize roundtables with large and small financial services providers and nonprofits to develop and advance products and strategies for serving underserved consumers. Each year we bring together over 600 representatives from the financial services sector, including innovators, nonprofits, and policy makers, to spotlight how innovation, partnerships, and public policy can improve financial services for underserved families. We provide grants to nonprofits that are building underserved consumers' financial capability through the marriage of financial education, financial products and technology.

Finally, we develop and champion Federal policy to spur financial product innovation and market competition and address impediments to access to high-quality financial services. Our vision is for consumers to have access to an array of high-quality products and services that enable them to safely and effectively transact, save, borrow, and plan.

CFSI has studied the general purpose reloadable (GPR) prepaid card<sup>1</sup> market for nearly a decade, publishing our first white paper on the topic in 2004 when the cards were still commonly known as stored value cards. We have published 16 reports since then, detailing industry developments and consumer preferences, behaviors, and perceptions. We have been working most recently with researchers at the Payment Cards Center of the Federal Reserve Bank of Philadelphia to analyze prepaid card transaction data to understand how consumers use the product. We also work with nonprofit organizations to provide them the information they need to help their clients use prepaid cards safely and effectively; we published the Nonprofit's Guide to Prepaid in 2010. Last summer, we convened the Prepaid Advisory Council, bringing together 19 of the leading companies from across the prepaid supply chain and consumer advocacy organizations to create a forum for dialogue about what makes for a high-quality prepaid card. The group dialogue has informed the creation of a prepaid quality guide, which we expect to publish this summer.

Yesterday, we released our recommendations for a standardized fee box for improving the transparency of prepaid cards, and three prepaid card providers have committed to adopt or test CFSI's proposed disclosure box.

CFSI believes that well designed prepaid cards can offer a critical onramp to the financial mainstream for underserved consumers. My testimony will focus on the financial needs of consumers and how prepaid can meet those needs, and on creating an enabling environment that simultaneously supports high-quality innovation and protects consumers.

**What Are Prepaid Cards, and What Benefits Do They Offer Consumers?**

Over the past decade, an ever-growing array of financial services has become available for people who have traditionally been financially underserved. Previously, the 30 to 40 million American households who were unable to open a bank account or chose not to use one regularly were limited to cash, money orders, and check cashers for their basic banking needs.<sup>2</sup> But technological innovations have given the

<sup>1</sup>In my testimony, I use "prepaid card" to refer to general purpose reloadable (GPR) prepaid cards. As the description implies, these are cards that can be broadly used (in contrast to, for example, most gift cards or transit cards), can be reloaded by the user, and carry the brand of one of the four major payments networks (Visa, MasterCard, American Express, Discover). The type of card I am referring to is sometimes also called a "prepaid debit card" or a "prepaid card account."

<sup>2</sup>The FDIC's 2009 National Survey of Unbanked and Underbanked Households estimated that approximately 30 million households were underserved ([http://economicinclusion.gov/about\\_survey.html](http://economicinclusion.gov/about_survey.html)). CFSI's 2008 Underbanked Consumer Study estimated that approximately 40 million households were either unbanked or underbanked (<http://cfsinnovation.com/publica->

underserved more and better options, such as prepaid cards. Prepaid cards were first introduced in the early 1990s and represent a family of products ranging from gift cards to payroll cards to general spending cards. CFSI's work focuses on general purpose reloadable (GPR) prepaid cards, which have the most relevance and utility to the underserved.

Prepaid cards are virtual bank accounts, and they represent a truly new point of financial access at a time when access is diminishing. Prepaid cards function like electronic bank accounts without checks; consumers load funds on the card and, with the majority of prepaid cards, can spend only what they load. And because prepaid cards can be loaded only with funds that are immediately available, they overcome the "check hold" problem that sends those who are living paycheck to paycheck to check cashers rather than banks.<sup>3</sup>

Anyone can qualify for a prepaid card, regardless of credit history. Many underserved consumers either do not have, or do not perceive themselves as having, a sufficiently positive credit history to access traditional bank accounts. Prepaid cards do not require a credit check, but they do offer many features of conventional cards, including branded Visa or MasterCard logos and near-universal acceptability.

Prepaid cards can be conveniently accessed and used. They are sold in a variety of locations—retailers, bank and credit union branches, online, nonprofit organizations, and more. The cards are accepted nearly everywhere and can be used to pay bills, send money home, make purchases, and save. For cash-based consumers, prepaid cards allow users to make purchases and pay bills without carrying large amounts of cash. They also enable access to Web-based commerce.

Prepaid card providers have in recent years begun to add a broad range of features and functions—including bill payment, money transfer, saving, and credit building—that hold promise for linking near-term transactions to longer-term asset building. For instance, at least five prepaid card providers now offer customers high-yield savings accounts linked to their cards.<sup>4</sup> Combining low-cost transaction services with opportunities for savings and credit access is seen as a "best-practice" model for the financial services industry.<sup>5</sup>

The promise of prepaid and the value it can provide is particularly important in the wake of the financial crisis. An increasing number of consumers are financially vulnerable due to foreclosure, unemployment and high levels of debt. At the same time, new regulations reigning in overdraft and interchange fees have changed the underlying economics of a basic checking account, leading depositories to restructure and reprice their offerings. The bottom line: underserved consumers face reduced access to checking accounts and other basic financial products.

Consumers need more choices in the market, and prepaid has an important role to play in meeting unmet financial needs. In part driven by the broader trends, the nascent prepaid card industry has grown rapidly, with millions of cards in use today. According to an industry research group, the funds loaded onto GPR prepaid cards in 2008 totaled \$8.7 billion and is projected to rise to over \$118 billion by 2012. The total amount loaded onto all types of prepaid cards is estimated to double over the next 3 years to \$672 billion in 2013.<sup>6</sup>

### What Do Consumers Think of Prepaid Debit Cards?

In 2008, CFSI worked with researchers at the University of Washington to conduct in-depth interviews with approximately two dozen prepaid card users in order

*tions/list/CFSIUnderbankedConsumerStudy*). The two studies defined underbanked households slightly differently.

<sup>3</sup>Prepaid card providers typically encourage direct deposit of funds and do not charge for it. Research has shown that prepaid card customers using direct deposit load more money, use their card more frequently, and keep their cards active for longer. As a result, many prepaid providers are actively encouraging their customers to use direct deposit. However, an estimated 25 percent of American workers don't use direct deposit, either because they lack access to it or choose not to use it. Those without direct deposit must use cash to load their cards, meaning they first need to cash their check and pay a fee for doing so. Some providers, like Walmart, will waive the fee to load a prepaid card if a consumer cashes the check in the store. Nonetheless, this "cash in" issue is an ongoing challenge to prepaid and raises the cost to use the product. Innovations in remote-deposit capture may offer a potential solution.

<sup>4</sup>These cards include Advance America Visa Prepaid Card, Plastyc UPside Visa Card, NetSpend Prepaid-Debit-Card, Mango Money Prepaid Card, and PreCash Vision Premier Visa Prepaid Card.

<sup>5</sup>Caskey, John P. (2005), "Reaching Out to the Unbanked", *Inclusion in the American Dream*. M. Sherraden. Oxford University Press, NY: 149–165.

<sup>6</sup>Mercator Advisory Group, Seventh Annual Prepaid Card Forecast, [http://www.mercatoradvisorygroup.com/index.php?doc=Prepaid&action=view\\_item&id=519&catid=16](http://www.mercatoradvisorygroup.com/index.php?doc=Prepaid&action=view_item&id=519&catid=16).

to understand why people were choosing to use prepaid cards, how they were using them, and how consumers perceived the product.<sup>7</sup>

With some exceptions, customers in the study had low or moderate incomes and substantial personal debt. Few owned a home. Unpaid utility bills and fees were the most common sources of debt, and credit cards and medical bills the largest debts.

All but one interviewee had used conventional bank-based checking or savings accounts before starting to use prepaid cards, and a majority had opened banking accounts as adolescents. But by the time of the interview, 14 had no conventional bank account. Most had either closed their accounts or had their accounts closed by the banks for reasons that included overdraft fees, unexpected or unanticipated fees, unauthorized account access, and being a victim of identity theft.

Overdraft fees were a common complaint. Some felt their bank chose to honor one big check in order to allow several smaller checks to bounce, each one incurring a costly overdraft fee. Unauthorized transactions (the term was often used interchangeably with identity theft), some of which put their accounts into the red, were another problem mentioned. Some consumers said they simply could not understand banks' fee structures. Customers did not hold themselves harmless in disputes with banks. One mentioned a gambling addiction; others considered themselves bad money managers. But the way their banks handled or ignored their problems left them mistrustful.

Interviewees saw prepaid cards as a useful tool, a way to escape the high fees imposed by banks and check-cashing companies. All interviewees said they used their cards regularly to pay bills online and over the phone and to make point-of-sale purchases such as groceries and gas. The majority said they loaded funds through direct deposit.

Taken together, the results suggested six elements of the prepaid card experience that customers valued:

*Convenience:* Cardholders do not have to travel to multiple locations to cash a check, buy money orders, and then deliver payments. The only inconvenience mentioned involved cash reloads.

*Accessibility and inclusion:* Branded cards (with Visa, MasterCard, Discover, or American Express logos) are accepted almost universally. Moreover, the prepaid cards offer a feeling of inclusion, providing a way to pay that does not differentiate users of prepaid cards from cardholders who have debit or credit cards.

*Immediate liquidity:* Many low-income consumers use check cashers rather than checking accounts because they cannot afford to wait for a bank to clear a deposited check. Funds directly deposited to a quality prepaid account are available immediately.

*Simplicity and transparency:* The fee structures of prepaid cards are easy to understand. With few exceptions, prepaid cards charge fees up front for services rendered, as opposed to checking accounts, which charge unexpected penalty fees after the fact. Problems with checking account overdrafts were a primary reason the cardholders interviewed left their checking accounts for prepaid.<sup>8</sup>

*Value:* Most customers felt the costs associated with prepaid were fair and lower than what they would incur if they used a check casher or checking account.

*Built-in discipline:* Customers liked knowing that they could only spend what they had. They also used the cards to limit spending and stay on budget.

About half of the consumers in the sample used a prepaid card with a linked savings account, providing a window into whether more robust card functionality can be useful. All but one consumer had deposited funds into the savings account at some point and four customers had balances ranging from \$97 to \$500 at the time of the interviews. Some customers were using the account to build emergency savings, others to help with monthly budgeting. Those who elected to have funds automatically transferred upon every new load had more success amassing savings.

It is important to acknowledge that not all prepaid products are created equal, and there have been some that have been poorly structured, outrageously priced, and a bad deal for consumers. On balance, however, the accessibility, simplicity, convenience, and value that most prepaid cards provide make them a promising product for everyday consumers. To ensure prepaid lives up to that promise, it is critical that we do more to ensure they provide a safe and robust experience.

<sup>7</sup>Gordon, Sarah E. (2009), "A Tool for Getting by or Getting Ahead?" CFSI. [http://cfsinnovation.com/system/files/imported/managed\\_documents/voc-prepaidfinal.pdf](http://cfsinnovation.com/system/files/imported/managed_documents/voc-prepaidfinal.pdf).

<sup>8</sup>For an explanation of why prepaid cards engender trust, and why consumers are willing to pay more for that trust, see: Wolf, Daniel (2012, March 1) "Trying to Understand the Unbanked's Acceptance of Prepaid Cards", *American Banker*. [http://www.americanbanker.com/magazine/122\\_3/trying-to-understand-the-unbankeds-acceptance-of-prepaid-cards-1046840-1.html](http://www.americanbanker.com/magazine/122_3/trying-to-understand-the-unbankeds-acceptance-of-prepaid-cards-1046840-1.html)

### How Can We Ensure Prepaid Card Accounts Offer a Safe and Robust Experience for Consumers?

Increasingly, prepaid cards are being marketed and used by consumers as alternatives to traditional checking accounts. Currently, however, these products are not explicitly required by regulation to have many of the same consumer protections as bank accounts, such as FDIC insurance, fraud and error resolution procedures, and account disclosures. Although most major prepaid card providers already offer all or most of these consumer protections, consumers need to be confident that any prepaid card includes the same strong protections.

The best way to extend these protections to prepaid cards, however, is not simply to replicate the way they have been applied to checking accounts. Although the purpose and function of prepaid cards is similar to those of checking accounts, their structure is fundamentally different. To ensure that prepaid cards can continue to meet the unique needs and demands of the underserved, protections must be thoughtfully applied in a manner that is both suitable for the consumer and feasible for prepaid providers.

CFSI recommends the following extensions of consumer protections to GPR prepaid cards:<sup>9</sup>

1. Mandate FDIC pass-through insurance.
2. Extend Regulation E as it is applied to payroll cards and enhance the protections by:
  - Lengthening the period for which transaction history is available;
  - Enabling consumers to make a single request for ongoing paper statements; and
  - Studying and leveraging advances in technology and insights in financial capability to improve the delivery of account information.
3. Require a standardized fee-disclosure box and encourage additional disclosure tools for consumers, based on advances in technology and insights in financial capability.<sup>10</sup>

While most prepaid companies have taken at least some steps to make it easier for consumers to find and understand the fees associated with their products, an examination of current prepaid fee disclosure practices clearly shows that there is a need for improvement in the industry overall. There tend to be a range of different kinds of fees across card products, and exactly how and where they are disclosed varies widely, making it difficult for consumers to make comparisons before they make a purchase decision.

CFSI has designed a model fee disclosure box based on research on current fee disclosure practices in the prepaid card marketplace, best practices in disclosure for a variety of financial and nonfinancial products, and extensive data on the types of prepaid card fees consumers are currently incurring. Three prepaid card providers—Green Dot, Plastyc, and Ready Credit—have committed to adopt or test CFSI's proposed disclosure box.<sup>11</sup>

Ultimately any model fee box adopted by regulators, as CFSI recommends, should be based on robust consumer and industry research, and have both the costs and benefits of the specific aspects of its design carefully measured and weighed. It should also be vetted by and be the product of vigorous discussions among all the major stakeholders in the field, including industry representatives, consumer advocates, nonprofit practitioners, regulators, and researchers. Lastly, any proposed model fee box should be rigorously tested on actual prepaid card consumers to ensure its effectiveness before being implemented.

In conclusion, prepaid cards hold great promise for improving the manner in which tens of millions of American households conduct their financial activities. Like traditional checking accounts, their utility and their cost depends on the terms of the product, the customer's understanding of the product, and how the customer uses the product. But at a time when traditional financial institutions are changing the pricing structures of their accounts and apparently losing low-balance cus-

<sup>9</sup>Newville, D., and Koide, M. (2011), "Prepaid Cards and Consumer Protection", Retrieved from: [http://cfsinnovation.com/system/files/CFSI\\_PrepaidPolicy\\_July2011.pdf](http://cfsinnovation.com/system/files/CFSI_PrepaidPolicy_July2011.pdf).

<sup>10</sup>Newville, David (2012), "Thinking Inside the Box: Improving Consumer Outcomes Through Better Fee Disclosure for Prepaid Cards", CFSI. Retrieved from: [http://cfsinnovation.com/system/files/CFSI\\_Prepaid%20Cards%20Whitepaper%20Final-0.pdf](http://cfsinnovation.com/system/files/CFSI_Prepaid%20Cards%20Whitepaper%20Final-0.pdf).

<sup>11</sup>Center for Financial Services Innovation (2012), "CFSI Proposes a Model Fee Disclosure Box for Prepaid Cards" [Press Release]. Retrieved from: <http://cfsinnovation.com/content/cfsi-proposes-model-fee-disclosure-box-prepaid-cards>.

tomers, it is important to encourage the evolution of a well-designed, easily understood, safe alternative.

Thank you, Chairman Brown, Ranking Member Corker, and Members of the Committee. I hope these insights prove useful as you seek to ensure that everyday consumers have access to innovative and safe products that help them live their best financial lives. I look forward to your questions.

**PREPARED STATEMENT OF DANIEL R. HENRY**  
CHIEF EXECUTIVE OFFICER, NETSPEND HOLDINGS, INC.

MARCH 14, 2012

Mr. Chairman, Senators, thank you for the opportunity to appear before you today and talk about the ways in which entrepreneurial companies are serving a huge part of the American population that has been underserved by the banking system this Committee oversees. I am Dan Henry, Chief Executive Officer of NetSpend. NetSpend is one of the Nation's leading providers of general purpose reloadable pre-paid debit cards for underbanked consumers. Our mission is to empower consumers with the convenience, security and freedom to be self-banked. We are proud of what we do, and committed to collaborating with policy makers, regulators, advocates, and our industry peers to promote a clear and effective regulatory framework for our industry and the consumers we serve.

I joined NetSpend in 2007 after having spent more than a decade building another business that brought modern financial services to consumers in former Warsaw Pact countries where, for a time, entire populations were essentially unbanked. When I came to NetSpend initially as an independent Board member, I was astonished to learn that a huge portion of the population of my own country was unbanked, and excited to be part of a company that had figured out a way to change that—so excited that, when the opportunity presented itself, I joined the company full time as its CEO.

According to the FDIC, there are 60 million underbanked consumers in the United States. This number includes consumers who literally have no bank checking or savings account, and a larger number who have a traditional bank account but primarily rely on alternative financial services providers like check cashers for their financial services needs. Why is this? Consider another fact from the FDIC: 73 percent of banks are aware that there is a significant underbanked population in their market, but less than 18 percent of them say that serving that population is a priority. Most traditional bank products and fee structures really are not designed for underbanked consumers, who typically maintain very low average balances. It may surprise you to hear that, of NetSpend's 2.1 million active cardholders, several thousand are employees of Bank of America, Chase, and Citibank—presumably customers who know what their alternatives are, and concluded the NetSpend card is the best one to meet their needs.

Our customers are typically working Americans who want control, security, and convenience in their financial services, and who typically have not had good experience getting what they need from traditional bank products. They are almost all U.S. citizens, the majority earning \$50,000 or less per year, with high school educations or less. They typically put a few hundred dollars into their card accounts every couple of weeks, and maintain an average balance of less than \$100. They are people who deserve the same quality of financial services as the more affluent customers targeted by traditional banks—which means they need products tailored to their unique needs. We are proud to have the opportunity to serve them, and mindful of the responsibilities that come with that. We think most of our customers are pleased with our products and services, and well aware of their options, as evidenced by the customer testimonials I have provided (and would request, with your permission, be included in the record).

The reason we have our customers is because we provide them with a better solution to meet their financial services needs versus a traditional bank checking account or cash—which is often what they were using before they got a NetSpend card. The majority of our customers come to us because we were recommended to them by a friend or family member. Bear in mind that the NetSpend card, like the similar products of our competitors, is a bank account. It is FDIC-insured on a pass-through basis, subject to the same consumer protections and compliance requirements as a checking account, and provides access to a host of financial services including flexible fee plans that can be tailored to a particular customer's usage and budget, a 5 percent savings account, free person-to-person account transfers, free direct deposit of payroll and benefits, bill payment services, real time account alerts

that let consumers always know how much money they have, more than 100,000 brick-and-mortar locations where consumers can add funds to the card accounts, and a host of financial literacy and budgeting tools. We have also developed what we believe are effective and responsible ways to help our customers meet short-term emergency needs, by allowing them to incur a negative balance of up to \$10 without incurring a fee, and with a fee-based overdraft program that allows customers to overdraw their accounts by up to \$100—but with buffers and a grace period that result in most overdraft transactions to avoid any fee, effective measures to prevent excessive use, and education about available alternatives. We believe our overdraft program is the best in the industry and the fees are cheaper than any bank or credit union. So our product is a bank account—but one in which we have stripped out the real estate and personnel costs of bank branches, leveraged the infrastructure of nonbank retailers, employers, and direct marketing to reach underbanked consumers where they live, work and shop, and leveraged technology to build a product platform and network that provides these consumers with utility, security, dignity, and access they have never had before.

The fact is that American consumers are migrating to reloadable prepaid debit cards like NetSpend's because our products are better—and cheaper—than the alternatives. Just this week the economist Michael Flores of Bretton Woods, Inc. released a new study of reloadable prepaid cards that showed the following:

- Consumers that use a reloadable prepaid card with direct deposit have an average cost savings of 40 percent versus a low-balance checking account. Checking accounts have monthly fees that can be avoided with a recurring direct deposit or a daily minimum balance of up to \$1,500—while the typical underbanked consumer maintains a balance of less than \$100. Reloadable prepaid cardholders costs average \$8–\$20 a month if they use direct deposit, versus \$15–\$37 a month for low-balance checking account users.
- Consumers who switch from cash to a reloadable prepaid card have an average cost savings of 56 percent. Cash costs consumers an average of \$9–\$48 a month—and that doesn't even factor in the costs in terms of the time they spend cashing checks, sending money, and paying bills with cash.

The study also showed what those of us in the industry know well—the prices of reloadable prepaid cards are trending down, due to fierce competition and savvy consumers, while in the aftermath of interchange fee caps and other factors the price of low-balance checking accounts is trending up. The study shows that satisfaction with prepaid remains high, and the customer profile is expanding beyond the underbanked, as a new generation of Americans gravitates towards products like ours—and the idea of being “self-banked.” The study reminds us that many of the consumers we try to serve do not have equal access to checking accounts, because they are among the up to 19 percent of U.S. adults (according to the FDIC) who can't qualify for an account because they are in the ChexSystems or TeleCheck database of customers that have mishandled accounts in the past.

Perhaps because of the entrepreneurial energy of our industry, and the way it uses nonbank channels and cutting edge technology to serve underserved consumers at a low cost, there is sometimes a perception that the prepaid industry is an unregulated, or at least under-regulated, “Wild West.” The fact is that we and our products are highly regulated, at both the Federal and State levels.

NetSpend and its competitors partner with banks that want to serve these customers, and help them use innovative technology and marketing approaches to develop and market new products to customers who those banks would not otherwise reach with checking accounts originated in their branches. The products and programs are principally regulated by the regulators of the issuing banks, which we experience throughout the year as our issuers undergo their examinations by the OCC and FDIC and every aspect of what we do is closely scrutinized. Those agencies also (in our view) have the authority to directly examine us as a service company for our banks. We are required to (and do) provide Regulation E-compliant electronic statements and error resolution procedures, full dispute and chargeback rights, and privacy policies that comply with Gramm-Leach-Bliley and applicable State law. We must maintain comprehensive antimoney laundering programs both for our banks and as a prepaid access provider under the rules adopted last year by FinCEN. Those of us who work with retailers to handle consumer funds are regulated by the States as money transmitters, subject to regular joint examinations. And one of our leading competitors just received approval from the Board of Governors of the Federal Reserve to acquire a State bank and become a bank holding company, which I think reflects the maturation of the industry and the recognition among the regulators of its importance to the future of financial services in America.

We at NetSpend welcome efforts to eliminate any ambiguity about what rules apply to our business and our industry. For the past 2 years, I personally have led an outreach program to financial regulators and consumer advocates to help achieve that. We have appreciated our direct engagement with the extremely capable staff of the new Consumer Financial Protection Bureau as they work to learn more about our industry and the customers we serve. We are pleased that leaders in Congress have focused their attention on the industry, as reflected in Senator Menendez's proposed Prepaid Card Consumer Protection Act—many of the provisions of which involve standards to which we already adhere and support. But we also believe it is very important that we maintain ground rules in a way that enhances consumers' freedom of choice, rather than limiting it. We are all committed to developing more effective ways to communicate with our customers about the fees, terms, and conditions of our products. We already try to do that every day, because the better consumers understand our offering, the more likely they are to choose it over the alternatives. But limitations on the products, such as restrictions on the types of fees that can be charged, will only harm consumers.

For example, Senator Menendez's bill would prohibit a consumer from being charged a per-transaction fee for using their card to make a purchase. At NetSpend, we give our customers the choice of paying a monthly fee, or paying on a per-transaction basis. And the data show that the customers who opt to pay as they go do so because it is the right plan for their usage. We believe legislation that would limit our ability to give consumers these choices, which they typically use to their advantage, would not achieve the desired result. The focus should be on maximizing consumer choice—and creating an environment for continued innovation and competition—by focusing on maintaining high standards of disclosure of fees and other terms.

I believe those of us who serve the underbanked population of the United States have a higher standard to which to adhere, with an ethos of service to hardworking people often struggling to make ends meet. And in doing so, we learn how very savvy those consumers are about the costs of the financial tools they use—especially when we do our job well in communicating with them about their choices. To do so, we need to be allowed to compete on a level playing field with the traditional bank products that have failed these consumers. We believe price controls and prohibitions will only limit choice and stifle innovation in a brand new industry whose rapid success shows how great are the unmet needs of our customers. We look forward to working with policy makers, regulators, and advocates to continue enhancing disclosure standards in a way that gives everyone confidence that the choices our customers make are fully informed—while we all work to facilitate the development of financial services products that serve underbanked Americans who have largely been left behind by traditional banking products.

## Netspend Customer Testimonials

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Third Quarter 2011

Netspend is so innovative; especially when it comes to keeping up with times technology. It's even more terrific now that Netspend has an app on android. Now I can check my balances, do card transfers quickly and easily. Keep up the excellent work Netspend!!

.....Annette N.

I think it's great! helps me maintain my finances. The website is very helpful. Showing all of my spending. The pie chart put things into perspective for me.

.....Nia B.

I been a customer with Netspend for almost a year now if not more but I can say, Netspend has never failed on me or had any problems with their service. There staff is always friendly and eager to help with whatever situations I may be having. I am "Very" pleased with their service and would recommend them to my friends and family. Awesome service Netspend!

.....Sue M.

## Netspend Customer Testimonials

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Third Quarter 2011

I have been a customer of your company for quite some time. I feel as if your company will always NUMBER 1 with me. Your Customer Agents are so wonderful. They say can I help and then solve my problem. Every time I have called the Agent goes thru the process to guide me in helping me solve anything I have called for. They show the customer that they appreciate the chance to help you. When you call they are polite, asking what they can do, make sure they solve the problem before you leave the phone. This means I will never hear I am sorry. I cannot help you. Those words will never cross your agent's lips. They are well trained to solve your problem. They know how to treat a customer with the courtesy they deserve. You have quite a few that makes you feel special when they take the time to listen and help with your call. Once again I say Thanks to your company for always being there.

.....LINDA B.

Hi! Love your simple prepaid banking! However it would make my life complete if the android Ace Elite app would allow me to transfer funds between my own checking and savings account. Please? Is this possible? I'm sure plenty of android users would appreciate this capability as well. Thanks for your time! Keep up the good work!

Sent from my U.S. Cellular® Android-powered phone

.....TIMOTHY C.

## Netspend Customer Testimonials

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Third Quarter 2011

Thank you for my credit, I am a single mother and cannot afford to throw a single dollar! Thanks again.

.....*WENDY D.*

Netspend is amazing; I'll never have a bank account again!

.....*LAUREN L.*

I have always had a great experience with Netspend. I always get my money 2 days before everybody else. I would never consider going back to a regular bank!

.....*Ashley C.*

Thank you!

.....*Brandon C.*

## Netspend Customer Testimonials

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Third Quarter 2011

I love this card and how easy it is to use! I don't have a bank account but I can have my paycheck available just about anywhere thanks to this card and the services provided! Thank you!

.....*Lisa K.*

Best service I've ever had, Netspend is the best thing to keep my budgets and my spending on track. Will never bank again, as long as I can continue being a great satisfied customer.

.....*OCTAVIA C.*

Great customer service and the overdraft protection is a plus!! Just wish when I replace a card it had the same account number but otherwise everything is great.

.....*Michael D.*

I love the Netspend premier card!!!!

.....*SHATOYA G.*

## Netspend Customer Testimonials

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Third Quarter 2011

WOW....I HAVE USED ONLINE CARDS FOR YEARS AND THIS IS BY FAR THE MOST FEATURE PACKED CARD OUT THERE...!!!!

.....KEVIN M.

I wanted to take the time out and say - that the best thing I've ever done was to get rid of my Bank Account with Citibank- and go with Netspend. Thanks again, and keep up the great work. No hidden fees- monthly fee is lower than my X-bank. Anytime alert are great to have. It keeps you update with your balance. That's great! Thanks Again Happy Customer MR. Rodriguez

.....Darren R.

I love my Netspend card! : I get my pay check so much quicker and it allows me the freedom to make purchases for the things I need without having to worry about my money getting lost or stolen. I love that if I'm short Netspend will spot me ten dollars and deduct it from my next deposit.

.....Diania S.

Been a cardholder since Feb. 2010...wouldn't even think about getting a bank acct. since I have my Netspend. LOVE IT!!

.....James K.

## Netspend Customer Testimonials

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Third Quarter 2011

I can't thank you enough for what you have done for me and my personal finances. Netspend made it possible for me to get a checking account when no other bank would approve me due to past banking experiences. The no credit check checking account includes a free savings account that truly makes it easy to save. Your anytime/every time alerts are a great way of keeping track of your spending. A small \$5 service fee and atm fees are just a small price to pay for the enormous value that this Online Banking Option offers. A Job Well Done.

....Darnell E.

I love the Netspend web site. It keeps me update on all my spending and how I spend my money monthly. The web site also lets me see my savings account and decide how much money I want deposit in to the savings account with every direct deposit.

....Anonymous

I love it I love having my money early and no dam bank fees I love you guys you rock!!!!: keep up the good work

....LASONIA B.

## Netspend Customer Testimonials

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Third Quarter 2011

Just want to thank you for offering to send me a free new card, because my original card expires this month. Great service/ I do recommend NetSpend to my friends. Thanks again

.....*BETTY Y.*

Please continue the great work that you have been doing and Thanks for giving me a card and always telling me about what is Available on my card as well.

.....*Brian C.*

I think you all are excellent so far I love your direct deposit 3 days before your ss check get to me ok matter of a fact I will see this Friday on my S.S CHECK OK KEEP UP THE GOOD WORK.

.....*ROBERT H.*

The expediting of my direct deposit funds being released into my account is outstanding

.....*Thomas P.*

## Netspend Customer Testimonials

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Third Quarter 2011

You are always courteous and prompt. You truly value your customers, thanks.

.....SCOTT S.

Wowzers I'd give this service 10 stars but you know there's only 5 I love Netspend!

.....GEORGE D.

Your company is the best company that I have been with since December of last year.

.....CALEB P.

I JUST WANTED TO SAY I LOVE NETSPEND AND HOW YOU MANAGE AND HAVE EASY ACCESS TO MY ACOCUNT

.....JOSE L.

## Netspend Customer Testimonials

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Third Quarter 2011

I am so happy I found you. Thanks for been there. Never go away!!!!

.....*Abraham R.*

I had a conversation on 8/3/2011 with one of your reps in the dispute department. I didn't catch her name and I am so sorry for that. I would like to thank her for her professionalism as well as her need to assist above and beyond her normal scope of service. She was courteous, attentive, and extremely helpful in resolving my issues. Again, I say thank you.

.....*TERESA W.*

My card was compromised through one of the online sites that I use to frequently purchase goods. Since ACE isn't exactly a traditional bank, I was really worried that I wouldn't get my money back at first. The dispute process was very easy to complete with no hassle whatsoever. I received all of my stolen funds back in a week and I was completely amazed. Thank you so very much. I'll be an ACE member for life!

.....*WILLIAM B.*

NICE PROMO

.....*Marissa A.*

## Netspend Customer Testimonials

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Third Quarter 2011

THANK YOU FOR WATCHING MY BACK ON MONEY IM EXPECTING MONEY  
ON CARD ANY TIME NOW THAT WILL TAKE CARE OF EXTRA MONEY DEAL  
THANKS AND HAVE A NICE DAY

....STANLEY P.

Netspend is the best move I ever made and I couldn't ask for any better  
service then what I get from Netspend. Thank You James Mantel

.....James M.

I love using my Netspend card!! There are so many features that I've never  
had with any other prepaid card. I'm definitely keeping this card for  
life...thanks for making my banking experience so much easier!

.....Tamara S.

Everything on this page and website is very easy to understand and  
comprehend. I really enjoy seeing and tracking my money safely. Thank you  
Netspend!!!!!!!!!!

....YARITZA L.

## Netspend Customer Testimonials

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Third Quarter 2011

Just wanted to thank you for your help now and then I wished for better and here you are now helping me keep up with them old Bones of Mine , so hey I'll be in touch you can count that I count on you today and every day I can try to believe in your help so I can stop doubting Life if it ever catches up to the world , I'd like to be free and see My world without spooksters But someone is always telling me I am blind to a lot of things around, Lots of Laughter to catch up on and remember as Casper I love you ,too! Without spooky!

.....*Dennis G.*

GOOD NEWS IL PUT MONEY ON CARD 10 3 DEAL THKS FOR GOING TO GOING TO BAT ON OVERDRAWN DEAL IL COVER THAT 962 DEAL 9 29 THKS FOLKS.

.....*STANLEY P.*

Thank you. Great service.

.....*VANHXAY V.*

I love getting my check 2 days before anybody else!!!

.....*David T.*

## Netspend Customer Testimonials

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Third Quarter 2011

I really like the color change. It's nice to see something different now and then.

.....*CHARLES M.*

IT'S AWESOME FOR ME.

.....*CHARITY C.*

Thank you.

.....*Delbert W.*

Thank you very much by helping out.

.....*ROBERTA C.*

Great good, I forgot what I used for user, and pass word, thank u for failsafe, card number let me in.

.....*Ana G.*

## Netspend Customer Testimonials

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Third Quarter 2011

The new website is very nice. I like the new look. The change is much more to ease to understand. Thank you.

.....*MITCHINSON D.*

Nice job on the website. I like it! Nice and clean. Thanks!

.....*BRIAN W.*

I know that there other cards out there who claim to be the best. I believe that they are never going to be as helpful as Netspend. You are to be commended on your Customer Service agents. They are the most polite, caring, and helpful. I feel as if I should do something to get my message out about your company. You should be rated as NUMBER 1 in every aspect of your business. The Customer Service Agents always say thanks and you are welcome. I was a customer Service Agent for 3 different telecompanies. I was also a District Manager for another and a Trainer for Customer Service with another. Your Agents go above the line between ordinary and Excellent. Thanks once again for being there for all the people you have working for you,

.....*LINDA B.*

Don't change a thing.

.....*Gwendolyn M.*

## Netspend Customer Testimonials

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Third Quarter 2011

I have never had a problem with this service. Customer service is great. Whenever I have a question it is answered in a timely manner. I have never had any problems with the website. I like the new changes.

.....Darrell M.

Just wanted to express how I feel about Netspend! You guys rock! I get my paycheck 2 days earlier and there are no hidden fees. I always get my alerts on time! I think everyone should have one!

.....Lashanetta B.

This is my first card, everything was easy as 123!!! Thanks

.....Diane P.

Thank you

.....FLOYD T.

I love the look.

.....Tony R.

## Netspend Customer Testimonials

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Third Quarter 2011

I absolutely LOVE my NetSpend Card!! It is so convenient with the phone alerts, and the extras like the Savings Program are totally the BEST. Thank you Net Spend!!!

.....*Melody S.*

I have found this card extremely helpful the website easy to use

.....*CAMIE Y.*

Excellent!!!!!!!!!!!!!!!!!!!!!!

.....*Therunda H.*

Read it to me while I eat bon-bons in bed? Don't change a thing...great job every day, every month, every time. Thanks

.....*Michele S.*

## Netspend Customer Testimonials

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Third Quarter 2011

I moved and no one will cash my government check in my new town! Thank you Netspend for direct deposit by Social Security into my account. It took 2 minutes!

.....*Paul C.*

I like the way this site is made and I like all the options given to us as customers. If I could ask for something else Netspend could do itself it would be to be in more stores so I can load easier.

.....*Casandra K.*

I have been a Netspend card holder beginning in 2002. I used you for everything. You are a very wonderful caring corporation. The people on the phone are very polite and always make sure they ask if there something else they could help me with. When I was in the hospital part of 2006 and 2007 I was without you. Then in 2007 I came back to being a customer. I found out that your web site has always answered all of my questions. Once again thanks for being there when I needed you.

.....*LINDA B.*

So impressive.

.....*Lisa L.*

## Netspend Customer Testimonials

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Third Quarter 2011

I love this card and how easy it is to use! I don't have a bank account but I can have my paycheck available just about anywhere thanks to this card and the services provided! Thank you!

.....*Lisa K.*

Thank you

.....*ROSA C.*

I love it thank you

.....*WILLIE M.*

I have been a Netspend customer for over 2 years now, and I have been a valued customer since day one! Netspend is always expanding its services and creating better banking for their customers. I changed over to Elite with Direct Deposit about 6 months ago and it is their best service yet. You still have the flexibility but yet \$5 gets you a lot farther. I receive my paycheck 2 days earlier than my co-workers and I never have to worry about waiting until their bank clears my check. Netspend is safe banking and also smart banking; you can't spend what you don't have but still are able to use it as a credit/debit card.

.....*CHARLOTTE F.*

## Netspend Customer Testimonials

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Third Quarter 2011

It's very easy to use and love that I get my check 2 days earlier than everyone else.

.....*Dwain E.*

You guys are awesome; you have the best customer service and help me anytime I call. People will call and complain about anything, but I want to just let you guys know that you are appreciated. Peace

.....*Viola H.*

Hi yes I was a customer past the last 2 years I was wondering how can you help me take out a loan?

.....*Tysheika D.*

Thanks for the new website it is great and easy to use.

.....*Keith J.*

Great page.

.....*Fintis E.*

## Netspend Customer Testimonials

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Third Quarter 2011

You've done an excellent job for mobile use. The only problem I have is that the links at the top of the page, send money, pay bills etc. don't always open correctly, just glitchy. Thanks for asking AND listening!

.....*Michael P.*

I have been a cardholder since 2002, I love it!

.....*SHARAY J.*

Member since 2008, my issues have been few, but all my questions and concerns have all been handled in a timely and very professional manner. It's been a great experience thus far and have recommended you to friends and family as well.

.....*CLIFFOR B.*

Your new web site is awesome. I have no problems at all with Netspend  
Thank you.

....*ROXANNE B.*

## Netspend Customer Testimonials

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Third Quarter 2011

Am very satisfied with my elite visa prepaid card. Also the times I've had to call customer service has been always helpful and exactly what I was looking for was answered. Also Tanya Garcia at the Robstown Texas store is a very excellent clerk who I always go to for great service. Always smiling seeing how else she can help or just getting what I need taking care of. Thank you for your service and great plan for prepaid card happy customer.

..... *Alyse O.*

It's perfect. Sincerely Yours.

.....*David M.*

Happy with service

....*Gerald B.*

Your entire customer department deserves a bonus.

.....*STEVE G.*

It's very clear and simple.

.....*Richard M.*

## Netspend Customer Testimonials

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Third Quarter 2011

I have read all the horror stories online about others who have had a bad experience with you guys. But if you look hard enough I am sure you can find negative views about anything. I have yet to have one of those experiences; this opportunity came to me out of the blue when I really needed an account to deposit my checks. I am satisfied when the services provided and appreciate the few times that I did have to talk to customer service that you guys helped me with all my issues. I just wanted to say Thank You.

.....KEITH T.

Ryan, Claim initiation dept. needs to be applauded for his over the top customer service. Polite, respectful, and handled my situation perfectly. I was considering changing to a different card/company, but I will remain with Netspend, thanks to Ryan.

.....Kelly M.

Very easy to use

I love it

.....Paul O.

## Netspend Customer Testimonials

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Third Quarter 2011

It along with the whole website is very easy to use... Been a customer for many years and will be for many to come...Thanks Netspend....

.....*Janet L.*

It's perfect

.....*Nathaniel R.*

It is a great tool thank you so much.

.....*Jeremy V.*

Thank you!

.....*Lisa H.*

I was contemplating getting another card but I will keep my Netspend.  
Thank you, Travis.

.....*ANTHONY F.*

## Netspend Customer Testimonials

---

Third Quarter 2011

It's good just the way it is simple and easy

.....*PROSPER J.*

Love it!!!!

.....*Crystal W.*

Thank you for all of you with my dispute money is back in a lot less time than expected. Great job NETSPEND!!

.....*James B.*

Well it is very understanding there were a few little things that confused me otherwise great.

.....*Randi S.*

It's great!!

.....*Dorian F.*

## Netspend Customer Testimonials

---

Third Quarter 2011

Thank you very much for bringing back anytime alerts for Metro PCS! I LOVE this feature!

.....*Breanna W.*

I'm glad that I applied as your customer.

.....*Leon W.*

Nice access to my account great layout.

.....*Darnell M.*

I really like the card it's nice!

.....*JONSEN Y.*

This page is easy to read. Thanks

.....*CARMEN C.*

I just want to say that you are amazing. I reported fraud on my account and you dealt with it swiftly and got my money back to me. I can't tell you how much this means to my family. Thank you so much.

..... *Tammy S.*

## Netspend Customer Testimonials

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Third Quarter 2011

I have not yet started to you the card but with all the info provided I'm going to get all my friends in on this too. This card is just awesome thanks

.....*Francisco B.*

THANK YOU

.....*JONI W.*

I am very very happy and pleased

.....*Lisa H.*

Thank You

.....*SUSAN G.*

Amazing!

.....*Aaron W.*

I must say Netspend that I think your card service are excellent. Keep up the good work.

.....*Edwin G.*

**PREPARED STATEMENT OF L. RICHARD FISCHER**

PARTNER, MORRISON AND FOERSTER

MARCH 14, 2012

Chairman Brown, Ranking Member Corker, and Subcommittee Members, my name is Rick Fischer. I am a partner in the law firm of Morrison & Foerster LLP, and I practice in the firm's Washington, DC, office. I have over 40 years of experience in advising banks and other financial services companies on retail banking matters, including those relating to prepaid cards, particularly cards that are issued by banks and branded by a system mark, such as Visa. I am pleased to appear before you today on my own behalf to discuss the prepaid card market. The underlying message of my testimony is that legislative activity relating to the prepaid market is unnecessary at this time. Overall, the structure and oversight of the prepaid card market meets the needs of both consumers and card issuers. Specifically, the prepaid card market provides appropriate consumer protections while still enabling this new consumer product to develop. And, any perceived deficiencies can be addressed through the new regulatory authority Congress has given the Consumer Financial Protection Bureau (CFPB).

**The Benefits and Popularity of Prepaid Cards**

Prepaid cards are an innovative financial product that satisfies the consumer financial service need between traditional deposit accounts and alternative financial services, such as check cashing. Although still a relatively small segment of the overall payment card market, the number of prepaid card users is growing rapidly. In fact, prepaid card payments are the fastest growing segment of noncash payments in the United States;<sup>1</sup> “the number of prepaid card transactions increased 21.5 percent per year from 2006 to 2009.”<sup>2</sup>

Prepaid cards function like checking accounts, but without the checks and at a significantly lower cost. Prepaid cards allow a user to add or “load” funds onto the card, store the funds with the prepaid card issuer and then spend or withdraw the funds in a variety of ways, including purchases at a wide variety of merchants. The term “prepaid card” encompasses a variety of financial products such as general purpose reloadable cards, Government benefit cards and payroll cards. A variety of entities issue prepaid cards including banks, retailers, and other private companies. Merchant-branded prepaid cards, which can only be used at that merchant or group of affiliated merchants, were the most frequently used cards in 2009 with 2.7 billion transactions, and general purpose reloadable cards were used to fund 1.3 billion transactions.<sup>3</sup>

Prepaid cards are an attractive, cost-effective payment option for consumers, and allow consumers with less than perfect credit, or who prefer not to use credit or a traditional deposit account, to function in an increasingly noncash world. For example, prepaid cards enable consumers to shop on the Internet and to purchase travel-related services, such as rental cars, airline tickets, and hotel stays, which otherwise would require a credit card or a debit card to complete the purchase. Prepaid cards also allow a consumer without a deposit account to receive payroll funds and Government benefits through direct deposit, and easily access those funds through use of the card. So, prepaid cards benefit Government agencies and employers as well.

Prepaid cards also permit a consumer to make purchases and pay bills without carrying large amounts of cash or risking the imposition of overdraft fees. However, if the need for cash arises, many prepaid card programs permit a consumer to obtain cash at an ATM. Even if a consumer has access to credit and a traditional deposit account, prepaid cards provide consumers an additional tool to better budget their transactions and avoid fraudulent access to their deposit accounts if the card information is compromised through a data breach.

As the popularity and use of prepaid cards increases, issuers are adding product features, including rewards, mobile phone interfaces, and limited credit features. All of these benefits explain why prepaid cards are a growing financial product choice for U.S. consumers, including the approximately 60 million unbanked and underbanked consumers in the United States.<sup>4</sup> Not only do consumers appreciate the con-

<sup>1</sup>2010 Federal Reserve Payments Study, “Noncash Payment Trends in the United States: 2006–2009”, at 17, April 5, 2011, [http://www.frbservices.org/files/communications/pdf/press/2010\\_payments\\_study.pdf](http://www.frbservices.org/files/communications/pdf/press/2010_payments_study.pdf).

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

<sup>4</sup>Federal Deposit Insurance Corporation National Survey of Unbanked and Underbanked Households, at Section 3, December 2009, [www.fdic.gov/householdsurvey/full\\_report.pdf](http://www.fdic.gov/householdsurvey/full_report.pdf).

venience afforded by prepaid cards,<sup>5</sup> they also appreciate the simplicity and transparency of prepaid products. For example, debanked consumers, those who formerly used deposit accounts but now rely on prepaid cards, appreciate the absence of unanticipated overdraft fees.

### Prepaid Card Regulation Consumer Protections

With the growth of prepaid cards in the United States, State laws regulating the sale and administration of prepaid cards are proliferating and existing Federal rules are evolving to address prepaid card practices. And payment system rules like the Visa Operating Rules enable consumers to dispute, or “charge back,” transactions and protect consumers from unauthorized use of their prepaid cards in the same manner as debit cards tied to traditional checking or savings accounts. Moreover, under Federal Deposit Insurance Corporation (FDIC) guidance, all prepaid card funds maintained at insured financial institutions must be protected by FDIC deposit insurance.

At the Federal level, certain prepaid cards are governed by the Electronic Fund Transfer Act (EFTA) and its implementing regulation, Regulation E. For example, on May 22, 2009, President Obama signed the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), which amended the EFTA by adding new provisions regulating certain gift cards and other prepaid cards. This rule covers “general-use prepaid cards” and “store gift cards,” “issued on a prepaid basis primarily for personal, family, or household purposes to a consumer . . . in exchange for payment . . . and redeemable upon presentation.”<sup>6</sup> The rule requires that a consumer be provided with specified disclosures prior to purchase of a card, restricts the circumstances under which a consumer may be charged certain fees, and restricts the circumstances under which a card may have an expiration date.

In addition, the Federal Reserve Board (FRB) has applied other provisions of Regulation E to certain types of prepaid cards. Specifically, the FRB extended to payroll cards the Regulation E requirements relating to initial disclosures of the terms and conditions, liability protections, change-in-terms notices, error resolution notices, and more convenient card balance and transaction information. Regulation E requirements also apply to certain non-needs tested Government benefit cards, including State unemployment cards and prepaid cards issued to Social Security recipients.

When the FRB promulgated the gift card and payroll card rules, it concluded that the differing consumer protections were appropriate for specific types of prepaid cards, given the current state of the prepaid card market, and stated that the Board would continue to monitor the market to determine when additional regulatory action was warranted. As discussed below, this oversight authority now resides with the Consumer Financial Protection Bureau.

State prepaid card regulatory regimes further supplement the Federal structure by providing additional consumer protections. In particular, State consumer protection laws regulate the sale and administration of prepaid cards and often limit or prohibit expiration dates or fees, require specified disclosures and address cash redemption of unused card balances. Generally, such prepaid card laws are based on the notion that a consumer should not be deprived of his or her right to the underlying of the prepaid card value. Moreover, under the Federal EFTA, such State laws are preserved if the State laws are not inconsistent with EFTA and are more protective of consumers. This preemption provision has preserved State consumer protection laws relating to prepaid cards, affording consumers with additional protections.

For example, California prohibits certain prepaid cards from expiring.<sup>7</sup> California law also prohibits service fees in connection with certain prepaid cards except for the imposition of a dormancy fee if the value on the card is five dollars or less at the time each fee is assessed and the fee is not in excess of one dollar per month.<sup>8</sup> Furthermore, such prepaid cards must be redeemable in cash or must be replaced at no cost to the holder.<sup>9</sup>

<sup>5</sup> Center for Financial Services Innovation, “A Tool for Getting by or Getting Ahead? Consumers’ Views on Prepaid Cards 2009”, <http://cfinnovation.com/node/330566>.

<sup>6</sup> 12 C.F.R. §1005.20(a).

<sup>7</sup> Cal. Civ. Code §1749.5. The statute applies to “gift certificates” which include gift cards, but does not include any gift card usable with multiple sellers of goods or services, provided the expiration date, if any, is printed on the card. This exemption does not apply to a gift card usable only with affiliated sellers of goods or services. Cal. Civ. Code §1749.45(a).

<sup>8</sup> Cal. Civ. Code §1749.5(e).

<sup>9</sup> Cal. Civ. Code §1749.5(b).

### **The Consumer Financial Protection Bureau**

The CFPB has the authority to regulate the offering and provision of “consumer financial products,” including prepaid cards. The CFPB is directed to implement and enforce Federal laws to facilitate the consistent, fair, and orderly functioning of the consumer financial services markets and, thus, has the ability to empower consumers to more effectively control their personal and household finances.

In particular, the CFPB has been given primary Federal regulatory authority over “consumer financial products,” including prepaid cards,<sup>10</sup> and most Federal consumer financial protection statutes. This authority includes the ability to promulgate rules that the CFPB determines to be “necessary or appropriate” to carry out the objectives of Federal consumer financial laws. With respect to prepaid card products, the CFPB has inherited the authority of the FRB to apply Regulation E, including its disclosure requirements and error resolution provisions, to prepaid cards. Also, the responsibility of the FRB to monitor the developments in the prepaid market to determine whether to propose additional consumer protections under Regulation E now rests with the CFPB, and the CFPB has made it clear that a review of prepaid card fees, disclosures and practices is a priority.

Moreover, the proposal of regulatory changes is not the only consumer protection option available to the CFPB. The CFPB also has the ability to take enforcement action to prevent a card issuer or a covered service provider from “committing or engaging in an unfair, deceptive, or abusive act or practice” with respect to a transaction with a consumer that involves a consumer financial product or service, including prepaid cards.

Congress has created the CFPB and directed it to oversee a fair market for consumer financial products and services, including prepaid cards. The authority vested by Congress in the CFPB is sufficient to address any additional consumer protections needed for prepaid cards. The CFPB has announced its intention to address prepaid cards and the CFPB should be given the opportunity to do so.

Thank you for the opportunity to appear before the Subcommittee, and I would be pleased to address any questions.

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### **PREPARED STATEMENT OF DAVID ROTHSTEIN**

RESEARCHER, POLICY MATTERS OHIO

MARCH 14, 2012

Chairman Brown, Ranking Member Corker, and Members of the Subcommittee, thank you for giving me the opportunity to testify on behalf of Policy Matters Ohio and the New America Foundation. Policy Matters is a nonprofit, nonpartisan research institute that focuses on issues impacting low- and moderate-income working families. The mission of New America’s asset building program is to significantly broaden access to economic resources through increased savings and asset ownership, thereby providing families with enhanced economic security, a direct stake in the commonwealth, and the means to pursue their aspirations.

My research is primarily focused on the financial status and socioeconomic challenges experienced by the millions of low- and moderate-income families and tax filers in the United States. My testimony today is based upon the following three premises:

1. Low- and moderate-income families need and deserve full transparency and disclosure of fees associated with prepaid debit cards;
2. Prepaid debit cards, particularly cards with public benefits and tax returns loaded on to them, should not have features that add high fees such as overdraft charges and balance inquiry;
3. The prepaid debit card market should not be a replacement but rather a complement to other financial products that build and manage assets for working families.

Let me start by commending this Committee for holding this informational hearing on a relatively new but already large market. Millions of low- and moderate-income families use prepaid debit cards for their day-to-day purchases but also receive them for public benefits such as unemployment compensation, food assistance, and State tax refunds. The FDIC reports that at least 9 million households were unbanked and 17 million were under-banked in 2009. These families are financially

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<sup>10</sup> See, Section 1002(15)(A)(v) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376, 1958 (July 21, 2010).

vulnerable, so protecting and growing their assets is especially important. Government or public sector cards, paid for with public dollars, are used to provide unemployment compensation, food assistance, and other public benefits. Ensuring those dollars are not siphoned off by unnecessary fees should be a top priority.

While I represent a viewpoint of consumers nationwide, I also can provide an on-the-ground perspective about prepaid debit cards used for unemployment compensation in Ohio. In 2011, more than half-a-million Ohioans received UC bringing \$3.3 billion to Ohio families.<sup>1</sup>

Ohioans have two choices for receiving their unemployment compensation. One is through direct deposit to a bank account from the Ohio Department of Job and Family Services (ODJFS). ODJFS deposits the unemployment compensation into the client's bank account every week. This is an excellent option for clients who have bank accounts, avoiding paper checks, which can get lost or stolen, and ensuring quick deposit of funds.

The second method is through an electronically loaded debit card called the ReliaCard—a prepaid Visa card provided by U.S. Bank.<sup>2</sup> Ohio is one of 41 States that provide a prepaid debit card as an option for unemployment compensation. Upon successfully completing the application for UC, this debit card is loaded with a client's compensation and the recipient can use the card like a regular prepaid debit card. The ReliaCard, which is used in other States as well, also has several advantages over paper checks, which are no longer an option in Ohio.<sup>3</sup> First, the ReliaCard allows recipients without bank accounts to receive compensation and not pay to cash a check. Second, the ReliaCard allows recipients to make electronic purchases and bill payments, unlike cash or check options. Third, the card, which requires a code, is harder to steal than cash or a check. Finally, recipients get their benefits several days sooner. We began research last year on this card because our colleagues in housing, tax preparation assistance, and employment training alerted us that individuals receiving unemployment compensation were overdrafting on their benefits.

ODJFS officials estimate that 30 to 40 percent of those receiving UC now choose the ReliaCard.<sup>4</sup> Based on the number of Ohio unemployment compensation recipients, an estimated 200,000 clients used the ReliaCard in 2011.<sup>5</sup> The ReliaCard is convenient for many users. However, it also can carry fees on cash withdrawal and overall use (see, Table 1, attached). U.S. Bank charges \$1.50 for withdrawing money at non-U.S. Bank locations or ATMs that are not part of the Visa PLUS ATM network, and the other bank may also charge for that transaction. There are fees for balance inquiries at non-U.S. Bank locations. The ReliaCard also has overdraft fees of \$17.00 for purchases that exceed the value on the card if they opt in for coverage.<sup>6</sup> However, this fee is likely to be dropped this July due to the Durbin Amendment on interchange fee rules. It is important to note that ATM and overdraft fees can add up—incurring multiple charges in a day or week.

The ReliaCard has some positive components to its fee structure. There are no fees for point-of-sale transactions, so the card can be used anywhere that accepts Visa. Card users can purchase above the price of the transaction and receive cash back for no additional charge from most merchants. There is no bank transfer fee or penalty for moving funds from the ReliaCard to a bank account.<sup>7</sup> Balance inquiries are also free at U.S. Bank and Visa PLUS ATM locations, which allow clients to better manage their finances and avoid overdrafts. Several other features are free including customer service inquiries, paper statements, and replacement of lost or stolen cards. Other public sector debit cards charge for these items.

In addition to concerns about fees, there are reasons to be concerned about access to U.S. Bank and free network locations. ReliaCard users can get fee-free access to

<sup>1</sup> Randy Tucker, "Ohio Unemployment Fraud More than Doubles in 5 Years", (March 8, 2012) *Dayton Daily News*: <http://www.daytondailynews.com/news/dayton-news/ohio-unemployment-fraud-more-than-doubles-in-5-years-1340906.html>.

<sup>2</sup> [http://jfs.ohio.gov/ouc/ReliaCard\\_FactSheet.pdf](http://jfs.ohio.gov/ouc/ReliaCard_FactSheet.pdf)

<sup>3</sup> The National Consumer Law Center released a report on May 10, 2011, that details how States are using debit cards for public benefits. The report by Lauren Saunders, "Unemployment Compensation Prepaid Cards," suggests removing "junk fees" from prepaid debit cards loaded with public benefits. The ReliaCard by U.S. Bank is one card used by multiple States but the terms of the agreement differ slightly per State. <http://www.nclc.org/issues/unemployment-compensation-prepaid-cards.html>

<sup>4</sup> Interview and email correspondence with Ms. Laura Abu-Absi, ODJFS on October 6, 2010.

<sup>5</sup> This is a lower-bound estimate using 30 percent of the 674,000 clients receiving unemployment compensation. ODJF reported higher numbers to the *Cleveland Plain Dealer* in 2011: [http://www.cleveland.com/consumeraffairs/index.ssf/2011/05/report\\_gives\\_ohios\\_unemployemen.html](http://www.cleveland.com/consumeraffairs/index.ssf/2011/05/report_gives_ohios_unemployemen.html).

<sup>6</sup> The ReliaCard program states that a client can have one overdraft fee reversed.

<sup>7</sup> The client's bank may charge a fee for this process.

their benefits at U.S. Bank locations and at ATM locations through the Visa PLUS ATM program. There are approximately 750 such ATMs in the Ohio network, however not all of Ohio's 88 counties have one of these locations.<sup>8</sup> In fact, 33 counties have no U.S. Bank locations and 16 counties have no Visa/PLUS ATM locations. Many of the nonurban counties have few locations, often one free location every 20 miles. We have attached maps of the unemployment rates and ReliaCard coverage to this testimony. Some of the areas with the highest unemployment rates have the fewest locations. Given the importance of cash and realities of traveling long distances for unemployed workers, accessibility to no-cost ATMs is paramount. Requiring unemployed workers to pay \$3 or more for each ATM transaction is egregious and also a waste of taxpayer dollars.

Also of concern is that it was extremely difficult for Policy Matters to find information on ATM locations, how to use the card and the fee structure. ODJFS and U.S. Bank branches had trouble reporting to us and were inconsistent in answers to these questions. In fact, it took months to get a full list of the non-U.S. Bank locations participating in the Visa PLUS network.

This research on Ohio's ReliaCard led me to the three premises I mentioned at the outset.

First, it is essential that families understand the fees associated with the prepaid card. Many families receiving public benefits or tax returns on a prepaid card will think it functions like a gift card, which is not accurate. The fees should be disclosed and transparent, which also means readable language that includes examples. Clients should read phrases that say "If you use this card at a noncovered bank, you will be charged a \$1.50 fee from the card and another fee from that ATM." Some potential policy changes that would benefit consumers would be a standardized box on contracts and statements that displays fees and costs of the card. On credit card statements, this is often known as the "Schumer Box," in reference to Senator Schumer of this Committee and his efforts for disclosure on credit cards. Additionally, comparing different prepaid debit cards is challenging. We have a formula, the annual percentage rate (APR), for comparing the cost of credit. We should develop a similar tool that allows for ranking different prepaid card products. In the end, this will allow for the best prepaid card products to flourish in the market.

On the second premise, it is crucial that prepaid debit cards loaded with public benefits and tax refunds are not fee-ridden. Similar to Ohio's ReliaCard, several States have a prepaid debit card for State tax refunds with a comparable fee schedule.<sup>9</sup> However, not all prepaid cards have the same fee schedules. With the exception of overdraft and out-of-network ATM charges, Ohio's ReliaCard has few fees. Other Government-issued prepaid debit cards carry additional fees that should be reduced if not eliminated. I highlight some of these fees below.

Again, for Government-issued cards that are loaded with public benefits and tax refunds, overdraft fees should not be an option. If the balance is \$0, the card should not produce a transaction. Also, prepaid debit cards should not have a credit function to them. Credit cards are a very different product than prepaid cards and this can get confusing when the card has a Visa or MasterCard logo for network transactions. Additionally, clients should not be charged fees for checking balances at any ATM, even out-of-network. A balance inquiry is important for managing benefits as with a regular bank account. Also, customer service calls should not have a charge—there should also not be a charge to talk to a live person. Finally, we recommend that clients in rural or low-ATM areas be given one free out-of-network ATM transaction from the prepaid card for every deposit from the State agency. At bare minimum, they could move the money to a more convenient banking product or account to avoid ATM fees.

On the third premise, I want to stress that prepaid debit cards are a useful tool in managing the assets of the working families. At the same time, it is imperative that prepaid debit cards are not a substitute for savings accounts and mainstream financial products. There is a growing concern in the consumer community that prepaid debit cards will replace innovative products and services to low- and middle-class families looking to grow their assets. There are huge policy implications if prepaid cards become the new norm for these clients, a "second tier" banking product of sorts. If so, prepaid cards are more of a tool for financial exclusion than inclusion—which would damage communities. Asset building is an important part of economic mobility, whether it is creating an emergency fund or saving for college. Fam-

<sup>8</sup> Visa/PLUS ATMs were found on 3/11/2011 from [http://visa.via.infonow.net/usa\\_atm/](http://visa.via.infonow.net/usa_atm/). A public records request with ODJFS yielded a list in June 2011 with the same information.

<sup>9</sup> Karen Harris, "Tax Refunds Issued on Prepaid Cards Take a Toll on Consumer", The Shriver Center <http://www.theshriverbrief.org/2012/02/articles/asset-opportunity/tax-refunds-issued-on-prepaid-cards-take-a-toll-on-consumers/>

ilies should always have the option of direct deposit for a Government benefit rather than the card.

Few prepaid debit cards have a savings bucket and no Government-issued cards allow other funds to be loaded onto the cards. Additionally, many prepaid cards do not allow customers to pay bills or write electronic checks—an obvious difference from a checking account.

In sum, I believe that prepaid debit cards are helpful and present a needed alternative to other financial products. It is essential that they are transparent, not fee ridden, and part of a larger financial inclusion plan. I appreciate the opportunity to testify before you. I am happy to answer any questions at this time. Respectfully submitted, David Rothstein.

### Appendix 1: Tables

Table 1: Ohio ReliaCard Fees <sup>10</sup>	
Non US Bank ATM fee (charge by US Bank) per transaction	\$1.50
Non US Bank ATM fee (charge by other bank) per transaction	\$1.50 to \$2.50
Non US Bank balance inquiries per transaction	\$1.00 to \$3.00
Rush delivery of a replacement card	\$10
Account overdraft per transaction	\$17

<sup>10</sup>[http://jfs.ohio.gov/ouc/ReliaCard\\_FactSheet.pdf](http://jfs.ohio.gov/ouc/ReliaCard_FactSheet.pdf)

Appendix 2: Figures

Figure 1: US Bank Locations and Ohio Unemployment Rates

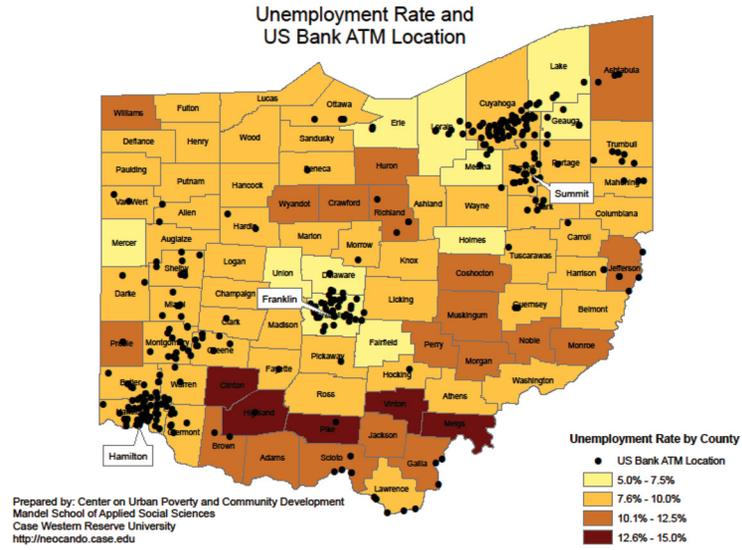
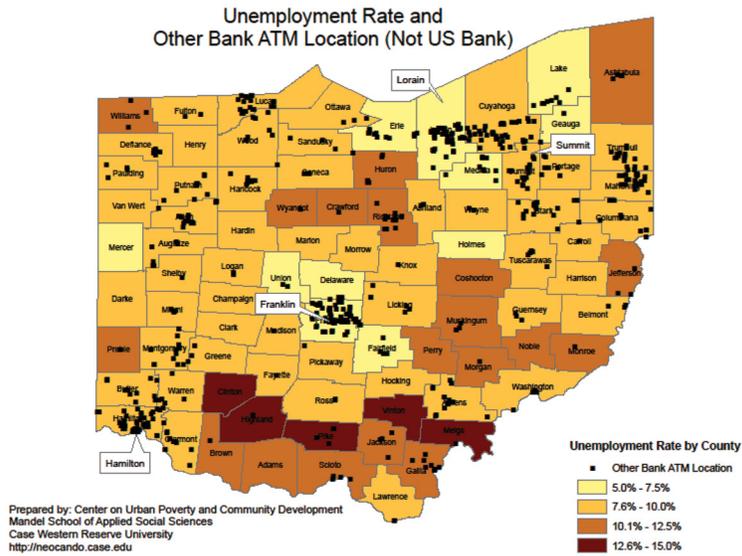


Figure 2: Visa Plus Network ATMs and Ohio Unemployment Rates



ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

**LETTER SUBMITTED BY CHAIRMAN SHERROD BROWN FROM WILLIAM E. SAUNDERS, CHIEF EXECUTIVE OFFICER, COMMUNITY CHOICE FINANCIAL**Financial Services for  
Working AmericansWILLIAM E. SAUNDERS  
CHIEF EXECUTIVE OFFICER  
DIRECT DIAL: 614-760-2665  
EMAIL: [tsaunders@ccfi.com](mailto:tsaunders@ccfi.com)

April 2, 2012

The Honorable Sherrod Brown  
United States Senate  
713 Hart Senate Office Bldg.  
Washington D.C. 20510**Re: Banking, Housing and Urban Affairs Committee  
Prepaid Card Market Hearing  
Wednesday March 14, 2012**

Dear Senator Brown:

On March 14, 2012, the Senate Financial Institutions and Consumer Protection Committee held a hearing on prepaid cards. During testimony in that hearing, Ms. Lauren Saunders from the National Consumer Law Center made direct references to products that are being marketed and sold in retail locations in Ohio and Arizona operated by our Checksmart subsidiary.

Given that Ms. Saunders inferred that these financial products violate consumer protection laws and usury limits in the states where they are offered, I thought it would be appropriate to provide detailed information about those programs and take this opportunity to correct a number of mis-statements made by Ms. Saunders.

In light of the popularity of card products, the rapid growth we are seeing in the industry and product innovation occurring in the marketplace, I thought it would be important for the hearing record to accurately describe our products and the means in which they are offered. To that end, I would request that you insert this information into the record:

*Certain prepaid card products offered at Checksmart retail locations provide access to either overdraft protection or a line of credit*

Checksmart, as an agent of the card program manager, sells several prepaid debit card products in our stores. One type of prepaid card offers the most consumer-friendly overdraft protection program in the country. Overdraft protection is offered to customers who both affirmatively opt into the feature and have some funds directly deposited onto their card. The overdraft fee is 15% of the overdraft amount but the maximum overdraft fee is \$36.00 and

Senator Brown  
April 2, 2012  
Page 2

the maximum amount that the customer can overdraw is limited based on the customer's individual income situation. So if a customer exceeds their balance by \$5.00 the overdraft fee is 75 cents.

Customers receive texts highlighting their balance after each purchase and are aware instantly when their account moves into an overdraft situation. The text also informs the customer that if they bring their account to a positive balance within 24 hours there is no charge for the overdraft. In addition to the overdraft protection the prepaid debit card program offers free direct deposit, free text messaging, free online statements, free retail purchases (if signature option is used), and free access to live customer care all for a total monthly fee of \$3.95.

The second program offers customers the option of remotely accessing a pre-established revolving line of credit offered by a lender unaffiliated with either the card program manager or Checksmart. With this program the customer applies to the third party lender. Once approved, the customer may draw against the credit line by requesting a check be mailed to them or through electronic delivery to their prepaid card. Customers can request that the credit line draw be applied to their prepaid card without having to visit our retail locations. Checksmart receives no referral fees from either origination or advances against these credit lines.

After the line is established and if the customer exceeds the balance on their prepaid card the lender covers the negative balance by advancing money to cover the shortfall. Monies are advanced in increments of \$28.50 and the amount advanced is only sufficient to bring the card back to a positive balance. Customers only borrow what they need, when they need it. In many ways this product is very similar to bank overdraft protection programs where negative balance amounts are charged directly to another account the customer may have at the bank to prevent a customer's checking account from going into a negative balance situation and to keep that account in good standing. The lender charges an APR of 25% to 36% on the loan amounts advanced. The card issuer charges a fee for loading the proceeds onto the prepaid card. This product is offered side by side to other loan products and is designed for the customer who wants access to small increments of credit instead of taking a \$300 or \$400 short-term loan. A \$25.00 shortfall that would normally result in a \$37.00 (average amount) over-draft charge at a bank would cost our customer less than \$4.00.

***The prepaid card offerings available through the Checksmart retail locations in Ohio and Arizona are not designed to evade and do not violate state usury caps.***

Checksmart is a sales agent for a prepaid debit card program sponsored by federally chartered community banks that are regulated by the Office of the Comptroller of the Currency and the FDIC. The prudential regulators routinely examine all aspects of the banks

Senator Brown  
April 2, 2012  
Page 3

business including programs offered through third party agents and establishes that the institution is in full compliance with banking regulations. It is irresponsible to allege that the overdraft protected prepaid card is offered without the benefit and burden of regulatory oversight; I can assure the committee that every aspect of the program has been reviewed and vetted by both the bank's internal audit teams and Federal bank examiners.

In addition, in those instances where a customer opts for the revolving line of credit feature, the credit line is offered by lenders that are state licensed and subject to rigorous state examination for compliance with the law. These credit lines are made on terms and conditions and at APR's which comply with the rates permitted by each state's statute. Neither of these revolving loan programs has been cited for any violations of their respective state laws.

Senator Brown, as addressed several times in the hearing, both of the prepaid offerings discussed here provide the customer an "on ramp" to the mainstream financial services marketplace and, in our eyes, are innovative market leading products. As was accurately expressed during the hearing, these innovations and the development of new products and services provide value to those in the underserved marketplace at a greatly diminished cost to the consumer. Our company is one of those innovators and is always looking for ways to improve service and value to our customers.

Thank you for the opportunity to clarify the record and to provide this additional information. If there are any questions from either you or other members of the Committee I would be more than happy to provide further information.

Yours very truly,



William E. Saunders

**PREPARED STATEMENT OF THE NETWORK BRANDED PREPAID CARD  
ASSOCIATION**



**Written Statement of the  
Network Branded Prepaid Card Association  
Submitted to  
United States Senate  
Committee on Banking, Housing, and Urban Affairs  
Subcommittee on Financial Institutions and Consumer Protection  
Hearing on "Examining Issues in the Prepaid Card Market"**

**March 14, 2012**

**Introduction**

Chairman Brown, the Network Branded Prepaid Card Association (NBPCA) appreciates the opportunity to submit this written statement for the record today on this important subject.

**Executive Summary**

Network branded prepaid cards comprise a diverse group of extraordinarily popular products that serve a vital public need. Prepaid cards allow for customized payment solutions for a range of payment situations that in the past were unwieldy and expensive. Card issuers, businesses and government agencies can leverage the flexibility of network branded prepaid cards to create solutions that address many common consumer needs, offering a safe, easy-to-use alternative to paper-based products such as checks, cash, and vouchers.

Network branded prepaid cards open the door to our card-based financial system for large segments of our population who otherwise would not have access. They can also be used by cardholders to promote greater financial responsibility and control over spending. Convenient access to prepaid cards with pricing that is often lower than other financial tools have been key drivers of their popularity among consumers. The wide availability of the cards is particularly appealing to the 60 million Americans who are unbanked or underbanked, who have limited or no access to bank branches in their neighborhoods or cannot qualify for checking accounts.

Research reflects that consumers that utilize a reloadable prepaid card with regular direct deposit of their payroll or other funding sources experience an average cost savings of almost 40 percent versus a low-balance checking account. Consumers that switch to a reloadable prepaid card with direct deposit versus relying on a cash-based lifestyle experience cost savings of 56 percent on average.

The NBPCA strongly supports and encourages clear, simple and conspicuous disclosure of all terms and conditions that apply to network branded prepaid cards. Consumers should have access to information prior to purchase to allow them to make informed decisions and meaningful comparisons of card products.

The NBPCA supports protection of consumers' funds through Regulation E type protections, similar to those as are currently applied to payroll card accounts, to identifiable holders of reloadable, consumer-funded prepaid cards where there is an ongoing relationship between the consumer and the issuer.

#### **I. About the NBPCA**

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 was founded in 2005. Our membership includes 74 companies and touches a vast majority of the network branded prepaid cards. The NBPCA's members include financial institutions, card organizations, processors, program managers, marketing and incentive companies, card distributors, law and media firms.<sup>1</sup>

The NBPCA understands how critically important prepaid cards are to consumers, governments and businesses. Prepaid cards are popular and successful because they provide access to basic financial services to thousands of underbanked and underserved consumers. At the same time, these products are highly valued by governments and businesses because they significantly reduce costs and fraud. Therefore the NBPCA's mission is to provide a fact-based voice to media, government and consumers; to set a high industry bar through establishing a Code of Conduct and Leading Practices; and to develop, share and deliver consumer education, in partnership with others.

NBPCA's policies are posted on our website (at <http://www.nbpca.org/>) and focus on consumer protection, transparency in disclosure, and prevention of fraudulent use of prepaid cards. The NBPCA has published a number of leading practices specific to various prepaid products which are offered in the marketplace.

Key activities of the association are Advocacy, Education, and Collaboration:

- Advocacy to government, media and consumer advocates to build a solid knowledge of the unique services offered by prepaid cards and give a voice to the customers (consumers, government and commercial) who choose prepaid
- Education:
  - Prepaid is a broad set of different products serving a myriad of customers and their differing needs. We partner with those who can best get the education and training to the customers to help build tools to help customers use their prepaid products in the way to best fit their needs.

<sup>1</sup> <http://www.nbpca.org/en/About-NBPCA/Members.aspx>

- We hold educational sessions for those in legislative, regulatory and law enforcement roles related to prepaid to both educate on the product and identify how industry and regulatory agencies/law enforcement can work effectively together.
- Collaboration: Partnering with others can build a stronger customer and product. NBPCA regularly collaborates with regulatory and law enforcement agencies. Our Prepaid Anti-Fraud Forum works to collaborate both across industry, and from industry to law enforcement to help prevent fraudulent use of prepaid products.

## II. Overview of Network Branded Prepaid Cards

Network branded prepaid cards comprise a diverse group of extraordinarily popular products that serve a vital public need. Network branded prepaid cards bear the logo of a payment network (American Express, Discover, MasterCard or Visa), and while they appear similar to credit and debit cards, there are important distinctions:

- Unlike credit cards, they are prepaid; no credit application is required to obtain a card, and no billing statement and subsequent payments are required. Even better, holders of prepaid cards may spend only as much as is pre-loaded on their cards, avoiding the pitfalls of overextended credit and finance charges.
- Unlike debit cards, no individual deposit account is established for each cardholder; instead the funds are usually held in a pooled account. Because prepaid cards are not “demand deposit accounts,” most prepaid cardholders do not incur overdraft fees or NSF fees.

Sometimes network branded prepaid cards are referred to as “open-loop” cards, in that they can be used at numerous unaffiliated merchants, as contrasted to “closed-loop” prepaid cards, which can only be used to purchase the goods or services of a single or affiliated group of merchants.

From a transaction authorization/processing perspective, network branded prepaid cards “ride the rails” of the existing credit card or ATM/debit card payment systems. This means a merchant does not need special terminals or equipment to accept prepaid cards, making acceptance easy, low cost and efficient. The ease of acceptance by merchants also means that cardholders are able to use their prepaid cards to pay for purchases at a variety of merchants that accept the card brand.

Another advantage of prepaid cards is that they allow for customized payment solutions for a range of payment situations that in the past were unwieldy and expensive. Card issuers can leverage the flexibility of network branded prepaid cards to create solutions that address many common consumer needs, offering a safe, easy-to-use alternative to paper-based products such as checks, cash, and even vouchers. The following provides examples of a few of the more popular types of network branded prepaid cards and describes how they can make a positive impact on consumers’ lives:

Network Branded Prepaid Card Application	How the Card Makes a Positive Impact on Consumers' Lives
<b>General Purpose Reloadable</b>	<p><b>Description:</b> A safe and convenient alternative to using cash and checks for everyday purchases and bill paying.</p> <p><b>How to Get One:</b> Purchase on the Web, at retail stores, or financial institution branches.</p> <p><b>Source of Funds:</b> Employer, government, consumer.</p> <p><b>How Used:</b> To make purchases, pay bills, and get cash.</p> <p><b>Benefits to Consumer:</b> Empowers consumers who may not be in the financial mainstream and offers acceptance/prestige of a branded card. Enables those limited by a cash-only lifestyle to carry funds safely and conveniently, pay bills, and access cash independently. Allows cardholders to request employers and other sources of income (e.g., government benefits) to automatically credit funds to the card.</p>
<b>Government</b>	<p><b>Description:</b> Federal and state governments distribute benefits (e.g., child support, unemployment insurance, Temporary Assistance for Needy Family - TANF) using a prepaid card rather than a check.</p> <p><b>How to Get One:</b> Government distributes these to benefit recipients who elect to receive their benefits in card form, rather than direct deposit or a check. In some states, distribution of benefits by card is a requirement for some programs.</p> <p><b>Source of Funds:</b> Government.</p> <p><b>How Used:</b> To make purchases, pay bills, and get cash.</p> <p><b>Benefits to Consumer:</b> Funds are immediately available—no check to cash, usable at many merchant locations, bill paying capabilities, keeps funds segregated for easy accountability.</p>
<b>Payroll</b>	<p><b>Description:</b> Replaces checks to pay wages to employees. Once the card is issued, wages are automatically "loaded" to the card at the end of each pay period, while the payroll card is in the employee's wallet.</p> <p><b>How to Get One:</b> Issued through employers to participating employees.</p> <p><b>Source of Funds:</b> Employer.</p> <p><b>How Used:</b> To make purchases, pay bills, and get cash.</p> <p><b>Benefits to Consumer:</b> Immediate access to wages— for shift workers, there is no need to come back to the workplace to pick up a check. Nor is there a need to stop and cash a check at a check-casher. Payroll cards allow employees to avoid check cashing fees. And once a paper check is cashed, the employee must carry a bundle of highly risky cash, subject</p>

	<p>to loss and theft. When funds are loaded on a payroll card, the funds are replaceable if the card is lost/stolen. Employees can access cash only when needed, at almost anywhere through ATMs. Most importantly, payroll cards empower consumers who may not be in the financial mainstream and offers prestige of a branded card. Cardholders may often be able to load funds from other sources (for example, another employer or government benefits) to be credited to the payroll card as well. Employers also benefit because payroll cards are less expensive than checks.</p>
<b>Health Care</b>	<p><b>Description:</b> Provides a convenient way to access funds in health care plans (including Flexible Spending Accounts, Health Savings Accounts, and Health Reimbursement Arrangements).</p> <p><b>How to Get One:</b> Issued by health care plan administrators or obtained through a third party by the consumer (depending on the type of the healthcare plan).</p> <p><b>Source of Funds:</b> Through the employer or a third party, such as a financial institution administrator (depending on the plan).</p> <p><b>How Used:</b> To pay for co-pays and services at medical facilities and at pharmacies for approved purchases.</p> <p><b>Benefits to Consumer:</b> Provides easy access to health care funds, eliminates paperwork associated with filing claims, no waiting for reimbursement of co-pays, funds are replaceable if card is lost/stolen.</p>
<b>Gift (Non-Reloadable)</b>	<p><b>Description:</b> Offers purchasers a convenient-to-buy, flexible-amount gift option appropriate for any occasion and offers recipients the flexibility to choose the perfect gift.</p> <p><b>How to Get One:</b> Purchase on the Web, at retail stores, or financial institution branches.</p> <p><b>Source of Funds:</b> Typically consumer.</p> <p><b>How Used:</b> To purchase a gift of the recipient's choice at a wide array of merchants. Usually not reloadable and not useable at ATMs.</p> <p><b>Benefits to Card Purchaser:</b> Easy to purchase, available in variable amounts, always the right gift.</p> <p><b>Benefits to Card Recipient:</b> The choice to buy the "perfect gift" at any merchant that accepts the card brand, including Internet and mail order/telephone order merchants. No unwanted gifts or gift returns. Typically, no fees are charged to the consumer after the purchase of the card.</p>
<b>Disaster Relief/Insurance</b>	<p><b>Description:</b> Gets emergency funds to disaster victims—fast.</p> <p><b>How to Get One:</b> Issued by insurance companies, government agencies, and relief organizations.</p> <p><b>Source of Funds:</b> Government, relief agency, insurance company.</p>

	<p><b>How Used:</b> To pay for necessities in the aftermath of a disaster (e.g., natural disaster or house fire). May or may not provide ATM access.</p> <p><b>Benefits to Consumer:</b> Immediate access to funds—no need to cash a check, may be issued on the spot, wide merchant acceptance, funds are replaceable if card is lost/stolen. Also benefits government agencies by allowing for tracking of spending and limits on purchases, to reduce fraud.</p>
<b>Travel</b>	<p><b>Description:</b> A convenient way for consumers to carry vacation/travel funds.</p> <p><b>How to Get One:</b> Purchase on the Web or at travel-related businesses and financial institution branches.</p> <p><b>Source of funds:</b> Consumer.</p> <p><b>How Used:</b> To pay for purchases at millions of participating merchants. Some cards may be used worldwide; some are limited to domestic use. Cards with ATM access may be used to access cash in the local currency.</p> <p><b>Benefits to Consumer:</b> Safer than carrying cash, more convenient than carrying travelers checks, accepted almost everywhere, eliminates currency exchange hassles, allows easier budgeting for family vacations, offers favorable exchange rates.</p>
<b>Incentive/Rebate</b>	<p><b>Description:</b> Businesses buy prepaid cards in bulk to distribute to employees as incentives or to customers as incentives or rebates.</p> <p><b>How to Get One:</b> Businesses issue cards to consumers (customers and/or employees).</p> <p><b>Source of Funds:</b> Business.</p> <p><b>How Used:</b> To pay for purchases at millions of participating merchants.</p> <p><b>Benefits to Consumer:</b> Funds are immediately available—no need to convert a rebate or award check to cash, usable at many merchant locations, less hassle than check rebate/incentive payment.</p>

### III. Benefits of Prepaid Cards

Today's economy largely runs on electronic payments through cards, rather than cash or checks, primarily for security and convenience reasons. Network branded prepaid cards open the door to our card-based financial system for large segments of our population who otherwise would not have access. They can also be used by cardholders to promote greater financial responsibility and control over-spending. Basic benefits of network branded prepaid cards include:

- **Opening the doors to economic participation.** The FDIC recently released a report which found that an estimated 60 million Americans are considered

unbanked or underbanked.<sup>2</sup> These are often individuals who have no bank account and cannot qualify for a bank account due to prior problems, who may have limited or no access to credit, or who want to avoid the costs associated with checking accounts.<sup>3</sup> Many of these Americans are forced to rely on a combination of cash, money orders, check cashing centers, and/or payday loans to meet their financial obligations and conduct day to day personal and business transactions.<sup>4</sup> Network branded prepaid cards allow these Americans, many of whom are minorities, access to our increasingly card-based economy.

- **Provides Cost Effective Convenience to Governments, Businesses and Consumers.** Many households across the United States have used network branded prepaid cards in one of its forms. Businesses use prepaid cards in lieu of rebate checks in order to give to their customers immediate access to their rebate funds and build brand loyalty; government agencies can reduce costs and fraud by using government benefit cards instead of checks to pay government benefits; and disaster relief organizations use these cards to enable immediate access to relief funds to disaster victims.
- **Promotes Financial Responsibility.** For many Americans, especially in these challenging economic times, network branded prepaid cards can be used as a tool to facilitate sticking to a budget. With most prepaid cards, there is no risk of over-spending or overdrafts or racking up debt, which enables cardholders to avoid incurring interest charges or overdraft fees and helps to provide a sense of security in today's uncertain economic times. For parents, prepaid cards can be an important mechanism to maintain control over their children's spending in high school or college.

Extensive consumer research (described in Section IX) indicates the value of prepaid cards and that consumers understand the terms.

#### IV. Uses of Prepaid Cards

One of the most important features of network branded prepaid cards is their flexibility. As noted above, there are many types of network branded prepaid cards, each designed to meet the needs of cardholders in ways that cash and checks can't match. Examples of network branded prepaid card applications include:

<sup>2</sup> [http://www.fdic.gov/householdsurvey/full\\_report.pdf](http://www.fdic.gov/householdsurvey/full_report.pdf) - Sec. 3.

<sup>3</sup> Id. at Sec 4.3.

<sup>4</sup> Id. at Sec. 4.5

Consumer-Funded Network Branded Prepaid Cards	Business-Funded Network Branded Prepaid Cards	Government-Funded Network Branded Prepaid Cards
<p>Consumers purchase a card for their own use or to give to a friend or relative. Examples include:</p> <ul style="list-style-type: none"> <li>○ Gift (Non-Reloadable)</li> <li>○ Travel</li> <li>○ Youth/Teen/College</li> <li>○ General Purpose Reloadable</li> </ul>	<p>Businesses have opportunities to use network branded prepaid cards to improve the payments process for themselves and those who receive funds.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>○ Employee Payroll</li> <li>○ Incentive &amp; Rebate</li> <li>○ Insurance Claims</li> <li>○ Disaster Relief</li> <li>○ Employee Benefits: <ul style="list-style-type: none"> <li>○ Health Care</li> <li>○ Wellness</li> <li>○ Transit</li> </ul> </li> </ul>	<p>Federal and state governments are recognizing that cards can reduce distribution costs, decrease systemic fraud, and provide better service to benefits recipients.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>○ Social Security</li> <li>○ Unemployment Insurance</li> <li>○ Workers' Compensation</li> <li>○ Retirement</li> <li>○ Child Support</li> <li>○ TANF</li> </ul>

A 2011 study by the Federal Reserve Board<sup>5</sup> examined the distribution of prepaid transactions in 2009 and found that general purpose reloadable (GPR), payroll, and government-funded cards accounted for the vast majority of transactions. The study found that GPR cards accounted for 36 percent of all network branded card transactions in 2009. The average GPR card transaction amount was \$44. Payroll cards accounted for 27 percent of all network branded prepaid cards transactions, and the average transaction amount was \$43. Government-funded cards accounted for 13 percent of all network branded prepaid cards transactions, and the average transaction amount was \$59. Gift cards only accounted for 12 percent of transactions, and the average transaction amount was \$29.

#### General Purpose Reloadable Cards

The general purpose reloadable (GPR) card is one of the most flexible prepaid products. GPR cards are typically purchased by a consumer for their personal use to pay for point-of-sale purchases, pay bills, and/or access cash at ATMs. GPR cards may be purchased online or in retail locations from a variety of providers. Funds may be loaded onto the card by the consumer at retail locations offering prepaid card reload services or by direct deposit of wages or benefits.

Convenient access to these prepaid cards with pricing that is often lower than other financial tools, have been key drivers of their popularity among consumers. The

<sup>5</sup> [http://www.frb.services.org/files/communications/pdf/press/2010\\_payments\\_study.pdf](http://www.frb.services.org/files/communications/pdf/press/2010_payments_study.pdf)

cards are available in more than 200,000 retail locations and bank branches. The wide availability of the cards is particularly appealing to the 60 million Americans who are unbanked or underbanked, who have limited or no access to bank branches in their neighborhoods or cannot qualify for checking accounts.

General purpose reloadable prepaid cards are a convenient and safe option for millions of Americans looking for ways to budget and manage their spending. With many financial tools at their disposal, educated consumers compare products and costs, and may choose a general purpose reloadable prepaid card for one or a combination of the following reasons:

1. To improve the security and safety of their funds by minimizing their need to carry cash
2. To save time and money when paying bills and making purchases (avoid carrying cash to pay bills in person or purchase money orders for bill pay)
3. To save money compared to other financial alternatives available to them (including low-balance checking accounts and check cashing services), especially for the more than 60 million US households who are financially underserved
4. To enable shopping for goods and services online
5. To keep better control over their spending, and avoid costs of debt and overdraft fees

When analyzing and comparing general purpose reloadable prepaid cards, it is essential to examine how the consumer really uses the card. Most consumers choose prepaid cards as efficient tools to pay bills, maintain budgets and make purchases without having to carry cash. Prepaid cards are selected by consumers who are looking for better, lower-cost solutions to manage those transactions.

The 2012 Analysis of General Purpose Reloadable Cards just released by Bretton Woods, Inc.<sup>6</sup> found that:

- Consumers that utilize a GPR card with regular direct deposit of their payroll or other funding sources experience an average cost savings of almost 40 percent versus a low-balance checking account. Checking accounts have monthly fees that can be avoided with a recurring direct deposit or a daily minimum balance of up to \$1,500. However, the typical consumer of a GPR prepaid card maintains a balance of less than \$100.
- Consumers that switch to a reloadable prepaid card with direct deposit versus relying on a cash-based lifestyle experience cost savings of 56 percent on average.
- Reloadable prepaid card users' costs range \$8-\$20 monthly if they use direct deposit.
- Low-balance checking account consumers pay in the range of \$15-\$37 per month.

<sup>6</sup> <http://nbpca.org/Research-and-Publications.aspx>

- Consumers that rely on a cash-based lifestyle pay in the range of \$9-\$48 per month.

Some highlights in the Bretton Woods analysis include:

- **Prepaid price trending downward:** Pricing for reloadable prepaid cards has trended down, while pricing for low-balance checking accounts have trended up.
- **Many options to reduce common fees on prepaid:** Consumers can use free options to access cash and pay bills, available on most cards, to reduce their fees significantly.
- **Banked consumers continue to incur significant overdraft charges:** While this analysis uses a conservative estimate of 5 overdrafts per year, studies show that high overdraft activity customers can actually incur 50-60 overdraft charges annually.
- **Prepaid consumer profile is evolving:** Consumers who choose reloadable prepaid cards are increasingly expanding beyond the 60 million underbanked to include Gen Y-ers.
- **Satisfaction with prepaid remains high:** Long-term users of reloadable prepaid cards report high satisfaction levels. Prepaid users self-reported that what they like most about prepaid is that they can't overspend/overdraft and it's cheaper than alternatives.
- **Prepaid is a compelling option for millions:** Consumers do not have equal access to checking accounts, affecting as many as 19% of US adults according to the FDIC. Many cannot qualify for an account due to being listed on ChexSystems or TeleCheck for mishandling accounts in the past.

Here are a few real-life scenarios of how consumers use general purpose reloadable prepaid cards:

- An underbanked consumer chooses a prepaid card to save money and time when paying his bills. It costs \$4.95 to purchase the card and allows him to set up recurring monthly bill payments, free of charge, versus the costs and time incurred by paying the bill with cash in-store, through a check casher or by purchasing and mailing a money order.
- A mother purchases a prepaid card for \$9.99 for her daughter heading off to college so she can load funds monthly without having to worry about her daughter racking up credit card debt or overdrawing the account and getting hit with costly overdraft charges. She pays a \$4.95 monthly fee, far less than just one \$30 overdraft charge – the standard cost with most checking accounts.
- A consumer receives a prepaid card and has her monthly pay loaded onto it. This recurring deposit allows her to receive the card at no charge and avoid any load fees. She makes all of her everyday purchases with the card, avoiding fees again.

- A consumer used to cash his paycheck at a check cashing facility. It presented security risks to carry around a lump sum of cash every month. Now he has the security of a branded payment card that allows him to make all his purchases through the card and carry only the cash he needs.
- A consumer has a debit card and credit card but is trying to strictly control her tight household budget. She purchases a prepaid card for \$3 at Wal-Mart with a \$3 monthly fee and loads the monthly grocery and household spending allotment onto the card through direct deposit for free. She incurs no other monthly charges and avoids over spending and overdraft charges.

After examining the most likely and relevant scenarios of how these products are used, the safety, control, cost-savings and convenience benefits of general purpose reloadable prepaid cards are obvious. Numerous independent studies from groups like the Center for Financial Services Innovation (CFSI) and the Office of the Comptroller of the Currency (OCC) have confirmed the benefits to consumers.

#### Payroll Cards

Payroll cards are prepaid cards that are directly or indirectly established through an employer and to which electronic fund transfers of the cardholder's wages are made. Cardholders of network branded payroll cards may then use the card to make purchases at any location accepting the network brand and to withdraw cash at ATMs or in cash-back transactions at the point-of-sale. Both employers and their employees have increasingly turned to payroll cards as a more cost-effective mechanism for the payment of wages and benefits.

Employers recognize that using payroll cards to transfer wages and benefits is significantly less expensive than cutting paychecks each pay period. The printing and distribution of paper checks is expensive, and the bank clearing and reconciliation processes are slow, especially for large employers. Payroll cards offer a more cost- and time-efficient mechanism for distributing payroll.

Payroll cards particularly benefit the underbanked population. A growing segment of the employed population eschews traditional bank accounts due to cultural preferences, cost, or qualification issues. Payroll cards allow these employees to access the modern e-commerce system through online banking and bill pay features. And, payroll cards offer more personal and financial security than carrying cash. For employees, payroll cards allow cheaper wages access than that provided by maintaining a cash-based lifestyle—i.e., relying on the check cashing and money order industries. In a 2010 cost comparison study, Bretton Woods, Inc., found, in order of the annual cost incurred by a consumer, pay cards averaged \$83; general purpose reloadable prepaid cards cost \$185; check cashing/purchasing money orders averaged \$256 and basic checking accounts cost \$273.<sup>7</sup>

<sup>7</sup> <http://www.nbpca.org/~media/2FC202D665494C1EACFC9E3B95B77F81.ashx>

Finally, governmental entities prefer that employers use payroll cards. The distribution of payroll by prepaid cards allows employers—and thus the government—to more accurately account for wages and benefits. This reduces the loss of tax revenues due to unreported income, and it diminishes the cost of producing and distributing coin and currency.

Moreover, payroll cards, particularly when paired with electronic statements, are more environmentally friendly than traditional paper checks and statements. Of all the payment forms, card and electronic transactions are the “greenest.” Replacing paper statements with electronic statements via web access, text messages, and automated phone access provides the same information to the consumer at a lower cost and reduced environmental impact.

#### Government-Funded Cards

Government-funded cards are prepaid cards that are used for the purposes of disbursing government payments, such as Social Security payments, disability payments, disaster relief payments, Women Infants and Children (WIC) or food stamp disbursements, and government payroll. Under continuing difficult economic conditions, both consumers and governments are experiencing budget shortfalls and are looking for ways to cut costs. In particular, the state and federal governments have discovered the cost-effectiveness of providing government benefits through various payment channels, including by prepaid card. The United States Treasury is mandating all electronic payments be implemented by 2013, and is looking at prepaid cards as one means of achieving elimination of the use of paper checks by federal agencies.

Government agencies that switch from checks to prepaid cards stand to recoup significant savings for their state. They save the cost of postage since the prepaid cards can be automatically reloaded, and the costs of check processing and dealing with loss and fraudulent checks, all of which can add up to an average savings of \$1.50 per payment or \$39 or more per benefit recipient, per year. For example:

- In 2009, the Nebraska Child Support Payment Center was loading \$4 million a month in benefits payments onto prepaid cards issued by U.S. Bank and estimates that the state saved more than \$368,000 as a result.
- In 2008, the Texas Workforce Commission saved \$1.5 million by switching its unemployment benefits payments from checks to prepaid cards issued by J.P. Morgan Chase.
- The United States Treasury is now offering Social Security payments via prepaid cards to millions of recipients -- It costs the Treasury Department 98 cents to issue a check and only 10 cents for an ACH deposit or electronic transfer to a card.

According to the survey undertaken by the United States Treasury on its prepaid card program, 95 percent of cardholders were satisfied with the prepaid card

experience, citing convenience and immediate access to their money - something that checks don't provide. Three quarters of cardholders say their fees with the card were equal or less to what they were when using paper checks.<sup>8</sup>

While direct deposit is still the cheapest and most convenient option for many people, there are an estimated 60 million Americans with limited or no access to a bank account. For those people, checks were the only option, and benefit recipients who receive their benefits by check are paying significant fees to check cashers.

Additionally, for government benefits card programs which may impose certain fees on cardholders, almost all fees can be avoided with careful and responsible use of the cards, and the first cash withdrawal per benefit period is typically free. For example, some states offer free withdrawal at certain bank locations, network ATMs and participating retailers such as convenience stores. They also offer free bank transfers, a toll-free interactive voice response system and online account management. In a study mandated by the Dodd-Frank Act, the Federal Reserve Board reported, for government benefits programs, the average 2010 cardholder fee was \$9.69 per card, or 0.3 percent of the total amount disbursed to cards.<sup>9</sup>

#### Gift (Non-Reloadable) Cards

Consumers purchase gift (non-reloadable) prepaid cards for a variety of reasons, including for self-use or specific consumer non-gifting purposes:

- Retailer - Internet purchases
  - Prepaid gift cards offer a secure way to make on-line purchases and reduce the potential risk of fraudulent credit/debit card issues
- On-line digital content and gaming purchases
  - Using prepaid gift cards reduce potential fraud - recent "fraudsters hacking" of on-line gaming Web Sites and stolen consumer credit/debit card account
- Prepaid gift cards can be used as a budgeting tool to limit the spend of consumers, i.e. parents' purchase for teens for digital or gaming services to limit amount spent
- Bill payment prepaid cards
  - Prepaid gift cards provide a secure, safe and convenient way to pay bills for consumers that are unbanked
- Parent – child cards are used to provide a safe and secure way to provide funds to children that are remote and need to make purchases
  - Summer camps
  - Student – internships or special study programs (foreign or domestic)
- Employer's purchases of network branded gift cards for employee incentives and rewards
  - Gift cards are the #1 employee requested incentive/reward

<sup>8</sup> [http://fms.treas.gov/finconn/back\\_issues/fc\\_conf10.pdf](http://fms.treas.gov/finconn/back_issues/fc_conf10.pdf)

<sup>9</sup> <http://www.federalreserve.gov/publications/other-reports/files/government-prepaid-report-201107.pdf>

## V. Size of the Market for Network Branded Prepaid Cards

The network branded prepaid card marketplace is growing rapidly. In its Eighth Annual Prepaid Market Forecast, a report issued on December 2, 2011, Mercator Advisory Group, Inc., of Waltham, Massachusetts, a research firm that follows prepaid products, reported the open-loop prepaid market witnessed robust growth in 2010, growing to \$148.4 billion -- an increase of 19 percent from \$124.6 billion in 2009. Mercator has recently reported that in 2012, the total value loaded to network branded prepaid cards will exceed \$290 billion. According to Mercator, the fastest growing segments of the prepaid marketplace include general purpose reloadable cards, consumer incentive cards, and government benefits.

Mercator reports that the total dollar load on all types of closed and open loop prepaid cards will exceed \$520 billion in 2012 and will grow to \$682 billion in 2014. The compound annual growth rate for open loop prepaid cards is projected to be 34.5 percent over the period 2006–2014. Over the same period, closed loop prepaid is projected to grow at an 8 percent compound annual rate. Several card organizations estimate that the eventual displacement potential (current cash and check disbursements that have the potential for conversion to network branded prepaid cards) is in the trillions of dollars.

A 2011 report by the Aite Group shows that prepaid cards are not just a tool for the underbanked. Rather, 43 percent of GPR cardholders are members of Generation Y, about 33 percent earn more than \$45,000 per year, and about 34% have a college degree or higher.<sup>10</sup>

The growth of network branded prepaid cards confirms that these cards fulfill a need for consumers who find them a useful tool. Recent surveys by the NBPCA found that:

- 88% of respondents who have used a reloadable prepaid spending card had a positive experience. (June 2007)
- 81% of respondents who have a prepaid health care card associated with their flexible spending account (FSA) are extremely or very satisfied with their FSA versus 66% of FSA users without a prepaid health care card. (March 2007)
- During the 2006/2007 holiday season, one in five consumers planned to purchase branded gift cards. (December 2006)
- In addition, according to Americans for Consumer Education and Competition (2005), 63% of consumers prefer a gift card they can use anywhere, such as cards offered by payment brands.
- 88% of consumers who have used a reloadable prepaid card found it useful. (May 2007)

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<sup>10</sup> <http://www.nbpc.org/~media/E6E6F720492F4E42804FED2A795D3B5A.ashx>

## VI. Consumer Protections

### Payment Network Zero Liability Policies and Chargeback Rights

Each of the payment networks offer cardholders, including the holders of reloadable prepaid cards bearing their brand, with protection against unauthorized charges, often referred to as “zero liability” policies. In addition, the payment networks have systems in place to assist cardholders, including prepaid cardholders, address disputes with merchants, often referred to as chargeback programs.

### Electronic Fund Transfer Act and Regulation E

The Electronic Fund Transfer Act (EFTA) and Regulation E provide a range of consumer protections for holders of consumer accounts at financial institutions, including initial and periodic disclosures, overdraft protections, error resolution procedures, an ability to initiate a stop pay request, the availability of provisional credits while errors are being investigated and a requirement to provide periodic statements.

Currently, as for prepaid cards, gift cards, payroll cards and certain card programs for disbursing non-needs based government benefits are included under various provisions of the EFTA and Regulation E. There has been a call to extend the same Regulation E protections that now apply to payroll cards to other prepaid card products, especially GPR cards. This is a position that the NBPCA has generally supported for reloadable, consumer-funded prepaid cards where there is an ongoing relationship between the consumer and the issuer.

#### Disclosures:

The NBPCA strongly supports and encourages clear, simple and conspicuous disclosure of all terms and conditions that apply to network branded prepaid cards. Consumers should have access to information prior to purchase to allow them to make informed decisions and meaningful comparisons of card products.

Disclosures are essential to consumer decision making and usage of network branded prepaid cards. NBPCA is dedicated to setting industry standards for disclosures that are clear, simple and informative. Working with its members, NBPCA has developed Leading Practices for Consumer Disclosures on General Purpose Reloadable Cards.

It should be noted, however, that consumers may obtain prepaid cards from a number of places, including employers, government agencies, insurance companies, retailers and charities. Further, prepaid access is also being provided through mobile applications on smart phones. A transparent, flexible approach to disclosure, rather than a prescriptive one-size-fits-all approach, enables card issuers to design disclosure materials with terms most important to consumers on the packaging – such as purchase, activation, loading, or recurring fees, and those for commonly used services -

while providing other information in an accompanying insert, website, or posting at the retail site.

#### Cardholder Protections:

The NBPCA supports protection of consumers' funds through Regulation E type protections, similar to those as are currently applied to payroll card accounts, to identifiable holders of reloadable, consumer-funded prepaid cards where there is an ongoing relationship between the consumer and the issuer.

Coverage under Regulation E for non-personalized cards or small-value, non-reloadable card products is not practical and, in some cases, may be impossible. As the Federal Reserve Board noted when it issued the payroll card final rule: "Consumers would derive little benefit from receiving full Regulation E protections for cards that may only be used for limited purposes or on a short-term basis, and which may hold minimal funds, while the issuer's costs of compliance with Regulation E might be significant." The NBPCA agrees that holders of non-personalized cards and small-value, non-reloadable cards would derive little benefit at substantial cost from the types of protections afforded under Regulation E.

However, requiring monthly written periodic statements for prepaid cards would be impractical given the economics of supporting prepaid card programs as well as inconsistent with customer preferences and usage patterns. Consumer surveys indicate that most cardholders prefer electronic access to account information, at a time most convenient for them (often at/near time of transaction). In deciding to permit alternatives to paper statements for payroll cards, the Federal Reserve Board noted that such alternative methods of providing account transaction information that was currently used by many payroll card providers "are comparable to, and in some respects, better than, paper periodic statements." Based on its focus group testing of payroll card users, the Federal Reserve Board found that: "Most focus group participants who received paper periodic statements stated that they generally kept their statements as a record of account activity but otherwise rarely used them 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 on-line."

The NBPCA supports providing electronic access to transaction information online, via text message or through automated telephone interaction. Consumers should also be permitted to opt-in to receive paper statements, and issuers should be permitted to assess a fee for sending paper statements to a cardholder. In situations involving error resolution, the NBPCA also supports no-fee access to paper statements and live customer service calls.

There is one area of Regulation E that the NBPCA would suggest requires further research before extending to GPR cards - - that is the "provisional recrediting" provisions that requires a card issuer to recredit a consumer's card account even before an unauthorized transaction claim can be fully researched. Some initial experience has shown that "provisional recrediting" obligations have caused an increase in fraudulent claims.

In contrast, coverage under Regulation E for non-personalized cards or small-value, non-reloadable card products is not practical and, in some cases, may be impossible. As the Federal Reserve Board noted when it issued the payroll card final rule: "Consumers would derive little benefit from receiving full Regulation E protections for cards that may only be used for limited purposes or on a short-term basis, and which may hold minimal funds, while the issuer's costs of compliance with Regulation E might be significant." The NBPCA agrees that holders of non-personalized cards and small-value, non-reloadable cards would derive little benefit at substantial cost from the types of protections afforded under Regulation E.

Similarly, cards onto which funds are loaded by a party other than the consumer, one-time, for example, loyalty, rewards and promotional cards, are not relied upon by consumers as a principal transaction account and are low balance and short term – should not be covered by Regulation E.

#### FDIC Deposit Insurance

The NBPCA understands that it has been proposed that ALL prepaid card products carry FDIC Deposit Insurance on a "pass through" basis. Again, this is a concept that the NBPCA generally endorses, but with certain limitations.

In General Counsel Opinion No. 8,<sup>11</sup> the FDIC clarified that deposit insurance is available to prepaid accounts on a pass-through basis to the cardholder, up to \$250,000 per account, if the title of the pooled account indicates it is a custodial account and provided the issuer or its agent has the name and address of the underlying cardholder in its records. This is the case for many card types where the consumer would have any significant funds in the pooled account. Thus, for payroll and GPR cards, in particular, FDIC insurance is generally available to accountholders. Otherwise deposit insurance is available not on a pass-through basis, but only to the party placing the funds into the account at the bank.

On many prepaid card products, especially small dollar and non-reloadable card products, personal information is not collected to permit pass-through deposit insurance to be made available. To impose this requirement would require personal information to be collected on all prepaid cards. It would require a complete rework of the ways the cards are provided to consumers and would result in consumer inconvenience, increased privacy and data security risks, as well as significant costs increases that would have to be borne by consumers, with little or no benefit to the consumer.

<sup>11</sup> <http://www.fdic.gov/news/news/financial/2008/fi108129.html#body>

It should also be noted that prepaid cards may also be issued by a non-bank licensed under federal and state money service business/money transmitter laws. Such non-bank issuers are subject to state legal requirements to segregate customer funds, and to hold a reserve equal to 100% of outstanding consumer funds in cash or other permissible investments, such as U.S. Treasury obligations, and posting of surety bonds to protect cardholders. The NBPCA believes that prepaid cards issued by such non-banks have equivalent protection as FDIC insurance and should not be required to be FDIC insured.

#### **VII. Fees and Expenses for Network Branded Prepaid Cards**

While there may be fees associated with network branded prepaid cards – generally an initial fee, monthly maintenance fees and certain transaction-based fees – these fees are assessed largely to cover the costs of offering and supporting the product and to cover value-added benefits included with the card. These fees help support the vast acceptance infrastructure that enables network branded cards to be used virtually anywhere and benefits such as zero liability for unauthorized use, customer service, and access to transaction data.

- Revenue Sources for Providers:
  - Interchange fees
  - Cardholder fees
  - Float from funds held until the cards are redeemed
- Expenses for Providers:
  - Card production
  - Internal processing
  - External/Network processing
  - Global risk mitigation, including fraud and anti-money laundering monitoring and reporting
  - Customer service
  - Regulatory compliance
  - Distributor costs
  - Marketing costs
  - Payment of compensation to providers of out-of-network ATM transactions, over-the-counter cash transactions and cash-back at the point of sale transactions
  - Reload services provided through non-bank channels
  - Monitoring, and oversight and auditing of agent activities
  - Chargeback processing
  - Escheat reporting and management
  - Deposit insurance assessments

### VIII. Existing Laws and Regulations

One common misconception is that prepaid cards are unregulated. That is simply untrue. The financial institutions which issue network branded prepaid cards are highly regulated. Issuers of network branded prepaid cards are supervised and regulated by the following agencies:

- National banks and federal savings banks
  - Office of the Comptroller of the Currency
  - Consumer Financial Protection Bureau (if over \$10B in assets)
- Credit unions
  - National Credit Union Administration
  - Consumer Financial Protection Bureau (if over \$10B in assets)
- State chartered banks
  - State banking authorities
  - Federal Reserve Board
  - Federal Deposit Insurance Corporation
  - Consumer Financial Protection Bureau (if over \$10B in assets)
- Non-Bank Issuers
  - State banking authorities
  - Consumer Financial Protection Bureau (if a "large participant")

Further, a number of statutes and regulations are applicable to prepaid card issuers and products, including:

- United States Treasury
  - Financial Crimes Enforcement Network
    - Bank Secrecy Act and USA PATRIOT Act
    - Prepaid Access Rule
    - Proposed Rule-making on cross-border payments with prepaid cards
  - OFAC
  - Financial Management Services
    - Interim Final Rule regarding Federal Payments on Prepaid cards
- Interagency Guidance
  - Gramm-Leach-Bliley Act privacy and security requirements
  - Interagency Guidance on Identity Theft Response Programs
  - Interagency Interpretive Guidance on Providing Banking Services to Money Services Businesses Operating in the United States
  - Interagency Guidance on Authentication in an Internet Banking Environment
  - FFIEC Supplement to Authentication in an Internet Banking Environment
- Federal Financial Institutions Examination Council
  - IT Examination Handbook - Retail Payment Systems

- Bank Secrecy Act/Anti-Money Laundering Examination Manual
- Guidance on Electronic Financial Services and Consumer Compliance
- OCC
  - OCC Bulletin 96-48 - Stored Value Card Systems
  - OCC Bulletin 2001-47 - Third Party Relationships
  - OCC Bulletin 2006-34 - Gift Card Disclosures
  - OCC Advisory Letter 2004-6 - Payroll Card Systems
  - OCC Advisory Letter 2002-3 - Guidance on Unfair or Deceptive Acts or Practices
  - OCC Bulletin 2011-27 - Prepaid Access Programs
- OTS
  - Letter #254 - Guidance on Gift Card Programs
  - P-2006-3 - Chief Counsel Opinion on Preemption of State Gift Card Restrictions
  - P-2004-7 - Authority of a Federal Savings Association to Perform Banking Activities through Agents Without Regard to State Licensing Requirements
  - Notice of Advanced Rulemaking – Unfair or Deceptive Acts or Practices
- FDIC
  - FIL-83-2005 - Proposed New Rule on Insurability of Funds Underlying Stored Value Cards
  - General Counsel Opinion #8
  - FDIC Advisory Opinion – FDIC--02--03 (payroll cards)
  - FIL-26-2004 - Unfair or Deceptive Acts or Practices by State-Chartered Banks
- Consumer Financial Protection Bureau
  - Regulation E – payroll cards, certain government benefits cards and gift cards
  - Unfair, Deceptive and Abusive Acts and Practices
  - Remittance Transfer Regulations
- Internal Revenue Service (FSA/HSA cards)
  - Revenue Ruling 2003-43
  - Notice 2006-69
  - Notice 2007-2
- Federal Reserve Board
  - Regulation II (Interchange fees)
- State laws
  - Money service business registration and licensing
  - Gift card laws
  - Unfair/deceptive trade practice laws
  - Unclaimed property laws
  - Wage payment/payroll card laws

## IX. Research

Study after study shows that network branded prepaid card fees are affordable, transparent, and easily understood by consumers. A selection of research samples is set forth below:

**2012 Analysis of General Purpose Reloadable Cards.** According to the third annual study released this week by Bretton Woods, Inc., consumers who utilize a reloadable prepaid card to manage their finances can do so at a relatively low cost - as little as \$8 per month - often paying less than the costs associated with low-balance checking accounts. Reloadable prepaid card users' costs range \$8-\$20 monthly if they use direct deposit. Low-balance checking account consumers pay in the range of \$15-\$37 per month. Consumers that rely on a cash-based lifestyle pay in the range of \$9-\$48 per month.

**2011 Study by National Urban League (NUL) and the NBPCA.** The study examined African American use of financial products, with a distinct focus on reloadable prepaid cards. Nearly 1000 Black Americans were surveyed with an average income of \$43,500. Some 18 percent said they do not have a checking account. About 22 percent said they cannot get a checking account or that a bank refused them one. Some 7 in 10 cardholders cited that one primary benefit is the ability to prevent overdrafts and overspending. Half (51%) of reloadable prepaid cardholders do not have a checking account today - indicating that prepaid is a particularly important financial tool for those who do not have checking accounts. On average, cards are used 7 times a month, for bill payment and purchases of everyday essentials. Overall, the prepaid card ownership experience is generally positive. What respondents liked most about prepaid card ownership was the ability to prevent overdraft or overspending - cited by 7 in 10 cardholders. Overall, prepaid card experience has been positive. About 67% of current users reported feeling positive or very positive.

**2010 LaRaza Study on Prepaid Card Use.** Focusing on Hispanic consumers, the study found that most users were attracted to their card because it seemed convenient. Nearly three-quarters of Hispanic card users also had checking accounts. Bouts of unemployment impacted prepaid card use. A majority (71%) noted a "positive" or "very positive" card experience.

**2009 CFSI Study: Tool for Getting by or Getting Ahead? Consumers' Views on Prepaid Cards.** Interviewees saw the cards as a useful tool, a way to escape the high fees imposed by banks and check-cashing companies. Most AccountNow customers came across the product online, on their own, either through a deliberate search or inadvertently. All NetSpend customers noticed the product in retail locations, primarily check-cashing outlets showed that 75 percent of underbanked consumers who frequently use network branded reloadable cards to participate in our card-based economy understood the fees associated with their card. Additionally, 84 percent thought the price of the card was fair and 72 percent believed that the fees associated with the cards were fair. All interviewees said they use their cards regularly to pay bills

online and over the phone and to make point-of-sale purchases such as groceries and gas. The majority said they load funds through direct deposit. They gave several reasons for liking the cards: convenience, accessibility, value, simplicity and transparency, immediate liquidity, immediate availability of funds and built in discipline.

**2009 Kupersmit Research.** The study found that over 80 percent of consumers were satisfied with their network branded gift card experience and 90 percent had not been charged any fees whatsoever. This same study showed that 84 percent stated they clearly understood the terms and conditions that came with the card. Up-front disclosure of all fees and relevant terms and condition is collectively supported by the industry and the NBPCA.

**2009 FDIC National Survey of Unbanked and Underbanked Households.** The survey results indicate that that 21 million U.S. households are underbanked. The FDIC also identified 9 million unbanked households.

**2008 CFSI Survey.** Overall, 36% of underserved consumers prefer a prepaid card over a checking account, all else being equal.

#### **Conclusion**

We thank you for the opportunity to provide the Subcommittee with information on this important topic and we are available to answer any questions you or your staff may have.