



**Network Branded Prepaid Card Association**

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201-746-0725

December 2, 2011

Office of Regulatory Policy and Programs Division,  
Financial Crimes Enforcement Network,  
Department of the Treasury,  
P.O. Box 39  
Vienna, VA 22183

Attn: PRA Comments--MSB Registration--Form 107

Re: PRA Comments--MSB Registration--Form 107

Dear Ladies and Gentlemen:

This letter is submitted to the Office of Regulatory Policy and Programs Division ("Division") on behalf of the Network Branded Prepaid Card Association ("NBPCA")<sup>1</sup> in response to the proposed information collection requirements contained in Registration of Money Services Business, FinCEN Form 107, with request for comment published in the Federal Register on October 6, 2011, at 76 Fed. Reg. 62149–62164 ("Proposed Form").

The NBPCA believes the Proposed Form generally responds to the information collection requirements imposed on money service businesses ("MSBs") by the new prepaid access program regulations. However, the NBPCA is concerned that the Proposed Form provides unclear instruction with regard to seven issues:

1. In Item 36h, one of the elections for the business of the registrant is "seller of prepaid access;" however, under §1022.380(a)(1), sellers of prepaid access are not required to register with FinCEN. The inclusion of this box on the form may be confusing and should be deleted. Similarly the form includes a reference to sellers of prepaid access both on the list of "Who Must Register" (on page 62153) as well as on the list of "who are not required to register" (on page 62154). These references to sellers of prepaid access should be deleted.
2. In Item 38, we understand that prepaid program providers may use their business judgment to determine how to list separate programs. We agree that such an approach makes sense, since some programs have different names but use the same IIN numbers and features. For

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<sup>1</sup> This letter does not necessarily represent the position of each of the organizations that are members of the NBPCA.

example, it should be sufficient for a registrant to list a payroll program that is offered to multiple non-related employers as one “payroll program,” provided the participating employers share the same IIN designation and have similar rules regarding international usage. We would seek clarification, however, as to whether it is enough to fill in Item 38 with a descriptor or internal reference used by the prepaid provider or issuer when referring to the program.

3. In Item 39, the registrant is required to list the IIN for each prepaid program. It should be noted that a financial institution issuing the prepaid access may use the same IIN for multiple non-related providers and multiple programs. We would seek clarification as to whether it would be problematic to have the same IIN used in different prepaid provider registrations or program lists.
4. In Item 40, the registrant is required to list the name of the processor for the prepaid program. It is not unusual for a program to outsource various elements of a prepaid program to third parties (e.g., plastics production and mailing, transaction processing, customer service), or for one processor to subcontract certain elements of processing services to various subcontractors. Guidance should be provided by FinCEN as to which services a processor must perform for the prepaid program to list that party in response to Item 40. Perhaps consideration should be given to adding a definition for the term “processor.”
5. In Item 43, providers of prepaid access must designate whether a program can be used internationally. The explanation is helpful with respect to actual usage at international ATMs or POS. However, we would seek clarification as to whether online usage from the U.S. to make a purchase or to play a game on a foreign or international website would be considered “international use.” Also, if a cardholder is traveling outside the U.S., but goes online to make a purchase from a U.S.-based seller, would that also be considered international usage?
6. In Item 44, a request is made as to whether the registrant’s business involves an “informal value transfer system”. Some prepaid access programs allow person-to-person transfers within the same program. Typically that does not involve an actual “transfer” or “transmission” of funds. The funds do not move, issuing bank’s records are amended to notate that one card’s value has decreased and another card’s value has increased. We believe that such person-to-person transfers all within a single bank account and a single program should not constitute an “informal value transfer system.”
7. Item 46(f) asks for the number of U.S. agents selling prepaid access. The definition of seller of prepaid access on page 62154 includes a person who receives funds for both initial and subsequent loading of prepaid access. Does this mean that providers of prepaid access must report not only where prepaid access devices are initially sold, but all reload locations

as well? If a prepaid program permits reloads to be accomplished through an agent of a licensed money transmitter, such as Western Union, MoneyGram, Green Dot or InComm's Vanilla network, it is likely that the provider will not know the number of potential reload locations, and, even if this information is available to the provider, retail locations may be double-counted if they participate in multiple reload networks. Providers should not be required to disclose all potential reload locations.

The NBPCA respectfully encourages the Division to consider the issues raised above. As always, the NBPCA would be happy to answer questions or discuss any relevant concerns. Please do not hesitate to contact us at 201-746-0725 or via email at [kathyt@nbpca.org](mailto:kathyt@nbpca.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Trusko', written in a cursive style.

Kirsten Trusko

NBPCA President and Executive Director