

October 22, 2012

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

Re: Docket No. CFPB-2012-0036: Electronic Fund Transfers; Intent To Make Determination of Effect on State Laws (Maine and Tennessee)

Dear Ms. Jackson:

The American Bankers Association (ABA)¹ respectfully submits its comments to the Bureau of Consumer Financial Protection (the Bureau) regarding the Notice of intent to make a preemption determination of state laws in Maine and Tennessee. ABA appreciates the Bureau's willingness to address the troubling circumstance when state and Federal laws conflict and the consumer is harmed.

We first addressed this issue in the December 21, 2009, comment letter² regarding the proposed amendments to Regulation E implementing the Credit Card Accountability Responsibility and Disclosure Act of 2009. Our position is unchanged.

Any requirement to remit funds associated with a covered prepaid card to the state before the funds expiration period is contrary to the very consumer rights that Congress sought to establish in the Act. For this reason and based on the express language of the amended Act, ABA suggests that the Board use its authority to preempt any State laws applicable to the prepaid cards or certificates covered by this regulation so that the escheatment trigger date be no earlier than the expiration date of the underlying funds on the card. This will preserve the bargain the consumer enters into with the card issuer when the card is purchased.³

¹ The American Bankers Association (ABA) represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its 2 million employees. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities. Learn more at www.aba.com.

² http://www.aba.com/Issues/Documents/17954f61fc3740dbb90f92c726d6f078ABA_PrepaidComment_ltr2009.pdf

³ Excerpt from the December 21, 2009, ABA Comment letter to the Board of Governors regarding proposed amendments to Regulation E

We invite the Bureau to establish a rule preempting any state abandonment or escheat law that would trigger transferring funds to states prior to the expiration date of the funds underlying the card. This would avoid conflict with the Regulation E requirement that the funds remain available for at least five years and protect consumer interest.

If you have any questions about these comments, please contact the undersigned at (202) 663-5147 or via email at skenneally@aba.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen K. Kenneally". The signature is fluid and cursive, with the first name "Stephen" and last name "Kenneally" clearly legible.

Stephen K. Kenneally
Vice President
Center for Regulatory Compliance