

CFPB Updates Prepaid Accounts Rule

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On January 25, 2018, the Consumer Financial Protection Bureau issued a final rule modifying its rule governing prepaid accounts (the "Rule"). The Rule was initially issued on October 5, 2016 and creates comprehensive protections for prepaid accounts under Regulation E, which implements the Electronic Funds Transfer Act, and Regulation Z, which implements the Truth in Lending Act. The Bureau issued a statement on December 21, 2017 announcing its intention to issue a modified final rule, leaving the prepaid card industry guessing about next steps. The recently-announced modifications bring some clarification to the Rule and largely respond to concerns raised by the prepaid card industry regarding compliance with the Rule.

The modifications to the Rule fall into three categories:

1. Error Resolution and Limitations on Consumer Liability.

As initially proposed, the Rule provided that consumers must register their prepaid accounts in order to receive fraud and error protection benefits under Regulation E. Additionally, the initial Rule provided that such protections would apply retroactively to suspected thefts or disputes that occurred prior to card registration. As amended, the Rule clarifies that such protections will apply only prospectively after a consumer's identity has been verified. Where there is no verification process for an account, financial institutions must either explain their error resolution process and limitations on consumers' liability for unauthorized transfers in an initial disclosure, or explain that there are no such protections. The Bureau believes that the changes will encourage consumers to register their prepaid accounts promptly, as well as streamline compliance for financial institutions.

2. Treatment of Credit Cards Linked to Digital Wallets.

Digital wallets allow electronic payments via stored credit and debits cards and can hold a stored value, including prepaid accounts. Initially, the Rule unintentionally caused complications when a credit card account was linked to a digital wallet that also held a stored value because, based on its terms, those credit card accounts would be treated as a type of hybrid prepaid credit card. The recent amendments to the Rule create an exception to certain provisions of the Rule for instances where traditional credit card accounts, subject to Regulation Z's open-end credit rules, are linked to digital wallets. This is intended to ensure that consumers continue to receive full federal credit card

protections on their traditional credit card accounts while making it easier for consumers to link those credit card accounts to digital wallets that can store funds. Additionally, the changes reduce potentially unnecessary complications and expense to consumers who link credit cards to digital wallets.

3. Extension of Time to Comply.

Recognizing industry concerns that an April 2018 effective date would not provide sufficient time to implement and comply with the Rule, the Bureau extended the effective date of the Rule to April 1, 2019.

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