

# CFPB to Regulate Prepaid Debit Cards

March 25, 2015

The CFPB plans to amend Regulation E (implementing the Electronic Funds Transfer Act) and Regulation Z (implementing TILA) to cover prepaid financial products including prepaid debit cards issued by a financial institution that may be used at unaffiliated merchants. These products are called prepaid "cards," but can also refer to an app or key fob that allows access to prepaid funds. Currently prepaid products are not subject to cost disclosure, period statements, or loss/theft limitations; though some financial institutions do provide these services. The Federal Reserve, as the predecessor to CFPB, declined to regulate prepaid products in 2006 because the market for prepaid products was small. Since then, however, consumers have embraced prepaid products—with some using prepaid debit cards to replace bank accounts. Now, CFPB plans to extend regulations that already govern credit cards to prepaid debit cards. The proposed amendments will require the issuers of prepaid debit cards to:

- provide cost disclosures prior to the time the cards are loaded with funds;
- provide either periodic statements or website access to account balances and transactions;
- timely investigate and resolve complaints about incorrect charges; and
- limit consumer losses when their cards are lost or stolen.

To encourage comparison shopping, issuers will also be required to post their card agreements on their websites. Many prepaid debit cards now have credit card features, such as the ability to generate an overdraft. If a prepaid debit card has credit card features, the proposed regulations will require the issuers to consider a consumer's ability to repay an overdraft prior to issuing a card, provide monthly billing statements, give a 21-day grace period for payment, charge "reasonable and proportionate" late fees; and limit fees and interest charges to 25 percent of the credit limit. Under the proposed regulations, CFPB would require an issuer to wait 30 days from the registration of a prepaid debit product to offer credit features on the card. The issuer could not apply reloaded funds to pay the credit portion of the account without customer consent, and the issuer couldn't take

funds from the prepaid account more than once monthly or less than 21 days after mailing the periodic statement. If not extended, the comment period for these proposed regulations, ends on March 23, 2015.

## Related Practices

### Consumer Finance

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