

Client Alert.

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CFPB Further Delays Prepaid Proposed Rule

By Rick Fischer, Obrea Poindexter, and Jeremy Mandell

Industry anticipation continues to grow as the Consumer Financial Protection Bureau (CFPB) announced that its general-purpose reloadable (GPR) prepaid card proposal will now be issued by the end of the summer. Although this delay is not unexpected, the CFPB indicated as recently as last month that it would publish a proposed prepaid card rule no later than June 2014. Nonetheless, Director Richard Cordray has told congressional committees that a proposed rule will be ready by the end of the summer.

SMOKE, BUT NO FIRE (YET)

Despite the delay, the CFPB has offered some insight into the substance of the prepaid card regulations. For example, last week Director Cordray told the House Committee on Financial Services that the packaging for most prepaid cards is too small to provide the types of disclosures that the CFPB believes consumers need. In a March blog post, the CFPB released model disclosures for prepaid card packaging being considered by the CFPB in connection with its anticipated rulemaking.¹ The CFPB intends the model disclosures to enable consumers to make side-by-side—or, in the Director's words, "apples-to-apples"—comparisons.

Director Cordray also suggested that consumers do not fully understand that GPR cards are not protected by existing consumer financial protection laws, and that they represent "a hole in the fabric" of consumer financial protection. He promised that the CFPB's proposed regulations "will provide new protections" for GPR cards.

Finally, Director Cordray said that the CFPB is looking closely at overdrafts on prepaid cards.

WORTH THE WAIT?

The CFPB's view that GPR cards represent "a hole in the fabric" of consumer financial protection suggests that the CFPB will extend certain Regulation E protections to GPR cards. We anticipate that the CFPB will apply a "Reg. E Lite" regime, which should permit alternative periodic statements, modified error resolution procedures, and limited initial disclosures, along with an annual error resolution notice and limited cardholder liability. Many prepaid card issuers already offer these types of protections to GPR cardholders on a voluntary basis.

We will continue to follow the regulatory developments concerning GPR cards, and will report on the proposed prepaid card rule when it is (finally) issued.

¹ For more information on the model disclosures, see our earlier [Client Alert](#).

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