

Legal Updates & News

Legal Updates

Federal Reserve Board Proposes Gift Card Rules

November 2009

Today, the Federal Reserve Board ('Board') released a proposed rule to implement the gift card provisions contained in the Credit Card Accountability Responsibility and Disclosure Act ('CARD Act') that would restrict the fees and expiration dates that may apply to gift cards. Specifically, the proposed rule would prohibit a person from imposing a dormancy, inactivity or service fee with respect to a gift certificate, store gift card or general-use prepaid card, unless certain conditions are met; in this regard, the proposed limitation would apply to transaction-based fees, including reload fees. In addition, the proposed rule would provide that a gift certificate, store gift card or general-use prepaid card may not be sold or issued unless the expiration date of the funds is no less than five years. The proposed rule also would require the disclosure of fees imposed and information regarding whether funds underlying the card may expire.

Related Practices:

▶ [Financial Services Law](#)

Consistent with the CARD Act, the proposed rule excludes certain products from the definition of gift certificate, store gift card or general-use prepaid card. For example, the proposed rule would exclude cards that are both reloadable and not marketed or labeled as a gift card. It would also exclude gift certificates and cards issued in connection with a promotional or loyalty program.

The Board is not proposing at this time to apply to such gift cards or gift certificates, other Regulation E requirements that apply to accounts under Regulation E, such as periodic statement disclosures or error resolution procedures. The Board also is not proposing to exercise its authority under the CARD Act to limit the amount of dormancy, inactivity or service fees. In this regard, the Board indicates that it will continue to monitor gift card development and will take action as appropriate.

The comment period will end 30 days after the publication of the proposed rule in the Federal Register, which is expected shortly. Below are links to the Press Release, Draft Federal Register Notice and Highlights of the proposed rule.

If you have any questions, please contact Rick Fischer, at (202) 887-1566 or rfischer@mofocom; Oliver Ireland, at (202) 778-1614 or oireland@mofocom; or Obrea Poindexter, at (202) 887-8741 or opoindexter@mofocom.

Press Release

<http://www.federalreserve.gov/newsevents/press/bcreg/20091116a.htm>

Draft Federal Register Notice

<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20091116a1.pdf>

Highlights of the proposed rule

<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20091116a2.pdf>