

Prepaid Cards — New Federal Rules

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Issue

Summarize the federal Consumer Financial Protection Bureau's new rules regarding prepaid cards.

Summary

A prepaid account is an alternative to a traditional checking account or credit card. However, while prepaid account consumers may use a prepaid card to access funds in ways that are similar to other banking products and services, they did not have the same consumer protections, until now.

The Consumer Financial Protection Bureau (CFPB) has issued new regulations that give prepaid account consumers protections under the federal Electronic Fund Transfer Act (EFTA), similar to those for checking account consumers, such as consumer access to information, dispute resolution provisions, and protections against unauthorized transactions.

Prepaid Cards

A prepaid card is used to access money that was loaded on the card in advance. The cardholder can use the card to pay for expenses or to withdraw cash from an ATM. A person's income can be directly deposited onto the card.

The bureau's rules include new "know before you owe" prepaid disclosures that provide consumers with standard, easy-to-understand, information about prepaid accounts.

The rules also extend to consumers using credit features on prepaid cards certain protections under the federal Truth in Lending Act (TILA) and the federal Credit Card Accountability Responsibility and Disclosure Act (CARD Act) generally given to credit card holders. These protections include (1) requiring card issuers to assess a consumer's ability to pay before extending

credit; (2) establishing the required content of billing statements; and (3) limiting on repayment periods, fees, interest rates, and waiting periods.

The final rules are available on the [Federal Registry](#). They generally apply to prepaid accounts starting October 1, 2017.

Protections Under the Federal EFTA

The new rules give prepaid account consumers protections under the EFTA similar to those given to checking account consumers. Some of these protections are summarized below.

Access to Account Information

Under the rules, unless financial institutions provide periodic statements, they must make certain prepaid account information available for free by telephone, online, and in writing upon request. Prepaid account consumers must have access to their account balances and transaction history.

Disputes

Financial institutions must cooperate with consumers who find unauthorized or fraudulent charges, or other errors, on their prepaid accounts. They must investigate and resolve these incidents in a timely manner and, where appropriate, restore the funds. If a financial institution cannot do so within a certain period of time, it must credit the disputed amount to the consumer while it conducts the investigation.

Unauthorized Transactions and Lost Cards

If a prepaid card is lost or stolen, the rules limit the consumer's liability for unauthorized charges. The consumer's responsibility for unauthorized charges is limited to \$50 if he or she promptly notifies the financial institution.

Disclosures — “Know Before You Owe”

The new rules include new “know before you owe” prepaid disclosures that provide consumers with standard, easy-to-understand, information about prepaid accounts. The rules set industry-wide standards for fee disclosures. According to the CFPB, this follows the bureau's “know before you owe” disclosure forms used for mortgages and student financial aid offers. Under the new rules, prepaid consumers must have access to upfront information and prepaid account agreements.

Upfront Information

The rules require a short form and a long form, both with easy-to-understand disclosures. The short form highlights fees such as those charged for a period, each purchase, ATM withdrawal and balance inquiry, cash reload, customer service, and inactivity. Before getting a prepaid account, consumers may also access the comprehensive long form, which discloses a complete list of fees and other important information.

Examples of the [short form](#) and [long form](#) disclosures are available on the CFPB's [website](#).

Agreements

The rules require prepaid account issuers to post the prepaid account agreements they offer to the general public on their websites. Starting October 1, 2018, issuers are generally required to submit these agreements to the bureau.

Credit Protections

Under the rules, certain protections under TILA and the CARD Act generally given to credit card holders are extended to consumers using credit products that allow them to spend more than they have loaded onto the prepaid account. Some of these protections are summarized below.

Ability to Pay

The rules require prepaid companies to ensure that consumers are able to repay the debt before offering them credit. A company cannot open a credit card account or increase a cardholder's credit line related to a prepaid card unless the company considers the consumer's ability to make the required payments. Consumers under age 21 must have an independent ability to repay.

Billing Statement

Prepaid companies must give consumers regular statements that include the fees, and if applicable, the interest rate, what was borrowed, total owed, and other debt repayment information.

Limits on Repayment Period and Late Fees

Prepaid companies must give consumers at least 21 days to repay their debt before charging a late fee. Any late fee must be reasonable and proportional to the violation.

Fees and Interest Charges

Under the rules, total fees for credit features cannot exceed 25% of the credit limit during the first year the account is open. Generally, card issuers cannot increase the interest rate on an existing balance unless the cardholder has missed two consecutive payments. Card issuers may raise the interest rate on future purchases but generally must give the consumer 45 days advance notice. The consumer may cancel the credit account during this period.

Waiting Period

The rules require companies to wait 30 days after a consumer registers the prepaid account before offering the credit feature to the consumer.

Credit Repayment

Under the new rules, prepaid companies cannot require credit repayment until 21 days after the statement is mailed. The rule prohibits companies from automatically taking funds from the prepaid account to repay the credit unless the consumer consents. This may not be done more than once per month.

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