



June 29, 2012

General Purpose Reloadable Prepaid Cards ANPR

Executive Summary

- The Consumer Financial Protection Bureau (CFPB) has released an advance notice of proposed rulemaking (ANPR) to seek comments, data, and information regarding general purpose reloadable (GPR) prepaid cards. Based on responses to the ANPR, the CFPB intends to issue a proposed regulation to extend Regulation E (Reg E) protections to GPR prepaid cards.
- Specifically, the CFPB is interested in more information regarding these GPR prepaid card areas:
 1. Regulatory coverage of GPR prepaid card products, including the potential application of Reg E;
 2. Product fees and disclosure information, including potential requirements, comparison of products, contract terms, and deposit insurance disclosure;
 3. Product features, including credit, savings, and credit repair; and
 4. Other information on GPR prepaid cards.
- Currently, Reg E generally does not apply to GPR prepaid cards. Reg E generally applies to electronic fund transfers that authorize credit unions and other financial institutions to debit or credit a consumer's (member's) account. In 2006, the Federal Reserve Board issued a final rule that applied Reg E to payroll card accounts established directly or indirectly through an employer.
- We will work with the CUNA Payments Policy Subcommittee to review this proposal and develop our comment letter. Comments on the ANPR are due to the CFPB by July 23; **please submit your comments to CUNA by July 9, 2012.** Please e-mail your comments or questions to CUNA SVP Deputy General Counsel Mary Dunn at mdunn@cuna.com or CUNA Regulatory Counsel Dennis Tsang at dtsang@cuna.com; you may also call (800) 356-9655 ext. 6733.
- For further details, please review the CFPB's [notice](#) in the [Federal Register](#).

Background

The CFPB intends to issue a proposed regulation to extend Regulation E (Reg E) protections to general purpose reloadable (GPR) prepaid cards, based on responses to the advance notice of proposed rulemaking (ANPR). Currently, Reg E generally does not apply to GPR prepaid cards. However, the CFPB notes that GPR market participants may offer contractual protections that may be similar to Reg E protections for payroll cards.

Under the ANPR, a GPR prepaid card is issued for a set amount in exchange for payment made by a consumer. A GPR prepaid card is reloadable, which means the consumer can add funds to the card, and a GPR prepaid card may include other mechanisms that are not “cards,” such as a key fob or cell phone application, that access a financial account. However, the ANPR does not seek information about closed-loop cards, debit cards linked to traditional checking accounts, non-reloadable cards, payroll cards, electronic benefit transfers, or gift cards.

Reg E provides a framework that establishes the rights, liabilities, and responsibilities of participants in electronic fund transfer (EFT) systems. The Dodd-Frank Act transferred the rulemaking authority on the Electronic Funds Transfers Act and Reg E, its implementing regulation, from the Federal Reserve Board to the CFPB on July 21, 2011. The CFPB is interested in using its authority under Reg E to extend certain Reg E protections to regulate GPR prepaid cards.

Currently, Reg E generally applies to electronic fund transfers authorizing a financial institution, including credit unions to debit or credit a consumer’s (member’s) account. For example, Reg E applies to transfers initiated through an automated teller machine (ATM), point-of-sale (POS) terminal, automated clearinghouse (ACH) transactions, telephone bill-payment plans, and remote banking services.

In 2006, the Federal Reserve Board issued a final rule that applied Reg E to payroll card accounts to those established directly or indirectly through an employer, but that final rule excluded prepaid cards. Reg E does not require a paper periodic statement on payroll cards.

Questions to Consider Regarding the ANPR

Regulatory Coverage

1. How does your credit union believe the CFPB should define general purpose reloadable (GPR) prepaid cards in the context of Regulation E (Reg E)? Should some products with a limited purpose be excluded from Reg E (e.g., health spending, university cards)?
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2. Should only certain aspects of Reg E be applied to GPR prepaid cards? For example, Reg E does not require a paper periodic statement on payroll cards.
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Product Fees and Disclosures

3. What steps can the CFPB take to effectively regulate GPR prepaid cards to ensure consumers receive “transparent, useful, and timely fee disclosures?” Should disclosures be required pre-sale, post-sale, or both?
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4. Given the limited space on GPR prepaid cards, how can the CFPB enable consumers to compare various GPR prepaid cards and other products that may have different fee structures or which are offered through different distribution channels? How should the most important contractual terms be provided to consumers?
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5. Should the existence (or lack thereof) of FDIC pass-through insurance in connection with a GPR prepaid card be disclosed to the consumer?
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Product Features

6. While most GPR prepaid cardholders may not spend or withdraw more than the loaded funds, some GPR prepaid cards permit cardholders to opt in to an overdraft program in which the issuer may authorize overdrafts and charge an overdraft fee. Does your credit union have any input on the costs and benefits on such “credit features” on GPR prepaid cards?
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7. Do you have any comments regarding any savings features (e.g., associated savings account) offered with GPR prepaid cards?
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8. Also, do you have any comments regarding GPR prepaid card features that are marketed to improve or build credit with consumers, and the credit reporting and marketing on such features?
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Other Information

9. Does your credit union have any information regarding how changes in contract terms or other information are provided to GPR prepaid cardholders? Are there inventory replacement cycles that drive the printing of cards to stock distribution outlets?
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10. Regarding potential compliance costs, does your credit union have any comments to the CFPB to minimize the costs of regulatory compliance?
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11. Does your credit union have any other information that is relevant to GPR prepaid cards that will help inform the CFPB?

12. Any other comments or suggestions regarding the ANPR?

Thank you very much for your time and comments.