

CFPB Proposes Rule on Prepaid Products to Extend Certain Credit Requirements and Mandate Disclosures

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November 17, 2014

The Consumer Financial Protection Bureau released last week a [proposed rule](#) that would impose an array of new requirements on prepaid accounts. The proposed new definition of “prepaid account” would include general purpose reloadable cards, electronic or mobile accounts that can store funds such as PayPal accounts, payroll cards, and certain government benefit cards, but not include closed-loop gift cards. Many of the new requirements are rooted in existing requirements for credit accounts under the Bureau’s Regulations E and Z. Additionally, the Bureau is proposing to require prepaid account issuers that offer overdraft services to consider the consumer’s ability to repay the debt before offering overdraft protection or other credit services.

Generally Applicable Requirements

The proposed rule would require all prepaid account issuers to comply with a multitude of new requirements, including:

- *Short form and long form disclosures.* The Bureau proposes to require prepaid account issuers to provide both short form disclosures, which would highlight key fees that the Bureau believes to be the most important to consumers, and long form disclosures, which would list the entirety of fees and conditions related to a prepaid account. Both forms of disclosure would generally be required prior to the customer acquiring the account, with certain exceptions for sales over the phone or in retail stores. The Bureau also provided [model forms](#) for the disclosures that would provide a safe harbor for compliance with the disclosure requirements.
- *Provision of account and transaction information.* The Bureau proposes to extend existing Regulation E requirements regarding the provision of transaction information to all prepaid accounts. The rule would require financial institutions to either provide periodic statements, or make available account balance and certain transaction history.
- *Error resolution and limited liability.* The Bureau also proposes to extend requirements, with certain modifications for timing, that limit consumers’ liability for unauthorized transactions and require financial institutions to work with consumers to resolve account errors.

Requirements for Overdraft Services and Credit Features

The proposed rule would also extend certain requirements specifically to prepaid account issuers that offer overdraft services or credit features in connection with prepaid accounts. For example, an issuer offering overdraft services would be required to evaluate a consumer’s ability to repay a debt

prior to offering overdraft protection or another credit feature in connection with a prepaid account. Additionally, issuers of these types of accounts would be required to give consumers at least 21 days to repay their debt before being charged a late fee, and would be subject to other limitations on interest and fees.

Comments

The proposed rule will be published in the Federal Register shortly. Comments are scheduled to be due 90 days after publication.