



Research

Regulation Preview: CFPB on Prepaid Debit Cards

DAN GOLDBECK, SAM BATKINS | MAY 25, 2012

This week, the Consumer Financial Protection Bureau (CFPB) released an “Advanced Notice of Proposed Rulemaking” (ANPRM) regarding “general purpose reloadable prepaid cards” (GPR cards). The [action](#) is the first step in regulating this relatively new payment system. CFPB specifically seeks to assert its authority under Regulation E.

GPR cards are quickly becoming a popular alternative to more typical options such as checking accounts. As CFPB notes, the number of active cards has roughly doubled in the past three years. The primary appeal of GPRs is their relative flexibility and lack of commitment, compared to traditional bank accounts.

So why is CFPB seeking to regulate this growing product? There are no statutory requirements but the Bureau simply cites “the lack of comprehensive federal regulation” as a primary rationale for taking action. CFPB is concerned that different companies may maintain disparate fee schedules and disclosure procedures, and consumers could face significant risks.

Dodd-Frank gave the CFPB broad, and mostly unchecked, authority to regulate “Electronic Fund Transfers,” also known as Regulation E. The first substantive rulemaking under Administrator Richard Cordray demonstrates Regulation E’s power.

Earlier this year, CFPB used its authority to regulate cross-border remittance (wire) transfers. That rule imposed more than 7.6 million paperwork burden hours, or the equivalent of forcing 3,800 workers to comply with regulatory compliance. The regulation even describes how it will force certain entities to forgo remittance transfers altogether.

In its GPR regulation, CFPB does acknowledge, “[T]he GPR card market has benefited from competition ... leading many market participants to voluntarily provide some protections for consumers.” Many consumers find GPR cards convenient for their flat and regular usage fees, as opposed to hidden fees.

This ANPRM is a preliminary step in the rulemaking process and contains no cost or paperwork estimates. However, because this regulation is not in the White House’s “Unified Agenda” of regulatory activity, the timeline for implementation is uncertain, as are the potential regulatory burdens.