

Highlights of Proposed Gift Cards Rule

The proposal would amend Regulation E to implement the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act). The proposal would set forth new protections for consumers that purchase or use certain prepaid products, primarily gift cards.

- Products covered. The proposal applies to gift certificates, store gift cards, and general-use prepaid cards, as those terms are defined in the Credit CARD Act.
 - Covered products include retail gift cards, which can be used to buy goods or services at a single merchant or affiliated group of merchants, and network-branded gift cards, which are redeemable at any merchant that accepts the card brand.
 - Consistent with the statute, the proposed rule would not apply to other types of prepaid cards, including reloadable prepaid cards that are not marketed or labeled as a gift card or gift certificate, and prepaid cards received through a loyalty, award or promotional program.
- Restrictions on dormancy, inactivity, or service fees. The proposed rule prohibits a person from imposing a dormancy, inactivity, or service fee with respect to a gift certificate, store gift card, or general-use prepaid card.
 - Dormancy, inactivity, and service fees may only be assessed for a certificate or card if: (1) there has been at least one year of inactivity on the certificate or card; (2) no more than one such fee is charged per month; and (3) the consumer is given clear and conspicuous disclosures about the fees.
 - Fees subject to the proposed restrictions would include monthly maintenance or service fees, balance inquiry fees, and transaction-based fees, such as reload fees and point-of-sale fees.
- Restrictions on expiration dates. The proposed rule prohibits the sale or issuance of a gift certificate, store gift card, or general-use prepaid card that has an expiration date of less than five years after the date a certificate or card is issued or the date funds are last loaded.
 - The expiration date restrictions would apply to a consumer's funds, and not to the certificate or card itself. The proposal includes provisions intended to help ensure consumers have at least five years to use a certificate or card from the date of purchase.
 - The proposed rule prohibits the imposition of any fees for replacement of an expired card or certificate if the underlying funds remain valid.