



GE Capital

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December 21, 2009

Via Email

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Attention: Docket No. R-1377

Re: Comments on the Proposed Gift Card Regulations

Dear Ms. Johnson:

This comment letter is submitted by GE Capital – Retail Consumer Finance (“RCF”) in response to the proposed regulations published by the Board of Governors of the Federal Reserve System (the “Board”) to amend Regulation E regarding fees, expiration dates and disclosures for certain prepaid gift products, including gift certificates, store gift cards and general-use prepaid cards (the “Proposed Rules”). We appreciate this opportunity to provide comments on the Proposed Rules.

Summary of RCF’s Comments

RCF’s primary comments, as discussed in more detail below, are that:

- (1) non-gift cards should be permitted to be displayed in the same racks as gift cards, with appropriate disclosures or other controls;
- (2) temporary, non-reloadable prepaid cards that provide access to funds until permanent general purpose reloadable cards are delivered should not be considered gift cards under the Rules;
- (3) the disclosures required to be printed on the gift cards themselves should be shortened, as they will otherwise not be readable and no specific font size should be imposed; and

(4) the requirements for loyalty, award and promotional card disclosures should be clarified.

RCF's Comments on the Proposed Rules

Comment 1: Non-gift cards should be permitted in the same display racks as gift cards, with appropriate disclosures or other controls.

The official staff commentary in the Proposed Rules indicates that non-gift prepaid card products, such as general-use reloadable prepaid cards, could be deemed "gift cards" and thus covered by the Rules if they are sold from a display that is labeled "Gift Cards." (Official Staff Interpretation on ¶ 20(b)(2).) The Board suggests that two separate displays should be used – one for "gift cards" and another for other "non-gift" products.

Requiring two separate display cases is unnecessary and will create significant difficulties for merchants that sell prepaid cards at retail. Rather than provide space for a second display, retailers may instead stop selling general purpose reloadable cards, thus restricting consumers' access to these products.

RCF's recommendation: We recommend that the Board permit a single retail display case to be used for both gift and non-gift cards, provided one or more of the following apply: (a) the non-gift cards are clearly labeled as "Not a Gift Card" (or similar words); (b) the sections for gift cards and non-gift cards are clearly labeled or are otherwise clearly separate and distinct from each other by use of colors, design and/or signage; or (c) the display has a generic label indicating it contains "prepaid cards."

Comment 2: Temporary, non-reloadable prepaid cards that provide access to general-use reloadable cards should not be considered gift cards.

The Board has requested comments on the treatment of non-gift general purpose reloadable cards that are initially sold as a non-reloadable card. Temporary cards that are purchased in conjunction with non-gift general purpose reloadable cards were not contemplated or addressed in Title IV of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act"). These temporary cards are a necessary and functional part of many general purpose reloadable card programs, and are not marketed or sold as anything other than general-use, non-gift reloadable prepaid cards. Temporary cards are provided to consumers at the point-of-sale as a convenience, to give the consumer access to their funds before they receive their personalized card in the mail. The packaging for these cards clearly indicates that the consumer is purchasing a reloadable non-gift card and includes all disclosures applicable to a reloadable non-gift card.

RCF does not market or intend its temporary, non-reloadable cards sold in connection with reloadable, personalized prepaid card programs to be purchased or used as gift cards. We intend to establish longer relationships with these cardholders that include multiple transactions and loads. The typical short-term gift card usage of such products would result in a loss to us.

Provided that the temporary cards are clearly designated as temporary cards, and are issued solely in connection with a reloadable, general-use prepaid card program, such cards should *not* be subject to the Rules.

RCF Recommendation: We recommend that the Board explicitly exclude from the coverage of the Proposed Rules temporary non-reloadable prepaid cards offered at retail solely in conjunction with non-gift, general purpose, reloadable prepaid card products, which provide access to the ultimate personalized, reloadable prepaid cards.

Comment 3: The disclosures required to be printed on the gift cards themselves should be shortened, as they will otherwise not be readable.

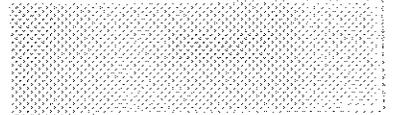
The Proposed Rules contain a number of significant requirements for disclosures that must be printed on the card itself, including the amount of any dormancy, inactivity or service fees; how often such fees may be charged; the date the plastic card expires, if any; the date the underlying funds expire, or, if they don't expire, that fact; if the expiration date on the plastic card and the underlying funds is different, a statement that the plastic card expires but the underlying funds do not, or that the funds expire at a later date, and that the consumer may contact the issuer for a free replacement card; toll-free phone numbers (and web sites, if one exists) from which the consumer can obtain information about all fees and from which the consumer can requires a replacement card. Many state consumer protection laws require additional disclosures on the card itself.

This is a lot of information to fit onto a small card. So many disclosures will render the card unreadable or at least confusing to consumers, in combination with other information occupying space on the card including the card number, card brand logo, the issuing bank's name, and the MAG stripe.

RCF Recommendation: We recommend that the Board limit the disclosures that must be printed on the card itself, and permit other terms to be disclosed on the card packaging or on stickers affixed to the card. We urge the Board to limit the disclosures required to be printed on the card itself to only the most critical terms and permit separate disclosures of all relevant terms on the packaging and/or with a sticker. We would also urge that no specific font size be imposed, because the existing standard of "clear and conspicuous" disclosures is sufficient.

Comment 4: Requirements for disclosures on loyalty, award and promotional cards should be clarified.

The Proposed Rules define loyalty, award and promotional cards broadly to encompass all such cards that are issued in connection with a loyalty, award or promotional program. However, this definition also requires appropriate disclosures are made, "as applicable." The Board has explained in the Preamble to the Proposed Rule that the Proposed Rule "does not impose substantive restrictions on dormancy, inactivity, or service fees, or on expiration dates, for cards



... issued pursuant to a loyalty, award, or promotional program.” The Proposed Rule’s requirement that the fees and expiration dates for these cards be disclosed may be misunderstood to mean that the specified restrictions on fees and expiration dates actually apply to these types of cards, rather than just a requirement that such fees and expiration dates, if any, must be disclosed.

RCF Recommendation: We recommend that Board clarify the disclosure requirements for loyalty, award and promotional cards. Perhaps a separate section in the Rule to specifically address the disclosure requirements applicable to these types of cards would be the most simple, straightforward approach. In addition, we recommend that the Board confirm that, with respect to these cards, expiration dates (on both the card plastic and the underlying funds) of any length of time that are clearly and conspicuously disclosed can be imposed, without the requirement to offer free replacement cards.

Conclusion

RCF appreciates the opportunity to comment on the Board’s Proposed Rules and we respectfully urge the Board to consider all of the comments and recommendations set forth herein. If you have any questions, or would like to discuss any of the matters outlined above in further detail, please do not hesitate to contact me at 203-585-6339

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie S. Schechter', with a long horizontal stroke extending to the right.

Julie S. Schechter
General Counsel
Retail Consumer Finance