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## Regulations E and Z – Prepaid Accounts

In November 2016, a new rule by the Consumer Financial Protection Bureau (CFPB) for prepaid accounts was published in the Federal Register. The CFPB issued the rule to create comprehensive consumer protections for prepaid accounts.

Updated Alert Date: March 22, 2019  
Status: Effective April 1, 2019

Links: [Final Rule - 11/22/16](#)  
[Final Rule - 04/25/17](#)  
[Prepaid Account Coverage Chart](#)  
[Final Rule - 02/13/18](#)  
[Technical Specifications for Submissions - 03/06/19](#)

The CFPB's new rule covering prepaid accounts is being implemented by amending Regulation E and Regulation Z. At a high level, this new rule modifies Regulation E provisions related to disclosures, error resolution and posting agreements for prepaid accounts. As some prepaid accounts include credit features, Regulation Z will generally cover those features, subject to certain exceptions.

Since the initial rule was issued, other new rules have been published that impact compliance. In April 2017, a new rule was published that delayed the initial effective date. In February 2018, the CFPB issued another new rule which extended the overall effective date to April 1, 2019, and included other various modifications and clarifications. In March 2019, the CFPB published their technical specifications for submitting currently-offered prepaid account agreements, including the URL for the website at which issuers (or their designees) can register and submit their agreements. As the specifications states, issuers must submit to the Bureau no later than May 1, 2019, all prepaid account agreements they offer as of April 1, 2019. The provisions also include making "rolling submissions" within 30 days after an issuer offers, amends, or ceases to offer any prepaid account agreement.

### What is a Prepaid Account?

When effective, the Regulation E definition of "account" will be modified to include a "prepaid account." While the definition in the regulation is lengthy and includes technicalities and exceptions, a prepaid account generally refers to:

- a payroll card account;
- a government benefit account;
- an account that is marketed or labeled as "prepaid" and that is redeemable upon presentation at multiple, unaffiliated merchants or usable at ATMs; or
- an account that is issued on a prepaid basis in a specified amount, or not issued on a prepaid basis but capable of being loaded with funds thereafter; whose primary function is to conduct transactions with multiple merchants or at an ATM or to conduct person-to-person transactions; and that is not a checking, share draft or NOW account.

Exceptions generally include accounts only loaded with funds from a health savings account or disaster relief payments, certain person-to-person accounts, gift certificates and cards, and certain accounts for needs-tested benefits.

### What are the Disclosure Requirements for Prepaid Accounts?

When effective, Regulation E will be modified to include a wide variety of disclosures. The disclosure rules include provisions for consumers, devices, access points, institution websites and the CFPB; and generally includes the following:

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| <b>Pre-Acquisition Disclosures</b>                             | These disclosures include three components: <ul style="list-style-type: none"> <li>• a short form disclosure that contains high level account information;</li> <li>• specific information that must be provided outside the short form, but in close proximity to it; and</li> <li>• a long form disclosure that contains more comprehensive account details.</li> </ul> |
| <b>Device or Entry Point Disclosures</b>                       | These provisions require certain disclosures on the device (such as a card) or at the entry point (such as a website or mobile application).  |
| <b>Initial Disclosures and Annual Error Resolution Notices</b> | The rule also includes provisions for initial Reg. E disclosures and an annual error resolution notice, as modified for prepaid accounts.   |

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| <b>Periodic Statements</b> | The rule generally requires periodic statements; however, the rule permits an alternative to periodic statements if certain information is made available to the consumer. |
| <b>Account Agreements</b>  | The rule generally requires an issuer to submit to the CFPB new and amended prepaid account agreements and to also post them on their website in a prominent location.     |

### ***How Are Liability Limits and Error Resolutions Modified?***

Currently, Regulation E contains provisions related to liability (1005.6) and procedures for resolving errors (1005.11). However, when effective, the new rule establishes modified limitations on liability and error resolution requirements for prepaid cards. These modifications are applicable to institutions that provide information under the “periodic statement alternative” provisions. As is referenced in the new final rule (1005.18(e)):

- **Liability Limitations** – As permitted, for Reg. E’s periodic statement / timely notice not given provisions (in 1005.6(b)(3)), the 60-day period for reporting an unauthorized transfer shall begin on the earlier of either the date the consumer electronically accesses the consumer’s account (provided that the account history reflects the unauthorized transfer); or the date the institution sends a written history of the transactions as requested by the consumer (which reflects the unauthorized transfer). This may be complied with by limiting the consumer’s liability as provided under 1005.6(b)(3) for any transfer reported within 120 days after the transfer.
- **Error Resolution Requirements** – As permitted, for Reg. E’s error resolution requirements (in 1005.11), an institution shall comply with the rule upon notice from the consumer that is received by the earlier of 60 days after the consumer electronically accesses their account history that reflects the alleged error; or 60 days after the date a written history is sent upon request of the consumer in which the alleged error is first reflected. Optionally, an institution can comply with error resolution requirements by investigating a notice of error that is received within 120 days after the alleged error impacted the consumer’s account. Other error resolution provisions are included in the rule for prepaid accounts in which the institution has not completed its identification and verification process.

### ***How Does This Rule Impact Regulation Z?***

When crafting the proposed rule, the CFPB considered whether and how to regulate credit features that are offered in connection with prepaid accounts. This might occur, for example, when the prepaid card being offered includes a feature that permits the consumer to access credit when there is a negative balance on the prepaid account. This rule adds the term “hybrid prepaid-credit card” to Regulation Z. When effective, this rule generally treats prepaid cards that access separate credit features as credit cards subject to the regulation.

### ***What is the Effective Date for These Changes?***

As amended in February 2018, this rule has an overall effective date of **April 1, 2019**. Institutions that are impacted by this rule should be aware that provisions permit some exceptions to the general effective date. The regulation (1005.18(h)) includes some **special transition rules** that allow some flexibility in meeting compliance requirements. For example, the rule contains certain exceptions for prepaid account packaging materials that was produced in the normal course of business prior to April 1, 2019.

## Recommendations for Next Steps

### **By April 1, 2019 (unless otherwise noted):**

1. Review Reg. E and Reg. Z policies and update as needed to coincide with the new prepaid account rule.
2. Implement procedural changes to address the new requirements. This will include:
  - a. The identification of covered products, as well as the identification of covered credit features.
  - b. The provision of various consumer disclosures, including those disclosures required on the device or access point, and on the institution's website.
  - c. Make a determination of whether periodic statements, or the alternative to periodic statements, will be used.
  - d. Where appropriate, amend procedures regarding liability limitations and error resolution.
3. Implement new disclosures.
4. Train applicable staff on the requirements of the new final rule and internal policies, procedures and disclosures.
5. As needed, work with impacted vendors or third party service providers to determine how they will support the new rule.
6. Submit account agreements to the CFPB as required. Pursuant to the technical specifications, the first submission must be completed no later than May 1, 2019. Thereafter, ongoing submissions must be made no later than 30 days after an issuer offers, amends, or ceases to offer any prepaid account agreement.