



American Payroll Association

Government Relations • Washington, DC

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Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Amendments to Rules Concerning Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z) [Docket No. CFPB-2017-0015]

The American Payroll Association (APA) appreciates the opportunity to comment on the proposed amendments to rules governing prepaid accounts under Regulations E and Z (Prepaid Rule) that were published by the Consumer Financial Protection Bureau (CFPB) in the Federal Register on June 29, 2017.¹ The APA is a nonprofit professional association representing more than 20,000 payroll professionals and their companies in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Relations Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government employers and individual workers.

The APA appreciates the CFPB's decision to amend certain provisions of the Prepaid Rule that impact the process by which employees may acquire payroll card accounts. Specifically, current section 1005.18(b)(6)(i)(B) requires that the long and short form disclosures be provided in electronic form when a consumer acquires a prepaid account through electronic means including via a website or mobile application.² Similarly, current section 1005.18(b)(6)(i)(C) requires that the short form disclosure be provided orally and that the long form be available both orally and over the web when a consumer acquires a prepaid account over the telephone.

Many of our members currently provide their employees with a hard copy of the initial disclosures required under Regulation E³, together with any disclosures required under state law⁴, at the time the payroll card option is offered to the employee and before the employee decides

¹ 82 F.R. 29630 (June 29, 2017).

² See, Comment 1005.18(b)(1)(i)-(2).

³ 12 C.F.R. § 1005.7(a).

⁴ The wage and hour laws in some states require that disclosures be provided in writing. See, e.g., Conn. Gen. Stat. §31-71k; Ga. Stat. § 34-7-2; Haw. Rev. Stat. § 388-5.7; 820 ILCS § 115/14.5 ; Mich. Compl. Laws Ann. § 408.476; Minn. Stat. § 177.255; N.H. Rev. Stat. § 275:43; N.J. Admin. Code 12:55-2.4; 21 Vt. Stat. § 342

whether to receive wages via a payroll card account. This process gives employees an opportunity to understand their payment options and is followed even when employees must later go online or call a customer service line to acquire the account. We anticipate that the same process will be followed with respect to the short and long forms when the Prepaid Rule takes effect.

The APA believes that providing the required disclosures electronically or orally when they have already been provided in paper form prior to acquisition would be inconvenient, redundant, and potentially costly. Indeed, we see little benefit in requiring employees to listen to an oral recitation of the disclosures or click through electronic disclosures that may not be bypassed when the information has already been provided in written form. Such redundancies will unnecessarily burden the enrollment process and may impact employee perception of the payroll card option.

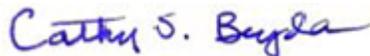
For these reasons, we support the proposed amendments to sections 1005.18(b)(6)(i)(B) and (C) which would make clear that the section 1005.18(b) disclosure requirements may be satisfied in writing prior to acquisition even when the consumer later acquires the prepaid account electronically or over the telephone. Proposed comment 18(b)(6)(i)-1 also would be added and would provide the following example:

...an employer distributes to new employees printed copies of the disclosures required by § 1005.18(b) for a payroll card account, together with instructions to complete the payroll card account acquisition process online if the employee wishes to be paid via payroll card account. The financial institution is not required to provide the § 1005.18(b) disclosures electronically via the Web site because the consumer has already received the disclosures pre-acquisition in written form.

Notwithstanding these amendments and the addition of comment 18(b)(6)(i)-1, the APA is concerned that existing comment 1005.18(b)(1)(iii)-2 would still suggest that disclosures must be provided orally when prepaid accounts are acquired by telephone. As such, we respectfully request that the comment be revised either to reference section 1005.18(b)(6)(i)(C) or to specifically state that the disclosures need not be provided orally if provided in written form prior to acquisition.

Conclusion

The APA appreciates the opportunity to submit the above comments and would welcome the opportunity to discuss these issues with you further. In this regard, please feel free to contact Bill Dunn (202-232-6889) or Cathy Beyda (408-973-8215).



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