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APA Comments on CFPB Amendments to Prepaid Accounts Rule

APA welcomes a change the Consumer Financial Protection Bureau (CFPB) has proposed, which would simplify the disclosure requirements for employees who receive their pay on payroll cards. APA responded to the CFPB's call for comments regarding its proposed amendments to rules governing prepaid accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z) (collectively, the Prepaid Accounts Rule or Prepaid Rule), published in the Federal Register on June 29 [82 F.R. 29630, 6-29-17; <https://www.gpo.gov/fdsys/pkg/FR-2017-06-29/pdf/2017-12845.pdf>; http://info.americanpayroll.org/pdfs/gov/APA_Comments-CFPB-Prepaid_Rule.pdf].

APA told the CFPB that it "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." The comments relate to two subsections of 12 C.F.R. 1005.18, specifically. Current §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, such as through a website or mobile application. Similarly, current §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 via the web when a consumer acquires a prepaid account over the telephone. The regulations that apply to prepaid cards generally also apply to payroll cards. Similarly, the provisions applicable to "consumers" pertain to employees.

"Many of our members currently provide their employees with a hard copy of the initial disclosures required under Regulation E," APA explained, "together with any disclosures required under state law, at the time the payroll card option is offered to the employee and before the employee decides whether to receive wages via a payroll card account." For instance, the wage and hour laws in Connecticut, Georgia, Hawaii, Michigan, Minnesota, New Hampshire, New Jersey, and Vermont require that the disclosures be provided in writing. "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," APA stated. "We anticipate that the same process will be followed with respect to the short and long forms when the Prepaid Rule takes effect."

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, APA said. "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, APA supports the proposed amendments to §§1005.18(b)(6)(i)(B) and (C), which would make clear that the disclosure requirements



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may be satisfied in writing prior to acquisition even when the consumer later acquires the prepaid account electronically or over the telephone.