

## **Overview of the Federal Reserve's Gift Card Rule**

### **General**

#### **Q: Why did the Federal Reserve issue a rule for prepaid cards?**

A: The Credit CARD Act that was signed into law on May 22, 2009, included provisions applicable to prepaid cards. Generally, those provisions imposed limits on fees and expiration dates on gift certificates, store gift cards and general-use prepaid cards, with certain exceptions. The Federal Reserve's rule implements these provisions.

#### **Q: When does the rule go into effect?**

A: The rule becomes effective on August 22, 2010, and applies to any prepaid card that is sold or provided to a consumer on or after that date. However, for loyalty, reward and promotional gift cards, the rule only applies to cards sold or provided on or after August 22, 2010, if the relevant loyalty, reward or promotional program commences on or after that date.

#### **Q: What prepaid card products does the Federal Reserve's rule cover?**

A: The rule applies to all prepaid cards, however, consistent with statutory exclusions specified in the Credit CARD Act, certain types of prepaid cards are excluded under the rule.

### **Exclusions/Excluded Cards**

#### **Q: What prepaid cards are excluded under the Federal Reserve's rule?**

A: The rule does not apply to business-purpose cards, such as prepaid per diem cards, travel and entertainment cards, or purchasing cards. Also, provided certain conditions are met, the rule does not apply to the following six types of prepaid cards:

- Phone cards, *i.e.*, cards used solely for telephone services, such as prepaid cards for long-distance telephone service;
- Reloadable cards that are not labeled or marketed as "gift" cards, including temporary non-reloadable cards that are issued solely in connection with a reloadable card;
- Loyalty, award, or promotional gift cards (*e.g.*, merchant consumer retention programs under which a merchant provides consumers with prepaid cards or coupons redeemable for or towards goods or services or other monetary value as a reward for purchases made or for visits to the participating merchant);

MASTERCARD DOES NOT PROVIDE LEGAL ADVICE. MASTERCARD CUSTOMERS SHOULD SEEK LEGAL COUNSEL WITH RESPECT TO THE INTERPRETATION OF THE FEDERAL RESERVE'S GIFT CARD RULE.

- Cards that are not marketed to the general public (*e.g.*, programs under which an insurance company settles a policyholder's claim and distributes the insurance proceeds to the consumer by means of a prepaid card);
- Products that are issued in paper form only; and
- Cards that are not redeemed for a specified monetary value, but rather are used for admission or entry to an event or venue.

**Q: What determines whether a prepaid card is excluded or covered under the rule?**

A: Generally, each of the prepaid cards that are excluded under the statute must meet the definitional and other requirements specified in the rule in order for the exclusion to apply. The rule includes a number of examples and explanations specifying how the exclusions apply in practice. For example, in order for the exclusion for a card that is reloadable and not marketed or labeled as a gift card to apply, entities subject to the rule (*e.g.*, issuers, program managers, and retailers) must maintain policies and procedures—discussed in the rule—reasonably designed to avoid such marketing.

**Q: Are there special rules for any of the excluded prepaid cards?**

A: Yes. The rule provides that loyalty, award, or promotional prepaid cards, as defined under the rule, must meet the following four disclosure requirements:

- A statement indicating that the card is issued for loyalty, award, or promotional purposes (*e.g.*, use of the word "Reward" or "Promotional") must appear on the front of the card;
- The expiration date for the underlying funds must appear on the front of the card;
- The amount of any fees that may be imposed in connection with the card, and the conditions under which they may be imposed, must be provided *on or with* the card; and
- A toll-free telephone number and, if one is maintained, an Internet site, that a consumer may use to obtain fee information, must be included on the card.

**Cards Covered by the Rule**

**Q: For products that are not excluded, what are the limits and restrictions that apply?**

A: Generally, the rule restricts fees on prepaid cards, imposes limits on the expiration of funds underlying for such cards, and mandates that consumers receive certain pre-sale and on-card disclosures.

**Q: What fees are prohibited under the rule?**

A: An issuer may only charge a fee if there has been no activity with respect to the card in the one-year period ending on the date on which the fee is imposed, and certain detailed fee information has been disclosed clearly and conspicuously on the card. An issuer may only charge one such fee per month. Thus, multiple fees may not be combined. Effectively, this prohibits issuers from charging transaction-based fees. Also, an issuer may charge a one-time fee or a fee that is unlikely to be imposed more than once while the underlying funds are still valid, such as an initial issuance fee, a cash-out fee, a supplemental card fee, or a lost or stolen card replacement fee.

**Q: What are the expiration date restrictions under the rule?**

A: Generally, the rule provides that no person may sell or issue a prepaid card, unless the following four criteria are met:

- The person has established policies and procedures to provide consumers with a reasonable opportunity to purchase the card with at least five years remaining until the card expiration date;
- The expiration date for the underlying funds is at least the later of five years after the date on which funds were last loaded to the card, or the card's expiration date (if any);
- Applicable disclosures are provided on the card itself; and
- No fees are imposed for a replacement card or receiving the remaining balance in some other manner (*e.g.*, by check) prior to the funds expiration date, unless such card has been lost or stolen.

**Q: What are the pre-sale disclosure requirements under the rule?**

A: Before a consumer purchases a prepaid card (whether in person, via the Internet, by telephone, or by other means), the person that issues or sells the card must disclose various information that is otherwise required to be disclosed in connection with the fee restrictions and expiration date restrictions as well as other information regarding any card fees. Also, the rule provides that the fees and terms and conditions of expiration that are required to be disclosed prior to purchase may not be changed after purchase.

**Q: What is meant by the requirement under the rule that a disclosure be “clear and conspicuous” to consumers?**

A: Disclosures generally will meet the clear and conspicuous standard if they are readily understandable and, in the case of written and electronic disclosures, the location and type size are readily noticeable to consumers. For example, disclosures on the back of a card that are printed on top of indentations from embossed type appearing on the front of the card are not likely to be conspicuous if the indentations obstruct the readability of the disclosures.

MASTERCARD DOES NOT PROVIDE LEGAL ADVICE. MASTERCARD CUSTOMERS SHOULD SEEK LEGAL COUNSEL WITH RESPECT TO THE INTERPRETATION OF THE FEDERAL RESERVE'S GIFT CARD RULE.

**Q: Are there any requirements for expired cards?**

A: When a card expires, but the underlying funds have not expired, an issuer generally may provide either a replacement card or pay the remaining balance on the card (e.g., by check), however, the issuer may not charge a fee for the service.

**High-Level Summary Chart**

CARD TYPE	DISCLOSURE REQUIREMENTS?	FEE LIMITS?	FUNDS EXPIRATION LIMITS?	OTHER REQUIREMENTS?
COVERED CARDS				
Non-Reloadable and Does Not Fit Under an Exemption	Yes, pre-sale, on-card, by phone and on website.	Yes.	Yes.	No.
Reloadable and Does Not Fit Under an Exemption	Yes, pre-sale, on-card, by phone and on website.	Yes.	Yes.	No.
EXEMPT CARDS				
Reloadable and Not Marketed or Labeled as a Gift Card	No.	No.	No.	Yes. To qualify under this exemption, issuers and sellers of cards must have policies and procedures designed to prevent cards from being marketed as gifts.
Non-Reloadable and Reloadable Phone Cards	No.	No.	No.	No.
Non-Reloadable and Reloadable Loyalty, Award, or Promotional Cards	Yes. To qualify under this exemption, card must satisfy enumerated disclosure requirements.	No.	No.	No.
Non-Reloadable and Reloadable Cards Not Marketed to the General Public	No.	No.	No.	No.
Non-Reloadable and Reloadable Cards Used for Admission	No.	No.	No.	No.

MASTERCARD DOES NOT PROVIDE LEGAL ADVICE. MASTERCARD CUSTOMERS SHOULD SEEK LEGAL COUNSEL WITH RESPECT TO THE INTERPRETATION OF THE FEDERAL RESERVE'S GIFT CARD RULE.

CARD TYPE	DISCLOSURE REQUIREMENTS?	FEE LIMITS?	FUNDS EXPIRATION LIMITS?	OTHER REQUIREMENTS?
or Entry to an Event or Venue				
Non-Reloadable and Reloadable Products that Are Only Issued in Paper Form	No.	No.	No.	No.