



PREPAID CARDS: How They Rate 2016

JUNE 2016 UPDATE

Prepaid Cards: How They Rate 2016

Summary

General purpose reloadable (GPR) prepaid cards (hereafter prepaid cards) look and work much like debit cards linked to traditional bank accounts. Prepaid cards can be used to make purchases, withdraw cash, and receive direct deposits. Consumer Reports latest review and ratings of prepaid cards found that consumers have many good choices for low-fee, high-feature prepaid cards:

- For the first time, all the prepaid cards in our survey voluntarily offer cardholders the protection of Federal Deposit Insurance Corporation insurance for their funds;
- Fees are more transparent: most fee charts are easy to find and understand.

However, there remain outstanding issues identified in our earlier surveys and still present today:

- Providers use a wide variety of terms to describe basic fees and features, and until a common vocabulary is adopted, consumers may still face difficulty when comparison shopping for prepaid cards;
- Prepaid cards do not yet come with the same mandatory federal consumer protections that consumers with bank debit cards currently enjoy.

While all the prepaid cards in our survey voluntarily provide protections for users against issuer insolvency and unauthorized use, these voluntary protections are no substitute for mandatory federal protections.¹ We urge the Consumer Financial Protection Bureau to extend the consumer protections outlined in the attached policy recommendations to prepaid cards. Consumers should consider the lack of mandatory legal protections when deciding whether to use a prepaid card.

¹ The Consumer Financial Protection Bureau (CFPB) has proposed rules that extend many of the same protections of bank debit cards to prepaid cards. Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth In Lending Act (Regulation Z), 79 Fed. Reg. 246, 77,101 (proposed Dec. 23, 2014) [hereinafter *Proposed Rule*], available at <https://www.gpo.gov/fdsys/pkg/FR-2014-12-23/pdf/2014-27286.pdf>.

I. Introduction

There are many types of prepaid products, including transit, gift, and payroll cards. This report focuses on a particular kind of prepaid card: a general purpose reloadable (GPR) prepaid card. Unlike transit cards, GPR prepaid cards can be used at multiple, unaffiliated merchants. Unlike most gift cards, GPR cards can be reloaded. And unlike payroll cards, GPR prepaid cards currently lack important legal protections.

The GPR prepaid cards in our survey, hereafter called prepaid cards, look and work much like debit cards linked to traditional bank accounts. All of the prepaid cards in our survey are branded with the big payment network names (Visa, MasterCard or American Express); can be used to withdraw cash at an ATM; can receive direct deposits and other reloads; and can be used to make purchases. The primary differences between bank account linked debit cards and prepaid cards are that prepaid funds are not held in an individual bank account and are not currently covered by the regulations that protect bank debit card users.²

Consumers Union, the advocacy division of Consumer Reports, has long advocated that prepaid cards should have the same protections as bank debit cards.³ The Consumer Financial Protection Bureau (CFPB) issued proposed rules to protect prepaid card users in late 2014.⁴ The proposed rules incorporate many of the reforms Consumers Union has worked to advance since the early 2000s.⁵ As of this writing, the proposed rules are not final, and consumers using prepaid cards are not guaranteed the same protections under law that debit card users enjoy. Until there are strong federal rules protecting prepaid card users, we urge consumers to consider the lack of mandatory legal protections when deciding whether to use a prepaid card.

² Bank debit card transactions are covered by the Electronic Funds Transfer Act (EFTA), 15 U.S.C. §§ 1693-1693r (2012 & Supp. IV). The primary purpose of the EFTA is “the provision of individual consumer rights.” 15 U.S.C. § 1693.

³ See, e.g., MICHELLE JUN, CONSUMERS UNION PREPAID CARDS: SECOND-TIER BANK ACCOUNT SUBSTITUTES, (2010), <http://consumersunion.org/pdf/2010PrepaidWP.pdf>.

⁴ *Proposed Rule*, *supra* note 1, at 77,071. Consumers Union strongly supports the proposed rules, and in its comments proposes additional protections. Consumers Union, Comments to the Consumer Financial Protection Bureau Proposed Rule Regarding Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth In Lending Act (Regulation Z) (March 19, 2015), available at <http://consumersunion.org/wp-content/uploads/2015/03/signed-final-CU-CFPB-proposed-prepaid-rules-comment.pdf>.

⁵ Letter from Consumers Union et al. to Jennifer Johnson, Secretary, Bd. of Governors, Fed. Reserve Sys. (Oct. 28, 2004), available at <http://consumersunion.org/wp-content/uploads/2013/04/payroll1004.pdf>. The Federal Reserve Board previously held jurisdiction over the Electronic Fund Transfer Act and its regulations.

II. Ratings

In 2013, in an effort to assist consumers in choosing among the numerous prepaid cards on the market, Consumer Reports started rating prepaid cards.⁶

As with the earlier Consumer Reports ratings, this year's prepaid card ratings evaluate prepaid cards in four categories: **Value, Convenience, Safety and Fee Accessibility and Clarity**. These categories reflect what consumers have said they look for when it comes to payments and important consumer protections.⁷

The 20 prepaid cards reviewed here are evaluated for two different types of users:

- **Prepaid Cards Used as a Bank Account Substitute; and**
- **Prepaid Cards Used in Addition to a Bank Account.**

The reason for the two ratings is that while prepaid cards are largely used for the same purposes - limiting spending, avoiding bank and check cashing fees, and making electronic payments⁸ - consumers appear to use prepaid cards differently depending on whether they have a bank account.⁹

Both ratings rank prepaid cards based on their overall scores, which reflect our evaluation of key criteria in the four categories. Numerical scores shown are rounded up; rankings show the highest unrounded score first. Information that is the basis for the ratings was collected online during February 2016.

⁶ CONSUMER REPORTS, PREPAID CARDS: HOW THEY RATE ON VALUE, CONVENIENCE, SAFETY AND FEE ACCESSIBILITY AND CLARITY (2013), http://consumersunion.org/wp-content/uploads/2013/07/Prepaid_Report_July_2013.pdf.

⁷ Interviews and consumer surveys indicate that consumers consider cost, safety and convenience when it comes to choosing payment methods. *See, e.g.*, BOSTON FED. RESERVE BANK, SURVEY OF CONSUMER PAYMENT CHOICE, 2010 HIGHLIGHTS (2014), <http://www.bostonfed.org/economic/cprc/SCPC/2010-Data/scpc2010visual-summary.pdf> (showing that consumers care most about security, convenience, cost and ubiquity of acceptance when it comes to rating payment attributes); HARRIS INTERACTIVE, INC., PUBLIC RELATIONS RESEARCH, THE 2012 CONSUMER FINANCIAL LITERACY SURVEY 4, 16 (2012), https://www.nfcc.org/NewsRoom/FinancialLiteracy/files2012/FLS2012FINALREPORT0402_late.pdf; MICHAEL S. BARR, NO SLACK: THE FINANCIAL LIVES OF LOW-INCOME AMERICANS 34 (2012).

⁸ THE PEW CHARITABLE TRUSTS, WHY PEOPLE USE PREPAID CARDS: A SURVEY OF CARDHOLDERS' MOTIVATIONS AND VIEWS 14 (2014), http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2014/PrepaidCardsSurveyReportpdf.pdf

⁹ For information about prepaid card usage, *see* STEPHANIE M. WILSHUSEN, ET AL., FED. RESERVE BANK OF PHILA., CONSUMERS' USE OF PREPAID CARDS: A TRANSACTION-BASED ANALYSIS (2012), <http://www.philadelphiafed.org/consumer-credit-and-payments/payment-cards-center/publications/discussion-papers/2012/D-2012-August-Prepaid.pdf>; Press Release, The Pew Charitable Trusts, Consumers Without Banks Use Prepaid Cards Like Checking Accounts (June 30, 2015), <http://www.pewtrusts.org/en/about/news-room/press-releases/2015/06/30/pew-consumers-without-banks-use-prepaid-cards-like-checking-accounts> (for information about how prepaid card users without bank accounts use prepaid cards).

Since then, Green Dot informed us of the following: “Since publishing the annual Prepaid Cards List, Green Dot is no longer issuing the Halogen card to new cardholders. Legacy Halogen cardholders continue to be served through Green Dot Bank.” Please note that this year’s ratings are not directly comparable to our previous years’ ratings because of refinements made to the weighting of the factors.

Value is calculated by applying the card’s fee structure based on two typical spending patterns: (1) an adjunct (low usage) to a checking or other bank account and (2) a substitute (high usage) for a bank account. **Safety** is based on whether funds are covered by FDIC insurance. **Fee Accessibility & Clarity** measures the ease of finding and understanding information and disclosures about the fees. **Convenience** evaluates the essential features of the prepaid card, including how widely the payment network brand on the card is accepted.

In October 2015, Consumer Reports suspended its recommendation of the Prepaid Visa RushCards because of the widespread problems customers were having using their cards (RushCard was in the process of transitioning to a new card-processing vendor).¹⁰ The Consumer Financial Protection Bureau, whose role it is to ensure that financial service providers operate fairly, launched an investigation shortly afterwards which is ongoing. We’re monitoring consumer complaints registered with the CFPB. The complaints have declined after an initial spike—a step in the right direction. Our suspension remains in place until we are convinced that this issue has been fully resolved.

Editor's Note: An earlier version inadvertently had incorrect headlines on the tables. The headlines have been corrected. A previous version also included the Halogen Reloadable Prepaid MasterCard, issued by Green Dot Bank. That card is no longer available to new customers.

¹⁰ Tobie Stanger, *Consumer Reports Suspends RushCard Recommendation*, CONSUMER REPORTS, Oct. 21, 2015, <http://www.consumerreports.org/prepaid-cards/consumer-reports-suspends-rushcard-recommendation/>.

ConsumerReports Ratings: Prepaid Cards Used as a Bank Account Substitute

Recommended

● Excellent ● Very Good ○ Good ◐ Fair ● Poor

Recommended	Prepaid Cards	Score				
			Value	Safety	Fee Accessibility & Clarity	Convenience
<input checked="" type="checkbox"/>	Chase Liquid (Visa)	79	○	●	●	●
<input checked="" type="checkbox"/>	Green Dot Prepaid Visa (issued by Green Dot Bank)	74	○	●	●	●
<input checked="" type="checkbox"/>	Halogen Reloadable Prepaid Card (MasterCard, Kmart, issued by Green Dot Bank) ¹⁾	73	○	●	◐	●
<input checked="" type="checkbox"/>	Bluebird (American Express and Walmart)	73	◐	●	●	◐
<input checked="" type="checkbox"/>	American Express Serve	68	◐	●	●	◐
	Prepaid Visa RushCard, RushUnlimited Plan (issued by MetaBank)	68	◐	●	●	●
<input checked="" type="checkbox"/>	Fifth Third Bank Access 360^o (MasterCard)	65	◐	●	●	◐
<input checked="" type="checkbox"/>	BB&T MoneyAccount Card (Visa)	64	○	●	●	◐
<input checked="" type="checkbox"/>	U.S. Bank Contour Card (Visa)	64	○	●	●	◐
	Prepaid Visa RushCard, Pay As You Go Plan (issued by MetaBank)	62	◐	●	●	●
<input checked="" type="checkbox"/>	Regions Now Card (Visa)	62	○	●	●	◐
	H&R Block Emerald Prepaid MasterCard (issued by Boff Federal Bank)	58	○	●	●	◐
	Walmart MoneyCard MasterCard (issued by Green Dot Bank)	55	○	●	◐	◐
	PNC SmartAccess Prepaid Visa Card	53	○	●	◐	◐
	UPside Visa Prepaid Card, Classic Plan (issued by MetaBank)	51	◐	●	●	◐
	PayPower Prepaid Visa Prepaid Card (MetaBank)	50	◐	●	●	◐
	Univision MasterCard Prepaid Card (issued by MetaBank)	46	●	●	●	◐
	NetSpend Prepaid Visa, Premier FeeAdvantage Plan (issued by MetaBank)	43	●	●	◐	◐
	AccountNow Gold Visa Prepaid Card (issued by MetaBank)	41	●	●	◐	◐
	NetSpend Prepaid Visa, Pay-As-You-Go Plan (issued by MetaBank)	34	●	●	◐	◐

¹⁾ The Halogen card is no longer available to new customers.

Analysis: Prepaid Cards Used as a Bank Account Substitute

The top-rated prepaid cards in our survey have many of the same features as big bank checking accounts. Consumers looking to use a prepaid card instead of a bank account have several good options for low-fee, high-feature prepaid cards in the top rated prepaid cards in this survey.

The top three prepaid cards provide good **Value**, and excellent **Convenience**. Chase Liquid has a simple monthly fee and few other fees.¹¹ Chase Liquid is transparent; consumers will find fee information easy to locate and simple to understand. Chase Liquid is Visa-branded, and therefore widely accepted. The next top-rated prepaid cards are both issued by Green Dot bank: Green Dot Prepaid Visa and Kmart's Halogen Reloadable Prepaid MasterCard. Both are low-fee, high-feature prepaid cards, with fee disclosures that are relatively easy to locate and understand.

The fourth and fifth rated prepaid cards are from American Express. Bluebird and Serve both scored very good on **Value**, the highest rated prepaid cards in this category. Both scored excellent for disclosure of fees. These prepaid cards are recommended for consumers who want a low-fee, high-function prepaid card, and are willing to use a prepaid card with a brand, American Express, that is not as widely accepted as Visa and MasterCard.¹²

Prepaid cards in this category that fell below the top five mostly have lower Value ratings than the top prepaid cards. These prepaid cards were also often missing an essential feature such as free access to ATMs. For example, the Walmart MoneyCard MasterCard carries a \$2.50 fee per ATM withdrawal.¹³

The lowest rated prepaid cards tend to lack essential features, and are more expensive to use than higher rated prepaid cards. For example, all of the five lowest rated prepaid cards scored only fair for **Convenience**, and four of the five scored poor for **Value**.

¹¹ Chase, A Guide to the Chase Liquid Card, https://www.chase.com/content/dam/chasecom/en/debit-reloadable-cards/documents/chase_liquid_v6.pdf (last visited Mar. 25, 2016).

¹² Odysseas Papadimitriou, *List of Credit Card Companies & Networks: Differences, Contact Info & More*, CARDHUB, Apr. 2, 2009, <http://www.cardhub.com/edu/credit-card-companies/>.

¹³ Walmart, Fee Plan, <https://www.walmartmoneycard.com/account/legal-info-page?productname=mc-cbr&doc=feeplan> (last visited Mar. 25, 2016).

ConsumerReports Ratings: Prepaid Cards Used in Addition to a Bank Account

Recommended

● Excellent ● Very Good ○ Good ◐ Fair ● Poor

Recommended	Prepaid Cards	Score				
			Value	Safety	Fee Accessibility & Clarity	Convenience
<input checked="" type="checkbox"/>	Bluebird (American Express and Walmart)	79	●	●	●	◐
<input checked="" type="checkbox"/>	Chase Liquid (Visa)	77	○	●	●	●
<input checked="" type="checkbox"/>	Green Dot Prepaid Visa (issued by Green Dot Bank)	75	○	●	●	●
<input checked="" type="checkbox"/>	Halogen Reloadable Prepaid Card (MasterCard, Kmart, issued by Green Dot Bank) ¹⁾	75	○	●	◐	●
<input checked="" type="checkbox"/>	American Express Serve	74	◐	●	●	◐
<input checked="" type="checkbox"/>	H&R Block Emerald Prepaid MasterCard (issued by BofI Federal Bank)	73	●	●	●	◐
<input checked="" type="checkbox"/>	Fifth Third Bank Access 360° (MasterCard)	67	◐	●	●	◐
	Prepaid Visa RushCard, RushUnlimited Plan (issued by MetaBank)	67	◐	●	●	●
<input checked="" type="checkbox"/>	BB&T MoneyAccount Card (Visa)	65	◐	●	●	◐
<input checked="" type="checkbox"/>	Regions Now Card (Visa)	64	◐	●	●	◐
<input checked="" type="checkbox"/>	U.S. Bank Contour Card (Visa)	64	○	●	●	◐
<input checked="" type="checkbox"/>	Walmart MoneyCard MasterCard (issued by Green Dot Bank)	61	○	●	◐	◐
	Prepaid Visa RushCard, Pay As You Go Plan (issued by MetaBank)	60	●	●	●	●
	UPside Visa Prepaid Card, Classic Plan (issued by MetaBank)	56	○	●	●	◐
	PNC SmartAccess Prepaid Visa Card	53	○	●	◐	◐
	PayPower Prepaid Visa Prepaid Card (MetaBank)	52	◐	●	●	◐
	NetSpend Prepaid Visa, Premier FeeAdvantage Plan (issued by MetaBank)	45	◐	●	◐	◐
	Univision MasterCard Prepaid Card (issued by MetaBank)	45	●	●	●	◐
	AccountNow Gold Visa Prepaid Card (issued by MetaBank)	43	◐	●	◐	◐
	NetSpend Prepaid Visa, Pay-As-You-Go Plan (issued by MetaBank)	37	●	●	◐	◐

¹⁾ The Halogen card is no longer available to new customers.

Analysis: Prepaid Cards Used in Addition to a Bank Account

The highest rated prepaid card for people looking for a prepaid card to use with a bank account is Bluebird by American Express and Walmart. Bluebird comes with no monthly fee, free access to in-network ATMs, and paper checks for payments.¹⁴ Bluebird's one drawback is that it is American Express branded, and therefore consumers may find that the card is not as widely accepted as prepaid cards branded with Visa or MasterCard. The second highest rated prepaid card, Chase Liquid, has low fees and useful features such as free bill pay, access to in-network ATMs, and free cash loads at branches and some Chase ATMs.¹⁵ Rounding out the top three, Green Dot Prepaid Visa has similar features to Chase Liquid at a similar price point. All of the top three - Bluebird, Chase Liquid and Green Dot Prepaid Visa - provide clear, easy to understand disclosures.

The prepaid cards that scored in the middle of our ratings had either lower **Value** or **Convenience** marks than the top rated prepaid cards. Consumers looking for prepaid cards to use with a bank account may nevertheless find the prepaid cards in the middle of the ratings of value, as most have free basic features, such as ATM access and low- or no-fee ways to load cash.

The lower rated prepaid cards mostly scored fair or poor for **Value**, and all scored fair for **Convenience**. For example, both the NetSpend prepaid cards in our survey do not offer free ATM access¹⁶, making them more expensive to use than others in our survey; the Univision prepaid card does not have bill pay¹⁷, making it less convenient to use than other prepaid cards in our survey that do offer this feature.

¹⁴ Bluebird, <https://www.bluebird.com/?intlink=us-bluebird-marketing-error-404-jun2015prospects-404-returnhome> (last visited Mar. 25, 2016).

¹⁵ Chase, A Guide to the Chase Liquid Card, https://www.chase.com/content/dam/chasecom/en/debit-reloadable-cards/documents/chase_liquid_v6.pdf (last visited Mar. 25, 2016).

¹⁶ NetSpend, What It Costs, https://www.netspend.com/how_it_works/what_it_costs.shtml.

¹⁷ While the Univision MasterCard Prepaid Card can be used to pay bills if the consumer contacts the provider and shares his or her card number, cardholders cannot set up ACH payments. See Univision MasterCard Prepaid Card, <http://www.univisiontarjeta.com/en/pay-bills-prepaid-card/> (last visited Mar. 25, 2016).

Findings

The prepaid cards we reviewed for this survey are improved over prior years in two key areas: **Safety** and **Fee Accessibility and Clarity**. **Safety** is the evaluation of whether funds are protected by deposit insurance. Deposit insurance ensures that consumers will get their money back if the issuer becomes insolvent. For the first time in our survey history, all the prepaid cards we rated offer deposit insurance. Prepaid providers are not required to offer this protection, and it is not required under the Consumer Financial Protection Bureau's (CFPB) proposed prepaid card rules¹⁸, but it is a protection consumers should enjoy under law.

Protections against fraud and loss are separate from deposit insurance. Consumer protections against errors and fraud are provided to bank debit card users by the Electronic Funds Transfer Act (EFTA),¹⁹ as implemented by Regulation E.²⁰ The CFPB's proposed prepaid rules extend Regulation E protections to prepaid card users.²¹ Until those rules are finalized and adopted, consumers using prepaid cards risk losing money to transaction errors and fraud. While all the prepaid cards in our survey voluntarily comply with payment card network rules that promise "zero liability" for consumers for errors, these contractual protections can be withdrawn at any time and are no substitute for protection under law.²²

The prepaid cards in our survey show improved transparency compared to previous years. All scored at least a very good in **Fee Accessibility and Clarity**. That means that fees were fairly easy to find on the prepaid cards' websites, and once located, relatively easy to understand. The proposed prepaid rules would require prepaid providers to make both short and long form fee disclosures available to consumers before they sign up for a prepaid card, and provides samples of these disclosures.²³ It appears that some of the providers in our survey may have improved their disclosures in anticipation of the proposed rules becoming final.

While transparency is improved, there is still a need for a common vocabulary to describe fees and features. As we have found in the past, our survey uncovered a range of terms that prepaid providers use to describe similar fees. The cost to purchase a prepaid card is an example. The Walmart

¹⁸ The proposed rules do not require FDIC insurance, but do require providers that do not offer it to disclose that funds are not insured. *Proposed Rule, supra* note 1, at 77,167.

¹⁹ 15 U.S.C. §§ 1693-1693r (2012 & Supp. IV).

²⁰ Regulation E, 12 C.F.R. §§ 1005.1-1005.36 (2016).

²¹ *Proposed Rule, supra* note 1, at 77,177.

²² Under the current regime, it falls to consumers to follow the rules of the prepaid card provider to ensure that they are covered. The requirement is almost always that the prepaid card be registered. This is usually a relatively easy process in which consumers provide some personally identifiable information (such as name, address, and Social Security number) to the provider. We strongly urge all prepaid card users to register their prepaid cards.

²³ The proposed rules require providers to make available short and long fee disclosures prior to account acquisition, and include model forms. *Proposed Rule, supra* note 1, at 77,147.

Money Card disclosures describe this fee as a “purchase fee.”²⁴ The RushCard fee chart lists a “One-Time Card Fee” (which is charged) and “One-Time Card Activation Fee” which is never charged.²⁵ The US Bank Contour Card charges a \$4 “enrollment fee” upon “opening of your Primary Account, adding a primary Account-Joint Account and for each new Sub Account.”²⁶ Until a common language is adopted to describe basic prepaid card functions, it is likely that consumers unfamiliar with prepaid products will struggle to comparison shop for prepaid cards.

Conclusion

The best prepaid cards are convenient, affordable tools for financial management, whether those cards are used in conjunction with a traditional bank account or instead of one. However, consumers may find it difficult to pick the best prepaid cards because comparison shopping is hobbled by the lack of uniform fee terms. While prepaid card issuers are voluntarily providing consumer protections against issuer insolvency and account errors, these voluntary protections are no substitute for federal regulation of prepaid cards.

²⁴ Walmart, Fee Plan, <https://www.walmartmoneycard.com/account/legal-info-page?productname=mc-cbr&doc=feeplan> (last visited Mar. 25, 2016).

²⁵ RushCard, Fee Chart, <https://www.rushcard.com/fee-chart> (last visited Mar. 25, 2016).

²⁶ US Bank Contour, Cardholder Fees, <https://www.usbankcontour.com/fees> (last visited Mar. 25, 2016).

APPENDIX I

Policy Recommendations

Consumers Union, the policy and advocacy division of Consumer Reports, has called on regulators and lawmakers to ensure that prepaid card users have the same protections that debit and credit card users now enjoy.²⁷ To that end, the following reforms should be enacted:

- The Consumer Financial Protection Bureau (CFPB) should require that all prepaid card fees be displayed in a simple comprehensive chart with clear definitions of each fee and that explanations for fees should be uniform and straightforward, and this information provided to consumers before signing-up;
- The CFPB should clarify existing regulations to ensure that prepaid card users have full protection under the Electronic Fund Transfer Act, including limited liability for unauthorized transactions and the right of recredit for funds that go missing.²⁸ The CFPB should clarify²⁹ that protected “accounts” include all prepaid card products marketed or used as account substitutes, or which provide a repository for significant sources of income or assets for an individual or household. Clarifying that the definition of “account” in Regulation E includes prepaid cards would protect important household funds in the event of unauthorized use for the growing number of consumers using prepaid cards, and provide error resolution rights. This could be achieved by adding:

C.F.R. § 1005.2 Definitions

...

(b)(1) Account means:

...

(b)(3) The term includes a “spending account,” which is an account that is directly or indirectly established by the consumer and to which prepayments are to be made on behalf of the consumer by the consumer or by others, or to which recurring electronic fund transfers may be made at the discretion of the consumer. This definition includes an account operated or managed by a retailer, third-party processor, a depository institution or any other person, an account held in the name of the consumer or the name of another

²⁷ Consumers Union has advocated for these protections for years. *See, e.g.*, Letter from Consumers Union et al. to Jennifer Johnson, Secretary, Bd. of Governors, Fed. Reserve Sys. (Oct. 28, 2004), available at <http://consumersunion.org/wp-content/uploads/2013/04/payroll1004.pdf>. The Federal Reserve Board previously held jurisdiction over the Electronic Fund Transfer Act and its regulations.

²⁸ *Id.*

²⁹ Current regulations appear to exempt funds held and managed in pooled accounts, a common retail prepaid card arrangement. *See* Regulation E, Official Staff Interpretations, 12 C.F.R. § 1005, Supplement I (2014).

entity, and an account where the funds are pooled with the funds of others;

- The CFPB should require that prepaid-card-issuing banks set up these programs to qualify for FDIC insurance for each cardholder. This could be done by setting up individual card accounts or by complying with the FDIC General Council Opinion No. 8’s “pass-through” requirements to provide deposit insurance to individual cardholders.³⁰ In addition, the Bureau should work with the FDIC to stop prepaid card product advertisements, including websites, from displaying the FDIC logo or phrase “FDIC insured” unless the prepaid card funds are in fact insured to the individual cardholder directly or on a pass-through basis;³¹
- The CFPB should ban overdraft, linked credit and abusive fees. Overdrafts are likely to occur more often with signature-based transactions than PIN-based transactions. Prepaid cardholders owe repayment to make the account whole if they spend more money than they have placed in the card account. However, overdraft fees in prepaid cards, which can be called overdraft, shortage, negative balance, or some other name, should be prohibited. Prepaid should mean prepaid and no credit should be offered linked to a prepaid card. Prepaid card issuers should not profit from or grow their profits from assessing abusive fees, such as inactivity fees or dormancy fees. If an account is dormant for over 90 days, the account should be closed with the remaining balance returned to the consumer without a fee;
- To encourage uniformity among different payment cards and methods, all cards, devices, and other plastic payments should have loss caps of no more than \$50, Congress should amend the EFTA to reduce the EFTA’s dollar cap applicable to debit cards to the level of the credit card cap — no more than \$50. This could be accomplished by deleting 15 U.S.C. § 1693g(a)(2) and the “or” at the end of § 1693g(a)(1);³²
- Congress should amend the EFTA to include a “chargeback” provision for both bank account debit cards and prepaid cards to provide to those payment methods the protections that consumers already have when paying with credit cards. The chargeback is an important consumer protection that allows the cardholder to resolve a dispute with a merchant when goods or services are not accepted by the cardholder or not delivered as agreed.³³ Consumers should have

³⁰ Fed. Deposit Ins. Corp. Gen. Couns. Op. No. 8 (Nov. 13, 2008), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2008-11-13/pdf/E8-26867.pdf>.

³¹ 12 C.F.R. §§ 328.2, 328.3 (2016).

³² See Gail Hillebrand, *Before the Grand Re-thinking: Five Things to Do Today With Payments Law and Ten Principles to Guide New Payments Products and New Payments Law*, 83 CHI.-KENT L. REV. 769, 789 (2008).

³³ 12 C.F.R. § 1026.12(b) (2016).

the same chargeback rights when using debit cards or prepaid cards as when using credit cards. This can be done by adding the following to Section 908 of the Electronic Funds Transfer Act (15 U.S.C. § 1693f) by adding at the end of the following:

(g) Rights of Consumers With Respect to Accepted Cards and Other Means of Access

(1) In General—Subject to the limitation contained in paragraph (2), the issuer of an accepted card or other means of access to a consumer shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the accepted card or other means of access is used as a method of payment, if

(A) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card or other means of access;

(B) the amount of the initial transaction exceeds \$50; and

(C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer of the card or other means of access shall not be applicable to any transaction in which the person honoring the accepted card or other means of access

(i) is the same person as the issuer;

(ii) is controlled by the issuer;

(iii) is under direct or indirect common control with the issuer;

(iv) is a franchised dealer in the products or services of the issuer; or

(v) has obtained the order for such transaction through a mail solicitation made by or participated in the issuer in which the cardholder or other means of access holder is solicited to enter into such transaction by using the accepted card issued by the issuer.

(2) Limitation—The amount of claims or defenses asserted by the holder of the card or other means of access under this subsection may not exceed the amount paid by the holder of the card or other means of access with respect to the subject transaction at the time in which the holder first notifies the issuer or the person honoring the accepted card or other means of access of such claim or defense.”³⁴

³⁴ Hillebrand, *supra* note 32, at 797-98.

APPENDIX II

Consumer Tips for Using Prepaid Cards

When choosing a prepaid card, shop around.

Before you buy a prepaid card, think about how you will use it. Once you have an idea of your probable usage, shop for a prepaid card that will allow you to minimize the fees you incur. Fees for using a prepaid card include:

- ✓ Fees for withdrawing money. Look for prepaid cards that have free access to ATMs, sometimes called “in-network” ATMs.
- ✓ Fees for loading money onto the prepaid card. Look for prepaid cards that have no- or low-fee load options at places that are convenient for you.
- ✓ Fees for not using the card often enough. These can be called “dormancy” or “inactivity” fees. If you don’t plan to use your prepaid card much, these can eat up a balance, so look for prepaid cards that do not charge them or plan to close your account before these fees eat up any money left on your prepaid card.
- ✓ Fees for calling customer service. Some prepaid cards charge a fee for automated or live customer service. Look for prepaid cards that make account information and help available at no fee.

If it’s not easy to find out about fees for a prepaid card, don’t buy it.

Compare what the prepaid card can do. Each prepaid card has different features, so you want to make sure that the prepaid card you choose can do what you need it to do. Some things that might be important include:

- ✓ Bill pay, especially with the ability to have a paper check sent.
- ✓ Apps where you can locate in-network ATMs, manage your account, and even deposit checks via your mobile phone.
- ✓ Linked savings accounts or the ability to create sub-accounts.

As with fee information, if you can’t easily find a card’s features and clear explanations of how they work, think twice before buying it.

Once you have a prepaid card, take these steps.

Register your prepaid card. Registering your prepaid card by providing personal information is usually necessary to ensure that you are eligible for the protections against loss that some prepaid cards voluntarily offer.

Avoid using a prepaid card where the merchant is likely to put a hold on your money. Try not to use prepaid cards to buy gas at the pump or to pay for hotels or rental cars. These types of companies can put extra holds on your funds for a certain amount of time. During this time, you won't be able to use all of your money.

Prepaid card problem? Report it. Contact the Consumer Financial Protection Bureau (CFPB) if you have any complaints.

Go online: www.consumerfinance.gov/Complaint

Call: 1-855-411-2372 (TTY/TDD: 1-855-729-2372)