

THE REVIEW OF
**BANKING & FINANCIAL
SERVICES**
A PERIODIC REVIEW OF SPECIAL LEGAL DEVELOPMENTS
AFFECTING LENDING AND OTHER FINANCIAL INSTITUTIONS

Vol. 35 No. 7 July 2019

THE CFPB'S PREPAID ACCOUNT RULE

The CFPB's prepaid account rule, which went into effect on April 1, covers not only "prepaid card" products but also many digital wallets and person-to-person transfer services. The author gives an overview of its requirements and compliance challenges.

By Eli Rosenberg *

The Consumer Financial Protection Bureau's ("CFPB's") prepaid account rule, which went into effect on April 1, 2019,¹ has literally been years in the making. What started in 2012 as a proposal to regulate general purpose reloadable card products² has morphed over time into 1,700 pages and more than 500,000 words that serve as the primary federal regulation for Fintech products. The final version of the prepaid rule covers not just traditional "prepaid card" products, but also many digital wallets and person-to-person transfer services as well, subjecting such products to a host of new requirements under the Electronic Fund Transfer Act and Regulation-E.³ As such, the prepaid account rule has broad ramifications not just on traditional providers of prepaid products, but on nearly every aspect of the consumer financial services marketplace. The following article provides an overview of the prepaid rule, including the products and services the rule covers and the various consumer protection obligations it requires.

¹ 81 Fed. Reg. 83934 – 84387 (Nov. 22, 2016).

² 12 CFR §§ 1005.1 – 1005.20.

³ 77 Fed. Reg. 30823 – 30925 (May 24, 2012).

**ELI ROSENBERG is a Partner at Baird Holm LLP, where he practices in the firm's Payments and Fintech practice group. Eli serves as regulatory counsel to the Innovative Payments Association and works with industry leaders and government regulators on emerging issues facing financial services providers. His e-mail address is erosenberg@bairdholm.com.*

COVERED PRODUCTS

As noted above, the CFPB's prepaid rule broadly applies to a number of consumer financial services products. In general, coverage under the rule can be divided into four parts. First and second, the rule expressly applies to "government benefit accounts" and "payroll card accounts," each as defined under existing Regulation-E definitions.⁴ Third, the rule also applies a "marketing test," which covers any product that is marketed or labeled as "prepaid" and that can be used for transactions at multiple, unaffiliated merchants or at ATMs.⁵ In terms of impact, products covered under these first three categories should see the least amount of disruption to their current operations under the requirements of the rule, because, in general, the products were already subject to the requirements of Regulation-E prior to the rule's enactment.

The fourth category of products covered under the prepaid rule is where the majority of the rule's breadth

⁴ 12 CFR § 1005.2(b)(3)(i)(A), (B).

⁵ *Id.* § 1005.2(b)(3)(i)(C).

INSIDE THIS ISSUE

● **BANKRUPTCY REMOTE ENTITIES, SUBSTANTIVE CONSOLIDATION, AND THE FUTURE AFTER TRANSWEST, Page 91**