

transfer allegedly in error was credited or debited to the consumer's account.

§ 1005.20 Requirements for gift cards and gift certificates.

(a) *Definitions.* For purposes of this section, except as excluded under paragraph (b), the following definitions apply:

(1) "Gift certificate" means a card, code, or other device that is:

(i) Issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount that may not be increased or reloaded in exchange for payment; and

(ii) Redeemable upon presentation at a single merchant or an affiliated group of merchants for goods or services.

(2) "Store gift card" means a card, code, or other device that is:

(i) Issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment; and

(ii) Redeemable upon presentation at a single merchant or an affiliated group of merchants for goods or services.

(3) "General-use prepaid card" means a card, code, or other device that is:

(i) Issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment; and

(ii) Redeemable upon presentation at multiple, unaffiliated merchants for goods or services, or usable at automated teller machines.

(4) "Loyalty, award, or promotional gift card" means a card, code, or other device that:

(i) Is issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in connection with a loyalty, award, or promotional program;

(ii) Is redeemable upon presentation at one or more merchants for goods or services, or usable at automated teller machines; and

(iii) Sets forth the following disclosures, as applicable:

(A) A statement indicating that the card, code, or other device is issued for loyalty, award, or promotional purposes, which must be included on the front of the card, code, or other device;

(B) The expiration date for the underlying funds, which must be included on the front of the card, code, or other device;

(C) The amount of any fees that may be imposed in connection with the card, code, or other device, and the conditions under which they may be imposed, which must be provided on or with the card, code, or other device; and

(D) A toll-free telephone number and, if one is maintained, a Web site, that a consumer may use to obtain fee information, which must be included on the card, code, or other device.

(5) *Dormancy or inactivity fee.* The terms "dormancy fee" and "inactivity fee" mean a fee for non-use of or inactivity on a gift certificate, store gift card, or general-use prepaid card.

(6) *Service fee.* The term "service fee" means a periodic fee for holding or use of a gift certificate, store gift card, or general-use prepaid card. A periodic fee includes any fee that may be imposed on a gift certificate, store gift card, or general-use prepaid card from time to time for holding or using the certificate or card.

(7) *Activity.* The term "activity" means any action that results in an increase or decrease of the funds underlying a certificate or card, other than the imposition of a fee, or an adjustment due to an error or a reversal of a prior transaction.

(b) *Exclusions.* The terms "gift certificate," "store gift card," and "general-use prepaid card", as defined in paragraph (a) of this section, do not include any card, code, or other device that is:

(1) Useable solely for telephone services;

(2) Reloadable and not marketed or labeled as a gift card or gift certificate. For purposes of this paragraph (b)(2), the term "reloadable" includes a temporary non-reloadable card issued solely in connection with a reloadable card, code, or other device;

(3) A loyalty, award, or promotional gift card;

(4) Not marketed to the general public;

(5) Issued in paper form only; or

(6) Redeemable solely for admission to events or venues at a particular location or group of affiliated locations, or to obtain goods or services in conjunction with admission to such events or venues, either at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue.

(c) *Form of disclosures* (1) *Clear and conspicuous.* Disclosures made under this section must be clear and conspicuous. The disclosures may contain commonly accepted or readily understandable abbreviations or symbols.

(2) *Format.* Disclosures made under this section generally must be provided to the consumer in written or electronic form. Except for the disclosures in paragraphs (c)(3) and (h)(2) of this section, written and electronic disclosures made under this section must be in a retainable form. Only disclosures provided under paragraphs (c)(3) and (h)(2) may be given orally.

(3) *Disclosures prior to purchase.* Before a gift certificate, store gift card, or general-use prepaid card is purchased, a person that issues or sells such certificate or card must disclose to the consumer the information required by paragraphs (d)(2), (e)(3), and (f)(1) of this section. The fees and terms and conditions of expiration that are required to be disclosed prior to purchase may not be changed after purchase.

(4) *Disclosures on the certificate or card.* Disclosures required by paragraphs (a)(4)(iii), (d)(2), (e)(3), and (f)(2) of this section must be made on the certificate or card, or in the case of a loyalty, award, or promotional gift card, on the card, code, or other device. A disclosure made in an accompanying terms and conditions document, on packaging surrounding a certificate or card, or on a sticker or other label affixed to the certificate or card does not constitute a disclosure on the certificate or card. For an electronic certificate or card, disclosures must be provided electronically on the certificate or card provided to the consumer. An issuer that provides a code or confirmation to a consumer orally must

provide to the consumer a written or electronic copy of the code or confirmation promptly, and the applicable disclosures must be provided on the written copy of the code or confirmation.

(d) *Prohibition on imposition of fees or charges.* No person may impose a dormancy, inactivity, or service fee with respect to a gift certificate, store gift card, or general-use prepaid card, unless:

(1) There has been no activity with respect to the certificate or card, in the one-year period ending on the date on which the fee is imposed;

(2) The following are stated, as applicable, clearly and conspicuously on the gift certificate, store gift card, or general-use prepaid card:

(i) The amount of any dormancy, inactivity, or service fee that may be charged;

(ii) How often such fee may be assessed; and

(iii) That such fee may be assessed for inactivity; and

(3) Not more than one dormancy, inactivity, or service fee is imposed in any given calendar month.

(e) *Prohibition on sale of gift certificates or cards with expiration dates.* No person may sell or issue a gift certificate, store gift card, or general-use prepaid card with an expiration date, unless:

(1) The person has established policies and procedures to provide consumers with a reasonable opportunity to purchase a certificate or card with at least five years remaining until the certificate or card expiration date;

(2) The expiration date for the underlying funds is at least the later of:

(i) Five years after the date the gift certificate was initially issued, or the date on which funds were last loaded to a store gift card or general-use prepaid card; or

(ii) The certificate or card expiration date, if any;

(3) The following disclosures are provided on the certificate or card, as applicable:

(i) The expiration date for the underlying funds or, if the underlying funds do not expire, that fact;

(ii) A toll-free telephone number and, if one is maintained, a Web site that a

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consumer may use to obtain a replacement certificate or card after the certificate or card expires if the underlying funds may be available; and

(iii) Except where a non-reloadable certificate or card bears an expiration date that is at least seven years from the date of manufacture, a statement, disclosed with equal prominence and in close proximity to the certificate or card expiration date, that:

(A) The certificate or card expires, but the underlying funds either do not expire or expire later than the certificate or card, and;

(B) The consumer may contact the issuer for a replacement card; and

(4) No fee or charge is imposed on the cardholder for replacing the gift certificate, store gift card, or general-use prepaid card or for providing the certificate or card holder with the remaining balance in some other manner prior to the funds expiration date, unless such certificate or card has been lost or stolen.

(f) *Additional disclosure requirements for gift certificates or cards.* The following disclosures must be provided in connection with a gift certificate, store gift card, or general-use prepaid card, as applicable:

(1) *Fee disclosures.* For each type of fee that may be imposed in connection with the certificate or card (other than a dormancy, inactivity, or service fee subject to the disclosure requirements under paragraph (d)(2) of this section), the following information must be provided on or with the certificate or card:

(i) The type of fee;

(ii) The amount of the fee (or an explanation of how the fee will be determined); and

(iii) The conditions under which the fee may be imposed.

(2) *Telephone number for fee information.* A toll-free telephone number and, if one is maintained, a Web site, that a consumer may use to obtain information about fees described in paragraphs (d)(2) and (f)(1) of this section must be disclosed on the certificate or card.

(g) *Compliance dates—(1) Effective date for gift certificates, store gift cards, and general-use prepaid cards.* Except as provided in paragraph (h) of this section, the requirements of this section apply to any gift certificate, store gift card,

or general-use prepaid card sold to a consumer on or after August 22, 2010, or provided to a consumer as a replacement for such certificate or card.

(2) *Effective date for loyalty, award, or promotional gift cards.* The requirements in paragraph (a)(4)(iii) of this section apply to any card, code, or other device provided to a consumer in connection with a loyalty, award, or promotional program if the period of eligibility for such program began on or after August 22, 2010.

(h) *Temporary exemption—(1) Delayed mandatory compliance date.* For any gift certificate, store gift card, or general-use prepaid card produced prior to April 1, 2010, the mandatory compliance date of the requirements of paragraphs (c)(3), (d)(2), (e)(1), (e)(3), and (f) of this section is January 31, 2011, provided that an issuer of such certificate or card:

(i) Complies with all other provisions of this section;

(ii) Does not impose an expiration date with respect to the funds underlying such certificate or card;

(iii) At the consumer's request, replaces such certificate or card if it has funds remaining at no cost to the consumer; and

(iv) Satisfies the requirements of paragraph (h)(2) of this section.

(2) *Additional disclosures.* Issuers relying on the delayed effective date in §1005.20(h)(1) must disclose through in-store signage, messages during customer service calls, Web sites, and general advertising, that:

(i) The underlying funds of such certificate or card do not expire;

(ii) Consumers holding such certificate or card have a right to a free replacement certificate or card, which must be accompanied by the packaging and materials typically associated with such certificate or card; and

(iii) Any dormancy, inactivity, or service fee for such certificate or card that might otherwise be charged will not be charged if such fees do not comply with section 916 of the Act.

(3) *Expiration of additional disclosure requirements.* The disclosures in paragraph (h)(2) of this section:

(i) Are not required to be provided on or after January 31, 2011, with respect

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to in-store signage and general advertising.

(ii) Are not required to be provided on or after January 31, 2013, with respect to messages during customer service calls and Web sites.

Subpart B—Requirements for Remittance Transfers

SOURCE: 77 FR 6285, Feb. 7, 2012, unless otherwise noted.

§ 1005.30 Remittance transfer definitions.

Except as otherwise provided, for purposes of this subpart, the following definitions apply:

(a) “Agent” means an agent, authorized delegate, or person affiliated with a remittance transfer provider, as defined under State or other applicable law, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.

(b) “Business day” means any day on which the offices of a remittance transfer provider are open to the public for carrying on substantially all business functions.

(c) “Designated recipient” means any person specified by the sender as the authorized recipient of a remittance transfer to be received at a location in a foreign country.

(d) “Preauthorized remittance transfer” means a remittance transfer authorized in advance to recur at substantially regular intervals.

(e) *Remittance transfer*—(1) *General definition.* A “remittance transfer” means the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider. The term applies regardless of whether the sender holds an account with the remittance transfer provider, and regardless of whether the transaction is also an electronic fund transfer, as defined in § 1005.3(b).

(2) *Exclusions from coverage.* The term “remittance transfer” does not include:

(i) *Small value transactions.* Transfer amounts, as described in § 1005.31(b)(1)(i), of \$15 or less.

(ii) *Securities and commodities transfers.* Any transfer that is excluded from

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the definition of electronic fund transfer under § 1005.3(c)(4).

(f) *Remittance transfer provider*—(1) *General definition.* “Remittance transfer provider” or “provider” means any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such person.

(2) *Normal course of business*—(i) *Safe harbor.* For purposes of paragraph (f)(1) of this section, a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person:

(A) Provided 100 or fewer remittance transfers in the previous calendar year; and

(B) Provides 100 or fewer remittance transfers in the current calendar year.

(ii) *Transition period.* If a person that provided 100 or fewer remittance transfers in the previous calendar year provides more than 100 remittance transfers in the current calendar year, and if that person is then providing remittance transfers for a consumer in the normal course of its business pursuant to paragraph (f)(1) of this section, the person has a reasonable period of time, not to exceed six months, to begin complying with this subpart. Compliance with this subpart will not be required for any remittance transfers for which payment is made during that reasonable period of time.

(g) “Sender” means a consumer in a State who primarily for personal, family, or household purposes requests a remittance transfer provider to send a remittance transfer to a designated recipient.

(h) *Third-party fees.* (1) “Covered third-party fees.” The term “covered third-party fees” means any fees imposed on the remittance transfer by a person other than the remittance transfer provider except for fees described in paragraph (h)(2) of this section.

(2) “Non-covered third-party fees.” The term “non-covered third-party fees” means any fees imposed by the designated recipient’s institution for receiving a remittance transfer into an account except if the institution acts