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TOP STORY

CFPB Focuses on Consumer Complaints

Bureau Solicits Prepaid-Related Complaints and Proposes Adding Narrative to Complaint Database

By Paybefore Staff

Most of us try to avoid complaints, but the CFPB is soliciting them—at least complaints from consumers about the difficulties they've encountered with financial services and those that provide them. And, the bureau wants the details, too.

Consumer Complaint Database Open for Prepaid

Marking its third anniversary on July 21, the CFPB announced it is "now accepting complaints from consumers encountering problems with prepaid cards, such as gift cards, benefit cards and general purpose reloadable cards." The move brings prepaid products in line with the bureau's treatment of credit cards and other banking products, for which it has accepted complaints since its inception in 2011. Since then, the bureau says it has handled more than 400,000 complaints.

In its recent announcement, the CFPB indicated it is particularly interested in hearing complaints concerning managing prepaid card accounts, opening or closing prepaid card accounts, in addition to issues with overdraft or

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WASHINGTON WATCH

CFPB Launches Financial Education Program

The CFPB launched a program for low-to-moderate income consumers that includes counseling from national and local social services staff and a Website featuring financial education tools. The new online toolkit, [Your Money, Your Goals](), is designed to improve consumers' financial decision-making skills and includes information on budgeting daily expenses, managing debt and ordering and fixing credit reports. The program also will train social services staff to help their clients learn financial decision-making skills to avoid financial missteps.

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Congress's five-week summer break began last Friday, Aug. 1. The federal legislators will be back in session after Labor Day.

Merchants Cautioned on New POS Malware Threat

By Paybefore Staff

Federal officials are warning retailers about a new form of malware that hackers could use to access POS systems and steal consumer data. The U.S. Computer Emergency Readiness Team (US-CERT) issued [an advisory]() on July 31 detailing the malicious software, known as Backoff, which is being used by scammers to attack businesses' remote desktop applications to harvest consumer data, including payment information. US-CERT—a division of the Dept. of Homeland Security—said the Backoff attacks were first noted in October 2013 and have continued since.

While Backoff's many variants have been largely undetectable by antivirus systems, US-CERT said publication of its technical analysis of the attacks would enable antivirus programs to begin detecting the variants soon.

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Inside

Dates to Note

Late Summer: CFPB's proposed prepaid regs expected

Sept. 2: Comments due on FFIEC's bank mergers, usury laws and international banking operations

Sept. 9: Comments due on CFPB RFI on mobile banking

Sept. 22: Comments due to CFPB request for Your Story

Oct. 3: Comments due on FinCEN CDD rules

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Q&A An Interview with Meta Payment Systems' Debra Geister

Beating Fraudsters at Their Own Game: Collaboration

The number and scale of data breaches and global fraud stats suggest fraudsters have gotten more sophisticated and more organized. To fight back effectively, the industry should take a page from the fraudsters' playbook and work together, according to Debra Geister, senior vice president, financial intelligence unit, Meta Payment Systems. Geister, who has spent the last three years developing transaction monitoring rules to block fraudulent activity on prepaid cards, spoke with Paybefore about the need for more collaboration in the industry, with law enforcement and others.

Paybefore: We hear a lot about fraudsters getting more sophisticated. What are they doing now that they weren't five or 10 years ago?
Debra Geister: They're collaborating more. They're counting on us—the financial services industry as a whole—not to be talking to each other. These guys have a sophisticated infrastructure. They're making a lot of money, and they're using it to invest in their "business."

It's also clear that they talk to each other globally, and if we don't do the same kinds of things, it will be a challenge to keep up.

PB: Are there obstacles to working together?
DG: Unfortunately, everybody is busy with his own initiatives. That's common in any business. There's also the perception of a competitive issue, but when it comes to fraud and AML, there's no competition. We all need to work together. At Meta, we have great relationships with some of our competitors and work hard to share intelligence about what we're seeing. The industry overall could be doing more of that.

PB: What about an industry-wide fraud alert system? Is that doable?
DG: It's a really good idea. The more we can collaborate to identify patterns, the better. For example, if we see several attempts to purchase cards and register them at one address, we know it could be a legitimate ID someone is using without permission. Another solution is to create a typology matrix to identify specific fraud behavior so we can identify the pieces involved in that particular activity and share information under the current info share provisions, which enable us, under the law, to file a request form to exchange information about a case with another financial institution that's involved. There are also industry groups that enable us to share case studies and typologies to help combat changing schemes.

PB: What's a typology matrix?
DG: Essentially, you define a typology matrix based on past patterns that can identify the hallmarks of what's involved in a certain kind of scheme. So, from a detection perspective, the matrix helps us flag something that's amiss in time to, hopefully, prevent the scheme from succeeding. We have implemented a process to identify the typologies of any kind of activity at Meta for issues from ATM cash out to traditional money laundering schemes to human trafficking activity. This enables us to be responsive to changing schemes. By continuing to analyze the patterns of behavior and trends, we evolve our systems to respond to the dynamic nature of fraud attacks. Without this disciplined approach to the typologies, we're less effective than we could be.


Debra Geister

PB: What are some other ways to prevent fraud??
DG: As an industry, we need to be looking at the acquisition process for prepaid and any type of financial product. How are we making sure the person signing up for an account is really who he says he is? It goes back to identity theft. We also have to be vigilant about protecting our data—as individuals and as an industry. Nobody is immune to an intrusion.

PB: Where should we be investing our resources?
DG: The bad guys are investing in technology, so are we at Meta, but all of us as an industry need to do the same. We're not going to be able to keep up if we're doing things manually and the fraudsters are automated. They'll be looking for the easiest point of entry, so, as a unit, we're only as strong as our weakest systems.

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Q&A CONT.

Beating Fraudsters at Their Own Game: Collaboration

PB: So how is the industry working together already?

DG: Despite these challenges, there is a bright side. We are working to collaborate with our industry colleagues as well as law enforcement and academia. There are organizations out there, such as the National Cyber-Forensics & Training Alliance—a combined effort of law enforcement, government, private industry and academia—and LEAP, a committee of the Network Branded Prepaid Card Association, that help us work collaboratively, exchange information and create awareness. These alliances are critical to closing the loopholes that enable fraudsters to thrive. We can make a difference by working together and with our law enforcement partners, and continuing to educate each other and consumers.

Washington WATCH

Agency and Regulator News

FinCEN

FinCEN NPRM Imposes Explicit CDD Rules for Banks

FinCEN issued a Notice of Proposed Rulemaking to clarify and strengthen customer due diligence (CDD) requirements for "covered financial institutions" by making explicit CDD requirements under the Bank Secrecy Act (BSA). (Covered financial institutions banks and brokers/dealers but does not include money services businesses.) According to FinCEN, the newly proposed CDD requirements address understanding the nature and purpose of customer relationships and conducting ongoing monitoring for suspicious behavior, both of which are proposed to be incorporated explicitly into FinCEN's existing AML program requirements.

The proposed rules also would impose a requirement (subject to certain exemptions) for covered financial institutions to identify the beneficial owners behind their customers that are incorporated as legal entities. The proposal requires banks to obtain identification information, using a designated form, on the person who owns or controls a legal entity at the time an account is opened.

Entities exempt from FinCEN's customer identification rules would remain so under the new proposal.

According to FinCEN, while the proposal imposes no verification requirement for the identification information, it lays the groundwork for minimum standards for future guidance, regulations or supervisory expectations to provide for further risk mitigation requirements.

Because open-loop prepaid cards are issued by banks, the proposed rule, if passed, would likely require increased due diligence for banks establishing prepaid customer relationships. It's important to note that requirements obligating banks to understand the "nature and purpose" of a customer relationship and to conduct ongoing monitoring explicitly state that these requirements are "already existing and should be considered the baseline standard of due diligence that is fundamental to an effective AML program." Although the proposed CDD requirements do not yet extend to money services businesses, as a "baseline due diligence standard," these requirements likely will apply, in practice, to other FinCEN-regulated entities.

Comments are due by Oct. 3.

CFPB

Annual Financial Literacy Report

The CFPB, which devotes substantial resources to financial education—particularly targeting groups, such as service members, older Americans and students—released its second annual financial literacy report covering its efforts to improve consumer financial literacy. The 102-page report is a good read that covers a lot of ground—from the bureau's statutory requirements under the Dodd-Frank Act to educate consumers on financial issues, to its financial education strategy to its commitment to identifying what works in financial education.

continued to next page

WASHINGTON WATCH CONT.

Agency and Regulator News

GAO Recommends Increasing Civil Penalty Fund Transparency

The Government Accountability Office (GAO) is recommending the CFPB increase its reporting on how it allocates money from its Civil Penalty Fund, which is intended to compensate victims of alleged fraud on behalf of financial institutions. While the report found the system in place meets federal standards, the GAO determined the bureau could do more to document how it decides to allocate funds to consumer education and financial literacy programs.

Reports claim the CFPB collected $139 million in the Civil Penalty Fund but allocated about $31 million to compensate eligible harmed victims as of May 2014, with an additional $13.4 million allocated to its financial literacy program.

FDIC

Revised Guidance on Operation Choke Point

By Paybefore Staff

The FDIC clarified its previous guidance related to the DOJ's Operation Choke Point, which encourages financial institutions to scrutinize payment processor clients that process payments for certain types of businesses.

The FDIC's original guidance to banks, published in 2008, described the potential risks associated with dealing with third-party payment processors (TPPPs). That guidance—along with an informational article published in 2011—included an example list of "risky" merchant types, effectively discouraging banks from associating with TPPPs that provide processing for merchants, such as telemarketers and tobacco sellers, among others.

Operation Choke Point has come under fire from Congress and merchants, which argue the program is being used to target legitimate businesses that DOJ simply deems unsavory, including payday lenders and money services businesses. In June, a House Oversight and Government Reform Committee published a report claiming the program was harmful to legitimate merchants and lacked legal authority. Meanwhile, payday lender trade group, the Community Financial Services Association of America (CFSAA), sued federal regulators over the initiative.

In the wake of the tumult, the FDIC has reissued its guidance without the controversial list of examples. The list "led to misunderstandings regarding the FDIC's supervisory approach to institutions' relationships with TPPPs, resulting in the misperception that the listed examples of merchant categories were prohibited or discouraged," the agency said.

On one hand, the updated guidance likely will deflate some of Operation Choke Point's momentum, because the DOJ has relied upon and cited the FDIC's "high risk" merchant categories to pressure banks into ensuring relationships with riskier businesses. On the other hand, it still appears that banks will be expected to know whether their customers operate "in compliance with applicable law," an obligation that may be difficult to achieve in some instances.

See related stories:

- Operation Choke Point Developments
- Cordray: Proposed Rules for Prepaid Cards Due by 'End of Summer'

DOJ

Rejects Operation Choke Point Criticism

Meanwhile, the assistant attorney general for the DOJ's civil division, Stuart F. Delery, weighed in regarding Operation Choke Point before the House Financial Services Committee's Oversight and Investigations Subcommittee. He rejected recent criticism that the initiative was targeting specific industries or businesses, stating that the DOJ's policy is to investigate specific conduct based on evidence of consumer fraud and to follow the facts wherever they lead, regardless of the type of business involved. Delery added that it's not the DOJ's policy to target businesses acting lawfully.

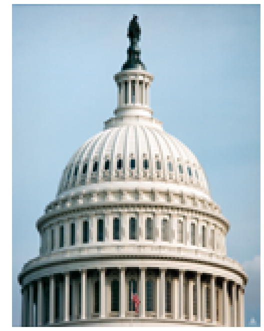
Stuart F. Delery

Operation Choke Point generated significant concerns for companies to considered "high risk," which includes many money services businesses.

These statements come as part of the latest push from the DOJ to bolster the Operation Choke Point initiative and reassure critics who claim it has been used to pressure banks to end relationships with high-risk industries.

To learn more about the complexities of Operation Choke Point, read "US HR 4986—Seeks to End Operation Choke Point" on page 7.

WASHINGTON WATCH CONT.



Lawmakers Pressure DOE on Campus Card Rules

By Paybefore Staff

New restrictions on campus debit cards being considered by the U.S. Department of Education (DOE) have the potential to be too far-reaching and severely limit students' access to financial services, according to more than 40 U.S. lawmakers—senators and representatives, Democrats and Republicans.

The DOE is considering a plan in which any financial institution with an agreement with a college or university would face restrictions on the products it offers to that college/university's students, even if those products don't involve Title IV financial aid disbursement. Such a plan could jeopardize the viability of campus cards and other student-focused financial services.

"We support efforts to curb deceptive business practices among bad actors on college campuses," wrote Rep. Blaine Luetkemeyer (R-Mo.) and Sen. John Hoeven (R-N.D.), in a letter signed by dozens of lawmakers to DOE Secretary Arne Duncan. However, the rules under consideration by the DOE could adversely affect agreements schools have with financial institutions to provide financial products and services, including on-campus bank branches, ATMs and financial education programs, the letter added.

"The products and accounts stemming from these partnerships [between financial institutions and schools of higher education] often have lower costs than those offered to non-students, giving students convenient access to safe, low-cost financial services while helping schools minimize expenses," stated the letter from Luetkemeyer and Hoeven.

Time is a factor for players on both sides of the issue, as the DOE must finalize the rule by Nov. 1, per agency policy, if it wants the new rules in place for the next school year.

See related stories:

- Viewpoint: Dept. of Education Student Debit Card Report Doesn't Make the Grade
- DOE Revises Title IV Funds Disbursement Proposal
- School of Hard Knocks: Are Campus Cards Getting a Bum Rap?
- Lawmakers Pressure DOE on Campus Card Rules
- Fed: Government Prepaid Payments Topped $142 billion in 2013

Senate Aging Committee Holds Phone Scam Hearing, Highlights Prepaid

The Senate Aging Committee recently conducted a hearing, "Hanging Up on Phone Scams: Progress and Potential Solutions to this Scourge," that focused on phone scams and law enforcement's ability to pursue fraudsters. In his opening statement, the committee's chairman, Sen. Bill Nelson (D-Fla.), said that retailers and prepaid product companies were the last line of defense against phone scams.

Bill Nelson (D-Fla.)

Pending Federal Bills

US HR 4788—Reduces Regulatory Burden for Mid-Size Banks

US HR 4788 was referred to the House Subcommittee on General Farm Commodities and Risk Management from the House Committee on Agriculture. The Relief for America's Main Street Lenders Act amends several federal financial regulations to increase the threshold amount to $50 billion from $10 billion to qualify for an exemption from the regulations. The bill amends the Commodity Exchange Act, the Securities Exchange Act, the Electronic Fund Transfer Act and the Dodd-Frank Act.

Currently, banks with assets less than $10 billion are relieved from complying with parts of the Durbin Amendment and other federal regulatory obligations. If passed, this bill will extend regulatory relief beyond smaller community banks toward mid-size banks of up to $50 billion in assets.

US HR 4986—Seeks to End Operation Choke Point

The End Operation Choke Point Act of 2014 (US HR 4986) moved to the House Financial Institutions and Consumer Credit Subcommittee. The bill limits federal banking agencies from restricting or discouraging an insured depository institution or credit union from providing any product or service to an entity that demonstrates it (i) is licensed to offer the product or service or (ii) is registered as a money transmitting business.

The bill provides the same limits on federal banking agencies if an insured depository institution or credit union has a reasoned legal opinion demonstrating the legality of the entity's business. In addition, the bill (i) amends the USA PATRIOT Act to require financial institutions to cooperate in deterring financial fraud; (ii) removes civil liability relating to disclosures in reporting suspicious transactions; and (iii) adds that information collected by FinCEN should be used to improve cooperation among data providers and users, while reducing regulatory burdens and preserving payment system efficiency.

The bill addresses many of the concerns that Operation Choke Point has raised, including the contention that it has been used to pressure banks into ending relationships with businesses the DOJ considers being high risk. The bill also may be seen as a boon to licensed money transmitters, which could receive additional benefits as a result of being licensed.

US HR 5062—Encompasses Other State Regulatory Agencies for CFPB Coordination; Maintains Privilege

US HR 5062 passed the House and moved to the Senate. The bill amends the Consumer Financial Protection Act to add: "State agencies that license, supervise, or examine the offering of consumer financial products or services" to the list of regulators with which the CFPB is instructed to coordinate its supervisory activities. The bill further provides that privilege is maintained when information is shared with such state agencies.

The bill addresses a potential loophole to maintain privilege among all types of state regulators, not just state bank regulatory authorities.

US HR 5179—Allows USPS to Offer Financial Products

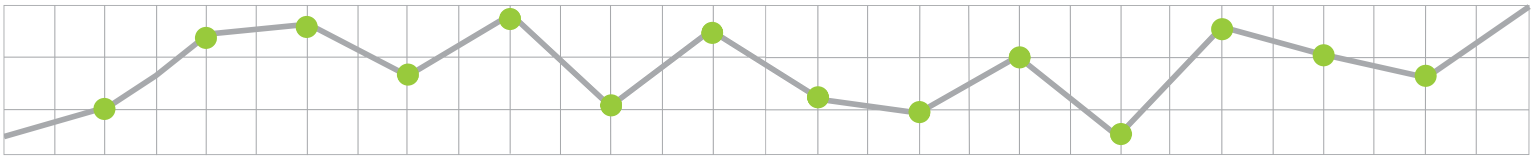
US HR 5179 was introduced and moved to the House Oversight and Government Reform Committee. The bill allows the U.S. Postal Service (USPS) to provide small-dollar loans and basic financial services, including checking accounts, interest-bearing savings accounts and international money transfers, either alone or in partnership with depository institutions and credit unions. The bill also provides for the creation of a "Postal Card," apparently an ID or enrollment card that would "allow users to engage in the financial services."

While the bill is intended to expand financial services for the unbanked/underbanked population, it could disadvantage banks vis-à-vis the USPS, which could have cost advantages, fewer regulatory burdens and carry the presumed endorsement of the U.S. government.

State TRACKER

State Trends

In this State Trends section, we report on recent state legislative and regulatory trends that are developing in a number of areas.



For links to these bills, please view our State Tracker section online.

EBT/Benefit Cards

Many pending state bills and regulations propose to restrict where or how EBT or government benefit cards can be used or where they can access cash at ATMs. The purpose of these bills/regulations is to reduce fraudulent card use and to ensure that cardholders do not use EBT cards at locations deemed inappropriate, such as race tracks or adult entertainment clubs. Many bills/regulations require checking photo ID or for EBT cards to include a photo of the cardholder. The bills/regulations that have been introduced or have recently moved in this area include:

- LA 13909 2014
- OK 17780 2014

Government Payments

Many states have pending legislation, resolutions and regulations aimed at actively requiring or encouraging acceptance and use of prepaid cards and electronic payments instead of checks for purposes of government payments, including:

- MS H 406 (enacted)

Newly Passed Legislation/Regulations

California: ● **CA A 2252**—Restricts Child Support Direct Deposits to "Qualified" Prepaid Accounts
● **CA S 845**—Opens Door to Student Cards Meeting Certain Parameters
● **CA 22047 2013**—Requires State Health Exchanges to Give Equal Treatment to Prepaid Cards

Rhode Island: **RI H 8104**—Changes Statutory References in Gift Card Law

Movement in Pending Bills/Regulations

District of Columbia: ● **DC B 887** and **DC B 888**—Provide for Direct Deposit of Unemployment Benefits to "Qualified" Prepaid Cards

Illinois: ● **IL 15993 2014**—Permits Payroll Cards

Massachusetts: ● **MA H 4329**—Includes Prepaid Cards in Money Transmitter Licensing Laws

New Jersey: ● **NJ A 3480** and **NJ S 2235**—Eliminate Data Collection Requirements

New York: ● **NY 24782 2014**—Provides for "BitLicenses"

Oregon: OR 36021 2014—Permits Payment of Insurance Claims via Prepaid Card

For links to these bills, please view our State Tracker section online.

Bills with a ● are thought to be advantageous to the prepaid industry, while those with a ● are viewed to be particularly disadvantageous. The ● advises caution or a bill to be watched. Bills with a 🛒 are particularly of interest to retailers and merchants. Because laws affect different members of the prepaid industry differently, we urge you to evaluate the legislation's specific impact on your business and consult with legal counsel.

Litigation NEWS

McDonald's Employees Sue Franchisee over Payroll Card

By Paybefore Staff

Employees and former employees of 16 McDonald's restaurants across Pennsylvania have filed a class action lawsuit against the restaurants' owners for violating the law when they allegedly failed to provide a method of receiving wages other than on a payroll card. In addition to the owners, Albert and Carol Mueller, JPMorgan Chase Co. and JPMorgan Chase Bank are named in the lawsuit. Representatives from JPMorgan Chase Co. declined to comment on the lawsuit.

"Specifically, from November 2010 until July 2013, the sole and mandated method of wage payment by the Mueller defendants for their hourly employees was via a Chase payment card," according to the complaint filed late July in Luzerne County, Pa. "As a result of this practice, hourly employees neither were provided with paper paychecks or direct deposit of their wages, nor given an option as to how to receive their wages."

The lawsuit also alleges that the plaintiffs had to pay fees, including teller and ATM fees, to withdraw wages from their cards, thus never receiving their full pay. Also alleged is some of the employees were minors at the time they signed applications for the payment card and did so without approval from parents or guardians.

Earlier this year, the Network Branded Prepaid Card Association (NBPCA) joined with consumer advocacy group Consumer Action to develop guides to help companies and employees learn about payroll cards, including how they work, options for accessing wages and how to avoid or limit fees.

See related stories:

- Will N.Y. Bill Run Payroll Cards Out of Town?
- Response to N.Y. Times Article on Payroll Cards

LITIGATION NEWS CONT.

Merchants Get 2nd Extension in Debit Interchange Case

By Paybefore Staff

The merchant plaintiffs in a lawsuit against the Federal Reserve Board of Governors have been granted another extension to petition the U.S. Supreme Court to hear the case. The National Association of Convenience Stores (NACS), one of the lead plaintiffs in the suit, *NACS et al v. Board of Governors of The Federal Reserve System*, has been given more time by the U.S. Court of Appeals for the District of Columbia to challenge the appellate court's March decision reversing a lower court's ruling that the Fed set too high a limit on debit card interchange fees in 2011. The extension moves the deadline to August 18, nearly a month after the previous deadline of July 21. This is the second extension the appeals court has granted the merchant plaintiffs, whose original deadline to file a petition to the Supreme Court was June 19.

See related stories:

- Merchants Get More Time to Petition Supreme Court in Debit Interchange Case
- Interchange Case's Next Stop: Supreme Court?
- Appeals Court Interchange Ruling a Big Win for Fed

Interchange Fee Settlement Opt-Out Merchant Lawsuits Allowed to Proceed

Merchants that opted out of the $7.2 billion interchange fee settlement with Visa and MasterCard recently were allowed to proceed with their individual lawsuits against the companies when a U.S. District Judge dismissed the payments networks' request to dismiss the cases. In the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation - Opt-Out Cases*, the judge heard separate claims from 30 of the 8,000 merchants that had opted out of the settlement. Visa and MasterCard argued that the claims should be barred pursuant to a legal release in a separate settlement from 2003. They further argued that the claims should be dismissed since the merchants do not pay fees directly to the banks that issue the cards, but have the fees deducted from payments the merchants receive after processing.

In his ruling rejecting these arguments, the judge said he was driven by the requirement that he accept all well pleaded factual allegations as true, since the case was still in its earliest stages.

While other merchants recently have been allowed to opt back into the settlement, merchants that choose to opt out now will have the opportunity to pursue their own cases against Visa and MasterCard. It's likely smaller merchants will choose to opt in, since they lack the resources of the larger merchants.

Merchants Seek to Remain in Federal Court in Delaware Unclaimed Property Lawsuit

The latest in the unclaimed property whistleblower lawsuit filed by a former gift card services company employee (and later joined by the state of Delaware) comes as an effort on behalf of the merchants to keep the case in federal court, in response to the plaintiff's motion to remand the case to state court. The defendants predicate their argument on the fact that the lawsuit raises jurisdictional arguments that involve multiple states, and concerns legal claims based on federal law.

The complaint alleged that hundreds of millions of dollars in gift card balances should have been paid to Delaware under its unclaimed property law and that not doing so violated the Delaware False Claims and Reporting Act. According to the merchants and card issuers, the claims are baseless under the U.S. Supreme Court's decision in *Texas v. New Jersey*, which determines which state has the right to take custody of unclaimed property.

Defendants argue that because all of the card issuers are incorporated in states that exempt gift card balances from their unclaimed property laws, Delaware cannot apply its unclaimed property laws to any of the gift card balances, and Delaware's attempt to do so violates federal common law. Furthermore, they argue, the determination is based on whether the state of incorporation of the card issuer, which has the obligation to the consumer, exempts gift cards. Delaware argues that the court should consider the "economic substance" of the transaction, including issues such as the extent of the gift card company's responsibilities and whether the gift card company or merchant has possession and control of the funds from card sales.

Many gift card and prepaid card issuers rely on special purpose card entities as a lawful way to reduce their abandoned property exposure. The case is an important one for the industry, as it is likely to shed light on the factors a court should consider in evaluating the legitimacy of a special purpose gift card company.

LITIGATION NEWS CONT.

Abercrombie & Fitch Settles Gift Card Class Action

A judge recently approved a settlement of the class action against the Abercrombie & Fitch parent company Hollister Co., which was accused of failing to honor gift cards that did not have clear expiration dates. In *Kerry White v. Hollister Co.,* the plaintiff alleged that the defendant did not honor his $25 promotional gift card, claiming it had expired despite the fact that it did not have an expiration date printed on the card. The defendant claims the promotion's expiration was printed in several places, including the card's sleeve. The plaintiff argued that this is in violation of California law, which requires expiration dates to be printed on the card itself in 10-point font. The class action contends that nearly 70,000 cards were printed without this information. The settlement provides class members with a $20 gift card to Hollister stores.

While the lawsuit was settled in California, a state known for aggressive consumer protection, the settlement demonstrates the high price of non-compliance with state and federal consumer protection laws.

Other TOPICS OF INTEREST

Merchant Groups Support Tokenization for Payment Cards

Several merchant groups—including the NRF, the Merchant Advisory Group and the National Restaurant Association—have proposed creation of an open, universal tokenization system for enhanced payment card security. Tokenization technology replaces cardholders' identity and account data with a unique, randomly generated token or other symbol from a mechanism in a secure location.

The industry groups highlighted the need for a universal system to maximize the benefits of tokenization. They called for an open system built on a technology-neutral platform to allow multiple providers to support the technology, as well as to provide seamless back-end security.

Finally, the groups called for industry-wide standards for the initiative, as established by the International Standards Organization or the American National Standards Institute.

The merchants' proposal regarding tokenization would affect all payments cards, including prepaid. It is a response to the recent increase in data breaches and other hacking events. Others have proposed competing technologies to respond to the need for increased security, such as chip-and-PIN or chip-and-signature cards.

Fed: Government Prepaid Payments Topped $142 billion in 2013

By Paybefore Staff

Government-funded prepaid cards continue to grow steadily, with agencies at the U.S. federal, state and local levels using prepaid to disburse benefit funds, tax refunds and other payments. In July, the Federal Reserve Board of Governors released its latest annual report on the sector, which canvassed more than 100 government offices and 14 prepaid card issuers, collectively representing hundreds of programs, to collect data on government-funded prepaid payments made in 2013.

Among the report's key findings were:

• In 2013, government offices distributed $1.054 trillion to recipients, of which $142 billion, or 13.5 percent, was loaded onto prepaid cards. That's up slightly from 2012, when 13 percent of government payments were made to prepaid cards.

• The prevalence of prepaid varied among government payment types. At the high end, prepaid accounted for 100 percent of all payments under SNAP (formerly Food Stamps), which mandates prepaid cards, and 92.4 percent of Temporary Assistance for Needy Families (TANF) payments. In the middle were unemployment benefits, at 59.5 percent. And, just 3.2 percent of Social Security payments were made via prepaid.

• Issuers of government-funded prepaid cards reported collecting $502 million in revenue from those programs. Of that total, interchange fees accounted for $327 million, or 65 percent, while cardholder fees comprised the remaining $175 million, or 35 percent.

See related stories:

• Treasury Solicits Vendors for Direct Express Debit Card Contract Expiring in 2015

• Canadian Gov't Gauges Interest in Prepaid for Federal Benefits

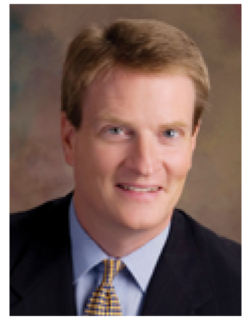
OTHER TOPICS CONT.

New Exec Director for NBPCA

The Network Branded Prepaid Card Association (NBPCA) announced late last month that Doug Bower will join the association as executive director and president, effective Aug. 5, 2014.

"After an intensive search, we are pleased to welcome Doug to lead the association forward into its next chapter of growth and increased presence in Washington," said Robert Skiba, NBPCA board chairman and executive vice president at InComm.

"Doug will bolster our current efforts of positively and proactively engaging members of Congress and regulators, as we anticipate the CFPB prepaid rulemaking, and will provide leadership as we work through other challenges facing the industry," added Skiba. "We're enthusiastic about Doug's fresh look at the opportunities NBPCA members have to advance the prepaid industry by working together to make prepaid a great choice for consumers, businesses and governments."



Doug Bower

"I look forward to strengthening NBPCA's success by continuing to advocate, protect and promote its key priorities of consumer education and outreach, and the benefits prepaid cards deliver to a wide range of stakeholders," Bower remarked.

Bower will be based in the NBPCA's headquarters in Washington, D.C.

Most recently, Bower was executive vice president of business development for Blue Yield, an auto lending exchange. He came to Blue Yield from the AAA National Office where he served as the vice president of travel and financial services from 2007 to 2010 for the 52 million-member organization. Before AAA, Bower held executive positions with Advanta Corporation, a multi-product financial services company; MBNA Corporation, a large bank issuer of credit cards now part of Bank of America; and CIGNA, a major insurance company.

International NEWS

RBI Accepting Comments on Bank Licensing Guidelines

By Paybefore Staff

The Reserve Bank of India recently issued draft guidelines for companies seeking bank licenses in two niche banking categories: payments banks and small banks. The purpose of the guidelines is to boost financial inclusion by enabling smaller banks to set up in India's remote areas to reach more businesses, farmers and low-income households.

Payments banks can accept deposits and funds remittances but cannot provide loans. Small banks can lend but have more limited areas of operations than full-fledged commercial lenders, according to reports. The entities eligible to set up a payments bank include existing nonbank prepaid instrument issuers, mobile telecoms, nonbanking finance companies (NBFCs) and supermarket chains. Entities eligible to set up a small bank include resident individuals with 10 years of experience in banking and finance, NBFCs, micro-finance institutions and local area banks, the RBI said in an announcement in mid-July.

Naveen Surya, managing director at Mumbai, India-based payments solutions provider ItzCash Card Ltd. tells Paybefore the initiative "will facilitate ease and convenience for a large, untapped segment to undertake basic payment and remittance transactions, and also get exposed to basic banking [services]."

Comments on the draft guidelines are due Aug. 28, 2014, and can be emailed or sent to the Chief General Manager, Reserve Bank of India, Department of Banking Operations and Development, Central Office, 13th floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001.

Final guidelines will be issued and the process of accepting applications for setting up payments banks and small banks will begin after receiving feedback on the draft guidelines.

See related stories:

- RBI Report Outlines Technology for Banks, Telcos to Develop Mobile Banking
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TOP STORY CONT. FROM PAGE 1

CFPB Focuses on Consumer Complaints

other fees, unauthorized transactions, fraud, marketing practices and reward features. Companies that are the subject of a complaint have 15 days to issue a first response and are expected to resolve most complaints within 60 days.

The Details, Too

In addition to expanding the products and services covered in the Consumer Complaint Database, the CFPB wants to expand the amount of information consumers may provide as part of their complaints about financial services. It is proposing adding a narrative section to its complaint collection form.

Companies that are the subject of a complaint have 15 days to issue a first response and are expected to resolve most complaints within 60 days.

Consumer narratives, according to the bureau, would provide context to complaints. "These narrative descriptions form the heart and soul of the complaint," CFPB Director Richard Cordray said last month during a field hearing in El Paso, Texas. "[The narratives] include all the details, the nuances and the rest of the story that really explain the problem just as [the consumers] understand it."

Currently, the complaint database includes basic, anonymous information, including date of submission, the consumer's ZIP code, the offending company's name, the product type, the consumer's issue and the company's response.

Some industry associations are concerned about the proposal. "It is the role of the CFPB as the traffic cop to distinguish violations of law from unfounded complaints," Richard Hunt, president and CEO, Consumer Bankers Association, said in a statement. "Instead, they want to let others figure it out from one-sided and unverified narrative information. This action will ultimately add to consumer confusion, harm industry reputations and undermine any hope the CFPB may have to be viewed as a fair and honest broker."

The CFPB addresses such concerns, stating that the "proposed policy provides for public release of the company's response, side-by-side and scrubbed of any personal information, to the consumer's complaint. This process will assure that, to the extent there are factual disputes, both sides of the dispute can be made public."

Terry Maher, partner at Baird Holm LLP and general counsel to the NBPCA, however, is unsure companies will be able to respond to the narratives within the bureau's limited time frame. "Fifteen days is a very short period in which to investigate and resolve complaints," he tells Paybefore. "Now, you're adding the potential need to craft a narrative response as well as have that response vetted to make sure it isn't violating any consumer privacy obligations."

In addition, it is unclear whether the consumer's unilateral right to withdraw the narrative will affect a company's ability to publish its response.

Comments on the CFPB's proposal are due by Sept. 22. Submit comments via http://www.regulations.gov; by mail to: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552; or by hand delivery to Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE, Washington, DC 20002. Comments must be identified by Docket No. CFPB-2014-0016.

CFPB Director Is Asking Consumers for Input

If you're on the CFPB's email list, you received a letter from CFPB Director Richard Cordray on July 24, asking for "your story" and encouraging you to view videos assembled by the CFPB of consumers who are struggling with a variety of financial services-related issues. The videos are well done and compelling, albeit one sided.

It's far easier to collect complaints than accolades because accolades just aren't news, but Paybefore would love to hear your examples of how prepaid helps people meet their financial goals. Have videos or focus group results you'd like to share? We'd love to have them.

Contact Marilyn Bochicchio, CEO, at mbochicchio@paybefore.com.

WASHINGTON WATCH CONT. FROM PAGE 1

CFPB Launches Financial Education Program

As part of the launch, several organizations announced they are joining the CFPB in training social services staff to use the toolkit. Participating organizations include: U.S. Department of Agriculture Cooperative Extension, the National Association of Community Health Centers Community HealthCorps, Los Angeles County Department of Consumer Affairs, Catholic Charities USA and Community Action Partnership.

See related stories:

- Treasury Dept. Challenges Developers to Create Financial Education Apps
- Industry Views: Building Long-Term Cardholder Relationships with Financial Literacy.

WASHINGTON WATCH CONT. FROM PAGE 1

Merchants Cautioned on New POS Malware Threat

US-CERT encouraged merchants to reduce exposure to Backoff by locking out user accounts after several failed login attempts, using firewalls to restrict access and requiring more complex passwords for user access.

Last year's high-profile data breach of retail giant Target is believed to have been the result of a remote access-based attack. In that case, cybercriminals are thought to have used a vendor's credentials to infect the retailer's POS systems with malware, enabling the thieves to access the data of nearly 70 million payment cards, according to the company.

See related stories:

- Border Arrests Believed to Be Linked to Target Data Breach
- Calls for Regulatory Overhaul as Congressional Hearings Continue on Data Security

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Marilyn Bochicchio
CEO
mbochicchio@paybefore.com

Loraine DeBonis
Editor-in-Chief
ldebonis@paybefore.com

Bill Grabarek
Senior Editor
bgrabarek@paybefore.com

Kate Fitzgerald
Emerging Payments Editor
kfitzgerald@paybefore.com

Adam Perrotta
Assistant Editor
aperrotta@paybefore.com

Robin Chalmers Mason
Production Editor
rmason@paybefore.com

Doris Kwok
Marketing Assistant

Joanne S. Butler
Graphic Designer

Contributing Editors

Judith Rinearson
Partner, Bryan Cave LLP

Margo Hirsch Strahlberg
Associate, Bryan Cave LLP

Linda Odom
Counsel, Bryan Cave LLP

John ReVeal
Partner, Bryan Cave LLP

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