

Summary of Customer Identification Program (CIP) Guidance for Holders of Prepaid Cards

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ICBA SUMMARY OF GUIDANCE ON CIP REQUIREMENTS TO HOLDERS OF PREPAID CARDS

This guidance clarifies that a financial institution is expected to apply customer identification program (CIP) rules by identifying a holder of a prepaid card with reloadable or overdraft capabilities as its customer.

I . OVERVIEW

On March 21, 2016, the banking agencies¹ and the Financial Crimes Enforcement Network (FinCEN), published guidance to issuing banks on applying the Bank Secrecy Act customer identification program (CIP) requirements to prepaid cards. Currently, there are controls in place that limit the anti-money laundering and financial crime risks that issuing banks and the prepaid card industry face.

This guidance does not place any new requirements on banks, nor does it change or review all of the existing controls that are in place, but clarifies the existing CIP requirements that apply to issuers of prepaid cards that provide a cardholder with (1) the ability to reload funds or (2) the access to credit or overdraft features.

Under the CIP rules, a bank must implement certain requirements including identifying and verifying the identity of each customer when an account is established with the bank. Therefore, it is important to understand when an account is established and who is considered the customer when providing prepaid card services - even when the funds on the card is managed by, or distributed through, a third-party program manager.¹ This guidance clarifies who is the bank's "customer" for purposes of CIP implementation when issuing prepaid cards.

Appendix A provides a list of prepaid cards, their attributes, and customer designations for purposes of CIP implementation.

I . SUMMARY

When implementing the CIP rules for prepaid card programs (including general purpose prepaid cards) that provide the cardholder with either the ability to reload funds or access to credit or overdraft features, a bank should identify the actual cardholder as the customer. This includes instances where the account holder at the bank is an intermediary or third-party program manager who has a pooled account in its name for the purpose of funding these cards and holding funds "on behalf of" or "in trust for" all of the cardholders or is processing transactions on behalf of other issuing banks. In other words, with reloadable prepaid cards or cards with overdraft or credit features, third-party program managers and intermediaries should be treated as agents of the bank for purposes of the CIP rule, rather than as the bank's customer and the cardholder should be treated as the bank's "customer."

¹ A third-party program manager is defined in this context as a company that designs, manages and operates a prepaid card program, and contracts with a bank to issue and process prepaid card transactions. A third-party program manager also provides customer service and card distribution (sales).

In some cases, prepaid cards are sold without activating the reloadable or credit/overdraft functions until a later date. In these instances, the cardholder becomes the bank's customer when the reloadable or credit/overdraft features are activated and CIP must be conducted on the cardholder at that time.

For prepaid cards without reloadable and credit/overdraft features, such as closed-loop prepaid cards and gift cards, the "customer" for purposes of the CIP rule is the third-party program manager who has the pooled account at the bank. In these instances, the bank (or its agent) does not need to identify and verify the identity of each cardholder, but rather implement its CIP on the third-party program manager who holds the pooled account.

Remember that in general, the CIP rules permit a bank to hire a third party to perform its CIP functions, or use an agent to perform these services on its behalf. This enables third-party program managers to identify and verify the identity of each cardholder on the bank's behalf in instances where the cardholder is considered the customer. Keep in mind, however, that like any other activity performed on behalf of the bank, the bank ultimately is responsible for CIP compliance.

If a bank opts to have the third-party program manager act as its agent for purposes of the CIP rule, the bank should enter into a well-constructed, enforceable contract with that third-party program manager that clearly defines the expectations, duties, rights, and obligations of each party. For example, the contract or agreement should, at a minimum:

- Outline CIP obligations of both the bank and third-party program manager as well as any other applicable parties.
- Ensure that the bank can transfer, store, or get immediate access to all CIP information collected on all cardholders by the third-party program manager.
- Ensure that the bank has a right to audit the third-party program manager and to monitor its performance. This should include an agreement that allows periodic independent internal and external audits to ensure prudent operations and compliance with applicable laws and regulations.
- If applicable, indicate that the relevant regulator has the right to examine the third-party program manager as permitted under the Bank Service Company Act (BSCA) or other appropriate legal authority.

APPENDIX A

Card Name	Definition	Attributes	Customer
General Purpose	Used at multiple, unaffiliated merchants Cardholders can withdraw cash at ATMs, pay bills, make purchases, transfer and receive funds to/from others	Reloadable by cardholder or another party on cardholder's behalf	Cardholder
		Permits withdrawals in excess of card balance Provides cardholder with access to an overdraft line or an established line of credit	Cardholder
		Not reloadable by the cardholder or another party on behalf of the cardholder at any time	3 rd Party Program Manager ²
		Sold without activated reloadable or credit/overdraft features but later activated by bank or 3 rd party program manager	3 rd Party Program Manager until reload, credit, or overdraft feature is activated. When activation occurs, cardholder is customer.
Closed Loop Prepaid Cards	Redeemable only at a single or affiliated group of merchant/service provider. Does not exceed a \$2,000 maximum threshold level	Only used for purchases from the merchant/service providers where funds were given to load/reload the card Generally, not issued by banks/do not resemble formal banking relationships	Accountholder
Payroll Cards	Employer (or agent) loads employee's compensation onto the card and gives employee access to those funds by use of the card	Employer (or agent) opens account with bank and provides each of its employees with a card Employer (or agent) is the only person that may deposit funds into the payroll card account	Employer/Accountholder
		Employer (or agent) opens account with bank and provides each of its employees with a card Employee may access credit through the card, or reload payroll card account from sources other than the employer	Employee/Cardholder

Government benefit cards or Electronic Benefit Transfer Cards (EBT Cards)	Government benefit programs distribute Government benefits or other payments via the card	Only government funds can be loaded Does not provide access to credit	N/A – No CIP required
		Non-government funds can be loaded and/or access to credit is provided	Beneficiary/Cardholder
Health Benefit Cards	Used to set aside and access tax exempt funds for certain medical expenses Used to access Health Savings Accounts (HSA)	Established by employee Employee or employer may contribute to the HSA Reimbursements can be issued on a prepaid card.	Employee/Cardholder
	Flexible Spending Arrangements (FSAs) established by employer	Funded by employer by either withholding from employee's salary or by direct contributions Employee may use card for certain qualified medical expenses	Employer/Accountholder
	Health Reimbursement Arrangements (HRAs) established by an employer	Funded by employer Employee may use card for certain qualified medical expenses	Employer/Accountholder
Quick Response Codes	Transponders affixed to vehicles for use on toll roads and bridges	Fee is deducted from the balance of funds maintained on account for each individual driver Account replenished when balance falls to a predetermined value Additions to account typically made by ACH transaction or credit or debit card advance	3rd Party Program Manager
<p>¹ The term "3rd party program manager" refers to any third party or intermediary in whose name a pooled account has been established for the purpose of holding funds "on behalf of" or "in trust for" cardholders or processing transactions on behalf of other issuing banks.</p>			

¹ The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC).