

7 Essentials For Safe Prepaid Cards

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What is a “Prepaid Card”?

- Prepaid v. bank account line blurring
 - Banks offering prepaid cards, but not at branch
 - Checks, billpay on prepaid and checkless checking
 - Prepaid accounts that are individual bank accounts
 - Prepaid cards with savings accounts
 - Prepaid card fees migrating to bank accounts
- Prepaid currently works best with direct deposit.

Federal Laws on Some Prepaid Cards

- FDIC general counsel opinion (FDIC insurance)
 - Electronic Funds Transfer Act (EFTA) and Regulation E
 - Truth in Savings Act (TISA)
 - Durbin Amendment interchange fee rules
 - Treasury rule on deposit of federal payments to prepaid
 - FTC Act, Consumer Financial Protection Act (unfair, deceptive or abusive practices)
 - U.S. Department of Labor guidance on state unemployment prepaid cards
- => No comprehensive federal law on prepaid.**

7 Essentials for Safe Prepaid Cards

1. **Choice** (for government, employer cards)
2. Clear, conspicuous **disclosures**
3. **Security** of funds (FDIC insurance, bankruptcy)
4. **Protection** from errors, unauthorized transfers
5. Ample free access to **account information** (customer service, statements, balances)
6. No unfair, unreasonable **fees**
7. No embedded **credit features**

1. Choice: Consumer Should Choose Whether to Have a Prepaid Card

- States, employers must offer choice of direct deposit first, cannot require prepaid account.
- Some states using prepaid cards exclusively for unemployment benefits. Violates EFTA.

2. Disclosures

- Consumers should get **clear, conspicuous** information on fees, key terms, before purchase.
- Little law beyond TISA/EFTA/UDAP rule that fees must be disclosed.
- CFPB should require a Schumer box on outside of package, “must-see” location on website.
- Need a single “APR”-like number so can compare cards? How to calculate?

3. Security of Funds if Bank, Other Entity is Insolvent

- Need FDIC or NCUISF insurance payable to consumer on “pass-through” basis.
- FDIC general counsel: Prepaid cards eligible if structured right. Not all comply.
- New Treasury rule: must comply if receive federal direct deposits (SS, SSI, tax refunds, etc.)
- Compliance also makes funds custodial, protects from nonbank program manager insolvency.
- AmEx prepaid card: not a bank so no FDIC insurance.

4. Protection from errors/unauthorized charges

- **If** an “account” under EFTA:
 - Liability caps if loss/theft/unauth’d charges
 - Procedures to resolve billing errors
 - Stop payment rights (recurring payments only)
 - No merchant dispute protection (like credit cards)
- EFTA covers only payroll, some gov’t cards
- New Treasury rule: private cards must follow payroll card rules if accept federal direct deposits

=> Reg E needs to be extended to all cards.

5. Ample Free Access to Account Info

Prepaid Cards May Have:

- No paper statement option, even if no internet access; dispute time may run w/o seeing charge.
- Fees for customer service (live or IVR calls to check balance).
- Fees for using teller, ATM balance inquiries. No brick-and-mortar human contact (even for bank prepaid cards, branches may not handle).

⇒ **Bank accounts are moving in this direction.**

⇒ **Need incentives to offer options consumers will use.**

6. No Unfair, Unreasonable Fees

Forbid or strictly limit to costs:

- Fees that impede access to information needed to manage the account
- Penalty fees (no incentives to encourage mistakes)
- Fees that impede exercise of legal rights

Other fees:

- As few as possible (create incentives to minimize)
- Choice of single monthly fee & pay-as-you-go
- No tricks/traps; card should work, cost, the way consumers expect

Fees: Interchange/Durbin Rules

Prepaid & gov't benefit cards exempt from interchange fee cap if card:

- Issued by bank **under \$10 billion, OR**
 - Issued by larger bank and:
 - **1 free ATM withdrawal/month.**
 - **No overdraft or shortage fees, and**
 - **No bill pay, ACH, check features.**
- => Makes prepaid less useful or drives prepaid to smaller banks w/ no limits on fees.**

7. No Embedded Credit Features

Overdraft fees, problems with credit keep many out of bank accounts. Prepaid cards should have:

- No overdraft fees. Prepaid should be prepaid.
- No credit tied to mandatory automatic repayment.
 - No creditor should take cut of income before food, rent, medicine
 - Leads to lazy underwriting
 - Consumer can choose to set up automatic repayment or link to separate credit account.

Legal Limits on Overdraft Fees, Credit

- Durbin amendment
- EFTA: “No person” can condition credit on repayment by “preauthorized electronic fund transfer” (doesn’t apply to single payments)
- **If** covered by Reg E, must opt-in to overdraft on ATM, single debit transactions
- Treasury: no federal direct deposits to card with:
 - Line of credit or “loan agreement” triggering automatic repayment upon deposit.
 - May apply to overdraft fees.

Payday Loans on Prepaid Cards

- OTS shut down iAdvance on MetaBank/ Netspend cards (\$2.50 per \$ 20) as unfair or deceptive. Chilled the market for a period.
- July 2011: OCC proposed guidance on “account advance” (bank payday) products. Could legitimize bank payday, which is spreading and could return to prepaid cards.
- Prepaid cards can be sold by payday lenders to avoid state laws.

After AZ 36% rate cap in effect, CheckSmart (Arizona Payday Lender) Selling Urban Trust Bank (VA) Insight Prepaid Card

“Courtesy transfer” about \$14/\$100

“Overdraft” \$15/\$100

Other Fees

The following fees apply to your Card regardless of the fee plan you choose.

Other Fees	Fee Amount
Card Issuance Fee	Up to \$9.95
ATM Withdrawal Fee Domestic	\$2
ATM Inquiry Fee Domestic	\$1
Card Fulfillment Fee (lost/stolen replacements)	\$9.95
Foreign Transaction Fee	3% Any going mandated rate
Recurring Direct Deposit Load Fee	FREE
Convenience Transfer Fee per	\$3.50
\$28.50 loaded if you enroll in Courtesy Transfers	\$3.50
Cash Loads at Insight Partners	Up to \$2
Over-the-Counter Cash Withdrawal Fee	3% min \$5
Overdraft Protection Service Fee (See section above entitled Overdraft Protection for activation and eligibility requirements.)	\$0.15 for every \$1 in negative balance created by each transaction up to a maximum of \$36

For more information

- NCLC website (Issues/Banking and Payment Systems/Prepaid Debit Cards)
- NCLC Consumer Banking & Payments Manual

