FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-83-2005
August 22, 2005

INSURABILITY OF FUNDS UNDERLYING STORED VALUE CARDS

Notice of Proposed Rulemaking

Summary: The FDIC has published a new notice of proposed rulemaking on the insurability of funds underlying stored value cards and those accessible through other nontraditional access devices. This proposed rule replaces the proposed rule issued in April 2004. Comments must be submitted to the FDIC by November 7, 2005.

Distribution:
FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:
Chief Executive Officer
Compliance Officer

Related Topics:
Deposit Insurance Coverage
12 C.F.R. Part 330

Attachment:
Notice of Proposed Rulemaking

Contact:
Christopher Hencke, Counsel, at chencke@fdic.gov or 202.898.8839, or for questions about disclosure issues, David Lafleur, Policy Analyst, at dlafleur@fdic.gov or 202.898.6569

Note:
FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2005/index.html.

To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 801 17th Street, NW, Room 100, Washington, DC 20434 (1-877-275-3342 or 202-416-6940).

Highlights:

- Funds accessible through “stored value cards” or other nontraditional access devices may be considered insured deposits when they are placed in insured depository institutions.
- The new proposed rule would treat the first depositor of the funds as the “insured depositor” unless the requirements for pass-through insurance are met, in which case the cardholders may be the insured depositors.
- The proposed rule also seeks comments on whether disclosures to cardholders about the insured status of funds should be mandated.

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The Federal Deposit Insurance Corporation (FDIC) has issued the attached Notice of Proposed Rulemaking regarding the insurability of funds accessible through stored value cards or other nontraditional access devices, such as computers. The proposed rule replaces the proposed rule issued in April 2004.

A “stored value card” can be a mechanism that enables a cardholder to transfer funds to third parties, such as merchants, or withdraw funds through automated teller machines. Some cards may have the capacity to be reloaded with value, while others may expire when the value has been exhausted. In either case, under the new proposed rule, funds accessible through these cards or other nontraditional access devices would be insurable “deposits” provided the funds are placed at an insured depository institution. The new rule does not recognize any exceptions to this classification for such funds as “deposits,” but the FDIC is requesting comments on certain narrow exceptions.

In many cases, the funds underlying stored value cards are placed at an insured depository institution by one party for transfer or withdrawal by other parties. For example, in the case of “payroll cards,” the funds may be placed at an insured depository institution by an employer for transfer or withdrawal by employees. Similarly, in the case of “gift cards,” the funds may be placed at an insured depository institution by a retail store for transfer or withdrawal by the purchases of the cards, or cardholder if the card was given to another individual.

Under the new proposed rule, the first party (the party who places the funds at the bank) would be treated as the insured depositor unless (1) the records of the insured depository institution indicate that the first party is not the owner of the funds, AND (2) the records maintained by the depository institution or the first party reflect the identities of the cardholders and the amount payable to each cardholder. If both of these requirements are satisfied, the funds held by the depository institution would be insured on a “pass-through” basis to the cardholders.

The FDIC is requesting comments on the new proposed rule and on whether disclosures about the insured status of the funds should be mandated. Interested parties must submit comments on the new proposed rule by November 7, 2005.

Written comments may be sent to Robert E. Feldman, Executive Secretary, Attention: Comments/Executive Secretary Section, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments also may be mailed electronically to comments@fdic.gov. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. Comments also may be faxed to (202) 898-3838.

For more information, please contact Christopher Hencke, Counsel, at (202) 898-8839 or chencke@fdic.gov; or David Lafleur, Policy Analyst, at (202) 898-6569 or dlafleurfdic.gov.

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