

# APA Comments on Consumer Financial Protection Bureau Proposed Rules for Paycards

BY WILLIAM DUNN, CPP

In March, APA responded with reasoned criticism to a call for comments from the Consumer Financial Protection Bureau (CFPB) regarding proposed rules for prepaid cards, including paycards. The rules, APA argued, would discourage employees from using paycards and bury cardholders in so much data that any efforts toward consumer protection would be counterproductive. Worst of all, for all the concern over fees that paycard users might incur, the proposed rules make no effort to inform consumers of the many ways they might avoid the fees.

The proposed rules are extensive, running 234 pages in the December 23, 2014, edition of the *Federal Register*. On the whole, the CFPB's efforts are laudable in that they attempt to provide consumers with enough information to make educated choices about various financial products. One prepaid card looks and serves pretty much like any other, whether it's a bank debit card, paycard, or general purpose reloadable (GPR) card. CFPB seeks to have their significant differences made known through two separate disclosure documents—a long form and a short form.

## Rules Fail to Provide Crucial Program Information

The disclosure documents could make it possible for a consumer to see side-by-side comparisons of competing products. Each card issuer would need to list the most commonly incurred fees associated

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with that particular card. Examples of the short form provided by CFPB list ATM withdrawals, ATM balance inquiries, reloading fees, inactivity fees, and card replacement fees. The lasting impression from the short form is that the card is loaded with fees, regardless of the fact that the cardholder might never incur them.

APA argues that information not listed is every bit as important as the fee amounts that are listed. Especially in reference to paycards, the short and long forms would

make no reference to the fact that every cardholder is guaranteed the ability to withdraw every penny from the card without incurring any fee at all. Even a card program that offered numerous (but not unlimited) free ATM withdrawals could only list the charges a cardholder might incur. The fee could only be listed as \$0 if the card issuer never charged a fee for the service.

APA wrote, "We are concerned that this approach may lead employees to

believe that there is always a fee to access their wages at ATMs and that there is no way for them to withdraw funds without cost. In fact, the opposite is true: there is always a method by which employees may access their wages for free. Without knowledge of the free methods of cash access available to them, employees will incur more fees.”

### **Discouraging Language**

The CFPB has proposed that the short form for each paycard include the words, “You do not have to accept this payroll card. Ask your employer about other ways to get your wages.” This wording seems unnecessarily discouraging and may not always be true. In half the states, employers are authorized by state law to pay all wages electronically, through direct deposit or paycard, without the need to provide a paper check. If an employee does not have a bank account, or fails to provide the employer with the account information, the employee may indeed “have to accept this payroll card.”

It is also true that an employer must offer an alternative to the paycard, and the cautionary language could serve to notify an employee that choices are available. APA suggested that CFPB consider this alternative language: “You have options on how you can receive your wages. Ask your employer about those options.”

### **More Information Than Anyone Wants to Read**

Many states already require employers to provide employees with a complete list of all fees that might be incurred when using a paycard. States may also require employers to notify employees of the ways they may use their cards without incurring fees. The state and federal requirements would not be combined. As a result, card providers would need to create and maintain three separate

disclosure documents.

“The APA agrees that employees should be provided with a complete fee schedule similar to the long-form disclosure. ... Consistent with the CFPB’s own research, APA members expressed concern that if too many disclosure forms were provided, employees would be less likely to read any of the information.”

This potential problem will be exacerbated in two ways. First, each card provider would be required to post the details of each of their disclosures to their own public websites. This could amount to hundreds, even thousands, of separate documents. The CFPB would also post the disclosures to the CFPB website. APA believes the overwhelming amount of information posted would discourage any serious attention and

counter its own purpose.

Further, unlike comparing two competing GPR cards from the rack of a retail store, comparing paycard programs is irrelevant for end users because employees have no choice in the program. The CFPB may be requiring paycard providers to incur an immense administrative burden and expense without any benefit to consumers. If the cost of compliance runs too high, providers might cease to provide certain benefits or raise existing fees to cover the increased cost, either of which would prove a disservice to card holders.

APA’s complete comments are posted to the APA Government Relations page at [www.americanpayroll.org/government/government-007](http://www.americanpayroll.org/government/government-007). ■

