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CFPB Seeks Input on Proposed Model Forms for Prepaid Cards

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On March 18, 2014, the Consumer Financial Protection Bureau (“CFPB” or the “Bureau”) **announced** that it is seeking feedback about “potential disclosures” that the Bureau “may propose to be used on the packaging of prepaid cards,” in connection with an expected rulemaking in the spring.

As it has done before, the Bureau is looking to develop a “model form” that would standardize financial product disclosures. Specifically, as to prepaid cards, the Bureau has explained that it wants its model form to “clearly present a prepaid card’s most important fees.” To this end, the Bureau has begun to consumer test its proposed disclosure forms. In February, the Bureau conducted its first round of interview testing in Baltimore, and on March 18, the Bureau tested its proposed disclosure forms with consumers in Los Angeles.

Since its inception, the Bureau has focused its regulatory efforts on product disclosures. Indeed, the Consumer Financial Protection Act, which is Title X of the Dodd-Frank Act, mandates this focus. Section 1032 of the Dodd-Frank Act, 12 U.S.C. §5532, provides that the “Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service.” And any final Bureau rule concerning mandated product disclosures also might include a model form that is consumer-tested. Section 1032, in turn, provides that when a “covered person” – that is a bank or nonbank regulated by the Bureau – “uses a model form included with a rule . . . [that entity] shall be deemed to be in compliance with the disclosure requirements” of the proposed rule. In other words, using the model form provides a legal safe harbor.

Any model form will reflect input that addresses the following questions:

- . “Do you understand how much each of these cards will cost to use?”
- . “What would you like to see added or changed? Is there some way to make the information clearer?”
- . “Is there anything you find confusing?”

This feedback can be provided through email, Facebook, and by posting comments to the Bureau’s website.

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Allyson Baker, a partner in the Washington, DC office of Venable LLP, was, until recently, an Enforcement Attorney with the Consumer Financial Protection Bureau (CFPB) where she served as lead counsel on one of the first enforcement actions which also resulted in one of the largest agency settlements to date. She was a member of the initial team of attorneys hired to stand up the CFPB Office of Enforcement, and she helped formulate policies on litigation, investigations, and Dodd-Frank Act jurisdiction issues. Before joining the CFPB, Ms. Baker was a Trial Attorney with the U.S. Department of Justice, Civil Tax Division where she served as lead counsel in a number of jury and bench trials involving complex financial transactions.

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