

ALERTS

Federal Prepaid Access Guidance Issued by FinCEN and Federal Banking Regulators

March 25, 2016

On March 24, 2016, the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") issued supplemental guidance regarding the regulation of prepaid access titled FIN-2016-G002, "Frequently Asked Questions regarding Prepaid Access" ("FAQs"). The FAQs are intended to respond to questions that have been submitted to FinCEN since the release of the Prepaid Access Final Rule and 2011 FAQs. The FAQs focus on the following issues and situations: (1) de minimis cash refund requirements under state law; (2) use of quick response codes and other technology; (3) the definition of "defined merchant" in the context of closed loop prepaid access; (4) policies and procedures of sellers of prepaid access; and (5) listing of sellers of prepaid access on a provider of prepaid access's agent list. The FAQs are available on FinCEN's website.

Additionally, earlier this week, on March 21, 2016, the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency and National Credit Union Administration, together with FinCEN, published interagency guidance ("Guidance") discussing the applicability of customer identification program requirements to banks issuing prepaid cards that are reloadable or that access credit or overdraft features. The Guidance applies to issuing banks regardless of whether the cards are distributed or managed by third-party program managers on behalf of the bank. Participants in prepaid programs will need to assess the interplay between this Guidance and the Prepaid Access Final Rule. The Guidance is available on FinCEN's website.

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the attorneys in the firm's Bank Regulatory Group.

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