

Prepaid Cards: Second-Tier Bank Account Substitutes

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I. Introduction

Prepaid cards, or “general purpose reloadable cards, are marketed as sensible, attractive alternatives to check cashiers and traditional bank accounts.¹ However, consumers face dangers and traps with prepaid cards, which are becoming the foundation of a second-tier banking system that shadows the traditional banking system. Until consumers who use prepaid cards are guaranteed the same protections as consumers who use traditional debit and credit cards, consumers who use prepaid cards will be at risk of losing all their money, face multiple, high, and sometimes confusing fees, and be offered convenient but very expensive forms of credit associated with the card.

It would be easy to assume that a prepaid card has the same features and protections as a traditional debit or credit card. The prepaid card industry puts out advertisements and other promotional materials with slogans like “The Checking Account alternative that lets you borrow money and builds credit,” “No Hidden Fees,” and “Bank On Your Own Terms.”² In addition, prepaid cards look like other plastic payment cards and usually bear network logos of Visa, MasterCard or Discover, often have the word “debit” printed prominently on the front of the cards, and can be used to make payments in many circumstances where traditional debit cards or credit cards could also be used.

Prepaid cards are a growing business. Sizable sums of money have been loaded onto prepaid cards in recent years. Green Dot, one of the major prepaid card players, reported that in 2008 more than \$4 billion in transactions were made using its cards that year.³ UniRush Financial Services reported that \$2 billion had been deposited on its RushCards since the 2003 launch until the end of 2008.⁴ These numbers may only increase as the prepaid card industry works to steadily expand its reach to enroll the millions of unbanked and underbanked, which experts estimate to be between 44 to over 70 million consumers with limited or no access to bank accounts.⁵

Part of the lure of prepaid cards is that they can provide debit convenience to consumers who may not qualify or feel comfortable using bank accounts or credit cards.

¹ The prepaid card industry refers to prepaid cards as “general purpose reloadable cards.”

² See, e.g., AccountNow Prepaid, https://www.accountnow.com/mkt-cap/signup2_mb.aspx?PCODE=Cg001Sgs71&gclid=CI2LmeiQzpkCFQKJxgodDWQ0uQ; RushCard, <https://www.rushcard.com/>; Axcess Prepaid MasterCard pamphlet distributed by Check N’ Go.

³ James Flanigan, *As Credit Cards Falter, The Cash Variety Gains Popularity*, N.Y. Times, March 19, 2009 (statement of Mark Troughton, Green Dot president), available at http://www.nytimes.com/2009/03/19/business/smallbusiness/19edge.html?_r=1&scp=1&sq=as%20credit%20cards%20falter&st=cse.

⁴ *The Prepaid Visa RushCard Reaches Milestone of \$2 Billion in Cardholder Deposits*, Reuters, Dec 16, 2008, available at <http://www.reuters.com/article/pressRelease/idUS218838+16-Dec-2008+BW20081216>.

⁵ See Flanigan, *supra* note 3 (statement of NetSpend chief executive Daniel R. Henry); Smart Card Alliance, *Serving Unbanked Consumers in the Transit Industry with Prepaid Cards*, (2008), <http://www.smartcardalliance.org/pages/activities-councils-transportation>; Javelin Strategy & Research on behalf of First Data Corporation, *Underbanked/Unbanked Opportunity*, (2008), http://www.firstdata.com/about/thought_leadership/whitepapers/WP13_Unbank_Underbank.pdf.

However, prepaid cards can be inferior to debit cards linked to traditional bank accounts in several ways:

- Fees can be high, multiple, and confusing;
- Not all prepaid cards provide adequate protection against theft of funds using the cards or card account numbers;
- Promised credit lines or features to build a credit record may be expensive and overstated; and
- Federal deposit account insurance applies differently and may be capped at less than the value of all of the prepaid cards issued by a particular card program.

Until these consumer problems are solved, consumers using prepaid cards may find themselves stuck in a second-tier and much less desirable banking system.

Prepaid cards⁶ are increasingly marketed to fulfill the same purposes as bank accounts. Consumers are invited to directly deposit their paychecks, government payments or other recurring income onto the card, to set up bill payment through the card, offered checks to draw against card funds, and some prepaid cards offer rewards programs, credit lines and savings account options.⁷

Part of the prepaid card industry's strategy is to make these cards readily available and easy to use.⁸ Tax preparers, big box retailers, check cashiers, money transmitters and payday lenders all offer their own prepaid cards. Once consumers obtain personalized prepaid cards, they can be reloaded with additional funds at drugstores, grocery stores, and convenience stores by purchasing "reload packs."⁹ Consumers are encouraged to have funds directly deposited because this method of loading funds usually does not include a fee.¹⁰

⁶ Generally, the term "prepaid card" refers to a wide range of products including gift cards (both retailer-issued and bank-issued), payroll cards, self-arranged spending cards, government benefits cards and incentive cards. "Open loop" cards are generally accepted anywhere the network-brand is accepted.

"Closed loop" cards are generally issued by retailers and can only be used at the retailers' locations. "Semi closed loop" cards or "multimerchant gift cards" can be used at participating retailer locations. Philip Keitel, Fed. Res. Bank of Philadelphia, *The Laws, Regulations, Guidelines, and Industry Practices That Protect Consumers Who Use Gift Cards*, (2008), available at <http://www.philadelphiafed.org/payment-cards-center/publications/discussion-papers/2008/D2008JulyGiftCard.pdf>.

⁷ The NetSpend card offers a NetSpend Savings Plan. NetSpend, www.netspend.com (last visited Aug 10, 2009). The CapCom Unity Rewards Card is an example of a prepaid card providing rewards. Capcom Unity Card Home Page, <http://www.capcomrewardscard.com/?about> (last visited Aug 10, 2009).

⁸ The importance in having convenient locations for consumers with prepaid cards to add more money to their card accounts was evidenced by the Visa and MoneyGram deal announced in early 2009. MoneyGram offers "40,000 U.S. sites to reload...Visa prepaid debit cards." Statement from Eric Grover, Intrepid Ventures (*Visa-MoneyGram in Reload Deal*, Am. Banker, March 10, 2009).

⁹ These reload packs are offered by reload networks which include "Ace Cash Express, GreenDot, InComm, MoneyGram, Western Union, ReadyLink—which includes BlackHawk" and are sold at 7-Elevens, Safeway, Walgreens, and other grocery and convenience store locations. Celent, LLC, *Where the Banks Aren't: Nontraditional/Nonbank Advances in Branded Prepaid Cards*, 24, (2007).

¹⁰ Some prepaid cards require a minimum direct deposit amount per month to avoid fees.

Consumers have collectively placed billions of dollars in household funds on prepaid cards. In addition to the billion dollar reports by Green Dot and UniRush, industry news reported in early 2009 that H&R Block issued 2.6 million of its Emerald cards in 2008.¹¹ Since its launch in the summer of 2007, WalMart issued 1 million WalMart Money Cards, with an estimated \$1 billion loaded onto the cards.¹²

Where are these monies held? As one prepaid card study describes it, funds loaded to prepaid cards “are held in the aggregate account until the cardholder draws down the available balance.”¹³ By contrast, a traditional debit card is linked to a consumer’s individual bank account. As discussed later in this paper, the use of an aggregate, or pooled account to hold all of the funds in a prepaid card program has important and unfortunate consequences for the application of consumer protections to prepaid cards in contrast to those provided by current law for other types of debit cards.

The prepaid card industry plans to make prepaid cards the “third mainstream product” alongside credit and debit cards.¹⁴ MasterCard has announced a plan to help boost the industry by running television spots on prepaid cards to increase exposure of the product as well as build consumer awareness.¹⁵ Households may also choose prepaid cards in lieu of bank accounts or credit cards in response to economic uncertainty or out of frustration with banks and bank fees.¹⁶ Analysts predict that prepaid cards will grow along with the general growth of debit; as “transactions that would have used credit cards in the past are migrating to debit cards and other ‘pay now’ options, as well as ‘pay before’ methods such as prepaid cards.”¹⁷

This report discusses the prepaid card market and details needed improvements. The federal regulations under the Electronic Fund Transfer Act must be updated to protect prepaid cardholders when cards are lost or stolen or when funds go missing. Prepaid cardholders should be fully protected if the bank issuing the card fails. Fees should be simplified and clearly and consistently disclosed so that consumers can see the fees up front and comparison shop easily before handing over any money. Finally, claims for certain prepaid card product features such as small credit lines and credit building appear to be overstated.

¹¹ Frederick H. Lowe, *Tax Firms Try Prepaid Cards for Revenue Lift*, ATM & Debit News, Jan. 27, 2009.

¹² Anne D’innocenzio, *WalMart Lowers Fees For its Branded Debit Cards*, Business News, Feb. 18, 2009.

¹³ See Smart Card Alliance, *supra* note 3, at 21.

¹⁴ Patrick Lunsford, *Big Card Issuers Look to Prepaid for New Market Growth*, Inside ARM, June 9, 2008, available at <http://www.insidearm.com/go/arm-news/big-card-issuers-look-to-prepaid-for-new-market-growth>.

¹⁵ Maria Aspan, *MasterCard Readies TV Push for Prepaid*, Am. Banker, April 15, 2009.

¹⁶ Many credit card companies are either raising fees or expressly attempting to get rid of some of their customers. See, e.g., *American Express Paying Customers \$300 to Leave*, Wall St. J. Online, Feb. 23, 2009, available at <http://blogs.wsj.com/wallet/2009/02/23/american-express-paying-customers-300-to-leave/>; Kathy Chu, *Chase adds fee for low-rate credit cards*, USA Today, Feb. 9, 2009, available at http://www.usatoday.com/money/perfi/credit/2009-02-08-chase-interest-rates-fee_N.htm.

¹⁷ Bruce Cundiff, *New Opportunities for Banks in Alternative Payment Tools*, Am. Banker, Feb. 24, 2009.

Prepaid Cards: Are They What They Claim To Be?

Prepaid cards are widely marketed as more convenient, safe and cost effective, a straightforward way to manage funds, particularly for consumers who are underbanked or unbanked.¹⁸ The prepaid card industry touts the products as convenient budgeting tools that can help build credit.¹⁹ Prepaid card companies also seek to appeal to consumers who are becoming increasingly dissatisfied with banks.²⁰ But the devil is in the details, and upon closer examination, these cards are laden with numerous types of fees and other gotchas, making prepaid cards a shaky alternative to a bank account with a debit card.

II. Costs Associated with Prepaid Cards

Consumers Union examined fees for a range of prepaid cards available for purchase and use.²¹ We found prepaid cards assess many different types of fees, and that these fees may vary widely from card to card. The types of fees include:

- Initiation or activation fees;
- Monthly fees;
- Point of sale transaction fees;
- Cash withdrawal fees;²²
- Balance inquiry fees;
- Transaction statements, including paper and other;
- Customer service fees;
- Bill payment fees;
- Fees to add or “load” funds;²³

¹⁸ Green Dot Corporation’s Website states, “Green Dot products open doors for millions of unbanked, underbanked and credit challenged families and individuals.” Green Dot, Products, <http://www.greendotcorp.com/products.htm> (last visited Aug 10, 2009). MasterCard’s website for the Everyday Prepaid Card states “Make every day simpler and more secure.” MasterCard, Everyday Prepaid Card, <http://www.mastercard.com/us/personal/en/aboutourcards/prepaid/everydayprepaid.html> (last visited Aug 10, 2009).

¹⁹ AccountNow Prepaid’s homepage states, “The Checking Account alternative that lets you...borrow money and build credit history.” AccountNow Prepaid Home Page, https://www.accountnow.com/mkt-cap/signup2_mb.aspx?PCODE=Cg001Sgs71&gclid=CMv074ewgJsCFQVuswodEj34dA (last visited Aug 10, 2009).

²⁰ Maria Aspen, *Economy’s Loss Prepaid Cards’ Gain*, Am. Banker, April 8, 2009. ReadyDebit’s Website states, “Big banks take billions of dollars every year from their customers in checking account overdraft and other fees. We’ve designed the READYdebit® Card to help you eliminate those fees.!” ReadyDebit Home Page, http://www.readydebit.com/AWPPDC001/Site/Default.aspx?gclid=CIrDvOGwgJsCFQazsgod_IVSdw (last visited Aug 10, 2009).

²¹ The prepaid cards examined in this paper include those identified by consumer advocates and cards frequently reported in the media and by internet searches. Consumers may sign up for all of these cards online and some are available for purchase in stores. This study does not include cards issued under contract with a government or an employer, such as payroll cards.

²² Prepaid card fees for ATM cash withdrawals do not include surcharges assessed by ATM owners or other fees.

²³ Most prepaid cards provide the option to reload fees with reload packs which require separate fees assessed by reload pack companies.

- Dormancy fees;
- Fees to get your remaining funds when closing the account; and
- Overdraft or “shortage” fees.

Consumers typically can find information on only a few of the fees before deciding to sign up, purchase and use prepaid cards.²⁴ Retail displays often contain only purchase prices and initial load amounts.²⁵ Consumers who research or purchase cards online will often have to engage in a careful inspection of the prepaid card websites to find complete fee information. Access to fee information is often less prominent on prepaid card websites than the sign up pages or registration forms for card purchase. If a consumer is able to find the fee information, including fee types and fee amounts, they are usually in small print in the Cardholder Agreement or Terms and Conditions.

Consumers Union found prepaid cards charge each of these types of fees:
(Refer to Appendix A: Fee Schedule)

- *Activation Fees*

Activation fees can range from no fee to \$29.95, although the median fee we observed was about \$10.²⁶ Some cards may waive activation fees if direct deposit is set up.²⁷ Many cards have an initial load requirement, or a requirement to place \$10 to \$30 on the card at the time of purchase. Between activation and initial load fees, a consumer is likely to pay at least \$30 to obtain or purchase a prepaid card.

- *Monthly fees*

Most prepaid cards assess monthly fees, ranging up to \$10 per month. Not all prepaid cards assess monthly fees, but many do. Most prepaid cards, like the Western Union prepaid card, will waive monthly fees if direct deposit is set up.²⁸ Some prepaid cards, like the Bank Freedom prepaid card, require a minimum direct deposit amount per month to waive the fees.²⁹

²⁴ All of the prepaid cards we analyzed were reviewed from materials provided online. We did conduct a search at area convenience stores and grocery stores and found that the prepaid cards found provided little visible information on the packaging for consumers to review.

²⁵ The packaging from several Green Dot prepaid cards found during our search at area convenience stores and grocery stores only provide the purchase and monthly fee. Information regarding other fees is provided only after the card has been purchased as they were not visible on the outside packaging. The terms and conditions arrive with the permanent card after submitting personal information. Green Dot Everyday MasterCard and Nascar Prepaid card packaging found at Rite-Aid location in San Francisco, CA on April 22, 2009. Consumers may obtain fee information on GreenDot’s website and conducting a search for the Cardholder Agreement.

²⁶ Some cards also waive the activation fee if a recurring deposit is established. See Chart in Appendix B.

²⁷ See e.g., AccountNow Prepaid Home Page, www.accountnow.com.

²⁸ Western Union Prepaid MasterCard Frequently Asked Questions, http://www.westernunion.com/WUCOMWEB/staticMid.do?method=load&pagename=faqPrepaidMC#tstfaq1_10 (last visited Aug 10, 2009).

²⁹ Bank Freedom requires a minimum \$350 direct deposit per month to waive the monthly fee. Bank Freedom, How to Add Money, <http://www.bankfreedom.com/addingmoney.html> (last visited Aug 10, 2009).

Other cards like the Eufora MasterCard Prepaid Card have annual fees ranging from \$29.95 to \$99.95 and may assess monthly fees if the cards with the credit builder programs are chosen.³⁰

Some cards, like the BuyRight prepaid card provide the option of either selecting the monthly fee plan or a per transaction fee plan. A BuyRight prepaid cardholder with a monthly fee plan pays \$4.95 each month and is not charged for point of sale transactions or dormancy fees. Alternatively, that cardholder can opt to pay \$1 each time he or she uses the card to make a purchase.³¹

- *Point of Sale Transaction Fees*

Most of the prepaid cards we examined did not charge fees for point of sale transactions – that is, using the card to make a purchase. However, for cards that include point-of-sale transactions fees, fees for PIN-based transactions are usually twice as high as fees for signature-based transactions. For example, the Vision Premier Prepaid card has a \$0.95 fee for PIN-transactions and no fee for signature-based transactions.³² Rush Card Pay As You Go Program prepaid cardholders pay \$1 for each transaction, up to a cap of \$10 a month. There is a catch. The RushCard Cardholder Agreement states that fees which go over the \$10 cap are refunded the following calendar month, so consumers might pay more in fees and then have to wait nearly a month for a refund of the portion of those fees which exceeded \$10 during the prior month.³³

- *Fees to Withdraw Cash [at an ATM]*

Most of the prepaid cards we reviewed have a \$2 fee to withdraw cash from domestic ATMs. This does not include the cost of surcharges imposed by ATM owners. According to a Bankrate.com survey from 2006, the average ATM surcharge fee by the ten largest banks and thrifts was \$1.64.³⁴ The fee to withdraw funds from ATMs outside the U.S. range from \$2 plus a 2% foreign transaction fee to \$4.95. Consumers using prepaid cards are able to request cash-back from merchants when using cards at the point-of-sale without incurring fees for obtaining cash.

³⁰ The Eufora MasterCard Prepaid Card offers three prepaid cards. The Elite has a \$99.95 annual fee, Preferred has a \$59.95 annual fee and the Associate has a \$29.95 annual fee. The Credit Builder Option is offered to Elite and Preferred Prepaid cardholders and requires annual fees and monthly fees for the first two years. The website provides information for a fee waiver for the monthly fees for the second year. Eufora Prepaid Card, <http://www.eufora.com/contents/aboutTheCard/creditBuilder/index.jsp> (last visited August 3, 2009).

³¹ BuyRight Prepaid MasterCard Cardholder Agreement, <http://www.buyright.com/mc/terms.html> (last visited June 10, 2009).

³² Vision Premier Prepaid Cardholder Agreement, http://www.visionprepaid.com/pdfs/Vision_Premier_TsCs_Bank_Approved_Web.pdf (last visited August 4, 2009).

³³ RushCard, Terms and Conditions, https://www.rushcard.com/terms_CardHolder.aspx (last visited August 4, 2009).

³⁴ *What Banks are Charging Non-customers to Use Their ATMs*, USA Today, Sept 13, 2007, available at http://www.usatoday.com/money/industries/banking/2007-09-13-atm-fees-chart_N.htm?loc=interstitialskip.

There can also be a fee for ATM declines. This fee is assessed by most of the prepaid cards we reviewed and ranges from \$0.50 to \$1.50 for each decline. Again, the ATM owner's surcharge fee is not included in this fee.

- *Fees to Withdraw Cash [at a Financial Institution]*

Most of the prepaid cards we reviewed provide the option to withdraw cash from tellers at financial institutions who accept card network brands. These withdrawals are often referred to as "cash advances" although consumers are withdrawing from existing funds.³⁵ These cash withdrawals come with higher fees and may also not include additional fees assessed by the financial institution. The fees for such transactions are higher, typically about \$4 to \$5, which is more than the fees for withdrawing fees from ATMs.

- *Balance Inquiry and Statement Fees*

Most cards require a fee to check the balance at ATMs. These fees range from \$0.50 to \$1 per balance inquiry. Any surcharge imposed by the ATM owner is additional. Many prepaid cards provide other methods to obtain balance information without charge, such as by email or text message. For those prepaid cards that provide balance information by phone, such as the Western Union card, there is also no fee.³⁶

Consumers who use prepaid cards should and need to carefully track their prepaid card activities. Consumers using prepaid cards do not automatically obtain monthly paper statements as consumers using debit cards do. Most of the prepaid cards whose terms we reviewed state that they offer paper statements. Paper statements must be requested and the fee to receive monthly paper statements ranges from \$1 to \$2. However, we found two cards which charged \$5.95 for a paper statement, the Bank Freedom and NetSpend Visa prepaid cards.

- *Fees to Call Customer Service*

Prepaid cards offer customer service with an automated service or live representative. Customer service fees vary significantly among the prepaid cards we examined. Some prepaid cards offer free customer service; for example, Western Union offers either automated or live customer service calls at no charge.³⁷ However, the Millennium Advantage prepaid card has a steep \$1 per minute fee for live customer service calls. Other cards offer free customer service when consumers set up direct deposit, or some free calls per month.

³⁵ For example, Account Now calls this feature a "cash advance." AccountNow Prepaid, Prices and Fees, <http://www.accountnow.com/services/fee-schedule.aspx> (last visited Aug 10, 2009).

³⁶ Western Union Prepaid Card Fees, <https://www.mycardplace.com/cards/onlinesales/categoryc/westernUnionInsName/jsp/fee.jsp> (last visited August 4, 2009).

³⁷ Western Union, Frequently Asked Questions, http://www.westernunion.com/WUCOMWEB/staticMid.do?method=load&pagename=faqPrepaidMC#tstfa_q3_16 (last visited July 31, 2009).

- *Bill Pay Fees*

Not all prepaid cards offer bill pay, but for those that do, consumers using prepaid cards may pay for bills online, by check or by phone. The prepaid cards we examined had lower fees for online bill payment than for other forms of bill payment. For example, AccountNow offers bill pay for free online and the Wired Prepaid Card offers online bill pay for a fee of \$0.45 per payment. To pay by check, AccountNow has a \$5 fee per check and the Wired Prepaid Card has a \$0.95 per check fee.

- *Adding Money*

To add, or “load” funds, direct deposit is free but to add additional funds by any other method usually requires a fee. Although some prepaid cards do not charge a separate fee to add money to the cards, consumers often need to purchase reload packs to add funds other than by direct deposit. The WalMart Money Card provides an example of various ways to add funds onto prepaid cards. There is no cost to load funds if a consumer cashes a check, although there is a fee of up to \$3 to cash a check at WalMart.³⁸ Or, a consumer can choose to pay a \$3 fee to load more money onto the card. A consumer can also load more funds by purchasing a GreenDot reload pack or MoneyPak, which typically costs \$4.95 and is sold at retail locations such as grocery and convenience stores.³⁹

- *Fees For Inactivity*

Dormancy or inactivity fees may be charged when cards are unused for a period of time. Eight of the 18 cards we examined assess dormancy fees. These dormancy fees may begin as early as after 60 days of inactivity, and range from \$1.50 to \$5.95 per month.⁴⁰ For example, the Vision Premier Prepaid card imposes a fee starting after 60 day of nonuse.⁴¹

- *Fees To Get Your Remaining Funds When Closing The Account*

Even closing a card account can trigger a fee unless the balance has been successfully spent down to the last penny. The Western Union, BuyRight and AccountNow prepaid cards impose a fee of \$10 to \$15 to redeem any remaining money in the account by check.⁴² The card agreements call this fee a “check issuance fee” or “cancellation fee”⁴³

³⁸ Walmart Check Cashing, <http://www.walmart.com/catalog/catalog.gsp?cat=632047>; Walmart Money Card Cardholder Agreement by GE Bank, <https://www.walmartmoneycard.com/AcctMgmt/Controls/Walmart/Support/CardholderAgreement.aspx?siteid=walmart> (last visited August 4, 2009).

³⁹ The website states that most of the MoneyPak's are sold for \$4.95. Green Dot Reloadable Prepaid Cards, Reload with MoneyPak, <https://www.greendotonline.com/AcctMgmt/Content/Common/AddFunds/AppyMoneyPakInitFrm.aspx> (last visited Aug 10, 2009).

⁴⁰ The Vision Premier Prepaid Visa Card has a \$3.95 inactivity fee that begins on day 61 of inactivity and is assessed the first day of each subsequent month until the card is used again. Vision Premier Prepaid Visa Card Cardholder Agreement, http://www.visionprepaid.com/docs/Vision_Cardholder_Agreement.pdf (last visited Aug 10, 2009).

⁴¹ *Supra* note 40.

⁴² Western Union Prepaid Visa Card Terms and Conditions, <https://www.mycardplace.com/cards/cardholder/html/wuvisa/en/Privacy.jsp> (last visited Aug 10, 2009),

- *Overdraft/”Shortage” Fee*

Overdraft, or “shortage” fees, range from \$14.95 to \$29, and at times are referred to in the terms and conditions without disclosing the amount of the fee. This is a fee that is charged because the card was used for more money than the remaining card balance.

Some prepaid card issuers claim not to have overdraft fees, but their contracts permit “shortage fees” which are disclosed only in the fine print of the Cardholder’s Agreement or Terms and Conditions. When transactions exceeding the account’s balance are processed, a consumer becomes subject to a shortage fee even though the contract terms do not state the fee for the shortage.⁴⁴ For example, the Terms and Conditions for both NetSpend and AccountNow cards describe a “shortage” fee when customers “exceed the balance of the funds available.” The clause reads:

You are not allowed to exceed the available amount on Your Card through an individual transaction or a series of transactions. Nevertheless, if a transaction exceeds the balance of the funds available on Your Card (creating a ‘shortage’) you shall remain fully liable to us for the amount of the transaction and any applicable fees or charges. You agree to pay us promptly for the shortage and any applicable shortage fees.⁴⁵

The AccountNow prepaid card has a \$29 shortage fee and also “reserves the right to cancel your card” due to activity creating a shortage.⁴⁶

and BuyRight MasterCard Prepaid Card Terms and Conditions <http://www.buyright.com/mc/terms.html> (last visited Aug 10, 2009), and AccountNow Prepaid Card Terms and Conditions, <https://www.accountnow.com/secure/SignUp.aspx>; then follow “Terms and Conditions and E-Sign Act.” (last visited August 4, 2009).

⁴³ The Millennium Advantage Prepaid MasterCard has a \$9.95 check issuance fee. The Millennium Advantage MasterCard Stored Value Card Terms and Conditions, <http://www.nmbadvantagecard.com/terms.htm> (last visited Aug 10, 2009). The Vision Premier Prepaid Visa charges a \$14.95 Cancellation Fee to obtain the remaining funds in your account, Vision Premier Prepaid Visa Card Cardholder Agreement, http://www.visionprepaid.com/docs/Vision_Cardholder_Agreement.pdf (last visited Aug 10, 2009).

⁴⁴ The shortage fees are not listed in the fee schedule which is linked off the AccountNow Prepaid homepage. A consumer must select the option to sign up for the card and then select the link below the registration form to find the terms and conditions. After finding the fee schedule, the amount of the shortage fee is not included. Instead, the fee section states: “We reserve the right to bill you for any shortage together with a shortage fee of up to \$29. You agree to pay us promptly for the shortage and any applicable shortage fees. We also reserve the right to cancel this Card should you create one or more shortages with your Card.” Account Now, AccountNow Prepaid Card Terms and Conditions, <https://www.accountnow.com/secure/SignUp.aspx>; then follow “Terms and Conditions and E-Sign Act.” (last visited August 4, 2009). The information on shortage is similarly presented for the NetSpend card, however, the exact fee is not provided. NetSpend Terms and Conditions, https://www.netspend.com/prepaid-debit-card/prepaid_visa_card_terms.m#popmast (last visited Aug 11, 2009).

⁴⁵ NetSpend Terms and Conditions, “Using Your Card,” https://www.netspend.com/prepaid-debit-card/prepaid_visa_card_terms.m#popmast (last visited August 4, 2009).

⁴⁶ AccountNow Prepaid’s Terms and Conditions, “Using Your Card,” <https://www.accountnow.com/secure/SignUp.aspx> (last visited August 4, 2009).

Other cards, such as the Vision Premier prepaid card, also acknowledge that overdraft is possible if a consumer is approved for the feature.⁴⁷ If a consumer qualifies, the feature allows an overdraft amount of up to \$50 for a \$25 Overdraft Fee. The fee plus the overdraft amount owed must be paid within fifteen days; otherwise, the consumer is on the hook for an Overdraft Late Charge of an additional \$3 a day until the payment is made.

The Revel Prepaid MasterCard Cardholder Agreement states that the cardholder does not have the “right to make transactions in amounts that exceed the Card Value at the time of transaction” and requires fees to be paid as stated in the fee schedule.⁴⁸ However, the fee schedule does not refer to any specific fees for transactions that exceed the amount in the cardholder’s account, making it unclear if a fee will be charged and for what amount.

A. Case Study: What It Costs to Use a Prepaid Card

Costs can vary widely depending on which cards consumers choose. These three prepaid cards, with a total of four different pricing structures illustrate how costs may vary from card to card for a consumer: the WalMart Money Card, the Rush Card and the AccountNow Card.⁴⁹

For a two month period, our sample consumer makes:

- Three ATM withdrawals⁵⁰
- Three Bill Payments (Rent, Utilities, and Phone)
- Eight Point of Sale Purchases (Groceries and Meals once a week)
- Weekly balance inquiry
- Two deposits⁵¹

With the *WalMart Money Card*, the sample consumer pays a One-Time Issuance Fee of \$3 and loads money onto the card. She pays \$2 for each ATM withdrawal (\$6 total for 3 ATM withdrawals). She pays for groceries and meals at no extra cost. In

⁴⁷ It is unclear whether a cardholder has the option to opt out of the overdraft feature if he or she has overdrawn the account. In the Terms and Conditions, Vision Premier reserves the right to suspend or cancel the card, or cancel the overdraft feature. Vision Premier Prepaid Cardholder Agreement, http://www.visionprepaid.com/docs/Vision_Cardholder_Agreement.pdf (last visited August 4, 2009).

⁴⁸ Revel Prepaid MasterCard Cardholder Agreement, http://www.revelcard.com/cardholder_agreement_1 (last visited August 4, 2009).

⁴⁹ The WalMart Money Card recently lowered its fees to \$3. Hip hop mogul Russell Simmons has stated that he is working on lowering fees on his popular RushCard and has provided two RushCards with different price structures. Maria Aspen, *Prepaid Star Now About Low Prices*, Am. Banker (April 20, 2009). Both the WalMart Money Card and the RushCard have reported billions of dollars have been loaded onto their cards. The AccountNow Prepaid Card is one of the cards featured in *One Size Does Not Fit All*, a survey on prepaid card usage published by the Center for Financial Services Innovation. “One Size Does Not Fit All,” Rachel Schneider, Center for Financial Services Innovation, An Affiliate of ShoreBank Corporation.

⁵⁰ Based on findings from a PULSE study of active debit cardholders. *Despite Recession, Card Issuers Expect Debit Growth in 2009* Press Release June 4, 2009.

⁵¹ There would be no fee to upload funds from a recurring direct deposit.

order to pay the bills, she pays \$0.88 for each bill payment with the Standard Bill Payment Option offered with the WalMart Money Card (\$2.64 total for 3 bills).⁵² To reload funds the second time that first month, she pays \$4.95 to load funds by purchasing a MoneyPak.⁵³ She checks her balance for free by phone. Her monthly total is \$16.59 to use the WalMart Money Card the first month. For the second month, with the same usage pattern, the \$3 issuance fee is replaced with a \$3 monthly fee, and \$9.90 to reload funds twice (\$9.90 for two reload packs at \$4.95 each). The total second month's cost is \$21.54.

With the *Rush Card's Pay Monthly Program*, the same consumer pays a \$3 Card Activation Fee and loads money onto the card. She would be able to make 2 free calendar month ATM withdrawals and pay \$2.50 for the additional ATM withdrawal (\$2.50 total for 3 ATM withdrawals). She pays for groceries and meals at no cost by selecting the Signature option instead of inputting her PIN, or selecting the "debit" option (the PIN option has a \$1 per transaction fee). She uses the bill payment option for \$1 each, and must pay a \$2 one-time enrollment fee for bill payment (\$5 total=\$3 for each bill + \$2 enrollment fee). To reload funds for the second time in the first month, she pays \$4.95 for the MoneyGram reload pack. She checks her balance for free by phone as she does not have easy internet access to view her spending activity. The total is \$15.45 to use the Rush Card's Pay Monthly Program in the first month.⁵⁴ For the second month, with the same usage pattern, she pays the monthly fee of \$9.95, and \$9.90 for two reload packs, making the total cost \$25.35.

If the consumer chooses instead the *Rush Card's Pay As You Go Program*, the same consumer pays a \$19.95 Activation Fee and loads money onto the card. She pays \$1.95 for each ATM withdrawal (\$5.85 total for 3 ATM withdrawals). For every grocery and meal purchase, she pays a \$1 Convenience Fee (\$8 total for 8 purchases). She uses the bill payment option for \$1 each, and must pay a \$2 one-time enrollment fee for bill payment (\$5 total=\$3 for the bills + \$2 enrollment fee). To reload funds the second time that first month, she pays \$4.95 for the MoneyGram reload pack. She checks her balance for free by phone as she does not have easy internet access to view her spending activity. The total is \$43.75 to use the Rush Card for the first month.⁵⁵ For the second month, with the same usage pattern, the monthly cost is \$26.75 with no monthly fee and two reload fees (\$9.90 for two reload packs).

With the *AccountNow Prepaid Card*, the same consumer pays a \$9.95 Activation Fee and loads money onto the card.⁵⁶ She pays \$2 for each ATM withdrawal (\$6 total for 3 ATM withdrawals). She pays for groceries and meals at no extra cost. She can pay for bills online at no cost, but since she does not have internet access, she purchases

⁵² WalMart MoneyGram Express Bill Payment, <http://www.walmart.com/catalog/catalog.gsp?cat=632045> (last visited Aug 10, 2009).

⁵³ *Supra* note 39.

⁵⁴ *Supra* note 33.

⁵⁵ *Supra* note 33.

⁵⁶ The \$9.95 Activation Fee is waived if a recurring direct deposit is set up.

<https://www.accountnow.com/secure/SignUp.aspx>; then follow "Terms and Conditions and E-Sign Act." (last visited August 4, 2009).

money orders at the post office for \$1.05 each (\$3.15 total for 3 bills).⁵⁷ To reload funds for the second time in the month, she pays \$4.95 for the MoneyGram reload pack. She checks her balance for \$0.50 a call (\$2 total for 4 calls).⁵⁸ Her monthly total is \$26.05 to use the AccountNow Prepaid Card for the first month. For the second month, with the same usage pattern and substituting the Activation Fee for the \$9.95 Monthly Fee and two reload fees (\$9.90 total for 2 reloads); the total cost is \$31.00.

For additional case study cost comparisons, refer to Appendix B.

Card	Activation/ Issuance	Monthly total for 3 ATM Withdrawal 3 (transactio n fee)	Monthly total for 8 Point of Sale purchases (transactio n fee)	Monthly Total for 3 Bill Payments (bill payment fee)	Monthly Total for 2 Deposits (reload fee)	Monthly Total for Weekly Balance Inquires (inquiry by phone or text fee)	Total Monthly Cost –First Month (includes Activation or Issuance Fee if applicable and Fee for 1 deposit)	Total Monthly Cost – Second Month (includes Monthly Fee if applicable and Fee for 2 deposits)
WalMart Money Card	\$3.00	\$6.00	\$0.00	\$2.64	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$16.59	\$21.54
Rush Card – Pay Monthly Program	\$3.00 (activation); \$9.95 (monthly fee)	\$2.50 (first 2 ATM withdrawals in calendar month are free)	\$0.00 (Signature- based POS = free; PIN- based POS = \$1.00)	\$5.00 (\$2.00 One- Time Activation Fee; \$1.00 per bill)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$15.45	\$25.35
Rush Card – Pay As You Go Program	\$19.95 (activation); \$0 (monthly fee)	\$5.85 (\$1.95 each)	\$8.00 (\$1.00 each)	\$5.00 (\$2.00 One Time Activation Fee; \$1.00 per bill)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$43.75	\$26.75
Account Now Prepaid Card	\$9.95	\$6.00 (\$2 each)	\$0.00	\$3.15 (\$1.05 Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$2.00	\$26.05	\$31.00

⁵⁷ USPS Domestic Money Orders, www.usps.com/money/sendingmoney/moneyorders/welcome.htm (last visited August 4, 2009).

⁵⁸ *Supra* note 57.

II. Consumers Using Prepaid Cards Should Not Have to Worry About Lost Funds

Prepaid cards do not necessarily have the same legal consumer protections as traditional debit cards. Prepaid card information can be stolen and misused by identity thieves. One of the largest data breaches reported in 2009 was the Heartland Payment Systems breach.⁵⁹ Since the same processing systems are used to process prepaid cards as to process traditional debit cards, prepaid card account information was likely included in the breach. Experts predict identity fraud against prepaid cardholders. Fair Isaac, the company that produces the FICO scoring model, projects that “[t]he growing popularity of prepaid cards presents ample opportunities for fraudsters and likely will lead to the next wave of card fraud.”⁶⁰

Voluntary Protections Are Not Enough

Both Visa and MasterCard, the two major card networks, claim their cardholders can be worry free and have peace of mind with their zero liability policies. Visa’s Zero Liability policy states it will protect cardholders from unauthorized use, and requires financial institutions “to extend provisional credit for losses from unauthorized use within 5 business days of notification of the loss.”⁶¹ MasterCard has a similar Zero Liability policy which will not hold “you responsible for ‘unauthorized purchases’.”⁶²

Voluntary consumer protections, like the Visa and MasterCard zero liability policies are insufficient. For instance, prepaid card holders may be subject to the whims of customer service representatives’ knowledge of the policies.⁶³ Plus, these policies have significant loopholes. Visa’s zero liability policy does not cover ATM transactions or PIN transactions that are not processed on the Visa network.⁶⁴ Card transactions may take place on other networks even if the card has a Visa logo.⁶⁵ MasterCard’s zero liability policy also has loopholes. That policy doesn’t give any protection if a consumer reported more than two or more unauthorized events in the past 12 months, does not cover ATM or PIN transactions and may required the card to have been registered.⁶⁶

⁵⁹ Heartland reportedly processes payments transactions for over 250,000 businesses. Brian Krebs, *Payment Processor Breach May Be Largest Ever*, Wash. Post, Jan 20, 2009, available at http://voices.washingtonpost.com/securityfix/2009/01/payment_processor_breach_may_b.html.

⁶⁰ Fair Isaac: *Prepaid Cards Spread Fraud*, Am. Banker, July 15, 2009.

⁶¹ Visa Zero Liability, http://usa.visa.com/personal/security/visa_security_program/zero_liability.html (last visited August 4, 2009).

⁶² MasterCard Zero Liability,

<http://www.mastercard.com/us/personal/en/cardholderservices/zeroliability.html> (last visited August 4, 2009).

⁶³ “A voluntary policy is subject to the risk of uneven application and to the discretion of employees about how and when to apply the policy, which may disadvantage consumers whose primary language is not English, who are less able to spend time on the phone with customer service due to the nature of their jobs, or who are less able to write a persuasive letter describing the problems—in many cases, the very consumers to whom prepaid debit cards are being marketed as account substitutes.” Gail Hillebrand, *Before the Grand Re-thinking: Five Things to Do Today With Payments Law and Ten Principles to Guide New Payments Products and New Payments Law*, 83 Chi.-Kent L. Rev. 769, 790 (2008).

⁶⁴ *Supra* note 62.

⁶⁵ A merchant’s financial institution chooses a network to process debit transactions.

⁶⁶ *Supra* note 63.

Traditional debit cards have statutory and regulatory protections that must be extended to all prepaid cards. The Electronic Funds Transfer Act (EFTA) and Regulation E provide debit card users important protection from unauthorized use and provide error resolution rights. If a consumer contacts a debit card issuer about a lost or stolen card within two business days, a consumer's liability is limited to no more than \$50. If a lost or stolen debit card is not reported to the issuer within two business days, a consumer's liability is capped at \$500. Unauthorized charges discovered on statements must be reported within 60 days to limit liability to \$500. If a consumer does not report unauthorized charges until after 60 days, a consumer may be responsible for all charges made after the 60 days and until the debit card issuer is contacted. For most consumers holding a debit card linked to a bank account, the maximum exposure for a lost or stolen debit card is \$50.

Consumers using debit cards also have error resolution rights, or missing funds must be put back in the account within a certain period of time. When the EFTA applies, financial institutions must either resolve disputes or provisionally recredit missing funds within ten business days.⁶⁷ This is an important protection as it provides consumers access to missing funds and means that consumers are not left waiting for their funds if the investigation takes too long. This is particularly important when the money is needed to pay bills and other household needs.

But with prepaid cards, consumers might be out of all their money due to an unauthorized transaction regardless of how quickly the loss is reported, and may not have access to missing money when money is needed to pay bills and for daily essentials. Some prepaid card issuers appear to give unauthorized transaction protections and error resolution rights by contract in their cardholder agreements or terms and conditions. For example, the WalMart Money Card provides unauthorized use protections in its Cardholder Agreement, limiting losses at \$50 if the terms and conditions are met.⁶⁸ The AccountNow Prepaid Card Terms and Conditions refer to limits on liability although specific dollar amounts are not specified.⁶⁹ The WalMart Money Card also provides

⁶⁷ Under Regulation E, a financial institution may take up to 45 days to conduct an investigation but must provisionally recredit the consumer with the missing funds within 10 business days. 12 C.F.R. § 205.11(c).

⁶⁸ WalMart Money Card Cardholder Agreement, "Your Liability for Unauthorized Use of Your Walmart MoneyCard or PIN:" "Tell us AT ONCE if you believe your Walmart MoneyCard or PIN has been lost or stolen. Telephoning is the best way of notifying us. You will not lose any part of the money on your Walmart MoneyCard based on unauthorized use if you have exercised reasonable care in safeguarding your card and PIN from risk of loss or theft. However, if these conditions are NOT met, you could lose the lesser of \$50 or the amount of unauthorized use from your Walmart MoneyCard before you notify us that your card has been lost or stolen. If you believe your Walmart MoneyCard or PIN has been lost or stolen, report it on-line at [walmartmoneycard.com](https://www.walmartmoneycard.com) or call (877) 937-4098, or write to Our Mail Address," WalMart Money Card Cardholder Agreement,

<https://www.walmartmoneycard.com/ActMgmt/Controls/Walmart/Support/CardholderAgreement.aspx?siteid=walmart> (last visited August 5, 2009).

⁶⁹ AccountNow Prepaid Terms and Conditions, "Your Liability for Unauthorized Transfers," "Tell us AT ONCE if you believe your Card has been lost or stolen. Telephoning toll-free at 1-866-925-2036 is the best way of keeping your possible losses down. You may not be liable for unauthorized use of your Card provided that you notify us within a reasonable time after learning of the loss or theft of your Card... Reasonable time will be determined in our sole discretion based on the circumstances but will not be less than 60 days from the transaction date. If your Card has been lost or stolen, we will close your Card to keep

error resolution rights to existing customers which are similar to those provided for debit cards.⁷⁰ AccountNow also provides error resolution rights in its Terms and Conditions.⁷¹ However, like the Visa and MasterCard Zero Liability policies, these unauthorized use protections provided by prepaid card issuers may be changed or rescinded at any time because the companies reserve the right to change the terms of the contract at any time for any reason.⁷²

The Federal Reserve Board has not yet decided whether prepaid cards, other than payroll cards, are protected under the EFTA and its regulations. In declining to act on a request by consumer groups made in 2004 to clarify or extend the protection, the Federal Reserve Board stated that there would be little benefit to consumers to provide Regulation E protections for cards that “may be used for limited purposes or on a short-term basis, and which may hold minimal funds.”⁷³ Prepaid cards are just the opposite. They are used for everyday use, with many consumers depositing important household funds, and even their wages, onto prepaid cards. The Federal Reserve estimated that in

losses down. We reserve the right to investigate any claim you may make with respect to a lost or stolen Card, and you agree to cooperate with such investigation. We may ask you for a written statement, affidavit or other information in support of the claim. Also, if your transaction history shows transactions that you did not make, tell us at once. If you do not tell us within 60 days after the transaction history was made available to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from making the unauthorized transaction if you had told us in time. Our liability is limited to reimbursing you for the face amount of any unauthorized transaction,” AccountNow Prepaid Card Terms and Conditions, <https://www.accountnow.com/secure/SignUp.aspx>; then follow “Terms and Conditions and E-Sign Act.” (last visited August 4, 2009).

⁷⁰ WalMart Money Card Cardholder Agreement, “Notice of Error Resolution Rights for Your Walmart MoneyCard,” “We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your Walmart MoneyCard within 10 business day for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your Walmart MoneyCard. For errors involving new customers, point-of-sale, or foreign-initiated transactions, loads, or reloads, we may take up to 90 days to investigate your complaint or question. For new customers, we may take up to 20 business days to credit your Walmart MoneyCard for the amount you think is in error.” WalMart MoneyCard Cardholder Agreement,

<https://www.walmartmoneycard.com/AcctMgmt/Controls/Walmart/Support/CardholderAgreement.aspx?siteid=walmart> (last visited August 5, 2009).

⁷¹ AccountNow Prepaid Terms and Conditions, “Information About Your Right to Dispute Errors,” “If you provide this information orally we may require that you send your complaint or question in writing within ten (10) business days. We will determine whether an error occurred within ten (10) business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question. If we ask you to put your complaint or question in writing and you do not provide it within ten (10) business days, we may not credit your Card. For errors involving new Cards, point-of-sale, or foreign-initiated transactions, we may take up to ninety (90) days to investigate your complaint or question. We will tell you the results within three (3) business days after completing the investigation. If we decide that there was no error, we will send you a written explanation.” AccountNow Prepaid Card Terms and Conditions,

<https://www.accountnow.com/secure/SignUp.aspx> and click on Terms and Conditions and E-Sign Act. (last visited August 5, 2009).

⁷² Prepaid card contracts such as those of the WalMart Money Card, the Millenium Advantage Card and the Eufora prepaid cards all have provisions allowing the terms to be changed at any time for any reason.

⁷³ Electronic Funds Transfers, 71 Fed. Reg. at 51,441.

2006, 312.8 million transactions were conducted using open-loop prepaid cards for a total value of \$13.3 billion and the Mercator Advisory Group estimates that \$38.7 billion was loaded onto network-branded prepaid cards in 2007.⁷⁴

III. Prepaid Cards Are Unlikely to Boost Credit Records

Prepaid cards are now offering credit-like features, which include “credit building” features and small credit lines. Close inspection of these features indicate that consumers should stay away from signing up for credit building and credit lines offered by prepaid cards. These prepaid products do not provide sufficient information to build a credit report that consumers get with mainstream credit products, nor will consumers obtain fairly priced short term credit lines. Unfortunately, with these products, consumers using prepaid cards may find themselves stuck further in a second-tier banking system.

Uncertain “Credit Building”

Some prepaid cards tout credit building features which claim to “establish your credit history” or rebuild credit by reporting positive monthly payment history to credit reporting agency partners.⁷⁵ These credit building features may come at a steep price and not all of them will create a record at one of the big three credit reporting agencies commonly used by creditors. For instance, Eufora’s Credit Builder fee is \$139.75 for the Preferred and \$219.95 for the Elite membership levels, which includes annual fees and monthly payments.⁷⁶

Prepaid card companies touting this feature report monthly prepaid card fee payments to either major credit bureaus or to a nontraditional credit bureau, such as Payment Reporting Builds Credit (PRBC), an alternative self-reporting credit reporting agency which consumers can sign up with to self report their bill payments. For example, the Eufora Card reports monthly payments of the fees paid to Eufora to TransUnion and Experian. Other prepaid cards, such as the AccountNow prepaid card, report to PRBC.⁷⁷ AccountNow reports bill payment made through AccountNow’s bill payment to PRBC.⁷⁸

Although credit building features may seem attractive to unbanked and underbanked consumers trying to establish credit files or consumers with bad credit trying to rebuild credit, it is not clear whether these nontraditional reporting mechanisms actually help consumers establish good credit and credit scores. Information on AccountNow’s website discloses that this type of credit reporting and scoring may be

⁷⁴ Center for Financial Services Innovation, *The Industry Forecast for Prepaid Cards, 2009*, 4 (2009).

⁷⁵ Eufora Home Page, <http://www.eufora.com/> (last visited Aug 10, 2009).

⁷⁶ The Eufora Preferred Credit Builder program requires a \$59.95 annual fee and a \$6.65 monthly fee for the first year, while the Eufora Elite Credit Builder program requires a \$99.95 annual fee and a \$6.65 monthly fee for the first year. Eufora Credit Builder Payment Schedule, <https://www.eufora.com/contents/aboutTheCard/creditBuilder/payment.jsp> (last visited Aug. 3, 2009).

⁷⁷ AccountNow Prepaid, FREE! Credit Builder, <https://www.accountnowvisa.com/services/credit-builder.aspx> (last visited August 5, 2009); *see also* PRBC, www.prbc.com.

⁷⁸ *Supra* note 80.

effective in obtaining a mortgage, but will not help with other loans, credit cards or insurance policies.⁷⁹

Consumers have other, better ways to build a credit history. As a researcher put it in a publication of the Federal Reserve Bank of Philadelphia in May 2005; “[s]imply put...they [stored-value cards] will necessarily be an imperfect vehicle for building a credit history.”⁸⁰

Very Pricey Credit Lines

Some prepaid cards offer small lines of credit which must be paid within a short period of time. These short term loans are expensive and need to be paid quickly, like a payday loan. Banks that include prepaid lines of credit may not be limited even by lax state payday loan laws. First, the bank is able to avoid state usury limits, small loan laws, and/or payday loan laws. While payday lenders hold personal checks or in some states take an authorization to debit the borrower’s bank account to secure the loan, banks that extend credit through prepaid cards have direct access to the next paycheck or exempt benefits that are direct deposited to the card. Just as payday lenders can extract exempt funds from federal recipients’ bank accounts, prepaid cards on which exempt funds are loaded can be tapped to repay lines of credit and associated fees.

One example is the iAdvance line of credit on prepaid cards, such as the AccountNow Prepaid card.⁸¹ The loan operates like a payday loan. The loans are small and provide short term credit with a flat fee (\$25 per \$200); require that borrowing consumers have recurring direct deposits such as of paychecks or government benefits and lead to frequent rollovers and triple digit Annual Percentage Interest Rates (APRs). The disclosed APR is 150%, but this assumes that the loan is outstanding for 30 days. This is highly unlikely, as the loans are most likely taken out at the end of the pay cycle. The APR is 650% if the loan is taken out a week before payday, and even higher if the loan is taken out only for a few days.

IV. Depository Insurance Caps May Not Apply To Each Prepaid Cardholder

Consumers with traditional bank accounts have peace of mind that their money will not be lost if their banks go into receivership, up to a sizable dollar cap. Consumers know that as long as their money has been deposited into Federal Deposit Insurance

⁷⁹ AccountNow Prepaid’s Website states, “Home loan associations like Freddie Mac and Fannie Mae and Citicorp Mortgage use bill payment information as part of their decision making process for home loans. Soon, other companies including auto loan, credit card, and insurance companies may start using Bill Payment Scores to comply with the Nation’s Fair Housing and Fair Lending laws.” AccountNow Prepaid, Free! Credit Builder, <http://www.accountnow.com/services/credit-builder.aspx> (last visited June 18, 2009).

⁸⁰ James McGrath, Fed. Res. Bank of Philadelphia, *The Cost Effectiveness of Stored-Value Products for Unbanked Consumers* (2005), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=927073.

⁸¹ The AccountNow prepaid card offers the iAdvance credit line. iAdvance, <http://www.myiadvance.com/> (last visited June 23, 2009). AccountNow’s description of the iAdvance Line of Credit – “a sensible borrowing alternative to payday loans. The iAdvance Line of Credit is a short term loan program that is easy to get and cost less than a payday loan.” AccountNow Prepaid Home Page, www.accountnow.com (last visited June 23, 2009).

Corporation (FDIC) member banks, their funds (typically in checking or savings accounts) are insured up to the FDIC limit.⁸² Consumers with traditional bank accounts can easily find out if their banks are FDIC member banks by using the FDIC's lookup site;⁸³ looking for gold and black FDIC logos on the banks' windows; or finding the phrase "Member of FDIC" or "Member FDIC" on banks' websites.⁸⁴ The FDIC requires member banks to "continuously display the official sign at each station or window where insured deposits are usually and normally received."⁸⁵

However, consumers who use or are considering using prepaid cards do not have the same guarantee that they would recover all their money in the event of a bank failure. Even if a prepaid card website displays the familiar FDIC logo or phrase, that means the funds are insured but leaves open the question of whether the \$250,000 deposit insurance cap applies to the whole pooled account in which many cardholders' money is held, or applies individually to each cardholder. For example, the Capcom Unity Visa Prepaid Card's website displays the FDIC logo, but does not clearly inform consumers whether or not the funds on the cards are FDIC insured to each individual cardholder. The website only instructs cardholders or potential cardholders to call the issuing bank to find out if all their funds are FDIC insured.⁸⁶

Consumers using prepaid cards should have peace of mind that their money is safe if the issuing bank fails. There has been some progress on this issue, but more remains to be done. The FDIC clarified that prepaid card funds qualify for FDIC coverage as long as the funds are maintained in accounts that satisfy "pass through" requirements set forth in the FDIC's new General Council Letter No. 8.⁸⁷ Pass through matters because without it the funds of thousands of cardholders would be subject to the single allowable cap, currently at \$250,000. However, whether FDIC insurance passes through to the cardholder depends on the choices made by the card issuer in setting up the account. Some of the fine print by card issuers tells consumers that the money is not insured. For example, the Rush Card terms and conditions states that the card funds are not FDIC insured, even though the issuing bank, Manufacturers and Traders Trust Company is a Member of FDIC.⁸⁸ Other prepaid issuers, such as BuyRight, state that

⁸² 12 U.S.C. § 1813(l); 12 C.F.R. § 330.1(n).

⁸³ To find out if the bank is a FDIC-insured institution, *see* http://www2.fdic.gov/idasp/main_bankfind.asp.

⁸⁴ 12 C.F.R. § 328.2.

⁸⁵ 12 C.F.R. § 328.2(a).

⁸⁶ Prepaidcardholder.com, <http://prepaidcardholder.com/fd/fdic.html>.

⁸⁷ *Stored Value Cards and Other Electronic Payment Systems*, 61 Fed. Reg. 150 (Aug. 2, 1996). The FDIC's "pass-through" requirements are: 1) the account records at the insured depository institution must disclose the existence of a custodial relationship; 2) the records of the insured depository institution or records maintained by the custodian or other party must disclose the identities of the actual owners of the funds and the amount owned by each such owner; and 3) the funds are owned by the cardholders. A card issuer's choices will determine whether these requirements are met.

⁸⁸ RushCard's Terms and Conditions, "Limitations on Card Transactions,"

"8. Limitations on Card Transactions. The following limitations apply to the use of your Card:

(a) Your Card is a prepaid Visa debit card. THERE IS NO CREDIT LINE, CREDIT CARD OR OVERDRAFT PROTECTION ASSOCIATED WITH YOUR CARD OR YOUR CARD BALANCE. YOUR CARD BALANCE IS NOT A DEPOSIT ACCOUNT AND THERE IS NO DEPOSIT ACCOUNT ASSOCIATED WITH YOUR CARD. FUNDS REPRESENTED BY YOUR CARD BALANCE THAT

“[d]eposited funds are insured up to \$100,000 or to the extent allowable by the Federal Deposit Insurance Corporation (FDIC). This statement doesn’t make it entirely clear whether the deposit cap applies per card or to all of the funds for all of the cards in the program.”⁸⁹ This confusion may be easily alleviated by the Federal Reserve Board declaring it an unfair practice to offer a prepaid card unless it is set up to qualify for either direct or pass through FDIC insurance. In addition, the FDIC should clarify its regulations concerning the use of the term “FDIC insured” to prevent that use unless the insurance in fact is in place and passes through on a per-cardholder basis.

V. Policy Recommendations

Refer to Appendix C

❖ Fees

- Prepaid card fees should be displayed in a simple comprehensive chart, much like the Schumer Box for credit cards, which displays important fees with clear explanations for what the fees are for.⁹⁰
- Monthly costs should be capped for use of prepaid cards and should be known up front.
- Fee information should be provided in plain sight: on the outside of prepaid card packages; prominently on prepaid card website homepages; and, in other places consumers find prepaid cards.
- Fee advertising that creates an impression of low cost by touting the absence of one fee without disclosing other fees should be stopped.
- Overdraft or shortage fees should be eliminated.
- Dormancy or inactivity fees should be eliminated.
- Paper Statements should be provided to consumers monthly for no fee or a nominal fee.

❖ Right of Recredit

❖ Reduce Loss Cap to \$50 on all cards, including prepaid

❖ Chargeback Protection (although not discussed in report)

❖ Guarantee Deposit Insurance for Each Prepaid Cardholder

- Prepaid card FDIC ads and websites should be clear about individual depository coverage

ARE ACCESSIBLE WITH YOUR CARD ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER STATE OR FEDERAL GOVERNMENT AGENCY AND ARE SUBJECT TO RISK OF LOSS,” RushCard, Terms and Conditions, https://www.rushcard.com/terms_cardHolder.aspx (last update August 4, 2009).

⁸⁹ BuyRIGHT Home Page, <http://www.buyright.com/#back> (last visited August 5, 2009).

⁹⁰ Similar to the “Schumer Box” for credit card terms and fees. 12 C.F.R. 226.5a

VI. Conclusion

Prepaid cards function much like traditional debit cards. They can be used like a bank account – to make debit purchases, withdraw cash at ATMs and from tellers, receive direct deposits and pay bills online or with checks. Consumers should be able to see and compare the cards' fees up front before handing over any money. Prepaid card issuers should provide fee information in a simple comprehensive chart, and the cost of using prepaid cards should be capped monthly. The consumer protections on these cards must be improved to equal those of bank accounts linked to debit cards; so that consumers using prepaid cards do not find themselves empty-handed as a result of unauthorized transactions, lost or stolen cards, identity theft or fraud or a bank failure.

A growing number of consumers are using and relying upon prepaid cards to manage household funds and conduct daily financial transactions, making consumer protections increasingly critical for prepaid cards. Until those protections are required, prepaid cards are second-tier substitutes for bank accounts which do not provide cardholders with the same stability or protections that all consumers expect and deserve.

Appendix A: Fee Schedule		NetSpend Visa	H&R Block Emerald Card **	Rush Card	Vision Premier	WalMart Money Card	Western Union	AccountNow	BuyRIGHT	First Vineyard
Issuing Bank (Card Network)		MetaBank (Visa)	H&R Block Bank (MasterCard)	Manufacturers and Traders Trust Company (Visa)	Bancorp (Visa)	GE Money Bank (Visa)	Bancorp (Visa)	MetaBank (Visa)	MetaBank (MasterCard)	Bancorp (MasterCard)
Activation Fee/Initial Load: Card Issuance/Purchase		"Card Fulfillment (S&H)" Fee: \$9.95/varies	\$0; (\$0 initial load)	\$19.95 (Pay As You Go Program); \$3 (Pay Monthly Program)	\$9.95; \$20 initial load	\$3; \$20 initial load	\$9.95; \$30 initial load	\$9.95 (waived if set up direct deposit); \$10 initial load	\$29.95; \$20 initial load	\$39.95; \$20 initial load
Monthly Fee		Fee Advantage: \$9.95 (unlimited transactions) OR "Pay As You Go": \$0	\$0	N/A for Pay As You Go; \$9.95 (Pay Monthly)	\$3.80 (\$0.95 weekly fee) unless direct deposit or 15+ transactions/mo	\$3	\$0	\$9.95	\$4.95 if chose Monthly Option; otherwise \$0	\$6.95
Point of Sales Fees: Purchase fees	Signature	Fee Advantage: Free OR "Pay As You Go": \$1	Free	Free (Pay Monthly); \$1 (capped at \$10 per month for Pay As You Go)	Free	Free	\$0.99	Free	\$1 (unless Monthly Fee option chosen)	Free; \$0.50 (internat'l)
	PIN	Fee Advantage: Free OR "Pay As You Go": \$2	Free	\$1 (Pay Monthly); \$1 (capped at \$10 per month for Pay As You Go)	\$0.95	Free	\$0.99	Free	\$1 (unless Monthly Fee option chosen)	Free; \$0.50 (internat'l)
Cash Withdrawal: ATM	Domestic	Up to \$2.50	\$1.95	2 Free each calendar month \$2.50 add'l withdrawals (Pay Monthly); \$1.95 Pay As You Go)	\$1.95	\$2	\$2	\$2	\$2	\$2
	International	\$4.95	\$2.50	\$2.50 (Pay Monthly); \$1.95 (Pay As You Go)	\$4.95	\$2 + 2% foreign transaction fee		\$4.95	\$5	\$4.50
Cash Advance from Financial Institution		At Distributor: Up to \$2.50	\$20		\$4.95	\$2 "Teller Cash Transaction"	\$4	\$4.95	\$4.50	\$4.50
Balance Inquiry: ATM		"non monetary transaction--at ATM" fee Up to \$0.50	\$1(Domestic); \$2.50(Internat'l)	\$0.50(Domestic) Both Programs; \$1(Internat'l) Both Programs	\$0.95(Domestic); \$1			\$1.00	\$1	\$1
Decline: unable to complete transaction	ATM	Up to \$1	\$0.50		\$0.95	Free "negative balance fee"			\$0.50	\$1
	Purchase				\$2.95		\$0.15		\$0.50	
Statements	Paper	\$5.95 "add'l statement mailing fee"	\$1	\$1	\$2.95	No fee provided. Must be requested online or by phone.	\$2	\$2.95	\$3	\$3
	Online	Free (also free by phone)	Free (also free by phone)	Free	Free	Free (also free by phone)	Free (phone \$0.50 or free with direct deposit)	Free	Free	Free
	Email/Text	Free	Free	Free	Free		Free	Free	Free	Free
Replacement Card: to replace lost/stolen card (for expedited card delivery)		Up to \$9.95	\$10 (+ \$35 if request express delivery)	\$9.95	\$4.95 (+ \$19.95 if request express delivery)	\$3 (+\$20 if request express delivery)	\$10 (+ \$19.95 if request priority shipping)	\$10 (+\$40 if request expedited delivery)	\$15 (+\$15 if request express mail)	\$15 (+\$15 if request express mail)
Reload: Adding funds		Determined by reload method	Determined by reload method	Determined by reload method	\$0.95 and reload method fee	Free with Check Cashing at WalMart; \$3 without Check Cashing at WalMart; or reload pack fee	Up to \$4.95 Western Union Load Fee	Determined by reload method	Determined by reload method	Varies by reload method; i.e. \$1 if use MoneyGram or Visa ReadyLink
Dormancy: Inactivity/Nonuse fee		\$5.95/mo "account maintenance fee" after 90 days \$2.50/mo after 3 mos.		N/A (Pay Monthly); \$1.95 after 3 consecutive months (Pay As You Go)	\$3.95 after 60 days				\$4.95 per month after 6 months	
Direct Deposit		Free	Free	Free	Free (must be \$500 min)	Free	Free	Free	Free	Free
Customer Service		First 2 live calls per year for Free; \$2 after	Free	Free (automated); \$1.95 per call (live)	Free (both automated and operator assisted)	Free (live or automated)	Free with direct deposit; or 1 free call/mo, \$2 after (live agent)	\$1 per call (live person); \$0.50 per call (automated)	"Phone Call Fee" \$0.06 per minute	
Bill Pay	Online			\$1 (+\$2 one time enrollment fee)	\$0.95	Offered through WalMart Bill Pay by CheckFreePay (\$0.88 for 3 business day delivery; \$1.88 for next avail business day)		Free	\$1	\$0.50
	Check				\$0.95	Offered through WalMart Bill Pay by CheckFreePay (\$0.88 for 3 business day delivery; \$1.88 for next avail business day)		\$5	\$1	\$1
	Phone							\$5		
Overdraft/Shortage		In terms but fee not disclosed	OverLimit in terms but fee not disclosed	None. Liable for "legal fees and costs of legal proceedings	Overdraft Transaction Fee \$25; plus \$3 Late Fee/day if not paid within 15 days	FAQ states "no" but are subject to cardholder agreement which does not provide info	None. Liable for "any applicable fees"	Up to \$29 "shortage fee"	Liable for any applicable fees or charges due to "shortage"	None. Liable for "any applicable fees"
Cancellation		\$5.95 (Check Fee)	\$20 (Check Fee)	\$30 (Express Check Fee)	\$14.95 (Check Fee)	undisclosed "liquidation fee"	\$10 (Close Account Admin Adjustment Fee)	\$15.95 (requesting check to bring balance to zero when close account)	\$15 (Cancellation Fee)	\$15 (Cancellation Fee)
Credit Builder				No				Yes		
Credit Line				No				Yes		

Appendix A: Fee Schedule		NetSpend Visa	H&R Block Emerald Card **	Rush Card	Vision Premier	WalMart Money Card	Western Union	AccountNow	BuyRIGHT	First Vineyard
Held Fund Policies: for transactions where the final amount may not be known, prepaid cards have separate policies for holding additional funds for certain time periods	Gas at Pump	\$55 to \$100, length of time undisclosed	No	May hold up to \$50	May result in hold of \$75. Terms state takes up to seven days to clear after final amount received.	Up to 4 day hold of at least \$35	May result in hold of \$75. Terms state takes up to seven days to clear after final amount received.	No info in Terms & Conditions; however, may be subject to "special research and documentation fee" if inquire (may include authorization hold removal, account verification, account balancing, false claims) Up to \$50	Must have minimum of \$30	Up to \$75 or more. May take up to fifteen days to be removed.
	Hotel	FAQ states "yes"	May hold funds up to 30 days	May have hold for estimated amount of final bill. Additionally held money may not be credited back to account for 2-3 days after checking out.	Require 20% more than purchase amount. Terms state takes up to seven days to clear once amount is received.	May result in hold for up to 10 days.	Require 20% more than purchase amount. Terms state takes up to seven days to clear once amount is received.	No info in Terms & Conditions; however, may be subject to "special research and documentation fee" (may include authorization hold removal, account verification, account balancing, false claims) Up to \$50		Might be preauth for amount plus 20% or more. May take up to fifteen days to be removed.
	Rental Car	15% above authorized security deposit, length of time undisclosed	May hold funds up to 30 days	May have \$300 to \$500 hold during rental period.	Requires 20% more than purchase amount. May hold funds for 60 days	May result in hold for up to 90 days.	Requires 20% more than purchase amount. May hold funds for 60 days	No info in Terms & Conditions; however, may be subject to "special research and documentation fee" (may include authorization hold removal, account verification, account balancing, false claims) Up to \$50	Must have additional 15% until authorization settles.	Might be preauth for amount plus 20% or more. May take up to fifteen days to be removed. An additional 15% or more may be added.

*Information was obtained from prepaid card websites from 6/09 to 8/09. Some of the categories remain blank as it was unclear from the prepaid cards' websites, cardholder agreements or terms and conditions whether fees or services were provided for the cards.

**The H&R Block Emerald Card differs from the other prepaid cards reviewed, as it is a means to obtain tax refunds or refund anticipation loans.

Appendix A: Fee Schedule		ReadyDebit	nFinanSe* info only from FAQ on website	SVC Revel	Millenium Advantage	Eufora	Wired	Espree	Bank Freedom	Exact
Held Fund Policies: for transactions where the final amount may not be known, prepaid cards have separate policies for holding additional funds for certain time periods	Gas at Pump	May have up to \$75 hold. May be subject to "special research and documentation fee" (may include authorization hold removal, account verification, account balancing, false claims) Up to \$50	No. Must pay with cashier	No. Must pay with cashier.		May have up to \$75 hold.	May preauthorize up to \$75 or more	May hold funds up to five days.	Must have at least \$55 to \$100 in account.	Must have at least \$50
	Hotel	No info in Terms & Conditions; however, may be subject to "special research and documentation fee" (may include authorization hold removal, account verification, account balancing, false claims) Up to \$50	Subject to Hotel Terms and Conditions	May hold funds for up to 90 days.		May have 20% more held. May take up to seven days for hold to be removed after final payment amount is received.	May have 20% more held and may take up to fifteen days for hold to be removed,	May hold funds up to five days.	Must have at 15% more than authorized security deposit amount and additional \$100 for incidental damages which may be held up to 60 days.	Funds may be held from 30 to 90 days.
	Rental Car	No info in Terms & Conditions; however, may be subject to "special research and documentation fee" (may include authorization hold removal, account verification, account balancing, false claims) Up to \$50	Subject to Rental Car Terms and Conditions	May hold funds for up to 90 days.	\$5 fee. May take up to seven days to be removed.	May have 20% more held. May take up to seven days for hold to be removed after final payment amount is received.	May have 20% more held and may take up to 90 days for hold to be removed,	May hold funds up to five days.	Must have at 15% more than authorized security deposit amount and additional \$100 for incidental damages which may be held up to 60 days.	Additional 15% added to merchant's authorization. Funds may be held up to 90 days

*Information was obtained from prepaid card websites from 6/09 to 8/09. Some of the categories remain blank as it was unclear from the prepaid cards' websites, cardholder agreements or terms and conditions whether fees or services were provided for the cards.

**The H&R Block Emerald Card differs from the other prepaid cards reviewed, as it is a means to obtain tax refunds or refund anticipation loans.

Appendix B: Case Study

For a two month period, our sample consumer makes:

- Three ATM withdrawals¹
- Three Bill Payments (Rent, Utilities, and Phone)²
- Eight Point of Sale Purchases (Groceries and Meals once a week)³
- Weekly balance inquiry⁴
- Two deposits⁵

Card	Activation/Issuance	Monthly total for 3 ATM Withdrawal 3 (transaction fee)	Monthly total for 8 Point of Sale purchases (transaction fee)	Monthly Total for 3 Bill Payments (bill payment fee)	Monthly Total for 2 Deposits (reload fee)	Monthly Total for Weekly Balance Inquires (inquiry by phone or text fee)	Total Monthly Cost – First Month (includes Activation or Issuance Fee if applicable and Fee for 1 deposit)	Total Monthly Cost – Second Month (includes Monthly Fee if applicable and Fee for 2 deposits)
WalMart Money Card	\$3.00	\$6.00	\$0.00	\$2.64	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$16.59	\$21.54
Rush Card – Pay Monthly Program	\$3.00 (activation); \$9.95 (monthly fee)	\$2.50 (first 2 ATM withdrawals in calendar month are free)	\$0.00 (Signature-based POS = free; PIN-based POS = \$1.00)	\$5.00 (\$2.00 One-Time Activation Fee; \$1.00 per bill)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$15.45	\$25.35

¹ Based on findings from a PULSE study of active debit cardholders. *Despite Recession, Card Issuers Expect Debit Growth* in 2009 Press Release June 4, 2009.

² We assume that our sample consumer is able to gain internet access once a month to utilize online bill payment options if they are provided by the prepaid card issuer.

³ The sample consumer makes Signature Based point of sale purchases, as they usually do not require a fee.

⁴ The sample consumer uses her phone to check balances weekly, either by calling a customer service line or receiving text messages. If the consumer had easy internet access, she could also check balances and transaction histories online for no fee. Checking balances at ATMs often incurs a fee with the prepaid card issuer as well as the ATM owner.

⁵ There would be no fee to upload funds from a recurring direct deposit. Some prepaid cards require a minimum amount for the direct deposit to waive fees.

Rush Card – Pay As You Go Program	\$19.95 (activation); \$0 (monthly fee)	\$5.85 (\$1.95 each)	\$8.00 (\$1.00 each)	\$5.00 (\$2.00 One Time Activation Fee; \$1.00 per bill)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$43.75	\$26.75
Account Now Prepaid Card	\$9.95	\$6.00 (\$2 each)	\$0.00	\$3.15 (\$1.05 Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$2.00	\$26.05	\$31.00
NetSpend Visa – Pay Monthly Program	\$9.95 (purchase); (\$9.95 monthly fee)	\$7.50 (up to \$2.50 each)	\$0.00	\$3.15 (\$1.05 Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$25.55	\$30.50
NetSpend Visa – Pay As You Go Program	\$9.95 (purchase); \$0 (monthly fee)	\$7.50 (up to \$2.50 each)	\$8.00 (\$1 each signature transaction)	\$3.15 (\$1.05 Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$33.55	\$28.55
H&R Block Emerald Card	\$0.00 (purchase); \$0 (monthly)	\$5.85 (\$1.95 each)	\$0.00 (each signature transaction)	\$3.15 (\$1.05 Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$13.95	\$18.90
Vision Premier	\$9.95 (activation); \$3.80 (\$0.95 weekly fee)	\$5.85 (\$1.95 each)	\$0.00 (signature)	\$3.15 (\$1.05 x 3 – Money Orders at the Post Office)	\$5.90 (1 st Month); \$11.80 (2 nd Month) (\$4.95 MoneyGram + \$0.95 fee)	\$0.00	\$24.85	\$24.60
Western Union	\$9.95 (activation); \$0 (monthly)	\$6.00 (\$2.00 each)	\$7.92 (\$0.99 each)	\$3.15 (\$1.05 x 3 – Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$31.97	\$26.97

BuyRIGHT – Monthly Program	\$29.95 (activation); \$4.95 (monthly)	\$6.00 (\$2.00 each)	\$0.00 (signature)	\$3.00 (\$1.00 each online bill payment)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$43.90	\$23.85
BuyRIGHT – Pay As You Go	\$29.95 (activation); \$0 (monthly)	\$6.00 (\$2.00 each)	\$8.00 (\$1.00 each signature transaction)	\$3.00 (\$1.00 each online bill payment)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$51.90	\$26.90
First Vineyard	\$39.95 (activation); \$6.95 (monthly)	\$6.00 (\$2.00 each)	\$0.00 (signature)	\$1.50 (\$0.50 each online bill payment)	\$5.95 (1 st Month); \$11.90 (2 nd Month) (\$4.95 MoneyGram + \$1 fee)	\$0.00	\$53.40	\$26.35
ReadyDebit - Basic	\$9.95 (activation); \$4.95 (monthly)	\$6.75 (\$2.25 each)	\$0.00 (signature)	\$4.00 (unlimited bill pay flat fee)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$25.65	\$25.60
ReadyDebit - Select	\$9.95 (activation); \$8.95 (monthly)	\$6.75 (\$2.25 each)	\$0.00 (signature)	\$4.00 (unlimited bill pay flat fee)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$25.65	\$29.60
nFinanSe	\$5.95 (activation); \$2.95 (monthly)	\$4.50 (\$1.50 each)	\$0.00 (signature)	\$3.15 (\$1.05 x 3 – Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$18.55	\$20.50
SVC Revel	\$9.95 (purchase); \$5.95 (monthly)	\$4.50 (\$1.50 each)	\$0.00 (signature)	\$4.50 (\$1.50 each)	\$8.90 (1 st Month); \$17.80 (2 nd Month) (\$4.95 MoneyGram + \$3.95 fee)	\$0.00	\$27.85	\$32.75

Millenium Advantage	Up to \$99.00 (application fee); \$5.95 (monthly)	\$5.85 (\$1.95 each)	\$0.00 (signature)	\$2.25 (\$0.75 each)	\$5.95 (1 st Month); \$11.90 (2 nd Month) (\$4.95 MoneyGram + \$1 fee)	\$2.00 (\$0.50 each phone inquiry)	\$115.05	\$27.95
Eufora – Associate	\$29.95 (annual fee) \$0 (monthly)	\$6.00 (\$2.00 each)	\$0.00 (signature)	\$3.15 (\$1.05 each Money Orders at the Post Office)	\$5.95 (1 st Month); \$11.90 (2 nd Month) (\$4.95 MoneyGram + \$1 fee)	\$0.00	\$45.05	\$21.05
Eufora – Preferred	\$59.95 (annual fee) \$6.65 (monthly)	\$6.00 (\$2.00 each)	\$0.00 (signature)	\$3.15 (\$1.05 each Money Orders at the Post Office)	\$5.95 (1 st Month); \$11.90 (2 nd Month) (\$4.95 MoneyGram + \$1 fee)	\$0.00	\$75.05	\$27.70
Eufora - Elite	\$99.95 (annual fee) \$6.65 (monthly)	\$6.00 (\$2.00 each)	\$0.00 (signature)	\$3.15 (\$1.05 each Money Orders at the Post Office)	\$5.95 (1 st Month); \$11.90 (2 nd Month) (\$4.95 MoneyGram + \$1 fee)	\$0.00	\$115.05	\$27.70
Wired	\$9.95 (activation); \$3.95 (monthly)	\$5.85 (\$1.95 each)	\$0.00 (signature)	\$1.35 (\$0.45 each online bill payment)	\$5.95 (1 st Month); \$11.90 (2 nd Month) (\$4.95 MoneyGram + \$1 fee)	\$0.00	\$23.10	\$23.05
Espree	\$19.95 (activation); \$4.95 (monthly)	\$4.50 (\$1.50 each)	\$0.00 (signature)	\$3.15 (\$1.05 each Money Orders at the Post Office)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$32.55	\$22.50

Bank Freedom	\$9.95 (activation); \$9.95 (monthly)	\$5.85 (\$1.95 each)	\$0 (signature)	\$1.47 (\$0.49 each online bill payment)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$22.22	\$27.17
Exact	\$9.95 (activation); No monthly fee found	\$6.00 (\$2.00 each)	\$8.00 (\$1 signature transaction)	\$3.00 (\$1.00 each online bill payment)	\$4.95 (1 st Month); \$9.90 (2 nd Month) (\$4.95 each MoneyGram)	\$0.00	\$31.90	\$26.90

APPENDIX C: Policy Recommendations

❖ Fees: Prepaid Card Fees Must Be Presented, Lowered and Simplified

The proliferation of fees just described interferes with comparison shopping. Change is needed so that consumers can easily compare and understand prepaid card fees up front, before handing over any money. These changes are essential:

- *Prepaid card fees should be displayed in a simple comprehensive chart which displays important fees with clear explanations for what the fees are for.¹*

Consumers need to be able to see fees up front to decide which prepaid card best suits their needs. Consumers who make frequent in store or on-line purchases may benefit from cards which charge a flat monthly fee and include an unlimited number of free point-of-sale transactions. However, that same consumer might find that the fees for bill payment may be too high, making a difference in the total cost of using a card.²

Inconsistent fee descriptions also make cost comparisons difficult. Explanations for fees should be more straightforward and obvious. For example, many prepaid cards refer to the cost to close accounts as “check issuance fees,” or fees to obtain checks with the remaining balance.³ A standard, simple chart which lists and describes every fee with the name of the fee, the amount, and what the fee is for is essential for consumers to compare costs among prepaid cards.

- *Monthly costs should be capped for use of prepaid cards and should be known up front.*

Prepaid card issuers should cap transaction fees monthly. Prepaid cardholders are subject to numerous fees. Replacing this barrage of fees with one flat fee paid monthly would provide consumers knowledge of the cost of using a prepaid card so they are not blindsided by hidden or unexpected fees such as dormancy or inactivity fees. An alternative way to reach the same result would be a requirement that each prepaid card include a monthly cap on the total cost of use, and that cap would be prominently disclosed before purchase.

¹ Similar to the “Schumer Box” for credit card terms and fees. 12 C.F.R. 226.5a

² For example, AccountNow Prepaid offers free online bill pay and Espree offers free checks, but the Ready Card charges \$4 per online bill payment under its Basic Option and AccountNow Prepaid charges \$5 per check.

³ Cards such as the Millenium Advantage Prepaid MasterCard refers to the fee to close an account and redeem the remaining balance as a “check issuance fee” as described previously. Millenium Advantage Prepaid MasterCard Terms and Conditions, <http://www.nmbadvantagecard.com/terms.htm> (last visited Aug 10, 2009).

- *Fee information should be provided in plain sight: on the outside of prepaid card packages; prominently on prepaid card website homepages; and, in other places consumers find prepaid cards.*

Consumers should be provided fee information before loading funds onto prepaid cards. Fee information should be provided on the outside of prepaid card packages, prominently on prepaid card website homepages, and wherever they may be sought and expected.

Currently, consumers cannot easily see or find important prepaid card fee information, particularly when prepaid cards are purchased at retail locations.⁴ Prepaid card packages state consumers will obtain personalized plastic cards and accompanying documents arrive seven to ten days later, after consumers have already loaded funds and provided personal information. Websites also make fee information difficult to find. Links are often provided in small font and not placed prominently on webpages as compared to the large signup buttons and registration forms. Consumers must know which selections to choose to locate important information on the websites. For example, when a consumer visits the Account Now website, the fee information cannot be seen until two-clicks after using the “Open an Account” link on the homepage.⁵

- *Fee advertising that creates an impression of low cost by touting the absence of one fee without disclosing other fees should be stopped.*

Prepaid cards are promoted as sensible, cost-effective alternatives for consumers who are wary of high bank fees, especially bank overdraft fees. AccountNow’s “No overdraft fees” claims likely draws in many consumers who are fed up with bank fees or are no longer able to obtain bank accounts.⁶ Contrary to AccountNow’s claims of no overdraft fees, they assess a shortage fee of up to \$29.⁷

⁴ The packaging from several of the Green Dot prepaid cards only provides the purchase fee and the monthly fee. Information regarding the many other fees is provided only after the card has been purchased. The terms and conditions arrive with the permanent card after submitting further information. Green Dot Everyday MasterCard and Nascar Prepaid card packaging found at Rite-Aid location in San Francisco, CA on April 22, 2009. Consumers may obtain fee information if they access GreenDot’s website and search for the terms. *See* Green Dot Reloadable Prepaid Card Cardholder Agreement, <https://www.greendotonline.com/AcctMgmt/Controls/MyMCCARD/Support/CardholderAgreement.aspx?iteid=MyMCCARD>.

⁵ AccountNow Prepaid Home Page, <https://www.accountnow.com> (last visited August 5, 2009).

⁶ A 2008 study from the Center for Responsible Lending illustrates the financial problems overdraft often creates: “overdraft loans become an extremely expensive substitute for a line of credit, and they [consumers] are paying fees that can be as costly as payday loans.” Eric Halperin, *Overdraft Loans Trap Borrowers in Debt*, Center for Responsible Lending, March 18, 2008. The AccountNow Prepaid Home Page touts “No Overdrafts” <https://www.accountnow.com> (last visited August 5, 2009).

⁷ NetSpend, Terms and Conditions, https://www.netspend.com/prepaid-debit-card/prepaid_visa_card_terms.m#popmast; AccountNow Prepaid Terms and Conditions <http://www.accountnow.com/company/terms-conditions.aspx> (last visited July 16, 2009).

Thus, consumers considering using a prepaid card should be aware that claims of “no overdraft fees” may be false. One-third of the prepaid cards we reviewed explicitly have overdraft or overdraft-like fees, and a few of the other cards subject cardholders to “any applicable fees” when transactions exceeding balance amounts are processed. This is an enormous problem, since one of the reasons consumers choose prepaid cards is to avoid bank account overdraft fees.⁸

Prepaid card issuers should be stopped from advertising “No Overdraft Fees” when there are fees for overdraft, shortage, or any other term used to describe transactions that are processed that go over the account’s balance. The Federal Trade Commission should bring enforcement actions against prepaid card program sponsors who promise no overdraft fees and then charge a fee triggered by the overdraft, just giving that fee a different name.

- *Overdraft or shortage fees should be eliminated.*

Overdrafts may occur when a card is processed using a signature rather than a PIN. Prepaid cardholders owe repayment if they spend more money than they have placed in the card account. However, overdraft fees in prepaid cards, whether called overdraft, shortage, or by some other name, should be prohibited.

- *Paper Statements should be provided to consumers monthly for no fee or a nominal fee.*

Statements or other account information is essential for consumers to be able to monitor unauthorized charges, to be aware of fees that deplete their funds, and to avoid overdrafts. Most of the cards we analyzed allow consumers to check their accounts online, but these cards are often marketed to unbanked and underbanked consumers or immigrants who may not have easy internet access. Even for those who do, consumers may have no reason to check transaction activity if they have not been using the card.

Prepaid card issuers should be required to give consumers the right to sign up for statements for no fee or a nominal fee and should not be allowed to hold consumers liable for unauthorized charges unless and until a statement or other account information revealing the charge has been provided to the consumer.

⁸ The Center of Financial Service Innovation’s *One Size Does Not Fit All* report includes personal assessments of consumers using prepaid cards who cite overdraft and bank fees as reasons for no longer having bank accounts. Rachel Schneider, *One Size Does Not Fit All*, CFSI (2009).

- *Dormancy or inactivity fees should be eliminated.*
- ❖ **Expand EFTA’s Right of Recredit**

Taking the step to expand the Electronic Funds Transfer Act and Regulation E to include all reloadable prepaid cards and reloadable “gift cards” with a balance of at least \$250 is not a giant leap, but rather comes full circle to provide consumer protection to consumers who use plastic payment cards which transfer funds using electronic systems. This is the overarching intent of the EFTA.

Consumer advocates have long urged the Board to ensure consumers using prepaid cards have the same protections as debit card users. All prepaid cards marketed or used as account substitutes should be expressly covered by Regulation E. The Federal Reserve Board should clarify that “‘account’ includes all prepaid card products which are marketed or used as account substitutes or which provide significant sources of income or assets to an individual or household.”⁹ By clarifying that the definition of “account” in Regulation E includes prepaid cards, important household funds for the growing number of consumers using prepaid cards would be protected in the event of unauthorized use and provide error resolution rights.¹⁰

The Electronic Funds Transfer Act’s Regulation E should be extended to include all prepaid payment cards that function like debit cards or that serve the functions of a checking account, as well as reloadable “gift cards” with a balance of at least \$250.¹¹

The Federal Reserve Board should amend Regulation E by adding:

12 C.F.R. § 205.2 Definitions

...

(b)(1) Account means:

...

(b)(3) The term includes a ‘spending account,’ which is an account that is directly or indirectly established by the consumer and to which prepayments are to be made on behalf of the consumer by the consumer or by others, or to which recurring electronic fund transfers may be made at the discretion of the consumer. This definition includes an account operated or managed by a retailer, third-party processor, a depository institution or any other person, an account held in the name of the consumer or the name of another entity, and an account where the funds are pooled with the funds of others.

⁹ October 28, 2004 letter to Secretary of the Federal Board of Governors, Jennifer Johnson from advocates, including Consumers Union, Consumer Federation of America and NCLC, *available at* <http://www.consumersunion.org/pdf/payroll1004.pdf>.

¹⁰ The \$250 balance amount is based on a minimum wage earner’s weekly income. Federal minimum wage will be \$7.25 beginning July 24, 2009. *See* Minimum Wage Overview, Wage & Hour Div., U.S. Dep’t of Labor, <http://www.dol.gov/esa/whd/minimumwage.htm> (last visited Apr. 15, 2009).

¹¹ This figure is based on minimum wage and biweekly payments. *See* Compliance Assistance – Fair Labor Standards Act, Wage & Hour Div., U.S. Dep’t of Labor, <http://www.dol.gov/esa/whd/flsa/> (last visited Apr. 15, 2009).

EFTA as the Floor: Payroll Card Protections

To encourage uniformity among different payment cards and methods, we also recommend that all cards, devices, and other plastic payments should have loss caps at no more than \$50. Congress should amend the EFTA to reduce the EFTA's dollar cap applicable to debit cards to the level of the credit card cap—no more than \$50. This could be accomplished by deleting 15 U.S.C. § 1693g(a)(2) and the “or” at the end of § 1693g(a)(1).¹²

❖ **Extend Chargeback Rights to Prepaid Cards**

Congress should amend the EFTA to include a chargeback provision for both bank account debit cards and prepaid cards to provide protections consumers already have when paying with credit cards. Chargeback is an important consumer protection which allows the cardholder to dispute a charge when goods or services are not accepted by the cardholder or not delivered as agreed.¹³ Consumers should have the same chargeback rights when using debit cards or prepaid cards as consumers who use credit cards.

Include in Section 908 of the Electronic Funds Transfer Act (15 U.S.C. § 1693f) by adding at the end of the following:¹⁴

(g) Rights of Consumers With Respect to Accepted Cards and Other Means of Access

- (1) **In General**—Subject to the limitation contained in paragraph (2), the issuer of an accepted card or other means of access to a consumer shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the accepted card or other means of access is used as a method of payment, if
 - (A) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card or other means of access;
 - (B) the amount of the initial transaction exceeds \$50; and
 - (C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer

¹² Hillebrand, *supra* note 63, at 790.

¹³ Regulation Z, 12 C.F.R. § 226.12(b).

¹⁴ Hillebrand, *supra* note 63, at 798.

of the card or other means of access shall not be applicable to any transaction in which the person honoring the accepted card or other means of access

- (i) is the same person as the issuer;
- (ii) is controlled by the issuer;
- (iii) is under direct or indirect common control with the issuer;
- (iv) is a franchised dealer in the products or services of the issuer; or
- (v) has obtained the order for such transaction through a mail solicitation made by or participated in the issuer in which the cardholder or other means of access holder is solicited to enter into such transaction by using the accepted card issued by the issuer.

(2) Limitation—The amount of claims or defenses asserted by the holder of the card or other means of access under this subsection may not exceed the amount paid by the holder of the card or other means of access with respect to the subject transaction at the time in which the holder first notifies the issuer or the person honoring the accepted card or other means of access of such claim or defense.”

❖ **Guarantee Deposit Insurance to Each Prepaid Cardholder**

The Federal Reserve Board should require that prepaid card issuing banks set up these programs to qualify for FDIC insurance for each cardholder. This could be done by setting up individual card accounts or by complying with the FDIC General Council Opinion No. 8’s “pass through” requirements to provide pass through insurance to individual cardholders.¹⁵ Additionally, the FDIC should clarify its regulations to stop prepaid card product advertisements, including websites, from displaying the FDIC logo or phrase “FDIC insured” unless the prepaid card funds in fact are insured to the individual cardholder directly or on a pass through basis.¹⁶

¹⁵ In a November 23, 2008 letter, Consumers Union asked the Office of the Comptroller of the Currency to ensure their national banks only issue prepaid cards with accounts backed by the FDIC to the individual cardholder. In the OCC’s January 23, 2009 response, the agency stated that they lacked the authority to direct their banks. Letter from Julie L. Williams, First Senior Deputy Controller and Chief Counsel, OCC, to Michelle Jun, Staff Attorney, Consumers Union, Jan.23, 2009, *available at* http://www.defendyourdollars.org/2009/01/occ_response_on_prepaid_cards.html.

¹⁶ 12 C.F.R. § 328.2, et seq.

Appendix D: Consumer Advice and Tips When Using Prepaid Cards

- Consider a regular bank account instead—you get a debit card, a monthly statement, and full consumer protections. Ask to opt-out of “overdraft protection” if you are concerned about overdraft bank fees.
- Find and read the fee schedule before you buy the card.
- Your cost will vary widely depending on which card you pick. Try to figure out the costs for two months.

Make a list of how you will use the card and compare the fees.

- Fees for making purchases
- Monthly fees
- Fee for depositing money
 - Will you set up direct deposit? Do you meet the minimum amount if there is a requirement?
- Fee to make cash withdrawals
- Fee for bill pay (if you use it)
- Fees to check your balance
- Dormancy or inactivity fees
- Customer Service Fees

- Keep track of your balance –you might face high fees for going over your card balance.
- We strongly recommend signing up to receive a written statement in the mail to keep track of your money.
- Do not use prepaid cards to purchase gas at the pump, for hotels or rental cars. If you do, you may find you will not have access to more funds than the purchase and for a long period of time.
- See if your card has different fees to choosing signature instead of PIN, or selecting the “credit” option instead of choosing the “debit” option.
- Don’t rely on a prepaid card to build a credit record.

If you can, get a secured credit card, where you make a deposit and get a credit line of the same size. Be sure that credit card has only an annual fee and no additional monthly or other special fees.