

Mark Solomon and Victor Zanetti guide retailers and banks on navigating gift card regulations for *Bloomberg Law*

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During the holiday season, it has become popular to give gift cards as a present. In fact, the global prepaid card market will reach \$3.6 billion by 2022, according to Dallas Corporate partners Mark Solomon and Victor Zanetti, who offer guidance on the rules and regulations surrounding gift card use in a recent article for *Bloomberg Law*.

Entitled, "Gift Cards – The Gift That Keeps Giving...to Lawyers," the article addresses the legal concerns of banks and retailers seeking to better understand the various rules and regulations of gift cards and what types of disclosures they need to make regarding their use.

"With the holidays just around the corner, now is the time for both retailers and banks to take the time to fully understand gift cards laws. Being clear on the regulations and transparent with customers will ensure a happier holiday season for everyone," write Mark and Victor.

In the article, Mark and Victor begin by clarifying the two types of prepaid cards that exist: open-loop, or gift cards affiliated with payment processors such as Visa, American Express and MasterCard and which can be used anywhere those cards are accepted; and closed-loop, which can only be redeemed for products at the retailer or affiliated retailers that issued the card.

Gift cards are currently regulated by disclosure requirements, such as transmitter licensing laws, abandoned property laws and anti-money laundering laws, and have become increasingly scrutinized at both the federal and state level. The Credit Card Accountability, Responsibility and Disclosure Act of 2009 (Credit CARD Act) provides disclosure requirements for store gift cards and general-use prepaid cards, which include restricting a card issuer's ability to impose service fees and expiration dates of less than five years and requiring expiration dates and fee-related disclosures to be clearly stated on gift cards.

In addition, the Prepaid Access Rule (issued by the Financial Crimes Enforcement Network) establishes reporting requirements for suspicious activity and information collection requirements for

customers and transactions to prevent terrorist financing, money laundering and other illegal transactions when using gift cards.

In an effort to protect consumers, the Consumer Financial Protection Board put into effect the Prepaid Rule in 2016 to extend federal consumer protections to the prepaid card industry only with regards to general-use prepaid cards. The Prepaid Rule also requires financial institutions, such as banks, to provide specific disclosures to consumers before and after they acquire a prepaid account, restricts overdraft services and other credit features.

Finally, in addition to federal regulations, individual states have their own gift card statutes that require limits or disclosures on expiration dates, service fees and dormancy periods.

"Other state laws include consumer protection statutes, money transmitter laws and most importantly escheat laws that require the remittance of abandoned property to the state after a specific period," write Mark and Victor.

Read, "[Gift Cards – The Gift That Keeps Giving...to Lawyers](#)," in its entirety.

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