



FDIC Announces Stored Value Cards may be "Deposits" April 2004

The Federal Deposit Insurance Corporation ("FDIC") has issued a [proposed rule](#) that would clarify the meaning of "deposit" as that term relates to funds at insured depository institutions underlying stored value cards. The proposed rule is significant because it is the first time since 1996 that the FDIC has addressed the issue of deposits and stored value card systems. It may impact how online electronic payment providers and their financial institutions elect to handle funds associated with prepaid accounts. Comments to the proposed rule are due by July 15, 2004.

In 1996, the FDIC published General Counsel's Opinion No. 8, which identified several stored value card systems that involve funds held at insured depository institutions. Since the publication of that opinion, the banking industry has developed new types of stored value card systems. The FDIC also has given a series of opinions and staff interpretations concerning stored value accounts involving payroll cards, pass-through insurance, and [internet payment processing](#).

As a result, the new section is necessary to provide guidance to the industry and the public as to when funds underlying stored value cards will satisfy the definition of "deposit" at Section 3(1) of the Federal Deposit Insurance Act and therefore be eligible for federal deposit insurance.

Under the proposed rule, funds at an insured depository institution underlying stored value cards are considered "deposits" when such funds are:

- received by the depository institution from cardholders, or received from others on behalf of cardholders or for payment to cardholders, in exchange for stored value cards issued by such institution unless: (i) the depository institution maintains a pooled account representing multiple cardholders; and (ii) such institution does not maintain supplemental records or subaccounts reflecting the amount of money owed to each cardholder;
- received by the depository institution acting as an agent for a sponsoring company in collecting funds and distributing stored value cards, provided the

depository institution is obligated to hold on behalf of or forward the funds to the sponsoring company; or

- placed in an insured depository institution by a sponsoring company for making payments on stored value cards issued by that sponsoring company.

While the proposed rule addresses new types of stored value card systems, the FDIC also notes that the process is "evolutionary" and future systems and issues may need to be resolved on a case-by-case basis. The three types of new stored value card systems specifically addressed by the commentary to the proposed rule include:

- systems in which stored value cards are issued by a sponsoring company that maintains an underlying "reserve account" at an insured depository institution to make payments to merchants as the cardholders use their cards;
- systems in which the insured depository institution issues cards and establishes a pooled "reserve account" that contains individual subaccounts with subaccount statements for cardholders to check their balances; and
- payroll cards distributed to employees by their companies in lieu of paychecks.

The proposed rule makes it clear that the funds underlying these three types of systems fit within the Section 3(1) definition of "deposits" and are thus insured by the FDIC.

Although the proposed rule simply states that "deposits" are insured according to the FDIC's insurance regulations, the commentary clarifies that where the underlying funds are maintained in an account belonging to an employer or sponsoring company, the "deposits" are insurable to the employer/card sponsor only unless the requirements for "pass-through" insurance coverage are satisfied.