



## Stored Value Cards

FIL-44-2004  
April 26, 2004

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: Proposed Rule on Determining When Funds Underlying Stored Value Cards Qualify as "Deposits"

Summary: *The FDIC is seeking public comment on when funds underlying stored value cards qualify as "deposits" under the Federal Deposit Insurance Act. Under the proposed regulation, funds placed at an insured depository institution by a sponsoring company would qualify as "deposits." Funds collected from cardholders in exchange for stored value cards issued by an insured depository institution (and not issued by a sponsoring company) also would qualify as "deposits" if the depository institution maintains accounts or subaccounts for the individual cardholders.*

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) is requesting comment on the attached proposed rule that would clarify the meaning of "deposit" as that term relates to funds at insured depository institutions underlying stored value cards. Comments are due by July 15, 2004.

A stored value card is a device that enables the cardholder to exchange the underlying funds (i.e., the funds received by the issuer of the card in exchange for the issuance of the card) to a merchant at the merchant's point of sale terminal. Stored value cards were the subject of General Counsel's Opinion No. 8 (GC8), issued by the FDIC in 1996. See 61 Fed. Reg. 40490 (August 2, 1996). Through that opinion, the FDIC took the position that the funds underlying stored value cards are not "deposits" under the following circumstances: (1) the cards are issued by an insured depository institution (as opposed to being issued by a sponsoring company); and (2) the insured depository institution maintains a pooled "reserve account" reflecting the institution's liability for all cards (as opposed to maintaining individual accounts for the individual cardholders). GC8 did not address all types of stored value card systems. The purpose of the proposed rule is to address new types of systems and to clarify when the funds in these systems will qualify as "deposits."

### Accounts Funded by Sponsoring Companies

A type of system not addressed in GC8 is a system in which a sponsoring company maintains an account at an insured depository institution for the purpose of making payments on stored value cards issued by that company (and not issued by the insured depository institution). Under the proposed rule, the funds in such an account would be

"deposits." The insured depositor would be the sponsoring company, and not the cardholders, unless the FDIC's requirements for "pass-through" insurance coverage are satisfied.

### **Pooled "Reserve Accounts" With Individual Subaccounts**

Another type of system not addressed in GC8 is a system in which an insured depository institution - in connection with stored value cards issued by the insured depository institution (and not issued by a sponsoring company) - maintains a pooled "reserve account" (representing the institution's liabilities on all cards) but also maintains individual balances or subaccounts (with each subaccount representing the institution's liability to a particular cardholder). Under the proposed rule, the funds in the subaccounts would be "deposits."

### **"Payroll Cards"**

GC8 did not address "payroll cards." Under the proposed rule, funds underlying "payroll cards" would be subject to the same rules (summarized above) applicable to other types of stored value cards. Assuming that the funds qualify as "deposits," the insured depositor would be the employer as opposed to the employees unless the FDIC's requirements for "pass-through" insurance coverage are satisfied.

For more information, please contact Christopher Hencke in the FDIC's Legal Division at (202) 898-8839.

For your reference, FDIC Financial Institution Letters may be accessed from the FDIC's Web site at <http://www.fdic.gov/news/news/financial/2004/index.html>.

William F. Kroener, III  
General Counsel

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Attachment:

- April 16, 2004, Federal Register, pages 20558-20566

Distribution: All Insured Banks and Savings Associations

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