



## Federal, State Proposed Rules Affect Payroll Card Notices, Fees

Federal and state regulation of payroll cards and enforcement by courts are areas of increased activity and significant developments that employers should monitor to ensure compliance and avoid liabilities.

[The Consumer Financial Protection Bureau](#), which enforces consumer financial laws including the Electronic Fund Transfer Act and its implementing Regulation E, issues a proposed rule that was published Dec. 24, 2014, in the Federal Register ([79 Fed. Reg. 77101](#)).

Federal regulations do not govern employers' wage-payment methods. State law determines the acceptable payment methods. If federal and state payroll card requirements conflict, the provision giving employees the most protection takes precedence.

"Concerns persist as to whether and how employers and financial institutions are complying" with Regulation E's provisions and with the state laws that apply to wage distribution, the Consumer Financial Protection Bureau said in the proposed rule, noting that employees may not be aware of how they may receive wages because of different, evolving state requirements.

The proposed rule to Regulation E requires short-and long-form explanations of associated fees to be provided to payroll card users as well as language indicating that receiving wages with payroll cards is voluntary.

Requiring two disclosures – a short-form disclosure of the most important fees and a long-form disclosure of all associated fees and conditions – might be somewhat confusing to employees who receive them, said Beyda, who also is chairwoman of the American Payroll Association's payroll card subcommittee, and who co-authored the letter with the APA's government relations director, William Dunn, CPP. The notices should be framed in a positive light and there should be clarification on when the disclosures must be provided, Beyda said.

The *Gunshannon* (*Gunshannon v. Mueller*, Pa. Comm. Pleas Ct., No. 2013-7010, filed 6/13/13) lawsuit influenced the 2014 legislative and regulatory payroll card landscape, but bills and rules being considered in New York may influence what comes next, Beyda said.

A payroll card bill ([S. 2590](#)), proposed by Schneiderman and sponsored by Sen. Patrick Gallivan (R), is under consideration by the New York Assembly, which is to close its legislative session by mid-June.

New York's labor department published proposed regulations in the May 27 [State Register](#) that are to take effect after a 45-day notice and comment period to end in mid-July.

The New York labor department "wants to impose restrictions on payroll cards, offered on a voluntary basis, that are not imposed by any other method of wage payment," Beyda said.