



ALERT

For Clients and Friends of DREHER LANGER & TOMKIES L.L.P.
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GIFT CARD GUIDANCE FOR SAVINGS ASSOCIATIONS

The Office of Thrift Supervision has issued guidance on gift cards offered by savings associations. The guidance encourages more uniform practices regarding gift card programs, improved consumer understanding of gift card features and product innovation. It is intended to assist savings associations in ensuring adequate account administration, marketing and sound consumer disclosure practices for such programs. The OTS press release regarding the guidance notes that approximately 20% of savings associations currently offer some form of gift card program and the OTS expects that number to grow.

The guidance applies to both types of gift cards: (i) branded or open-system gift cards that carry the logo of a payment card network and that may be used at any merchant that accepts the payment network's brand and (ii) private label or closed-system gift cards that may be used at a particular merchant or location.

The OTS expects savings associations to follow safe and sound practices and ensure appropriate levels of consumer protection when issuing gift cards. For example, the OTS considers minimum expiration dates of at least 12 months from the date of issuance to be a sound practice. Associations issuing gift cards must comply with several laws affecting consumer protection, including the following:

- OTS advertising rule
- OTS nondiscrimination rule
- Section 5 of the FTCA
- Bank Secrecy Act
- USA Patriot Act
- OTS funds transfer services rule
- OTS electronic operations rule

In addition, savings associations are expected to provide information concerning the terms, fees and basic features of their gift cards. Use of misleading promotional materials is to be avoided.

The content and format of disclosures should promote consumer understanding and usability. Examples of disclosures that should be provided include:

- Where card may be used
- Expiration date
- Amount of shipping and handling fees
- Amount of service fee(s)
- Amount of monthly maintenance fee(s)
- How the balance may be checked/tracked
- Policies for lost or stolen cards
- Whether gift card may be exchanged for cash
- Whether card may be used at ATM
- Whether purchase may be for amount greater than card

The guidance notes certain information that should be set forth in a form that can be passed on from the gift certificate purchaser to the gift card recipient through, for example, a sleeve insert or other promotional packaging. The guidance also lists other basic information, which is essential to a recipient's decisions about using the card, that should be provided on the card or on a sticker affixed to the card.

Finally, the guidance discusses considerations that savings associations should give to anti-money laundering laws and risk management. The OTS expects associations to establish a framework to effectively identify, mitigate, manage and monitor operation risks in connection with gift card programs.

Savings associations should review any existing or proposed gift card program in light of this guidance.

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