

Podcast: *The Consumer Finance Podcast*

Episode: Point-of-Sale Finance Series: Beyond Credit – Deposit Accounts, Prepaid Cards, Overdraft, and Surcharges (Crossover Episode With *Payments Pros – The Payments Law Podcast*)

Host: Taylor Gess

Guests: Jason Cover and Carlin McCrory

Aired: October 22, 2026

Taylor Gess (00:05):

Welcome to this crossover episode of [The Consumer Finance Podcast](#), and [Payments Pros](#). I'm Taylor Gess, an associate in Troutman Pepper Locke's Consumer Financial Services Regulatory Practice, and I'll be your host for today's episode. Today, we're giving you another installment of our special highlight series on point-of-sale finance, where we are joined by Jason Cover and Carlin McCrory, to discuss payments products we are seeing at the point of sale, including some products you hear us discuss less on the podcast, but that we work with frequently, like prepaid cards, hybrid prepaid cards, and debit cards.

But before we jump into that topic, let me remind you to visit and subscribe to our blogs, [troutmanfinancialservices.com](#), and [consumerfinancialserviceslawmonitor.com](#). And don't forget about all of our other podcasts. We have the [FCRA Focus](#), all about credit reporting; [The Crypto Exchange](#), about crypto and digital assets; and [Moving the Metal](#), our auto finance podcast. All of those are available on all popular podcast platforms. Speaking of those platforms, if you like this podcast, please let us know. Leave us a review on your podcast platform of choice, and tell us how we're doing.

Well, I'm excited for this overview of deposit and prepaid products, so let's get started. Jason and Carlin, welcome to the podcast.

Jason Cover (01:11):

Thanks, Taylor. Thank you for having us.

Carlin McCrory (01:13):

Excited to be here.

Taylor Gess (01:14):

So Jason, what kinds of payment products do you see at the point of sale? I'm thinking things like checking accounts, or debit cards, prepaid cards, maybe digital wallets. Can you tell us a little bit about those types of products?

Jason Cover (01:24):

Yeah. I think you're right, Taylor. And I think it depends, sometimes, on clients' existing

portfolios, and maybe how they're managing things across the board. But you hit the nail right on the head. Most folks are interested in one or more of those types of options. A deposit account; think of something like a traditional checking account that I think most folks would be familiar with. Prepaid cards, which are very similar to checking accounts, but are obviously prepaid. Digital wallets; I think a lot of people have formulated that into their day-to-day life. Many of us don't carry wallets or purses anymore, and just use a phone with a digital wallet on it with cards and other mechanisms loaded on there. And then to a lesser extent, we do see things like gift cards, and things of that nature, that pop up just because they're in the same regulatory ecosphere. But that is the ecosphere of once we start moving, at least somewhat, away from credit transactions. And then, I think when things get interesting, is when you start adding credit features on some of these products.

Taylor Gess (02:21):

Yeah. Absolutely, Jason. We'll get into the credit features a little bit later. But for right now, Carlin, what are some important topics in consumer deposit account agreements?

Carlin McCrory (02:29):

There are very prescriptive requirements, in both, Reg DD, and Reg E, and Reg CC, for example, if your product does include checks. We also see a ton of questions as it relates to Reg E, and unauthorized use, which has very similar provisions if you're already offering a credit product, to those requirements within Reg Z. There's tons of fraud in the deposit account area, just like there is with fraud in credit cards. And we do get a lot of questions from clients on fraud with debit cards, and other deposit products. And you should be prepared to address it, if this is a product that you're going to offer.

Some other smaller considerations that we see and think about are: will there be joint accounts offered? You have to think about the fees that you want to assess on the product, and those need to be clearly disclosed in accordance with regulatory requirements. We generally see disclosures about the specific bank that's involved, and deposit insurance. And then there are other things that may not be in your agreement that you should consider, such as escheat, and making sure that you appropriately ledger each deposit account or prepaid card, so you know that Jason has \$50, Carlin has \$100, and Taylor has \$500. You must have internal systems to appropriately ledger for each product that you have.

Taylor Gess (03:57):

Thanks, Carlin. That's really helpful to understand. Jason, let's shift back. So credit products are a significant part of both of our practices. And credit features, as you mentioned earlier, can get tied into payment cards in some tricky ways, like overdraft, and hybrid prepaid cards. Can you tell us a little bit about these types of payment products with credit features?

Jason Cover (04:17):

Yeah. So I think rewinding to what Carlin was saying, you have to start looking at Reg E and Reg CC, and some of these statutes and regulations to figure out where your product fits. So the definition of a prepaid account is in Reg E, at 1005.2(b)(3)(i)(D). And Reg E says, that it's an account that is issued on a prepaid basis in a specified amount, or not issued on a prepaid basis but capable of being loaded with funds thereafter, whose primary function is to conduct transactions with multiple unaffiliated merchants for goods or services, ATMs, or to conduct person-to-person transfers. And importantly, that it is not a checking account. So if you have a checking account, then it should not be a prepaid card.

And then you can look to Reg CC, to see exactly what a checking account is. So we see clients that, maybe, they have an existing prepaid card infrastructure, or they have very interesting ideas about what a checking account is. And then you have these issues, "Okay. Well, what is your product to start with?" So that's step one, because the Reg E rights, the Reg E disclosures, all of those things tie into whether it's a prepaid card, or a checking account. And then that gets even more complicated when you want to have a credit feature or an overdraft feature on the card. Because if it is a prepaid card, there's a thing called, a hybrid prepaid credit card, under Reg Z, which is essentially a prepaid card with a separate credit feature, or a negative balance feature, which is essentially overdraft.

And once you have that, there's a lot of cons associated with it. I'm actually not sure if we have any clients that offer hybrid prepaid credit cards. I guess the pros are, if you have a prepaid card system, you don't have to do anything and you can maintain your existing infrastructure. But once you do tie that credit feature on it, it has a lot of Reg Z requirements that are very similar to having a normal old credit card, like application and solicitation disclosures, account opening disclosures, 25% cap on fees, penalty fee restrictions, limitations on rates and fee increases, billing error resolution issues, a required ability to repay analysis. So I think you've heard us talk about CARD Act cards before on the podcast. Once you have a hybrid prepaid card, it is essentially the same as compliance with CARD Act card requirements under Reg Z. So I would say that most folks try to avoid being a hybrid prepaid credit card, if at all possible.

Taylor Gess (06:46):

Thanks so much. That's really helpful to understand. Do you think you could also tell us a little bit about overdraft products, and what happened with the CFPB's overdraft rule?

Jason Cover (06:55):

Overdraft products, generally speaking, are grounded in some provisions of Reg Z, that carve out true overdraft products, from Reg Z disclosure requirements. And during the last year of the Chopra CFPB, they had instituted a rulemaking that would have, largely, taken those exclusions out for, I would say, most overdraft products. And there was a large scramble with how to comply. There were some safe harbors that you could still fit

in, and avoid the Reg Z disclosure requirements. But they, I would say, would have been difficult for most folks that offered overdraft protections. But net-net, there was a CRA from Congress that overruled that rule. So at least for the foreseeable future, I think the overdraft rule, or something similar to the CFPB's overdraft rule, is really not on the table for the near future. Which has, I would say, increased clients' interest in overdraft products on the whole, whether they're tied to debit card products, regular old checking account products, or other more exotic products. I feel like we get a lot of questions about overdraft lately, because of this.

Taylor Gess (08:00):

Yeah. I definitely agree, Jason. I think we've been seeing more questions about overdraft-type products this past year, than we have historically. So Carlin, Jason has given us a good overview of some payment products, and the use case for these products is generally consumer-focused. So what are some items for fintechs or banks to consider, when onboarding a consumer?

Carlin McCrory (08:19):

The main thing I think about when onboarding a specific consumer, are BSA/AML requirements. So you're required to obtain the name, date of birth, address, and identification number, as a baseline, in order to onboard a new customer. And then, you need to verify that customer's identity, either through documentary or non-documentary methods. So documentary, exactly like it sounds, that's obtaining documents from the consumer like a driver's license, a passport, or any other sort of physical, similar safeguards. Non-documentary methods, can be things like... There are services where you can upload a selfie, for example, to verify identity. Or you look at the consumer's IP address, to make sure it aligns with what you have on file. You can check with information provided by credit reporting agencies. So there are various ways to make sure that the consumer is who they say they are, before you onboard that person, to attempt to avoid fraud.

Taylor Gess (09:27):

Thanks, Carlin. BSA/AML is so important. I'm glad that we got to highlight that expertise here. Carlin, we're going to turn back to you for this question, too. I know convenience fees and surcharges are a very popular topic right now. Can you tell us a little bit about what's going on with those fees today?

Carlin McCrory (09:42):

We consistently get questions from clients, that they want to offset some of the costs for having a product. And so, we see that our clients are starting to look into convenience fees and surcharges, as a way to offset these costs. And most of the time, this is on the merchant level. But generally speaking, a surcharge is a fee assessed to offset the cost of interchange, and it can only be assessed on a credit card. Convenience fees, are assessed for the convenience of a method of payment, and can be charged on both, debit cards and credit cards. And this could be that it's free to mail in a check to make

your mortgage payment, but if you want to make your mortgage payment online, then you'll be assessed a \$5 fee to, let's say, use your debit card.

So we consistently see that our clients want these options to offset some of their costs. And again, you likely wouldn't be assessing this if you are merely offering a, let's say, debit card product. However, the merchants come to us wanting to offset these fees. And then there's also numerous considerations when it comes to, both, the card network rules, and complying with those rules. And then also, there are state laws surrounding convenience fees and surcharges, that you must be aware of. There are a hodgepodge of state laws, and I'll let Jason also speak on this topic, as well. But some states require very specific disclosures. For example, Colorado has a specific disclosure requirement, and it also caps fees. And then there are also many state laws that were overturned on a constitutionality basis, that I'll let Jason talk about.

Jason Cover (11:36):

I'm still a bit baffled on this, personally. But essentially, it seems that courts, in their infinite wisdom, have decided that this is a First Amendment issue; that merchants should be able to charge and post whatever they want. And at this point, I think most of the state surcharge laws have been found unconstitutional, by a district court or another court, or have been amended by their legislatures in anticipation of such a finding. Carlin, I'd say we used to have 12 or 15 states that we thought had enforceable surcharge statutes. And there are, maybe, a handful of those left, that haven't been overturned or amended. So it's something that we used to worry about quite a bit, and maybe you should still worry about the proper way to disclose surcharge fees, and what is a reasonable surcharge fee, and whether it fits within network rules. I think some products may also have specific issues with surcharge and convenience fees, like credit products that are governed by consumer credit laws. But on the whole, we just see a widespread adoption of surcharge and convenience fees, both from a professional, and in my day-to-day life, as well.

One other semi-related note: when you're thinking about starting a debit card, or checking account product, would be the Durbin Amendment. I think a lot of folks, the way that they get income from these products, is through interchange fees, which is closely related to surcharge and convenience fees, because the merchants don't like them. But the Durbin Amendment, essentially, caps the interchange for banks, financial institutions with assets greater than 10 billion. So this may implicate what kind of bank you want to partner with, depending on what interchange you want to charge. So if you're working with a smaller bank, the Durbin Amendment wouldn't technically apply, until they grew to such a size as to have it apply.

Taylor Gess (13:20):

Jason and Carlin, this episode has been a great overview of deposit and prepaid products, and the considerations that go into structuring and offering those products. What are you seeing other clients do to participate in the payments ecosystem?

Carlin McCrory (13:31):

We'll do a follow-up episode to get into more detail. But we're seeing an increasing number of clients that are providing some ancillary product or service, and whoever their clients are, are wanting to use a payment processing service offered by our client. And so our client is going out and partnering with a payment processor, in order to facilitate the payment processing. And so, we have some clients that are looking into becoming ISOs, Independent Sales Organizations, or PayFacs, Payment Facilitators. And we'll get into the weeds on some of the network rules, and what these companies are doing to basically offer a payment processing service that is ancillary, or goes with their current offering, so they don't have to have their customers going to find a third-party service for payment processing. So for example, providing a service to receive credit card payments, we've had a client that recently wanted to provide a payment processing service for that. And while they aren't doing it themselves, they are working with a payment processor to facilitate those payments, rather than the ultimate customer having to go out and find a third party to do that for them.

Jason Cover (14:51):

I'm observing that a lot of clients that have existing debit card or checking account products, have found that they're highly useful for the expansion of the credit products that clients can offer. Because, A, having the ability to know how much is in someone's checking account, and when they're getting their payments of regular income, is all highly predictive. It's great to show ATR, and other things of that nature, so clients don't have to spend as much on underwriting when they have that information readily available to them. And it's also a great means of repayment. If you have deposit advance like products, you immediately take the payments from the future income stream that comes in through those accounts. So I've really seen a big interest in expansion of clients leveraging their deposit account products, to avail themselves of their credit products, or launch new credit products, and just a lot of action in that area as well.

Taylor Gess (15:46):

Yeah, that's exciting stuff. And I definitely agree with what you guys have been seeing. Thank you, Jason and Carlin, for being on the podcast today, and updating the audience on what we are seeing with respect to debit cards and prepaid products in the payment space. We're going to leave this special "Point of Sale Finance" series here for now. We'll pick back up with another very interesting topic, on our next episode of *The Consumer Finance Podcast* and *Payments Pros*.

In the meantime, thanks to our audience for listening today. And don't forget to visit and subscribe to our blogs, troutmanfinancialservices.com, and consumerfinancialserviceslawmonitor.com. While you're at it, why not visit us on the web at troutman.com, and add yourself to our Consumer Financial Services email list? That way, we can send you copies of the alerts and advisories that we send out, as well as invitations to our industry-only webinars that we put on from time to time. And of

course, stay tuned for a great new episode of *The Consumer Finance Podcast*, every Thursday afternoon. Thank you all for listening.

Copyright, Troutman Pepper Locke LLP. These recorded materials are designed for educational purposes only. This podcast is not legal advice and does not create an attorney-client relationship. The views and opinions expressed in this podcast are solely those of the individual participants. Troutman does not make any representations or warranties, express or implied, regarding the contents of this podcast. Information on previous case results does not guarantee a similar future result. Users of this podcast may save and use the podcast only for personal or other non-commercial, educational purposes. No other use, including, without limitation, reproduction, retransmission or editing of this podcast may be made without the prior written permission of Troutman Pepper Locke. If you have any questions, please contact us at troutman.com.

DISCLAIMER: This transcript was generated using artificial intelligence technology and may contain inaccuracies or errors. The transcript is provided "as is," with no warranty as to the accuracy or reliability. Please listen to the podcast for complete and accurate content. You may [contact us](#) to ask questions or to provide feedback if you believe that something is inaccurately transcribed.