

April 16, 2015

## Retail Update

### *Puerto Rico's Gift Card Law*

On March 19, 2015, the Puerto Rico Governor approved Law No. 31-2015: Puerto Rico's Gift Card Law ("Act No. 31").

In its Statement of Motives Act No. 31 defines two types of gift cards:

*Open Circuit Cards* – those usually issued by financial institutions and which can be utilized to obtain goods or services in different commercial establishments where cards such as Visa, Master Card, American Express and other cards are accepted; and

*Closed Circuit Cards* - those usually issued by a store or service provider and not by a financial institution and which value can be used in a determined business or group of businesses related to retailing.

Since the approval in 2009 of the Credit Card Accountability Responsibility and Disclosure Act by the U.S. Congress, open circuit cards are regulated by the Comptroller of the U.S. Currency. Regulation of the closed circuit cards has been left to the states. Accordingly, the Puerto Rico Legislature decided to act in furtherance of the interest of the consumers of this Island.

The most relevant provisions of this law are those related to definitions and those imposing specific requirements on financial institutions and gift card issuers.

Article 2 (f) defines a gift card (both open or closed circuit) as a prepaid card, with a specific monetary value that cannot be recharged and is issued pursuant to an agreement where the issuer warrants that the user can use it every time that he/she so elects, for the acquisition of goods or services up to the face value of same. The concept of a card is not limited to a tangible card. It includes electronic cards or similar instruments with a microprocessor, magnetic band or any other means of storing information. Again, the main difference between open circuit and closed circuit cards is that open circuit cards can be used at different commercial establishments where cards such as Visa, Master Card, American Express and other cards are accepted.

Requirements imposed by Act No. 31 include the following:

- At no time can the gift card expire before five (5) years of issuance.
- The term of expiration must be clearly stated on the card. If it does not clearly appear on the card, then the term of the card is undetermined and no expiration date can be imposed.



For more information on this Legal Update, please contact:

### **Héctor Reichard**

[reichard@reichardescalera.com](mailto:reichard@reichardescalera.com)  
787.777.8801

### **Celia Inés Acevedo**

[acevedo@reichardescalera.com](mailto:acevedo@reichardescalera.com)  
787.777.8811

### **Agustín González**

[gonzaleza@reichardescalera.com](mailto:gonzaleza@reichardescalera.com)  
787.777.8821

### **Ana Mercedes Faría**

[afaria@reichardescalera.com](mailto:afaria@reichardescalera.com)  
787.777.8832

- No charges can be levied for the activation of the card or in connection with their maintenance or inactivity.
- Cash balances of \$5.00 or less can be claimed from the issuer of the card in cash.

The Department of Consumer Affairs is required to issue regulations on the subject 90 days from the approval of Act No. 31.

Act No. 31 does not apply to certificates issued on paper, telecommunication prepaid cards, open circuit gift cards, rechargeable cards that are not marketed or identified as a gift card, cards issued as part of a price or promotional program and that does not require disbursement of monies in exchange, nor those gift cards that have been purchased on a date prior to the enactment of this law.

Lastly, the provisions of Act No. 31 do not apply to gift cards of any type that have been issued or administered by a bank in Puerto Rico.

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