

Regulation E

Mini Deck

Disclosure

- ©2017 PaymentsFirst. All rights reserved.
- This material is not intended to provide any warranties or legal advice, and is intended for educational purposes only.
- NACHA owns the copyright for the *NACHA Operating Rules & Guidelines*.



Anti Trust Laws



- PaymentsFirst is a not-for-profit organization and we closely adhere to all applicable laws and regulations.
- In accordance with Anti-Trust laws, we may not play any role in competitive decisions of members or their employees.
- During discussions with competitors and within the presentation materials we will and we ask participants to refrain from any discussion regarding pricing of products and services.

Regulation E Definitions-1005.2

- *Access Device*: means a card, code, or other means of access to a consumer's account, or any combination thereof, that may be used by the consumer to initiate electronic fund transfers.
- *Account* : a demand deposit (checking), savings, or other consumer asset account (other than an occasional or incidental credit balance in a credit plan) held directly or indirectly by a financial institution and established primarily for personal, family, or household purposes.
- *Act* : The Electronic Fund Transfer Act
- *Business day*: Any day on which the offices of the consumer's financial institution are open to the public for carrying on substantially all business functions.
- *Consumer* : A natural person
- *Credit*: The right granted by a financial institution to a consumer to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment

Regulation E Definitions-1005.2

- Preauthorized electronic fund transfer: An electronic fund transfer authorized in advance to recur at substantially regular intervals.
- Unauthorized electronic fund transfer: An electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate the transfer and from which the consumer receives no benefit. The term does not include an electronic fund transfer initiated:
 - (1) By a person who was furnished the access device to the consumer's account by the consumer, unless the consumer has notified the financial institution that transfers by that person are no longer authorized;
 - (2) With fraudulent intent by the consumer or any person acting in concert with the consumer; or
 - (3) By the financial institution or its employee.

Regulation E – Coverage 1005.3

- General
 - Applies to any EFT that authorizes a FI to debit or credit a consumer's account
- EFT defined
 - The term EFT means any transfer of funds that is initiated through an electronic terminal, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing an FI to debit or credit a consumer's account.
- EFT includes but is not limited to:
 - POS transfers
 - ATM transfers
 - Direct deposit or withdrawal of funds
 - Transfers initiated by telephone
 - transfers resulting from debit card transactions, whether or not initiated through an electronic terminal

Regulation E – Exclusions 1005.3

1. Check
2. Check guarantee or Authorization
3. Wire or similar transfers
4. Securities and commodities
5. Automatic transfers by FIs
6. Certain telephone transfers
7. Small Institutions (100 million or less on preceding December 31)

General Disclosure 1005.4

- Form of disclosure
 - Clear and readily understandable, in writing, and in a form the consumer can keep. Can be electronic. Abbreviations allowed is common
- Foreign language disclosure
 - Must also be made available in English
- Additional information; required by other laws
 - May combine disclosures required by other laws
- Multiple accounts and account holders
 - Disclosures can be combined
- Multiple account holders
 - Only one set of disclosures needed

Initial Disclosure 1005.7

- A FI shall make the disclosures required at the time a consumer contracts for EFT or before the first EFT is made on the consumers account
- Content of disclosures
 - (1) Liability of consumer. A summary of the consumer's liability, or under state or other applicable law or agreement, for unauthorized electronic fund transfers.
 - (2) Telephone number and address. The telephone number and address of the person or office to be notified when the consumer believes that an unauthorized electronic fund transfer has been or may be made.
 - (3) Business days. The financial institution's business days.
 - (4) Types of transfers; limitations. The type of electronic fund transfers that the consumer may make and any limitations on the frequency and dollar amount of transfers. Details of the limitations need not be disclosed if confidentiality is essential to maintain the security of the electronic fund transfer system.

Initial Disclosure continued 1005.7

- (5) Fees. Any fees imposed by the financial institution for electronic fund transfers or for the right to make transfers.
- (6) Documentation. A summary of the consumer's right to receipts and periodic statements, and notices regarding preauthorized transfers
- (7) Stop payment. A summary of the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure for placing a stop-payment order
- (8) Liability of institution. A summary of the financial institution's liability to the consumer for failure to make or to stop certain transfers.
- (9) Confidentiality. The circumstances under which, in the ordinary course of business, the financial institution may provide information concerning the consumer's account to third parties.
- (10) Error resolution. A notice that is substantially similar to Model Form A-3 as set out in appendix A of this part concerning error resolution.

Periodic Statements-1005.9

- For an account which electronic fund transfers can be made, a financial institution shall send a periodic statement for each monthly cycle in which an electronic fund transfer has occurred; and at least quarterly if no transfer has occurred. Containing:
 - (1) Transaction information. For each electronic fund transfer occurring during the cycle:
 - (i) The amount of the transfer;
 - (ii) The date the transfer was credited or debited to the consumer's account;
 - (iii) The type of transfer and type of account to or from which funds were transferred;
 - (iv) For a transfer initiated by the consumer at an electronic terminal, the terminal location
 - (v) The name of any third party to or from whom funds were transferred.

Periodic Statements cont-1005.9

- (2) *Account number*
- (3) *Fees*
- (4) *Account balances.* The balance in the account at the beginning and at the close of the statement period.
- (5) *Address and telephone number for inquiries.* The address and telephone number to be used for inquiries or notice of errors, preceded by “Direct inquiries to” or similar language.
- (6) *Telephone number for preauthorized transfers.* A telephone number the consumer may call to ascertain whether preauthorized transfers to the consumer's account have occurred.

Exceptions to Periodic Statements-1005.9

1) *Preauthorized transfers to accounts.* For accounts that may be accessed only by preauthorized transfers to the account the following rules apply:

- (i) *Passbook accounts.* For passbook accounts, the financial institution need not provide a periodic statement if the institution updates the passbook upon presentation or enters on a separate document the amount and date of each electronic fund transfer since the passbook was last presented.
- (ii) *Other accounts.* For accounts other than passbook accounts, the financial institution must send a periodic statement at least quarterly.

(2) *Intra-institutional transfers.* For an electronic fund transfer initiated by the consumer between two accounts of the consumer in the same institution, documenting the transfer on a periodic statement for one of the two accounts satisfies the periodic statement requirement.

Regulation E – Error Resolution 1005.11

- An error under REG E is:
 - An unauthorized electronic fund transfer;
 - An incorrect electronic fund transfer to or from the consumer's account;
 - The omission of an electronic fund transfer from a periodic statement;
 - Computational or bookkeeping error made by the financial institution relating to an electronic fund transfer;
 - The consumer's receipt of an incorrect amount of money from an electronic terminal;
 - An electronic fund transfer not identified or;
 - The consumer's request for documentation or for additional information or clarification concerning an electronic fund transfer, including a request the consumer makes to determine whether an error exists

Regulation E – Error Resolution 1005.11

- FIs must comply when the consumer provides oral or written notification of an error. Notice must be received no later than 60 days after the FI sends the periodic statement that contains the alleged error.
- FI may require the consumer to give written confirmation of an oral notice of error.

Regulation E – Error Resolution 1005.11

- 10 business day period
 - Provisional credit must be given if investigation is not finished
 - Unless consumer has not confirmed the verbal error notification in writing
- 45 day period
 - FI may take up to 45 days to complete the investigation provided certain action has been taken
 - Provisional Credit if beyond 10 business days
 - Unless consumer has not confirmed the verbal error notification in writing

Regulation E- Investigation

- If the FI requires the verbal notice in writing, they cannot delay initiating the investigation
 - ACH records
 - Transaction history immediately preceding the error
 - Check number out of sequence
 - Location of the error
 - Any other information appropriate to resolve the claim

Regulation E – Liability limits within the 60 days (Access Device)

- Liability for consumers (1005.6)
 - 2 business days of discovery
 - Timely Notice Given
 - Timely Notice Not Given
- If consumer Notifies FI w/in 2 days
 - \$50 or less liability
- If consumer Notifies after 2 days
 - \$500 or less liability

Regulation E-Liability Limits outside the 60 days

- What it says:

“A consumer must report an unauthorized electronic fund transfer that appears on a periodic statement within 60 days of the financial institution's transmittal of the statement to avoid liability for subsequent transfers. If the consumer fails to do so, the consumer's liability shall not exceed the amount of the unauthorized transfers that occur after the close of the 60 days and before notice to the institution, and that the institution establishes would not have occurred had the consumer notified the institution within the 60-day period”

