

VI. Deposits — EFTA

Notice to an institution about unauthorized use is considered given when the consumer takes whatever steps are reasonably necessary to provide the institution with the pertinent information, whether or not a particular employee actually receives the information. At the consumer's option, notice may be given in person, by telephone, or in writing. Notice in writing is considered given at the time the consumer deposits the notice in the mail or delivers the notice for transmission by any other usual means to the institution. Notice may also be considered given when the institution becomes aware of circumstances that indicate an unauthorized transfer has been or may be made.

Initial Disclosure of Terms and Conditions – §205.7

The institution must provide the consumer with the following disclosures, in written, retainable form, before the first EFT is made or at the time the consumer contracts for an EFT service:

- a summary of the consumer's liability under Section 205.6 or other applicable law or agreement;
- the telephone number and address of the person or office to notify in the event of loss or unauthorized use;
- the institution's business days;
- types of EFTs the consumer may make and any limitations on the frequency and dollar amount of transfers (the details of the limitations may be withheld if the security of the system requires confidentiality);
- any charges for EFTs or for the right to make EFTs;
- a summary of the consumer's right to receive documentation of EFTs as provided in Sections 205.9, 205.10(a) and 205.10(d);
- a summary of the consumer's right to stop payment of a preauthorized EFT and the procedure for initiating a stop-payment order;
- a summary of the institution's liability for its failure to make or stop certain transfers;
- the circumstances under which the institution in the ordinary course of business will disclose information concerning the consumer's account to third parties; and
- a notice which is substantially similar to the notice in Appendix A of 12 CFR 205 concerning error resolution procedures and the consumer's rights under them.

Change in Terms; Error Resolution Notice – §205.8

If a change in terms is contemplated, the institution must mail or deliver a written notice to the consumer at least 21 days before the effective date of any change in a term or condition required to be disclosed under § 205.7(b) if the change would result in any of the following:

- increased fees or charges;
- increased liability for the consumer;
- fewer types of available EFTs; or
- stricter limitations on the frequency or dollar amounts of transfers.

If an immediate change in terms or conditions is necessary to maintain or restore the security of an EFT system or account, prior notice need not be given by the institution. However, if such a change is to be permanent, the institution must provide written notice of the change to the consumer on or with the next regularly scheduled periodic statement or within 30 days, unless disclosures would jeopardize the security of the system or account.

For accounts to or from which EFTs can be made, an error resolution notice (as set forth in 12 CFR 205 Appendix A – Model Form A-3) must be mailed or delivered to the consumer at least once each calendar year. Alternatively, an abbreviated error resolution notice substantially similar to the notice set out in Appendix A (Model Form A-3) may be included with each periodic statement.

Documentation of Transfers – §205.9

Receipts given at electronic terminals are required to provide specific documentation. The receipt must be made available at the time the transfer is initiated at an electronic terminal and must include, as applicable:

- amount of the transfer – a charge for making the transfer may be included in the amount if the terminal is owned or operated by an entity other than the institution that holds the consumer's account, provided the charge is disclosed on the receipt and on a sign posted on or at the terminal;
- date – the date the consumer initiates the transfer;
- type of transfer and type of account – descriptions such as “withdrawal from checking” or “transfer from savings to checking” are appropriate. This is true even if the accounts are only similar in function to a checking account (such as a share draft or NOW account) or a savings account (such as a share account). If the access device used can only access one account, the type-of-account requirement does not apply;
- a number or code identifying the consumer's account(s), or the access device used to initiate the transfer. The number and code need not exceed four digits or letters to comply;
- location of the terminal – the location where the transfer is initiated may be given in the form of a code or terminal number; and
- the name of any third party to or from whom funds are transferred – a code may be used to identify the party, but only if the code is explained on the receipt. This

requirement does not apply if the name of the party is provided by the consumer in a manner the terminal cannot duplicate on the receipt, such as on a payment stub.

An electronic terminal receipt need not be provided for electronic transfers initiated by home banking equipment.

Section 205.9(b) provides the documentation requirements for periodic statements. Periodic statements must be sent monthly if an EFT has occurred, or quarterly if no EFT has occurred. For each EFT made during the cycle, the statement must include, as applicable:

- amount of the transfer – if a charge was imposed at an electronic terminal by the owner or operator of the terminal, that charge may be included in the amount;
- date the transfer was posted to the account;
- type of transfer(s) and type of account(s) to or from which funds were transferred;
- for each transfer (except deposits to the consumer’s account) initiated at an electronic terminal, the location that appears on the receipt. If an identification code was used, that identification code must be given with one of the following descriptions:
 - street address of the terminal and the city, state, or foreign country;
 - a generally accepted name for the location of the terminal (such as an airport, shopping center, or branch of an institution), and the city, state, or foreign country; or
 - name of the entity (except the institution providing the statement) at whose place of business the terminal is located, such as a store, and the city, state, or foreign country;
- the name of any third party payee or payor;
- the account number(s);
- the total amount of any fees and charges, other than a finance charge as defined by Regulation Z, assessed during the period for making EFTs, the right to make EFTs, or for account maintenance;
- the balance in the account at the beginning and close of the statement period;
- the address and telephone number to be used by the consumer for inquiries or notice of errors. If the institution has elected to send the abbreviated error notice with every periodic statement, the address and telephone number may appear on that document; and
- if the institution has provided a telephone number which the consumer can use to find out whether or not a preauthorized transfer has taken place, that telephone number.

Where a consumer’s passbook may not be accessed by an EFT other than preauthorized transfers to the account, a periodic statement need not be sent, provided that the financial institution updates the consumer’s passbook or provides the required information on a separate document at the consumer’s request. To update the passbook, the amount and date of each EFT made since the passbook was last presented must be listed.

If the consumer has a non-passbook account that may not be accessed by an EFT other than preauthorized transfers to the account, a periodic statement must be sent at least quarterly.

Preauthorized Transfers – §205.10

Section 205.10(a)(1) covers preauthorized transfers to a consumer’s account. This section requires that, when an account is scheduled to be credited by a preauthorized EFT from the same payor at least once every 60 days, some form of notice must be provided to the consumer so that the consumer can find out whether or not the transfer occurred.

The notice requirement will be satisfied by the payor’s providing notification to the consumer that the transfer has been initiated. If the payor does not provide notice to the consumer, the burden is on the institution to adopt one of the three alternative procedures for supplying the notice.

1. The institution can choose to give the consumer oral or written notice every time a preauthorized transfer occurs or fails to occur.
2. The second alternative is that the institution can notify the consumer within 2 business days after the preauthorized transfer occurred.
3. As a third alternative, the institution can establish a telephone line that the consumer may call to find out whether a preauthorized transfer has occurred. The telephone number must be disclosed on the initial disclosures and on each periodic statement. The telephone line must be “readily available” so that consumers calling to inquire about transfers are able to have their calls answered with little difficulty. In addition, it is expected that these telephone notice systems will be designed so that consumers do not have to bear the cost of long distance calls within the institution’s service area to inquire about their transfers. Therefore, a multi-branch institution with a statewide customer base could provide consumers with either a toll-free number or designate local numbers for different communities within the state.

Section 205.10(a)(3) requires an institution that receives a preauthorized transfer to credit the consumer’s account as of the day the funds are received.