

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.

VI. Deposits — EFTA

Section 205.10(b) states that preauthorized transfers from a consumer's account may only be authorized by the consumer in writing, signed or similarly authenticated by the consumer. Written authorizations include electronic authorizations (such as via a home banking system) which are similarly authenticated by the consumer as long as there are means to identify the consumer (such as a security code) and to make available a paper copy of the authorization (automatically or upon request). In all cases, the party that obtains the authorization from the consumer must provide a copy to the consumer.

Section 205.10(c) gives the consumer the right to stop payment of a preauthorized transfer from an account. The consumer must notify the institution orally or in writing at any time up to three business days before the scheduled date of the transfer. The institution may require written confirmation of an oral stop payment order to be made within 14 days of the consumer's oral notification. However, the institution may only impose the written confirmation requirement if, at the time the consumer made the oral stop payment order, the institution informed the consumer that written confirmation is required and told the consumer the address to which the confirmation should be sent. If the consumer fails to provide the written confirmation, the oral stop payment order ceases to be binding after 14 days.

Section 205.10(d) deals with a preauthorized transfer from a consumer's account that varies in amount from the previous transfer under the same authorization or the preauthorized amount. In the event such a transfer is scheduled to occur, the institution or designated payee must mail or deliver to the consumer a written notice, at least 10 days before the scheduled transfer date, containing the amount and scheduled date of the transfer. However, if the institution or the payee informs the consumer of the right to receive advance notice of varying transfers, the consumer may elect to receive notice only when the amount varies from the most recent transfer by more than an agreed upon amount or when it falls outside a specified range.

Section 205.10(e) prohibits the institution from conditioning an extension of credit on the condition of repayment by means of preauthorized EFT, except for credit extended under an overdraft credit plan or extended to maintain a specified minimum balance in the consumer's account. The section also prohibits anyone from requiring the establishment of an account for receipt of EFTs with a particular institution either as a condition of employment or the receipt of a government benefit.

Procedures for Resolving Errors – §205.11

Section 205.11 sets forth the definition of "error", the steps the consumer must take when alleging an error in order to

receive the protection of the EFTA and Regulation E, and the procedures that an institution must follow to resolve an alleged error.

Section 205.11(a), defines the term "error" to mean:

- an unauthorized EFT;
- an incorrect EFT to or from the consumer's account;
- the omission from a periodic statement of an EFT to or from the consumer's account that should have been included;
- a computational or bookkeeping error made by the institution relating to an EFT;
- the consumer's receipt of an incorrect amount of money from an electronic terminal;
- an EFT not identified in accordance with the requirements of Sections 205.9 or 205.10(a); or
- a consumer's request for any documentation required by Sections 205.9 or 205.10(a), or for additional information or clarification concerning an EFT.

The term "error" does not include a routine inquiry about the balance in the consumer's account or a request for duplicate copies of documentation or other information that is made only for tax or other record-keeping purposes.

A notice of error is an oral or written notice indicating why the consumer believes an error exists that is received by the institution not later than 60 days after a periodic statement or other documentation which first reflects the alleged error is provided. The notice of error must also enable the institution to identify the consumer's name and account number, and, to the extent possible, the type, date and amount of the error. An institution may require a consumer to give written confirmation of an error within 10 business days of giving oral notice. The institution shall provide the address where confirmation must be sent. If written confirmation is not received, the institution must still comply with the error resolution procedures, but it need not provisionally credit the account if it takes longer than 10 business days to resolve the matter.

After receiving a notice of error, the institution is required to promptly investigate the alleged error and transmit the results to the consumer within 10 business days. As an alternative to this, the institution may take up 45 calendar days to complete its investigation provided it:

- provisionally credits the funds (including interest, where applicable) to the consumer's account within the 10 business-day period;
- advises the consumer within 2 business days of the provisional crediting; and