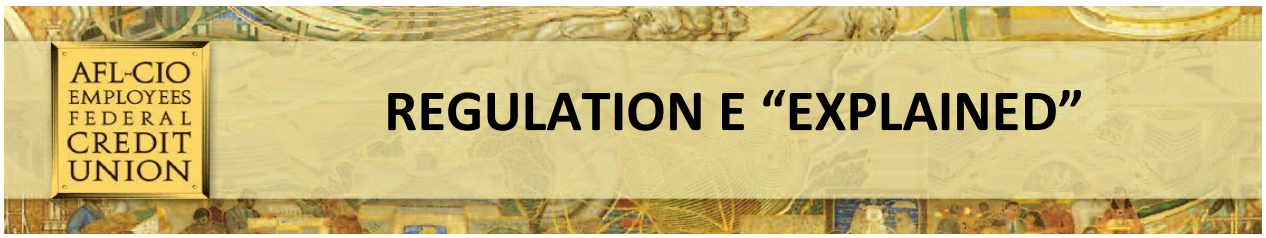

REGULATION E "EXPLAINED"

Federally Regulated Electronic Fund Transfers

Federal regulations, specifically Regulation E ("Reg. E") establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services. The primary objective of the act and this part is the protection of individual consumers engaging in electronic fund transfers.

Definitions:

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- means a deposit account to include; checking, savings, or other consumer asset account [other than an occasional or incidental credit balance in a credit plan].

Business day- means any day on which the offices of the consumer's financial institution are open to the public.

The AFL-CIO EFCU is opened "Monday through Friday, excluding Federal Holidays and as posted on the credit union's website at www.aflcioefcu.org."

Credit- means the right granted by the financial institution to a consumer to defer payment of debt, incur debt, and defer its payment.

Electronic terminal- means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. The term includes, but is not limited to; point-of-sale terminals, automated teller machines [ATMs], and cash dispensing machines.

Preauthorized electronic fund transfer- means an electronic fund transfer authorized in advance to recur at substantially regular intervals.

Unauthorized electronic fund transfer- means 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.

Coverage:

Electronic fund transfer-

Definition- The term electronic fund transfer means any transfer of funds that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a consumer's account. The term includes, but is not limited to—

(a) Point-of-sale transfers;

(b) Automated teller machine transfers;

(c) Direct deposits or withdrawals of funds;

(d) Transfers initiated by telephone; and

(e) Transfers resulting from debit card transactions, whether or not initiated through an electronic terminal.

Electronic fund transfer using information from a check.

This part applies where a check, draft, or similar paper instrument is used as a source of information to initiate a one-time electronic fund transfer from a consumer's account. The consumer must authorize the transfer.

Liability of consumer for unauthorized transfers:

Conditions for liability:

A consumer may be held liable, within the limitations described in paragraph (b) of this section, for an unauthorized electronic fund transfer involving the consumer's account only if the financial institution has provided the disclosures required by §1005.7(b)(1), (2), and (3). If the unauthorized transfer involved an access device, it must be an accepted access device and the financial institution must have provided a means to identify the consumer to whom it was issued.

Limitations on amount of liability:

A consumer's liability for an unauthorized electronic fund transfer or a series of related unauthorized transfers shall be determined as follows:

Timely notice given- If the consumer notifies the financial institution within two business days after learning of the loss or theft of the access device, the consumer's liability shall not exceed the lesser of $50 or the amount of unauthorized transfers that occur before notice to the financial institution.

Timely notice not given- If the consumer fails to notify the financial institution within two business days after learning of the loss or theft of the access device, the consumer's liability shall not exceed the lesser of $500 or the sum of:

$50 or the amount of unauthorized transfers that occur within the two business days, whichever is less; and

The amount of unauthorized transfers that occur after the close of two business days and before notice to the institution, provided the institution establishes that these transfers would not have occurred had the consumer notified the institution within that two-day period.

Periodic statement; timely notice not given- 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. When an access device is involved in the unauthorized transfer, the consumer may be liable for other amounts set forth in paragraphs (b)(1) or (b)(2) of this section, as applicable.

Extension of time limits- If the consumer's delay in notifying the financial institution was due to extenuating circumstances, the institution shall extend the times specified above to a reasonable period.

(5) Notice to financial institution-

(a) Notice to a financial institution is given when a consumer takes steps reasonably necessary to provide the institution with the pertinent information, whether or not a particular employee or agent of the institution actually receives the information.

(b) The consumer may notify the institution in person, by telephone, or in writing.

(c) Written notice is considered given at the time the consumer mails the notice or delivers it for transmission to the institution by any other usual means. Notice may be considered constructively given when the institution becomes aware of circumstances leading to the reasonable belief that an unauthorized transfer to or from the consumer's account has been or may be made.

Liability under state law or agreement- If state law or an agreement between the consumer and the financial institution imposes less liability than is provided by this section, the consumer's liability shall not exceed the amount imposed under the state law or agreement.

Procedures for Resolving Errors [Disputes}:

(A) Definition of error—

(1) Types of transfers or inquiries covered. The term error means:

(i) An unauthorized electronic fund transfer;

(ii) An incorrect electronic fund transfer to or from the consumer's account;

(iii) The omission of an electronic fund transfer from a periodic statement;

(iv) A computational or bookkeeping error made by the financial institution relating to an electronic fund transfer;

(v) The consumer's receipt of an incorrect amount of money from an electronic terminal;

(vi) An electronic fund transfer not identified in accordance with §§1005.9 or 1005.10(a); or

(vii) The consumer's request for documentation required by §§1005.9 or 1005.10(a) or for additional information or clarification concerning an electronic fund transfer, including a request the consumer makes to determine whether an error exists under paragraphs (A)(1) (i) through (vii) of this section.

(2) Types of inquiries not covered. The term error does not include:

(a) A routine inquiry about the consumer's account balance;

(b) A request for information for tax or other recordkeeping purposes; or

(c) A request for duplicate copies of documentation.

(3) Notice of error from consumer—

(a) Timing; contents. A financial institution shall comply with the requirements of this section with respect to any oral or written notice of error from the consumer that:

(i) Is received by the institution no later than 60 days after the institution sends the periodic statement or provides the passbook documentation, required by §1005.9, on which the alleged error is first reflected;

(ii) Enables the institution to identify the consumer's name and account number; and

(iii) Indicates why the consumer believes an error exists and includes to the extent possible the type, date, an amount of the error, except for requests described in paragraph (A)(1)(vii) of this section.

Written confirmation. A financial institution may require the consumer to give written confirmation of an error within 10 business days of an oral notice. An institution that requires written confirmation shall inform the consumer of the requirement and provide the address where confirmation must be sent when the consumer gives the oral notification.

Request for documentation or clarifications. When a notice of error is based on documentation or clarification that the consumer requested under paragraph (a)(1)(vii) of this section, the consumer's notice of error is timely if received by the financial institution no later than 60 days after the institution sends the information requested.

(d) Time limits and extent of investigation—

(1) Ten-day period. A financial institution shall investigate promptly and, except as otherwise provided in this paragraph (c), shall determine whether an error occurred within 10 business days of receiving a notice of error. The institution shall report the results to the consumer within three business days after completing its investigation. The institution shall correct the error within one business day after determining that an error occurred.

(2) Forty-five day period. If the financial institution is unable to complete its investigation within 10 business days, the institution may take up to 45 days from receipt of a notice of error to investigate and determine whether an error occurred, provided the institution does the following:

(i) Provisionally credits the consumer's account in the amount of the alleged error (including interest where applicable) within 10 business days of receiving the error notice. If the financial institution has a reasonable basis for believing that an unauthorized electronic fund transfer has occurred and the institution has satisfied the requirements of §1005.6(a), the institution may withhold a maximum of $50 from the amount credited. An institution need not provisionally credit the consumer's account if:

The institution requires but does not receive written confirmation within 10 business days of an oral notice of error; or

The alleged error involves an account that is subject to Regulation T (Securities Credit by Brokers and Dealers, 12 CFR part 220);

(ii) Informs the consumer, within two business days after the provisional crediting, of the amount and date of the provisional crediting and gives the consumer full use of the funds during the investigation;

(iii) Corrects the error, if any, within one business day after determining that an error occurred; and

(iv) Reports the results to the consumer within three business days after completing its Investigation (including, if applicable, notice that a provisional credit has been made final).

(3) Extension of time periods. The time periods in paragraphs (c)(1) and (c)(2) of this section are extended as follows:

(i)The applicable time is 20 business days in place of 10 business days under paragraphs (c)(1) and (c)(2) of this section if the notice of error involves an electronic fund transfer to or from the account within 30 days after the first deposit to the account was made.

(ii) The applicable time is 90 days in place of 45 days under paragraph (c)(2) of this section, for completing an investigation, if a notice of error involves an electronic fund transfer that:

(A) Was not initiated within a state;

(B) Resulted from a point-of-sale debit card transaction; or

(C) Occurred within 30 days after the first deposit to the account was made.

(4) Investigation. With the exception of transfers covered by §1005.14, a financial institution's review of its own records regarding an alleged error satisfies the requirements of this section if:

(i) The alleged error concerns a transfer to or from a third party; and

(ii) There is no agreement between the institution and the third party for the type of electronic fund transfer involved.

Procedures if financial institution determines no error or different error occurred. In addition to following the procedures specified in paragraph (c) of this section, the financial institution shall follow the procedures set forth in this paragraph (d) if it determines that no error occurred or that an error occurred in a manner or amount different from that described by the consumer:

Written explanation. The institution's report of the results of its investigation shall include a written explanation of the institution's findings and shall note the consumer's right to request the documents that the institution relied on in making its determination. Upon request, the institution shall promptly provide copies of the documents.

(2) Debiting provisional credit. Upon debiting a provisionally credited amount, the financial institution shall:

(i) Notify the consumer of the date and amount of the debiting;

(ii) Notify the consumer that the institution will honor checks, drafts, or similar instruments payable to third parties and preauthorized transfers from the consumer's account (without

charge to the consumer as a result of an overdraft) for five business days after the notification. The institution shall honor items as specified in the notice, but need honor only items that it would have paid if the provisionally credited funds had not been debited.

Reassertion of error.

A financial institution that has fully complied with the error resolution requirements has no further responsibilities under this section should the consumer later reassert the same error, except in the case of an error asserted by the consumer following receipt of information provided under paragraph (a)(1)(vii) of this section.

Credit Union Procedures/Responsibilities:

The time clock begins in the case of disputes and dispute resolutions when the member reports the incident to the credit union.

Begin the investigation

Immediately upon notification of a dispute or a dispute arising out of fraud the credit union will make note on the member's account.

The credit union representative will forward to the member the necessary fraud affidavit forms for completion.

Once the forms are received, the credit union should;

Prepare the dispute form to accompany the fraud affidavit

Continue with the investigation

File the necessary claims through CO-OP and CUNA Mutual.

If the credit union does not receive the documentation within the initial 10 days; the credit union must provide the provisional credit to the member's account.

If during the course of the investigation if the credit union finds there was no fraud;

Obtain documentation from the appropriate parties.

The credit union has up to 45 days to complete the investigation

If the credit union determines there was no error or fraud; the credit union must notify the member, in writing, and may take the provisional back from the member.