



Electronic Fund Transfers FAQs

The questions and answers below pertain to compliance with the Electronic Fund Transfer Act (EFTA) and Subpart A to Regulation E.

Unauthorized Electronic Fund Transfers and Error Resolution

QUESTION 1:

If a third party fraudulently induces a consumer into sharing account access information that is used to initiate an electronic fund transfer from the consumer's account, does the transfer meet Regulation E's definition of "unauthorized electronic fund transfer"?

ANSWER (UPDATED 6/4/2021):

Yes. Regulation E defines an unauthorized electronic fund transfer (EFT) as an EFT 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. 12 CFR § 1005.2(m). Comment 1005.2(m)-3 explains further that an unauthorized EFT includes a transfer initiated by a person who obtained the access device from the consumer through fraud or robbery. Similarly, when a consumer is fraudulently induced into sharing account access information with a third party, and a third party uses that information to make an EFT from the consumer's account, the transfer is an unauthorized EFT under Regulation E.

For example, the Bureau is aware of the following situations where a third party has fraudulently obtained a consumer's account access information: (1) a third party calling the consumer and

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

pretending to be a representative from the consumer's financial institution and then tricking the consumer into providing their account login information, texted account confirmation code, debit card number, or other information that could be used to initiate an EFT out of the consumer's account, and (2) a third party using phishing or other methods to gain access to a consumer's computer and observe the consumer entering account login information. EFTs stemming from these situations meet the Regulation E definition of unauthorized EFTs.

QUESTION 2:

If a third party fraudulently induces a consumer to share account access information, are subsequent transfers initiated with the fraudulently obtained account information excluded from Regulation E's definition of unauthorized electronic fund transfer because they are initiated "[b]y a person who was furnished the access device to the consumer's account by the consumer"?

ANSWER (UPDATED 6/4/2021):

No. A consumer who is fraudulently induced into providing account information has not furnished an access device under Regulation E. As explained above in Unauthorized Electronic Fund Transfers and Error Resolution, [Question 1](#), electronic fund transfers (EFTs) initiated using account access information obtained through fraud or robbery fall within the Regulation E definition of unauthorized EFT. See Comment 1005.2(m)-3.

QUESTION 3:

Can a financial institution consider a consumer's negligence when determining liability for unauthorized electronic fund transfers under Regulation E?

ANSWER (UPDATED 6/4/2021):

No. Regulation E sets forth the conditions in which consumers may be held liable for unauthorized transfers, and its commentary expressly states that negligence by the consumer cannot be used as the basis for imposing greater liability than is permissible under Regulation E. 12 CFR § 1005.6; comment 6(b)-2. For example, consumer behavior that may constitute negligence under state law, such as situations where the consumer wrote the PIN on a debit card or on a piece of paper kept with the card, does not affect the consumer's liability for unauthorized transfers under Regulation E. Comment 1005.6(b)-2.

QUESTION 4:

If a financial institution's agreement with a consumer includes a provision that modifies or waives certain protections granted by Regulation E, such as waiving Regulation E liability protections if a consumer has shared account information with a third party, can the institution rely on its agreement when determining whether the electronic fund transfer was unauthorized and whether related liability protections apply?

ANSWER (UPDATED 6/4/2021):

No. The Electronic Fund Transfer Act (EFTA) includes an anti-waiver provision stating that “[n]o writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by [EFTA].” 15 U.S.C. § 1693I. Although there may be circumstances where a consumer has provided actual authority to a third party under Regulation E according to 12 CFR § 1005.2(m), an agreement cannot restrict a consumer's rights beyond what is provided in the law, and any contract or agreement attempting to do so is a violation of EFTA.

QUESTION 5:

If private network rules provide less consumer protection than federal law, can a financial institution rely on private network rules?

ANSWER (UPDATED 6/4/2021):

No. Although private network rules and other agreements may provide additional consumer protections beyond Regulation E, less protective rules do not change a financial institution's Regulation E obligations. See 15 USC § 1693I. For example, some network rules require consumers to provide notice of an error within 60 days of the date of the transaction, even though Regulation E, 12 CFR § 1005.11(b)(1)(i), allows consumers to provide notice within 60 days after the institution sends the periodic statement showing the unauthorized transaction. Other network rules allow a financial institution to require a consumer to contact the merchant before initiating an error investigation, even though § 1005.11(b)(1) triggers error investigation obligations upon notice from the consumer. The Bureau discussed instances where examiners found financial institutions had violated the 60-day notice requirement in the [Summer 2020 edition of Supervisory Highlights](#).

QUESTION 6:

Can a financial institution require a consumer to file a police report or other documentation as a condition of initiating an error resolution investigation?

ANSWER (UPDATED 6/4/2021):

No. A financial institution must begin its investigation promptly upon receipt of an oral or written notice of error and may not delay initiating or completing an investigation pending receipt of information from the consumer. See Comments 11(b)(1)-2 and 11(c)-2. In the past, Bureau examiners found that one or more financial institutions failed to initiate and complete reasonable error resolution investigations pending the receipt of additional information required by the institution. These examples can be found in the Bureau's [Summer 2020 edition of Supervisory Highlights](#) and [Fall 2014 edition of Supervisory Highlights](#). The Bureau cited similar violations in [2019-BCFP-0001](#).

QUESTION 7:

If a consumer provides notice to a financial institution about an unauthorized electronic fund transfer (EFT), can the financial institution require that the consumer first contact the merchant about the potential unauthorized EFT before the financial institution initiates its error resolution investigation?

ANSWER (UPDATED 6/4/2021):

No. A financial institution must begin its investigation promptly upon receipt of an oral or written notice of error and may not delay initiating or completing an investigation pending receipt of information from the consumer. See Comments 11(b)(1)-2 and 11(c)-2. For example, in [2019-BCFP-0001](#), the Bureau found that the practice of requiring a consumer to contact the merchant before initiating an error resolution investigation was a violation of Regulation E. Similarly, the [Fall 2014 edition of Supervisory Highlights](#) discussed instances where examiners found that one or more financial institutions had instructed consumers to contact the merchant instead of promptly initiating an error investigation.

QUESTION 8:

If a transfer meets the Regulation E definition of unauthorized electronic fund transfer, how does a financial institution determine the consumer's liability, if any?

ANSWER (UPDATED 6/4/2021):

If a consumer has provided timely notice of an error under 12 CFR § 1005.11(b)(1) and the financial institution determines that the error was an unauthorized electronic fund transfer (EFT), the liability protections in Regulation E, § 1005.6, would apply. Depending on the circumstances regarding the unauthorized EFT and the timing of the reporting, a consumer may or may not have some liability for the unauthorized EFT. See 12 CFR § 1005.6(b).