



# **Mastering Regulation E: Essential Compliance for Electronic Fund Transfers**

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# Disclaimer

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This program is intended to provide accurate and reliable information; however, it does not constitute legal advice. For legal guidance, please consult a qualified attorney. Information presented here may have changed since its preparation and is meant to serve as a general overview, not a comprehensive resource.



# Agenda

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- Regulation E Background and Coverage
- Definitions
- Provisions
- Overdraft Opt-In
- Record Retention

# Background and Purpose

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- Electronic Fund Transfers Act enacted in 1978
- Implemented by Regulation E, 12 CFR 1005
- Establishes rights and liabilities of consumers
- Establishes responsibilities of participants in EFT systems

# Regulation E Account Coverage

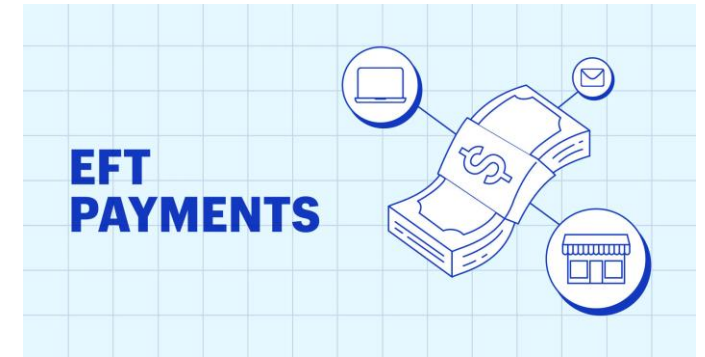
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- Consumer accounts
  - Savings
  - Checking
  - Money market
- Does not apply to business accounts

# Regulation E Transaction Coverage

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- ATM transfer
- POS terminal
- Telephone bill payment plan
- ACH
- Check conversion program
- Online and mobile transfers



# Regulation E Transaction Coverage

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- Transactions not covered
  - Checks
  - Pre-authorized internal transfers
  - Telephone-initiated transfers



# Regulation E Definitions

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- Access device
  - Card, code or other means of access
    - Debit card
    - PIN
    - Online banking password
    - Mobile banking password

# Regulation E Definitions

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- Business day
  - Any day on which the offices of the financial institution are open for carrying on substantially all business functions

# Regulation E Definitions

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- Electronic terminal
  - ATMs, cash dispensing machines, point-of-sale (POS) terminals

# Regulation E Provisions

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- Issuance of access device
- Disclosures
- Written receipt at electronic terminals
- Overdraft opt-in
- Consumer liability
- Error resolution

# Issuance of Access Device

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- Must be applied for
- Can be provided as a renewal of access device



# Regulation E Disclosures

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- Initial disclosures
- Periodic statements
- Change in terms
- Error-resolution notice

# Regulation E Initial Disclosures

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- Must be provided
  - When member applies for EFT service
- OR
- Before first EFT occurs

# Regulation E Initial Disclosures

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- Documentation
- Stop payment for pre-authorized transfers
- CU's liability
- Confidentiality
- Error resolution



# Regulation E Initial Disclosures

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- Member's liability
- CU contact information
- Business days
- Types of transfers and limitations
- Fees

# Regulation E Periodic Statement

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- Timing
  - Monthly if an EFT occurs
- OR
- Quarterly

# Regulation E Periodic Statement

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- Transaction information
- Account number
- Fees
- Account balances
- Contact information

# Periodic Statement Suggestions

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- Use “consumer friendly” language
- Use consistent terminology
  - Disclosures
  - Statements
  - Receipts

# Regulation E Other Disclosures

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- Change in terms notice
  - Must be sent 21 days before effective date of change



# Regulation E Other Disclosures

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- Error resolution notice
  - With periodic statement
- OR
- Annually

# Regulation E Other Disclosures

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- Receipts at electronic terminal
  - Amount
  - Date
  - Type of transaction
  - Identification
  - Terminal location

# Regulation E Overdraft Rules

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- No overdraft fees for ATM and POS transactions UNLESS member opts in
- Can't discriminate against members who don't opt in



# Regulation E Overdraft Rules

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- Accounts covered under the overdraft rule
  - Any consumer account accessible by ATM/debit card
- Fees covered
  - Overdraft, NSF, negative balance

# Regulation E Overdraft Rules

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- Transactions covered
  - ATM transactions – withdrawals or transfers
  - One-time debit card transactions

# Regulation E Overdraft Rules

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- Transactions not covered
  - Checks
  - ACH
  - Bill pay
  - Recurring debit card purchases
    - Health Club dues
    - Insurance payments

# Regulation E Overdraft Rules

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- Opt-in requirements
  - Opt-in notice
  - Opportunity to opt-in
  - Obtain affirmative consent
  - Provide written confirmation back to the member

# Regulation E Overdraft Rules

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- Information included in opt-in notice
  - Overdraft service
  - Fees imposed; Limits on fees
  - Disclosure of the opt-in right
  - Alternative plans for covering overdrafts

# Regulation E Overdraft Rules

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- Opt-in – charge fees
- No opt-in – no fees
- Joint accounts
  - Opt-in from one account holder = opt-in for all account holders
- Revocation of opt-in can occur at any time

# Regulation E Overdraft Rules Suggestions

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- Ensure opt-in before charging fee for overdrafts
- Ensure opt-out is understood and followed
- Ensure evidence of opt-in and confirmation notice are maintained
- Train staff

# Regulation E Overdraft Rules Suggestions

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- Train staff
- Monitor and audit overdraft programs



# Regulation E Overdraft Rules Suggestions

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- Review ALL disclosures
  - How CU determines account balance
- Review overdraft enforcement actions/court cases
  - Ambiguous disclosures
  - Authorized Positive, Settled Negative (APSN) actions

# Regulation E Record Retention

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- Two-year retention period
- Keep copies of disclosures, opt-in forms/evidence, records of error investigations
- Ensure records are accessible

# Questions

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# Thank you

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