

§ 1005.36

12 CFR Ch. X (1–1–13 Edition)

§ 1005.36 Transfers scheduled before the date of transfer.

(a) *Timing.* (1) For a one-time transfer scheduled five or more business days before the date of transfer or for the first in a series of preauthorized remittance transfers, the remittance transfer provider must:

(i) Provide either the pre-payment disclosure described in § 1005.31(b)(1) and the receipt described in § 1005.31(b)(2) or the combined disclosure described in § 1005.31(b)(3), in accordance with the timing requirements set forth in § 1005.31(e); and

(ii) If any of the disclosures provided pursuant to paragraph (a)(1)(i) of this section contain estimates as permitted by § 1005.32(b)(2), mail or deliver to the sender an additional receipt meeting the requirements described in § 1005.31(b)(2) no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender's account held by the provider, the receipt required by this paragraph may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

(2) For each subsequent preauthorized remittance transfer:

(i) If any of the information on the most recent receipt provided pursuant to paragraph (a)(1)(i) of this section, or by this paragraph (a)(2)(i), other than the temporal disclosures required by § 1005.31(b)(2)(ii) and (b)(2)(vii), is no longer accurate with respect to a subsequent preauthorized remittance transfer for reasons other than as permitted by § 1005.32, then the remittance transfer provider must provide an updated receipt meeting the requirements described in § 1005.31(b)(2) to the sender. The provider must mail or deliver this receipt to the sender within a reasonable time prior to the scheduled date of the next subsequent preauthorized remittance transfer. Such receipt must clearly and conspicuously indicate that it contains updated disclosures.

(ii) Unless a receipt was provided in accordance with paragraph (a)(2)(i) of this section that contained no estimates pursuant to § 1005.32, the remittance transfer provider must mail or deliver to the sender a receipt meeting the requirements described in § 1005.31(b)(2) no later than one business day after the date of the transfer. If the remittance transfer involves the transfer of funds from the sender's account held by the provider, the receipt required by this paragraph may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

(iii) A remittance transfer provider must provide the disclosures required by paragraph (d) of this section in accordance with the timing requirements of that section.

(b) *Accuracy.* (1) For a one-time transfer scheduled five or more business days in advance or for the first in a series of preauthorized remittance transfers, disclosures provided pursuant to paragraph (a)(1)(i) of this section must comply with § 1005.31(f) by being accurate when a sender makes payment except to the extent estimates are permitted by § 1005.32.

(2) For each subsequent preauthorized remittance transfer, the most recent receipt provided pursuant to paragraph (a)(1)(i) or (a)(2)(i) of this section must be accurate as of when such transfer is made, except:

(i) The temporal elements required by § 1005.31(b)(2)(ii) and (b)(2)(vii) must be accurate only if the transfer is the first transfer to occur after the disclosure was provided; and

(ii) To the extent estimates are permitted by § 1005.32.

(3) Disclosures provided pursuant to paragraph (a)(1)(ii) or (a)(2)(ii) of this section must be accurate as of when the remittance transfer to which it pertains is made, except to the extent estimates are permitted by § 1005.32(a) or (b)(1).

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(d) *Additional requirements for subsequent preauthorized remittance transfers—*(1) *Disclosure requirement.* (i) For any subsequent transfer in a series of preauthorized remittance transfers, the remittance transfer provider must disclose to the sender:

(A) The date the provider will make the subsequent transfer, using the term “Future Transfer Date,” or a substantially similar term;

(B) A statement about the rights of the sender regarding cancellation as described in § 1005.31(b)(2)(iv); and

(C) The name, telephone number(s), and Web site of the remittance transfer provider.

(ii) If the future date or dates of transfer are described as occurring in regular periodic intervals, *e.g.*, the 15th of every month, rather than as a specific calendar date or dates, the remittance transfer provider must disclose any future date or dates of transfer that do not conform to the described interval.

(2) *Notice requirements.* (i) Except as described in paragraph (d)(2)(ii) of this section, the disclosures required by paragraph (d)(1) of this section must be received by the sender no more than 12 months, and no less than five business days prior to the date of any subsequent transfer to which it pertains. The disclosures required by paragraph (d)(1) of this section may be provided in a separate disclosure or may be provided on one or more disclosures required by this subpart related to the same series of preauthorized transfers, so long as the consumer receives the required information for each subsequent

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preauthorized remittance transfer in accordance with the timing requirements of this paragraph (d)(2)(i).

(ii) For any subsequent preauthorized remittance transfer for which the date of transfer is four or fewer business days after the date payment is made for that transfer, the information required by paragraph (d)(1) of this section must be provided on or with the receipt described in §1005.31(b)(2), or disclosed as permitted by §1005.31(a)(3) or (a)(5), for the initial transfer in that series in accordance with paragraph (a)(1)(i) of this section.

(3) *Specific format requirement.* The information required by paragraph (d)(1)(i)(A) of this section generally must be disclosed in close proximity to the other information required by paragraph (d)(1)(i)(B) of this section.

(4) *Accuracy.* Any disclosure required by paragraph (d)(1) of this section must be accurate as of the date the preauthorized remittance transfer to which it pertains is made.

APPENDIX A TO PART 1005—MODEL DISCLOSURE CLAUSES AND FORMS

A-1—Model Clauses for Unsolicited Issuance (§1005.5(b)(2))

A-2—Model Clauses for Initial Disclosures (§1005.7(b))

A-3—Model Forms for Error Resolution Notice (§§1005.7(b)(10) and 1005.8(b))

A-4—Model Form for Service-Providing Institutions (§1005.14(b)(1)(ii))

A-5—Model Forms for Government Agencies (§1005.15(d)(1) and (2))

A-6—Model Clauses for Authorizing One-Time Electronic Fund Transfers Using Information From a Check (§1005.3(b)(2))

A-7—Model Clauses for Financial Institutions Offering Payroll Card Accounts (§1005.18(c))

A-8—Model Clause for Electronic Collection of Returned Item Fees (§1005.3(b)(3))

A-9—Model Consent Form for Overdraft Services (§1005.17)

A-1—MODEL CLAUSES FOR UNSOLICITED ISSUANCE (§1005.5(B)(2))

(a) *Accounts using cards.* You cannot use the enclosed card to transfer money into or out of your account until we have validated it. If you do not want to use the card, please (destroy it at once by cutting it in half).

[Financial institution may add validation instructions here.]

(b) *Accounts using codes.* You cannot use the enclosed code to transfer money into or out of your account until we have validated it. If you do not want to use the code, please (destroy this notice at once).

[Financial institution may add validation instructions here.]

A-2—MODEL CLAUSES FOR INITIAL DISCLOSURES (§1005.7(B))

(a) *Consumer Liability (§1005.7(b)(1)).*

(Tell us AT ONCE if you believe your [card] [code] has been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your check. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within 2 business days after you learn of the loss or theft of your [card] [code], you can lose no more than \$50 if someone used your [card][code] without your permission.)

If you do NOT tell us within 2 business days after you learn of the loss or theft of your [card] [code], and we can prove we could have stopped someone from using your [card] [code] without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, including those made by card, code or other means, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

(b) *Contact in event of unauthorized transfer (§1005.7(b)(2)).* If you believe your [card] [code] has been lost or stolen, call: [Telephone number] or write: [Name of person or office to be notified] [Address].

You should also call the number or write to the address listed above if you believe a transfer has been made using the information from your check without your permission.

(c) *Business days (§1005.7(b)(3)).* For purposes of these disclosures, our business days are (Monday through Friday) (Monday through Saturday) (any day including Saturdays and Sundays). Holidays are (not) included.

(d) *Transfer types and limitations (§1005.7(b)(4))* (1) *Account access.* You may use your [card][code] to:

(i) Withdraw cash from your [checking] [or] [savings] account.

(ii) Make deposits to your [checking] [or] [savings] account.

(iii) Transfer funds between your checking and savings accounts whenever you request.

(iv) Pay for purchases at places that have agreed to accept the [card] [code].

(v) Pay bills directly [by telephone] from your [checking] [or] [savings] account in the amounts and on the days you request.

Some of these services may not be available at all terminals.