

REGULATORY ALERT

NATIONAL CREDIT UNION ADMINISTRATION
1775 DUKE STREET, ALEXANDRIA, VA 22314

DATE: January 2000 **NO.:** 00-RA-01

TO: All Federally Insured Credit Unions

SUBJECT: Electronic Transfer Accounts

The purpose of this regulatory alert is to provide basic information to credit unions regarding Electronic Transfer Accounts (ETA). These accounts were created under 31 USC 3332, The Debt Collection Improvement Act, which requires the electronic payment of federal benefits. The Congress recognized that not all recipients of federal benefits have a relationship with a financial institution. As a result, the Department of the Treasury has developed a program to enable financial institutions to become providers of ETA accounts.

Credit unions may offer ETA accounts. The following information is provided to help credit unions decide whether to become such providers.

Sincerely,

/s/

Norman E. D'Amours
Chairman

GENERAL QUESTIONS

What is an ETA?

An ETA is a low-cost account which is made available by participating Federally insured financial institutions to individuals who receive Federal benefit, wage, salary, or retirement payments. The account allows recipients to receive Federal payments electronically in accordance with the Electronic Funds Transfer (EFT) provision of the Debt Collection Improvement Act of 1996 (DCIA). The DCIA requires that Federal payments, except for tax refunds and except where waived by the Secretary of the Treasury, be made electronically after January 1, 1999. Financial institutions that choose to offer ETA will enter into an ETA Financial Agency Agreement with the Department of the Treasury (Treasury). The agreement outlines the duties of financial institutions designated as Financial Agents and ensures compliance with the ETA standards.

Who is eligible to open an ETA?

Any individual who receives a Federal benefit, wage, salary, or retirement payment is eligible to open an ETA.

What account features are included in the ETA?

Treasury has determined that the ETA will:

- be an individually owned account at a Federally insured financial institution;
- accept electronic Federal benefit, wage, salary, and retirement payments and such other deposits as a financial institution agrees to permit;
- be subject to a maximum fee of \$3.00 per month;
- have a minimum of four cash withdrawals and four balance inquiries per month, to be included in the monthly fee, through any combination of proprietary automated teller machine (ATM) transactions and/or over-the-counter transactions;
- provide the same consumer protections that are available to other account holders at the financial institution;
- allow access to the financial institution's on-line point-of-sale (POS) network, if any;
- require no minimum balance, except as required by Federal, State law, or Federal credit union bylaws, if a Federal credit union;
- at the option of the financial institution, be either an interest-bearing or non-interest-bearing account; and
- provide a monthly statement.

What types of deposits can be made to the ETA?

A financial institution can accept to the ETA electronic Federal benefit, wage, salary, and retirement payments or, at its option, allow other deposits in addition to electronic Federal benefit, wage, salary, and retirement payments. A financial institution may choose to limit any additional deposits to electronic deposits or may allow recipients to deposit checks and/or cash in addition to other electronic deposits. Financial institutions may specify whether deposits of other funds may be made by mail, at an ATM, and/or over-the-counter. Financial institutions are not permitted to charge any fee in connection with allowing deposits of other funds.

CREDIT UNION ENROLLMENT QUESTIONS

Are credit unions permitted to offer ETAs?

Federally insured credit unions are eligible to offer ETAs subject to any legal constraints on their authority to do so. A Federally insured credit union is permitted to offer an ETA to any eligible Federal payment recipient who falls within the field of membership of the credit union.

What are the legal constraints on the authority for credit unions to offer ETAs?

ETA participants must fall within the credit union's field of membership.

Community charter credit unions may enroll participants that are within their community. Multiple group credit unions may enroll those already in their field of membership and add more low-income individuals to its membership by establishing a low-income association within its field of membership. See Chapter 3, Section II.E. of the NCUA Chartering and Field of Membership Manual.

There are two other ways where low-income individuals may access ETA account offered by a credit union. First, all credit unions - single common bond, multiple common bond, and community - can apply to add underserved areas to their fields of membership without regard to the location of such area. The requirements and process for such additions are set forth in Chapter 3, Section III of the NCUA Chartering Manual. Second, credit unions with low-income designations may offer ETA's to non-members, albeit with limited additional services.

How does a credit union enroll in the ETA program?

Credit unions should call 1-888-ETA-FRBK (382-3725) for more information about enrolling in the ETA program. For enrollment information via the internet, access the Department of Treasury's website information at www.fms.treas.gov/eta/index.html.

Are credit unions required to offer the ETA?

No. Participation in the ETA program is voluntary for all financial institutions, including credit unions.

May any financial institution offer ETAs?

Only Federally insured financial institutions are eligible to offer the ETA. This requirement serves to ensure that ETA account holders' funds are deposited into accounts that have Federal deposit insurance. Federally insured financial institutions are subject to comprehensive Federal regulation and oversight through examinations for safety and soundness and for compliance with consumer protection laws.

Are financial institutions that choose not to offer the ETA restricted from accepting electronic Federal benefit payments for their customers/members? Will these institutions be subject to additional fees or charges?

No. Financial institutions who do not offer the ETA are not restricted from accepting direct deposit Federal benefit payments, and are also not subject to any additional fees or charges.

Financial Agency Agreement

What is an ETA Financial Agency Agreement?

The ETA Financial Agency Agreement is an agreement between Treasury and a financial institution designating the financial institution to act as Treasury's Financial Agent in providing the ETA. Any financial institution that offers the ETA must do so subject to the terms and conditions of the agreement. The agreement incorporates the final features of the account and other account criteria, such as standards for closing accounts.

In addition to completing the Financial Agency Agreement, what information must financial institutions provide to Treasury?

Participating financial institutions must complete and provide to the FRB Dallas, acting as Treasury's Fiscal Agent, the enrollment form attached to the ETA Financial Agency Agreement. Once the enrollment form is received, the financial institution will receive the Program Implementation Guide, a set of instructions, information and contacts concerning the offering of the ETA. Within one month of receiving the Program Implementation Guide, the financial institution must submit a copy of each account disclosure statement it will give to its ETA holders. In addition, financial institutions must report to Treasury by the 15th day of each month the number of ETAs opened and closed during the previous month and the number of accounts open as of the end of the previous month. Financial institutions must provide an account number for the institution to which payment for set up fees shall be made.

What other information does Treasury anticipate requesting from financial institution participants?

In addition to the enrollment form and monthly reports, financial institutions may be required to provide Treasury with other information and documentation, including internal audit reports, necessary for Treasury to verify the number and status of ETA, facilitate payment of set up fees, and ensure compliance with the terms of the Financial Agency Agreement.

If a financial institution terminates its agreement with Treasury, what will happen to the institution's ETAs?

If a financial institution terminates its agreement with Treasury, it must stop opening new ETAs. In addition, it must close existing ETAs in a manner that allows for the orderly transfer of the accounts to another financial institution. The financial institution may at any time offer account holders the option of switching their ETA to a traditional checking or savings account if it better meets recipient needs.

Account Opening And Closing

Are participating financial institutions required to open an ETA for any Federal payment recipient who is eligible to open an ETA?

Yes, with limited exceptions, a participating financial institution must provide an ETA to any Federal benefit, wage, salary, or retirement payment recipient who requests an account, and who authorizes the deposit of eligible payments to the ETA. The exceptions are as follows:

- a financial institution shall not open an ETA for any individual if the institution does not have authority under its charter to maintain a deposit or share account for the individual, and
- financial institution is not required to open an account for any individual if
 - the institution is aware that the individual previously was the owner of an ETA that was closed because of fraud at that institution or any other financial institution, or
 - the institution, for reasons of account misuse, previously closed an ETA held by the individual at that institution.

What must a financial institution do to ensure that an individual for whom an ETA is opened has authorized the deposit of a Federal benefit, salary, wage, or retirement payment to the account?

At the time a financial institution opens an ETA for an individual, the individual must simultaneously authorize that his or her Federal benefit, salary, wage or retirement payment be direct deposited to the account. Therefore, at the time the ETA is opened, the individual must:

- execute a direct deposit enrollment form,
- enroll in direct deposit via telephone with the paying agency, or
- enroll in direct deposit through an automated enrollment at the financial institution. It is the financial institution's responsibility to ensure that enrollment occurs as part of the account opening process.

Is it required that a financial institution allow individuals to open an ETA by telephone, electronic means, mail, or in person?

According to the Federal Register, each financial institution may establish its own account-opening procedures for the ETA. For example, some institutions may choose to open ETAs through a telephone application process whereas others may choose to require recipients to apply in person.

On what grounds may a financial institution close an ETA?

A financial institution will be permitted to close an ETA where the financial institution has cause to believe that fraud has occurred in connection with the account or that the account has been misused. Any determination that fraud or misuse has occurred must be consistent with the financial institution's usual criteria for closing accounts. Those criteria could include, for example: where the institution determines that fraud has occurred after conducting the investigation required under Regulation E; excessive overdrafts; negligence in safeguarding an ATM and/or POS card or PIN number; or failure to pay an overdraft within a reasonable period of time.

A financial institution may not close an ETA for any reason other than fraud or misuse unless it is requested by the holder of the ETA to do so; the ETA ceases to be used for the receipt of eligible payments; or the Financial Agency Agreement is terminated in accordance with its terms.

May a financial institution close an ETA immediately upon the discovery of misuse or fraud?

Yes, no grace period is required.

Will Treasury maintain a listing of individuals who have had an ETA closed for fraud?

No, Treasury does not intend to maintain any information on individuals who have had an ETA closed for fraud.

If an ETA holder stops receiving Federal payments, must the account be closed?

No, the account may remain open at the discretion of the financial institution.

Is there a specific number of overdrafts that must be committed by an ETA holder before the financial institution is permitted to close the account?

When considering whether to close an ETA due to multiple overdrafts, a financial institution must apply the same standard to ETA holders as they would to other account holders at the financial institution. For example, if this institution allows regular account holders to overdraw on a certain number of occasions per month without penalty of closing, this standard must be applied to ETA holders.

Fees

Will the Federal government reimburse financial institutions for any costs associated with opening the ETA?

Treasury will reimburse financial institutions a one-time fee of \$12.60 per ETA opened to offset the costs of setting up the account. Set up costs include costs to enroll holders, train staff, and issue cards.

For what services may a financial institution charge fees?

A financial institution may charge an ETA holder a fixed monthly account fee not to exceed \$3.00 which would include fees in connection with any required attribute of the ETA. However, a financial institution may charge an ETA holder other account-related fees that the financial institution usually and customarily charges to its other retail holders. Examples of such fees include: fees for additional withdrawals and balance inquiries; lost card fees; and account research fees. A financial institution may impose fees at its customary rates, except that the amount of any overdraft fee may not exceed \$10. All fees must be disclosed in accordance with the requirements set forth in the Financial Agency Agreement.

May financial institutions charge less than the maximum \$3.00 account maintenance fee per month?

Yes. Financial institutions may charge the ETA holder any amount between \$0.00 and \$3.00 per month to maintain the account.

Will Treasury adjust for inflation the monthly account fee, overdraft fee, and set up fee?

Treasury will evaluate the appropriateness of these three fees from time to time, and will make adjustments periodically as warranted.

May financial institutions charge more than the \$3.00 account fee per month if they allow additional deposits and pay interest on the account?

No. Financial institutions may not charge ETA holders more than \$3.00 per month for the required features. Financial institutions may charge an incremental fee for the payment of interest as long as the monthly fee does not exceed \$3.00. A financial institution may not charge an incremental fee for allowing additional deposits.

If a financial institution charges its customers an initial fee for the issuance of an ATM card, can that charge be applied to ETA holders as well?

No. Financial institutions may not charge ETA customers for the issuance of an ATM card because the card itself is included as a feature of the ETA. The charge for all features of the ETA combined may not exceed \$3.00 per month.

If a financial institution charges a fee for all deposited checks that are returned for insufficient funds, may that financial institution charge the same fee to ETA holders?

The financial institution may charge the ETA holder other account-related fees that the institution usually and customarily charges to its other holders. The institution may impose such fees at its customary rates, however, all fees must be disclosed in accordance with the requirements set forth in the Financial Agency Agreement.

Regulatory

Does Regulation E apply to ETAs?

Yes. Regulation E is the Federal Reserve Board's regulation that establishes the basic rights, liabilities, and responsibilities of consumers who use EFT services and of financial institutions that offer these services.

Does Truth in Savings apply to ETAs?

Yes. Truth in Savings is the regulation implementing the Truth in Savings Act of 1991. Truth in Savings is designed to enable consumers to make informed decisions about accounts at depository institutions by requiring depository institutions to provide disclosures regarding the rates of interest payable on accounts, minimum balance requirements, and the fees that are assessable against accounts.

Other Questions

Federal credit unions, by statute, require members to open a share account and maintain a balance in order to join. Are credit unions allowed to require that such an account be opened along with an ETA?

Yes. As a condition to opening an ETA, Federal credit unions may require that a recipient open and maintain a share account with a minimum balance, if such a requirement is imposed under Federal or State law. However, credit unions may not charge for opening or maintaining the share account.

Can a financial institution have an account agreement with the ETA holder that is similar to its standard account agreement?

Yes, as long as the agreement is in accordance with the required ETA features and fee restrictions and includes the disclosures required for ETAs.

What are a financial institution's responsibilities when an attachment order is received?

Financial institutions must send a copy of the order and the name of the creditor and contact person, if any, to the recipient, preferably within two to three days, but no later than seven days. In order to ensure that recipients understand that Federal benefit payments deposited to an ETA generally are protected from attachment, Treasury will require, as a term of the Financial Agency Agreement, that institutions opening ETAs provide disclosure information to recipients on the types of funds that are not attachable.

Are financial institutions able to exercise their right of set off against an ETA to pay for obligations of the account holder?

Treasury will permit financial institutions to exercise a right of set off against an ETA for certain obligations of the account holder that are directly related to the maintenance of the account. These obligations are limited to:

- the monthly fee;
- any other fees incurred by the recipient in connection with the maintenance of the ETA;
- any amount mistakenly credited to an ETA for which the recipient has no legal right;
- the amount of any overdraft on an ETA; and
- any amount for which the recipient is liable under Regulation E.

Treasury will not permit financial institutions to set off against ETA obligations incurred by the account holder in connection with other accounts, products, or services offered by the institution.

Can financial institutions offer low-cost accounts that differ from the ETA and call these accounts ETAs?

No. The use of "ETA" is limited to accounts offered in accordance with the terms of an ETA Financial Agency Agreement. Only accounts that have the required features and are offered at or under the \$3.00 monthly fee may be called "ETA." Treasury encourages financial institutions to offer other low-priced accounts with additional features, but these accounts may not be called "ETAs." The ETA service mark ensures standardization and avoids confusion with other accounts.

How should a financial institution submit monthly information reports to Treasury?

By the 15th of each month, a financial institution should report the number of ETAs opened and closed during the previous month, and the number of active ETAs at the institution at the end of the previous month. A form to complete this information will be included in the implementation kit sent to the financial institution after the Financial Agency Agreement has been signed.

How can a financial institution receive free marketing materials for the ETA?

A financial institution can receive free marketing materials by contacting the Dallas FRB at (214) 944-5254, or email to Puborder@dal.FRB.org.

MORE INFORMATION ON ETAs IS AVAILABLE ON THE DEPARTMENT OF THE TREASURY WEBSITE AT www.fms.treas.gov/eta/index/html.

In addition, inquiries about the ETA may be submitted:

electronically via e-mail to eta.inquiries@fms.sprint.com; or

by filling out an inquiry form available on the ETA web site at <http://www.fms.treas.gov/eta>