

## Expedited Funds Availability Act<sup>1</sup>

### Introduction

The Expedited Funds Availability Act (EFA) was enacted in August 1987 and became effective in September 1988. The Check Clearing for the 21st Century Act (Check 21) was enacted October 28, 2003, with an effective date of October 28, 2004. Regulation CC (12 CFR Part 229) issued by the Board of Governors of the Federal Reserve System implements EFA in Subparts A through C and Check 21 in Subpart D. Regulation CC sets forth the requirements that depository institutions make funds deposited into transaction accounts available according to specified time schedules and that they disclose their funds availability policies to their customers. The regulation also establishes rules designed to speed the collection and return of unpaid checks. The Check 21 section of the regulation describes requirements that affect banks that create or receive substitute checks, including consumer disclosures and expedited recredit procedures.

Regulation CC contains four subparts:

- Subpart A – Defines terms and provides for administrative enforcement.
- Subpart B – Specifies availability schedules or time frames within which banks must make funds available for withdrawal. It also includes rules regarding exceptions to the schedules, disclosure of funds availability policies, and payment of interest.
- Subpart C – Sets forth rules concerning the expeditious return of checks, the responsibilities of paying and returning banks, authorization of direct returns, notification of nonpayment of large-dollar returns by the paying bank, check-endorsement standards, and other related changes to the check collection system.
- Subpart D – Contains provisions concerning requirements a substitute check must meet to be the legal equivalent of an original check; bank duties, warranties, and indemnities associated with substitute checks; expedited recredit procedures for consumers and banks; and consumer disclosures regarding substitute checks.

The Appendices to the regulation provide additional information:

- Appendices A and B – Routing number guides.
- Appendix C – Model forms and clauses that banks may use to meet their disclosure responsibilities under the regulation.

<sup>1</sup> This section fully incorporates the examination procedures issued under DSC RD Memo 04-049: Expedited Funds Availability Act/Regulation CC Examination Procedures.

- Appendix D – Standards on how a bank shall indorse a check.

### Subpart A – General Definitions

**“Account”** For purposes of subparts B and C is a “deposit” as defined in 12 CFR 204.2(a)(1)(i) that is a “transaction account” as defined in 12 CFR 204.2(e) (12 CFR 204 is the Federal Reserve Board’s Regulation D). It encompasses consumer and corporate accounts and includes accounts from which the account holder is permitted to make transfers or withdrawals by:

- Negotiable instrument;
- Payment order of withdrawal;
- Telephone transfer; or
- Electronic payment.

However, for the purpose of subpart B, “account” does not include accounts where the account holder is a bank or a foreign bank, or where the account holder is the Treasury of the United States.

For the purpose of subpart D, “account” means any deposit at a bank, including a demand deposit or other transaction account and a savings deposit or other time deposit. Many deposits that are not accounts for purposes of the other subparts of Regulation CC, such as savings deposits, are accounts for purposes of subpart D.

**“Bank”** All banks, mutual savings banks, savings banks and savings associations that are insured by the FDIC, and federally-insured credit unions. “Bank” also refers to non-federally insured banks, credit unions and thrifts, as well as agencies and branches of foreign banks and Federal Home Loan Bank (FHLB) members. For purposes of subparts C and D, “bank” also includes any person engaged in the business of banking, Federal Reserve Banks, FHLBs, and state/local governments to the extent that the government unit pays checks. For purposes of subpart D only, “bank” also refers to the U.S. Treasury and the United States Postal Service (USPS) to the extent that they act as payors.

- **“Paying Bank”** Any bank at which or through which a check is payable and to which it is sent for payment or collection. For purposes of subpart D, “paying bank” also includes the U.S. Treasury and USPS. The term “paying bank” also includes the Federal Reserve Banks, FHLBs, state/local governments, and, if a check is not payable by a bank, the bank through which a check is payable.
- **“Reconverting Bank”** The bank that creates a substitute check or is the first bank to transfer or present a substitute check to another party.

**“Business Day”** and **“Banking Day”** are defined as follows –