

deemed to be in compliance with the content requirement(s) for which it uses language from the model form. A bank may provide the notice required by §229.57 along with other information.

Distribution to consumer customers who receive cancelled checks with periodic account statements

Under §229.57(b)(1), a bank must provide this disclosure to existing consumer customers who routinely receive their cancelled checks in their periodic statement no later than the first statement after October 28, 2004. For customer relationships established after that date, a bank must provide the disclosure to a new consumer customer who routinely will receive cancelled checks in periodic statements at the time the customer relationship is established.

Distribution to consumer customers who receive a substitute check on an occasional basis

Under §229.57(b)(2), a bank also must provide the disclosure to a consumer customer who receives a substitute check on an occasional basis, including when a consumer receives a substitute check in response to a request for a check or a copy of a check, or when a check deposited by the consumer is returned to the consumer as an unpaid item in the form of a substitute check. A bank must provide the disclosure to a consumer customer in these cases even if the bank previously provided the disclosure to the consumer.

When the consumer contacts the bank to request a check or a copy of a check and the bank responds by providing a substitute check, the bank must provide this disclosure at the time of the request, if feasible. Otherwise, the bank must provide the disclosure no later than when the bank provides a substitute check in response to the consumer's request. It would not be feasible to provide the disclosure at the time of the request if, for example, the consumer made his or her request by telephone or if the bank did not know at the time of the request whether it would provide a substitute check or some other document in response. A bank is not required to provide the disclosure if the bank responds to the consumer's request by providing something other than an actual substitute check (such as a photocopy of an original check or a substitute check).

When a bank returns a deposited item unpaid to a consumer in the form of a substitute check, the bank must provide the disclosure when it provides the substitute check.

Mode of Delivery of Information – §229.58

Section 229.58 provides that banks may deliver any notice or other information required under this subpart by United States mail or by any other means to which the recipient has agreed to receive account information, including electronically. A bank that is required to provide an original check or a

sufficient copy (each of which is defined as a specific paper document) instead may provide an electronic image of the original check or sufficient copy if the recipient has agreed to receive that information electronically.

Examination Objectives – Part I

Subparts A and B

NOTE: Subpart C of Regulation CC, "Collection of Checks", has been omitted. It addresses exclusively payment systems issues among financial institutions. There are no consumer-related regulatory compliance issues to review during the course of an examination. Subpart D, "Substitute Checks" begins on page VI-1.20.

1. Determine that the financial institution's funds availability policies comply with Regulation CC.
2. Determine that the financial institution has established internal controls for compliance with Regulation CC's provisions relating to funds availability.
3. Determine that the financial institution has established a training program for applicable employees addressing Regulation CC responsibilities.
4. Determine that the financial institution maintains records of compliance with Regulation CC for a period of two years.

Examination Procedures

A financial institution may delay funds availability for some deposits on a case-by-case basis and on other deposits on an automatic basis. In addition, the institution may make decisions concerning holds and may maintain records at branches as well as the main office. Therefore, to check for compliance with the hold policies, the examiner must determine the types of holds employed and how the decisions are made and where the records are maintained. If a branch makes its decision and maintains its own records, such as in a decentralized structure, sampling may be done at the branch. If the decision to delay availability is either centralized or made at a regional processing center and records are maintained there, sampling for compliance may be made at that location.

General

1. Determine the types of transaction accounts, as defined in Regulation D [§204.2(e)] (e.g., demand deposits, NOW accounts, ATS accounts) offered by the financial institution.
2. Obtain copies of the forms used by the financial institution for transaction accounts, including but not limited to the following:
 - Specific availability policy disclosures
 - Exception hold notices
 - Case-by-case hold notices
 - Special deposit slips