

### **Availability Rules \$100 and \$400 [§229.10(c)(1)(vii), and §229.12(d)]**

1. Determine the financial institution's procedures for complying with the \$100 availability rule and, if applicable, the \$400 cash withdrawal rule.
2. Review records which detail holds placed on accounts. Determine if holds are in accordance with the regulation.
3. Sample deposit accounts with deposits subject to these rules and verify the institution's compliance with the rules. Verify that actual practices and policies match.

### **Extended Holds**

#### **Case-by-Case Holds**

1. Determine if the financial institution places holds on a case-by-case basis. If yes, review the institution's procedures for placing case-by-case holds.
2. Review the specific availability policy disclosures to determine whether the case-by-case hold policy has been disclosed.
3. Review any physical records and/or reports generated from holds placed. (Sample should include records from the main office, as well as branch offices, depending on type of branch system operated).
4. Sample a few of the case-by-case holds and determine whether the financial institution makes the funds available for withdrawal within the required time frames.
5. Determine whether the financial institution provides the customer with a notice of the case-by-case hold as required by §229.16(c)(2). Determine if the notices meet the timing and content requirements.
6. If the institution does not provide the notice at the time of deposit, determine whether it either discloses the availability of refunds of overdraft and returned check fees, or does not assess these fees, when the requirements of §229.16(c)(3) are met.

#### **Exception Holds [§229.13]**

1. Determine whether the financial institution places holds on an exception basis. If yes, review procedures for placing exception holds.
2. Review the specific availability policy disclosures to determine whether the institution has disclosed its exception holds policy.
3. Review any physical records and/or reports generated from holds placed. (Sample should include records from the main office, as well as branch offices, depending on type of branch system operated).
4. Sample a few of the exception holds and determine when the financial institution makes the funds available for withdrawal. Determine that the financial institution does not add more than one business day for "on-us" checks,

five business days for local checks, and six business days for nonlocal checks to the maximum time periods in the federal availability schedule for the deposit, unless it can show that a longer delay is reasonable. [§229.13(h)]

5. With the exception of new accounts, determine whether the financial institution provides the customer with an exception hold notice as required by §229.13(g).
6. Review hold notices. Determine if the notices meet the timing and content requirements for each type of exception hold.

*NOTE: institutions are required to retain copies of "reasonable cause" hold notices for a two-year time period.*

#### **New Accounts [§229.13(a)]**

1. Review financial institution policies for new accounts.
2. Determine how the financial institution defines a "new account" relationship. Determine if the financial institution's definition is in compliance with Regulation CC §229.13(a).
3. Review the specific availability policy disclosure to determine whether the institution has disclosed its availability policy regarding new accounts.
4. Review a new account report or listing of new account holders. Determine if any holds were placed on the accounts.
5. Sample new deposit accounts and request that the financial institution provide documentation concerning the composition of the opening deposit.
6. Review holds placed and determine if holds are within regulatory limits with respect to time and amount. *See* §229.13(a)(1).

*NOTE: No regulatory time limits are set forth for funds availability for local and nonlocal check deposits into new accounts.*

#### **Large Deposits [§229.13(b)]**

1. Determine whether the financial institution has procedures and a special hold policy for "large deposits". If yes, determine whether the institution considers a large deposit, for purposes of the large deposit exception, to be a day's aggregate deposit of checks exceeding \$5,000.
2. Determine that the financial institution does not invoke the large deposit exception for cash or electronic payments.
3. Review at least one account deposit on which a large deposit hold was placed and ensure that the hold was placed only on the amount by which a day's deposit of checks exceeds \$5,000.
4. Determine if the financial institution provided the customer with a written exception notice that meets the requirements of §229.13(g)(1) or (g)(2).

- Determine if the notice was provided within the prescribed time frames of §229.13(g)(1) or (g)(2).

#### **Redeposited Checks [§229.13(c)]**

- Determine if the financial institution has procedures and a special hold policy for redeposited checks.
- If yes, determine if the institution refrains from imposing this exception solely because of a missing indorsement or because the check was postdated.
- Determine if the financial institution provided the customer with a written exception notice that meets the requirements of §229.13(g)(1) or (g)(2).
- Determine if the notice was provided within the prescribed time frames of §229.13(g)(1) or (g)(2).

#### **Repeated Overdrafts [§229.13(d)]**

- Determine whether the financial institution has procedures or a special hold policy for customers with repeated overdrafts.
- If yes, review the financial institution's definition for accounts "repeatedly overdrawn" and determine whether it meets the regulatory definition in §229.13(d).
- Determine that the financial institution returns the account to the financial institution's normal account status when the account has not been repeatedly overdrawn for a six-month period following the time the account was characterized as repeatedly overdrawn.

- Review the financial institution's overdraft account holder list.

*NOTE: this may or may not be the same overdraft list maintained in the ordinary course of business. The financial institution may maintain a list of recent overdrafts, as well as a list of customers repeatedly overdrawn.*

- Review an account classified as repeatedly overdrawn. Determine if the financial institution properly classified the account and followed the regulatory procedures outlined in §229.13(d).
- Determine the date the account was placed in "repeated overdraft" exception status. Review account statements for the six months prior to the date the account was identified as an overdraft exception.
- Determine whether the financial institution provided the customer with an exception notice when an exception hold was placed on the account. If so, review the content of the notice and determine if it meets the requirements of §229.13(g)(1) or (g)(3).
- Determine if notice was given within the required time frames. [§229.12(g)(1) or (g)(3)]

#### **Reasonable Cause to Doubt Collectability [§229.13(e)]**

- Determine if the financial institution has procedures or a special policy for placing "reasonable cause" holds.
- If yes, determine who initiates "reasonable cause" holds.
- Obtain a listing of accounts or checks where this exception was applied. Review the exception notice given to the customer.
- Determine if the reason for invoking the exception was "reasonable".
- Review the content of the notice and determine if it meets the requirements of §229.13(g)(1).
- Determine if notice was given within the required time frames. [§229.13(g)(1)]
- If the institution imposes a "reasonable cause" exception hold and does not provide the notice at the time of deposit, determine whether it either discloses the availability of refunds of overdraft and returned check fees, or does not assess these fees, when the requirements of §229.13(e)(2) are met.

#### **Emergency Conditions [§229.13(f)]**

- Determine if the financial institution has procedures or a special policy for placing "emergency condition" holds. If yes, review the institution's procedures for placing these holds.
- Determine whether the institution invokes this exception only under the conditions specified in §229.13(f).
- Determine whether the institution makes the funds available for withdrawal within a reasonable time period from either the termination of the emergency or the period in which the deposit would normally be available for withdrawal, whichever is later.

*NOTE: a reasonable period for on-us checks is one business day. A reasonable time for local checks is five business days. For nonlocal checks, six days is usually considered reasonable). [§229.13(h)(3), 229.13(h)(4)]*

#### **Miscellaneous Provisions**

##### **Special Deposit Slips [§229.10(c)(3)]**

- Determine if the financial institution requires a special deposit slip for state or local government checks, cashier's, certified, or teller's checks in order to provide next business day availability on the deposits. [§229.10(c)(3)(i)]
- If the financial institution requires a special deposit slip, determine that the financial institution [§229.10(c)(3)(ii)]
  - Provides the deposit slip to its customers,
  - Informs the customers how to obtain and prepare the slips, or
  - Makes the special deposit slips "reasonably available".