Expedited Funds Availability Act

Introduction

Regulation CC (12 CFR 229), as amended, implements two laws—the Expedited Funds Availability Act (EFA Act), which was enacted in August 1987 and became effective in September 1988, and the Check Clearing for the 21st Century Act (Check 21), which was enacted in October 2003 and became effective on October 28, 2004. The regulation sets forth the requirements that depositary institutions ("banks") make funds deposited into transaction accounts available according to specified time schedules and that they disclose their funds availability policies to their customers. It also establishes rules designed to speed the collection and return of checks and electronic checks and describes requirements that affect banks that create or receive substitute checks, including requirements related to consumer disclosures and expedited recredit procedures.

Regulation CC contains four subparts. The first three implement the EFA Act, and the fourth implements Check 21. Specifically:

- Subpart A—Defines terms and provides for administrative enforcement
- Subpart B—Specifies availability schedules, or timeframes within which banks must make funds available for withdrawal; also includes rules concerning exceptions to the schedules, disclosure of funds availability policies, payment of interest, and bank liability for noncompliance
- Subpart C—Sets forth rules concerning the expeditious return of checks and electronic checks, the responsibilities of paying and returning banks, notice of nonpayment for large-dollar returns by the paying bank, check and electronic check-indorsement standards, and other related changes to the check-collection system
- Subpart D—Contains provisions concerning the 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 appendixes to the regulation provide additional information:

- Appendix A—Routing number guide
- Appendix B - Reserved
- Appendix C—Model forms and clauses that banks may use to meet their disclosure responsibilities under the regulation
- Appendix D – Indorsement, reconversion, and truncation requirements in connection with substitute checks
- Appendix E – Commentary
- Appendix F – Official Federal Reserve Board ("Board") Interpretations; Preemption Determinations

Subpart A – General Definitions—Section 229.2

Account

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

- Negotiable instrument
- Payment order of withdrawal
- Telephone transfer
- Electronic payment

For purposes of subpart B, ''account'' does not include accounts for which the account holder is a bank, an office of a bank or foreign bank that is located outside the United States, or the Treasury of the United States.

For purposes 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

The term *bank* refers to Federal Deposit Insurance Corporation insured banks, mutual savings banks, savings banks, and savings associations; federally insured credit unions; non-federally insured banks, credit unions, and thrift institutions; 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 and 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 USPS to the extent that they act as payors.

- The term paying bank applies to 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 the USPS. The term also includes Federal Reserve Banks, FHLBs, state and local governments, and, if the check is not payable by a bank, the bank through which a check is payable.
- A reconverting bank is the bank that creates a substitute check or is the first bank to transfer or present a substitute check to another party.

Check

The term *check* includes both original checks and substitute checks.[1]

- An *original check* is the first paper check issued with respect to a particular payment transaction.
- A *substitute check* is a paper reproduction of an original check that
  - Contains an image of the front and back of the original check,
  - Bears a MICR line containing all of the information encoded on the original check's MICR line, except as provided in the industry standard for substitute checks,[2]
  - Conforms in dimension, paper stock, and otherwise with industry standards for substitute checks, and
  - Is suitable for automated processing in the same manner as the original check.

A substitute check for which a bank has provided the warranties described in section 229.52 is the legal equivalent of an original check if the substitute check accurately represents all of the information on the front and back of the original check and bears the legend ''This is a legal copy of your check. You can use it the same way you would use the original check.''

- A copy of an original check is any paper reproduction of an original check, including a paper printout of an electronic image, a photocopy, or a substitute check. A sufficient copy is a copy of an original check that accurately represents all of the information on the front and back of the check at the time of truncation or is otherwise sufficient to establish the validity of a claim.
- Truncate means to remove an original check from the forward collection or return process and replace it with a substitute check or, by agreement, information relating to the original check. The truncating bank may or may not choose to provide subsequent delivery of the original check.
- A local check is a check deposited in a depositary bank that is located in the same Federal Reserve Bank check-processing region as the paying bank.[3]

Electronic Check, Electronic Returned Check, and Electronically-Created Item

An *electronic check* and *electronic returned check* mean an electronic image of, and electronic information derived from, a paper check or paper returned check, respectively, that—

(1) Is sent to a receiving bank pursuant to an agreement between the sender and the receiving bank; and

(2) Conforms with ANS X9.100-187, unless the Board by rule or order determines that a different standard applies or the parties otherwise agree.

Electronic checks and electronic returned checks are subject to subpart C of Regulation CC as if they were checks or returned checks, except where provided in subpart C.

An *electronically-created item* means an electronic image that has all the attributes of an electronic check or electronic returned check, but was created electronically and not derived from a paper check.

Consumers and Customers

- A consumer is a natural person who draws a check on a consumer account or cashes or deposits a returned check against a consumer account.
- A consumer account is an account used primarily for personal, family, or household purposes.
- A customer is a person who has an account with a bank.

[1] The term ''check'' does not include checks drawn in a foreign currency or checks drawn on a bank located outside the United States.

[2] ''MICR (magnetic ink character recognition) line'' refers to the numbers—including routing number, account number, check number, and check amount, and other information—that are printed across the bottom of a check in magnetic ink in accordance with American National Standard (ANS) Specifications for Placement and Location of MICR Printing, X9.13 or an original check and an Image Replacement Document-IRD, X9.100-140, for a substitute check. ANS X9.100-140 specifies ways in which the content of a substitute check's MICR line may vary from the content of the original check's MICR line. ANS X9.100-140 also specifies circumstances in which a substitute check MICR line need not be printed in magnetic ink. For purposes of subpart C and D, MICR line also refers to the numbers contained in a record specified for MICR line data in an electronic check or electronic returned check in accordance with ANS Specifications for Electronic Exchange of Check Image Data – Domestic, X9.100-87.

[3] The regulation currently continues to reference non-local checks. See, e.g. 12 CFR 229.2(r). However, in February 2010, the Federal Reserve consolidated all of its check processing operations into a single paper check-processing region. Accordingly, there are no longer nonlocal checks.

Business and Banking Days

- A business day is any day except Saturday, Sunday, and a legal holiday (standard Federal Reserve holiday schedule).
- A banking day is a business day on which a bank is open for substantially all its banking activities.

Even though a bank may be open for regular business on a Saturday, that day is not considered a banking day for purposes of Regulation CC because Saturday is never a ''business day'' under the regulation. The fact that one branch is open to the public for substantially all its banking activities does not necessarily mean that specific day is a banking day for the other branches of the bank.

Indemnifying Bank

Indemnifying bank means –

- For the purposes of §229.34, a bank that provides an indemnity under §229.34 with respect to remote deposit capture or an electronically-created item, or
- For the purposes of §229.53, a bank that provides an indemnity under §229.53 with respect to a substitute check.

Administrative Enforcement – §229.3

Regulation CC is to be enforced for banks through section 8 of the Federal Deposit Insurance Act (12 USC 1818 *et seq*.) and through the Federal Credit Union Act (12 USC 1751 *et seq*.). In addition, a supervisory agency may enforce compliance through any other authority conferred on it by law. The Board is responsible for enforcing the requirements of Regulation CC for banks that are not specifically the responsibility of another government agency.

Subpart B – Availability of Funds and Disclosure of Funds Availability Policies

Next-Day Availability – §229.10

Rules governing next-day availability of funds are set forth in section 229.10.

General Rules (§§ 229.10(a)–229.10(c))

Cash, electronic payments, and certain check deposits must generally be made available for withdrawal the business day after the banking day on which they were received. Among the covered check deposits are cashier's, certified, and teller's checks; government checks (including U.S. Treasury checks, USPS money orders, state and local government checks, and checks drawn on a Federal Reserve Bank or an FHLB); and certain *on-us* checks (checks drawn on the same bank, or a branch thereof).

Generally, to qualify for next-day availability, the deposit must be both

- Made at a staffed teller station and
- Deposited into an account held by the payee of the check.

Exceptions are U.S. Treasury checks and on-us checks, which must receive next-day availability even if the deposit is not made at a staffed teller station. Cash and other next-day check deposits (such as Postal Service money orders, cashier's checks, certified checks, checks drawn on a state or local government, and checks drawn on a Federal Reserve Bank or a FHLB) that are not made at a staffed teller station must be available for withdrawal on the second business day after the day of deposit. (§§ 229.10(a)(2) and 229.10(c)(2))

Additional Rules

A few additional rules also apply:

- State and local government checks—For state and local government checks to receive next-day availability, the depositary bank must be located in the same state as the governmental unit issuing the check. (§ 229.10(c)(1)(iv))
- Special deposit slips or envelopes—For deposits of state and local government checks, as well as deposits of cashier's, certified, and teller's checks, the depositary bank may require the use of special deposit slips or envelopes. If the depositary bank requires the use of special deposit slips or envelopes, it must either provide the slips or tell customers how they can be obtained. (§ 229.10(c)(3))
- On-us checks—For an on-us check to receive next-day availability, it must be drawn on the same branch or another branch of the bank where it is deposited. In addition, both branches must be located in the same state or check-processing region. (§ 229.10(c)(1)(vi))
- $200 rule—Under a special rule for check deposits not subject to next-day availability, the depositary bank must provide next-day availability for withdrawal of the lesser of $200 or the aggregate amount deposited to all accounts, including individual and joint accounts, held by the same customer on any one banking day. The $200 rule does not apply to deposits received at nonproprietary automated teller machines (ATMs). (§ 229.10(c)(1)(vii) and 12 U.S.C. 4002(a)(2)(D))[4]

[4] Although the current Regulation CC uses $100, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) amended the EFA Act from $100 to $200.

Availability Schedule – §229.12

General Rules (§§ 229.12(a)–229.12(c) and 229.12(f))

Under the permanent availability schedule, which became effective in September 1990, local check deposits must be made available no later than the second business day following the day on which the funds were deposited (See Figure 1). Funds deposited at nonproprietary ATMs, including cash and all checks, must be made available no later than the fifth business day following the banking day on which they were deposited.

Checks that would normally receive next-day availability are treated as local check deposits if they do not meet all the criteria for next-day availability under section 229.10(c). (As noted in the preceding section, certain checks generally deposited at a staffed teller station and into an account held by the payee of the check receive next-day availability. However, state and local government checks and certain on-us checks are subject to additional rules.)

U.S. Treasury checks and USPS money orders that do not meet all the requirements for next-day or second-day availability outlined in section 229.10(c) receive funds availability as if they were *local* checks. Cashier's, certified, teller's, and state and local government checks and checks drawn on a Federal Reserve Bank or FHLB that do not meet all the requirements in section 229.10(c) also receive funds availability as local checks.

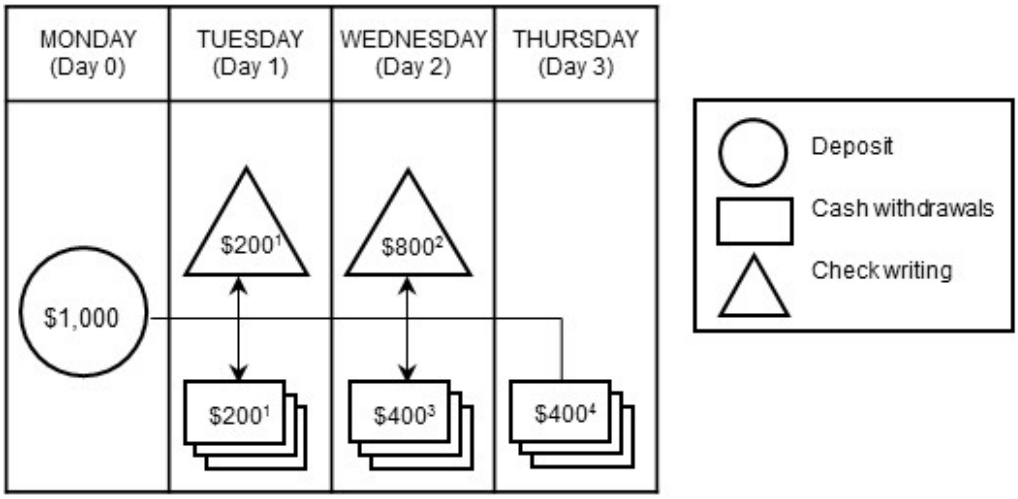
Special Rules for Cash Withdrawals (§ 229.12(d))

Special rules apply to cash withdrawals from local check deposits. The depositary bank is allowed to extend the availability schedule for cash or similar withdrawals by one day. If it does, a customer must also be allowed to withdraw $400 of the deposited funds (or the maximum amount that may be withdrawn from an ATM, but not more than $400) no later than 5:00 p.m. on the day the funds would have ordinarily become available for check withdrawals, that is, the second business day after the deposit. This is in addition to the $200 that must be made available on the business day following deposit. The remainder of the deposited funds would be available for cash withdrawal on the following, third business day.

Extension of the Schedule for Certain Deposits (§ 229.12(e))

Banks in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands that receive checks drawn on or payable through banks located in another state may extend the availability schedules for local checks by one day. The exception does not apply to checks drawn on banks in these states or territories and deposited in banks located in the continental United States.

Figure 1—Availability of Local Checks



1. The first $200 of a day's deposit must be made available for either cash withdrawal or check-writing purposes at the start of the next business day. (§ 229.10(c)(1)(vii))
2. Local checks must be made available for check-writing purposes by the second business day following deposit. (§ 229.12(b))
3. Figure 1 assumes that the depositary bank extends the availability schedule for cash or similar withdrawals by one day, as permitted under § 229.12(d). If the depositary bank extends the availability schedule for such withdrawals, $400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This is in addition to the $200 that must be made available on the business day following deposit. (§ 229.12(d)).
4. The remainder of the deposit must be made available for cash withdrawal by the third business day following deposit. (§ 229.12(d))

Exceptions to the Availability Schedule—Section 229.13

The regulation provides for exceptions that allow banks to exceed the maximum hold periods specified in the availability schedule. The exceptions are considered ''safeguards'' because they offer banks a means of reducing risk based on the size of the deposit, the depositor's past performance, the absence of a record on the depositor's past performance, or a belief that the deposit may not be collectible.

Categories of Exception (§§ 229.13(a)–229.13(f))

The regulation provides for exceptions in six situations:

- New accounts
- Deposits in excess of $5,000 on any one day
- Checks that have been returned unpaid and are being redeposited
- Deposits to accounts that have been repeatedly overdrawn
- Cases in which the bank has reasonable cause to believe the check being deposited is uncollectible
- Emergency conditions

Although banks may exceed the timeframes for availability in these situations, the exceptions generally may not be invoked if the deposit would ordinarily receive next-day availability.

New Accounts (§ 229.13(a))

An account is considered a ''new'' account, under section 229.13(a), for the first 30 calendar days it is open, beginning on the date the account is established. An account is not considered ''new'' if ''each customer on the account has had, within 30 calendar days before the account is established, another account at the bank for at least thirty calendar days.''

The new-account exception does not cover all deposits made to the account. New accounts are exempted from the availability schedules for deposits of local checks, but next-day availability is required for deposits of cash and for electronic payments. Also, the first $5,000 of a day's aggregate deposits of government checks (including federal, state, and local governments), cashier's, certified, teller's, depository, or traveler's checks must be given next-day availability. The amount in excess of $5,000 must be made available no later than the ninth business day following the day of deposit.

To qualify for next-day availability, deposits into a new account generally must be made in person to an employee of the depositary bank. If the deposits are not made in person to an employee of the depositary bank—for instance, if they are made at an ATM—availability may be provided on the second business day after the day of deposit. Treasury check deposits, however, must be given next-day availability regardless of whether they are made at staffed teller stations or ATMs. Banks are not required to make the first $200 of a day's deposits of local checks, or the funds from on-us checks, available on the next business day.

Large Deposits (Deposits over $5,000) (§ 229.13(b))

A depositary bank may extend hold schedules when deposits other than cash or electronic payments exceed $5,000 on any one day. A hold may be applied to the amount in excess of $5,000. To apply the rule, the depositary bank may aggregate deposits made to multiple accounts held by the same customer, even if the customer is not the sole owner of the accounts.

Redeposited Checks (§ 229.13(c))

A depositary bank may delay making the funds from a check available if the check had previously been deposited and returned unpaid. The exception does not apply to checks that were previously returned unpaid because of a missing indorsement or because the check was postdated when presented.

Repeated Overdrafts (§ 229.13(d))

If a customer's account, or accounts, have been repeatedly overdrawn during the preceding six months, the bank may delay making the funds from a check available. A customer's account may be considered repeatedly overdrawn in two ways. First, the exception may be applied if the account was overdrawn, or would have been overdrawn had check or other charges been paid, for six or more banking days during the preceding six months.

Second, the exception may be applied to customers who incurred overdrafts on two banking days within the preceding six-month period if the negative balance in the account(s) at that time was $5,000 or more. The exception may also apply if the account would have been overdrawn by $5,000 or more had the check or other charges been paid.

Reasonable Cause to Doubt Collectibility (§ 229.13(e))

This exception may be applied to all types of checks. To trigger the exception, the depositary institution must have reasonable cause to believe that the check is not collectible and must disclose the basis for the extended hold to the customer. The basis for reasonable cause may include, for example, communication with the paying bank indicating that

- A stop-payment order has been placed on the check
- There are insufficient funds in the drawer's account to cover the check
- The check will be returned unpaid

The reasonable-cause exception may also be invoked in cases in which

- The check was deposited six months after the date of the check (stale date)
- The check was postdated (future date)
- The depositary bank believes that the depositor may be engaged in check kiting
- The depositary bank has other confidential information, such as the insolvency or pending insolvency of the customer

The reasonable-cause exception may not be invoked based on the fact that the check is of a particular class or is deposited by a particular class of persons. For example, this exception may not be invoked because of:

- The race or national origin of the depositor
- The fact that the paying bank is located in a rural area and the depositary bank will not have time to learn of nonpayment of the check before the funds have to be made available under the availability schedules in place
- The fact that the check is a cashier's check (without any additional information about the particular check that would provide reasonable cause to doubt collectability)

If the depositary bank intends to use this exception, it must notify the customer, in writing, at the time of deposit. If the deposit is not made in person or the decision to place the hold is based on facts that become known to the bank at a later date, the bank must mail the notice by the business day after the day the deposit is made or the facts become known. The notice must indicate that availability is being delayed and must include the reason the bank believes the funds are uncollectable. If a hold is placed on the basis of confidential information, as when check kiting is suspected, the bank need only disclose to the customer that the hold is based on confidential information indicating that the check may not be paid.

If the depositary bank asserts that the hold was based on confidential information, it must note the reason on the notice it retains as a record of compliance. The bank must maintain a record of each exception notice, including documents and a brief description of the facts supporting the reasonable-cause exception, for two years.

Overdraft and returned-check fees (§ 229.13(e)(2))

If a depositary bank invokes the reasonable-cause exception and does not inform the customer in writing at the time of the deposit, it may not charge the customer any overdraft or returned-check fees resulting from the hold if

- The deposited check is paid by the paying bank and
- The overdraft would not have occurred or the check would not have been returned had the depositary bank not imposed the reasonable-cause hold.

However, the depositary bank may assess overdraft or returned-check fees if the exception hold notice states that the customer may be entitled to a refund of any overdraft or returned-check fees imposed and describes how the customer can obtain the refund. The bank must then refund the fees upon request.

Emergency Conditions (§ 229.13(f))

Banks may suspend the availability schedule under the following emergency conditions:

- An interruption of communications or computer or other equipment facilities
- Suspension of payments by another bank
- War
- Any emergency condition beyond the control of the depositary bank

Notices of Exception (§ 229.13(g))

Whenever a bank invokes one of the exceptions to the availability schedules (other than the new-account exception), it must notify the customer in writing. The bank may send a notice that complies solely with section 229.13(g)(1) (the ''general exception notice'') or one of the two alternative notices described below.

General Exception Notice (§ 229.13(g)(1))

The general notice of exception must include the following:

- The customer's account number
- The date of the deposit
- The amount of the deposit that will be delayed
- The reason the exception was invoked
- The time period the funds will be available for withdrawal (unless unknown, as in an emergency situation)

If the deposit is made at a staffed facility, the notice may be given to the person making the deposit, regardless of whether that person is the customer who holds the account. If the deposit is not made at a staffed facility, the exception notice may be mailed to the customer no later than the business day following the banking day of deposit. If the depositary bank discovers a reason to delay the funds subsequent to the time the notice should have been given, the bank must notify the customer about the hold as soon as possible, but no later than the business day after the facts become known. Certain exception holds due to emergency conditions do not require

notification of customers. For example, if the deposited funds that were subject to a hold during an emergency become available for withdrawal before the time the notice must be sent, the depositary bank need not send a notice.

One-Time Exception Notice for Nonconsumer Accounts (§ 229.13(g)(2))

If most of the check deposits into a particular nonconsumer account qualify for either the large-deposit exception or the redeposited-check exception, the bank may send a one-time notice rather than a notice complying with section 229.13(g)(1) each time the exception is invoked. The one-time notice must be sent either the first time the exception is invoked or before that time. It must state both

- The reason the exception may be invoked and
- The time period when the funds will generally be made available.

Exception Notice for Repeated Overdrafts (§ 229.13(g)(3))

If most of the check deposits into a particular account qualify for the repeated-overdraft exception, the bank may send an exception notice that covers a specified period of time rather than a notice complying with section 229.13(g)(1) each time the exception is invoked. The ''specified period'' notice must be sent when the overdraft exception is first invoked. It must state all of the following:

- The customer's account number
- The fact that access to the funds is being delayed because the repeated-overdraft exception is being invoked
- The time period during which the exception will apply
- The time period within which the funds generally will be available for withdrawal

Availability of Deposits Subject to Exceptions (§ 229.13(h))

For deposits subject to exceptions to the availability schedules, other than deposits into new accounts, the depositary bank is permitted to delay availability for a *reasonable* time beyond the schedule. Generally, a reasonable period is considered to be no more than one business day for on-us checks and five business days for local checks. If a depositary bank extends its availability beyond these timeframes, it must be able to prove that the extended delay is reasonable.

Payment of Interest – §229.14

General Rule (§ 229.14(a))

A depositary bank must begin accruing interest on interest-bearing accounts no later than the business day on which it receives provisional credit for the deposited funds. A depositary bank typically receives credit on checks within one or two days following deposit. It receives credit on cash deposits, electronic payments, and checks that are drawn on itself on the day the cash, check, or electronic payment is received. And if a nonproprietary ATM is involved, it usually receives credit on the day the bank that operates the ATM credits the depositary bank for the amount of deposit.

A depositary bank may rely on the availability schedule of its Federal Reserve Bank, FHLB, or correspondent bank when determining when the depositary bank receives credit (section 229.14(a)(1)). If availability is delayed beyond the time specified in that schedule, a bank may charge back to the account any interest erroneously paid or accrued on the basis of that schedule.

A depositary bank may accrue interest on checks deposited to all of its interest-bearing accounts based on an average of when the bank receives credit for all checks sent for payment or collection (section 229.14(a)(2)). For example, if a bank receives credit on 20 percent of the funds deposited by check on the business day of deposit (such as via on-us checks), 70 percent on the business day following deposit, and 10 percent on the second business day following deposit, the bank may apply these percentages to determine the day on which interest must begin to accrue for check deposits into all interest-bearing accounts, regardless of when the bank received credit for deposits into any particular account. Consequently, a bank may begin accruing interest uniformly across all interest-bearing accounts rather than having to track the type of check deposited to each account.

Nothing in the general rule limits a depositary bank policy that provides that interest may accrue only on balances that exceed a specified amount or on the minimum balance maintained in the account during a given period. However, the balance must be determined according to the date the bank receives credit for the funds. Nor is there a limit on a policy that provides that interest may accrue sooner than required by the regulation.

Money market deposit accounts, savings deposit accounts, and time deposit accounts are not subject to the general rule concerning the timing of interest payment. However, for simplicity of operation, a bank may accrue interest on such deposits in the same manner that it accrues interest on transaction accounts.

Exemption for Certain Credit Unions (§ 229.14(b))

Credit unions that do not begin to accrue interest or dividends on their members' accounts until a date later than the day the credit union receives credit for those deposits, including cash deposits, are exempt from the general rule for payment of interest (section 229.14(a)) as long as they provide notice of their interest-accrual policies in accordance with section 229.16(d).

Exception for Checks Returned Unpaid (§ 229.14(c))

Banks are not required to pay interest on funds deposited in an interest-bearing account by a check that has been returned unpaid, regardless of the reason for return.

General Disclosure Requirements – §229.15

Form of Disclosures (§ 229.15(a))

A bank must disclose its funds availability policy to its customers. The disclosures must be clear and conspicuous and must be in writing. Disclosures other than those posted at locations where employees accept consumer deposits, at ATMs, or on preprinted deposit slips must be in a form that customers can keep. They must be grouped together and must not contain information unrelated to the requirements of Regulation CC. If other account terms are included in the same document, disclosures related to the regulation should be highlighted, for example, by having a separate heading.

Uniform Reference to Day of Availability (§ 229.15(b))

In its disclosure, the bank must describe funds as being available for withdrawal on ''the _____ business day after'' the day of deposit. In this calculation, the first business day is the business day following the banking day the deposit was received, and the last business day is the day on which the funds are made available.

Multiple Accounts and Multiple Account Holders (§ 229.15(c))

A bank is not required to give multiple disclosures to customers who have more than one account if the accounts are subject to the same availability policies. Nor is a bank required to give separate disclosures to joint account holders. A single disclosure to one of the holders of the joint account is sufficient.

Dormant or Inactive Accounts (§ 229.15(d))

A bank is not required to give disclosures to customers who have dormant or inactive accounts.

Specific Availability Policy Disclosure – §229.16

The disclosure describing its funds availability policy that a bank must provide to its customers must reflect the policy followed by the bank in most cases. If the bank wishes to reserve its right to impose longer delays on a case-by-case basis or by invoking one of the exceptions specified in section 229.13, its policy regarding these situations must be reflected in the disclosure.

Content of Specific Availability Policy Disclosure (§ 229.16(b))

A bank's specific availability policy disclosure must include, as applicable, the following:

- A summary of the bank's availability policy
- A description of the categories of deposits or checks used by the bank when it delays availability, such as local checks; how to determine the category to which a particular deposit or check (such as a payable-through draft) belongs; and when each category will be available for withdrawal (including a description of the bank's business days and when a deposit is considered received)
- A description of any of the exceptions specified in section 229.13 that may be invoked by the bank, including the time at which the deposited funds generally will become available for withdrawal and a statement that the bank will notify the customer if the bank invokes one of the exceptions
- A description of any case-by-case policy of delaying availability that may result in deposited funds being available for withdrawal later than the time periods stated in the bank's availability policy (specific requirements are laid out in section 229.16(c)(1))

Longer Delays on a Case-by-Case Basis (§ 229.16(c))

A bank that has a policy of making deposited funds available for withdrawal sooner than required may extend the time when funds are available up to the time periods allowed under the regulation on a case-by-case basis. However, the bank must include the following in its specific policy disclosure:

- A statement that the time when deposited funds are available for withdrawal may be extended in some cases, and a statement of the latest time deposited funds will be available for withdrawal
- A statement that the bank will notify the customer if funds deposited in the customer's account will not be available for withdrawal until after the time periods stated in its availability policy

- A statement that customers should ask if they need to know when a particular deposit will be available for withdrawal

When a depositary bank extends the time that funds will be available for withdrawal on a case-by-case basis, it must provide the depositor with a written notice. The notice must include all of the following information:

- The customer's account number
- The date of the deposit
- The amount of the deposit that is being delayed
- The day the funds will be available for withdrawal

The notice must be provided at the time of the deposit, unless the deposit was not made in person to an employee of the depositary bank or the decision to delay availability was made after the time of the deposit. If notice is not given at the time of the deposit, the depositary bank must mail or deliver the notice to the customer no later than the first business day following the banking day the deposit was made.

A depositary bank that extends the time when funds will be available for withdrawal on a case-by- case basis and does not furnish the depositor with written notice at the time of deposit may not assess any fees for any subsequent overdrafts (including use of a line of credit) or return of checks or other debits to the account if

- The overdraft or return of the check or other debit would not have occurred except for the fact that the deposited funds were delayed under section 229.16(c)(1) of the regulation and
- The deposited check was paid by the paying bank.

However, the depositary bank may assess an overdraft or returned-check fee if it includes a notice concerning overdraft and returned-check fees with the disclosure required in section 229.16(c)(2) and, when required, refunds any such fees upon the request of the customer. The overdraft and returned-check notice must state that the customer may be entitled to a refund of overdraft or returned-check fees that are assessed if the check subject to the delay is paid, and also must state how to obtain a refund.

Credit Union Notice of Interest-Payment Policy (§ 229.16(d))

If a credit union begins to accrue interest or dividends on all deposits made into an interest-bearing account, including cash deposits, at a later time than the day specified in section 229.14(a), the credit union's specific policy disclosures must explain when interest or dividends on deposited funds will begin to accrue.

Initial Disclosures – §229.17

A bank must provide potential customers with the disclosures described in section 229.16 before an account is opened.

Additional Disclosure Requirements – §229.18

Deposit Slips (§ 229.18(a))

All preprinted deposit slips given to customers must include a notice that deposits may not be available for immediate withdrawal.

Locations Where Employees Accept Consumer Deposits (§ 229.18(b))

A bank must post, at a conspicuous place at each location where its employees receive deposits to consumer accounts, a notice that sets forth the time periods applicable to the availability of funds deposited.

Automated Teller Machines (§ 229.18(c))

At each of its ATM locations, a depositary bank must post or provide a notice that funds deposited in the ATM may not be available for immediate withdrawal. A depositary bank that operates an off-premises ATM from which deposits are removed not more than two times each week, as described in section 229.19(a)(4), must disclose at or on the ATM the days on which deposits made at the ATM will be considered received.

Upon Request (§ 229.18(d))

A bank must provide a copy of its specific availability policy disclosure (described in section 229.16) to any person who requests it.

Changes in Policy (§ 229.18(e))

Thirty days before implementing a change in its availability policy, a bank must send notification of the change to all account holders adversely affected by the change. Changes that result in faster availability may be disclosed no later than thirty days after implementation.

Miscellaneous Provisions – §229.19

When Funds Are Considered Deposited (§ 229.19(a))

For purposes of subpart B of Regulation CC (sections 229.10–229.21), the time at which funds must be made available for withdrawal is measured from the day the funds are considered deposited (or ''received'' by the bank). When funds are considered officially deposited differs according to where, how, and when they are deposited:

- Funds deposited at a staffed teller station or a staffed ATM—Considered deposited when received by the teller or placed in the ATM.
- Funds mailed to the depositary bank— Considered deposited on the banking day they are received by the depositary bank; in this case, funds are

considered ''received'' at the time the mail is delivered to the bank, even if it is initially delivered to a mail room rather than the check-processing area.

- Funds deposited at a night depository— Considered deposited on the banking day the funds are removed from the night depository and are accessible to the depositary bank for processing. For example, some businesses deposit their funds in a locked bag at the night depository late in the evening and return to the bank the following day to open the bag; others have an agreement with the bank that the deposit bag must be opened under the dual control of the bank and the depositor. In both cases, the funds are considered deposited when the customer returns to the bank and opens the deposit bag.
- Funds deposited through a lock box arrangement— Considered deposited on the day the funds are removed from the lock box and are accessible to the depositary bank for processing. A lock box is a post office box that is typically used by a corporation for the collection of bill payments or other check receipts.
- Funds deposited at off-premises ATMs that are not serviced more than twice a week— Considered deposited on the day they are removed from the ATM. This special provision is geared toward banks whose practice is to service remote ATMs infrequently. A depositary bank that uses this provision must post a notice at the ATM informing depositors that funds deposited at the ATM may not be considered received on the date of deposit.
- Funds deposited on a day the depositary bank is closed or after the bank's cutoff hour—May be considered deposited on the next banking day.

Cutoff Hours

Generally, a bank may establish a cutoff hour of 2:00 p.m. or later for receipt of deposits at its main office or branch offices and a cutoff hour of 12:00 noon or later for deposits made at ATMs, lock boxes, night depositories, or other off-premises facilities. (As specified in the commentary to section 229.19(a), the 12:00 noon cutoff time relates to the local time at the branch or other location of the depositary bank where the account is maintained or the local time at the ATM or off-premises facility.)

Different cutoff hours may be established for different types of deposits—for example, a 2:00 p.m. cutoff for receipt of check deposits and a later time for receipt of wire transfers is permissible. Location can also play a role in the establishment of cutoff hours; for example, different cutoff hours may be established for ATM deposits and over-the- counter deposits, or for different teller stations at the same branch. With the exception of the 12:00 noon cutoff hour for deposits at ATMs and off-premises facilities, the cutoff hour for receipt of deposits may not be earlier than 2:00 p.m.

Hour of Funds Availability (§ 229.19(b))

Generally, funds must be available for withdrawal by 9:00 a.m. or the time a depositary bank's teller facilities, including ATMs, are available for customer account withdrawals, whichever is later. (Under certain circumstances, there is a special exception for cash withdrawals—see section 229.12(d).) Thus, if a bank has no ATMs and its branch facilities are available for customer transactions beginning at 10:00 a.m., funds must be available for withdrawal by 10:00 a.m. If a bank has 24-hour ATM service, funds must be available for ATM withdrawals by 9:00 a.m.

The start of business is determined by the local time at the branch or depositary bank holding the account. For example, if funds in an account at a West Coast bank are first made available at the start of business on a given day and a customer attempts to withdraw the funds at an East Coast ATM, the depositary bank is not required to make funds available until 9:00 a.m. West Coast time (12:00 noon East Coast time).

Effects of the Regulation on Depositary Bank Policies (§ 229.19(c))

Essentially, a depositary bank is permitted to provide availability to its customers in a shorter time than that prescribed in the regulation. The bank may also adopt different funds availability policies for different segments of its customer base, so long as each policy meets the schedules in the regulation. For example, it may differentiate between its corporate and consumer customers, or may adopt different policies for its consumer customers based on whether a customer has an overdraft line of credit associated with his or her account.

The regulation does not affect a depositary bank's right to accept or reject a check for deposit, to ''charge back'' the customer's account for the amount of a check based on the return of the check or receipt of a notice of nonpayment of the check, or to claim a refund for any credit provided to the customer.

Nothing in the regulation requires a depositary bank to have its facilities open for customers to make withdrawals at specified times or on specific days. For example, even though the special cash withdrawal rule set forth in section 229.12(d) states that a bank must make up to $400 available for cash withdrawals no later than 5:00 p.m. on specific business days, if a bank does not participate in an ATM system and does not have any teller windows open at or after 5:00 p.m., the bank need not join an ATM system or keep offices open. In this case, the bank complies with the rule if the funds that are required to be available for cash

withdrawal at 5:00 p.m. on a particular day are available for withdrawal at the start of business on the following day. Similarly, if a depositary bank is closed for customer transactions, including ATM transactions, on a day on which funds must be made available for withdrawal, the regulation does not require the bank to open.

If a bank has a policy of limiting cash withdrawals at ATMs to $250 a day, the regulation does not require that the bank dispense $400 of the proceeds of the customer's deposit that must be made available for cash withdrawal on that day.

Some small banks do not keep cash on their premises and do not offer cash withdrawal services to their customers. Others limit the amount of cash on their premises, for reasons related to bonding, and as a result reserve the right to limit the amount of cash a customer may withdraw on a given day or to require advance notice for large cash withdrawals. Nothing in the regulation is intended to prohibit these practices if they are applied uniformly and are based on security, operating, or bonding requirements and if the policy is not dependent on the length of time the funds have been in the customer's account, as long as the permissible hold has expired. However, the regulation does not authorize such policies if they are otherwise prohibited by statutory, regulatory, or common law.

Calculated Availability for Nonconsumer Accounts (§ 229.19(d))

Under calculated availability, a specified percentage of funds from check deposits may be made available to the customer on the next business day, with the remaining percentage deferred until subsequent days. The determination of the percentage of deposited funds that will be made available each day is based on the customer's typical deposit mix as determined by a sample of the customer's deposits. Use of calculated availability is permitted only if, on average, the availability terms that result from the sample are equivalent to or more prompt than the requirements of the regulation.

Holds on Other Funds (§ 229.19(e))

If a customer deposits a check, the bank may place a hold on any of the customer's funds to the extent that the funds held do not exceed the amount of the check deposited and if the total amount of funds held are made available for withdrawal within the times required in the regulation. For example, if a customer cashes a check (other than an on-us check) over-the-counter, the depositary bank may place a hold on any of the customer's funds to the extent that the funds held do not exceed the amount of the check cashed.

Employee Training and Compliance (§ 229.19(f))

The EFA Act requires banks to inform each employee who performs duties subject to the act about its requirements. The act and Regulation CC also require banks to establish and maintain procedures designed to ensure and monitor employee compliance with the requirements.

Effects of Mergers (§ 229.19(g))

Merged banks may be treated as separate banks for a period of up to one year after consummation of the merger transaction. However, a customer of any bank that is a party to the merger transaction and has an established account with the merging bank may not be treated as a new account holder under the new-account exception of section 229.13(a). A deposit in any branch of the merged bank is considered deposited in the bank for purposes of the availability schedules in accordance with section 220.19(a).

This rule affects the status of the combined entity in a number of areas, for example,

- When the resulting bank is a *participant* in a check clearinghouse association
- When an ATM is a *proprietary* ATM
- When a check is drawn on a branch of the depositary bank

Relation to State Law – §229.20

General Rule (§ 229.20(a))

If a state has a shorter hold for a certain category of checks than is provided for under federal law, the state requirement supersedes the federal provision.

The EFA Act also indicates that any state law providing availability in a shorter period of time than required by federal law is applicable to all federally insured banks in that state, including federally chartered banks. If a state law provides shorter availability only for deposits in accounts in certain categories of banks, such as commercial banks, the superseding state law continues to apply to only those categories of banks, rather than to all federally insured banks in the state.

12 CFR 229.20(a) is applicable to state laws or regulations in effect on or before September 1, 1989.

Preemption of Inconsistent Law (§ 229.20(b))

Provisions of state laws that are inconsistent with federal law, other than those discussed in the preceding section (''General Rule''), are preempted. State laws requiring disclosure of availability policies for transaction accounts are preempted by Regulation CC. Preemption does not require a determination by the Federal Reserve Board to be effective.

Preemption Standards and Determinations (§§ 229.20(c) and (d))

The Federal Reserve Board may issue a preemption determination upon request by an interested party in a state. The determination will relate only to the provisions of subparts A and B of Regulation CC.

Civil Liability – §229.21

Statutory Penalties (§ 229.21(a))

Statutory penalties can be imposed as a result of a successful individual or class action suit brought for violations of subpart B of Regulation CC. Basically, a bank can be held liable for

- Actual damages,
- No less than $100 nor more than $1,000 in the case of an individual action,
- The lesser of $500,000 or 1 percent of the net worth of the bank involved in the case of a class action, and
- The costs of the action, together with reasonable attorney's fees as determined by the court.

These penalties also apply to provisions of state law that supersede provisions of the regulation, such as requirements that funds deposited in accounts at banks be made available more promptly than required by the regulation, but they do not apply to other provisions of state law. (See commentary in appendix E, section 229.20.)

Bona Fide Errors (§ 229.21(c))

A bank will not be considered liable for violations of Regulation CC if it can demonstrate, by a preponderance of evidence, that violations resulted from bona fide errors and that it maintains procedures designed to avoid such errors.

Reliance on Federal Reserve Board Rulings (§ 229.21(e))

A bank will not be held liable if it acts in good faith in reliance on any rule, regulation, model form (if the disclosure actually corresponds to the bank's availability policy), or interpretation of the Board, even if that rule, regulation, form, or interpretation is subsequently determined to be invalid. Banks may rely on the commentary as well as on the regulation itself.

Exclusions (§ 229.21(f))

The liability established by section 229.21 does not apply to violations of subpart C (Collection of Checks) of Regulation CC or to actions for wrongful dishonor of a check by a paying bank's customer. (Separate liability provisions applying to subpart C are found in section 229.38.)

Subpart C – Collection of Checks

Subpart C covers the check-collection system and includes rules to speed the collection and return of checks. Basically, these rules cover the return responsibilities of paying and returning banks, notices of non-payment for large-dollar returns by the paying bank, and mandatory check indorsement standards. Electronic checks and electronic returned checks are subject to subpart C as if they were checks or returned checks, except where "paper check" or "paper returned check" is specified. Many of the provisions of subpart C can be varied by agreement.

Sections 229.30 and 229.31 generally require paying and returning banks to return checks expeditiously using a ''two-day'' test. Under the two-day test, a return is considered expeditious if a local check is received by the depositary bank by 2:00 p.m. (local time of the depositary bank) of the second business day after presentment. Pursuant to section 229.33(a), a paying bank and returning bank may be liable to a depositary bank for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying bank or returning bank could return a returned check electronically, directly or indirectly, by commercially reasonable means.

Section 229.31(c) also generally requires a paying bank to provide timely notification of nonpayment if it determines not to pay a check of $5,000 or more, regardless of the channel of collection. The regulation addresses the depositary bank's duty to notify its customers that a check is being returned and the paying bank's responsibility for giving notice of nonpayment.

Other areas that are covered in subpart C are indorsement standards, warranties and indemnities by paying and returning banks, bona fide errors and liability, variations by agreement, insolvency of banks, and the effect of merger transactions.

The provisions of subpart C, supersede any state law, but only to the extent that state law is inconsistent with Regulation CC. (Section 229.41)

The expeditious return requirements and other specified requirements in subpart C do not apply to checks drawn on the U.S. Treasury, USPS money orders, and checks drawn on states and units of general local government that are presented directly to the state or units of general local government and that are not payable through or at a bank. (Section 229.42)

Subpart D – Substitute Checks

General Provisions Governing Substitute Checks – §229.51

A substitute check for which a bank has provided the warranties described in section 229.52[5] is the legal equivalent of an original check if the substitute check:

- Accurately represents all of the information on the front and back of the original check and
- Bears the legend ''This is a legal copy of your check. You can use it the same way you would use the original check.''[6]

The reconverting bank must adhere to Regulation CC's standards for preserving bank indorsements and identifications. A reconverting bank that receives consideration for a substitute check that it transfers, presents, or returns is also the first bank to provide the warranties described in section 229.52 and the indemnity described in section 229.53.

Substitute Check Warranties and Indemnity – §§229.52 and 229.53

Starting with the reconverting bank, any bank that transfers, presents, or returns a substitute check (or a paper or electronic representation of a substitute check) and receives consideration for that check warrants that the substitute check meets the legal-equivalence requirements and that a check that has already been paid will not be presented for subsequent payment.

Such a bank also provides an indemnity to cover losses that the recipient and any subsequent recipient of the substitute check (or paper or electronic representation of a substitute check) incurred because of the receipt of a substitute check instead of the original check.

A bank that rejects a check submitted for deposit and returns to its customer a substitute check (or paper or electronic representation of a substitute check) makes these warranties and indemnifications regardless of whether the bank received consideration.

Expedited Recredit for Consumers – §229.54

Section 229.54(a) sets forth the conditions under which a consumer may make an expedited recredit claim for losses associated with the consumer's receipt of a substitute check. To use the expedited recredit procedure, the consumer must be able to assert in good faith that

- The consumer's account was charged for a substitute check that was provided to the consumer,
- The consumer's account was improperly charged or the consumer has a warranty claim,
- The consumer suffered a loss, and
- The consumer needs the original check or a sufficient copy to determine the validity of the claim.

To make a claim, the consumer must comply with the timing, content, and form requirements in section 229.54(b). This section generally provides that a consumer's claim must be received by the bank that holds the consumer's account no later than the fortieth calendar day after the later of

- The calendar day on which the bank mailed (or delivered by a means agreed to by the consumer) the periodic statement describing the contested transaction or
- The calendar day on which the bank mailed (or delivered by a means agreed to by the consumer) the substitute check itself.

Section 229.54(b)(1)(ii) requires the bank to give the consumer an additional, reasonable period of time if the consumer experiences ''extenuating circumstances'' that prevent timely submission of the claim.

The commentary to section 229.60 provides that the bank may voluntarily give the consumer more time to submit a claim than the rule allows.

Under section 229.54(b)(2)(ii), a complaint is not considered complete, and thus does not constitute a claim, until it contains all of the required information the rule requires. The rule requires that the claim contain[7]

- A description of why the consumer believes the account was improperly charged or the nature of the consumer's warranty claim,
- A statement that the consumer has suffered a loss, and an estimate of the amount of the loss,
- A reason why the original check (or a copy of the check that is better than the substitute check the consumer already received) is necessary to determine whether the consumer's claim is valid, and
- Sufficient information to allow the bank to identify the substitute check and investigate the claim.

A bank, at its discretion, may require the consumer to submit the claim in writing. If a consumer makes an oral

[5] A person other than a bank that creates a substitute check could transfer that check only by agreement unless and until a bank provides the substitute check warranties.

[6] A bank may not vary the language of the legal-equivalence legend.

[7] If a consumer submits an incomplete complaint, the bank must so inform the consumer and must tell the consumer what information is missing.

claim to a bank that requires a written claim, the bank must inform the consumer of the written requirement at that time. Under those circumstances, the bank must receive the written claim by the later of 10 business days from the date of an oral claim or the expiration of the consumer's initial 40-day period for submitting a timely claim. As long as the original oral claim fell within the 40-day requirement for notification and a complete written claim was received within the additional 10-day window, the claim meets the timing requirements (sections 229.54(b)(1) and 229.54(b)(3)), even if the written claim was received after the expiration of the initial 40-day period.

Bank's Action on Claims

Section 229.54(c) requires a bank to act on a consumer's claim no later than the tenth business day after the banking day on which it received the consumer's claim:

- If the bank determines that the consumer's claim is valid, it must recredit the consumer's account no later than the end of the business day after the banking day on which it makes that determination. The amount of the recredit should equal the amount of the consumer's loss, up to the amount of the substitute check, plus interest on that amount if the account is an interest-bearing account. The bank must then notify the consumer of the recredit using the notice discussed below (''Notices Relating to Expedited Recredit Claims'').
- If the bank determines that the consumer's claim is invalid, it must notify the consumer of that decision using the notice discussed below (''Notices Relating to Expedited Recredit Claims'').
- If the bank has not determined the validity of the consumer's claim by the tenth business day after the banking day on which it received the claim, the bank must recredit the consumer's account for the amount of the consumer's loss, up to the amount of the substitute check or $2,500, whichever is less. The bank must also recredit interest on that amount if the consumer's account is an interest-bearing account. The bank must send a notice to that effect to the consumer using the notice discussed below (''Notices Relating to Expedited Recredit Claims''). If the consumer's loss was more than $2,500, the bank has until the end of the forty-fifth calendar day from the date of the claim to recredit any remaining amount of the consumer's loss, up to the amount of the substitute check (plus interest), unless it determines prior to that time that the claim was invalid and notifies the consumer of that decision.

Section 229.54(d) generally requires that recredited funds receive next-day availability. However, a bank that provisionally recredits funds pending further investigation may invoke safeguard exceptions to delay availability of the recredit under the limited circumstances described in section 229.54(d)(2). The safeguard exceptions apply to new accounts and repeatedly overdrawn accounts and also when the bank has reasonable cause to suspect that the claim is fraudulent. A bank may delay availability of a provisionally recredited amount until the start of the earlier of (1) the business day after the banking day on which the bank determines that the consumer's claim is valid or (2) the forty-fifth calendar day after the banking day on which the bank received the claim if the account is new, the account is overdrawn, or the bank has reasonable cause to believe that the claim is fraudulent. When the bank delays availability under this section, it may not impose overdraft fees on checks drawn against the provisionally credited funds until the fifth calendar day after the day on which the bank sent the notice regarding the delayed availability.

If, after providing the recredit, the bank determines that the consumer's claim was invalid, the bank may reverse the recredit. This reversal must be accompanied by a consumer notification using the notice discussed below (''Notices Relating to Expedited Recredit Claims'').

Notices Relating to Expedited Recredit Claims

Section 229.54(e) outlines the requirements for providing consumer notices related to expedited recredit:

- The bank must send the notice of recredit no later than the business day after the banking day on which the bank recredits the consumer's account. The notice must include the amount of the recredit and the date the recredited funds will be available for withdrawal.
- The bank must send notice that the consumer's claim is not valid no later than the business day after the banking day on which the bank makes this determination. The notice must include the original check or a sufficient copy of it (except as provided in section 229.58; see below). Also, it must demonstrate to the consumer why the claim is not valid. Further, the notice must include either any information or document that the bank used in making its determination or an indication that the consumer may request copies of this information.
- The bank must send the notice of a reversal of recredit no later than the business day after the banking day on which the bank made the reversal. The notice must include all the information required in a notice of invalid claim plus the amount (including interest) and date of the reversal (section 229.54(e)(3)(i)).

Appendix C to Regulation CC contains model forms that a bank may use to craft the various notices required in section 229.54(e). The Board published these models to assist banks in complying with section 229.54(e). Appropriate use of the models, however, does not offer banks a statutory safe harbor.

Expedited Recredit for Banks – §229.55

Section 229.55 sets forth expedited recredit procedures applicable between banks. A claimant bank must adhere to the timing, content, and form requirements of section 229.55(b) in order for the claim to be valid. A bank against which an interbank recredit claim is made has ten business days within which to act on the claim (section 229.55(c)). The provisions of section 229.55 may be varied by agreement. (No other provisions of subpart D may be varied by agreement.)

Liability – §229.56

Section 229.56 describes the damages for which a bank or person would be liable in the event of breach of warranty or failure to comply with subpart D:

- The amount of the actual loss, up to the amount of the substitute check, resulting from the breach or failure and
- Interest and expenses (including costs, reasonable attorney's fees, and other expenses of representation) related to the substitute check.

These amounts could be reduced in the event of negligence or failure to act in good faith. It is also important to note that section 229.56 contains a specific exception that allows for greater recovery as provided in the indemnity section. Thus, a person who has an indemnity claim that also involves a breach of a substitute check warranty could recover all damages proximately caused by the warranty breach.

Section 229.56(b) excuses failure to meet this subpart's time limits because of circumstances beyond a bank's control. Section 229.56(c) provides that an action to enforce a claim under this subpart may be brought in any U.S. district court. Section 229.56(c) also provides the subpart's statute of limitations: one year from the date on which a person's cause of action accrues.[8] Section 229.56(d) states that if a person fails to provide notice of a claim for more than thirty days from the date on which a cause of action accrues, the warranting or indemnifying bank is discharged from liability to the extent of any loss caused by the delay in giving notice of the claim.

[8] For purposes of this paragraph, a cause of action accrues as of the date on which the injured person first learns, or reasonably should have learned, of the facts giving rise to the claim, including the identity of the warranting or indemnifying bank against which the action is brought.

Consumer Awareness – §229.57

Content requirements

A bank must provide its consumer customers with a disclosure that explains that a substitute check is the legal equivalent of the original check and describes the consumer's recredit rights for substitute checks. A bank may use, but is not required to use, the Board's model form (in appendix C to Regulation CC) to meet the content requirements for this notice. A bank that uses the model form appropriately is deemed compliant with the content requirements for which it uses language from the model form. A bank may provide the notice required by section 229.57 along with other information.

Distribution to Consumer Customers Who Receive Canceled Checks with Periodic Account Statements

Under section 229.57(b)(1), a bank must provide this disclosure to existing consumer customers who routinely receive their canceled 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 will routinely receive canceled checks in periodic statements at the time the customer relationship is established.

Distribution to Consumer Customers Who Receive a Substitute Check Occasionally

Under section 229.57(b)(2), a bank must also 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 and 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 U.S. 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

Note: The examination objectives and examination procedures for this regulation are broken down by regulation subpart: Section I covers subparts A and B, and section II covers subpart D. Subpart C of the regulation, ''Collection of Checks,'' is not covered here, as it addresses payments system issues exclusively and therefore does not present any consumer-related regulatory compliance issues to be reviewed during a consumer compliance examination. "Bank" is used as defined by Regulation CC.

Subparts A and B

1. To determine that the bank's funds availability policies are in compliance with Regulation CC
2. To determine that the bank has established internal controls for compliance with Regulation CC
3. To determine that the bank has established a training program for applicable employees concerning their duties with respect to Regulation CC
4. To determine that the bank maintains records of compliance with Regulation CC for a period of two years

Examination Procedures[9]

A financial institution may delay funds availability for some A bank may delay funds availability for some deposits on a case-by-case basis and for other deposits on an automatic basis. In addition, the bank may make decisions concerning holds and maintain records at branches as well as at the main office. Therefore, to check on a bank's compliance with its holds policies, the examiner must determine not only the types of holds policies the bank has, but how decisions are made and where records are maintained. If a branch makes its own decision and maintains its own records, such as in a decentralized structure, sampling may be done at the branch. If decisions to delay availability are 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, section 204.2(e) (demand deposits, negotiable order of withdrawal (NOW) accounts, and ATM accounts), offered by the bank.
2. Obtain copies of the forms used by the bank for transaction accounts, as applicable:
   - Specific availability policy disclosures
   - Exception hold notices
   - Case-by-case hold notices
   - Special deposit slips
   - Change-in-terms notices
3. Determine, by account type, the bank's specific funds availability policies with regard to deposits.
4. Determine which individuals actually perform the various activities necessary to comply with the provisions of Regulation CC, subpart B, including, for example, personnel engaged in
   - Distributing disclosure statements
   - Employee training
   - Internal reviews
   - Computer program development for deposit accounts (not necessarily a computer programmer)
   - Deposit operations
   - Overdraft administration
   - ATM deposit processing
   - Determining case-by-case holds or exceptions
5. Review the bank's training manual, internal audit or similar reports for Regulation CC, written procedures given to employees detailing their responsibilities under the regulation, and similar materials.
6. Determine the extent and adequacy of the instruction and training received by those employees to enable them to carry out their assigned responsibilities in conformance with Regulation CC.
7. Verify that the bank provides each employee with a written statement regarding the bank's procedures that pertain to that employee's function. (§ 229.19(f))

[9] These reflect the interagency examination procedures in their entirety.

Initial Disclosures and Subsequent Changes

1. Review the bank's specific availability policy disclosures. Determine if the disclosures accurately reflect the bank's funds availability policies and meet the requirements for content under section 229.16.
2. Determine if the bank provides the initial disclosure statement prior to accepting funds to open a new transaction account, or mails the disclosures within one business day of receiving a written request by mail or telephone to open a new account. (§ 229.17)
3. Determine if the bank provides its funds availability policy upon an oral or written request within a reasonable time period. (§ 229.18(d))
4. Determine if the bank has made changes to its availability policies since the last examination. If it has, determine whether depositors were notified in accordance with section 229.18(e).

Automatic (and/or Automated) Hold Policies

1. Review the bank's schedules or other materials relating to its funds availability time periods for the following types of deposits:
   - Cash (§ 229.10(a))
   - Electronic payments (§ 229.10(b))
   - U.S. Treasury checks (§§ 229.10(c)(1)(i) and 229.12(b)(2))
   - USPS money orders (§§ 229.10(c)(1)(ii), 229.10(c)(2), and 229.12(b)(3))
   - Checks drawn on Federal Reserve Banks and FHLBs (§§ 229.10(c)(1)(iii), 229.10(c)(2), 229.12(b)(4), and 229.12(c)(1)(ii))
   - State or local government checks (§§ 229.10(c)(1)(iv), 229.10(c)(2), 229.12(b)(4), and 229.12(c)(1)(ii))
   - Cashier's, certified, and teller's checks (§§ 229.10(c)(1)(v), 229.10(c)(2), 229.12(b)(4), and 229.12(c)(1)(ii))
   - On-us checks (§§ 229.10(c)(1)(vi) and 229.12(c)(1)(ii))
   - Local checks (§ 229.12(b)(1))
   - Credit union share draft accounts (commentary to § 229.16(b))
2. Determine that the bank's policy for providing funds availability is in accordance with regulatory requirements.
3. Determine the bank's procedures for placing holds.
4. Selectively sample each of the types of deposits listed in item 1 and verify the funds availability timeframes. Determine, for each deposit category, whether the bank's procedures provide funds availability within the required time periods. Determine that the procedures and disclosed policy are the same.

Deposits at Nonproprietary ATMs— Section 229.12(f)

(See also sections 229.19(a)(4) and 229.19(a)(5)(ii) and commentary to sections 229.19(a) and 229.19(b) for off-premises ATMs.)

1. Determine that the bank makes funds deposited in an account at a nonproprietary ATM by cash or check available for withdrawal not later than the fifth business day following the day of deposit.

Availability Rules—$200 and $400— Sections 229.10(c)(1)(vii) and 229.12(d)

1. Determine the bank's procedures for complying with the $200 availability rule and, if applicable, the $400 cash withdrawal rule.
2. Review records that detail holds placed on accounts. Determine if holds are in accordance with the regulation.
3. Sample deposit accounts with deposits subject to the $200 availability rule and the $400 cash withdrawal rule and verify the bank's compliance with the rules. Verify that actual practices and policies match.

Extended Holds

Case-by-Case Holds

1. Determine if the bank places holds on a case-by-case basis. If it does, review the bank's procedures for placing case-by- case holds.
2. Review the bank's specific availability policy disclosures to determine whether the case-by-case hold policy has been disclosed.
3. Review any physical records or reports generated from holds placed. (Sample should include records from the main office as well as branch offices, depending on the type of branch system operated.)
4. Sample a few of the case-by-case holds and determine whether the bank makes the funds available for withdrawal within the required timeframes.
5. Determine whether the bank provides the customer with a notice of the case-by-case hold as required by section 229.16(c)(2). Determine if the notices meet the timing and content requirements.
6. If the bank 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 section 229.16(c)(3) are met.

Exception Holds (§ 229.13)

1. Determine whether the bank places holds on an exception basis. If it does, review its procedures for placing exception holds.
2. Review the bank's specific availability policy disclosures to determine whether it has disclosed its exception-holds policy.
3. Review any physical records or reports generated from holds placed. (Sample should include records from the main office as well as branch offices, depending on the type of branch system operated.)
4. Sample a few of the exception holds and determine when the bank makes the funds available for withdrawal. Determine that the bank does not add more than one business day for on-us checks and five business days for local 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 bank provides the customer with an exception-hold notice as required by section 229.13(g).
6. Review hold notices. Determine if the notices meet the timing and content requirements for each type of exception hold. (Note: Banks are required to retain copies of reasonable-cause hold notices.)

New Accounts (§ 229.13(a))

1. Review bank policies for new accounts.
2. Determine how the bank defines a new-account relationship. Determine if the bank's definition is in compliance with Regulation CC.
3. Review the bank's specific availability policy disclosure to determine whether the bank 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 deposit accounts, and ask the bank to provide documentation concerning the composition of the opening deposit or the most recent deposit.
6. Review holds placed and determine if they are within regulatory limits with respect to time and amount (see section 229.13(a)(1)). (Note: No regulatory time limits are set forth for funds availability for local check deposits into new accounts.)

Large Deposits (§ 229.13(b))

1. Determine whether the bank has procedures and a special hold policy for large deposits. If it does, determine whether the bank 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 bank 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 determine if the hold was placed only on the amount by which a day's deposits of checks exceeded $5,000.
4. Determine if the bank provided the customer with a written exception notice that meets the requirements of section 229.13(g)(1) or 229.13(g)(2).
5. Determine if the notice was provided within the timeframes prescribed in section 229.13(g)(1) or 229.13(g)(2).

Redeposited Checks (§ 229.13(c))

1. Determine if the bank has procedures and a special hold policy for redeposited checks.
2. If it does, determine if the bank refrains from imposing this exception solely because of a missing indorsement or because the check was postdated.
3. Determine if the bank provided the customer with a written exception notice that meets the requirements of section 229.13(g)(1) or 229.13(g)(2).
4. Determine if the notice was provided within the timeframes prescribed in section 229.13(g)(1) or 229.13(g)(2).

Repeated Overdrafts (§ 229.13(d))

1. Determine whether the bank has procedures or a special hold policy for customers with repeated overdrafts.
2. If it does, review the bank's definition of accounts ''repeatedly overdrawn'' and determine whether it meets the regulatory definition in section 229.13(d).
3. Determine that the bank returns the account to the bank'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.
4. Review the bank's list of customers whose accounts are repeatedly overdrawn. (Note: This list may or may not be the same overdraft list maintained in the ordinary course of business. The bank may maintain a list of recent overdrafts as well as a list of customers whose accounts are repeatedly overdrawn.)
5. Review an account classified as repeatedly overdrawn. Determine if the bank properly classified the account and followed the regulatory procedures outlined in section 229.13(d).
6. Determine the date the account was placed in ''repeated overdraft'' exception status. Review account statements for

the six months before the account was identified as an overdraft exception.

7. Determine whether the bank provided the customer with an exception notice when an exception hold was placed on the account. If it did, review the content of the notice and determine if it meets the requirements of section 229.13(g)(1) or 229.13(g)(3).
8. Determine if notice was given within the required timeframes. (§ 229.12(g)(1) or 229.12(g)(3))

Reasonable Cause to Doubt Collectibility (§ 229.13(e))

1. Determine if the bank has procedures or a special policy for placing reasonable-cause holds.
2. If it does, determine who initiates reasonable-cause holds.
3. Obtain a list of accounts or checks to which this exception was applied. Review the exception notice given to the customer.
4. Determine if the reason for invoking the exception was reasonable.
5. Review the content of the notice and determine if it meets the requirements of section 229.13(g)(1).
6. Determine if notice was given within the required timeframes. (§ 229.13(g)(1))
7. If the bank 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 section 229.13(e)(2) are met.

Emergency Conditions (§ 229.13(f))

1. Determine if the bank has procedures or a special policy for placing emergency-condition holds. If it does, review the bank's procedures for placing these holds.
2. Determine whether the institution invokes this exception only under the conditions specified in section 229.13(f).
3. Determine whether the bank makes the funds available for withdrawal within a reasonable time after either the termination of the emergency or the time at which the deposit would normally be available for withdrawal, whichever is later. (Note: A reasonable period for on-us checks is one business day; and for local checks, five business days. (§§ 229.13(h)(3) and 229.13(h)(4))

Miscellaneous Provisions

Special Deposit Slips (§ 229.10(c)(3))

1. Determine if the bank requires a special deposit slip for state or local government, cashier's, certified, or teller's checks in order to provide next-business-day availability on the deposits. (§ 229.10(c)(3)(i))
2. If the bank requires a special deposit slip, determine that it does one of the following: (§ 229.10(c)(3)(ii))
   - Provides the deposit slip to its customers
   - Informs its customers of how to obtain and prepare the slips
   - Makes the special deposit slips ''reasonably available''

Additional Disclosure Requirements (§ 229.18)

1. Determine if the bank displays a notice of its availability policy in a conspicuous place at locations where employees receive consumer deposits. (§ 229.18(b)) (Note: The notice is not required at drive-up windows and night depositories. See commentary to section 229.18(b).)
2. Determine if the bank displays a notice at each of its proprietary ATMs stating that the funds deposited in the ATM may not be available for immediate withdrawal. (§ 229.18(c)(1))
3. If the bank has off-premises ATMs from which funds are not collected more than twice a week, determine if the bank discloses on or at the ATM the days on which the deposits made at the ATM will be considered ''received.'' (§ 229.18(c)(2))
4. Determine if the bank includes a notice on all preprinted deposit slips that the deposited funds may not be available for immediate withdrawal. (§ 229.18(a))

Payment of Interest [§229.14]

1. Determine whether the bank pays interest as of the date of the deposit or as of the date provisional credit is granted.
2. If the bank pays interest as of the date provisional credit is granted, review the bank's schedule for provisional credit. (This schedule may be from a Federal Reserve Bank or may be based on the time credit is generally received from a correspondent bank.) Select a NOW account statement and ask the bank to give a detailed explanation of how the interest was calculated.
3. Review the bank's method for calculating interest on deposits reviewed. Select another NOW account and, using the bank's procedures for calculating interest, verify that the bank accrues interest as of the date provisional credit is received.

Calculated Availability Non-consumer Transaction Accounts [§229.19(d)]

1. Determine if the bank uses a formula for calculating funds

availability for nonconsumer transaction accounts.

2. If it does, review a copy of the bank's formula.
3. Select a large corporate account subject to the formula. Ask the bank to demonstrate how funds are made available to the customer. Determine whether it appears that the formula accurately reflects the type of deposit mix reasonably expected for this type of account holder. (For example, a local grocery store may have 90 percent of its deposits made up of local check deposits. Therefore, a formula providing a deposit mix of at least 90 percent availability within two days may be reasonable.)

Record Retention [§229.21(g) and 229.13(g)(4)]

Determine that the bank retains for two years the notices required when a ''reasonable cause'' exception is invoked.

Examination Objectives – Part II

Subpart D

1. Determine the bank's compliance with subpart D notice content and timing requirements (general consumer-awareness disclosures regarding substitute checks and notices that respond to a consumer's expedited recredit claim regarding a substitute-check error)
2. Ascertain whether the bank complies with timing requirements for acting on a substitute-check expedited recredit claim.

Examination Procedures[10]

The Check 21 Act provides that a properly prepared substitute check is the ''legal equivalent of the original check for all purposes.'' Accordingly, all banks were required to *accept* a substitute check in place of the original after the act's effective date of October 28, 2004.

Banks must apprise consumer customers who receive canceled checks with their periodic account statements or who otherwise occasionally receive substitute checks of their rights under the law through a consumer-awareness disclosure. A bank that provides a substitute check to a consumer must also comply with the Check 21 Act's expedited recredit procedure for addressing errors relating to substitute checks. The regulation specifies the appropriate timing for the distribution of the consumer-awareness disclosure and also provides model language.

General

1. Obtain copies of the documents associated with the bank's Check 21 compliance, including but not limited to the following:
   - Consumer-awareness disclosure(s)
   - Sample (test) substitute checks, *if available*
   - Direct mail correspondence, statement stuffers, and the like, describing Check 21/substitute check implementation to consumer customers
   - Notices relating to expedited recredit claims:
     - Notice of valid claim and refund
     - Notice of provisional refund
     - Denial of claim
     - Reversal of refund
   - Any other relevant documents
2. Identify the individuals within the bank who may have responsibilities associated with Check 21. The following is a non-exhaustive list of such individuals:
   - New-accounts personnel
   - Employee training department
   - Internal auditors, reviewers
   - Deposit operations, bookkeeping
3. Review the bank's training manual, internal audit or similar reports for Regulation CC, written procedures given to employees detailing their responsibilities under the regulation, and similar materials.
4. Determine the training methods used by the bank in conveying specific responsibilities to employees. Are written procedures distributed to employees?

Consumer Awareness – §229.57

NOTE: Model disclosure language is provided in Appendix C of the Regulation

Determine whether the bank distributes only a single version of its consumer-awareness disclosure or maintains variations of the disclosure to be used depending on the circumstances giving rise to distribution. Each notice should reflect the following:

1. General disclosure content—Determine whether the disclosure notice states:
   - That a substitute check is the legal equivalent of an original check(§ 229.57(a)(1)); and
   - The consumer recredit rights that apply when a consumer in good faith believes that a substitute check was not properly charged to his or her account. (§ 229.57(a)(2))
2. Timing and distribution—A bank is required to provide its consumer customers with a consumer-awareness disclosure prior to the receipt of a

[10] These reflect the interagency examination procedures in their entirety.

substitute check.

- For those who receive canceled checks with periodic statements:
  - Determine that the bank provided the disclosure at the time the customer relationship was established. (§ 229.57(b)(1)(ii))
- For those who do not receive canceled checks with periodic statements and who will receive substitute checks only occasionally:
  - Upon customer request for an original check or a copy of a check—Determine that the bank provides the disclosure to a consumer customer who requested an original check or a copy of a check and received a substitute check in response. (§ 229.57(b)(2)(i))
  - Upon customer's receipt of a returned substitute check—Determine that the bank provides the disclosure to a consumer customer of the bank who receives a returned substitute check (at the time the bank provides such substitute check). (§ 229.57(b)(2)(ii))

3. Mode of delivery of information (§ 229.58)—Determine whether the bank employed one of the following in delivering its consumer-awareness disclosure(s) and expedited recredit notice(s):
   - U.S. mail
   - Any other means to which the recipient agreed to receive account information, including electronically

Expedited Recredit for Consumers – §229.54

1. Determine whether any bank customer has raised a Check 21-related claim of loss since the last examination. If yes, review for the following. (At banks at which multiple Check 21-related claims have been raised and resolved, the examiner need only review a sampling sufficient to ensure that the bank's processing is consistent and in compliance with subpart D.)
   - Necessary preconditions (consumer must allege *all* of these)—(§§ 229.54(a)(1)– 229.54(a)(4))
     - Was the consumer's account charged for a substitute check *that was provided to the consumer?* (The consumer need not be in possession of the substitute check at the time of claim submission.)
     - Was the consumer's account not properly charged? (Alternatively, a consumer's account could be properly charged yet still give rise to a warranty claim, for example, in the case of a substitute check image that is illegible.)
     - Did the consumer suffer a resulting financial loss?
     - Was the production of the original check or a sufficient copy necessary to determine whether or not the consumer's claim was valid?
   - Procedural steps for consumer's claim
     - Did the consumer submit a timely claim? (§ 229.54(b)(1))
     - Did the claim contain a description of the claim, a statement and estimate of loss, the reason why the original check or a sufficient copy is necessary, and sufficient information for the bank to investigate? (§ 229.54(b)(2))
     - If the consumer attempted to make a claim but failed to provide all of the necessary information (as listed above), did the bank inform the consumer that the claim was incomplete and identify the information that was missing? (§ 229.54(b)(2)(D)(ii))
     - Was the claim submitted in a form acceptable to the bank? Did the bank compute the time for action accurately? (§ 229.54(b)(3))
4. Procedural steps for bank response—If the bank concluded that (1) all necessary prerequisites to the filing of a consumer claim existed and (2) the consumer followed the appropriate steps in filing the claim, verify that the bank provided the following appropriate response:

   Claim deemed valid:

   In the event of a valid consumer claim, did the bank
   - Recredit the account for the amount of the loss, up to the amount of the substitute check (plus interest, if applicable), no later than the end of the business day after the banking day on which the bank made its determination, (§ 229.54(c)(1)(i))
   - Draft a notice of recredit stating (1) the amount of the recredit and (2) the date on which funds will be available for withdrawal, and (§§ 229.54(e)(1)(i) and 229.54(e)(1)(ii))
   - Send the notice no later than the business day after the banking day on which the bank recredit occurred? (§ 229.54(e)(1))

   Claim deemed invalid:

   In the event of an invalid consumer claim, determine whether the bank
   - Sent a notice stating that the claim was invalid and included the original check or a sufficient copy, (§ 229.54(e)(2)(i))
   - Demonstrated to the consumer that the substitute check was properly charged (or that the consumer's warranty claim was not valid) (§ 229.54(e)(2)(ii)), and

- Included the information or documents (in addition to the original check), if any, relied upon by the bank in making its determination (or a statement that the consumer may request such). (§ 229.54(e)(2)(iii))

Claim not resolved within initial ten days, pending further investigation:

If the bank could not resolve the claim before the end of the tenth business day after the banking day on which the bank received the claim, determine whether the bank

- Recredited the consumer's account for the amount of the loss, up to the lesser of the amount of the substitute check or $2,500 (plus interest, if applicable), (§ 229.54(c)(3)(i)(A))
- Drafted a notice of recredit stating (1) the amount of the recredit and (2) the date on which the funds would be available for withdrawal, (§§ 229.54(e)(1)(i) and 229.54(e)(1)(ii))
- Recredited the consumer's account for the remaining amount of the loss, if any, up to the amount of the substitute check (plus interest, if applicable), no later than the end of the forty-fifth calendar day after the banking day on which the bank received the claim, (§ 229.54(c)(3)(ii)) and
- Sent the notice of recredit no later than the business day after the banking day on which the bank recredit occurred. (§ 229.54(e)(1))

Claim resulting in reversal of recredit:

In some instances it may be necessary for a bank to reverse a recredit made previously to a consumer's account (plus any interest paid, if applicable). If such a circumstance has occurred, determine whether the bank

- Concluded that the consumer's claim was not valid (§ 229.54(c)(4)(i)) and
- Drafted a notice of reversal of recredit (§ 229.54(e)(3)), accompanied by the following:
  - The original check or a sufficient copy, (§ 229.54(e)(2)(i))
  - Information or explanation to demonstrate to the consumer that the substitute check was properly charged (or that the consumer's warranty claim was not valid), (§ 229.54(e)(2)(ii))
  - Information or documents (in addition to the original check or a sufficient copy), if any, on which the bank relied in making its determination (or a statement that the consumer can request such), (§ 229.54(e)(2)(iii))
  - A description of the amount of the reversal, including both the amount of the recredit and the amount of interest paid on the recredited amount, if any, being reversed, and (§ 229.54(e)(3)(i))
  - The date on which the bank made the reversal. (§ 229.54(e)(3)(ii))
- Sent the notice no later than the business day after the banking day on which the bank made the reversal (§ 229.54(e)(3))

- Availability of recredited funds—Under circumstances detailed above, when the bank determined that it was appropriate to recredit its consumer customer's account, determine whether the bank took the following actions:
  - *Next day availability*—Did the bank make any recredited amount available for withdrawal no later than the start of the business day after the banking day on which the recredit was provided? (§ 229.54(d)(1))
  - *Safeguard exceptions*—If necessary for reasons of (1) new-account status, (2) overdrawn-account status, or (3) well-reasoned suspicion of fraud, did the bank invoke its right to delay immediate availability of recredited funds? If so, was the delay invoked because the bank had not yet determined the validity of the claim? Were the funds made available no later than the business day after the banking day on which the final determination was made or the forty-fifth calendar day after the bank received the claim, whichever occurred earlier? (§ 229.54(d)(2))
  - *Overdraft fees*—If the bank chose to invoke its right to delay immediate availability of recredited funds, did it refrain from imposing an overdraft fee until the appropriate five-day period had elapsed? (§ 229.54(d)(3))

References

Expedited Funds Availability Act

Part 229: Availability of Funds and Collection of Checks (FRB Regulation CC)

FIL 116-2004: Final Amendments to the Federal Reserve Board's Regulation CC

FIL 67-96: Delayed Availability of Funds

Job Aids

Check 21

The FDIC along with the other FFIEC member agencies has developed a computer based training package that may be used to gain familiarity with the Check 21.

This "InfoBase" is accessible through the following link to the FFIEC website: https://www.ffiec.gov/exam/check21/Check21FoundationDoc.htm. It features a 30 minute audio slide presentation, frequently asked questions, and links to other resources. The slide presentation includes discussion about the examination procedures that the FDIC and other FFIEC agencies will use to evaluate compliance with Check 21.

Specific Types of Check Schedules

The flow charts on the following pages detail applicable availability schedules for deposits.

Case-By-Case Hold – The time frames listed in the flow charts are the maximum amounts of time that a bank may delay the availability of a deposit. Most banks have a policy of making funds from deposits available sooner than the time periods allowed by the regulation. These banks may, on a case-by-case basis, delay the availability of funds up to the time frames established by the regulation (those shown in the flow charts). When a bank imposes a case-by-case hold, a written notice including the following information must be given to the depositor:

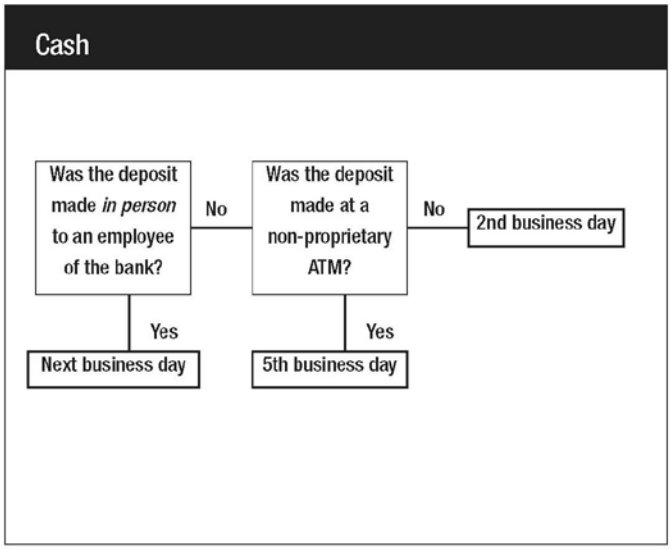
1. The account number
2. The date of the deposit
3. The amount of the deposit that is being delayed; and
4. The day the funds will be available for withdrawal

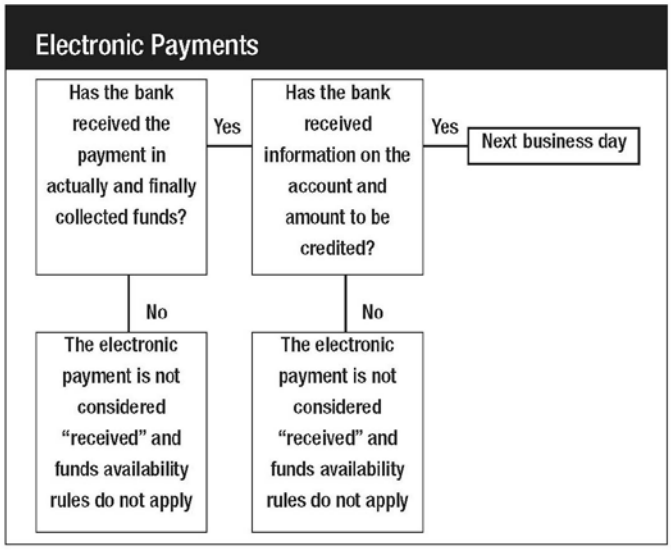
Exception Hold – Another type of hold that may be placed is an exception hold. Section 229.13 discusses the types of exceptions that are allowed. When a bank places an exception hold, a written notice must be provided to the depositor (the notice is not required for the New Account Exception). The exception hold notice must contain the same information as the case-by-case hold notice as well as the reason the exception was invoked. If a bank invokes the Emergency Conditions Exception and the emergency is not over by the time periods set forth in the flow chart for that exception, then the additional time is added once the emergency has ended.

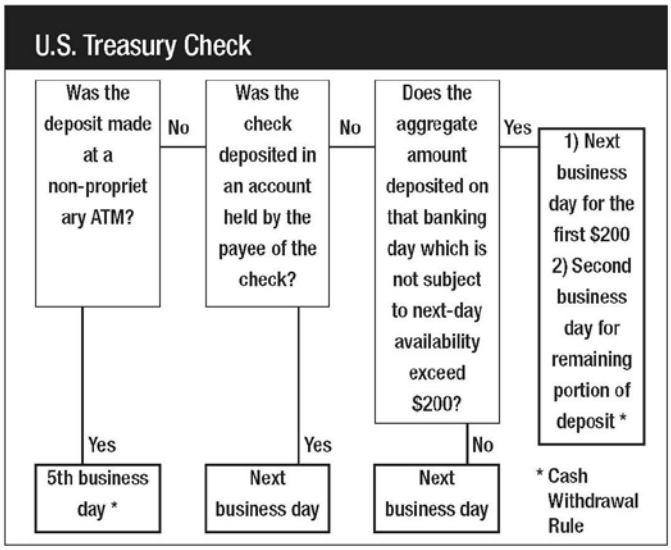
NOTE: Exception holds do not apply to cash deposits and electronic payments.

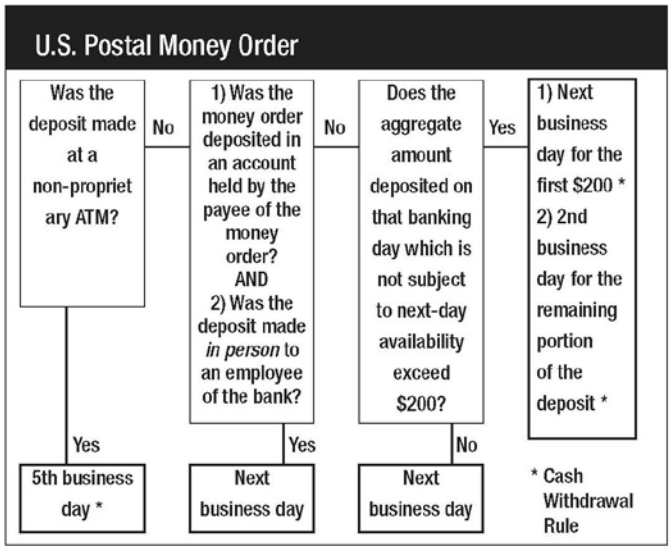
Cash Withdrawal Rule – The bank may extend by one business day the time that funds deposited in an account by certain checks are available for withdrawal by cash or similar means (including electronic payment, issuance of a cashier's or teller's check, etc.). The bank shall, however, make $400 of these funds available for withdrawal by cash or similar means not later than 5:00 p.m. on the business day on which the funds would have been available. The flow charts show that for many deposits, the first $200 of the deposit must be given next day availability while availability of the remaining portion of the deposit may be delayed. The $400 which must be made available in accordance with the cash withdrawal rule is in addition to the funds which must be made available in accordance with the first $200 rule. The instances where the cash withdrawal rule applies are denoted with an * on the flow charts.

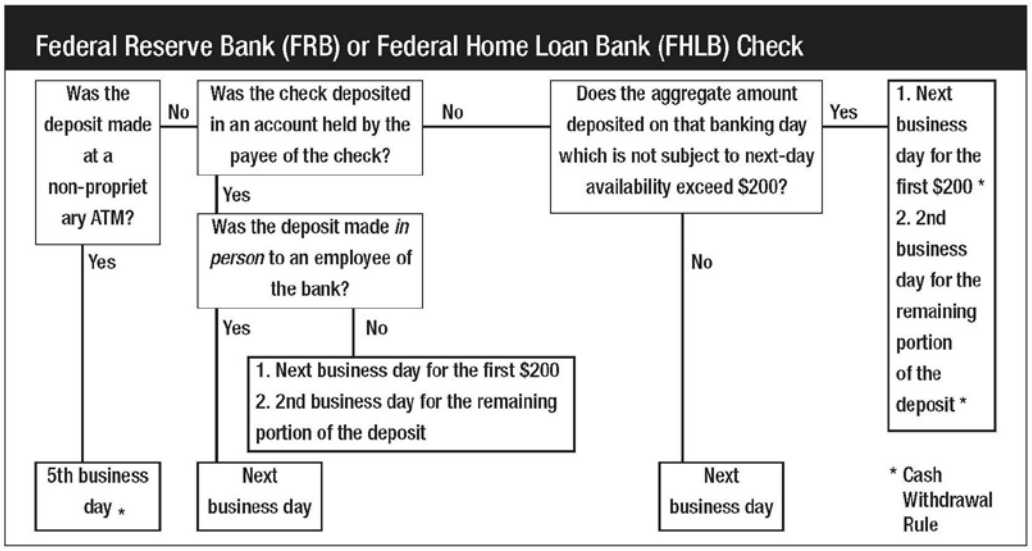
TIP: If a branch makes its decision for holds and maintains its own records, such as in a decentralized structure, sampling may be done at the branch. If the decision to delay availability is either centralized or made at a regional processing center and records are maintained there, sampling for compliance may be made at that location.


Cash
Was the deposit made *in person* to an employee of the bank?
No
Was the deposit made at a non-proprietary ATM?
No
2nd business day
Yes
Next business day
Yes
5th business day

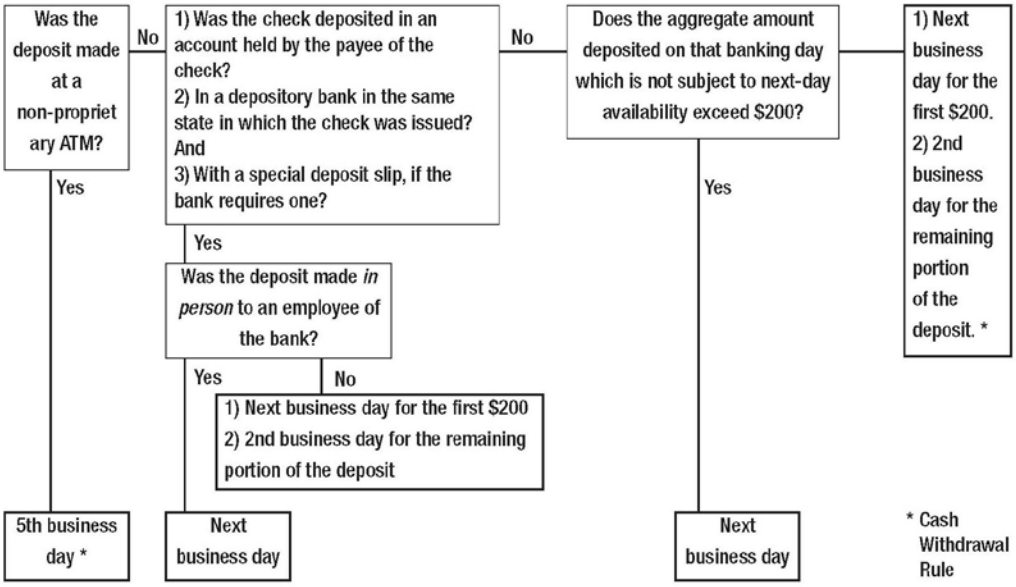

Electronic Payments
Has the bank received the payment in actually and finally collected funds?
Yes
Has the bank received information on the account and amount to be credited?
Yes
Next business day
No
The electronic payment is not considered "received" and funds availability rules do not apply
No
The electronic payment is not considered "received" and funds availability rules do not apply


U.S. Treasury Check
Was the deposit made at a non-proprietary ATM?
No
Was the check deposited in an account held by the payee of the check?
No
Does the aggregate amount deposited on that banking day which is not subject to next-day availability exceed $200?
Yes
1) Next business day for the first $200
2) Second business day for remaining portion of deposit *
Yes
5th business day *
Yes
Next business day
No
Next business day
* Cash Withdrawal Rule

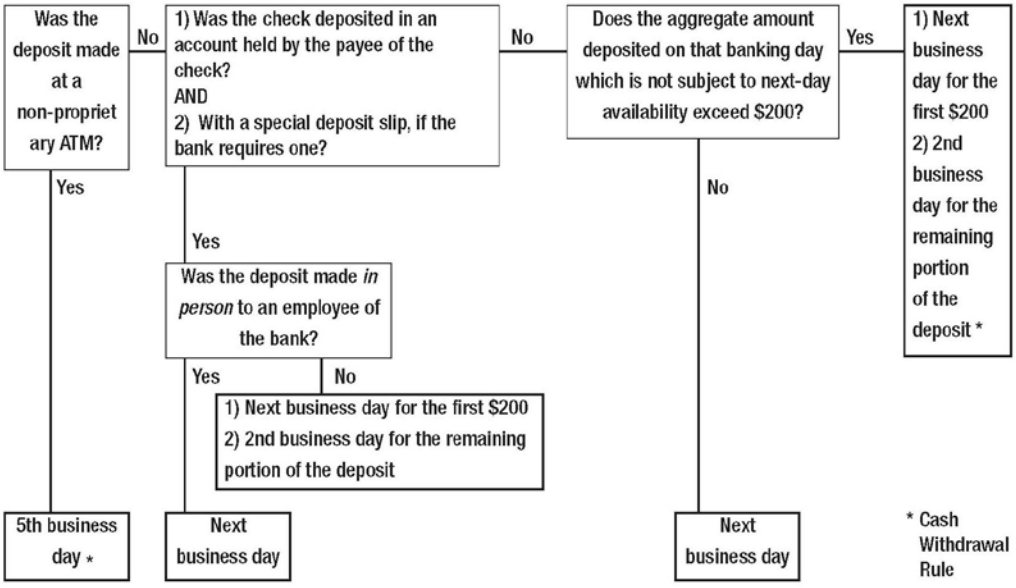

U.S. Postal Money Order
Was the deposit made at a non-proprietary ATM?
No
1) Was the money order deposited in an account held by the payee of the money order?
AND
2) Was the deposit made *in person* to an employee of the bank?
No
Does the aggregate amount deposited on that banking day which is not subject to next-day availability exceed $200?
Yes
1) Next business day for the first $200 *
2) 2nd business day for the remaining portion of the deposit *
Yes
5th business day *
Yes
Next business day
No
Next business day
* Cash Withdrawal Rule


Federal Reserve Bank (FRB) or Federal Home Loan Bank (FHLB) Check
Was the deposit made at a non-proprietary ATM?
No
Was the check deposited in an account held by the payee of the check?
No
Does the aggregate amount deposited on that banking day which is not subject to next-day availability exceed $200?
Yes
1. Next business day for the first $200 *
2. 2nd business day for the remaining portion of the deposit *
Yes
Was the deposit made *in person* to an employee of the bank?
Yes
No
1. Next business day for the first $200
2. 2nd business day for the remaining portion of the deposit
Yes
5th business day *
Next business day
No
Next business day
* Cash Withdrawal Rule

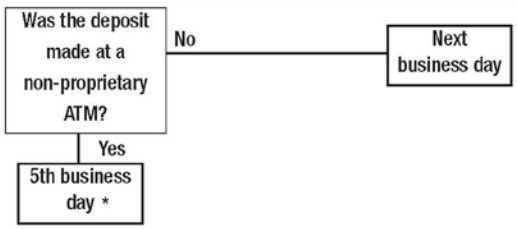
State or Local Government Check

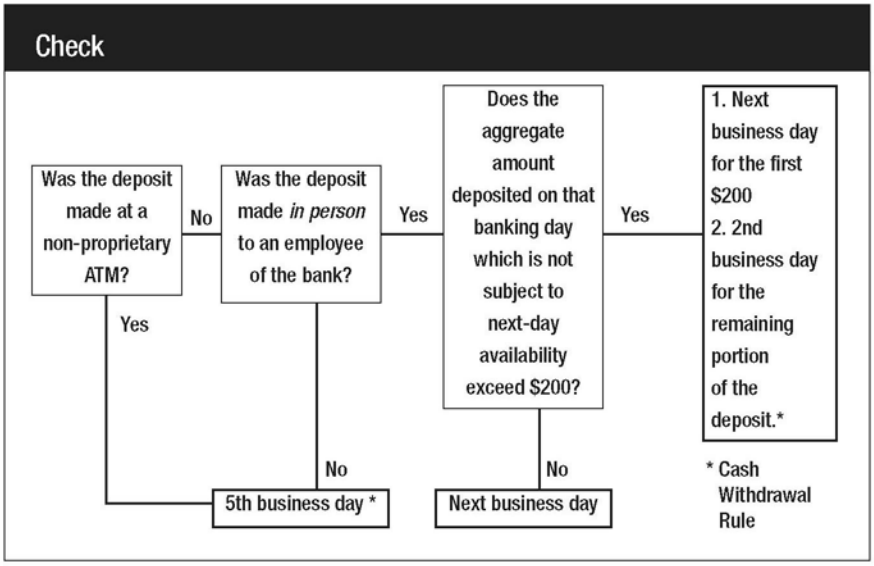


Cashier's, Certified, or Teller's Check

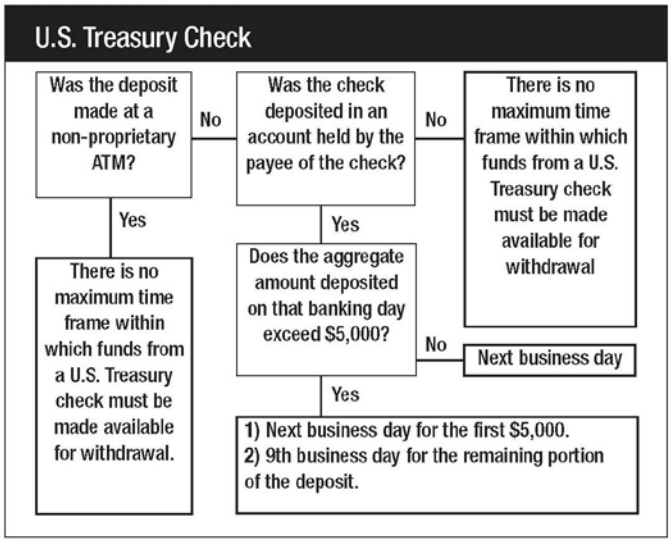


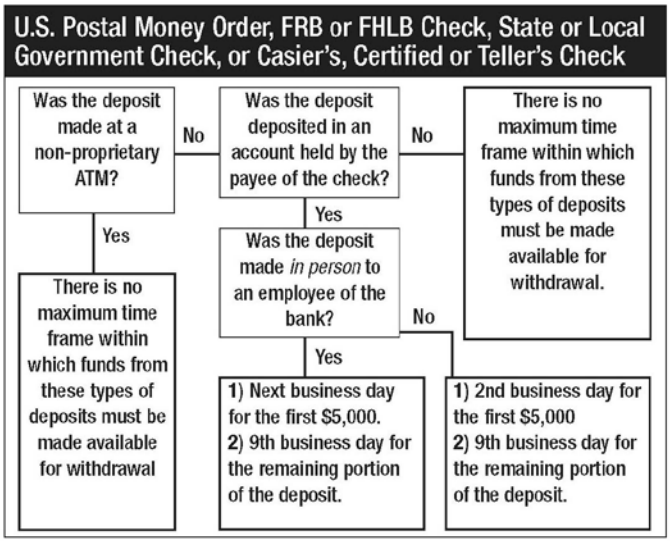
"On Us" Check



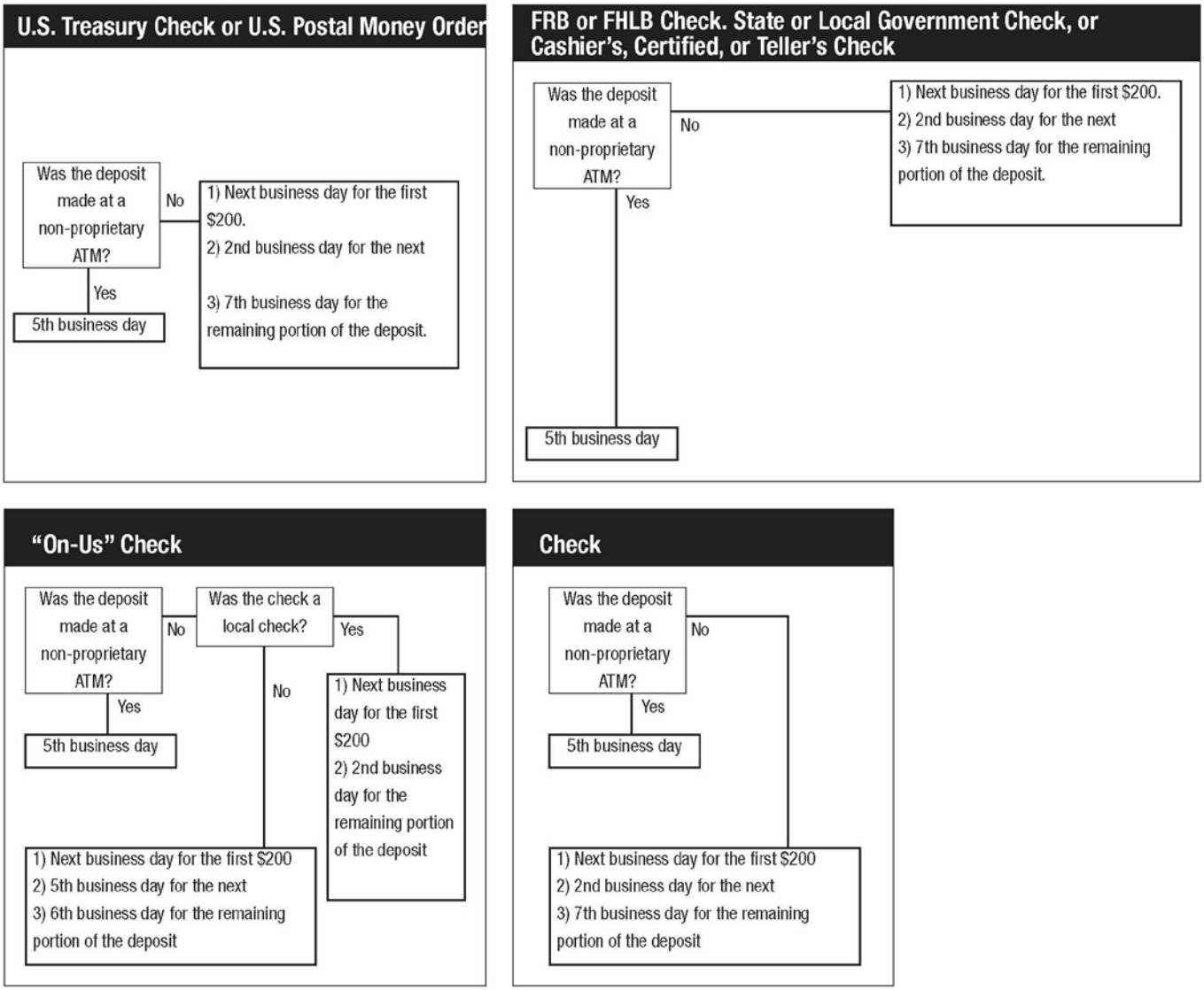


NEW ACCOUNT EXCEPTION





LARGE DEPOSIT EXCEPTION



Regulation CC—Examination Checklist

General Operations		
Date of Deposit		
1. Does the bank consider every day except Saturday, Sunday, and federal holidays a ‘‘business day’’? (§ 229.2(g))	Yes	No
2. Does the bank consider ‘‘banking days’’ those business days on which an office of the bank is open for substantially all of its business? (§ 229.2(f))	Yes	No
3. Does the bank have a cutoff for receipt of deposits of 2:00 p.m. or later for bank offices and 12:00 noon or later for ATMs? (§ 229.19(a)(5)(ii))	Yes	No
4. Does the bank comply with the following rules in determining when funds are considered to have been deposited?		
A. Deposits over the counter or at ATMs are considered deposited when ‘‘received.’’ (§ 229.19(a)(1))	Yes	No
B. Mail deposits are considered deposited when they are received by the mail room of the bank. (§ 229.19(a)(2))	Yes	No
C. Deposits in a night depository, lock box, or similar facility are considered received when the deposits are removed from the facility and are available for processing. (§ 229.19(a)(3))	Yes	No
D. Deposits at an off-premises ATM (not within 50 feet of the bank) that is not serviced more than twice a week are considered received as of the date the deposits are removed from the ATM by the bank. (§ 229.19(a)(4))	Yes	No
5. Does the bank consider deposits made on a nonbanking day to have been received no later than the next banking day? (§ 229.19(a)(5)(i))	Yes	No
6. When funds must be available on a given ‘‘business day,’’ does the bank make the funds available at the later of 9:00 a.m. or the time the bank’s teller facilities (including ATMs) are available for account withdrawals? (§ 229.19(b))	Yes	No
7. If the bank limits cash withdrawals, does it make $400 available for cash withdrawals no later than 5:00 p.m. on the appropriate business day (second day for local checks) following the day of deposit? (§ 229.12(d))	Yes	No
Required Next Day Availability		
8. Does the bank make funds from the following types of deposits available for withdrawal no later than the first business day following the date of deposit?		
A. Electronic payments (§ 229.10(b))	Yes	No
B. Checks drawn on the U.S. Treasury and deposited to the payee’s account (§ 229.10(c)(1)(i))	Yes	No
C. On-us checks and checks that are drawn on and deposited in branches of the same bank in the same state or check-processing region (§ 229.10(c)(1)(vi))	Yes	No
9. Does the bank make funds from the following deposits available no later than the first business day after the day of deposit if the deposit is made in person to a bank employee or no later than the second business day if the deposit is not made in person to a bank employee?		
A. Cash deposits (§§ 229.10(a)(1) and 229.10(a)(2))	Yes	No
B. USPS money orders deposited in an account held by the payee of the check (§§ 229.10(c)(1)(ii) and 229.10(c)(2))	Yes	No
C. Checks drawn on a Federal Reserve Bank or FHLB deposited in an account held by the payee of the check (§§ 229.10(c)(1)(iii) and 229.10(c)(2))	Yes	No

D. Checks drawn by a state or local governmental unit and: -- Deposited in an account held by the payee of the check, (§§ 229.10(c)(1)(iv)(A) and 229.10(c)(2)) and -- Deposited in a depositary bank located in the same state as the governmental unit issuing the check, and (§§ 229.10(c)(1)(iv)(B) and -- Accompanied by a special deposit slip (if required by the bank to make the funds available on the next business day). (§§ 229.10(c)(1)(iv)(D) and 229.10(c)(3))	Yes	No
E. Cashier's, certified, and teller's checks (as defined in section 229.2) deposited in an account held by the payee of the check when the check is accompanied by a special deposit slip (if required by the bank to make the funds available on the next business day) (§§ 229.10(c)(1)(v)(C) and 229.10(c)(3))	Yes	No
10. If the bank requires the special deposit slips, for the checks covered in checklist items 9(D) and 9(E), does it provide the slip to its customers or tell its customers how to prepare or obtain the slips? (§ 229.10(c)(3)(ii))	Yes	No
A. Are the special deposit slips reasonably available? (§ 229.10(c)(3)(ii))	Yes	No
11. Is the first $200 of a customer's daily aggregate deposits of checks not subject to the next-day availability rules available on the next business day? (§ 229.10(c)(1)(vii))	Yes	No
12. Is the $200 in addition to other deposited amounts that must be afforded next-day availability? (§229.10(c)(1)(vii))	Yes	No
Local Checks and Certain Other Deposits		
13. Are funds from local checks generally available no later than the second business day after the day of deposit? (§ 229.12(b)(1))	Yes	No
14. If a bank limits cash withdrawals, (§ 229.12(d))		
A. Is the $200 available on the next business day after the day of deposit for withdrawal in cash or by check?	Yes	No
B. Is the $400 available for cash withdrawal sometime before 5:00 p.m. on the second business day after the day of deposit?	Yes	No
C. Are any remaining funds available for withdrawal the business day after the $400 was made available?	Yes	No
15. For Treasury checks and USPS money orders that do not meet the criteria for next-day (or second-day) availability, does the bank make funds available no later than the second business day after the date of deposit? (§§ 229.12(b)(2) and 229.12(b)(3))	Yes	No
16. Are funds deposited by cash or check at a nonproprietary ATM available no later than the fifth business day after the banking day of deposit? (§ 229.12(f))	Yes	No
Extended Holds		
Case-by-Case Holds		
17. Does the bank's specific availability policy disclosure indicate that case-by-case holds may be placed? (§ 229.16(c)(1))	Yes	No
18. If it does, does the disclosure do the following?		

A. State that the bank may extend the time period when deposited funds are available for withdrawal (§ 229.16(c)(1)(i))	Yes	No
B. State the latest time a deposit will be available for withdrawal, if the availability time frame is extended (§ 229.16(c)(1)(i))	Yes	No
C. State that the bank will notify the customer if funds from a particular deposit will not be available for withdrawal until after the time period stated in the bank's funds availability policy (§ 229.16(c)(1)(ii))	Yes	No
D. Encourage customers to ask when particular deposits will be made available for withdrawal (§ 229.16(c)(1)(iii))	Yes	No
19. When case-by-case holds are placed, does the bank provide the customer with a written notice of the hold? (§ 229.16(c)(2))	Yes	No
20. Does the notice include the following?		
A. The customer's account number (§ 229.16(c)(2)(i)(A))	Yes	No
B. The date and amount of the deposit (§ 229.16(c)(2)(i)(B))	Yes	No
C. The amount of the deposit that is being delayed (§ 229.16(c)(2)(i)(C))	Yes	No
D. The day the funds will be available for withdrawal (§ 229.16(c)(2)(i)(D))	Yes	No
21. Does the bank provide the notice at the time the deposit is made, if the deposit is made to an employee of the depositary bank? (§ 229.16(c)(2)(ii))	Yes	No
22. If the notice is not given at the time of deposit, does the depositary bank mail or deliver the notice to the customer not later than the first business day after the day of the deposit? (§ 229.16(c)(2)(ii))	Yes	No
23. If the bank does not provide the notice at the time of deposit, does it refrain from charging the customer overdraft or return check fees if		
A. The overdraft or other fee would not have occurred if the deposited check had not been delayed and	Yes	No
B. The deposited check was paid by the paying bank (§ 229.16(c)(3))	Yes	No
24. If the bank does not provide the notice at the time of deposit and charges overdraft fees, does it notify the customer of the right to a refund of such fees and how to obtain the refund? (§ 229.16(c)(3))	Yes	No
25. Does the bank refund the fees if the conditions listed in checklist item 23 above are met and the customer requests a refund? (§ 229.16.(c)(3))	Yes	No
Exception Based Holds		
26. When invoking an exception hold for accounts other than new accounts, does the bank provide the customer with a written notice that includes the following?		
A. The customer's account number (§ 229.13(g)(1)(i)(A))	Yes	No
B. The date and amount of the deposit (§ 229.13(g)(1)(i)(B))	Yes	No
C. The amount of the deposit that is being delayed (§ 229.13(g)(1)(i)(C))	Yes	No
D. The reason the exception was invoked (§ 229.13(g)(1)(i)(D))	Yes	No
E. The day the funds will be available for withdrawal (unless the emergency-conditions exception is invoked and the bank does not know when the funds will become available) (§ 229.13(g)(1)(i)(E))	Yes	No

27. Does the bank refrain from delaying funds availability beyond a reasonable time period? (Note: Five days for local checks is considered reasonable.) (§ 229.13(h)(4))	Yes	No
Exceptions		
New Accounts (§ 229.13(a))		
28. Does the bank's definition of a new account comply with the definition under section 229.13(a)(2)? (Note: If a customer has had another transaction account at the bank within the 30 days prior to opening an account, the customer does not qualify for the new-account exception.)	Yes	No
29. If the bank's definition is different, does it delay availability to new-account holders beyond the limits set forth in the regulation?	Yes	No
30. Do bank disclosures accurately reflect the bank's practice for making deposited funds available for new accounts?	Yes	No
31. Do cash deposits made in person to a bank employee become available for withdrawal on the first business day following the day of deposit? (§§ 229.13(a)(1)(i) and 229.10(a)(1))	Yes	No
32. Are cash deposits not made in person to a bank employee available for withdrawal on the second business day following the day of deposit? (§§ 229.13(a)(1)(i) and 229.10(a)(2))	Yes	No
33. Are electronic transfers into new accounts available for withdrawal on the business day following the day the transfer is received? (§§ 229.13(a)(1)(i) and 229.10(b))	Yes	No
34. Is the first $5,000 from any of the following types of check deposits available for withdrawal from a new account not later than the first business day after the day of the deposit, if the deposits meet the requirements of section 229.10(c)? (§ 229.13(a)(1)(ii)) (For more information, see checklist section ''Required Next-Day Availability.'')		
A. Treasury checks (§ 229.10(c)(1)(i))	Yes	No
B. USPS money orders (§ 29.10(c)(1)(ii))	Yes	No
C. C. Federal Reserve and FHLB checks (§ 229.10(c)(1)(iii))	Yes	No
D. State or local government checks (§ 229.10(c)(1)(iv))	Yes	No
E. Cashier's, certified, and teller's checks (§ 229.10(c)(1)(v))	Yes	No
F. Traveler's checks (§ 229.10(c)(1)(v))	Yes	No
35. Is the amount of any deposit of the types listed in checklist item 38 exceeding $5,000 available for withdrawal no later than the ninth business day following the day of deposit? (§ 229.13(a)(1)(ii))	Yes	No
Large Deposits (§ 229.13(b))		
36. If the bank invokes the large-deposit rule, does it do so for only that portion of the aggregate local check deposits that exceed $5,000 on any one banking day? (§ 229.13(b))	Yes	No
37. Does the bank refrain from applying this exception to deposits made in cash, to deposits made by electronic payment, or to checks that must receive next-day availability under section 229.10(c)? (See commentary to § 229.13(b).)	Yes	No
38. Does the bank provide customers with a written notice of the longer delay? (§ 229.13(g)(1))	Yes	No

Is the notice (§ 229.13(g)(2))		
A. Provided at the time of the deposit, when the deposit is received in person by an employee of the bank or	Yes	No
B. Mailed on or before the first business day after the day the bank learns of the facts giving rise to the exception?	Yes	No
Redeposited Checks (§ 229.13(c))		
39. Does the bank refrain from applying the redeposited exception to the following?		
A. Checks that are returned because an indorsement is missing and are subsequently indorsed and redeposited (§ 229.13(c)(1))	Yes	No
B. Checks that were returned because they were postdated but are not postdated when redeposited (§ 229.13(c)(2))	Yes	No
40. Does the bank consider the day the check was redeposited to be the day of deposit when determining when funds must be made available for withdrawal? (commentary to section 229.13(c))	Yes	No
Repeated Overdrafts (§ 229.13(d))		
41. Does the bank impose longer holds for depositors who have a history of overdrafts?	Yes	No
42. Does the bank invoke the repeated-overdraft exception only when the account balance has been negative (or would have been negative had checks or other charges been paid)		
A. Six or more times during the preceding six months or (§ 229.13(d)(1))	Yes	No
B. Two or more times during the preceding six months, if the amount of any negative balance would have been $5,000 or more (§ 229.13(d)(2))	Yes	No
43. Is this practice articulated in the bank's written policy and initial disclosure statement? (§ 229.16(a))	Yes	No
44. When the bank imposes the longer delay, is the depositor notified of the reason, in writing, at the time of deposit? If not, is a notice mailed on or before the first business day after the day of the deposit or the day the bank learns of the facts giving rise to the exception? (§ 229.13(g))	Yes	No
45. Does the bank return the account to the normal availability schedule when the account is no longer repeatedly overdrawn? (Note: Banks may use this exception for six months after the last overdraft that made the depositor eligible for the repeated-overdraft exception. See checklist item 42.) (§ 229.13(d))	Yes	No
Reasonable Cause to Doubt Collectibility (§ 229.13(e))		
46. Does the bank refrain from applying the reasonable-cause exception to the following? (§ 229.13(e)(1))		
A. U.S. Treasury checks	Yes	No
B. USPS money orders	Yes	No
C. State and local government checks	Yes	No
D. On-us checks	Yes	No

47. When the bank invokes a reasonable-cause exception, does it provide the customer with a written notice of exception at the time the deposit is made, if the deposit is made in person to an employee of the bank? (§ 229.13(g)(1)(ii))	Yes	No
48. If the deposit is not made in person to an employee of the bank, or if the hold is placed because of information learned subsequent to the receipt of the deposit, does the bank mail the exception notice to the customer? (§ 229.13(g)(1)(ii))	Yes	No
49. Does the bank retain a copy of each reasonable-cause exception notice, along with a brief statement of the facts that led to the hold, for a period of two years? (§ 229.13(g)(4))	Yes	No
50. Does the depositary bank refrain from invoking the reasonable-cause exception based on the race or national origin of the depositor or the class of the check? (§ 229.13(e)(1))	Yes	No
51. Does the bank refrain from assessing a fee for any subsequent overdraft, returned check, or other unpaid charge (or advise customers of their right to a refund of such fees, and refund the fees upon request) if all of the following conditions are met?		
A. The depositary bank extended the availability period based on its belief that the check was uncollectible (§ 229.13(e)(1))	Yes	No
B. The depositor was not provided with the written notice required by section 229.13(g)(1) at the time of deposit (§ 229.13(e)(2))	Yes	No
C. The overdraft or return would not have occurred if the availability period had not been extended (§ 229.13(e)(2)(i))	Yes	No
D. The deposited check was finally paid by the paying bank (§ 229.13(e)(2)(ii))	Yes	No
52. Does the exception notice tell the customer where to direct a request for a refund of the overdraft fees? (§ 229.13(e)(2))	Yes	No
Emergency Conditions (§ 229.13(f))		
53. Does the bank refrain from imposing emergency-condition holds on checks subject to next-day availability under section 229.10(c)? (commentary to § 229.13(f))	Yes	No
54. Does the bank invoke the emergency-conditions exception only in the following circumstances and when the bank has exercised necessary diligence as circumstances require?		
A. An interruption of communications or computer or other equipment (§ 229.13(f)(1))	Yes	No
B. Suspension of payments by another bank (§ 229.13(f)(2))	Yes	No
C. War (§ 229.13(f)(3))	Yes	No
D. An emergency condition beyond the control of the bank (§ 229.13(f)(4))	Yes	No
55. Does the bank make funds available for withdrawal no later than a reasonable period after the emergency has ended or within the time period established by the temporary and permanent schedules, whichever is later? (§ 229.13(h)(3)) (As stated in the commentary to section 229.13(h)(4), a reasonable period is five business days for local checks.)	Yes	No
56. Does the bank provide customers with a written notice of the longer delay? (§ 229.13(g)(1))	Yes	No
57. Is the notice provided at the time of the deposit, if the deposit is received in person by an employee of the bank, or is the notice mailed on or before the first business day after the day the bank learns of the facts giving rise to the exception? (§ 229.13(g)(1)(ii))	Yes	No

Miscellaneous		
Calculated Availability—Nonconsumer Transaction Accounts (§ 229.19(d))		
58. Does the bank calculate funds availability for nonconsumer accounts based on a sample of the customer's deposits? If it does, obtain a copy of the bank's formula for determining its availability schedule. Review a sample of checks similar to that used by the bank to calculate funds availability and answer the following questions:		
A. Is the sample of checks large enough to accurately use the formula?	Yes	No
B. Does the formula accurately represent the average composition of the customer's deposits?	Yes	No
C. Does the specified percentage of available funds appear reasonable? (Is a set percentage available the next business day, with remaining funds available according to the customer's deposit mix?)	Yes	No
59. Based on the sample, are the terms of availability for the account equivalent to or more prompt than the terms outlined in the regulation?	Yes	No
Payment of Interest		
Review a copy of the bank's availability schedule for check deposits credited through the Federal Reserve Bank or its correspondent bank. Determine the time that the bank receives provisional credit for check deposits.		
60. For each interest-bearing transaction account offered by the bank (for example, NOW accounts and ATS accounts), does the bank begin to accrue interest on the funds deposited no later than the business day on which the bank receives provisional credit for the funds? (§ 229.14)	Yes	No

Regulation CC

Appendix for Banks Located Outside the Continental United States

For deposits at offices located outside the continental United States, availability may be extended one day under certain strictly defined circumstances and for limited types of deposits. If a check is deposited at a bank office in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands and the paying bank is not located in the same jurisdiction, a one-day extension is permitted for deposits other than those that must be available on the next business day. (Note: This extension applies only to check deposits at bank offices located outside the continental United States. Check deposits received at a bank inside the continental United States but drawn on a bank located outside the continental United States, such as one in Alaska or Hawaii, are not granted an extension.)

1. For offices located in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands, does the bank extend availability for check deposits drawn on banks in other states? (§ 229.12(e)(1)) Yes No

2. If yes,

   A. Is the extension limited to checks drawn on banks in a different state? (A Hawaiian bank, for example, could receive a ‘‘local’’ check drawn on a bank in Honolulu or a bank in San Francisco. Only the San Francisco check may be delayed.) (§ 229.12(e)(2)) Yes No

   B. Is the extension limited to one day? (§ 229.12(e)) Yes No