



**FEDERAL RESERVE BANK
OF DALLAS**

WILLIAM H. WALLACE
FIRST VICE PRESIDENT
AND CHIEF OPERATING OFFICER

July 7, 1988

DALLAS, TEXAS 75222

Circular 88-44

TO: The Chief Executive Officer of all
member banks and other financial
institutions in the Eleventh Federal
Reserve District

SUBJECT

Expedited Funds Availability Act and Regulation CC Compliance

DETAILS

Attached is a special notice prepared by the Board of Governors of the Federal Reserve System outlining necessary procedures to comply with Regulation CC which implements the provisions of the Expedited Funds Availability Act. All financial institutions that offer transaction accounts are affected by this act even if they do not delay their customers' ability to withdraw funds deposited by check. Institutions must be in compliance with Regulation CC on September 1, 1988.

The notice provides a checklist to help institutions prepare for the operational changes that will result from the act. The notice covers the three major areas of the new law calling for compliance efforts: availability schedules, disclosures and check processing. In addition, a final section summarizes other important aspects of the regulation including interest payment requirements, employee training and civil liability.

ATTACHMENTS

The Board's special notice on compliance procedures is attached.

MORE INFORMATION

For more information on Regulation CC or the Expedited Funds Availability Act, please contact Dean Pankonien at (214) 651-6662.

Sincerely yours,



Special Notice

Board of Governors of the Federal Reserve System • Washington, DC 20551

You are Affected by the Expedited Funds Availability Law

June 1988

TO: Member Banks of the Federal Reserve System
and other Financial Institutions

FROM: Board of Governors of the Federal Reserve System

SUBJECT: Compliance with the Expedited Funds Availability
Act and Regulation CC

There have been some indications that many financial institutions do not realize that they must comply with the new expedited funds availability law. On SEPTEMBER 1, 1988, you must be in compliance with the new regulation, *even if you do not delay your customers' ability to withdraw funds that they deposit by check.*

Attached is a brief description of the new law, and the actions you will have to take to comply with it.

If you need further assistance or information contact your state or federal regulatory agency, local Federal Reserve Bank, or the Federal Reserve Board.

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EXPEDITED FUNDS COMPLIANCE CHECKLIST

Every bank, savings bank, savings and loan association, and credit union with transaction accounts—such as checking accounts, NOW accounts, and share draft accounts—is affected by the new expedited funds law. You are affected by the new law even if you do not delay your customers' access to deposits and, BY

SEPTEMBER 1, 1988, YOU MUST:

A. Comply with the Availability Schedules

- ☐ 1. *Make customer deposits available for withdrawal no later than the times required by the law.* Funds must be available within the times stated in the law even when you impose a case-by-case or selective hold.

Review your availability policy. If you do not have a formal policy, you must formulate one.

Make any changes that are necessary to ensure that your policy and your actual practices comply with the availability times required by the law.

B. Comply with the Disclosure Requirements

- ☐ 2. *Give a disclosure of your policy* regarding when customers may withdraw deposited funds to:
- All existing customers in the first account statement mailed between September 1 and October 31 (unless you mail the disclosure before September 1).
 - A new account customer before opening the new account.
 - Any person who requests it.
- ☐ 3. *Post a notice* summarizing your availability policy in the lobby of all your branches.
- ☐ 4. *Post or provide a notice* at each ATM that is owned or operated by you or for you.
- ☐ 5. *Include a notice* on all preprinted deposit slips.
- ☐ 6. *Give a notice when you delay availability* if your policy, for example, is to provide immediate or next-day availability but you retain the right to place a hold on a deposit from time to time (or if you delay a check for longer than the federal schedules based on an allowable exception).

C. Comply with the Changes in the Processing of Checks

- ☐ 7. *Endorse checks* with the specified information in the appropriate location using the appropriate color ink.
- ☐ 8. *Return checks* you do not pay to the bank of first deposit expeditiously.
- ☐ 9. *Provide notice of nonpayment* on all checks over \$2500 that are not being paid.

D. Comply with the Other Requirements of the Law

- ☐ 10. *Begin to accrue interest or dividends* on deposits in an interest-bearing transaction account not later than the business day you receive credit.
- ☐ 11. *Limit holds on other funds* a transaction-account customer has on deposit with you (including funds in savings accounts) to the time periods specified in the regulation when you (1) cash checks or (2) accept checks for deposit into an account.
- ☐ 12. *Train your employees and furnish a copy of procedures* to them.



Compliance with the Expedited Funds Availability Act and Regulation CC

This information is designed to help you understand and comply with the requirements of the Federal Reserve Board's Regulation CC that implements the Expedited Funds Availability Act. It describes, in general terms, the requirements of the regulation and the changes that you may need to make to comply with the law.

The following information is aimed particularly at small institutions and those that have rather simple funds availability policies, such as immediate or next-day availability in most cases. By following the steps outlined on the next few pages, you should be able to comply fairly easily with the law.

The Act and regulation are complex, however, and if you delay availability on all deposits, or most of a certain category of deposits, you will probably have to make many changes to your policies and practices, and provide detailed disclosures to your customers. Even if you have a policy of providing immediate or next-day availability in most cases, and place holds only on an exception or case-by-case basis, you must familiarize yourself with the regulation.

The material that follows is organized along the same lines as the checklist set forth on the preceding page. It covers the three major areas of the new law calling for compliance efforts: availability schedules, disclosures, and check processing. In addition, a final section summarizes other important aspects of the regulation including interest payment requirements, employee training, and civil liability.

Remember, as you review these requirements, that the law, except as indicated, applies equally to *all* of your transaction accounts (as defined in the Board's Regulation D, dealing with reserve requirements). For

example, you must provide a disclosure of your availability policy for business as well as consumer accounts.

In addition, please keep in mind that this information does not describe all of the requirements and details of the law. References are contained to the sections of the regulation and the commentary that describe the regulatory requirements in more detail. You should contact your state or federal regulatory agency, local Federal Reserve Bank, or private counsel for additional information and guidance.

You may call the following numbers at the Federal Reserve Board for assistance:

**Division of Consumer and
Community Affairs**
(202) 452-3667

**Division of Federal
Reserve Bank Operations**
(202) 452-3874

Legal Division
(202) 452-2489

A. Complying with the Availability Schedules

Starting on **September 1, 1988**, you must allow your customers to withdraw funds that they deposit no later than a specific number of business days after the day of the deposit. The number of days depends upon the type of deposit and ranges from the first business day up to the seventh business day following the day of the deposit.



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The deposits that must be made available on the first business day include cash, cashier's checks, checks drawn on your institution, and federal, state, and local government checks. Funds from "local checks," meaning those drawn on an institution within your check processing region, must be made available for withdrawal no later than the third business day following the day of deposit. "Nonlocal checks," meaning checks drawn on an institution located in a different check processing region than yours, must be available for withdrawal no later than the seventh business day following the day of the deposit. In addition, the first \$100 of a day's total deposits of local and nonlocal checks must be made available on the first business day following the day of the deposit. (See sections 229.10 and 229.11 of the regulation.)

On September 1, 1990, shorter time periods become effective. Institutions must make funds from local checks available by the second business day following the day of the deposit, and funds from nonlocal checks by the fifth business day. (See section 229.12.)

The regulation provides for certain exceptions to the specified time periods. As a general rule, if the bank imposes one of these "exception holds" it may delay the deposit for four business days longer than the maximum times set by the regulation. (See section 229.13.)

Attachment A discusses the availability requirements and the exceptions in more detail.

What do I have to do to comply?

1. **Make customer deposits available for withdrawal no later than the times required by the law.** Funds must be available within the times stated in the law even when you impose a case-by-case or selective hold.

Review your availability policy. If you do not have a formal policy, you must formulate one.

Make any changes that are necessary to ensure that your policies and your actual practices comply with the availability times required by the law.

What actions, if any, you will have to take to comply with these requirements by September 1 depends on your current policy regarding the availability of deposits. If you currently do not have a formal policy, you must formulate one. Without a formal policy you will be unable to ensure that you comply with the law and you will be unable to meet the disclosure requirements of the law.

If your policy is, in most cases, to allow customers to withdraw deposits immediately or on the day following the day of deposit, you may not have to make any changes in your policy. You must make sure, however, that the way you handle deposits and make funds available does in fact result in immediate or next-day availability. For example, you need to make sure that deposits made in person to an employee of your institution are considered received on the day the deposit is made, and that mail deposits are considered received when the mail room receives them—not when they are actually processed by the mail teller. You must be sure that cut-off hours for receipt of deposits are no earlier than 2:00 p.m. (or 12:00 noon for ATMs). In addition, you must be certain that funds from deposits are available for withdrawal immediately or at the beginning of the first business day following the day of the deposit—that is, by 9:00 a.m. or the time when facilities are available for withdrawals by customers, whichever is later.

If you have a policy of delaying only on a case-by-case basis—for example, you usually give next-day availability but do place a hold on deposits from time to time—you must make sure, when you do hold funds, that you still provide availability as required by the law. Specifically, be sure that you:

- (1) do not place a case-by-case hold on a deposit that must be given next-day availability under the regulation,



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- (2) make the first \$100 of the deposit that is being delayed available to the customer on the first business day following the day of the deposit; and
- (3) make the rest of the funds available no later than the day specified for the type of check being deposited, for example, the third business day following the day of deposit for a local check. (If there is a specific reason for your placing a hold and the reason is listed as one of the exceptions to the regulation discussed in Attachment A—for example, the check being deposited was previously returned unpaid—the check may be held for the longer time period applicable to “exception holds.”)
- (1) the costs involved in making changes to your current policies and systems to comply with the law;
- (2) the potential losses that you see from a particular policy;
- (3) the alternative means of addressing any increased risk of loss that may result from a particular policy (for example, adopting policies and procedures to minimize the risk by reviewing new accounts and monitoring deposit activity); and
- (4) the customer relations aspects of your availability policy.

If your current availability policy is to hold all deposited checks for specific time periods depending on the type of check being deposited, you must be sure that the time periods you use for the various types of checks are no longer than the time periods set forth in the regulation. In addition, you must insure that the first \$100 of a day's total deposits of checks plus all deposits of next-day availability checks (that is, checks that must be made available on the first business day following the day of deposit) are available for withdrawal on the first business day following the day of deposit. (See Table I of Attachment A.) It is very likely that you will need to revise your current systems to conform to the time periods in the regulation; in some cases these changes may be extensive. Of course, one option is to change your availability policy to one of immediate or next-day availability with holds placed only on a case-by-case basis and/or an exception basis.

Your decision regarding what policy to adopt should be based upon considerations such as:

B. Complying with the Disclosure Requirements

Once you have determined the type of policy that you wish to follow and have examined that policy to be sure that it complies with the availability time periods set forth in the regulation, you must disclose your policy to your customers. You are required to disclose your specific policy as to when deposited funds are available for withdrawal. In addition, you must furnish several reminder notices to your customers and provide them with a notice upon the occurrence of certain events. The regulation includes several model disclosure forms, clauses, and notices that you may adapt to make these disclosures. Model disclosures that could be used if your policy is one of next-day availability with holds only placed on a case-by-case and exception hold basis are attached as Attachment B. (Other model forms are included in Appendix C to Regulation CC.)



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How do I disclose my specific availability policy?

2. Give a disclosure of your policy regarding when customers may withdraw deposited funds to:

- All existing customers in the first account statement mailed between September 1 and October 31 (unless you mail the disclosure prior to September 1).
- A new account customer before opening the new account.
- Any person who requests it.

The specific disclosure of your policy concerning when deposited funds are available for withdrawal must be given under three circumstances. First, you must include a copy of this disclosure in the first regularly scheduled mailing to all existing account customers after September 1, 1988, unless you have furnished a disclosure that meets the requirements of the regulation before that date. Second, you must provide a copy of the policy disclosure before opening any account on or after September 1, 1988. Third, starting on September 1, 1988, you must furnish a copy of the policy to any person who makes an oral or written request for it. (See sections 229.17 and 229.18(d).)

The specific policy disclosure must tell the customer when you will, in most cases, make deposited funds available for withdrawal. You must disclose your actual policy as to when deposited funds are available for withdrawal. You may not disclose something other than the policy you follow in most cases; for example, you may not disclose the maximum availability times under the regulation when, in fact, you make funds available sooner.

The disclosure must be detailed enough to allow customers to determine the categories of deposits that will be subject to different availability times and when the various categories of deposits will be available for

withdrawal. The disclosure must also describe any policy of delaying the availability of deposited funds longer than your stated time periods on a case-by-case basis, and any of the exceptions that your institution may apply to impose a longer delay on a deposit. (See section 229.16.)

The complexity of the specific policy disclosure will depend on the policy you have decided to adopt. If your policy is to provide next-day or immediate availability in most cases, you will make a much shorter and less complex disclosure than an institution that has a policy of delaying availability to the full extent allowed under the regulation. This would be true even if you were, in addition to giving next-day or immediate availability, sometimes holding deposits longer on a case-by-case basis and placing holds under the circumstances allowed under the exceptions provisions of the regulation.

The specific policy disclosure must be made in writing and must be in a form that the customer can keep. Disclosures must be made to all customers, both consumer and business account-holders, although your availability policies of course need not be the same for both groups.

In addition, all of the disclosures required by the regulation must refer to the time when funds are available for withdrawal in a uniform manner. That is, all institutions must state that funds will be available for withdrawal on "the first, second, third, etc. business day" after the day of the deposit. The number of the business day is determined by counting the number of days until the funds will be available, starting with the business day following the day of the deposit and ending with the day the funds are available. For example, if an institution had a policy of making certain check deposits available for withdrawal after two intervening business days, it would state that funds are available for withdrawal on "the third business day" after the day of the deposit. (See section 229.15(b).)



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What other notices are required?

3. **Post a notice** summarizing your availability policy in the lobby of all your branches.
 4. **Post or provide a notice** at each ATM that is owned or operated by you or for you.
 5. **Include a notice** on all preprinted deposit slips.
-

Other disclosures that you are required to make take the form of reminder notices. Reminder notices are required in branch lobbies, at ATMs, and on preprinted deposit slips. They are much shorter and more general than the specific policy disclosure notice. The notice posted at each location where employees accept consumer deposits need only state the times when consumers may withdraw deposited funds. The notice posted or provided at ATMs need only state that deposited funds may not be available for immediate withdrawal, and refer the customers to their institution's policy. The notice on preprinted deposit slips (those that are personalized with the customer's name and account number) you furnish to your customers is the shortest of all—it need only state that deposits may not be available for immediate withdrawal. (See section 229.18.)

These disclosures must be in writing but, unlike the specific policy disclosures, the reminder notices need not be in a form that the customer can keep. All of the reminder notice requirements become effective on September 1, 1988.

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6. **Give a notice when you delay availability** if your policy, for example, is to provide immediate or next-day availability but you retain the right to place a hold on a deposit from time to time (or if you delay a check for longer than the federal schedules based on an allowable exception).
-

The last category of disclosures includes notices you must give when certain events occur or notices that you have taken certain actions. If you impose case-by-case or exception holds, you must generally give the customer a notice at the time the deposit is made. The notice may be given later in three situations:

- (1) if the deposit is not made in person to an employee of your institution;
- (2) if the decision to place a case-by-case hold is made after the deposit was made (for example, if it's made by the teller's supervisor after the customer has left the branch); or
- (3) if you learn of the facts that give rise to an exception hold after the deposit was made.

In these situations, the notice for a case-by-case hold must be mailed or delivered to the customer no later than the business day following the day of the deposit. The exception hold notice can be given on the day following either the day of the deposit or the day the institution learns of the facts giving rise to the exception hold, whichever is later. (See sections 229.13(g) and 229.16(c).)

These notices about holds must include the customer's account number, the date and amount of the deposit, the amount of the deposit being held, and the day the held funds will be available for withdrawal. When



an exception hold is placed, the notice must also state the reason for the delay. If you are imposing a delay because you doubt the collectibility of the check being deposited, you must state the particular reason that the check is believed to be uncollectible. If the reason is based on confidential information, you may state that fact without further elaboration on the notice; however, you must indicate on the copy of the notice you retain as a record of compliance the specific reasons that gave rise to the delay.

One notice requirement in the regulation does not present a compliance issue for September 1, but should be noted for the future. If you change your availability policy on consumer accounts, you must notify affected consumers. The notice must be sent 30 days prior to the effective date of the change if the change results in deposited funds being available later than was the case before the change. If the change results in faster availability, the notice may be sent as late as 30 days after the effective date of the change. Even though you must give an initial disclosure regarding availability to all commercial and business accounts, as well as consumer accounts, these notice requirements when you make changes in your availability policy do not apply to commercial or business accounts. (See section 229.18(e).)

C. Complying with the Changes in the Processing of Checks

The Federal Reserve Board has adopted several changes in the rules governing the collection and return of checks to speed up the return of unpaid checks to the institution of first deposit (the depository bank). Under the current check collection system, checks that are returned often would not be received by the depository bank until after the time funds must be made available for withdrawal under the Act. The

new regulation is designed to reduce the risk to the depository bank resulting from the prompt availability requirements in two ways:

- (1) expedite returns to the depository bank; and
- (2) expand the notice of nonpayment requirements for large-dollar returned checks.

One of the obstacles to the efficient processing of returns is the lack of uniformity in depository banks' endorsements. The regulation includes an endorsement standard which becomes effective on September 1, 1988. The endorsement standard is one aspect of the regulation that will require many banks to make changes in their equipment. As a result, it is important that banks review their operations in preparation for the effective date.

What are the new rules regarding endorsements?

-
7. **Endorse checks** with the specified information in the appropriate location using the appropriate color ink.
-

The first change adopted by the Board to improve the processing of return items is a uniform endorsement standard. The uniform endorsement standard requires the depository bank to place its endorsement in a specific location on the back of the check, to include certain information in its endorsement, and to use either black or purple ink to apply the endorsement. Subsequent bank endorsements must avoid the area designated for the depository bank endorsement and may not use purple ink. As a result, it should be easier for paying or returning banks to identify the depository bank and return an unpaid check directly to that bank or provide notification of nonpayment.



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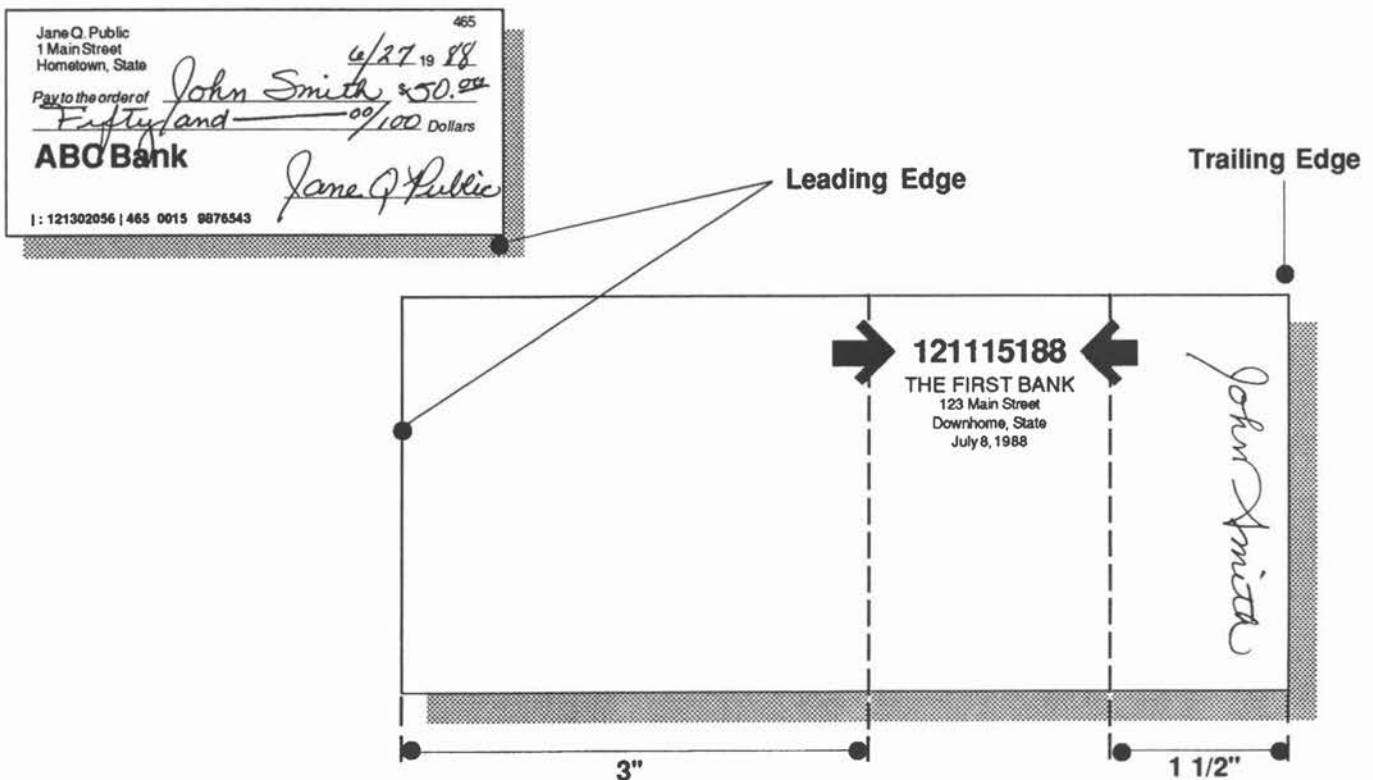
The depositary bank endorsement is to be made in the area beginning 3.0 inches from the leading edge of the check and ending 1.5 inches from the trailing edge of the check. (See Figure 1.) The entire endorsement need not be within this area; however, the endorsement must be placed so that the routing number of the bank is wholly within this area. The endorsements of subsequent banks are required to appear in the area from the leading edge to 3.0 inches from the leading edge, avoiding the area to be used by depositary banks. (See Appendix D of the regulation.)

The depositary bank endorsement must include the bank's nine-digit routing number, set off by arrows at each end of the number that point toward the number;

the bank's name and location; and the endorsement date. The depositary bank endorsement also may contain optional information, such as a branch identification, a trace/sequence number, or a telephone number for receipt of notification of large-dollar return checks. The inclusion of optional information must not interfere with the readability of the endorsement.

Subsequent collecting bank endorsements must avoid the area where the depositary bank endorsement must be placed, must provide only certain information in the endorsement, and must not use purple ink. These endorsements may include only the bank's nine-digit routing number (without arrows), the endorsement date, and an optional trace/sequence number.

Figure 1. Endorsement Standard: Depositary Bank



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What do I need to do to comply with the requirement for expedited processing of returned checks?

8. **Return checks** you do not pay to the bank of first deposit expeditiously.
-

Another change made by the Board to reduce the time required for unpaid checks to be returned from the paying bank to the depository bank is the requirement that paying banks return checks expeditiously to the depository bank. Under the new rule, banks should dispatch their returned checks on the same type of transportation used to dispatch their forward collection checks or by other means that expedite the receipt of the check by the depository bank.

The paying bank may return a check directly to the depository bank, or to a Reserve Bank or a bank providing check return services. Today, many banks mail returns to the prior endorser because their courier does not deliver to that location. The regulation removes the two primary reasons why banks often mail returns today:

- (1) Today, in order to meet their midnight deadline, many banks mail returns if their courier leaves after midnight. The regulation extends the midnight deadline to facilitate courier returns.
- (2) Under the new rule, checks do not have to be returned through the same banks that handled the check for forward collection.

The regulation also imposes duties on returning banks to expedite the return process. A returning bank must handle a returned check as expeditiously as a check handled for forward collection.

An additional way to speed the return process is to prepare the returned check for automated processing. Returned checks can be automated by placing the return in a carrier envelope, or by placing a strip on the bottom of the check, and encoding the envelope or strip with the routing number of the depository bank, the amount of the check, and a special returned check identifier. Automated returns allow for far more efficient processing by a subsequent returning bank. (See sections 229.30 to 229.32.)

What are the new rules concerning notice of nonpayment for checks over \$2500?

9. **Provide notice of nonpayment** on all checks over \$2500 that are not being paid.
-

The regulation changes the rules regarding when a paying bank must provide the depository bank with notice of nonpayment on large-dollar returned checks. Specifically, the regulation:

- (1) expands the large-dollar notice requirement to include all checks of \$2500 or more that are returned, regardless of the channel through which they were cleared; and
- (2) reduces the time period within which notice must be received. The depository bank must receive notice of nonpayment by 4:00 p.m. on the second business day following the day the check was presented to the paying bank. The physical returned check can serve as notice if received by this deadline.

(See section 229.33.)



D. Complying with the Other Requirements of the Law

There are several other important aspects of the regulation that you should be aware of. The regulation includes provisions on the accrual of interest on funds deposited into interest-bearing transaction accounts; the placing of holds on funds that a transaction-account customer has on deposit in other accounts with you, including savings accounts; and the training of employees. In addition, you should be aware of your potential liability under the civil liability provisions of the regulation if you fail to comply.

What are the other requirements in the law that I must comply with?

-
- 10. Begin to accrue interest or dividends** on deposits in an interest-bearing transaction account not later than the business day you receive credit.
-

You must begin to accrue interest or dividends on funds deposited in an interest-bearing transaction account not later than the business day on which you receive credit for the funds. (As with the availability and disclosure requirements, non-transaction accounts, such as savings accounts and money market deposit accounts, are not affected by this requirement.) In determining when you receive credit for funds, you may rely on the availability schedule of your Reserve Bank, Home Loan Bank, or correspondent bank. (See section 229.14(a).)

Credit unions have a special exemption from the payment of interest requirements if they begin to accrue interest on all deposits, both cash and check deposits, later than the day on which they receive credit for the deposits. These credit unions need not

comply with the interest payment requirements if they disclose their interest payment policy in the disclosure of their specific availability policy. (See section 229.14(b).)

-
- 11. Limit holds on other funds** a transaction-account customer has on deposit with you (including funds in savings accounts) to the time periods specified in the regulation when you (1) cash checks or (2) accept checks for deposit into an account.
-

Another aspect of the regulation that is important to keep in mind is that the regulation affects your ability to place a hold on **any** funds of your customer, even funds in a savings account, under certain circumstances.

You may not place a hold on any funds that a transaction-account customer has on deposit with you that exceeds the time periods specified in the regulation for deposits into a transaction account when:

- (1) you cash a check for the customer; or
- (2) you accept a check for deposit into any transaction account of the customer.

As a result, if you cash a check for a checking-account customer and place a hold on the customer's savings account, the hold on the savings account is limited to the amount and period of time that would apply if the cashed check had been deposited into the customer's checking account. Similarly, if a checking-account customer makes a deposit into the checking account and requests that any hold be placed on other funds that are already on deposit in another checking or savings account, the hold that is placed on the other funds must comply with the regulation. (See section 229.19(e).)



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12. Train your employees and furnish a copy of procedures to them.

The Act and the regulation specifically require you to establish procedures to ensure compliance with the law. In addition, you are required to furnish a copy of the procedures to each employee that performs duties related to compliance with the availability schedules, disclosures, and payment of interest requirements. You are only required to furnish a copy of those portions of the procedures to an employee that relate to that employee's responsibilities. (See section 229.19(f).)

What are the consequences if I fail to comply with the new requirements?

The law imposes certain liabilities on you if you fail to comply with the law. You may be liable for damages if you fail to comply with the availability schedules or the disclosure requirements, as well as the rules for returning checks. In fact, the law provides for minimum penalties for failures to follow the availability and disclosure requirements even if there are no actual damages to the customer. **It is very important that you understand your responsibilities under the law.** (See sections 229.21 and 229.38.)



ATTACHMENT A

When Customers Must Be Able to Withdraw Deposits Under the Expedited Funds Availability Act and Regulation CC

Temporary Schedule

(September 1, 1988—August 31, 1990)

Starting on **September 1, 1988**, institutions are required to allow their customers to withdraw funds no later than a specific number of business days after the funds are deposited. The number of days depends upon the type of deposit. It ranges from the first business day following the day the deposit is made for certain deposits—including cash, U.S. Treasury

checks, cashier's checks, checks drawn on your bank, and state and local government checks—up to the seventh business day following the day of the deposit for “nonlocal checks,” meaning checks drawn on an institution that is located in a different check processing region than yours. Funds from “local checks” — those drawn on an institution within your check processing region—must be made available for withdrawal no later than the third business day following the day of the deposit; however, an institution may sometimes limit cash withdrawals from a local check deposit to \$400 on the third business day. The first \$100 of a day's total deposits of local and nonlocal checks must be made available on the first business day following the day of the deposit. In addition, the law allows an institution to delay a customer's ability to withdraw all deposits made at ATMs that are not owned or operated by the institution until the seventh business day following the day of the deposit. (See Table 1.) (See sections 229.10 and 229.11.)

TABLE 1

For this type of deposit	Effective September 1, 1988, you must make funds available to your customers no later than
<ul style="list-style-type: none"> • cash • direct deposit and other electronic credits • government, cashier's, certified, or teller's checks • checks written on accounts at your institution • the first \$100 of a day's total deposits of other checks 	the first business day after the day of deposit (certain conditions may be imposed on some checks; and if certain deposits are not made in person to an employee of your institution the funds need not be made available until the second business day after the day of deposit)
<ul style="list-style-type: none"> • local checks 	the third business day after the day of deposit (cash withdrawals may be limited)
<ul style="list-style-type: none"> • nonlocal checks 	the seventh business day after the day of deposit
<ul style="list-style-type: none"> • any deposit made at an ATM not owned or operated by your institution 	the seventh business day after the day of deposit

These times are based on business days. Every day is considered a business day except Saturdays, Sundays, and federal holidays. A deposit is considered received, however, only on a business day that your institution is actually open for business.



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Permanent Schedule

(September 1, 1990 and thereafter)

On **September 1, 1990**, a permanent schedule requiring shorter time periods becomes effective. Institutions must make the funds from the deposit of a local check available no later than the second business day following the day of the deposit, and funds from nonlocal checks must be made available no later than the fifth business day following the day of the deposit. Under the permanent schedule, institutions may limit cash withdrawals on the second and the fifth business days for both local and nonlocal checks. The permanent schedule generally requires institutions to treat deposits at ATMs the same whether or not the institution owns or operates the machine where the deposit was made. (See section 229.12.)

Exceptions

(To the Temporary and Permanent Schedules)

The regulation provides for certain exceptions to the specified time periods in both the temporary and the permanent schedules. There are exceptions for:

- New accounts (less than 30 days old)
- Large deposits (over \$5,000)
- Accounts that have been repeatedly overdrawn
- Deposited checks that have previously been returned
- Checks that the bank has reason to believe are uncollectible

As a general rule, if the institution imposes one of these "exception holds" it may delay the availability of deposited funds for four business days longer than the maximum times set by the regulation. (An institution may impose a delay longer than four days but the institution must prove that the longer delay is reasonable.) Finally, keep in mind that the exception rules are rather complex in the way they apply to those items in Table 1 that must be available for withdrawal on the first business day after the day of deposit, for example, cashier's checks and U.S. Treasury checks. (See section 229.13.)



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ATTACHMENT B

Specific policy disclosure for next-day availability, case-by-case holds to statutory limits under the temporary schedule, and section 229.13 exceptions (Form C-3)

Your Ability to Withdraw Funds at

(bank name and location)

Our policy is to make funds from your deposits available to you on the first business day after the day we receive your deposit. At that time, you can withdraw the funds in cash and we will use the funds to pay checks that you have written.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before (*time of day*) on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after (*time of day*) or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

Longer delays may apply

In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the seventh business day after the day of your deposit. However, the first \$100 of your deposits will be available on the first business day.

If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

If you will need the funds from a deposit right away, you should ask us when the funds will be available.

In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than \$5,000 on any one day.

- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of communications or computer equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the (*number*) business day after the day of your deposit.

Special rules for new accounts

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

The first \$5,000 from a deposit of U.S. Treasury checks will be available on the first business day after the day of your deposit. The excess over \$5,000 will be available on the ninth business day after the day of your deposit. Funds from wire transfers into your account will be available on the first business day after the day we receive the transfer.

Funds from deposits of cash and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over \$5,000 will be available on the ninth business day after the day of your deposit. If you do not make the deposit in person to one of our employees, the first \$5,000 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will be available on the (*number*) business day after the day of your deposit.



Special Notice

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Exception hold notice (Form C-13)

Notice of Hold

Account number: _____ Date of deposit: _____

Amount of deposit: _____

We are delaying the availability of \$(*amount being held*) from this deposit. These funds will be available on the (*number*) business day after the day of your deposit.

We are taking this action because:

- ☐ A check you deposited was previously returned unpaid.
- ☐ You have overdrawn your account repeatedly in the last six months.
- ☐ The checks you deposited on this day exceed \$5,000.
- ☐ An emergency, such as failure of communications or computer equipment, has occurred.
- ☐ We believe a check you deposited will not be paid for the following reasons:

[If you did not receive this notice at the time you made the deposit and the check you deposited is paid, we will refund to you any fees for overdrafts or returned checks that result solely from the additional delay that we are imposing. To obtain a refund of such fees, (*description of procedure for obtaining refund*).]



Special Notice

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Reasonable cause hold notice (Form C-13A)

Notice of Hold

Account number: _____ Date of deposit: _____

Amount of deposit: _____

We are delaying the availability of the funds you deposited by
the following check: _____

(description of check, such as amount and drawer)

These funds will be available on the (number) business day after the day of your deposit.
The reason for the delay is explained below:

- ☐ We received notice that the check is being returned unpaid.
- ☐ We have confidential information that indicates that the check may not be paid.
- ☐ The check is drawn on an account with repeated overdrafts.
- ☐ We are unable to verify the indorsement of a joint payee.
- ☐ Some information on the check is not consistent with other information on the check.
- ☐ There are erasures or other apparent alterations on the check.
- ☐ The routing number of the paying bank is not a current routing number.
- ☐ The check is postdated or has a stale date.
- ☐ Information from the paying bank indicates that the check may not be paid.
- ☐ We have been notified that the check has been lost or damaged in collection.

Other: _____

[If you did not receive this notice at the time you made the deposit and the check you deposited is paid, we will refund to you any fees for overdrafts or returned checks that result solely from the additional delay that we are imposing. To obtain a refund of such fees, (description of procedure for obtaining refund).]



Special Notice

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Case-by-case notice (Form C-14)

Notice of Hold

Account number: _____ Date of deposit: _____

Amount of deposit: _____

We are delaying the availability of \$(*amount being held*) from this deposit. These funds will be available on the (*number*) business day after the day of your deposit.

[If you did not receive this notice at the time you made the deposit and the check you deposited is paid, we will refund to you any fees for overdrafts or returned checks that result solely from the additional delay that we are imposing. To obtain a refund of such fees, (*description of procedure for obtaining refund*).]

Notice at locations where employees accept consumer deposits (case-by-case holds) (Form C-15A)

Funds Availability Policy

Our general policy is to allow you to withdraw funds deposited in your account on the (*number*) business day after the day we receive your deposit. In some cases, we may delay your ability to withdraw funds beyond the (*number*) business day. Then, the funds will generally be available by the seventh business day after the day of deposit.



Special Notice

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Notice at automated teller machines (Form C-16)

Availability of Deposits

Funds from deposits may not be available for immediate withdrawal. Please refer to your institution's rules governing funds availability for details.

Deposit slip notice (Form C-18)

Deposits may not be available for immediate withdrawal.

