

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. **9663**
March 30, 1984]

DELAYED AVAILABILITY OF DEPOSITED FUNDS

Joint Policy Statement

*To All Depository Institutions, and Others Concerned,
in the Second Federal Reserve District:*

Following is the text of a joint statement issued by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Board of Governors of the Federal Reserve System:

Federal regulators of commercial banks, savings banks and savings and loan associations have jointly called upon financial institutions to refrain from imposing unnecessary delays in making funds available to their depositors.

The Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Federal Reserve Board made the request in a joint policy statement. The policy statement was issued to encourage banks and savings and loans to ameliorate voluntarily the problem of "delayed availability of funds" which arises at institutions that delay the ability of customers to withdraw funds deposited by check. The agencies said the problem is arising at an increasing number of institutions.

The agencies' policy statement made several specific suggestions for addressing the problem, which has resulted in legislation in two states and proposed legislation in the U.S. Congress. These suggestions, as set forth in the attached policy statement, recommend a review of policies with the objective of reducing delays consistent with prudent business practices, disclosing funds availability policies to customers and refraining from imposing delays across the board, specifically delays on Social Security and other government checks deposited in established accounts.

The agencies said they hope the problem can be handled by voluntary action of financial institutions along the lines they suggest. But they said they will be monitoring the effectiveness of voluntary action and conducting consumer surveys. The agencies will consider further action if they find that the effort to solve the problem by voluntary means is inadequate.

Printed on the following pages is the text of the joint policy statement. Questions on this matter may be directed to our Regulations Division (Tel. No. 212-791-5914).

ANTHONY M. SOLOMON,
President.

COMPTROLLER OF THE CURRENCY
FEDERAL DEPOSIT INSURANCE CORPORATION
FEDERAL HOME LOAN BANK BOARD
FEDERAL RESERVE SYSTEM

Delayed Availability of Funds;
Issuance of a Policy Statement

AGENCIES: Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and Board of Governors of the Federal Reserve System.

ACTION: Issuance of a policy statement.

SUMMARY: The agencies are issuing this policy statement to encourage and assist industry efforts in voluntarily addressing the problems caused by some financial institutions when they delay a depositor's ability to withdraw funds deposited by check -- often called "delayed availability of funds." The policy statement calls for those financial institutions that delay availability to review and disclose their policies, and to refrain from imposing unnecessary delays on all checks, particularly on Social Security and other government checks. In reviewing their availability policies, institutions are asked to consider taking into account factors that indicate whether a given situation presents a risk of loss and to provide a means for depositors to request that an exception be made to the standard hold policy.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: William Grant, Office of the Comptroller of the Currency, (202) 447-1938; Paul Sachtleben, Federal Deposit Insurance Corporation, (202) 389-4761; Richard Tucker, Federal Home Loan Bank Board, (202) 377-6211; or Gerald Hurst, Board of Governors of the Federal Reserve System, (202) 452-3667.

SUPPLEMENTARY INFORMATION: (1) General. Delayed availability -- the practice by some financial institutions of delaying a customer's ability to withdraw funds deposited by check for several days after the date of deposit -- has been an issue of concern for several years.

Interest in limiting or restricting the delayed availability practice has increased recently both at the state and federal level. Two states, New York and California, have enacted laws addressing the issue and several other states are considering legislation. In addition, there are bills pending in both houses of Congress.

The agencies believe that the practice of delaying availability results in problems for depositors, especially when the policy is inflexible or is not disclosed to depositors in an effective manner. Institutions maintain that the practice of delaying a depositor's ability to withdraw funds beyond the time it takes the institution to receive provisional credit for the check is justified to some extent because of the time it takes for a check to be returned to the institution of first deposit if it is not paid by the paying institution. They state that the only way an institution learns that a deposited check is being returned unpaid is to receive the check back; thus, there is a risk of loss. However, only about one percent of all checks are returned unpaid and only a very small percentage of these checks result in actual losses to financial institutions. While it may be true that the frequency of losses is small because of delayed availability policies and that the potential for losses is much larger, the agencies nevertheless believe that the practice of imposing delays on all deposited checks without regard to whether a particular

situation presents a potential risk (for example, the deposit of an unusually large personal check into a new account) does not appear to be justified by the risk of loss. More specifically, for example, there is normally no justification for delaying availability on a Social Security or other government check deposited into an established account beyond the date when an institution receives credit for the check. The real risk of loss in such cases results from fraud, which typically would not be discovered until long after the check has cleared.

The agencies believe that voluntary industry action, rather than mandatory requirements, represents a potential solution to many of the problems caused by delayed availability, without the costs and burdens of a legislative or regulatory approach. The agencies are, therefore, issuing a policy statement that outlines their concerns and recommending actions to be taken by the industry in the hope that it will encourage and assist voluntary industry action.

(2) Discussion of policy statement. The policy statement calls on financial institutions that delay availability to take several actions. Institutions are asked to review their policies, consider whether the delay periods can be reduced, and disclose their policies to customers in an effective manner. Institutions are also asked to refrain from imposing unnecessary delays on all checks, particularly delays on government checks deposited into established accounts beyond the time required for the institutions to receive credit for the checks. In reviewing their policies, institutions are asked to consider various factors that might indicate whether a risk of loss exists in a given situation that justifies a delay in availability and to provide depositors with a means for requesting that an exception be made from the standard hold policies.

The actions recommended are based on the agencies' belief that, although it is appropriate to delay availability in some specific situations, it is not necessary for financial institutions to delay availability on all deposited checks. By pointing out specific actions that institutions can take, the agencies hope that the policy statement will be a basis for industry action. As the statement indicates, the agencies plan to monitor developments in the area to determine whether further steps are needed.

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JOINT POLICY STATEMENT ON DELAYED AVAILABILITY OF FUNDS

The Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and Federal Reserve Board are issuing this policy statement regarding the practice by financial institutions of delaying a depositor's ability to withdraw funds deposited by check -- often called "delayed availability of funds." The agencies are concerned about the problems this practice causes for depositors and believe that voluntary action on the part of all financial institutions to reduce these problems would be the most efficient, least costly, and least burdensome solution.

An increasing number of financial institutions delay a depositor's ability to withdraw funds in order to reduce their risk of loss if a deposited check is returned unpaid. However, financial institutions need not impose such delays on every deposited check in order to reduce the risk. In fact, some delayed availability policies may be inequitable. The agencies believe that there are actions that financial institutions can take now to eliminate some of the problems.

The agencies believe that financial institutions that delay availability should:

- (1) Review their policies and consider reducing the delay periods to the extent possible, consistent with prudent business practices.
- (2) Disclose their policies to depositors in an effective manner at the time an account is opened and, when practical, at the time a check is deposited that will be subject to a delay in availability. Institutions might also alert depositors to other ways of transferring funds that do not involve checks, such as through wire transfers or direct deposit through an automated clearing house.
- (3) Refrain from imposing unnecessary delays on all checks, particularly delays on Social Security and other government checks deposited into established accounts beyond the time required to receive credit for the checks. (A delay beyond this time is generally inappropriate since the real risk is that of fraud, which ordinarily will not be discovered until long after the check has cleared.)

In reviewing their policies, institutions should take into account factors that indicate whether a given situation presents a risk of loss that justifies a delay in availability. These factors may include, for example, the length of time the account has been maintained, past experience with the depositor, the identity of the drawer, the type of check, and the location of the payor depository institution. In addition, institutions should consider providing, as part of their policy, a means for depositors to request that an exception be made from the standard delay practice and inform depositors of this possibility.

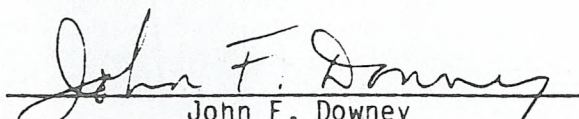
The agencies hope that the problems caused by delayed availability policies can be addressed by voluntary industry action, and urge trade groups and individual institutions to act. The agencies will be monitoring the effectiveness of these voluntary efforts to determine the extent to which disclosure is being made and the nature of specific delayed availability policies. Consumer

surveys will also be conducted to determine the level of consumer awareness of delayed availability policies and the extent of consumer problems.

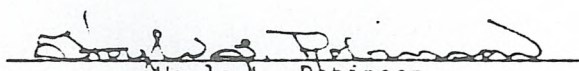
If it appears that voluntary action is inadequate to address the delayed availability issue, the agencies will consider further action to deal with the practice and the problems it causes.

Dated: March 22, 1984


By order of the Office of the Comptroller of the Currency.


John F. Downey
Chief National Bank Examiner


By order of the Federal Deposit Insurance Corporation.


Woyle L. Robinson
Executive Secretary

By order of the Federal Home Loan Bank Board.


J. J. Finn
Secretary to the Board

By order of the Board of Governors of the Federal Reserve System.


William W. Wiles
Secretary of the Board